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SECOND SESSION

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Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE $102^d$ CONGRESS, SECOND SESSION

# SENATE—*Wednesday, September 23, 1992*

The Senate met at 9:30 a.m., and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Gracious God of love and mercy, we are unspeakably grateful for the faith of our fathers which envisioned this great Nation. Grant us grace to take seriously that faith.

In 1796, George Washington, bidding farewell to Congress said, "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. * * * And let us with caution indulge the supposition that morality can be maintained without religion * * * reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

Patient Father in heaven, awaken us to the reality that morals—values, as we now call them—are grounded in faith in God and, when that faith is abandoned, morality declines and moral anarchy prevails. Recall us to the faith in which the greatness of America is founded.

We pray in the name of the Lord of Lords. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 23, 1992.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5504, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

### COMMENDING THE DEFENSE SUBCOMMITTEE ON APPROPRIATIONS

Mr. BYRD. Mr. President, the distinguished chairman of the Defense Appropriations Subcommittee, Mr. INOUYE and the ranking member, Mr. STEVENS have done a remarkable job in bringing this Defense appropriations bill to the Senate within their 602(b) allocation in both budget authority and outlays. They have devoted many months of hard work on this bill in hearings and in subcommittee and full committee markup.

Senator INOUYE has, as always, been most accommodating and helpful to me in every respect. Most particularly, both the chairman and the ranking member, Senator STEVENS, were very helpful to the committee in allocating, where appropriate, 050 funds to other Appropriations Subcommittees. I know that all of our subcommittee chairmen join me in expressing my gratitude and thanks to these two very able, dedicated, and knowledgeable Senators for their help and support.

I might also add that, in addition to fulfilling his responsibilities as chairman of the Defense Subcommittee, the Senator from Hawaii [Mr. INOUYE] worked tirelessly for the people of his State in securing over $1 billion in disaster assistance for the victims of Hurricane Iniki in the supplemental passed by Congress last Friday. For this he also deserves great credit.

Finally, I thank the staff of the Defense Subcommittee, both majority and minority, who have labored long and hard for this very important measure. Their expertise and dedication are greatly appreciated.

### DEFENSE TRANSITION

Mr. PRYOR. I want to thank the chairman and ranking member of the Defense Appropriations Subcommittee for accepting our amendment. This amendment offered by Senator BUMPERS and myself, will attempt to break down the roadblocks that currently serve as disincentives to economic development in communities struggling to recover from hardships associated with military base closings. In our home State of Arkansas, a number of companies have submitted requests to lease parts of Eaker AFB, which will close in December. Remarkably, many of these lease requests have yet to be acted upon by the Air Force. A few lease requests have been awaiting approval for over 9 months. In the worst case scenario, one company decided to take their business elsewhere, due to the Air Force's lack of proper responsiveness. This amendment will require a decision by the various services on lease requests within 60 days of submittal. It is our hope that all leases outstanding at Eaker AFB will be acted upon before this bill is enacted, and that our initiative will be successful in conference so that other communities seeking to promote economic development at closing bases will receive proper assistance from the Federal Government.

Mr. INOUYE. I want to thank the Senator from Arkansas for bringing this matter to our attention, and I would like to associate myself with his comments. The presence of this initiative, as an amendment to the fiscal year 1993 Defense appropriations bill, should convey to the various Services that all lease requests be dealt with in an expedient manner. I also believe that all lease requests outstanding for more than 60 days as of the enactment of this legislation should be finalized expediently. It is my hope that our conference report might reflect this sentiment.

Mr. PRYOR. Again, I thank the chairman on behalf of myself, Senator BUMPERS, and the people of Mississippi County, AR, for his assistance.

### CIVILIAN YOUTH OPPORTUNITIES PROJECT AND THE PRESIDIO, CA

Mr. CRANSTON. Mr. President, I would like to address the manager of the bill about funding for the National Guard Civilian Youth Opportunities Program. I note that the Senate committee report provides funding for up to eight test sites for this project and directs that the program be focused on young, unemployed high school dropouts who need assistance in becoming productive members of society. I believe the Presidio in San Francisco, CA, would be an excellent site for this program.

As the distinguished Senator from Hawaii knows, when the Army vacates the Presidio in 1994, the base will become part of the Golden Gate National Recreation Area. Because of the backlog of natural resource maintenance at the Presidio, there is a strong interest in utilizing civilian youths, especially at-risk, inner-city youth, during this transition period to conduct conservation projects at the Presidio. This will allow civilian youth in San Francisco the opportunity to develop important job training skills and at the same time accomplish the needed natural resource maintenance at the Presidio.

Given this need, I ask the manager if he would agree to specifying the Presidio as one of the test sites for the National Guard Civilian Youth opportunities Program and provide for that in the conference report on the fiscal year 1993 Defense appropriations bill.

Mr. INOUYE. I agree that the Presidio would be a marvelous site for the National Guard Civilian Youth Opportunities Program, and I will attempt in conference to designate the Presidio as one of the eight test sites.

Mr. CRANSTON. I thank the manager of the bill for his wholehearted support.

### IT DOES NOT GO FAR ENOUGH; IT DOES NOT MOVE FAST ENOUGH

Mr. KOHL. Mr. President, while I recognize that this bill attempts to adjust to the new military and political realities we confront, in my view it simply does not go far enough. Despite the emphasis in this bill on strategies to help industries and individuals adjust to reduced defense spending—an emphasis I applaud and support—the bill still spends billions on unnecessary weapon systems which can only be justified by relying on outdated military doctrines. For example, under the terms of the Department of Defense authorization bill we passed last week, this bill appropriates billions of dollars for a B-2 bomber that we do not need and an SDI program that no one can explain. As one of my colleagues said to me recently, the problem is not that we have failed to understand that the cold war is over—the problem is we still do not really understand that the Second World War is over. While I do not think we are stuck that deeply in a time warp, I am afraid that we have failed to fully capture the concepts of contemporary developments.

With internal problems that surround us—a deficit we cannot control, an infrastructure which is decaying, an economy which is not growing, a health care system that is failing, an education system that is not producing, an environment which is eroding—we are still spending too many billions to defend against external forces which either no longer exist or which do not have the capability of threatening our national interests. And, on top of that, we are also diverting millions to perpetuate programs which, while posing as critical defense technologies, do nothing more than protect the jobs of workers in selected States. I am all in favor of protecting jobs and creating them, but the way to do that is to reduce our deficit and invest in programs which make our economy stronger.

Mr. President, this bill makes real progress toward the goal of reducing our dependence on defense spending. But it does not go far enough, it does not move fast enough, and I cannot support it.

### VOTE

The ACTING PRESIDENT pro tempore. Under the previous order, the question occurs on the passage of bill H.R. 5504, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The result was announced—yeas 86, nays 10, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—86

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Warner
Wofford

NAYS—10

Bradley
Brown
Conrad
Hatfield
Kohl
Metzenbaum
Roth
Smith
Wallop
Wellstone

NOT VOTING—4

Gore
Nunn
Seymour
Wirth

So the bill (H.R. 5504), as amended, was passed.

Mr. INOUYE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore [Mr. KOHL] appointed Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. GARN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, and Mr. HATFIELD conferees on the part of the Senate.

Mr. INOUYE. Mr. President, before closing this chapter, if I may, I would like to acknowledge a few people who made this day possible, and I speak of the staff. The staff director, Richard Collins, in his usual fashion, managed the whole bill. Although we in the Senate take the credit, it should be the staff director and his crew.

I would like to acknowledge Charlie Houy, Dick D'Amato, Randy Fishbein, Jay Kimmitt, Peter Lennon, Mary Marshall, Mavis Masaki, Mazie Mattson, Jane McMullan, Dave Morrison, Houghton Albaugh, and John Young.

And on the staff of Senator STEVENS, my dear friend from Alaska, without the help of Steve Cortese, Jim Morhard, and Dona Pate this day would not have been possible. I wish to thank all of them and I believe I acknowledge the gratitude of my committee.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, the persons who were thanked by the distinguished Senator from Hawaii all deserve that gratitude, but I think the persons who most deserve our gratitude are Senator INOUYE himself and the distinguished Republican manager of the bill, Senator STEVENS. I thank them in behalf of all Senators and commend them for another outstanding job of managing legislation in a prompt and efficient yet thorough manner.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 675, S. 2991, the intelligence authorization bill, and that there be up to 30 minutes for debate following passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2991) to authorize appropriations for fiscal year 1993 for intelligence activities of the United States Government and Central Intelligence Retirement and Disability System, to amend the National Security Act of 1947 to provide a framework for the improved management and execution of United States intelligence activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Armed Services, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Staff.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 301. Postemployment assistance for certain DIA employees.
Sec. 302. Inclusion of Senior Executive Service positions in civilian intelligence personnel system.
Sec. 303. Awarding of degrees by Defense Intelligence College.
Sec. 304. National Security Education Act amendments.
Sec. 305. Pay and allowances for employees of the National Security Agency.

TITLE IV—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS

Sec. 401. Temporary FBI authority to accept bequests or devises.

TITLE V—CENTRAL INTELLIGENCE AGENCY

Sec. 501. Authority of Inspector General to receive complaints and information from any person.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Increase in employee compensation and benefits authorized by law.
Sec. 602. Restriction on conduct of intelligence activities.
Sec. 603. Sense of Congress regarding disclosure of annual intelligence budget.

TITLE VII—INTELLIGENCE REORGANIZATION ACT OF 1992

Subtitle A—In General

Sec. 701. Short title.
Sec. 702. Definitions.

Subtitle B—The National Security Council

Sec. 711. Participation of the Director of Central Intelligence in the National Security Council.

Subtitle C—The Director of Central Intelligence

Sec. 721. Appointment of the Director and Deputy Director of Central Intelligence.
Sec. 722. Responsibilities and authorities of the Director of Central Intelligence.

Subtitle D—The Intelligence Activities of the Department of Defense

Sec. 731. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.
[Sec. 732. Resource management for intelligence programs.

[Subtitle E—Congressional Oversight

[Sec. 741. Inclusion of tactical military intelligence activities within jurisdiction of Select Committee on Intelligence of the Senate.

[Subtitle F—Effective Date

[Sec. 751. Effective date.]

*Subtitle E—Effective Date*

*Sec. 741. Effective date.*

### TITLE I—INTELLIGENCE ACTIVITIES

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 1993 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

**SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

(a) SPECIFICATION OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1993, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany (S. 2991) of the One Hundred Second Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

**SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1993 under section 102 of this Act whenever he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives whenever he exercises the authority granted by this section.

**SEC. 104. COMMUNITY MANAGEMENT STAFF.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Staff of the Director of Central Intelligence for fiscal year 1993 the sum of $10,500,000.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 68 full-time personnel as of September 30, 1993. Such personnel may be permanent employees of personnel detailed from other elements of the United States Government. Any such personnel detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that such personnel may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(c) ADMINISTRATION OF COMMUNITY MANAGEMENT STAFF.—The activities and personnel of the Community Management Staff of the Director of Central Intelligence shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as are the activities and personnel of the Central Intelligence Agency.

### TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1993 the sum of $168,900,000.

### TITLE III—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

**SEC. 301. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN DIA EMPLOYEES.**

(a) ASSISTANCE AUTHORIZED.—Section 1604(e) of title 10, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of law, the Secretary of Defense may assist employees who have occupied sensitive positions in the Defense Intelligence Agency and who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Defense Intelligence Agency, or whose employment with the Defense Intelligence Agency has been terminated—

"(i) in finding and qualifying for subsequent employment;

"(ii) in receiving treatment of medical or psychological disabilities; and

"(iii) in receiving necessary financial support during periods of unemployment.

"(B) Assistance may be provided under subparagraph (A) only if the Secretary determines that such assistance is essential to maintain the judgment and emotional stability of such employee and to avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under subparagraph (A) for an employee may not be provided any longer than five years after the termination of the employment of the employee.

"(C) The Secretary of Defense shall submit to the Committees on Appropriations of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives an annual report describing the expenditures, if any, made pursuant to this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.".

(b) FIRST ANNUAL REPORT.—The first report under paragraph (4) of section 1604(e) of title 10, United States Code, shall be submitted not later than 12 months after the date of the enactment of this Act.

### SEC. 302. INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS IN CIVILIAN INTELLIGENCE PERSONNEL SYSTEM.

(a) INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS.—Section 1590 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ", including positions in the Senior Executive Service," after "positions"; and

(B) by inserting after "such departments" the following: ", except that the total number of positions in the Senior Executive Service established pursuant to this section may not exceed one-half of one percent of the total number of all civilian intelligence positions established pursuant to this section;";

(2) in subsection (b), by inserting after the first sentence the following new sentence: "The Secretary shall also fix rates of pay for positions in the Senior Executive Service established pursuant to this section that are not in excess of the maximum rate or less than the minimum rate of basic pay established pursuant to section 5382 of title 5."; and

(3) by inserting at the end of the section the following new subsections:

"(f) With regard to any position in the Senior Executive Service which may be established pursuant to this section, the Secretary of Defense shall prescribe regulations to implement this section which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3393a, 3396(c), 3592, 3595(a), 5384, and 6304, subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the Senior Executive Service is entitled shall be held or decided pursuant to regulations issued by the Secretary), and subchapter II of chapter 43 of title 5. The Secretary of Defense shall also prescribe, to the extent practicable, regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.

"(g) The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Senior Executive Service whose positions may be established pursuant to this section. The awarding of such a rank shall be made in a manner consistent with the provisions of that section.".

(b) CONFORMING AMENDMENT.—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting after "National Security Agency" the following: ", Department of Defense intelligence activities the civilian employees of which are subject to section 1590 of title 10,".

### SEC. 303. AWARDING OF DEGREES BY DEFENSE INTELLIGENCE COLLEGE.

(a) AMENDMENT TO TITLE 10.—Section 2161 of title 10, United States Code, is amended to read as follows:

**"§ 2161. Defense Intelligence College: conferral of degrees on graduates**

"(a) Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence College may, upon recommendation by the faculty of such college, confer a bachelor's or master's degree appropriate to the profession of intelligence upon graduates of the college who have fulfilled the requirements for that degree.

"(b) A degree may not be conferred under this section [unless the curriculum leading to that degree is accredited by a professional authority determined appropriate by the Secretary of Defense.".] *unless entering students have fulfilled general education requirements suitable for a bachelor's degree before being accepted into the program and unless the curriculum leading to the degree is approved by the Secretary of Education and is accredited by a professional authority determined appropriate by the Secretary of Defense.".*

(b) TABLE OF SECTIONS.—The item relating to that section in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2161. Defense Intelligence College: conferral of degrees on graduates.".

### SEC. 304. NATIONAL SECURITY EDUCATION ACT AMENDMENTS.

(a) ADMINISTRATION OF PROGRAM.—The National Security Education Act of 1991 (title VIII of the Intelligence Authorization Act, Fiscal Year 1992) (50 U.S.C. 1901 et seq.) is amended—

(1) in section 802(a)(1)(A), by inserting "or equivalent term," after "at least one academic semester";

(2) in section 802(a)(1)(B)(i), by striking "in the United States" and inserting in lieu thereof "as part of a graduate degree program of a United States institution of higher education";

(3) in section 802(a)(4), by inserting at the end of the subsection the following new sentence: "In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time.";

(4) by amending section 802(e) to read as follows:

"(e) ADMINISTRATION OF PROGRAM.—The Secretary shall establish an independent center for international studies to administer the program."; and

(5) in section 803(b), by—

(A) redesignating paragraph (7) as paragraph (8);

(B) inserting after paragraph (6) the following new paragraph:

"(7) The Chairperson of the National Endowment for the Humanities."; and

(C) in paragraph (8) (as so redesignated)—

(i) by striking "Four individuals" and inserting in lieu thereof "Six individuals"; and

(ii) by inserting before the period at the end the following: "and who may not be officers or employees of the Federal Government".

(b) AUTHORIZATION OF APPROPRIATIONS TO THE NATIONAL SECURITY EDUCATION TRUST FUND.—There is authorized to be appropriated to the National Security Education Trust Fund, established pursuant to section 804 of the Intelligence Authorization Act of 1991 (50 U.S.C. 1904), for fiscal year 1993, the sum of $35,000,000.

### SEC. 305. PAY AND ALLOWANCES FOR EMPLOYEES OF THE NATIONAL SECURITY AGENCY.

Section 2 of the National Security Agency Act of 1959 (Public Law 86-36; 50 U.S.C. 402 note) is amended to read as follows:

"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.".

## TITLE IV—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS

### SEC. 401. TEMPORARY FBI AUTHORITY TO ACCEPT BEQUESTS OR DEVISES.

(a) ACCEPTANCE OF BEQUESTS.—During fiscal year 1993, the Director of the Federal Bureau of Investigation may accept, on behalf of the Bureau, any bequest or devise made by a citizen of the United States, if such bequest or devise is used only—

(1) to fund and administer, in accordance with regulations prescribed by the Director, a scholarship program for the benefit of the immediate families of Federal law enforcement officers slain or permanently disabled in the line of duty; and

(2) to pay all necessary expenses in connection with the acceptance of such bequest or devise.

(b) AUTHORITY TO USE FUNDS.—(1) Notwithstanding any other provision of law, proceeds from the sale of property accepted as a bequest or devise by the Director pursuant to subsection (a) shall be maintained in an interest bearing account and shall remain available for disbursement for purposes of this section until such funds are expended.

(2) The authority of paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriation Acts.

(c) REGULATIONS REQUIRED.—Not later than 90 days after accepting any bequest or devise pursuant to this section, the Director shall prescribe regulations to implement the provisions of this section in a fair, equitable manner, and shall make copies of such regulations available to all Federal law enforcement agencies. Copies of such regulations shall also be provided the Judiciary Committees of the Senate and the House of Representatives.

## TITLE V—CENTRAL INTELLIGENCE AGENCY

### SEC. 501. AUTHORITY OF INSPECTOR GENERAL TO RECEIVE COMPLAINTS AND INFORMATION FROM ANY PERSON.

Section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by striking "an employee of the Agency" and inserting in lieu thereof "any person"; and

(2) by inserting "from an employee of the Agency" after "received".

## TITLE VI—GENERAL PROVISIONS

### SEC. 601. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

There are authorized to be appropriated to carry out the purposes of this Act such additional amounts for fiscal year 1993 as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.

### SEC. 602. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations in this Act does not constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

### SEC. 603. SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.

It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.

## TITLE VII—INTELLIGENCE REORGANIZATION ACT OF 1992

### Subtitle A—In General

### SEC. 701. SHORT TITLE.

This title may be cited as the "Intelligence Reorganization Act of 1992".

### SEC. 702. DEFINITIONS.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 2 the following new section:

"SEC. 3. DEFINITIONS.

"As used in this Act—

"(1) the term 'commissioned officer of the Armed Forces' does not include a commissioned warrant officer;

"(2) the term 'counterintelligence' means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign powers, foreign organizations, or foreign persons, or international terrorist activities;

"(3) the term 'Intelligence Community' includes—

"(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 105(b)(3)), and such other offices as the Director may designate;

"(B) the Central Intelligence Agency;

"(C) the National Security Agency;

"(D) the Defense Intelligence Agency;

"(E) the central imagery authority within the Department of Defense;

"(F) the Office of Reconnaissance Support (as provided for in section 105(b)(3)) within the Department of Defense;

"(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

"(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;

"(I) the Bureau of Intelligence and Research of the Department of State; and

"(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the Intelligence Community;

"(4) the term 'intelligence' includes foreign intelligence and counterintelligence;

"(5) the term 'foreign intelligence' means information relating to the capabilities, intentions, or activities of foreign powers, foreign organizations, or foreign persons;

"(6) the term 'foreign power' means—

"(A) a foreign government or any component thereof;

"(B) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

"(C) any group engaged in international terrorist activities or international narcotics activities abroad; or

"(D) a foreign-based political organization not substantially composed of United States citizens or persons admitted into the United States for permanent residence;

"(7) the terms 'national intelligence' and 'intelligence related to the national security'—

"(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

"(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title; and

"(8) the term 'National Foreign Intelligence Program' refers to all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President, and does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.".

### Subtitle B—The National Security Council

### SEC. 711. PARTICIPATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE IN THE NATIONAL SECURITY COUNCIL.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"(h) The Director of Central Intelligence (or, in his absence, the Deputy Director of Central Intelligence) may, in performance of his duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

### Subtitle C—The Director of Central Intelligence

### SEC. 721. APPOINTMENT OF THE DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the first sentence—

(A) by striking "under the National Security Council"; and

(B) by striking "with a Director" and all that follows through "disability"; and

(3) by striking the second sentence and subsections (b) through (f) and inserting in lieu thereof the following:

"(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate—

"(A) who shall serve as head of the United States Intelligence Community;

"(B) who shall act as the principal adviser to the President for intelligence matters related to the national security; and

"(C) who shall serve as head of the Central Intelligence Agency.

"(3) To assist the Director of Central Intelligence in carrying out his responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during his or her absence or disability.

"(4)(A) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

"(B) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

"(5)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position—

"(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(ii) shall not exercise, by reason of his or her status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense [except as authorized by this title] *except as otherwise authorized by law*; and

"(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

"(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3) shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(C) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position, shall continue to receive military pay and allowances (including retired or retainer pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.".

(b) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new undesignated paragraph:

"Director of Central Intelligence.".

### SEC. 722. RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

(a) In General.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) by redesignating section 103 as section 107, and section 104 as section 108; and

(2) by striking section 102a and inserting in lieu thereof the following new sections:

### "SEC. 103. RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

"(a) Provision of Intelligence.—Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing timely, objective national intelligence, independent of political considerations, and based upon all sources available to the Intelligence Community—

"(1) to the President;

"(2)(A) to the heads of departments and agencies of the executive branch; and

"(B) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

"(3) where appropriate, to the Senate and House of Representatives and the committees thereof.

"(b) Establishment of National Intelligence Council.—(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the 'Council'), composed of senior analysts within the Intelligence Community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence. The Council shall be headed by a Chairman with two deputy chairmen, at least one of whom shall be from the private sector.

"(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which are deemed unnecessary by the Director for this purpose.

"(2) The Council shall—

"(A) produce national intelligence estimates for the Government, including, whenever the Council deems appropriate, alternative views held by elements of the Intelligence Community; and

"(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a).

"(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the Intelligence Community for purposes of representing the views of the Intelligence Community within the Government.

"(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection, and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

"(5) The heads of elements within the Intelligence Community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

"(c) As Head of the Intelligence Community.—In his capacity as head of the Intelligence Community, the Director shall—

"(1) develop and present to the President and the Congress an annual budget for the National Foreign Intelligence Program of the United States;

"(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the Intelligence Community;

"(3) promote and evaluate the utility of national intelligence to consumers within the Government;

"(4) eliminate waste and unnecessary duplication within the Intelligence Community;

"(5) protect intelligence sources and methods from unauthorized disclosure; and

"(6) perform such other functions as the President or the National Security Council may direct.

"(d) As Head of the Central Intelligence Agency.—In his capacity as head of the Central Intelligence Agency, the Director shall—

"(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions;

"(2) provide overall direction for the collection of national intelligence through human sources by elements of the Intelligence Community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

"(3) correlate and evaluate intelligence related to the national security and providing appropriate dissemination of such intelligence;

"(4) perform such additional services as are of common concern to the elements of the Intelligence Community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

"(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct, including the conduct of covert actions as may be authorized pursuant to title V of this Act.

### "SEC. 104. AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

"(a) Access to Intelligence.—Subject to the direction of the National Security Council, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

"(b) Approval of Budgets.—The Director of Central Intelligence shall provide guidance to elements of the Intelligence Community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

"(c) Role of DCI in Reprogramming.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the Intelligence Community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

"(d) Transfer of Funds or Personnel Within the National Foreign Intelligence Program.—(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence is authorized, with the approval of the Director of the Office of Management and Budget, to transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the Intelligence Community to another such element for periods up to a year, only if—

"(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(B) the need for funds or personnel for such activity is based on unforeseen requirements;

"(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

"(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

"(E) the Secretary or head of the department which contains the affected element or elements of the Intelligence Community does not object to such transfer.

"(2) Funds transferred under this section shall remain available for the same purposes, and for the same period, as the appropriations account to which transferred.

"(3) Any transfer of funds under this section shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer notified to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection where such transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of enactment of this section.

"(4) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives *and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives*, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

"(e) Coordination With Foreign Governments.—Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of Central Intelligence shall coordinate the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

"(f) Use of Personnel.—The Director of Central Intelligence shall, in coordination with the heads of departments and agencies with elements in the Intelligence Community, institute policies and programs within the Intelligence Community—

"(1) to provide for the rotation of personnel between the elements of the Intelligence Community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

"(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the Intelligence Community.

"(g) Termination of Employment of CIA Employees.—Notwithstanding the provisions of any other law, the Director of Central Intelligence may terminate the employment of any officer or employee of the Central Intelligence Agency whenever he shall determine such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.".

(b) Amendments to the Table of Contents.—The table of contents of the National Security Act of 1947 is amended by striking out the items relating to sections 102a and 103 and inserting in lieu thereof the following new items:

"Sec. 103. Responsibilities of the Director of Central Intelligence.
"Sec. 104. Authorities of the Director of Central Intelligence.
"Sec. 107. National Security Resources Board.
"Sec. 108. Annual National Security Strategy Report.".

### Subtitle D—The Intelligence Activities of the Department of Defense

### SEC. 731. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) In General.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 104 (as added by this title) the following:

### "SEC. 105. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

"(a) In General.—The Secretary of Defense shall—

"(1) ensure that the budgets of the elements of the Intelligence Community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the Office of the Joint Chiefs of Staff and the unified and specified commands, and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

"(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

"(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

"(4) ensure that the elements of the Intelligence Community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces; [and]

"(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense [.] *; and*

*"(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.*

"(b) Responsibility for the Performance of Specific Functions.—Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure—

"(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

"(2) through a central imagery authority, with appropriate representation from the Intelligence Community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

"(3) through the establishment of an Office of Reconnaissance Support, the continued operation of an effective unified organization for the research and development, procurement, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the Intelligence Community;

"(4) through the Defense Intelligence Agency, the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the Intelligence Community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

"(5) through the Defense Intelligence Agency, effective management of [defense attaches] *Department of Defense human intelligence activities, including defense attaches, and of such other intelligence programs as may be assigned to the Agency by the Secretary*; and

"(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

"(A) the requirements of the Director of Central Intelligence;

"(B) the requirements of the Secretary of Defense of the Chairman of the Joint Chiefs of Staff;

"(C) the requirements of the unified and specified combatant commands and of joint operations; and

"(D) the specialized requirements of the departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

### "SEC. 106. ADMINISTRATIVE PROVISIONS PERTAINING TO DEFENSE ELEMENTS WITHIN THE INTELLIGENCE COMMUNITY.

"(a) Consultations With Regard to Certain Appointments.—[(1)] The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the Office of Reconnaissance Support (as provided for in section 105(b)(3)), or the Defense Intelligence Agency.

["(2)] *"(b) Appointment of Head of Central Imagery Authority.*—The Secretary shall appoint, upon the recommendation of the Director, the head of the central imagery authority within the Department of Defense.

["(b) Exception to General or Flag Officer Ceilings.—In the event the Secretary of Defense appoints a general or flag officer as head of the National Security Agency, Defense Intelligence Agency, the central imagery authority within the Department of Defense, or the Office of Reconnaissance Support (as provided for in section 105(b)(3)), such appointment shall, for the period of such appointment, be excluded from calculation of the numbers and percentages specified in sections 525 and 526 of title 10, United States Code, pertaining to the officers authorized for the armed force of which he or she is a member.".]

(b) Amendments to the Table of Contents.—The table of contents of the National Security Act of 1947 is amended by inserting the following new items:

"Sec. 105. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.
"Sec. 106. Administrative provisions pertaining to defense elements within the Intelligence Community.".

### [SEC. 732. RESOURCE MANAGEMENT FOR INTELLIGENCE PROGRAMS.

[(a) Budget Submissions Regarding Tactical Intelligence Matters.—As part of the budget presentation materials submitted to the Congress for fiscal year 1994 and for each fiscal year thereafter, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall identify to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Armed Services of the Senate and House of Representatives those intelligence activities of the Department of Defense currently listed as the Tactical Intelligence and Related Activities (TIARA) which—

[(1) produce foreign intelligence in peacetime;

[(2) interface or interoperate directly with national intelligence systems; or

[(3) meet the intelligence requirements of all Department of Defense elements rather than the requirements of a single element.

[(b) Tactical Intelligence Program.—Beginning with fiscal year 1995, and each fiscal year thereafter, the intelligence activities of the Department of Defense which were identified by the Secretary of Defense pursuant to subsection (a), or which may be subsequently identified by the Secretary as meeting the criteria of subsection (a), shall be funded as elements of a Tactical Intelligence Program within the budget of the Department of Defense, and shall be administered as a separate program by the Secretary of Defense.

### [Subtitle E—Congressional Oversight

### [SEC. 741. INCLUSION OF TACTICAL MILITARY INTELLIGENCE ACTIVITIES WITHIN JURISDICTION OF SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE.

[(a) Amendment to Senate Resolution 400 (94th Congress).—Section 14(a) of Senate Resolution 400 of the Ninety-fourth Congress is amended by striking the last sentence.

[(b) Effective Date.—This section shall take effect on October 1, 1993.

### Subtitle [F] *E*—Effective Date

### SEC. [751.] *741*. EFFECTIVE DATE.

This title shall take effect on the date of its enactment.

Mr. BOREN. Mr. President, the Senate takes up today the Intelligence Authorization Act for fiscal year 1993. This is the sixth such authorization bill that I have had the privilege of bringing before the Senate during my tenure as chairman of the Select Committee on Intelligence, which, as the record will show, is now longer than that of any previous chairman.

During this period, I have been extremely fortunate to serve with two distinguished and capable vice chairmen: First, with Senator COHEN, who served in this position for 4 years, and, then, with Senator MURKOWSKI for the past 2 years. With their help and cooperation, the committee has been able to operate effectively in a bipartisan manner. Indeed, most of our decisions have been taken by unanimous vote or with only limited dissents. Rarely have votes broken down along party lines, and we have tried to take the views of all our Members into account regardless of the issue.

At the same time, we have been very mindful of our institutional role. The activities within the purview of this committee are crucial to the Nation's security. Yet they also pose potential risks for our country, and how it is perceived at home and abroad. Intelligence activities necessarily must be carried out in secret, and Congress must respect this secrecy if the oversight system is to work. At the same time the committee serves as virtually the only check outside the executive branch on the conduct of intelligence activities. We perform this surrogate role, not only for the Senate, but for the American people as well. Thus, it is crucial that we maintain our independence and authority as an institution, and that we be accountable for our stewardship to both the Senate and the public, to the extent we are able to do so.

In this regard, the lengthy set of public hearings that we held last year on the Gates nomination stand out in my mind as perhaps the most open discussion of intelligence activities which has ever taken place in our history. These hearings did much, I believe, to educate the American people with respect to the contributions made by intelligence, and to demonstrate the importance of effective congressional oversight.

When I became chairman of the Intelligence Committee 6 years ago, the efficacy of the entire oversight process was being called into question. We were in the throes of the Iran-Contra affair, the most serious breach of the oversight process to have occurred since the intelligence committees were created in the mid-1970's, and, indeed, it appeared the existing oversight arrangements had significant flaws.

Senator COHEN and I made it the first priority of our committee to shore up the oversight framework. I am pleased to report to my colleagues, Mr. President, that these efforts ultimately produced significant, concrete results.

With respect to the committee's own internal procedures, we created a small audit unit on our staff to give us the capability of auditing expenditures and funding arrangements in covert action programs and other types of intelligence activities, and we instituted quarterly reviews by the committee of all covert action programs on the books.

In the fiscal year 1990 Intelligence Authorization Act, we created an independent, statutory Inspector General for the CIA, and required that he make semiannual reports of his activities to the Congress. The first incumbent of this office was confirmed by the Senate in November, 1990, and is having, in our view, a very constructive impact on the work of the Agency.

Perhaps most significant of all the reforms was the revision of the oversight statute itself which was accomplished by the fiscal year 1991 Intelligence Authorization Act. This law set new rules for the approval of covert actions and reporting them to the Congress, and, in doing so, addressed many of the problems in evidence in the Iran-contra affair. Thus, the President must now approve covert actions in written findings which cannot be retroactive. If third parties are to be used to carry out covert actions, this must be noted in the finding. All entities of the Government which might be used for these purposes also must be identified. Further, the law makes clear that covert actions cannot be used to violate laws of the United States, or to influence domestic political opinion. Significant changes in previously approved findings must now be reported to the oversight committees as a matter of law.

Finally, we were able to obtain a commitment from the President that if he were to withhold prior notice of a covert action from the oversight committees, he would interpret the statutory requirement of "timely notice" as meaning notice "within a few days." While the President did reserve the possibility that he might assert constitutional authority to withhold notice for longer periods, he no longer asserted that the statute itself gave him unfettered discretion when to notify the Congress.

Mr. President, these changes took us almost 4 years to enact. One of our authorization bills was vetoed because of it. But to my mind, they were worth the effort. We are leaving behind a far stronger oversight structure. While I think it is true that in the end successful oversight ultimately depends upon good faith and mutual trust between the branches, I think that good faith and trust are fostered by having a strong institutional framework in which these relationships are played out.

In addition to strengthening the oversight process, the committee has played a key role in terms of allocating resources for intelligence activities. When I became chairman 6 years ago, the reality of the cold war was still very much with us. The committee was concerned with keeping close tabs on the Soviet military threat, and about countering Soviet influence around the world. We were worried about our ability to verify arms control treaties, and what to do about Soviet spies. The role of intelligence was crucial to these concerns, and the committee supported the funding necessary to provide a strong capability to collect and analyze information.

Given the dramatic developments of the last 3 years, however, the military and political threat posed by the former Soviet Union has vastly diminished. Clearly, the intelligence community does not need to do many of the things it did in the past to monitor activities in this area of the world, or to counter Soviet influence. Cost savings are clearly possible.

While the committee made modest reductions in the intelligence authorization in each of the last 2 years, in this year's bill, we are recommending a more substantial reduction in the President's budget request. We believe such a cut can be achieved while still preserving a strong, flexible capability to cope with this rapidly-changing, increasingly complex world. Our policymakers still need intelligence to guide their decisions. They cannot rely solely upon the media or upon the representations made by other governments. Above all, we must preserve an intelligence capability sufficient to support U.S. military forces, wherever they may be deployed around the world. The Persian Gulf war was a sobering reminder that, notwithstanding our desire to reap the peace dividend, American lives may well depend on preserving our intelligence edge into the future.

Now, I want to turn to the subject of reorganizing the intelligence community, and explain how the bill before us deals with that area.

My colleagues will recall that earlier in this session, I introduced a bill, S. 2198, which called for a comprehensive, far-reaching restructuring of the U.S. intelligence community. A similar bill was introduced in the House by Congressman MCCURDY, the chairman of the House Intelligence Committee.

The bill called for a Director of National Intelligence, separate from the CIA, with three Deputy Directors, one for the intelligence community, one for estimates and analysis, and one to run the CIA, which would have been made largely an operational agency. The new Director of National Intelligence would have been given new responsibilities and new authorities to run the intelligence community, which itself would have been considerably restructured by this proposal.

When the bill was introduced, I said that it was intended as a launching pad for discussion. It was also hoped that the bill would cause the administration to be somewhat bolder than it might otherwise have been in addressing the organizational shortcomings perceived by the committee.

In both respects, the bill succeeded in accomplishing its objectives. The committee held a series of five hearings on the bill between February and April, receiving excellent testimony on the future of U.S. intelligence from experts such as James Schlesinger, Frank Carlucci, and others. At the final hearing, the committee heard from the Director of Central Intelligence, Robert Gates, who summarized the actions which he had taken, or proposed to take, to address the concerns addressed by the legislation. He spoke of his efforts to revitalize intelligence analysis and make it more relevant to policymakers; of his plans to rejuvenate the community role of the DCI; of his plans to reorganize the office which procures overhead reconnaissance systems; and, finally, in a subsequent letter, of his plans to create a new office to coordinate the exploitation and dissemination of imagery intelligence.

The members of our committee reacted positively to these initiatives, which we regarded as substantial and responsive to our concerns.

At the same time, the hearings clearly demonstrated the inadequacy of existing law in terms of providing the legal underpinning for U.S. intelligence activities. Existing law essentially boils down to two sections of the National Security Act of 1947 which have not been amended in the 45 years of their existence. Not only are they woefully out of date, they are woefully out of sync in terms of reflecting the composition of the intelligence community and the nature of the relationships between its component parts. Thus, the committee came to conclude that legislating the fundamental roles, missions, and relationships of the intelligence community was, indeed, desirable, both to reflect and preserve the changes made by the administration, and to signal the continuing commitment of the Congress to the preservation of an effective intelligence capability. We also recognize the need to build sufficient flexibility into the law to permit the President and the DCI to adjust the structural arrangements as future needs may require.

These legislative provisions are contained in title VII of the bill before us. They have been worked out in consultation with the administration, and, while I cannot say the administration is satisfied with every word, I believe we have reached agreement on all but a few minor issues. There will be further opportunities, of course, to address these in conference.

If enacted, title VII would, for the first time, define the U.S. intelligence community in law. It would set forth the roles of the Director of Central Intelligence, and provide specific responsibilities and authorities to his office for the first time in law. And it would similarly define the responsibilities of the Secretary of Defense for national intelligence programs, again for the first time in law.

Mr. President, this is significant legislation. While I would not describe it as radical surgery, I would describe it radical improvement in the law governing intelligence activities. For the first time, Congress would be telling the intelligence community what we expect it to do—not sub rosa, not in closed session, but openly, in law, where all can see. The time is ripe, in my view, for this legislation, and I commend it to my colleagues.

Before turning the floor over to the distinguished vice chairman, let me quickly highlight the other provisions of this year's authorization bill.

Title I contains the annual authorization of appropriations for the elements of the U.S. intelligence community. Because these figures are classified, title I incorporates into the law the classified schedule of authorizations which accompanies the bill. This classified schedule and the accompanying classified report has been available to all Members of the Senate in our committee spaces since July 20.

Title II contains the annual authorization for the CIA retirement and disability system.

Title III contains a number of provisions relating to intelligence elements of the Department of Defense. Section 301 authorizes the DIA Director to provide limited assistance to certain former employees in order to prevent security problems from developing. Section 302 clarifies that senior executive services positions within the military departments are to be included in the civilian intelligence personnel system already established by law. Section 303 provides that the Defense Intelligence College may award bachelors' degrees in intelligence fields contingent upon the school receiving appropriate accreditation for this course of study. Section 304 contains minor amendments to the National Security Education Act, passed by Congress in last year's authorization bill, and authorizes an additional $35 million to be applied to the trust fund established under that legislation. Section 305 authorizes the Director of the National Security Agency to pay benefits and allowances to employees which are comparable to, but do not exceed, those payable to other Federal employees.

Title IV provides temporary authority for the FBI to accept a bequest of funds from a private citizen, and use such funds to establish a scholarship program for immediate families of Federal law enforcement officers slain or permanently disabled in the line of duty.

Title V makes clear that the CIA inspector general may receive and investigate complaints from persons or sources outside CIA.

Title VI contains general provisions, including a sense-of-the-Congress provision that beginning in 1993 and in each year thereafter, the aggregate amount appropriated for intelligence activities should be disclosed to the public in an appropriate manner. This is the same budget disclosure provision that was in last year's bill, and represents a reiteration of the committee's position on this issue.

Title VII, as I have already explained, contains the provisions on intelligence reorganization.

This, then, Mr. President, is a summary of the legislative provisions in this year's bill. They have the support of all members of our committee, and I would urge my colleagues to vote for its passage.

Before I yield, though, let me pay tribute to the contributions made by our Members, and, in particular, our vice chairman, the distinguished Senator from Alaska, FRANK MURKOWSKI. Our committee prides itself on the bipartisan spirit in which we work. But clearly bipartisanship is impossible without a vice chairman who takes a cooperative interest in the work of the committee, and Senator MURKOWSKI has clearly played such a role. I appreciate his advice and counsel, and his willingness to work with me toward what I believe have been our common goals: the improved performance of our intelligence agencies, and the strengthening of the oversight process.

He and I will turn over the reins of the committee to others at the end of this year, and other members of the committee will reach the end of their terms, or will otherwise be leaving the Senate. On the Democratic side, Senators HOLLINGS, BRADLEY, and CRANSTON will be departing; and on the Republican side, Senator RUDMAN will be leaving. I want to thank each of them publicly for their interest and involvement in the work of the committee. Service on this committee does not often translate into political points. The public is largely unaware of the role that individual Senators play. Each has had his own areas of interest; and has left his own mark on the work of the committee. Together they have been a formidable force, shaping policy, process, and the allocation of resources. Their contributions will be long remembered; and their impact, longlasting. I thank them as well as those Senators who will remain: Senators DECONCINI, METZENBAUM, GLENN, KERREY, WARNER, D'AMATO, DANFORTH, GORTON, and CHAFEE, for making my tenure as chairman so satisfying. It has been a distinct honor and privilege to have served as leader of this distinguished group.

We also could not have done it without our talented staff. I know of no committee which has such a dedicated, knowledgeable group of experts to support them. Since this is my last year with this auspicious group, I want to take a moment to acknowledge their contributions, particularly those of our senior staff. George Tenet, our staff director, has provided strong direction and leadership in a very demanding and very sensitive position. A person of enormous energy and a no-nonsense style, George has guided the committee through the treacherous shoals of the intelligence business for the last 4 years displaying excellent judgment and unflagging persistence. John Moseman, minority staff director for the last 2 years, has combined a judicious temperament with unmatched dedication and diligence. Always cooperative and helpful, John was largely responsible for keeping us on an even keel, ensuring that the interests of all our members were accommodated. Britt Snider, our general counsel, has been with the committee for 6 years, during which time he has served as the lawyer for both sides of the aisle. A professional with experience in both the legislative and executive branches, Britt was the principle author of the most significant legislation enacted over the last 6 years, to include the CIA inspector general law, the 1991 revision of the intelligence oversight statute, and this year's amendments to the National Security Act of 1947. Regina Genton, the budget director, has also been with the committee for 6 years, serving as budget director during the past year, succeeding Keith Hall, who took his considerable talents to the Department of Defense. Gina has demonstrated an unusual ability to assimilate and marshal vast amounts of information, presenting the committee with recommendations that are clear and convincing. She is an extremely talented and capable person. Heading our audit staff for the last 2 years has been Pat Hanback, a woman who is a professional accountant with previous experience at CIA, a rare combination. Thanks to Pat and her staff, the committee has considerably improved its capability to monitor and evaluate financial transactions by intelligence agencies, a key element of oversight. Serving as special assistant for covert actions programs has been Chris Straub, a very able and insightful member of our team. Doubling as the staff designee for Senator HOLLINGS, Chris has played the key role in this critical area of our oversight responsibilities. The chief clerk of the committee, Kathleen McGhee, has served in this position during my entire tenure as chairman. As head of our administrative staff, she has skillfully and consistently managed the affairs of our committee, and both members and staff owe her a debt of gratitude.

Time does not permit me to go on in detail. Suffice it to say, the contributions of the remainder of our very capable core staff: Cullum Clark, Claudia Daley, Pete Dorn, John Elliff, Dave Garman, David Halperin, Judy Hodgson, Sarah Holmes, Karen Lydon, Jim Martin, Zach Messitte, Marvin Ott, Andre Pearson, Joan Piermarini, Terry Ryan, Mary Sturtevant, Tawanda Sullivan, Tracey Summers, Blythe Thomas, Jim Van Cook, Fred Ward, Jim Wolfe, and Sheryl Wood are acknowledged and appreciated, as are the contributions made by the staff designees of our members: Naomi Baum for Senator CRANSTON; Tim Carlsgaard for Senator DECONCINI; John Despres for Senator BRADLEY; Art Grant for Senator RUDMAN; Bill Griffies for Senator GORTON; Mike Hathaway for Senator D'AMATO; Ed Levine for Senator METZENBAUM; Chris Mellon for Senator CHAFEE; Don Mitchell for Senator GLENN; Jennifer Sims for Senator DANFORTH; and Gary Sojka for Senator WARNER. It has been a team effort and a quality effort. I salute all of you.

I now yield the floor to the distinguished vice chairman of the committee, Senator MURKOWSKI.

Mr. MURKOWSKI. Mr. President, I join Senator BOREN in urging our colleagues to support the fiscal year 1993 intelligence authorization bill. This year, our committee carefully evaluated the President's budget request in light of the dramatic changes that have taken place in the world, including the collapse of the Soviet Union, continued instability in the Middle East, recently negotiated arms agreements, and other significant matters affecting our national security.

We have made a program-by-program review to ensure that we maintain highly capable intelligence expertise to deal with a most complex world. In doing so, I believe we have complimented the serious efforts undertaken by the Director of Central Intelligence, Bob Gates, who has implemented a restructuring of key components of the intelligence community to respond to this new world order.

I will not detail here the particular features of our bill. Senator BOREN has provided a careful, unclassified outline of our approach. Suffice it to say, I believe our committee made difficult choices and established firm priorities in reducing spending on intelligence by over $1 billion. This savings, I am pleased to note, was applied by the Armed Services Committee to reduce the national deficit, and was not spent on other defense programs. I commend the leadership of Senators NUNN and WARNER in working with our committee to achieve this result.

Mr. President, another feature of this legislation that deserves the attention of our colleagues is title VII, which reorganizes portions of the intelligence community. The reorganization provisions are the culmination of several years' of effort by our professional staff and our committee to codify the modern intelligence community structure and authorities. These provisions do not establish a radical readjustment or realignment of the varied components of the intelligence community. Rather, title VII codifies reality. This is long overdue, particularly in light of the fact that no similar codification has taken place since late 1940.

Mr. President, I join with Senator BOREN in commending the fine staff that has served us so ably during our tenure on the committee. My colleagues should understand that one of the most important functions of our Intelligence Committee is to oversee the vast number of classified programs that we authorize. This ranges from highly sensitive covert action initiatives, to the performance of agencies and directorates. We rely very heavily on the expertise of our staff to assist us in this important function, and all members of our committee are grateful for the hard work and dedication of this professional staff.

Mr. BYRD. A very special opportunity has arisen for the Senate as a result of the collapse of the Soviet empire and the setting loose of a group of newly emerging sovereign democracies out of the ashes of the old Warsaw Pact and Soviet Union.

East Europe and the former States of the Soviet Union is now known as a zone of emerging democratic States, and with that development comes the difficulties of making democracies work, of maintaining openness while preserving order, of establishing security organizations and intelligence organizations which are controlled by the civilian leadership of those nations. Problems that are common knowledge to us in the Senate in controlling the operations of secret bureaucracies are new to the fledgling parliaments of these new States.

I believe that it would be highly appropriate, during the upcoming 103d Congress, which will convene in January 1993, for the Senate, through the Appropriations and Intelligence Committees, which conduct the work of overseeing our own intelligence agencies and security bureaucracies, to take up the task of providing information, advice, and energy to the parliaments, the legislatures of those newly emerging democracies on how to effectively monitor and control the policies and operations of the intelligence and security organizations that will undoubtedly develop and grow in those societies. It was not long ago that the security organizations in those nations and former Republics controlled the lives of the people, and now we are hoping that the tables will permanently be turned. I would hope that specific Senators on our two committees would assume this as an area of special work and attention, since the benefits would be very substantial not only for those new governments, but more importantly for the peoples of those new nations who are now tasting freedom after decades of deprivation.

Mr. President, we have already had in place for 2 years a modest program funded by our two committees to establish liaison relationships with the nations of Eastern Europe, and in a couple of cases, both in Czechoslovakia and Romania, we have provided modest assistance in the form of transmitting materials explaining our laws and procedures in the complicated task of overseeing and controlling our intelligence organizations. The parliamentary oversight committees which do exist and have been in touch with us are eager, more than eager, to learn from us, and it would be a great mistake for us not to give them all the help and assistance that we can.

It would be my hope that interested Senators would devote substantial attention to this job, and would take the time to visit with their legislative counterparts in those nations, and I am certain that the staffs of our two committees, some of whom have already been involved in this effort, stand ready and willing to provide the necessary support to make this a successful venture.

Mr. BOREN. Mr. President, S. 2991 was reported on July 24 as an original bill. It was subsequently referred to the Committee on Armed Services for a period of 30 days for matters within the jurisdiction of that committee. The committee reported out this bill on September 16, 1992, Senate report 102–407, with several amendments, most of which were made to title VII, the part of the bill which deals with the restructuring of the intelligence community. These amendments are acceptable to the Intelligence Committee.

Mr. President, while the committee agrees to adopt the amendments made by the Armed Services Committee, I do wish to comment on two provisions of our original bill which were stricken.

When the Intelligence Committee was established in 1976, the Senate gave it jurisdiction over the CIA and so-called national intelligence programs, but it excluded from the committee's jurisdiction military tactical intelligence, leaving those programs in the jurisdiction of the Armed Services Committee.

As the work of the Intelligence Committee has evolved and matured, we have found it impossible to evaluate the budget for the CIA and national intelligence programs without assessing what sorts of intelligence capabilities are being funded as tactical intelligence programs. Since Armed Services remains the authorizing committee for these programs, however, the Intelligence Committee has ordinarily made recommendations regarding the annual authorization for tactical intelligence activities to the Armed Services Committee, and has played no role in conferencing the issues related to these activities.

Our counterpart committee in the House of Representatives, on the other hand, does have jurisdiction over tactical intelligence, and authorizes the annual appropriations for tactical intelligence and related activities.

In the bill reported by the Intelligence Committee, we had proposed eliminating the limitation in our charter, which excluded tactical intelligence activities from our jurisdiction. We did so in the belief that by giving our committee responsibility for tactical intelligence would lead to more thorough oversight of this area by our committee, and make our jurisdiction comparable to that of our counterpart committee in the House.

It would still have left our authorization for tactical intelligence to be considered on sequential referral by the Committee on Armed Services.

In any case, the Committee on Armed Services did not favor making this change, feeling that separating tactical intelligence activities, in a budgetary sense, from the operating forces they support was not advisable.

We respect their decision, and will not challenge it today. I do, however, continue to believe that this is an area which requires more thorough oversight both from the Department of Defense and from the Congress. The Select Committee on Intelligence will continue to review these activities, with or without formal jurisdiction over them.

The second matter is I wanted to comment upon briefly involves the Armed Services Committee's striking the provisions of the bill reported by our committee exempting the positions of NSA and DIA Directors from the statutory ceilings on flag-rank officers.

Under existing practice, the military departments have been reluctant to use their general or flag officer allocations to fill these defense agency positions. The result has been very little competition for these crucial jobs, and, occasionally, seeing them filled by officers with little or no intelligence backgrounds. The provision in our bill had been intended to free up these positions from the service quotas to foster competition among the services, and to give career intelligence officers in the services positions to aspire to.

While I believe the Armed Services Committee appreciates the problems with the existing system, it has opted for a different approach in its own bill by transferring certain flag-rank billets from the allocations of the military services to be used by the Chairman of the Joint Chiefs of Staff. These allocations could be used by the Chairman to fill defense agency positions like those at NSA and DIA.

On the basis of this action, our committee will not press for its provision. I hope, however, that the chairman will make use of these additional allocations to fill the NSA and DIA Director positions. If he does not do so, and the existing problems continue to plague the system, it would be my hope that the Intelligence Committee will reconsider this provision.

Mr. President, I now ask unanimous consent that the amendments reported by the Armed Services Committee be considered and adopted en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Armed Services Committee amendments were agreed to en bloc.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3157

Mr. BOREN. Mr. President, I now send to the desk a committee amendment making certain changes in the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 3157.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 13, line 24: after subsection 304(a)(5) insert the following new subsection:

"(6) in section 804(c), by striking obligation and inserting in lieu thereof expenditure."

(2) On page 19, line 12: delete "Office of Reconnaissance Support (as provided for in section 105(b)(3))" and insert in lieu thereof "National Reconnaissance Office".

(3) On page 25, line 16, by inserting after subsection 102(a)(5)(C) the following new subsection:

"(6) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency."

(4) On page 32, line 10, changing "to" to "from".

(5) On page 35, line 19, delete "the Office of".

(6) On page 37, line 14: delete "establishment of an Office of Reconnaissance Support" and insert in lieu thereof "the National Reconnaissance Office".

(7) On page 37, line 17: delete "procurement" and insert in lieu thereof "acquisition".

(8) On page 39, line 3, by inserting at the end of section 105 the following: "*Provided*, the Secretary of Defense, in carrying out the functions described in this section, shall be authorized to utilize such elements of the Department of Defense as may be appropriate for the execution of such functions in addition to, or in lieu of, the elements identified in this section."

(9) On page 39, line 18, by inserting at the end of subsection 106(b) the following new subsection:

"(c) AUTHORITY TO WITHHOLD CERTAIN INFORMATION REGARDING THE NATIONAL RECONNAISSANCE OFFICE.—Nothing in this Act or any provision of law shall be construed to require the disclosure of the organization or any function of the National Reconnaissance Office, of any information with respect to the activities thereof, or of the names titles, salaries, or number of persons employed by, or assigned or detailed to, such office."

Mr. BOREN. The first part of the committee amendment, Mr. President, I take particular pleasure in offering. Its principal purpose is to conform the relevant portions of the bill to the action announced by the administration on September 18, 1992, to declassify the existence of the National Reconnaissance Office [NRO], the office within the Department of Defense with responsibility for building and operating U.S. satellite systems, whose existence, for the last 30 years, has never been officially acknowledged by the Government.

Perhaps such secrecy was justified when the NRO was created, but with the passage of time and particularly with the end of the cold war, the justification for continued secrecy has drastically diminished. Indeed, the Select Committee on Intelligence has come to conclude that continued secrecy was not simply an anachronism in today's environment, but that it was having decidedly adverse effects on the external relationships of this organization.

I am personally very gratified by this decision, and, indeed, believe the efforts of the Intelligence Committee to bring the existence of the NRO out into the open contributed significantly to the decision. I introduced legislation earlier this year to reorganize the intelligence community. (S. 2198) which called for the establishment of a publicly acknowledged office with responsibilities similar to those of the NRO in hopes that this would motivate the Administration to consider seriously the continued classification of the National Reconnaissance Office. This proposal was carried over in the authorization bill reported by the committee.

We are, therefore, delighted that the administration has taken this action. The existence of NRO, its principal functions and organizational arrangements, and its senior officials have now been publicly acknowledged. It is a significant step toward openness, and I congratulate the Secretary of Defense, the Director of Central Intelligence, and the Director of the NRO itself, Martin Faga, for having taken it. It was the right thing to do.

Official acknowledgment of NRO's existence does not mean, however, that its activities will themselves be declassified. Indeed, virtually all of NRO's operations and activities must necessarily remain classified. In a letter sent to the congressional leadership last Friday, the administration requested a number of changes to existing law to allow NRO to maintain appropriate security for its operations even as its existence was being disclosed.

The amendment I am offering today, in fact, includes one of the provisions requested by the administration which is similar to provisions in existing law applicable to the National Security Agency and Central Intelligence Agency. This amendment would give the NRO discretion to withhold further information from the public concerning its organization and functions, or the names, titles, salaries, and number of persons employed by, or assigned to, such Office.

While most of NRO's activities are classified and information concerning them can be withheld from public disclosure under the Freedom of Information Act, the information covered by the amendment may not be classified, and, thus, could be subject to disclosure under existing law. In my view, this is information which should be protected from disclosure. Such information means little to the public, and yet its release could disclose significant information about the nature of NRO's classified activities.

With respect to the other provisions requested by the administration, there simply has not been enough time to consider and coordinate these proposals with the pertinent committees of jurisdiction. We recognize that a need for further legislative relief may exist, however, and are prepared to work with the administration to develop such legislation as may be warranted.

A second change made by the committee amendment makes clear that the Office of the Director of Central Intelligence, while constituting a separate element of the intelligence community, remains, for administrative purposes, within the Central Intelligence Agency.

Accordingly, the Office of the Director of Central Intelligence and the entities contained therein, for example, the National Intelligence Council, remain governed by and subject to the provisions of this act, the Central Intelligence Agency Act of 1949, as amended, and other applicable law, orders, directives and regulations to the extent they apply to the Central Intelligence Agency.

While the committee intends that the entities within the Office of the Director of Central Intelligence which support the Director in the execution of his responsibilities for the intelligence community, set forth in section 103(c) of the bill, as well as the National Intelligence Council, established pursuant to section 103(b), remain independent of the CIA in terms of the performance of their respective substantive functions, it is nonetheless the intent of the committee that these entities be considered administratively a part of CIA for purposes of receiving logistical and other administrative support, and that the personnel and activities of these entities be subject to the same laws and regulations as the personnel and activities of the Central Intelligence Agency, to include those laws and regulations which provide special authority to CIA for the conduct of intelligence activities.

This is, indeed, consistent with what had heretofore been existing law and practice.

At the same time, the committee reiterates that in making the Office of the DCI part of CIA for administrative purposes, it is not its intent that those elements of the Office of the DCI which support the DCI in the execution of his role as head of the intelligence community, or, like the National Intelligence Council, perform functions for the DCI which transcend those of the CIA itself, should be subject to the management, supervision, or control by CIA officials with respect to the execution of their substantive responsibilities, apart from responding to the direction of the DCI or DDCI themselves. In short, in providing that the Office of the DCI be considered, for administrative purposes, as part of the CIA, the committee does not intend to impair the ability of the DCI to act as an impartial head of the intelligence community.

The third substantive change proposed by the committee amendment is to clarify the section of the bill pertaining to the responsibilities of the Secretary of Defense.

Since the bill was reported, the Department of Defense has expressed concern that the bill as written might be interpreted to preclude the Secretary from using appropriate elements of the Department for the conduct of intelligence activities without its coming back to Congress and obtaining a change in the law. This was never contemplated by the bill, but in order to make this crystal clear, the committee amendment adds a new proviso to the bill stating that notwithstanding the requirement in the bill that the Secretary utilize certain DOD components to carry out certain activities, he is not precluded from using such other components as may be required to carry out the functions identified.

The Department would nonetheless be required to consult the Congress if funding had not been previously authorized and appropriated to permit the component concerned to undertake the function in question. Thus, a decision by the Secretary to utilize, for example, an element of the Department of Defense other than the National Security Agency to form a unified signals intelligence organization would necessitate the authorization and appropriation of funds by the Congress to be used for this purpose.

Lastly, Mr. President, the committee amendment would make three technical corrections. Two of the three would correct errors in the text of the bill. The third is an amendment to section 804(c) of the National Security Education Act, enacted last year, to clarify that money placed in the trust fund established by the act may continue to draw interest until it is expended rather than until it is obligated as is currently provided.

This, then, Mr. President, is what the committee amendment would accomplish.

Mr. President, this committee amendment has been thoroughly discussed in our committee, and I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3157) was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and wish the Chair good morning, and my colleague, the distinguished chairman of the Intelligence Committee.

First, let me say to my friend from Oklahoma I am initiating a departure and breaking a rule on our bipartisan basis by offering this amendment without the chairman's knowledge.

### AMENDMENT NO. 3158

(Purpose: To redesignate the National Security Education Act of 1991 to honor the chairman of the Select Committee on Intelligence, DAVID L. BOREN)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself, Mr. HOLLINGS, Mr. WARNER, Mr. BRADLEY, Mr. D'AMATO, Mr. DECONCINI, Mr. DANFORTH, Mr. CRANSTON, Mr. RUDMAN, Mr. METZENBAUM, Mr. GORTON, Mr. GLENN, Mr. CHAFEE, Mr. KERREY, and Mr. COHEN, proposes an amendment numbered 3158:

On page 18, after line 2, add the following new section:

**SEC. 604. REDESIGNATION OF NATIONAL SECURITY EDUCATION ACT OF 1991.**

Section 801(a) of Public Law 102–183 is amended to read as follows:

"(a) SHORT TITLE.—This title may be cited as the 'David L. Boren National Security Education Act of 1991'.".

On page 3, in the table of contents, after the item relating to section 603, insert the following new item:

"Sec. 604. Redesignation of National Security Education Act of 1991.".

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and I congratulate my colleague, the chairman of the Intelligence Committee.

Mr. President, my amendment is offered on behalf of members of the committee: Senator WARNER, Senator HOLLINGS, Senator BRADLEY, Senator D'AMATO, Senator CRANSTON, Senator DANFORTH, Senator DECONCINI, Senator RUDMAN, Senator METZENBAUM, Senator GORTON, Senator CHAFEE, Senator KERREY, and Senator COHEN.

Mr. President, this will undoubtedly be the last time Senator BOREN manages the intelligence authorization bill in his capacity as chairman of our committee. I think it is fitting that we reflect on his tenure over the last 6 years as chairman of that committee, which I am informed is the longest period of time that anyone has served as chairman of that committee.

As chairman of our committee, Senator BOREN has been able to apply his fundamental belief that partisanship should stop at the water's edge. He has practiced what he has preached, and as vice chairman of that committee I can attest to that.

Mr. President, it has not always been an easy chore. Senator BOREN has presided over the Intelligence Committee over a relatively contentious period of history which has included some very serious Senate debate over our foreign policy, difficult negotiations with the executive branch over legislation arising from the Iran-Contra episode, and the hard-fought confirmation of Robert Gates to be Director of the Central Intelligence. These two last matters were more or less public activities, a departure from the committee's norm.

During the Gates confirmation proceedings, which lasted over 5 months, the American public saw Senator BOREN preside over a highly charged series of hearings that provided perhaps more information than ever before about the inner workings of the Central Intelligence Agency. It was a pleasure to have worked closely with him to ensure that the hearings were thorough and fair to all parties. He certainly maintained that policy.

But as my colleagues well know, most of the work of our committee is done in closed sessions. We learn about and debate some of the most sensitive of our Nation's intelligence programs. Perhaps because we operate in closed sessions, our committee members often speak their minds as directly and forcefully as possible in that cloistered environment.

However, Senator BOREN has the responsibility, and I might say the thrill, if I can use that word, of presiding over these very energetic closed sessions. He consistently seeks a committee consensus and his leadership has not resulted in one party-line vote on any significant issue within the committee that this Senator from Alaska can recall.

There are many things that have occupied the attention of Senator BOREN and our committee. He and then Vice Chairman BILL COHEN instituted an audit function for our staff that has resulted in important cost savings for particular intelligence programs. He has been a strong advocate for increased funding for human intelligence. He has been careful to promote and protect the important oversight functions of our committee by working in close harmony with the Director of the Central Intelligence, the National Security Adviser and, indeed, with the President on a variety of different issues including those related to covert action.

But, Mr. President, there is one program in particular that I believe has given DAVID BOREN the most satisfaction during his 6 years as chairman of the Intelligence Committee. Last year, our committee authorized the establishment of the National Security Education Act. It was a new program within the Department of Defense that has, as one of its central purposes, the goal of increasing educational opportunities for college students and universities in national security studies.

Senator BOREN identified a critical national education need and established a program to meet the challenges of an increasingly competitive world. He wants to be sure we have trained professionals who can assist policymakers to respond appropriately to the complexities of foreign affairs. This educational program, funded as it is through the intelligence budget, was not easily accomplished. But it is a measure of DAVID BOREN's tenacity and grit that he worked months to build a case, argued effectively for his cause, formed a coalition of support and negotiated a successful resolution.

He used all of his skills as a legislator, but I believe the critical element that made this effort a success was that DAVID BOREN had his heart and his spirit fully engaged in the project as well as that of his staff.

He truly believes that the well-educated minds of our young people will be more important to our future than any technology we can devise to deal with world challenges and national security.

It is also clear that education has been important to Senator BOREN's life, particularly the education he received from his best and most important teacher, his father, Congressman Lyle Boren, who passed away a short time ago.

So, Mr. President, as I thought about paying tribute to my colleague for his good works and his bipartisan leadership, I decided it would be appropriate to ask my colleagues to include DAVID BOREN's name in the title of the National Security Education Act.

Finally, Mr. President, I am sure my colleague intends to respond, but let me first say that when grants and scholarships are given to increase our expertise in national security affairs, the recipients ought to know who the father of their particular program is. I suggest that they all be required to write him a letter at least once a year after they get their scholarship! But that may be presumptuous. More than that, the recipients ought to understand that bipartisan that can, indeed, be practiced in this body and that one man, DAVID BOREN, has used his position of leadership to try to influence the future in a most positive and meaningful way.

Mr. President, adding DAVID BOREN's name to the National Security Education Act is a small but sincere measure of our admiration for the decency of Senator BOREN and for the strong leadership he has provided to the Senate Select Committee on Intelligence. It has been a pleasure for me as vice chairman to have served with DAVID BOREN on the committee and certainly a pleasure today to recognize the contribution that he has made.

I urge my colleagues, as we address the final responsibility associated with our joint work on the Intelligence Committee, to support my amendment.

Mr. KERREY. Mr. President, I rise to add my support to the Murkowski amendment, naming the National Security Education Act of 1991 in honor of our departing chairman, Senator DAVID L. BOREN.

Senator BOREN has achieved so much in his 6-year leadership of the Intelligence Committee that I hesitate to say that the Boren Education Act is his crowning accomplishment. As in so many things, Senator BOREN saw a need, foresaw the impact of a lack of young Americans studying foreign languages and cultures, sought the counsel of the best minds on how to fix the problem, crafted a solution that included a sound financial base for future generations of scholars, and convinced his colleagues and the administration to do it. The Nation will be the richer for his effort, first in the quality of our future intelligence officers but also in the broader, more international scope of our future businessmen and women.

I am the most recent appointee to the Intelligence Committee but it is clear to me that our committee has exceptional leadership. Thanks to both the chairman and our distinguished vice chairman, Senator FRANK MURKOWSKI, partisanship stops when you pass through the doors into our committee room. We have balanced, nonpartisan leadership that seeks and achieves broad consensus. There is also a sense of responsibility which the committee, and particularly the chairman and vice chairman, bear on behalf of the entire Senate. Further, it is clear to me that the relations of mutual respect and candor between the Intelligence Committee and the intelligence agencies didn't just happen; they are the fruit of 6 years of DAVID BOREN's chairmanship. It has been a historic and extremely positive chairmanship.

It has been an honor to serve on the Intelligence Committee during the Boren era, if only briefly. It is a period that has set the standard for congressional oversight of sensitive Government activities and proved that our two branches of Government can work together positively and creatively.

Mr. CHAFEE. Mr. President, I am delighted to join Senator MURKOWSKI and others in offering an amendment to name the National Security Education Trust Fund after Senator BOREN, the distinguished chairman of the Intelligence Committee.

Let me begin by saying that the National Security Education Act was entirely the brainchild of the distinguished Senator from Oklahoma. It was not only his idea but I think he deserves credit for almost singlehandedly selling the concept to some skeptical colleagues of ours on other committees in this body and in the House of Representatives. The National Security Education Trust Fund is a product of his labors and his ingenuity and it is only fitting that it bear his name.

Let me say in addition, however, that this is only one of many farsighted initiatives our distinguished chairman has successfully implemented during his tenure as chairman of the Intelligence Committee. He was instrumental, together with our distinguished colleague BILL COHEN, the former vice chairman of the committee, in passing legislation to improve congressional oversight of the intelligence community. He formed an audit team within the staff of the Intelligence Committee which has proven to be of great value in investigating intelligence community programs. He succeeded in strengthening the inspector general of the CIA, a policy I had reservations about, but which seems to be working well today. He undertook a thorough review of the intelligence community's structure and organization, and some important changes have recently emerged from that effort. I would also say, Mr. President, that whether it was during a closed door hearing on a covert action policy, or during the televised hearings on the Gates' nomination, our distinguished chairman always acted in the finest bipartisan tradition of the Senate.

Mr. President, Senator BOREN was a member of the Intelligence Committee for the last 8 years, and its chairman for the last 6 years. It has been a period in which the United States has benefited from greatly increased capabilities within the intelligence community. At the same time, largely through Senator BOREN's efforts, this is a period during which the intelligence community has become more accountable for the funding it receives.

During a colloquy on the floor yesterday, our former vice chairman pointed out that there is little public reward or recognition for the long hours that are required to master the intricacies of the intelligence budget. I am delighted that we are able today to provide Senator BOREN a measure of public recognition for his efforts as chairman of the Intelligence Committee. He has served the country with great distinction in a very sensitive and important position and I congratulate him on his achievements over the last 8 years.

Mr. RUDMAN. Mr. President, I want to express my full support for the amendment that has been offered by the distinguished vice chairman of the Intelligence Committee. When I retire from the Senate in the near future, I will remember with great respect the tireless efforts of the chairman—and the vice chairman who has offered this amendment—to increase the Senate's ability to properly oversee the intelligence community's activities while at the same time improving the capabilities of the intelligence community to meet the national security needs of the United States. This amendment provides the recognition that Senator DAVID L. BOREN so richly deserves.

Unfortunately, for reasons of classification it will be a long time before the public will know all of the details of Senator BOREN's many contributions to our Nation's intelligence capabilities. But it is possible to speak publicly about some of Chairman BOREN's many accomplishments as head of the Intelligence Committee. Among those were his endeavors to create an atmosphere of mutual trust and confidence which not only has fostered the Intelligence Committee's bipartisan spirit, but also has cemented an excellent understanding between the committee and the intelligence community. This trust and confidence has been built upon the premises that secrets must be kept secret and that the intelligence community will be held completely accountable for its actions. This trust and confidence has contributed significantly to the United States' intelligence capabilities.

During his chairmanship, Senator BOREN improved the committee's and community's controls over classified activities. Clear penalties for unauthorized release of classified information were set and implemented. Trust and confidence were enhanced by improving the committee's oversight of the intelligence community's most sensitive and secret activities. For example, he directed the creation of a special Intelligence Committee audit staff that has looked in detail at several highly classified activities which heretofore had received only passing attention. The auditors have made many important recommendations which will improve future operations and accountability. To further increase accountability, the committee, under Senator BOREN's leadership, also conducted frequent hearings to review the Nation's covert activities. These critical reviews have ensured that a full range of ideas has been brought to bear on some very difficult problems. All of these efforts have helped to establish a clear sense of trust and confidence between the committee and the intelligence community.

These often sensitive and always important improvements in the details of the committee's and community's daily activities occupied some of the chairman's time, but his breadth of vision really represents the most important contributions that he has made. This is evident in the Intelligence Reorganization Act of 1992. There has not been any comprehensive legislation affecting the organization of the intelligence community since the passage of the National Security Act of 1947. Through his personal leadership, Senator BOREN worked hard to bring the legal status of the community into line with the realities of today. Extensive staff work, important committee hearings, and useful negotiations with the executive branch created the basis for a sound legislative proposal. Today, we will make this proposal the law of the land, and the intelligence community's organization will finally have a firm basis in statute.

Chairman BOREN's breadth of vision has also been demonstrated in his clear understanding of the national security needs of the United States and the intelligence community's ability to support those needs. Early in his tenure as chairman, Senator BOREN realized that in the rapidly evolving international environment, human source intelligence was going to play an increasingly significant role. His personal drive and tenacious pursuit of improving the United States' HUMINT capabilities resulted in the series of initiatives that have been called the "HUMINT in the 90's." For reasons of classification, I cannot identify here the successes which can be traced to those initiatives. It is sufficient to say in this forum, however, that the payoff has been high, and that the chairman's foresight has been rewarded by the personal knowledge that he did the right thing at the right time and the Nation is better off for it.

Mr. President, this brings me to the amendment that has been offered by the committee's vice chairman. Senator BOREN's vision of the future has extended well past the nineties. Realizing that the world of tomorrow will require the next generation of intelligence officers to have a broad understanding of a more complicated world, he personally embarked upon an effort to improve their educational background now. This effort, of course, is expressed in the National Security Education Act.

The act will offer educational opportunities to future generations of national security experts in the fields of language and foreign area studies. As we look around the world today we can clearly see that some areas of foreign studies previously believed to be significant have declined in importance and the relative importance of others have leaped to the forefront. As a result, particular language skills are in short supply and regional expertise in some cases goes wanting. The National Security Education Act will help solve these problems and the next generation will be better prepared to face the world that it will find around them.

It is appropriate that we are going to recognize the efforts of Senator BOREN to improve the Nation's intelligence capabilities by naming an act after him that so firmly bears his imprint and sense of vision. I applaud the vice chairman for his introduction of this amendment and am glad that future generations will refer to the David L. Boren National Security Education Act.

Mr. HOLLINGS. I rise in strong support of Senator MURKOWSKI's amendment to properly identify the National Security Education Program for all time by giving it the name of its founder, Senator DAVID L. BOREN. Our distinguished chairman identified the need for this program, he designed it, he shepherded the program through the legislative shoals, he convinced the administration of the need, and he will watch over it in years to come. The students who will benefit from the Boren program will improve the quality of U.S. human intelligence, but they will also increase our competitive advantage in the global economic competition. They will help America to become the export superpower that President Bush talks about, a goal which we all support. Our farsighted chairman first saw the need and he deserves the credit.

Our consideration of the intelligence authorization bill is a fitting moment to salute our chairman, because this is the sixth and last authorization bill produced under this leadership. DAVID BOREN has served 8 years on the Intelligence Committee, 6 years as chairman, and I take nothing away from his distinguished predecessors when I say that he has been our best chairman yet.

Senator BOREN started out in the most difficult circumstances possible, when the Iran-Contra hand grenade was tossed into his lap. The committee was deeply split along party lines, staffs were scrapping with each other, and the Intelligence Committee and its counterpart in the House were in the stressful position of being the only people in the country in possession of actionable information about Iran-Contra. I did not agree with everything the committee did during that period, but I have to credit Senator BOREN with taking charge firmly, calming the waters, eliminating the partisan strains, and moving forward with a sound course of action.

Senator BOREN set a tone, in those first weeks, that has become the hallmark of the chairmanship. He listens, he lets everybody have his say, he masters highly complex material, and he leads the committee to broad bipartisan consensus. It is no accident that our votes in the Intelligence Committee are usually 13 to 2 or 14 to 1, if not unanimous. Our chairman is convincing and he puts together positions that we can all support. His diligence has also brought new levels of cooperation and mutual respect between the Intelligence Committee and the intelligence agencies. The agencies know that in Senator BOREN they are getting fair, nonpartisan oversight from a conscientious expert.

Our chairman's accomplishments would not have been possible without the contributions of the two vice-chairmen who served alongside him, Senator BILL COHEN for the first 4 years and Senator FRANK MURKOWSKI for the last 2. They supplied the partnership and the constructive balance that kept the Intelligence Committee out of the partisan wars. It has been my honor to serve with each of them. But I think they would agree that the greatest honor belongs to our departing chairman. He has been, for longer than any other chairman, the steward for the Senate and for the Nation of all our Nation's intelligence activities. I doubt if those activities will ever be under the stewardship of a more effective leader, a more skillful legislative craftsman, or a more brilliant mind.

Mr. MURKOWSKI. I thank the Chair. I congratulate my colleague from Oklahoma.

Mr. BOREN. Mr. President, I know that we have practiced a high level of security in our committee, and we have learned, over a period of time, to keep the secrets and to bear that responsibility. But I must say that my good friend, the vice chairman of the committee, the Senator from Alaska, has really pulled one on me on this. He has managed to keep it secret within the committee from the chairman of the committee.

It is almost impossible for me to respond adequately both to the terms of this amendment and to the generous comments which the vice chairman has just made. Very few people, while they are still alive, have the privilege of hearing such kind things said about them.

I want to express my deep gratitude to the vice chairman. It has been a real privilege working with him for the past 2 years. I suppose if there is any one thing, as I look back over the last years that I have had the privilege of serving as chairman—a period of time that is now drawing to a close because I believe, wisely, we have rules in our body that require the rotation of membership of this committee over a period of time so that more Members of the full Senate will have the responsibility of sitting on this committee dealing with the very sensitive issues of national security that confront our country and having a better understanding of them so that we can assure, also, that there will be the greatest possible effective oversight over the most sensitive activities of the intelligence community and they will be fully accountable to the American people so that the committee really will be a force for oversight and will not enter into a relationship that causes it to lose its objectivity and its distance from the intelligence community over which it has this responsibility—as I look back over this period of time, the vice chairman has certainly highlighted those things which have given me the greatest satisfaction, beginning with the fact that with the hundreds of votes which we have taken in closed session on some of the most contentious issues that have confronted this country in the past 6 years, those involving covert actions, which have been widely discussed now, some of them now that they are completed, in the press, some that have yet to be discussed publicly, but nonetheless were very contentious and private discussion—that, as the Senator from Alaska said, we have never had a party-line vote in the Intelligence Committee and we have rarely even come close to a party-line vote.

I can count on the fingers of one hand the number of times in which we have even had a serious division that was as much as a 2-to-1 majority within the Intelligence Committee. That is remarkable given the fact that the membership is eight members from one party, seven from the other, and that we have had a broad spectrum of representation from all parts of the political spectrum in this body on that committee.

So it has been a rare privilege for me to have the opportunity to work with such a fine group of people in the Senate, those who have been members of this committee over the past 8 years that I have been privileged to be on it, particularly during the past 6 years that I have been privileged to serve as chairman.

This kind of spirit of working together in the national interest is not something that one person can accomplish or even that two people can accomplish. The chair and the vice chair, no matter how much they wish to work together, can only do so if the other members of the committee have the dedication of doing the same thing. I hope that, if there is any lesson that we can pass on to our colleagues in the full Senate from our working together over these past 8 years, it is that bipartisanship is possible even on the most contentious and difficult and sensitive of issues.

As we look ahead toward preparing the country for our next century toward meeting those challenges, those that we will focus upon after the Presidential election, whichever candidate happens to win that election, we are only going to solve the problems of this country, we are only going to build the educational system we need, we are only going to revise the tax system in a way that will help us compete in the world marketplace, we are only going to deal with divisions that exist in our country in existence of an underclass in our country, and bring us all into the mainstream, if we work together on a bipartisan basis.

I hope that, if we contributed anything, we have contributed substantially to that kind of bipartisanship. There has never been a time during the service of Senator MURKOWSKI, as vice chairman of the committee, that he has ever approached me on the basis of partisan considerations as opposed to what is in the best interest of the country.

I can make the same statement about Senator COHEN, who served as vice chairman of the committee for 4 years prior to Senator MURKOWSKI's becoming the vice chairman, who has worked with us.

Never once did they raise partisan considerations instead of what needed to be done for the good of the country. To be able to have an opportunity to serve with vice chairmen like that has been a rare privilege indeed.

Senator MURKOWSKI has outlined those things of which we are most proud that have been accomplished over the last few years that have really improved the oversight process. We now have an independent statutory inspector general for the first time in the intelligence community. We have our own audit, as Senator MURKOWSKI said, which gives us the ability, for the first time, to have an independent source of information about how funds in the intelligence budget are being spent, about whether or not programs are being carried out in accordance, not only of the law but in the spirit of the law and the values of the American people.

We have a new law on the books which will tighten the definition of covert activities and what must be reported by the President to the Congress when covert activities are undertaken, a law which puts into place many of the lessons learned from the tragic Iran-Contra Affair to ensure that kind of affair will not happen again.

Most recently, included in this authorization bill are sweeping changes to reorganize the intelligence community so that we can get more for our dollars invested, in the years ahead, coordinating, for example, the provision of imagery systems in the future, at lower costs, by bringing them together, coordinating them in one place; whether the intelligence budget spends many resources, making more interdisciplinary the analysis of intelligence; and providing for more use of open sources and coordinating our human source collection.

These are the most sweeping changes in the Intelligence Committee since it was created and the CIA was created back in the late 1940's.

So to have an opportunity to serve on this committee during this period of tumultuous change in the world and our adjustment to it, and to be able to serve with those who are determined we would make a difference for the country instead of following the partisan agenda, has been a real privilege for me.

Let me say on a personal note to my good friend from Alaska, what he has done this morning and what he has surprised me with this morning is something that could not please me more, because I cannot think of any piece of legislation with which I have been involved since I have been in the Senate that gives me more satisfaction to have him suggest that my name should be associated with it, than the National Security Education Act; because if we are going to be leaders in the new world in which we are going to be increasingly working more closely with other countries, we are not only going to have good intelligence and the opportunity to act in a diplomatic sphere, but also in a commercial sphere as well.

We are going to have to make sure that the next generation is international in its thinking; that it understands the world's cultures; that it speaks the world's languages; that it has the ability to fully understand and analyze what is going on in the world around us so that we can continue to play that role for the sake of our national security and for the sake of our national economic interests.

So I want to thank the Senator from Alaska, not only for all that he has meant and his work has meant to the work of the Intelligence Committee, and to the service of our country, but I want to express my deep gratitude to him for this gesture, for this amendment, and to also thank my colleagues on the Intelligence Committee, and others who have joined with the Senator from Alaska in presenting this amendment on the floor this morning.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I think as we wind up our tribute, it is one that should recognize the contribution of the professional staff, as well as the Senators that join me in encouraging adoption of this amendment, naming Senator BOREN to the Special Education Act in his name. I would like to thank George Tenet and Britt Snider, who are here; John Moseman and David Garman; and there are others that worked on this.

I think the comment made by my good friend from Oklahoma that this has been a well-kept secret is evidence of the fact that our professional staffs worked so harmoniously, but bottom line, so professionally together that made possible the record of accomplishment that has occurred under Senator BOREN'S tenure. I have been pleased to assist in that capacity.

Mr. CHAFEE. Mr. President, I wonder if the floor managers would yield me a couple of minutes, if I might.

Mr. MURKOWSKI. I yield to the Senator from Rhode Island.

Mr. CHAFEE. I have a comment in connection with the amendment. Mr. President, first of all, I am delighted to join with Senator MURKOWSKI and others in offering this amendment naming the National Security Education Trust Fund after Senator BOREN. Truly, this was Senator BOREN's child, no question about it. He single-handedly sold the concept to some of us who were a bit skeptical about it. And I think the way it is set up is excellent. We will see the fruit of this in the years to come.

At the same time, of course, it is a tribute to Senator BOREN's leadership. Think of it, he has been on the committee for 8 years and has been chairman for 6. I do not think anybody has been chairman for as long as he has been chairman of that committee.

So this is a very justifiable designation, as Senator BOREN leaves the committee. I also would like to comment that Senator MURKOWSKI is leaving the committee. This is really their final act. I would like to pay tribute to the job Senator MURKOWSKI has done. Both of them have given splendid, bipartisan leadership.

Mr. President, it is a topsy-turvy world. Think of how things change. The Russians invite us, members of our organization, to go to Moscow to advise them how to have adequate supervision of their intelligence units. How is that for a change? Indeed, I along with others visited the KGB offices and met the head of the KGB who joked that if you went through a certain door there and went in a deep tunnel, you came up in Langley. We did not try it.

So, Mr. President, there are very, very difficult new times, as evidenced by the budget we just passed here a couple of days ago, which has a $1 billion cut from the current level—not a $1 billion cut from the requested amount, but from the current amount.

So I join in the tribute to Senator BOREN for the leadership he has given, and also I want to salute Senator MURKOWSKI for what he has done.

Mr. MURKOWSKI. Mr. President, I urge adoption of the amendment.

I advise my friend that I certainly appreciate his remarks. I was startled the other day to meet the former head of the KGB in the elevator in the Hart Building while going up to my office on the sixth floor. I was surprised when he introduced himself.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3158) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, very briefly, and we will move on, I thank my colleagues for the comments and express my appreciation to the vice chairman not only for his comments today, but for the service he has rendered during our time of working together on the committee.

In addition to what Senator MURKOWSKI just mentioned, let me say that the spirit of bipartisanship has been exceptional, and it has been a pleasure to work with John Moseman, the staff director for Senator MURKOWSKI, and he already mentioned the others, including our own staff director, George Tenet and Britt Snider. I also want to mention Regina Genton, who worked so hard on the financial side, the budget side of this particular bill, and David Halperin, who has worked on several sections of the bill, including the National Security Education Act, and Dick D'Amato, who served as our liaison, particularly with the Appropriations Committee, who has been a very great help to us. And we are deeply grateful to him.

Mr. President, if there are no further amendments, I ask for the engrossment and third reading of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

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## INTELLIGENCE AUTHORIZATION ACT

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate Committee on Intelligence be discharged from further consideration of H.R. 5095, the companion bill of S. 2991; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 2991, as amended, be inserted in lieu thereof, and that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table.

So the bill (H.R. 5095), as amended, was deemed read the third time and passed, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 5095) entitled "An Act to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1993".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*TITLE I—INTELLIGENCE ACTIVITIES*

*Sec. 101. Authorization of appropriations.*
*Sec. 102. Classified schedule of authorizations.*
*Sec. 103. Personnel ceiling adjustments.*
*Sec. 104. Community Management Staff.*

*TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM*

*Sec. 201. Authorization of appropriations.*

*TITLE III—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES*

*Sec. 301. Postemployment assistance for certain DIA employees.*
*Sec. 302. Inclusion of Senior Executive Service positions in civilian intelligence personnel system.*
*Sec. 303. Awarding of degrees by Defense Intelligence College.*
*Sec. 304. National Security Education Act amendments.*
*Sec. 305. Pay and allowances for employees of the National Security Agency.*

*TITLE IV—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS*

*Sec. 401. Temporary FBI authority to accept bequests or devises.*

*TITLE V—CENTRAL INTELLIGENCE AGENCY*

*Sec. 501. Authority of Inspector General to receive complaints and information from any person.*

*TITLE VI—GENERAL PROVISIONS*

*Sec. 601. Increase in employee compensation and benefits authorized by law.*
*Sec. 602. Restriction on conduct of intelligence activities.*
*Sec. 603. Sense of Congress regarding disclosure of annual intelligence budget.*
*Sec. 604. Redesignation of National Security Education Act of 1991.*

*TITLE VII—INTELLIGENCE REORGANIZATION ACT OF 1992*

*Subtitle A—In General*

*Sec. 701. Short title.*
*Sec. 702. Definitions.*

*Subtitle B—The National Security Council*

*Sec. 711. Participation of the Director of Central Intelligence in the National Security Council.*

*Subtitle C—The Director of Central Intelligence*

*Sec. 721. Appointment of the Director and Deputy Director of Central Intelligence.*
*Sec. 722. Responsibilities and authorities of the Director of Central Intelligence.*

*Subtitle D—The Intelligence Activities of the Department of Defense*

*Sec. 731. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.*

*Subtitle E—Effective Date*

*Sec. 741. Effective date.*

### *TITLE I—INTELLIGENCE ACTIVITIES*

### *SEC. 101. AUTHORIZATION OF APPROPRIATIONS.*

*Funds are hereby authorized to be appropriated for fiscal year 1993 for the conduct of the intelligence activities of the following elements of the United States Government:*

*(1) The Central Intelligence Agency.*

*(2) The Department of Defense.*

*(3) The Defense Intelligence Agency.*

*(4) The National Security Agency.*

*(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*

*(6) The Department of State.*

*(7) The Department of the Treasury.*

*(8) The Department of Energy.*

*(9) The Federal Bureau of Investigation.*

### *SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.*

*(a) Specification of Amounts and Personnel Ceilings.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1993, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany (S. 2991) of the One Hundred Second Congress.*

*(b) Availability of Classified Schedule of Authorizations.—The Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.*

### *SEC. 103. PERSONNEL CEILING ADJUSTMENTS.*

*(a) Authority for Adjustments.—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1993 under section 102 of this Act whenever he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such section for such element.*

*(b) Notice to Intelligence Committees.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives whenever he exercises the authority granted by this section.*

### *SEC. 104. COMMUNITY MANAGEMENT STAFF.*

*(a) Authorization of Appropriations.—There is authorized to be appropriated for the Community Management Staff of the Director of Central Intelligence for fiscal year 1993 the sum of $10,500,000.*

*(b) Authorized Personnel Levels.—The Community Management Staff of the Director of Central Intelligence is authorized 68 full-time personnel as of September 30, 1993. Such personnel may be permanent employees of personnel detailed from other elements of the United States Government. Any such personnel detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that such personnel may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.*

*(c) Administration of Community Management Staff.—The activities and personnel of the Community Management Staff of the Director of Central Intelligence shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as are the activities and personnel of the Central Intelligence Agency.*

## *TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM*

### *SEC. 201. AUTHORIZATION OF APPROPRIATIONS.*

*There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1993 the sum of $168,900,000.*

## *TITLE III—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES*

### *SEC. 301. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN DIA EMPLOYEES.*

*(a) Assistance Authorized.—Section 1604(e) of title 10, United States Code, is amended by adding at the end thereof the following new paragraph:*

*"(4)(A) Notwithstanding any other provision of law, the Secretary of Defense may assist employees who have occupied sensitive positions in the Defense Intelligence Agency and who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Defense Intelligence Agency, or whose employment with the Defense Intelligence Agency has been terminated—*

*"(i) in finding and qualifying for subsequent employment;*

*"(ii) in receiving treatment of medical or psychological disabilities; and*

*"(iii) in receiving necessary financial support during periods of unemployment.*

*"(B) Assistance may be provided under subparagraph (A) only if the Secretary determines that such assistance is essential to maintain the judgment and emotional stability of such employee and to avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under subparagraph (A) for an employee may not be provided any longer than five years after the termination of the employment of the employee.*

*"(C) The Secretary of Defense shall submit to the Committees on Appropriations of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives an annual report describing the expenditures, if any, made pursuant to this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.".*

*(b) First Annual Report.—The first report under paragraph (4) of section 1604(e) of title 10, United States Code, shall be submitted not later than 12 months after the date of the enactment of this Act.*

### *SEC. 302. INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS IN CIVILIAN INTELLIGENCE PERSONNEL SYSTEM.*

*(a) Inclusion of Senior Executive Service Positions.—Section 1590 of title 10, United States Code, is amended—*

*(1) in subsection (a)(1)—*

*(A) by inserting ", including positions in the Senior Executive Service," after "positions"; and*

*(B) by inserting after "such departments" the following: ", except that the total number of positions in the Senior Executive Service established pursuant to this section may not exceed one-half of one percent of the total number of all civilian intelligence positions established pursuant to this section;";*

*(2) in subsection (b), by inserting after the first sentence the following new sentence: "The Secretary shall also fix rates of pay for positions in the Senior Executive Service established pursuant to this section that are not in excess of the maximum rate or less than the minimum rate of basic pay established pursuant to section 5382 of title 5."; and*

*(3) by inserting at the end of the section the following new subsections:*

*"(f) With regard to any position in the Senior Executive Service which may be established pursuant to this section, the Secretary of Defense shall prescribe regulations to implement this section which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3393a, 3396(c), 3592, 3595(a), 5384, and 6304, subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the Senior Executive Service is entitled shall be held or decided pursuant to regulations issued by the Secretary), and subchapter II of chapter 43 of title 5. The Secretary of Defense shall also prescribe, to the extent practicable, regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.*

*"(g) The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Senior Executive Service whose positions may be established pursuant to this section. The awarding of such a rank shall be made in a manner consistent with the provisions of that section.".*

*(b) Conforming Amendment.—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting after "National Security Agency" the following: ", Department of Defense intelligence activities the civilian employees of which are subject to section 1590 of title 10,".*

### *SEC. 303. AWARDING OF DEGREES BY DEFENSE INTELLIGENCE COLLEGE.*

*(a) Amendment to Title 10.—Section 2161 of title 10, United States Code, is amended to read as follows:*

***"§2161. Defense Intelligence College: conferral of degrees on graduates***

*"(a) Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence College may, upon recommendation by the faculty of such college, confer a bachelor's or master's degree appropriate to the profession of intelligence upon graduates of the college who have fulfilled the requirements for that degree.*

*"(b) A degree may not be conferred under this section unless entering students have fulfilled general education requirements suitable for a bachelor's degree before being accepted into the program and unless the curriculum leading to the degree is approved by the Secretary of Education and is accredited by a professional authority determined appropriate by the Secretary of Defense.".*

*(b) Table of Sections.—The item relating to that section in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:*

*"2161. Defense Intelligence College: conferral of degrees on graduates.".*

### *SEC. 304. NATIONAL SECURITY EDUCATION ACT AMENDMENTS.*

*(a) Administration of Program.—The National Security Education Act of 1991 (title VIII of the Intelligence Authorization Act, Fiscal Year 1992) (50 U.S.C. 1901 et seq.) is amended—*

*(1) in section 802(a)(1)(A), by inserting "or equivalent term," after "at least one academic semester";*

*(2) in section 802(a)(1)(B)(i), by striking "in the United States" and inserting in lieu thereof "as part of a graduate degree program of a United States institution of higher education";*

*(3) in section 802(a)(4), by inserting at the end of the subsection the following new sentence: "In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time.";*

*(4) by amending section 802(e) to read as follows:*

*"(e) Administration of Program.—The Secretary shall establish an independent center for international studies to administer the program."; and*

*(5) in section 803(b), by—*

*(A) redesignating paragraph (7) as paragraph (8);*

*(B) inserting after paragraph (6) the following new paragraph:*

*"(7) The Chairperson of the National Endowment for the Humanities."; and*

*(C) in paragraph (8) (as so redesignated)—*

*(i) by striking "Four individuals" and inserting in lieu thereof "Six individuals"; and*

*(ii) by inserting before the period at the end the following: "and who may not be officers or employees of the Federal Government".*

*"(6) in section 804(c), by striking "obligation" and inserting in lieu thereof "expenditure".*

*(b) AUTHORIZATION OF APPROPRIATIONS TO THE NATIONAL SECURITY EDUCATION TRUST FUND.—There is authorized to be appropriated to the National Security Education Trust Fund, established pursuant to section 804 of the Intelligence Authorization Act of 1991 (50 U.S.C. 1904), for fiscal year 1993, the sum of $35,000,000.*

### *SEC. 305. PAY AND ALLOWANCES FOR EMPLOYEES OF THE NATIONAL SECURITY AGENCY.*

*Section 2 of the National Security Agency Act of 1959 (Public Law 86-36; 50 U.S.C. 402 note) is amended to read as follows:*

*"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.*

*"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.".*

## *TITLE IV—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS*

### *SEC. 401. TEMPORARY FBI AUTHORITY TO ACCEPT BEQUESTS OR DEVISES.*

*(a) ACCEPTANCE OF BEQUESTS.—During fiscal year 1993, the Director of the Federal Bureau of Investigation may accept, on behalf of the Bureau, any bequest or devise made by a citizen of the United States, if such bequest or devise is used only—*

*(1) to fund and administer, in accordance with regulations prescribed by the Director, a scholarship program for the benefit of the immediate families of Federal law enforcement officers slain or permanently disabled in the line of duty; and*

*(2) to pay all necessary expenses in connection with the acceptance of such bequest or devise.*

*(b) AUTHORITY TO USE FUNDS.—(1) Notwithstanding any other provision of law, proceeds from the sale of property accepted as a bequest or devise by the Director pursuant to subsection (a) shall be maintained in an interest bearing account and shall remain available for disbursement for purposes of this section until such funds are expended.*

*(2) The authority of paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriation Acts.*

*(c) REGULATIONS REQUIRED.—Not later than 90 days after accepting any bequest or devise pursuant to this section, the Director shall prescribe regulations to implement the provisions of this section in a fair, equitable manner, and shall make copies of such regulations available to all Federal law enforcement agencies. Copies of such regulations shall also be provided the Judiciary Committees of the Senate and the House of Representatives.*

## *TITLE V—CENTRAL INTELLIGENCE AGENCY*

### *SEC. 501. AUTHORITY OF INSPECTOR GENERAL TO RECEIVE COMPLAINTS AND INFORMATION FROM ANY PERSON.*

*Section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—*

*(1) by striking "an employee of the Agency" and inserting in lieu thereof "any person"; and*

*(2) by inserting "from an employee of the Agency" after "received".*

## *TITLE VI—GENERAL PROVISIONS*

### *SEC. 601. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.*

*There are authorized to be appropriated to carry out the purposes of this Act such additional amounts for fiscal year 1993 as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.*

### *SEC. 602. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.*

*The authorization of appropriations in this Act does not constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.*

### *SEC. 603. SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.*

*It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.*

### *SEC. 604. REDESIGNATION OF NATIONAL SECURITY EDUCATION ACT OF 1991.*

*Section 801(a) of Public Law 102-183 is amended to read as follows:*

*"(a) SHORT TITLE.—This title may be cited as the 'David L. Boren National Security Education Act of 1991'.".*

## *TITLE VII—INTELLIGENCE REORGANIZATION ACT OF 1992*

### *Subtitle A—In General*

### *SEC. 701. SHORT TITLE.*

*This title may be cited as the "Intelligence Reorganization Act of 1992".*

### *SEC. 702. DEFINITIONS.*

*The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 2 the following new section:*

### *"SEC. 3. DEFINITIONS.*

*"As used in this Act—*

*"(1) the term 'commissioned officer of the Armed Forces' does not include a commissioned warrant officer;*

*"(2) the term 'counterintelligence' means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign powers, foreign organizations, or foreign persons, or international terrorist activities;*

*"(3) the term 'Intelligence Community' includes—*

*"(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 105(b)(3)), and such other offices as the Director may designate;*

*"(B) the Central Intelligence Agency;*

*"(C) the National Security Agency;*

*"(D) the Defense Intelligence Agency;*

*"(E) the central imagery authority within the Department of Defense;*

*"(F) the National Reconnaissance Office within the Department of Defense;*

*"(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;*

*"(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;*

*"(I) the Bureau of Intelligence and Research of the Department of State; and*

*"(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the Intelligence Community;*

*"(4) the term 'intelligence' includes foreign intelligence and counterintelligence;*

*"(5) the term 'foreign intelligence' means information relating to the capabilities, intentions, or activities of foreign powers, foreign organizations, or foreign persons;*

*"(6) the term 'foreign power' means—*

*"(A) a foreign government or any component thereof;*

*"(B) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;*

*"(C) any group engaged in international terrorist activities or international narcotics activities abroad; or*

*"(D) a foreign-based political organization not substantially composed of United States citizens or persons admitted into the United States for permanent residence;*

*"(7) the terms 'national intelligence' and 'intelligence related to the national security'—*

*"(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and*

*"(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title; and*

*"(8) the term 'National Foreign Intelligence Program' refers to all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President, and does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.".*

### *Subtitle B—The National Security Council*

### *SEC. 711. PARTICIPATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE IN THE NATIONAL SECURITY COUNCIL.*

*Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end thereof the following new subsection:*

*"(h) The Director of Central Intelligence (or, in his absence, the Deputy Director of Central Intelligence) may, in performance of his duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.".*

### *Subtitle C—The Director of Central Intelligence*

### *SEC. 721. APPOINTMENT OF THE DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.*

*(a) IN GENERAL.—Section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—*

*(1) by inserting "(1)" immediately after "(a)";*

*(2) in the first sentence—*

*(A) by striking "under the National Security Council"; and*

*(B) by striking "with a Director" and all that follows through "disability"; and*

*(3) by striking the second sentence and subsections (b) through (f) and inserting in lieu thereof the following:*

*"(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate—*

*"(A) who shall serve as head of the United States Intelligence Community;*

*"(B) who shall act as the principal adviser to the President for intelligence matters related to the national security; and*

*"(C) who shall serve as head of the Central Intelligence Agency.*

*"(3) To assist the Director of Central Intelligence in carrying out his responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during his or her absence or disability.*

*"(4)(A) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.*

*"(B) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.*

*"(5)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position—*

*"(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;*

*"(ii) shall not exercise, by reason of his or her status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and*

*"(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.*

*"(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3) shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.*

*"(C) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position, shall continue to receive military pay and allowances (including retired or retainer pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.*

*"(6) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.".*

*(b) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new undesignated paragraph:*

*"Director of Central Intelligence.".*

### *SEC. 722. RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.*

*(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—*

*(1) by redesignating section 103 as section 107, and section 104 as section 108; and*

*(2) by striking section 102a and inserting in lieu thereof the following new sections:*

### *"SEC. 103. RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.*

*"(a) PROVISION OF INTELLIGENCE.—Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing timely, objective national intelligence, independent of political considerations, and based upon all sources available to the Intelligence Community—*

*"(1) to the President;*

*"(2)(A) to the heads of departments and agencies of the executive branch; and*

*"(B) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and*

*"(3) where appropriate, to the Senate and House of Representatives and the committees thereof.*

*"(b) ESTABLISHMENT OF NATIONAL INTELLIGENCE COUNCIL.—(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the 'Council'), composed of senior analysts within the Intelligence Community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence. The Council shall be headed by a Chairman with two deputy chairmen, at least one of whom shall be from the private sector.*

*"(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which are deemed unnecessary by the Director for this purpose.*

*"(2) The Council shall—*

*"(A) produce national intelligence estimates for the Government, including, whenever the Council deems appropriate, alternative views held by elements of the Intelligence Community; and*

*"(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a).*

*"(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the Intelligence Community for purposes of representing the views of the Intelligence Community within the Government.*

*"(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection, and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.*

*"(5) The heads of elements within the Intelligence Community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.*

*"(c) AS HEAD OF THE INTELLIGENCE COMMUNITY.—In his capacity as head of the Intelligence Community, the Director shall—*

*"(1) develop and present to the President and the Congress an annual budget for the National Foreign Intelligence Program of the United States;*

*"(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the Intelligence Community;*

*"(3) promote and evaluate the utility of national intelligence to consumers within the Government;*

*"(4) eliminate waste and unnecessary duplication within the Intelligence Community;*

*"(5) protect intelligence sources and methods from unauthorized disclosure; and*

*"(6) perform such other functions as the President or the National Security Council may direct.*

*"(d) AS HEAD OF THE CENTRAL INTELLIGENCE AGENCY.—In his capacity as head of the Central Intelligence Agency, the Director shall—*

*"(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions;*

*"(2) provide overall direction for the collection of national intelligence through human sources by elements of the Intelligence Community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;*

*"(3) correlate and evaluate intelligence related to the national security and providing appropriate dissemination of such intelligence;*

*"(4) perform such additional services as are of common concern to the elements of the Intelligence Community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and*

*"(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct, including the conduct of covert actions as may be authorized pursuant to title V of this Act.*

### *"SEC. 104. AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.*

*"(a) ACCESS TO INTELLIGENCE.—Subject to the direction of the National Security Council, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.*

*"(b) APPROVAL OF BUDGETS.—The Director of Central Intelligence shall provide guidance to elements of the Intelligence Community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.*

*"(c) ROLE OF DCI IN REPROGRAMMING.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the Intelligence Community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.*

*"(d) TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence is authorized, with the approval of the Director of the Office of Management and Budget, to transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the Intelligence Community to another such element for periods up to a year, only if—*

"(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(B) the need for funds or personnel for such activity is based on unforeseen requirements;

"(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

"(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

"(E) the Secretary or head of the department which contains the affected element or elements of the Intelligence Community does not object to such transfer.

"(2) Funds transferred under this section shall remain available for the same purposes, and for the same period, as the appropriations account from which transferred.

"(3) Any transfer of funds under this section shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer notified to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection where such transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of enactment of this section.

"(4) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

"(e) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of Central Intelligence shall coordinate the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

"(f) USE OF PERSONNEL.—The Director of Central Intelligence shall, in coordination with the heads of departments and agencies with elements in the Intelligence Community, institute policies and programs within the Intelligence Community—

"(1) to provide for the rotation of personnel between the elements of the Intelligence Community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

"(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the Intelligence Community.

"(g) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—Notwithstanding the provisions of any other law, the Director of Central Intelligence may terminate the employment of any officer or employee of the Central Intelligence Agency whenever he shall determine such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.".

(b) AMENDMENTS TO THE TABLE OF CONTENTS.—The table of contents of the National Security Act of 1947 is amended by striking out the items relating to sections 102a and 103 and inserting in lieu thereof the following new items:

"Sec. 103. Responsibilities of the Director of Central Intelligence.
"Sec. 104. Authorities of the Director of Central Intelligence.
"Sec. 107. National Security Resources Board.
"Sec. 108. Annual National Security Strategy Report.".

## Subtitle D—The Intelligence Activities of the Department of Defense

### SEC. 731. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 104 (as added by this title) the following:

### "SEC. 105. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

"(a) IN GENERAL.—The Secretary of Defense shall—

"(1) ensure that the budgets of the elements of the Intelligence Community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the Joint Chiefs of Staff and the unified and specified commands, and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

"(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

"(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

"(4) ensure that the elements of the Intelligence Community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

"(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

"(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

"(b) RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.—Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure—

"(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

"(2) through a central imagery authority, with appropriate representation from the Intelligence Community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

"(3) through the National Reconnaissance Office, the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the Intelligence Community;

"(4) through the Defense Intelligence Agency, the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the Intelligence Community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

"(5) through the Defense Intelligence Agency, effective management of Department of Defense human intelligence activities, including defense attaches, and of such other intelligence programs as may be assigned to the Agency by the Secretary; and

"(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

"(A) the requirements of the Director of Central Intelligence;

"(B) the requirements of the Secretary of Defense of the Chairman of the Joint Chiefs of Staff;

"(C) the requirements of the unified and specified combatant commands and of joint operations; and

"(D) the specialized requirements of the departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine: Provided, That the Secretary of Defense, in carrying out the functions described in this section, shall be authorized to utilize such elements of the Department of Defense as may be appropriate for the execution of such functions in addition to, or in lieu of, the elements identified in this section.

### "SEC. 106. ADMINISTRATIVE PROVISIONS PERTAINING TO DEFENSE ELEMENTS WITHIN THE INTELLIGENCE COMMUNITY.

"(a) CONSULTATIONS WITH REGARD TO CERTAIN APPOINTMENTS.—The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the Office of Reconnaissance Support (as provided for in section 105(b)(3)), or the Defense Intelligence Agency.

"(b) Appointment of Head of Central Imagery Authority.—The Secretary shall appoint, upon the recommendation of the Director, the head of the central imagery authority within the Department of Defense.

"(c) AUTHORITY TO WITHHOLD CERTAIN INFORMATION REGARDING THE NATIONAL RECONNAISSANCE OFFICE.—Nothing in this Act or any provision of law shall be construed to require the disclosure of the organization or any function of the National Reconnaissance Office, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of persons employed by, or assigned or detailed to such office.".

(b) AMENDMENTS TO THE TABLE OF CONTENTS.—The table of contents of the National Security Act of 1947 is amended by inserting the following new items:

"Sec. 105. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.
"Sec. 106. Administrative provisions pertaining to defense elements within the Intelligence Community.".

## Subtitle E—Effective Date

### SEC. 741. EFFECTIVE DATE.

This title shall take effect on the date of its enactment.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I move that the Senate insist upon its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BOREN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE; and from the Committee on Armed Services, Mr. NUNN and Mr. THURMOND conferees on the part of the Senate.

## MEASURE INDEFINITELY POSTPONED—S. 2991

Mr. BOREN. I ask unanimous consent that further consideration of S. 2991 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. I believe that completes action on this piece of legislation. I again want to thank my colleagues on the committee and my colleagues in the Senate for their support, help, and the cooperation we have received in making what I think is significant progress in the field of intelligence oversight, and for also helping us send forward this bill, which as I say makes the most sweeping reorganization in the intelligence community since the CIA was created by the initial act. So it is historic legislation, and I express my appreciation to all who played a part in it.

Mr. RIEGLE. Mr. President, I ask unanimous consent that I may proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FACES OF THE HEALTH CARE CRISIS IN MICHIGAN: RISING HEALTH CARE COSTS FOR FAMILIES

Mr. RIEGLE. Mr. President, I am rising today in a continuing effort to put a face on the problem of rising health care costs for families throughout the United States. Today I want to bring to the attention of the Senate the Marentette family of Kingsley, MI, because they are about to lose their health insurance simply because they can no longer afford to pay the premiums.

Mary Marentette wrote to me in response to a community health forum that I held in Traverse City, MI, on July 13 of this year. As a matter of fact, over 300 people attended that particular health forum.

There was an article that ran in the Traverse City Record Eagle, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### OVER 300 ATTEND FORUM ON HEALTH CARE

(By Diane Conners)

TRAVERSE CITY.—More than 300 area residents—three times the number expected—turned out for a forum on national health care that U.S. Sen. Donald Riegle held Monday. Until 11 p.m., people came to the microphone in a meeting room at the Waterfront Inn to tell the senator how rising health care costs are squeezing or devastating families, friends and businesses.

Riegle said the stories gathered in the four-hour forum illustrate the need for a national health insurance bill that he and 10 other Democrats have introduced in the Senate. He was in Traverse City to get feedback on that bill.

Emerald Magee, a Traverse City resident, told of a friend with breast cancer who was given the choice of having breast removal surgery or radiation therapy. She chose breast removal because she didn't have health insurance and couldn't afford the radiation therapy, he said.

Tammi Lumley, an East Bay resident, said her husband just was laid off from the oil and gas industry. They depended on his insurance to pay for the medical costs of their 4½-year-old daughter, who has asthma. One year the costs were $20,000 in hospital costs alone. The employer has agreed to pay for the premiums for six more months.

"But then what do we do??" she asked.

Some, however, said they were wary of more government involvement in health care.

Kingsley resident Matthew Schoech said many Canadians come to the United States for some surgeries because there is such a long waiting list in their country, which has a national health care program.

The Democratic bill is called Health America: Affordable Health Care for All Americans Act. It would give all Americans health insurance through either their employer or a federal insurance plan if they are unemployed or their employer doesn't provide it.

The act would require employers to provide insurance or pay a percentage of payroll to fund the federal insurance. It gives tax incentives for businesses to pay for insurance, requires preventative care in the basic plan and sets up a national board to set up cost control measures, including pricing of drugs.

Lumley and others cited inflated prices as a problem. She said she found one pharmacist selling a saline solution her daughter needs for asthma for $150, while another sold the same amount for $15.

"That kind of free enterprise system is unforgiveable," Riegle said.

Acme resident Steve Sincic told Riegle he recently was charged $15 for a bandaid an emergency room nurse put on his son's head.

Others, however, said the $15 band aid is a hospital's way of spreading its costs to pay for expensive, high technology medical care that Americans have come to expect. In addition, lawsuits are driving up the cost of medicine as doctors perform unneeded tests in order to protect themselves from liability, Riegle said.

Ronald Yerrick, owner of Weldco Inc., in Traverse City, praised the bill, but said he is concerned that too much burden is being placed on employers. Weldco has nine employees and all have health insurance—making his monthly premium bill second only in cost to his tax bill, he said.

Yerrick said he might have been deterred from starting his business if he'd been required to provide health insurance, even though he is "proud" to do it.

Riegle said that insurance premiums would be less of a burden under Health America because costs would be reduced by eliminating medical wastes and focusing on preventative care.

Riegle recalled that his father, who died early this year, was hospitalized in Flint and required intravenous feeding. The feeding solution had to be thrown out after 24 hours and replaced, but only one-third of it ever was used by the time the 24 hours was over. Riegle learned that each bottle costs $900, but no smaller bottles were on the market.

"I saw with my own eyes what I consider to be waste in the system that is sort of built in," he said.

Other concerns people raised ranged from increasing opportunities for nurses and certified nurse midwives to provide lower cost care to ending environmental pollution.

Matthew Weber, administrative coordinator of Northern Michigan Environmental Action Council, read quotes from last year's International Joint Commission conference where Great Lakes region scientists concluded that toxic chemicals have caused "wisespread injury" to the environment and human health.

Weber called on Riegle to couple the health care reform package and environmental reform that rids the nation of long-lived toxic chemicals and requires protection from chemicals when evidence strongly suggests—rather than proves—there is a danger.

"You would do Americans a much greater service if you would not only assure citizens of affordable health care, but at the same time do something to prevent them from getting sick in the first place," Weber said.

Mr. RIEGLE. Mary could not attend that meeting because of a conflict in her personal schedule, but she wrote me this letter and I want to share their story with you.

Mark and Mary Marentette are in their midthirties and they have three children: Leeanne, 16; Sarah, 14; and Benjamin, 12. Mark, the father, is a self-employed electrical contractor. Mary manages the business out of their home. They have together now been self-employed for over 15 years.

For the past 10 years, Mary, Mark, and their three children have only been able to afford health insurance that would provide coverage for an illness or an injury that sent a family member to the hospital for hospitalization. Under this kind of policy, known as a major medical hospital insurance policy, the family must pay out of their own pocket for all other types of health care, such as routine doctors' visits or outpatient care. The Marentettes have never actually filed a claim with the insurance company because no one, fortunately, in the family has had to be hospitalized. But they have incurred significant costs for health care on top of the high cost of the insurance premium for this hospitalization policy.

For example, Benjamin was recently taken to the emergency room for a racing heartbeat. The Marentettes' pediatrician recommended that Benjamin have an electrocardiogram [EKG] to monitor his heart. The family paid over $600 for the emergency room visit and the EKG and other treatment costs. Their insurance did not cover the cost since Benjamin was not hospitalized. Fortunately, he has not had a relapse and the Marentettes can only hope that the condition will prove to be a temporary one.

But now the family can no longer afford to even keep up with the payments for this very limited policy which only protects them from very large hospital expenses. Mary outlines the increasing cost of maintaining health insurance coverage for her family in the letter that she has sent to me.

In the past year alone, they have seen their 6-month premium almost double from $1,000 to $1,800. In addition, their yearly deductible increased from a $1,000 deductible to a $2,500 deductible. That means the family would have to spend $6,100 a year in, first, the premiums for the policy and, then, the deductibles out of their own pocket before they would receive 1 penny of insurance coverage under what is clearly an inadequate policy, but it was all they have been able to afford.

This family has looked into purchasing coverage from another insurance company, but they have been denied coverage because Mary, as she explains, is overweight and is also a smoker.

So, in 1 week from today, on the first of October, this family is going to move from the ranks of the underinsured with some coverage into the ranks of those people with absolutely no health insurance coverage, because they cannot afford to continue it.

Obviously, this family is deeply concerned about what will happen when their insurance runs out, because they fear, as all families do, that some major medical emergency will strike requiring hospitalization and big hospital bills, and they will have no protection against that.

Mary expresses her frustration in her letter this way: She says:

> It doesn't matter that we've paid all these years and have never claimed anything, or that I haven't seen a doctor for sickness in 20 years. Please, please do something for us and all the other people who cannot afford to get sick.

I ask unanimous consent that Mary's full letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 8, 1992.

To: Senator DONALD W. RIEGLE, Jr., Traverse City, MI.

From: Mary Marentette, Kingsley, MI.

DEAR SENATOR RIEGLE: Enclosed please find a copy of the first page of a letter we received from you. Unfortunately we will not be able to attend your forum this coming Monday, but I wanted to write to you with our feelings regarding health care costs.

My husband is a self-employed electrical contractor. I am at home, taking care of the office end of the business. We have three children, ages 16, 14 and 12. We have had major medical health insurance only through National Health Insurance in Dallas, Texas for about 10 years, and have never filed a claim with them. We pay our premium every six months in order to save a few dollars on the premium. We had a $1,000.00 deductible, and every time our insurance would come up for renewal the premium would go up. This winter the premium jumped to $1,800.00 for six months coverage, which we definitely could not afford. We had enough trouble coming up with the $1,000.00 every 6 months! So, I called our insurance company to raise the deductible to $2,500.00, which held the premium at $1,000.00. This is 80/20 coverage, which meant we now would have to pay out quite a chunk of money before our insurance would cover us. Two months later, we received a letter from the insurance company telling us that when our insurance premium is due again (September 1st), our premium will go back up to $1,800.00, due to rising health insurance costs. And this is now with a $2,500.00 deductible!!! We would be very, very hard pressed to come up with the $2,500.00, plus 20% of the hospital bill, and now we must come up with an extra $800.00 every six months. There is no way we will be able to do this, so that means we will have no protection come October 1st, and that makes me very scared. I checked with another insurance company for coverage, and we were rejected because I am overweight and smoke. It doesn't matter that we've paid all these years and never claimed anything, or that I haven't had to see a doctor for sickness in 20 years. Please, please do something for us and all the other people who cannot afford to get sick.

Sincerely,

MARY F. MARENTETTE.

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U.S. SENATE,
*Washington, DC, June 11, 1992.*

DEAR FRIEND: The health care system in America is in crisis. We spend more money per person on health care than any other country—and yet more than 35 million Americans are without health insurance. In Michigan, one million people have no health care coverage and 300,000 of them are children. Health care costs are skyrocketing. Those people who do have health insurance are seeing their rates rise dramatically.

I am writing to you now to invite you to an Area Forum on Health Care that I will be holding on Monday, July 13 from 7–9 pm at the Waterfront Inn Conference Center, 2061 US 31 North at Four Mile Road, Traverse City, Michigan. After hearing from a panel on health care, I want to hear your comments and questions relating to the need to reform our health care system.

High quality, affordable health care is essential to the well-being of all Americans and to our nation as a whole. A year ago, I introduced, with several other Senators, HealthAmerica (S. 1227), comprehensive health care reform legislation. This proposal will guarantee health care coverage for every American and reduce the high costs of health care.

Over the past few years, I have been holding hearings in Michigan and Washington, D.C. to hear comments and suggestions from citizens and organizations on legislation to reform our nation's health care system. As debate on this issue moves forward, it is important that Michigan citizens have the opportunity to participate. The Forum in Traverse City is the second in a series of public forums I am planning in various communities across Michigan to allow individuals to share their views about our health care system and learn about the approach we have taken in HealthAmerica.

HealthAmerica is a starting point; I anticipate and encourage suggestions from the people of Michigan as we seek to reform our nation's health care system. I hope you will attend this forum and share your thoughts with me. A sign language interpreter will be available for those with hearing impairments.

Mr. RIEGLE. Mr. President, Mary and Mark and their family and every family in America deserve affordable health care coverage that provides basic services, including doctors' visits and preventive care, as well as hospital care. Like the Marentettes, too many families are finding that health insurance coverage is just moving out of their financial reach.

Health care coverage ought not to be a luxury here in this country. It is not in other countries. Other industrial nations are managing to provide full-scale health insurance plans for their people that are affordable and provide a good coverage and leave no one out. That is what is needed here in America.

And so I will continue to press hard for the bill that we have drafted, HealthAmerica, that I Senator MITCHELL, Senator KENNEDY, and Senator ROCKEFELLER have put out there that would control health care costs, bring the costs down, and broaden coverage out so that families like the Marentettes would have an opportunity to be covered.

I would just finally say this: As a nation, we have a choice. We can either provide the health insurance on the front end and keep our people healthy with preventive care so that they are in good condition and are able to work and support themselves and provide for their families, or we can look the other way and allow medical problems to develop, people to get sick, oftentimes with illnesses that cannot be corrected, with huge medical costs that they must bear and the country must bear, and disabling them, in many cases, so they cannot work.

That is not the answer for America. We need health care reform in this country. I am confident that if we get a new President elected in this country we are going to get a national health insurance plan. We have written one. It is ready to go. It is time to enact it. This family that I have just cited in northern Michigan needs it, and families all across America need it. It is time to do it now. I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TAX ENTERPRISE ZONES ACT

Mr. BENTSEN. Mr. President, when I introduced H.R. 11, along with my colleagues, I said it would take some large steps and some important steps and some small ones in advancing this country's best interests, steps that profoundly concern the Senate. I am talking about revitalizing the cities, the inner core of the cities where we have had some serious problems, as we had in Los Angeles, trying to increase the savings and the capital that is important if we are going to modernize our industries and be more internationally competitive, trying to help troubled families, improving business competitiveness. And as we begin to take up H.R. 11, it is time to take that final step and get on with the job.

Mr. President, the American economy needs this measure now, in cities and rural areas with high unemployment, substantial poverty, first-time homebuyers, family savings for retirement and college. We need it for our real estate industry especially on passive losses and concerns there, for the boating industry, for the airplane industry, for the automotive industry; businesses that lack the capital to hire and invest need it; our crippled economy and our afflicted families need it.

This bill is a downpayment on the rebuilding of America. Everywhere across the country they need us to act. If fact, they demand we act. They are tired of the partisan bickering. They want to see this democratic system of ours work. They sure do not want to see gridlock.

Mr. President, I know that there are many worthy things amongst the 90-plus amendments which are out there swarming toward this bill. I know we have sound arguments and strong advocates for every one of them. I continue to be impressed by the eloquence and incisiveness in the debate of my colleagues, but there is simply no way we can finish this bill if we try to debate each and every one of these amendments. You can forget this legislation if that is the case.

So I am asking, in the cause of our Nation's interests, my colleagues reconsider every one of the amendments they have offered. I have been heartened by the fact that a number, quite a number, have come out and said, "Well, I can put mine aside until next year. I want to see this present legislation go into effect." And we have had others who have agreed to reasonable time limits on debate.

I know each and every Member of this Senate has substantial things in this piece of legislation, as it is right now, that they strongly support, that they want to see put into law. They want to see it made effective. So let us not just say "add mine." Let us not collectively overload and kill this piece of legislation.

I ask my colleagues to weigh the cooperation and compromise that brought this measure this far. There is not a member of the Finance Committee we have not worked with to put things in from the Republican side and from the Democratic side. We have taken five of the seven economic measures the President recommended in his budget. We put those things in this piece of legislation to try to get it done. We have consulted with inner-city mayors, Mayor Bradley of Los Angeles. We talked to the Treasury Department. We had the administration present in the markup. We did not have them object to any one substantive thing in that bill but some technical matters, and we took care of those. We have had business leaders, labor leaders, the administration involved in the drawing of this bill.

It was reported out of the committee unanimously, and that is a major plus on any piece of legislation. We have already had 2 days of debate on this bill, and we disposed of several major amendments. I ask for cooperation on both sides of the aisle to limit the number of amendments to be considered in the time for debate, and I have been assured of cooperation from the majority leader, the minority leader, and the ranking member on the Republican side, who has contributed major measure to this piece of legislation.

Let us agree now on the time required for the major amendments, those that you feel just have to be considered.

Give us a chance to better plan to get this one done. We are talking about—this is Wednesday—we are talking about Thursday, Friday, and probably Saturday to accomplish this. Remember, we do not have much time left before we are talking about adjournment. That means we also have to have time for that conference, and to get that done and to bring that back here again to the Senate for the action of the Senate.

This measure started with and it has been sustained by the needs of the American people as felt by Democrats and Republicans working together. Let us keep those needs ahead of everything else, whether we are talking about self-interest, or regional interests or special interests, or the lobbyist downtown. Let us move this legislation forward.

Mr. President, I yield the floor.

## TAX ENTERPRISE ZONES ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole Amendment No. 2939, to extend the section 29 credit for 8 months while reducing the period other provisions are extended to 15 months.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I thank the Chair.

Mr. President, let me tell you how I see this bill at the moment, and what the problems are that the chairman faces, that I face, and that the Senate faces.

First, let us assume that we are going to be in session 2 more weeks, at the outside, 2½ weeks. It does not really matter because we are not going to finish this bill before close to the end of the session, whenever it is, if we finish it.

That means if the President does not like the bill and he wants to veto it, there will be no bill. He has the whip hand in that sense. There is nothing we can do about it. I do not mean that critically. If he does not like the bill, we are down to the last 3 days of the session, we pass it, he vetoes it, that is it; the veto will be sustained, we probably will not even vote on it.

If we are going to get a bill, it has to be a bill that the Congress and the President can agree upon. Here comes the problem as far as I see it. The President has indicated no more new taxes, never, never, or never ever, or ever never, or something like that in his speech that he made 2 or 3 weeks ago. No more taxes. He indicated he made a mistake in 1990 when he agreed to the budget agreement. We had taxes then, although we had also spending limitations in that bill. He said it was a mistake.

As we go forward with this bill, Mr. President, there are taxes in it called revenue enhancements if you want. If it makes you feel better, there are taxes in it, some of which the President had previously asked for. For example, the bill includes what we call mark to market for the securities industry.

If you are a securities dealer or a stockbroker, you hold stocks in your name or in the name of your partnership or your trading house. Let us say you bought the stocks in June and they were worth $100 a share. Your fiscal year is the end of the year, in December. If on December 31 those stocks are worth $80, you can deduct that loss even though you have not sold the stocks. You can say I have a $20 loss.

You still own the stocks. You have not sold them. But if on December 31 the stocks have gone up to $120 instead of $100, under the current law, you do not have to count that as income because you have not sold the stocks.

So the President proposed in this year's budget proposals that for both losses and gains we go to what is called a mark-to-market accounting system—at the end of the year if they have had a $250 gain, that will count as income and will be taxed. Is that a tax increase? For the securities dealer it is a tax increase, very clearly. That is what the President said he would accept.

Second, he said he would accept a speedup of estimated taxes paid by corporations. These are larger corporations that have to pay their income taxes throughout the year. These corporations have to estimate what they think their income and taxes are going to be, and they pay on the estimation.

At the moment they have to pay at least 97 percent of their estimated taxes or be hit with a penalty. The President has indicated it is acceptable to go to 100 percent of their estimated taxes. This is what we would call in the tax business a speedup. These are taxes that they are going to pay eventually anyway.

We are saying instead of paying next year, you will have to pay this year. For the corporations, therefore, they lose the value of having the use of this money for a year and the interest on it.

Is it a tax increase for them? Yes; it is a tax increase.

Those are two that the President said he would accept.

What I do not know is if those are still acceptable. I have talked to the White House on numerous occasions, as late as yesterday, and I said can you tell me or just give me a rough idea of what it is the President might accept because it makes our job difficult if we are not sure that at the end of all this he is going to veto the bill because of something we have put in it that we thought he would accept but will not.

Those are two he would accept. There are a couple other things in the bill that are tax increases—no question about it—the President has never commented on, and I do not know if he will accept. One is real estate depreciation. Currently the law requires that you depreciate commercial real estate buildings over 31½ years. The bill changes that to 40 years.

So you have less depreciation each year, therefore, less of a deduction; therefore, you pay more tax in the early years of owning real estate.

We have used the revenue that comes from that, however, to provide other tax incentives in the real estate industry. The willingness to go from 31½ years to 40 years was actually proposed by the real estate industry itself in exchange for some other things they want. It is a wash. It pays for itself within the real estate industry but within the real estate industry there are going to be some people that do not like this.

Is that a tax increase? Yes; but the tax increase is being used for the same group. Does that make it somewhat more tolerable than if you use it for some other purpose?

In this bill there is also a provision for the elimination of the deduction of the private club dues. You belong to the local golf club, country club or eating club, and will no longer be able to deduct the dues. At the moment, few people are deducting this anyway. Today, with those deductions, you have less taxable income, and you pay less tax. If you cannot deduct club dues, you are going to pay somewhat more tax.

Is it a tax increase? Yes; it is a tax increase.

Is it acceptable to the President? We do not know. Would it be acceptable to the President if somehow the revenues gained from that were used for something somehow equivalent to the industry upon who we are levying it or at least the individuals as we did with real estate? We do not know. But it is a tax increase for some people.

Here we are with this dilemma, as we start back on this bill. What will the President accept, and can you use revenue increases to pay for things totally unrelated.

One of the things the President wants, and I want, is an extension of the research and development credit. It ran out last June 30. Just to extend it for 18 months it costs $1.7 billion.

Now, if we are going to extend it and if this bill is going to be revenue neutral, we are going to have the revenue to pay for the things that lose money. Is it counted as a tax increase if we find some revenue someplace and use it to pay for this research and development credit which everybody, excluding the President, wants?

Is it acceptable if we use a revenue increase that the President wants to pay for it, but would it not be acceptable if we use a different form of revenue increase that perhaps the Congress wants to pay for the same thing?

These are the things we do not know the answer to as we start to debate this bill.

So I understand the chairman's quandary as he starts down a path, which he cannot even see the end of. He cannot even see the first curve in this path. We are going to be here 3 or 4 days on this and we will finish the bill. We will be in conference with the House before we really know whether or not the administration will accept what we hope we think we are working on.

So all I can say to the chairman is good luck; I will be with him here day and night, I guess, and as the amendments come up, we will consider them and see what happens. I hope everyone in the Senate understands that there is an outside possibility that this may be a futile exercise, because at the end, we may have done something the President will not accept, that he will veto, and the veto will be sustained because we won't be able to bring it up, and we will have no bill at all.

I thank the Chair.

Mr. BENTSEN. Mr. President, I think my colleague, the ranking member, has stated the concerns well. But I do not see how you move on legislation unless you have the option of being able to match tax cuts with tax increases. I do not see how you can effectively do it.

I look back to 1986, during the Reagan-Bush administration, when my colleague was chairman of the committee and made a major move in closing loopholes in the tax laws. But there were tax increases in there, too. And if you just looked at that by itself, I would guess that would probably be the second largest tax increase in the history of this country. But that would not be a fair analysis at all, because he balanced it off with tax cuts and the closing of loopholes, which would have been considered tax increases, I suppose, and was able to move through a major piece of legislation and bring about a great many reforms that were needed to be done.

So it is a dilemma for us from that standpoint. I think that when you have that balanced out, as we do in this particular piece of legislation, that is not a tax increase. We paid for this every step of the way. We have stayed within the budget agreement. We have not added to the deficit. Yet, we have done major things to try to get this economy moving and to address some of the most serious concerns in our country, the types of things that led to the problems in Los Angeles, the type of problems that we know in every major city in America. There are enterprise zones, something the administration wanted, but they also have to be paid for. That is what we have addressed in this piece of legislation.

So I must say I have some optimism concerning this, because we went to an extraordinary degree to try to make this bipartisan legislation, to get away from the partisan bickering, to show that the system works. And you have things from both sides of the aisle. My friend, the ranking member, has major items in this piece of legislation, and so do I. So does every member of that committee and much of the U.S. Senate.

We have a constructive, necessary piece of legislation. Having had the administration's Mr. Goldberg there representing the administration during the markup is where I take some encouragement, and I am hopeful we can get this through in a reasonable period of time and get it out of conference and get something to the President that he will sign.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I rise in support of the pending measure which is before the Senate today. I also ask that the Senate pass the measure as quickly as possible.

The bill is not a political document. It is not a political statement. Rather, it is legislation that I think this country and the American citizens need very desperately.

I congratulate the chairman for the good work he has done on this legislation. It has not been easy. A great deal of time and effort, long hearings, many discussions, and much debate, have gone into producing a product that is now before the Senate.

The bill is deficit neutral, which is far different from many pieces of legislation that we have seen in this Chamber recently. It also addresses many of the tax issues that have languished in this Congress for many, many years because the last several tax bills that have been addressed by this Congress have been strictly for the purposes of deficit reduction.

This Congress, with this legislation, is now about to get about the business of governing and making difficult decisions in the tax area.

Passage of this bill will make important changes in the law that are necessary to help citizens with their daily lives. For example, Congress has been working since 1986 to provide passive loss to real estate. That provision is included in this bill. We have been working for over two Congresses to provide important relief from an unfair tax levied on the restaurant industry. That provision is in this bill. We have been working for two Congresses on legislation to simplify the pension system, to help businesses and individuals with the complicated pension laws. We have been working on employee benefits, partnership, and income tax simplification. That is in this legislation. This bill also extends the 12 expired provisions which expire at the end of June. In short, this bill contains provisions that are important changes to the Tax Code that the Congress simply must take care of. Time is running out and this is, indeed, the last opportunity.

This bill also has new and important initiatives critical to this country, including relief to economically distressed urban and rural areas through the enterprise zones. It contains the repeal of the job-killing excise tax on boats, which we have all seen and clearly have come to know as being a very serious mistake that the Congress adopted in the sense of trying to raise revenues when, in effect, the excise tax on boats simply put people out of work.

It contains a taxpayer bill of rights, on which our colleague from Arkansas, Senator PRYOR, has been so active in taking the leadership role.

It contains a clarification of the treatment of intangibles. It contains a youth apprenticeship program and individual retirement account provisions, a provision which is cosponsored by over 70 Members of the Senate.

This legislation, Mr. President, also contains five of the seven economic growth provisions that President Bush has requested the Congress to address. They are in this bill. They are waiting to be enacted.

The unfortunate problem that we have with governing in the tax area is that most of the changes involve some revenue losses which must be offset either by cutting tax expenditures elsewhere or by raising taxes to come out with a deficit that is neutral. This bill, Mr. President, does that and it does it in a way that does not raise the tax rates of anybody in this country.

There is talk about a stripped down bill; why? It is certainly not because of the specific items in this tax bill since most of these provisions have broadbase support in the Senate. It is because there are some Members who want to protect the very upper-income brackets and upper-income taxpayers in this country by striking the so-called Pease and PEP offsets, both of which merely extend existing law; nothing new, merely extending laws that are already on the books.

Mr. President, if we strip down this legislation, then who really gets hurt? The taxpayers who have patiently waited for years for important tax changes; they would be deprived of those tax changes. And who is helped? Who is helped is the very upper-income taxpayers who would see their taxes cut if we do not extend the Pease and PEP provisions. If these two offsets are not permanently extended but extended for only 2 years, who gets hurt? Mr. President, the taxpayer through further damage to the economy. Such an effort would cause tremendous losses outside of the budget window and increase the Federal deficit, something that I will suggest no one in this Chamber wants to do.

Who gets help if we do that? Again, the very upper-income taxpayer who would see their taxes cut if we do not extend the so-called Pease and PEP provisions.

Mr. President, I hope we do not go down that road of a stripped-down bill or go down the road of increasing the deficit in the outyears. I hope we can pass this bill and show the American people that we can govern in the tax area and provide to taxpayers the needed tax laws that they have so patiently waited for for so many years.

I also, once again, want to point out a very important provision that is in this bill, and that is the provision dealing with youth apprenticeship programs.

I have a press account from a Louisiana newspaper that says that the Louisiana high school dropout rate is among the highest in the entire United States. A very important quote in this article discusses one of the reasons why. It says:

> A major reason kids give for dropping out is that they get so frustrated with the college-type curriculum.

Mr. President, this is not just a problem in my State of Louisiana. It is a problem in every State. We need to offer a curriculum that offers hope to college- and also to non-college-bound students alike. This legislation before the Senate right now provides incentives for just such a program in the enterprise zone areas. Employers that work and live and have their businesses in these enterprise zone areas would get a per employee income tax credit for youth apprenticeship program expenditures. The youth apprenticeship program is a partnership between the business and the school where the high school student would receive on-the-job training at the same time he or she is earning their diploma.

Mr. President, the committee, I think, had the foresight to say this is now the time to try and move into an area where we encourage the private sector, working with the schools, to offer to young men and women who are in high school an opportunity that they will be able to do better in the future even though they are not going to college.

The youth apprenticeship program is a concept whose time has come. And this legislation, for the very first time, provides the incentives to say to business men and women in this country that, yes, we are going to have an investment in young people in America. Yes, we are going to give them some hope and let them know that there is opportunity for them after they get out of high school to earn real wages by working in a skill profession, a craft that they would have learned through the youth apprenticeship program, that will give them the opportunity to be a good, solid citizen in this country instead of a problem like we see because of a large number of dropouts that we are experiencing.

This is just one of the very many, very valuable programs that we have in this program that is now before the Senate. I think it is time to show the American people that we can govern, that we can make tough decisions, that we can come up with innovative ideas and suggestions toward solving the problems like we saw in the inner cities and like we see in Los Angeles.

This legislation addresses those problems that are out there. This legislation can help begin the turnaround that the American people are in need of so desperately. I urge my colleagues to adopt this legislation at the earliest possible opportunity.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 2939

Mr. PACKWOOD. Mr. President, I believe amendment No. 2939 is already at the desk. I would like to call it up.

The PRESIDING OFFICER. The managers have the right to call up the amendment.

Mr. PACKWOOD. I did not hear the Chair.

The PRESIDING OFFICER. The managers have that right, to call up the amendment, and that is the pending question.

Mr. BENTSEN. Mr. President, I have agreed along with the ranking member so far as calling up the amendment on behalf of Senator DOLE, as I understand it.

Mr. PACKWOOD. Senators DOLE, ROCKEFELLER, HATCH, BAUCUS, BURNS, and others.

The PRESIDING OFFICER (Mr. KERRY). The time for debate on this amendment would be 2 hours and time is equally divided between Senator DOLE and Senator BRADLEY.

### AMENDMENT NO. 2939, AS MODIFIED

Mr. PACKWOOD. Mr. President, I ask unanimous consent—and it requires that because there is a time agreement—to send a modification of the amendment to the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PACKWOOD. I thank the Chair.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2939), as modified, is as follows:

On page 19, strike section 2152 and insert in lieu:

### SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE

(a) IN GENERAL.—Subsection (f) of section 29 is amended to read as follows:

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility originally placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) SPECIAL RULES FOR CERTAIN GAS-PRODUCING FACILITIES.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) of (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of paragraph (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is originally placed in service before January 1, 1997, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'.

"(3) SPECIAL RULES FOR FACILITIES PRODUCING COKE OR COKE GAS.—This section shall not apply to a facility described in paragraph (1) which produces coke or coke gas unless—

"(A) the original use of the facility commences with the taxpayer, or

"(B) if subparagraph (A) does not apply, the taxpayer

"(i) owned the facility on December 31, 1992, and at all times thereafter.

(b) LIMITATION ON CREDIT.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON GAS ELIGIBLE FOR CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) EXCEPTION FOR CERTAIN GAS.—In the case of gas produced from a tight formation or gas described in subparagraph (D)—

"(i) subparagraph (A) shall be applied by substituting '550' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for the amount in effect under subsection (a)(1) for the taxable year, except that the $2.25 amount shall not be adjusted under subsection (b)(2).

"(C) UNITIZATION AND POOLING ARRANGEMENTS FOR DEVONIAN SHALE GAS.—In the case of gas produced from Devonian shale, if—

"(i) wells are being operated under a voluntary or compulsory unitization or pooling agreement under which wells are not separately metered for sale purposes, and

"(ii) no gas from wells being operated under such agreement is fuel which is not qualified fuel,

then, for purposes of this paragraph, production for any year from each well under such agreement shall be equal to the total production from all such wells during the year divided by the number of wells actually producing gas during the year.

"(D) CERTAIN COAL SEAM GAS.—Gas described in this subparagraph is gas produced from coal seams which is captured from the de-stressed zone associated with any full-seam extraction of coal which extends above and below mined-out coal seams."

(c) OIL FROM THE BAKKEN SHALE FORMATION.—Section 29(c) is amended by adding at the end the following new paragraph:

"(4) OIL FROM THE BAKKEN SHALE FORMATION.—For purposes of this section, oil produced from shale from a conventional or nonconventional well producing from the Bakken shale formation shall be treated as qualified fuel to the extent that the production from such well during the taxable year does not exceed 7,125 barrels."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wells drilled, and facilities placed in service, after December 31, 1992.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum and ask that the time not be charged to either party.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The time is equally charged, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. My unanimous-consent request is, because this is going to take 2 hours and parties are coming, that the time for the quorum call not be charged to either party. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I now am going to put in a call for a quorum and ask that the time now be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SECTION 29 EXTENSION

Mr. DOLE. Mr. President, once again I want to remind my colleagues of the reason I am proposing to extend the production tax credit for nonconventional fuels.

Some will tell you a gas glut exists. It may have, but it does not today.

I ask unanimous consent that a memorandum from the Administrator of the Energy Information Agency to the Deputy Secretary of Energy appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE,
*Washington, DC, September 16, 1992.*

MEMORANDUM

Reply to Attn of: EI-1 (Office of the Administrator).
Subject: Natural Gas Prices.
To: Deputy Secretary, S-2.

Your office has requested that we provide you with an update on developments in the markets for natural gas and to comment on what extent, if any, the current run-up in natural gas prices can be attributed to prorationing rules in Oklahoma, Texas, and Louisiana.

DEVELOPMENTS IN NATURAL GAS

Natural gas prices have increased since February 1992, when they hit an average of $1.21 per MMBtu which was in real terms the lowest natural gas price since 1976. Current spot prices are in the $2.12 per MMBtu range with January futures as high as $2.35 per MMBtu. The rapid run-up in prices this spring and summer was surprising since natural gas prices usually wait until fall to make their heating season rise.

There is close to unanimous agreement among gas analysts and economists that the primary reason for the rise was the low level of gas in storage. The extremely low prices of the early spring were not sufficient to bring forth substantial replenishment when the winter season concluded. This drawdown continued into the late spring due to the abnormally cold weather. By end of July 1992 gas inventories were 313 Bcf (11 percent) below the previous July. At current high prices there is little incentive for anyone to buy gas solely for inventories. Even so, inventories prior to Hurricane Andrew were building.

There has been an increase in gas demand this summer and fall. Industrial use is up almost six percent and use in electric generation has also increased as more gas units have come on line and drought conditions in the northwest have limited hydro generation.

The most recent event to affect gas markets is Hurricane Andrew. The Minerals Management Service (MMS) estimated that 2.5–2.7 Bcf per day were lost due to damage in the Gulf. While most of this damage has already been, or will be shortly, repaired, inventories have been drawn down even further to cover these temporary outages. January futures prices have risen by 10 cents per MMBtu since Hurricane Andrew hit.

There is also considerable uncertainty in the gas markets which is caused by factors other than inventories. Among these are:

1. The length of time needed to bring Gulf production fully back on line.

2. The severity of the winter. A "normal" winter, which the Nation has not experienced lately, would increase demand. However, if the winter is mild, those who are forced to sell gas inventories in the spring may suffer high losses as was the case this year.

3. The final outcome of the Federal Energy Regulatory Commission (FERC) discussions regarding Order 636.

4. The resolution of tax issues surrounding coalbed methane and tight gas.

5. The role of gas in meeting the requirements of the Clean Air Act Amendments.

6. The resolution of issues surrounding the Resource Conservation and Recovery Act and wetlands legislation.

7. The strength of the economy.

EIA has been predicting rising gas prices this heating season due to an expected normal weather pattern, some economic growth, and low inventories. There is nothing we see in the market to change our forecast.

THE ROLE OF STATE PRORATIONING

During the early spring Texas, Oklahoma, and Louisiana announced that they would consider enacting rules to tighten prorationing of gas. You asked us to analyze what effect, if any, this action may have had on the recent behavior of gas prices. The early spring run-ups all happened before the Oklahoma rules went into effect in April and the Texas rules in July. Louisiana held hearings but has never enacted new rules. Kansas has also held hearings but has taken no action.

The information we have received from Texas and Oklahoma shows that actual production levels since the new prorationing rules went into effect were less than what those rules allow. Due to Hurricane Andrew, Oklahoma increased its allowable production to winter season production levels. Natural gas production rose in May, June and July, the first full months under the new regulation. It does not appear that prorationing has limited supplies or significantly driven up prices.

While it is possible that market uncertainty has increased due to the prorationing rules, the principal motivations behind the price rise have been the low level of inventories, rising demand, and uncertainty about weather, economic conditions, and legislation.

CALVIN A. KENT, Ph.D.,
*Administrator,*
*Energy Information Administration.*

Mr. DOLE. Mr. President, this memorandum, dated September 16, 1992, clearly points out that reserves of natural gas are shrinking and spot market prices for natural gas have strengthened since February when inflation adjusted prices for natural gas were the lowest since 1976. So first, for my colleagues from producing States, this is not a move to flood an otherwise flooded market.

Second, for my colleagues chiefly concerned about the environment, let me remind you of what we have already accomplished in environmental protection. The Clean Air Act Amendments of 1990 contained a provision requiring centrally fueled fleets of vehicles to switch to clean burning alternative fuels. We all know natural gas was the fuel favored in that provision. And, when the Senate passed the energy bill earlier this year, we expanded the number of cities covered by that requirement. In addition, we included tax incentives for purchasing natural gas vehicles and for the installation of compressed natural gas fueling pumps.

We have created a huge market for natural gas in transportation—a market which is virtually zero today. Where do my colleagues propose to find the natural gas for this market. We would be derelict in our duties if we didn't consider supply. Part will come from section 29 reserves created by this amendment.

Safety is an issue. Methane produced from coal seams reduces the chance of devastating explosions at coal mines and even in our Nation's thousands of landfills. Without section 29, this gas will be simply vented into the atmosphere.

Those of you proposing to reduce greenhouse gases have a perfect opportunity here. We can send this gas down the pipeline to our consumers, to burn in our newly mandated clean burning vehicles, or you can allow these greenhouse gasses to be vented.

Mr. President, as I have said on several occasions in the past, gas produced from section 29 will be absolutely essential to meet our near-term future needs. This is one time the Congress can actually act to prevent a disaster from occurring, instead of acting after a problem has arisen and devising a solution which makes the problem worse.

This amendment has been streamlined—no longer will the giant wells receive excessive benefit. It has been tailored to help recover the investment so more reserves can be found.

I urge all of my colleagues to make a commonsense investment for energy security, for the environment, for safety. I urge my colleagues to support this amendment.

Mr. President, I know my cosponsor, the distinguished Senator from West Virginia [Mr. ROCKEFELLER] will, hopefully, be appearing very soon. I think there is a 2-hour time agreement on this amendment. I hope we will not use the 2 hours.

I know my colleagues, Senator BENTSEN and Senator PACKWOOD, would like to move on to the tax bill. If we are going to complete the tax bill, this might be a good place to set an example, reduce the time, have the vote, adopt this amendment, move on to something else, and demonstrate that we can finish this bill with over 100 amendments pending by Friday evening.

So I thank my colleagues, and I urge my cosponsors and those opposed to the extension to come to the floor, make statements, and we could have a vote at a very early time.

Mr. BENTSEN. Mr. President, I concur with my friend, the minority leader.

I must say, in trying to extend section 29, I think it fulfills a very useful purpose. We have used it for some 12 years now, and it has dramatically increased our resource base of nonconventional fuels—for example, gas from tight sands, coal seams, Devonian shale, coal, and biomass. It has also led to significant developments in our nonconventional fuel technologies. These are trends we want to see continue.

More and more we find an increase in imported oil into this country and a further dependence on a politically unstable area in the Middle East. It is a deep concern to all of us. So I think further diversification of this energy source is important to us.

Let me emphasis, though, that my highest priority in this area is the alternative minimum tax proposal. It is, I think, important for the independent producers. In my opinion, that is the most significant thing that we can do in trying to increase our domestic oil and gas production. For that reason, it is absolutely imperative that the Congress pass this revision in the alternative minimum tax to try to encourage these independents to drill for these wells, which have found most of the reserves in our country in the past.

Given the opportunity to do more, I think it would be shortsighted for us not to also promote the further development of our tremendous potential reserves of nonconventional gas and oil. What I am talking about here is long term. It is becoming increasingly clear that natural gas will be an important part of our energy future. It is clean burning, it is a domestically available fuel that further reduces our dependence on foreign oil. We need to look beyond our short-term gas surpluses in order to ensure a long-term supply of natural gas.

A section 29 credit contributes to the substantial additions to our domestic gas reserves that are important to that long-term supply.

The distinguished Republican leader's amendment addresses some of the concerns regarding the current section 29 credit. It does this by imposing production caps that limit the amount of credit that is available to the higher production wells, which have a lesser need for the credit. It also scales back the amount of the credit in some cases.

As a result, the revenue cost of the extension of the credit has been reduced. Thus, I support the extension of section 29 credit as it has been structured in this amendment. It provides us with an important way to further develop our domestic energy reserves and reduce our reliance on imported oil.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the time will be charged equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time to the Senator from West Virginia? The time is under control.

Mr. ROCKEFELLER. I make inquiry of the present business.

The PRESIDING OFFICER. The Dole amendment under a 20-minute limit is the pending business.

Mr. ROCKEFELLER. I yield myself such time as I may require which will be 10 or 12 minutes off of Senator DOLE'S time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for such time as the Senator might use.

Mr. ROCKEFELLER. Mr. President, by now, most Members and their staffs have heard the arguments for and against extending the section 29 tax credit for the production of nonconventional fuels. But I want to make it very clear, one last time, why it is so important. Unless we extend this provision, American jobs are endangered, unnecessary harm will be wrecked on the environment, and our Nation's energy security will be compromised.

A vital part of our Nation's oil and gas industry is linked to this tax credit, and if this credit expires, tens of thousands of American workers will lose their jobs, inflicting even more pain and hardship on American families and communities.

The effect of allowing this credit to expire would be to slash energy exploration and drilling to even lower levels than currently exist. The number of rigs drilling in this country is down from a high of 4,500 in 1981 to about 700 today, and if section 29 is allowed to expire, 25 percent of the existing rigs could be shut down, and up to 100,000 jobs lost across the country.

This credit was first enacted in response to the oil shocks of the 1970's, and it has demonstrably worked. On numerous occasions I have spoken about our country's need for achieving energy independence. Unfortunately, we have a long way to go. We are still dangerously dependent on foreign energy sources: today, the United States is importing 46 percent of its oil. Section 29 is specifically designed to extract fuel from places—within the United States—where it would otherwise not be economical to look.

Section 29 also has important environmental benefits. It helps in the construction of facilities, here at home, to capture gas from places like landfills—gas that is otherwise released into the atmosphere, causing pollution and further fouling the air we all breathe. It is irresponsible to the point of recklessness for us to not to fully use this available source of domestic energy to heat our homes and run our cars. With section 29 incentives, this ever growing source of pollution is channeled to constructive purposes.

Given these great benefits, one might wonder who is against an extension of the section 29 credit. Much opposition has in fact come from large gas producers complaining that the credit has kept prices too low. Too low for whom? Certainly not consumers across the country who count on reasonable fuel prices to heat their homes in winter.

In fact, as this Sunday's New York Times pointed out, gas prices are now at their highest level in 7 years—and that is with section 29 still in effect. Mr. President, I ask unanimous consent to have this article from the New York Times printed in the RECORD at the conclusion of my remarks. Add to this, the fact that provisions in the Clean Air Act and the energy bill call for a dramatic increase in the use of alternative fuels to heat our homes, cook our food, dry our clothes, and power our cars, and it is obvious why we need to maintain our domestic section 29 production. With winter approaching, I don't think that anyone would vote for still higher gas prices for their constituents, but that is what a vote against this amendment will ultimately mean.

Most of us want reasonable prices. And this amendment does the responsible thing by instituting caps on the credit, thereby limiting the benefit that can be received by the largest wells. This is a step we took to respond to those critics who were afraid that the credit results in excess supply in some areas of the country. At the same time, we target the incentive for the smaller producers, whose very survival depends on the section 29 credit.

This proposal, therefore, costs less than a straight extension of the credit and has broad bipartisan support. At the same time, it addresses important national energy security needs and environmental concerns.

If opponents of the extension of the section 29 credit succeed in keeping nonconventional fuel off the market, the winners will be big energy companies and foreign suppliers who will keep raising the price of energy that Americans pay to heat their homes and run everything from their cars to their factories. The losers will be domestic energy producers and their employees, the environment, and consumers.

I therefore urge my colleagues to support and vote for this amendment. Continuing the section 29 credit will create jobs while strengthening our energy and environmental policy. And we are more than confident that the investment we are proposing will be more than paid back in the form of jobs, economic growth, and environmental benefits for all Americans.

I thank the Chair and reserve the remainder of my time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 20, 1992]

### AFTER A LONG NAP, NATURAL GAS WAKES UP

(By Thomas C. Hayes)

DALLAS.—For natural gas producers in the United States, the last few years have been a famine of biblical proportions. Prices have been so low that hundreds of companies have been driven out of business and thousands of workers have lost their jobs.

Now, suddenly, gas prices are at a post-1985 September high. They were jolted upward most recently when Hurricane Andrew tore through the Gulf of Mexico last month, knocking out about 5 percent of the nation's gas output for several weeks.

But the hurricane was only the latest of several events that have caused spot prices for natural gas to double in only six months. What is more, gas producers now believe that the confluence of a number of long-term trends will keep prices comfortably above the low-water marks of recent years.

"We are getting back very close to a balance in supply and demand in natural gas," said Kenneth L. Lay, chairman and chief executive of the Enron Corporation, operator of the nation's biggest pipeline and a large independent gas producer.

Analysts say the markets are favoring producers because of a combination of factors that have been either limiting supplies or increasing demand. R. Gamble Baldwin, managing partner of Natural Gas Partners, an investment firm in Greenwich, Conn., said prices could spike above $2.50 per 1,000 cubic feet if the winter is particularly cold.

Gas consumption in the United States has increased in each of the last five years, partly because industrial users and utilities found gas cheaper to burn that fuel oil. By most accounts, gas use will reach 20 trillion cubic feet this year, the highest since 1979.

Some forecasts put the annual total at 23 trillion by the end of the decade, with most of the increase coming from new gas-fired electric power plants. Between 1978 to 1988, Congress banned gas as a fuel source for new industrial plants and new electrical power plants because of fears of shortages. Gas plants are cheaper to build and operate than coal or oil-fired plants and they pollute less.

While production has risen enough to permit the use of gas in power plants, drillers have not been finding enough new gas fields for reserves to keep pace with rising production. In 1991 additions to reserves amounted to just 70 percent of production. With drilling activity at a 50-year low and with output rising, reserve replacements will certainly be even lower this year.

Existing total proven gas reserves amount to an eight-year supply at current consumption rates, according to the Energy Department. But the National Petroleum Council, an industry-sponsored group that advises Government energy officials, says probable gas reserves exceed a 50-year supply, and it maintains that if prices remain high enough to finance drilling and production, the level of reserves could quickly be increased.

Rising crude oil prices this year have helped to bolster gas prices. Many manufacturers and utilities can burn either gas or No. 6 fuel oil, whichever is cheaper. With the price of light domestic crude oil hovering near $22 a barrel, gas has had a clear price advantage over fuel oil until it soared past $2 per 1,000 cubic feet in late August.

After falling in some areas below $1 per 1,000 cubic feet—the lowest winter price in 15 years—last February, when the weather was unusually warm, gas prices have marched steadily upward. "The gas situation has finally bottomed out and is turning around," said George P. Mitchell, chairman and chief executive of the Mitchell Energy and Development Corporation.

The rise can be attributed in varying degrees to a cool spring, which caused demand for gas for heating to stay high; hot summer temperatures in the Southeast, where gas-powered electricity typically runs the air-conditioners; voluntary drilling cutbacks by some producers who were disgusted by low winter prices; new rules in Texas and Oklahoma that squeezed some output, and the June report that the nation's drilling activity had fallen to the lowest level in 50 years, with only 596 rigs exploring for oil and gas. The peak was 4,530 rigs at the end of 1981, and last year the average number of rigs was 861.

The spot contract for natural gas deliveries in October settled on Friday on the New York Mercantile Exchange at $2.328 per 1,000 cubic feet, up 18 cents for the week. It was the first time gas prices crossed the $2.20 level in the month of September since 1985. Prices then were heading down, however, a prelude to bankruptcies and job cutbacks.

For now, analysts say the long slump in gas prices is over. "We've been waiting five years for this," said Ronald J. Barone, a managing director at Kidder, Peabody & Company, who follows the industry.

The common stocks of some domestic gas producers, including Anadarko Petroleum, Enron Oil and Gas and Noble Affiliates, have risen by more than 40 percent this year. A group of seven domestic gas producers that Mr. Barone follows is up 30.9 percent so far in 1992 and the pipeline sector has gained 19.4 percent, compared with a gain of seven-tenths of 1 percent for the Standard & Poor's 500-stock index.

"I don't think gas prices will go up much further from here, but I don't think they will plunge either," Mr. Barone said.

Rising prices have stirred a modest revival in drilling. "We have picked up our speed a little bit," said F. Don Covey, president of exploration and production at Mitchell Energy and Development, whose headquarters are in The Woodlands, Tex.

The rig count is up nearly 100 since June, and drilling service companies like the Western Company of North America, which completed a bankruptcy reorganization in 1989, are experiencing solid increases in orders.

"It is a direct reflection of much stronger natural gas prices," said George Hogarty, director of investor relations for Western, based in Houston. The company lost nearly $2 million in the second quarter, "but clearly we'll do better than that" in the current quarter, he added.

John J. Murphy, chairman and chief executive of Dresser Industries, the big Dallas-based oil field service company, said many of his customers, which include leading natural gas procedures, are planning to expand drilling programs but have not acted yet.

Most producers will not be convinced that gas prices have moved into a higher range until next February or March, the beginning of the period of slackest demand. "If the gas price remains strong in the early spring, that will be a catalyst to draw more capital into the industry," said Tom Robinson, head of North American natural gas research at Cambridge Energy Research Associates, a consulting firm in Cambridge, Mass.

Meanwhile, few producers or analysts believe that long-term gas prices will burst through the level that would set off a sharp increase in drilling and exploration, a point between $2.50 and $3.

"There will be more activity, but it will not be a surge," said Mr. Murphy of Dresser. He said the total number of drilling rigs was not likely to increase much next year because Federal laws that subsidized the drilling of shallow coal-gas wells expire in December and many of those rigs will be idled.

Despite the jump in spot gas prices, consumers probably do not need to fear big increase in their fuel bills. Many gas utilities hedge against abrupt price changes with a blend of contracts ranging from two years to 10 years or more, although some still buy much of their gas from month to month.

"It's too early to say, but we would not anticipate a great change in prices" for residential customers this winter, said Martin Gipten, a spokesman for Consolidated Edison. The utility's 900,000 residential customers in New York City and parts of Westchester county received average bills of $205.21 for gas heat last December. It was the third lowest bill for any December since 1983.

Executives in the gas industry say that several provisions of the National Energy Security Act, the much-debated energy bill now under review by a House-Senate conference committee, will accelerate gas consumption if the bill becomes law.

The Clean Air Act of 1990, which ordered sulfur emissions at electric power plants to be reduced by the year 2000, has helped stir demand for gas as a substitute for coal, said T. Boone Pickens, chairman of Mesa Inc., a big independent gas producer in Dallas.

Virtually all gas consumed by Americans is produced in North America, with Canadian imports expected to supply 10 percent of domestic demand this year. But for oil, imports accounted for 46 percent of supplies this year through August, with Persian Gulf countries shipping 10 percent of total supplies, the American Petroleum Institute said.

Oil's share of the United States' $65.4 billion trade deficit last year was $43.2 billion, or 66.7 percent, the Commerce Department said.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I yield myself such time as I might need.

The PRESIDING OFFICER. The Senator is recognized for such time as he may use.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Kansas. I think that this is an amendment that is directly opposite to the way we should be going in energy policy. I think it has a very high cost for very small benefits. I think that the Senate should reflect on this amendment carefully before we take this step.

First, let us take a look at section 29. Section 29 was enacted as a part of the windfall profits tax back in 1980 as a means to jump-start the application of technology necessary to develop nonconventional fuels such as tight sand gas and coal bed methane. At the time of the enactment, section 29 was intended to supplement conventional gas supplies.

Mr. President, I remember the windfall profits tax. That was about my first or second year in the U.S. Senate. The idea was that, as the price of oil skyrocketed, we would capture some of those windfall profits that accrued for the public.

Of course, there was a little provision that slipped in there, under the guise of trying to promote alternative energy, tight sands, difficult areas to get gas. So instead of simply giving them what other oil and gas producers have, in terms of depletion of intangible drilling or whatever, it was determined that these producers needed an extra kicker, because they had a particularly difficult supply to get at. And that was the origin of section 29.

The thought was that the little subsidy—which I always thought as quite a large subsidy for oil and gas generally—was needed. And so we put in section 29. That was back in 1980.

Section 29 is a production credit directed toward the more difficult and costly gas production. It applies to oil and gas produced from nonconventional wells drilled before December 31, 1992, or from facilities placed in service by 1993, with the credit continuing until 2002 for gas produced from those wells. The most significant production qualifying for section 29 credit is from tight sands formations and from coal seams.

Section 29 currently allows a tax credit, in differing amounts, for oil produced in shale and tar sands formations; gas produced in geopressurized brine; Devonian shale, coal seams, tight sands formations, and biomass; and liquid, gaseous, or solid synthetic fuels produced from coal. Originally, we put this in back in 1980, and it was to expire in 1990.

Ten years ought to be enough public subsidy to go after this gas that was trapped in difficult areas to reach. But in 1990, lo and behold, we extended the credit as is not uncommon around here. Once you start to get a subsidy, you get hooked on a subsidy, if you are the recipient of it, and you like getting more and more and more. And this was a 10-year subsidy to get at this difficult gas. At the end of 10 years, of course, it did not expire, like so many temporary provisions we enact in this body. It was, instead, extended.

Now the credit varies depending on the resource. Tight sands gas received a credit of 52 cents per mcf. Coal seam and devonian shale gas received a 52-cent credit escalated for inflation since 1979. And so those producers get $1 per mcf not 52 cents; a $1 per mcf credit today.

Contrast this tax relief from the credit with the average price of gas in the United States of $1.50 per mcf. If you are a normal natural gas producer out there, you take your risk, you hit the gas, you sell it for $1.50. If, on the other hand, you are a producer of tight sands or geopressurized brine or tight sands, or whatever, the Government gives you $1 per mcf; before you even market the gas, it gives you $1. So you are getting two-thirds of the price from the Government before you even sell it. This is a huge distortion, a huge distortion in the energy market.

It is really quite startling how big this subsidy is and it is also quite startling how few people get the bulk of the benefit of this provision.

Now, this amendment would extend for 8 months—in 1990, it was extended for 2 years. Now this amendment comes along and extends it for just 8 more months. It was not good enough that it was available in 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, and 1990, and then extended to 1991 and 1992. This amendment we are now considering says extend this credit 8 months more.

This is a production credit, as I said, that the beneficiaries receive on production from qualifying wells, under this amendment, not just for this year, but until the year 2003. So this amendment says the tax credit is going to be extended for 8 months, but the qualifying production from wells and facilities is not just for this year, but until 2003.

In other words, if you drill before, I guess, the next 8 months, you get to qualify through 2003.

This change will cost us revenue in 1993, 1994, 1995, until 2003. We have had a little fire sale going on out there, because the credit was supposed to expire in 1992. So what we have had is a lot of people out there drilling, drilling, drilling, drilling, so that they would qualify. And once they drilled, they could then qualify until 2002.

Along comes this amendment which says, all those people who were out there drilling, drilling, drilling who might not be able to get their big chunk of this big tax subsidy, you know, take another 8 months and drill some more, Just pop these holes all over the terrain and then, in addition, you can have an additional year to 2003.

Now, this is not a cheap provision. It will lose a lot of revenue. It will lose about $900 million over 5 years. And, of course, we only look out 5 years. But once this provision is in, it is guaranteed to lose revenue until 2003.

So, this is not some little thing. This is a very sizable amendment that costs, in the budget window, almost $1 billion. And outside the budget window, by extending the eligibility to 2003, it costs how much more? One does not know: $1 billion, $2 billion, $3 billion? Who knows? But it is there in the law now.

There is one extra kicker. This is the point I just made. When we extended section 29 credit in 1990 for 2 years, we also added 2 years to the cutoff date for the production credit, from 2000 to 2002. This amendment backs that up, as I said, to 2003.

Unfortunately for the taxpayer, this extra year will bring a tax free windfall to all eligible section 29 property, not just those wells that are drilled next year. This 1 year addition, from 2002 to 2003, could easily add up to $300 to $500 million to the cost of this provision. Of course we do not really count that because that cost will come in 2003. But, since we do not pay for it until then, we do not score it now. We only score it for 5 years.

That is like saying, do you want a tax cut? You get a tax cut in 2003. You are guaranteed your tax cut right now, but of course it would not cost anything in the budget because it is outside the 5-year window.

What is this really going to cost? $1 billion? $2 billion? It is very hard to say. It is going to be a lot, though. It is going to be an awful lot. And whatever the proponents say about jobs, this is just a eight month boost. But what happens in 8 months; next year? What happens to all these struggling firms that we have heard about, these so-called mom-and-pop operations, in 8 months? My guess is they are going to still be struggling in 8 months. I do not know what is going to happen in 8 months that is going to make them highly profitable, other than more public dollars going into their pockets through this subsidy. They might go out of business. That is what the claim will be.

In 8 months we are in a new Congress, a new year, with a history in this bill of extending tax provisions in this bill that were supposed to expire. You extend them 6 months, 8 months, 1 year, 2 years—they never expire. This one was supposed to expire in 1990. It was extended to 1992. And you know it is extended 8 more months. Then 8 months from now I know what is going to happen. People are going to come on the floor, they are going to make the same case about mom and pop who cannot get off the Federal dole—right? And they are going to ask it be extended 1 more year, and 1 more year, and 1 more year.

What about the jobs of the competitors of those firms who do not get this subsidy? In many cases the producer with section 29 credit will produce whatever the price of gas is. He gets his dollar anyway. He gets his dollar anyway. He will not curtail production since the tax credit depends upon production, not price. Produce a mcf, you get $1. If the price drops to 50 cents, you still make the equivalent of what the price is out there today, $1.50. In the meantime, everyone else in the industry is stuck. Everyone else has to cut back or shut-in production. Everyone else's job is at risk.

This is not fair, which is why I think the IPAA, the independents, last spring opposed the section 29 extension. In Oklahoma and Kansas, independents opposed it. The Natural Gas Supply Association opposed it. In other words, one man's job is another man's job loss.

We pour in some public dollars that guarantees that production from section 29, as we have since 1980, and maybe save some jobs. But you give that producer an incredible advantage over the people who are out there taking risks in the fields of Oklahoma and Kansas, who are out there trying to take a big risk without this kind of subsidy. If they do not hit, they lose the jobs. They lose the jobs because they do not have as big a Federal dole as the producers of section 29 gas.

Section 29 is a kind of a sad metaphor for our national predicament. We trade hundreds of millions—in this case billions—in the next decade for tax relief today. We shovel this tax relief into the pockets of some rather large producers—for what? We are going to get a little more activity out there. We get a little more production.

In other words, it is a little bit like somebody saying I will gladly pay you next month for the hamburger that I eat today. It is like Wimpy-nomics, so to speak. You know? Paying down the road. I will do it today, I will pay later.

Of course you never pay later. You always get it extended. You always come back to this Chamber and say to the public, at a time of $360 billion budget deficits, "Mr. and Mrs. Public, give me money so I do not have to take any risks out there in the gas industry." You do this notwithstanding the fact there are plenty of people out in the gas industry taking big risks. But not me. Because I get this big subsidy.

We are going to hear some arguments today. We have already heard some good ones. There are arguments that go along this line: This will keep small firms in business. It helps the little guy. It cleans the environment. Sure it does. But it does a lot more, too. Two companies have drilled literally thousands of these wells and will drill hundreds more this year. Two companies receive, right now, about $100 million per year in section 29 tax credits. Two companies, both of which most people here have not even heard of, will probably receive $1 billion out of this provision in tax-free revenue, thanks to section 29, $1 billion to two companies.

These are not mom-and-pop operations. It is big business. The credits, for example, are so extensive that companies have begun marketing these credits to others.

In Forbes magazine there is a piece entitled, "Another loony energy subsidy." I ask unanimous consent the full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Forbes magazine, Dec. 9, 1991]

### ANOTHER LOONY ENERGY SUBSIDY

(By Graham Button)

Earlier this year, as the average price for natural gas was on its way to an 11½-year low of $1.39 per thousand cubic feet, American Telephone & Telegraph got into the gas production business. It committed to invest as much as $70 million in coalbed methane—that is, in gas wells sunk into seams of coal.

Is the telephone company acting as a contrarian investor? Not really. AT&T is mainly reacting to two artificial incentives: (1) Congress has enacted a lucrative tax subsidy for coalbed gas; (2) the tax credit is structured such that small oil and gas explorers have trouble using it themselves. But gas companies can drill the wells, hand off ownership to a corporation that can use the tax credit, and still obtain the wells' output. Bankers and accountants are already hard at work trying to arrange such marriages. If this year's deal between AT&T and Meridian Oil works out, there could be a flood of these tax credit transfers.

Meridian, a unit of Burlington Resources, has interests in over 1,000 coalbed wells in the San Juan Basin in New Mexico and Colorado. But, as an energy exploration company with a lot of writeoffs, it hasn't been able to fully utilize the coal methane credit. So Meridian has transferred ownership of the wells to AT&T and sort of leased them back. The paper shuffling allows Meridian to keep the gas, and AT&T to claim the credit.

The coalbed tax credit, enacted in 1980 and extended by Congress last year, escalates with inflation and is now worth 84 cents per thousand cubic feet of gas produced. That's a big number in relation to the economic value of the gas. Result: Coalbed gas production doubled last year, to 196 billion cubic feet. While that represented only about 1% of 1990's total gas production, coalbed gas accounted for three-quarters of net additions to U.S. gas reserves. The credit is available on production through the year 2002, from wells put into service by year-end 1992.

Why subsidize coalbed gas when the natural gas industry is faced with a chronic surplus? Here's one theory, offered by Jason Selch, an analyst at energy consultants Ammonite Resources in New Canaan, Conn.: "The credit was extended because of the lobbying activities of the industry."

Standing to benefit the most from the subsidy are companies like Atlantic Richfield and Amoco, which have huge coalbed methane projects in the San Juan Basin. These integrated behemoths can use the credit to offset taxes on income from other lines of business, like oil refining. Less fortunate are the pure-play exploration and production companies like Meridian, which, thanks largely to depressed gas prices, often don't have much in the way of taxable income that can be sheltered by the coalbed tax credit.

Many exploration companies without downstream refining and marketing operations have so little regular taxable income that they don't pay the regular income tax, but instead pay an "alternative minimum tax." The gas subsidy can be used to offset regular tax, but not alternative minimum tax. Hence the Meridian-to-AT&T handoff.

There was a further twist in the deal. In Meridian's case, selling its wells outright to AT&T for cash would have resulted in a sizable taxable gain. So the dealmakers had to get creative. AT&T committed to put as much as $70 million into a partnership, which used the money to purchase conventional oil and/or gas wells from third parties. The partnership then swapped its interest in those wells for Meridian coalbed wells that qualified for the tax credits. The partnership—that is, AT&T—got use of the tax credit. Key here was the trusty principle that swaps of similar investment properties are nontaxable events.

It gets more complicated. Meridian retains a financial interest in the coalbed wells through a mechanism known as a production payment, even though AT&T's partnership is the nominal "owner" of these wells. When the dust settles, AT&T gets checks for 84 cents from the U.S. Treasury, shares some undisclosed portion of this loot in an indirect fashion with Meridian, and someday gets back its upfront investment.

Who says job prospects for tax shelter lawyers and accountants are bleak?

Mr. BRADLEY. In this article it points out how AT&T—a great corporate citizen in my State but not exactly what you would call a mom and pop operation—AT&T is drilling for tax dollars. And at the end of the article the author writes, "who says job prospects for tax shelter lawyers and accountants are bleak?"

In fact, if I was going to answer the argument that this is a big jobs bill; yes, this is a jobs amendment—it is a jobs amendment for the accountants and the tax lawyers. They love it. They are going to be employed. They are going to have a lot of things to do.

So I hope we are going to reject this amendment. I would like to just give a quote from the Forbes article to show exactly how the credit distorts the market.

> The credits are generous. In New Mexico's San Juan Basin, coal-seam gas fetches around $1.20 per thousand cubic feet. The credit this year will be about 96 cents/mcf, for an effective price to the producer of $2.16/mcf. Yet the gas costs only about 85 cents/mcf to produce. In other words, some producers of subsidized coal-seam gas can keep producing even if the market price falls to zero.

Even if the market price falls to zero, they can keep producing. Their cost is 85 cents per mcf and they are getting from the Government this subsidy of $1 per mcf.

Mr. President, this provision is long overdue for retirement. I hope that we are going to retire it today. The arguments have been made on jobs, on the environment, and on energy security. All these are interesting arguments, but on energy security, the proponents claim that section 29 displaces imported oil. Unfortunately, what section 29 gas does is displace domestic natural gas. Since the mid-1980's, large numbers of domestic gas wells have been shut in or produced at partial capacity. Each section 29 well that has been brought on line has worsened that situation. That is why the distinguished Senator from Oklahoma [Mr. NICKLES] has joined me today in opposing this amendment. He knows what this kind of subsidy has done to his gas producers. That is why the Natural Gas Association has opposed this. That is why the Independent Petroleum Association of America has opposed it. The Oklahoma and Kansas independents have all opposed this. This tax credit has not sustained the U.S. industry; rather, it has helped to destroy the U.S. industry.

An Oil Daily piece printed last year with the title "Gas Competition Hits the San Juan Basin With Vengeance" makes the case. A dramatic increase in section 29 gas production fueled a collapse in local prices.

That is the legacy of section 29: local gluts, shut-in wells, and additional price instability. That is reason enough to get rid of this provision. That is reason enough.

And on the jobs argument, will this amendment create some jobs? I suppose it might. A statement of one of the proponents of this amendment in August said, "If section 29 is not exceeded, another 100,000 oil and gas jobs throughout the country would be lost."

I do not know where the number comes from. It would be alarming if it were true, but what are the facts? According to the annual rig census published by Reed Tool just last Tuesday, there are now 1,192 active and 1,996 available rigs. Of these, up to 175 of the rigs in the census are drilling for section 29 gas; 175 out of 1,192.

If the tax credits are not extended, these rigs could well be idle and result in job losses. But the Oil Daily on

Tuesday also reported the following point:

> Even if the tax credits are extended, the International Association of Drilling Contractors and Reed Tool expect operators to lay down about half the rigs they are now using.

The fact is that the approaching section 29 expiration has created a minor frenzy as operators drill to qualify for tax credits before the deadline.

As the quote infers, with or without the extension, the rig count will fall. According to the experts, the net effect of letting section 29 expire would be the loss of about 88 rigs, about half of the 175 rigs that might be kept in operation. And even with 88 rigs, it is easy to oversell the jobs issue. As the oil and gas journal, World Oil, described it, these "tax wells"—their words—are "shallow, low-technology completions that do not mean a whole lot of business for the service supply side sector. This may create, as I said earlier, 100,000 jobs if it is extended. But my guess is at least 99,000 of those jobs will be in the accounting and legal fields where tax shelter specialists continue to figure ways that their client can benefit from this generous, open-ended subsidy that will take scarce tax dollars and give it to a very few number of energy firms, to the detriment of those people who are out there in the fields taking risks now and to the detriment of the consumers in this country.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum with the time being charged to both sides.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, the time will be charged to both sides. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, how much time remains to the opponents of the amendment?

The PRESIDING OFFICER. The Senator from New Jersey controls 22 minutes. The proponents control 28 minutes.

Mr. BRADLEY. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Section 29, as I tried to point out in my earlier remarks, is a case study of why we have a deficit. When the tax credit was authorized in 1980, the anticipated cost was $170 million—$170 million—for an exotic, experimental, high-risk program. Everybody said at that time that, with a big windfall profits tax snatching away money for public purposes, we can afford $170 million for these very difficult to get tight sands and Devonian shale; we can afford $170 million.

The only problem is the costs were wrong. It was not even close. Even if this amendment is rejected, as it should be, we will continue to pay enormously to subsidize a small amount of gas production. How much are we going to continue to pay?

Well, all these holes have been drilled all over the terrain in the Southwest, in New Mexico, and West Virginia. There are only five States which really benefit from this proposal and these five States have been drilled all over the territory with these wells, right? And everything that has already been drilled qualified for this credit until 2002. We cannot do anything about it.

What is the cost of this going to be?

The cost of what we have already done is going to be about $6 billion. That is all. A billion here, a billion there, pretty soon you are talking about real money. This is $6 billion.

Because of the provision, we have already committed our Nation's taxpayers to give to a very few number of producers $6 billion to subsidize gas production when U.S. wells, other oil and gas wells, remain shutin all over the country—not just in those five States but all over the country. This is $6 billion which will generate no jobs. The wells have already been drilled. This is like getting your interest on your bond, except that it is a payment from the Government, a tax credit, a subsidy because you drilled thousands of wells in the last decade.

Who are the beneficiaries?

Tax shelter specialists, accountants.

Six billion dollars dig us deeper and deeper into debt. That is already done. The credit is in place; investments have been made; we are committed to it. But if we agree to this amendment, we are going to give these same people more money—more money. If we agree to this amendment, we have committed to extend this for another 8 months and extend it for another year at the other end.

This 8-month extension the proponents claim will cost $900 million. Well, if the original proposal of $170 million, which went to $6 billion, is anything like this—Katie, bar the door—the $900 billion cost is going to be much, much more.

Proponents are not really doing anything wrong, however. They are playing by the rules, the rules for cost estimates based on a 5-year accounting.

But this amendment will obligate taxpayers to pay credits until 2003 or 2008—2003 for wells that have already been drilled; and 2008 for production facilities such as coal gasification plants. They will continue to get this until 2008. But the offset that we are talking about here to make this budget-neutral only covers tax credit until 1998. So we obligate subsidies for another decade, but we pay for those subsidies only as far forward as the next 5 years.

The amendment will not cost taxpayers $900 million. It will probably cost twice that or much, much more. For this tiny and almost irrelevant little credit we will be obligating each American to fork over $8 apiece.

My State, New Jersey, will pay $50 million to $60 million for this credit. None of the benefits go to New Jersey. In California, they will fork over $300 million to pay for this credit; New York, $150 million; Florida, $100 million to pay for this credit. We will all pay, all of us, hundreds of millions, billions to a few gas producers.

What do we get? What do we get for the $100 million that the State of the distinguished Presiding Officer is going to have to pay for this credit?

A few months of extra gas drilling, a handful of otherwise uncompetitive gas production facilities.

I have one analysis which I would like to submit for the RECORD. I ask unanimous consent that the analysis of Recon Research Corp. be submitted to the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WHY THE COAL SEAM TAX CREDIT IS OBSOLETE

The Section 29 tax credit for coalbed methane was instituted in the late 1970s to lessen dependence on imported crude oil by encouraging the development of non-conventional energy sources. At the time of its introduction, natural gas was in short supply, and the Natural Gas Policy Act had only recently introduced market forces as a factor in natural gas pricing.

Since that time, the natural gas market evolved into a highly competitive market, has undergone substantial regulatory restructuring, and has enjoyed unprecedented advances in production technology. These changes have raised the question of whether tax incentives for non-conventional fuels are still appropriate. There are several factors which argue against continuation of the Section 29 credit.

1. The Size of the Tax Credit Has Increased Significantly in Relation to Wellhead Prices:

The tax credit was originally established at $3 per barrel of oil equivalent, or about 52 cents per Mcf. With an average wellhead gas price of $1.59/Mcf, the coal seam tax credit amounted to one-third of wellhead prices.

By 1990, after adjustment for inflation, the credit was equal to about 90 cents per Mcf. The tax credit as a share of the average wellhead price ($1.72/Mcf) however rose to more than 50 percent.

2. The Tax Credit Favors Large, Integrated Gas Production Companies over Small Natural Gas Producers:

The tax credit is particularly attractive to large integrated oil and gas companies. While it cannot offset the alternative minimum tax, tax liabilities above that amount can be offset by the credit. Moreover, unused credits can be carried forward indefinitely and used to offset tax liabilities from income generated by activities other than coal seam production.

These features are not as attractive to small producers. The AMT is typically a larger percentage of a small producer's tax bill. Being less diversified, small producers also have fewer tax liabilities from other activities against which to apply the tax credits. Therefore, the applicability of the credit is reduced for these producers.

3. Given Current and Expected Energy Market Conditions, the Tax Credit will not Phase Out, as Intended:

The credit was designed to phase out over time as oil prices increased. Although oil prices did rise until 1982, they have fallen substantially since then. As a result, the tax credit cannot even be partially phased-out unless oil prices reach $41 per barrel in 1991, a highly unlikely prospect. A total phase-out of the credit would require oil prices to reach $51.50 per barrel.

By the Year 2002, the credit will be over $1.50 per Mcf. Oil prices would have to be about $84 per barrel in order to phase out this subsidy completely at that time.

TABLE 1.—METHANE TAX CREDIT AND OIL PRICE REQUIRED FOR TAX CREDIT PHASEOUT

| | Tax credit (Mcf) | Oil price needed for credit phase-out (barrels) |
|---|---|---|
| Year: | | |
| 1991 | $0.94 | $51.54 |
| 1992 | .98 | 53.86 |
| 1993 | 1.03 | 56.29 |
| 1994 | 1.07 | 58.82 |
| 1995 | 1.12 | 61.47 |
| 1996 | 11.7 | 64.24 |
| 1997 | 1.22 | 67.12 |
| 1998 | 1.28 | 70.14 |
| 1999 | 1.34 | 73.70 |
| 2000 | 1.40 | 76.60 |
| 2001 | 1.46 | 80.04 |
| 2002 | 1.52 | 83.65 |

4. The Tax Credit Results in an Excessive Subsidy for the Production of Coalbed Methane:

a. The Production Subsidy Generated by the Credit is Excessive

Only 8 out of 17 major coal basins in the U.S. have technologically recoverable methane. Three of these are in the eastern United States, and five are in the western part of the country. Only four are expected to produce significant coal gas volumes. Consequently, the beneficiaries of the coal seam tax credit are geographically quite narrow. These include the Black Warrier and Appalachian basins in the eastern U.S., and the San Juan and the Piceance basins in the west.

Table 2 presents a comparison of the recoverable reserves in each basin, as well as estimated 1990 production costs before and after application of the coal seam tax credit. These figures indicate that the application of the credit reduces production costs from a low of 29% for the Appalachian region to a high of more than 100% for Piceance production.

The magnitude of these subsidies is clearly excessive, and can be expected to fundamentally distort appropriate allocation of capital resources in the natural gas production industry.

TABLE 2.—RECOVERABLE RESERVES AND THE IMPACT OF COAL GAS PRODUCTION CREDITS

| Major basin | Reserves in place (Tcf) | 1990 production cost | | |
|---|---|---|---|---|
| | | Actual (Mcf) | With credit (Mcf) | Subsidy (percent) |
| Black Warrier | 20 | $2.26 | 1.36 | 40 |
| Appalachian | 65 | 3.02 | 2.12 | 29 |
| San Juan | 88 | .98 | .08 | 91 |
| Piceance | 84 | .84 | −.06 | +100 |

b. The Coal Seam Tax Credit Results in "Windfall" Profits for Western Coalseam Producers

Table 3 compares after-tax credit coal seam production costs and the spot market price of natural gas delivered into the closest pipeline for each production basin. It shows that only half the current credit amount is required to make Black Warrier coal seam gas competitive. Furthermore, the credit is not required at all in the western U.S. basins. Both San Juan and Piceance production are highly competitive with conventional gas without any production subsidy. Consequently, the credit is a "pure windfall" to coalseam producers in these basins.

TABLE 3.—COAL SEAM COSTS AND MARKET PRICES

[1990 Dollars per million cubic feet]

| | Coal seam production costs | | Spot market price[1] | Difference | |
|---|---|---|---|---|---|
| | Before credit | After credit | | Before credit | After credit |
| | (1) | (2) | (3) | (4) | (5) |
| Eastern United States: | | | | | |
| Black Warrior | 2.26 | 1.36 | [2]1.78 | 0.48 | −0.42 |
| Appalachian | 2.90 | 3.19 | [3]2.04 | .86 | −.01 |
| Western U.S.: | | | | | |
| San Juan | .98 | .08 | [4]1.67 | −.69 | −1.59 |
| Piceance | .84 | −.06 | [5]1.33 | −.49 | −1.39 |
| Powder River | 1.08 | .18 | [6]1.35 | −.27 | −1.17 |

[1] Average 1990 spot price delivered to mainline.

[2] "Natural Gas Intelligence, Gas Price Index,'' 30-day Supply Transaction, Transco, Holmesville.

[3] Ibid., Columbia Gas, Appalachia.

[4] Ibid., El Paso, San Juan.

[5] Ibid., Northwest, Wyoming.

[6] "Gas Daily," Monthly Contract, CIG, Others.

Source: Ammonite Resources and Recon Research Corporation.

c. The Coal Seam Credit Has a depressing Effect on the Market for Convention Gas

The impact of the coal seam tax credit on conventional gas is directly linked to the post credit marketability of coalbed methane. At the current time, conventional gas deliverability is in surplus. As a result, every unit of coal gas production sold has the effect of either displacing a unit of conventional production, or putting downward pressure on the price of conventional gas supplies. Both factors are occurring in the San Juan Basin at the moment.

Since no net new gas production is encouraged and market incentives for conventional gas production are eroded, this clearly defeats the public purpose of the Section 29 credit.

5. The Tax Credit Will Result in Massive and Unwarranted Transfers of Wealth:

Left in place, the tax credit will result in a substantial wealth transfer from states without recoverable coal seam resources to those which can exploit these energy deposits. The primary beneficiaries will be New Mexico, Colorado and Alabama (see Table 4). New Mexico, by virtue of the San Juan basin, is expected to receive $7.2 billion of tax credit "revenues" between 1991 and 2002. Colorado, with several producing basins, is projected to receive a net transfer of nearly $2 billion. Alabama should gain about $430 million in additional income from the credit.

The largest share of the cost of the tax credit over the next 12 years—more than $1.3 billion—will be borne by California, followed by New York ($0.9 billion) and Texas ($0.6 billion).

This wealth transfer will be substantially higher after application of economic multipliers (see Figure 1). Economic multipliers measure the total impact—including both direct and secondary effects—of the change in income due to the tax credit.

New Mexico's tax credit income will generate $14.3 billion after the secondary spending impacts. Colorado income levels will be enhanced by about $4 billion, while Alabama should receive $860 million in additional income. The tax credit costs with the multiplier include the following: California ($2.6 billion), New York ($1.8 billion) and Texas ($1.2 billion).

TABLE 4.—NET COSTS AND BENEFITS OF COAL SEAM TAX CREDIT

[In millions of dollars]

| | Cumulative 1990–2002 | Average annual 1990–2002 |
|---|---|---|
| Largest States with net costs: | | |
| California | 1,329.1 | 102.3 |
| New York | 907.1 | 69.8 |
| Texas | 609.2 | 46.9 |
| Florida | 553.5 | 42.6 |
| Illinois | 538.5 | 41.4 |
| New Jersey | 487.8 | 37.5 |
| Pennsylvania | 475.1 | 36.5 |
| Largest States with net benefits: | | |
| New Mexico | 7,163.4 | 548.2 |
| Colorado | 1,976.3 | 146.0 |
| Alabama | 430.4 | 43.1 |
| Wyoming | 49.9 | 3.7 |

## RESOLUTION OF THE COAL SEAM TAX CREDIT ISSUE

There are several alternative solutions to the inequities created by the coal seam tax credit.

Eliminate the Tax Credit in its Entirety.

Reduce the Oil Price Level Required to Initiate Phase-Out of the Tax Credit.

Make the Tax Credit Basin-Specific Based Upon Objective Market Criteria.

Limit Tax Credit's Applicability to Taxes Above the AMT and Only to Income Directly Generated by Coal Seam Gas Production.

The cleanest and most direct solution would be to eliminate the tax credit entirely. Elimination of the tax credit could be touted as an incentive whose time has clearly passed given current and projected market conditions. It is also consistent with recent trends toward a reduction in the number and use of tax incentives as a means to spur economic activity independent of market considerations.

The other alternatives are either partial solutions or would require making exceptions or compromises for which it would be difficult to get Congress to agree upon. Lowering the oil price level at which the credit begins phasing out reduces the inequities but does not eliminate them. In addition, agreement on the lower price level may be difficult.

A basin-specific tax credit would quickly turn into a turf war with western states pitted against eastern. A solution that accommodates all parties on this issue is a remote possibility.

Limiting the tax credit's applicability to income generated by coal seam production would encounter a host of problems. The need to grandfather existing credits already earned by producers and prospective credits from wells which are expected to produce through the year 2002 would likely scuttle Congressional agreement on this issue.

**Mr. BRADLEY. Who wins here? Only five States: New Mexico, Colorado, Wyoming, Alabama, and West Virginia. They win. They get the bulk of the $6 billion that we have already put in. They will get the bulk of the $900 million the next 5 years that the proponents of the amendment already admit to. They will get the next $900 million, $1 billion, $2 billion that will come outside the budget window. And the rest of us will lose. The rest of us will pay.**

If we are trying to bail out an industry or a segment of an industry, let us at least do it efficiently. In the energy bill we approved $1 billion already for tax deductions for the independent oil and gas drillers. While I disagreed with that proposal on fiscal grounds, at least that offered a broad relief to a wide variety of producers. This amendment, on the other hand, targets at least the same amount of money that in August we gave to all of oil and gas, to a narrow slice of the industry.

Other than the fact that these producers owe their livelihood to the subsidy, the point I made earlier, why do they deserve it? It costs them 85 cents to produce the mcf and their subsidy is $1. So they could produce if the price was zero, given this subsidy.

What happens after the 8 months? Of course that is the other point that I made earlier. I make it again. What happens after the 8 months? This extends the credit for 8 months. What is going to change? In 8 months people are going to come in, and say, we did not quite make it; we have to extend it a little bit more. We have in this bill seven or eight extenders that were supposed to expire last year or the year before. This provision was supposed to expire in 1990, was extended in 1992, and is now extended another 8 months.

So, Mr. President, we will be back again. I am sure that if this amendment passes, come 8 months from now, people will be back asking for more. The deficit will increase. We will do the deficit flimflam and forget about the long term. Here is a proposal that creates costs outside the budget limit and extends them a year to 2003.

The result is going to be that the deficit gets bigger. An oil and gas industry that is vital in this country will be further disadvantaged and five States and a few producers in those States will reap the benefit of this giant tax subsidy. We have to oppose this amendment.

I yield the floor.

Several Senators addressed the Chair.

Mr. BRADLEY. I yield the distinguished Senator from Oklahoma 10 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The Chair will note that the Senator from Oklahoma has 8 minutes on his own time.

Mr. NICKLES. Mr. President, I will not take that time. I appreciate my colleagues' statement.

Mr. President, let me start out by saying this may be somewhat interpreted by some as a mutual coalition. Senator BRADLEY and I are on the same side of this particular energy tax issue. I might mention that it was not too many months ago that we were on opposite sides of the issue dealing with the alternative minimum tax.

I was pleased that the Senate was able to prevail on the alternative minimum tax trying to take a tax penalty out of the pockets of business expense. That is a tax surcharge on business expense. That hurts the entire industry. It makes no sense. You are supposed to tax net profits, not tax out-of-pocket expenses. I was pleased that the Senate passed that provision and we are working right now in an energy conference hopefully that will pass. That was good tax change. That was a positive tax change, in my opinion, and will actually generate money for the Government because we will actually encourage more drilling all across the country.

So that was a positive change, a change that needed to be made. On that particular case, the Senator from New Jersey and I were on opposite sides. Regarding the amendment before us today, I agree with the Senator from New Jersey in saying we should not extend so-called section 29 tax credit. This is a tax credit.

For those that are not familiar with the section 29 tax credit issue, it was created as part of the energy package in 1980, which was passed in conjunction with passage of the windfall profit tax. In my opinion, the windfall profit tax was one of the most anti-free-enterprise systems pieces of legislation that ever passed, a piece of legislation that took revenues from the oil industry, about $79 billion from the handful of producing States and sent that to Washington, DC. It had nothing to do whatsoever with windfall profits. We finally repealed that. I am pleased to have played a part in that.

This section 29 tax credit is one of the last remnants of the so-called Carter energy era package that in my opinion needs to be repealed. If you look at windfall profit tax, we have repealed that. We have repealed, basically, the Natural Gas Policy Act passed in 1978, which had price controls on 28 different categories of natural gas.

Well, I tell my colleagues that section 29 is a tax subsidy for another arbitrary category of gas. I argued for total decontrol of gas wellhead prices. We were finally successful in passing legislation, supported by an overwhelming majority of this body, calling for decontrol of natural gas prices. I am pleased that we have done that. I think it has been a positive thing positive for the industry, positive for consumers. It has benefited consumers. Having deregulated natural gas, not having price controls on natural gas, has been very positive. It made no sense having 28 different price categories for the same commodity in natural gas.

The only real remnant we have in price controls now is through the Tax Code, and it is a tax subsidy called section 29. Most people are not that aware of what section 29 is. Let me explain in some detail.

Section 29 is a production credit—you get a tax credit for the amount of nonconventional fuels that you produce. In 1980, the statute defined qualified fuels as the following: oil produced from shale and tar sands; gas produced from geopressurized brine, Devonian shale, coal seams, tight formation or biomass; liquid, gaseous or solid synthetic fuels produced from coal; qualifying processed wood fuels, and steam produced from solid agricultural byproducts. The principal production resulting from the credit is gas from tight sands and gas from coal seams.

The amount of the credit is an amount equal to $3 multiplied by the barrel of oil equivalent, adjusted by inflation. The current credit for coal bed methane from Devonian shale is $0.92/mcf and for tight sands gas is $0.52/mcf. The credit was not intended to go on indefinitely—it phases out as prices go higher and if prices stay below the phase out the credit is ended after a 10-year period. Thus, the first enactment of section 29 was effective for oil or gas produced from wells drilled or facilities placed in service by January 1, 1990. In 1990, the credit was extended for 2 more years, for wells drilled and facilities placed in service by the end of 1992. However, these wells and facilities would receive the credit for production until 2002.

As my colleagues can readily see, the section 29 tax credit has been an enormous advantage for natural gas producers in those areas that qualify. The credit is substantial, particularly for coal-bed methane.

I see my colleague from West Virginia is here and he will defend the tax credit. You and I expect him to—that is 92 cents per mcf tax credit for coal bed methane in his State.

Again for those that do not know very much about natural gas, it may be kind of hard to figure what that means. But I will tell you that in January and in February of this year, we were selling gas in Oklahoma for $1 per mcf. So a 92-cents tax credit was almost twice the value or 92 percent of the value of gas, an enormous tax credit.

The tax credit for tight sands, which is quite prevalent in some areas, is 52 cents. Again, when we had gas prices in January and February hovering around $1 per mcf, a 52-cents tax credit was a 50-percent advantage. And the tax credit, as the Senator from New Jersey mentioned, lasts for 10 years. So you have a lot of people who are saying, "wait a minute, I wanted to drill those wells so I can get a 92-cent tax credit for the next 10 years," or "I will get a 52-cent tax credit if it is tight sands." That is an enormous economic advantage over other gas wells that do not qualify.

It just so happens in my State, about 99 percent of the wells drilled in Oklahoma do not qualify. So it really puts our producers who do not happen to qualify for the tight sands at a real competitive disadvantage. Many of those producers are sitting on gas that they cannot sell.

Some colleagues say there will be a shortage, that we are running out of gas. I will tell my colleagues there is a lot of gas. There are a lot of people who are willing to produce, but are shut in because of the surplus gas in the market. But right now the Tax Code is telling everybody you had better run and produce in tight sands areas or you had better run and produce coal bed methane, because that is where the Tax Code is leading them. So they are not trying to drill in the areas that are most economical. They are not drilling in areas where it makes really the most economic and the most efficient manner. No, they are drilling for the Tax Code.

Section 29 is hurting other segments of the gas industry and subsidizing more expensive gas at the taxpayer expense, when there is already available adequate supplies of cheaper gas. It just does not make sense to extend a credit which will cost U.S. taxpayers almost $1 billion over a 5-year period for an 8-month extension for specific categories of gas that are not as economic as other available supplies. Even without extension, section 29 will cost the Treasury $6 billion through 1997. At the estimated 1992 average wellhead price for gas of $1.50/mmbtu, these tax credits represent a remarkable 30 to 57 percent subsidy of the current wellhead price.

With conventional gas producers in desperate economic situations, this tax credit is very destructive to competition.

The most recent comprehensive study on the effectiveness of section 29, completed by ICF Resources Inc., of Fairfax, VA, severely criticizes the section 29 credit. It concludes that the credit no longer serves its original purpose and that any future incentives should be redesigned to meet the original congressional intent of supplementing, not replacing, conventional gas supplies.

Section 29 gas is supplanting conventional gas production—clearly a result not intended at the time of enactment of this credit. Department of Energy data show that shares of growth between 1989 and 1991 has increased by 28.6 percent for coalbed methane, 19 percent for tight sands gas and only 3.8 percent for conventional gas. Furthermore, conventional gas wells are being shut in and conventional gas supplies are being held off the market by as much as a billion or more cubic feet of gas per day, according to some estimates, because prices are too low to cover replacement and/or production of conventional gas into the market. Supply and demand pricing patterns are being manipulated by tax subsidies. In this market, where we have a surplus of gas, this is not the time to subsidize even more production of a more expensive alternative.

Moreover, this subsidy is distorting investment in new drilling. For example, in my home State of Oklahoma, only three section 29 wells were filed under section 107 well filing data for April 1992; in Kansas, only 5 wells; in Louisiana, zero wells. Compare that to 88 section 29 wells in New Mexico and 178 section 29 wells in Colorado filed for that same time period. Oklahoma's total conventional wells drilled for 1986–91 has stayed at about 9–11 percent of the national total, while in States such as New Mexico where there is tax-driven drilling, the percentage of wells drilled over the same period has increased fourfold. Jobs and dollars are flowing out of Oklahoma and into a few States where tax-driven drilling is taking place.

I might add that, over the near term, section 29 wells do not produce as much as conventional wells, so that every dollar of tax subsidy on average means less production of natural gas.

I will tell my colleagues that the drilling industry is really in a very difficult, tough time, that this year we have been looking at the number of drilling rigs at an all-time low. This tax credit is the kind of advantage some people are looking for. Well, it may be to the advantage of those few counties, those few areas that would qualify. But it is also to the disadvantage of the 90 some percent that do not qualify for the credit.

That is the reason why the independent producers in Oklahoma have introduced a resolution opposing extension of the section 29 tax credit. I will insert that in the Record.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the Natural Gas Supply Association against extension of this section, as well as a letter from Jere McKenny, who is president of Kerr-McGee Corp. in my State of Oklahoma, as well as a resolution of the Oklahoma Independent Petroleum Association in opposition to extension of section 29.

There being no objection, the material was ordered to be printed in the Record, as follows:

Natural Gas Supply Association,
*Washington, DC, August 6, 1992.*
Hon. Don Nickles,
*U.S. Senate, Washington, DC.*

Dear Senator Nickles: On behalf of the Natural Gas Supply Association (NGSA), whose members are responsible for 90 percent of the natural gas produced and marketed in this country, I am writing to reiterate our conviction that Section 29 tax credits for coalbed methane and tight sands gas should not be extended for wells drilled beyond December 31, 1992.

The Section 29 tax credit has been a useful tool for stimulating production of non-conventional gas resources. In particular, it has served as an incentive to accelerate the development of important new non-conventional gas recovery technologies.

However, the tax credit is no longer necessary as a means of maintaining sufficient production levels. A forthcoming study by the National Petroleum Council indicates that the gas resource base contains sizable amounts of conventional as well as non-conventional gas, and both categories are expected to prove economically recoverable.

Therefore, a subsidy in favor of one category of gas production may inhibit healthy production of other categories. This could be one reason why drilling activity decreased during the first half of 1992. Producers are discouraged from pursuing conventional gas production when non-conventional production enjoys the Section 29 credit. At a time of heightened environmental awareness and economic distress within the oil and gas industry, the nation cannot afford to prejudice the market against any variety of natural gas.

Sincerely,

Nicholas J. Bush.

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Kerr-McGee Corp.,
*Oklahoma City, OK, August 10, 1992.*
Hon. Don Nickles,
*U.S. Senate, Washington, DC.*

Dear Senator Nickles: Section 29 tax credits were initiated to promote new technology for the development of coalbed methane and methane in tight sands. The mission has been accomplished and thus Kerr-McGee Corporation no longer considers the tax credit necessary—it should be allowed to expire December 31, 1992.

The domestic industry must focus on making discoveries and developing commercial gas reserves without government subsidy—we believe it can be done!

Sincerely,

Jere W. McKenny.

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Oklahoma Independent
Petroleum Association,
*Oklahoma City, OK, August 10, 1992.*
Hon. Don Nickles,
*U.S. Senator, Hart Senate Office Building, Washington, DC.*

Dear Senator Nickles: Please find enclosed a resolution adopted unanimously by the OIPA board of directors at our June 14 meeting.

The OIPA has been slow to address the issue of Section 29 tax credit extension as it relates to coal seam and tight sands exploration and production. It was our understanding the issue probably would not be introduced this session. I apologize we have not been more effective and timely in providing you with our position on this important issue.

The OIPA is keenly aware of the tremendous effort being put forth by you and others within our delegation to enact a national energy bill that provides significant benefit to the independent sector. Again, our board and our membership are extremely grateful for your continuing efforts to preserve and restore the vitality of the domestic industry.

Our heartfelt thanks goes out to you and members of your staff.

Sincerely,

Mickey Thompson,
*Executive Vice President.*

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### OIPA RESOLUTION ON SECTION 29 TAX CREDIT EXTENSION

Whereas there exist certain tax credits for the development and production of non-conventional fuels under Section 29 of the Internal Revenue Code, referred to as Section 29 tax credits, which represent subsidies for natural gas production from coal seams, tight sands and other qualifying sources; and

Whereas these tax credits as they relate to new exploration are scheduled to expire on December 31, 1992; and

Whereas there is a measure before the Congress (S. 2773) to extend these tax credits; and

Whereas the state of Oklahoma and its independent oil and gas producers, who account for approximately seventy five (75) percent of the natural gas production within the state, have very little production that qualifies for these tax credits, yet the state produces significant quantities of natural gas from conventional sources, in fact as much as twelve (12) percent of the United States natural gas production; and

Whereas these Oklahoma producers believe select subsidization of natural gas production creates economic imbalance and hardship among all gas producers, as subsidized gas production creates more supply under artificial economic conditions and places natural gas on the market at prices below replacement costs for many conventional-source producers which do not receive the benefit of this or other tax credits.

Therefore, be it resolved, on this fourteenth day of June, 1992, the Oklahoma Independent Petroleum Association, at its Board of Directors meeting, vigorously objects to the extension of these tax credits beyond the current expiration date. And, furthermore, the OIPA urges that any incentives for the exploration and production of natural gas be implemented by Congress and the States in such a way as to allow all domestic production to qualify.

Be it further resolved a copy of this resolution be sent to the President of the United States, the Secretary of Energy, and all members of the Oklahoma Congressional delegation.

KENT J. HARRELL,
*President, Oklahoma Independent Petroleum Association.*

Mr. NICKLES. Mr. President, I make this statement in opposition to the extension of the section 29 tax credit, one, for equity. I happen to be one who fought a long time on the floor of the Senate for deregulation of natural gas. I happen to be one that really did believe and think that one of the better accomplishments that we have made in the Senate over the last several years was the deregulation of natural gas.

We do not need to further extend section 29. I will tell my colleagues that section 29 has worked. It did prove technology. It did prove that we can get gas out of tight sand areas, and it proved that we can get gas out of coal beds; so the technology has proven itself.

But I think the amount of subsidy is now uncalled for, frankly since the technology has been proven. Let us allow the marketplace to dictate where the next oil and gas wells will be drilled. Let us allow the marketplace to dictate whether they should be drilled in Kansas, which I might mention has the famous Houghgaton Field, and the Texas Panhandle, which has a lot of gas. That gas is relatively cheap to produce. It is shallow gas. There is a lot of in-fill drilling. Why not let the marketplace decide whether producers should drill there or in the tight sands area, which is more expensive; or whether they should be drilling in Oklahoma; or whether we should be drilling in West Virginia. Let the marketplace make these decisions and allow producers to make decisions hunting for gas based on marketplace economics, not tax credits.

Again, Mr. President, I think the present system has worked. It should not be extended. It passed in 1980, and lasted 10 years, and then Congress extended it for 2 years. I made the statement 2 years ago, when we passed the extension, that is was this Senator's opinion that it was a mistake, and we should not be doing it again. Many people said at that time that it will only be for 2 years. Now my colleagues say this extension is for 8 months. I do not doubt that there will be people here coming back and saying that we need an additional extension in the future.

I yield the floor.

The PRESIDING OFFICER. Who yields time.

Mr. ROCKEFELLER. Mr. President, I yield 10 minutes to the Senator from Alabama.

Mr. SHELBY. Mr. President, I rise to support the distinguished Republican leader, Senator DOLE, on his amendment to extend the section 29 tax credit for nonconventional fuels. Without this extension, the credit would expire, as we all know, on December 31 of this year.

Section 29, as we know it, was enacted to encourage the development of new technology and to stimulate the development of domestic energy resources, which it has done. This credit has been a resounding success.

In Alabama, my State, the section 29 credit stimulated the development of the coalbed methane industry. The coalbed methane industy has provided thousands of jobs in west Alabama, injecting hundreds of millions of dollars into the Alabama economy and captured billions of cubic feet of methane gas.

The capture of this source of natural gas has contributed to a large degree to the lower fuel prices that we have in this country. The section 29 incentive has also provided for the capture of gas that otherwise would be released into the atmosphere, thus protecting the environment.

Mr. President, the benefits to my State of Alabama from the section 29 credit have been considerable, as I just enumerated. But I point out that the section 29 credit benefits virtually all of the 50 States, whether or not there is a nonconventional fuel industry in that State or not.

There are 35 consumer States whose residents benefit from lower fuel prices. Sources familiar with the natural gas industry estimate that the section 29 tax credit has saved consumers $3 to $4 billion in what we call burner-tip gas costs, while the Treasury may have lost just $100 million in lower taxes. That is what government, I believe, is supposed to do. For a small cost, Mr. President, it provides substantially larger benefits to its citizens.

Without the section 29 tax credit, it would not be economically feasible to produce many of these nonconventional fuels. It is the credit, Mr. President, that provides the additional incentive necessary to encourage the production of these fuels.

The American Gas Association estimated in 1991 that more than 14 percent of the recoverable reserves of natural gas are attributable to coalbed methane, which is just one of the nonconventional fuel sources.

The section 29 credit benefits producing States by providing jobs and benefits, and it benefits consuming States by keeping fuel prices low. The section 29 credit benefits the environment as well, as I pointed out. The section 29 credit encourages the capture of the methane released during longwall mining. During the longwall mining, methane gas is released into the mine. Because methane gas is so explosive in low concentrations of air, the mine must be ventilated to remove a safety hazard. Without the incentive of the section 29 tax credit, this methane would be released into the atmosphere, thus, contributing a lot of the greenhouse effect.

Companies in my State of Alabama, prompted by the section 29 credit, have captured this gas and put it in a pipeline for others to use. The Environmental Protection Agency estimated in a 1990 report entitled "Methane Emissions From Coal Mining" that over 77 billion cubic feet of methane were released into the atmosphere from degasification systems. At the time of this report, only one State, my State of Alabama, had mining operations that captured the gas, instead of venting it into the atmosphere. Since that report, Virginia has begun capturing the gas as well.

The EPA report estimated that, in 1987, Alabama captured and sold 10 billion cubic feet or about 0.2 million metric tons of methane into the natural gas pipelines.

Mr. President, the capture of this methane from longwall mining is a new idea. There is no question that the section 29 credit is responsible for this development.

Without the incentive provided by this credit, it would not be economically feasible for mining concerns to invest in the equipment necessary to capture this gob gas. Without this extension, methane gas would be vented into the atmosphere, rather than captured.

I want to see this tax credit extended so other States might learn from the example set by mining concerns in my State and in Virginia. The section 29 tax credit produces big benefits for each of the 50 States. It provides jobs and economic growth in the producing States. It lowers fuel cost in the consuming States, saving consumers as much as $4 billion. Encouraging the capture of methane gas released from mining also protects the environment, as I have enumerated.

Mr. President, opponents of this amendment are lobbying for basically higher fuel prices. You have heard the argument. No extending section 29 will increase burner-tip fuel costs. The weather men are predicting a very cold winter this year. As this country lingers in the recession we are in, I do not believe it is time to increase home heating costs in this country. Members who want to keep gas prices low should support the extension of section 29.

Mr. President, I want to again thank the distinguished Republican leader, the Senator from Kansas, for his leadership on this issue. I also want to thank the distinguished Senator from West Virginia [Mr. ROCKEFELLER] for his management of this amendment on the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, section 29 was created in 1980 to encourage production of fuel from nonconventional sources.

Mr. President, what could be more clear that we in this country must look at every possible option to reduce our dependence on foreign crude oil? As we meet today, our Nation is 50 percent dependent on foreign crude oil, 50 percent dependent. The Department of Energy tells us if we fail to act we are headed for 65 percent dependence on foreign crude oil by the year 2010.

That presents the question, At what point did we increase the vulnerability of this country through our reliance on foreign crude oil? I submit the line has already been crossed. Why did we have 500,000 young Americans with their lives on the line in the gulf? Why did we have 500,000 young Americans putting their lives at risk just a year ago?

Mr. President, I submit that at least in part it was because of our energy vulnerability, our dependence on foreign crude oil.

We can act as though nothing has changed in this country in the last 12 years. I hear many of the arguments from the other side. They remind me of the arguments that were made in the late 1970's and the early 1980's when the oil industry was riding high, the profits were flowing, and the industry was very strong.

Mr. President, that is no longer the case. The oil and gas industry in this country is flat on its back. In my State the lesson is very clear. We had more than 100 rigs operating in the State of North Dakota 12 years ago. Today, we have less than 10. And the question is, Do we treat the oil and gas industry today the same way we treated them then when prices were strong, when profits were strong, and the oil and gas industry in this country was vibrant, when the facts have changed totally? That is the question before this body today.

Mr. President, I am very hopeful that our colleagues will see the wisdom of extending this credit. I hope they recognize that in a State like mine, where we have the bakken shale formation which we are able to tap very effectively by going down and drilling horizontally, we can have well after well drilled into the bakken shale with significant recoveries. There is no way to do that when oil is running at $18 a barrel, or $18.50 or $19 a barrel. You need a little bit of help to make it economically viable. And the question is, Does not that make perfect sense? If we fail to do it, we make ourselves more dependent on those foreign sources of crude oil. Oh, yes it may be cheap today, but if you fully cost it, if you put in the cost of the defense structure necessary to protect those sources, that foreign oil becomes very expensive.

Mr. President, I submit to my colleagues this is a prudent insurance policy for America's energy security which is at the heart of our overall strategic security.

I just hope that my colleagues think about the simple facts with which we must contend, the country is 50 percent dependent on foreign crude oil and headed for 65 percent dependence if we fail to act. We have an opportunity today to do something. We ought to take it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield myself 5 minutes. I may not require that.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the fact remains that the Senator from North Dakota has said that we are totally dependent upon foreign oil, and at some point it seems to me that energy policy ought to respond to that, and I think the tax policy ought to respond to that.

One-third of our trade deficit, I believe, is paying for oil from other countries. It has always been my belief that the reason we went to war in the Persian Gulf—heaven knows what the cost of that was, how many tens of billions of dollars—was to protect foreign oil sources over there. I believe that was the cause of the war. It was not a military reason. It was an economic reason.

So if you take energy independence seriously, then Government policy ought to reflect that seriousness. We do that on a variety of extenders. For example, the Senator from New Jersey says that this is already an extender. Yes; it is already an extender. Section 29 is for nonconventional, tough-to-get-at gas. Because it is tough to get, it would not be drilled otherwise.

In my State of West Virginia, as I have said before, if this amendment fails, 90 percent of the businesses will close down right away. They cannot continue drilling without this credit. We agree that in our country the targeted jobs tax credit is important, that the research and development credit is important, and that the low-income housing credit is important. And as a matter of public policy, through our tax policy we say that people ought to have these incentives and help, and we give them that help, just as we have been giving and are today giving these very difficult-to-drill wells which would otherwise not be drilled with the same help that they are now getting.

What the opponents of this amendment are saying is, "Stop the credit." What they are really saying is, "Stop the drilling." In my State that would be a disaster.

The Senator from New Jersey has indicated that there are only four States to which this means anything. In the first place, anything we can do to get lower gas prices is going to help consumers in every single State.

Right now, for example, as to Devonian shale, New York, Pennsylvania, Ohio, West Virginia, Kentucky, Indiana, and Michigan are all States that can benefit from this credit, not just four States.

As to coal methane, New Mexico, Arizona, Pennsylvania, Kentucky, Tennessee, Alabama, and Georgia are States that can benefit from continuing the section 29 credit.

As to tight sands, Montana, North Dakota, Arizona, Wyoming, New Mexico, Oklahoma, Texas, Louisiana, Mississippi, and Alabama are States that benefit by the continuation of section 29.

The Senator from New Jersey indicated that of the 100,000 jobs that will be saved by extending this credit, a lot of these are accounting people.

I invite the Senator to come to my State and look at our drilling operations, where the people who own the companies are out there working on the wells themselves. Sure, they have a couple of people keeping books. They have to. You have to do that in business. These are people who are working at the razor's edge. They do not have a lot of employees. The people who have large numbers of employees are the big oil companies who are the source of the opposition to the amendment of the

Senator from Kansas. They are the ones who are against this, and they have their own reasons to be.

It seems to me that, in one sense, this comes down to a matter of cost and benefits. Does the extension cost anything? Yes; it does. But we have been doing it over all these years, because we understand that in order to get people to drill wells that they would otherwise not physically and financially be able to drill, we have to give them a subsidy. Under one amendment, that is what is being proposed. Incidentally, you only get the credit if the well works, if you get oil, if you get gas. If you do not produce gas, you do not get any credit. So there is no messing around there.

My point is that the benefits are extraordinary. You get environmental benefits. I do not want to see us do more offshore oil drilling. I do not want to see us drilling in ANWR in Alaska. If you are talking about energy policy and environmental policy, it seems to me that it makes sense to try to make as much use of domestic sources of natural gas and fuel supplies as you possibly can, in any way that you can do it, so as to avoid drilling in ANWR and drilling offshore.

So I agree that this costs something. There have been costs, and it costs each year, but there is a reason for that, because without this benefit the wells would not be drilled. I have seen that; I have physically been to those wells. I know what they are like. I know what the people who operate them are like. When they tell me they will go out of business if section 29 is not extended, they mean it.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROCKEFELLER. Mr. President, will the Senator yield time then?

Mr. BENTSEN. The Senator asked for an additional 5 minutes, I take it.

Mr. ROCKEFELLER. Mr. President, how much time is remaining to the proponents?

The PRESIDING OFFICER. The Senator from West Virginia controls 10 minutes and 43 seconds, the Senator from New Jersey 3 minutes and 40 seconds.

Mr. ROCKEFELLER. There is another Senator who is on the way, I say to the Presiding Officer, so at this point, I reserve the remainder of my time.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from New Jersey?

Mr. BRADLEY. Mr. President, I yield 5 minutes under the control of the Senator from Oklahoma [Mr. NICKLES] to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. I thank the Senator for that unique arrangement.

Mr. President, I am from the largest natural gas-producing State in the United States, Louisiana. When you combine the offshore natural gas production and the onshore natural gas production that we have, Louisiana is clearly the largest producer of natural gas in all of North America.

You might say, then, if you are from the largest natural gas-producing State, then you should be for any tax incentives which encourage more natural gas production. I am not.

This is not good tax policy because of how we pay for it, and it is not good energy policy because of what it does to the marketplace. Those of us who have argued for many years to allow the marketplace to control supply and demand have to rise up in opposition to this amendment.

This amendment is not really about whether we produce more natural gas. Let us not kid ourselves. This amendment is about who gets the edge, who gets an extra better deal on the price that they get for their product. That is really what we are arguing about in 1992, dealing with this amendment.

If you look back at why we got into this predicament in the first place, you will see that it is not necessary to extend it. The reason section 29 was first adopted in 1980 as part of that old windfall profits debate argument was that we wanted to try to encourage the creation of technology to produce natural gas that would not be produced without this incentive. Gas that was found in captured and tight sands and in coal bed methane was not going to be produced because it cost too much to produce it.

So no one was going to lose money to produce gas in these unique formations because they could not get enough of a price to pay for it. Therefore, they were just going to let it sit there. There was no technology that ever was developed to go after those types of gas formations in those fields.

So Congress, wisely, at that time said we need to give industry an incentive, because at some point we may have a shortage and we need to have the technology available to go and produce gas wherever it is found, even in difficult, very expensive formations. And, therefore, the Congress at that time wisely created the section 29 tax incentive to get industry to do something that they would not have done otherwise because it was too expensive.

Well, we should declare victory and go home, because section 29 has worked. The technology that was not there is now here. The know-how to go after and produce these gas fields is here. In fact, it is being produced.

Therefore, I think it is a correct argument to say that what section 29 was created to do has been accomplished. There is no reason, therefore, to extend it at a cost of approximately $1 billion over the next 5 years to do what? To create technology which we already have? It is not necessary.

Another interesting point that I think all Members ought to consider is: How do we pay for this? Do we just print some more money up and say here is a billion for 5 years to pay for something we do not need?

No, under this amendment it is paid for by reducing the life of other tax incentives, the so called extenders that are extended in this bill from 18 months down to only 15 months.

I suggest to my colleagues if they have an interest in such things as mortgage revenue bonds, if they have an interest in R&D research, if they have an interest in low-income housing tax credits or for the orphan drug tax credit or employer-provided educational assistance, or health insurance for the self-employed, all of these extenders are going to be reduced in order to pay for an energy tax incentive which is not necessary and not needed.

As one Member of Congress who represents the largest gas-producing State in the United States, would I ever be arguing against an incentive for the energy industry if I in any way thought it was essential or necessary or prudent or wise? The answer, I think, is: Of course not.

Intangible drilling costs, we have been there. We fought those fights. It was important, and still is. Depletion allowance—absolutely important to the development of energy in this country and good policy. But do not force us to take a subsidy that we do not need.

It is unusual, I would suggest, for a Member of a State that has direct benefits from a tax policy to be arguing against it because we do not need it.

The bottom line, Mr. President, is that in addition to taking money away from other programs that need to be extended for the maximum period of time as we can possibly get it to pay for this program, it also disrupts the marketplace. I think that is the real key argument as to why we should not be doing it.

If you look at what has happened, according to DOE studies, not oil company studies and gas company studies, the Department of Energy studies say that since we have had this subsidy, gas coming from the coal seam methane has increased 28.6 percent between 1989 and 1991; and the tight sands production increased 19 percent during that same time period. Is it any wonder why? Of course not.

They have a great subsidy which I supported when it was created. But conventional gas production has only increased 3.8 percent. So the data shows what is happening.

This tax incentive is changing the whole production industry as far as natural gas is concerned.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BREAUX. May I have 1 additional minute?

Mr. BRADLEY. I yield to the Senator 1 additional minute from the time of the distinguished Senator from Oklahoma.

Mr. BREAUX. I thank the Senator.

Let me just conclude by saying we do not need to interfere in the marketplace any longer. The tax credit was appropriate and proper when it was adopted. The bottom line is that it has achieved the results that Congress wanted; that is, the creation of technology and know-how to get after these hard-found formations when they are needed.

Let us get back to the orderly marketplace in the natural gas business and save this Congress and the American public a billion over the next 5 years that can be better spent in other areas.

Mr. President, I ask unanimous consent that a letter from the Louisiana Association of Independent Producer & Royalty Owners be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LOUISIANA ASSOCIATION OF INDEPENDENT PRODUCERS & ROYALTY OWNERS,
*September 11, 1992.*

Hon. JOHN BREAUX,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR: The Louisiana Association Of Independent Producers And Royalty Owners (LAIPRO) does not support the extension of the Section 29 tax credit for coalbed methane and tight-sands beyond the current December 31 expiration date. Louisiana has very few, if any, such operations in the State. At the time Section 29 was put into effect, there was concern that U.S. Gas reserves were in short supply. This is not the case today. We feel that it is not fair for Louisiana gas to compete with cheaper gas with a tax credit. We understand the Wise Amendment would put a cap of 150 MCF if Section 29 was extended. We would support the extension with the Wise Amendment.

Thank you for your help and your continued support. If you need to discuss this matter, please call me at 318-232-6520.

Sincerely,

DON G. BRIGGS,
*LAIPRO Chairman.*

Mr. ROCKEFELLER. Mr. President, I yield to the distinguished Senator from Utah 3 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the section 29 tax credit is not a partisan issue; it helps promote the continued production of nonconventional fuels in over 30 States. It is the right way to go.

This credit encourages future production and increases the domestic supply of oil. This will help the whole nation reduce our dependence on foreign oil imports and to reduce the use of many fuels harmful to the environment.

As the distinguished chairman of the Finance Committee pointed out, production of these fuels has become increasingly important to both the oil and gas industry and the Nation. Due to the clean air amendments alone, the demand for these fuels is going to rise dramatically. Mr. President, this increased demand will not be quickly and adequately met without the extension of this credit.

Without this credit, future production of these fuels will decrease. The failure to extend this credit could result in the loss of an estimated 100,000 direct oil and gas jobs as well as the loss of $6 billion annual investment in nonconventional wells. We just cannot afford to lose that. The American oil and gas industry cannot afford this loss, Mr. President. This industry has already seen the loss of over 350,000 domestic jobs since 1981. This is a larger loss than that suffered by the domestic auto industry. In addition, the rig count for U.S. oil and gas production is at an all-time low with only 650 rigs currently active. Mr. President, 25 percent of these rigs are working because of the section 29 tax credit and nearly 60 percent of new domestic wells rely on the credit. We must extend this credit to ensure continued production of nonconventional fuels.

This credit is a success story; it only applies to production coming from new domestic wells. To obtain the credit, these new wells must be producing gas, thus increasing the domestic supply of gas and oil. This not only helps the producers, it helps the energy consuming States who benefit greatly from increased domestic supply.

Mr. President, the section 29 tax credit has proven to be effective and efficient. It has stimulated new drilling activity, preserved domestic jobs, and lessened the flow of oil and gas capital overseas. The credit stimulates the development of new technology. It encourages continued production of environmentally benign fuel. Mr. President, we need to extend this credit. It is important to U.S. producers, and most importantly, consumers. I urge my colleagues to support this amendment.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, how much time is remaining for the proponents of the bill?

The PRESIDING OFFICER. Seven and a half minutes.

Mr. ROCKEFELLER. I yield 3½ minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise in very strong support of the amendment to restructure and extend the section 29 tax credit, essentially because we need it. It is good policy. It makes sense.

Our country is very dependent upon overseas sources of oil and gas. We need to make the best use of one of our country's best resources. This is natural gas. Section 29 has been in the law. This is an amendment to extend current law; to restructure it to make it work even better than it now does, tailor it back in some respects, be sure it has environmental provisions in other respects. It just makes eminent sense.

Just considering natural gas, estimates are that about one-third of all new gas wells are drilled as a direct result of section 29. And that figure could well move to almost one-half by the year 2005, if the credit is extended. These wells, and their production, are now a national energy asset.

But allowing this credit to expire would slash energy exploration and drilling to even lower levels than currently exist. And they are already pretty low. In fact, the count of active drilling rigs in this country is now at the lowest level since records have been kept. In my State of Montana, for instance, there were 1,149 wells drilled in 1981. Last year there were 205. Without the section 29 credit, exploration activity would be even lower.

And expiration of the credit would add to the job losses in the oil and gas industry, which have totaled 350,000 to 400,000 nationally during the 1980's, over 3,800 in Montana alone.

The credit we are proposing today is more tightly crafted than the current credit. It accomplishes this by imposing an annual production cap on each well. Any gas produced in excess of the cap would not be eligible for the credit.

Like the existing section 29 credit, the proposed amendment would apply both to wells that produce oil and gas from nonconventional geological formations and to facilities that produce fuel from nonconventional sources.

Currently, there is very limited production of synthetic oil and gas from coal. With the oil bust of the early and mid-1980's, there has been little reason for anyone to develop these synthetic fuels. But the Clean Air Act changes that. We have decided to clean up powerplant emissions.

Coal fired utilities must reduce emissions to meet strict new pollution standards. By encouraging development of synthetic oil and gas, the proposed credit offers the utilities greater flexibility in meeting such standards.

The credit also provides an environmental benefit by supporting facilities which create usable fuel from landfills. The methane gas produced from the decomposition of organic matter represents an energy source that usually goes to waste. The proposed section 29 credit will provide the impetus to further develop this energy source.

Finally, there is no question that section 29 has successfully stimulated domestic drilling activity and increased our gas reserves. By continuing it in a modified form, the credit will further add to these domestic gas reserves and decreases our use of imported Venezuelan, Algerian, and Canadian natural gas. This also will help achieve reasonable price stability in a market which has exhibited considerable price volatility.

Mr. President, our amendment is a modest effort to address the environmental and energy concerns of our country. I urge my colleagues to support this effort.

Mr. BENTSEN. Mr. President, I ask the name of Senator WOFFORD, from the State of Pennsylvania, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. Mr. President, how much time do the proponents and opponents have left?

The PRESIDING OFFICER. The proponents have 4 minutes and 30 seconds; Senator BRADLEY has 3½ minutes.

Mr. BENTSEN. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, Let me conclude by saying I hope the Senate rejects this amendment. It is not about helping the consumer. This will not help the consumer. This is about who will go to the front of the line for the Federal dole.

Let me just say this amendment makes any welfare mother in America look like she is a taxpaying, card-carrying member of the National Taxpayers' Union. This is a gift of $900 million to a few producers of certain types of gas; $900 million, given to certain producers of gas. This is something I believe we cannot afford. It will benefit primarily five States. It will cost other States significant amounts of money. It will cost Florida $100 million; California $300 million, New Jersey about $60 million. It will be a direct transfer from the taxpayers of this country into the pockets of a few gas producers.

The argument has been made this will create jobs. The Senator from West Virginia said if this amendment does not pass, 90 percent of the wells in his State will be shut down this year. This only extends this credit another 8 months. What will happen next year? What will happen to them next year? Will they not be shut down next year unless this credit is extended? This is a recipe for continuing to extend a credit that has outlived its useful purpose. It was passed in 1980, designed to expire in 1990, extended to 1992 and now will be extended for another 8 months so that 90 percent of the drillers in the Senator from West Virginia's State do not go bankrupt. In 8 months it is up again. No one has told me why they will not go bankrupt in 8 months. This is simply a recipe for continued subsidy at great cost to the taxpayer.

Finally, what this does is, if you like the research and development tax credit, if you like to have the low income housing credit, mortgage revenue bonds, health insurance for the self-employed—whatever, this will cut the benefits to those programs under this bill by reducing their extension from 18 to 15 months.

The question is not whether we should do anything in order not to consume foreign oil. The question is, What is the price of doing something to reduce consumption of foreign oil? We could produce all kinds of energy sources at $80, $90 a barrel. Why do we not do it? Because it costs too much money. The argument that this is good because it will reduce foreign consumption of oil ignores the cost: $900 million in the budget figure; another $1 to $2 billion over the next 5 years, on top of the already accumulated benefit from this proposal of $6 billion going to these very few producers between now and 2002.

I yield myself 1 minute more, from the time of Senator NICKLES.

The PRESIDING OFFICER. All time in opposition has expired.

Mr. BENTSEN. Mr. President, I yield the remainder of the time allocated to the proponents to the distinguished Senator from West Virginia.

Mr. ROCKEFELLER. I thank the chairman of the Senate Finance Committee. I say strongly and clearly to my colleagues that the support of the Senator from Texas, the chairman of the Finance Committee, is enormously important to me personally. And I think says a great deal as to how this reflects on energy policy in this country.

Let me just close with a few points. The people who are against this amendment, who want it to lose, are the large oil and gas producers. There is a very good reason why they are against it. They do not want on the market other sources of gas which are hard to get at, specifically nonconventional gas, which this amendment helps. They do not want these folks to be able to drill for gas. They do not want the competition. That is why the large producers, the oil companies, are against this amendment and are saying so very clearly.

Second, we have a country that needs energy independence, and is nowhere near it. And is in fact going in the opposite direction, where one-third of our trade deficit comes from importing foreign oil. We have to have this natural gas because we need it as a country. In all 50 States.

Consumers benefit from lower gas prices. Just this morning, the Washington Post pointed out that natural gas prices closed at a record high, amid concerns about high demand this winter and uncertainty over Hurricane Andrew's damage to production.

It is now at $2.06 per thousand cubic feet. Every consumer benefits when we have more gas on the market, and, when the price of it goes down.

Also, please remember that every single State in this country has large landfills. There are 6,000 of them. I do not know how many are in the various States, but they are everywhere. All of these are potential sources of extracting natural gas. This amendment specifically aims at that, through wording which allows landfills, and the gas that emanates from them, to be retrieved and used.

I repeat, if this amendment fails, all of these wells that would have been drilled will not be drilled. That is a fact. They will not be drilled at a time when we need every bit of domestic energy supply that we can possibly have, without having to reach for offshore oil, or to ANWR in Alaska.

I find it embarrassing, Mr. President, that the United States imports as much oil as it does. I thought the whole purpose of public policy, whether it be energy policy or tax policy, was to shore up the strength of our country, and to help our people. This amendment does that, because it will provide more natural gas, not from Algeria or Indonesia, but from America, and it will also let tens of thousands of people who are working now, continue to work, and maybe give some new jobs to people in a country with a devastated economy.

I think, on all counts, the case for this amendment's adoption is very strong, and I urge my colleagues to vote for the amendment and help our country in its energy independence.

Mr. BYRD. Mr. President, I am pleased to join Senators DOLE and ROCKEFELLER, in support of the amendment they have offered to provide for an extension of the section 29 credits for nonconventional fuels. I believe this amendment is good energy policy, good tax policy, and good environmental policy.

Absent the adoption of this amendment, important domestic energy production incentives will expire at the end of this year. In the State of West Virginia, approximately 90 percent of all new wells drilled qualify for the section 29 credits. Without these credits, many, if not most, of these wells would not be drilled. To allow these credits to expire would run contrary, therefore, to what I believe is a most important national goal—making the United States energy independent.

I have long argued for the development of a national energy policy that would reduce our dependence on foreign sources of energy by increasing domestic energy production. I am pleased that the Senate recently completed action on a comprehensive energy bill that will move our Nation in that direction, and I look forward to that legislation's returning from conference before the close of the 102d Congress. And while the issue before us now was not debated during consideration of the energy bill, I believe the amendment before the Senate now complements that legislation. This amendment will encourage the continued development and production of nonconventional gas within the United States, thus adding to our overall domestic supply of gas and lessening our dependence on foreign supplies.

To those who are concerned that we have an oversupply of natural gas in the United States today, and are opposed to an extension of section 29 because of current conditions in the gas market, I would caution that we not be so shortsighted as to focus solely on current market conditions. Experience should tell us that shortages and surpluses come and go. With respect to natural gas, I have no doubt as to the fact that the demand for gas will rise over time. If we fail to extend section 29 now, before the end of the year, I do not doubt that we will eventually come to regret the expiration of these important energy incentives.

In addition, section 29 has important environmental benefits in that it encourages the development of biomass and synthetic coal/lignite facilities. Looking to the years ahead, at the implementation of the Clean Air Act Amendments of 1990, as well as at concerns about global warming, it would be most unwise to allow these credits to expire.

Extending the section 29 credits for nonconventional fuels will benefit our energy situation, as well as benefit the environment and our economy. I urge my colleagues, therefore, to support this amendment to extend section 29.

Mr. HEFLIN. Mr. President, I rise today to support Senator DOLE's amendment to extend section 29, the nonconventional fuels tax credit.

This credit is 1 of the 13 expiring tax provisions that Congress has renewed on a regular basis. It is the one piece of tax legislation that we can count on each year. The extension of section 29 was not included in the Finance Committee tax package, however, the other expiring provisions were extended for 18 months. This amendment will extend the other expiring provisions for 15 months, and extend section 29 for 8 months.

Section 29 was added to the Tax Code in 1980 when there was a strong belief that there was a shortage of natural gas. The provision has encouraged the development of new technologies, which has resulted in a constant supply of natural gas.

In Alabama, the credit has resulted in the development of coalbed methane gas. Coalbed methane gas is a natural gas found in and around coalbeds.

Coalbed methane gas has historically been vented into the atmosphere in deep mining operations to protect miners from gas explosions in the mines. Today, Federal and State statutes impose on mine operators the duty to dilute and ventilate the mines; however, there is no requirement that the gas not be wasted.

Without section 29, that is exactly what would happen. The mine operators would continue to vent the gas into the atmosphere. In Alabama, the economic incentives of section 29 has encouraged the commercial production of the methane gas, and thus prevented the waste of a valuable natural resource.

We clearly want to encourage the production of this natural asset, and that is exactly what section 29 has accomplished, and will continue to accomplish. A 1990 EPA study entitled, "Methane Emissions From Coal Mining" estimated that 1.5 million tons of methane was emitted to the atmosphere from degasification of mines in 1987. At the time of the report, only one State, Alabama, had mining operations which utilized the methane rather than venting it to the atmosphere. In 1987, mining operations in Alabama captured and sold almost 310 million cubic meters, or about 0.2 million metric tons of methane into the natural gas pipeline systems. Without section 29 this gas would not have been captured.

Mr. President, the extension of section 29 is essential if we want to continue to encourage the development of coalbed methane gas. It has worked in the past, and it is working now.

I urge my colleagues to support this legislation.

Mr. BURNS. Mr. President, I rise in support of the amendment on section 29 currently on the floor offered by Senator DOLE and others. This is a much needed amendment. Our economy is the largest in the world and depends on plentiful supplies of energy. Oil and gas play a dominant role in fueling the growth of this immense economy. This country represents 5 percent of the world's population and consumes over 24 percent of world energy consumption. The transportation sector alone demands almost two-thirds of the petroleum used in this country, about 17 percent more than was produced domestically in 1989.

Mr. President, we need options available to us that can reduce our foreign dependence on oil which, according to James R. Schlesinger's testimony before the Energy and Natural Resources Committee, could be roughly 65 percent by the middle 1990's. Section 29 is just such an option. Compare that level of dependency to the current dependency of 53 percent and if you don't get frightened, then you're just not listening.

Mr. President, domestic crude oil production has declined 16 percent since its peak in 1970. In the contiguous States, production has fallen 36 percent since 1970 and reserves have dropped by 31.1 percent. In 1987, 73 percent of all producing wells in the United States were stripper wells, that is, those producing less than 10 barrels per day [bpd]. They account for 15 percent of all domestic production and 20 percent of lower 48 production. Since 1980, the annual abandonment of these wells has increased 163 percent, with 17,423 wells abandoned in 1988. Wells associated with as much as 40 percent of the remaining domestic oil resource may have already been abandoned, and the rate of abandonment has been increasing recently.

Mr. President, the question is—Are we prepared to do something about this? If the answer to this question is in the affirmative, then the question is when and how do we do something? In my view, the answer to the when is yesterday. As to the how, my response is whatever it takes.

The alternative minimum tax language in the energy bill that passed the Senate does do a great deal to address the problem. But it doesn't do enough. Those of us in areas where oil and gas potential exists but is difficult to get out need the added incentives of a section 29 extension.

Mr. President, we all have a responsibility to be ever mindful of the long-term objective—energy independence. While we may never reach that objective in our lifetime, we have an obligation to the generations that follow to do the best we can. Whether that means creating new tax incentives, encouraging the increase of expenditures for research and development, fostering the development of alternative fuels, maximizing onshore and offshore exploration and development, reducing regulatory barriers, eliminating institutional constraints, conserving more energy, developing fuels from our vast U.S. coal resources, removing barriers to access on lands that have potential for oil and gas discovery and recovery, et cetera, then lets get on with it.

In many areas of the West oil and gas deposits are in difficult to access formations—one in Montana, the Bakken formation, has known reserves of oil—its there. We need the right kind of tax incentives to get the oil out. Section 29 gives us those incentives. This amendment clarifies that the phrase "oil produced from shale" in section 29(c)(1)(a) includes oil produced by means of nonconventional drilling and lifting processes; that is, horizontal drilling from shale formations such as the Bakken shale formation.

Unless and until we take the steps necessary to put the needs of this country first and regain control of our destiny, then as Mr. Schlesinger pointed out "Dependency will continue to grow, although the pace can still be affected by our policy decisions." I could not agree more. So as we eliminate options that might help us regain control of our destiny let us ask ourselves if we intend to be part of the solution or part of the problem.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, it seems that the passage of time can make a great deal of difference about an issue. In 1990, the extension and restoration of section 29 was a top priority for most of the oil and gas industry.

Today, the extension of section 29 is very controversial and is an issue that has divided the industry. Many of the producers that urged an extension of the credit in 1990 are now opposing it.

I feel caught in the middle.

When the credit was created in 1979, it was intended to promote technological development and innovation in the production of nonconventional fuels—tight sands, coalbed methane, Devonian shale, and biomass.

The credit has worked. According to the Energy Information Administration for years 1989-91, the share of growth in natural gas consumption encouraged by the section 29 credit has been 48 percent. But growth in natural gas consumption from traditional sources has been only 4 percent.

Perhaps the credit is the victim of its own success. The credit has been accused of flooding and otherwise distorting gas markets and depressing prices.

Prices are clearly depressed and the oil and gas industry is in trouble. Rig counts reached an all time low this year.

Markets have been hard on the oil and gas industry, and tax policy has been contributed to its financial woes. The industry has been permanently caught in the alternative minimum tax and forced to pay effective tax rates that can only be described as punitive.

In my mind it is very clear that the most important tax policy change that can be made for the oil and gas industry is AMT relief for independents. The provisions included in the tax title of the energy bill dealing with intangible drilling costs and percentage depletion are desperately needed. Any extension of section 29 should not jeopardize the enactment of those provisions.

As I wrote Chairman BENTSEN in July and again in August, if section 29 is extended:

The credit should continue to apply to all currently eligible classifications of gas.

I still feel that reforming the credit to make it usable for AMT taxpayers should be a higher priority than a simple extension.

I continue to believe very strongly that there should be no retroactive changes in the operation of the credit.

And finally, I hope the Finance Committee will look into scaling back the credit in an equitable way, taking into consideration the costs of production, for all classifications of gas so that only marginal well production would qualify for the credit.

The Department of Energy should be asked to compare the various technologies used, potential for innovation, the costs involved and make recommendations about the appropriate levels to set the nonconventional fuel credit for each of the eligible classifications of gas.

This amendment takes the first step in scaling back the credit but 85 percent of the wells would still be fully eligible.

I am supporting the Dole-Rockefeller amendment because I believe coalbed methane should continue to be an eligible classification of gas. New Mexico produces a great deal of coalbed methane, and it would be irresponsible of me not to support its continued development. The jobs it provides, and the severance tax revenues generated for our schools are both badly needed.

I know the majority of independent producers in my State oppose the extension of the credit. It would be OK with me if it expired for new wells. But since Senators DOLE and ROCKEFELLER are offering this amendment, I am going to support it.

There are some important provisions in the energy strategy for the natural gas industry and I certainly hope the conference can be concluded on the energy bill very soon.

Mr. BINGAMAN. Mr. President, I rise to express my intention to vote against extension of the section 29 nonconventional fuels tax credit. Although I have supported extension of the credit in the past and in fact agreed to cosponsor the amendment again this year, I have become convinced that it would be neither sound fiscal policy nor sound energy policy to do so again. When the credit was originally established in 1980, it was intended to encourage the application of technology to get at more difficult and costly gas production. And, I believe that for a good part of the 12 years this credit has been in effect, the credit served this purpose. But today, with extraction technology well developed, the credit provides an unneeded subsidy—and skews investment decisions in the process. The section 29 credit encourages investment in wells that actually produce less gas on a daily basis than would be the case if the same dollars were invested in unsubsidized conventional wells. At this point, Mr. President, we need to think about the $1 billion that this credit would cost over the next 5 years—a $1 billion subsidy that prevents capital from flowing to the most efficient and economic conventional and unconventional prospects.

Mr. President, last month I held a meeting in the San Juan Basin with New Mexico oil and gas producers. Several of my colleagues have made reference to the San Juan Basin during this debate and indeed, it is one of the richest oil and gas regions in the United States. It is, as well, an area where the section 29 credit has been used to drill tight sand and coal seam gas. But what these independent producers told me, Mr. President, is that the section 29 credit is no longer useful, that they can't use it and they don't want it. The credit contributes to a distortion of gas markets and causes gluts of otherwise uneconomic gas. Mr. President, I have become convinced that the section 29 credit does not make a positive contribution to our energy security, and in these tough economic times, it is a subsidy that we as a nation cannot afford.

Mr. WARNER. Mr. President, I rise today in strong support of the Dole amendment to H.R. 11 which would extend the section 29 nonconventional fuels production incentive tax credit. I am pleased to be a cosponsor of this amendment.

The U.S. Congress enacted the section 29 tax credit in 1979 to encourage the development of unconventional gas resources, such as coalbed methane. This tax credit has proved effective in encouraging the development of nonconventional reservoirs benefiting many areas of our Nation including the Commonwealth of Virginia. This credit has led to the creation of new desperately needed jobs in many areas of the Nation. I have been advised that without the extension of this credit, drilling activity in my State would most probably cease to exist.

Coalbed methane development will also help reduce emissions of methane, a potent greenhouse gas, which will in turn help the United States meet its goal of stabilizing greenhouse gas emissions. In addition, by encouraging the production of domestic energy sources, the credit has and will continue to reduce our growing reliance on foreign oil.

At this time I would like to thank the distinguished minority leader for agreeing to modify his original amendment. For Virginia, the amendment allows coalbed methane gas produced from gob gas wells to receive the same treatment as tight sands. In its original form, the Dole amendment would limit the coalbed methane credit to 24 million cubic feet of production per year. This cap would have curtailed the production from gob gas wells—wells used to capture methane released from longwall mining.

Longwall mining is primarily found in Alabama, Illinois, Kentucky, Pennsylvania, Utah, Virginia, and West Virginia. However, coalbed methane gas is only being produced from gob wells in Alabama and Virginia. Therefore, the modification to this amendment is of particular interest to my State. While the inclusion of gob gas well production in the section 29 extension will involve a small revenue loss, it will generate substantial production in southwest Virginia and elsewhere in this country.

It is estimated that this provision will allow for the capture and sale of approximately 50 million cubic feet of gob gas per day which is currently being vented. The capture and sale of gob gas is estimated to represent approximately $1,000,000 per year in tax revenue to the affected counties. The synergistic operations of the coal and gas industry should allow continued economic development of both industries in the southwest Virginia coalfields.

Again, I thank the minority leader and ask my colleagues to support this worthwhile amendment.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the amendment.

Mr. BRADLEY. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table amendment No. 2939, as modified. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—41

Adams
Akaka
Biden
Bingaman
Bond
Bradley
Breaux
Bryan
Cohen
Cranston
Danforth
Daschle
DeConcini
Durenberger
Exon
Grassley
Harkin
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lott
Metzenbaum
Mitchell
Nickles
Nunn
Pell
Reid
Rudman
Sarbanes
Sasser
Wellstone
Wirth

NAYS—57

Baucus
Bentsen
Boren
Brown
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Craig
D'Amato
Dixon
Dodd
Dole
Domenici
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Jeffords
Levin
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Packwood
Pressler
Pryor
Riegle
Robb
Rockefeller
Roth
Sanford
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NOT VOTING—2

Gore
Seymour

So the motion to lay on the table the amendment (No. 2939) as modified, was rejected.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as modified.

The amendment (No. 2939), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## APPLICATION OF CERTAIN REQUIREMENTS AND SANCTIONS TO FEDERAL FACILITIES—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2194 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1992.)

Mr. MITCHELL. Mr. President, this conference report has been cleared. I do not believe there is any opposition to it. Accordingly, it is not my intention to request a rollcall vote. I will make a brief statement, and I believe Senator BAUCUS and Senator CHAFEE, and perhaps others, may wish to make a brief statement; but I do not anticipate that consideration of this matter will last more than 10 or 15 minutes, and then we will return to the consideration of the tax bill after enacting this.

I do want to describe briefly the background and substance of this legislation. My work on this issue began several years ago as the State of Maine struggled to enforce Federal compliance with hazardous waste requirements. I believe that the law as it existed then was clear, but there were disagreeing court opinions. The uncertainty created by this division hampered enforcement.

I became convinced that statutory clarification was the only option. So more than 3 years ago, I introduced the first Senate legislation to make it clear that Federal facilities are not above the law and must comply with the law governing hazardous waste.

The conference report we adopt today ratifies this important principle. The principle is important because, without it, there is only voluntary compliance. History demonstrates that voluntary compliance does not work. Each report that reviews Federal compliance with hazardous waste requirements reveals widespread noncompliance.

For example, in 1986, the General Accounting Office found that almost half of all waste handlers were out of compliance with the law. In 1989, the Comptroller General of the United States testified that there is widespread contamination at Department of Energy sites, and that some sites may be irreversibly contaminated, and DOE may have to place them in long-term institutional care.

In 1991, the Office of Technology Assessment stated that:

> The waste and contamination problems at the DOE Weapons Complex are serious and complicated, and many public concerns about potential health and environmental impacts have not yet been addressed. * * * Many sites may never be returned to a condition suitable for unrestricted public access.

The most recent EPA data indicate that over half of the Federal facilities are not in compliance with hazardous waste requirements. Enforcement of this law should lead to greater Federal compliance. The legislation will return to the States the enforcement tools we thought we had given them in 1976. A waiver of sovereign immunity moves us from the disorder of Federal noncompliance to a forum in which all entities are subject to the same law and to full enforcement action.

I would have been comfortable with a simple clarification that sovereign immunity is waived, but the Departments of Defense and Energy claim that they cannot comply with the law as now written. We, therefore, responded to the administration's repeated requests that Federal agencies be given special consideration in four separate areas:

First, the conference agreement responds to the administration's request by providing 3 years for the Department of Energy to reach compliance agreements with States in which there are DOE facilities on mixed waste storage and treatment. During this 3-year period, which the Department of Energy said was necessary and adequate, DOE and other Federal agencies will not be subject to the clarified waiver of sovereign immunity.

I expect, however, that DOE will be diligent in pursuing compliance agreements. All parties to this process will need to work cooperatively to make this legislation work effectively. I have confidence that this can and will be done.

In order to assure an independent assessment of DOE efforts, the conference agreement requires the Comptroller General to assess DOE's progress toward compliance and provide Congress with a report 18 months after this law's enactment.

The legislation also addresses three other concerns raised by the Department of Defense regarding munitions, vessels, and federally owned treatment works. We have responded to the administration's concerns, while preserving the principle that the Federal Government should not be immune from the enforcement of the law.

I would like to express my appreciation to the National Association of Attorneys General, which has worked tirelessly on this legislation, as well as the National Governors Association, Sierra Club, and other interested organizations.

I thank my colleagues on the conference for their efforts in successfully reaching agreement on the important issues. I especially appreciate the efforts of the House conferees in agreeing to address many of the issues raised in the Senate-passed legislation.

Here in the Senate, I thank all of my colleagues who helped on this legislation. They include Senators CHAFEE, BAUCUS, MOYNIHAN, WARNER, DURENBERGER, SIMPSON, JEFFORDS, and others.

This has been a long and arduous effort for me, but the result today fully justifies that effort.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I am pleased today to support the Federal Facilities Compliance Act conference report. Getting to this point has not been easy. It didn't take quite as long as did the Clean Air Amendments of 1990. But like the Clean Air Act, this legislation is long overdue and it has been a long, hard journey. It has taken cooperation, persistence and compromise by everyone.

This is not a new issue to the Congress. Over the past few years, both the House and Senate have been actively working on this legislation. Last Congress, the House passed, and the Environment and Public Works Committee reported, similar legislation.

Unfortunately, there was not enough time at the end of the 101st Congress for the Senate to consider the legislation. This Congress, however, has completed the task.

The conference report before us addresses all of the major concerns raised by the Senate when we passed S. 596, the Federal Facilities Compliance Act, late last year. It is a good compromise and I urge all of my colleagues to support the conference report.

Let me briefly explain what is in it.

It will ensure that the Federal Government complies with environmental laws and regulations, and is subject to fines and penalties, just like everyone else.

This is good news. Federal facilities are among the worst violators of the Resource Conservation and Recovery Act. Many dumpsites owned by the Federal Government have produced widespread contamination of the environment from toxic chemicals and radionuclides.

The Department of Energy's Rocky Flats facility in Colorado, and the Fernald site in Ohio, for example, both have had a long history of environmental violations.

DOE has admitted full knowledge, since 1951, of pollution at Fernald. Moreover, DOE has conceded that it released more than 300,000 pounds of radioactive uranium particles into the air at Fernald.

At DOE's Rocky Flats facility, the Federal Bureau of Investigation and the EPA have found numerous violations—including the illegal disposal and burning of hazardous waste and radioactive waste, and the illegal discharge of such wastes into nearby rivers.

The track record at the Department of Defense is not much better. DOD has 94 Superfund sites, and over 17,000 contaminated sites nationwide.

All told, some 63 percent of Federal facilities have serious RCRA violations for failing to protect ground water. By contrast, only 38 percent of all private facilities have similar violations.

This is wrong. The Federal Government should be the leader in compliance with our Nation's environmental laws. But the fact is we are laggards, not leaders.

Why is this?

Our courts have interpreted RCRA to mean fines and penalties do not apply to Federal facilities. Thus, there is little to force compliance.

It is no wonder then, that in May 1986, the General Accounting Office concluded that the Federal Government has been slow to comply with hazardous waste laws.

In its 1986 report, the GAO reviewed RCRA compliance at 17 Federal civilian agencies in 12 States. GAO found that almost half of the hazardous waste handlers inspected by EPA were cited for violations. Over one-quarter were out of compliance for 6 months or more. Some had been out of compliance for more than 3 years.

Without this legislation, recalcitrant Federal facilities will continue to violate the law. This legislation will see to it that the Federal Government plays by the same rules as everyone else.

It does so in three fundamental ways.

First, according to court decisions, RCRA is the only major Federal environmental statute that does not clearly waive sovereign immunity. This legislation corrects that by clearly stating that sovereign immunity is waived.

It also clarifies that States may impose administrative orders, and collect civil and administrative fines and penalties for RCRA violations by Federal agencies.

Second, the bill specifies that the Environmental Protection Agency may take enforcement actions against other Federal agencies when they fail to comply with the law.

Finally, because the pace of cleanup at Federal facilities has been too slow, this bill requires EPA to conduct environmental assessments of Federal facilities.

Dealing with mixed wastes was a particularly troublesome issue for the Department of Energy, which generates over 95 percent of this country's mixed waste. Mixed wastes are composed of both hazardous and radioactive waste.

For many mixed wastes, DOE claims there is no known treatment method. And since RCRA allows the storage of hazardous wastes and mixed wastes only in anticipation of treatment, DOE argues that they are in a catch-22.

In other words, if mixed wastes cannot be treated, then they also cannot be stored. That is clearly not a sensible policy.

I am pleased that the House agreed to address DOE's mixed waste concerns and give the department an incentive to enter into compliance agreements at all of their facilities.

Specifically, the conference agreement states that Federal facilities that store mixed waste shall not be subject to fines and penalties for storage violations for 3 years, provided they are in compliance with all other requirements.

Moreover, in an effort to encourage the development of treatment capacity for mixed wastes the bill includes some additional requirements.

Specifically, the Department of Energy must embark on a program to develop mixed waste treatment technology. DOE must also prepare three annual progress reports for the Congress.

Finally, the bill requires that the General Accounting Office report to Congress within 18 months of enactment of this bill, on DOE's progress in implementing its mixed waste plans.

The conferees also agreed to address three concerns expressed by the Department of Defense.

First, DOD believes that military vessels that generate and store hazardous waste in carrying out their duties should not be regulated under RCRA until the waste is off loaded.

The bill clarifies that hazardous waste on public vessels is subject to all RCRA requirements once the waste is transferred to a shore facility or 90 days after the waste is transfered to another vessel.

Second, DOD also raised questions about the regulatory status of military munitions. To address this concern, the bill requires EPA to develop regulations that specify exactly when military munitions are subject to hazardous waste regulations.

Finally, DOD was concerned with the current regulation of federally owned treatment works [FOTW's]. FOTW's that receive hazardous waste are subject to RCRA, but their counterpart, publicly owned treatment works [POTW's] are not. This is because POTW's operate under what is known as the domestic sewage exclusion.

To address DOD's concerns, the conference substitute applies the domestic sewage exclusion to FOTW's. Applying this exclusion conditionally exempts FOTW's from RCRA regulations under specified conditions.

Let me say that this bill will ensure that the Federal Government will be required to comply with RCRA like everyone else. Quite frankly, I had thought this was always congressional intent. The courts, however, have ruled that while that may have been our desire, the statute was not clear. With this legislation, there will be no question.

Finally, I would like to thank all of the House and Senate conferees for their resolve and commitment to this legislation. This is important legislation of which we can all be proud. Moreover, this is the first piece of legislation under our new chairman. Senator MOYNIHAN took over the conference and deserves much credit for moving the conference to a successful conclusion.

Finally, I would like to extend my special thanks to the majority leader, Senator MITCHELL, for his leadership, for his patience, and for his commitment on this issue. For several years now, he has been worked tirelessly to enact Federal facilities legislation. His hard work and determination have paid off and the Nation will be better off because of his efforts.

Mr. President, to summarize I take great pleasure in supporting the conference report as concluded by the House and Senate conferees. The majority leader has very adequately explained the basic provisions of the bill.

Very simply, Mr. President, this is an effort that is long overdue. It is a conclusion that is long overdue. It is one that began with the majority leader several years ago, who has very persistently, aggressively, doggedly, very strongly, pushed to get this legislation passed; and if there is any Member of this body who deserves by far the lion's share of the credit, it is the majority leader.

The Resource Conservation Recovery Act, Mr. President, is the only environmental statute that the courts have said is not allowed where sovereign immunity still controls. That is the only major environmental statute where the Federal Government is immune from control and regulation. That is wrong.

I say so because the Department of Defense has over 94 Superfund sites and over 17,000 contaminated sites nationwide, and all told, some 63 percent of Federal facilities have serious Resource Conservation Recovery Act violations. By contrast, only 38 percent of private facilities have similar violations.

The record is clear. We in the Congress, too often exempt ourselves from Federal statutes, and the Federal Government too often exempts itself; and the executive branch is exempt from certain Federal actions and burdens that we place on the private sector. It is only fitting that we should waive sovereign immunity in this case and require the Federal Government to clean up its sites just as we require private facilities to clean up theirs.

This conference report, though, contains refinements, perfections, and the Departments of Defense and Energy had legitimate complaints and concerns with this legislation.

We have accommodated those concerns. I think all told we all should be proud of the effort we are undertaking today.

I also thank the chairman of the committee, Senator MOYNIHAN, who has taken over chairmanship of our committee and very skillfully, in the last several days, guided the conference through to a very speedy solution. I might say I have never seen such a quick conference that resolved all our differences with the House.

The House adopted this conference report by a vote of 403 to 3 this morning. It is only fitting that we should agree to it unanimously here today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the bill has been adequately explained, I believe. I just want to mention that the majority leader has been working on this for a good number of years.

I must say that it was a piece of legislation, that in its original form, I was opposed to and indeed so was the administration. However, over the course of years—I think we have been on this bill for some 4 years—the concerns of the administration have been addressed, so that the administration, for example, is not opposed to the bill. I am not suggesting that they are overwhelmingly happy but, nonetheless, they are not opposed to this legislation. I think it is good legislation, as finally worked out. Like everything, it is a compromise. I commend it to my colleagues in the Senate.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I also want to join in the accolades for the majority leader for his work on this bill as well as others, and I commend them for the work on the bill.

However, I would like to concentrate on one provision of the bill.

That provision is section 109 entitled "Small Town Environmental Planning." While this overall bill makes the Federal Government accept responsibility for its actions, with this provision, the bill will also help small towns deal with their responsibilities. This section is based on an amendment that I offered which incorporated many provisions of the Jeffords-Conrad Small Town Environmental Planning [STEP] Act, and I commend the Senator from North Dakota for his work with me on that.

Before describing this provision, I thank the many cosponsors of the STEP Act, as well as the conferees, and the sponsor of the Federal facilities bill, Senator MITCHELL. I also thank my colleague, TIM JOHNSON, from the House for his efforts. In these partisan days, I thank my colleagues for their bipartisan spirit on this important part of the bill.

Now, allow me to describe the Small Town Environmental Planning [STEP] Program. First, the bill creates a task force of people from small towns to advise EPA on how the Agency and small towns can work together better. This task force is to identify regulations that present significant compliance difficulties for small towns. In addition, the task force is to review proposed regulations. I get many letters from small town officials saying that many regulations are just unworkable for them. Unfortunately, these officials are rarely able to participate in the administrative process through which regulations are promulgated. This provision will ensure that the voice of small towns is included in the regulatory promulgation process.

Fourth, the Senate recently considered several Safe Drinking Water Act amendments. Small towns have and will continue to have considerable difficulty complying with this act. One reason is the adverse economies of scale affecting small towns. We need to find ways to help small towns pool their resources to create more economically viable systems. The task force will help identify such means.

I note that the conferees have set a sunset on the life of the task force. While I had hoped for a somewhat different outcome, I understand that with limited Federal resources, it is important not to create permanent drains on these resources. Thus, I do not object to this sunset provision. I would like to make it clear for the record, however, that this sunset does not preclude the Administrator of the EPA from building upon his experiences with the task force while it is in existence. After this task force expires, there is nothing to prevent the Administrator from using discretionary funds from creating an advisory group to continue any worthwhile functions performed by the task force. Any such advisory group would, of course, be subject to any other relevant laws.

Another complaint that I frequently receive from small towns is that it is very difficult for them to learn what regulations are applicable or what regulations are being proposed that would be applicable to their towns. Subsection (c) of this act requires EPA to publish a compilation of regulations applicable to small towns and to update this compilation annually. This subsection also requires the Administrator to develop an effective means to notify towns that regulations that may affect them have been proposed. Hopefully, town officials will then review these proposed regulations and provide comments to EPA.

I am sure all of my colleagues, or at least most of them anyway, have heard complaints that EPA is not, shall we say, user-friendly. Small town officials frequently report getting lost in the bureaucracy. EPA has an advocate for small businesses. It is time our small town officials have an advocate at the Agency that more than any other Agency significantly affects their town. This bill will provide for a small town ombudsman.

Last, the bill requires the Administrator to conduct a study of using multimedia permits to balance environmental compliance activities of small towns. My original bill proposed basically a town-developed contract for reaching full compliance with environmental laws as expeditiously as possible given a town's available resources. I was told by EPA that the permit process may offer a better means to accomplish this goal. When a town cannot comply with the law, a compliance schedule can be included as part of a permit. The advantage of this approach is that public review during issuance of the permit can occur. Citizens of the town can ensure that the town is really doing the best it can. The permit is also enforceable.

If we can get State agencies and EPA to sit down with small towns and negotiate all of the permit requirements at one time, a town's activities can be balanced. What happens now is that a town's permits expire at different times. Thus, they negotiate each permit separately. No one sits down at the Agency and looks at the bigger picture towns face. Each program feels their permit and requirements are the most important. If we can develop one permit for a small town, we can help both the towns and the regulatory agencies plan for compliance across all media. It is my understanding that some States are already using similar approaches. I hope other States will look into this approach and see if it can help them work with their towns.

Once again I thank the participants in the conference committee for their work and what I hope will be a very helpful change to assist small towns in very difficult problems dealing with environmental laws.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I add my own statement of admiration and gratitude for the majority leader who guided this matter that was clearly one of Federal law and constitutional law as well as common law to its successful conclusion.

Indeed once again the Committee on Environment and Public Works brings to the Senate a unanimous bipartisan judgment in a matter of national interest and I think we have served it well. I appreciate all those who cooperated in this outcome.

Mr. President, I see no Senator seeking recognition.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, today, we have before us the conference report to accompany H.R. 2194, the Federal Facility Compliance Act of 1992. As my colleagues are well aware, this legislation has been several years in the making.

Mr. President, before I discuss the conference report itself, I would like to briefly review the development of the legislation over the last few years. I originally opposed the Federal facilities bill when it first came before the Committee on Environment and Public Works. I supported then and support now the stated purpose of the legislation "to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements." We all want the Federal Government to comply with the environmental laws and clean up its contaminated sites. However, as I stated during consideration of this bill in the 101st Congress, no legislation is needed to accomplish the stated purpose. The Federal Government is already required to comply with all environmental laws, including RCRA.

What this bill really provides is that the Federal Government no longer be immune from fines and penalties for violations of Federal, State, and local requirements regarding the management of hazardous and solid waste. In testimony before the Environment Committee in the last Congress, the administration expressed its strong opposition to the legislation, stating that the waiver of sovereign immunity could make the Federal Government liable for billions of dollars in fines and penalties for violations of RCRA and would disrupt clean up priorities by giving preference to the first State to get in the courthouse door.

Mr. President, I found the administration's initial testimony worthy of serious consideration. Therefore, in 1990, I developed an amendment in the nature of a substitute to the Federal facilities bill to address the concerns expressed. As did the legislation introduced by Senator MITCHELL, the amendment would have expanded RCRA's waiver of sovereign immunity to include liability for State and local fines and penalties. The amendment differed from the legislation because it would have made a distinction between current, ongoing compliance violations and the backlog of old, inactive sites that are contaminated and need to be cleaned up.

The amendment was defeated in the Environment Committee's 1990 markup of the Federal facilities bill, and the bill was reported to the full Senate largely unchanged. The 101st Congress adjourned before the Senate could consider the legislation.

During this Congress, I encouraged the administration to drop their opposition to the waiver of sovereign immunity and work with members of the Environment Committee to develop legislation that would be acceptable to all parties concerned. Finally, last year, the administration decided to propose solutions to the difficulties its departments and agencies would have in complying with RCRA. Together, the Departments of Energy and Defense, along with the Environmental Protection Agency, submitted to the Congress suggested amendments that would ease the Federal Government's compliance problems, while still allowing the waiver of sovereign immunity to take effect over time.

Last fall, the full Senate passed S. 596 with language that specifically addressed the administration's concerns. The conference report before us today modifies the Senate language, while still addressing the concerns raised. In my view, the conference report goes a long way toward solving the articulated compliance problems.

The distinguished manager on the other side of the aisle has already described the provisions of the conference report in some detail. I would like to briefly touch on some of those provisions. First, the core provision of this bill is the waiver of sovereign immunity for fines and penalties for violations of Federal, State, and local hazardous and solid waste requirements. The conference substitute provides that the waiver take effect on the date of enactment.

However, in direct response to concerns raised by the Department of Energy, section 105 of the substitute provides that, with the respect to violations of section 3004(j) of RCRA involving the storage of mixed waste, the waiver shall not apply for 3 years after the date of enactment—that is, waste that has both a radioactive and hazardous component. This provision is designed to give the Department of Energy sufficient time—and I should emphasize that DOE has told us that it considers 3 years to be suffcient—to develop and obtain approval of plans for the development of treatment capacity and technologies for its facilities that generate and store mixed waste.

To ensure that DOE is taking the necessary steps over the 3-year period to significantly improve its current situation, new section 3021 of RCRA, as added by the conference report, requires the Secretary of Energy to publish a schedule for submitting plans to EPA and the States not later than 6 months after the date of enactment and to submit periodic progress reports to Congress. In addition, not later than 18 months after the date of enactment, the conference report requires the General Accounting Office to submit to Congress a report on the Department of Energy's progress in complying with the provisions concerning submittal and approval of plans.

The conference report also contains three provisions that were developed in response to concerns raised by the Department of Defense.

First, section 108 of the conference substitute modifies the regulatory status of waste handled by a federally owned treatment works or FOTW's under RCRA. An FOTW is a sewage treatment plant owned by the Federal Government on a military base or other installation. Currently, if the FOTW receives hazardous industrial waste from a machine shop or munitions plant on the base. In addition to domestic sewage from base housing, all of the waste water and sludge discharged by these plants are considered hazardous wastes under RCRA.

Sewage treatment plants operated by local governments—POTW's—have a special exemption called the domestic sewage exclusion under RCRA. If most of the waste received by a POTW is domestic sewage, their sludge and waste water is exempt from hazardous industrial waste regulation even if they are also receiving hazardous industrial waste through sewer connections. In this bill we provide a similar exemption for Federal facilities, but only if they meet certain conditions. For example, this bill will require military and other Federal facilities to treat their industrial wastes according to EPA standards before they are sent to FOTWs. If the water is so treated, then RCRA will not apply to the wastewaters and sludge generated at the federally owned treatment plant.

Second, section 106 of the conference substitute provides that any hazardous waste generated on a public vessel and kept on the vessel—waste that is not removed from the vessel—shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of RCRA unless such waste is stored for more than 90 days on an inactive vessel or transferred to another vessel within the territorial waters of the United States.

Finally, section 107 of the conference substitute requires the Administrator of EPA to propose regulations that would identify when military munitions become a waste, and thus subject to the requirements of RCRA.

The three provisions I have just described dealing with federally owned treatment works, public vessels and munitions all respond to specific difficulties in complying with RCRA that were articulated by the military services through the Department of Defense. Informal communications we have received from the Department of Defense—and from the Department of Energy concerning the provisions addressing its compliance problems—indicate that, while the administration did not get everything it wanted, the conference report makes significant headway in addressing their concerns.

Mr. President, I wish to discuss briefly two other provisions adopted by the conference. First, the conferees adopted the Senate provision requiring the EPA Administrator to establish a Small Town Environmental Planning Program. The program is designed, among other things, to identify the significant difficulties that small towns have in complying with environmental regulations. Senator JEFFORDS was the author of this amendment and I am pleased that we were able to convince our counterparts in the House of the merits of this provision.

Second, section 102(b) of the conference report provides that funds collected by a state from the Federal Government for RCRA fines and penalties may only be used for projects designed to protect the environment, unless a State constitution or existing State statute prohibits such use. While I generally find Federal directives concerning a State's spending to be counterproductive, I think in this case we can all agree that Federal money produced as a result of RCRA violations would be well spent on environmental protection.

It is worth noting that "environmental protection" is a broad phrase that is not defined in this bill. In our discussions with the House we agreed that it includes things like preservation of open space, wetlands protection and the like, in addition to pollution control activities.

In conclusion, Mr. President, I think that the conference committee has approved a worthwhile piece of legislation that hopefully will move the Federal Government closer to what we all want—that is, cleanup of its sites. I congratulate all of the conferees for their diligent efforts in bringing the legislation to this point today. I especially appreciate the leadership of the distinguished majority leader in carefully and patiently working through a series of very thorny issues. I urge my Senate colleagues to approve the conference report.

Thank you, Mr. President.

I wish to say that this is the first conference that our new chairman, Senator MOYNIHAN, presided over and he certainly did sterling work. We went through this conference in record time. Here we have the conference report ready to go.

So I commend our new leader.

Mr. SIMPSON. Mr. President, a number of my colleagues will recall that when this bill was on the Senate floor for debate, I shared the concern that in certain cases, compliance with RCRA, as this bill requires, would cause substantial disruption to Department of Defense activities, or, in certain cases, compliance by the Department of Energy would be impossible.

The Senate bill addressed these specific concerns, and in the House-Senate conference committee, the House ultimately agreed to address the administration's specific concerns. Although the DOD provisions are not ideal, I believe what emerged from the conference was as good as we might reasonably expect. For DOD, the treatment of public vessels, federally owned treatment works, and munitions were of primary concern. For the DOE, the major issue of contention was mixed waste—waste which is both hazardous and radioactive.

I would like to clarify that section 3022(a)(2), pertaining to transfer of waste from one public vessel to another public vessel, is only intended to preclude long-term water-borne storage of waste by successive transfers between public vessels, and that section 3022(a)(2) is not intended to authorize routine inspections of public vessels under RCRA, nor to authorize inspections to verify that no waste held for greater than 90 days is present.

Further it is noted that section 102(c)(3)(B), pertaining to the delay of the effective date of the sovereign immunity waiver for Department of Energy mixed wastes beyond 3 years, is also applicable to all mixed wastes under the joint Department of Energy—Department of Navy efforts conducted under Executive Order 12344 (42 U.S.C. 7158 note).

I am pleased with the compromise which was crafted in conference, and truly feel that a framework for ultimate compliance with RCRA is now possible for Federal facilities.

I wish to thank my colleagues on the conference for working with me to preserve the Small Towns Environmental Planning Program. This was an amendment introduced by Senator JEFFORDS, which will ultimately help small towns with limited resources comply with complex environmental regulations. Small towns across this Nation will benefit from the assistance established by the STEP Program at the Environmental Protection Agency.

Last, during Senate floor debate on this bill Senator MITCHELL offered compromise language regarding the treatment of mixed waste which included commercial generators. Unfortunately, that extension to commercial generators, was inadvertently dropped in the final compromise amendment of mixed waste. The commercial generators of mixed waste face the same problem that the Department of Energy [DOE] faces—the inability to comply with RCRA because neither treatment capacity or disposal facilities exists for commercially generated mixed waste.

The premise of this bill is that Federal facilities should not be exempt from environmental compliance and should be treated equally with all that are required to comply with RCRA. For the sake of equity, since commercial generators face an impossible compliance requirement, fines and penalties under RCRA should be waived until a disposal site is available to receive commercially generated mixed waste.

Since we were not able to include consideration of the commercial generators in the conference report, I would highly encourage the continuance of the low enforcement policy which has been in effect for these commercial generators. I believe that EPA's policy of low enforcement for RCRA storage violations should be continued until such time as a disposal site for commercially generated mixed waste is ready to receive such waste or that a mechanism is established for the DOE to accept commercially generated mixed waste.

Finally I want to commend the new chairman of the Environment Committee, Senator MOYNIHAN for his leadership on this conference report. This is an area which has been of great importance to the majority leader. He has sponsored this bill for several Congresses, and has worked diligently to see it reach fruition. Of course, I also want to thank my ranking member, Senator JOHN CHAFEE for his typical outstanding leadership.

Mr. WARNER. Mr. President, I, too, would like to add my support to this conference report. As in all things, fair and equal treatment will depend ultimately on the interpretation and enforcement of this legislation.

We have tried for equal treatment of Federal facilities as our goal. We hope we have achieved a major first step in that direction.

A number of these issues will require continuing oversight and possibly further legislation.

The mixed waste provisions will not provide the Department of Energy all of the latitude it may have wanted. But, we tried to balance the legislative directives herein with adequate time and coordination to get the process moving.

In the resolution of the Department of Defense concerns, we also tried to level the playing field and not impair military operations.

The federally owned treatment works will get a modified sewage exemption to meet their concerns. Hopefully, all sewage plants will be treated equally in the future.

The conference position on munitions will direct the DOD to work with EPA and concerned States to issue regulations on the definition of when a military munition becomes a hazardous waste. This action should lead the same parties to then resolve differences in approaches on treatment and disposal regulations. We have to find a way for both safety and environmental concerns to be addressed.

On the subject of public vessels, an agreement was reached which will permit public vessels to meet operational needs. Regulatory restrictions will apply once the waste is transferred to the shore. We did not want the same vessels to become floating waste storage sites, so the agreement addresses this concern also.

The entire package was reached with a great deal of effort from both the House and Senate participants, and I thank all of those involved.

The Department of Defense has passed to me a paper on their questions on the meanings and definitions of the conference report provisions. I would like for that attached paper to also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### STATEMENTS NEEDED TO CLARIFY THE FFCA

1. This bill is intended to have no retroactive affect what-so-ever. Fines and penalties can only be assessed on violations occurring after the enactment of the bill. (Concern created by wording ". . . continuing violations . . ." page 1. and all of para. (4) on page. (4) on page 6). This also does not serve as an expansion of authority to bring citizen suits.

2. Violations by Federally Owned Treatment Facilities (FOTWs) are meant to be dealt with in the same way Publicly Owned Treatment Facilities (POTWs) are dealt with—not by removing their exemption from RCRA.

3. A statement to the effect that nothing in this bill would eliminate the possibility that a facility could operate a sewage treatment plant in accordance with RCRA treatment standards including obtaining permits would be very helpful. (The prohibition in subsection (b) is overly and unnecessarily broad. A literal interpretation would prohibit the introduction of hazardous waste even if such introduction was done in accordance with RCRA.)

4. I have no idea how to deal with the fact that it will be impossible for us to comply with para. (b) "Prohibition" on page 26. We will introduce hazardous waste into our treatment facilities—it happens—and it happens in the private sector as well. Its just that we will be OK for a POTW but not and FOTW. Maybe you just need to say that the intent of the legislation is to treat FOTWs just like POTWs.

5. A statement to the effect that the Congress expects EPA and states to allow Federal agencies a reasonable phase-in period before undertaking enforcement action, would be very helpful. (This is necessary since the bill contains no phase in period on FOTWs. Thus as of the date of enactment of the bill, FOTWs will be out of compliance and immediately subject to fines.)

6. Section 3022(a)(2) is only intended to preclude long-term water-borne storage of waste by successive transfers between public vessels. That same section is not intended to authorize routine inspections of public vessels under RCRA, nor to authorize inspections to verify that no waste held for greater than 90 days is present.

7. Section 102(c)(3)(B), pertains to the delay of the effective date of the sovereign immunity waiver for Department of Energy mixed wastes beyond three years. It is equally applicable to Department of Energy/Department of Defense efforts.

8. DOD employees, agents and officers are not liable for administrative and civil penalties under laws while acting within the scope of their official duties, period. (Compare wording at page 2, para. (4) with wording at other places such as page 4, para. (c)(2) which changes effective dates for departments, agencies and instrumentalities of the executive branch but fails to mention employees etc.)

These same people are not subject to criminal enforcement for violations during the three year delay pending the promulgation of mixed waste regulations.

9. The waiver in 6001 is only designed to insure that Federal facilities are subject to state and local sanctions such as civil penalties and to clarify the application of sanctions to federal officers agents and employees.

10. DOD's explosive safety rules must be given precedence while munitions waste are still in explosive form.

11. Nothing in this bill is intended to limit the EPA from issuing or revising regulations already authorized under RCRA. (This is to ensure that EPA will not be later precluded from issuing revised regulations on munitions treatment and disposal matters just because the bill does not address these areas.)

12. DOD will not be compelled to pay the expense of EPA inspections unless OMB certifies that such payment will not violate the augmentation of appropriations principle.

Mr. LAUTENBERG. Mr. President, today we reach agreement on legislation that will assure that States have the same enforcement powers under the Resource Conservation and Recovery Act [RCRA] against Federal facilities that they have for private parties.

We clarify what I believe was the law's original intent that States can impose fines and penalties against Federal installations who violate the law.

We put everyone on notice, whether in business or in the Government that we will not tolerate shoddy hazardous waste practices.

We recognize clearly a simple principle: If your health and environment are being threatened it doesn't matter whether it's a local business or a Federal installation that's causing the problem. What matters is unleashing all necessary enforcement tools against those that violate the law.

Mr. President, as with most legislation, today's conference agreement reflects some compromises. While the agreement contains some provisions that might have been stronger, on the whole, today we take a significant step forward in protecting the environment.

We take this step under the leadership of our distinguished majority leader, Senator MITCHELL, the Senate author of this legislation. As was the case with the clean air amendments, and the oilspill law, Senator MITCHELL has once again led our committee, the Senate, and the Congress toward another significant environmental achievement for the Nation.

Mr. President, I thank and commend Senator MITCHELL for his efforts, and I applaud Senator MOYNIHAN's work in concluding this conference begun under the charge of the late Senator Burdick, who also contributed significantly to this effort.

Mr. MOYNIHAN. Mr. President, if there is no further debate, and no Senator is seeking debate, I urge adoption of the conference report.

The PRESIDING OFFICER. There being no further debate, without objection, the conference report is agreed to.

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

## UNANIMOUS-CONSENT AGREEMENT—S. 5

Mr. MITCHELL. Mr. President, I have a unanimous-consent request which I am advised has been cleared relating to another matter to be voted on tomorrow.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the veto message on S. 5, the family and medical leave bill at 8:45 a.m., Thursday, September 24; that there be 1 hour for debate on the veto message, with the time equally divided and controlled between the two leaders or their designees, that at 9:45 a.m., Thursday without intervening action or debate, the Senate proceed to vote on reconsideration of passage of the bill, notwithstanding the objections of the President to the contrary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware that a vote will occur tomorrow morning at 9:45 a.m. on the consideration of the veto message on S. 5, the family and medical leave bill.

I thank the distinguished managers for their courtesy in allowing us to interrupt the pending bill with the Federal facility compliance bill.

## TAX ENTERPRISE ZONES ACT

The Senate continued with consideration of the bill.

### TIME LIMITATION AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senator PACKWOOD be recognized to offer an amendment to strike the pension provision from the bill; that debate on the Packwood amendment shall be limited to 2 hours equally divided in the usual form; that no amendment to the language proposed to be stricken shall be in order; that no motion to recommit shall be in order; that the Packwood amendment may be withdrawn at any time; no motion to table the amendment shall be in order; and immediately after the disposition of the Packwood amendment that I be recognized as manager of the bill to offer an amendment on behalf of myself and Senator DURENBERGER.

Mr. BRADLEY. Mr. President, reserving my right to object, I wonder if the distinguished chairman would give me 8 to 10 minutes prior to the amendment being offered to make a statement?

Mr. BENTSEN. I have no objection to that.

Mr. METZENBAUM. Mr. President, reserving my right to object, and I do not know whether I will object, would the manager of the bill be good enough to tell me what the Packwood amendment is?

Mr. PACKWOOD. I can explain it.

I am going to offer an amendment to strike the provision of the bill that would allow Federal Express to give a preference pension to its pilots.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, we had a request by the Senator from New Jersey for 10 minutes.

I would ask my colleague if he has any objection to that.

Mr. PACKWOOD. I have no objection.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I thank the distinguished chairman and ranking member of the Committee for allowing me to make these comments.

I believe it is important to reflect on what the last vote meant in the larger context of this bill.

And for my comments, I take as my text a quote from Charles Dickens' "David Copperfield":

> "My other piece of advice, Copperfield," said Mr. Micawber, "* * * Annual income twenty pounds, annual expenditure nineteen, nineteen six, result happiness. Annual income twenty pounds, annual expenditures twenty pound ought and six, result misery."

In other words, looking at this bill makes me think that it is not only "David Copperfield" who needs a lesson on the evils of spending more than you take in.

There are a number of reasons why a Senator might choose to vote against this bill. But today I would just like to talk about just one, and that is its effect on the deficit.

We have a $360 billion deficit. Yet this bill will add $30 billion of tax breaks that no one really believes is going to get the economy going. How could $6 billion a year in tax breaks get a $5 trillion to $6 trillion economy moving?

At the very least, this bill should do no harm to our economy. But to me that means we have to pay for it fully and honestly, without relying on budget tricks; otherwise, the deficit will keep going up and our economy will continue to lag.

Senator DOMENICI and I asked for a study by the GAO on what could be the long-term damage of the deficit on our economy. The GAO reported that if we do not do anything about the deficit, by the year 2020, the deficit could reach 20 percent of our GNP and net annual interest costs could rise to over a trillion dollars.

The flip side of that is also true. We all stand to gain if we reduce the deficit. Compared to doing nothing, we could increase the average American's income by 36 percent by 2020 if we were to balance the budget.

It is a very clear choice for us against which we should measure all of our actions.

But this bill does not reduce the deficit. In fact, the opposite is true. We provide very real tax relief in the bill, nearly $30 billion over the next 5 years and much more over the subsequent 5 years.

The bill also claims to contain $30 billion in tax increases to pay for these tax cuts. But roughly $14 billion of these increases are one-time speed-ups or temporary revenue sources. Another $7.7 billion of the $30 billion comes from extending 2 provisions already in current law. There is no change in current tax liability. Only $9.2 billion of the offsets come from new tax increases which are likely to have significant permanent effect.

The answer given is, well, it meets the budget agreement. Mr. President, we have to stop thinking in terms of only 5 years. The budget agreement should not be an excuse to avoid responsibility for our children's future.

If something is worth doing, then it is worth paying for. But the cost of many provisions of this bill explode in the years outside of the budget window.

I'd like to give three examples: First, the IRA. The original estimate for a full IRA restoration was $30 billion over 5 years. The amended proposal in this bill costs $6.2 billion.

Why is that? Because instead of allowing a deduction when you put money into the IRA account, this bill says you can pay the tax when you put it in, but you can take it out at the other end, whenever that might be, and pay no tax. In other words, the cost of the IRA is not up front when you put it in but 10, 15, 20 years down the road. It does not count in the budget number, but it is a big spending provision.

Then there is the rollover provision. This provision says that if you already have money in an IRA account, you can take it out now and pay tax on the buildup and immediately roll it over—the whole amount, whether it is a $5,000, $10,000, $20,000, $35,000, $40,000, or $50,000—into a "special" IRA. And when you take it out after another 10 years, you pay no tax.

So the 5-year budget window says that this provision shows no increase in the deficit, no significant increase. But in the outyears, it explodes. And you begin to see that as the cost of the IRA provision increases, so that in year 5 it is nearly $5 billion a year.

Where is this going to end, Mr. President?

Another provision is the so-called intangibles legislation. This legislation includes a retroactive election that allows companies to purchase tax amnesty if they give back 25 percent of their claims of intangible deductions now. This conveniently raises money in the first couple of years. But the cost of allowing a much broader category of assets to be amortized comes primarily outside the 5-year budget span. In other words, the deficit explodes.

Then there is the amendment we just passed, section 29. This is another extension for only 8 months, which doesn't seem like much. They say it will cost $900 million over 5 years; but over the next 5 years, it will cost an additional $2 billion to $3 billion. The deficit explodes in the outyears. First 5 years, OK. In the outyears, explodes.

Yet the proponents of the bill claim that under the terms of the budget agreement the bill pays for itself. I wonder how many people realize just how artificial a world we live in under this budget agreement?

The proponents are able to make this claim only through the accounting trick of counting as new revenue the extension of the personal exemption and itemized deduction limitations that we passed in 1990. In other words, what we passed in 1990 was due to expire in the next year or 2. It raised money. Because we extend those provisions in this bill we count that as new tax revenue.

I would like to show you how ludicrous this is. We could say that the whole Tax Code would expire in 4 years, and in year 5, if we simply extended the Tax Code, we would have raised, under the budget agreement, another $700 billion.

So Mr. President, I believe that we are going to be working with a new administration next year. It is my sincere hope that this will be the spark this institution needs to face up to the challenges of the post-cold war world. I hope it will be the opportunity for us to look at what we do here not only in terms of 5-year segments, but in terms of the costs that we are putting on the backs of our children.

I had to rise to make these comments because the amendment that just passed is yet another example of not fully accounting for costs that explode and deficit increases in the outyears.

My hope is sooner or later we will be able to give an honest accounting to the American people about what we spend both through appropriations and through the Tax Code.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Oregon.

AMENDMENT NO. 3159

(Purpose: To strike the provision relating to pension plans covering pilots)

Mr. PACKWOOD. Mr. President, through a unanimous consent agreement I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for himself, Mr. RIEGLE, and Mr. INOUYE, proposes an amendment numbered 3159.

On page 1095, beginning with line 4, strike all through line 25.

Mr. PACKWOOD. Mr. President, this is a very simple amendment. I know frequently Senators who propose amendments will say that because the Senator knows it very well. However, it does not seem simple to anyone else who is not as well versed on the subject matter. But this amendment genuinely is simple. We are being asked on this tax bill to solve a labor relations fight between Federal Express and the Airline Pilots Association.

Here is what happened. In 1991, there was an organizing vote at Federal Express. Federal Express is a nonunion shop. The airline pilots were trying to organize the Federal Express pilots. It was a very close vote. Out of 2,279 pilots, 1,112 were for the union, 1,139 against the union, and 28 for another union. So if you added the two unions together you actually had a 1 vote majority for union. It just happened to be two different unions. To prevail, 50 percent plus 1 must vote for a single bargaining agent.

That was a close scare, I understand, for Federal Express. And they would prefer not to go through that again. They have told their pilots that there is no need to become a collective bargaining group if Federal Express can change the pension rules to allow them to offer to their pilots the same kind of pensions that the pilots that work for other airlines with a unionized work force have.

Federal Express cannot do that under the present law, however, for a very valid reason. Present pension law says that employers can not discriminate in favor of certain employees in the offering of pension benefits. Employers are allowed to give some additional benefits toward higher paid employees based upon compensation, age, or length of service, but there are very definite rules. These rules, very frankly, prohibit the employer from providing highly paid employees extraordinary pension plans while denying such benefits to the rest of their employees.

If, on the other hand, you are a union employer, if you are organized, then the Tax Code and ERISA provide that nondiscrimination rules are not necessary. The theory is that the union will watch out for the members. They do not need to be protected against the possibility of the employer discriminating in favor of the highly paid employees.

Now let's examine the current situation. Federal Express is nonunion. Therefore, they cannot offer an overly generous pension plan to their pilots if it could violate the pension nondiscrimination laws because the company did not offer similar pension benefits to their machinists or to their ground personnel or to whomever else may work for them. They are prohibited from discriminating in favor of a certain class of employees.

If the provision in the bill that I am trying to strike remains in the bill, then Federal Express will be able to offer to its pilots—and this is a rifle shot—a very generous pension plan. Federal Express regards this provision as a very good bargaining tool against union efforts to organize them.

I emphasize again, it was a close vote. The union was turned down by a very, very slim margin. It is on appeal before the National Mediation Board. I do not know how the appeal is going to come out.

However, on this tax bill, we are being asked to settle a labor relations dispute. This is not a tax matter. No matter how we cut it and shave it, trim it and twist it, it is not a tax matter. It is a straight out collective bargaining matter between Federal Express and the Airline Pilots. The Airline Pilots are simply asking that the law remain as it is and that Federal Express, and frankly a very few other very small nonunion airlines, not be given a particular advantage in terms of their highly paid employees that would not be given to any other highly paid employees at any other nonunion business.

That is the issue in a nutshell. Do we want to, on a tax bill, solve a labor relations fight that is still in the appeal process under the guise of calling it an amendment to the Tax Code? I think it is none of our business. I think it is a shame to put this on a tax bill. I understand the motives of Federal Express. I cannot say I sympathize with them, but I understand their position.

They do not want to go through another election. They do not want to become unionized. They do not want to run the risk the union might win. They think with this amendment they will have the tool they need to defeat the union.

So I simply say to my colleagues, those who think it is unfair to give Federal Express and another few very small airlines a unique bargaining tool to oppose union organizing. No other nonunion employers have a similar rule. Those who think it is an unfair provision, or wrong to include on a tax bill legislation which will change the ground rules in labor relations in the midst of a dispute, should vote with me.

With that I will yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I yield such time as the Senator from Arkansas requires.

Mr. PRYOR. May I have 12 minutes?

Mr. BENTSEN. I yield 15 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas, Mr. PRYOR, is recognized for 15 minutes.

Mr. PRYOR. Mr. President, this afternoon I rise to oppose the amendment offered by my very distinguished colleague from Oregon to strike the special rule for plans covering pilots, which is included in the pension simplification section of the bill reported by the Finance Committee.

I also rise to explain this provision, why it is important, and why it should be kept in the bill. This provision, as it presently rests in the Finance Committee bill, addresses pension plans for airline pilots. It is included in the pension simplification title of the bill, which I had a great deal to do in authoring, along with and certainly taking the advice and counsel from the distinguished chairman, Senator BENTSEN.

The goal of pension simplification is to simplify and to address confusing and complex rules that cannot be explained simply or rationally in terms of tax policy and to make certain that the pension tax rules operate fairly. There is a rule in the current Tax Code that has been there for 18 years. It is an irony; it is an anomaly; it should not be in the code. It allows some airline pilots to have pension plans that are especially tailored to their unique occupational needs while excluding this special treatment to others. The special treatment given to some pilots is to allow them to have separate pension plans for purposes of nondiscrimination testing.

The reason for this special rule in current tax law is that pilots must retire many times at a younger age than many other occupations. They are subject to stringent, periodic physical exams that they must pass to keep their jobs. If their eyesight fails, they must retire. If they have a heart attack, in all probability they must retire. These along with other particular illnesses will force the early retirement of an airline pilot.

As an aside, I might mention, Mr. President, the pilots are not the only occupation that have special rules included in the existing pension tax laws. We have special rules for firefighters, we have special rules for police, we have special rules for church workers, and we have special rules for health care workers. These are among other occupations singled out under the tax laws governing pensions. But there is something very peculiar, very special, I might add, about the existing law that we have had for 17 years that applies to airline pilots. It applies only to pilots represented by a labor union.

I have not heard one rational explanation why this separate plan treatment should be limited only to union pilots. There is no difference between a union pilot and a nonunion pilot, especially in consideration of their plans for retirement or their hopes to have a good retirement income when they retire.

Nonunion pilots must pass the same physical exams as union pilots to get the jobs. Nonunion pilots, like union pilots, must retire many times at an early age. One argument expressed is that Government should not intervene in a collective bargaining process. Mr. President, we are not intervening in a collective bargaining process. I submit that the Government itself—our government—17 years ago interjected itself in this process when it originally enacted the present provision which discriminates in favor of union airline pilots. It is not fair. It should be taken out. It should be simplified. And that is exactly why the Finance Committee put this provision in this bill.

This is not the first time that this measure has passed this body, Mr. President. In March, it was in the tax bill that was vetoed by the President. My friend from Oregon at that time, to the best of my knowledge, raised no objection to the Senate passing this bill and sending it ultimately to the President's desk.

The pilot provision of the bill merely treats all pilots the same, union or nonunion.

Senator PACKWOOD now wants to delete this provision from the bill. He wants the pilot pension to continue to apply to only union pilots. That, Mr. President, is not fair.

Let me also say that this is not an issue of Federal Express versus the Airline Pilots Association. I have a list I think of some 15 or 20 airlines that fall under this provision that have pilots flying for these particular airlines. Many are feeder airlines, some are national airlines. But these airline pilots want to end the discrimination against them that is in the law today and that has been there for some 18 years.

This provision should stay in the bill because it makes the law more simple, but it treats all pilots equally and all pilots fairly.

Mr. President, once again, my good friend from Oregon has labeled this a Federal Express issue. It is not a Federal Express issue. This is not a case of being for the unions or against the unions. This is for the proposition that if you believe that all pilots, union or nonunion, should be treated equally, then we hope the Senator's amendment, in which he attempts to strike this provision from the Finance Committee legislation will be defeated.

Finally, Mr. President, I believe all of us agree that it is an inherent and basic right for an employee or an airline pilot, in this case, to choose whether or not they desire to be represented by a labor union, and that is an important and critical choice that none of us desire to destroy or interfere with. But, at the same time, I believe and I think many of my colleagues believe that in the Federal tax laws, we have no business taxing one set of pilots one way and another set of pilots another way, depending on whether they choose to be represented by a labor union. That is exactly what current law does. This is exactly what we are trying to do, to make this law equally apply across the board to all pilots, whether they choose to be in a union or not.

Mr. President, do I have any remaining time?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. PRYOR. Mr. President, I notice the distinguished chairman of the committee on his feet. May I at this time reserve the remainder of my time and yield the floor to my colleague from Texas?

The PRESIDING OFFICER. If the manager of the bill has no objection.

Mr. BENTSEN. The manager of the bill has no objection to that kind of reservation. I would have validated it to him forthwith anyhow.

Mr. President, I would like to intervene to establish some sequence of the offering of amendments so that Senators can better plan. The Senator from New Hampshire has been around a good part of the day hoping to be able to offer an amendment. That was not possible, and I advised him of the sequence as we had it at that point.

I now ask unanimous consent that on disposition of the Bentsen-Durenberger amendment, when that comes up, that the Senator from New Hampshire [Mr. SMITH] be recognized to offer an amendment; provided that the Senator from New Hampshire is not present at that time, another Senator be recognized to offer an amendment with the rights of the Senator from New Hampshire to reoccur following the disposition of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I yield the floor. How much time does the Senator desire?

Mr. SASSER. Will the distinguished chairman yield 8 minutes?

Mr. BENTSEN. I will be delighted to yield 8 minutes to the distinguished Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished chairman of the full committee, Senator BENTSEN, for yielding to me on this very vital issue.

I rise to oppose the amendment offered by the distinguished Senator from Oregon. I oppose the amendment of the Senator from Oregon for one simple reason: I believe that if his amendment were to prevail that this would perpetuate what I perceive to be a discrimination against a class of employees in the airline industry.

Lest there be any misunderstanding about my views with regard to the airline pilots union and the right of airline pilots to join together to bargain collectively, let me just say that when the Continental strike came along, when the airline pilots struck Continental Airlines, I refused to cross their picket line to fly on Continental Airlines. As a result of that refusal to cross the picket line of the Continental pilots who were striking, I was forced to stay overnight one evening involuntarily in Houston, TX. But I preferred to spend the night there than to cross the line of those airline pilots who were striking in what I thought was a just cause to protect their jobs and their job security and their benefits.

I took the same position when the Airline Pilots Association struck Eastern Airlines. I refused to fly on Eastern Airlines and was forced to make a number of detours in my travel plans around the country because I did not think it was proper to cross this picket line that had been erected by loyal, hardworking, dedicated Eastern Airlines pilots who were seeking to safeguard their jobs, their benefits, and their job security. Indeed, I joined with many of my colleagues on the floor of the U.S. Senate in seeking to provide for arbitration, compulsory arbitration in the dispute between Eastern Airlines and the owners of that airline in an effort to save the airline and the jobs of the airline pilots and the other employees of Eastern Airlines.

We were unsuccessful and Eastern Airlines is no more, and tens of thousands of people have lost their jobs.

But in this particular instance, Mr. President, to me it does not seem fair nor equitable that there should be one particular pension law that applies to pilots who have organized themselves so that they might bargain collectively through their union and other pilots who chose not to do so.

The rationale for this particular provision in the pension simplification title of the bill, the whole rationalization for having a special pension treatment for airline pilots is that they have a limited career span. Airline pilots are required by law to retire earlier than others. Airline pilots are required by law to meet certain rigid and stringent health and other criteria. And airline pilots have to retire at younger ages than those in other occupations. That is the rationale for the special treatment given to airline pilots in the pension proposals that are presently in the law.

Now, I ask my colleagues, what is the rationale for giving one airline pilot, who happens to have joined a union to organize collectively for his wage and benefits, why should the U.S. Government give that airline pilot special treatment while denying it to another airline pilot simply because that airline pilot or his colleagues may not have chosen to organize collectively to bargain for wages and benefits?

That defeats the whole rationale, the whole reason for being behind a special pension provision in the law for airline pilots.

It is not just airline pilots who have this special provision. There are other specialized pension plans for those who are firefighters, as I understand it, or a whole host of other provisions, because there are special requirements in a particular occupation.

So the qualification for special treatment under the pension laws, it appears to me, ought to be based on the requirements of the particular profession, not on whether or not one has organized with his or her colleagues to bargain collectively with their employer.

Now, I certainly do not want my objection to the provision of the Senator from Oregon to be interpreted as being in opposition to the Airline Pilots Association. I do not view it in that way. I view it in terms of trying to get equal treatment for all individuals who choose as their occupation to be airline pilots.

It appears to me that if we do not apply these pension provisions uniformly, we are discriminating against these two categories of airline pilots.

I have not practiced law now for many, many years and my constitutional law from law school is becoming dim, Mr. President. I must say I regret to say that it has been over 30 years since I studied constitutional law in law school. But it appears to me that a case could be made that those airline pilots who do not have access to this special pension provision—will the distinguished chairman yield me an additional 1 minute?

Mr. BENTSEN. I will be delighted to yield an additional 3 minutes to the Senator from Tennessee.

Mr. SASSER. I thank the Senator.

But it appears to me that if we are going to deny airline pilots who operate under the identical requirements of their occupation the same treatment with regard to their pensions under the laws of the United States, that would amount to a denial of equal treatment of the law to these particular individuals who are not allowed this special pension treatment.

So I simply rest my case, Mr. President, on the question of what appears to me to be simple equity and simple justice in this particular instance.

Now, there are many regional airlines, the pilots of which, for one reason or another, have chosen not to organize together to bargain collectively. That is their decision to make. I suspect, if I were an airline pilot, I would have made a different decision, but they have made that decision. And we know offhand of at least a dozen such regional airlines. Even in the State of my friend from Oregon, Evergreen Airlines has 380 pilots who have chosen not to be represented by a union. They may be right; they may be wrong in that instance, but I do not think those particular pilots ought to be denied the special pension provisions their colleagues in other airlines have who have chosen to be represented by a union.

I do not believe the Federal Express pilots who operate out of my State ought to be discriminated against in this manner simply because at this particular time in their work history they have not chosen to organize to bargain collectively for wages and benefits flowing from their occupation.

So I simply say, Mr. President, it appears to me that this is a matter of simple equity, a matter of simple justice, and if we do not treat both categories of airline pilots equally, then we are discriminating against one set of airline pilots and discriminating against them in such a way that it inures to their substantial detriment with regard to their working conditions and the benefits that will flow to them when they retire or when they reach a mandated retirement age.

Mr. President, I thank the distinguished chairman of the committee for yielding me time to speak on this issue today.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

Mr. PACKWOOD. I yield to the Senator from Massachusetts—how much time?

Mr. KENNEDY. Ten minutes.

Mr. PACKWOOD. Ten minutes.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I want to express my agreement with the position of Senator PACKWOOD. I oppose this provision for two reasons. It requires Congress to intervene on behalf of an employer in a private union organizing campaign, and it undermines the basic principle of Federal pension policy.

For 18 years, the minimum coverage rules of ERISA have prevented companies from taking unfair advantage of tax incentives enacted to encourage the establishment of private pension plans for the benefit of workers in all income levels. The minimum coverage rules are designed to prevent companies from setting up plans that benefit the owners and managers of the company but exclude rank-and-file employees.

In order to take advantage of the significant tax deduction and tax deferral advantages provided under the tax code for pension plan contributions, either the pension plan must cover a specified percentage of employees, or it must cover a class of employees that does not discriminate in favor of officers, stockholders, or highly paid employees.

Highly paid employees are included in that group because it is presumed that the most highly paid employees are likely to be part of management and therefor part of the group that has control over the terms of the plan.

The minimum coverage rules do, however, allow a limited exemption for collectively bargained plans covering airline pilots.

This exemption reflects Congress' recognition that although unionized airline pilots may technically fall within the definition of highly compensated employees, they are not part of the management group and should be free, like any other group of employees, to use the collective bargaining process to negotiate the terms of their own retirement plans.

The exemption is limited to pilot pension plans established through collective bargaining. When a plan has been established through arms-length, bona fide collective bargaining, this assures that the beneficiaries of the plan are truly employees and not part of management. Second, it assures that the plan has truly been established for the benefit of the employees, and not merely to serve some management interest.

The measure now before us would undermine that principle of nondiscrimination by extending the exemption to plans that are not established through collective bargaining. In other words, the decision whether to provide special benefits for this particular group of highly paid employees would not be made through a mutual process where employees and management are negotiating over the terms of the employees' compensation package. Instead, it would be made unilaterally at the whim of the employer.

Make no mistake about it. This provision is not in this tax bill for the benefit of the employees who would be affected by it. It is there for the benefit of their employer.

After 18 years, this employer has suddenly developed an interest in sweetening the pension benefits for its pilots. The employer, not the pilots themselves, has brought this newfound concern to the attention of the Congress. The reason is clear. Pension benefits for pilots have become an issue in a union organizing campaign, and the company wants Congress to change the law to help it prevent that campaign from succeeding.

It is wrong for the Congress to allow itself to be used as a pawn in a company's strategy to block a union organizing campaign. It is wrong for Congress to allow the interests of that company to be the occasion for a change in the Federal pension laws which undermines the basic principle of nondiscrimination.

Mr. President, I urge my colleagues to join me in opposing this ill-conceived provision.

Mr. President, the fact of the matter is that companies that establish pension programs have a variety of different tax incentives and tax advantages that are available to those companies. The reason those provisions are included in the tax code is to encourage the development of pension programs that will benefit employees by enhancing their retirement security. We provide these tax incentives so that companies will be encouraged to establish pension plans for the benefit of their employees.

Here we have a situation where a company is seeking special legislation amending the pension laws not because it has some special concern for the interests of its employees but to further its own corporate interests. They are looking at the tax benefits which the Federal Government is providing. And they are looking at how this legislation is going to help the company defeat a union organizing campaign.

If Federal Express, the company that is lobbying for this provision, is really concerned about improving retirement benefits for its employees, then why did they not go ahead and extend and sweeten the pension package, for all the people that work for Federal Express which they could do at any time without this change they are seeking in the law. If they are so interested in improving retirement benefits, why are they not looking after the benefits for the clerks that are working for Federal Express? And the drivers and all the other employees? They could have done that. They could have increased benefits for all the employees, including the lower paid employees. But they are looking at one selected group of employees, and how it will benefit the corporation—not the employees—if Congress will give them an exemption from the existing law that will let them improve the benefits for this one group of employees and not have to do the same for other employees, as existing law would require.

These nondiscrimination rules have been in effect 18 years, and now we are especially legislating an exemption for one particular company.

Who is lobbying for this exemption? It's not the employees of Federal Express who are lobbying for it. It is Federal Express. It is the company. They know why they are lobbying. It is for management's interests, not the employees' interests.

So, Mr. President, if we are trying to enact a tax law that is not going to be for special interests, we certainly should favorably act on the amendment of the Senator from Oregon.

I yield.

Mr. PACKWOOD. Mr. President, I give myself such time as I need.

I would like to respond to my good friend from Tennessee, who I think has the matter confused. He says it is unfair for us to differentiate between union and nonunion pilots. I want to say that if my amendment is not passed what we are going to do is give a better deal to one group of nonunion employees, pilots, nonunion pilots, from all other nonunion professionals.

I want to repeat once more what the law is and why it is this way. There is a certain feeling that if a company is organized, unionized, the union will bargain for the benefit of the employees. Therefore, there is no need to protect the employee from employers who might discriminate against some employees. They figure the union will take care of that.

By and large it has worked out that way. But the law says that if you are not unionized—it does not matter if you are Federal Express or any other company—then you cannot discriminate in favor of certain employees when offering pensions. That is discriminatory, and the law delineates what that is. These rules apply to all nonunion employees of employers.

At the moment, Federal Express, under the existing law, cannot give its pilots, or any other highly paid employees that they have, and my hunch is they probably have some engineers, and doctors, perhaps some other medical people, and lawyers on this payroll—they cannot give them any special pension benefits.

This amendment will say as far as the engineers, the lawyers, the doctors, the dentists, veterinarians, architects, we are going to leave the law just as it is. The nonunion employer will still have to meet the nondiscrimination rules as far as their pension benefits are concerned. But for the nonunion pilots, only this profession, we will make an exception.

So my good friend from Tennessee talks about uniformity, the uniformity is: Are we going to treat all nonunion employees the same? If you happen to be a unionized employer, you are all treated one way. If you are not unionized, you may all be treated another way, but you must treat all employees the same way. That is the uniformity.

Let us also be clear about who we are talking about. I have no quarrel with Federal Express. I think they do a whale of a job. I understand why they want this provision in the bill. But other airlines were mentioned. One in

Oregon, Evergreen. I know they contacted me. They are not going to live or die for this amendment. They are not worried about unionized, and they do not intend to offer their pilots any greater pension benefits than they are not providing.

Let me list some of them.

Argo Air, Air Nevada, Arrow Air, Atlantic, Britt, Buffalo, Chaparral—unionized, it should not be on the list; Chautauqua, Christman, Express One, Independent, Orion—Teamsters have Orion, they should not be on the list either; Skyworld, Sun Country, Zantop International. None of these airlines are large enough to worry about how lavish a pension plan they can offer their pilots.

They are not going to carve out a special pension provision for their pilots in order to keep the airline pilots from possibly winning an organizing election.

So the question, Mr. President, is this: Are we going to treat nonunion employees who are pilots differently than we treat any other nonunion employee, even if they work for the same company? Are we going to carve out a special niche in the pension laws just for nonunion pilots?

Mr. SASSER. Will the Senator yield for a question at that juncture?

Mr. PACKWOOD. Not quite yet. There may come a time when we want to debate the pension laws, and say they are wrong—they have been on the books 18 years in terms of ERISA—and that we ought to change things.

That is a fair debate. But let us not be confused about are we going to somehow, if we keep this amendment in the bill, create uniformity among nonunion employees. We are not. We are going to leave all of the other employees exactly the way they are treated now, and we are going to carve out an exception for the nonunion pilots at Federal Express and that will be the nonuniformity. I am happy to yield for a question.

Mr. SASSER. The question I wish to address to my friend from Oregon is: Are we talking here about a classification of employees? Is not the rationale for this particular provision in the pension law simply that airline pilots are a special class of employees who are subjected to special stringent requirements, who are required by law to retire at an early age, and this does not apply to the accountants, the agents, the ticket sellers, or the lawyers for the airline? They can continue to work beyond this particular period.

Mr. PACKWOOD. The Senator is absolutely right. We apply it in a variety of areas, not just labor relations. We require it in a variety of areas for pilots, and we do not require it of lawyers or dentists, as far as I know. But that is not the issue. The issue is, are you going to say that as far as pensions are concerned, for one particular group of employees that we are going to treat you differently.

That is an argument that we might have at another time, a debate we might want to have on the floor. We might want to say, listen, the day when the nonunionized employee protection is gone, henceforth, we will no longer have to have the differentiation in rules. But we have them at the moment. In that case, I am hard pressed to understand why—it is really to solve the labor relations dispute. Otherwise, we would not have this dispute before us right now.

Mr. SASSER. If my friend will yield for one additional question, I am under the impression, I say to my friend from Oregon, that there is a special provision in the pension law for police persons, firefighters, and health workers, because these are special occupations. In the case of policemen and firefighters, and perhaps health workers—certainly the case with police and firefighters—these are supposed to be hazardous occupations, so there is a particular pension provision for these employees.

Is there discrimination in these particular pension provisions, as between employees who choose to bargain collectively and select an agent to do that, from employees who do not?

Mr. PACKWOOD. When we talk about health workers, policemen, and firemen, they are indeed singled out. But they are not highly paid. Firefighters and policemen do not get a great deal of money. The reason for this protection in the law is to keep employers from discriminating in favor of highly paid employees.

If you want to make an argument that a policeman or fireman is highly paid, you are welcome to make that argument. I have yet to talk to a policeman or fireman who would agree with you.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I thank the Senator for yielding. I commend the Senator from Texas, chairman of the Finance Committee, for what he and the committee have done here. They obviously gave serious thought to this issue to include the provision in the bill that is before us under the pension simplification title of the bill.

I want to rebut, or attempt to rebut, a couple of things I have heard said here. First of all, I emphasize that, in my opinion, this is not a labor law issue. This is not a special interest issue. This is a pension law issue. I think this is a question of basic fairness.

As far as the argument that it only applies to very small airlines, I am sure they would not appreciate being referred to as small or insignificant. I understand there is a list of 27 or 28 of them, and some of them are certainly large airlines. I see at least three or four on the list that are a very good size national or regional airline. Regardless of the size, it seems to me that this is a question of just basic fairness. So I speak in opposition to the amendment that has been offered by the distinguished Senator from Oregon, and I think we should not strike the pilots pension provision from the bill.

This provision addresses pension plans, and there has been inequity, in my opinion, for quite some time. This is a simplification that tries to address a very confusing and complex set of rules. Most Senators hesitate to tread off into this water, because this is something the Finance Committee works on day in and day out. But, to me, this is a question of simplification and fairness in the Tax Code.

There is an existing rule in the Tax Code that allows commercial airline pilots to have their pension plans specifically tailored to their occupational needs. It has been referred to. That is done, and it is not because they should have a special arrangement, except for the fact that they do have more stringent requirements. For example, they are required to retire earlier, as the Senator from Tennessee mentioned.

For those reasons, I think it makes sense that we have this rule in the law. It does apply, to varying degrees, to other groups like police and firefighters, church workers, and health groups. They are not the only ones singled out. But there is something strange and confusing about the existing law applying to pilots. That is, that it only applies to pilots represented by a union.

I have heard nobody give a rational explanation as to why this separate plan treatment should be limited to union pilots. So this tax bill contains a simple provision to eliminate the confusion by applying the existing rules across the board to all pilots, whether they are represented by a union or not.

Senator PACKWOOD wants to delete this and wants the pilots pension plan rule to apply only to union pilots. I think that is fundamentally wrong. This provision should stay in the bill. I think we all agree that employees' rights to choose whether or not to be represented by a union is an important personal choice, and that right to make that choice should be vigorously protected by our labor laws.

My father was a shipyard worker, a pipefitter, a union member. I grew up in my childhood living in the home of a union family. So I feel very strongly about protecting union rights, and about protecting the labor laws. I also want those laws to be fair across the board. I would have great difficulty explaining why one set of pilots should be treated one way, and the others that choose not to be in the union should be treated differently.

The provision of the bill does not do a single thing to hurt union pilots; it does not take anything away from them. They can continue to have these special pension plans. This provision merely says that nonunion pilots, in more than one company—I emphasize that; it is not just Federal Express and perhaps some others in the future not on this list—all pilots would be treated the same way under the tax laws as they apply to their pensions. It is the fair thing to do.

I urge my colleagues not to knock this provision out of the bill that now exists. Let us have fundamental fairness here in pension law, and not try to turn this into a union contest or a labor law issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield such time as the Senator from Arkansas requests.

Mr. PRYOR. I think I have 6 minutes.

Mr. BENTSEN. Then I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. I thank the distinguished chairman for allowing me this opportunity to speak once again on this. I think two or three points have been brought up this afternoon, Mr. President, during the debate on this pilot's pension provision, and I would like to talk about it just for a moment.

One, our good friend from Oregon, Senator PACKWOOD, has stated a couple times during this debate this afternoon and I think I am quoting him correctly, "We are being asked to settle a labor dispute."

Mr. President, that is not the case. That is not the intent, nor is it the case, nor is it the fact of the matter, as it is based upon the language that is now included in the Finance Committee bill, H.R. 11, which has twice passed the House of Representatives, and which has passed the Senate last March. Moreover, it is not correct that we are attempting to move into a labor dispute nor to settle a labor dispute. In fact, if Senator PACKWOOD's amendment is defeated and if the Finance Committee language remains in the legislation in H.R. 11, Mr. President, there is not one union airline pilots' pension that is going to be affected. No pilots' pension plan will be affected one way or the other.

What will be affected are those individual pilots who work for several airline companies, large and small, across this great land of ours, those individual pilots who have chosen at least for the present time not to be represented by a labor union. Their opportunities will be the same as those pilots who have chosen a union to represent them.

Mr. President, a big issue has been made once again of Federal Express. This is not a Federal Express amendment. Federal Express will not get one more tax break under the Finance Committee's language. My good friend from Massachusetts, Senator KENNEDY, talked about all of the tax breaks that the airline companies were going to be receiving if Senator PACKWOOD's amendment did not prevail.

Mr. President, in all due respect to my colleague from Massachusetts, that is not the case. Not one airline company is going to get an additional tax break if the Packwood amendment is agreed to or is not agreed to.

This is not a company issue. It is not Federal Express versus American Airlines. It is not a small airline, Air Nevada or America West versus Eastern Airlines or what used to be Eastern Airlines or Continental Airlines or Northwest Airlines. None of these airlines are going to be affected. This only affects the pilots themselves. This affects their individual pension plans that they are paying into and some have been paying into for a number of years.

We also see further proof of this when we see this particular proposal embody in the pension simplification section of H.R. 11, this proposal is virtually revenue neutral. I repeat that: Revenue neutral, Mr. President.

If all these companies were going to be in here gobbling up new tax breaks, if the Packwood provision goes down and the Finance Committee language stays in the bill, then what we would see is a drain on the revenues of the Federal Government. It is revenue neutral. There are no additional tax breaks to be considered by the particular measure that is before the U.S. Senate at this time.

So once again, we are not looking at a company issue. We are looking at a people's issue. We are looking at the relationship that the pilots have with themselves and the Internal Revenue Service. That is what we are looking at. And we are saying that we believe that a nonunion pilot, whether he works for a very small airline or a very large airline, should simply have the same benefits to a retirement program that those pilots who belong to a labor union have.

It is not about a labor-management issue. It is a tax issue. It is an issue once again of that airline pilot with the Internal Revenue Service and his own or her own individual retirement plan. It is a tax proposal. It is a tax issue. It is not a labor law provision. It is not to settle a dispute. And the enactment of this provision will have absolutely no effect on how the National Mediation Board or the courts or anyone else has ruled in the past or will rule in the future with regard to disputed union elections.

The PRESIDING OFFICER. (Mr. CONRAD). The Senator has used the 6 minutes allotted to him.

Mr. PRYOR. Mr. President, I yield myself 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, third, the enactment of this provision is going to have absolutely no effect, none whatsoever, on the pilot's right to vote for a union representation now or in the future.

Fourth, all this provision does that we have in this measure today, which Senator PACKWOOD is trying to strike out, is to make a tax law fair by having a pension rule that applies uniformly to all pilots regardless of their union affiliation.

That is all it does. Someone has brought up the issue I think of special interest. The special interest issue, in all due respect, should have been raised 17 years ago when this provision was placed into the Tax Code, when it presented an unfair advantage for those pilots who choose not to be represented by labor union. That is what this is about.

So, Mr. President, I truly hope that we are going to defeat the amendment offered by our good friend from Oregon, that we are going to maintain and retain the language as passed out of the Finance Committee, as already passed by this Senate back in March, and passed by the other body. I hope that we will bring equity and justice and fairness to the issue. It is not a company issue. It is not an issue of further tax break. It is a people's issue. It is a pilot's issue and his or her relationship with his or her own pension plan.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. How much time is remaining for the opponents of the amendment and the proponents?

The PRESIDING OFFICER. The opponents have 25 minutes and the proponents have 39 minutes.

Mr. SASSER. Mr. President, will the Senator be kind enough to yield me 5 minutes?

Mr. PRYOR. Mr. President, do I have remaining time on the additional 5 minutes I granted myself?

The PRESIDING OFFICER. The Senator has a minute and a half remaining.

Mr. PRYOR. Mr. President, I reserve the remainder of my time and am glad to yield the floor at this time.

Mr. SASSER. Mr. President, the Senator from Arkansas I think makes a very cogent point. This provision that is before us today will have absolutely no effect on the pension of those airline pilots who already have access to these special dispensations under the pension law. What we are discussing today are the rights of those airline pilots who do not have access to these special provisions under the law relating to their pensions. This is not a matter of labor law or labor relations.

Mr. President, this is purely and simply a tax matter. That is why it is moving today on what is essentially a tax bill.

The Congress made the determination 18 years ago that airline pilots should have access to special pension provisions. The rational underlying this special treatment was that airline pilots have to retire at an early age, they are subject to very stringent health requirements, and they are subject to periodic medical examinations. Should they fail those examinations they would be forced to retire and, as a result of these special occupational requirements, they ought to be entitled to a special pension package or special pension dispensation. Congress made that decision 18 years ago that airline pilots should be treated differently than the general class of employees, except airline pilots who were not in unions did not get this special treatment.

The public policy underlying the legislation, I assume, 18 years ago was that because of the special requirements of an airline pilot and the special laws governing the fact they had to retire at a set age, an early age, they ought to get special treatment. And there was, I judge, some revenue loss or some revenue consequences attendant to that.

Now, how can we come along and justify a fact that we are going to give certain pension treatment to a certain class of airline pilots but not to another class of airline pilots? Where is the equity or the fairness in that?

Let us take an airline pilot who is a captain, who has been flying for 15 year, has many hours in the cockpit of a Boeing 727, an experienced, able, competent individual, and simply because he works for a company in which the majority of the pilots have chosen to unionize, this individual has access to this special pension treatment under the laws of the United States.

Then we have another airline pilot in the left front seat of a Boeing 727 that has been flying the same number of years, the same number of hours, has the same level of competence. He or she does not have access to these special provisions affecting pensions under the laws of the United States simply because the majority of his or her colleagues might have decided they did not want to band together to bargain collectively through a union. Even though this pilot might have voted in favor of a union, he is denied those special benefits.

Now, I ask my colleagues: Where is the equity and fairness in that and where is the rationale?

There is a logic for giving airline pilots, as a class, special treatment under the pension laws of the United States. But where is the logic, then, to come and discriminate among airline pilots as a class based on whether or not the majority of the individuals in this company, not what that individual did, but whether or not the majority of the individuals in their company chose to band together to bargain collectively for their wages and benefits through a union? It defies logic. It discriminates against the captain of the 727 who is not a member of a union.

I do not think that is what Congress ever intended in the beginning. I do not think, in the tax law, Congress ever meant to discriminate in favor of those who joined the union or those who did not join the union.

The tax law in this instance ought to be based on selecting out an occupation, a class of workers, who, because of their work environment and the requirements of their work and the legal requirements, get different treatment under the pension laws of the United States. That is what it is all about.

It appears to me that is just the rationale. It really has nothing to do and ought to have nothing to do with whether or not it is union or unionized. It ought to have nothing to do with labor disputes or labor relations. That is something that ought to come under the labor laws of the United States, not the tax laws.

As I said earlier, I have supported and will continue to support, members of the Airline Pilots Association in their endeavors when they bargain collectively with their employers. I have great sympathy for them as a class, because they are highly skilled. They are highly competent. They have the responsibility for multiples of millions of dollars of lives, tens of millions of lives, really, as they fly back and forth across this country through all weather conditions. And, certainly, I think they ought to be more than adequately compensated.

I do not want a pilot in the left front seat or the right front seat of a cockpit of an airline I am flying in worried about how he is going to pay the water bill this month or how he is going to meet the car payment. I want him or her to be focusing on flying that airplane.

But when all is said and done, it simply is illogical and it is inequitable to have this different treatment of airline pilots with the same or similar experience or competence, simply because the majority of one's coworkers decided to join a union and the majority of the other's coworkers did not.

I rest my case on that simple proposition, Mr. President.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR) The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank my friend from Texas.

I rise to speak on the issue of fairness. I think virtually everyone would basically agree it is not in the general spirit of tax reform to use our tax laws to either encourage or discourage the choice of individual pilots to unionize. These decisions, quite rightly, belong to the people, the individuals; certainly not the Tax Code.

Now, current law recognizes that pilots, because of their unique work circumstances, deserve, like other specialized service personnel—firefighters, policemen—certainly special rules regarding their pensions and retirement.

Unfortunately, Mr. President, that law limits the special provisions for pilots to only union pilots. Of course, there is absolutely no difference between the work of union pilots and nonunion pilots. There are differences of opinion on the issue, of course, but that is beside the point.

H.R. 11 recognizes that all pilots, union or nonunion, deserve the same opportunity to accrue pension benefits and so equalize the treatment of all pilots under the law.

So, again, I appeal to my colleagues on the issue of fairness. Current law effectively penalizes nonunion pilots. It is not in the spirit of tax reform, as I have said, to either encourage or discourage the choices of individual pilots to unionize. Those decisions, as I have stated, belong to the individual members of the profession, not the Tax Code.

The provision of H.R. 11 adheres to the spirit of tax reform by providing equal treatment for all pilots. I would like to point out, Mr. President, that H.R. 11 is not antiunion. It emphasizes that the provision simply levels the playing field so that all pilots can be treated the same or equally.

So, in conclusion, Mr. President, the provision is fair. The provision reflects the spirit of tax reform. The provision is clearly not antiunion, and the provision allows people, not the Tax Code, the right to make their own decisions.

Therefore, I oppose the amendment to strike.

Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I would like to make just one—I think it is a correction of a statement made by my good friend from Arkansas, who is now in the chair. The Joint Tax Committee, which is the professionals that advise us as to the revenue estimates, does estimate that the provision in the bill loses $25 million over 5 years. The bill is paid for in another fashion so it is fair to say it is revenue neutral. But no one should think that the provision in and of itself is revenue neutral. It loses $25 million and we have chosen to pay for it by picking up $25 million elsewhere.

Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

Mr. LOTT. Mr. President, would the Senator withhold?

Mr. PACKWOOD. I will withhold.

Mr. LOTT. Mr. President, I would like to address, if I could, a question to the distinguished chairman of the Finance Committee. When this issue first came to my attention, one of the people who talked to me about it indicated that this had just been inserted at the last minute in this bill and had not been properly thought out. That is obviously not true as it has been pointed out by the Senator from Oregon.

But I understand this issue goes back to at least 1990 and 1991 when the Ways and Means Committee had hearings on it. I understand that maybe the House has passed this issue already. So we clearly understand this is not something just stuck in at the last minute. Mr. Chairman, could you please tell us what action has been taken on this issue?

Mr. BENTSEN. This issue has been in contention and under consideration for at least 2 years, both in the House and in the Senate. And this provision has passed the House twice. As I recall, it has passed the Senate twice already. So it is not a new issue. It has been debated before. It is one that has been given substantial consideration.

Mr. LOTT. I just wanted to make that point very clear on the record.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I was expecting two or three more people on this side to possibly want to come and testify in support of my amendment but I think we are about to wrap up. I have talked with the chairman. I am going to put in a quorum call and ask it be charged equally to each side and then wait just a few minutes. If no one else shows up, I think we will be about ready to vote.

Mr. BENTSEN. If my colleague will withhold for a moment, I see the senior Senator from Mississippi is here. I understand he may request some time.

Mr. President, I yield 3 minutes to the distinguished senior Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding time on this issue to me. I want to make a point that, as much as I respect and like the distinguished Senator from Oregon who has offered this amendment to strike this provision of the bill, I have to disagree on the merits of the issue that is involved.

The issue, of course, relates to pension rules, how they are treated in terms of tax consequences. There are special rules in the Tax Code already which recognize the circumstances surrounding employees in certain types of occupations. Policemen and firefighters are among those; airline pilots are included.

But the existing airline pilot rule is unusual because it allows separate pension plans for airline pilots only where the pilots have chosen to be represented by a union. So the issue deals with these individuals in a different way if they are nonunion employees from the way they would be treated if they were represented by a union.

In my judgment this is a difference that ought not to be sanctified by a provision in the Tax Code. There are those who argue, as the distinguished Senator from Oregon is suggesting, that there are fewer airlines with nonunion pilots than airlines with union pilots. But that misses the point. The provision at issue here is the existing rule that favors some pilots over others. The amendment in the bill simply makes the law apply equally to pilots, irrespective of whether they are members of a union or not. So, if the provision in the bill is left to stand and this amendment is rejected, all pilots would be treated the same under the tax laws.

That is the issue and I hope the Senate will reject the amendment.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I love the way my good friend from Mississippi opens up. He says, "much as I like and respect * * *." It reminds me of when I clerked on the Oregon Supreme Court. Whenever the opinion started, "The learned trial judge below," he knew he was going to be reversed by the court. I knew what was coming when my colleague said, "much as I like and respect." At least I appreciate the like and respect. I do appreciate that.

I have not heard from anyone from our side who is coming to debate.

Mr. BENTSEN. Let me ask on my side if there is anyone else amongst the opponents of the motion to strike who seeks recognition?

Mr. RIEGLE. If the Senator will yield, I have a brief comment to make with respect to support of Senator PACKWOOD's effort on this.

Mr. PACKWOOD. I will yield 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I support Senator PACKWOOD's effort on the issue of the airline pilots' pensions. But I want to be clear, in saying that, I am not taking a position on which side of the debate on this issue is correct on the merits. I think in the interests of union representation and collective bargaining, we should wait for the outcome of the ongoing appeal by the airline pilots union concerning a prior election before we proceed with consideration of the provision in the chairman's mark.

Collective bargaining, as we all know, helps maintain fair working conditions and wages and benefits for American workers. I think it must remain the cornerstone of our Federal labor laws and not be weakened in any fashion, or the appeals process interrupted in terms of the application of U.S. labor law. As such, I think we should let the appeal run its natural course without congressional intervention until the process is complete.

So I rise to make that comment and yield back the remainder of my time.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Oregon, Senator PACKWOOD. This amendment would delete a provision in the bill that would allow pension plans for nonunionized pilots to be exempt from ERISA's strict nondiscrimination rules.

Under current law, pension plans that are collectively bargained are exempted from ERISA's tough nondiscrimination rules. These nondiscrimination rules were established to prevent highly compensated employees from receiving proportionally more employee benefit compensation than lower compensated employees.

In other words, when Congress established standards for employee retirement plans, we wanted to make sure that well-paid executives would not be receiving lucrative pension benefits, while lower paid workers received small pension benefits. And if this did occur, we did not want the U.S. Government subsidizing this practice through our Tax Code by allowing highly compensated employees to receive those lucrative benefits on a tax-deferred basis.

Airline pilot pensions are granted a special exemption due to the unique characteristics of the profession. We created this exemption back in 1974 because pilots were qualitatively different than other groups of employees. For one thing, FAA regulations require pilots to retire at age 60. In addition, the physical and emotional stress of flying airplanes takes its toll on pilots, and many find retirement at an earlier date to be necessary. Thus, contributions to pilot pension plans may have to be higher than pension plan contributions for other employees if pilots are to maintain an adequate standard of living after retirement.

At the same time, pilots, as a group, tend to be fairly well-paid in comparison to other crafts and classes in the airline industry. Thus, pilots need to be exempt from the highly compensated employee nondiscrimination rules.

Congress originally wrote the exemption to apply to union pilot pension plans. Most commercial pilots were unionized then, and most continue to be represented by a union today. I know that I am proud that the Air Line Pilots Association [ALPA] represents the pilots at Minnesota-based Northwest Airlines.

Mr. President, H.R. 11 contains a provision that would remove the union requirement from the pilot pension plan nondiscrimination exemption. As a result, nonunion pilots would be eligible for the nondiscrimination exemption.

Why are we removing this union requirement from our Federal employee benefit laws after all these years? As I understand it, a well-known overnight delivery service has narrowly prevailed in an organizing campaign against the Air Line Pilots Association. And the overnight delivery service does not want any Federal tax incentives for their pilots to unionize. The union election is being reviewed by the National Mediation Board.

Mr. President, I think that organized labor has made a strong, positive contribution to our society. On its own, I would have no problem with the provision that contains an exemption for union pilots. But on top of that, an employer is attempting to remove this exemption for union pilots in order to provide a disincentive for their employees to organize. This is almost beyond comprehension.

Mr. President, I urge my colleagues to support the Packwood amendment.

Mr. MURKOWSKI. Mr. President, I oppose the amendment by the Senator from Oregon to strike the pilot pension provisions of H.R. 11.

### CURRENT LAW

Current Federal law recognizes that pilots, because of their unique work circumstances, deserve, like firefighters and policemen, special rules regarding their pensions.

Unfortunately, that law limits the special provisions for pilots to union pilots. Of course, there is absolutely no difference between the work done by union and nonunion pilots.

### H.R. 11'S PROPOSAL FOR CHANGE AND FAIRNESS

H.R. 11 recognizes that all pilots, union or nonunion, deserve the same opportunity to accrue pension benefits, and so equalizes the treatment of all pilots under the law. The issue is simply fairness.

### H.R. 11 COMPLIES WITH IDEAL OF TAX REFORM

Current law effectively penalizes nonunion pilots. It is not in the spirit of tax reform to use the tax laws to either encourage or discourage the choices of individual pilots to unionize: those decisions rightly belong to those people, not to the Tax Code. The H.R. 11 provision adheres to the spirit of tax reform by providing equal treatment for all pilots.

### H.R. 11 IS NOT ANTIUNION

Emphasize that the H.R. 11 pension is not antiunion or antiunion pilots, it simply levels the playing field so that all pilots can be treated the same.

### CONCLUSION

This provision is fair;

This provision reflects the spirit of tax reform;

This provision is not antiunion; and

This provision allows people, not the Tax Code, the right to make their own decisions.

Oppose the Packwood amendment to strike.

Mr. BENTSEN. Mr. President, are there other requests for time from those in opposition to this motion to strike?

Mr. President, we apparently have no more requests on this side. I am advised by my friend, the opponent of the motion to strike, he has no other speakers.

Mr. PACKWOOD. I have no others I know of. I am prepared to yield back my time.

Mr. BENTSEN. I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of our time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. There being no further debate, the question is on agreeing to the amendment of the Senator from Oregon.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—41

Adams
Akaka
Biden
Bingaman
Bond
Bradley
Burdick, Jocelyn
Byrd
Cranston
D'Amato
Dodd
Durenberger
Exon
Ford
Gorton
Graham
Harkin
Hatfield
Inouye
Jeffords
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Moynihan
Packwood
Reid
Riegle
Rockefeller
Sarbanes
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—56

Baucus
Bentsen
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Fowler
Garn
Glenn
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Kerry
Lott
Lugar
Mack
McCain
McConnell
Mitchell
Murkowski
Nickles
Pell
Pressler
Pryor
Robb
Roth
Rudman
Sanford
Sasser
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Gore
Nunn
Seymour

So the amendment (No. 3159) was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

### AMENDMENT NO. 3160

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. DURENBERGER, Mr. CHAFEE, Mr. PRYOR, Mr. BAUCUS, Mr. BREAUX, and Mr. REID, proposes an amendment numbered 3160.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. BENTSEN. Mr. President, I ask unanimous consent that there be 1½ hours of debate on the amendment and that the time be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I also ask unanimous consent that any amendments to the second-degree amendments be relevant to the issue being considered.

Mr. DOMENICI. Reserving the right to object, Mr. President, I want to state to the Senate and to the manager and the Republican sponsor of the amendment, the chief sponsor, that I had indicated that I was not going to agree to a time agreement because we were negotiating over something very serious to this Senator. I did not hear the request. So I will leave it in the manager's hands. If he desires to proceed based upon my not having heard it——

Mr. BENTSEN. I would not do that to the Senator.

Mr. DOMENICI. I appreciate it. I object to the time limitation until we have a little more time to discuss the one remaining issue. I would not do it if I did not think it was a very serious issue and it could be resolved—or it might not be, if we do not talk about it now.

Mr. BENTSEN. I would not take advantage of the fact that the Senator from New Mexico was not here.

Mr. DOMENICI. I thank the Senator.

Mr. BENTSEN. We will proceed on the amendment, then.

Mr. President, in October 1991, Senator DURENBERGER and I introduced S. 1872.

The PRESIDING OFFICER. If the Senator will withhold for one moment, the Chair had acknowledged the unanimous-consent agreement would be limited to 90 minutes.

Mr. BENTSEN. Mr. President, with the concern of the Senator from New

Mexico, who had not heard that request made, I would like to have unanimous consent to vitiate that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, in October 1991, Senator DURENBERGER and I introduced S. 1872, the better access to affordable health care bill. Today, with the able help of our colleague from Rhode Island, Senator CHAFEE, and our esteemed colleague from Arkansas, Senator PRYOR, we offer a modified version of S. 1872 as an amendment to the pending bill.

The increasing problem of costs of health care, now growing at a rate in the double digits, adding up to some 14 percent of GNP, and there are projections that by the year 2000, in another 8 years, it will be as much as 18 percent. Growth of that magnitude is absolutely unsustainable.

When you talk to small businessmen about the problems they face in purchasing health insurance, you quickly learn that to deal with the escalating costs, the first thing they do is to raise the deductible. Then they raise the coinsurance. Then they drop the coverage for children and other dependents. Finally, they drop the policy altogether because they just cannot afford to continue to provide their employees needed insurance coverage.

You frequently see the kind of a situation where some insurance companies will tell employers, "You have 25 employees. We will take 24 of them, but we cannot take the 25th because she has a heart condition." So they clearly pick amongst the employees to try to cover only those who are healthy. Every one of you knows of a situation like that. It is a tragedy to have a friend, a member of your family, who has a child or a spouse with a preexisting condition who must turn down a job offer that gives them a better chance for advancement or higher compensation, because they are afraid that their child with the preexisting condition is not going to be covered by the insurance offered by the new employer.

It is a serious situation when a small company has its insurance premiums escalate while they watch a big company that has had rates far below theirs. For many it is impossible to compete with that larger company. What we are attempting to address in this particular piece of legislation is that very situation. Mr. President, this amendment will make it possible to bring together small businesses so that, with larger numbers over which to spread the risk, they can purchase affordable insurance. They can do that because with greater numbers the actuarial assumptions of a large group begin to apply and the insurance company has better averages to work with, and can offer small businesses lower and more competitive rates.

That is what this legislation addresses. That is what it takes care of. Sure, we need comprehensive health care reform. We want to see health insurance or health care as a right in this country of ours. I think the vast majority of the American people believe that. But there has been no consensus yet on how to achieve comprehensive health care reform, not for the single payer approach, not for pay or play, not for the tax incentive approaches. That does not mean we are not going to get there, but I think this amendment is a step along the way, and this is something we can do in the meantime to try to address these serious concerns.

The legislation we introduced last year now has 28 cosponsors. We focused on those problems in which there was the greatest consensus for action.

This amendment incorporates the provisions of S. 1872, as they were passed by the Senate in March as a part of the tax fairness legislation. My colleagues will recall that the health provisions which we passed through the Senate were not a part of the bill the President vetoed. The House objected and said they had not had a chance to consider it at all, and it was a major piece of legislation, so it was not included in the conference agreement at that time.

Let me summarize some of the more significant provisions of this amendment.

A major provision is that this amendment increases for the self-employed, from 25 percent to 100 percent, the deduction for those health costs beginning in the year 1993. The pending bill extends the deduction for 15 months, and this amendment increases that deduction to 100 percent for the first 9 months of 1993. This amendment is paid for by increasing to 31 percent from 20 percent the backup withholding rate and by denying travel expense deductions for people who are away from home for more than a year.

Now people away that long are charging off laundry expenses and living expenses. That would not be allowable and should not be. What we are trying to do here is eliminate the unfair distinction between self-employed owners of business and incorporated owners of business, which currently can deduct 100 percent of their health insurance expenses, and that is just not fair; it is not equitable. What we are trying to do is promote more efficiency in small business, where they will no longer be forced to incorporate in order to deduct their health care costs.

This amendment will help the self-employed owners purchase affordable health insurance. That is what we are striving for. We would also establish an ongoing Health Care Cost Commission to advise Congress and the President on strategies for reducing health care costs. Members would be drawn from health care consumers, providers, insurers, and employers.

Minimum Federal standards would be established to improve the availability of affordable health insurance for small employers, and to try to address these concerns that I have just discussed on cherry picking and joblock. In addition to increasing the deduction for the self-employed, the affordability for small business would be addressed through flexible benefit packages, and a grant program to assist States in developing group purchasing programs for small businesses.

Finally, Medicare benefits would be expanded to cover flu vaccines, and demonstration projects would be established to evaluate the costs and benefits of providing further preventive services under the Medicare Program.

The cost of this amendment is met with two loophole closers that the Treasury had previously endorsed. First, it would raise the backup withholding rate from 20 to 31 percent. This is justified, since backup withholding is imposed only when an individual fails to supply a correct taxpayer identification so that the IRS can ensure that the income is reported, or when the payor has been notified by the IRS that the taxpayer has not reported income. That does not mean the tax is increased. That is the withholding, to get that cleared up with the IRS.

The second amendment is also an antiabuse rule. It would deny a travel expense deduction for taxpayers who are away from home more than 1 year. It is certainly clear that taxpayers away from home for more than 1 year have truly moved to that new location and should no longer be allowed to convert many types of nondeductible expenses—laundry, rent, meals—into deductible expenses.

This amendment has bipartisan support, including Senators who have also cosponsored various comprehensive reform proposals. It is my hope that the Senate will approve this amendment to H.R. 11.

Mr. PACKWOOD. Mr. President, I congratulate the chairman, Senator BENTSEN, and Senators CHAFEE and DURENBERGER, for the bipartisan leadership on both sides. We are all well aware, in this Presidential year, that health insurance has been a contentious issue.

But this particular amendment encompasses things that I would wager 90 percent of this Senate can support. How many times have we had the complaints from small business that they have one disadvantaged employee and their rates shoot up? They have one bad situation where an employee gets sick and has a $100 or $200 health bill, and their rates shoot up. We have all heard that. We want to cure it.

How long have we heard the justifiable complaint from farmers and others about: If I work for a corporation, my entire health costs are deductible, and if I am an employee and the employer pays premiums on my behalf, it is not even counted as income. But if I am a self-employed farmer or accountant and buy my own health insurance, I can only deduct 25 percent of it? It is absolutely unfair, and I think that the chairman and the others have come up with a perfect solution for this particular problem.

Is this the answer to all health care? No. Does this cover everybody in the United States so you no longer have the situation of 35 or 40 million people uncovered? No. Does this solve the problem of cost containment? No, it does not.

That does not mean there is something wrong with this. What it means is that we have been unable yet to come to closing or consensus on solving the major health problems, and there are honest differences of opinion.

There are those who want to go to a straight up Canadian single-payer system. I am not one of those. We will wipe out all health insurance in this country. We will wipe out all private pay. You will get a medicard and go to the doctor and hospital and give them the medicard and the Government will pay your entire bill.

It is about a $600 billion increase in Federal expenses.

Mr. President, we collect $1.1 trillion in revenues; this is an additional $600 billion, and the Federal Government will have to determine whether doctors in Portland, OR, get more or less than doctors in Poughkeepsie or a hospital in Bend, OR, is paid more than a hospital in Boston. We determine that all from Washington, DC.

I think the system would be inefficient and inhumane beyond belief. I frankly prefer a pay system. The employers pay, and others prefer the pay or play. Others prefer the tax incentive system. That is a debate that is going to be solved in another Congress.

But this provision that Senators BENTSEN, CHAFEE, and DURENBERGER, and others, come forth with does solve an immediate problem, an immense problem for a particular group in society.

Therefore, I strongly support it.

Mr. President, I join Senator BENTSEN in supporting this amendment.

It contains important provisions which reform the small business health insurance market, expand coverage for prevention services under Medicare, and reduce health care administrative costs.

This amendment provides reform that will improve the health insurance of employees of small business.

It is a beginning to health care reform. More will need to be done and can be done. It does not address the larger issue of access for the uninsured.

I have sponsored legislation to provide universal access, as have many of my colleagues here, and that remains the biggest challenge we face on this issue.

While traveling throughout Oregon, small businesses frequently complain about the lack of access to affordable health insurance coverage. This amendment addresses that issue.

One of the most important parts of this proposal will allow self-employed individuals to deduct more of their health insurace costs.

I sponsored a bill with Senator DURENBERGER to increase that deduction from the current level of 25 percent up to 100 percent, and I know Senator BENTSEN has hoped to have the revenue to do that here.

It is time to change the treatment of self-employed people so that they are allowed the same deductions for their health insurance costs as corporations.

Small businesses create most of the new jobs in my State of Oregon and across the country, and we need to put this important group on equal footing with larger businesses.

Overall, this proposal will bring much needed standards and fairness to the small business health insurance market.

Right now, a small business with one high-risk employee, who had a heart attack at age 45, can conceivably be denied access to health insurance for all of their employees.

This proposal will prevent that from continuing.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to commend the chairman of the Finance Committee for his offering this amendment. I think it is a step in the right direction, and I think the Senator from Oregon was speaking well when he said that he agrees it is a step in the right direction. But I do not think the chairman of the Finance Committee or anyone else in the Senate thinks this the Congress' answer to the health insurance problems of this country.

Mr. BENTSEN. I agree with the Senator on that.

Mr. METZENBAUM. I want to be certain when all of us enthusiastically support this step that nobody tries to read into it that the Senate has now disposed of the issue of health insurance reform. The manager of the bill does not intend that to be the case and he already indicated that to be a fact.

I am very comfortable with moving in this direction. I think it will help a number of people in this country, and I commend him for doing so.

I will support the amendment, but I just want to be certain that my word of clarification be added and the manager has made it quite clear that he does not expect this to be interpreted as the congressional answer to health insurance reform.

Mr. BENTSEN. I share the thoughts of the Senator from Ohio. I know his deep concern on the issue and I appreciate his comments.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first I ask unanimous consent that Senators SPECTER, NICKLES, MCCAIN, KASTEN, and COHEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I commend our distinguished chairman of the Finance Committee for this legislation. This is legislation that we have all said and it will be said later today does not solve every problem in connection with health care but there is no question whatsoever but that it moves us forward substantially, and that is something that I have sought throughout this year as so many others have.

We have not been able to get together in the past. But, nonetheless, here we are, and so I salute Senator BENTSEN for doing this. I point out as he has that this legislation, while it incorporates what has passed before, also has a significant additional item involved and that is the 100-percent deductibility for a limited period and hopefully we can keep extending it for the self-employed. I might say, Mr. President, that it certainly solves a very, very unfair situation that exists today. The current law in our Nation is if you work for General Motors and General Motors is providing you with insurance coverage that cost General Motors $600 a month, none of it is taxable to you and you do not have to pay anything. It is all tax free. But if you do what we encourage everybody to do in our Nation, to leave the big corporation, go out and start your new company, start in a garage with that new idea you have and you want to have health insurance, under the current law you can only deduct 25 percent of the cost of that insurance.

That does not mean that you end up paying 75 percent. Remember the 25 percent is only a deduction and so you end up paying nearly 80 percent of the cost of the insurance anyway.

So what this proposal does is make it a 100-percent deductible the premium that you pay, and I think that is a very, very fair proposal and, as I mentioned before, a significant step ahead of what has previously been passed in this Senate.

Mr. President, I point out that I became involved with this, as have many on this side of the aisle, when our leader formed a health care task force in August of 1990 and he was kind enough to appoint me chairman of that. So we have spent a good deal of time on this subject.

In the course of it we had an elaborate proposal which has 23 cosponsors but is not going to pass. So what we have done is we then took and examined all the different proposals that have come before this body and we found some 11 points of commonality and so we thought, well, we can go ahead with them. But there is not unanimous agreement on those.

Some of the things that we would like to see is State experimentation, medical liability reform, preemption State mandated benefits.

But I point out that there are many things that have been accomplished in this legislation we are considering today. Think of it: Insurance market reform, which the chairman has already outlined, a major step forward; small group purchasing organizations, a very substantial stride forward, encouraging managed care. We all believe that managed care can if not reduce the cost of insurance at least the rate of increase of the cost. Deductibility of health insurance premium, which I mentioned before, a very major step forward in this legislation.

Encouraging primary and preventative care, expanding outcomes research. You might think outcomes research, that is a big word, but what does it mean? What it means is that you study more carefully than has been done in our country as to what works, what kind of treatments are successful.

So, Mr. President, I am very enthusiastic about this legislation and I hope we can get a time agreement. It is legislation that I will support and do everything I can to assist in its passage.

I am enthusiastic and encouraged that so many others have joined us on both sides of the aisle. It looks as though we have an excellent chance to pass this. As I say, it is not going to do everything, but it is to do a substantial step this year for improved health care for American citizens.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senator BRYAN of Nevada be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I join my colleagues in commending the chairman of the committee for his support and his initiative on this legislation. I think all of us realize that we have the best health care system in the world, because of our scientific, our medical and our technological advances. We rank, I think, as No. 1 in the world, but the very factors that make us No. 1 also make our system the most expensive perhaps in the world.

As costs climb, access declines. So all of us have been considering how to accomplish three things. How do we guarantee access to every American to adequate health care coverage? How do we hold down cost? And how do we still maintain high quality?

As the chairman has indicated, there are many, many plans that have been offered. At least 20 bills are currently pending before this body, proposing single player plans, play or pay, global spending caps, and so on. Each of us has our own health care initiative. The Senator from Minnesota who has been a leader over the years in the field of health care reform has his. All of us have tried to play some role in devising a plan to deal with these crucial issues.

But I must say that I commend the chairman of the committee for focusing not upon what separates these plans but on their similarities. The Senator from Rhode Island, who just spoke a moment ago, outlined at least 11 common points between Democratic proposals and Republican proposals, and we have made a very, very good-faith effort to try to develop a consensus on those key elements, many of which are contained in this amendment.

There has been some resistance to this. Some have argued that unless the reform is comprehensive we should not do anything at all; since we cannot agree on everything, we should not agree on anything.

And to the Chairman's credit, he does not take that position. He, like many of us, believes that it is important that we do something. The fact that we take small steps now will not preclude us from taking major steps next year. We do not have a consensus on any of the so-called comprehensive plans.

I think that the Chairman deserves a great deal of credit for his willingness to move forward and take these steps. They may be minor steps, but they are terribly important to the small businesses which are finding themselves up against the wall, and cannot afford to continue coverage for their employees.

The Chairman has outlined a number of the changes that are contained in this measure. Some of us would like to go much further. Some would like to discuss and include malpractice reform. I had a measure I wanted to include that would allow hospitals to join together in joint ventures to share costly, high technology equipment and services without being sued by the Justice Department for violating antitrust laws. That is something that we certainly should look at next year.

There are other measures dealing with simplified insurance forms, electronic claims processing, and so forth. I think we can move forward on all of these in the coming year. But the fear that if we do anything to make progress in stemming the tide of the rising numbers of uninsured will undermine reform, I think, is falacious.

The American health care system is the best in the world, but only for those who can afford it. The very factors that make it the best—the scientific, medical, and technological advances; the highly trained specialists; the up-to-the-minute facilities and equipment—make it the most expensive. And, as expenditures climb, access declines.

Unfortunately, Americans want not only less costly care, but better care, creating a seemingly irreconcilable conflict between quality and cost. The challenge before us is to find a way to control costs in order to guarantee access without sacrificing quality.

More than 20 health care reform bills have been introduced and are currently pending in the Senate. Some call for the adoption of a single-payer health care system, like Canada's. Others would mandate that employers either provide coverage directly or pay into a public insurance fund—the so-called play or pay proposals. Some would set national spending limits—or global budgets—for health care. And still others, like my health care bill, the Republican health care task force bill, and the chairman of the Finance Committee's bill, would build upon the current employer-based system by offering financial incentives to broaden access to care.

To date, most of the debate has focused on how these proposals differ. However, particularly given the limited time left in the session, I believe that we should be focusing not on what divides us, but on what brings us together.

There is much more agreement than is generally acknowledged. Virtually all of the provisions in this amendment have been included in both Republican and Democratic health care bills, and all of them were approved by the full Senate as part of the tax bill we passed last March.

The reforms we are proposing today are significant steps that we can and should take now to slow the growth of health care costs and increase access to quality health care for millions of Americans.

For instance, the amendment calls for a number of insurance market reforms to make health coverage more available, affordable, and predictable for small businesses and their employees. Ironically, the very people who need care most are the ones who cannot get insurance and are therefore excluded from the system. Insurance companies must stop competing with each other about whom to exclude and start concentrating on how to make affordable coverage available for all Americans.

It is estimated that as many as one-quarter of the uninsured lack coverage because they have been priced out of the market by increases in State-mandated benefit laws. Our amendment would preempt the more than 800 specific State-mandated benefits in order to make an affordable, basic benefit package, emphasizing primary and preventive care, available to small business.

There are many more important and worthwhile provisions in this amendment—encouragement of managed care, formation of small group purchasing organizations, and an expanded outcomes research program, to mention only a few.

Even so, some would argue that what we are proposing today is not comprehensive enough, and that anything short of truly comprehensive reform simply will not do. Unfortunately, the people putting forth this argument can't agree on what form that more comprehensive reform should take, whether it should be single-payer, play or pay, or a managed competition plan. None of these proposals has, as yet, generated sufficient support to pass.

Total restructuring of the system is doomed to failure without a consensus. That is the one great lesson that we should have learned from our experience with the catastrophic health care bill a few years ago. But we still do not have a consensus on comprehensive health care reform. Not in the House, not in the Senate, and not among the American people.

Mr. President, the reform of our Nation's health care system is perhaps the most critical challenge facing our Nation in this decade. This is not a time for partisan politics. The amendment we are offering today proposes significant reforms that will take us closer to our goal of ensuring access to affordable health care for all Americans, and they are achievable this year. Further, enactment of this amendment will lay a foundation upon which we can build more comprehensive reform in the future, and I urge my colleagues to join me in supporting it.

I am pleased to join my colleagues from Texas and Rhode Island and the Senator from Minnesota, as well, who have really been in the forefront of trying to reform our system in a very progressive way.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Maine for his very generous comments, because I know how long he has been involved in these issues.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, every so often in delivering kudos from this position, we forget somebody that is very, very important. And in delivering my remarks, I failed to make adequate tribute to the work that the Senator from Minnesota has done on this.

As the distinguished chairman has already pointed out, the basic bill that we work from here was from the Senator from Texas and Senator DURENBERGER from Minnesota. They were the ones that put that together in the Finance Committee.

Also, as I pointed out, as part of this task force that I have had the privilege of chairing on this side of the aisle, a very, very key player on all of the issues, not just the insurance market reform and small group purchasing, but all the issues, Senator DURENBERGER has been an absolute leader. And of course he has been in this field for many, many years.

I would say from our side of the aisle, the late John Heinz, whom we all remember so fondly and with such respect, and Senator DURENBERGER were key players in every piece of health legislation that came forward.

So I want to pay tribute to him and what he has done; and to my good friend from Maine, who has been active and who is an active member of our task force.

We meet every Thursday at 8:30. I will tell you, Mr. President, as you well know, you do not get many Senators out every Thursday at 8:30, but the Senator from Maine [Mr. COHEN], was there and, of course, Senator DURENBERGER, Senator KASTEN, frequently, and Senator DOMENICI, and others.

So I am delighted that all of them are a part of this effort.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, it is with a great deal of pride and also a sense of relief that I take the floor with my friend and chairman of the Finance Committee, the Senator from Texas, and my friend from Rhode Island to offer to add the text of S. 1872 and related provisions from other bills to the bill before us. It is the product of years of work and it represents a major step toward comprehensive health reform in America.

I appreciate all the kind comments directed my way. And I must say it has been a joy just to sit and listen to people talk about you. It always is.

In this particular case, those of us who praise the chairman of the committee probably know why we mean it a lot more than some of the folks who might be listening, because he played a very, very difficult role in trying to make sure this was a bipartisan effort.

The Senator from Rhode Island was cast in a different role because of the way this place is organized. He was cast in the role of being the lead Republican, trying to bring Republicans along in an approaching election year. And he has done a fantastic job in the process.

The contribution that everyone has made during the course of this year to this bill has been tremendous. While it may look small from the perspective of total health reform in this country, we are not going to do total health reform in this country in one bill or on one occasion. This is a major step forward, and it is to the credit of all who have spoken so far that it is.

For over a year now, Mr. President, it seems like the unwritten rule on health reform around here has been "Don't just do something; stand there." Despite the evidence that you hear out in the hustings that we have a collapsing health system which does more damage to itself each day, in this institution we have done nothing to address the underlying problems in that system until today.

That is why the amendment before us is so important, and I do hope it becomes law.

As others have pointed out, health care is an $800 billion-plus a year industry. In one way or another, it affects every American. We all know that access to affordable health care is a major concern of all of our citizens. They fear the loss of insurance and they fear the inability to afford insurance. Those are frightening prospects to millions.

All the polls indicate that the more Americans learn about health care, the less likely they are to accept simple answers. We are all in the process of getting educated on the complexities of health care reform. We are learning what we can and what we cannot live without in health care.

What sets this particular effort apart from most of the debate over the last year and a half is that it is genuinely bipartisan. If we are ever going to arrive at comprehensive health reform in the United States, this is the kind of cooperation that would get us there.

Much of the recent partisan rhetoric on both sides leaves the impression that Congress in general, and Republicans in particular—because we control the Presidency and the executive branch—somehow have not been active in health care issues. That is an unfortunate impression. It is not unanticipated. It happens in one form or another every 4 years.

But Mr. President, I rise to say that health care is just too important to leave to partisanship. It obscures both the complexities for reform and the accomplishments of the last decade.

When we grasp the enormity of the challenge this Nation faces in health care, it is then that we realize that only by coming together across political lines can we accomplish what we hope for. We are either going to hang together or we are going to hang separately.

So, Mr. President, Republicans and Democrats have not started working on health care reform this afternoon in this body. We have been working on health care reform separately and together for many years. As a member of the Republican Party, I can attest to the fact that Republicans have played a major role in these debates and in subsequent legislation.

Here are some of the major accomplishments.

In 1983, we initiated prospective payment for hospitals, the diagnosis-related group system, which significantly altered the way we pay for hospital care. We created peer review organizations to help structure and supervise this transition. We created the new Agency for Health Care Policy Research, the first Federal agency to engage in efforts to study medical outcomes and draft practice guidelines for physicians.

That one was created by the now majority leader, who was then the chairman of the Health Subcommittee in the Finance Committee, and myself, and others.

This amendment before us today expands on outcomes research, as does the AHCPR reauthorization bill that is coming out of the Labor Committee this year.

The decade of the 1980's led to a series of expansions of the Medicaid Program, with particular emphasis on care for pregnant women and children. There the current chairman of the Finance Committee has played the lead role, and the Republican administration has been as supportive as it can be.

Our efforts in 1987 and 1988 to restructure Medicare in what has now infamously been called Medicare catastrophic care coverage was again an effort on the part of both Democrats and Republicans to get a job done and it turned out to be ultimately unsuccessful. I believe that everyone who was a part of that effort learned from this about what is acceptable and unacceptable to the elderly of America.

In 1989, we undertook complex physician payment reform. Again, it came out of a Republican administration and was passed by a Democratic Congress.

It tried to do for cost control of doctors' services what we had already done for hospitals under prospective payment.

That same year, 1989, we began deliberations in the Pepper Commission, the U.S. bipartisan Commission to study comprehensive health care. I served as a vice chairman of that Commission. The chairman was JAY ROCKEFELLER, our Democratic colleague from West Virginia. That Commission worked for many months to develop recommendations on legislation to ensure all Americans coverage for health care and long-term care.

The Commission had a number of successes, particularly a consensus that the national social insurance system had to be overhauled, that we must move toward uniform national standards for health benefits and for access, and it laid out a plan for a subject we have not heard much about around here lately, long-term care. It has been 2 years since the issuance of the Pepper Commission's final report. In that time both parties in Congress have continued the debate.

Now there are a number of comprehensive reform packages introduced on both sides of the aisle. As my distinguished colleague from Rhode Island, JOHN CHAFEE, has repeatedly pointed out, there are a number of areas of consensus on health care reform. Indeed, on many issues, as the RECORD of the last 10 or 12 years indicates, we are not as far apart as the current partisanship of an election year might indicate.

There is a general bipartisan consensus that our uniquely American employer-based health insurance system should be retained.

There are a number of beneficial aspects to employer-based health care, but they are aspects that need reform. That is the reason for this amendment. The problem of access to health care in America is not a shortage of medical capacity. We do not need to go out and find more doctors. We have doctors and hospitals and medical technology, more per capita than any other place on Earth. The problem comes when people cannot gain financial access to the doctors and the hospitals because either the medical costs are too high or there is unequal access to insurance coverage.

Nowhere is that problem more severe than among people who are self-employed or work in small businesses. In almost every case these people pay far higher premiums for far less coverage than employees of large- and medium-sized firms.

When we realize that over 50 percent of American workers are either self-employed or work in small businesses, we begin to see the extent of this problem.

Among the 37 million uninsured, and the much larger group of the underinsured, a substantial majority of them are small business employees, self-employed people and their dependents.

This amendment will expand access in this hard-hit population by changing the way health insurance is sold in this so-called small group market.

I first became involved in insurance market reform in 1990. My experience with Minnesota small businesses and farmers told me something was very wrong in the insurance market. I saw that the price and quality of insurance coverage was related to where you worked.

Big companies got good coverage at reasonable prices. Little companies got little coverage at high rates and were subject to exorbitant price increases and cancellation without warning. That was not fair.

Several members of my staff then, Kathy Means, who was my health assistant, Dave Gustafson who was borrowed from PBGC, as I recall, a wonderful Federal organization, went to work with the staff of other Members, and we ended up introducing S. 3260 at the end of 1990.

Mr. President, I introduced a new version of this legislation in March 1991 as S. 700, the American Health Security Act. I was very pleased when my distinguished colleague, Senator BENTSEN, joined with me in October 1991 to introduce S. 1872, the Better Access to Affordable Health Care Act, which is, in effect, before us today.

Similar small market reforms are an essential part of both the Senate Republican task force bill, which has 23 cosponsors; the Democratic leadership proposal; the House of Representatives' proposals; and the President's white paper on health reform.

I am pleased that the key provisions in S. 1872 will be offered on the tax bill we are considering today. These reforms will establish minimum standards for health insurance sold to small firms, and will prevent the denial of coverage based on health status. It will also constrain annual premium increases.

The benefits of the legislation are not restricted to the employees of small companies. For the self-employed there will be an increase in the deduction for health insurance premiums, something that for a long time Senator GRASSLEY and I have fought for, as have others and as was incorporated in the partial deduction in 1986.

We all recognize that this is a historic first step toward making America a healthier Nation, but that it is not the only step we need to take. We are just beginning to grapple with problems of cost containment nationally. On this issue, we have a long way to go to reach consensus.

In my view, in order to achieve universal access to high quality care through universal coverage of financial risk, we have only two choices. One way is by setting a budget and achieving savings through fee reductions. That approach will sacrifice quality for spending reductions. The better way is to focus on productivity—how to get more health care for less. Productivity is the American way.

We need to encourage all the actors in the health care system—from consumers, providers, insurers, employers and government—to become more productive. We must design systems that reward the good providers and the good health plans with our business.

Mr. President, we have a long journey in front of us to arrive at comprehensive health reform. This is the best possible place to start. It addresses a major problem and there is substantial bipartisan agreement that this is the way to fix the problem.

I commend my colleague from Texas, Senator BENTSEN, and I commend my colleague from Rhode Island, Senator CHAFEE, and all the others who have been a part of putting this amendment together.

I urge its adoption.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Minnesota for his comments. He has been diligent, he has been persevering. I think he knows this subject as well as anyone in the Senate. I appreciate very much his leadership and his assistance.

### AMENDMENT NO. 3160, AS MODIFIED

Mr. BENTSEN. Mr. President, I wish to modify my amendment by striking all matter in the amendment beginning on page 25, line 16 of the amendment and ending on page 30, line 20 of the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The modification to amendment (No. 3160) is an follows:

On page 25, line 16, strike all down through line 20 on page 30.

Mr. BENTSEN. Mr. President, I say to my colleagues, that is a mistake in drafting. I have shown it to the ranking member on your side and he has cleared it.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I first rise to thank the chairman of the committee, Senator BENTSEN, and Senator DURENBERGER and Senator CHAFEE and others and I want to do so in a more aggressive way than maybe some. This is not a small step. This is not some kind of a half measure. This is really a historic moment in the U.S. Senate. We have been talking health care, talking around health care, talking about health care. But the Congress has done nothing.

We have plans. We have all sorts of ideas. But with the leadership of the Senator from Texas, the Senator from Minnesota, and others here we now are about to do something, and that is important.

Do we measure our progress by how many plans we have and how many press conferences we have or do we measure our progress by legislating? By putting coalitions together? By saying everybody gives a little, takes a little—and we put it all together.

If we measure our progress by legislating, if the goal here is to avoid gridlock, if the idea here is to get something done, then the proponents of this amendment ought to be congratulated. This is not a halfway step. This is an important, historic moment and I am pleased to be an original cosponsor of the legislation which is being referenced in this amendment by the Senator from Texas [Mr. BENTSEN]. I am also pleased to be a cosponsor of this amendment.

There is one area—and I would like to ask the Senator—the parliamentary position right now is such that the amendment is before us and it would be subject, then, to amendment?

There is one element that has been included in legislation which we have all been working on together and that is the medical malpractice element.

I am a cosponsor of Senator DURENBERGER'S medical malpractice legislation, The American Health Quality Act. And in some of the packages we have put together to date this has been one of the 10, 11, or 12 points. I know it was part of the bill I put together.

Reform of our medical malpractice rules is essential if we are to curb the excessive costs of medical care in Wisconsin and throughout the country.

For 10 years, I have been the leading proponent for the reform of this country's product liability laws. These two areas are very similar. In both areas we are not trying to prevent injured parties from receiving just compensation. They deserve just compensation. But we don't need a system that only serves the interests of lawyers and increases the costs to all involved.

The reason that just about every significant health care proposal includes some sort of medical malpractice reform is that this one area alone adds about $15 billion annually to America's health bill. Doctors, and their insurance companies, are not only forced to pay out more dollars in defense or settlement costs, but the practice of defensive medicine also runs up the health care cost bill. With this accounting for as much as 15 percent of the expenditures for physician services, we must address the proper interplay of our legal and medical professions in any comprehensive health care bill. I am hopeful that this could be the year to see some reform enacted in both areas.

Would an amendment, I ask the Senator from Texas, to include the medical malpractice element be in order now? And would he be willing to accept that amendment?

Mr. BENTSEN. I say to my distinguished friend, I understand his concern. What we are dealing with is an issue that is an important one; also somewhat controversial.

I have agreed, frankly, that we would oppose all amendments in trying to get this thing through.

The problem we have is there are quite a number of areas that could be addressed and ultimately are going to be addressed and have to be addressed. I share the concern of my colleague. But if we start down that road, with each Senator trying to do what is important to ultimately comprehensive reform, I do not think we will get this job done. And therefore I am going to have to oppose all amendments that are offered.

Mr. KASTEN. I also yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the Senator from Wisconsin was kind enough to reference medical liability reform legislation that I introduced about a year ago. I guess my experience in putting that together has taught me, first, that the Senator from Wisconsin is one of the leading advocates of product liability reform and professional liability reform that we have in the U.S. Senate. I learned that very early on. I have a great deal of respect for my colleague from Wisconsin.

The other thing I learned is that we had at last count about 8 or 9 or 10 different approaches to exactly how to do medical liability reform. I think what the chairman is indicating to us is that it would be very difficult in the time we have remaining in this session, particularly given the vote we had on product liability a couple of weeks ago, to get the authors of the 8 or 9 or 10 different approaches to agree on a single approach.

So I strongly support the comments of the chairman and his efforts to oppose and to discourage, at least on this bill at this time, any effort to do medical liability reform. I will strongly support it in the next Congress and look to the Senator from Wisconsin for his advice and his leadership.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would also like to say to the distinguished Senator from Wisconsin, who has been so active in not just medical liability reform but the whole issue of product liability reform, I commend him for what he has done. However, as in so much legislation we pass here, agreements are reached on what is the possible, what can be achieved and in this package, that is not included. If I had my druthers, it would be, but this is a good package that was arrived at by agreement with the distinguished Senator from Texas and others. So it would not, regrettably, be possible to accept an amendment on medical liability reform and, indeed, I would have to oppose it.

Mr. KASTEN. I thank my colleagues.

Mr. President, I began my comments by saying that we were about to do something and the reason we did it is that everybody has been involved in some give and some take. I am not, therefore, going to come forward with an amendment on medical malpractice, and I understand the support of all three of the Senators who have spoken on this subject. I will not do that because I think what you are doing is so important.

Let me just conclude by saying it is important to recognize what we are about to pass is a significant, major piece of legislation with regard to health care. That is important. We are about to move forward in the area of health insurance. That is important. Statistics in Wisconsin show that among the uninsured, about half are presently employed in small business, but small business is not able to provide the health insurance. This legislation is going to help fill that gap. Whether it is going to cover the full half I do not know, but it sure is moving in the right direction and that is important.

The whole idea that we should pass either a big comprenensive, all-encompassing bill or pass nothing I think now is behind us. We are going to pass a significant piece of legislation and it is going to help uninsured people, it is going to help people who are unemployed, it is going to help people in terms of capping increases that have been coming. And, most importantly, it is going to treat the self-employed people, the small businessman, the small business woman, the family farmer, for tax deductibility purposes exactly as we treat General Motors with 100-percent deductibility. These are important steps, and I congratulate the author of the amendment and the others who have been involved in this work. I am happy to be part of this group. I look forward to adopting this amendment.

Mr. BENTSEN. Mr. President, I want to thank the Senator from Wisconsin for his consideration. I know how deeply he feels about this issue and how ultimately it has to be addressed, but that is a contribution helping us move this package forward.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I also want to thank the Senator from Wisconsin for, one, his kind remarks on my part in this legislation and, two, for his not pressing this amendment which at a different time would be very acceptable. Because of the circumstances, we cannot accept it tonight or on this legislation.

I ask unanimous consent that Senators HATCH and WARNER be added as cosponsors.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I note on the floor the distinguished senior Senator from Pennsylvania who has long worked on health care matters. He is a member of our Republican health care task force. He has been very interested in this. He has spoken on these matters many times on the floor in connection with health care reform. We will be glad to hear whatever remarks he might have.

Mr. SPECTER. I thank my distinguished colleague from Rhode Island.

Mr. President, I believe that there is no subject more important in America today than comprehensive health insurance for all Americans. I think that medical coverage should not be reserved for the wealthy as a privilege but ought to be available to every American. This issue ranks side by side with an economic recovery to take America out of the recession, to put millions of Americans back to work, many in my State. Health care directly impacts upon the economy as such a very expensive item which is a high cost item for business. It affects competitiveness and it is a matter of enormous importance.

I support this amendment Mr. President, only because it is better late than never and a step, although a very small step. It is better to have this amendment, although it is relatively little, than not to have any amendment at all.

But I submit, Mr. President, that this Senate should take up the broader issue of health care in a full-scale debate and in a full-scale analysis in the interest of the American people. If that takes us beyond the stated adjournment date of October 2 or 3 or 5 or 6, whatever that date may be, then so be it because I think that issue is so important for America.

We should have taken up a comprehensive debate on health care long ago, but this issue has been highly politicized in a way which has worked to the detriment of the American people. It has been politicized in a way which has become public but with relatively little attention, as illustrated by the transcript of a session of the Democratic caucus of the House of Representatives, organizational meeting on Friday, July 24, 1991. This transcript was made public in the Sunday edition of the Washington Post, a week ago Sunday, where certain extracts were quoted and have received relatively little attention on what I think is a matter of enormous importance.

I ask unanimous consent, Mr. President, that the full text of this transcript be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, it has already been publicly reported, and I quote now just one extract of a statement made by Congressman JOHN D. DINGELL as follows:

> I think a component of what we are engaged in, and remember we are engaged in two things. The first thing we are engaged in is the legislative exercise. The second thing we are engaged in a political year is a political exercise to, first of all, work our own program forward, and that is an honorable and proper thing to do, and second, to screw the Republicans.

This has been disclosed, as I say, in the Washington Post, the first Sunday of September, but I believe that in an articulation of the doctrine of "screw the Republicans," what is really involved is screw the American people.

I believe that this issue ought to come to both Houses, and we ought to take it up, we should have acted on it long ago, but this is the first day of the rest of the session of the 102d Congress. I submit, Mr. President, we ought to take up the full subject of health care.

This Senator made an effort to bring the subject of health care to the floor on July 29 of this year when the Senate was considering the energy bill. At that time, I offered an amendment to provide full deductibility for the self-employed.

We have an anachronism in the law that an employer who provides health coverage for his employees can make a full deduction. Ordinarily, under our tax laws, if someone gets the benefit of an item, the individual is taxed on that item, but we have made a decision not to tax employees in order to extend health coverage and try to provide as much health coverage as we can through the employer. But if an individual is self-employed, that person can deduct only 25 percent. That is obviously unfair. There have been a number of proposals in the Senate to correct this, but we have never acted upon them. That is one of items I included in an amendment which I offered back on July 29.

At that time, the distinguished majority leader, Senator MITCHELL, came to the floor and raised a number of objections to the amendment and said, among other things, that it did not belong on the energy bill.

Quoting from the CONGRESSIONAL RECORD, S10764, in a colloquy with the distinguished majority leader, I made this point:

> My question is whether the distinguished majority leader, on the scheduling, has in mind a timetable for taking up the issue of extension of health care in America.
>
> Mr. MITCHELL. As I have stated many times publicly, from the very place that I am standing now, as well as others, comprehensive health care reform is one of my highest legislative priorities, and it is my hope and intention to bring to the Senate this year, if at all possible, such legislation.

Continuing to read from the CONGRESSIONAL RECORD:

> Mr. SPECTER. Well, Mr. President, if the majority leader would be in a position to make a commitment—I am not saying he should be, because I understand the complications of his work, and I am on the floor a great deal, but I have never heard the statement made that the majority leader just made.
>
> But if the majority leader is in a position to make a commitment to bring health care legislation to the floor this year, this Senator would be willing to withdraw this amendment.

Continuing to read from the CONGRESSIONAL RECORD:

> Mr. MITCHELL. Mr. President, I am not able to make a commitment, as the Senator full well knows, because under the rules of the Senate, I do not have control over how long it takes to consider legislation. A bill comes up one day, and it may take a day, a week or a month.
>
> Therefore, since certain actions are required by law—particularly the 13 appropriations bills—and since, as we all know, many Senators regularly use the delaying tactics permitted by the rules to delay action, I cannot foresee how long it is going to take to do various bills.
>
> It is a high priority of mine, I have made the statement many, many times, and I repeat it. I hope very much, and I expect to, and it is my intention to bring a bill to the floor, if we can. But to make an absolute commitment is really beyond my authority or beyond my ability at this time.
>
> I do not want to make a commitment that I am not certain I can comply with, because of so many other factors—primarily, the limited legislative time, the large amount of business that we have to do, and my inability, because of the rules of the Senate, to control the length of time which the Senate takes to consider any measure.
>
> Mr. SPECTER. I appreciate what the distinguished majority leader has said, and I note the complexities of scheduling and the responsibilities which he has, and only he has.

I just say in passing that, as I understand it, there has been a date set for product liability legislation, a date fixed immediately after we come back in September. I know, from what I have heard the majority leader say publicly and on television, that he regards extending health coverage to be second to none among the priorities.

It would just be my hope that the distinguished majority leader would bring this issue to the floor at the earliest possible time, which is what he has said. The Senator would certainly like to see it done this year, as the majority leader said he would like to see it done. But if it is not possible to make a commitment, I repeat that I understand the distinguished majority leader's situation, and I am under no illusion that when the majority leader makes a request, Senators from a majority side of the aisle are gathering. I do believe firmly that this is an important amendment, and that the offsets are better used for this amendment than they are for items like the repeal of luxury taxes.

I thank the Chair and yield the floor.

That concluded the exchange, Mr. President. But I believe comprehensive health care, this issue is at least as important and really more important than product liability, and product liability received a date certain.

So it is still my hope that this subject can be taken up for a discussion of all its ramifications. There are many legislative proposals pending at the present time: The play or pay amendment has some cosponsors; the bill which has the most cosponsors is the legislation introduced by the distinguished Senator from Rhode Island [Mr. CHAFEE], Senate bill 1936. I believe it has 24 cosponsors, unless others have been added, and Senator CHAFEE nods in the affirmative. This Senator is an original cosponsor of that bill. I believe it has the most cosponsors of any legislation introduced, and again my colleague, Senator CHAFEE, nods in the affirmative.

This Senator has introduced two bills, Senate bill 1995 and Senate bill 3176, which would materially advance the cause of health care coverage. Those bills set forth in some detail improved procedures for consumers, expansion of preventive care, ways where we can cut costs administratively, ways where we can cut costs through managed health care and a variety of other proposals.

The estimates have been made, and I think responsibly, that we could cut the cost of health care by 25 percent in this country. The cost of health care is currently estimated somewhere between $738 billion and $800 billion. There are presently 37 million Americans who are now not covered. Those reductions I think could cover the Americans who are now not covered. But in the event that is insufficient, my view is that we ought to cover all Americans through Medicaid and Medicare if the cost savings are not sufficient.

But this is an issue which I think ought to receive full-blown debate, and I acknowledge the hard work which has been done by the distinguished Senator from Texas and the distinguished Senator from Rhode Island.

My preference would have been, as I have expressed it, not only on the floor back on July 29, to bring this issue for a full-blown Senate debate; to take it up with all of its ramifications far beyond the confines of 1½ hours. We are constrained now with this bipartisan approach, but it is better than nothing at all, but barely.

We have not discharged our duty to the American people. It is not just the Congressman whose words are present in the CONGRESSIONAL RECORD, "Screw the Republicans." The fact is that all of us are responsible for screwing the American people by not tackling this issue in a head-on, constructive way to bring achievement on whatever resolution we can.

In 1990, the Congress took up the Clean Air Act. The people said you could not legislate on that complex subject. After the debate was on the floor, the Senate broke up into various groups and we came up with a very good Clean Air Act. We had improvements on ambient air quality, taking out 10 million tons of sulfur dioxide. There was enormous improvement on tailpipe emissions from automobiles, proposals which are now going into effect in the winter to keep down pollution in major cities, like cities in Pennsylvania. We had major improvements on industrial pollution.

I submit, Mr. President, that if the Senate and the House took up the issue of health care in a comprehensive way, we could make enormous strides. We might not have perfect legislation, but we would make enormous strides.

I believe, Mr. President, that we ought to set aside the recess schedule and continue to tackle this issue, in a lame duck session if necessary.

Almost a year ago, on November 19, I offered legislation in collaboration with Senator DOMENICI on a proposal to stimulate an economic recovery through individual retirement accounts, to take the approximately $800 billion we had in IRA's, 401–K's, and Keogh's, which could have stimulated an economic recovery, with estimates of between $40 billion from Chairman Greenspan, to $120 billion on an independent survey.

I suggested at that time that the Senate remain in session in December 1991 and January 1992. On November 19, 1991, I said that if we awaited 1992 and the President's State of the Union Speech, we would be deliberating in March, April, May, and June to take up whatever time we could.

Mr. President, if we await the outcome of this Presidential election, we wait until 1993, months, a year or years may pass, before we really take up this subject.

So I urge the leadership of this body and I urge my colleagues to go beyond what is on the floor today, because it is in the interest of the American people that we really tackle comprehensive health coverage. If it involves postponing the recess, so be it. If it involves a lame duck session, so be it, because not to do that is to go beyond what Congressman DINGELL has to say, as this transcript shows, "screw" the Republicans. We would continue to "screw" all the Americans.

Mr. President, I ask unanimous consent that in addition to the transcript of the House Democratic leadership of Friday, July 24, 1991, the exchange between Senator MITCHELL and myself from the CONGRESSIONAL RECORD, in addition to those being included in the CONGRESSIONAL RECORD, that the transcript of a news conference from August 4, 1992, be included in the RECORD as if set forth in full.

I ask that because, again, this further illustrates the high degree of politicization of this issue. I do not want to get into the quotation of that now because I know there are a number of my colleagues who are standing waiting to speak. There are time limits. But I have expressed myself, Mr. President, forcefully. I gave notice in advance of my remarks to the distinguished majority leader, so he would know that I was making them. I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Transcript]

### SENATE MAJORITY LEADER GEORGE MITCHELL AND OTHERS—NEWS CONFERENCE

(Topic: President Bush's remarks on health care reform; location: the Capitol, Room S–207, August 4, 1992)

(The editor of the report is Steve Ginsburg. Tim Ahmann, Eric Beech, Mary Gabriel, Peter Ramjug and Paul Schomer assisted in editing this report.)

Senator DAVID H. PRYOR (D-AR): (in progress) during the entire presidency of President Bush, three and a half years, he has not introduced a comprehensive health care program. In fact in his inaugural address, 1989, he never mentioned the need for health care. He—in his inaugural—in his State of the Union address just recently he mentioned only I think in about 40 words health care, the issue of health care. He states that he is a president who wants change, and he has indicated that he does want change, but he did not want change until November of 1991, after Harris Wofford was elected to the United States Senate, who ran in the state of Pennsylvania on health care, and on that issue.

Thus far, notwithstanding what the president says, there is still no comprehensive health care plan introduced by the president, and today we would like to talk a little bit about the Clinton record and also about some of the things that the Democrats have in fact done.

Now with that, Jay, let me yield to you because in a moment I'm actually going on the bus to the cathedral.

Senator JOHN D. ROCKEFELLER IV (D-WV): It absolutely overwhelms me and saddens be profoundly, and I can find no reason why a man who's elected president of the United

States, who's been vice president for eight years, can be so callous, so indifferent, so unknowledgeable and take so little action with respect to health care. I cannot explain it.

I look upon his actions with disdain. One hundred million American people who are up against it in terms of health care coverage, either because of the cost of it or they're not having any of it, will, I'm sure, answer this fall when they pick a president who has a health care plan which is comprehensive, with tremendously strong cost containment in it, and with coverage for all.

The president talked yesterday in Dalton, Georgia using those classic, cop-out, stupid, nationalized, socialized medicine words—the same things he used to talk about Medicare back in 1964–1965. He says his health care plan will cover all. That's a lie; it will not. It will cover no more than 7 million of the 23 million uninsured eligible for the partial credit that he puts forward. Please remember that to be fully eligible for the credit that he put forward, you have to be making $6,700 a year or less and be a family of four. And the credit runs out at 150 percent of poverty.

I don't know how to explain to the American people a president like that—so calloused on such a deep and overwhelming problem to so many people. His health care program is non-existent, and it combines the compassion of his anti-recession policy with the efficiency of his S&L bail-out. Others will elaborate further.

Senator EDWARD M. KENNEDY (D-MA): For more than a decade, health care has been the fastest-growing business in America. Year after year of soaring costs threaten to price health care out of the reach of the average family. Rising costs are eating up wages, harming our position in the world and denying accessible and affordable health care to millions of families.

If your employer decides your coverage is too expensive, he can cut it back or eliminate it entirely. If you lose your job or change jobs, you can lose your insurance. If you develop a chronic illness, your employer or your insurance company can cancel your coverage when you need it most. You can be denied coverage because of pre-existing condition.

The decline of the American health care system is obvious to every family. But for the 12 years, the Reagan-Bush administrations have consistently followed a do-nothing, do-too-little policy. The president is so embarrassed by his plan that four months have passed since he first outlined it, and he still won't even submit it to Congress.

If you like President Bush's management of the economy, you'll love his health care plan. The president's current proposal is deeply flawed. It flunks the two basic tests of serious reforms. It fails to guarantee coverage for all Americans, and it fails to control costs. If the President's plan were a prescription medicine, the Food and Drug Administration would ban it because it's unsafe and ineffective.

Bill Clinton has offered a health plan that builds on the best of our current system while correcting its worst faults. President Bush has trotted out once again the tired, old rhetoric of the right from the days of their battle against Medicare. Their eyes gleam, and their knees jerk when they hear that old call to arms about socialized medicine. Ask any senior citizen whether they think Medicare is socialized medicine. We won that battle for health care for the elderly a generation ago, and the time has come to win it for every other American.

For all of us who have been working for health reform, the years of White House opposition are finally ending. With Bill Clinton as president, we can finally make health care in America what it ought to be—a basic right for all, not just an expensive privilege for the few.

Senator HOWARD M. METZENBAUM (D-OH): For 12 years, the insurance companies, the health industry lobbyists, the drug companies, have had a bonanza, and the American people have suffered as a consequence. This nation needs a national health care plan.

Thirty-six million Americans have no health insurance. Seventy-three percent of the Americans say that their major concern is how they will pay for their health care. It's time that we do something about it. And what does George Bush offer the American people? He gives us a program and then says, "Here's a laundry list of how you might be able to pay for it." That's irresponsible leadership. It won't solve the problem.

Bill Clinton has come up with a program that meets the issue, that provides the answers, that this Congress is prepared to enact into law. And I believe that it's high time that we move forward with Bill Clinton in the White House, bringing the American people a health care plan that's available to all Americans not just the select few.

Senator DONALD W. RIEGLE, JR. (D-MI): This is truly a life and death issue, and it's not a new issue. And those of us that have been involved in it have worked on it over a period of time, and have tried to work directly with the administration and with the president.

I've got letters that we have sent to him going back over the years, urging his action and offering to work on a bipartisan basis. We put together a bipartisan task force here in the Senate. I led that group for a year and a half. We developed a series of principles to guide any comprehensive health care reform. The word came back to us finally that the Republicans were going to drop out of the effort because the White House was not ready to move.

I want to put a face on this. We had a hearing one time in Michigan. We've had a number of hearings here and throughout the country. And a young woman came to testify. I want to show you her picture. This is Cheryl Eickler (phonetic). She left a hospital bed in Michigan to come and testify as a victim's of Crohn's disease about the serious situation that she was facing. Her testimony only runs a page and a half. I'm not going to read it all here, but I want to read you just two parts of it.

She details as a rising person within the 7-11 business company, she had a salaried position earning $12,000 a year, was doing well, had this terrible Crohn's disease problem and no health insurance. She says here, "When I had my first surgery in 1977, my bill for one month of care was about $20,000. Now after one month, my bill is over $34,000. Twelve years ago, I had my mother's Medicaid to help pay for the bill. Today I have nothing."

Dropping down to the end of her remarks, she said this: "Ahead of me lies the frightening task of finding another employer who will be sympathetic to my disease." She lost her job. "Even if I'm lucky enough to find something, I'll be unable to find a job that will provide coverage for my treatment. Those of us with Crohn's could never work enough or make enough to pay for the long-term care that is involved with this disease. There is also the constant worry and emotional stress of how am I going to pay these bills. The treatment involved in battling this disease is extremely expensive. Someone like me who earns about $12,000 a year could never afford to pay for this. I think there is a definite need for help for the uninsured people in situations like this."

I took this testimony down and gave it to the president in the Oval Office, and we talked directly about this issue, and I talked to him about Cheryl Eickler. And I did so because I have a personal fondness for the president and I know that within his family he's had a similar problem. And I admire the fight that his family has made against the disease very similar to this. His son Marvin that you may have seen in ads like this has had to fight a problem virtually the same as Cheryl Eickler.

A year after Cheryl Eickler testified, she died. She died because she didn't get the care she needed. And it's a crime, I think, that that's going on in this country. And had she gotten the care she needed, I'm convinced she would be alive today.

Now we can't have two standards of health care in this country. We can't have those who are fortunate enough and in circumstances where they have insurance or have access to medical care, they get the chance to live, and others like Cheryl Eickler who are on the outside looking in and who need the help don't get the help, and in fact lose their lives, it's such a tender time.

This will that we have written, myself, Senator Mitchell, Senator Kennedy and Senator Rockefeller, sponsored by many other Senators, is a comprehensive health insurance plan. It provides cost controls and it provides access to health care for people like Cheryl Eickler. There is no equivalent proposal, or anything even remotely close to it, from the administration. None today, and that is inexcusable.

The health needs of this country don't start and stop in one family or in one group or in once class. Everybody in this country deserves the chance for decent health care and a chance to live a full and meaningful life, and that's what this is all about. So when they put a plan on the table that does that, I'm willing to work with them. But until they do they have no right to come forward and challenge a serious plan that we have offered that meets this need, not just for some, but for everyone in this country.

Senator JOHN D. ROCKEFELLER IV (D-WV): Well, first of all, I'm trying to understand why it's possible for one human being, Bill Clinton, to get it, and the other one, George Bush, not to.

It seems to me there's two pieces here. One is does the problem affect you. In the case of Bill Clinton, he's been out campaigning now for over a year. And the more you campaign amongst the American people, the more you hear stories, such as the one Senator Riegle just told about individuals who are not getting medical care, about small business who have closed their doors and laid off people because they're unable to afford health care insurance, about government entities that have similarly restricted their capacity to do what the people want them to do, because of the rising costs of health care, of American businesses not being able to compete with Japan, against Europe, against Canada, as a consequence of our higher than necessary health care costs. About people driven into welfare as a result of the rules that we currently have in place. Bill Clinton is out there, and he is affected by what the American people are telling him. George Bush has not been, and appears to be unaffected. He still, I believe, thinks it's possible to see a doctor in America by scheduling a trip to go fishing, or perhaps scheduling a round of golf.

Secondly, it seems to me that you've got to be concerned. And it doesn't appear to me that George Bush is. Here is his own director of Office of Management Budget, and I understand somebody from OMB is here in the audience. He hears his own director of OMB saying that unless you do something about health care, you're not going to get our deficit under control, and he does nothing. He's not mentioned it in his budget address other than at one point to say that health care is a right for all Americans and then he doesn't follow on it.

He sees this as a political issue only. He doesn't see it as an economic issue, he doesn't see it as a humanitarian issue, and as a consequence, he only responds when it is politically palatable to do so.

Furthermore, I hope he doesn't have to go down to Walter Reed again after saying that if you like Governor Clinton's proposal you're going to get treated like the KGB. He goes down to Walter Reed and they're not treating him like the KGB down there. He doesn't mind socialized medicine when it applies to him. But when it's possible that we're going to establish policies in America that provide health care as a right to every other American, somehow the image of the KGB comes to his mind. He's playing politics with a life and death issue.

For the most important humanitarian economic issue in America, George Bush has resorted to pure hard ball politics.

Senator HARRIS WOFFORD: By seniority I should properly be the last in line, but I may have to chair the Senator—something vice presidents are supposed to do, in just a couple of minutes.

But the people of Pennsylvania sent me here to be second to none in the fight to get health care costs under control and to get health care extended to everybody. And I have two points I want to make.

First, I learned fast that without a new president, without someone who isn't going to ridicule, block, and veto fundamental health care reform, what the people of Pennsylvania sent me to do can't be done.

And we need a national mandate for that kind of action that's from the whole nation which now will happen, because we do stand on the edge of a grand canyon between a continuing do-nothing president and a mandate, Bill Clinton, who has promised in the first 100 days to put this at the top of the agenda.

The second thing is the scare tactics of President Bush, Candidate Bush, Candidate-converted Bush, is not going to work now any more than it worked for Dick Thornburgh in Pennsylvania. He tried everything of the old song that was used against Social Security, against Medicare, but now President Bush is taking the bogeyman east from British socialized medicine to the Soviet KGB. And it won't sell. People won't buy it. Because there is a real fear, not a bogeyman, a real fear that unless we do something to bring costs under control, and unless we do something to extend health care to the whole American people, the health of our country and our economy will not be cured.

Since we're going by height and not seniority, I'm second in line. There's still hope.

The Bush health care plan is really a metaphor for his entire presidency: lots of rhetoric, little substance. Lots of promises, little leadership. His so-called comprehensive plan to control health care costs are as effective as his comprehensive plan to control the budget. No effort to reduce the administrative cost, now might be over 20 percent of the entire burden. No effort to reallocate the cost to those areas in health care where we need it the most. Little effort to reduce unnecessary care. His proposals to control costs are perhaps his biggest failure, but it shouldn't be any surprise. He and his predecessor for the last ten years, the last 12 years have failed to control costs.

Under President Reagan and now under President Bush, health care costs have gone from $250 billion to $820 billion this year. And the average costs to the American family are skyrocketing. If we do nothing, or worse, if we would adopt the Bush proposals, we will see health care costs by the year 2000 to the average family reach $14,000. And for employers, it may be just as bad, $6,500 per employee. But for the rich, that may be nothing. For the middle class, it may be everything.

Perhaps the greatest tragedy is that millions of Americans under this plan will still be left out. I think the biggest difference between George Bush and Bill Clinton is that Bill Clinton believes health care ought to be a right, not a privilege. That's the bottom line. If you don't cover all Americans, then you don't have comprehensive health care. And what is truly disappointing is that in all of the rhetoric, I have yet to see one new idea. George Bush's response to rising costs as a tax break that we have over on this chart for a family paying $6,500 in health care costs, his tax break is worth $563.

That's the equivalent of a cancer patient being told to take a couple of aspirin.

Now, even more than at any time in the 12 years that he and his predecessor have held the presidency, we need less rhetoric and more substance. We need fewer promises and a lot more leadership.

Senator PAUL DAVID WELLSTONE (D-MN): Thank you. I'm here to represent the vertically challenged on health care policy.

Let me be brief. When you're last, you listen to what other people say and you try and see what you can add to it.

I think that the president's remarks about Governor Clinton and Governor Clinton's positions on health care represent unprecedented hypocrisy, to quote someone who's famous now. It seems to me that the president really misses the point. Senator Rockefeller said it well, so I won't repeat that. But when the president talks about the inefficiencies of the United States postal service, let me please remind each and every one of us that are here today that there is one thing very good about the postal service. The postal service delivers mail to people, regardless of their income, regardless of where they live—region, regardless of their age. And what we have in health care is we're rationing health care by income, by employment, by age, by region—and the most important part of it all and the sickest part of it all is by sickness.

We don't deliver the mail that way. So I think the President just misses the point about the realities of health care as it affects people's lives.

I would like to invite President Bush to come to the Minnesota state fair with me in a few weeks. I think he would enjoy it, and I think he would learn a lot—because at the Minnesota state fair, each person counts as one and no more than one; nobody has a lobbyist. Everybody comes up to you. Half the state's population comes in two weeks—and, believe me, you meet half the state's population in two weeks. And people will say to you, "Senator," or "President," I can't afford a doctor's bill." Or, "Senator," or "President," if it's a small town, "Senator Daschle, I can't even find a doctor."

The health care system is in fundamental crisis, in need of fundamental reform, and that means care available for all our citizens, and that means affordable health care. And I agree with the senator from South Dakota: the ultimate and basic and important difference is that Bill Clinton understands that health care is not a right and not a privilege, and George Bush does not understand that at all. And that is why he will fail miserably in using this as an issue in the campaign. And that is why Bill Clinton will win the White House.

Senator ROCKEFELLER: There's some pressure on us because some of us have a funeral go to. But I think it's more important, frankly, to answer your questions since you've been waiting here.

Let me just say, incidentally, two things—that Bill Clinton's plan for health care very carefully mirrors in all of its basic ways what we have put on the Democratic side in the Senate; and, secondly, that when President Bush I believe just a few minutes ago and many, many times before has said that there would be a 7 percent rate set for small business. That is a joke. We've been through that before. His own secretary of HHS sets that rate himself, without review by Congress, entirely himself. So if he wants to set it at 7 percent or whatever, it's entirely up to him.

I would be glad to answer questions.

Q: Senator Rockefeller, can you tell me when Senator Mitchell's and the Democratic health care bills will come to the floor?

Senator ROCKEFELLER. Well, I understand your point because we are so aggressive and so committed to health care on our side of the aisle that we not only have put out not just a full program for access to health care, but what has not been mentioned here this morning, an entire full program for long-term care. So they're both out there; they're both on the floor; they're both absolutely ready.

Secondly, we are also working to try and further refine, with a tremendous burst of activity which has been going on now for about a month and a half, in which we have been looking, going to our colleagues and trying to meld the approaches that we do have together to make an even more refined proposal.

But the basic point obviously is that we are desperately active on this and that if we had any, any sense of encouragement from the White House, there are Republicans who would be glad to sign on to what we have done, but are being precluded from doing so by the White House just as they were told to vote against the Pepper Commission by OMB and by John Sununu directly.

I mean it's very hard in a town where there are 535 congressmen and one president, and the president doesn't give one whit about health care, and doesn't understand it, and does not care to, glazes over at the mention of it, to get things going. I understand your question, but mark you not one miss on the readiness of Democrats to cooperate with the president if he would show some, any indication.

Q: Do you have the votes to pass for——

Senator ROCKEFELLER. Yeah, you have to have, in this business, and you know perfectly well, you have to have 60 votes.

Q: Do you?

Senator ROCKEFELLER. We have 57 senators, and no Republican senator that I know of would be allowed to vote for that.

Q: Do you have all 57?

Senator ROCKEFELLER. In spirit we have, we have the great, great majority of those.

Senator RIEGLE. More than 50 are committed to the fundamental principles.

Q: Does that necessarily mean that you would knock this forward (inaudible)?

Senator ROCKEFELLER. No, we're going to go ahead, we're going to go ahead as best we can anyway, and as is the House. I'm simply saying they have plans out there, too. I mean Gephardt's plan's a little bit different, it takes a different approach. I mean we're trying everything we know. But in this town, which is a one-man town, one-person town, if you have no indication of any support from the White House you are checkmated on something as complicated as health care reform.

Q: (inaudible) Senator?

Senator ROCKEFELLER. I'm sorry?

Q: Will there be a vote——

Senator ROCKEFELLER. I don't know if there'll be a vote in the session. I know that it's George Mitchell's intention and Tom Daschle's intention, and certainly mine, to try to have the vote to bring it up and to get this thing voted on by the United States Senate.

Q: In truth, isn't this issue so complicated even amongst Democrats, and with your majority in the Senate, your majority in the House, the reason that something will not pass this year is there is not agreement (inaudible)?

Senator ROCKEFELLER: No, you know the reason it's not going to pass? It's because there's no interest in having any action from the White House. Every single Democrat agrees on comprehensive and universal coverage for all, not just access to but coverage, and tough cost containment. Just like Bill Clinton agrees on a kind of a board that sets expenditure targets and so says. We all agree on that.

When Bill Clinton is president, we will have the makings of a bill within a 100 days, and it'll be done before the end of the first year.

Senator RIEGLE: Let me just add one comment here because there's a practical contrast. We're going to try to bring it to a vote and I hope it's going to pass in the Senate, not be talked down a Republican-led filibuster, and there's a danger of that, and of course the House is moving themselves.

But don't miss this point. The administration, when they care about an issue they know how to do something about it. And the recent example—and you'd have to look beyond right today—is what they do on most-favored nation trading status for communist China, who will have a trade surplus with us this year, $15 billion.

The administration knows how to work for an issue that it wants, and that's one illustration. I could site others, but that one is immediate, and you can see it without even having to look very hard.

The point is there is no interest on this issue. We have begged this administration to move on this issue. We have worked on a bipartisan basis together with a group of Republican senators for a year and a half.

There is a long record in this area and the point is there is no serious intention to move ahead, and that makes it, frankly, very difficult, with 90 days to go before a national election, even less than that in terms of legislative days here in the Congress, when we know that the administration is going to do everything they can to prevent us from producing a comprehensive bill.

But I can tell you this, here it is. There's only one way we're going to get a national health insurance bill enacted into law.

We could pass this tomorrow and Bush would veto it; he's made that clear. We need a new president with a new orientation. It's the only way you're going to get a new economic strategy and health care for this country.

Now that's something we can do on November 3rd. I think people will and you will see us pass comprehensive health insurance with a new president in the White House who in fact will sign it.

Q: Senator Rockefeller (inaudible) Democratic plan would cost the taxpayers millions of dollars (inaudible).

Senator ROCKEFELLER: Well, what I say to that is that we're spending $820 billion on health care and that virtually everybody in town and out of town agrees that 25 percent of all that we're spending is either unnecessary or inappropriate or both.

And that we can—yes, what we suggest costs some money, but in the passing of that, we would spend approximately $30 billion, give or take a few, and we would save $215 billion. That's just access to health care. That's just coverage, universal coverage.

Q: Senator Rockefeller, could you answer a tax question, please.

The White House apparently now thinks that they might—at least recommendations to the president are to veto Senator Bentsen's tax bill which includes many of the president's proposals because it doesn't have a capital gains tax benefit.

Senator ROCKEFELLER: Well, I mean it's always my assumption when a bill goes to the White House from the Congress, that it's going to be vetoed. So I mean the news would be if he were going to sign it. So I don't quite know how to respond to you.

I might say that we have more good news from the Bush economic front. A decrease in average factory worker work week, an increase in new claims for unemployment, fall in building permits, slump in consumer confidence.

I mean, you know, you take the economy on the one hand and the health care on the other, the two biggest subjects that face this country, and are taking this country down, and he is oblivious. He has no plan on the one, the first, the economy, and no interest, and no plan in the second, health care.

Q: Senator Daschle, if Governor Clinton is elected into the White House or hypothetically (inaudible) elected tomorrow, would you tomorrow (inaudible)?

Senator DASCHLE: Actually our plan isn't that different, but the answer, the short answer is absolutely yes. I don't think it's going to be that, though. I think we're going to continue to work to find a consensus and a compromise version within our caucus. We're almost there at this point. We feel very optimistic that the vast majority of Democrats believe in the fundamental concepts of comprehensive health care reform.

So I think that there is every reason to be optimistic that we will have virtual unanimity among Democrats under a ·Clinton administration when it comes to comprehensive health care.

Senator WELLSTONE: I'd like to, having introduced the single payer bill in the Senate, echo part of what Senator Daschle said, which is I think we're having very good discussions about ways in which we bring our approaches together, but I want to emphasize what Senator Riegle said just one more time.

The administration can put out all these pamphlets or whatever about the truth about health care, and throw out all these numbers, but this is the point. People don't wake up in the morning and look in the mirror and say am I Republican, Democrat, liberal, conservative. What they say is I really would like to have some assurance that I can afford health care bills and provide my loved ones with decent coverage. People want that so much. That is really the issue. That is absolutely the issue.

And I want to emphasize what Senator Riegle said. It is very frustrating for me as a senator to be here, having talked about these issues with people in Minnesota, to understand that this is the true definition of gridlock.

People know we have just a limited amount of time left, they don't want us to play games, they don't want to see things stalemated. They wonder why you even get started down that track if you can't get anything done, and they know the reason we can't get anything done is you have a president who says he'll veto any form of universal health care coverage. He is out to lunch.

Senator ROCKEFELLER: Probably literally, literally at the moment. Yes.

Q: Senator Rockefeller, you had mentioned before that regardless of White House support you all are going to move forward with something.

Senator ROCKFELLER: Of course we are.

Q: Can you tell me a little bit about the sense of this consensus that there (inaudible) commodity then?

Senator ROCKEFELLER: No, because that is being worked out. I mean, again, the perspective is that we are working furiously, aggressively, constantly to try and bring these approaches together. I mean, you can step back from that. You can say already virtually everybody agrees to one approach or the other, all right? I mean, so that's way ahead. There are a lot of Republicans who would agree to one of those approaches, too. But they're not allowed to.

So, yes, we're going to push ahead, and we're going to get some kind of a refinement. And, yes, Tom Daschle will vote for that. And if it leans more his direction than my direction, I'll support his; and if it's vice-versa, he'll do the same. I mean, we're interested in getting something done.

What we have is a disaster, and it's getting worse every single day. I would vote for any comprehensive plan that had strong containment, guaranteed quality care, and was universal in its coverage, as opposed to what we have today.

Q: Senator Rockefeller, does that consensus extend to the House side where we haven't seen a great deal of action on health care? I understand the bill hasn't made it through Ways and Means, and we'll be asking (inaudible)——

Senator ROCKEFELLER: Yeah, but did you also see what Congressman Stark said the other day? I mean, he said, if Bill Clinton is elected, he said, we'll be so relieved, we'll be so glad, you know, we'll support anything he sends up here. And he said that facetiously. But he wasn't.

In other words, he knows that Bill Clinton agrees basically with the plan that the Democrats on this side have put out. I mean, it's virtually—any differences are entirely tiny nuances. All of the characteristics are the same. And we were not consulting back and forth that much. I mean, he knows health care. I caused health care debates to take place during the campaign amongst Democratic candidates. I mean he knows the subject cold. At the governor's conference, as governor of Arkansas, he has exercised enormous leadership. He's ready to move. We'll have comprehensive health care reform within a year if he's elected president.

Q: Is this consensus-building effort that you're carrying out on the Senate side also carrying over on the House side, and are you consulting with them?

Senator ROCKEFELLER: Yes, and the point is we're both moving forward; Bush is standing still.

There are no more items to read.

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[From the Congressional Record]

Mr. SPECTER. Mr. President, would the distinguished majority leader be willing to answer a question?

Mr. MITCHELL. Yes. Certainly.

Mr. SPECTER. Mr. President, I can understand the concerns about these offsets being used, although I must say that when it comes to a matter of repealing the luxury excise tax, I would think that those offsets would better be used on programs for expanding health coverage in this country. When the distinguished majority leader talks about enterprise zones, and a variety of other legislative proposals, I do not disagree with their importance; but I do not think they supersede the importance of health care.

My question is whether the distinguished majority leader, on the scheduling, has in mind a timetable for taking up the issue of extension of health care in America.

Mr. MITCHELL. As I have stated many times publicly, from the very place that I am standing now, as well as others, comprehensive health care reform is one of my highest legislative priorities, and it is my hope and intention to bring to the Senate this year, if at all possible, such legislation.

Mr. SPECTER. Well, Mr. President, if the majority leader would be in a position to make a commitment—I am not saying he should be, because I understand the complications of his work, and I am on the floor a great deal, but I have never heard the statement made that the majority leader just made.

But if the majority leader is in a position to make a commitment to bring health care legislation to the floor this year, this Senator would be willing to withdraw this amendment.

Mr. MITCHELL. Mr. President, I am not able to make a commitment, as the Senator full well knows, because under the rules of the Senate, I do not have control over how long it takes to consider legislation. A bill comes up one day, and it may take a day, a week or a month.

Therefore, since certain actions are required by law—particularly the 13 appropriations bills—and since, as we all know, many Senators regularly use the delaying tactics permitted by the rules to delay action, I cannot foresee how long it is going to take to do various bills.

It is a high priority of mine. I have made the statement many, many times, and I repeat it. I hope very much, and I expect to, and it is my intention to bring a bill to the floor, if we can. But to make an absolute commitment is really beyond my authority or beyond my ability at this time.

I do not want to make a commitment that I am not certain I can comply with, because of so many other factors—primarily, the limited legislative time, the large amount of business that we have to do, and my inability, because of the rules of the Senate, to control the length of time which the Senate takes to consider any measure.

Mr. SPECTER. I appreciate what the distinguished majority leader has said, and I note the complexities of scheduling and the responsibilities which he has, and only he has.

I just say in passing that, as I understand it, there has been a date set for product liability legislation, a date fixed immediately after we come back in September. I know, from what I have heard the majority leader say publicly and on television, that he regards extending health coverage to be second to none among the priorities.

It would just be my hope that the distinguished majority leader would bring this issue to the floor at the earliest possible time, which is what he has said. This Senator would certainly like to see it done this year, as the majority leader said he would like to see it done. But if it is not possible to make a commitment, I repeat that I understand the distinguished majority leader's situation, and I am under no illusion that when the majority leader makes a request, Senators from a majority side of the aisle are gathering. I do believe firmly that this is an important amendment, and that the offsets are better used for this amendment than they are for items like the repeal of luxury taxes.

I thank the Chair and yield the floor.

EXHIBIT 1

DEMOCRATIC CAUCUS OF THE HOUSE OF REPRESENTATIVES, ORGANIZATIONAL MEETING, JULY 24, 1991

The organizational meeting of the Democratic Caucus met at 8:30 a.m., in the Hall of the House of Representatives, the Hon. Steny Hoyer, chairman, presiding.

Mr. HOYER. The Chair has examined the previous caucus report and announces its approval thereof. Please ring the bells.

I welcome Mr. Hoagland and Mr. Jontz. You too, Mr. McNulty. Of course, Chairman Anderson. And all the staffs at sea. Mr. Cardin.

The desk has made the observation that maybe some of the Members are left over from last night. I won't identify the staffer that said that.

I know I am a little late. Chairman Anderson has already told me that. My good friend Mr. Cardin has to remind everybody that I was 60 seconds late.

We have over 50 Members of the caucus now present. We are going to start. Hopefully more Members will be coming in. We will keep the voting machines open.

As everyone knows, the subject matter of this caucus is health care. We are going to recognize first the Majority Leader.

I might say the caucus and the Members of the caucus, we have been involved now for some two years, as you all know, in looking at alternatives. There is clearly a consensus in the caucus that health care is probably, next to jobs and economic growth, the biggest issue of concern to all of our constituents.

The Majority Leader has been doing a major effort along with the Chairman of the Ways and Means Committee and the Chairman of the Energy and Commerce Committee, Pete Stark, Henry Waxman, and others, and the Speaker has been convening a group of those individuals and others with reference to this issue for essentially approximately a year now. We are coming close to the time when this caucus is going to have to come to a consensus, if that is possible.

This caucus is designed to look particularly at that for the purposes of explaining where we are at this point in time. I am pleased to recognize the Majority Leader, who has done so much work on this issue.

Mr. GEPHARDT. Thank you, Mr. Chairman. Let me first say I think all of us have been deeply involved in this issue, as Steny said, for a long time. We had town hall meetings six months ago. We have been high profile on this for a lot of obvious reasons that I want to reiterate this morning.

Let me start by saying I think it is very important for us as a party to try to pass a meaningful bill in health care this year. And if we can find 218 of us who are willing to support a bill that is obviously a compromise between the various approaches that have been suggested, we can do ourselves an awful lot of good for an awful lot of obvious reasons.

It is also obvious, as you start this discussion, that it is unlikely that we can get a promise of 218 votes for single payor or pay-or-play or more market approaches alone. So we have got to find something that at the end of the day all of us can repair to, and come to as Democrats and say, that is something worth doing.

I also urge you to remember that if we do nothing, if we do nothing, which is the other alternative in front of us—and some are beginning, as Clinton's polls go up, to believe that we can get by with doing nothing—then George Bush is going to be on our head the minute it is obvious we can do nothing, saying we are brain dead, we don't have any ideas. They had all these town hall meetings; they can't do anything, they are just standing by waiting for the election. It is the inept Congress, et cetera, et cetera.

So I urge you to understand, it is not costless for us politically to just stand by.

Now, let me just quickly refresh your memory on why we have been fooling with this issue so much. The reason is it really matters to our constituents. Health care costs in 1992 are $4,800 on average per family. If we do nothing, we just stand by, it is going to be $12,000, roughly, in the year 2000. Obviously, a horrible result for average families.

Some say, let's just do small group reform—basically, insurance reform the way the President has suggested it. There is a real problem with that. If you look at how costs are going up, they are going up at 18 percent a year, if we do nothing. That is why you get the 12 grand a year by the year 2000.

Job lock, the fact that people—if you want to deal with job lock in making things more portable, you add another 3 percent to what is already 18 percent. Then the uncertainty of change, whatever we do in insurance reform, adds 5 percent. So you are at 26 percent, just by doing a small program, and you have got to add 20 percent to that if you do small group reform. Because what you are doing is saying, if somebody has got cancer, they are going to get insurance. If you think about that, that means other people who are now paying normal premiums will have their premiums go up.

So if you just do small group reform, which to some has been attractive and which the President is proposing, all you are going to do is add cost to your average constituent. So that really is not something that I think is feasible, and something we want to try to avoid.

When you ask people what their problem is with health insurance, you are brought back to the fact that the people see this through an economic lens. What is bothering people about health insurance—although some who don't have access, that is their problem—it is cost. It is money. Payment of uninsured costs, 75 percent. Payment of long-term costs, 74 percent. Affordability of good health care, 71 percent. Losing government-provided health insurance, 62. And on. It is all to do with money and cost.

When you ask people why costs are going up, hospital fees, 86 percent. New expense, equipment and technology, 8 percent. Doctor's fees, 80 percent. Uninsured individuals, 78 percent. Malpractice, 77. Cost of prescription drugs, 74. So it is easy to see what the problem people perceive is. It is hospitals, doctors, prescription drugs.

Do people think we have the ability to solve the problem? Total U.S., 61 percent of the people think as a country we have the ability to solve this cost problem. Younger people, 60 percent. Middle-aged people, 70 percent think we have the ability to solve this problem. Older people, 65 percent.

I just want to read one quote from one focus group, one individual, how they describe the problem. "There is no quick fix because it is such a jumbled mess. But this doesn't mean we should stand around watching. Congress should put limits on malpractice liability, confront doctors over their fees, make insurance companies improve their health coverage, and do something about the cost of new medical technology. They have to watch out for the people. No one else seems to."

If we don't do anything about this, we fall subject to the charge that we constantly get, that Congress is seen as in the pocket of the lobbyists, unwilling to take on special interests, unwilling to attack the problems people feel affect them personally.

So if we just stand around hoping we can win the election, win the Presidency, all our problems will go away, I am not sure that is the case.

I also urge you to understand, I don't know that coattails are going to be so great, even if we win the Presidency. You are going to have George Bush beating on our head every day. And all of us individually are going to be impacted by this criticism.

One last point. If you are worried about budget savings and you are worried about what the cost of all this is going to be, the bill that we have talked about is a compromise that Pete Stark and others, Dan Rostenkowski and people in Ways and Means have been talking about, these are the savings to the Federal budget that can be achieved over the 10-year period getting up to $114 billion by the year 2002.

Now, last point. What kind of a compromise could we possibly get 218 people around? Obviously, the linchpin of it has to be cost containment. That is what people perceive to be the problem. That is what we have got to grapple with.

We generally have had two ways of coming at cost containment. One, rate regulation. In other words, regulate the price of what you pay. That is what we do in Medicare. We regulate how much we are going to pay doctors, how much we are going to pay hospitals.

The criticism of that is that it doesn't do anything to reform the way health care is delivered. In other words, you regulate the price; you are not regulating the volume, you are not changing the way this system works. And so many of our more moderate and conservative Members have been saying maybe we can put up with rate regulation on a national budget, but you have got to have some way to move this system and to induce consumers to want to change the way health care is delivered.

And so they have argued for trying to move the system to more sensible ways of delivery, HMOs and other kinds of forms that we know do work better, and to try to induce employers and employees to go to more cost-effective kinds of plans.

So, in other words, under the rate regulation, trying to move the system in a more positive direction, to give local governments and state governments more prerogatives over the way the system gets changed. And we have tried to factor much of that into the bill we have been working on.

So if we could do this, if we could find a compromise, we could certainly do one of the goals over here, which is cost containment. If you do that, you save money.

We believe that through the one plan that has been developed, you could save 100 billion Federal dollars, 260 billion total dollars in the tenth year, over what we are going to spend if we do nothing.

You could devote those Federal dollars to access, which is the other thing that everybody wants. The minute you get to access, everybody gets scared because you have to raise taxes. Nobody wants to raise taxes. I understand that. I feel the political pressure on that, like all of us do. But if we are really able to do cost containment, whether or not we are eventually willing to raise taxes, and I think some day we will probably have to if we are really serious about access, we can use the monies over time to begin buying access and picking up people into a public or a semi-public plan.

And third, if you can do these two things, then you can do insurance reform, which everybody is for, but nobody wants to deal with because it will make average people's premiums go up. But if you have got cost containment working, then premiums don't necessarily go up. And so you have achieved the third leg of the stool, which is long-term insurance reform.

Last, last point. The committees, John Dingell, Dan Rostenkowski, Bill Ford, and other committees, have been working for a long time to try to put together the specifics, and the devil is always in the details, of how to do this. We are at a point where we have got to fish or cut bait. Time is up.

We are going to have to, in the next week, in my view, make some decisions, put the final touches on the bill, go out into the caucus and talk to each of you individually and see if we can find 218 votes.

I do not want to get out here on the Floor discombobulated, disorganized, not know what in the world we are doing, and look foolish at the end of the day. I would rather do nothing than come out here and look dumb, dumber than we will look if we have nothing to say.

So what I would ask you is that you listen carefully to what these people are going to say about the details of these plans that are being put together, to try to keep your powder dry until you are talked to and listened to by the people that are going to be working on this issue, and that you give us a clear answer after you have had it fully explained as to whether or not you can vote for this plan.

And I urge you to try to help us pass this eventual plan. It will not be everything you want. I can assure you of that from the outset. It will have features in it that will cause you heartburn. I can assure you that from the outset. And it will cause you some problems with some interest groups out there in the country. I can assure you of that.

But before you decide to not be for it for any of those reasons, I want you to think with me for just a minute this morning on how good it would be if the Democratic Party and the Congress could put 218 votes up there for a meaningful cost-containment health care plan in 1992.

The Senate maybe could pass it. We might be able to put it on the President's desk. He would die. Even if the Senate can't pass it, the message that would come out of here, that the House passed meaningful cost containment in health care, and did something, like this constituent said, we will never do, would be a huge advantage for you personally in the election, in my humble opinion, and for Bill Clinton and Al Gore running for the Presidency. It puts meat on the bones. It distinguishes us from the other party. It puts us on the high ground. It gives us a wonderful argument going into what is still going to be a tough, tough election for each of us in 1992.

So I urge you to listen carefully, to consider what is being said, to try your best to be for this thing, if you possibly can. And to help us get 218 so we come back here in September, we bring the bill out of committee, we go to the Floor and we get it done.

We are talking in the final days with many of our moderate and conservative Members, and other Members who have worked on this, to try to put the final pieces together, the compromise, so that people feel we have got something they can live with.

I urge you to help us. I think if you will, we can have a big, big victory for the Democratic Party and for your reelection effort in November of 1992.

Mr. HOYER. We have 11 people, 12 people who have asked for time. We have obviously time constraints. We are going to go until 10 of and five of. We will recognize people for four minutes apiece. That is not long enough, but it will give us an initial opportunity. We have to have a minimum of meetings in relatively short succession over the next two weeks about this issue.

Chairman Rostenkowski, then I will recognize Chairman Dingell.

Mr. ROSTENKOWSKI. Mr. Chairman, I think truly there is very little I could add to what Dick Gephardt has outlined. We met earlier this year, and I think what we really have to underline in this whole debate is the fact that we, the Democrats, have raised the hopes of the American people to try to put together a health package this year.

Now, I am as exposed to the high that we are on now as everybody in the room. I recognize that Gore and Clinton are riding the gravy train, and they are worried about us doing something here that could hurt that.

But I think what we have to rationalize is, is it better to do nothing, after having talked to the American people in our town meetings and raised their hopes?

I am not as optimistic as Dick. I have been talking to many individual Members, and I think the only point that I would underscore in your discussions with the leadership is be as honest with them as some of you are with me, because I am not getting the reflection of the Membership that is so positive about putting something together, only because, as Dick has pointed out, there are different views.

The one understanding, and even in my committee, in the subcommittee, the one understanding that I have had with my membership was that should we get a compromise package, and the Majority Leader has totally committed himself to getting 218 votes before we move, but in order to get bills out of my subcommittee and up to the full committee, I have had to make commitments to the Membership on my committee that all legislation that is of interest to individuals, Marty Russo, Sam Gibbons, Dave McCurdy, Mike Andrews, Glickman—everybody wants to have their day in court. I see no problem with that, except how it plays to the American people in the divisions that we will have, and/or whether or not when we come together, we will be able to come together with a consensus and pass the bill.

I just think that the road is filled with good intentions, but I would hate like heck at this point in time to do something that would derail the upward swing that we feel with Gore and Clinton doing such an outstanding job.

I underscore this very much. I am getting letters from the Majority Leader and from Bill Gradison, observations from the President of the United States about saying, Give me a chance, give me my bill, at least let me have it considered. That is what you will hear should we do nothing. It will be that the Congress, they did not even give me a chance at my bill.

So when the debate is over, and you have been convinced or have not been convinced, I think you owe it to Dick Gephardt, who has worked so hard, I think you owe it to him to tell him that you will or will not support the measure, because it would be terribly embarrassing for us to come to the Floor, have the debate, and then not be able to pass a piece of legislation.

Mr. HOYER. Thank you.

Chairman Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

I would commend Dick Gephardt for having come forward with this initiative. And I want to support the comments made by Dan Rostenkowski.

This is a proposal which we have not seen for the first time. As my good friend Dick will remember, we had a similar exercise back in the days of the Carter Presidency. It is interesting to note it came a tremendous cropper. And the result of that was that nobody much cared.

I would like to begin by saying, first, if we are going to do it, we had better do it very carefully and prepare for it very well, because the consequences of failure are indeed very serious.

Second of all, there are two ways we can address this problem. The first is to come forward with a package which does the best we can, given the circumstances. We might get a little political credit for it. We might not. That is basically the package which you are seeing before us.

I really have some doubts that people are going to know that we have really done anything or that we have really addressed the issue. I feel there is only one way of solving the problem. That is a single-payer national health insurance program.

I think the components of that that count are these. One, control or tort liability, malpractice reform. Two, cost containment. Three, and an absolutely essential step which has to be taken, that is financing by value-added tax. This will get you business support.

Having said that, I support this, and we will do our share to get it out of committee. But as Dan says, you are going to have to support your leadership. You are going to have to come forward with an honest statement of what you are going to do on this, because if we come a cropper, it is going to be a great big one, and I would urge you not to commit to that folly in an election year.

I would tell you I very much want and I feel the only sensible thing we can do if we are going to do this is, at least start moving forward the basic issue of national health insurance.

The average guy I talk to in my district says, I want national health insurance. He doesn't greatly care about cost containment. He doesn't care about the mechanism for financing. And he doesn't care about malpractice reform. Those aren't things he understands. They are absolutely essential to it, but he wants one thing. He wants those medical bills to be paid.

I think a component of what we are engaged in, and remember, we are engaged in two things. The first thing we are engaged in is the legislative exercise. The second thing we are engaged in in a political year is a political exercise to first of all work our own program forward, and that is an honorable and proper thing to do, and second, to screw the Republicans.

It is my honest belief—

Mr. HOYER. Without objection, so ordered.

Mr. DINGELL. I am not sure whether I got more time or license to screw the Republicans.

In any event, if we are going to do this, I would urge that we put on the Floor an opportunity for Members to have a really meaningful vote on a national health insurance program that is going to mean something to Joe Six-Pack out there.

Now, if there are other Members who feel that this will be hurtful to them, then I say they should have their day on the Floor, too, within the limits that a busy Congress and a complex legislative process permits.

Thank you, Mr. Chairman.

Mr. HOYER. Pete Stark?

Mr. STARK. In a couple of minutes. Thank you, Mr. Chairman. And I join with those who would praise Dick Gephardt for the determination and hard work to keep this issue before us.

We pass over very quickly the insurance reform section of this bill, which does nothing but take every insurance reform package you have seen, whether it is Ron Wyden's or Chairman Dingell's or Lloyd Bensen's, and broadens it to every insurance company in the country, whether it is a private plan or a public plan.

New York State just passed practically the same thing. See what happens in New York. It is not a major issue, but the idea is you can't take one little segment of the insurance industry and just regulate them, or the others get out of whack.

The access issue is an issue we could debate a long time. The committee tried to spread the savings around, a third to the seniors, from whom most of the savings come, a third going back to back to the new folks in the case of expanding the benefits to impoverished children and pregnant women, and a third going to the present system, to people who would save money.

The main part of the system is the cost issue. And I don't care—I think the way we have drafted this, and it was the subcommittee's intention and the Majority Leader's intention, does not prejudice any program. John Dingell's bill could work with this, indeed needs this kind of a mechanism. Charlie Stenholm's bill and Jim Cooper's bill needs at some point an accounting system. We cannot—anymore than you could design a defense budget and say, we will, we will save money, you either have to tell the defense budget and say, we are going to spend $300 million or whatever we are going to spend, you can start there and set all the prices below it or you can give us a laundry list and say, a bullet costs this much and a plane costs that much. We have still got to come to a number.

Leon Panetta is not going to let us get out of here with anything that doesn't have numbers. All this system does is set an accounting system, so Marty Russo's bill, complete Canadian cradle-to-grave insurance, national insurance for all, still, I have got to figure out how to pay the bills.

So what did we do? We didn't go to Canada, we didn't go to Germany, we didn't go anyplace else. We looked around and took the only system we have. It is called Medicare. None of you have it but none of you would vote against it.

I have made this challenge to that side of the aisle. Let the first Republican tell me that Medicare is socialism and they want to get rid of it, and they are signing their death warrant.

Arguably we—all my subcommittee does try and improve it every year, try and save money, settle complaints from the chiropractors and podiatrists and the doctors in the hospital. But it is a system we know, and it is a system that actually works. It has saved more money than any other system. Admittedly, it has passed its costs on. But if you have a universal system, it works.

What do we do? We give every hospital and every doctor their present public-private fees. Not Medicare fees. Not Medicaid fees. They are present fees, plus next year, plus 10 percent. So we give them their commercial rates, next year they can go up 10 percent.

The only difference is the next year they can only go up 9, and then 8, and then 7, and by the end of the decade, 6 percent or the growth in gross domestic product, whichever is lower. And that is it.

And it saves $250 billion, $175 billion for Lee Iacocca and the private side, and $75 billion for us. But you could all operate under it. Nobody goes broke. You can add it up, CBO can score it, OMB can score it, you can score it, you can look your doctor in the eye and say, Doc, you are getting what you got this year plus 10 percent next year, and I am only getting 4 percent next year. And the hospitals ain't going broke. They get Medicare plus 130 percent, plus 10 percent next year, plus 9, plus 8.

It is a system you could all work with, and we can live to work another day with the President, with our constituency, to design a plan that can use this procedure, whichever one you eventually we ought to end up with.

I hope we can come together and write a bill. I pledge to you all that our committee—I know that Chairman Dingell and Chairman Waxman will join with me in saying—if there is a majority in this group that wants to follow one particular road, we can do it. We can write Medicare for all. We can write a complete, managed competition HMOs for all, or we can write the Russo bill. It still needs these components to work.

Thank you.

Mr. HOYER. Mr. Jim Cooper?

We are going to try to get everyone in. Let me announce while we have the maximum number of people here, we will have breakout meetings. We will have five meetings similar to the ones we had last year, 8:30 Wednesday next. Next week on Wednesday, 8:30, we will have breakout meetings to discuss your views. So in that next five-day period of time, if you will study what we are doing and be ready to come and give input and discuss what we have.

Jim Cooper.

Mr. COOPER. I appreciate Dick Gephardt's leadership on the issue to try to help each one of us and our country face these tough issues.

I appreciate working with Chairman Dingell, Chairman Waxman, Chairman Rostenkowski and Chairman Stark. There is a group of us, we are nobodys on this issue, we are not chairmen or subcommittee chairmen. A group of us have been very worried in what we have been reading about in the newspapers about our party position won't sell in our districts.

The group started with me, Stenholm, McCurdy, Wyden, Synar. Many others of you have come up to me on Floor and said, Give us an alternative.

I am not an expert on politics. But I think we have come up with an alternative that is closer to what Bill Clinton believes in than any of the other plans that we have heard brief mentions of so far today. My former staffer is now Bill Clinton's top health care advisor in Little Rock.

The plan we have tried to come up with is a little bit different than what we have been reading about in the newspaper. It is not Canadian-style single payer. It does not have a $400 billion year value-added tax. It is not Medicare for all.

As Dick Gephardt mentioned in his remarks, you might try to control price, but volume is going to explode on you, and we are going to face many of the same problems nationwide that Medicare today is facing. Medicare, by the way, is scheduled to go bankrupt after the year 2000.

We have come up with a plan called managed competition; heavy government involvement, so the competitive forces can really fight it out and get rid of the waste and fraud and inefficiency in the current system, by attacking the root problems, not the symptoms, the root problems.

We come up with a plan that I think should appeal to all elements of the party, and we are still working with all the folks to try to branch out and reach out and get compromises where everybody can be comfortable. But one of the cornerstones of our plan is the federalization of the medical system, one of Mr. Waxman's dreams. And here you have conservative folks for it, reaching out, not just covering half of the people under poverty with Medicaid, as is the system today, but really covering everybody up to 200 percent of poverty with Medicaid.

Multiplying the Medicaid program four or five times, improving access in a way that really hasn't been proposed here on the Floor today except by the Dingell plan. That is one cornerstone.

Another cornerstone is for the average American who is not poor, who is employed but isn't getting the health care affordability that he or she deserves. What we tried to set up there is a system where that individual can shop for health care in a very powerful and direct way. Today you can't shop for health care. You are powerless in that market. You are helpless in that market. Particularly if you are an employee of a small business, you are defenseless out there with the wolves. If you ever switch jobs, you are cut off. If you have a health problem, you are cut off. You don't know which doctor provides you the best care for the cheapest price, which hospital is more likely to kill you. You know more statistics about professional baseball players than you do about the folks who are going to help you or hurt you.

It takes a little while to explain it, and I would be delighted to explain it at length with each of you individually. We have come up with a system that doesn't accept, you know, unbridled competition. It has heavy government involvement to make sure the competition works, because today, for example, what insurance companies do, they skim the cream off the market, they cherry pick and they leave everybody else to fend for themselves.

We say that is not an American way to compete. You have to stop that. You are going to compete a new way. You are going to compete in a new way of who can provide the cheapest, best quality health care, to a fair share of the American people.

Unfortunately, my time is already gone. I would love the opportunity—please contact me or the other folks in our group. We can give you a better alternative than what is being discussed today.

Thank you.

Mr. HOYER. Henry Waxman?

The Chair is not going by seniority order, as you have noticed. We are trying to give all points of view.

Mr. WAXMAN. Thank you, Mr. Chairman.

I thought that Dick Gephardt's explanation of this problem and his suggested solutions was a compelling one, politically and substantively. Politically, we have raised the hopes of the American people that our party stands for doing something in the area of health care reform. We have had town meetings. People are looking to us to take a leadership role to solve the health care problem. And if we do nothing, they will read that as a failure of leadership.

Now, if we are trying to develop the ideal bill, Jim Cooper hasn't described my dream, because my dream is not to have a Medicaid program so you have a program for health care for the poor, and then you have another health care program for the elderly. My idea of real reform is that everybody in this country is covered: Universal access to care.

Now, we can all go through, and will you hear from different speakers how they would like to achieve the same objectives, because everybody here would like to see every American covered and have access to health care. But if we get caught up in the differences as to how to achieve that objective, we will get nowhere. We won't get anything adopted.

One approach would say that business ought to cover, mandate coverage on businesses, because most people have their insurance through their employment, and most of the people without insurance in this country are working people or their dependents. That is a reasonable approach. There are others who say the Government ought to raise the money, not have businesses take on that responsibility.

Chairman Dingell and I have a bill that would have the Government raise the funds, and then the consumers choose private health care options. Very reasonable approach. Either one of those approaches will require a tax increase, a big one.

Jim Cooper described another approach, relying on competition and hoping that that will produce the desired results. Maybe it will work, but maybe it won't. If it doesn't work, we are faced with the big problem that is killing us now, and that is continued increases in health care costs.

So what the Majority Leader is suggesting is that let's get behind a common-denominator position. Hold down health care costs. Now, you can't go to a single payer, you can't go to an employer mandate, you can't do anything until you hold down health care costs. And of we adopt a way to hold down health care costs, we make health insurance affordable. Until you hold down health care costs, we can never reach that dream of getting every American access to care.

We have heard a lot about the deficit. Well, we can't have any way to control our government spending until we deal with the Medicare entitlement program costs. And what have we done? We have tried squeeze down on Medicare alone. When we do that, it pops out on the private sector and they have to pick up the extra cost.

People say, Let's put caps on entitlements. That simply means capping what you spent on Medicare. That is not a solution. Until you control health care costs in the system, you have not been able to control the health care costs for the Medicare recipients unless you want to turn your back on them and reject the promise that we made. And Pete Stark indicated, if you want to destroy the Medicare system, you might as well send in your resignation as a Member of Congress, because that will be about the most unpopular thing you can do, and also one of the most unwise policies to pursue.

So if we are going to do something, we ought to do cost containment. We can defend it on the deficit reduction basis. We can defend it in terms of holding down the cost increases for American workers. We can defend it in terms of hoping then to get access to others. This is a basis for all of us to come together, put 218 votes on it, and pass it. And then say we will come back and solve the rest of the problem next year.

But let us, if we are going to do that, unite behind that in advance. Don't get to the Floor and then find us quibbling over different alternatives, and then stalemated within our own ranks and looking ineffective and unable to lead.

So I join the Majority Leader in urging that we get behind a compromise which won't be what everyone wants, won't be my dream, it won't be Russo's dream, it won't be Cooper's dream, but at least it will show some leadership on behalf of the Democratic Party. Let's get behind it.

Mr. HOYER. Harry Johnston?

Mr. JOHNSTON. Thank you very much, Mr. Chairman.

In Florida two weeks ago, the time for filing closed, after which I immediately commissioned a poll of my 21 questions. One of them was, would you support a candidate who is for national health insurance? And 82 percent of the people came back and very strongly will support someone who is for national health insurance.

If you know my district, from Palm Beach to Boca Raton, it is rather silk stocking. Only 6 percent said they would oppose a candidate that was for a national health insurance.

To my conservative friends, I think this is probably the most conservative platform and position anyone can take, because as Henry said, if we do not do something about the soaring cost of health delivery in this country, we are going to go bankrupt. There is no question about it.

I think when you go into national health insurance, when you realize that not only will we take care of our national competitiveness, as Lee Iacocca says, and I shan't give you my rotary club speech, but at the same time, workers compensation insurance will go down, medical malpractice insurance will go down, automobile insurance will go down. Why? Because the biggest element that plaintiffs' lawyers put on the board is medical.

I have a plan. It is a single-payer plan. It is the combination of Canadian and German plans. It is perfect. It will be the plan, immodestly, that this country will have in the year 2000.

But I am here today to tell you that we, as everyone says, have got to fish or cut bait. We have got 60 plans out there. We cannot all sit back and have this pride of authorship.

I like the CDF plan. It is a little short on access, a little short when it comes to cost containment. It is a good plan.

But I am here to use the cliche, "do not allow perfect to be the enemy of good." The Stark-Gephardt bill is not perfect, but it is good. If we do not get rid of our pride of authorship and rally behind one bill, we are going to be in serious trouble.

Mr. HOYER. Sam Gibbons?

Mr. GIBBONS. Well, I apologize, I didn't want this to be a Florida dialogue here. I first got involved in this issue when Claude Pepper and George Mathers were running for the United States Senate, and I watch Claude Pepper get beat to death by the medical lobby. They beat him. George Mathers didn't beat him. I was a friend of all those people who beat him. I played golf with them. They were my clients, my business associates. Claude Pepper is dead. They are dead. The doctors today have changed. They haven't changed completely. The AMA is still crusading against anything that saves money.

The arguments that they are putting forth is let the market system work. Now, you know, I am for the market system. I don't think anybody stands up here before this House more than I do and talks more about the market system in this economy. But it just doesn't work in medical care.

Whoever in this audience ever bargained with a doctor about what that doctor was going to charge before you sought his services, or hired him? None of you. Did you ever, in this audience, or in any audience you ever talk to, ever bargain with a hospital about what the charges were going to be before you sought admission into that hospital? You just don't do it. The market system just doesn't work in the American medical system.

And we are incapable of bargaining with that system. We don't have the knowledge. And when we go to them, we are in dire straits.

In this little chat over here, is the head of the family going to bargain with the doctor if his wife or child is sick? Hell, no.

We have got a lousy medical system. We have the highest infant mortality rate than any of the 24 industrialized countries on earth. We have got to do better. we have got the most expensive medical care system of any of the 24 industrialized countries when measured on a per capita basis, 50 percent more than our nearest competitor, 100 percent more than most of our competitors. We can't afford the damn system.

I asked Ford, Chrysler, and General Motors the other day in a public hearing in the Ways and Means Committee, how much cost of health care was in each car they produce, and the answer was unanimously, $1,000. I asked Toyota and the cost was $50. It is that the Toyota people don't have the retirees, that we can't afford. We can't remain competitive in this economy. We don't get medical care out of it.

Mr. Gephardt, I am for your proposal, because it makes sense, and because we have got to meet it as a national need. We have got to meet it as a human need. This is important.

Let's unite behind a program. The good program is the one that has been put forth here. Thank you.

Mr. HOYER. Mr. Roybal?

Mr. ROYBAL. Mr. Chairman, this being an election year, I almost agree with all of the previous speakers. The truth of the matter is that I do agree with the facts presented by Mr. Gephardt. I agree also with the fact that something should be done, and that something should be done immediately.

But I am worried about the fact that the bills that are before us now, the two proposals, have by coincidence been authored by Members of the Committee on Ways and Means. The truth of the matter is that there are at least 20 bills in both the House and the Senate that have been presented on this subject matter.

Now, when we had the first caucus on this subject, those two or three that were left at that particular time, probably remember that I said the thing to do was to take all of these bills, have the Speaker assign a committee of experts, no Congressmen, except one, perhaps, but experts to come up and recommend a policy that can be adopted.

In all the speeches that have been made up to this time, not a single one of them has mentioned Bill Clinton. We must adopt a program that Bill Clinton endorses, because if we propose and pass any program that he does not endorse, it would be embarrassing to him when the President of the United States vetoes that bill.

And it would be embarrassing to him particularly if he has no interest in the bill that is passed. I think he should have his own bill, and whatever is done should have the full support of our candidate.

Again, if we do anything at all that doesn't have his concurrence, it is going to be injurious to his campaign.

The next thing is, the committee on Ways and Means has had all these bills under consideration for the last 20 years. We reviewed this plan, and it was not recommended. The Pepper Commission also reviewed this plan, and there was no recommendation.

So the one thing that has to be done, I think, is look at these plans from the standpoint of cost containment, and whether or not it includes everyone. Is it going to benefit the poor? What is going to happen with people who have Alzheimer's disease in the United States? Over 6 million people have Alzheimer's in the United States of America. And of those, some are in institutions that cost $35,000 a year to keep. Others are at home, but nothing is being done to train people that are at home taking care of patients.

I have had a lot of experience in this field, and I go visit people with Alzheimer's disease, and I always find that a woman is taking care of patients with Alzheimer's, never a man, except in one instance when a man was taking care of his wife. But in every instance it is always a woman, but no one trains that woman or that person. And one woman told me that she had been taking care of that individual for seven and a half years, had never been out of the house except to go to church on Sunday. And then, when I saw her taking care of that patient, what little I know about it, I concluded that she needed a lot of training, and people throughout this Nation should be trained so they can take care of these patients at home. And does this piece of legislation provide for that? No, it doesn't.

Mr. HOYER. Mr. Cardin?

Mr. CARDIN. Thank you, Mr. Chairman.

It is time for our caucus to come together. The beginning of this year, the caucus, I think, did come together with a goal of universal access to affordable health care. We held town meetings. I have filed legislation in this area that goes beyond the bill that has been reported out of the subcommittee, the Gephardt-Stark bill.

But if we are going to move this year, if we are going to move further in health care reform, our best hope is to move forward with the bill that the Majority Leader has described. I urge you to please read what the bill does.

Much of what Jim Cooper has asked for is in this bill. Much of what Chairman Roybal has talked about is in this bill. We have listened and we have all participated.

This bill addresses the number-one problem of cost control. We have cost containment in this legislation, and it will accomplish cost containment much.

It expands access but does it without any tax increase, which many Members of this caucus have urged us to do in our first movement towards health care reform. It allows the State to have a major role in health care reform. And it also listens to our small businesses and has no mandates on our small businesses.

So it should be a bill that we can get this caucus together on. It moves forward towards our goal, but as Pete Stark has said, it is not inconsistent with the major Democratic proposals that have been made.

Mr. Chairman, we have asked our leaders to lead. Health care is an area where we need leadership. This Nation is suffering because of the lack of leadership in the White House. We have asked our leaders to lead. And part of that means that after we have participated in the process, and after our leaders have brought us together, that we are willing to back off a little bit of our own individual thoughts for the collective good.

I urge us to be able to come together as a caucus, support our leadership, move forward with this proposal support a process that allows the Democratic proposals to have their day as far as the vote is concerned. But as the Majority Leader has said, at the end of the day we should be willing as a caucus to support the compromise that the Majority Leader has worked out, be willing to support that proposal so that we can show some leadership to the nation.

Thank you.

Mr. HOYER. Rosa DeLauro.

Ms. DELAURO. Thank you, Mr. Chairman.

I just wanted to get up to make a simple point, and that is my view that the Congress has got to do something about the health care issue. I don't think that we can go home in the fall and not have any response on this issue.

Since I started to run for this office and in the last 18 months, the three issues I have heard most about from the people I represent are taxes, jobs, and health care.

We have done something about jobs, we did something substantial. We were not able to do anything about tax relief for working middle-class families in this country, and there has been no response from the Congress on the health care issue. And then you begin to wonder why the people in this Nation are cynical about what we are doing.

This is our issue. I believe that people look to Democrats on the health care issue. If you are going to look at tax cuts for the richest 1 percent in our country, then you are going to look to the other side. But health care is our issue. It ought to be ours. And we are in danger of losing this issue to cynicism.

I would very much like to see a national health insurance program. That is my view. We need to have big change. We need to have some sort of a unitary system. Ultimately, that is my view, that is where it ought to go. And I don't hold water for the big interests, the doctors, lawyers, insurance companies. I am willing to go to the insurance company in my State, which is substantial, and the pharmaceutical industry, and tell them we need big change.

But we are not going to enact those kinds of big changes without the help of a President, and we are not going to do them, that kind of change, in this session. I don't believe that we can wait for a new President, nor do I believe that the country is going to wait.

I support the Stark-Gephardt initiative. I think it is a start. I think it is a major statement. It does change our health care system. Is it everything that we want? No. Is it a magic bullet? No. We are still going to have to come back here and make some changes and deal with reform.

But I will tell you what it does confront, the issue I hear about every day, and that is cost control. It does it in a tough and immediate way.

We started out in the health care issue with great momentum and political opportunity. We are in the final hour. We are in danger of squandering it. It is not a political victory we are going to hand over to the Republicans. We are going to hand over the political victory to cynicism. That is the enemy for all of us this Nation.

I say, let's rise above the differences and work at supporting the Gephardt-Stark proposal.

Mr. HOYER. David Obey?

Mr. OBEY. I simply want to say that I had a conversation with a bunch of Republicans last night, and I found it very interesting, because they are in a state of panic, and the two things they think they have to have in order for Bush to have a chance is to have some kind of action on some kind of tax package or, slash, growth package that they and Gingrich, et cetera, define. And the second they think that Bush has to sign something on health care.

I think we have to keep that in mind as we proceed. I will vote for any of the options that have been discussed. I have my preference, but I will vote for anything in contrast to the existing system. But I would simply ask that two things not be done.

I will support this package. I think it is, because it doesn't go as far as I would like to do, it winds up being politically fairly technocratic, so I don't think it has a big payoff, but I think it is useful nonetheless. So I will vote for it.

But I ask that two things not be done in the process of voting for it. Number one, I think it would be a very bad mistake for us to, as the price to get this to the Floor, for us to ask Members to vote on half a dozen other plans, because if you do that, then you set us up in a cross fire between interest groups needlessly on something that will not hold.

So I think if this is going to be the baby, then let's go with it. I have got my bill, too. Let's all eat our own and vote for whatever the hell the leadership puts out here, if this is it.

The second thing I would ask is that we make sure that we do not produce something that is so tepid that Bush will have to sign without looking really goofy. I think the worst of all possible outcomes would be not to pass this, and in the end to get together with some kind of a mugwump package that we can do because it is the only thing we can do that Bush will sign and he therefore gets a political victory when he doesn't deserve one.

Those are the only two things I would ask. I would simply ask that if we are going to do this, do it without a bunch of other choices, because they won't become law anyway, and this gives us an opportunity to at least argue the case of cost before the American people.

Mr. HOYER. Thank you.

Now, if there is anybody that has not indicated their presence, please do so immediately, because we have got to shut the machine and transfer it over. Anybody has not indicated their presence?

Mr. Smith?

Mr. SMITH of Florida. Thank you.

Because of the district from which I come and the district I have been representing, I obviously have a significant interest in this. I am, like others, confused as to which would be the absolute best plan. But I can tell you that as far as I am concerned, I am very much with David.

Number one, we need a plan that we can pass, because most of us made a commitment, and if you all will search in the back of your minds, you know very well that one place or another in the campaign and in your speeches in the last year, you made a commitment to come back this year with health care reform. You did it. You know you did it. And we have to do it.

Many of us had those town hall meetings, most of us. You didn't have those meetings just for information. You know very well those people believed when you left that you were going to make a concerted effort to bring home some form of national health insurance, broader access, lower costs, lower insurance costs, better care.

I also agree with Dave Obey, we ought not to put ourselves in the cross fire. There are going to be an awful lot of people out there who are going to prefer one plan over another. We can't keep putting people in the tank every hour or two on this Floor so they get whip-sawed by almost every interest group. It needs to be done in a way that can avoid that problem.

Third of all, I think it is very important that we do something, because it is the right thing to do. Rosa said we did a job package. Well, if you want to know the truth, we haven't done anywhere near what we should do. We are not going to do a major tax thing. We are not going to do a major job thing. This, however, is the one issue we can do that is going to cut across all lines and affect more people than any one of the either tax or job packages will do. This affects every American, all the time. We have more working Americans than we have unemployed.

But they are all involved with health insurance. We have most people who can pay their taxes legitimately every year, but we have all of them concerned about health care. This is the one thing that everyone will relate to. And if your district is anything like mine, you know that they are really scared to death.

The one thing when they lay down their heads at night, and so help me God I will remember Claude Pepper standing in this well with one of the last speeches he ever made, saying to you, when you put your head on the pillow at night, close your eyes and think about what you did for somebody else that day, how you made somebody else's life better.

These people go to sleep at night worrying about a long-term illness, and illness to their child, the loss of a job which will create a loss of their health insurance. They are scared. This is the single issue, and we have it within our power both technically and politically to make it right for all of them, and to make the Democrats look like as we really are, the people that care about this issue, and give Bill Clinton a bump, and give us a bump.

It is win/win all the way around. But we have to believe that we can do it. And there is a lot of fighting still with people who don't believe we can do it. But we can.

And it is the damnedest right thing to do that we have had within our grasp in years to do. And it is time, and the United States is at a significant crossroads, and we need to work to accomplish this, whichever one it is.

Thank you.

Mr. HOYER. The time of the gentleman has expired.

Ladies and gentlemen of the caucus, Mr. Abercrombie, Mr. Slattery, Mr. Levin, Mr. Wyden, will not get a chance to speak. We will have those names first thing next caucus so we can get you on.

It is five of. The staff needs to prepare for the session at 10:00, so we have to adjourn at this time. I think all of us want to thank the Majority Leader and every other Member who has spent so much time on this issue. It is a real challenge for our caucus. We will work hard at it.

At 8:30 next Wednesday, breakout groups. Please explain that to our—next Wednesday, 8:30, breakout groups.

The caucus is adjourned.

[Whereupon, at 9:54 a.m., the caucus was adjourned.]

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I know the distinguished Senator from Arizona is here. He will be speaking. I just want to say that he has been also a very active member of the health care task force of the Republican Senators; has been a regular attendee at our Thursday morning 8:30 gatherings, is knowledgeable on the subject, and has been intensely interested in health care reform. I am delighted that he will next be speaking.

Mr. McCAIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I would like to thank the Senator from Texas, Mr. BENTSEN, as well as my colleague from Rhode Island, Senator CHAFEE, for their leadership and their dedicated efforts to try to give relief to the small business people of America. In my State they are the backbone of our economy.

Mr. President, it might come as a surprise to some that 70 to 80 percent of our Nation's uninsured are small business employees and their dependents. It is time that we resolve this crisis, which is affecting so many Americans.

Some have suggested that the answer is to mandate that all businesses provide health insurance. But, this approach fails to recognize the reality that is that small business owners do want to make health insurance available to their employees—the problem is, they cannot afford the insurance.

This amendment, as the amendment and bill before it, represents a significant step forward in the area of health reform. Specifically, this amendment would do a number of things:

Allow self-employed individuals to deduct a larger portion of their health insurance premiums than they are currently allowed;

Prohibit insurers from excluding individuals in a group from coverage, and from cancelling policies due to claims experience or health status;

Prohibit insurers from denying coverage due to a preexisting health condition;

Limit annual insurance premium increases for small employer health plans to no more than 5 percent above the underlying increase in health care costs;

Limit the amount by which insurers can vary premiums for different groups; and

Require insurers to offer small businesses at least two minimum health insurance packages, which would waive at least some of the State mandates.

Mr. President, this amendment is critical for our Nation's small businesses and their employees, and it is time that we address this issue. It is my hope that when this issue gets to conference with the House that they too will agree that it is time that we assist our Nation's small businesses in gaining access to affordable health insurance.

This amendment is truly a significant, and important, first step on the road to health reform, and it is my hope that my colleagues will join in support of this amendment.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Arizona for his very generous comments towards the Chairman, Senator CHAFEE, and Senator DURENBERGER, who have worked so hard on this. I know of his interest on this issue, knowledge of it, and support of it. This is helpful to us.

Mr. CHAFEE. Mr. President, the distinguished Senator from Utah is here. He also has contributed heavily to our deliberations in connection with health care. I look forward to his remarks because he has been intensely interested in this subject; indeed, has submitted legislation in this field.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the health care reform amendment. This is a significant piece of legislation carefully crafted to help resolve America's health care crisis. I commend my colleagues, Senator BENSTEN and Senator DURENBERGER, as well as Senator CHAFEE and others who have done so much to bring this to the floor. I know without our distinguished chairman, this would not have had a chance to be heard. Without the work of Senator DURENBERGER, among others, I do not think we would be as far along as we are today. I am really pleased to be able to stand up here and argue for this particular amendment.

The strength of this proposal is that it wisely builds upon our market-based health care system, while correcting its weaknesses.

Let me begin by reaffirming that the quality and availability of health care in America has always been a source of pride for all of us. In this sometimes acrimonious health care reform debate, we too often lose sight of this particular fact.

There are certain values built into the American health care system that ought not be ignored. We have traditionally had the finest physicians and the most advanced technologies for diagnosis and treatment anywhere in the world. We have been able to choose our own doctors and to obtain treatment when we need it.

I am not saying that our system is perfect by any means. It is not. But what has enabled us as a nation to have such unprecedented excellence in medical care? It is a wide variety of things.

I submit to you that the answer to why we have such unprecedented excellence in medical care lies in our fundamental reliance on individuals and the continued development of free markets, not on Government to provide services or to micromanage our decisionmaking. We have consistently rejected the premise that Government knows what is best for us. Our strength is in market-based reforms. This amendment allows us to make some progress towards reshaping our health care system. It defines in transitional steps that we all agree are useful in achieving long-term solutions.

There is insufficient cause to abandon our health care system completely for radically new and untested proposals that may run counter to our basic American principles and values.

This year, I have often been discouraged about the lack of progress on changes to our health care system. Today, I am encouraged by this action, this amendment. Because to me this signifies that we are willing to put the best interests of the American people above our political ones.

There is no denying that our health care system is in peril; as health care consumers, we are in danger of losing the elements of our health care system that we value most: Quality, choice, and yes, affordability.

Let us discuss the two issues at the forefront of the health care reform: The escalating costs of health care and the number of people who lack access to needed care. These issues are interrelated; as costs increase, access to affordable health care insurance or care decreases.

Referring to the first chart, with regard to health care costs, the proportion of spending that the United States devotes to health care is escalating rapidly. As my chart here shows the percentage of spending rose from about 7 percent to over 12 percent in 1990. Taking a longer view, the spending has doubled over the past 30 years, from about 6 percent of the gross national product to over 12 percent of the GNP today.

As this chart also shows, our Nation's health care spending is projected to continue to grow astronomically into the next century.

It is going to grow from 12.2 percent today to 31.5 percent in the year 2020 unless we do something about it. That would be catastrophic to us.

Chart 2, according to the 1991 Advisory Council on Social Security, by the year 2020, nearly one-third of our gross national product will be devoted to health care if we do not change our current policies.

So here is the pie. In 1990, 12.2 percent of that pie, or of the gross national product, was devoted to health care. By 2020, nearly one-third of the gross national product will go to health care, unless we do something to change our policies. Health care costs are projected to double from the 1992 projected level of $809 billion to $1.714 trillion by the end of this decade. We have to make policy changes now to reduce this cost escalation in the future.

The second issue dominating public debate is access. My third chart shows where Americans get health insurance. Nationally, about 14 percent of all Americans, right here in this green pie slice, have no health insurance coverage. This represents about 35 million Americans. My friends on both sides of the aisle have been working for a long time on various incarnations of a national health insurance program.

There are, however, key differences in approach to reforming the health care system. We have to solve this problem of no health insurance for 35 million Americans.

Here is employment-based coverage of 58 percent. Other private coverage is 8 percent. Medicare is 12 percent; Medicaid, 7 percent; and CHAMPUS is about 1 percent. But literally, 14 percent of our American people are not covered by insurance.

I think that as the health care debate unfolds in the coming days, months, and years, the American people will be offered very different approaches. There is no agreement even among respective parties or constituents as to what to do. I have worked with the distinguished Senator from Rhode Island and members of the Republican task force for more than 2 years. We have met every Thursday in the Capitol office of the distinguished Senator from Rhode Island, almost without fail. These meetings were always well-attended by those most interested in doing something about health care.

We have struggled with these complicated issues and, in my view, every Member of this body ought to pay a debt of gratitude to the leadership of Senator CHAFEE. Much of what appears in this amendment today has come out of some of the work that has happened both on the Democratic side and on the Republican side and under the leadership of Senator BENTSEN, the chairman of the Finance Committee, and, of course, Senator DURENBERGER, who has worked so hard, and Senator CHAFEE, and others as well.

Our social policies in health care affect every American. I worked with our

Republican leadership this summer on a bipartisan task force, who tried to achieve some agreement on a health care package. I believe this amendment contains provisions that enjoy broad bipartisan support. These are issues that we could and should act on today or tomorrow.

Do I believe that this amendment is the answer to all of our health care problems? Of course not. But it contains transitional steps, positive steps toward reform, and, more important, it allows the health care reform dialog to go forward.

We have an opportunity before us today, maybe tomorrow, to provide some immediate relief to our constituents. I think we should seize this opportunity. We need to acknowledge the points of commonality and move forward and look for other points that we can agree upon. The amendment before us outlines a strategy that begins to address the problems of cost and access by building upon the positive aspects of our health care system. The provisions in this amendment are transitional steps to permanent health care reform, and that is why this amendment is so very important.

The small group purchasing grants will use Federal funds to catalyze more competition and more efficiency in the vital small employer health insurance market, if this amendment passes. Taken together with the provisions relating to small group insurers, this amendment will greatly improve the ability of small business employees to get health insurance. This is very important.

Small business is the main incubator of labor in this country. The great majority of new jobs are developed in that sector, and it is critical that we adopt this measure today in order that a more carefully bounded and level playing field is created in this key market.

This amendment addresses the issue of insurance portability. For too long, Americans have been hamstrung by the problem of job lock caused by preexisting condition clauses in their health insurance.

Integral in realizing the American dream is the freedom to leave one job for a better opportunity. The portability provisions of this bill allow the work force to move more freely from job to job, and that is the way it should be.

I think that the solutions in our health care crisis ought to center on perfecting the marketplace. The provisions that encourage managed care and utilization and review programs contain a big carrot: Preemption from State anti-managed care laws. This will short circuit well-intentioned but counterproductive regulatory requirements.

I think the outcomes research provisions of this amendment are critically important. This country is not in a health care crisis because we spend too little money on health care. As one of my Democratic colleagues is fond of saying, "We must spend it smarter," and I agree with him. Outcomes research can help us spend our health care dollars smarter, and that is part of this amendment. I commend the sponsors of this amendment for it.

So I am pleased that we can come to an agreement today in offering these amendments. I am pleased that this body has taken the lead in advancing the health care reform debate. I urge my colleagues to vote for the health care reform amendment that is before them today, and, again, I want to pay tribute to those who worked so hard through the years to develop an amendment like this, one of the first steps that we have to take toward comprehensive health care reform. And I certainly compliment the three leaders here today, Senators BENTSEN, DURENBERGER, and CHAFEE, for their leadership on the floor now and for the work they are doing in bringing this to the forefront of the American people. To the extent I can play a small role, I am happy to do so, and I am happy to be a prime cosponsor as well.

I yield the floor.

Mr. BENTSEN. I thank the member of the committee, Senator HATCH, who has done so much in the way of health care. He understands that we have worked together on many pieces of legislation.

### AMENDMENT NO. 3160, AS FURTHER MODIFIED

Mr. BENTSEN. Mr. President, I wish to modify my amendment by inserting in the following language which I send to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the amendment add the following:

"SEC. (a) Notwithstanding any other provision of title XXI of the Social Security Act, the standard health benefit package defined in title XXI of the Social Security Act shall cover items and services for the treatment of severe mental illness, as defined by the Secretary of Health and Human Services, equally with items and services covered for the treatment of other illness and without regard to any special limitations placed on mental health benefits.

"(b) If the Secretary finds that the enactment of subsection (a) would insure the cost of a standard benefit package, he shall revise the promoters of such package, as amended, so that it is no more costly, than if subsection (a) had not been enacted.".

Mr. BENTSEN. I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise in support, and am pleased to be a cosponsor of, Senator BENTSEN's amendment.

Mr. President, one of the most important health care reforms we can pass this year is a provision included in Senator BENTSEN's amendment before us. It is a proposal that tackles one of the greatest inequities confronting America's small businesses. And not surprisingly, it is another injustice in our Internal Revenue Code.

This inequity lies within the fact that some of our Nation's richest corporations are allowed to deduct 100 percent of their health care costs, while struggling self-employed business people cannot. That is right, while the General Motors and Donald Trumps of this Nation can deduct 100 percent of their health care costs, self-employed businesses can deduct only a quarter of this amount.

This tax policy, by any definition, is not fair and must be changed.

Today, over 35 million are uninsured. In my State alone, nearly half a million men, women, and children have no health insurance and must live in constant fear and uncertainty. In fact, one out of five Arkansans has no insurance.

Millions of our uninsured are self-employed business owners. They are aspiring entrepreneurs—the type of people who have the boldness—and willingness—to undertake new business risks and opportunities.

These hard-working citizens lack health insurance coverage for one simple reason: They cannot afford it. They cannot afford the double-digit increases of their insurance premiums. They cannot afford the skyrocketing charges of health care providers and manufacturers. And they cannot afford to pay for health insurance because they are being discriminated against by the Tax Code.

The National Federation of Independent Business [NFIB] estimates that many of the estimated 4.8 million uninsured self-employed business owners would be able to purchase health insurance if these business persons had access to the same 100 percent tax deduction that Lee Iacocca and his company receives. What is more, reforming the Tax Code in this way should also help the 4.6 million employees of the self-employed. In other words, a simple change in the Tax Code could decrease the number of uninsured, not by the thousands, but potentially by the millions.

Mr. President, I have long supported increasing the 25-percent tax deduction for self-employed persons to 100 percent. For this reason, I was extremely pleased that the distinguished chairman of the Finance Committee, Senator BENTSEN, incorporated this change as a provision in S. 1872, the Better Access to Affordable Health Care Act of 1991. For this reason, I am pleased to be a cosponsor of the amendment which achieves this goal.

The self-employed tax reform provision will benefit even greater numbers of people if we combine it with a commitment to true cost containment. I believe that it is time to get the spiraling cost of prescription drugs under control and finally make the pharmaceutical industry pay their fair share. We should not hesitate to target other major contributors to our health care inflation crisis.

Mr. President, it is long past time that we eliminate the many health care inequities that confront, on a daily basis, millions of self-employed persons. Let us not allow this year to pass without enacting a 100-percent deduction for our self-employed businesses, taking some significant strides toward true health care cost containment, and addressing the discriminatory insurance practices that victimize too many of our Nation's citizens and small businesses.

Mr. President, I would like to commend Chairman BENTSEN for this amendment. I believe it takes an important step in addressing a shortcoming in our current system.

Mr. President, I do not know, nor do I think any of us know exactly what sort of a health care proposal might emerge in this session of this Congress. We still have hopes that there might be something. I think that the distinguished chairman is certainly moving us in the right direction at this time. I applaud his amendment, Mr. President. I also am very proud to be a cosponsor of the amendment of the chairman.

There is one aspect of what the Senator from Texas, the chairman of the Finance Committee, is doing that I would like to specifically talk about just for a moment.

I might first stop if I might and just tell a little story to my colleagues about a major businessman that I heard about recently who gave a big contribution to a fellow running for office. I will not get any more specific than that. But he gave a very major political contribution. It was the first time he had ever given a contribution to a candidate for office, and when the contribution came in the individual running for office to whom the gift was given called up the donor and said:

> I am amazed that you have given me this huge amount of money for my campaign. Why is it? Why do you want to give me this amount of money and do you expect anything in return?

He said:

> I run a big business. I get to deduct all of my health care, 100 percent. I have a son who runs a business with five people; he gets to deduct only 25 percent of his health care. I want my son to have the same opportunity that I do, and I think I speak for millions of self-employed, small business people across the country who are very serious of having this opportunity just like big business does.

Mr. President, this is one of those rare opportunities that we can take an issue of tax policy and dramatically affect part of our health care crisis. We can change tax policy. We can change the Tax Code and the result is going to be nothing but a positive and constructive change.

I remember the distinguished chairman in 1986 in trying to increase from 25 percent to try to give a greater deductibility for the self-employed and for the small business person, and I remember that the Senate position was that we were going to increase that deduction at that time I think by about 100 percent, and when it got down to the other body their position ultimately prevailed and we were faced with the situation of having to stay at the 25-percent deduction figure.

Mr. President, I applaud the Senator from Texas for taking the lead on this. I have been a cosponsor with him for some period of time. I have followed his lead. We have a rare opportunity in this legislation at this time and in the Bentsen proposal. I strongly support it. I am proud to be a cosponsor and I can truthfully say in my own opinion this could well be one of the most important things that we can do in this session of Congress by making this small change in the Tax Code which would have such a constructive and positive impact on millions of self-employed and small business people across America.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I say how much I appreciate the help of the Senator from Arkansas who has been very much a part of this health care issue for some time. He has made a very productive effort and pushed hard and has made contributions.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator HATFIELD be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I see the junior Senator from Indiana on the floor. He has been helpful to us in all our health care efforts and attended the meetings at 8:30 in the morning on Thursday. So I am delighted that he is here to make some remarks.

Mr. DOMENICI. Mr. President, will the Senator from Indiana yield for a question?

Mr. COATS. I yield.

Mr. DOMENICI. Mr. President, might I ask the chairman. I was the one responsible for him not having a time agreement. I am satisfied now with the modification if he cares to try on a time agreement that might accommodate Senators we are aware of I would have no objection. I only need 5 minutes myself.

Mr. BENTSEN. I appreciate very much the comments of the Senator from New Mexico. We are working on a unanimous-consent agreement now.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I rise to thank my colleagues and particularly the Senator from Texas and the Senator from Rhode Island for bringing before this body a very important component of what I hope will form the basis for comprehensive health care reform.

It is true that this is a step, a part, a piece of the puzzle, a small step but an important step. It is the first major step. I hope that it sets and lays the groundwork for significant health care reform. There is no question in this country, and I think this is an opinion shared by most, that we enjoy high-quality health care. We see few Members of Congress, if any, jump on a plane and go to Canada or anywhere else for any kind of health care treatment. We see an awful lot of people coming to the United States to receive their health care.

I think all of us are blessed with the health care system that does indeed provide quality health care. Unfortunately, that health care cost is rising at a rate that is pricing out of the ability of many Americans to afford. Those who operate small businesses in particular find themselves squeezed in terms of their ability to plow profits into developing their product and providing more competitive products and yet taking care of the needs of their workers.

Health care costs have risen dramatically in the last several years for these small businesses and many opted not to provide health care or dramatically scale back on the health care they do provide. By the same token many uninsured do not have access to health care and many are under insured. All of this creates a problem that needs to be addressed and needs to be addressed by Congress. It is obvious now with just a few days left in the legislative calendar we will not be able to provide comprehensive health care reform.

But by moving forward with this piece of legislation we are taking a very important step. As I have traveled throughout Indiana talking to providers, administrators, employers, small business people, those who are the beneficiaries of health care, a very common complaint has emerged from almost every sector. That complaint goes to the fact that certain affected parties do not feel like they are treated equally with other parts. We know that 100 percent deduction that applies to corporate entities at particular times does not apply to self-employed, does not apply to professionals and farmers, and others. Their rate is only 25 percent. So the Bentsen-Chafee bill is an important step in remedying that inequity that exists and I am proud to be a cosponsor of that bill and to support its passage here today.

The measure before us also contains some important incentives to help reform the small group market. Nearly 80 percent of the uninsured—nearly 27 million people—either work or are dependents of workers in this small group market—businesses with less than 50 employees.

It is important that we adopt reforms that avoid the cherry picking that takes place, skimming off the cream of the crop and leaving others without adequate coverage. Individuals should not be discriminated against because of prematerial existing conditions.

The common working man also needs portability. An individual should be allowed to move from one job to another without facing the dilemma of losing his or her health insurance.

The proposal before us also has other important reforms that can help us contain costs. Preventive care—expansion of Medicare coverage for immunizations. Demonstration projects to help small businesses pool together—build upon their business commonality—and pool their resources to offer health care for their employees. The bill also provides reforms to eliminate State barriers to managed care.

All of these proposals are embodied in this piece of legislation before us which I hope will shortly be passed by the Senate.

It is these proposals that I have included in my own health care reform package as one of eight separate components dealing with some of the problems that we face and in my attempt to address this health care issue and provide a road map for consensus and a road map for comprehensive reform.

This tax fairness for small businessmen, S. 1872, levels the playing field so that small business owners, farmers, self-employed, entrepreneurs, and so forth, receive the same tax treatment as large corporations, and that is an important step forward.

I will not take the time, because I know we are somewhat under a time pressure here this evening, to outline all of the components of my health care proposals. But I have developed these into legislation. I have discussed them with Senator CHAFEE and the Republican task force, and I certainly appreciate his tireless efforts on moving this issue forward, on bringing all of us up to speed in terms of the complexity of the issue, and I am looking at some very serious proposals for reform embodied in the Chafee legislation. I have adopted many of those and I have discussed with Senator CHAFEE, Senator DURENBERGER, and others, who have been active in this area the various elements that I am bringing to the mix. I have tapped into the expertise that is available in my State of Indiana, many individuals who have spent many thousands of hours analyzing the problem, working to find an adequate solution, to provide access to quality health care at a price that everyone can afford and yet makes this reform through the private sector.

I think, if I could just detail some of those, my health save proposal which now is sponsored by 10 Members of this body, and the companion bill to that, Senator BREAUX' legislation, which has 11 cosponsors, provides a medical style IRA program that would, of course, require changes in the Tax Code but provides, in my opinion, the only true incentives for individuals to make choices relative to their health care and relative to their lifestyles. That will result in significantly reduced costs. I hope to have the opportunity to at a later time detail the provisions of the health save proposals.

Home care has to be a component of health care reform. Certainly we can provide home health care at a cost significantly less than institutional care and with a compassion and support from family that is not available in institutional care and where necessary and possible I think home health care reforms ought to be part of our comprehensive health care reform package.

Community health centers reaching out to the lower income population of our country is important. I am pleased that the President's proposal includes nearly a doubling of funding for community health centers. I visited many across my State and see their contribution in terms of primary care and early intervention.

The proposal for preventive care and administrative dealing with administrative wastes are all important proposals.

Finally, let me just say a few words about medical liability reform. We, in Indiana, have now for 20 years had in place a medical liability reform package which has significantly reduced costs not only for our medical practitioners in terms of their liability insurance but also for the beneficiary, the patient. It has allowed those who have a legitimate claim to actually receive more on the average than those in neighboring States who do not have a medical malpractice reform statute in place.

So, I hope that this can be a major component of the legislation that this Congress addresses, and the next Congress, that will become part of comprehensive reform.

The simple fact is that only 22 percent of malpractice insurance premiums actually reach insured patients; 78 percent goes to administrative costs and lawyers' fees.

I urge the senior Senator from Texas and others interested in the comprehensive medical reform to look at the Indiana statute, to look at how it has worked over 20 years. Here we have a statute that has been in place. It is a model. We can look at it to see what has been effective, to see perhaps where it may need to be adjusted. But we have significantly reduced the cost of defensive medicine and significantly reduced the cost of liability premiums, all of which translates into a reduction of costs for the patient. And that ought to be our ultimate goal.

Let me give you one example. We now have a new doctor in Evansville, IN, an Ob-Gyn doctor who used to practice in Illinois. This doctor saw, in 3 years, his liability insurance for this Ob-Gyn practice jump 800 percent.

He was the only Ob-Gyn practicing obstetrics within a 40-mile radius of his office in southern Illinois. Because his liability insurance premiums jumped so much, each of his colleagues in previous years had either moved to a different area or retired and he was the only one practicing that particular specialty. He had seen each of five small hospitals nearby abandon obstetric practice one by one because of this liability problem.

He ran into a prominent State politician from Illinois, who I will not name. He asked him in a meeting, as he explained this problem, "What do you suggest that I do?" The response was, "Switch to dermatology."

Well, that might have been a solution for that particular doctor, but it certainly was not a solution for those people from a 40-mile radius who only had one doctor to provide their Ob-Gyn needs. That doctor now has moved his practice to Indiana, where he currently pays 30 percent less in liability insurance than the national average.

Unfortunately, there are 18 rural counties in southern Illinois that no longer have any trained physicians to deliver babies because of liability pressures. Last year, in Evansville, 400 babies were delivered in our hospitals to Illinois residents unable to receive appropriate care at home.

This is an area I think we know needs to be addressed. The AMA and other groups have placed estimates on the amount of defensive medicine that is practiced today, not because the doctor has determined that it is in the best interest of the patient or that the risk involves the extra tests, but because lawyers have been in doctors' offices saying:

> You better order every possible test to avoid every possible risk, because, if you do not, you may find yourself in court facing a massive lawsuit, and you cannot take that risk.

And so a great deal of defensive medicine is practiced; estimates range from $20 billion to 10 times that amount. I think it is probably impossible to quantify that number. But it is certainly an area that we need to look at. I hope we will look at that.

Again, I commend the sponsors of this bill, Senator BENTSEN, Senator CHAFEE, Senator DURENBERGER, and those who have worked so hard to at least get us started down the road to health care reform. This is one piece of the puzzle. We need to put the whole puzzle together. But at least we have taken a start and I am happy to be a cosponsor of that.

I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I appreciate the recognition of the Presiding Officer.

Mr. President, we passed this package out of the Senate before. I congratulate my Finance chairman, Senator BENTSEN, and my friend on that committee, Senator DURENBERGER, for doing this. There is no question that we take job lock and preexisting conditions, we set up a cost containment commission report, take care of deductibility, and a few other things that are good and need to be done; managed care is important.

I guess I speak philosophically and with great respect, as somebody who has a very, very deep commitment, as does anybody in this Chamber, to health care.

I just want to be very sure, as we pass this out, that we do not delude ourselves, either internally, philosophically, in our own minds, or verbally, so to speak, on the campaign trail in the remaining days of the campaign, that we have accomplished anything called comprehensive health care reform in this package. This is an advance and it is a good advance and it is an advance that, if it failed to take place, there would be people hurt because of it.

But in the perspective of things, I need to say to my colleagues that we have an enormous, enormous amount of work to do to achieve comprehensive health care reform that goes way beyond what we are doing here. And I just want, philosophically, that perspective to be understood.

There are now almost a half-million women out there who are pregnant who do not have health insurance. Most of them are not going to get prenatal care. A lot of them are going to have low birth weight babies and the cost of that and the pain of that is unbelievable.

Any health care plan that can be so designated as comprehensive has to have the twin pillars, in the judgment of this Senator, the twin pillars of universality of coverage: Every man, woman, and child in America has to have coverage, not just have an opportunity to get it, but have it; and, second, rigorous cost containment.

Germany spends 40 percent less than we do on health care, and everybody is included, and they have cost containment.

Now one other thing that I most appreciate and most respect about the chairman of the Finance Committee is he has consistently said from the very beginning that this is only the beginning; that is an incremental reform headed toward a larger picture. He has said that publicly and on this floor many times.

But I want what he says and what I am saying to be heard by our colleagues and those who advise our colleagues. Anyone who would say this is comprehensive health care reform is really missing the mark.

If I could be quite direct about it: What I look forward to is coming back here next year, which is, after all, just another 2 weeks, and then next year, under President Clinton, under a Democratic President who has fundamentally committed himself and has a basic commitment to comprehensive health care reform, universality, and rigorous cost containment. And that we would achieve that. And the dimensions of that are vast.

Our majority leader on this side, with the support and active leadership of the chairman of the Finance Committee, has been putting together a package which is much vaster; which really talks about comprehensive health care reforms as I would understand it.

So I congratulate Senator BENTSEN and Senator DURENBERGER for this effort. No more job-lock; no more preexisting conditions; managed care; preempting State intervention to that—and other things. And that is important and I am glad.

But between now and the election let it not be said by those who want comprehensive health care reform that we have achieved it today. We have started on the path. There is an incredible amount of work yet to be done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I thank the Senator from West Virginia. He has been a leader on this issue: Chairman of the Children's Commission, heading the Pepper Commission—deep interest and concern.

I would say to him—and he has stated that I have—I have said repeatedly: This is just a step along the way. This is in no way comprehensive health care and I would say that has been repeated by every speaker I have heard on this floor tonight; that this is not comprehensive health care. We agree with that.

Mr. President, I ask unanimous consent that no point of order lie against the provisions of the pending amendment as they appear before the Senate at this time, either before or after its adoption if adopted.

I have cleared that with the ranking manager, the manager for the minority.

The PRESIDING OFFICER. Is there objection? The Senator from New Mexico is recognized.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I know there are other commitments and I assume there will be some speeches, after a vote possibly. I am wondering if we are prepared to move to action on this?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there is no objection on this side to a voice vote.

Mr. BENTSEN. I have heard no objection on this side.

Mr. CHAFEE. I understand that is the situation on that side so I guess we could agree on that. The Republican leader wanted to make a few comments.

There is a letter from the NFIB in support of this that I ask unanimous consent to have printed in the RECORD.

Mr. BENTSEN. I would be happy to have it printed in the RECORD. I was going to have it printed. I join together in doing so.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
*Washington, DC, September 23, 1992.*

Hon. LLOYD BENTSEN,
*Senate Committee on Finance, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the 595,000 members of the National Federation of Independent Business (NFIB), I want to express support for your efforts to reform the small group health insurance marketplace and to extend a full, 100% deduction for the cost of insurance to the self-employed business owner. Your legislation, S. 1872, is a significant contribution to the national debate on health care, and is a proposal small business owners want to see enacted as soon as possible.

The approach taken by your legislation builds upon what is right with the current health care delivery system, yet includes reform proposals on which there is a consensus for action. S. 1872 recognizes that reforms are needed now to ensure that small businesses can obtain and afford coverage for themselves and the millions of Americans they employ.

The number one problem facing small business owners is the rising cost of health insurance. Your legislation would create important consumer protections in the insurance marketplace which would help to ensure that a basic, affordable insurance package would be available to all small business owners. The specific proposals of guaranteed renewability, portability, preemption of state health insurance mandates and premium rating bands are much needed reforms. The marketplace reforms and lowered administrative expenses brought about by these small group market provisions would stabilize premium prices, thus enabling more businesses to purchase insurance and many more to retain current coverage.

I encourage you to continue to seek methods to bring medical inflation under control and to push the medical community to work with you to develop innovative and effective cost containment mechanisms. It is also important that the issues of tort reform, full preemption of state health insurance mandates for all insurance packages and the wisdom of specific insurance policy design standards be considered. I also encourage you to consider expanding the bill's protections and subsidies to the individual insurance marketplace—all Americans should be covered by the basic, common sense provisions contained in S. 1872.

The vote adding the text of S. 1872 to H.R. 11 will be a Key Small Business Vote for the 102nd Congress. Thank you for your initiative in this area.

Sincerely,

JOHN J. MOTLEY III,
*Vice President,*
*Federal Governmental Relations.*

Mr. DOMENICI. Might I just thank the chairman and ranking member for the modification to the pending amendment which was made some time ago. That modification encompasses some ideas that the Senator from New Mexico had with reference to the severely mentally ill. I will discuss those in more detail.

Mr. DOLE. Mr. President, I thank my colleagues. I thank my colleague, Senator CHAFEE, and Senator BENTSEN and others who have been working on this matter for a number of months. Today we have a strong bipartisan amendment that I think is very, very important.

There is no doubt about it, Mr. President, more and more the American people are demanding relief from this Nation's health care woes. And for good reason. Health care costs have run amok and access to quality care is getting more and more difficult for some.

As the Chairman has indicated, one thing is for sure, the problem is in no way related to a shortage in supply of reform proposals. We have at least a couple of dozen health proposals in Congress—and more have poured out of business, labor, medical, insurance, and grassroots organizations.

But, conventional wisdom among Government and industry experts says that meaningful, comprehensive reform is at least a couple of years away.

That may be true. But, Mr. President, does that mean that those who are going without health care or are in jeopardy of losing their coverage must sit back, wringing their hands, waiting for comprehensive reform to happen?

Mr. President, this Senator has a real problem with that approach, and frankly, I cannot, with good conscience, explain that to the folks in Kansas, or, for that matter, to any American. And, to the chairmans' credit, we are here today with a bipartisan amendment that will provide some immediate relief for Americans who are self-employed or who work for small businesses.

Mr. President, early on, we looked at the similarities of these various proposals and identified 11 points of commonality—areas where we believed that bipartisan support could be achieved this year. Many of these form the basis of this amendment.

The amendment being offered today will go a long way toward helping individuals attain access to health coverage. Among 37 million uninsured and the underinsured, many are those employed in small business or dependents of these employees. The market reforms in this amendment will improve access for these folks. They will also help eliminate job-lock for fear of loss of health insurance. And will make it easier for farmers and other self-employed individuals to afford health care for their families and themselves.

There is one provision in the amendment that I would like to highlight and especially commend the chairman for his support—and that is for the expansion of preventive care services covered under the Medicare demonstration projects, which will now include prostate cancer screenings.

Let me emphasize, Mr. President, that we still have a long way to go to ensure that all Americans have access to affordable health care. But, I can not think of a better starting place than the reforms offered in this amendment.

I would like to commend the chairman for taking up health care reform today. I would also like to thank Senator CHAFEE, for his leadership and his able chairmanship of the Republican Health Task Force since its inception, over 2 years ago—and others, Senator PACKWOOD and Senator DURENBERGER for his sponsorship of this bipartisan effort. I would also like to thank my Republican colleagues who consistently attended our weekly morning task force meetings. I am encouraged by the bipartisan support that I see on this floor today. I can only hope that our House colleagues will see the wisdom of our efforts, which are truly bipartisan. They are worthwhile. There is no question about it, this amendment will be adopted, I assume with a unanimous vote.

Mr. BENTSEN. Mr. President, I want to thank the minority leader for his comments and support and participation in the bipartisan effort. I know of no other speakers on this side.

I would like to add Senator FORD as a cosponsor.

Mr. CHAFEE. Mr. President, I ask Senator DOMENICI be added as a cosponsor.

I also want to thank our distinguished leader, Senator DOLE, for not only his kind comments but also for the confidence he put in me, in naming me as chairman for the health care task force and for his wonderful support and that of his staff, Ms. Sheila Burke and others, who have been so effective and helpful.

Of course I want to thank the Members of the Finance Committee staff and our staff, likewise, especially Christine Ferguson and Katherine Hayes.

Mr. BENTSEN. I must say, Mr. President, the hours that staffers like this put in, the expertise and the time commitments, the weekends, the late evenings, I think are seldom understood by the public. But those of us who work with them understand it and deeply appreciate it.

Mr. CHAFEE. Mr. President, I believe Senator HATFIELD—I want to make sure Senators HATFIELD, SEYMOUR, and PACKWOOD are added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I would like to pay tribute to Ed Mihalski also for the wonderful support he has given to us.

We are ready to vote.

Mr. DOMENICI. Mr. President, I, too, want to join in the accolades from our side, given to our distinguished chairman of the ad hoc task force, Senator CHAFEE. I was privileged to attend many of those meetings and clearly it has prepared us for the debates on health care reform. Many of us knew there was something difficult about this, but we also were very concerned about whether we would ever understand the issue. Maybe we do not understand it thoroughly, but by going regularly to the task force meetings we heard from some of the best experts on all sides, all approaches to, and all aspects of, health care reform.

Clearly, while we are not making major health care reform on the floor today, we are taking a very good and healthy step in making the system fairer and better. I join in saying to all of those who worked to put it together that we are doing something very good for the American people and especially for small business in the United States. I certainly extend my accolades and thanks to Senator BENTSEN, who chairs the committee.

Mr. President, I want to talk a moment about the modification that Senator BENTSEN sent to the desk.

I want to say to Senators who are here wanting to speak, I will not be long. I want to thank Senator BENTSEN for submitting the modification and say to the many Senators who are supporting an effort that I have the pleasure of leading that this amendment is a giant first step toward implementation of what we are now calling Equitable Health Care for Severe Mental Illness Act. There are now 20 Senators, bipartisan, on that. It is wholeheartedly supported by the National Alliance for the Mentally Ill. It is the subject matter for which their members went into the marketplaces, into the homes, into the restaurants, into their neighbors' front rooms and got some 350,000 petitions asking Congress and the President to make sure that the severely mentally ill people were not left out, I might suggest left out in the street, when we reform health care.

So, tonight what we did is very simple and, I think, very practical. What we have suggested in the standard package that is being recommended in this amendment today is that notwithstanding any other provisions of title I of the Social Security Act, the standard health benefit package defined in title XXI of that act shall cover items and services for the treatment of the severe mental illnesses as defined by the Secretary of Health and Human Services equally with items and services covered for treatment of other illnesses and without regard to any special limitations placed on mental health benefits. And then we proceeded to give authority to adjust the package in other ways if adding this caused significant increases to the package.

Mr. President, what this means is that if this becomes law, that group of Americans who are going to be covered by the standard package will no longer be left out in the streets when either 50 days of hospitalization or 45 days of limitations on this, that, or the other have run out, which is happening across this land to a small number of the mentally ill, those who have schizophrenia, those who have severe depression, those who have manic depression or severe bipolar illnesses which essentially will last for a lifetime even though moderated from time to time with medication, and with new ways of diagnosing, the entire service package for these kinds of Americans are improving month by month.

Nonetheless, limitations on what they should get that are not equal to what severe illnesses of cancer, heart disease, liver, kidney disease, and the like get is discrimination. It is unfair, it is not equitable, and we have taken the first step today to authorize the Secretary of Health and Human Services to define severe mental illness and then see that it is treated in this act as other serious illnesses in the standard package.

With that, I want to thank not only the chairman for submitting it to the Senate for adoption, but we have 20 Senators, some of whom have worked very hard with the National Alliance for the Mentally Ill people in their State on this issue. One of those sits in the chair tonight, the Presiding Officer, and I thank him for his support. I am sure the Alliance for the Mentally Ill across this land, when they find out this first step was taken tonight, will at least believe that hard work on behalf of a real cause is worthwhile.

They worked hard to get their petitions signed by the thousands, and they are going to have a million of those waiting here when we start up this coming year. That is not going to be forgotten by the committees who put the final reform packages together, nor the occupants of the White House as they work with us, whomever the President is, to put together a fair and equitable package with much more reasonable cost containment than we have today, elimination of duplication, some real pressure put on the system so that we do not bury ourself in the cost of health care, yet we are going to be able to cover the severely mentally ill.

At this point tonight, so there will be no misunderstanding, I want to print in the RECORD the caption sheet of S. 2696, which covers the five sections that are within it just summarily, but at least we will understand that this is a first step with reference to getting the policies enumerated in S. 2696 adopted.

I thank Senator CHAFEE for agreeing to this modification.

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 2696, EQUITABLE HEALTH CARE FOR SEVERE MENTAL ILLNESSES ACT OF 1992

### SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

Section 2. Findings.

This section provides the basis for the legislation, including data on the prevalence of health insurance that is discriminatory toward persons with severe mental illnesses and the consequences of such discrimination.

Section 3. Statement of Policy.

This section established as Federal policy non-discrimination in the health care system toward persons with severe mental illnesses and coverage for the treatment of severe mental illnesses that is equitable and commensurate with the coverage provided for other illnesses.

Section 4. Non-Discriminatory and Equitable Health Care Coverage.

This section provides a description and an example of a health plan that is non-discriminatory and equitable.

The example cites coverage for facility based care, medical management, psychotherapy, and prescription drugs.

Section 5. Commitment to Policy.

This section makes it clear that the Congress and the Executive Branch will incorporate the policy of non-discrimination and equity in health care reforms.

Cosponsors: Senators Danforth, Akaka, Inouye, Dole, Simpson, Kasten, DeConcini, and Cohen.

Mr. DURENBERGER. Mr. President, I rise first to thank members of my staff, particularly Susan Foote, Kevin Quinn, and Steve Sola, for their help on this amendment, and I want to thank Marina Weiss. When we do good bipartisan health policy it is terrific health policy. Marina certainly has contributed enormously to the accomplishments in this amendment.

I want to comment about the issues raised by our colleague from West Virginia—universal coverage—and by our friend from New Mexico, Senator DOMENICI. We know if we want to have comprehensive health care in this country, we have to make a commitment to universal coverage, and therein lies the problem. Across this country, States have been interpreting coverage as meaning, at last count, 900 mandates for every kind of illness, every kind of medical problem, and every kind of a caregiver. That in and of itself has raised the cost of health insurance for Americans by a very, very substantial amount.

If we are going to continue on the notion that everybody's health problem and every caregiver's cure is going to be part of a universal coverage system in this country and that everything that we ought to be doing has to be in a health insurance plan, we are not going to make it.

Do you know how many Americans who should be getting mammograms right now to detect breast cancer actually go and get a mammogram? Something like 14 percent. A lot of people say, "Put it in my insurance plan, then I would get it." The average charge for a mammogram is $55 to $65 to prevent a loss of life. Is that too much?

So the cost of universal coverage in this country is going to be exorbitant unless we deal with the issue of coverage of that. The hardest part of doing small group insurance reform—and I have been at it now for 3 years—has been defining the basic benefit package. You cannot do all of the equalizing between groups, which small group insurance reform and this amendment will require, unless you deal with that issue of what is the basic benefit.

In all of our breakfast meetings, in every place I have been, people say, "I really do not want to touch this issue of basic benefits. Let us appoint a committee to decide it, let us have the Secretary of HHS decide it." It is a tough political decision to say, no, we are not going to cover hair loss, which is mandated in the State of Minnesota, for example, or facial reconstruction, whether it is an accident or not, which is also mandated in my State. It is hard to say no because all the facial reconstruction folks say "Hey, we have to have it. If you are doing that, we have to have that."

I want to call to my colleagues attention in this bill we have dealt with the very difficult issue of the basic benefits.

Our colleague from New Mexico has alerted us that millions of severely mentally ill Americans are discriminated against in the current health insurance system because limits on benefits for mental illness generally—and that includes severe mental illness—often differ from the limitations on other types of illness.

His provision says services for the treatment of severe mental illness, as defined by the Secretary of Health and Human Services, are in here. That, Mr. President, is a breakthrough. That is to the credit of the Senator from New Mexico and all of his other colleagues and cosponsors and the people who support this effort.

But the second provision wisely says that if the Secretary finds that the enactment of this subsection (a) would increase the cost of a standard benefit package, then he will revise the parameters of the package so that it is no more costly than it would have been if subsection (a) had not been added. That will present all of us with the challenge of deciding what is coverage, what is a basic benefit.

I make no apologies for the fact that in the original bill on which this amendment was premised, we had two benefit packages, and the first benefit package did not cover mental illness and the second benefit package did cover mental illness—I, for one, believe we should move in that second direction. Senator DOMENICI tonight has asked us to take the first step in that direction by covering severe mental illness, and I strongly support that effort. I support it in the context of what we are trying to do here.

The reason that the second section is in there is that his bill, S. 2696, of which the current Presiding Officer is a cosponsor, talks about when we get to comprehensive universal coverage in this country, then we should deal with treatment for severe mental illness the same as we deal with treatment for other illnesses.

We are not there. We are at the tough first step, which is small groups, small employers, traditionally experience-rated groups.

If we say just to this group you have to include mental illness coverage but the other groups get to say no, you do not have to include them, we are presenting a real problem for the success of the equity we are trying to get in small group insurance reform. So I think, our colleague from New Mexico has wisely taken the first giant step toward equalizing access for the mentally ill, and yet he has done it in a way that challenges all of us to do this job of basic benefits appropriately. I thank him. I congratulate him.

I thank my colleagues, particularly my colleague, the chairman of the Finance Committee, for his support in all of these efforts. It has been a tough political year. I have always regretted that I chose not to be a cosponsor with my colleague from Rhode Island of the so-called Republican approach. I support everything that is in it, but I deliberately chose a nonpartisan or bipartisan course. It is for that reason that I am so pleased to be here today with him as the chief sponsor of this amendment and to have the support of all of the people who were choosing what to me might have appeared to be a more partisan course.

I think what JOHN CHAFEE has said to us all the way through this process is let us take what we can agree on and let us pass it. That is the challenge we have met here this evening. I congratulate him and I congratulate all of the other supporters.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, I rise in favor of the health care amendment offered by the chairman of the Finance Committee, Senator BENTSEN, and Senators CHAFEE and DURENBERGER. In doing so, I would like to commend the chairman for his leadership on this issue. He has taken a complicated and difficult issue—one of the most pressing domestic policy problems facing our Nation—and achieved bipartisan consensus on an approach that begins to address some of the thorniest aspects of this problem.

Though I, like Chairman BENTSEN and many of my colleagues on both sides of the aisle, believe that, ultimately, only fundamental reform of our health care system will truly address its deep-rooted problems, this amendment represents an important step in the right direction.

There are many provision of this bill that I believe are essential to health care reform and have, indeed, included in my own health care reform bill. These provisions include:

Increased funding for preventive care;

One hundred-percent deductibility of health insurance premiums for the self-employed;

Expanded support for community health centers;

A correction of insurance industry practices that make it difficult for many individuals and businesses to purchase coverage; and

Increased emphasis on outcomes research.

I know that Senator BENTSEN would be the first to acknowledge that this amendment does not represent the ultimate solution to our health care crisis. Ultimately, we must tackle all of the problems besetting our health care system simultaneously:

First and foremost, we must clamp down on skyrocketing health care costs;

We must guarantee coverage to all Americans;

We must reallocate our resources away from administrative costs and treatment of illness, and toward primary care and wellness promotion;

We must reduce the 30 percent of services that are unnecessary; and

We must reduce the hassles confronting patients and providers, alike.

Achieving reform that provides a genuine solution to all of these problems will require leadership from in Congress, the White House, and, indeed, all participants in this debate. We must all work together if we are to truly tackle this problem.

But until we reach the point where all participants are prepared to come to the table, I believe it is important to move forward on the issues upon which there is general agreement.

Senator BENTSEN's bill does just that, and I am pleased to offer my support for his legislation. I look forward to working with him, the other sponsors of this amendment, and the President on comprehensive reform of our health care system. In my mind, there are few other issues that are more important to the future well being of our citizens and our economy.

Mr. BINGAMAN. Mr. President, I want to commend the distinguished chairman of the Finance Committee for bringing the critical problem of health care reform before the Senate today. This is an issue upon which many of us have spent a great deal of time over the past few years. We have been working for a consensus that will begin to move us in the direction of comprehensive health care reform, and Senator BENTSEN is an important force in our effort.

I will support the amendment before us today, but quite frankly, Mr. President, I wish we could do more. We must do more. Millions of Americans are depending on us to do more. I have a proposal, which I have discussed with the distinguished chairman on several occasions, that I believe should be included in an amendment before us. My proposal, S. 3165—the Health Insurance Purchasing Cooperative Act, points us in the direction of reforming the health care system in America, rather than simply taking one small step.

Mr. President, we need innovation in health care. Senator BENTSEN's amendment, while helpful, unfortunately reiterates many of the problems we currently face. S. 3165, which I introduced along with my distinguished colleagues, Senator DURENBERGER, Senator SIMON, and Senator INOUYE, would have been a small addition to the amendment before us, but it would have enabled us to take an important step: we could have begun to reform our health care system. Instead, we are modifying one part of the problem.

Every day, we hear new statistics about soaring health care costs and a system out of control. Costs are rising so rapidly that none of us can feel confident that we will be able to take care of our family's medical problems without losing our savings or our homes. Peace of mind will come only through change in our health care system, the most expensive system in the world. The United States spent $732 billion on health care last year, exceeding the gross national product of all but six of the world's countries. It is sobering to realize that reform of our health care system is comparable to changing the economy of a major nation.

It is the shear magnitude of our health care system that makes it so difficult to reform. Yet, we cannot afford to delay the task any longer. I am convinced that major structural alterations must be the foundation of reform. Cosmetic changes are not good enough.

We know where we need to begin the alterations. We have identified three common problems:

First, the need to reform the small group health insurance market;

Second, the need to create greater efficiency in health insurance billing and claims processing; and

Third, the need to create a common data base or system of assessing effectiveness of health care interventions.

It is at this point of consensus, we should begin the first steps of health care reform. Over time, additional steps will lead to a comprehensive overhaul of our health care system and providing quality care at affordable prices.

The insurance marketplace is replete with failings, some of which will be addressed through the amendment before us. Under the proposal, some of the most egregious failings of the small group insurance market will be lessened. But this amendment simply does not go far enough.

The Bingaman-Durenberger bill would help States create health insurance purchasing cooperatives, or HIPC's. The Congressional Research Service has estimated national implementation of this type of program will save as much as 9 percent on the average cost of health insurance premiums. At the same time, under ideal conditions, our bill would open the health insurance market to 17 million Americans currently lacking health benefits. If HIPC's are adopted by a smaller number of States, 10, for example, substantial savings could still occur. Using 10 States representing a range of size and population characteristics, the Congressional Research Service estimates 21 million individuals could be covered. As many as 7 million of these individuals, or 32 percent, currently have no health benefits.

Under the Health Insurance Purchasing Cooperatives Act, these 7 million individuals will be brought into the health benefits market, and the average premium would still be 2 percent less than current rates. Moreover, the small employer market would be stabilized—no more red-lining or churning that deprives individuals of coverage or threatens continued coverage.

In November 1991, Secretary Sullivan charged this insurance industry to devise strategies for improving administrative efficiency of the health insurance industry. The Workgroup for Electronic Data Interchange [WEDI] issued their report on July 21, 1992. The WEDI report includes many steps emphasized in our bill. WEDI estimates implementation of electronic uniform health system could save between $4 and $10 billion annually. The Bingaman-Durenberger proposal would enact this type of program. The Bentsen proposal, unfortunately, does not.

Mr. President, in closing, I will support the amendment before us today, but I will reiterate my determination to do more. We are taking one small step tonight. If we ever expect to achieve comprehensive reform, we must have a strong commitment to innovation, and we must be willing to take the difficult steps that await us in the 103d Congress.

Mr. NICKLES. Mr. President, I enthusiastically support the health care reform amendment now before the Senate. It is my belief that this significant first step toward true health care reform in our Nation will pave the way toward increasing access to quality health care to millions of Americans throughout the country. This bipartisan effort will give many people the peace of mind that goes with knowing they will not be shut out from health care in the future.

For the over 220 million people that have public or private health insurance, America enjoys the highest quality of health care in the world. Even though we can boast of the greatest health care system, there are still major problems that need to be addressed. Essentially, our system is too expensive and too many people fall through its cracks.

Passage of this amendment will establish minimum Federal standards for health insurance sold to small firms and guarantees the issuance of basic policies to businesses that want coverage. It preempts costly state mandates for employer health benefits that have forced the price of insurance premiums to rise.

More than two-thirds of the working uninsured are employed in firms with fewer than 25 employees. Few small employers offer health insurance because they face barriers large firms do not face. This amendment will eliminate many of these barriers and open access to health insurance for millions of working Americans.

Currently, self-employed people can deduct only 25 percent of their health insurance premium costs for tax purposes. Large firms get a full deduction due to their filing status. This amendment will provide the self-employed this full deduction as well. This provision is a monumental step toward helping the self-employed throughout the country afford health insurance. Throughout Oklahoma, I have heard farmers and others speak of the plight they face when trying to pay their health bills. This tremendous boost to the family farmer is much welcomed relief for those who face uncertain financial futures.

Further, this amendment will serve to increase funding for preventive medicine such as breast cancer screening and vaccination programs. This funding attacks one of the major problems with our health care system. It also addresses cost-containment by setting up a commission to study the rising costs of health care. I truly believe this will aid us as we continue to work for greater changes in our health care delivery system in the future.

I would hope that this bipartisan effort will set the groundwork for us to work together to gain access to quality and affordable health care for all Americans. I look forward to tackling this in the future.

Mr. PRYOR. Mr. President, one of the most important health care reforms we can pass this year is a provision included in Senator BENTSEN's amendment before us. It is a proposal that tackles one of the greatest inequities confronting America's small businesses. And not surprisingly, it is another injustice in our Internal Revenue Code.

This inequity lies within the fact that some of our Nation's richest corporations are allowed to deduct 100 percent of their health care costs, while struggling self-employed business people cannot. That's right, while the General Motors and Donald Trumps of this Nation can deduct 100 percent of their health care costs, self-employed businesses can deduct only a quarter of this amount.

This tax policy, by any definition, is not fair and must be changed.

Today, over 35 million are uninsured. In my State alone, nearly half-a-million men, women, and children have no health insurance and must live in constant fear and uncertainty. In fact, one out of five Arkansans has no insurance.

Millions of our uninsured are self-employed business owners. They are aspiring entrepreneurs—the type of people who have the boldness—and willingness—to undertake new business risks and opportunities.

These hard-working citizens lack health insurance coverage for one simple reason: they cannot afford it. They cannot afford the double-digit increases of their insurance premiums. They cannot afford the skyrocketing charges of health care providers and manufacturers. And they cannot afford to pay for health insurance because they are being discriminated against by the Tax Code.

The National Federation of Independent Business [NFIB] estimates that many of the estimated 4.8 million uninsured self-employed business owners would be able to purchase health insurance if these business persons had access to the same 100-percent tax deduction that Lee Iacocca and his company receives. What's more, reforming the Tax Code in this way should also help the 4.6 million employees of the self-employed. In other words, a simple change in the Tax Code could decrease the number of uninsured, not by the thousands, but potentially by the millions.

Mr. President, I have long supported increasing the 25 percent tax deduction for self-employed persons to 100 percent. For this reason, I was extremely pleased that the distinguished chairman of the Finance Committee, Senator BENTSEN, incorporated this change as a provision in S. 1872, the Better Access to Affordable Health Care Act of 1991. For this reason, I am pleased to be a cosponsor of the amendment which achieves this goal.

The self-employed tax reform provision will benefit even greater numbers of people if we combine it with a commitment to true cost containment. I believe that it's time to get the spiraling cost of prescription drugs under control and finally make the pharmaceutical industry to pay their fair share. We should not hesitate to target other major contributors to our health care inflation crisis.

Mr. President, it is long past time that we eliminate the many health care inequities that confront, on a daily basis, millions of self-employed persons. Let's not allow this year to pass without enacting a 100-percent deduction for our self-employed businesses, taking some significant strides toward true health care cost containment, and addressing the discriminatory insurance practices that victimize too many of our Nation's citizens and small businesses.

Mr. President, I would like to commend Chairman BENTSEN for this amendment. I believe it takes an important step in addressing a shortcoming in our current system.

Mr. SANFORD. Mr. President, I rise in support of this amendment to provide badly needed relief to small businesses who provide health insurance benefits to their employees. This includes small farmers who can, under this proposal, deduct most of their health insurance premium costs. It is not the full 100 percent I would like, but it is far better than the 25 percent deduction now allowed. It will help the many small businesses become more competitive purchasers of health care benefits for their employees, and have more control over their annual costs of providing these benefits.

This year I have met with a wide variety of small businesses from North Carolina who did not come to talk about their special interests tied to their particular businesses. They came to talk about health care reform that will help them continue to provide health insurance benefits to their employees and their families. This will help them, and I hope convince small businesses who do not now provide these benefits to their employees begin providing them.

This is far short of comprehensive reform which I support. But it includes provisions that should be a part of comprehensive reform, including some efforts to hold down costs for everyone. But this alone will not do the trick for everyone, and we need to continue pressing for more comprehensive reform with more cost containment that is fair and affordable to all. I am convinced we cannot control the skyrocketing health care costs without this.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be added as an original cosponsor of the Chafee-Bentsen amendment. This is a good amendment that, if enacted, will make life and health a little easier for hundreds of thousands of small businesses and millions of our fellow citizens. Also, I especially appreciate an amendment that places more consumer control in the hands of the patient, where it belongs in my view, rather than in the hands of a bureaucracy.

Like a number of my colleagues who have already spoken, I am also a member of the Republican Health Care Task Force and an original cosponsor of S. 1936. Our bill, a product of months of deliberations, would shore up only those parts of our uniquely American private health care system that need the help. Importantly, it would not destory the system in order to save it, and the amendment before this body today also respects the sanctity of the private nature of our health care system. That's why I and many of my colleagues are supporting it, Mr. President.

In my judgment, we need to enhance the best parts of American health care: private physicians, nurses, and other professional providers, and plentiful hospital and other health care facilities, put in place to apply state-of-the-art technologies to keep people well and to heal the sick. I argue that we already do this job better than any other nation. I am convinced that our robust health-care system is not the problem.

The problem is cost and access. Costs are completely out of control at over 12 percent of GNP and $800 billion in expenditures; and even with all this money being spent, some people, for a number of reasons, cannot gain or retain access to the system. The Republican task force bill would address both issues, and this amendment today is consistent with that direction. It would allow people who are disadvantaged by current costs or other factors influencing access to care, to buy and keep adequate private health insurance. We need to do everything possible to keep people protected with insurance coverage in time for illness or calamity.

Mr. President, we also need to reform the medical malpractice system and set up a nonlitigious way of resolving such unfortunate matters, taking malpractice cases out of clogged courts. A new approach to malpractice will allow physicians and hospitals to lower their malpractice insurance premium costs and change some of their clinical decisions as well. Then, we can get rid of the term "defensive medicine," which will become an anachronism in health care practice. This change alone would save billions in current health care expenditures. I am truly sorry that malpractice reform is not a part of this excellent amendment, but I hope the leaders of this body will eventually see the light as I have, and put this matter at long last before the Senate.

Mr. President, I don't think regulation or other forms of Government control will help save any money or make for a better health care system in our country. Better, and earlier, care for the disadvantaged—especially pregnant women and children—would not only save much money but result in a higher quality of life for our citizens. If we can do more in community and preventive health care, and intervene earlier in cases of illness or disease, there is no question that some current health care expenditures can be reduced or eliminated, or redirected to more effective uses. This amendment helps fulfill some of that promise in prevention.

Mr. President, I believe that in the final analysis, old-fashioned competition is the best way to hold down health care costs. Certainly, we have had years of attempts by the Government to regulate the cost of care, and those efforts are abject failures. Have reams of Government regulations held down Medicare or Medicaid costs? Hardly.

Linked with smart and informed health care consumers—who accept a greater degree of personal responsibility for their own health—competition in an open marketplace can work as well in health care as in any other facet of our commercial or business life. However, since it is literally so vital to us, health care competition must be very carefully monitored to ensure that people receive proper care, when needed, under proper conditions.

If bureaucrats are put in charge, as envisioned in the so-called play-or-pay and Canadian models, they will see themselves as successful when they require physicians, hospitals and other providers to ration care in order to save money. That's not progress in my view.

I do not believe that Government—at whatever level—is the best judge of what should be done or what it should cost. In the mainstream, ours is a uniquely private system of committed professionals, who collectively make up the world's greatest health care asset. I want to see it thrive, not strangled by Government redtape. That's why I support the amendment by the Senators from Rhode Island and Texas—it leaves the private system intact and permits a number of people—individual citizens and families—to stay in, so that our superb health care system can serve them, too.

Mr. BOND. Mr. President, Americans need health care reform. Costs are skyrocketing and more than 34 million do not have health insurance. This amendment is not comprehensive reform and I think it is a great shame that this Congress has been unable to reach an agreement for solving this Nation's health care crisis. But at least today we can take a significant first step that will help millions of people afford health care when they might not otherwise have been able to. This amendment is a downpayment toward comprehensive reform and I think moves us in the right direction. Millions of people will be able to get affordable health care if this amendment is signed into law.

There are many who would oppose this amendment because they will say we don't go far enough. To those people, I say this: How can you possibly justify telling the millions of Americans who cannot get health care that you refuse to help one single one of them while Congress debates the issue? How can you stand in the way of reforms where there is widespread agreement on measures that will help millions of people who need our help this year? They will call this a Band-aid and they will criticize us. But let's be clear. For those who will be able to get health care with these reforms, this can be a life or death issue. It's certainly no Band-aid for the children, families, and workers who will be able to afford care if these reforms are passed. It is for these people that we keep fighting for health care reform.

Workers in businesses and their families make up 85 percent of the uninsured. The self-employed, which also includes most of the farmers in Missouri, can only deduct 25 percent of the cost of health insurance. This affects 2.7 million of uninsured workers plus their families. Currently all other workers effectively get a 100-percent deduction when their employer pays for their health insurance premiums. It is terribly unfair that in our current system, farmers and the self-employed are penalized just because they don't work for a corporation that pays the insurance bill. It is particularly important that we correct this inequity and give these workers the same tax benefit that all other workers already enjoy.

This amendment, while it does not reach our goal of guaranteeing access to care for everyone, does make a very significant move in the right direction. It will provide a 100-percent deduction of health insurance premiums for the self-employed and for our farmers. It will encourage managed care which is very important to helping hold down costs. And it will help workers in small businesses get affordable health insurance and prevent insurance companies from cherry picking, raising rates, and canceling coverage when a worker gets sick as happens today.

This amendment will also encourage small businesses to join together to form purchasing groups so they can have the purchasing power of large corporations. These efforts are critical on the path to comprehensive reform because much of the failures of the existing system are in injustices that workers in small businesses must face.

There is certainly more work to be done. This amendment is not the end of the road. We must continue to work until the job is done and every American has affordable access to health care.

But, for those of us who have been working hard to get reform enacted, we hope that our critics who claim that no one should get any help until we reform the entire system do not prevail. We want to help those that we can help now and not force them to wait another year or two or three. How long are our critics willing to wait before they agree to lend a helping hand?

We must take stronger steps to contain costs and we must take stronger steps to provide access. But it is within our ability to pass these reforms this year and help millions of people this year and we must move forward.

Mr. SIMPSON. Mr. President, for the past several years now we have been listening to and studying various proposals for health care reform.

We have heard shrill and emotional appeals for a nationalized Canadian-style health care system—a system which would subject all of United States health care to the budget-driven political system.

We have heard calls for pay-or-play mandates, which, whatever its aesthetic merits and however expedient, is still at bottomline a tax on labor, a tax on jobs—a danger we can all perceive with crystalline clarity right now.

We have heard unflinching ideological insistence on privatization of all health care in this country—a proposal too much at odds with our heritage and self-conception as a nation of compassion, with our communitarian ethic.

We have heard from virtually every major health care advocacy and trade association, the insurance industry and employers, organized labor, consumers, and a potpourri of foundations and economic institutes. My staff has a drawerful of bright, glossy folders supplied by the stakeholders in this system.

All of these proposals have at heart an earnest desire to fix what is wrong with U.S. health care—to bring the disenfranchised into full and equal participation, to stem the costs, to improve quality. I know that. But each seeks first and above all to protect the interests, the stake, of its sponsor. And that has been the problem so far.

Mr. President, the public is growing frustrated at our very apparent inability to do what they elected us here to do: To find and execute a common ground that is in the best interests of the Nation as a whole; to legislate solutions to pressing national concerns. In this instance, to make some meaningful progress on health care reform.

So, Mr. President, we are down here on the Senate floor this afternoon, at this late hour in the session, to try once more to demonstrate to the American people a seriousness of purpose.

Mr. President, over the past 2 years, President Bush and his very able Secretary, Louis Sullivan, leaders in both Houses of Congress, committees and subcommittees have conducted a vigorous inquiry into the strengths and weaknesses of American health care. They have consulted with all the major stakeholders in our massive, $840 billion health care system. With help from the Steeleman Commission and the Horner Task Force and countless others, we have consulted with the providers and the insurers, the ideological purists and the advocates, the academics, the intellectuals, the economists, the taxpayers, and the beneficiaries.

In doing so, we have arrived at an understanding of what we can and must do to fix American health care. Equally important, Mr. President, we have learned what we cannot do, or should not attempt, at least not yet, without risking what we value most in the system.

There is genuine consensus, Mr. President, on a number of steps that can be taken to alleviate some of the pressure on our health care system, its consumers, and beneficiaries. The proposal before us now reflects some of that consensus. It is made up of elements common to virtually every health care reform proposal that has yet been seriously offered.

In particular, Mr. President, this amendment will expand access to workers in small businesses who currently don't have and can't find affordable health insurance coverage. The amendment makes significant changes in the small-group insurance market, including new minimum Federal requirements for the sale and pricing of insurance policies. Under these changes, individuals cannot be denied insurance based on their medical history or health status, nor can they be charged excessive premiums based on their use of health services. They will not have to worry about losing important insurance protection when they change jobs or employers—a phenomenon known as joblock. And small employers will be encouraged to organize health insurance purchasing groups to leverage better value for their premium dollars.

Equally important, the amendment will help Congress clamp down on the health care cost spiral at all levels—patient, provider, and payor—that would otherwise undermine any reform effort, by creating a health care cost containment commission to advise us and the White House on appropriate measures to keep costs down.

Finally, this plan would restore equity in the Tax Code's treatment of incorporated versus unincorporated business with respect to the deductibility of health insurance.

This is not a comprehensive plan, to be sure. But it contains elements common to virtually all health care reform proposals that have as yet been seriously offered. These are areas which not only the policy experts but the American people have identified as chief culprits in the health care crisis. These are the areas in which there is consensus—and that, to my mind, means that we in Congress now have a mandate—to act. We have been waiting until all cards are on the table, until the President and his advisers could come forward with their own carefully considered plan. We have had that proposal for months now. And we can see that there are many areas of common agreement and understanding among all parties to this debate. There remain profound areas of disagreement, to be sure, between and among both sides of the political aisle. Perhaps those differences are even more pronounced now that they are in black and white. We will continue to wrestle with those.

But where there is consensus, it would be highly irresponsible of this Congress not to execute that office which is uniquely ours—to legislate. Those who would attempt to hold these critical policy changes hostage until their own, more sweeping, visions of health care reform are satisfied do the American people a grave disservice—and delay, perhaps indefinitely, our sole, obvious, immediate opportunity to provide meaningful relief to millions of American families. Those of us here this afternoon urge our colleagues to adopt this proposal as the first important step on the road to true health care reform.

Mr. WOFFORD. Mr. President, I congratulate Senator BENTSEN for his continued leadership in crafting these incremental health insurance reforms. The Bentsen amendment includes insurance market reforms, virtually all of which Congress passed last March in a tax bill which President Bush promptly vetoed. But as Senator BENTSEN himself has said, this is not comprehensive health care reform, nor is it a substitute for comprehensive reform of our Nation's health care system.

While helpful in small ways, this amendment does not pass the two key tests of comprehensive health care reform: It does not control skyrocketing costs, and it certainly does not, standing alone, guarantee affordable health care for every American as a right, not a privilege.

We still have much to do to turn that right into a reality for all Americans. We still need a national mandate for a bold and inventive plan that will control costs and guarantee affordable coverage. I hope my colleagues, on both sides of the aisle, agree with me that this small step—which we already took last March—does not solve the problem. The real work lies ahead.

Mr. CHAFEE. Mr. President, I see the distinguished Senator from Kansas is here. I look forward to hearing her remarks.

I want to say that Senator KASSEBAUM has been an active member of our group dealing with health care and she has thoughts on it; she has attended our breakfasts at 8:30 on Thursday and has herself submitted considerable legislation on this issue. I am delighted she is here.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I thank the Senator from Rhode Island.

Mr. President, I support the health insurance amendment offered by Senator BENTSEN, Senator DURENBERGER, and Senator CHAFEE—though I do so with certain reservations.

Before I go on, I want to particularly commend the amendment added by Senator DOMENICI regarding severe mental illness. I think this will be an important component of this legislation.

I also know that Senator CHAFEE and Senator DURENBERGER have both spent a great deal of effort in addressing the problems of health care reform, as have many others who have spoken during the course of this debate.

This amendment is a collection of reforms aimed at easing the current crisis. It is not, nor does it claim to be, a comprehensive approach. Rather, it is an attempt to advance reform in targeted areas where there appears to be growing bipartisan agreement.

In fact, this amendment closely resembles provisions included in S. 1872, introduced last year by Senator BENTSEN and passed by the Senate earlier this year as part of the subsequently vetoed tax bill.

Specifically, some of this amendment's key components include:

Rating and underwriting reforms to improve equity and fairness in the small group health insurance market;

Equalization of the health care tax deduction for the self-employed;

Grants to States to help promote the creation of small business health insurance purchasing groups; and

Creation of a special commission to examine and review health care costs.

Most of these provisions are ones that are found in one form or another in nearly all of the comprehensive health care reform proposals now on the table, both Democratic or Republican.

Mr. President, the reason I have some reservations about this amendment has nothing to do with its individual provisions, which I strongly support. Rather, what concerns me—and Senator ROCKEFELLER addressed this to a certain extent—is that, as a whole, the reforms in this package would make only modest progress toward solving the two core problems in American health care today; namely, the skyrocketing cost of health care and the continuing lack of access for the uninsured.

As some of my colleagues know, I have been very reluctant to support so-called incremental reform measures that leave for later the tough questions of cost containment, comprehensive access expansion, and financing. Quite simply, I worry that short-term enactment of relatively easy measures such as small group market reform could make it more difficult—if not impossible—to return to the really difficult issues later on.

That said, however, I am also frustrated by the persistent gridlock, both substantive and political, that continues to thwart congressional action on this urgent national problem. Despite my reservations about incremental reforms, I support the Bentsen-Durenberger amendment as an expression of my desire to clear this gridlock and move the debate forward.

No one has been more desirous of this than the Senator from Rhode Island [Mr. CHAFEE], who is here still, listening patiently to those of us who are continuing the discussion.

The important thing, I believe, is that we begin looking ahead to a better climate for health care reform next year. Freed of this year's preelection partisanship, it is my sincere hope that we can start the new 103d Congress by redirecting our efforts toward finding common ground on health care, rather than highlighting differences. This legislation is a positive step in that direction.

President Bush has been very desirous of finding steps that can be taken that are not divisive, and which can bring us together in moving forward. I think all of us hope this can be done. I hope this amendment serves as an example of this spirit and that it will be shared by those in the House. I hope we can come together.

Ultimately, it is compromise and not confrontation that will solve this crisis—and it is regarded as a crisis by many throughout the country. There is no issue that is raised more in Kansas as I go around the State than the high cost of health care and the worry about how individuals are going to meet this cost in the future. They may feel comfortable with it now, but there is a great deal of uncertainty about the future.

Legislation aimed at providing a comprehensive compromise on this issue has been introduced by myself and Senators DANFORTH, RUDMAN, and BURNS.

Just how does this legislation offer a framework for compromise?

Briefly, Mr. President, I would like to list a couple of things.

First, the bill is comprehensive in its expansion of access to the uninsured, but it achieves such access expansion without resorting either to employer mandates or to Government-run single payer coverage, both of which carry significant logistical and political liabilities.

Second, the BasiCare plan, as it is called, is very firm in its restraint of rising health care costs. I think it is absolutely essential that we address this in any major health care reform legislation. Importantly, however, this bill is also carefully structured to avoid Government micromanagement of the health care system through rate or fee setting.

The BasiCare bill, which involves overall limits on the allowable rate of increase in premiums, offers a bridge between those who insist on binding cost containment and those who fear overregulation of the health care market.

Finally, I want to point out that unlike many of the other major health care reform plans, the BasiCare legislation is clear and up front about how it will be paid for. Importantly, it also addresses the critical issue of coverage for long-term care, which many of the others do not.

In many ways, long-term care may be the most difficult part of reform but I think it is the most important, because if we do not begin to address it now, it will become an ever-increasing problem for us over the next decade.

Let me just stress that this legislation is just one strategy for sensible compromise on health care reform. There can and should be many others, and there are. But what is important is that we begin looking for common ground, not points of division. No significant legislation regarding health care reform in going to be easy to accomplish. But I think the legislation we just passed is a step in the right direction.

I look forward to working with my colleagues on additional comprehensive efforts in the 103d Congress.

Thank you, Mr. President. I yield the floor.

Mr. CHAFEE. Mr. President, I just want to say that the distinguished Senator from Kansas has touched on some very, very significant points. I, again, want to commend her for the legislation she has submitted. It is absolutely true that next year, in the congressional session that starts in 1993, we have to tackle this. And she also has pointed out that the toughest part of all will be the long-term care part of it. We look forward to her continuing contributions as we wrestle with these matters in 1993.

I also want to say that this significant progress that has been made today is in part because of the support that the Senator from Kansas has given us in all of our efforts.

So it is a good evening, a good day, I believe, of accomplishment.

Again, I thank the Senator from Kansas for what she did.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3160), as further modified, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. DECONCINI assumed the chair.)

## MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,038,023,109,622.03, as of the close of business on Monday, September 21, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,720.78—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.50 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

## VEGA CLUB 100TH ANNIVERSARY

Mr. KERRY. Mr. President, I want to salute the Vega Club of Brockton, MA, and congratulate the members on the 100th anniversary of that organization. It was founded on September 11, 1892, by Brockton citizens of Swedish descent, "to advance and promote the social and civic interests" of its members, and 7 years ago opened to all citizens of the greater Brockton area. The beautiful and well-kept clubhouse, which was dedicated on December 14, 1917, is donated for the use of many nonprofit organizations in the area, such as a neighborhood watch program. Besides the clubhouse, the Vega Club owns a fishing camp in Plymouth and the Vega Grove in West Bridgewater. The club sponsors a Pony Colt League team, a Boy Scout troop, and the Special Olympics, awards four scholarships a year, and every year hosts a Christmas party for needy children.

I want to express my very best wishes to all the members of the Vega Club and I hope they will continue in good fellowship to serve the people of Brockton for many years to come.

## JAKE GARN

Mr. HATCH. Mr. President, I rise to pay tribute to a man whom I admire and love very much. As you know, JAKE GARN will be retiring at the end of this session, and I will miss him terribly.

I remember coming here 16 years ago, and I remember the wise counsel and advice Utah's current senior Senator gave a 41-year-old political novice who had never held a office before—that is, since high school and college. I will never forget JAKE's kind encouragement as he showed me the proverbial ropes and the many pieces of legislation we have worked on together to benefit the country and Utah. Frankly, for me, it simply won't be the same around here without my wise colleague and brother.

I remember JAKE's strength in 1977 when his first wife, Hazel, died. I know that though he wanted to throw in the towel on this place, he didn't. My wife Elaine and I were so pleased when he later married Kathleen Brewerton and had another chance to enjoy a lasting marriage and friendship. Many of us around here also remember when he gave his daughter, Susan, his kidney to save her life. JAKE taught all of us a thing or two about unselfish devotion and priorities to family and country. JAKE has decided that such devotion now needs to be invested solely in his family, and for that, I applaud him.

Of course, when we think of JAKE GARN, we also think of his historymaking space shuttle flight. This opportunity was a natural outgrowth of thousands of hours of flight time, his experience as a Navy pilot, and the fact that he's a retired brigadier general with the Utah Air Guard. He counts that as one of the greatest experiences he has ever had, seeing the beautiful view of our world from the reaches of outer space.

Of course, he has sponsored and cosponsored thousands of bills over the years as the chairman and then ranking minority member of the Senate Committee on Banking, Housing, and Urban Affairs and during his tenure on the Appropriations Committee, and the Energy and Natural Resources Committee. He has also served on other committees, including the Armed Services Committee.

Despite all this national service, he is first and foremost a Utahn, dedicated to serving our State. The interests of our beautiful State and its people have been his top priority here in the Senate. It was a pleasure to serve the people of Utah with JAKE; he has been an inspiration at the thousands of meetings and events we have attended together. The people of Utah love him—his approval ratings were always sky high, and even now, his fellow Utahns are wishing he would reconsider.

At the end of this session, we will sorely miss his voice of reason, dignity, common sense, and honesty. Though there were many who disagreed with him, everyone here respected him because we wish that in many ways, we could be more like him.

JAKE, as you return to Utah for good this time, please remember your friends here in the Senate. We will still need your advice, your experience, and your friendship.

## TRIBUTE TO LOUIS L. REDDING

Mr. BIDEN. Mr. President, earlier this year, in my hometown of Wilmington, DE, the building which houses the local governments was renamed and rededicated.

The Louis L. Redding City-County Building now stands as a tribute to one of the most distinguished legal practitioners my State, or this country, has ever known, and one of the most forceful, and effective early leaders of the American civil rights movement.

Louis Redding was born on October 25, 1901, the first of his parents' 5 children.

The years of his growing up were a shameful time in my State's history, as in many others', with racial segregation founded in false prejudice and enforced by unjust laws; Mr. Redding himself has described Wilmington of that time as a "hellhole, in many regards" for its black citizens.

There was only one high school that blacks were allowed to attend in the State, Howard High, where the second-rate books came from the wastebaskets of the white schools, but the first-rate teachers, it seems, came from the hand of God.

After graduating from Howard, Mr. Redding went to Brown University, and then, following several years in teaching, to Harvard Law School, where he was the only black student in his class.

Home at Christmas break from Harvard in 1926, Mr. Redding went to watch a proceeding in a Wilmington courtroom, a courtroom which he was asked to leave because he had sat on the wrong side.

One of Mr. Redding's earliest actions when he became Delaware's first black lawyer in 1929—and it would be more than 25 years before there was another—was to lead a campaign opposing courtroom segregation.

His more well known campaigns against segregation began in 1949, when a group of black college students came to Louis Redding's office, looking for help in fighting the University of Delaware's policy of not admitting coloreds.

Mr. Redding argued, and won the case, resulting in the first court-ordered desegregation of a State facility.

Then in 1950, the famous case that would become part of Brown versus the Board of Education came to Mr. Redding in the person of Sarah Bulah.

Sarah Bulah was not out to desegregate the schools; she just wanted the school bus that came right by her house, and went right by the black school on its way to the white school, to accept her daughter as a passenger.

Mr. Redding told Ms. Bulah he would take the case, if instead of working to get the black child on the bus, he could fight to get her in the white school.

He fought, and again he won, when in 1952, then-vice chancellor Collins J. Seitz became the first judge in the country to order an all-white public school to admit black students.

In both the college and the school case, Mr. Redding worked with Thurgood Marshall and Jack Greenberg, leaders of the legal defense fund and two of his fellow fathers of the civil rights movement.

Greenberg said later of Redding's role in securing the school desegregation order that it simply wouldn't have happened without him; anyone but Redding, Greenberg said, would have been satisfied to get the child on the bus.

Mr. Redding argued, and won, other influential cases—including the public accommodations case, involving Wilmington City Councilman William "Dutch" Burton, a case that has been studied in law schools and cited in courtroom arguments ever since it was decided.

Up until he closed his Wilmington law office in 1985, Mr. Redding continued to lead the legal battle for civil rights, and he helped guide and encourage many of the young black lawyers who followed him as members of the Delaware bar.

It was during the late sixties and early seventies that, as a young lawyer in Wilmington, I personally encountered Louis Redding.

He was much older—and, I might add, a lot better dressed and more well spoken—than I, but the respect he commanded stemmed from more than that.

You felt a strength in Louis Redding, a presence, a confidence of purpose and sincerity of effort flowing through every word and every movement.

Mr. Redding, you see, had known all along that he was right, and each time his assertion of justice had been rejected during the early years, he only grew more certain.

William T. Coleman spoke to that quality of intellectual integrity and unfailing determination, when he said:

> The giants of the civil rights movement were Houston, Hastie, Redding and Thurgood Marshall. The older people were the real intellectual leaders. They took a situation where most of society was against them, without the bullet, without the ballot.

That was the power of spirit I felt when I met Louis Redding.

At the time, I had assumed Mr. Redding lived in Delaware, since his office was in Wilmington, but he explained to me that he lived in nearby Glen Mills, PA.

It struck me then, as it does now, as one of the greatest losses to my State, that the injustice of Delaware laws had driven one of our most distinguished citizens to live beyond our borders.

Today, at age 90, Mr. Redding is back in Delaware as a resident.

His mobility, eyesight and hearing are severely impaired now; but on May 18 of this year, Mr. Redding surprised everyone by attending the ceremony dedicating the city-county building, and the sculpture which stands by it, in his honor.

It seems Mr. Redding is still doing what everyone else would have thought impossible.

The bronze sculpture—created by one of our best known artists, Charles Parks—shows Mr. Redding standing with a black boy and a white girl, both carrying school books.

It is a portrait of hard-won victories and a reminder of the vigilance required to secure and continue that progress; it is an expression of respect and gratitude to a man of great ability and even greater character, and an expression of rededication to the cause he served so well; it is like Louis Redding's life, both a symbol of triumph and a never-ending challenge to us all.

Emerson wrote that, "the appearance of a great man draws a new circle outside of our largest orbit * * *"; and that is what Louis Lorenzo Redding has done in his lifetime—he has extended our vision, shown us a deeper truth and a greater strength within ourselves, and made us more and better than we were.

## A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BIDEN. Mr. President, I was deeply saddened by the passing of our colleague, Senator Quentin Burdick of North Dakota. He will be missed by the Senate, and by each one of us who had the pleasure to serve with him.

Mr. President, I have not spent a lot of time in North Dakota. But having known Quentin Burdick for nearly 20 years, I think that I know something about its people, and about their values. Because for nearly 34 years in the Congress, Senator Burdick stood for, and stood with, the people of North Dakota.

More than any other State, North Dakota depends upon agriculture, upon coaxing life out of the soil. It is a place where the family farm is not only a part of people's heritage, it remains the centerpiece of their lives. Quentin Burdick learned at an early age that when a farm fails, it isn't about production statistics or land values or market economics; it's about people not being able to put food on their family's table; it's about people losing their homes. And from that lesson he understood that when institutions fail, be it government, or the marketplace, or our financial institutions; it isn't about macroeconomics or political theory or monetary policy; it's about shattered dreams and shattered lives.

Quentin Burdick came to Washington determined that the people of North Dakota, his people, would have someone to speak for them, and determined to make Washington remember the impact that public policy can have upon individual lives. On both counts, Senator Burdick's congressional career was unquestionably a productive one.

During my first campaign for the Senate, and in the 20 years since, I have spent a fair amount of time in the farming communities of Delaware. I even spent some time in the farming communities of Iowa and elsewhere a few years back. And one of the earliest lessons I learned is that you can always tell a farmer from his or her handshake; from the hard, calloused hands and the firm grip. Because coaxing life out of the soil is nothing if not hard, often backbreaking and neverending, work. A healthy crop simply does not spring forth from the land. It requires hours and hours of hard labor and gentle nurturing every single day.

The northern prairies of North Dakota and the rest of the northern heartland, for all of their raw beauty, are not the most naturally hospitable places to carve out a life. The natural resources are largely limited to the fertile soil and the crops which generations of hardy North Dakotans have cultivated from it. It is a world where the arctic winds roar out of the Canadian outback, bringing blizzards throughout the long winter, and torrential rains when it's a little bit warmer, letting up only long enough for the sun to broil you and your crops during the short summer season. It is a world where nature is quite willing to wear you down, you and all of your neighbors; and if you don't all work together, none of you, not a one of you, is going to make it.

That is the world in which Quentin Burdick grew up, the world which shaped the values that he brought to public life and to the U.S. Senate. Because no one worked harder for the people of North Dakota, caring not at all who got the credit as long as the job got done, than Senator Quentin Burdick. And no one better understood that those of us in public life, regardless of regional or philosophical differences, are each a part of something greater than ourselves, united by our common pact with the American people to use the power and resources available to us to bring about a better life for each and every American.

Maybe, in fact, the fertile soil and the crops which grow in it are not North Dakota's most valuable natural resource. Maybe, instead, the most valuable natural resource is its determined, hard-working, down-to-earth people; the people whom Quentin Burdick never forgot.

Certainly Senator Burdick who said that he'd like to be remembered as a man of the people, would agree with that. And certainly the people of North Dakota would agree that Quentin Burdick was one of their most valuable resources.

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## ADJUSTING THE DEFENSE BASE

Mr. DOLE. Mr. President, I want to congratulate my distinguished colleagues Senator INOUYE, and Senator STEVENS for their outstanding management of the 1993 Defense appropriations bill. Although they had to work on an accelerated time table under difficult circumstances, they accomplished their task with the thoroughness, experience, and judgment that has over the years earned them the respect and the trust of their colleagues.

An especially difficult issue that had to be addressed this year on the Defense appropriations bill was the question of how to transition the defense industrial base to the post-cold war era. It is an issue that will effect our Nation's largest corporations and thousands of small businesses. Reductions in defense spending will be felt in our Nation's rural towns and our largest metropolitan centers. Millions of our fellow citizens from the military services, the private sector, and civil service will be affected. There are many differing views on how to make this transition to meet the challenges facing our Nation. But two things are certain; the way we have done things since the end of World War II is past, and new alternatives for dealing with the challenges and opportunities the United States faces will have to be found.

In July 1990, I asked the Congressional Budget Office for a report on the economic effects of reduced defense spending. That report, released in February 1992, produced the impetus for Senator MITCHELL and myself to each appoint a task force to investigate how the Congress could best address the defense industry conversion issue. Senator RUDMAN was selected to chair the Republican task force, and through his leadership, the Republican task force produced a report that offered comprehensive recommendations on the transition of the United States defense structure. These recommendations centered on three priorities; people, communities, and industry. In my view, the importance of the defense conversion issue was proven when the Democratic task force on defense conversion, under the able leadership of Senator PRYOR, produced recommendations and alternatives similar to that of the Republican task force.

Many of the recommendations that the two task forces made have been included in this years defense bills and I commend all Senators that contributed to those reports. Through their efforts we now have a blueprint for moving the Nation toward the new economic realities.

Americans in the armed services and defense industries are some of the most disciplined, and technologically advanced professionals any nation has ever had. The defense conversion legislation will help transition their expertise to new areas.

Many communities will need help in comprehensive planning for their transition to new industries. The defense conversion legislation establishes programs to assist in that process.

Our Nation must maintain the ability to respond to crisis. And we must never again field a hollow force. The defense conversion legislation ensures that the substantial investment that our Nation has made in research and development will continue to keep our armed services technologically advanced, while allowing that infrastructure to expand into nondefense areas.

The defense conversion legislation had to address a wide variety of issues that reach to every strata of our society. In my view, this is a first step in an evolution that will not happen overnight. As our Nation adjusts to the post-cold war era, it is important that the private sector not be hamstrung by overregulation or no attempts are made to solve defense conversion by throwing money into questionable programs. We must walk a fine line of assistance without creating dependency. I am confident that with time, hard work, and proper allocation of resources, our Nation will come through this transition economically stronger than it has ever been.

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## ADVANCED SPACE TECHNOLOGY PROGRAM

Mr. DECONCINI. Mr. President, in light of passage earlier today of the fiscal year 1993 Defense appropriations bill, I would like to discuss and commend the splendid work that the Defense Advanced Research Projects Agency [DARPA] has performed over the years in the areas of space technologies and novel launch systems. Further, I want to cite the Agency's plans for critically important extensions of this work and note that it is strongly endorsed by this Chamber.

The impressive progress made by DARPA's Advanced Space Technology Program [ASTP] has included the two history making flights of the Pegasus air-launched space booster, demonstrations of the military utility of several low-cost, small satellite systems known as Lightsats, and development of a host of advanced technologies for military spacecraft and their payloads.

Since fiscal year 1988, DARPA has developed advanced satellite subsystem and launch vehicle technologies aimed at dramatically improving the affordability and capability of future satellite systems. The Advanced Satellite Technology and EHF Communications [ASTEC] Program, the Milsatcom Terminal Technology [IMPACT] Program, the Collaboration on Advanced Multispectral Earth Observation [CAMEO] Program, and the Advanced Technology Standard Satellite Bus [ATSSB] advanced technology demonstrations are specifically intended to take the next crucial step—the system integration of advanced technologies—to demonstrate critically needed capabilities while simultaneously bringing about a fundamental cultural change in the way DOD procures satellite systems.

It is important to note that DOD reluctantly supported the program at first, and tried to cancel it in 1989. Congress, however, directed that it continue. Today, ASTEC, IMPACT, CAMEO and ATSSB are top priority DOD efforts that are the sole technology demonstration pathfinders for future Milsatcom and Landsat modernization. Specifically, ASTEC and CAMEO will yield advanced communications, multispectral sensing and common bus technologies, applicable to any size satellite, as well as illuminate the proper role of small satellites as integral elements in the overall defense space architecture.

ASTEC and CAMEO, which incorporate the ATSSB, are major risk reduction activities. ASTEC and IMPACT represent the best hope for finding a means to affordably modernize the entire Milsatcom architecture and enable a very low cost solution for polar region EHF/UHF communications service. CAMEO represents an unprecedented opportunity for joint DOD/DOE/NASA collaboration on advanced remote sensing. Failure to proceed with CAMEO would represent an abandonment of U.S. world leadership in earth remote sensing.

Now that Congress has proved to DOD the wisdom of funding ASTP, it would be unfortunate to provide less than full support. Failure to support these efforts wastes past investment, nullifies valuable gains, and eliminates any possibility of producing viable alternatives to today's high costs, lengthy satellite procurements. It is my hope that the conference on this legislation will approve higher funding for this program.

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## SLOW PACE ON CIVILIAN POLICE REFORM IMPERILS SALVADORAN PEACE ACCORD

Mr. CRANSTON. Mr. President, I rise today to express my concern about the painfully slow process by which the Salvadoran Government is embarked upon creating the new civilian police force mandated by the peace accords, a development that is critical to the success of democratic consolidation there.

I take a certain pride in the peace agreement that was finally hammered out earlier this year.

For more than 2 years, my office had urged both the FMLN guerrillas and the Cristiani government to come together on a plan that would remove the military from internal security and create a new civilian police force.

The agreement that was finally reached had as one of its central points this critical distinction between national defense and public safety, a concept embodied in our own principle of posse comitatus.

Many people, myself included, saw in the terms of the peace agreement the potential for a model for civil-military relations in the developing world.

For that reason I have continued to monitor closely events in El Salvador, and for that reason I am concerned about the subject contained in the General Accounting Office report subtitle: "Slow Progress in Developing a National Civilian Police."

I urge my colleagues to read carefully what this excellent report—prepared by Donald Patton, Joan Slowitsky, and Bill Keller of the GAO staff—has to say. The crisis now engulfing Nicaragua is an object lesson about what happens when, after the shooting stops, U.S. attention drifts away.

I ask unanimous consent that the GAO report, together with a letter I sent to GAO requesting that an inventory be made of existing military equipment donated by the United States which might be used for the new police force, be reprinted in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[General Accounting Office, September 1992]

### AID TO EL SALVADOR: SLOW PROGRESS IN DEVELOPING A NATIONAL CIVILIAN POLICE

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
*Washington, DC, September 22, 1992.*

Hon. ROBERT G. TORRICELLI,
*Chairman, Subcommittee on Western Hemisphere Affairs, Committee on Foreign Affairs, House of Representatives.*

Hon. ALAN CRANSTON,
*U.S. Senate.*

A peace agreement signed January 16, 1992, by the government of El Salvador and the opposition Farabundo Marti National Liberation Front (FMLN) ended 12 years of civil war. In support of the ongoing peace process, the United States has pledged $20 million to help establish a new police force and a police academy. In response to your request, we

Determined whether the U.S. assistance for the police development effort is consistent with the provisions of the peace agreement,

Assessed the progress made in establishing the police force and police academy, and

Evaluated the financial status of the police development effort.

We briefed your staffs on these issues on September 9, 1992. This report provides the results of our review.

#### BACKGROUND

Because of the numerous human and civil rights abuses that occurred during El Salvador's civil war, FMLN negotiators insisted that the United Nations-brokered peace agreement provide certain security guarantees. The development of a new police force and the establishment of a new police academy are explicitly required by the peace agreement as fundamental elements of these guarantees. One chapter of the peace agreement is devoted to the establishment of the National Civilian Police and the police academy.

The agreement calls for the dissolution of three existing security forces and the establishment of a new police force within 2 years of the signing of the agreement. Two of the three security forces existing at the time the peace agreement was signed, the Treasury Police and the National Guard, have been disbanded. The third force, the National Police, is to remain in existence during a 2-year transition phase to the new police force,[1] called the National Civilian Police.

The National Civilian Police is to be an entirely new police force, with new officers, training, organization, and doctrine, and is to be controlled by civilian authorities independent of the military. The force is expected to reach its full strength of 10,000 members by May 1999. The composition of the force is to be no less than 60 percent new members and no more than 20 percent each from the existing security forces and the FMLN.

Regardless of their background, all 10,000 members of the police force must be graduates of the new police academy, the National Public Security Academy. Each training class of approximately 330 members is to receive 6 months of basic police training. Within 2 years, the academy is expected to train 5,940 police officers, including 240 senior officers. United Nations Development Program officials are overseeing the establishment of the academy to ensure that the terms of the peace agreement are being carried out. In addition, a joint U.S. and Spanish technical team is providing assistance in developing the police.

#### RESULTS IN BRIEF

U.S. assistance for the police development effort in El Salvador is consistent with U.S. policy to fully support the peace process and the individual provisions contained in the peace agreement. At the time of our review, the United States was helping to establish a police academy, but only a small amount of U.S. funds had been spent.

Limited progress has been made in establishing the new police force and police academy. The structure and resource needs of the police have not been determined, and equipment and facilities have not been provided. The installation of the first recruit class at the academy has been delayed 3 months due to several problems, including a lack of suitable facilities.

Efforts to establish the academy and the police are constrained by severe financial problems. The government of El Salvador has not provided the funds and property it promised for the academy, and while the United States, Norway and Spain have pledged support, no other international donors have responded to U.N. appeals for funds. According to U.S. officials, if no new operating funds are received from donors or the government, the academy could close in October 1992. Further, no funding except for $6 million from the United States has been pledged to fund the development of the National Civilian Police. The United States purchased equipment for the existing National Police and other government entities over the last few years. However, it is not certain what equipment is on hand and may be available for the police development program.

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[1] With oversight from the United Nations Observer Mission in El Salvador, the National Police provides for public security only in non-conflictive zones. The U.N. mission provides for public security in the conflictive zones.

U.S. and U.N. officials we spoke with were concerned about the slow progress and funding problems of the police development effort. They said that the peace process could be in jeopardy if the new police force is not established as called for in the peace agreement. According to U.S. officials, the FMLN has recently linked the full demobilization of ex-combatants, currently scheduled for October 31, 1992, with progress in the development of the National Civilian Police.

### U.S. ASSISTANCE SUPPORTS THE PROVISIONS OF THE PEACE AGREEMENT

On January 17, 1992, the U.S. Secretary of State announced that the United States fully supported the peace agreement because the reforms negotiated in the judicial system, the electoral system, the armed forces, and the police will strengthen El Salvador's democratic institutions, enlarge the scope of human rights, and promote national reconciliation. The $20-million U.S. pledge will be used over a 2-year period to support the police development effort.

The U.S. assistance is being administered through the Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP).[2] Of the $20-million pledged, $10 million has been allocated for the academy, $6 million for the police, and $4 million for ICITAP's overhead costs as well as the salaries of its advisers in El Salvador. ICITAP estimates that as of September 4, 1992, it had spent between $50,000 and $100,000 to support the development of the academy with operational manuals, curriculum development, training for teachers, and classroom equipment. Until mid-September 1992, ICITAP had been drawing from its regional funds because the Department of State had not yet transferred funds to the Department of Justice. The $6 million for the National Civilian Police will be used to develop institutional, administrative, and managerial capabilities.

### PROGRESS OF POLICE DEVELOPMENT EFFORT HAS BEEN SLOW

Although development of the National Civilian Police is a key part of the peace agreement, progress has been slow to date. The agreement, in general terms, addresses the structure of the force and a new public security doctrine. The government is required to provide more detailed plans on the content and makeup of the force by October 1, 1992. However, as of early September, the government had not yet developed plans outlining the structure, operations, or resource needs of the police force. The Director General of the National Civilian Police is just beginning to develop the required plans. Compounding the difficulties of this task is the requirement negotiated by the FMLN that the Director General not have any affiliation with the prior public security forces. The Director General, although a successful businessman, has no prior police experience to draw on as he prepared the plan.

Two other problems that impede development of a professional police force are the current void in the command structure and the government of El Salvador's decision to keep salaries for police officers low. Since all members of the new police force must be trained at the police academy, there is expected to be an initial gap in leadership when the first class of recruits graduates.

U.S. officials have suggested that as a stop-gap measure, 60 officers be sent to Puerto Rico for police management training at a cost of about $500,000. The government of El Salvador intends to pay entry-level police officers 800 to 1,000 colones (approximately $100 to $125) a month, substantially less than other commonly low-paying jobs. For example, secretaries earn 4,000 colones (about $500) a month and launderers 1,200 colones (about $150) a month. U.S. and U.N. officials said this low pay sends a negative message to potential officers and the general public about the government's commitment to a professional police force.

The National Civilian Police does not yet have headquarters offices, equipment, or facilities. The new police force is not expected to inherit adequate equipment from the current police. At one precinct station we visited in San Salvador, which was responsible for the safety of 250,000 people, the police had one car, one phone, and no radios. Another station had been bombed during the civil war and still had no roof or beds, and lacked other equipment. Although the Salvadoran military is believed to have excess equipment, it has not provided any cars, radios, or usable facilities, and U.S. and U.N. officials told us they do not expect the military to voluntarily support the police development effort.

### POLICE ACADEMY HAS EXPERIENCED START-UP PROBLEMS

Since all members of the National Civilian Police must be graduates of the academy, any significant problems with the academy will impede the development of the police force. The first class at the academy was to begin on May 1, 1992, under the terms of the peace agreement, but the first class of recruits was not installed until August 31, 1992. According to U.S. officials, the 3-month delay was caused by, among other things, the difficulty in finding an adequate site for the academy and the time needed for entrance exams. They also said that the May start-up target date was unrealistic given the magnitude of the task. To compensate for the delay, the size of the initial class has been doubled from 330 to 660 members. The class is scheduled to graduate in February 1993.

The new academy does not yet have suitable or permanent facilities. It is temporarily located at a training site formerly occupied by the Salvadoran military. This site, however, is too small to accommodate the full training program. In addition, before the military personnel vacated the site, they stripped it of anything usable, including beds, door jams, windows, lockers, and light bulbs. The academy is scheduled to move to another interim facility that was not stripped by the Salvadoran military, but this site lacks classrooms. Ultimately, the academy is expected to occupy the site of a former Catholic school, but according to ICITAP officials, the government would have to spend at least $10 million to purchase the site and improve earthquake-damaged buildings.

According to U.S. officials, the lack of operational plans and other information about the new police force could hamper the effectiveness of the training program at the new police academy. For example, while the curriculum at the academy is based on past police academy assistance in Panama and elsewhere, it is being developed before the force's most critical needs are known. According to ICITAP officials, this may become a greater problem as specialized training is being decided upon. In addition, the Director General of the academy is not commanded by the Director General of the National Civilian Police, which, according to ICITAP officials may pose future problems.

### FUNDING SHORTFALL PROJECTED

According to officials we interviewed, the most pressing problems facing the establishment of the National Civilian Police and the police academy are associated with funding. The government of El Salvador has not put a high priority on supporting the academy or the police force, international donors have not responded to appeals for funding support, and the police academy is expected to run out of operating funds in the near future. Although the total cost of the police development effort has not been determined,[3] officials we spoke with agreed that the amount provided or pledged to date falls far short of current and future resource needs.

### THE POLICE DEVELOPMENT EFFORT NOT A HIGH PRIORITY IN THE SALVATORAN GOVERNMENT

On the basis of interviews with U.S., U.N., and El Salvador officials, we found that the government has not made the police force a funding priority. The government of El Salvador has not pledged any funding for the National Civilian Police. It has pledged $13 million in cash and in-kind assistance for the police academy but has spent only $200,000 and has not provided the promised permanent academy site. The $200,000 was used to refurbish the temporary facilities housing the police academy. Moreover, the government has set low wages for entry-level members of the police.

In addition, the government has not obtained the cooperation of its military to provide equipment, facilities, and other support. U.S. officials told us that military inventories contain non-lethal equipment that could be used by the new National Civilian Police. The United States purchased some of the equipment for the military and the National Police under earlier economic and military assistance programs. While U.S. officials were not certain how many of these items are usable, none has been provided. However, according to U.S. and U.N. officials, the military is not likely to voluntarily assist in developing the police. The role of the armed forces in the peace process is a sensitive political issue in El Salvador. U.S. officials told us that the interests of the military must be considered in order to avoid the military taking action detrimental to the peace process. According to these officials, perhaps in 6 months the political climate in El Salvador would be such that appeals could be made to the military to help in the program.

The government also has had to direct its attention to other important peace issues, such as land ownership. While data was unavailable on how much the government has spent for other priority issues, we were told that the land ownership issue will require a considerable amount of money. While the government was operating with a constrained budget, U.S. and U.N. officials told us that if police development was considered a national priority, the government would find the funds and resources necessary to make the program work.

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[2] These AID-appropriated funds are transferred to the Department of State, and through an interagency memorandum of understanding, ultimately to the Department of Justice.

[3] On the basis of past experience, U.S. officials estimated that it could cost as much as $48.5 million for the first year alone to cover procurement costs, salaries, and other operating expenses.

### INTERNATIONAL DONORS HAVE NOT RESPONDED TO APPEALS FOR POLICE FUNDS

U.S. and U.N. officials believe that the international community has a responsibility to financially support the police development effort because of the international community's key role in the peace negotiations. However, except for the United States, Spain, and Norway, international financial support for the police has been nonexistent.

In March 1992, 19 countries (including the United States) the World Bank, the Inter-American Development Bank, and the International Monetary Fund pledged approximately $800 million to support the peace process. However, as of September 15, 1992, no donors other than the United States and Norway had provided funds to support the police development program. In June 1992, the United Nations asked member nations to provide financial support specifically for the police academy. No responses were received. Following up on this appeal in August 1992, the United Nations asked the five permanent members of the Security Council to donate funds and request donations from other member nations. However, no funds have been subsequently pledged.

U.S. and U.N. officials told us that international support has been lacking because donors view crises in other parts of the world as more serious and believe the United States has a primary interest in El Salvador because of its long involvement there. In addition (1) actions such as the military's stripping the site offered for the police academy, (2) the perceived general lack of support for the police development program by the government of El Salvador and the military, and (3) a donor expectation that some sort of peace dividend from the cessation of war should be available for this purpose were cited as affecting international donor support.

Officials we interviewed had mixed views on the prospects for future international support. U.S. officials from the Department of State and the Agency for International Development in Washington expressed some confidence in obtaining the needed international support. In contrast, U.S. and U.N. officials in El Salvador and U.N. officials in New York were pessimistic that international support would increase and said that the United States would likely need to take on more of the financial burden if the police development effort is to continue.

### OPERATING FUNDS FOR THE POLICE ACADEMY EXPECTED TO RUN OUT SOON

As of August 1992, $30.3 million had been pledged or provided for the new police force and police academy through the end of fiscal year 1993. The funding sources are shown in table 1.

TABLE 1.—FUNDING PLEDGED OR PROVIDED FOR POLICE DEVELOPMENT IN EL SALVADOR (FISCAL YEARS 1992–93)

[In millions of dollars]

| Source | Intended use of funds | Amount |
|---|---|---|
| United States | To cover the costs of curriculum development, instructor training, equipment, and supplies for the academy; planning, training, and organizational development for the police force. | [1] 16.0 |
| El Salvador | To pay for the academy site, improvements to the police academy facility, and general academy personnel costs. | 13.0 |
| Spain | To support police academy operations | 1.0 |
| Norway | To fund operating costs of police academy. | .3 |
| Total | | 30.3 |

[1] This amount excludes the $4,000,000 allocated for ICITAP's overhead and advisor costs.

We were told that only a small portion of these funds (the $300,000 from Norway) have been made available to pay for operating expenses.[4] In mid-August 1992, U.S. officials told us these funds will be insufficient to keep the police academy open after October 1992. On September 15, 1992, a State Department official told us that the government of El Salvador reportedly found additional funds that will keep the academy operating through December 1992; however, we were unable to verify that funds would be made available. No funds for the operating costs of the National Civilian Police had been pledged as of September 15, 1992, from any source.

While the U.S. funds administered by ICITAP are not prohibited by law from being used for recipient countries' operating expenses, according to ICITAP officials, ICITAP does not believe that providing operating funds is part of its mission. U.S. officials explained that funding recurring operational costs is not developmental and that once such costs are paid, it is difficult to stop paying them because the recipient government becomes reliant on continued operational support.

### SCOPE AND METHODOLOGY

To assess the status of the police development effort in El Salvador, we interviewed officials of the U.S. Embassy, the Agency for International Development, ICITAP, the government of El Salvador, FMLN, the U.N. Observer Mission in El Salvador, and the United Nations Development Program in El Salvador. We also reviewed pertinent U.S., U.N., and government of El Salvador documents. In Washington, D.C., we interviewed officials from the Department of State, ICITAP, and the Agency for International Development.

We conducted this review in August and September 1992 in accordance with generally accepted government auditing standards. As you requested, we did not obtain written agency comments on this report; however, we discussed it with agency program officials and incorporated their comments where appropriate.

We are sending copies of this report to the Chairmen, Senate and House Committees on Appropriations, the Senate Committee on Foreign Relations, and the House Committee on Foreign Affairs; the Secretary of State; the Attorney General; the Administrator, Agency for International Development; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

I can be reached at (202) 275-5790 if you or your staff have any questions concerning this report. Its major contributors were Donald L. Patton, Assistant Director; Joan M. Slowitsky, Evaluator-in-Charge; and Bill J. Keller, Evaluator.

HAROLD J. JOHNSON,
*Director, Foreign Economic Assistance Issues.*

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U.S. SENATE,
*Washington, DC, September 11, 1992.*

Mr. CHARLES A. BOWSHER,
*Comptroller General, General Accounting Office, Washington, DC.*

DEAR MR. BOWSHER: Last year I asked GAO to evaluate U.S. assistance programs to foreign police and to reform judicial systems. Since that time your staff has issued a number of reports and briefed my staff on a variety of important issues. I am particularly concerned about their observations on progress in developing the national police force in El Salvador, and the potential for increased requirements for U.S. funding to furnish supplies and equipment for the new force.

I believe it imperative that before the U.S. government is asked to support more assistance to the police in El Salvador we insure that there is a need for commodities and equipment above what has been already supplied to the government. For example, in a recent report you prepared for us on assistance to foreign police, you noted that during fiscal years 1986 and 1987 the United States supplied $17 million in vehicles, weapons, and communications and other equipment to the police.

As such, I am requesting that GAO first prepare a listing of those basic non-lethal supplies, equipment and infrastructure the new force may need as determined by the Justice Department's International Criminal Investigative Training Assistance Program and any other appropriate source. Then I would like an inventory of the related U.S.-purchased supplies, equipment and facilities in El Salvador or in the pipeline which may, now or in the future, be available to the police.

Given that the first Police Academy graduates will join the new force in January 1993, it is critical that I obtain this information by November 1, 1992. If you have any questions concerning this request, please have a member of your staff contact Martin Edwin Andersen, my professional staff member on the Senate Foreign Relations Committee, at 224-8114.

With every good wish I remain,

Sincerely,

ALAN CRANSTON.

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. CRANSTON. Mr. President, on behalf of the residents of California, I wish to express my sincere condolences to all those who have been affected as a result of Hurricane Andrew in southern Florida and Louisiana, Typhoon Omar in Guam, and Hurricane Iniki in Hawaii. These natural disasters, some of the worst in the history of our country, caused loss of life, destroyed homes, and left hundreds of thousands of people homeless, knocked out power, and disrupted water supplies—entire communities were devastated.

We in California know all too well the destructive power of nature. In October of 1989 the Loma Prieta earthquake, measuring 7.1 on the Richter scale, struck northern California. That earthquake left 62 people dead more than 3,500 people injured, and caused over 7 billion dollars' worth of damage.

Just this past year in California there have been six Federal disaster declarations issued by the President for floods, fires, earthquakes and, of course, the Los Angeles riots. These recent disasters also claimed many lives and caused billions of dollars' worth of damage.

As the Federal disaster response continues for the six recent disasters in

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[4] The funds from Norway have been used by the United Nations to equip temporary office space; print documents; fund publicity; and pay the salaries of a guard, secretary, and driver since April 1992. Remaining funds are to be spent on uniforms, beds, lockers, office furnishings, and food.

California, there are still unresolved issues dating back to the 1989 earthquake. Nearly 3 years after the Loma Prieta earthquake struck the San Francisco Bay Area, hundreds of millions of dollars in eligible Federal disaster assistance are still in dispute and the Federal Emergency Management Agency seems reluctant to disperse these needed funds.

Disputes between FEMA and localities and private nonprofit organizations are numerous and involve the city of San Francisco, the Port of Oakland, Goodwill Industries, Stanford University, and Watsonville Community Hospital, just to name a few. Common complaints include FEMA's slow response to everything from answering routine questions to deciding on major appeals, lack of experienced personnel to inspect damaged areas and review damage survey reports, and micromanaging simple, routine decisions best left to localities themselves.

Many disputes involve the issue of hazard mitigation which attempts to reduce the number of lives lost and lower the financial costs in future disasters. When Congress adopted the Stafford Act in 1988, we specifically included hazard mitigation measures as a key part of disaster recovery. I'm especially concerned that FEMA does not appear to be taking into account hazard mitigation measures when determining eligibility for Federal disaster assistance.

These disputes that still exist raise the administrative costs of the Federal response, cause undue hardship for residents of the affected communities, and could threaten lives in the event of another major earthquake. I'm perplexed at the delay in dispersing these badly needed funds, especially when Congress earmarked $300 million for Loma Prieta disaster relief in last year's dire emergency supplemental appropriations bill.

Unfortunately, an oversight hearing scheduled by the Environment and Public Works Committee to look into FEMA's response to the Loma Prieta earthquake had to be postponed due to the recent disasters across the country. This hearing would have helped answer many questions that I and the residents of California have about why, 3 years after the earthquake struck, people are still waiting for Federal assistance. I'm sure that when this hearing takes place in the near future, these questions will be answered.

I can only hope that the residents of southern Florida, Louisiana, Guam, and Hawaii, who have been affected by the recent disasters, are not waiting for Federal disaster assistance 3 years from now.

Mr. President, on a related matter, I'd like to voice my opposition to rule changes proposed by FEMA that would affect eligibility requirements for Federal disaster assistance under the Stafford Act. These proposed changes would eliminate the eligibility of many private nonprofit organizations, limit the eligibility reimbursement of certain costs incurred by localities, and would raise minimum amount of damage survey reports eligible for reimbursement.

The rule changes, if they went into effect, would have a devastating effect on communities trying to recover from a major disaster, could hamper relief efforts, and limit vital aid to individuals and families. I ask unanimous consent that my recent letter to FEMA Director Wallace E. Stickney, outlining my opposition to these proposed rule changes, be printed in the RECORD at this time.

I'd only like to add that one of the proposed rule changes would limit eligibility for the very private nonprofit organizations that were vital to recovery efforts following Hurricane Andrew. While it took days for FEMA to respond to the needs of disaster victims, private nonprofit organizations were on the scene within hours, providing food, water, clothing and shelter to all those in need. Federal disaster assistance to vital private nonprofit organizations should be expanded—not limited as FEMA has proposed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, August 31, 1992.*

Hon. WALLACE E. STICKNEY,
*Director, Federal Emergency Management Agency, Washington, DC.*

DEAR WALLACE: I'm writing concerning the Federal Emergency Management Agency's proposed rule changes that were published in the April 30, 1992 Federal Register. The proposed rules would change FEMA regulations governing the implementation of the Stafford Disaster Relief and Emergency Assistance Act as it relates to the eligibility of private nonprofit organizations and the eligibility of certain costs.

First, the Stafford Act provides that private nonprofit organizations (PNPs) which perform certain functions, including providing "essential services of a governmental nature to the general public," are eligible to receive federal disaster assistance. The accompanying House Report states:

"The definition of private nonprofit facility is also broadened to include facilities which provide to the general public services of a governmental nature. Examples of eligible facilities include museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, and shelter workshops."

The FEMA proposed rule change would limit eligible PNPs that perform essential governmental-type services to those specifically listed in the House Report. Such action is clearly contrary to what Congress intended when adopting the Stafford Act and to the explicit language of the House Report which lists only examples of eligible facilities.

Following the October 1989 Loma Prieta earthquake, 219 PNPs were determined eligible to receive disaster relief. Under the proposed rule change, only 15 to 20 of the 219 PNPs would be eligible to receive funds. A reduction of this magnitude would have a dramatic impact on communities devastated by a disaster and would increase the burden on local governments who rely on PNPs to provide many important services, including job training, drug and alcohol abuse rehabilitation, day care for children and elderly individuals, emergency food programs and counseling.

Second, FEMA proposes limiting the eligibility of certain costs pertaining to disaster relief. One rule change would disallow reimbursement of some labor costs for an applicant's regular employees performing certain disaster recovery work. FEMA claims that regularly employed personnel responding to disasters should be considered resources that existed prior to the disaster and that these costs would be incurred whether or not the disaster occurred.

FEMA, however, fails to recognize that personnel responding to the disaster still must perform their regular activities at another time. Though regular staff assigned to respond to emergencies during a disaster is an existing budgeted expense, personnel would be ignoring their regular activities that eventually must be performed, regardless of the disaster.

Another FEMA proposed rule change relating to costs would increase the minimum damage survey report (DSR) eligible for disaster assistance from $250 to $1000. I'm concerned that many repairs that would normally receive FEMA funding will now be considered ineligible under the rule change. Many sites that sustain damage during a disaster may have damage totaling over $1000, but several DSRs may be required for various types of repairs to a single site. In this case, though the total damage to a structure was above the minimum amount, FEMA funding may be denied because the damage covered in individual DSRs was below the $1000 minimum amount eligible.

I agree that FEMA needs to clarify its regulations as they pertain to eligibility requirements for disaster assistance. However, the FEMA proposed rule changes mentioned above, especially the one pertaining to PNP eligibility, could have a devastating effect on communities that have experienced a major disaster. The Stafford Act was adopted to expand disaster relief and assist those in need—not limit eligibility for federal assistance.

I urge your full consideration of my comments pertaining to the FEMA proposed rule changes and would appreciate being apprised of any decision you may make.

Sincerely,

ALAN CRANSTON.

## OUTSTANDING SUPERINTENDENT OF SOUTH DAKOTA: KENNETH POPPE

Mr. PRESSLER. Mr. President, I rise today to recognize Mr. Kenneth Poppe, superintendent of the Wall, SD, School District. Mr. Poppe recently was named South Dakota's Outstanding Superintendent of the Year. I congratulate Mr. Poppe for being this year's recipient of this distinct honor given by the South Dakota School Superintendents Association.

Mr. Poppe has dedicated his educational career to improving and modernizing the Wall School District, located in rural South Dakota. Many people will recognize the name of Wall, SD, from the extensive, international advertising campaign done by a business known as Wall Drug.

Starting in the Wall School District as a teacher and coach, Mr. Poppe became the superintendent in 1974. Since that time, no area of the district has escaped his attention. This is one advantage of working in a small school district.

His achievements are detailed in an article from the Rapid City Journal entitled "Wall School Superintendent No. 1." I ask that this article be printed in the RECORD at the conclusion of my remarks.

In addition to his exemplary performance as superintendent of schools, Mr. Poppe has been active in the Wall community, serving as past president of the chamber of commerce, a church elder, and director of the Badlands Natural History Association and Wall Health Services, to name a few. Quality education is crucial to our Nation's future progress. As long as we have educators and leaders like Ken Poppe, South Dakota and the rest of the Nation are headed in the right direction. I extend to him my congratulations for a job well done.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WALL SCHOOL SUPERINTENDENT NO. 1

Wall Superintendent Ken Poppe has been named South Dakota's Outstanding School Superintendent of the Year.

The award was presented to Poppe at the annual Superintendent's Conference in Pierre last month. Poppe was selected for the award by the South Dakota School Superintendents Association.

Poppe has been head of the Wall School District since 1974. Before that he worked as a teacher and coach in the Wall system.

"Any measure of accomplishment that I may enjoy rests with the success or efficacy of those I serve," Poppe said.

He said the advantage of working in a small district is that he could have an influence on everything that happened in the school system.

During the past 18 years, Poppe has initiated several changes including:

Taking a six-week kindergarten program that once was located in a vacant house and making it a full-time program now located in a modern classroom built with economic development funds.

Adding a retirement program for all classified staff.

Receiving a grant for a high school computer class and then teaching the course.

Urging adoption of a comprehensive health curriculum.

Establishing the middle school concept for students in sixth, seventh and eighth grades.

Of all the changes Poppe has brought to the district, he said the one that had the greatest impact on education was the modernization project. Last year, the Wall School District was selected as a pilot site for a project to restructure education in South Dakota. This year the district will begin work on the second phase of the project.

Poppe said versatility was important in working in a small school district. Over the years he has debated public policy issues such as Dakota Proposition II, worked on tax and finance study groups, acted as director of federal programs, and coordinated compliance with asbestos inspection and removal. He helped write a policy handbook for school administrators. And be has dedicated a great amount of time to planning for the district and improving teacher training.

Poppe also has been active in Wall. He is past president of the Chamber of Commerce, a director of Wall Health Services, a former volunteer fireman, former member of the Jaycees, a director of Badlands Natural History Association and an elder of the First Lutheran Church.

He is a member of the American Association of School Administrators and a former regional representative and voting delegate of the South Dakota School Superintendents Association.

## RETIREMENT OF GEN. KENNETH McLENNAN, USMC, FROM THE BOARD OF DIRECTORS FOR THE RETIRED OFFICERS ASSOCIATION

Mr. GLENN. Mr. President, I wish to offer a tribute to a distinguished American, Gen. Kenneth McLennan, USMC (retired) upon his retirement as chairman of the board of directors of the Retired Officers Association [TROA]. This is not the first time General McLennan has retired. In 1981, he concluded an illustrious Marine Corps career spanning more than 38 years, which included two armed conflicts, Korea and Vietnam.

Born in Vancouver, BC, Canada, he enlisted in the Marine Corps Reserve in 1943 and was commissioned a second lieutenant in 1945. During his career General McLennan held a number of command assignments, including a recruit training company; an infantry company; an infantry battalion; Camp H.M. Smith, HI; and the 2d Marine Division, Camp Lejeune, NC. His staff assignments included service in logistics, operations, embarkation, and training functions, and, as a brigadier general, he served as the Marine Corps liaison officer to the Chief of Naval Operations.

On July 1, 1978, General McLennan was appointed lieutenant general and was assigned as the Deputy Chief of Staff for Manpower at Headquarters Marine Corps. He was promoted to general on July 2, 1979, and served as Assistant Commandant and Chief of Staff of the U.S. Marine Corps until his retirement on July 1, 1981.

Since his retirement from the Marine Corps, General McLennan has served as a consultant to major corporations in the management of employee health care programs and risk management, and as acting president of U.S. International University in San Diego, CA.

General McLennan was elected to TROA's board of directors in November 1986. He served as chairman of the Association's Insurance and Members Services and Insurance and Health Care Committees from January 1987 until September 1990 when he was elected chairman of the board.

Throughout his stewardship on its board, he was pivotal in the Retired Officers Association's role as a forceful advocate of legislative initiatives to maintain readiness and improve the quality of life for all members of the military community—active, reserve, and retired, as well as their families and survivors. General McLennan was actively involved in the fight for equitable health care principles, COLA equity, a more flexible Survivor Benefit Plan, elimination of the offset imposed on disabled veterans, and improvement of access to quality health care for military retirees and their families.

The end of the cold war added a new dimension and new challenges to the management of the Armed Forces. Under General McLennan's direction, TROA worked as an influential member organization of the military coalition on programs to provide reasonable benefits for members of the military who were forced to leave active or reserve service prematurely. In anticipation of a national focus on health care during the 102d and subsequent Congresses, General McLennan also created a TROA ad hoc committee to examine the major health care issues confronting this Nation.

Mr. President, after 50 years of leadership and service, General McLennan will again retire. We shall be forever grateful for his significant and enduring contributions to all men and women in uniform and their families, both active and retired; to the Marine Corps; and to our country. From one marine to another, I wish him fair winds and a following sea in his well-deserved retirement.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 800 and Calendar No. 801. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, and the motion to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

### THE JUDICIARY

Nathaniel M. Gorton, of Massachusetts, to be U.S. district judge for the District of Massachusetts.

John Phil Gilbert, of Illinois, to be U.S. district judge for the Southern District of Illinois.

### STATEMENT ON THE CONFIRMATION OF NATHANIEL "NAT" GORTON

Mr. RUDMAN. Mr. President, I rise in support of the nomination of Nathaniel "Nat" Gorton to serve as U.S. district court judge for the District of Massachusetts.

I have known Nat Gorton for many years, as he has lived and practiced in the neighboring State of Massachusetts. Nat is an individual of outstanding accomplishment and sterling reputation among the New England legal community. Over the years he has served in many important positions of responsibility. Nat Gorton has served as general corporate counsel to a major seafood distribution business. Currently, he serves as a partner in a major Boston law firm, where he has helped build a successful civil litigation practice.

Nat Gorton has been extremely active in civic and professional associations. A graduate of Dartmouth College and Columbia Law School, he served as a lieutenant in the U.S. Navy. But Nat is also a great hockey fan—something that I am certain his wife Jodi and his three lovely children can confirm as can others from his hometown of Wellesley, MA, who watched him play.

Nathaniel Gorton is a fine man who possesses an outstanding legal mind. His knowledge of the law and experience in applying it, I believe, give him the foundation needed to make an exceptional Federal judge. Certainly, his considerable legal qualifications and long record of achievement persuaded the Judiciary Committee to vote unanimously to confirm his nomination to the Federal bench. I hope the full Senate follows suit.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## STAR PRINT OF REPORT 102-328

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the committee report to accompany S. 3006, Report 102-328, the President John F. Kennedy Assassination Records Collection Act of 1992, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STRIKING OF MEDAL COMMEMORATING THE 250TH ANNIVERSARY OF THE AMERICAN PHILOSOPHICAL SOCIETY AND THE BIRTH OF THOMAS JEFFERSON

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 2661, a bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson; that the Senate proceed to its immediate consideration; that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2661), which was deemed to have been read three times and passed, is as follows:

S. 2661

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

The Congress finds that—

(1) the American Philosophical Society was founded in 1743 as the American Philosophical Society held at Philadelphia for Promoting Useful Knowledge;

(2) the American Philosophical Society was founded by Benjamin Franklin and today it is the oldest learned society in the United States and one of the principal scholarly and scientific bodies in the world;

(3) the American Philosophical Society plans to celebrate its 250th anniversary an the 250th anniversary of the birth of Thomas Jefferson with programs and activities to be held in Philadelphia, Pennsylvania, in April 1993;

(4) Thomas Jefferson served as the third president of the American Philosophical Society at the same time as he served as President of the United States; and

(5) it is proper and desirable to pay tribute to the American Philosophical Society and to Thomas Jefferson's devotion to learning as exemplified in the principles and programs of the American Philosophical Society.

**SEC. 2. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—In commemoration of the 250th anniversary of the founding of the American Philosophical Society and the 250th anniversary of the birth of Thomas Jefferson, the President is authorized to present, on behalf of the Congress, to a duly authorized representative of the American Philosophical Society, a gold medal of appropriate design which shall be known as the "Thomas Jefferson Medal".

(b) DESIGN AND STRIKING.—The Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") is authorized and directed to strike gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in consultation with representatives of the American Philosophical Society.

**SEC. 3. DUPLICATE MEDALS.**

(a) AUTHORIZATION AND DIRECTION TO THE SECRETARY OF THE TREASURY.—The Secretary is authorized and directed to strike 50 bronze duplicates of the gold medal struck pursuant to section 2 and deliver the bronze duplicates to the American Philosophical Society.

(b) PRESENTATION OF DUPLICATE MEDALS.—The American Philosophical Society shall present the bronze duplicates to persons of scholarly achievement in connection with annual ceremonies.

**SEC. 4. PAYMENT FOR MEDALS.**

The Secretary shall take such actions as may be necessary to ensure that striking the gold medal and the bronze medals under this Act will not result in any net cost to the United States Government. Medals shall not be struck pursuant to this Act unless the Secretary has received full payment for the medals from American Philosophical Society.

**SEC. 5. NATIONAL MEDALS.**

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

**SEC. 6. GENERAL WAIVER OF PROCUREMENT REGULATIONS.**

(a) IN GENERAL.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EXCEPTION.—Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

## CHINESE STUDENT PROTECTION ACT OF 1992

Mr. WELLSTONE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1216.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the bill from the Senate (S. 1216) entitled "An Act to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state," do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Chinese Student Protection Act of 1992".*

***SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.***

*(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:*

*(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.*

*(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.*

*(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—*

*(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and*

*(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.*

*(4) The numerical level of section 202(a)(2) of such Act shall not apply.*

*(5) Section 245(c) of such Act shall not apply.*

*(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—*

*(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;*

*(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and*

*(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.*

*(c) CONDITION; DISSEMINATION OF INFORMATION.—*

*(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.*

*(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.*

*(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—*

*(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.*

*(2) ALLOTMENT IF SECTION 202(E) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—*

*(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and*

*(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.*

*(3) APPLICABLE FISCAL YEAR.—*

*(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—*

*(i) beginning with the fiscal year in which the application period begins; and*

*(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).*

*(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.*

*(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.*

Mr. KENNEDY. Mr. President, last month, one of the leaders of the Chinese democracy movement, Mr. Shen Tong, voluntarily returned to China, taking the Government at its word that he and all other Chinese students would be welcomed back and would not be harmed. Within days, however, Shen Tong was abruptly arrested, and now faces brutal imprisonment in a Chinese gulag for daring to speak out for his democratic beliefs.

This incident highlights the precarious conditions which Chinese students would face it forced to return to China.

I am pleased to join with the Senator from Washington in cosponsoring the legislation before us as it provides needed protections to those students who have stood so bravely for democracy. I also wish to commend Representative NANCY PELOSI for her leadership on this important legislation in the House. I am also grateful for the cooperation of the ranking member of our Immigration Subcommittee, Senator SIMPSON, on this legislation.

The Chinese students in the United States have been at the forefront of international efforts to promote democratic reform in China. Many of them have placed themselves and their families at great risk because of their protests against the Tiananmen Square massacre and their continuing efforts to end the massive Government crackdown which followed.

Currently, the students are protected from deportation by an Executive order reluctantly issued by President Bush in April 1990. That order permits the students to remain in the United States until January 1, 1994.

This legislation provides permanent residence to those covered by the Executive order, unless, next year, the President certifies to Congress that it is safe for them to return. In this way, unless conditions in China improve dramatically, the brave leaders of the Chinese democracy movement can be assured that they can continue their activities on behalf of democracy without fear of being forced to return to an oppressive China.

Mr. President, I believe there are few more appropriate gestures in support of democracy in China than the Chinese Student Protection Act of 1992, and I urge my colleagues to support its immediate passage.

Mr. WELLSTONE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 11:34 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr SMITH of Iowa, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. HOYER, Mr. MRAZEK, MR. WHITTEN, Mr. PURSELL, Mr. PORTER, Mr. YOUNG of Florida, Mr. WEBER, and Mr. MCDADE as managers of the conference on the part of the House.

At 2:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, each without amendment:

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; and

S. J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2967) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2850) to make technical and conforming changes in title 5, U.S. Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 1766) relating to the jurisdiction of the U.S. Capitol Police.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. SWIFT, Mr. SLATTERY, Mr. LENT, and Mr. RITTER as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) to amend the solid Waste Disposal Act to clarify the provisions concerning the application of certain requirements and sanctions to Federal facilities.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 12. An act to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes;

H.R. 4252. An act to direct the Secretary of Health and Human Services to waive the application to the District of Columbia Chartered Health Plan, Inc., of the requirement under title XIX of the Social Security act that limits the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs;

H.R. 5001. An act to amend the Outdoor Recreation Act of 1963 to authorize the National Park Service and the United States Geological Survey to conduct a national river systems recreation assessment;

H.R. 5257. An act to amend the coastwise trade laws to clarify their application to certain passenger vehicles; and

H.R. 5258. An act to provide for the withdrawal of most favored nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled.

### ENROLLED BILLS SIGNED

At 2:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1731. An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes; and

S. 3175. An act to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

## MEASURES REFERRED

The following joint resolution, received from the House of Representatives for concurrence on September 22, 1993, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 454. Joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; to the Committee on Governmental Affairs.

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 12. An act to amend the Federal Water Pollution Control and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4252. An act to direct the Secretary of Health and Human Services to waive the application to the District of Columbia Chartered Health Plan, Inc., of the requirement under title XIX of the Social Security Act that limits the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs; to the Committee on Finance.

H.R. 5001. An act to amend the Outdoor Recreation Act of 1963 to authorize the National Park Service and the United States Geological Survey to conduct a national river systems recreation assessment; to the Committee on Energy and Natural Resources.

H.R. 5257. An act to amend the coastwise trade laws to clarify their application to certain passenger vehicles; to the Committee on Commerce, Science, and Transportation.

H.R. 5258. An act to provide for the withdrawal of most favored nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status of certain conditions are fulfilled; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. REID, from the Committee on Appropriations, with amendments:

H.R. 5427. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–418).

By Mr. LEAHY, from the Committee on Appropriations, with amendments:

H.R. 5368. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–419).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2970. A bill to amend the Cash Management Improvement Act of 1990, and for other purposes (Rept. No. 102–420).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for Mr. SEYMOUR):

S. 3264. A bill to amend the Immigration and Nationality Act to provide expedited procedures for the deportation of alien criminals; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. COCHRAN, Mr. STEVENS, Mr. DOMENICI, Mr. GORTON, Mr. GRASSLEY, Mr. LOTT, Mr. SEYMOUR, Mr. SYMMS, Mr. WARNER, Mr. BURNS, Mr. MCCAIN, and Mr. MCCONNELL):

S. 3265. A bill to amend the Internal Revenue Code of 1986 to provide for tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

By Mr. RIEGLE:

S. 3266. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RIEGLE (for himself, Mr. ROCKEFELLER, Mr. DECONCINI, Mr. GLENN, Mr. COCHRAN, Mr. METZENBAUM, Mr. LEVIN, Mr. STEVENS, Mr. SASSER, and Mr. GORE):

S.J. Res. 341. A joint resolution to designate November 18, 1992, as "National Philanthropy Day"; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for Mr. SEYMOUR):

S. 3264. A bill to amend the Immigration and Nationality Act to provide expedited procedures for the deportation of alien criminals; to the Committee on the Judiciary.

### CRIMINAL ALIENS IMPACT AND REMOVAL ACT OF 1992

• Mr. SEYMOUR. Mr. President, by the time I finish my remarks, an estimated 83 aliens will have crossed our southwest border illegally. That amounts to 8,000 aliens each day. Only 2,700, roughly one-third, are apprehended.

For southern Californians, these numbers aren't surprising. Many of us have witnessed, either on television or firsthand, the human drama of entire families running across the California-Mexico border in the dark of night, or sprinting across Interstate 5 in the bright of day—scores of people fleeing poverty and repression, chasing hope and promise in a land of opportunity.

However, many aliens who come into this country seek a different kind of opportunity—criminal opportunity. They seek the opportunity to run drugs, the opportunity to participate in alien smuggling, or other forms of organized criminal activity.

According to a recent Department of Justice report, the INS deported over 13,000 criminal aliens in fiscal year 1991, an increase of 57 percent from the previous year.

With two out of every three aliens escaping apprehension at the border, the Federal Government is not living up to its constitutional and sole responsibility to protect our borders.

And, as a result, a number of State and local governments, particularly in my State of California, have been drafted involuntarily to assist the Federal Government in apprehending, trying, and incarcerating those criminal aliens who have made it across our borders.

Adding to the problem is the fact that our State and local governments are becoming a criminal alien merry-go-round. In other words, many criminal aliens who are released and sent back to their country of origin end up right back in our State and local criminal justice system.

Mr. President, permit me to offer an example. A recent Los Angeles County study tracked 1,875 deportable aliens identified as part of a May 1990 study of the Los Angeles County jail population. Half of the 1,875 aliens were returned to their native countries, either voluntarily or through the normal deportation process. Yet, within 1 year, from May 1990 to May 1991, 41 percent of the 1,875 being tracked were rearrested. To be more specific, those 772 criminal aliens were arrested a total of 1,522 times during the 12-month period. Further investigation revealed that this small sample of criminal aliens were arrested nearly 11,000 times—some as far back as 1958.

This vicious cycle is imposing enormous costs on local and State governments. Los Angeles County estimates that illegal immigrants cost the criminal justice system $75 million each year. In San Diego County, the annual cost to its criminal justice system exceeds $100 million. And it costs the State of California more than $250 million each year to incarcerate criminal aliens.

But who really pays for these costs? The taxpayers in those impacted States and localities. The Federal Government's abdication of responsibility beyond the border imposes a hidden tax on these Americans—a tax to pay for the costs that our State and local governments are forced to bear to keep criminal aliens off our streets.

Enough is enough. California State and local governments are being forced to make massive cuts in their budgets—cuts in much needed services like health care for the disadvantaged, education for our young people, and law enforcement for all law-abiding citizens. These cuts would not be so deep or nearly so painful if the Federal Government assumed its responsibility to enforce our borders, and to accept the costs when it fails to do so.

On top of that, jails in Los Angeles, Orange, and San Diego Counties are under court-imposed limits on their jail populations—limits imposed by the Federal Government. To meet these limits, these counties have had to release some inmates early. I have a better idea. I suggest that the Federal Government help local governments meet their limits by taking deportable aliens off local hands. If the Federal Government assumed responsibility for deportable aliens in Los Angeles County, it would reduce the county jail population by at least 11 percent, freeing much needed resources and preventing the county from releasing inmates early.

Wouldn't that be a better idea? More important, isn't that the responsible idea?

I think so. Therefore, I intend to press the Federal Government to assume its constitutional responsibility. No more passing the buck to State and local governments and their taxpayers.

Today, I am introducing the Criminal Aliens Impact and Removal Act, a tough, comprehensive, and responsible action plan to reinvigorate our border policy and to finally crack down on the criminal alien crisis that is draining the fiscal resources of our States and communities.

The current Federal system with respect to criminal aliens consists of two cumbersome procedures: Identification and deportation. My bill will streamline both in two ways. First, my bill directs the Attorney General to devote his resources to reducing the current backlog in deportation cases in the Department of Justice. Second, it encourages greater cooperation with State and local officials in the identification process. By reforming both operations, once a criminal alien finishes his jail or prison sentence, his first step of freedom will be into a vehicle that will take him to his home country.

But why stop there? If we can deport them sooner, if we can reach an agreement with foreign governments to incarcerate their nationals for the full duration of their sentences, then let's do it. We presently have an Alien Transfer Treaty with the Government of Mexico—a treaty that is sparingly used in part because of the cumbersome identification and deportation procedures.

My bill calls on the American and Mexican Governments, with the cooperation of affected State and local governments, to pursue strategies to increase the use and effectiveness of this treaty. My bill also calls on the United States to negotiate similar treaties with other countries.

In short, if criminal aliens can be transferred with the guarantee they will serve their full sentence in their home country, then let's get them out of our country. Why should we continue to shoulder the high costs of incarceration?

Deportation is not enough. The ease of aliens crossing our borders is proof of that. Let's kick them out, and keep them out. That means we need a tough and responsible border enforcement policy. First and foremost, we need adequate levels of personnel along our border. Fortunately, we have an administration that understands this need. Earlier this year, Governor Wilson and I urged the President to make a strong commitment to border enforcement. He responded by funding an additional 300 Border Patrol agents for the southwest border.

Much more support is needed. My bill calls for an additional 1,500 Border Patrol agents by October 1, 1994, which will bring our total Border Patrol force level to 6,600. Most important, my bill requires that the force level at America's busiest border crossing—the San Diego sector—be at 1,600 by October 1, 1994, an increase of nearly 600 over its current force level.

A commitment of manpower is not enough. We need to match that commitment with a dedication of resources toward vehicles and technological support. In sparse open regions, vehicles are essential to patrol our borders. The southwest border also needs low-light-level television camera systems, which are useful to monitor alien and smuggler traffic in both remote and densely populated areas. According to one Border Patrol official, several cameras and 3 agents could monitor the same area normally patrolled by 25 agents. Just as important, vehicles and camera systems enable the Border Patrol to quickly and efficiently mobilize personnel.

My bill would authorize funding to enable this kind of equipment and technical support to be put in place. Indeed, this kind of enforcement, this kind of commitment, this show of force and responsibility, will make a real difference to prevent the entry and reentry of criminal aliens into our country.

However, we need the help of our neighbors north and south. My legislation calls on the Department of Justice to coordinate border enforcement strategies with the law enforcement agencies of Canada and Mexico. The flow of criminal aliens back and forth, north and south is an international problem and thus requires an international response.

Speaking of responses, my legislation sends a strong response to those who have reaped the advantages of criminal aliens. American drug traffickers, alien smugglers, and those who manufacture false documentation for illegal aliens for too long have profited from our criminal alien crisis. My bill will put the profits of their criminal activity to good use. My bill expands our asset forfeiture law to enable the Federal Government to seize property used or gained in alien smuggling or document falsification. My legislation also creates civil fines of up to $100,000 on alien smugglers and other criminals who use aliens to commit crimes. All the moneys raised or seized from my bill will be deposited into a fund to assist Federal, State, and local governments apprehend, identify, and deport alien felons.

In short, with my bill, those who smuggle or use aliens to commit crimes will pay dearly and doubly—they'll pay for bringing aliens in and they'll pay for our sending them out.

Finally, and most important, my bill will bring much needed relief to State and local governments. Under my bill, all deportable and excludable aliens convicted by State and local governments will be transferred to a Federal facility to serve their sentences until they can be deported. If the Federal Government can't hold them, then they will pay for the costs of keeping them in State or local facilities. Yes, this will impose real costs on the Federal Government, but costs it should be responsible for. Maybe when faced with these serious costs, the Federal Government will pursue a serious border policy to control future costs.

In addition, my bill provides much needed assistance to those State and local governments heavily impacted by criminal aliens. It calls on the Commissioner of the INS to designate up to 3 States and 10 local jurisdictions as high intensity criminal alien population areas. These areas will receive increased manpower and financial resource assistance to speed up the identification process and lower the enormous costs imposed on State and local criminal justice systems.

The real question this bill answers is: Who will bear the responsibility for criminal aliens? Immigration is solely a Federal responsibility, and that includes fiscal responsibility. Federal fiscal responsibility doesn't just mean balancing our budgets, it means accepting all our fiscal responsibilities, rather than passing them on to State and local governments and their taxpayers.

Mr. President, if any of my colleagues were to travel to the San Diego sector, and witness firsthand the overwhelming challenges faced by the dedicated men and women of our Border Patrol, they will be quick to conclude that our current border policy is not working. If any of my colleagues were to visit and talk to law enforcement leaders and law-abiding citizens in San Diego, Orange County, or Los Angeles, they will see and hear from those who are paying for the cost of our current border policy.

It's easy to conclude our border policy is not working, but I'm offering the Senate a plan of action. It's time we devote our energies toward solving this vexing problem. Though it is late in the year, I offer this legislation to my colleagues now so that we can begin the process of developing a responsible, bipartisan strategy to protect our borders and crack down on the criminal alien crisis that's draining the resources of State and local governments.

Mr. President, I send the legislation to the desk and ask that it be referred to the appropriate committee. Furthermore, Mr. President, I ask unanimous consent that the text of the Criminal Aliens Impact and Removal Act be printed in the RECORD, along with a section-by-section analysis of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3264

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Criminal Aliens Impact and Removal Act of 1992".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) the number of aliens arrested for criminal activity and the number of convicted criminal aliens in State prisons and local jails continues to be at significant levels in many jurisdictions;

(4) in some jurisdictions in California, it is estimated that between 10 and 20 percent of the inmates in local jails are criminal aliens;

(5) the continued presence of criminal aliens places enormous costs on State and local governments and the taxpayers in heavily impacted areas; and

(6) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed.

(b) PURPOSE.—It is the purpose of this Act to—

(1) ensure the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation;

(2) provide sufficient resources to prevent the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States; and

(3) relieve State and local governments from the burden of incarcerating criminal aliens who are subject to exclusion or deportation.

## TITLE I—DEPORTATION

**SEC. 101. TRANSFER OF FUNDS TO MEET DEPORTATION TRANSCRIPT AND CASE BACKLOG.**

(a) IN GENERAL.—In each of fiscal years 1993, 1994, and 1995, the Attorney General shall transfer from the Immigration Examinations Fee Account to funds available for the salaries and expenses of the Executive Office for Immigration Review in the Department of Justice such sums as may be necessary to remove the backlogs in the preparation and disposition of deportation proceedings.

(b) IMMIGRATION JUDGES AND PERSONNEL.—Sums transferred pursuant to this section may be used to employ immigration judges and support personnel as authorized in section 512 of the Immigration Act of 1990.

**SEC. 102. CRIMINAL ALIEN TRACKING SYSTEM.**

(a) IN GENERAL.—The Attorney General is authorized to implement a nationwide criminal alien tracking system utilizing electronic fingerprint and photoimaging system technology.

(b) ESTABLISHMENT OF STATE AND LOCAL GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State and local governments to carry out programs—

(A) to compile and input records for inclusion in the tracking system described in subsection (a);

(B) to implement identification procedures and electronic conviction document systems; and

(C) to enable full utilization of the tracking system described in subsection (a).

(2) APPLICATION FOR GRANTS AND CONTRACTS.—Any State or local government shall submit to the Attorney General an application at such time, in such manner, and containing or accompanied by such information, as the Attorney General may require. Each application for assistance under this subsection shall—

(A) set forth the project to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section;

(E) provide that regular reports on such project or activity shall be submitted to the Attorney General; and

(F) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the purpose of carrying out this section.

**SEC. 103. NEGOTIATIONS FOR INTERNATIONAL AGREEMENTS.**

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, together with the Attorney General, may enter into an agreement with any foreign country providing for the incarceration in that country of any individual who—

(1) is a national of that country; and

(2) is an alien who—

(A) is not in lawful immigration status in the United States, or

(B) on the basis of conviction of a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act,

for the duration of the prison term to which the individual was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such individual pursuant to parole procedures of that country.

(b) PRIORITY.—In carrying out subsection (a), the Secretary of State should give priority to concluding an agreement with a country for which the President determines that the number of individuals described in paragraphs (1) and (2) of subsection (a) who are nationals of that country represents a significant percentage of all such individuals.

(c) CONTRIBUTION OF FUNDS.—(1) Any agreement entered into under subsection (a) with a country shall not preclude the contribution of funds by the United States to that country for the construction of facilities for individuals transferred from the United States pursuant to such agreement or for other expenses incurred in imprisoning such individuals in such country.

(2) The amount of such contributions may not exceed the amount determined by the President to be required to continue to incarcerate the individuals involved in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

### SEC. 104. AMENDMENTS PERTAINING TO AGGRAVATED FELONS.

(a) Ineligibility for Suspension of Deportation.—Section 244 of the Immigration and Nationality Act is amended by adding at the end the following new subsection:

"(g) Suspension of deportation and adjustment of status under subsection (a)(2) shall not be available to any alien who has been convicted of an aggravated felony.".

(b) Application of Exclusion for Drug Offenses.—Section 212(h) of the Immigration and Nationality Act is amended in the second sentence by inserting "or any other aggravated felony" after "torture".

(c) Adjustment of Status; Change of Nonimmigrant Classification.—(1) Section 245 of the Immigration and Nationality Act is amended—

(A) by striking "or" after "section 212(d)(4)(C)"; and

(B) by inserting "; or (5) an alien who has been convicted of an aggravated felony" immediately after "section 217".

(2) Section 249 of such Act is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) an alien convicted of an aggravated felony.".

### SEC. 105. REPORT ON FIVE-STATE CRIMINAL ALIEN MODEL.

(a) In General.—Not later than six months after the date of enactment of this Act, the Attorney General shall submit to the appropriate committees of the Congress a report concerning the effectiveness of the Five State Criminal Alien model, together with any comments and recommendations for new regulations and legislation.

(b) Implementation.—Not later than 30 days after the submission of the report described in subsection (a), the Attorney General shall implement any administrative and regulatory recommendations as described in such report.

### SEC. 106. PRISONER TRANSFER TREATY STUDY.

(a) In General.—Not later than six months after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(b) Use of Treaty.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(c) Effectiveness of Treaty.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with, the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommendations.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(d) Implementation.—Not later than 30 days after the submission of the report required by this section, the Attorney General and the Secretary of State shall implement any administrative and regulatory recommendations as described in subsection (c)(1).

### SEC. 107. ANNUAL REPORT.

Not later than 12 months after the date of enactment of this Act, and for each year thereafter, the Attorney General shall submit to the appropriate committees of the Congress a report detailing—

(1) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation;

(2) methods for identifying and preventing the unlawful re-entry of aliens who have been convicted of criminal offenses in the United States and removed from the United States; and

(3) comments and recommendations for legislation to achieve those programs described in paragraphs (1) and (2).

## TITLE II—ENFORCEMENT

### SEC. 201. FORFEITURE.

(a) Failure To Submit to Deportation.—Any alien who—

(1) is subject to a deportation order, and

(2) refuses or fails without good cause to turn himself over for deportation at the scheduled time,

shall, under court order, forfeit his property to the United States in accordance with the provisions of section 1963 of title 18, United States Code, or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

(b) Smuggling or Falsification of Documents.—Any person who is convicted of an offense under section 274, 277, or 278 of the Immigration and Nationality Act or of producing counterfeit immigration identification documents shall forfeit to the United States the person's interest in—

(1) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(2) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

(c) Transfer of Funds.—(1) The Attorney General shall liquidate all assets forfeited to the United States pursuant to this section as expeditiously as possible.

(2) The Attorney General shall deposit as offsetting receipts into the Criminal Alien Identification, Incarceration, and Removal Fund, established in section 205, the funds derived from the liquidation of assets forfeited to the United States under this section, to be available in the amounts or to the extent provided in appropriations Acts.

### SEC. 202. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

(a) In General.—Section 265 of the Immigration and Nationality Act (8 U.S.C. 1302) is amended by adding at the end thereof the following new subsection:

"(d) Each alien—

"(1) convicted of a felony who is released on parole, or

"(2) charged with a felony but determined to be not mentally competent to stand trial or not guilty by reason of insanity who is released from the custody of State or Federal officials,

shall provide the Attorney General (in a form and manner and at such time and frequency as the Attorney General specifies) with information on the alien's current address and the crime and sentence for which the alien was convicted. Any alien who fails to provide information required under this subsection is subject to a civil fine of not to exceed $1,000 and is subject to deportation under section 241(a)(3)(A).".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to aliens released on parole before, on, or after such date.

### SEC. 203. EXPLOITATION OF ALIENS.

(a) Inducement of Aliens.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) Commission of Crime by Alien.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) Considerations.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) Enforcement.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

### SEC. 204. CIVIL FINES FOR UNLAWFUL TRANSPORTATION OF ALIENS.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1), by striking "in accordance with title 18, United States Code," and inserting "up to $100,000"; and

(2) in paragraph (2), by striking "in accordance with title 18, United States Code," each of the two places it appears and inserting "up to $100,000".

### SEC. 205. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification, Incarceration, and Removal Fund (hereafter in this section referred to as the "Fund").

(2) All fines and funds collected pursuant to sections 201, 202, 203, and 204 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONEYS IN THE FUND.—Moneys covered into the Fund in any fiscal year may be used by the Attorney General—

(1) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain and deport criminal aliens;

(2) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded;

(3) for the Executive Office of Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 242 of the Immigration and Nationality Act;

(4) to incarcerate criminal aliens transferred pursuant to section 401 of this Act; and

(5) to fund grants to States and local governments for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs; and

(C) providing assistance pursuant to sections 102(b) and 403(a)(2) of this Act.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

## TITLE III—BORDER ENFORCEMENT

### SEC. 301. STRENGTHENED ENFORCEMENT OF IMMIGRATION LAWS AT THE BORDER.

(a) INCREASED PERSONNEL LEVELS OF THE BORDER PATROL.—(1) There are authorized to be appropriated such sums as may be necessary to provide for an authorized personnel level of 6,600 full-time positions in the Border Patrol of the Immigration and Naturalization Service of the Department of Justice by not later than October 1, 1994.

(2) In providing for increased Border Patrol personnel for the Immigration and Naturalization Service, the Commissioner of Immigration and Naturalization shall provide for the assignment of at least 1,600 Border Patrol agents to the San Diego Sector by not later than October 1, 1994.

(b) INCREASED PERSONNEL LEVELS OF THE IMMIGRATION AND NATURALIZATION SERVICE ANTISMUGGLING PROGRAM.—There are authorized to be appropriated such sums as may be necessary to provide for an authorized personnel level of 600 full-time positions in the antismuggling program of the Immigration and Naturalization Service of the Department of Justice by not later than October 1, 1994.

(c) INCREASED FUNDING FOR THE BORDER PATROL.—(1) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the Attorney General $50,000,000 for fiscal year 1993, which amount shall be available only for equipment, vehicles, support services, and initial training for the Border Patrol.

(2) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the Attorney General, $10,000,000 for fiscal year 1993, which amount shall be available only for maintenance and repair of equipment used by the Border Patrol.

(3) Funds appropriated pursuant to this section are authorized to remain available until expended.

(d) INSERVICE TRAINING FOR THE BORDER PATROL.—(1) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General shall provide for such programs of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service include a description of steps taken to carry out paragraph (1).".

(2)(A) There are authorized to be appropriated to the Attorney General $1,000,000 for fiscal year 1993 to carry out the inservice training described in section 103(e) of the Immigration and Nationality Act.

(B) Funds appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

### SEC. 302. NEGOTIATIONS WITH MEXICO AND CANADA.

It is the sense of the Congress that—

(1) the Attorney General, jointly with the Secretary of State, should initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent illegal immigration to and from the United States, and to prevent and to prosecute the smuggling of aliens into the United States in violation of law;

(2) not later than the date of enactment of this Act, the Attorney General should report to the Congress concerning the progress made in establishing such programs; and

(3) in any such program, major emphasis should be placed on deterring and prosecuting persons involved in the organized and continued smuggling of undocumented aliens for profit.

### SEC. 303. USE OF THE ASSET FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(11) In addition to the purposes specified in paragraph (1), the Fund shall be available to the extent required for an authorized personnel level of 6,600 for the Border Patrol of the Immigration and Naturalization Service.".

## TITLE IV—STATE AND LOCAL GOVERNMENT RELIEF

### SEC. 401. TRANSFER OF CRIMINAL ALIENS CONVICTED BY STATE AND LOCAL GOVERNMENT.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General shall take custody of each excludable and deportable alien convicted by a State or municipal court upon their conviction and shall incarcerate them in a Federal prison until such time as they are deported.

(b) EXCEPTION.—The requirements of subsection (a) shall not apply if the Bureau of Prisons has a contractual arrangement with a State or local government to compensate them for incarcerating such aliens for the duration of their sentences.

### SEC. 402. TRANSFER OF CERTAIN CLOSED MILITARY INSTALLATIONS TO THE DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense shall transfer to the jurisdiction of the Department of Justice three military installations that are closed pursuant to a base closure law and that the Attorney General determines, after consultation with appropriate State, local, and community authorities, to be suitable for the detention of excludable aliens and aliens incarcerated in State prisons or local jails.

(b) DEFINITIONS.—As used in subsection (a)—

(1) the term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code;

(2) the term "base closure law" means—

(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102–510; 10 U.S.C. 2687 note);

(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); and

(C) section 2687 of title 10, United States Code;

(3) the term "aliens incarcerated in State prisons or local jails" means any alien who is excludable, deportable, or without documentation under the United States immigration laws and who is incarcerated in the prison of a State, or a jail of a local government; and

(4) the term "excludable alien" means any alien who is within the United States in violation of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

### SEC. 403. HIGH INTENSITY CRIMINAL ALIEN POPULATION AREAS.

(a) IN GENERAL.—The Commissioner of Immigration and Naturalization (hereafter in this section referred to as "Commissioner"), upon consultation with the Attorney General, the Governors of the several States, and chief executives of affected local governments, may designate no less than three States and ten local jurisdictions within the United States as "High Intensity Criminal Alien Population Areas". After making such a designation and in order to provide Federal assistance to the area so designated, the Commissioner may—

(1) direct the temporary assignment of Immigration and Naturalization Service and other Federal personnel to such area, subject to the approval of the Attorney General or head of the Department or agency which employs such personnel; and

(2) provide increased Federal assistance to State and local governments in the designated areas for the purposes of—

(A) identifying and detaining undocumented aliens in State prisons or local jails prior to disposition of criminal charges brought under State or local law;

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens as they are processed for admission into State prisons; and

(C) coordinate actions under this paragraph with State and local officials.

(b) CRITERIA FOR CONSIDERATION.—When considering the designation of an area under this subsection as a high intensity criminal alien population area, the Commissioner shall consider, together with other criteria the Commissioner may deem appropriate—

(1) the estimated number of undocumented aliens apprehended and held for violation of State or local criminal laws, and the proportion of that number with the total number of individuals arrested in a State or in a local jurisdiction; and

(2) the extent to which State and local governments have committed resources to apprehend, identify, and prosecute undocumented aliens for violation of State and local criminal laws.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Commissioner shall submit a report to the appropriate committees of the Congress concerning the effectiveness of and need for the designation of areas under this subsection as high intensity criminal alien population areas, along with any comments or recommendations for legislation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the purpose of carrying out this section.

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## SECTION-BY-SECTION ANALYSIS OF S. 3264, THE CRIMINAL ALIENS IMPACT AND REMOVAL ACT

SECTION 1. Short Title. The Act may be cited as the "Criminal Aliens Impact and Removal Act of 1992."

SEC. 2. Findings and Purposes. The number of aliens who come into this country illegally remain at enormously high levels. Many of these aliens do so to traffick drugs or to participate in other organized criminal operations. Local jurisdictions in Southern California recently found that a large number of illegal and legal aliens are arrested for criminal activity, and a significant number of these criminal aliens are repeat offenders. The significant and continued presence of criminal aliens has placed enormous costs on many State and local governments. New policies and programs are needed to deport alien felons expeditiously, prevent criminal aliens from re-entering our country, and to relieve affected State and local criminal justice systems of the fiscal burdens of apprehending, trying and incarcerating criminal aliens.

The first purpose of this Act is to ensure the prompt removal from the United States of criminal aliens who are subject to exclusion and deportation. Deportable aliens should be removed from the United States either when they complete their sentences, or sooner if the United States has an agreement with other nations to incarcerate these aliens for the duration of their sentences.

The second purpose is to provide sufficient resources to prevent the unlawful reentry of aliens, who have been convicted in and removed from the United States. These resources include sufficient personnel, vehicles, and other resources along our nation's borders, and cooperative border agreements with Canada and Mexico.

The third purpose is to relieve State and local governments of the burden of incarcerating criminal aliens who are subject to exclusion or deportation. Ways to relieve the affected governments include the Federal government's assuming responsibility to criminal aliens once found deportable, and providing resources in jurisdictions found to be impacted heavily by the presence of criminal aliens.

### TITLE I—DEPORTATION

SEC. 101. Transfer of Funds to Meet Deportation Transcript and Case Backlog. This section requires the Attorney General, in fiscal years 1993-95, to transfer from the Immigration Fees Account to funds available for the salaries and expenses of the Executive Office for Immigration Review in the Department of Justice the funds necessary to remove the backlogs in the preparation and disposition of deportation proceedings.

The funds transferred may be used to pay for the salaries of twenty additional immigration judges and support personnel that were authorized in section 512 of the Immigration Act of 1990.

SEC. 102. Criminal Alien Tracking System. This section authorizes the Attorney General to implement a nationwide criminal alien tracking system utilizing electronic fingerprinting and photo-imaging system technology. To enable State and local governments to participate in the tracking system, the Attorney General is authorized under this section to award grants to State and local governments to compile and input criminal records for inclusion in the tracking system, to implement identification procedures and electronic conviction document systems, and to enable full utilization of the tracking system. $10 million is authorized for fiscal year 1993, and such sums as may be necessary for fiscal years 1994 and 1995.

SEC. 103. Negotiations for International Agreements. This section calls on the Secretary of State and the Attorney General to enter into agreements with foreign countries that provide for the incarceration of a national of that country who has entered the United States illegally or is a lawful resident, and because of a conviction of a criminal offense under Federal or State law, is subject to deportation under the Immigration and Nationality Act.

The Secretary of State should give priority to concluding agreements with countries if the President determines the number of individuals who are nationals of that country represent a significant percentage of all such individuals. Any agreement shall not preclude the contribution of funds by the United States to that country for the construction of facilities for incarcerating individuals transferred from the United States as part of that agreement, or for other expenses incurred in incarcerating such individuals in their home country. However, the amount of these contributions may not exceed the cost of incarcerating such individuals in the United States.

SEC. 104. Amendments Pertaining to Aggravated Felons. (a) Ineligibility for Suspension of Deportation. Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) provides the Attorney General with the discretionary authority to suspend a deportation order. This subsection amends section 244 to prohibit the suspension of deportation and adjustment of status of any alien who has been convicted of an aggravated felony. As defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), the term "aggravated felony" means murder, illegal drug trafficking, money laundering, and violent crimes for which the term of imprisonment is at least 5 years, or any attempt or conspiracy to commit any such act. The term applies to violations of Federal and State laws.

(b) Application of Exclusion for Drug Offenses. Section 212(h) of the Immigration and Nationality Act provides the Attorney General with the discretionary authority to admit otherwise excludable aliens. This subsection amends section 212(h) to prohibit the Attorney General to exercise his discretion to admit an excludable alien convicted of any aggravated felony.

(c) Adjustment of Status; Change of Nonimmigrant Classification. Section 245 of the Immigration and Nationality Act provides the Attorney General with the discretionary authority to adjust the status of an alien inspected and admitted or paroled into the United States to that of permanent resident. This subsection amends section 245 to prohibit the Attorney General to exercise his discretionary authority with respect to any alien convicted of an aggravated felony.

For an alien who entered the United States prior to January 1, 1972, section 249 is amended by this subsection to prohibit a convicted aggravated felon from registering for lawful residency.

SEC. 105. Report on Five-State Criminal Alien Model. Not later than six months after the enactment of the Act, the Attorney General is to submit to Congress a report concerning the Five-State Criminal Alien model, which is a program underway in five states (California, New York, Texas, and Florida) designed to expedite the identification process through cooperative efforts with state criminal justice agencies. The report is to include comments and recommendations for new regulations and legislation. Any new administrative and regulatory recommendations are to be implemented not later than 30 days after the report is submitted to the Congress.

SEC. 106. Prisoner Transfer Treaty Study. Not later than six months after the enactment of the Act, the Secretary of State and the Attorney General shall submit to the Congress a report on the use and effectiveness of the current Prisoner Transfer Treaty (Treaty) with Mexico.

The report is to include the number of criminal aliens eligible for transfer under the Treaty since November 30, 1977, and the number of aliens transferred and incarcerated in full compliance with the Treaty; and the number of aliens currently incarcerated in penal institutions in the United States, including the number of those aliens incarcerated in State and local penal institutions.

The report is to include a list of recommendations to increase the effectiveness and use of the Treaty. The recommendations may include:

Changes in Federal, State and local laws, regulations and policies affecting the identification, prosecution, and deportation of criminal aliens;

Methods that prevent the unlawful reentry of criminal aliens transferred pursuant to the Treaty;

Statements by Mexican Government on programs that will improve the effectiveness and use of the Treaty;

A statement as to whether any recommendations would require the renegotiation of the Treaty, and a statement of the additional funds needed to implement the recommendations; and

Comments from State and local officials in areas heavily impacted by the presence of criminal aliens.

SEC. 107. Annual Report. Beginning not later than 12 months after the enactment of the Act, the Attorney General is to submit to the Congress an annual report that details:

Department of Justice programs that are designed to ensure the prompt removal of deportable or excludable aliens from the United States;

Methods for identifying and preventing the unlawful re-entry of criminal aliens removed from the United States; and

Comments and recommendations for legislation to achieve the programs and goals of this section.

### TITLE II—ENFORCEMENT

SEC. 201. Forfeiture. (a) Failure to Submit to Deportation. Any alien who is subject to a deportation order and refuses, or fails without good cause, to turn himself or herself over at a scheduled deportation time will forfeit his property to the United States as with accordance of section 1963 of title 18, United States Code, or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

(b) Smuggling or Falsification of Documents. Any person who is convicted of the alien smuggling offense under Sections 274, 277, or 278 of the Immigration and Nationality Act, or of producing counterfeit immigration documents shall forfeit to the United States that person's interest in:

Property constituting or traceable to the proceeds obtained from the above offenses; and

Property used or intended to be used to commit or promote the commission of the above offenses.

(c) Transfer of Funds. The Attorney General is to liquidate all assets forfeited pursuant to this section, and the funds derived from the liquidation will be deposited to the Criminal Alien Identification, Incarceration, and Removal Fund established in Section 205 of the Act.

SEC. 202. Authorizing Registration of Aliens on Criminal Probation or Criminal Parole. This section amends Section 265 of the Immigration and Nationality Act to require the registration of any alien convicted of a felony who is released on parole, or any alien charged with a felony but determined to be not mentally competent to stand trial or not guilty by reason of insanity who is released from the custody of State and Federal officials.

The registration is to consist of information on the alien's current address and the crime and sentence for which the alien was convicted. Failure to provide the information required under this section is subject to a civil fine not to exceed $1,000 and is subject to deportation under Section 241(a)(3)(A) of the Immigration and Nationality Act.

The amendment to Section 265 is to take effect on October 1, 1992 and will apply to aliens released on parole before, on, or after such date.

SEC. 203. Exploitation of Aliens. This section establishes a civil fine of up to $100,000 for any person 18 years or older who voluntarily solicits, encourages, intimidates or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act.

The alien induced to commit an aggravated felony is also subject to a civil fine of not more than $100,000.

The court will consider the severity of the offense sought or committed as a circumstance in aggravation.

This section also establishes that the proceedings for assessment of a civil fine under this section may be brought in a civil action before a United States district court. A person affected by a final order under this section has no later than 45 days after the date of the issuance of the final order to file a petition in the appropriate Court of Appeals for review of the final order.

The Attorney General may bring a civil action if the person found in violation of this section fails to comply with a final order, and the validity and appropriateness of the final order is not subject to review.

SEC. 204. Civil Fines for Unlawful Transportation of Aliens. This section amends Section 274(a) of the Immigration and Nationality Act to allow for civil fines of up to $100,000 for illegally bringing in or harboring aliens.

SEC. 205. Criminal Alien Identification and Removal Fund. This section establishes the Criminal Alien Identification, Incarceration, and Removal Fund (Fund) in the Treasury of the United States. All fines and funds collected pursuant to sections 201, 202, 203, and 204 of the Act shall be converted into other Funds and shall be used for the purposes of this section.

The moneys in the Fund may be used by the Attorney General:

To assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain and deport criminal aliens;

To fund any of the 20 additional immigration judge positions, which have not been funded but are authorized by section 512 of the Immigration Act of 1990;

For the Executive Office of Immigration Review in the Department of Justice for the purpose of removing backlogs in the preparation of transcripts of deportation proceedings conducted under section 242 of the Immigration and Nationality Act;

To incarcerate deportable and excludable aliens transferred pursuant to section 401 of this Act; and

To fund grants to States and local governments for programs to identify aliens as they are processed for admission into state prisons or enter probation programs, and assistance pursuant to sections 102 and 403 of this Act.

### TITLE III—BORDER ENFORCEMENT

SEC. 301. Strengthened Enforcement of Immigration Laws at the Border. This section authorizes funds for additional resources and personnel for the United States Border regions.

Specifically, this section:

Authorizes such sums as are necessary to provide for an authorized Border Patrol personnel level of 6,600 full-time positions by no later than October 1, 1994. Of this number, at least 1,600 of these positions shall be assigned to the San Diego Sector by not later than October 1, 1994;

Authorizes such sums as are necessary to provide for an authorized personnel level of 600 full-time positions in the Immigration and Naturalization Service's anti-smuggling program by not later than October 1, 1994;

Authorizes $50 million for fiscal year 1993, which shall be available only for equipment, vehicles, support services, and initial training for the Border Patrol; and

Authorizes $10 million for fiscal year 1993, which shall be used only for maintenance and repair of equipment used by the Border Patrol.

This section also amends section 103 of the Immigration and Nationality Act to require the Attorney General to provide in-service training programs for full- and part-time Border Patrol personnel. These programs are designed to familiarize Border Patrol personnel with the rights and cultural backgrounds of aliens and citizens in order to ensure and safeguard the rights, personal safety and human dignity of all individuals within the United States. The Attorney General is to include a description of the in-service training programs in the annual report of the Immigration and Naturalization Service. The section authorizes $1 million for fiscal year 1993 to carry out the inservice training programs.

All funds appropriated pursuant to this section are to remain available until expended.

SEC. 302. Negotiations with Mexico and Canada. This section is a sense of the Congress resolution, which states that the Attorney General, jointly with the Secretary of State should initiate discussions with Mexico and Canada to establish programs to prevent illegal immigration to and from the United States, and to prevent and prosecute the smuggling of aliens into the United States.

SEC. 303. Use of the Asset Forfeiture Fund. This section amends Section 524(c) of title 28 to authorize the use of moneys in the Federal Asset Forfeiture Fund to meet the authorized personnel level of 6,600 Border Patrol personnel.

### TITLE IV—STATE AND LOCAL GOVERNMENT RELIEF

SEC. 401. Transfer of Criminal Aliens Convicted by State and Local Government. This section requires the Attorney General to take custody of excludable and deportable alien convicted by a State or local court upon their conviction and shall incarcerate them in a Federal prison until such time as they are deported. The only exception to this requirement is if the Bureau of Prisons has a contractual agreement with a State or local government to compensate them for incarcerating such aliens for the duration of their sentences.

SEC. 402. Transfer of Certain Closed Military Installations to the Department of Justice. This section requires that the Secretary of Defense transfer three military installations closed pursuant to a base closure law to the Department of Justice. This transfer is to occur after the Attorney General determines, after consultation with State and local officials, which facilities are suitable for the detention of excludable aliens and aliens incarcerated in State prisons or local jails.

This section defines the term "military installation" to mean the same as it is defined in section 2687(e)(1) of title 10, United States Code.

This section defines the term "base closure law" to mean:

The Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 105-510; 10 U.S.C. 2687 note; and

Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

Section 2687 of title 10, United States Code.

This section defines the term "aliens incarcerated in State prisons and local jails to mean any alien who is excludable, deportable, or without documentation under United States immigration laws and who is incarcerated in a State prison, or local jail or facility.

This section defines the term "excludable alien" to mean any alien who is within the United States in violation of section 221(a) of the Immigration and Nationality Act.

SEC. 403. High Intensity Criminal Alien Population Areas. This section establishes the High Intensity Criminal Alien Population Areas (HICAPA) program. The Commissioner of the Immigration and Naturalization Service (Commissioner) may designate no less than 3 states and 10 local jurisdictions within the United States as HICAPAs. The designations will occur after consultation with the Attorney General, the Governors of the several states, and the chief executives of affected local governments. After making the designations, the Commissioner may:

Direct assignment of appropriate Federal personnel to the HICAPAs, subject to the approval of the head of the Department of agency that employs such personnel; and

Provide increased Federal assistance to the HICAPAs for the purposes of identifying and detaining undocumented aliens in State prisons or local jails prior to disposition of criminal charges brought under State or local law, and expanding programs to identify aliens as they are processed for admission into State prisons.

This section establishes the criteria the Commissioner is to use to select the HICAPAs. The criteria include the number of undocumented aliens apprehended and held in violation of State or local laws, the proportion of that number with the total number of individuals arrested in a State or local jurisdiction, and the amount of resources State and local governments have committed to apprehend, identify, and prosecute undocumented aliens.

Not later than two years after the enactment of this Act, the Commissioner is to report to Congress concerning the effectiveness of the HICAPA program, and recommendations to improve its effectiveness.

This section authorizes $75 million for fiscal year 1993, and such sums as are necessary in fiscal years 1994 and 1995 to carry out the HICAPA program.•

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By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. COCHRAN, Mr. STEVENS, Mr. DOMENICI, Mr. GORTON, Mr. GRASSLEY, Mr. LOTT, Mr. SEYMOUR, Mr. SYMMS, Mr. WARNER, Mr. BURNS, Mr. MCCAIN, and Mr. MCCONNELL):

S. 3265. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

### FAMILY LEAVE TAX CREDIT ACT OF 1992

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of the Family Leave Tax Credit Act of 1992, which provides for refundable tax credits for businesses that establish nondiscriminatory parental leave policies.

### FAMILY LEAVE TAX CREDIT

This credit would be available for all businesses with under 500 employees covering 6 million businesses and almost 50 million workers.

The amount of the credit would be for 20 percent of total employee compensation of up to $2,000 per month for a period of up to 12 weeks. In other words, the credit would amount to $100/week or a maximum of $1,200 per employee to cover agreed-upon benefits during the period of absence.

An employee would be eligible to take leave in the event of the birth of a child, the placement of a child with the employee for adoption or foster care, or for a child, parent or spouse with a serious health condition, or a serious health condition that prevents the employee from performing his or her job.

### ADVANTAGES OF LEGISLATION

The advantages of this approach over S. 5 are considerable.

First and foremost, this legislation provides an incentive for businesses to establish family and medical leave programs. S. 5 is a mandate; it is a hidden tax; it is Washington, DC, reaching out into every community, every office, and every factory telling the American people what is best for them.

It is an approach that for all its good intentions to help families—will ultimately cause more harm than good. It demands an offset and will force employers to cut jobs or other more desirable employee benefits to pay for the hidden tax.

Another important advantage of this legislation is that it provides flexibility in the establishment of such programs. S. 5 is a one-size-fits-all mandate. Everyone gets 12 weeks; everyone gets the continuation of health insurance benefits. That's it—no less, no more.

Under the approach contained in this legislation, employers and employees can design the program that best meets their needs. The $1,200 credit could be used to cover any variety of benefits for the absent employee—such as continued health coverage, pension or 401K contributions, partial pay, or any other component of a flexible benefits package that an employer may offer.

A third significant advantage of this legislation over the conference report is that it provides incentives for most small and medium-sized employers, where the need is greatest and the costs are more burdensome. S. 5 excludes businesses with under 50 employees in a weak attempt to limit the acknowledged economic damage their legislation would do to smaller businesses. And in so doing, it covers 5.7 million fewer businesses and 15 million fewer employees.

We all support family and medical leave. There has never been a debate on the need and value of such programs. Rather, the debate has always been how you go about doing it and there the difference of opinion could not be greater.

S. 5 is nothing more than a "in kind" tax on business—a clumsy, harmful one-size-fits-all mandate.

The President's plan takes the positive approach of helping employers set these programs up for their workers. It provides the necessary incentives to do so and allows business and its work force to design a program that works for them based on individual choice—and not the choice of beltway insiders.

### AN ISSUE OR A BILL?

I urge each of my colleagues to carefully review this important legislation.

While there isn't much time left before we adjourn sine die, I challenge my colleagues to pass this legislation to protect American families. Unfortunately, I fear that the Democrats want an issue far more than they want a bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3265

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. SHORT TITLE.**

This Act may be cited as the "Family Leave Tax Credit Act of 1992".

**SEC. 2. FAMILY LEAVE CREDIT.**

Chapter 1 of the Internal Revenue Code of 1986 (relating to normal taxes and surtaxes) is amended by adding a new section 51A to read as follows:

**"SEC. 51A. FAMILY LEAVE CREDIT.**

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.——

"(A) 500 OR FEWER EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year. An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATIONS ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(1)(D) will qualify as family leave only—

(i) if the employee on leave has no unused sick, disability or similar leave, and

(ii) with respect to a single uninterrupted period of leave in any 12-month period.

"(b) FAMILY LEAVE.—Except as otherwise provided in this section, an employee is considered to be on "family leave" if the employee is on leave from the employer in connection with any qualified purpose.

"(1) Qualified purposes.—The term "qualified purpose" means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(A) Child.—The term "child" means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii)(I) and (II), or legal ward of the employee or employee's spouse and who either has not reach the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) Parent.—The term "parent" means an individual with respect to whom the employee would be considered a "child" within the meaning of subsection (b)(2)(A) without regard to the age limitation.

"(C) Serious health condition.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) Credit refundable.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under section 3 of this Act (relating to refundable credits).

"(d) Nondiscrimination requirement.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) Other definitions and special rules.—

"(1) In general.—For purposes of this section—

"(A) Employer.—Except as otherwise provided in this subpart, the term "employer" has the meaning provided by section 3306(a)(1) and (3).

"(B) Employee.—The term "employee" includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) Qualified compensation.—The term "qualified compensation" means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) Computation.—For purposes of subsection (e)(1)(C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is—

"(i) in the case of an employee that was employed by the employer for the calendar year preceding the year in which the family leave begins, the average daily cash wages of that employee for that year, and

"(ii) in the case of other employees, the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) Average daily cash wages.—For purposes of the computation described in subsection (e)(1(D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) Business day.—The term "business day" includes any day other than a Saturday, Sunday or legal holiday.

"(2) Employment and benefits protection.—Employers that fail to provide employment or benefits protection to employees while on family leave, or continued health benefits to employees while on family leave under the terms that would have applied had the employees remained at work, will not be eligible for the family leave credit.

"(3) Expectation that employee will return to work.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) Regulatory authority.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.

**SEC. 3. COORDINATION WITH REFUND PROVISION.**

For purposes of section 1324(b)(2) of title 31 of the United States Code, section 51A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

**SEC. 4. CONFORMING AMENDMENTS.**

(a) Section 38 is amended by deleting the "plus" after subsection (b)(6) and "." after subsection (b)(7), by inserting ", plus" after subsection (b)(7), and by adding a new subsection (b)(8) to read as follows:

"(8) the family leave credit under section 51A."

(b) The heading and table of contents of Chapter 1, Subchapter A, Part IV, Subpart F are revised to read:

"Subpart F—Rules for Computing Job-Related Credits"

"Sec. 51. Targeted jobs credit."

"Sec. 51A. Family leave credit."

"Sec. 52. Special rules."

(c) The heading of section 51 is revised to read as follows:

"Sec. 51. Targeted jobs credit."

(d) Section 52 is revised by substituting "section 51(a) or 51A(a)" for "section 51(a)" each place it appears.

(e) Section 52(c) is revised by inserting the phrase "or family leave credit" after the phrase "targeted jobs credit".

**SEC. 5. EFFECTIVE DATE.**

The amendments made by this Act shall apply to family leave that commences after December 31, 1992.

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By Mr. RIEGLE:

S. 3266. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

### DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1992

• Mr. RIEGLE. Mr. President, I rise to introduce the Depository Institutions Disaster Relief Act of 1992—legislation I have prepared to facilitate reconstruction in the wake of several recent disasters, including Hurricanes Iniki and Andrew, and the Los Angeles riots.

On September 17, I received legislation proposed by the Treasury Department to address these disasters. I had hoped the administration would not use these national tragedies as vehicles to advance its broad deregulatory agenda for America's financial institutions. Unfortunately, I was disappointed. Treasury's bill was sweeping in its potential impact. It threatened many important safety-and-soundness and consumer protection laws. Of course, the Senate should address the legitimate needs of disaster areas. The bill I am introducing today would do that.

Let me briefly describe some of the flaws in the bill Treasury sent up.

First, it was not limited to regulations affecting the ability of disaster areas to rebuild. Under the Treasury's bill, regulators could waive—and would face pressure to waive—any regulation, including consumer protection laws, community reinvestment laws, capital requirements, insider lending restrictions, and loan-to-one-borrower limits. Many of these laws are irrelevant to the real problems lenders and borrowers face in disaster areas.

Second, it was only loosely tied to institutions and activities conducted in disaster areas. Treasury's bill permits waivers of regulations for any institutions that "are doing business or seek to do business in a disaster area." Thus, for example, it would let regulators waive any regulation, nationwide, for any institution that has a branch, or just an application to open a branch, maybe even just an ATM, in a disaster area.

Third, it did not adequately protect safety and soundness. Treasury's bill requires regulators only to consider whether waivers of regulations will threaten safety and soundness. The regulators can then take any action they please. The law should instead require a determination that such waivers will not impair safety and soundness.

Fourth, it set no limits on how long regulatory waivers could remain in effect. Treasury's bill requires regulators to institute the waiver within 1 year after the President declares a disaster. But the waiver could be permanent. In effect, the bill would allow regulators to create permanent regulation-free zones.

Now some may say, "Yes, of course, all these things could happen under Treasury's bill, but we should have confidence that our regulators would never do anything so misguided." I'm sure our regulators will say that.

I wish I had that confidence. But in the past 2 weeks alone, we have seen our regulators on the FDIC Board roll back an earlier vote to raise deposit insurance premiums at a time when America's banks are making record profits but the Bank Insurance Fund is going deeper into the hole every month. And we have seen our regulators at the Office of Thrift Supervision declare they will actually treat an intangible asset, good will, as tangible equity for purposes of calculating compliance with capital requirements.

Beyond all doubt, the residents of these disaster areas are suffering. I know we must do what we can to ease that suffering and I am eager to play my part in that effort. Indeed, in retrospect, I find it curious that the administration evidently never thought to propose legislation along these lines after the Los Angeles riots. My own guess is that—if there is a real need for this sort of thing—the need must surely be greatest in an area like southcentral Los Angeles, where credit availability was a serious problem even before the riots.

But before we plunge ahead, I think we need to stop a moment and figure out what the real need is. So, at my direction, my staff conducted extensive conversations with regulatory officials and bankers in the disaster areas and here in Washington. We asked them to tell us, specifically, what it is about current law that poses hardship to banks and thrifts and impairs the reconstruction effort.

Some of the answers we heard did not make sense. For example, some bankers and regulators insisted that regulators need authority to make exceptions to the real-estate lending standards provided for by last year's banking bill. But the regulators themselves write those standards. If the regulators wish to incorporate emergency exceptions for loans in disaster areas in their standards, they already have all the authority they need to do that. It is clear that there are some in the administration who will seize any opportunity to push for broad deregulation of the banking industry. But this is not the time for that.

On the other hand, we also heard some answers that did make sense. The legislation I am introducing today reflects those answers. It gives regulators discretion to issue limited waivers of appraisal regulations and regulations under the Electronic Funds Transfer Act, the Expedited Funds Availability Act, and the Truth in Lending Act. This grant of authority recognizes the realities that demand for appraisals may outstrip supply in the disaster areas, and that appraising may be an uncertain science at best in areas where entire neighborhoods have been destroyed. And it reflects the reality that many financial institutions have suffered physical damage or power outages that may temporarily impair their ability to process checks and post deposits speedily.

My bill also gives regulators relief from notice provisions of the Administrative Procedure Act for regulatory actions to facilitate reconstruction, and permits them to make exemptions from publication requirements for the establishment of branches and other deposit-taking facilities. These provisions will allow banks and thrifts whose facilities have been damaged or destroyed by recent disasters to open new branches without needless regulatory delays.

My bill strictly limits the relief it provides to transactions occurring within the disaster area. It will not permit depository institutions to obtain wholesale regulatory relief by trading on de minimis ties to the disaster area. It permits relief for only a limited time. We will not have any permanent regulation-free zones as the result of my bill. And it permits only relief that does not compromise safety and soundness. Over the long term, strong financial institutions—not weak ones—will be the greatest engines for reconstruction in the disaster areas. We must not encourage or facilitate the weakening of depository institutions on whose strength hundreds of thousands of disaster victims will depend in years ahead.

Mr. President, I provided the General Accounting Office with copies of both my own draft bill and the bill Treasury proposed and asked them to give me their honest opinion. Today, I received a response from the Comptroller General in which he express the belief that my bill "better balances the goal of providing appropriate regulatory relief for transactions within emergency and major disaster areas with the need to protect against weakening the existing regulatory framework for insured financial institutions." Mr. Bowsher concludes by stating that the General Accounting Office prefers my bill to the Treasury proposal. I ask unanimous consent to insert Mr. Bowsher's complete letter in the RECORD following the conclusion of my statement, along with a copy of a letter I received yesterday from the Association of Community Organizations for Reform Now [ACORN] the Center for Community Change, and Consumers Union. These organizations wrote to me in opposition to the administration bill.

Mr. President, I believe the bill I am sending to the desk today is appropriate and fair legislation. I believe it address the real needs of the afflicted areas without jeopardizing the vitality of our banking laws or the strength of our depository institutions. At an appropriate time, I will urge my colleagues to give it their votes. For now, I urge them to give it their attention and their support.

Finally, Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3266

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1992".

### SEC. 2 EMERGENCY EXCEPTIONS FROM REGULATORY REQUIREMENTS.

(a) APPRAISALS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by adding at the end the following new section:

### "SEC. 1123. EMERGENCY EXEMPTIONS FOR DISASTER AREAS.—

"(a) IN GENERAL.— Each Federal financial institutions regulatory agency may make exceptions to this title, and to standards prescribed pursuant to this title, for transactions with respect to real property located within a disaster area if the agency—

"(1) makes the exception not later than 1 year after the date on which the President determines, pursuant to section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that an emergency or major disaster exists in the area; and

"(2) determines that the exception is—

"(A) necessary to facilitate recovery from the emergency or disaster; and

"(B) consistent with safety and soundness.

"(b) 3-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

"(c) PUBLICATION REQUIRED.—Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement describing any exception made under this section and explaining the need for the exception.

"(d) DISASTER AREA DEFINED.—For purposes of this section, the term 'disaster area' means an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emergency or major disaster exists.".

(b) TEMPORARY AUTHORITY TO MAKE EXCEPTIONS TO ELECTRONIC FUNDS TRANSFER ACT, EXPEDITED FUNDS AVAILABILITY ACT OF 1987, OR TRUTH IN LENDING ACT.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Electronic Fund Transfer Act, the Expedited Funds Availability Act of 1987, or the Truth in Lending Act for transactions within an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emergency or major disaster exists, to the extent necessary to facilitate recovery from the emergency or disaster.

(2) 1-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this subsection shall expire not later than 1 year after the date of the Presidential determination referred to in paragraph (1).

(3) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement describing any exception made under this subsection and explaining the need for the exception.

(c) PROCEDURAL FLEXIBILITY FOR DEPOSITORY INSTITUTION REGULATORS.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions, with respect to transactions within, or with respect to depository institutions or other regulated entities whose principal place of business is within, an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emer-

gency or major disaster exists, if the agency determines that the action is necessary to facilitate recovery from the emergency or disaster.

(A) Exercising the agency's authority under provisions of law other that this subsection without complying with—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) Making exceptions to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any similar publication requirement.

(2) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement describing any action taken under this subsection and explaining the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term 'qualifying regulatory agency' means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Financial Institutions Examination Council;

(F) the National Credit Union Administration Board; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

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COMPTROLLER GENERAL
OF THE UNITED STATES,
*Washington, DC, September 22, 1992.*

Hon. DONALD W. RIEGLE, Jr.,
*Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate.*

DEAR MR. CHAIRMAN: This responds to your request for our comments on two pieces of draft legislation provided to us on September 18, 1992—one prepared by you and the other by the Treasury Department. Each proposal would authorize federal regulators to make emergency exceptions to requirements otherwise applicable to transactions within emergency or major disaster areas. Your draft legislation is a more targeted approach, which we believe better balances the goal of providing appropriate regulatory relief for transactions within emergency and major disaster areas with the need to protect against weakening the existing regulatory framework for insured financial institutions.

Your draft legislation essentially provides for three categories of emergency exceptions for areas the President determines to be emergency or disaster areas. The first would authorize "federal financial institutions regulatory agencies" to grant exceptions to the real estate appraisal requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. This authority would be permanent and an exception could last no more than three years after the President's determination.

The second would authorize the Federal Reserve Board to make exceptions to the Electronic Fund Transfer Act, the Expedited Funds Availability Act of 1987, and the Truth in Lending Act. This authority would exist only for the 180-day period after enactment and an exception could last no more than one year after the President's determination. The third would authorize "qualifying regulatory agencies" to exercise during the 180-day period after enactment procedural flexibility with respect to specified process and notification requirements.

Unlike your draft legislation, the draft Treasury bill provided to us is almost unlimited in its application to emergency or major disaster areas. The Treasury proposal would authorize waivers of any regulatory requirement instead of the specific areas of regulation addressed in your draft bill. Further, while regulatory relief under the Treasury proposal would be limited to activities within the emergency or disaster area, there need not be the finding required in your draft legislation that the relief is necessary to facilitate recovery from the emergency or disaster.

Insured financial institutions often play a critical role in facilitating economic recovery in emergency and major disaster areas. We, like you, are sympathetic to calls for regulatory relief that will enable institutions to effectively fulfill that role. However, those calls for regulatory relief must be tempered with the need to ensure that the safety and soundness of insured financial institutions is not endangered or that other objectives of the regulatory framework are not unnecessarily eroded. In this context, we prefer your draft legislation to the legislation proposed by Treasury.

Sincerely yours,
CHARLES A. BOWSHER,
*Comptroller General of the United States.*

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SEPTEMBER 21, 1992.

Hon. DONALD W. RIEGLE,
*Chairman, Committee on Banking, Housing, and Urban Affairs, Washington, DC.*

DEAR MR. CHAIRMAN: We are strongly opposed to the Administration's so-called "emergency regulatory relief" legislation, recently submitted to the Congress, which would give the bank regulatory agencies broad discretion to exempt banks in federal disaster areas from a wide range of safety and soundness, anti-discrimination, and consumer protection laws. We urge you to reject the bill out of hand.

The introduction of this sweeping legislation is a cynical effort to use the tragedies confronting several regions of the country as an excuse to pass the Administration's long sought bank deregulation agenda. In previous years, regulators have accommodated natural disasters without the need for statutory changes. As drafted, the bill would allow the Administration to exempt potentially hundreds of institutions in perhaps dozens of localities from any banking law for an indefinite time.

The regulatory agencies have abused their discretion in the past, and an indefinite "blank check" would give the Administration a free hand to undermine the safety and soundness of the banking industry, and effectively repeal landmark consumer protection and community reinvestment laws in many parts of the country.

The bill would permit broad exemptions to any law or regulation, including prohibitions on insider lending, the fair lending laws, and capital standards, which in no way constrain the ability of impacted communities to rebuild.

And, the proposed legislation would effectively allow the agencies to create permanent "deregulation zones," and allow exemptions for any institution with even a marginal presence in affected communities, for example an Automated Teller Machine (ATM)—or even an application to open an ATM.

Under the Administration's bizzare proposal, banks in south-central Los Angeles—a federal disaster area—could be exempted forever from the Community Reinvestment Act, the nation's landmark anti-redlining statute. A recent hearing held by the Senate Subcommittee on Housing and Urban Affairs revealed that longstanding patterns of neighborhood redlining of minority and low- and moderate-income communities had contributed to problems of poverty and unemployment in the area.

It would be unconscionable to compound the distress experienced by millions of Americans with legislation that would undermine the nation's consumer protection and safety and soundness laws. Again, we urge you to reject the Administration's proposal.

Sincerely,
Association of Community Organizations for Reform Now (ACORN); Center for Community Change; Consumers Union.•

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By Mr. RIEGLE (for himself, Mr. ROCKEFELLER, Mr. DECONCINI, Mr. GLENN, Mr. COCHRAN, Mr. METZENBAUM, Mr. LEVIN, Mr. STEVENS, Mr. SASSER, and Mr. GORE):

S.J. Res. 341. Joint resolution to designate November 18, 1992, as "National Philanthropy Day"; to the Committee on the Judiciary.

### NATIONAL PHILANTHROPY DAY

• Mr. RIEGLE. Mr. President, today I am introducing, together with several of our colleagues, a joint resolution, to designate November 18, 1992, as National Philanthropy Day.

Philanthropy is one of America's most noble traditions. The legacy of giving of oneself to benefit both the individual and society is evident in the life of Benjamin Franklin, who—in addition to spending most of his life in public service—donated much of the profits from his inventions to various causes.

The word philanthropy is derived from the Greek words meaning "love of man." Americans have consistently taken that meaning to heart, and have devoted portions of their lives to fulfilling its cause. Alexis de Tocqueville, the French historian, lauded the American enthusiasm to make great and real sacrifices for the common good. He attributed this drive to democracy, which, he felt, by destroying barriers of class and privilege, promotes a feeling of compassion for all humanity.

Today, the spirit of philanthropy and voluntarism is stronger than ever.

Over 12 million people—including approximately 5 million volunteers—are serving in philanthropic organizations tackling the variety of needs existing today. Among other activities, American volunteers build housing for the homeless, serve meals to the elderly, organize community cultural events, and raise funds for medical research. Americans are generous with their financial resources, as well. In 1991, Americans gave almost $125 billion to philanthropic organizations.

I believe it is important to set aside November 18, 1992 as "National Philanthropy Day" to recognize the generous spirit of the American people, and to promote efforts to carry on this vital tradition of giving. I urge my colleagues to join us in this effort.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

### S.J. RES. 341

Whereas there are more than 900,000 nonprofit philanthropic organizations (hereafter in this Joint Resolution referred to as "philanthropic organizations") in the United States;

Whereas philanthropic organizations employ more than 12,000,000 individuals, including approximately 5,000,000 volunteers;

Whereas the people of the United States contributed nearly $125,000,000,000 in 1991 to support philanthropic organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and community service institutions, and to the institutions and organizations which aid and comfort disadvantaged, sick or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That November 18, 1992, is designated as "National Philanthropy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

## ADDITIONAL COSPONSORS

### S. 25

At the request of Mr. CRANSTON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

### S. 1130

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1130, a bill to amend the Internal Revenue Code of 1986 to provide for rollover of gain from sale of farm assets into an individual retirement account.

### S. 1506

At the request of Mr. GLENN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1506, a bill to extend the terms of the olestra patents, and for other purposes.

### S. 1777

At the request of Mr. ADAMS, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Delaware [Mr. BIDEN], the Senator from Montana [Mr. BAUCUS], the Senator from Florida [Mr. MACK], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

### S. 2661

At the request of Mr. MOYNIHAN, the names of the Senator from Maine [Mr. COHEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2661, a bill to authorize the striking of a medal commemorating the 250th Anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

### S. 2707

At the request of Mr. RIEGLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th Anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

### S. 2810

At the request of Mr. GRASSLEY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

### S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Indiana [Mr. LUGAR], the Senator from Florida [Mr. MACK], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. DIXON], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

### S. 2889

At the request of Mr. BOREN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

### S. 2980

At the request of Mr. INOUYE, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2980, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use of pesticides.

### S. 3096

At the request of Mr. DANFORTH, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 3096, a bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16.

### S. 3123

At the request of Mr. SEYMOUR, the names of the Senator from Utah [Mr. GARN] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 3123, a bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

### S. 3239

At the request of Mr. DECONCINI, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 3239, a bill to prevent and deter auto theft.

### S. 3241

At the request of Mr. HOLLINGS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 3241, a bill to award a congressional gold medal to John Birks "Dizzy" Gillespie.

### SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

### SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. MACK], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

### SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Alabama [Mr. SHELBY], the Senator from New Mexico [Mr. DOMENICI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. ADAMS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

### SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Maryland

[Mr. SARBANES], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. DODD], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. PACKWOOD], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October, 1992 as "Country Music Month."

### SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

### AMENDMENT NO. 2939

At the request of Mr. WARNER his name was added as a cosponsor of Amendment No. 2939 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

### AMENDMENT NO. 3152

At the request of Mr. PELL his name was added as a cosponsor of Amendment No. 3152 proposed to H.R. 5504, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

## AMENDMENTS SUBMITTED

## INTELLIGENCE AUTHORIZATION APPROPRIATION, FISCAL YEAR 1993

### BOREN AMENDMENT NO. 3157

Mr. BOREN proposed an amendment to the bill (S. 2991) authorizing appropriations for fiscal year 1993 for intelligence activities of the U.S. Government and Central Intelligence Retirement and Disability System, to amend the National Security Act of 1947 to provide a framework for the improved management and execution of U.S. intelligence activities, and for other purposes, as follows:

(1) On page 13, line 24: after subsection 304(a)(5) insert the following new subsection:

"(6) in section 804(c), by striking "obligation" and inserting in lieu thereof "expenditure"."

(2) On page 19, line 12: delete "Office of Reconnaissance Support (as provided for in section 105(b)(3))" and insert in lieu thereof "National Reconnaissance Office".

(3) On page 25, line 16, by inserting after subsection 102(a)(5)(C) the following new subsection:

"(6) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency."

(4) On page 32, line 10, changing "to" to "from".

(5) On page 35, line 19, delete "the Office of".

(6) On page 37, line 14: delete "establishment of an Office of Reconnaissance Support" and insert in lieu thereof "the National Reconnaissance Office".

(7) On page 37, line 17: delete "procurement" and insert in lieu thereof "acquisition".

(8) On page 39, line 3, by inserting at the end of section 105 the following:

"Provided, the Secretary of Defense, in carrying out the functions described in this section, shall be authorized to utilize such elements of the Department of Defense as may be appropriate for the execution of such functions in addition to, or in lieu of, the elements identified in this section."

(9) On page 39, line 18, by inserting at the end of subsection 106(b) the following new subsection:

"(c) AUTHORITY TO WITHHOLD CERTAIN INFORMATION REGARDING THE NATIONAL RECONNAISSANCE OFFICE.—Nothing in this Act or any provision of law shall be construed to require the disclosure of the organization or any function of the National Reconnaissance Office, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of persons employed by, or assigned or detailed to, such office."

### MURKOWSKI (AND OTHERS) AMENDMENT NO. 3158

Mr. MURKOWSKI (for himself, Mr. WARNER, Mr. HOLLINGS, Mr. BRADLEY, Mr. D'AMATO, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. RUDMAN, Mr. METZENBAUM, Mr. GORTON, Mr. CHAFEE, Mr. KERREY, and Mr. COHEN) proposed an amendment to the bill S. 2991, supra, as follows:

On page 18, after line 2, add the following new section:

**SEC. 604. REDESIGNATION OF NATIONAL SECURITY EDUCATION ACT OF 1991.**

Section 801(a) of Public Law 102–183 is amended to read as follows:

"(a) SHORT TITLE.—This title may be cited as the 'David L. Boren National Security Education Act of 1991'.".

On page 3, in the table of contents, after the item relating to section 603, insert the following new item:

"Sec. 604. Redesignation of National Security Education Act of 1991.".

### PACKWOOD (AND OTHERS) AMENDMENT NO. 3159

Mr. PACKWOOD (for himself, Mr. RIEGLE, and Mr. INOUYE) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1095, beginning with line 4, strike all through line 25.

### BENTSEN (AND OTHERS) AMENDMENT NO. 3160

Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. CHAFEE, Mr. PRYOR, Mr. BAUCUS, Mr. BREAUX, Mr. SPECTER, Mr. NICKLES, Mr. MCCAIN, Mr. KASTEN, Mr. COHEN, Mr. BRYAN, Mr. HATCH, Mr. WARNER, Mr. REID, Mr. DOLE, Mr. COATS, Mr. HATFIELD, Mr. FORD, Mr. DOMENICI, Mr. SEYMOUR, and Mr. PACKWOOD) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 924, beginning with line 1, strike all through page 948, line 6, and insert:

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

**PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS**

**SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.**

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

**SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.**

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

**SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) INCREASE IN PERCENTAGE OF COSTS ELIGIBLE FOR DEDUCTION.—Paragraph (1) of section 162(l) is amended by inserting "(100 percent in the case of taxable years beginning after 1992)" after "25 percent".

(c) INCREASE IN BACKUP WITHHOLDING RATE.—Section 3406(a)(1) is amended by striking "20 percent" and inserting "31 percent".

(d) DEDUCTION FOR EXPENSES AWAY FROM HOME.—Section 162(a) is amended by adding at the end the following new sentence: "For purposes of paragraph (2), if a taxpayer is away from home for a period of employment which exceeds 1 year, the taxpayer shall not be treated as being away from home during such period."

(e) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and,

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(f) EFFECTIVE DATE.—

(1) MEDICAL DEDUCTION.—The amendments made by subsections (a), (b), and (e) shall apply to taxable years ending after June 30, 1992.

(2) WITHHOLDING.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 1992.

(3) TRAVEL EXPENSES.—The amendment made by subsection (d) shall apply to costs paid or incurred after December 31, 1992.

### SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) In General.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Mortgage Credit Certificates.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) Financing Allowed for Contract of Deed Agreements.—

(1) In general.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) Exception to new mortgage requirement.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) Exception for certain contract of deed agreements.—

"(i) In general.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) Contract of deed defined.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) Adjustment to income level.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(3) Acquisition cost includes cost of land.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(d) Effective Dates.—

(1) Bonds.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) Certificates.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) Contract of deed agreements.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

### SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) In General.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

### SEC. 2146. RESEARCH CREDIT.

(a) In General.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "September 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(b) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

### SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) Extension.—

(1) In general.—Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "September 30, 1993".

(2) Conforming amendment.—Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "September 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "September 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "October 1, 1995".

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to periods ending after June 30, 1992.

(b) Modifications.—

(1) Carryforward rules.—

(A) In general.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) Conforming amendment.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-year anti-churning rule waiver expanded.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) Housing credit agency determination of reasonableness of project costs.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) Units with certain full-time students not disqualified.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) Certain students not to disqualify unit.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) Treasury waivers of certain de minimis errors and recertifications.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) Waiver of certain de minimis errors and recertifications.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) Basis of community service areas included in adjusted basis.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) Basis of property in community service areas included.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) Effective dates.—

(A) In general.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) Carryforward rules.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) Waiver authority.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) Election To Determine Rent Limitation Based on Number of Bedrooms.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election.

Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

### SEC. 2148. TARGETED JOBS CREDIT.

(a) In General.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Increase in Age Requirements of Economically Disadvantaged Youth.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) Allowance of Credit for Hiring Long-Term Unemployed.—

(1) In general.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) Long-term unemployed.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) Long-term unemployed.—

"(A) In general.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) Effective period.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) Unemployment compensation.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) Special rule for determining amount of credit.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) Certain individuals eligible.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) Special rules for long-term unemployed.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) Minimum Employment Period.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) Individuals not meeting minimum employment period.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) Long-term unemployed and minimum period.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

### SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) In General.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

### SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) Tax.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) Trust Fund.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) Study.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

### SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

### SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Subsection (f) of section 29 is amended to read as follows:

"(f) Application of Section.—

"(1) In general.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility originally placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) Special rule for certain gas-producing facilities.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of paragraph (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is originally placed in service before January 1, 1998, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'.

"(3) Special rule for facilities producing coke or coke gas.—This section shall not apply to a facility described in paragraph (1) which produces coke or coke gas unless—

"(A) the original use of the facility commences with the taxpayer, or

"(B) if subparagraph (A) does not apply, the taxpayer owned the facility on December 31, 1992, and at all times thereafter."

(b) Limitation on Credit.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) Limitation on gas eligible for credit.—

"(A) In general.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) Exception for certain gas.—In the case of gas produced from a tight formation or gas described in subparagraph (D)—

"(i) subparagraph (A) shall be applied by substituting '550' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for the amount in effect under subsection (a)(1) for the taxable year, except that the $2.25 amount shall not be adjusted under subsection (b)(2).

"(C) Unitization and pooling arrangements for devonian shale gas.—In the case of gas produced from Devonian shale, if—

"(i) wells are being operated under a voluntary or compulsory unitization or pooling agreement under which wells are not separately metered for sale purposes, and

"(ii) no gas from wells being operated under such agreement is fuel which is not qualified fuel,

then, for purposes of this paragraph, production for any year from each well under such agreement shall be equal to the total production from all such wells during the year divided by the number of wells actually producing gas during the year.

"(D) Certain coal seam gas.—Gas described in this subparagraph is gas produced from coal seams which is captured from the de-stressed zone associated with any full-seam extraction of coal which extends above and below mined-out coal seams."

(c) OIL FROM THE BAKKEN SHALE FORMATION.—Section 29(c) is amended by adding at the end the following new paragraph:

"(4) OIL FROM THE BAKKEN SHALE FORMATION.—For purposes of this section, oil produced from shale from a conventional or nonconventional well producing from the Bakken shale formation shall be treated as a qualified fuel to the extent that the production from such well during the taxable year does not exceed 7,125 barrels."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wells drilled, and facilities placed in service, after December 31, 1992.

## PART III—OTHER INCENTIVES

### SEC. 2161. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after August 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after August 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before August 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after August 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before January 1, 1994.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after August 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after August 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).".

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after August 1, 1992, in taxable years ending on or after such date.

### SEC. 2162. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

## Subtitle C—Better Access to Affordable Health Care

## PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

### SEC. 2171. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

**SEC. 2172. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.**

(a) IN GENERAL.—Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall study and report to the Congress on the feasibility and desirability of the Secretary establishing payment rates, based upon medicare payment rules, for optional use by private health insurers. In developing the study, the Secretary shall take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(b) PROVISIONS OF STUDY AND REPORT.—The study and report shall evaluate—

(1) the appropriateness of using medicare payment rules to determine payments for services furnished to non-medicare populations (with particular emphasis on services furnished to children);

(2) the potential impact on private health insurance premiums, national health spending, and access to health care services (by medicare beneficiaries and others) of requiring health care providers and practitioners to accept such payment rates as payment in full if the optional use of such rates is available—

(A) to all private health insurance and employer health benefit plans, or

(B) only to private health insurance sold to small employers or small employer health benefit plans; and

(3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

## PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

### Subpart A—Standards and Requirements of Small Employer Health Insurance Reform

**SEC. 2173. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.**

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (e) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

### "PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

### "GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a small employer on the basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

### "REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) LIMITATION.—An insurer may not establish more than six distinct groups of small employers.

"(g) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(h) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—

"(A) PACKAGE DEFINED.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colonrectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1993, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests; and

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colonrectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.".

### Subpart B—Tax Penalty on Noncomplying Insurers

**SEC. 2174. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.**

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

**"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.**

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

### Subpart C—Studies and Reports

#### SEC. 2175. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

### PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

#### SEC. 2176. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans), as amended by section 2221, is amended by adding at the end thereof the following new section:

#### "SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f)

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

## PART IV—HEALTH CARE COST CONTAINMENT

### SEC. 2177. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this subtitle referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with nationally recognized expertise in health insurance, health economics, health care provider reimbursement, and related fields. The President shall provide for appointment of individuals to the Commission within 6 months of the date of enactment of this Act and in appointing such individuals to the Commission, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

(b) TERMS.—

(1) CHAIRMAN.—The term of the Chairman shall be coincident with the term of the President.

(2) OTHER MEMBERS OF THE COMMISSION.—Except as provided in paragraph (1), members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year.

(3) VACANCIES.—Individuals appointed to fill a vacancy created in the Commission shall be appointed only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also analyze and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) NATIONAL UNIFORM CLAIMS FORMS AND REPORTING STANDARDS.—

(A) IN GENERAL.—As part of its first annual report, the Commission shall, taking into account recommendations by the Secretary of Health and Human Services, recommend—

(i) a national uniform claims form for use by health care providers and individuals in submitting claims to private health insurers and the medicare and medicaid programs;

(ii) national standards for reporting of insurance information including coverage benefits, copayments, and deductibles;

(iii) national standards for uniform reporting by health care providers of information including clinical diagnoses, services provided, and costs of services; and

(iv) a strategy and schedule for implementing national use of such claims forms and reporting standards by January 1, 1996.

(B) RELEVANT FACTORS.—In developing its recommendations, the Commission shall consider—

(i) the potential use of electronic cards or other technology that allows expedited access to medical records, insurance, and billing information;

(ii) the need for patient confidentiality; and

(iii) special implementation issues including those concerning providers in rural and inner-city areas.

(C) REPORT.—The Commission shall report annually and make recommendations with respect to—

(i) the progress made toward national implementation of uniform claims forms and reporting standards; and

(ii) other approaches to minimize the impact of administrative costs on national health spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 2178. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.**

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) RELATIONSHIP TO MEDICAID PROGRAM.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

### SEC. 2179. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993;

"(C) $275,000,000 for fiscal year 1994; and

"(D) $300,000,000 for fiscal year 1995."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

## PART V—MEDICARE PREVENTION BENEFITS

### SEC. 2180. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A), by striking "and, subject to section 4071 of the Omnibus Budget Reconciliation Act of 1987, influenza vaccine and its administration; and" and inserting a comma; and

(2) by adding at the end the following new subparagraphs:

"(C) influenza vaccine and its administration, and

"(D) tetanus-diphtheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(G) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by striking "and paragraph (1)(B) or under paragraph (1)(F)" and inserting "or under subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines administered on or after October 1, 1992, and tetanus-diphtheria boosters administered on or after January 1, 1993.

### SEC. 2181. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 2261(b), is amended—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2261(c), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1993.

**SEC. 2182. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.**

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy.

(4) Screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Prostate-specific antigen (PSA) testing.

(7) Other services considered appropriate by the Secretary.

Not more than one such service shall be covered at each site.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1994, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1993.

(2) $4,000,000 for fiscal year 1994.

(3) $5,000,000 for fiscal year 1995.

(4) $5,000,000 for fiscal year 1996.

(5) $6,000,000 for fiscal year 1997.

**SEC. 2183. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.**

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

**SEC. 2184. FINANCING OF ADDITIONAL BENEFITS.**

(a) PREMIUMS FOR 1993-1995.—Section 1839(e)(1)(B) of the Social Security Act (42 U.S.C. 1395r(e)(1)(B)) is amended—

(1) in clause (iii) by striking "$36.60" and inserting "$36.70",

(2) in clause (iv) by striking "$41.10" and inserting "$41.20", and

(3) in clause (v) by striking "$46.10" and inserting "$46.20".

(b) PREMIUMS FOR 1996-1997.—(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Except as provided in subsections (b) and (f), the monthly premium otherwise determined, without regard to this subsection, for each individual enrolled under this part shall be increased by 10 cents for each month in 1996 and 1997.".

(2) Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (e), and (g)",

(B) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)", and

(C) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

**Subtitle D—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Boats**

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON JUDICIARY

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 2 p.m. to hold a hearing on "National Economic Strategies for a Global Economy."

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 2 p.m. to hold a hearing on recent developments in South Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 10 a.m. for a hearing on "Traumatic Brain Injury."

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

## SMALL RURAL BANKS FEELING CRA EXAMINATION BURDEN

• Mr. DASCHLE. Mr. President, during my frequent travels throughout South Dakota, I have the opportunity to talk informally with individuals from all walks of life. The concerns and opinions expressed in those discussions are many and diverse, and I address them periodically on the Senate floor. Today, I wish to focus on the frustration I hear from bankers in rural towns across my State.

The most common concern I hear from South Dakota's small-town bankers is the paperwork burden placed upon them by Government regulations. While the savings and loan experience of recent years underscores the need for an effective Government oversight mechanism in the banking industry, many bankers tell me that they fear Government has learned the wrong lesson from this sorry episode. Due diligence, not overkill, should be the goal of such oversight. For example, for many small community banks today, the costs of complying with the myriad of regulations governing their operations often have the ironic effect of reducing the banks' ability to address the banking needs of the communities they serve.

While the bankers I have spoken with do not deny that the nature of banking calls for some regulation, there is a strong feeling in my State that too often the abuses of large urban banking institutions have prompted extensive regulations that are applied to banks nationwide, regardless of size and past performance. South Dakota community bankers make a compelling case that the rationale for many of these regulations in rural areas should be reexamined and the paperwork burden reduced.

Of particular concern to small bankers in South Dakota are the regulations that have been imposed pursuant to the Community Reinvestment Act of 1977. South Dakota bankers tell me that they are audited annually for CRA compliance, while many large urban banks often go several years between audits. They speculate that, because small rural banks are easier to audit, the regulators can complete more audits in a year by focusing on these institutions rather than by tackling the much more complex audits of the large urban banks, where many of the past abuses have occurred.

In addition to the audits, the CRA regulations require a tremendous amount of paperwork to prove the existence of transactions that our rural bankers have provided all along. Many small banks find it difficult, if not impossible, to absorb the cost of hiring extra help to handle this paperwork.

Recordkeeping simply for recordkeeping's sake is not fair, and it certainly does not fulfill the intent of the Congress in enacting the Community Reinvestment Act of 1977. The CRA was a good piece of legislation that responded to legitimate problems among certain banks that would accept deposits in the communities in which they operated but fail to serve the financing and other needs of all members of those communities who qualified. The point of the Community Reinvestment Act, however, was never to have regulatory requirements, adopted pursuant to the act, place an undue burden on small community banks.

Members of Congress were told repeatedly by regulators that CRA would not require an increase in paperwork to determine compliance. But that has not been the case. It is long past time for Congress to take a serious look at the real world effect of CRA paperwork and determine whether it truly serves the intent of the act. If it does not, changes are in order.

I believe that community bankers have a point that merits the attention of Congress. Therefore, I have joined as a cosponsor of S. 2511, a narrowly drafted bill introduced by my colleague from Kansas, Senator NANCY KASSEBAUM, that would exempt small banks in rural communities of less than 15,000 from CRA examination requirements. To qualify, a bank would have to have aggregate assets of no more than $75 million and at least half of their deposits in loans. Enactment of this legislation would help small rural banks better serve the needs of their communities and target CRA examination on more appropriate areas.

Mr. President, the Senate Banking Committee has announced its intent to hold hearings on the paperwork burden on the banking industry. It is my understanding that the committee will include the effect of CRA recordkeeping requirements on small community banks in this review. It is my hope that the committee will take a serious look at S. 2511 as one option for reducing the paperwork burden on small community banks, and I look forward to their recommendations in this regard.•

## TRIBUTE TO HARDINSBURG

• Mr. McCONNELL. Mr. President, I rise today to recognize the town of Hardinsburg in Breckinridge County.

Hardinsburg is a small intimate town about 65 miles southwest of Louisville. Despite its proximity to a large metropolitan area, Hardinsburg still maintains its charm as a close-knit southern town. However, it is making major strides of progress and growth.

Hardinsburg is planing to start a chamber of commerce to further promote the town. The Breckinridge County Industrial Council has recently built a 20,000-square-foot building to attract prospective employers. The city hall is recently remodeled. A local business, the Galante Studio, is renowned for its luxurious domestic products found in most national department stores. Since the construction of a new highway bypass, business has begun to grow out of downtown. Residents are happy about this, as it allows downtown to remain uncongested and peaceful.

The residents of Hardinsburg have a strong work ethic which dates back to their farming roots. Furthermore, since Hardinsburg is close to larger metropolitan areas, it allows many citizens increased opportunities for employment. A handshake still means something in business, and the community knows that it must work together to continue to grow. These are examples of what makes Hardinsburg a wonderful community.

I applaud Hardinsburg's efforts to maintain its small-town charm, but at the same time its move forward, making it one of the finest towns in Kentucky.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

### HARDINSBURG

(By Beverly Bartlett)

Hardinsburg residents say they can dial a wrong number and talk for 30 minutes.

"That's true," said Virginia Hinton, Breckinridge County archivist. "Everyone here knows everyone else. That's my kind of town."

It's an intimacy that means Lowell Macy can sit in his restaurant and evaluate the income of another local business.

"Lucas Brothers, they moved (their hardware store) right next to Wal-Mart and they're making more money than they've ever made in their lives," he said, as a way of explaining the positive impact a Wal-Mart can have on a community's economy.

So Gary and Maurice Lucas, is it true?

"Our business has been up every year since they came in," said Gary Lucas.

"It's helped us," said Maurice Lucas. "It's helped us a bunch."

Maurice Lucas doesn't look shocked that his neighbors would be talking about them. He seems used to it. It sums up, to some, the good and bad of Hardinsburg.

"Everybody knows everybody's business," said Bobbie Ann Wright, of Wright's Sport Shop. "That's the worst part, I guess the best part is that everyone knows everyone."

And the things they know make up the patterns of their lives.

They know the roads they travel to take them away from this city; the roads that take them to work in Jefferson or Hardin or Hancock or Grayson counties.

"We don't have overly high unemployment and I don't know why," said Breckinridge County Judge-Executive Tom Moorman. But then he says he does know why. It's the work ethic bred into these people through their farming roots that drives them to drive to find work, no matter how far.

"Most all of us grew up on a farm," he said. "And you learn to work when you grow up on a farm. So they drive to Louisville and they drive to Fort Knox."

(Despite such enterprise, county unemployment averaged 9.02 percent from 1987 to 1991, while the state averaged 7.22 percent, state figures show.)

And they know the way a small town—even a town like Hardinsburg with a thriving retail district—uses those roads to bring a sense of variety to life.

"If you want to buy a good suit, chances are you're going to go to Louisville or Elizabethtown," said Miller Monarch, a real estate agent and auctioneer who gave up a more lucrative marketing career in cities like Chicago and Louisville to come home to Hardinsburg. "If you want to buy . . . fresh seafood, you can't buy it here. If you want to eat Italian food, you've got one place and that's Pizza Hut."

This is a place where Charley Blancett, co-owner of Blancett Motors Ford Dealership, can measure the success of the new radio station by checking the music playing in cars in the service center.

The radio count, he says, looks promising for the new station.

The people of Hardinsburg know their way of life slows during the school year between 2:30 and 3:30 when the high school students are released and their cars crowd the streets and make it hard to pull out of parking lots.

"We always say if they'd just put in one red light so you could get a break somewhere * * *," said Jane Board, store manager at Lucas Brothers.

Hardinsburg does not have a traffic light. In fact, the county doesn't have a four-lane road. It has only a few yards of three-lane, a passing lane here, a left-turn lane there. That's the extent of congestion control. And that's just about the extent to which it's needed. That's what these people like about the place.

That's the thing that makes Monarch willing to give up the conveniences of a big city. "We don't get into a tremendous rush here. We just try to get the job done. You just don't have the inconveniences of living in a metropolitan area. You sort of trade those off for the inconveniences and benefits of living in a small town."

This is a place where the largest industrial employer operates a factory on the square. The Galante Studio has hired seamstresses and produced luxurious travel bags, baby clothes and bed pillows for fashionable department stores like Nieman Marcus and Saks Fifth Avenue since 1929.

A monogrammed pillow for reading in bed goes for more than $120. They aren't for sale in Hardinsburg. They aren't for sale in many places in Kentucky.

Bernice Taul, who with four other former employees took over the company in 1981, says she doesn't think most of the firms they deal with realize the humble origins of the luxurious goods.

For years, "They'd call all the time and say 'What's your street address?' and we'd say, 'Hardinsburg, Kentucky; that's all you need,'" she says. "They'd think we're just so big we didn't need one. They didn't realize the town is just so small."

The company has recently started using a more specific address.

Two doors down from Galante's is the open door of Abbott and Tanner Jewelers, a place that also can befuddle out-of-towners.

Lee Abbott, who started the jewelry and watch repair operation in 1949 and who has left the front door open every summer since because that's the only air-conditioning the place has, says some New York companies he deals with are surprised he doesn't have a phone.

"They don't understand that. They think if I don't have a phone, I'm near bankruptcy."

But the real answer is simpler. He didn't have one when he started and he's never needed one bad enough to justify the interruptions the calls would cause.

"I guess jewelers all over the country do it," he said. "But you're sitting there working on something delicate and the phone rings. * * * They know I go home for dinner so they call me between 11 and 12."

Abbott doesn't think the lack of a phone hurts business. He draws clients in different ways. He sells guitar strings because no one else in town does and there are a lot of country fans that want them. Sometimes a customer will come in for a guitar string and "six months later they come in and buy an engagement ring," he said.

Abbott was once a one-stop wedding center. That was when he was county judge pro tem in the 1970s and '80s. Sometimes when the county judge was out of town, couples would come over, buy their wedding ring and get married right on the spot, with Abbott's son-in-law, Robert D. Tanner, and a passerby serving as the witnesses.

Of course, there used to be more passersby. Hardinsburg's traffic has gradually moved away from downtown, toward the bypass. The hospital has moved that way. So have the banks. That's where Wal-Mart is. That's the general area of the city's restaurants and the grocery stores and the gas stations. That's the area where the high school sits.

That's the way of small towns these days. As it is their way to tout the wonder of a small town and then at the same time talk about wanting to get bigger.

Not too big, they say, just big enough to provide more jobs. Macy wants to start a chamber of commerce to promote the town. And the Breckinridge County Industrial Council has built a 20,000 square foot building to show prospective employers.

"We have to have something for people to come in and look at," said Mayor John Sosh.

Meanwhile, they're looking for ways to do the best with what they have. Sosh said he's been pleased with how a private company has managed the city, even though he initially opposed the idea.

Contract Operations 2 Inc. took over the city's public works operation in April 1991 and saved the city $17,000 the first year, said Bob Taylor, the company's Hardinsburg project manager.

Two years ago, the city showed what else it could do with community spirit, cooperation and limited resources.

When The Farmers Bank announced it would join other migrating businesses near the bypass, it gave its two-story building downtown to the city, which remodeled it into an elegant city hall. That meant the fire department could get the old City Hall, saving the city several thousand dollars it planned to spend enlarging the fire department's quarters.

The gesture seems to fit right into the congenial way of life the people talk about here.

If you have a problem or a complaint, business people won't put you on hold. Community leaders can trust the residents to come home to buy what they can locally. A handshake in a business deal still means something.

Things are changing, but slowly.

"This little community," said Maurice Lucas, "is a close-knit community."

Population (1990): Hardinsburg, 1,906; Breckinridge County, 16,312.

Per capita income (1988): Breckinridge County, $10,384 or $2,446 below the state average.

Jobs (1988): Manufacturing, 186; wholesale/retail trade, 651; services, 348; state/local government, 547; contract construction, 203.

Big employers: The Galante Studio Inc., 79; Eleanor Beard Inc., 40; Office Products Specialty, 19.

Media: Newspaper—Breckinridge County Herald-News (weekly), Radio—WHIC–AM (1520 AM), country; WHIC–FM (94.3 FM), country; WXBC–FM (104.3), a mix of country, light adult contemporary and oldies.

Transportation: Rail—CSX Transportation has service to Cloverport and Irvington. Air—Breckinridge County Airport has a 3,500-foot paved runway; nearest commercial service, Standiford Field, Louisville, 65 miles northeast of Hardinsburg. Trucking: 14 companies serve the county.

Education: Breckinridge County Public Schools, 2,739; Cloverport Independent, 360, St. Romauld, preschool through eighth grade, 200.

Topography: Breckinridge County lies along the Ohio River on the northwestern section of central Kentucky's Mississippian Plateaus Region.

### FAMOUS FACTS AND FIGURES

Hardinsburg may be small, but you won't find the usual dark and mysterious smalltown hardware store, Lucas Brothers ServiStar Hardware is bright and spacious, and neon tubes form gentle cursive letters to describe departments. "One man made a comment that they need a store like this in Lexington," said Gary Lucas. "That's where he was from."

In 1913, part of the downtown burned. The fire may have started in a bakery. The entire east side of the square was destroyed.

The building where Blancett Motors has operated since the 1950s has been a car dealership since 1937, when it was the largest dealership building in the area. It doesn't seem that big now, but it remains a sight to behold.

Hardinsburg claims its founding in 1780, the year William "Indian Bill" Hardin built "Hardin Fort" to protect settlers from Indians. A century later, during the town's centennial, the keynote speech showed the attitude toward the Indians had changed little. Col. Alfred Allan, president of the centennial society, is recorded as describing the Indians as a human "animated by hatred of a hundred years growth—a hatred that never slept and was always pitiless—a hatred that was aggravated a thousandfold at sight of the white man's footprints in the soil of this, his favorite hunting ground. . . ."

Today Hardinsburg offers a friendlier image. A giant happy face on the intersection in front of City Hall greets visitors.●

## NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational of charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Mary Lynn Qurnell, a member of the staff of Senator HELMS, to participate in a program in Russia, sponsored by the Legislative Study Institute and the Russian Government, for 2 months, beginning on October 24, 1992.

The committee has determined that participation by Ms. Qurnell in this program, at the expense of the LSI and the Russian Government, is in the interest of the Senate and the United States.●

## TRIBUTE TO JOHN BEGLEY, EXECUTIVE DIRECTOR OF THE LOUISVILLE VISUAL ARTS ASSOCIATION

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a fellow Louisvillian, John Begley. Mr. Begley is executive director of the Louisville Visual Art Association, as well as an artist himself.

The Louisville Visual Arts Association is an 82-year-old nonprofit organization which encourages the creation of visual arts, acts as a prime source of art education, and, in general, champions the cause of the visual arts. In his position as director of the association, Mr. Begley is in charge of furthering the exposure of visual arts in Louisville. The association has a budget of $600,000 with 30 percent of that amount coming from the Greater Louisville Fund for the Arts.

Mr. Begley brings a wide variety of qualifications to this position; however, there is one which is mentioned consistently. Those who know Mr. Begley point to his quiet understated manner in getting his message across. He is described as a great mediator, with a very thoughtful, conciliatory attitude. But don't be fooled into mistaking his soft-spoken manner for lack of enthusiasm, rather Mr. Begley brings a persistence, which is common to artists, to every task he pursues.

The association does more than just make sure that Louisville prominently plays an active role in displaying visual art. Mr. Begley has also seen to it that the association is involved with education through art programs. In the association's education role, it has founded Children's Free Art Classes, a free scholarship program which has given rise to several local artists. The program is offered in 32 neighborhood sites in the Louisville metropolitan area and has almost 650 children enrolled.

Other services the association oversees include a large gallery for regional artists at its headquarters located in the old water tower. There is also a sales and rental gallery in the Starks Building in downtown Louisville, a Media Arts Center at the main branch of the public library, as well as many other programs designed to increase community awareness of the visual arts.

Mr. Begley also finds the time to help organize the Louisville area's 20 or so nonprofit galleries into an association called the Visual Arts Network. In addition, he serves as the chairman of the Mayor's Art in Public Places Program. With all of these projects it is little wonder that Mr. Begley often puts in 12-hour days.

Mr. President, I ask my colleagues to join me in recognizing this outstanding citizen. I also ask that an article from the July 29 Business First be included in the RECORD.

The article follows:

### JOHN BEGLEY IS ADVOCATE FOR AREA'S VISUAL ARTISTS

(By John Bowman)

When John Begley paints, those who know him best don't need to steal a peek over his shoulder to guess his subject matter.

Cedar trees.

"For the last few years, he's painted a lot of cedar trees," his wife of 20 years, Kay Begley, says with a laugh.

In fact, for the past eight years, Begley admits, his art has focused primarily on cedar trees.

That's about how long it's been since the Begleys moved to Louisville from New Harmony, Ind., near Evansville. During the weeks before the move, the couple did a lot of driving down Interstate 64 between the two cities.

"I really thought it was an ugly drive"—and a boring one, Kay remembers.

But John, the artist, noticed the cedar trees—how they grew in interesting groupings and seemed to sprout literally straight out from the rock cliffs. He was also drawn to their shape, which is at once both abstract and recognizable.

The idea that Begley would adopt a form and spend the next eight years quietly exploring and creating art from it would probably not seem strange to those who deal with him in his "other" capacity—as executive director of the Louisville Visual Art Association.

The 82-year-old non-profit association encourages the creation of visual arts, acts as a prime source of art education, and, in general, champions the cause of the visual arts.

As its head, Begley serves as the chief advocate for visual artists in the Louisville area.

Acquaintances describe the 44-year-old Begley as a modest, soft-spoken, yet persistent and extremely effective administrator who gets things done in a community where the arts scene has historically been dominated by strong performing-arts groups.

"I think John is so effective because he's so understated; I think people respect that," offers Marlene Grissom, a former gallery owner who remains an active, private art dealer.

Peter Morrin, director of the J.B. Speed Art Museum, calls Begley "a great mediator" who brings to the task "a very thoughtful, conciliatory attitude."

The visual art association has a staff of 14, up from three when Begley first arrived here. Its budget is about $600,000 annually, much of it brought in by tuitions, gift-shop sales, membership sales and corporate contributions.

But about 30 percent of its revenue comes from the Greater Louisville Fund for the Arts, an umbrella fund-raising organization. Out of 15 groups the fund serves, only the association and the Kentucky Art & Craft Gallery focus on the visual arts.

One of Begley's jobs is to make sure the association gets its share of the annual pie, which the fund doles out each year based on various artistic and management considerations.

"He's a master of the understated," says Allan Cowan, the fund's president. "He's quiet; he believes in sort of continuous influence as opposed to beating people over the head."

Actually, Cowan knew Begley first as an artist, having bought an original Begley painting several years ago at the New Harmony Gallery of Contemporary Art—where Begley was director.

"He has a great depth of understanding of the subject matter," says Cowan, who describes the painting he bought as "contemporary."

Louisville sculptor Ed Hamilton, who has carved a national reputation for himself in the last few years with several major commissions, counts himself a friend and admirer of Begley.

"John is one person who not only is an administrator and an artist, but hell, he's good at both of 'em," Hamilton says. "I don't know how he does it."

Others say persistence is part of the answer.

"He stays with it and stays with it," says Cowan.

"He's not somebody whose ego gets all messed up in minor failures and minor victories," the Speed's Morrin explains. He credits Begley with a wonderful steadiness and consistency, adding that "people find it very comfortable working with him."

A recent incident illustrates those words.

Begley is one of 17 area artists who cooperatively own and operate the Zephyr Gallery in downtown Louisville.

The arrangement allows the artists to keep more of the proceeds from the sale of their work, as well as giving them creative control over the exhibit space. In fact, each artist is supposed to have a piece on display at all times.

In return, the artist is required to spend a certain number of hours each month "minding the ship."

One recent Friday, Begley was taking his turn. When a reporter strolled in and asked to see his painting, he laughed and said, "It's in the can."

He wasn't kidding. On a wall in the restroom hung an original J.P. Begley—with cedar trees as the telltale subject.

While the spot is often pressed into service as exhibit space, Begley clearly didn't mind his work being there; in fact, he found the situation quite humorous.

Begley took art classes each year at Salem (Ind.) High School, but didn't really expect to become an artist. In fact, he chose archaeology as his major at the University of New Mexico over art school in Indianapolis upon graduation.

Only after discovering the university's acclaimed printmaking department did he switch to a fine arts major.

July 17, 1969—just after college graduation—proved to be one of the more interesting days in Begley's life. In the morning he enlisted in the U.S. Army; that night he met his future wife on a blind date.

Why, you might ask, would a 22-year-old Bachelor of Fine Arts join the army in the middle of a bloody conflict in Southeast Asia?

"I was being drafted," recalls Begley, who wears bow ties and certainly looks more the part of an artist than a warrior.

Enlistment allowed him some control over his future, and he was accepted into officer's training school at Fort Benning, Ga. By the time he graduated, U.S. involvement in the ground war was winding down.

When it became clear he wouldn't be shipped overseas, John and Kay decided to get married. He served most of his two-year stint as a first lieutenant and training officer at Fort Knox, Ky.

Out of the army in 1972, the Begleys moved to Bloomington, Ind., where Kay worked in a bank, allowing John to earn his master of fine arts degree from Indiana University in 1975.

While in school, Begley and another student built their own press, using it to produce lithographs; printmaking had been his main interest when he switched his major from archaeology to fine arts as an undergraduate at New Mexico.

Begley was also developing an interest in the business side of art; he had Kay are from the Midwest and wanted to keep living in the region.

It was clear to him early on that most artists—especially those who choose to live outside New York or other "major" art centers—need other work to provide a steady income.

With his master's degree, he landed a position as director of the Gallery of Contemporary Art in New Harmony—a tiny city, but one progressive enough to support such an institution.

They stayed there for eight years, until he decided to come to Louisville as director of the Water Tower Association—which merged with the Louisville Art Gallery in 1988 to form the visual art association.

The association had been founded in 1909 as the Louisville Art Association—an exhibit forum for Louisville artists and patrons. Over the years, it expanded its role, helping to form both the J.B. Speed Art Museum and the Louisville Art Gallery.

The association also adopted an educational role and founded Children's Free Art Classes—a free scholarship program that spawned Hamilton and many other successful artists; it currently is offered at 32 neighborhood sites in the metropolitan area with nearly 650 children enrolled.

Cowan says Begley played a key role in expanding the free classes beyond Jefferson County into towns like Shelbyville and Shepherdsville, Ky., and in the merger of the two groups that "didn't quite have critical mass" to form the current association.

The association provides a large gallery for regional artists at its headquarters in the old Water Tower building; runs a sales and rental gallery at the downtown Starks building with a slide registry of more than 300 regional artists; operates a Media Arts Center at the main branch of the public library to provide film video and photography equipment to regional artists at low costs; and oversees a host of other programs and events designed to raise community awareness of the visual arts.

While overseeing all that, Begley also found time to help organize the area's 20 or so non-profit and for-profit galleries into an association called the Visual Arts Network.

Some call him the founder, but Begley says a handful of others were involved.

He also serves as chairman of the Mayor's Art in Public Places program, which the art association played a lead role in creating.

"He's got a full plate," says Morrin, who says Begley juggles it with a knack for "putting together sequences that make things happen."

The Speed has a "friendly-competition-slash-cooperative" relationship with the visual art association, Morrin says, adding that each has an extremely small staff, considering the task at hand.

There's a great need in both organizations, "to accomplish miracles," Morrin says. "And my sense is that he's done it on a consistent basis."

Begley often spends 12 or more hours a day on the job. Kay says "he broods a lot about not having enough time" left for his painting.

Luckily, she says, Begley "works well under pressure. He gets quite intense" at his art when he has a show coming up, she adds.

But Begley says he doesn't resent his job or all the juggling he has to do to get things done.

"I don't see that as lost time." On the contrary, he says he enjoys administration and the business side of art.

At the same time, the intensity his wife spoke of is part of what attracts him to painting.

"That's when it's fun—when you're really focused," he reflects. He says sticking with a single subject probably helps keep him focused.

Cedar trees.

Kay says family friends claim they have spotted trees along I-64 and recognized them as subjects of Begley's work.

But Begley—stirred in part by a recent show of retrospective works by the Zephyr artists called "A Blast from the Past"—is feeling the winds of change.

"It may be time for a new motif," he admits.

BIO: JOHN PHILLIP BEGLEY

Title: Executive director, Louisville Visual Art Association.

Age: 44.

Hometown: Salem, Ind.

Education: Bachelor of Fine Arts, University of New Mexico; Master of Fine Arts, Indiana University.

Family: Wife: Kay.•

## COSPONSORSHIP OF S. 2113

• Mr. SMITH. Mr. President, yesterday, by unanimous consent, Senator McCAIN was added as a cosponsor of S. 2113. Mr. President, Senator McCAIN should have been listed as a cosponsor earlier this year. Due to an oversight, he had not been officially listed. I wanted to note this for the RECORD.•

## COMMENDING THE ADDRESS OF JAMES P. YOUNGBLOOD, M.D., "SUFFER THE LITTLE CHILDREN"

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to the Presidential address "Suffer the Little Children" given by James P. Youngblood, M.D., president of the Central Association of Obstetricians and Gynecologists, in October 1991.

Dr. Youngblood addresses the extensive and pervasive problem of infant mortality in the United States. Citing his 20 years of experience in the private practice of obstetrics and gynecology, he suggests that we can confront the medical problems associated with pregnancy by providing early prenatal care for women. "We must begin education and provide resources to attract women not only to early prenatal care but even to preconception care." He urges Congress to promote the work of the National Commission to Prevent Infant Mortality throughout our Nation.

It is the responsibility of the medical profession, Government, social programs and our education system to address the issue of prenatal care according to Dr. Youngblood. Once there is universal access to prenatal care, we will be able to drive down the rate of prenatal mortality in the United States. Until then, we incur medical, enormous medical costs to sustain premature infants in life support systems. If we could reduce our preterm delivery rate to that of France, which is slightly over 4 percent, the result would be savings of more than $1 billion in health care costs.

Mr. President, I would like to extend my sincere congratulations to Dr. Youngblood for his appointment as president of the Central Association of Obstetricians and Gynecologists and commend him for his leadership and vision on this very important issue and I request that his address be printed in the Record.

The address follows:

### SUFFER THE LITTLE CHILDREN

(Presidential address by James P. Youngblood, M.D.)

As I set about planning this address, I reviewed many of the recent addresses given by our esteemed past presidents. They are generally in one of three categories: historic, scientific, or philosophic. They have nearly always been of a personal nature, to a greater or lesser degree, revealing something of the inner character of the speaker. Dr. Russell Malinak's address last year was especially stirring and memorable. I recall one of our members asking me immediately after the talk whether I felt that I could top it this year. Of course, I won't be able to, and I won't even try. But I hope at the end I will have given you some food for thought, and perhaps you'll also know a little more about me.

My talk is more of the philosophic type, and I think it will reveal a little of how I think and what has become very important to me over the years.

The title of this address is "Suffer the Little Children. . . ." What do I mean by that? I think that most of you are aware that this is from the New Testament, the Gospel according to Mark, chapter 10, verse 14. "Suffer the little children to come unto me and forbid them not, for such is the Kingdom of God." After preaching all day, Jesus is tired and is resting and the little children in the area have come for his words and his blessing, and his disciples are trying to keep them from him so that he may rest. In this case, Jesus uses the term suffer to mean permit. He indicates that the children have a priority higher than any need that he may have for rest. Indeed, he indicates their helplessness and innocence in the words "for such is the Kingdom of God."

I have used the word suffer in a double context in this address, because the children in our world and in our country do suffer. And, of course, they are innocent. By now you are certainly aware that we have a problem with infant mortality in this country and that it is a national embarrassment. The richest nation on earth, now the only super power, with the most advanced medical technology, which spends 11%[1] of its gross national product on health care, ranks nineteenth to twenty-second[2] in the world in perinatal mortality. The most recent figures indicate that the overall perinatal mortality in the United States in 1988 was 13.7.[3] This means that per 1000 live births 13.7 babies die either before or during birth or within the first 28 days of life after birth. In 1990 in the county in which I live the perinatal mortality rate was 13.0[3] overall and 21.4 for blacks.[4] This is pathetic.

So here we go again—another talk about perinatal mortality and America-bashing because we're doing such a lousy job. I'm sorry, but the problem is severe and must be kept in the public consciousness. But we're not all that bad. We are doing some things to turn the problem around and we are making progress. But more must be done.

I know that you are concerned that this talk will be a reiteration of Dr. Malinak's eloquent address last year.[5] You must forgive me for having chosen the same topic, but realize that this has been my main area of concentration for the past 7 years and I have thought long and deeply about this problem. I may cover some of the same ground, but I think you'll see that we have somewhat divergent views in the solution of the problem and therefore I feel it merits exploration. In the long run I do not wish you to consider this a rebuttal of Dr. Malinak's address but rather an exploration and possible expansion.

While in the private practice of obstetrics and gynecology for 20 years, I was aware that there was a perinatal mortality problem. But it was in the inner city, and although I frequently attended clinics in the inner city, I was not completely aware of how extensive and pervasive the problem was. It wasn't that I didn't care, it was that I was just unable to interact in a meaningful way.

Seven years ago, I undertook the chairmanship of an obstetrics and gynecology department in an inner-city public hospital. I was unprepared for what awaited. The indigent and working-poor population had been increasing—Nutrition was poor, disease of all kinds was rampant, and medical complications of pregnancy were numerous. Resources of all kinds were inadequate to meet these demands. The low-birth-weight rate at our hospital was 15% as compared with a national average of 6.9%. Then came Medicaid expansion and we were able to increase staffing and more actively apply our interventions, especially for so-called high-risk pregnancies. But, in spite of all our efforts, the low-birth-weight rate remained at 15%. Consequently, we developed the premise that risk assessment for pregnancy as it was done in most institutions was invalid in our insti-

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Footnotes at end of article.

tution. It was our impression that the patients we called routine patients were, indeed, all at high risk. With the support of a 2-year grant from the March of Dimes, we set about proving this premise. We studied 300 routine patients in the study group against 300 similar routine patients in the control group. The study group was intensively educated, with emphasis on things such as awareness of premature contractions, health and diet, and education regarding smoking, and drug and alcohol abuse. Socioeconomic problems were more intensely addressed. In other words, the study group of routine patients was treated as high risk. Amazingly, the low-birth-weight rate in the routine study group, who had intensive prenatal care and education, was 7.3%, whereas the rate in the so-called routine control group was 14.8%. Therefore a decrease of 7.5% in the low-birth-weight rate occurred.[6] Although it was a small study, the numbers were compelling and I was able to convince our hospital director to increase our staffing of nurse practitioners, nurses, health care educators, nutritionists, and social workers in our obstetric clinic so that we could intensify our care across the board for all of our patients. In January 1991 we instituted this plan and look forward to a positive report on the results in the near future.

But intensity of prenatal care is not the only answer. Prenatal care is carried on within the institutional walls or doctors' offices and does not address the problems of access, transportation, economics, and the social and psychologic difficulties of the patient population. Nor does it address the role of poverty—poverty rooted in habits and character traits—"behavioral poverty" George Will called it in his recent syndicated column of Sept. 19, 1991.[7] Nor does it address the teenage pregnancy problem and particularly the cultural sensitivity of our various racial and ethnic subgroups. Yet, in addition, we must also stress responsible parenting. Too long have we witnessed teenagers siring and bearing three or four children before age 20. Not only safe sex but responsible sex must be encouraged as in the American College of Obstetricians and Gynecologists' "I Intend" program. Finally, we must address the role of government, industry, and the medical profession itself.

In this country we tend to excuse our poor performance with prenatal mortality relative to European countries by stating that we're comparing apples and oranges. Societies in Scandinavia, Germany, France, and England are all homogeneous, whereas in the United States we have a much more heterogeneous society composed of various cultures, ethnic backgrounds, and races. We somehow rationalize that this prevents adequate prenatal care and universal access to such care. The major difference is that in all of the European countries and in Japan universal access to prenatal care is not only available but mandated by the governments of these countries.

In the 1989 report of the United States Public Health Service expert panel on "Content of prenatal care," many factors that may affect perinatal mortality were cataloged.[8] Without going into great detail, these can be subdivided into medical disorders before pregnancy, such as hypertension and diabetes, and specific pregnancy conditions or hazards, such as preeclampsia and infection. There also are psychosocial risk factors, including being a single parent, having a limited formal education, and living in poverty. This lead to the next item of socioeconomic status, which includes occupation, education level, housing, income, marital status, and nutritional resources. Seldom considered but extremely important are psychologic factors such as limited maternal support networks and increased levels of stress because of pregnancy, emotional disorders, and, of course, pregnancy ambivalence. Increasingly, adverse health behaviors have contributed to perinatal mortality and these include, as we well know, drug and alcohol abuse and smoking.

I submit that we can address the medical problems associated with pregnancy and are doing so within our institutions when we have early registration into the care system by our mothers. It is the socioeconomic and psychosocial factors and the cultural and ethnic factors that prevent us from applying our medical technology to the fullest with the expectation of good outcome. We must get out of the institutions and into the community to address these problems. We must begin education and provide resources to attract women not only to early prenatal care but even to preconception care. It is imperative that we form a partnership of influencing factors, government, industry, and the health care community and women themselves who can work together to address this problem of high perinatal mortality. Let's take a look at what these entities can do.

What can government do? In 1986 Congress formed the National Commission to Prevent Infant Mortality. Its charge was to create a national strategic plan to reduce infant mortality and morbidity in the United States. The Commission includes some members of Congress, the Secretary of Health and Human Services, and the Comptroller General of the United States. One of the unique programs this National Commission has developed is the concept of home visiting, especially by resource mothers. Resource mothers are women selected from the community who have evident helping skills and who have been successful mothers. They receive training in health, social services, and counseling to enable them to help disadvantaged young mothers, usually teenager, get early prenatal care and reduce or eliminate unhealthy behaviors, such as smoking, drinking, and other substance abuse. In addition, these resource mothers help prepare the patients for labor and delivery and the needs of a newborn. These women are generally neighbors and friends of the young women they visit and therefore are culturally sensitive and aware of not only their health needs but also their psychosocial and economic needs. They also visit the mothers and babies after delivery and ensure the infants receive regular checkups and that the health of mother and baby is enhanced and ensured. Where these programs have been established, there has been a marked lowering of the low-birth-weight rate.[9] We are working now to promote this kind of activity in our own area and anticipate such activity catching on throughout the nation.

What can we expect from Industry? You should know that in all of the countries I've mentioned, in Europe and Japan, industry in some way or another subsidizes pregnant women. In France women are paid their normal salaries for 6 weeks before delivery and 6 months after delivery. Also, a doctor may prescribe additional compensated rest whenever indicated.[10] How can they afford to do this? The question should be, how can we in the United States afford not to subsidize our pregnant women? You may be surprised to know that a few enlightened companies in this country are already subsidizing pregnancy. Mr. Joseph Taylor,[11] plant manager on Sunbeam Industries, Coushatta, La., is one of the early leaders in this kind of support for pregnancy.

What can we expect of medicine? What can we as obstetricians-gynecologists do to reduce infant mortality in the United States? Do we need to change our whole health care system: I think not. As Dr. Malinak so eloquently expressed in his address last year,[5] we have the finest health care system in the world, bar none. Our problem is getting that health care to those who need it in a timely manner to prevent low-birth-weight infants and high perinatal mortality.

There are things we can do. In his presidential address, our Immediate Past President of The American College of Obstetricians and Gynecologist, Ezra Davidson, presented a strategy to reduce infant mortality. Briefly, his strategy is to mimic the maternal mortality review committees that we used so effectively in the 30s, 40s, 50s, and 60s to reduce maternal mortality to a number <1 in this country. Dr. Davidson feels that similar local review committees should be established and every perinatal death should be reviewed as to cause and preventability. He feels, and justifiably so, that such intensive peer review will reveal numerous strategies to respond to locally identified factors.[11]

I would strongly urge that you not only be active members of such committees in your area but even spearhead the formation of such committees if they currently do not exist. Nearly all of us belong to local obstetrics and gynecology societies or city or county medical societies whose resources could be used for this effort.

And what should we expect of our nation's mothers to help reduce perinatal mortality in the United States. They must be educated as to the necessity of early prenatal care and even of preconceptional care. They must be encouraged to enter the health care system at an early age, in grade school if possible. They should register early for prenatal care because pregnancy may be a delicate condition in their particular case. They may need special care and special interventions to ensure a good outcome for themselves and their babies. Adverse health behavior should be curtailed or modified. Smoking, drinking, and illicit drug use should cease as proper nutrition is emphasized. Many workplace and pregnancy-related studies that have been done link working conditions to increased adverse outcomes in pregnancy. For example, a job requiring standing all day is much more likely to produce preterm labor than a job requiring only part-time, upright working conditions.[12] Pregnant women and their employers need to be aware of the implications of their workplace situation and adjust accordingly.

Finally, in my mind there is really only one comprehensive and satisfactory solution for reducing perinatal mortality in this country. Universal access to early prenatal care! All of the factors I've just mentioned should be addressed, but universal access is the absolute necessity. All of our medical and social interventions are useless unless they are accessible. We are all aware that 37 million people in this country have no health insurance. Naturally, most of these people are young and many of them are women in the reproductive age group. Medicaid is addressing the needs of the very poor but not the working poor. We must address the needs of all pregnant women. You know we have a peculiar mindset in this country that everyone must adhere to the "pay-as-you-go" format for health care regardless of economic situation.

Have you ever considered that there is a very large segment of our population that has to jump through only one hoop to have health care provided? There is no asset testing, no one's bank account is examined, there are no qualifications save one—you must be 65. Of course, I'm talking about Medicare. I remember in 1965 I had just started in practice and was appalled that Congress enacted the Medicare Act, feeling it would be the downfall of medicine. You'll recall that organized medicine came screaming and kicking into the Medicare reality. Obviously, its not a perfect system and is rife with problems and even corruption, yet it continues to be one of the more humane things that our society has done for its elderly.

As a matter of fact, in 1987 combined Medicare and Medicaid health care for the aged and disabled came to 114 billion dollars, or 23% of the health care dollar, as opposed to only 6 billion, or 2.5%, provided for maternal health care.[13] Are we emphasizing the wrong age group? Triple bypass surgery in a 75-year-old person costs $50,000; prenatal care costs $500.

I would propose that government, industry (including the insurance industry), and the medical profession form a partnership to produce a maternity insurance plan that would be available for all. The only requirement to enter the health care systems to receive prenatal care would be a positive pregnancy test. No other hoops need be jumped through because no extensive application forms need be reviewed and there would be no asset testing. Imagine the decrease in the bureaucracy now used to administer Medicaid. Any pregnant woman regardless of race, ethnic background, or social status would be eligible for this care.

But, given the problems obstetricians currently have with Medicaid, such as low and slow reimbursement and the interminable forms and red tape, why would they buy into this plan?

First, organized medicine must negotiate a realistic global fee for prenatal care and delivery. This fee must take into account that many of the new and previously uninsured will be at high risk, as I have already outlined.

Second, because a positive pregnancy test allows immediate and early access to care, any necessary documentation and paper work can be accomplished throughout the course of pregnancy, thus ensuring prompt payment on completion of care.

How would a newly pregnant woman have access to care? She would simply obtain proof of pregnancy from any recognized health care provider (e.g. hospital, clinic, or her own physician). She would immediately receive a voucher for prenatal care by her provider of choice.

What about the woman who desires more than average amenities? Because the vouchers would be equal in value, she would need to personally supplement the reimbursement required for these amenities. As you know, this same system is currently used in European countries.

What should we call this plan? How about "Maternacare"? Call it what you will, but whatever you call it, it is progress for humankind and maternal and infant welfare.

Perhaps I've made this too simplistic. Believe me, I know that problems will ensue. Institution of this kind of system will strain the resources of the prenatal health care system as we know it today. When we instituted our own new program as I previously outlined to you, so markedly increased was patient interest and awareness that early registration and frequency of visits increased to the point that we swamped the system. Our physicians, both resident and attending, were unable to handle the load, and we had to hire additional physician extenders, such as nurse practitioners and physician aides. But this is already going on in many large obstetric groups and health maintenance organizations. I have personal knowledge in our own area of private practice groups that have hired nutritionists, nurse practitioners, and even midwives to help them with the enhanced prenatal care that they wish to deliver. Obstetricians will need to become comfortable with the idea that they will need the help of other professional health care providers to maximize their efficacy in driving down perinatal mortality in this country.

As I was writing this article, I mentioned this concept to several friends and associates, not necessarily physicians, and, to a person, the first question they asked was: "Who would pay for it?" We pay for national defense, and we pay for fire and police protection and wildlife conservation. And how about the savings and loan bailout—the last estimate I read 2 weeks ago was 160 billion dollars! What I am asking for is peanuts!

Why not pay for our single greatest resource, our newborn infants? And, would it be very expensive? Yes, but it certainly is expensive now. Consider that a premature infant of 2 pounds who stays in the hospital up to 3 months may incur medical costs of $50,000 to $100,000 and possibly a lifelong cost of $400,000 to $1,000,000 if neurologic deficits are incurred. Consider that there are 280,000 low-birth-weight infants born annually and each of them incurs on average $10,000 in additional medical costs before they can leave the hospital. This comes to a total of $2.8 billion. Consider if we could lower the low-birth-weight rate by 1% in this country, the savings would be $400,000,000 annually. If we could get our preterm delivery rate down to that of France, which is slightly over 4%,[14] the savings would be more than $1 billion. This savings plus what is currently spent by government sources, insurance premiums, and private pay would come close to paying for the entire cost of universal access to prenatal care. Whatever the cost, the time has come for this nation to get its priorities straight and one of them should be a reduction in this terrible infant mortality that we continue to have.

National mindsets can be overcome. Even global mindsets can be overcome.

Consider Semmelweiss' realization that it was the unclean obstetrician who was the cause of puerperal sepsis—childbed fever. It was 30 years before his simple recommendations for antisepsis were accepted, after he had been driven mad by his critics and detractors.

Sometimes the simplest ideas may have most profound effects!

Surely we can overcome this mindset that is keeping us from enjoying our most precious resource—the infants and children of our country.

Suffer the little children to come unto us—healthy. And on time! Suffer the little children to suffer no more!

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## ORDERS FOR TOMORROW

Mr. WELLSTONE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Thursday, September 24; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL TOMORROW AT 8:45 A.M.

The PRESIDING OFFICER. If there is no further business to come before the body, the Senate, under the previous order, will stand in recess until tomorrow at 8:45 a.m.

Thereupon, the Senate, at 7:18 p.m., recessed until Thursday, September 24, 1992, at 8:45 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 23, 1992:

### FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

DAVID N. MERRILL, OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

CRAIG G. BUCK, OF TEXAS
VALERIE L. DICKSON-HORTON, OF TEXAS
THOMAS L. GEIGER, OF VIRGINIA
FREDERICK E. MACHMER, OF TEXAS
PAUL E. WHITE, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

PAUL E. ARMSTRONG, OF NEW YORK
DOUGLAS W. ARNOLD, OF CALIFORNIA
JUAN A.B. BELT, OF FLORIDA
ELENA BRINEMAN, OF VIRGINIA
BUNYAN BRYANT, OF VIRGINIA
SARAH C. CLARK, OF TEXAS
VINCENT CUSUMANO, OF VIRGINIA
GREGORY F. HUGER, OF MISSOURI
WAYNE J. KING, OF CALIFORNIA
HENRY W. REYNOLDS, OF CALIFORNIA
STEPHEN RYNER, OF VIRGINIA
SAMUEL T. SCOTT, JR., OF TEXAS
ROGER J. SIMMONS, OF VIRGINIA
GLENN G. SLOCUM, JR., OF FLORIDA
HUGH I. SMITH, OF MARYLAND
THEODORA WOOD-STERVINOU, OF TENNESSEE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

MARY A. RYAN, OF TEXAS
THOMAS W. SIMONS, JR., OF THE DISTRICT OF COLUMBIA
WILLIAM GRAHAM WALKER, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JANICE FRIESEN BAY, OF CALIFORNIA
RANDOLPH M. BILL, OF VIRGINIA
WILLIAM R. BREW, OF CALIFORNIA
EDWARD BRYNN, OF CALIFORNIA
JAMES F. CREAGAN, OF VIRGINIA
CRAIG G. DUNKERLEY, OF MASSACHUSETTS
MORTON R. DWORKEN, JR., OF VIRGINIA
STANLEY T. ESCUDERO, OF FLORIDA
ROBERT C. FELDER, OF FLORIDA
RONALD D. FLACK, OF MINNESOTA
ROBERT C. FRASURE, OF WEST VIRGINIA
WAYNE G. GRIFFITH, OF FLORIDA
DAVID CRANE HALSTED, OF VERMONT
DENNIS G. HARTER, OF NEW JERSEY
WILLIAM J. HUDSON, OF VIRGINIA
DOUGLAS HUGH JONES, OF CALIFORNIA
THEODORE H. KATTOUF, OF MARYLAND
DOUGLAS R. KEENE, OF MAINE
MICHAEL J. MCLAUGHLIN, JR., OF ARIZONA
JOHN F. MERMEL, OF VIRGINIA
GEOFFREY OGDEN, OF CALIFORNIA
ANNE WOODS PATTERSON, OF ARKANSAS
W. ROBERT PEARSON, OF CALIFORNIA
ARLENE RENDER, OF VIRGINIA
MAX NEWTON ROBINSON, OF WASHINGTON
ELEANOR WALLANCE SAVAGE, OF CALIFORNIA
HERBERT W. SCHULZ, OF PENNSYLVANIA
RAYMOND F. SMITH, OF THE DISTRICT OF COLUMBIA
JOEL S. SPIRO, OF VIRGINIA
ALEXANDER RUSSELL VERSHBOW, OF THE DISTRICT OF COLUMBIA
WILLIAM A. WEINGARTEN, OF CALIFORNIA
DONALD B. WESTMORE, OF WASHINGTON
EDWARD H. WILKINSON, OF INDIANA
KENNETH YALOWITZ, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CHARLES RUSSELL ALLEGRONE, OF VIRGINIA
JANET STODDARD ANDRES, OF FLORIDA
NED W. ARCEMENT, OF LOUISIANA
LAWRENCE REA BAER, OF CALIFORNIA
JOHN A. BARCAS, OF VIRGINIA
ROBERT W. BECKER, OF MARYLAND
RICHARD WARREN BEHREND, OF PENNSYLVANIA
WILLIAM M. BELLAMY, OF CALIFORNIA
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JOHN A. COLLINS, JR., OF MARYLAND
BRIAN DEAN CURRAN, OF FLORIDA
MATTHEW PATRICK DALEY, OF CALIFORNIA
MARGARET M. DEAN, OF ILLINOIS
DEAN DIZIKES, OF VIRGINIA
ERIC S. EDELMAN, OF VIRGINIA
M. MICHAEL EINIK, OF FLORIDA
JOHN M. EVANS, OF THE DISTRICT OF COLUMBIA
LAWRENCE F. FARRAR, OF VIRGINIA
JAMES IRVIN GADSDEN, OF THE DISTRICT OF COLUMBIA
LESLIE ANN GERSON, OF CALIFORNIA
LINO GUTIERREZ, OF FLORIDA
DENNIS K. HAYS, OF FLORIDA
BROOKE C. HOLMES, OF CALIFORNIA
CAROLYN RUTH HUGGINS, OF FLORIDA
DAVID H. KAEUPER, OF MICHIGAN
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JOHN HARGRAVES LEWIS, OF PENNSYLVANIA
LEE R. LOHMAN, OF PENNSYLVANIA
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THOMAS H. MARTIN, OF CALIFORNIA
WILLIAM C. MCCAHILL, JR., OF NEW JERSEY
DOUGLAS L. MCELHANEY, OF FLORIDA
ELIZABETH MCKUNE, OF MARYLAND
MARTIN MCLEAN, OF NEW JERSEY
JEFFREY V.S. MILLINGTON, OF NEW JERSEY
JOHN SCOTT MONIER, OF ILLINOIS
BRUCE F. MORRISON, OF NEW YORK
BISMARCK MYRICK, OF VIRGINIA
TIBOR P. NAGY, JR., OF TEXAS
MICHAEL P. OWENS, OF TEXAS
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SUE H. PATTERSON, OF VIRGINIA
ROBERT C. PERRY, OF VIRGINIA
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SYLVIA G. STANFIELD, OF TEXAS
THEODORE EUGENE STRICKLER, OF TEXAS
JAMES CURTIS STRUBLE, OF CALIFORNIA
ALBERT A. THIBAULT, JR., OF MARYLAND
PAUL H. WACKERBARTH, OF MARYLAND
DAVID M. WALKER, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JEFFREY W. BOWERS, OF VIRGINIA
DAVID G. BOWYER, OF MARYLAND
JOHN N. CHRISTENSEN, OF TEXAS
PETER J. GALLANT, OF VIRGINIA
JOHN N. KENNEDY, OF VIRGINIA
JAMES T. LEDERMAN, OF FLORIDA
JOHN R. LYONS, OF PENNSYLVANIA
ARTHUR A. MAUREL, OF CALIFORNIA
SIDNEY V. REEVES, OF TEXAS
JOHN C. TRIPLETT, OF COLORADO

THE FOLLOWING-NAMED PERSON OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR APPOINTMENT AS CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENT INDICATED HEREWITH:

FOR APPOINTMENT AS A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DAVID MICHAEL SPRAGUE, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

KAREN POE, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

RUFUS A. WATKINS, OF FLORIDA

### AGENCY FOR INTERNATIONAL DEVELOPMENT

ARTHUR H. BRAUNSTEIN, OF VIRGINIA
VICKI LYNN MOORE, OF CALIFORNIA
DAVID JOHN OSINSKI, OF WASHINGTON
RICHARD EDWARD SILC, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

CARLA ENRICA BARBIERO, OF VIRGINIA
CARLTON M. BENNETT, OF LOUISIANA
JAMES ARTHUR CHRISTENSEN, OF OREGON
CHARLENE HOPE DEI, OF FLORIDA
MARGARET A. HEALY, OF NEW JERSEY
DOUGLAS WILLIAM HEISLER, OF PENNSYLVANIA
CONNIE J. JOHNSON, OF TEXAS
PHILIP K. JONES, OF TEXAS
JULIAN A. LANIER, OF TEXAS
AMANDA LEVENSON, OF ALASKA
DAVID ELLIOT MCCLOUD, OF FLORIDA
FRED WAYNE MCDONALD, OF NEW MEXICO
ROBERT G. POSNER, OF SOUTH DAKOTA
RONALD SENYKOFF, OF FLORIDA
CHARLES B. SHORTER, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

JULIE LYNNE GRANT, OF CALIFORNIA
U.S. INFORMATION AGENCY
GLORIA F. BERBENA, OF CALIFORNIA
JEREMY L. CARPER, OF CALIFORNIA
R. WESLEY CARRINGTON, OF VIRGINIA
MAUREEN ELIZABETH CORMACK, OF ILLINOIS
VALERIE L. CRITES, OF OREGON
J. THOMAS DOUGHERTY, OF WYOMING
JOSEPH ADAM ERELI, OF TEXAS
GONZALO ROLANDO GALLEGOS, OF TEXAS
CAREN F. GORDON, OF VIRGINIA
FRANK E. NEVILLE, OF NEW YORK
MICHAEL DEAN ORLANSKY, OF OHIO
WILLIAM A. OSTICK, OF GEORGIA
THOMAS C. PICKREL, OF MISSOURI
KRISTIN HOPE PLAEHN, OF TEXAS
MICHAEL ALAN RICHARDS, OF NEW HAMPSHIRE
SARA A. STRYKER, OF KANSAS

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MICHAEL J. ADLER, OF MARYLAND
LINDA G. ARCHER, OF CALIFORNIA
CRAIG S. ATKINS, JR., OF MARYLAND
MARY RUTH AVERY, OF FLORIDA
ANN M. BACHER, OF THE DISTRICT OF COLUMBIA
DANIEL KARL BALZER, OF OHIO
DAVID M. BERMAN, M.D., OF VIRGINIA
RUSSEL JOHN BROWN, OF MONTANA
DEAN W. CARVER, OF VIRGINIA
RAYMOND CHILDRESS, OF TEXAS
GREGORY THOMAS CULLISON, OF ARIZONA
CYNTHIA RAE DOELL, OF NEBRASKA
ANN CATHERINE DONOVAN, OF VIRGINIA
MICHAEL D. EILAND, OF VIRGINIA
CATHERINE SANDRA ELIAS, OF VIRGINIA
TERESA J. ENSOR, OF VIRGINIA
MONICA ELIZABETH EPPINGER, OF ARIZONA
TOBY J. FINNEGAN, OF MARYLAND
JAMES M. FLUKER, OF NEW YORK
BRENT D. FOLEY, OF VIRGINIA
MATTHEW ELLIOTT FOX, OF MICHIGAN
WM. LANCE GATLING, OF TENNESSEE
PAMELA L. GOMEZ, OF TEXAS
SEYMOUR E. GREENFIELD, OF MASSACHUSETTS
JOSHUA HARRISON, OF VIRGINIA
MICHAEL W. HOLSHEY, OF VIRGINIA
VIRGINIA BEDELL HOTCHNER, OF VIRGINIA
BERNARD K. HUDSON, OF VIRGINIA
TODD MICHAEL HUIZINGA, OF MICHIGAN
MICHAEL CHRISTOPHER KEAYS, OF CALIFORNIA
WILLIAM A. KOLB, OF CALIFORNIA
KRISTINA KVIEN, OF CALIFORNIA
COLETTE MARCELLIN, OF TEXAS
MICHAEL J. MATES, OF WASHINGTON
JEAN L. MCCALL, OF VIRGINIA
WENDY M. MCCONNEL, OF MARYLAND
ANN BARROWS MCCONNELL, OF CALIFORNIA
CHARLES L. MCKNIGHT, OF NEVADA
STEPHEN DAVID MCLAUGHLIN, OF VIRGINIA
KELLIE ANN MEIMAN, OF NEBRASKA
RICHARD W. MIDDLETON, JR., OF VIRGINIA
DOUGLAS A. MORRIS, OF NEBRASKA
NANCY TODD BRES MULENEX, OF WASHINGTON
W. PATRICK MURPHY, OF VERMONT
COURTNEY ROBIN NEMROFF, OF PENNSYLVANIA
HAROLD H. NIEBEL, III, OF MARYLAND
NELS PETER NORDQUIST, OF MONTANA
GERALD A. O'SHEA, OF NEW YORK
DAMIAN PEKO, OF MARYLAND
GEOFFREY W. PLANT, OF VIRGINIA
HOWARD V. REED, OF OHIO
JOAN MARIE RICHARDS, OF CONNECTICUT
CARL DOUGLAS RINGER, OF VIRGINIA
WILLIAM VERNON ROEBUCK, JR., OF NORTH CAROLINA
AVA L. ROGERS, OF LOUISIANA
WAYNE M. ROSEN, OF VIRGINIA
ANDREW J. ROTH, OF VIRGINIA
ROGER M. SCHER, OF VIRGINIA
WILLIAM JOHANN AUGUST SCHMONSEES, III, OF SOUTH CAROLINA
ROBERT W. SCOTT, OF VIRGINIA
WILLIAM P. SHANLEY, OF VIRGINIA
MARTHA D. SHOGI, OF VIRGINIA
GREGORY HOWARD STANTON, OF VIRGINIA
SHERRY LYNN STEELEY, OF PENNSYLVANIA

MAYA RUSHING WALKER, OF NEW HAMPSHIRE
STEVEN CRAIG WALKER, OF HAWAII
JOSEPH M. WEISBERG, OF THE DISTRICT OF COLUMBIA
JAMES D. WHEELER, OF MARYLAND
BETH MARIE WILSON, OF VIRGINIA
JAMES A. WOLFE, II, OF CALIFORNIA
CHARLES D. ZAPINSKI, OF THE DISTRICT OF COLUMBIA

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

RAYMOND A. BONESKI, OF FLORIDA
MARCO S. DI CAPUA, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ALLEN L. KEISWETTER, OF VIRGINIA

THE FOLLOWING-NAMED PERSON OF THE DEPARTMENT OF STATE, PREVIOUSLY APPOINTED AS FOREIGN SERVICE OFFICER OF CLASS FOUR, A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA NOVEMBER 21, 1991, NOW TO BE EFFECTIVE SEPTEMBER 8, 1989:

JOHN ALAN CONNERLEY, OF CALIFORNIA

THE FOLLOWING-NAMED PERSON OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, A CONSULAR OFFICER, AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE OCTOBER 1, 1981:

VICTOR J. BONILLA-NEWMAN, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOHN M. O'KEEFE, OF MARYLAND

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

### *To be general*

LT. GEN. ROBERT L. RUTHERFORD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

### *To be lieutenant general*

MAJ. GEN. JAY W. KELLEY, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

### *To be major general*

BRIG. GEN. TANDY K. BOZEMAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. STEPHEN P. CORTRIGHT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. DENNIS B. HAGUE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. E. GORDON STUMP, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

### *To be brigadier general*

COL. CHARLES L. BLOUNT [redacted], AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEWART R. BYRNE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HARRIS R. HENDERSON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN S. HOFFMAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD E. JOY, JR. [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD H. MORGAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HARRY E. OWEN, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DANIEL H. PEMBERTON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. KENNETH M. TAYLOR, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

GARY D. ANDERSON, [redacted]
PHILIP G. ARNOLD, [redacted]
REGINALD H. BAKER, [redacted]
DAN O. BAUSCH, [redacted]
WILLIAM S. BAYLES, III, [redacted]
ERIC A. BENNETT, [redacted]
MARK W. BIRCHER, [redacted]
ELIZABETH S. BLEE, [redacted]
MICHAEL R. BLEHM, [redacted]
BARRY L. BOULTON, [redacted]
LAURENCE D. BRADLEY, [redacted]
JEFFERY L. BRONAUGH, [redacted]
TERRENCE D. BROWN, [redacted]
GARNETT P. BROY, [redacted]
FREDERICK E. CALE, [redacted]
SUSAN M. CANSDELLE, [redacted]
THOMAS A. CASTRIOTA, [redacted]
TIMOTHY J. CHRISTENSON, [redacted]
DONALD COBB, [redacted]
SEAN T. CONNOLLY, [redacted]
THOMAS M. COOK, [redacted]
STEVEN C. COREY, [redacted]
MICHAEL A. CROWELL, [redacted]
SUSAN K. CUNNINGHAM, [redacted]
TERRY O. DAVISON, [redacted]
RICHARD A. DECHAINEAU, [redacted]
BRUCE D. DEVERS, [redacted]
JOSEPH E. DEYOUNG, JR., [redacted]
LUIS A. DIAZ, [redacted]
DANIEL W. DONAHUE, [redacted]
KEVIN W. DONAHUE, [redacted]
RUSSELL D. DOUDT, [redacted]
DAVID G. DRIEGERT, [redacted]
GEORGE W. DUNBAR, [redacted]
CHARLES J. DYER, JR., [redacted]
JAMES L. EDWARDS, JR., [redacted]
RANDY L. EDWARDS, [redacted]
RALPH H. EMERSON, III, [redacted]
CHRISTOPHE A. ERDOS, [redacted]
SUSAN M. EXNER, [redacted]
CARL R. FAUSER, [redacted]
WENDY R. FONTELA, [redacted]
JON L. GANT, [redacted]
DONALD R. GIBBS, [redacted]
ROBERT L. GOODWIN, [redacted]
BRUCE R. GRATHWOHL, [redacted]
CHARLES R. GROSS, [redacted]
WILLIAM F. HANNAN, JR., [redacted]
JOSEPH A. HANSEN, [redacted]
JAMES E. HEDGES, [redacted]
WILLIAM H. HEWETT, [redacted]
MICHAEL R. HILL, [redacted]
CONRAD C. HILSDORF, [redacted]
MICHAEL J. HOBBS, [redacted]
ROBERT J. HOLT, [redacted]
JOHN A. HUTCHISON, [redacted]
EDWARD J. HUZYAK, JR., [redacted]
PAUL D. ICE, [redacted]
BARBARA F. JOHNSON, [redacted]
JAMEEL F. JOSEPH, [redacted]
DAVID J. KAESSNER, [redacted]
JOHN J. KANE, [redacted]
DAVID T. KELLEY, [redacted]
DAVID D. KENDRICK, [redacted]
KENNETH M. KOBELL, [redacted]
MARK T. KOTNOUR, [redacted]
MARK W. KRAMER, [redacted]
RICHARD J. KUBIAK, [redacted]
PAUL A. LADY, [redacted]
BENJAMIN M. LAFOLLETTE, [redacted]
TIMOTHY G. LAJEUNESSE, [redacted]
STEPHEN J. LAVINIO, [redacted]
PAUL C. LEUNG, [redacted]
LARRY L. LIGGITT, [redacted]
JOSEPH C. LONG, [redacted]
WILLIAM W. LONG, [redacted]
MICHAEL T. LOVEJOY, [redacted]
DAVID W. MAFFETT, [redacted]
CURTIS W. MARSH, [redacted]
ALFRED R. MARSHALL, JR., [redacted]
MICHAEL J. MASSOTH, [redacted]
SUSIE K. MCCALLA, [redacted]
MICHAEL P. MCCLOSKEY, [redacted]
WILLIAM E. MCDANIEL, [redacted]
PATRICK W. MCDONOUGH, [redacted]
DAVID H. MCELREATH, [redacted]
MOSE A. MCWHORTER, [redacted]
JAMES A. MEARS, [redacted]
CAROL F. MEDEIROS, [redacted]
THOMAS A. MILLER, [redacted]
THOMAS J. MILLER, [redacted]
RAPHAEL A. MIRABAL, [redacted]
CHARLES R. MIZE, JR., [redacted]
CAMILO A. MONSANTO, [redacted]
JACQUES J. MOORE, JR., [redacted]
LLOYD W. MOSS, [redacted]
DONALD E. NELSON, [redacted]
JOSEPH E. NILAN, [redacted]
GERALD D. NIX, [redacted]
JOSEPH C. NOONE, [redacted]
MENELAOS P. PALLES, [redacted]
WILLIAM C. PALMER, [redacted]
RODNEY P. PANTER, [redacted]
EUGENE G. PAYNE, JR., [redacted]
DAVID L. PETERSON, [redacted]
DANTE L. PETRIZZO, [redacted]
HAYDEN R. PHILLIPS, JR., [redacted]
JOSEPH A. RAUSA, [redacted]
STEPHEN A. REYNOLDS, [redacted]
JEFFREY A. ROBERTSON, [redacted]
GLENN C. ROUNDY, [redacted]
EDWARD P. RUSSELL, JR., [redacted]
EUGENE R. RYBAK, [redacted]
JOHN W. SAPUTO, [redacted]
NANCY J. SCHENK, [redacted]
WILLIAM P. SCHMEL, [redacted]
JOSEPH A. SCOTTO, [redacted]
KARIM SHIHATA, [redacted]
AUSTIN K. SMITH, [redacted]
ERIC H. SMITH, [redacted]
JEFFREY N. STICKEL, [redacted]
TERRY C. THOMASON, [redacted]
WILLIAM F. TODD, [redacted]
ROBERT P. TROY, JR., [redacted]
RUSSELL B. TURPIN, [redacted]
LEONARD C. UITENHAM, [redacted]
CRAIG R. WALLWORK, [redacted]
RICHARD T. WATKINS, [redacted]
RONALD J. WATTERS, [redacted]
JOHN A. WEIL, [redacted]
DANIEL M. WELCH, [redacted]
MICHAEL W. WHITTED, [redacted]
JAMES L. WILLIAMS, [redacted]
DONALD K. WILLINGHAM, [redacted]
JAMES J. WITKOWSKI, [redacted]
RONALD P. WODTKE, [redacted]
JOHN M. ZAJAC, [redacted]

# CONFIRMATIONS

Executive nominations confirmed by the Senate September 23, 1992:

## THE JUDICIARY

NATHANIEL M. GORTON, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

JOHN PHIL GILBERT, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS.

# WITHDRAWAL

Executive message transmitted by the President to the Senate on September 23, 1992, withdrawing from further Senate consideration the following nomination:

## U.S. AIR FORCE

THE NOMINATION OF THE OFFICER NAMED HEREIN FOR APPOINTMENT IN THE U.S. AIR FORCE IN THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 629(A), THAT WAS SENT TO THE SENATE ON APRIL 18, 1991:

### *To be major general*

BRIG. GEN. JAMES E. MCCARTHY, U.S. AIR FORCE, [redacted]

# HOUSE OF REPRESENTATIVES—*Wednesday, September 23, 1992*

The House met at 10 a.m.

The Reverend William M. Naughton, Resurrection Church, Randolph, NJ, offered the following prayer:

God, our Creator, a handful of courageous men and women, in a moment of danger, pledged their lives, fortunes, and honor to proclaim a nation whose citizens' rights were based not upon the nod of king or ruler, but upon creation at Your hands.

Grant to our administration a ministry of service to all, not the few; to our Congress, the upholding of public interest, not merely a welter of competing private claims; to our judiciary, a wisdom in interpreting law grounded in principle, not expediency.

Pour Your spirit out upon our people so that they may become active in the affairs of government, that they may not confuse dissent for disloyalty, that they may use their mighty power for the healing of differences among nations, with justice and mercy and love. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. SCHEUER] please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHEUER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## CHAPLAIN CAPT. WILLIAM M. NAUGHTON

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, today's opening prayer was offered by Chaplain Capt. William M. Naughton of Resurrection Parish in Randolph, NJ.

I am proud to welcome Father Naughton, my good friend of more than 20 years, as the guest chaplain in the House today.

Father Naughton has served in northern New Jersey since he was ordained to the priesthood in 1972. He has been associate pastor, parish administrator, and copastor at St. Brendan Parish in Clifton. He is presently pastor at Resurrection Parish in Randolph, NJ.

Father Naughton obtained a bachelor's degree in philosophy from St. Joseph Seminary and University, a master of divinity from St. Mary Seminary, a certificate in pastoral studies from Blanton-Peale Graduate Institute, and a master of sacred theology and doctor of ministry from New York Theological Seminary.

He has done pastoral counseling at the New York City prison at Riker's Island, served at the Summer City Program at the Holy Name Center for Homeless Men in New York, and at the Viva House-Soup Kitchen in Baltimore.

Father Naughton is currently a member of the Congressional Academy Review Board.

He has also had a distinguished affiliation with the armed services. He has been a member of the Air Force Reserves since 1985. He has been a captain since 1988 and is Catholic Reserve chaplain at McGuire Air Force Base in New Jersey.

He graduated from Air Force Chaplain School, is the editor of the Reserve Chaplains' Newsletter, and is enrolled in Squadron Officer's School. He received the Air Force Commendation Medal for his work in the Desert Storm crisis.

Father Naughton has a long and distinguished record of service to the people of northern New Jersey. I can attest from personal experience and knowledge that Father Naughton has a strong interest in helping people. He is to be commended for his work, and I am proud to present Father William Naughton to the Members of this House.

## THE ENGINE THAT DRIVES OUR ECONOMY

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, small business is America's biggest industry.

Small business is the engine that drives our economy. It will create most of the new jobs and provide many of the new technologies and products into the next century.

Like an engine, small business runs most effectively when it runs cleanly.

Small business runs cleanly if it is not clogged up with ruinous regulations, high taxes, and frivolous lawsuits.

President George Bush, with his new initiative, encouraging entrepreneurial capitalism, will unclog the small business engine. This strategy will lower taxes, cut regulations, and reform our legal system to discourage litigation.

Bill Clinton, on the other hand, will impose new mandates that will make things even worse. He will impose tax hikes. He will promote more Government mandates. And he will encourage more useless litigation.

In this race to win the Presidency, the American people must decide which candidate will best take care of the engine that drives our economy.

When it comes to small business, George Bush takes the checkered flag, hands down.

## PRESIDENTIAL VETO OF FAMILY LEAVE BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I deeply regret the mean-spirited action of President Bush yesterday in vetoing the family leave provision. What makes us, the United States of America, less compassionate to family needs, less sensitive, less caring than every other developed country in the world?

There is not a one that does not have a family leave policy. West Germany and Japan have 3 months paid family leave for compassionate reasons of infants or a child or a parent who needs care. A major percentage of our Fortune 500 companies have an established family leave policy: American Express, up to 12 months of unpaid leave; Eastman Kodak, up to 17 weeks; Johnson & Johnson, up to 26 weeks. This is the norm in America now.

It is Congress' obligation, with the President, to establish basic moralities and basic ethical systems in our national life. We have eliminated child labor as a statement of how we feel about child labor. We have eliminated obnoxious and punitive wages and hours.

Why can we not permit people to go home and care for a loved one, as every other civilized country in the world does?

This is a terrible reflection on President Bush's personal family values.

### REPEAL OF THE LUXURY TAX

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, after nearly 2 years of debating and stalling, Congress is poised to repeal the luxury tax. This action will finally bring to an end 2 years of devastating stagnation in the industries of aircraft, boats, automobiles, jewelry and furs, which has caused thousands of layoffs.

Although this tax is about to become only a bad memory, it leaves behind some valuable lessons for this tax and spend Congress.

The economy is not strengthened through new taxes—it is weakened.

The deficit is not reduced through new taxes—it increases.

And finally, when Congress tries to tax the rich, the burden ultimately falls on the shoulders of the workers of America.

It is time for Congress to admit this mistake and finish repealing the luxury tax.

### WHITE HOUSE IGNORES REAL FAMILY NEEDS AND VALUES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday the President vetoed the family medical leave bill. He stated it would be an undue burden on business.

The facts of our experience in Oregon with family medical leave contradict the President's election year rhetoric.

I quote from Karl Frederick, lobbyist for the Associated Oregon Industries, an organization of large employers in Oregon.

> I haven't heard any cries of outrage that this is repressive.

This is in regard to legislation passed in 1987 and implemented in Oregon for family medical leave.

In fact, he said:

> They fought tooth and nail against it, but since its passage, I haven't had any response of an unfavorable nature, other than grumbling that this is another mandate.

Well, that is what we are hearing from the White House, grumbling about mandates while real family needs and values go unmet in this country.

I urge my colleagues, it is time to put real family values in the President's empty rhetoric, time to vote for real American family values. Vote to override the President's cynical election year veto.

### JUST SAY "NO" TO METRIC SIGNS

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am today introducing a bill to prevent the Federal Highway Administration from requiring highway signs to be in metric measurements.

The Department of Transportation is proceeding with regulations to mandate metric highway signs although there is a dispute over congressional intent with respect to such signs. There is no dispute over one thing—the American people do not want metric highway signs and they sure do not want to pay for them.

My State of Alabama projects that new signs that would be required by the Federal Highway Administration would cost almost $3 million. That is not the major expense, though. The cost of changing design standards, computer programs, and related items is expected to be much higher.

At a time when we refer without blinking to a $400 billion budget deficit, this may not sound like much. But to a poor State with urgent highway improvement needs, it is staggering. More importantly, it is ridiculous. My constituents view this as another outrageous act out of Washington, and they are right. The people do not want this, we cannot afford it, and it will not improve our international competitiveness.

I am hopeful that the Department of Transportation will drop any plans for a metric highway system. If not, I am fully prepared to pursue my bill vigorously in the 103d Congress.

□ 1010

### A MIDNIGHT VETO OF FAMILY VALUES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, late last night very quietly, without fanfare, after all the television lights had been turned off and all the news deadlines had passed, in order not to call attention to it, the President cast his 32d veto. He vetoed the family and medical leave bill.

So much, Mr. Speaker, for family values, so much for all the high-flown and emotional discussion which emerged from Houston last month about family values. It is business as usual. The President has again accepted very bad advice and acted on that advice. So much for family values.

I was very proud to vote to pass the Family and Medical Leave Act. I will be just as proud to cast my vote to override the President's veto if that question reaches this House.

Mr. Speaker, we all know that the workplace has changed. We have more working mothers, more working families. We have more need to give opportunity to these families to take care of their children or or loved ones who are ill without sacrificing their jobs.

Real family values of America, Mr. Speaker, would be served by passing this bill. I hope very much that we can pass it over the President's veto.

### THE REPORT CARD FOR CONGRESS SHOWS AN F

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, every day the Democrats parade to this well and criticize President Bush for his lack of a domestic agenda. Well, the American people know cheap partisan rhetoric when they hear it. It is time to look at the facts: 230 days ago, President Bush proposed comprehensive health care reform, and Congress has done nothing; 523 days ago, President Bush proposed the America 2000 education reform plan, and Congress has done nothing; 552 days ago, President Bush proposed a national energy strategy, and Congress has done nothing; 551 days ago, President Bush proposed a comprehensive crime bill which is supported by the Nation's attorneys general and district attorneys, and Congress has done nothing; 1,330 days ago, President Bush proposed enterprise zones to create jobs in our depressed urban and rural areas, and Congress has done nothing; and 229 days ago, President Bush proposed far-reaching reforms of our civil justice system, and Congress has done nothing.

How do the Democrats explain their inaction on these domestic priorities? They may talk a good game, but the American people are not fooled. The record of this Democrat Congress, or lack of it, speaks for itself.

Mr. Speaker, as a teacher by profession, it is time to hand out the report card. This Congress deserves an F.

### NO MORE LIPSERVICE FOR AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, President Bush asked America to read his lips, no new taxes. His lips then said, "I will say anything to get elected." His lips then continued on the virtues of family values, and all Americans believe in family values. But then the President went on to veto the family and medical leave bill, unemployment compensation, middle income tax cuts, and minimum wage increases.

Then the President's lips said: "30 million new jobs." Then Americans started losing more jobs, we sent most of them to China and to Mexico, and then business started to leave the country in droves.

I do not think America wants any more lipservice. It is either 4 more years or 4 more months. America, it is time to use the stroke of the pen and not your lips.

## THE FEDERAL GOVERNMENT CREATES MORE PROBLEMS THAN SOLUTIONS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, it is sad but true, too often today our Federal Government is part or all of the problem rather than part of the solution. Many times it does more harm than good.

A perfect example of this is contained in legislation before us today. The Water Resources Development Act has $140 million to undo a project the Federal Government spent many millions on between 1961 and 1971. In the 1960's the Army Corps of Engineers changed the path of the Kissimmee River in Florida from an oxbow shape to a straight path river. This was done for flood control purposes.

Now they tell us the straightening of the river has endangered wildlife, such as the coot, the blue-winged teal, and the ring-necked duck. Thus, to protect wildlife, we are told we must change the river back to its original oxbow shape at a total estimated cost of $426 million, even though experts say the shape of the river has nothing to do with loss of wildlife, but rather, a change in migratory habits.

What a boondoggle. The real endangered species today is the American taxpayer. We are placing in jeopardy the jobs, the livelihoods and well-being of every citizen, young and old, by continuing to recklessly spend money which helps no one but the bureaucrats who work for this out-of-control Federal Government.

## AMERICA NEEDS LEGISLATION, NOT MORE VETOES

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, President Bush during this campaign has repeatedly complained about gridlock and pointed to Congress. Of course there is gridlock, but the President is the driver of the automobile that is stuck in traffic.

With his veto last night of the medical leave bill, we know he has vetoed now 32 bills we have passed in Congress. That is the cause of gridlock. A case in point is the unfortunate veto of the campaign finance reform bill last May. That bill set spending limits on House campaigns, it limited PAC contributions, it closed soft money loopholes; it was a very good bill. It advanced the cause of campaign finance reform. The President vetoed it.

Now the President is talking about vetoing the cable bill. There is substantial and broad support all across the country for the cable bill. It passed both Houses by two-thirds. It needs to become law.

One reason people are so disillusioned with Government is that they feel their voices are not heard in the din caused by all of the special interest groups in Washington. If the President vetoes the cable bill, it will be a perfect example of that. The cable television laws need to be amended. We need the President to sign that legislation.

Mr. Speaker, I have supported campaign finance reform, the family and medical leave bill, unemployment benefits, cancer research, and a whole range of things the President has vetoed. Mr. Speaker, the vetoes are the problem. Let us remind the country that the gridlock of which the President complains is coming from his end of Pennsylvania Avenue.

## THE FIRST-TIME HOME BUYER TAX CREDIT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, time and again in Ways and Means Committee hearings, we have been told that the best way to stimulate the economy is with a targeted, focused economic plan which will generate jobs and create positive economic opportunities. That is why, last November, I introduced the first-time home buyer tax credit, which was hailed as a way to create a huge ripple effect throughout the economy.

Most agreed that this proposal would create the splash our economy needs to get back on its feet. Unfortunately, the home buyer tax credit—supported by Members from both sides of the aisle and the Bush administration—was stalled and killed in committee—never having its day on the House floor.

Today I suggest that we find a way to agree to the Senate provision for a $2,500 credit—and get this economy moving. Many young people have little opportunity to achieve the same standard of living that they had growing up. A tax benefit aimed directly at first-time home buyers can help remove some of the barriers these young people face.

Experience proves that a home buyers tax credit would spur economic growth immediately and lead this Nation into a lasting recovery. I urge my colleagues to find a way to support the Senate provision and include this measure in our plans before the end of the year.

## VETOES OF BIPARTISAN LEGISLATION CREATE MORE GRIDLOCK

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, there has been a lot of talk about political gridlock in Washington this year and who is responsible. The President, of course, would have us believe that the Democrats in Congress are responsible for the gridlock, but today we hear that President Bush is planning to veto the cable legislation.

Let me remind my colleagues that more than two-thirds of the Members of this body voted for that legislation, and yesterday 74 Members of the other body voted for the cable bill. This is bipartisan legislation supported by a majority of Members on both sides of the political aisle in both bodies.

□ 1020

If President Bush vetoes the cable bill he will make it abundantly clear to the people of this country who is responsible for the political gridlock. And in addition to that, he will be saying no to legislation that will save consumers in America millions of dollars. He will also be saying no to legislation that will improve programming for rural communities all across America.

Mr. President, you can put an end to the political gridlock and save the consumers of this country millions of dollars by saying "yes" to this cable bill. I urge you to sign it, Mr. President.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would like to remind Members that they should direct their remarks to the Chair.

## CONGRESS AND ADMINISTRATION HAVE 2 WEEKS TO DEAL WITH VIOLENCE AGAINST WOMEN

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, recently, the FBI issued a report stating that 106,590 American women were raped last year. That's one rape victim every 5 minutes.

The tragic story of the 14-year-old girl from Watertown, a town of 2,200 in my congressional district, allegedly sexually assaulted by a fellow teen who also shot and killed her friend, shows it can and does happen everywhere.

As the overall crime rate rises, women are being victimized by violent crime in disproportionately increasing numbers. In the past decade, the incidence of rape has increased more than four times faster than the overall crime rate, according to the FBI. During the same time, domestic violence was the single largest cause of injury to women in our country.

While this is shocking in itself, it is equally disturbing that Congress and the Justice Department have been slow to take action and fully appreciate the extent of violence against women. With 1 month left before the 102d Congress adjourns, it is imperative for Congress and the President to take off their partisan hats and work together to pass meaningful legislation that addresses this problem.

Recently, the National Victim Center and other victims' rights groups were instrumental in gaining sufficient congressional support to pass the Campus Sexual Assault Victims Bill of Rights Act I authored last year.

When I first introduced this bill, few in Congress were aware of the widespread epidemic of campus rape, and some even refused to believe it existed. But after our efforts to expose and address this problem, the bill gained strong bipartisan support and passed both Houses of Congress. The bill was amended into the Higher Education Reauthorization Act, which President Bush signed on July 23.

Although passage of the campus sexual assault victims bill represents a major step forward in dealing with violence against women, we now face the same obstacles in addressing this crisis throughout the country.

To those of us who have been working on the issue, the FBI's statistics come as no surprise.

After all, rape is the Nation's most underreported crime, as victims are too frequently reluctant to come forward with their cases to the criminal justice system.

Ironically, the same Justice Department officials who released the startling rape statistics oppose the other major piece of legislation before Congress dealing with this problem—the Violence Against Women Act.

This important legislation, which will be marked up today, provides assistance for victims of violence against women, as well as resources for prevention and public education, rape crisis centers and battered women's shelters. The Violence Against Women Act authorizes $25 million for grants to States for victims' programs, law enforcement, prosecutors, and the courts.

Because so few legal protections exist for battered women in most States, this legislation would require each State to enforce protective orders issued by another State.

When spouse abusers cross State lines in violation of such orders or continue their abuse, the bill imposes a minimum prison term of 5 years, and up to 20 years depending on the extent of injuries to the victim.

In addition, the bill provides new penalties for sex crimes, extends the rape shield law protection for victims' identities and makes public transit and public parks safer.

The most controversial provision of the bill would create a civil rights remedy for victims of gender-based sex crimes. This remedy is especially important because it provides women with the same protections that now cover other victims of hate or bias crimes.

Many years ago, Federal law recognized that hate assaults of certain minorities violate their right to be free and equal. We should guarantee the same protection for victims of sexual assault who are attacked only because they are women.

The Violence Against Women Act is a bold, far-reaching bill. Given the recent startling and tragic findings, Congress and the administration can no longer ignore the fact that violence against women has reached epidemic proportions. Nor can they continue to ignore its devastating effects on women's lives and their civil rights.

This much-needed legislation attacks this problem in a comprehensive way. Congress should pass it without further delay. The women of America deserve nothing less.

## OPPOSITION TO THE ANTITRUST REFORM ACT

(Mr. STALLINGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STALLINGS. Mr. Speaker, I rise in opposition to H.R. 5096, the Antitrust Reform Act. This legislation would have an adverse impact by denying jobs to the American economy at a time of dire need, and would be especially damaging to rural America.

A recent study, "The Economic Impact of Bell Operating Company Participation in the Information Services Industry," concludes that more than 156,000 jobs would be created throughout the economy in U.S. West's 14 States by 2001—if it is allowed to remain in the information services market. Nationwide, RBOC participation in the information services industry would add 1.46 million jobs to the economy by 2001. H.R. 5096 would stifle this growth in jobs.

The restrictive nature of H.R. 5096 assures that the telecommunications infrastructure of smalltown America will stagnate. The businesses that bring the information age to big city America have little intention of investing in small towns. For our communities to survive and thrive, we need a local telephone industry with the freedom and incentives to add to the investment they have historically made in rural America.

## VETO OF THE FAMILY AND MEDICAL LEAVE BILL

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today to talk about the veto of the family and medical leave bill last night. But I am spurred on by our colleague from California to talk about Bill Clinton for the first part of my minute instead.

When Bill Clinton is the President of the United States, we will have in the White House one of the greatest Presidents of this century, a person of great intellect, of great knowledge, a person with a prepared mind, a plan of action, and a person who will give confidence to the American people. We would have a President who would sign the family and medical leave, who would have true family values and support them legislatively.

Last night in the dark of night, President Bush vetoed family values. He hosed them right down.

I do not think this veto can take the light of day. When President Bush ran for office he said he did not think a woman should have to give up her job if she had a baby.

The President's veto, therefore, is disappointing, not unexpected, but hope did spring eternal that perhaps he would see the light.

I guess it all comes down to the fact that in order to have Mr. Bush's family values you have to have Mr. Bush's family money.

## DEBATING THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. KOLBE. Mr. Speaker, last week President Bush transmitted the draft of the North American Free-Trade Agreement to the Congress for its consideration. This step marks an important milestone in the process of forging closer economic ties between the three countries of North America.

Although a vote to implement the agreement will not happen until the 103d Congress convenes next year, it is appropriate that this issue be debated, discussed and argued now. Now, during a Presidential and congressional election, is the time for the American people to decide their economic future.

Some in this body, some in the leadership of the Democrat Party, have said the agreement should be rejected. They argue that America should not seek to expand our exports, should not create jobs at home by producing goods to sell overseas, should not offer more choices and lower prices for consumers at home.

I disagree, and during the remaining days of this session, I hope this debate will be joined. Nothing could be more important to the future of this country.

## WITH FRIENDS LIKE THAT

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it is fascinating as we look at this campaign develop. Our friend, Governor Clinton, has claimed to be a friend of small business, and there is one natural question which comes to mind for all of us. With friends like that, who needs enemies?

Mr. Clinton has advocated a $150 billion tax, most of which will fall on the backs of small business men and women. With friends like that, who needs enemies?

Mr. Clinton has also advocated a health care plan that will lead to a 7-percent payroll tax to finance a Government-run health care program, most of which will fall on the backs of small business men and women. With friends like that, who needs enemies?

Mr. Clinton wants to add another payroll tax for training. With friends like that, who needs enemies?

Mr. Clinton wants to add a tax on foreign companies operating in the United States and employing American workers. With friends like that, who needs enemies?

Mr. Speaker, I do not think America's small business men and women can afford Mr. Clinton's kind of friendship.

## CONFERENCE REPORT ON H.R. 2194, FEDERAL FACILITY COMPLIANCE ACT OF 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 576 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 576

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

□ 1030

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 576 is the rule providing for consideration of the conference report on H.R. 2194, the Federal Facility Compliance Act.

Under the rules of the House, conference reports are considered as privileged. The rule waives all points of order against the conference report and against its consideration. The rules waived include those requiring a 3-day layover of conference reports filed in the House, scope, and germaneness.

As the Committee on Rules heard in testimony, H.R. 2194 enjoys strong bipartisan support. Indeed, the House accepted the bill under suspension of the rules by a voice vote, and the Senate approved it 94 to 3. Despite the overwhelming bipartisan support for the legislation in the House and the Senate, the President, however, has not publicly announced that he has changed his intention to veto the bill.

For those reasons, the rule under consideration today would ensure that, should the President veto H.R. 2194, the Congress would have the opportunity to respond to the President's action.

H.R. 2194 ends the hypocritical double standard that exists today because of the Federal Government's practice of assessing civil penalties against private companies, municipalities, and State agencies for violations of the very same environmental laws that the Federal Government itself violates with impunity. The result is that the Federal Government is among the Nation's worst polluters. It is past time that we end this immunity to penalties under the Nation's solid waste laws.

Mr. Speaker, we would like to thank the gentleman from Ohio [Mr. ECKART], the gentleman from Washington [Mr. SWIFT], and the gentleman from Colorado [Mr. SCHAEFER] for their hard work on this important environmental legislation. Their persistence has paid off. We finally have the chance to require the Federal Government to comply with the same environmental laws and regulations it imposes on private businesses and States.

Mr. Speaker, I urge my colleagues to adopt this rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recognize that as we approach the end of this session of Congress the schedule will become rather hectic, and there is a great need to expedite the process on a number of measures. In my view though, Mr. Speaker, that expedited process is not necessary on this bill.

Instead, I am concerned that this rule represents a potential pattern of abuse that will intensify as the legislative session begins to wind down. In addition to waiving points of order against germaneness and scope violations, the rule waives the 3-day layover requirement which exists explicitly for legislation such as this.

The conference report, which contain a number of controversial provisions, was filed just yesterday evening. It is my understanding that a number of our colleagues, as well as the people at the Departments of Energy and Defense, were still trying to determine exactly how the conference report would affect their agencies.

Mr. Speaker, it is important that the Federal Government not exempt itself from environmental laws imposed on the private sector. At the same time, it is also important that the administration be given the flexibility to deal with what are clearly complex contamination problems. It is only fair that Members have sufficient opportunity to determine whether these goals are met by this legislation.

Mr. Speaker, it is my hope that this rule is not in fact an indication of the kind of rules that we in the minority can expect in the closing days of this Congress. In our haste to adjourn by this, as many have said, early Monday morning, October 5 date, it is especially necessary that Members be given adequate time to review the legislation we will be voting on.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge a no vote on this rule.

Mr. BEILENSON. Mr. Speaker, I urge my colleagues to support the rule, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SWIFT. Mr. Speaker, pursuant to House Resolution 576, I call up the conference report on the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 22, 1992, at page H 26716.)

The SPEAKER pro tempore. The gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

### GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on H.R. 2194, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the conference report to accompany H.R. 2194, the Federal Facility Compliance Act of 1992, a bill introduced by my colleagues DENNIS ECKART of Ohio and DAN SCHAEFER of Colorado.

Mr. ECKART and Mr. SCHAEFER deserve special commendation for their remarkable perseverance and patience over the past three Congresses in their efforts to bring environmental accountability Federal facilities.

Both of these gentlemen have diligently pursued enactment of this legislation in spite of numerous obstacles placed in their path, and they have consistently demonstrated their willingness to work with the administration and the Republican members of the Energy and Commerce Committee to overcome these obstacles.

As a result, what we have before us today is a conference report that represents bipartisan agreement on both sides of the Capitol. The conference report addresses all four of the major issues raised by the Departments of Energy and Defense, concerning the regulatory status of mixed waste, munitions, federally owned treatment works, and public vessels under the newly amended Solid Waste Disposal Act.

Mr. Speaker, this legislation has a long and complex history.

In 1976, Congress mandated that Federal facilities comply with our Nation's hazardous waste laws in the same manner and to the same extent as any other person, including private entities and State and local governments. Unfortunately, at the urging of the Justice Department on behalf of the Departments of Energy and Defense, over a period of time, some Federal courts indicated that the waiver of sovereign immunity in the 1976 law was not sufficiently clear.

In 1987, President Bush came to my home State of Washington and acknowledged that some of our worst environmental polluters were our Federal facilities, and promised that he would insist "that in the future Federal agencies meet or exceed our environmental standards."

One year later, in 1988, the Energy and Commerce Committee tried to carry out that objective by approving Federal facilities legislation by a vote of 27 to 15.

In 1989, during the 101st Congress, the committee again approved similar legislation by a vote of 38 to 5, and it subsequently passed the House by a vote of 380 to 39.

During this Congress, the committee passed the bill by a vote of 42 to 1, and sent it to the floor under suspension of the rules, and the House passed the bill again, this time by a voice vote.

Mr. Speaker, the main provisions of the conference report before us today are essentially identical to the previously passed House versions of the legislation. The legislation has three primary provisions—all of which are designed to remove the double standard that now applies to Federal facilities on the one hand, and to State and private facilities on the other.

First, it clarifies the sovereign immunity waiver to ensure that States have the right to enforce their hazardous waste laws and the Solid Waste Disposal Act against Federal facilities.

Second, it restores to EPA the right to use administrative orders to resolve regulatory violations at Federal facilities.

Finally, Federal agencies will have the opportunity to confer with the EPA Administrator before any administrative order becomes final.

The need for the legislation is obvious. If DOD and DOE had been complying with the law, environmental disasters like Hanford Reservation in the State of Washington might never happened. Without this bill, I am afraid they could continue to happen.

This bill has widespread support. It has been endorsed by all 50 State attorneys general, by the National Governors' Association, the National Conference of State Legislators, the League of Cities, as well as organized labor and all of the major environmental organizations.

Mr. Speaker, I am extremely pleased that the resolution of this conference, embodied in the legislation before us today, and urge its adoption by the House.

Mr. DINGELL. Mr. Speaker, Federal facilities are among this country's worst environmental offenders. Their long history of noncompliance with this country's environmental laws, particularly the hazardous waste management requirements under RCRA, has resulted in numerous lawsuits by States against the Federal Government seeking to compel compliance with the law and remediation of the severe environmental problems they have caused. This bill reaffirms Congress' original intent that Federal facilities not only must comply with all of the procedural and substantive requirements of our Federal and State hazardous waste laws, but they, like everyone else, are also subject to fines and penalties for violations of those laws. In doing so, Congress is responding to the recent Supreme Court decision in United States Department of Energy versus Ohio et al., and making the waiver of sovereign immunity as clear and unambiguous as humanly possible. It is our fervent hope that the Supreme Court will heed Justice Byron White and not resort to "ingenuity to create ambiguity" that simply does not exist in this statute.

This bill, which has been passed three times in the House in the last two Congresses, has been endorsed by every State attorney general, the National Governors' Association, the National Association of Attorneys General, the National Conference of State Legislatures, the National District Attorneys Association, the Sierra Club, the National League of Cities, the American Federation of Labor and Congress of Industrial Unions, the United Mine Workers of America, and the International Brotherhood of Teamsters to name just a few.

The conference has attempted to be responsive to the administration's concerns by addressing each of the four issues raised by the administration during consideration of this bill: The applicablity of RCRA to hazardous waste generated aboard public vessels; the definition of when military munitions become hazardous wastes; the applicabilty of the domestic sewage exemption to federally owned treatment works [FOTW]; the violations of the section 3004(j) mixed waste storage prohibition.

The conferees addressed these issues in the final bill, notwithstanding the fact that the House bill contained no provision relating to any of these four issues. Specifically, public vessels were given the relief from RCRA manifesting, storage, and inspection requirements currently enjoyed by private vessels. For munitions, EPA will issue rules defining when military munitions become hazardous waste and providing for safe transportation and storage of that wastes. Finally, with regard to mixed waste, although the bill intends to ensure greater compliance by Federal facilities with hazardous waste laws, it also recognizes DOE's claim of a current lack of mixed waste treatment capacity by providing Federal agencies relief for 3 years from punitive fines and penalities for mixed waste storage violations on section 3004(j) while they reach agreeements with affected States for addressing their mixed waste.

The issue relating to the storage prohibition of section 3004(j) for mixed wastes at commercial facilities is currently the subject of litigation in the U.S. Court of Appeals for the District of Columbia Circuit in *Edison Electric Institute et al.* v. *EPA* (No. 91–1586). Nothing in this legislation is intended to affect that pending litigation in any manner.

The solution in this bill for these issues deals with concerns raised by the administration, and also takes into account the responsibility of EPA and the States for administering the RCRA program. The bill is designed to ensure that authority to enforce Federal facilities' compliance with State or Federal hazardous waste provision accompanies the responsibility for administering those provisions. In almost every case this means the States, which is entirely consistent with the underlying intent expressed by Congress in RCRA that the States be the primary implementers of this country's hazardous waste laws.

The bill is also mindful of the plight of our small towns in trying to comply with the host of Federal environmental laws. It requires EPA to establish a small town planning program, including a small town ombudsman, to assist small communities in planning and financing environmental facilities and to introduce into EPA's regulations greater appreciation and consideration of the problems faced by small communities in complying with the panoply of environmental requirements.

In conclusion, this is a good bill. It will minimize further litigation between the States and the Federal Government and significantly improve Federal facility compliance with hazardous waste laws. It is my hope that it will also facilitate greater cooperation among all affected parties and result in strong, workable agreements. If help is needed, I stand ready to assist in bringing the parties together to initiate the necessary dialog to achieve the goals of this bill.

Today Congress will do its part and pass this bill. Now it is time for President Bush to live up to the statement he made in Seattle, WA in May 1988 prior to his election acknowledging the serious environmental compliance problems at Federal facilities:

> Unfortunately, some of the worst offenders are our own Federal facilities. As President, I will insist that in the future Federal agencies meet or exceed environmental standards. The Government should live within the laws it imposes on others.

I could not agree more, and urge him to sign this bill expeditiously.

Mr. SWIFT. Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

☐ 1040

Mr. Speaker, I rise in support of the conference report to accompany H.R. 2194, the Federal Facilities Compliance Act of 1992. After nearly 6 years and much hard work, Congress has finally reached agreement on the language of the Federal Facilities Compliance Act.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT], the gentleman from Ohio [Mr. ECKART], and the gentleman from Colorado [Mr. SCHAEFER], for their excellent work in bringing this legislation to the floor.

I believe this legislation is a significant step in restoring our Nation's environmental quality. The enforcement provisions contained in the conference report will give States and the EPA the tools they need to ensure that all branches of the Federal Government comply with the Resource Conservation and Recovery Act, or RCRA.

The guiding principle of this legislation, Mr. Speaker, is that the Federal Government should be subject to all the requirements of RCRA, and Government agencies should be treated no differently than private entities. The only exceptions to this policy should reflect situations where the regulations issued for the private sector do not take into consideration unique features of wastes produced by the Government.

Two examples of this are mixed wastes and military munitions. In both these cases, the applicable RCRA regulations were promulgated without adequately taking into consideration the unique features of the wastes.

However, outside of these limited exceptions, I believe this legislation sends an important signal that the Federal Government should be a leader in environmental compliance and environmental quality.

Mr. Speaker, we have come a very long way from the consideration of this legislation earlier in this Congress. At the committee hearings and markup, and again on the floor of the House, I pointed out that the legislation needed to be amended to take account of concerns of the Department of Energy and the Department of Defense and their unique waste situations.

In a letter dated February 21, 1992, the Secretaries of Energy and Defense and the Administrator of the Environmental Protection Agency describe their concerns with the bills passed by the House and the Senate. This letter details their views on the issues of mixed waste, munitions and ordinance handling, public vessels, federally owned wastewater treatment works, fees, employee liability, facility inspection, and the definition of person.

I note that the conference report moves a long way toward addressing these concerns. It includes a provision that allows the Department of Energy 3 years to enter into compliance agreements for the storage of radioactive mixed waste with the affected State. This provision is intended to get all affected parties to take a good look at the national problem posed by mixed hazardous and radioactive waste generated through the production of nuclear materials.

The report further provides that hazardous waste on public vessels will be considered generated only when the waste is offloaded in port or the ship is no longer in service. This provision is necessary to allow the U.S. Navy to carry out its vital national security role without unnecessary regulation. Yet, it makes clear that when wastes are transferred to port facilities, they become subject to the full force of our environmental laws.

Section 3022(a)(2) is intended to preclude the long-term waterborne storage of waste by successive transfers between public vessels. It is not intended to authorize routine inspections of public vessels under RCRA nor to authorize inspections to verify that no waste is held for greater than 90 days.

The report directs the Environmental Protection Agency to issue regulations to resolve the issue of when a military munition becomes a waste and thus subject to the jurisdiction of RCRA. The rule will also provide for the safe transportation and storage of these wastes and remove conflicts with safety concerns caused by existing RCRA transportation and storage requirements.

The intent of this provision is to avoid the patchwork of jurisdictional tests for RCRA that would likely result if this issue is resolved through piecemeal litigation. During the period prior to the promulgation of the rule, the interested parties should avoid this type of piecemeal litigation and use the rulemaking process to develop a uniform national approach for determining when a military munition becomes subject to RCRA.

The conference report also provides that federally owned treatment works be included within the domestic sewage exclusion to RCRA, so long as applicable pretreatment standards are met. This provision is necessary to avoid unnecessary dual regulation of these facilities under RCRA and the Clean Water Act. The intent of this provision is that federally owned treatment works be dealt with in the same manner as publicly owned treatment works.

Finally, I would note that this is a forward looking bill. It is not designed to impose retroactive liability. The phrase "continuing violations" as used in this legislation, refers to violations occurring after enactment. It is not intended to sanction fines or punitive penalties, or to sanction citizen suits, for violations occurring prior to enactment.

Mr. Speaker, I believe the conference report is a real improvement over the House-passed version and goes a long way toward addressing the real problems that would have been posed by applying the House version to mixed waste, Navy vessels, military munitions, and federally owned treatment works. I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank my colleagues and my chairman, the gentleman from Washington [Mr. SWIFT] for his yielding to me.

Mr. Speaker, hypocrisy suffers from many definitions. The American Heritage Dictionary defines it as "the feigning of beliefs, feelings, or virtues that one does not hold."

I define hypocrisy in a somewhat different way. I define it as the Federal Government's practice of routinely penalizing and enforcing violations of the Nation's environmental laws against private companies, small businesses, State and local governments; yet at the same time our own Federal Government, the Nation's largest polluters, will not enforce those same laws, same fines and penalties against itself.

The reality of the matter is that what we have had for too long in the enforcement of the Nation's environmental laws is an attitude that says, "Do as I say, not as I do."

And of course the EPA and the Federal Government have condoned the practice of wanton pollution of our environment by taxpayer-supported Federal facilities.

That is why almost 5 years ago in conjunction with my colleague from Colorado, Mr. SCHAEFER, I introduced legislation to end this hypocritical double standard, to say that business as usual where the Federal Government pollutes its own neighbors and causes problems in its own back yard, have to come to an end and that the same environmental requirements that the Federal Government was forcing on every other person, locality, and industrial facility in this Nation really ought to be applied to individuals within the Federal Government as well.

Mr. Speaker, this bill has enjoyed a long string of support, passing the House several times, and the Senate as well. In my view, it should not have even been necessary. But a recent Supreme Court decision affecting my State, Department of Energy versus Ohio, a decision that I believe was erroneous in its application, made it clear that the Congress indeed had to act. There are hundreds of Federal facilities around this Nation's environment and some are the worst polluters in the Nation. And, as then-Vice President George Bush said in 1988, he will insist that future Federal agencies meet or exceed environmental standards. He said, and I quote, "The Government should live within the laws it imposes upon others."

Today we take now-President Bush at his word. This bill primarily, clearly, and unambiguously waives Federal sovereign immunity for civil and administrative penalties and fines, including penalties and fines that are putative or coercive in nature.

We need to correct the recent Supreme Court decision. We need to make sure that this is effective on the date of the enactment. We, as my colleague from Pennsylvania, go so far as to ensure that the Department of Energy has a real 3-year plan and the concerns of the Pentagon are equally well addressed, as well.

□ 1050

We need to make sure that the neighbors and friends who find themselves perhaps working at, but nonetheless living near, a Federal facility know that it will be operated as safely and cleanly and in an environmentally sound way as any other facility or business in their backyard.

Mr. Speaker, this has been a long and arduous journey. I want to pay special tribute first to my colleague, the gentleman from Colorado [Mr. SCHAEFER], my Republican colleague, who through some difficult times and circumstances has been willing to express a view that at times perhaps may have been difficult for him in his caucus. He has stood strong and tall and for that the environment of Colorado will be better off and the Nation will be better served.

The gentleman from Washington [Mr. SWIFT] and the gentleman from Michigan [Mr. DINGELL] on the Democratic side, as my subcommittee and full committee chair respectively, have hung long and tough in there 4 or 5 years, and the passage of this bill is a testimony to their dedication as well.

The gentleman from Maine, the majority leader in the other body, Senator MITCHELL, as the original Senate sponsor of this bill, has made it clear that it is one of his priorities and has endured when the Senate activities made it difficult to do so.

But most importantly, Mr. Speaker, I want to thank a couple of folks who have shared this long travail with me, Dick Frandsen, Anne Forristall, Karen Cleveland of our staff, and David Eck from the staff of the gentleman from Colorado [Mr. SCHAEFER], all who labored mightily and long in the vineyards of difficult times when perhaps they wished they had either another boss or a different idea.

The reality is, though, that the staff, I am fond of saying, is the difference between a Member being good and an idea being great. You have taken a mediocre Member, given him a good idea, and with your hard work made all the difference in the world.

We will end business as usual for me personally in a few days, but for the Nation, as well as we more importantly end the practice of allowing our Government to pollute its neighbors. The passage and signing, I hope, of this bill will send a strong and clear message that the taxpayers of America deserve as much protection from their own Government as they, in fact, do when they support their own Government.

Mr. RITTER. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado [Mr. SCHAEFER], a Member who has worked long and hard on this issue and who deserves a lot of credit.

Mr. SCHAEFER. Mr. Speaker, I certainly appreciate the gentleman yielding me this time.

First of all, I certainly also want to thank the gentleman from Pennsylvania [Mr. RITTER]. He has been very supportive of this for a long, long time. We have been able to work out a number of differences in this legislation as time went on. Sometimes the House was more inclined to be a little bit more stringent than the Senate, and therefore we reached a compromise eventually over a period of time.

Mr. Speaker, I rise in support of the conference report.

The legislation before us, the conference report on H.R. 2194, hopefully marks the end of a 5-year process. It was that long ago that the gentleman from Ohio [Mr. ECKART] first introduced a bill requiring Federal facilities to comply with the Nation's environmental laws. Many pitfalls and legislative hurdles later, we stand on the verge of sending this important bill to the President.

The fact that H.R. 2194 has reached this point is, in part, a testament to the dedication and commitment of its lead sponsor. But more than that, it is evidence that a good idea whose time has come is a difficult thing to keep down. The belief that Federal facilities should be subject to the same fines and penalties as their private counterparts is such a fundamental matter of fairness that no opposing argument could stand in its way. Instead, the legislation picked up more bipartisan support, passing the committee and the House by ever-increasing margins.

At the same time, the need for the bill became all that more apparent. In the 5 years since its first introduction, a great deal has happened to change the landscape surrounding this issue. An FBI raid at the Rocky Flats plant just outside my district for serious violations of waste disposal laws occurred. The continuing refusal of the Department of Energy to enter enforceable Federal facility compliance agreements, and Supreme Court case siding with DOE that sovereign immunity was not expressly waived under RCRA. Each of these developments make what we are doing today of even greater significance.

To be honest, the conference report is something less than I had hoped for. Certain provisions of the legislation reflect a DOE-generated fear that the States will use their fine and penalty power irresponsibly. In this regard, the conference agreement is marginally weaker than the House-passed bill.

But what is still intact is the strong underlying message of H.R. 2194: That the days of double standards and no accountability for our Federal agencies are over.

From now on, should this conference report become law, DOE's promises of a change in attitude had better be accompanied by a change in behavior. Otherwise, it will quickly discover that its once toothless watchdog—the States—are not so any more.

This is how it should have been all along. In passing this legislation, I can not help but wonder how much contamination resulting from improper waste disposal could have been prevented had it been in place sooner. Unfortunately, neither this bill nor any other can erase the mistakes of the past. That is the sad reality.

Contractors should be much more sincere in then liability knowing that a proper environmental plan is in place—but passage of the conference report can make certain that those mistakes do not happen again. By setting up a procedure—and more importantly the proper incentive—for Federal Agencies to enter enforceable agreements with the States, the legislation guarantees that progress toward environmental compliance continues to be made. While it may not happen overnight, at least we are moving in the right direction.

Mr. Speaker, environmental compliance at the Nation's Federal facilities is not a partisan goal. Nor is it inconsistent with our national security interests. Rather, it is a sound priority from not only an environmental perspective, but an economic one as well.

After all, while the cost of complying with waste disposal laws may be significnt, they pale in comparison to the cost of cleanup.

In closing, I would like to thank Chairman DINGELL and SWIFT and ranking Republicans LENT and RITTER for their leadership on this important issue. But I would especially like to commend and congratulate the gentleman from Ohio [Mr. ECKART] for a job well done. It is only fitting that his career in the House, one marked by a strong commitment to the environment, ends with such a notable accomplishment.

I urge a vote in favor of the conference report.

Mr. RITTER. Mr. Speaker, I want to just again commend the gentleman from Colorado and the gentleman from Ohio for knowing how to move the process forward. I have stated that I think the compromise with the Senate gives us stronger legislation, that it is going to be more workable; we'll get more cleanup for our dollars. The gentleman from Colorado and the gentleman from Ohio are certainly not part of the gridlock used to describe this Congress. Particularly the gentleman from Ohio, over the years, has shown a unique capability to fight hard, but to make sure that the process does move when it needs to move to get legislation that works for the country. We'll miss him on the Energy and Commerce Committee and in this House.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. BILIRAKIS] who has been a strong proponent of this legislation.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in strong support of this conference report on the Federal Facility Compliance Act, and I urge its swift passage by this body.

The basic tenets of this important legislation have been well-described by my colleagues, and, therefore, I would like to focus on one specific provision regarding environmental restoration.

I was pleased to offer this provision as an amendment 2 years ago when this bill was being considered in the House. It was accepted in the House and later preserved in conference and I want to thank my fellow conferees from both bodies for so preserving it in the conference report.

Federal facilities always have been bound by environmental laws that govern the disposal of hazardous and solid waste and that allow the Government to order hazardous waste cleanup. These laws include the Resource Conservation and Recovery Act and the Superfund law.

However, these same facilities have claimed immunity from fines or court penalties levied by States and even other Federal agencies seeking to speed up cleanup efforts. Court opinions have varied on this issue, and that is why we are here today.

Today, we seek to sweep away that immunity once and for all. We—in effect—seek to grant the States broad authority to hold these facilities to account for any environmental damage that may have resulted from their operation.

Indeed, for too long some of these facilities have not followed the mandates of our environmental laws and have created hazardous waste management and cleanup problems of monumental proportions. They should be held to account.

My provision asks of these States in return only that any funds collected from fines and penalties of this nature be employed for environmental projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

In passing this legislation today, the Federal Government basically is waiving its right of sovereign immunity in this instance—we are giving the States a right they do not now have—and, in fact, have been seeking for years. As a condition of granting them this right, we are simply asking that any fines or penalties collected in the name of the environment be returned to the environment.

I believe that this provision makes the conference report an even more important step in ensuring full compliance with the environmental laws at Federal facilities than it otherwise would be—which already is considerable.

It, in effect, keeps this legislation a strong environmental restoration statement.

This clearly is an issue of environmental equity. If States receive money because a Federal facility has harmed the environment through a violation of RCRA, the money collected through fines ought to be used for environmental redress.

I do not consider it to be an action usurping States rights. The Federal Government is granting the States the right to secure Federal money through fines and penalties for environmental damages, negligence, and so forth. I believe it is more than reasonable to expect that any funds so collected be spent on their intended purpose.

The provision allows enough flexibility for the State to designate the types of environmental restoration projects on which such funds collected will be spent, but it does require that the States spend the money on the environment.

It also contains a narrowly drawn exemption for States with constitutional requirements that such funds be used in a different manner.

This exemption also extends to a limited number of States with a statute in effect on the date of enactment of the legislation before us today. The exemption merely covers a State statute that specifically dictates that funds collected through fines and penalties not be subject to earmarking.

To me, this is more than fair.

Such fines and penalties should have some link to the violations; the restitution is supposed to be a disincentive for particular behavior. This link would have been destroyed by declaring open season on the Federal Government for environmental damages and then not linking them to the funds collected.

Again, I strongly support this conference report and urge my colleagues here in the House to support it as well.

□ 1100

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I just want to thank the gentleman from Florida [Mr. BILIRAKIS]. His idea on allowing the fines and the penalties to go for environmental purposes is a great idea.

I know we had some problems with that, trying to get it all the way through, but it makes a lot of sense to me. I know it made sense to the gentleman from Ohio [Mr. ECKART] and the members of the majority, and I just want to thank the gentleman for Florida for his cooperation and his dedication in getting his amendment on this particular piece of legislation.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Colorado [Mr. SCHAEFER] for those kind words and particularly for his objectivity and openmindedness on this issue. I also thank the gentleman from Washington [Mr. SWIFT], of course, the gentleman from Pennsylvania [Mr. RITTER], and the gentleman from Ohio [Mr. ECKART] for their openmindedness and their assistance.

Mr. RITTER. Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not the last time that the gentleman from Ohio [Mr. ECKART] is going to be on the floor in this Congress, but it probably is the last time he will be here on a bill that he has introduced, that he has worked on, that he has conferenced, and is now being sent to the President and will become law.

Before it became a trend around here, Mr. Speaker, the gentleman from Ohio [Mr. ECKART] announced that he would retire at the end of this Congress. It goes without saying that he will be missed. Many of our colleagues who are leaving us will be missed. But the retirement of the gentleman from Ohio [Mr. ECKART] from Congress is a personal loss to me as a colleague.

I say to my colleagues, "He and I have been in a number of legislative foxholes together. You can't find a better ally in those situations."

But more importantly, I think, Mr. Speaker, is the loss to the institution, and, as you know, the world was spinning pretty well when most of us got here, and it is going to spin pretty well when all of us are gone, and that is true with DENNIS. But the House itself is going to be diminished by his departure. Its future is going to be just a little less bright.

I tell the gentleman that, as we wish him well in what is going to be a very exciting future for him, we will also miss the intelligence, and the energy, the principled instincts, and the fairness that he has brought to the institution. We wish him well.

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for yielding to me, and I could only duplicate what the gentleman is saying.

Mr. Speaker, I, over a period of time, have gotten to know the gentleman from Ohio [Mr. ECKART], and I would say to my colleagues, "When you look at this body, a lot of people on the outside think that everything is partisan, that everything is done either from the Democratic side or the Republican side, and it's certainly not true."

Mr. Speaker, I have had the opportunity to meet and know DENNIS' family, to be in his district, to be with him on a number of social occasions, whether it is hunting, or fishing, or whatever it is, and to work with him on a number of issues, and he has been in my district. He has stayed at my home, he has dined at my table, he knows my family, and it is one of those things that builds over a period of time in this Congress, and that goes unrecognized in the outside world.

Mr. Speaker, I would hope that the American public understands that, that we form special relationships. We work together, and, even though philosophically we may disagree on certain pieces of legislation, we certainly are allied on a lot of others, and, when it comes to personal relationships, that is another thing.

I think that is what makes this body work. I think that is what makes this Congress work and what makes our Government work.

I say to the gentleman from Ohio, "It's a great loss to the Congress, certainly to the State of Ohio, and I would hope that your replacement will be able to at least half fill your shoes when the reelection time is over."

Mr. LENT. Mr. Speaker, I first want to thank the gentleman from Washington [Mr. SWIFT] for his leadership on this issue. I also want to recognize the efforts of Mr. RITTER, the ranking Republican member on the Transportation and Hazardous Materials Subcommittee, as well as the gentleman from Ohio [Mr. ECKART] and the gentleman from Colorado [Mr. SCHAEFER] for their efforts to remedy current shortcomings in Federal facilities environmental compliance.

I believe the Federal Government has a clear obligation to comply with its own environmental laws. The historic failure to meet that obligation requires congressional action. This legislation will give to the States and the Administrator of the Environmental Protection Agency the tools needed to ensure that Federal facilities are treated on an equal basis with the private sector. That is the guiding principle of this legislation.

This legislation will allow the EPA to issue unilateral administrative orders to Federal facilities to comply with RCRA [the Resource Conservation and Recovery Act]. It will allow States to impose fines and penalties on Federal agencies that violate environmental laws, just as the case is with the private sector.

Just as this legislation grants States new rights to enforce environmental laws against Federal facilities, I believe it carries with it a corresponding duty, that State officials act responsibly in exercising those rights.

I am pleased to see that all of the problem areas I identified when the House passed its version of this legislation have been addressed in the conference report. The legislation now identifies several areas where existing environmental regulations do not seem to fit the types of facilities or wastes subject to this legislation.

In particular, the conference report addresses the areas of mixed waste and military munitions. Regulations in these areas were developed with no thought that they might someday be applied to enforcement situations made possible by this legislation. The conference report wisely provides special rules in these areas.

With respect to federally owned treatment works, the goal of the conferees is to put federally owned treatment works [FOTW] on an equal footing with publicly owned treatment works. The provision prohibiting the introduction of hazardous waste into FOTW's must be read in the context of the rest of section 3023 as amended. It should not be construed to prohibit the introduction of treated hazardous waste into the sewage treatment system at a Federal facility if done in accordance with RCRA treatment standards or Clean Water Act pretreatment standards as provided for in section 3023(a) as amended.

With respect to the provisions on military munitions, the requirement to issue regulations for determining when a munition becomes a waste and on transportation and storage of these wastes is not intended to limit in any way the ability of EPA to revise other waste management regulations already authorized by RCRA.

In revising any regulations governing military munitions, EPA must give precedence to the explosive safety rules of the Department of Defense while the munitions are still in explosive form. We cannot afford to increase the possibility of a catastrophic accident as we attempt to limit the possibility of chronic environmental degradation.

Mr. Speaker, I believe this legislation is a significant step forward in building environmental compliance at Federal facilities and urge my colleagues to support it.

Mr. MORAN. Mr. Speaker, I rise in strong support of the Federal Facilities Compliance Act. This legislation is important to our Nation because of the thousands of Federal facilities across this country that will now have to comply with basic environmental laws that apply to the private sector.

It is about time that Federal facilities must comply with the same basic environmental laws as other facilities. We all have seen the stories of communities left with toxic waste sites after bases close in their area. The Federal Government should not walk away from its responsibility to monitor these sites and ensure that basic environmental concerns are met. Much of the work done in these facilities is done for the benefit of our Nation, through defense and other programs, but we must also ensure that residents living in these areas are not left with toxic waste sites on their hands that have to be cleaned up with scarce State and local dollars.

Along with ensuring that Federal facilities meet basic environmental laws, this legislation also encourages the Federal Government to begin recycling programs and rather than forcing agencies to put money made from these recycling programs back into the general fund, it allows agencies to keep the money and expand recycling programs. Any agency that does not recycle will have its name published in the Federal Register. We know that recycling programs can work, reduce waste, and thus decrease the rubbish going to our landfills. A good example is the General Services Administration, which began a recycling program just over a year ago at 150 of its facilities. In their first year, GSA collected 15,000 tons of office paper for recycling, a savings of nearly 50,000 cubic yards of landfill space. About $1 million was generated for the Government from the sale of the paper to recycling facilities. In fact, if Federal agencies recovered all of their recycable paper, they could save 5 million cubic yards of scarce landfill space annually. Such a savings could mean a lot to residents of my district, where a landfill is located that receives most of the Federal waste products.

That is why I am particularly proud that parts of the Metropolitan Waste Management Study Act, which I introduced in the House, were included in this legislation. Provisions included in this bill ensure that the Federal Government takes responsibility for the I–95 landfill located on Federal land in Lorton, VA. This landfill has been the repository for ever-increasing amounts of solid waste from the District of Columbia where many Federal facilities are located.

This legislation ensures that when the landfill reaches capacity in 1995, it will close, unless a full environmental impact study is completed. It is particularly important to ensure that this landfill is not expanded unless an EIS is done, because much of the leachate coming from this landfill goes into Mills Branch stream, a tributary of the Chesapeake Bay. I appreciate the inclusion of the Waste Management Act in this bill and rise in strong support of this proenvironment, good government measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to address provisions in the conference report on H.R. 2194, the Federal Facility Compliance Act of 1992.

As a conferee from the House Public Works and Transportation Committee, I can say many of my colleagues have worked hard to address various concerns raised by the administration and others. Members of the conference are to be commended for their efforts. A few provisions, however, need further elaboration to clarify the conferees' intent.

Section 102 addresses Federal facility provisions in the Solid Waste Disposal Act—particularly with regard to sovereign immunity and EPA's administrative enforcement authority. In large part, we are clarifying the act in response to the recent Supreme Court decision, *U.S. Department of Energy* v. *Ohio*, (503 U.S., 118 L. Ed. 255 (1992)). Admittedly, that case involved both the Solid Waste Disposal Act and the Federal Water Pollution Control Act, the Clean Water Act. This legislation, of course, addresses authorities, responsibilities, and liabilities only with regard to the Solid Waste Disposal Act.

Nothing in section 102 address or modifies in any way the provisions and authorities in the Clean Water Act. Any reference in H.R. 2194's legislative history to the Clean Water Act or the case, *Gwaltney of Smithfield, Ltd.* v. *Chesapeake Bay Foundation, Inc.* (484 U.S. 49 (1987)), is merely for illustrative purposes and has no direct or indirect bearing on the Clean Water Act or on Congress' intent regarding Clean Water Act reauthorization in the future.

Section 104, facility environmental assessments, requires EPA to conduct a comprehensive ground water monitoring evaluation at certain facilities under certain circumstances. Such evaluations are to ensure compliance with requirements under the Solid Waste Disposal Act. Nothing in the bill requires the evaluations to address compliance with other Federal environmental laws such as the Clean Water Act, Superfund, and the Oil Pollution Act of 1990.

Section 108, federally owned treatment works, clarifies and expands the "domestic sewage exclusion" to apply to federally owned and operated facilities treating wastewater. This provision was included initially to address concerns of the administration. While not perfect, it does help to level the playing field so that federally owned treatment works and other "treatment works" regulated under the Clean Water Act are dealt with on a more equal basis. The provision leaves in tact the existing pretreatment regulatory program under the Clean Water Act.

Section 109, small town environmental planning, establishes an EPA program to help small and rural communities plan, finance, and manage environmental facilities. This is an important, though modest, effort to address the myriad of environmental requirements and fiscal challenges facing small towns.

Our Committee on Public Works and Transportation is deeply concerned about the many regulatory requirements and financial constraints imposed upon small and rural areas. Laws such as the Clean Water Act, particularly the section 404 wetlands permitting program, Superfund, and the Safe Drinking Water Act present major challenges to small towns. Perhaps section 109 will help to address the all-too-common situation of having to comply with Federal mandates without Federal dollars.

Section 109 also represents an opportunity for EPA to pursue worthwhile initiatives regarding risk-based and watershed-based approaches to environmental protection. EPA and the task force should use this section to promote improvement and regionalization of environmental treatment systems and infrastructure, multimedia permitting, effluent trading and other market incentives, and public-private partnerships. Such mechanisms can help small and rural areas comply with environmental requirements while meeting infrastructure needs.

Unfortunately, the conference agreement does not include provisions from the Senate-passed bill relating to surety bonds. Our Committee on Public Works and Transportation, with its jurisdiction over the Superfund Program, has looked at this issue closely. Response action contractors, other cleanup workers, insurers and sureties face significant liabilities when responding to hazardous waste sites. Section 109 of the Senate-passed bill could have helped remove some of the disincentives and legal impediments in order to expedite cleanups. I know our committee looks forward to addressing this issue again—either during reauthorization of Superfund or in some other context.

With that, Mr. Speaker, let me conclude and thank you for the opportunity to discuss some of the provisions in this legislation.

Mr. SLATTERY. Mr. Speaker, I would like to take this opportunity to commend the work of my colleagues on this bill. In particular, I would like to recognize the leadership and the hard work of Chairman DINGELL, Chairman SWIFT, Representatives ECKART, RITTER, and SCHAEFER and their staffs. This is a very important piece of environmental legislation and I was pleased to work with them as a conferee in resolving some very tough issues.

This bill primarily addresses the issue of immunity which Federal agencies have claimed from fines and penalties levied by the Environmental Protection Agency and States under hazardous waste laws. For decades, the Departments of Defense and Energy, DOD and DOE, have used waste disposal methods that have allowed dangerous substances to pollute the soil and ground water. It is a very sad fact that many of the Nation's most contaminated sites are located at DOD and DOE facilities.

I am pleased that the conference agreement maintains the House language providing that Federal facilities are subject to all Federal, State, interstate, and local laws and regulations governing solid and hazardous waste management—including reasonable service charges such as permit fees, and enforcement mechanisms such as fines, penalties, and administrative orders requiring corrective action. This bill expressly waives the Federal Government's right to claim sovereign immunity from such enforcement mechanisms. By removing this double standard for Federal facilities we should see a stronger environmental record demonstrated by these agencies and a safer environment for communities near these sites.

I would like to highlight one issue in particular, the issue of mixed waste management and storage at Federal facilities and the language agreed to in this report. Resolving this issue was a particularly difficult one but I believe the mixed-waste provisions in this bill ultimately achieve a reasonable compromise. I would merely like to point out that this agreement does not address the issue of commercial facilities' handling and storage of mixed wastes. It is my understanding that in circumstances where commercial facilities have no option but to store mixed wastes because of the current lack of qualified treatment or disposal capacity, such storage should not be prohibited under section 3004(j). The language in this agreement has not specifically addressed this issue because this legislation is limited solely to the application of Federal environmental laws to Federal facilities.

Overall, I believe this agreement embodies a fair, workable, and balanced approach to environmental compliance at Federal facilities. I urge my colleagues to support it and the President to sign it.

Mr. SWIFT. Mr. Speaker, I have no further requests for time.

Mr. RITTER. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHAEFER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 403, nays 3, not voting 26, as follows:

[Roll No. 409]

YEAS—403

Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron

Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
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Towns
Traficant
Traxler
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Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

### NAYS—3

Ewing
Fawell
Ray

### NOT VOTING—26

Abercrombie
Alexander
AuCoin
Barnard
Blackwell
Boxer
Clinger
Conyers
Edwards (OK)
Foglietta
Goodling
Hayes (LA)
Huckaby
Ireland
Jefferson
Jones
Kaptur
Kostmayer
McDade
Myers
Penny
Perkins
Sanders
Savage
Shuster
Stokes

□ 1132

Mr. EWING changed his vote from "yea" to "nay."

Mr. DUNCAN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret I was delayed in a conference on the Senate side and missed rollcall vote No. 409, passage of the Federal Facilities Compliance Act.

I have been a cosponsor of this legislation and had I been present, I would have voted "aye."

## APPOINTMENT OF CONFEREES ON H.R. 4250, AMTRAK CAPITAL ACQUISITION AND TECHNOLOGY DEVELOPMENT ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Washington [Mr. SWIFT] to give a brief explanation of the purpose of the unanimous-consent request.

Mr. SWIFT. Mr. Speaker, I thank the gentleman from New York for yielding to me.

Mr. Speaker, this is the Amtrak authorization bill, and the unanimous consent request is to go to conference.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

The Chair hears none and without objection, appoints the following conferees: Messrs. DINGELL, SWIFT, SLATTERY, LENT, and RITTER.

There was no objection.

## NATIONAL COMPETITIVENESS ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 563 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5231.

□ 1134

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, with Mr. LANCASTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, September 22, 1992, title III was open for amendment at any point. Thirty-three minutes remain for consideration of the bill under the 5-minute rule.

Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

### TITLE IV—MISCELLANEOUS

**SEC. 401. INTERNATIONAL STANDARDIZATION.**

(a) FINDINGS.—The Congress finds that—

(1) private sector consensus standards are essential to the timely development of competitive products;

(2) Federal Government contribution of resources, more active participation in the voluntary standards process in the United States, and assistance, where appropriate, through government to government negotiations, can increase the quality of United States standards, increase their compatibility with the standards of other countries, and ease access of United States-made products to foreign markets; and

(3) the Federal Government, working in cooperation with private sector organizations

including trade associations, engineering societies, and technical bodies, can effectively promote United States Government use of United States consensus standards and, where appropriate, the adoption and United States Government use of international standards.

(b) Standard Pilot Program.—Section 104(e) of the American Technology Preeminence Act of 1991 is amended—

(1) by inserting "(1)" before "Pursuant to the"; and

(2) by adding at the end the following new paragraph:

"(2) As necessary and appropriate, the Institute shall expand the program established under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) by extending the existing program and by entering into additional contracts with non-Federal organizations representing United States companies, as such term is defined in section 28(d)(9)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9)(B)). Such contracts shall require cost sharing between Federal and non-Federal sources for such purposes. In awarding such contracts, the Institute shall seek to promote and support the dissemination of United States technical standards to additional foreign countries, in cooperation with governmental bodies, private organizations including standards setting organizations and industry, and multinational institutions that promote economic development. The organizations receiving such contracts may establish training programs to bring to the United States foreign standards experts for the purpose of receiving in-depth training in the United States standards system.".

(c) Report on Global Standards.—The Secretary, in consultation with the Institute and the Commerce Technology Advisory Board established under section 204 of this Act, shall submit to the Congress a report describing the appropriate roles of the Department of Commerce in aid to United States companies in achieving conformity assessment and accreditation and otherwise qualifying their products in foreign markets, and in the development and promulgation of domestic and global product and quality standards, including a discussion of the extent to which each of the policy options provided in such Office of Technology Assessment report contributes to meeting the goals of—

(1) increasing the international adoption of standards beneficial to United States industries; and

(2) improving the coordination of United States representation to international standards setting bodies.

**SEC. 402. MALCOLM BALDRIGE AWARD AMENDMENTS.**

(a) Section 108(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(4) of this Act, is amended to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

(b)(1) Section 108(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) Educational institutions.".

(2)(A) Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing—

(i) criteria for qualification for a Malcolm Baldrige National Quality Award by various classes of educational institutions;

(ii) criteria for the evaluation of applications for such awards under section 108(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980; and

(iii) a plan for funding awards described in clause (i).

(B) In preparing the report required under subparagraph (A), the Secretary shall consult with the National Science Foundation and other public and private entities with appropriate expertise, and shall provide for public notice and comment.

(C) The Secretary shall not accept applications for awards described in subparagraph (A)(i) until after the report required under subparagraph (A) is submitted to the Congress.

**SEC. 403. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.**

Section 202(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), as redesignated by section 206(b)(6) of this Act, is amended by inserting "(including both real and personal property)" after "or other resources" both places it appears.

**SEC. 404. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.**

Section 102(a) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended by striking "Office of Productivity, Technology, and Innovation" and inserting in lieu thereof "Institute".

**SEC. 405. COMPETITIVENESS ASSESSMENTS AND EVALUATIONS.**

Section 101(e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended to read as follows:

"(e) Competitiveness Assessments and Evaluations.—(1) The Secretary, through the Under Secretary, shall—

"(A) provide for the conduct of research and analyses to advance knowledge of the ways in which the economic competitiveness of United States industry can be enhanced through Federal programs, including programs operated by the Department of Commerce;

"(B) as appropriate, provide for evaluations of Federal technology programs in order to judge their effectiveness and make recommendations to improve their contribution to United States competitiveness; and

"(C) prepare and submit to Congress annual reports which describe and assess the policies and programs used by governments and private industry in other major industrialized countries to develop and apply economically important critical technologies, compare these policies and programs with public and private activities in the United States, and assess the effects that these policies and programs in other countries have on the competitiveness of United States industries.

"(2) The head of each unit of the Department of Commerce other than the Technology Administration, and the head of each other Federal agency, shall furnish to the Secretary or Under Secretary, upon request from the Secretary or Under Secretary, such data, reports, and other information as is necessary for the Secretary to carry out the functions required under this section.

"(3) Nothing in this section shall authorize the release of information to, or the use of information by, the Secretary or Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

"(4) The head of any Federal agency may detail such personnel and may provide such services, with or without reimbursement, as the Secretary may request to assist in carrying out the activities required under this section.".

**SEC. 406. USE OF DOMESTIC PRODUCTS.**

(a) Prohibition Against Fraudulent Use of "Made in America" Labels.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act and the amendments made by this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) Compliance With Buy American Act.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act, and the amendments made by this Act, to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) Definitions.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

**SEC. 407. SEVERABILITY.**

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application thereof to other persons or circumstances shall not be affected thereby.

The CHAIRMAN. Are there any amendments to title IV? The Chair hears none.

The Clerk will designate title V.

The text of title V is as follows:

## TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

**SEC. 501. TECHNOLOGY ADMINISTRATION.**

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary of Commerce for Technology Policy, for fiscal year 1994—

(1) for the Office of the Under Secretary, $3,000,000;

(2) for Technology Policy, $5,000,000;

(3) for Japanese Technical Literature, $2,000,000; and

(4) for competitiveness research, data collection, and evaluation, $1,000,000.

(b) Transfers.—(1) Funds may be transferred among the line items listed in subsection (a), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection;

(B) the aggregate amount authorized under subsection (a) is not changed; and

(C) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate; and

(B) 30 days have passed following the transmission of such written explanation.

(c) NATIONAL TECHNICAL INFORMATION SERVICE FACILITIES STUDY.—As part of its modernization effort and before signing a new facility lease, the National Technical Information Service, in consultation with the General Services Administration, shall study and report to Congress on the feasibility of accomplishing all or part of its modernization by signing a long-term lease with an organization that agrees to supply a facility and supply and periodically upgrade modern equipment which permits the National Technical Information Service to receive, store, manipulate, and print electronically created documents and reports and to carry out the other functions assigned to the National Technical Information Service.

### SEC. 502. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) INTRAMURAL SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $272,500,000 for fiscal year 1994.

(2) Of the amount authorized under paragraph (1)—

(A) $1,000,000 are authorized only for the evaluation of nonenergy-related inventions;

(B) $9,000,000 are authorized only for the technical competence fund; and

(C) $5,000,000 are authorized only for the standards pilot project established under section 104(e) of the American Technology Preeminence Act of 1991.

(b) FACILITIES.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary for fiscal year 1994 $25,000,000 for the renovation and upgrading of the Institute's facilities. The Institute may enter into a contract for the design work for such purposes only if Federal Government payments under the contract are limited to amounts provided in advance in appropriations Acts.

(c) EXTRAMURAL INDUSTRIAL TECHNOLOGY SERVICES.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services activities of the Institute—

(1) for Regional Centers for the Transfer of Manufacturing Technology, $35,000,000 for fiscal year 1994;

(2) for the State Technology Extension Program, $2,500,000 for fiscal year 1994; and

(3) for the Advanced Technology Program, $1,570,000,000 for the period encompassing fiscal years 1994 through 1997, of which—

(A) $150,000,000 are authorized only for Program support of large joint ventures; and

(B) $20,000,000 are authorized only for fiscal year 1994 and 1995 Program support of the Advanced Manufacturing Program established under section 301 of the Stevenson-Wydler Technology Innovation Act of 1980.

(d) TECHNICAL AMENDMENTS.—The American Technology Preeminence Act of 1991 is amended—

(1) in section 104(b)(1)(F), by striking "$12,000,000" and inserting in lieu thereof "$12,200,000";

(2) in section 104(b)(1)(H), by striking "$6,300,000" and inserting in lieu thereof "$6,800,000";

(3) in section 104(b)(2)(B)—

(A) by inserting "and" at the end of clause (i);

(B) by striking "; and" from the end of clause (ii) and inserting in lieu thereof a period; and

(C) by striking clause (iii);

(4) in section 105(b), by adding after paragraph (3) the following:

"Of the amounts authorized under this subsection, $5,000,000 are authorized only for the Institute's management of the programs described in paragraphs (1) through (3)."; and

(5) in section 201(d), by inserting ", except in the case of the amendment made by subsection (c)(6)(A)" after "enactment of this Act".

### SEC. 503. ADDITIONAL ACTIVITIES OF THE TECHNOLOGY ADMINISTRATION.

In addition to the amounts authorized under sections 501 and 502, there are authorized to be appropriated to the Secretary—

(1) for the National Manufacturing Outreach Network, $120,000,000 for the period encompassing fiscal years 1994 and 1995;

(2) for the Technology Development Loan Program established under section 331 of this Act, $20,000,000 for fiscal year 1994; and

(3) for the Critical Technologies Development Program established under subtitle D of title III of this Act, $100,000,000 for the period encompassing fiscal years 1994 and 1995. Amounts appropriated under paragraph (2) or (3) shall remain available for expenditure through September 30, 1995. Of the amounts made available under paragraph (2) for a fiscal year, not more than $2,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses. Of the amounts made available under paragraph (3) for a fiscal year, not more than $5,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses.

### SEC. 504. NATIONAL SCIENCE FOUNDATION.

In addition to such other sums as may be authorized by other Acts to be appropriated to the Director of the National Science Foundation, there are authorized to be appropriated to that Director, to carry out the provisions of section 208 of this Act, $20,000,000 for fiscal year 1994.

### SEC. 505. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

The CHAIRMAN. Are there amendments to title V?

AMENDMENTS OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. WALKER:

Page 108, line 5, strike "$3,000,000" and insert in lieu thereof "$2,000,000".

Page 108, line 6, after "Policy" strike "$5,000,000" and insert in lieu thereof "including competitiveness research, data collection, and evaluation, $4,000,0000".

Page 108, line 8, strike "$2,000,0000" and insert in lieu thereof "$1,500,000".

Page 108, strike lines 9 and 10.

Page 110, line 7, strike "$272,500,000" and insert in lieu thereof "$230,000,0000".

Page 111, line 5, strike "$35,000,0000" and insert in lieu thereof "$25,000,0000".

Page 111, line 10, strike "$1,570,000,000" and insert in lieu thereof "$400,000,000".

Page 113, line 3, after "1995" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, line 6, after "1994" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, line 10, after "1995" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, beginning on line 21, strike all through "Foundation" on line 23, and insert in lieu thereof, "From sums otherwise authorized to be appropriated".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this amendment cuts the funding back to current levels. Let me tell the Members why I think that is important. We are talking about funding which the committee has mandated and on which the House decided yesterday to continue the mandates, so, therefore, it is funding which is going to come out of the hide of the other spending that we are doing at the Department of Commerce. That means that we are going to have a dramatic impact on other very important programs at the Department of Commerce.

What this amendment seeks to do is bring the funding for the programs enumerated in this bill back within current funding projections. What it amounts to is we cut $1.5 billion out of the bill to bring it back to current levels. This eliminates all of the new deficit spending which is in the bill. It lowers the fiscal year 1994 authorizations for the Office of the Under Secretary for Technology Policy and for the Japanese Technical Literature Program to the fiscal year 1993 levels. In other words, for 1994, it freezes those amounts of money.

The amendment also includes authorizations for the data collection activities in section 405 with the technology policy funding. This amendment lowers the 1994 authorization for NIST's intramural activities from $272.5 million to $230 million. This is still $47 million with a 26 percent increase over the current funding, and it is $28 million more than the amount appropriated by the House for fiscal year 1993 for this program in July.

In other words, for the activities at NIST, we are actually increasing the funding by a little bit, not as much as the committee wants to do, but by a 26-percent increase, which is, I think, fairly generous. It holds the authorization for the regional centers for transfer of manufacturing technology at fiscal year 1993 authorized levels. In other words, there is a freeze here on authorizations.

□ 1140

It holds the 5-year authorization for the advanced technology program grants, freezing them at 1993 levels. This saves over $1 billion in that portion alone.

The first of the three amendments that are included in this en bloc package simply makes the funding for the new programs in the bill, those being the National Manufacturing Outreach, the Technology Development Loan Program, and the Critical Technology Development Program which come from existing spending. That is what we are doing, because the committee has designated no place for this money to come from. The committee has said in earlier versions of this bill that they were going to pay for the money out of the defense spending cuts. That has been taken out of this bill. So this requires that lower priority programs have the resources allocated to these programs so that we do not increase the deficit.

The final limitation amendment says that the funds authorized for the new science foundation centers should come from existing resources.

Let me tell Members why this amendment is important. If we have some belief that as we create new programs we should do so in a fiscally responsible way, this is an amendment Members have to support. A vote against this amendment is a vote for more deficit spending. A vote against this amendment means that you support the creation of new Government programs and the expansion of existing ones without regard to how they are going to be paid for. A vote for this amendment means that no matter how you feel about the programs in the bill, whether you like them or whether you do not like them, you recognize that the Federal Government has limited resources, and that Congress cannot continue to authorize new spending with no regard for the consequences.

In all honesty, I am a little tired of hearing my committee come to the floor suggesting all kinds of wild new spending and then laying it off on the appropriators to do the responsible thing. The responsible thing ought to be done in both places. It ought to be done in the authorization bills; it ought to be done in the appropriation bills. We ought to be saying in authorization bills these are the limits in which the appropriators will act, and then we ought to expect the appropriators to do the right thing in terms of being within the budget.

But this idea that consistently we can come to the floor suggesting that no matter how much we authorize it does not make any difference, because later on the appropriations process will take care of the problem is absurd, and is one of the reasons why we have the deficits that we do today. Here is your chance on this program to say that the authorization levels ought to be at somewhere around a freeze level. Let us freeze in place the spending and then decide how to apportion the money.

A vote for this amendment says that you are looking out for the interests of the American taxpayer, that our problem with debt and deficit is something we want to address. The American people are overwhelmingly saying that debt and deficit are driving this Nation into a situation of national bankruptcy.

If you vote for this amendment we will say in this bill we are going to at least acknowledge that this is a problem and try to deal with it. If you vote against this amendment, you are going to be saying, "Katie bar the door," no spending is too much. Let us just spend the money and forget about debt and deficit worries.

Mr. VALENTINE. Mr. Chairman, I move to strike the last word.

Before the last words uttered by the gentleman from Pennsylvania have echoed from the Hall and have been forgotten, I want to say to him and to my colleagues, and I want to say to those people in the United States who might be watching this program on C-SPAN that the gentleman, according to my information, who stands here in an effort to reduce the appropriation level in this bill to where the legislation would be meaningless, when the House came to consider H.R. 4547 which gave $2.2 billion in direct aid to the former Soviet Union, he was here to cast his vote on it. So the gentleman who comes in here and says that we should not do this little bit for American industry has voted and supported legislation to send $2.2 billion to Russia at a time when he would come in here and shed all of these crocodile tears, Mr. Chairman, about our effort to authorize this little bit of money for American industry.

The gentleman from Pennsylvania, through this amendment, is asking us to reverse all of the decisions which the body authorized, which the body voted for and supported yesterday.

Let me say here parenthetically that when the gentleman from Pennsylvania attacked his own party member, the gentleman from Michigan [Mr. HENRY] with such vehemence about the effort to change the name of the Department of Commerce to Manufacturing and Commerce, we will agree for the report language to show that that change may be implemented maybe in the next administration, when all of the names on the Cabinet officers will be changed perhaps, and that we will agree that it will be implemented only when there is need to buy additional stationery, and only when the paint on the door begins to chip and they write the new name there.

He came in and talked about the millions of dollars that it would cost to do that. What a shame. What a shame. The total amount authorized in this bill is $2.2 billion for fiscal year 1994 to 1997, which is modest when compared to what this body has done for people overseas, with the gentleman's assistance.

These funds would go directly into the economy to create new jobs, Mr. Chairman. The sponsors of this amendment say that the bill adds to the deficit. That is not true, and they know it. We are talking here about an authorization bill. We are saying simply to the appropriators this is what we, the Science Committee, based on evidence produced at these number of hearings, this is what we think we should do for the good of the country.

The amendment would reduce the overall authorization level in the bill from $2.2 billion, Mr. Chairman, to about $690 million. Authorizations for existing programs would be frozen at 1993 levels, and new programs could only be funded from moneys taken from existing programs in the Department of Commerce.

I am unable to get through my head why the gentleman fights with such vigor our effort to make a modest step toward correcting the competitiveness situation in the United States, when he is so free with the taxpayer's dollar when it goes to people overseas.

Mr. BROWN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I would ask the gentleman from Pennsylvania [Mr. WALKER] if he would like for me to yield to him?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I wanted to explain to the gentleman from North Carolina, who did not want to yield because he did not want to hear the explanation, that the money for the Russian aid package did in fact follow exactly the process that is in my amendment. It came out of previously authorized and previously appropriated money. It was not new money. It was exactly what this amendment calls on us to do. So I would say to the gentleman that I am doing exactly what I did at that point in this amendment, and I am sorry the gentleman did not understand the situation.

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. Mr. Chairman, let me ask the gentleman, the money went to Russia, did it not?

Mr. WALKER. If the gentleman will yield, no.

Mr. VALENTINE. Where did it go?

Mr. WALKER. In fact, the money, if the gentleman understood the program, is all going to be spent, or a vast portion of it is going to be spent in this country, on American goods and products. So once again the gentleman does not know what he is talking about.

Mr. VALENTINE. But for the benefit of the Russian people.

Mr. WALKER. The Russian people are in fact going to buy American products with those funds, and a lot of American workers are going to benefit. I wish the gentleman understood more what he was talking about.

Mr. BROWN. Mr. Chairman, I think I should reclaim my time in order to have a brief part of my 5 minutes here. I did rise in opposition to the Walker amendment. I have great respect for his commitment to stimulating economic growth in this country. He is sincere and serious about it, and I think it is a desire that all of us share. But we do have a slightly different concept as to how we should proceed in order to stimulate this economic growth.

It is the view of many in this Chamber and throughout the country that the most important thing that we can do is to reduce the national debt, the annual deficit and the total national debt, and that all savings from existing programs ought to be used for that purpose.

☐ 1150

If that were to happen and in the normal course of events, we would continue with our expected budgets; probably in about 10 years we would have brought the deficit, annual deficit, down to a reasonable level, although the total debt would continue to grow, and the economy would probably continue to stagnate, because we would have closed off a lot of opportunities, because of the debt, for investment.

Now, the other point of view is that while it is important and vital, in fact, to reduce the annual deficit and the national debt, we need, through certain investments, to stimulate the productivity and the growth of this country. In the case of Japan, which recently suffered a major economic decline in part for the same reasons, they voted to spend $80 billion in stimulating investments despite the condition of their economy in order to promote a resurgence of growth, and the immediate effect, as I understand it, was a massive surge in the Japanese stock market.

A group of leading economists here in Washington just a few months ago recommended a similar strategy for the United States and suggested a $50 billion investment.

Now, I am not an economist. I have to make this disclaimer. I do not know what is in the best interests of the country, and I have, therefore, supported what I consider to be the cowardly intermediate course of trying to reduce the deficit and make stimulative investments. This bill does that. It does that. It authorizes these investments, very small, as the chairman, the gentleman from North Carolina [Mr. VALENTINE], has pointed out, a couple of billion dollars in the outyears of 1994 and 1995 and so on.

The gentleman from Pennsylvania [Mr. WALKER] seeks to strike that, because, in his philosophy, that will detract from our ability to reduce the Federal debt.

Now, while I respect the viewpoint of the gentleman from Pennsylvania [Mr. WALKER] and others who support him, I think it is the wrong way to go at this particular time. I think a course of moderate debt reduction, moderate investment and improving the quality of American manufacturing, which this bill does, provide opportunities through partnerships with the Federal Government for new advanced technology industries, which is what is going to stimulate productivity, create jobs, build the growth which ultimately is the only way we can make a rapid reduction in the annual deficit which we face at the present time.

To go from a growth rate of about 1 percent, which is what we are now, up to historic averages, which is around 3 percent, would do more to reduce the annual deficit than anything else this country could do, and certainly it is to be preferred over a tax increase. The gentleman from Pennsylvania [Mr. WALKER] and I would agree on that, and I think it is to be preferred, stimulating this economic growth over a program which devotes all of the savings that we can make to a reduction in the debt, which at no time in the future would stimulate the economy and produce the growth that we need.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

I rise to engage in a colloquy with the distinguished chairman of the Science, Space, and Technology Committee, Mr. Brown of California, and diverge for a moment from the debate over the Walker amendment.

Mr. Chairman, I would like to ensure that the program of section 205 of H.R. 5231, establishing Manufacturing Outreach Centers, creates a decentralized structure, similar to that of the highly successful agricultural extension system, that capitalizes on the diverse talents of organizations at the Federal, State, and local levels, rather than creating a centralized new Federal bureaucracy.

It is my understanding, Mr. Chairman, that the legislation calls upon the network of Manufacturing Outreach Centers to utilize and leverage existing organizations, data bases, electronic networks, facilities, and capabilities. It is my further understanding that the intent is that these centers should serve local or regional needs, building upon existing industrial outreach and extension programs and similar efforts. Is that the understanding of the distinguished chairman of the committee?

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I am happy to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman is correct. It is the intent of this provision to create a decentralized structure of manufacturing outreach centers, and not to create a new Federal bureaucracy.

Mr. Chairman, I will make sure, through the oversight work of our committee, that this is, in effect, carried out.

Mr. RITTER. Mr. Chairman, commenting here on this particular amendment, there is a dilemma here.

America has underinvested in manufacturing. Manufacturing has been the orphan child of Federal Government investment for three or four decades. It is really critical that some national investment, whether new resources for investment or redirection of our commitments in the Federal R&D economy of some $75 billion, it is really crucial that America get back to basics, and the basics, the fundamentals of a healthy, modern economy are a strong base in manufacturing. Manufacturing, production, making things, making them better continously. These are the crown jewels of a healthy economy.

If you do not believe that, I have got a five-letter word for you. It begins with "J," ends with "N," and it has a "P" in the middle. Japan's economic miracle is based on investments in manufacturing.

I would like to see, or have seen, the Walker bill pass initially. That took a different road, and that road was to stimulate the private-sector investments through investment tax credits, long-term capital gains, reform of product liability, and the like.

But we cannot pass that bill. The process, as it works here in the House, is so fragmented that this Brown bill is the alternative. This is the one vehicle that we have to say we believe that manufacturing is important; we believe that it is the crux of the modern economy; we believe that it is the source of wealth creation.

So there is this dilemma over the Walker amendment. Yes, the budget must be brought into balance, but we also need to grow our civilian industrial economy and compensate for the lack of investment in production, in manufacturing, in the Federal budget over all of these decades. I understand Members' concerns, but I urge them to think it through.

There is another kind of deficit, and that is a deficit in a Federal partnership with our industry to boost manufacturing. The Brown bill, at least, boosts the Government side of the investment equation in partnership with the private sector.

### MODIFICATION OFFERED BY MR. VALENTINE TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. VALENTINE. Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] and adopted by the committee yesterday be modified.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. VALENTINE to the amendment offered by Mr. WALKER: Page 99, after line 14, insert the following:

Subtitle A—Miscellaneous Provisions

Page 107, after line 20, insert the following new subtitle:

Subtitle B—Technology Transfer Improvements

**SEC. 411. SHORT TITLE.**

This subtitle may be cited as the "Technology Transfer Improvements Act of 1992".

**SEC. 412. COPYRIGHT FOR SOFTWARE.**

Section 105 of title 17, United States Code, is amended—

(1) by striking "Copyright" and inserting in lieu thereof "(a) GENERAL RULE.—Except as provided in subsection (b), copyright"; and

(2) by adding at the end the following new subsection:

"(b) COPYRIGHT OF COMPUTER PROGRAMS.—Each Federal agency may secure copyright registration on behalf of the United States and the United States shall have all copyright rights in and be the owner of any computer program (including instructions necessary to use the program, but not including data, data bases, or data base retrieval programs) authored in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of section 202(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)(1)) or a similar agreement entered into under section 203(c) (5) and (6) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c) (5) and (6)), or provided by the United States Government under section 202(b)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)), and may grant or agree to grant in advance to a participating party in the agreement, licenses or assignments for such copyrights, or options thereto, retaining such other rights as the Federal agency deems appropriate.".

**SEC. 413. AMENDMENTS TO SECTION 202 OF THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.**

Section 202 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (b)(4), by inserting ", including computer software," after "intellectual property"; and

(2) in subsection (b)(5), by inserting "or computer programs described in section 105(b) of title 17, United States Code" after "of the United States".

**SEC. 414. DEFINITION OF COMPUTER SOFTWARE.**

Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' has the meaning given the term 'computer program' in section 101 of title 17, United States Code, and includes instructions necessary to use the program, but does not include data, data bases, or data base retrieval programs.".

**SEC. 415. ROYALTY PAYMENTS TO AUTHORS.**

(a) Section 204(a)(1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "co-inventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "co-inventors" each place it appears; and

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 204(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 204(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

**SEC. 416. TECHNICAL AND CONFORMING AMENDMENTS.**

Section 202(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

Amend the table of contents accordingly.

Mr. VALENTINE (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The amendment is modified.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

□ 1200

Mr. Chairman, I rise in strong support of this bill and would like to commend the leadership of our distinguished chairman, the gentleman from California [Mr. BROWN] and the gentleman from North Carolina [Mr. VALENTINE] for working on this bill that I think incorporates some of the most important, innovative, change-oriented ideas that we in Congress need to be working on to get this country moving in the right direction again.

I think it incorporates the words and ideas and new partnerships that people in this country are striving to hear out of Congress.

Mr. Chairman, they want jobs; people in my community and Indiana are no different than people in North Carolina or California; they are discussing jobs, more jobs and job training programs.

In order for us to move from about 16 percent of current jobs located in manufacturing industry, we need to see these new partnership and we need to see new partnerships that target certain industries to help us be competitive. We need to make sure that our business and our Government are working together in new ways. We need to help in the defense conversion industry so that we move from making the B-2 bomber to the next high-definition television.

We need to see jobs that provide the people in this country the opportunity to live in dignity and not have three jobs at $4.25 an hour where they never see their families. The best kind of family value that we can espouse in this country is a job that keeps our families together, a job that rewards people for working hard, a job that allows people to save money to get their children to college and to buy the high-definition televisions to keep our economy moving, to sell that high-definition television to the Japanese and the Germans.

This bill addresses these new ideas. This bill seeks to move our now weakened manufacturing sector from about 16 percent to, hopefully, back up to where it was, about 28 or 29 percent, where the Japanese and the Germans have a large sector of manufacturing jobs.

Finally, too, Mr. Chairman, I would like to commend our distinguished chairman again, the gentleman from California [Mr. BROWN], and the gentleman from North Carolina [Mr. VALENTINE], for incorporating manufacturing centers, for incorporating education, for incorporating job training programs in this bill as well.

Too, I think this is one of the most important pieces of legislation that this Congress can work on. I commend the leadership on both sides of the aisle that has brought us to this point, and I look forward to working with the chairmen in the future on this legislation.

Mr. Chairman, I would first congratulate you and Chairman VALENTINE for bringing this legislation before us today. Congress is overdue in taking an active role in stabilizing, renewing, and energizing our industrial infrastructure, and I am proud to be part of the committee that is taking the lead in this effort.

As I have said before, it is entirely possible that this is the most important work that this committee will do this year. This country can retake its status as the absolute leader in manufacturing and industry, but requires leadership from Congress and the government in order to achieve this goal.

Major manufacturers and their associations believe in this bill because it will enhance U.S. industrial competitiveness through a series of programs that supplement, encourage and facilitate investment in manufacturing infrastructure and in critical civilian technologies.

The United States needs a coherent, long-term technology policy. We are second to none in conceiving new and productive products and processes, and we must have a plan to preserve that leadership through the commercialization process on into the marketplace.

The National Competitiveness Act of 1992 can provide that leadership through expanded technology transfer possibilities, manufacturing outreach centers, standards development, and competitiveness research.

By creating institutional coordination of these issues through the Department of Commerce, creating a financial and resource-based commitment to commercialization, focusing on U.S. friendly overseas standards, and closely evaluating our results, we can live up to our historical promise.

Economic growth is always within the reach of American communities, provided they have the resources, support, and training made available to them as it is in Europe or the Pacific rim.

Part of this effort must be recognition of the need for partnership between business and education, and the role this partnership can play to help us regain our standing as the world industrial leader.

To recognize this need, I am pleased to have authored language that is now part of this legislation which adds educational institutions to the categories of the Malcolm Baldrige Awards for manufacturing excellence. I believe that this bill will showcase the need for business-education partnerships, and that the time has come to get this idea off the drawing board.

Again, Mr. Chairman, I want to express my full appreciation and support for the outstanding leadership opportunity before the committee today in the form of H.R. 5231. I would again congratulate you and Chairman VALENTINE, and the Members on both sides of the aisle who are working to make our Nation's competitiveness the envy of the world.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 246, not voting 24, as follows:

[Roll No. 410]

### AYES—162

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Skeen
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

### NOES—246

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Beilenson
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Spratt
Staggers
Stallings
Stark
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

### NOT VOTING—24

Alexander
AuCoin
Barnard
Blackwell
Boxer
Chandler
Clinger
Conyers
Davis
Edwards (OK)
Foglietta
Hayes (LA)
Jefferson
Jones
Myers
Nagle
Penny
Perkins
Savage
Schulze
Shuster
Solarz
Stokes
Whitten

□ 1225

Messrs. HUCKABY, PARKER, and MONTGOMERY changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Ms. OAKAR. Mr. Chairman, I rise to support the National Competitiveness Act of 1992, H.R. 5231, and urge its immediate enactment in order to improve this Nation's competitiveness, which is one of our highest priorities.

### U.S. COMPETITIVENESS PROBLEMS

The United States faces serious problems in adjusting its economy and economic policies to the new competition, which this bill helps to address. Among the most dramatic trends of the past 30 years is the globalization of economic activity. Trade has increased faster than production in all but a handful of years, and these trends have had a major impact on the United States.

Two statistics illustrate the new realities. First, the proportion of the U.S. economy accounted for by international trade has increased from 10.6 percent in 1960 to 24.9 percent in 1990, according to the congressionally created Competitiveness Policy Council—"Building a Competitive America," March 1, 1992, page 2. Second, the Science Committee report accompanying H.R. 5231 points out that, during the same 30-year period, the share of the American market captured by imports has risen from 3 to 9 percent (House Report 102–841, page 35).

These figures mean that competition is being forced upon us. With every passing year, American industry and American workers must become increasingly world class just to maintain our own domestic markets. The Science Committee notes, in section 102 of the bill, that foreign competition has already reduced real wages and the standard of living in this country.

### EXPORT POTENTIAL FOR A COMPETITIVE U.S. ECONOMY

As chair of the Subcommittee on International Development, Finance, Trade and Monetary Policy, I am particularly interested in the impact of national competitiveness on the golden opportunities for American industry in international markets. As in the past 5 years, exports can play a leading role in creating jobs for American workers, profits for U.S. businesses and growth in our domestic economy.

A recent hearing before my subcommittee on the Export-Import Bank charter renewal, May 6, 1992, documented the following potential markets worldwide, on an annual basis:

Environmental products and services, including waste disposal and sanitation equipment—$300 billion per year.

Power generation equipment—$100 billion.

Telecommunications equipment—$100 billion.

Commercial aircraft—$45 billion.

To gain and hold our share of these and many other lucrative markets will not be easy. U.S. industry and our workers must demonstrate that we can equal or exceed the quality, price, delivery, financing, and other terms offered by foreign companies.

We know foreign companies will be competing hard for this business. We also know foreign companies will have the compete backing of their governments in these battles.

How is our Federal Government doing in this competition?

According to the Science Committee: The "passive nature of U.S. technology policy has hindered the ability of American companies to compete * * *" (section 102, H.R. 5231).

The story is the same in export policies. The General Accounting Office testified before my subcommittee, in January 1992, that the U.S. Government had no overall export strategy.

In a book on trade policy recently published by the Brookings Institution, the author called the United States the world's biggest export underachiever, pointing out that European nations spend up to eight times more than the United States for export promotion ("Going Global," by Wm. Northdurft, cited in "The United States as Exporter: Superpower or Subpar," Washington Post, September 20, 1992, page H1).

GAO testimony also questions the allocation of the $2.7 billion in funds the United States does spend on export promotion. It seems that the Export-Import Bank—that accounts for 52 percent of the export credits—spends only 12.3 percent of the promotion funds—and the Commerce Department spends another 7.3 percent. Industrial exports account for well over half the U.S. total. In contrast, agricultural exports, accounting for 10 or 11 percent of U.S. exports, benefit from the expenditure of 74.3 percent of promotional funds. This is not my idea of cost-effectiveness or good competitiveness policy.

Let's now take a look at our overall competitive posture.

### DECLINE OF U.S. COMPETITIVE POSITION

There are alarming indications that we are not measuring up to the competition to the extent that this country is capable of. Most tellingly, our trade deficits, over the past decade, have totaled more than $1 trillion. During that same period, the United States switched positions from being the world's largest creditor nation to being the world's largest debtor nation.

The highly regarded Competitiveness Policy Council observed that these figures "represent dramatic evidence of our relative competitive decline"—"Building a Competitive America," page 2.

### A SHRINKING MANUFACTURING BASE

Another indication of U.S. decline in competitiveness is the status of manufacturing in this country. Manufacturing—the heartland of the economy—is the source of highly paid, high value-added jobs. Over the past 30 years, U.S. manufacturing has fallen from 28 percent of gross national product to 19 percent. At the same time, manufacturing employment fell from 23 percent of total employment to 14 percent—"Focus," National Center for Manufacturing Sciences, May, 1992, page 8. In 1979, 21 million people worked in manufacturing; in July, 1992, the figure was 18.2 million.

### A WORRISOME EMPLOYMENT PICTURE

Of special interest is the health of private sector employment. Earlier this month, the New York Times pointed out that there are 38,000 fewer jobs in the private sector now than when George Bush was inaugurated in January 1989. At the end of 1991, for the first time ever, jobs in Government exceeded those in manufacturing in this country—"The Jobs are in Government, not Industry," September 6, 1992, section 3, page 1.

In July 1992, nearly 10 million, 9.760 million, Americans were unemployed, of which 3.6 million were out of work more than 15 weeks—"Economic Indicators," August 1992, page 11.

Americans fortunate enough to have jobs are working longer and earning less than at any time since the beginning of the 1980's, and unemployment is also spreading to white collar occupations—"Workers Generally Worse Off Than a Decade Ago, Study Finds," Washington Post, September 7, 1992, page A25. This study, by the Economic Strategy Institute, found that while America as a whole still enjoys the highest per capita income, median family income grew only $1,528 between 1979 and 1989—the slowest growth for any decade since World War II. Even worse, since 1990, median family income has actually declined by 2 percent.

### A DISMAL INVESTMENT PICTURE

Our level of investment determines whether we are upgrading the Nation's physical and human capital to meet the challenges of future competition. Right now, the United States ranks last in the rates of saving and investment among the industrialized countries—"Building a Competitive Economy," pages 18–19. It is disheartening to learn that Japan, with an economy that is 60 percent as large as the United States and a population 50 percent as large as the United States, invested $101 billion more than the United States in plant and equipment in 1990. In fact, Japan has out-invested the United States on plant and equipment in absolute terms for the past 3 years.

### LAGGING RESEARCH AND DEVELOPMENT EXPENDITURES

To be truly competitive, U.S. industry must be able to hold its own at the frontiers of commercial product and service sales.

We all know that R&D is the key to economic innovation, growth, and competitiveness. Unfortunately, this country has been underinvesting in civilian R&D for a prolonged period of time. In a statement to the House last year, I pointed out that the military share of U.S. R&D spending averaged almost two-thirds for the past decade, 65.24 percent. This is far out of proportion to the rough 50–50 split that prevailed for the previous 15 years from 1965 to 1980—CONGRESSIONAL RECORD, November 26, 1991, page E–4227.

This division is even more out of balance with the global average. The World Resources Institute estimates that governments worldwide average about 25 percent of their research for military purposes, and that Japan spends only about 4 percent of its R&D budget for defense purposes—"Labs in Limbo," by Jessica Matthews, Washington Post, September 27, 1992, page A29.

In the economically critical area of R&D for civilian purposes, Japan and Germany have steadily increased their investment, to approximately 3 percent of gross national product for Japan and 2.7 percent for Germany, while the United States has been stuck at about 1.9 percent since 1983—"Building a Competitive America," pages 2 and 3.

Just last month, the National Science Board [NSB] issued a report that concluded: "The U.S. Industrial R&D System Is in Trouble." Among the supporting findings were:

U.S. R&D expenditures are lagging foreign competitors.

The balance between defense and nondefense R&D in the United States is disadvantageous compared to foreign competitors.

The growth rate for Federal support of U.S. industrial R&D has dropped to minus 1.7 percent for the 1985–91 period.

Too little is spent on process-oriented R&D versus product-oriented research.

Inadequate effort is devoted to fundamental engineering research.

Insufficient emphasis is placed on emerging and precompetitive technologies.

Corporate research is shifting toward division-level efforts to meet customer needs in existing markets.

The NSB also observed: "The U.S. competitive position in important, technologically based industries is deteriorating"—"the Competitive Strength of U.S. Industrial Science and Technology: Strategic Issues," National Science Board, August 1992, page iii. This report is bad news, indeed, for our country's future competitiveness.

### CONSUMER SPENDING DEPRESSED

All of these adverse economic trends have affected American consumers, who account for about two-thirds of all spending. As a result, real consumer spending has increased at a rate of only 1.7 percent since the low point of the current recession in January 1991, in contrast to a 5-percent increase that is typical for periods of economic recovery.

Further, because of a sharp decline in consumer spending between the onset of recession in July 1990 and the low point in January 1991, real consumer spending today is about where it was 3½ years ago ("Current Economic Conditions," Joint Economic Committee, September 18, 1992, page 3).

### PROBLEMS MUST BE ADDRESSED

These trends, difficulties, and policy shortcomings must be addressed—both short term and long term. If this country does not take corrective action soon, it is in danger of becoming a second rate economic power. The recent House Science Committee report on the National Competitiveness Act of 1992 concluded that there is a growing consensus in favor of national policies that will permit the United States to compete more effectively with other industrialized nations.

The report listed a series of thoughtful studies from the Competitiveness Policy Council, the Council on Competitiveness, the National Academy of Sciences, and the Congressional Office of Technology Assessment in support of such actions.

### CONTENTS OF THE NATIONAL COMPETITIVENESS ACT

We are aware that no single bill or set of bills can resolve these multifaceted problems. The recommendations of all of the contemporary reports should be studied and concerted action taken by the President, who is the only official in our form of government that can coordinate a governmentwide set of policies.

Congress has shown that it more than willing to do its part where legislation is needed. However, much can be done by executive action and coordination. The central necessity, in the words of the National Science Board, is: "Stronger Federal leadership is needed in setting the course for U.S. technological competitiveness." The word "Federal" means "the President."

However, the bill now before the House, H.R. 5231, would be a constructive step toward the right technology policies. It includes new legislative initiatives in the areas of manufacturing, critical technologies, venture financing, international standards, and research. The bill is wide in scope, and such vision is needed to create a helpful and supportive climate for research, development, technology, and application for U.S. industry and business.

### SUPPORT FOR ADVANCED MANUFACTURING

I was particularly pleased that H.R. 5231 will double support, to $35 million, for the Federal Advanced Manufacturing Program that was established in 1989.

The pilot facility of this type is the Cleveland Advanced Manufacturing Program CAMP, which was originally established in 1983 by the combined efforts of the city of Cleveland, the Cleveland Tomorrow group of chief executive officers, and the local universities. The facility was adopted by the State of Ohio in 1984 under the Thomas Edison Program, and became one of the three original Federal Advanced Manufacturing Centers on January 1, 1989. I have supported full authorization and funding for this and similar centers, and I am pleased to note that the Cleveland center has consistently received outstanding ratings for its outreach and education programs. Dr. Stephen Gage, president of CAMP, has estimated that more than half the industrialists that attend its monthly seminars have made some kind of modernizing change as a result of CAMP's programs.

For several years, I have advocated that the Cleveland model be made nationwide. Last November, I recommended to the House, as the next logical step, that the number of such centers be increased from 7 to 50, or one for each State. I also proposed the amendment to last year's the Defense Authorization Act specifying that a new $50 million advanced Manufacturing Program being sought by the Defense Department should include the existing regional advanced manufacturing centers as the valuable resources they are.

Ultimately, these centers should be established as a part of all of the Nation's manufacturing complexes, because such a system is necessary for military preparedness as well as economic competitiveness.

When I chaired the Economic Stabilization Subcommittee, having jurisdiction over the Nation's industrial base, I convened a blue-ribbon defense production advisory group of distinguished military and civilian executives to assist the subcommittee in modernizing the Defense Production Act. Our advisory group noted that Japan operates a nationwide system of 185 technology extension centers. Total funding for the Japanese system is estimated to be nearly one-half billion dollars annually, $470 million, according to the Congressional Office of Technology Assessment ("Making Things Better: competing in Manufacturing," March 1990, page 18). Half of these funds come from the Japanese Central Government.

I was pleased to note that Governor Clinton recently recommended a network of 140 such manufacturing extension centers. The Japanese system has met the test that counts, the test of the market. If we want to provide the kind of advanced technical help that our manufacturers in Cleveland, in northeast Ohio, and our 350,000 manufacturers nationwide, need to compete worldwide, our country must to move in that direction—and fast.

### CONCLUSION

Our Nation has a great deal of work to do in a short time to improve the policy climate for American businesses to compete in world markets and here at home. The Science Committee bill, H.R. 5231 contains many worthwhile initiatives and enhancements of current programs. I commend the committee and its chairman, the gentleman from California [Mr. BROWN], for crafting and reporting this legislation, and I strongly recommend its prompt passage.

In this and other matters, I will continue to do all I can to modernize Federal policy to promote the competitiveness of U.S. industry, business, and finance at home and abroad.

Mr. COYNE. Mr. Chairman, I rise in strong support of H.R. 5231, the National Competitiveness Act of 1992. This legislation offers an effective plan to stimulate investment and to promote the commercialization of new technologies in the U.S. economy.

There is an urgent need for the United States to take specific steps toward increasing competitiveness. Given the current state of the U.S. economy, our Nation cannot afford to waste any more time. We must abandon the do-nothing approach of the past 4 years and implement instead a workable plan to make America more competitive in global markets.

For the past 4 years, America has experienced the slowest economic growth period since 1945. In 1991, personal income growth failed to keep up with inflation for the first time since 1984. In August of this year, over 167,000 private payroll jobs were lost. Since August, 1991, 1.2 million more Americans are jobless.

Manufacturing remains the economic heart of America. Industrial jobs provide some of the best paying jobs in our country. Unfortunately, the industrial production growth record of the past 4 years is likely to be the worst since President Eisenhower achieved a meager growth rate of 0.8 percent during his second term. Real growth in industrial production is at risk of actually declining for the first time since 1945.

The decline of industrial jobs is one central factor behind recent reports on the rise in U.S. poverty. Inadequate national leadership in support of making America competitive has had a real life impact on families struggling to make ends meet. When companies do not invest in new technologies and the skills of their workers, plants close, jobs move overseas, and families see their standard of living eroded.

The National Competitiveness Act is a modest effort to address some of these fundamental problems in the U.S. economy. This legislation will not restore America's competitive edge overnight, but it is a step in the right direction.

H.R. 5231 makes investment in new technologies and increased competitiveness a Federal priority. This bill offers business leaders, entrepreneurs, and workers reassurance that the Federal Government is willing to work with them to make U.S. industry more competitive. It acknowledges the simple fact that there is a part for the Federal Government to play in providing incentives for the commercialization of new technologies.

A key element of this legislation is the establishment of a national network of advanced manufacturing technology centers and technology extension services. The U.S. Department of Commerce would be the lead agency responsible for coordinating this effort at spreading the benefits of emerging technologies throughout the Nation's economy. The diffusion of technology will promote the successful integration of new manufacturing techniques and procedures to businesses seeking to compete in a rapidly changing global marketplace.

The National Competitiveness Act also increases significantly the Federal commitment of resources to the development of civilian technologies. The Advanced Technology Program at the U.S. Department of Commerce would be expanded to provide a larger number of grants to U.S. companies and joint ventures to conduct precommercial research and development on new civilian technologies. This existing program is currently authorized at a level of $100 million for fiscal 1993. H.R. 5231 would authorize $1.5 billion for fiscal years 1994 through 1997 for this program. While this level of funding would still be far less than that made available for defense-related R&D efforts, increased funding for this effort signals a new willingness to make a public investment in America's economic future.

Companies taking part in the Advanced Technology Program would also be eligible to receive direct loans from the U.S. Department of Commerce. H.R. 5231 establishes a technology development loan program to provide U.S. high-technology companies with much-needed capital to finance development and commercialization of new technologies. The U.S. Department of Commerce would also oversee a critical technologies development program to provide long-term loans and equity capital to technology firms that require assistance in obtaining venture capital.

The National Competitiveness Act calls for a limited public investment of $2.2 billion in the development and commercialization of new technologies. While some may question whether this is an appropriate use of limited Federal resources, I would note that the Government of Japan recently announced an $80 billion public investment program intended to sharpen Japan's competitive edge in the world economy.

Unless the United States is willing to abandon entirely the global economic field to Japan and other foreign competitors, the question should not be how can the Federal Government afford to invest in the United States economy. The real question must be how can we afford to invest so little.

It is imperative that the Federal Government reorder its priorities toward training American workers and promoting the competitiveness of U.S. companies. H.R. 5231, the National Competitiveness Act, recognizes this fact. I urge my colleagues to support this legislation and support efforts to restore America's competitive edge in the world's economy.

Mr. GOSS. Mr. Chairman, there are some in this House who seem to feel that Americans are inherently unable to compete in today's international markets. That's the message I get from H.R. 5231, inappropriately titled "The National Competitiveness Act." I wonder how many of the supporters of this measure have real experience in the private sector?

No one disputes the fact that American business is currently having difficulty competing, and that the economy is suffering as a result. Unemployment in southwest Florida, like the rest of the Nation, is at an unacceptable level, and new business creation is slow.

I also agree that there is something the Federal Government can do to assist American business in improving competitiveness: Cease and desist its campaign against American industry, especially the small business community. We need to remove the bureaucratic straitjacket that effectively prevents the formation of new business ventures and inhibits the growth of established enterprises.

Passage of H.R. 5231 will take us in the opposite direction. Our national debt—now standing at $4 trillion—is a very real barrier to American competitiveness. Yet this legislation authorizes $2.2 billion in new spending.

Another tangible restraint on the growth of business in the United States is the ever-increasing regulation and paperwork created by our ever-increasing Government. Instead of addressing this issue, H.R. 5231 creates more Government, more bureaucracy.

Finally, I am disturbed by the sense-of-the-Congress language which states that funding for this legislation can be derived from defense spending cuts. To do this would mean a direct increase of the deficit, since all so-called savings from defense spending are meant to be used for deficit reduction.

Mr. Speaker, H.R. 5231 ignores the real problems facing American business and irresponsibly seeks to increase the deficit. Therefore I cannot support it, and I urge my colleagues to vote "no".

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today in support of American manufacturing and in support of the competitive spirit of our great system. However, I do not rise in support of H.R. 5231.

This legislation put forward by the Democrats is not the best alternative for spurring our manufacturing base. It only serves to support business as usual in this Congress where the majority feels that the way to solve our Nation's problems is to throw money at the situation and "poof" the problem will disappear. Well we have seen that this rationale does not work.

There is no question in my mind that this bill does not fundamentally address the issues of competitiveness, rather it throws taxpayers' money at the problem in a disillusioned, and wasteful manner, again increasing the defict and increasing the burden on our children.

In fact, a section of this bill even states that:

> It is the sense of the Congress that the programs authorized by this act (H.R. 5231) are not in and of themselves sufficient to fully address the root causes of the competitiveness problems facing United States commerce and manufacturing.

In my view it says something of legislation which claims not to do what it is argued to do.

There is no question that the manufacturing sector of this country is in desperate need of improvement. My own State of Connecticut knows first hand the problems our manufacturing base is experiencing. As the ranking member of the panel on the defense industrial base, I have seen first hand what problems have affected this sector and what needs to be done to solve the problems associated with the viability of the Nation's manufacturing base.

In my view the answer to solving this problem is not increased Government spending, but a focus on allowing the private sector to compete more freely and effectively through the removal of regulatory, tax, and other impeding burdens. Our businesses cannot equally compete with those of foreign countries unless these burdens are lifted. If this is done it will allow American business to excel and more freely compete in the world marketplace.

For these reasons, I support the proposal put forth by Congressman WALKER of Pennsylvania. This proposal gets to the root causes of our Nation's competitive problem by addressing the artificially high cost of capital and the many regulatory and legal burdens which stymie the competitiveness of American business.

Specifically, Mr. WALKER's amendment would provide new tax credits or deductions to create incentives for investment and capital formation and would make the research and experimentation tax credit permanent, allowing many companies to stay technologically advanced and continue to compete effectively with countries like Japan.

In addition, Mr. WALKER's alternative includes procompetition provisions which would change antitrust laws to allow for joint production ventures, extend copyright protection to certain federally developed software, and would reduce the tax rate on long-term capital gains.

Finally, the amendment would implement a proposal put forth by President Bush at the Republican Convention which would aim at reducing our debt. The proposal would establish a checkoff of up to 10 percent of an individual's income tax liability to be used to reduce Federal spending and eliminate the national debt.

Mr. Chairman, in closing, everyone can agree that our country must improve the competitiveness of our manufacturing sector, but simply throwing more Government and more money at this problem will not work. We must get to the source of this problem and ease the regulatory and legal burdens which affect American businesses' abilities to compete in the world market.

The CHAIRMAN. Under the rule, all time for consideration of amendments in the Committee of the Whole has expired.

The Clerk will designate title VI.

The text of title VI is as follows:

## TITLE VI—FASTENER QUALITY ACT AMENDMENTS

**SEC. 601. REFERENCES.**

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Fastener Quality Act (15 U.S.C. 5401 et seq.).

**SEC. 602. TECHNICAL AMENDMENTS.**

(a) DEFINITIONS.—Section 3(8) (15 U.S.C. 5402(8)) is amended by striking "Standard" and inserting "Standards".

(b) INSPECTION AND TESTING.—Section 5(b)(1) (15 U.S.C. 5404(b)(1)) is amended by striking "section 6; unless" and inserting "section 6, unless".

(c) IMPORTERS AND PRIVATE LABEL DISTRIBUTORS.—Section 7(c)(2) (15 U.S.C. 5406(c)(2)) is amended by inserting "to the same" before "extent".

**SEC. 603. CLARIFYING AMENDMENTS.**

(a) CHEMICAL TESTS.—(1) Section 5(a)(1)(B) (15 U.S.C. 5404(a)(1)(B)) is amended by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)".

(2) Section 5(a)(2)(A)(i) (15 U.S.C. 5404(a)(2)(A)(i)) is amended by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)".

(3) Section 5(c)(4) (15 U.S.C. 5405(c)(4)) is amended by inserting "except as provided in subsection (d)," before "state".

(4) Section 5 (15 U.S.C. 5404) is amended by inserting at the end the following new subsection:

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. TRAXLER) having assumed the chair, Mr. LANCASTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, pursuant to House Resolution 563, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill H.R. 5231 to the Committees on Ways and Means, Energy and Commerce, Government Operations, and the Judiciary with instructions to consider such additional provisions as are necessary to promote the competitiveness of American businesses by reducing the national debt to reduce the cost of capital, providing tax incentives to further enhance private capital formation, reforming antitrust law to remove barriers to cooperative enterprise, and instituting civil justice reform to reduce litigious burdens.

Mr. VALENTINE. Mr. Speaker, I reserve a point of order on the motion to recommit offered by the gentleman from Pennsylvania.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes in support of his motion to recommit.

Mr. WALKER. Mr. Speaker, throughout the discussion of this bill, what we heard from the majority side was:

"No, this bill doesn't go far enough, but at least it does something." Well, Mr. Speaker, the fact is it is a fancy title with no effect. It is a bill, a competitiveness bill that is a competitiveness bill in name only. It is a phony.

I say to my colleagues, "If you're really going to do something about the competitiveness of this country, you have to change tax policy, you have to do something about the national debt, you have to reduce the cost of capital, you have to provide enhancement for private capital formation, you need to reform antitrust laws, you need to remove barriers to cooperative enterprise, you need to institute civil justice reform to get rid of excess litigation."

□ 1230

Those are the things we have to do if we are really going to create a competitive economy. Many Members on the majority side agree with that. They have said so during the course of the debate. During rather contentious debates in the Committee on Science, Space, and Technology a number of leaders in the committee said flatly that those are the kind of things we have to do. Our problem has been that we simply did not have the jurisdiction to do it.

What this motion to recommit says is: "Let's take this bill which isn't going anywhere anyhow and let's commit it to committees that do have a chance to form real competitiveness legislation. Let's send it to the Ways and Means Committee, let's send it to the Energy and Commerce Committee, and let's send it to the Government Operations Committee and to the Judiciary Committee that have the jurisdictions to do the real things which are needed in order to enhance competitiveness."

It seems to me that is what makes sense for this body. In no way does the motion to recommit destroy the bill as written by the majority. It simply suggests that there are additions to the bill that need to be made in order to make it a true competitiveness act.

I would hope that because it is tax and antitrust reforms, and product liability reforms, and a lot of those things that have to be done in order to enhance competitiveness that we would have support for this motion so that Congress can make some real progress in improving U.S. competitiveness.

One of the things which is most onerous with the public about what Congress does is that we do so many things that sound good but are really phony. The last thing we ought to do on competitiveness is pass a bill which is only a phony, a piece of legislation that has a fancy title with no effect. If we support the bill in its present form, that is what we would be doing. If we support the motion to recommit to send this bill to the committees where we can get true competitiveness decided, then we have a chance of producing a bill that would have real impact.

Mr. Speaker, I would ask for support for the motion to recommit on the basis that we have a chance to get a true competitiveness bill. Let us put it in the committees where that chance exists.

The SPEAKER pro tempore (Mr. TRAXLER). Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

### POINT OF ORDER

Mr. VALENTINE. Mr. Speaker, let me say at the outset that our dear friend, the gentleman from Pennsylvania [Mr. WALKER], continues to make the same point over and over and over again, and I suppose we need to try to answer it over again. Certainly, many of us have sympathy with a lot of what he wants to do in the legislation. Many of us have sympathy with it, but we just suggest that he go about it following proper procedures.

Mr. Speaker, in support of our request to the Chair to sustain the point of order, we respectfully suggest that the instructions included in the motion to recommit offered by the gentleman from Pennsylvania include matters from amendments offered by the gentleman earlier in the Committee of the Whole which were ruled out of order by the Chairman as nongermane.

Mr. Speaker, we suggest that under the rules of the House it is not in order to present as part of a motion to recommit any proposition which would not have been germane if proposed as an amendment to the bill in the committee.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. WALKER] desire to be heard on the point of order?

Mr. WALKER. I do, Mr. Speaker.

Mr. Speaker, the motion to recommit does not speak to any sections of the bill. In fact, it sends the entire bill back in its present form. It simply commits it to committees that would have appropriate jurisdictions in the area and simply provides instructions that these additional areas be looked at as a part of competitiveness.

Our committee does in fact have jurisdiction over the entire issue of competitiveness. All this is suggesting is that if there are jurisdictional disputes over what that means, then those committees should take a look at the content of this bill and consider such additional measures as may be needed. There is nothing here that changes the substance of the bill in any way. It is simply an instruction to the appropriate committees that they need to consider additional provisions that are necessary to promote a concept which is in the exclusive jurisdiction of the Committee on Science, Space, and Technology.

The SPEAKER pro tempore (Mr. TRAXLER). The Chair is prepared to rule.

The Chair would sustain the point of order raised by the gentleman from North Carolina [Mr. VALENTINE] and would indicate that instructions contained in a motion to recommit must be germane to the subject matter of the bill whether or not the instructions propose a direct amendment thereto.

It has been held that a motion to recommit a bill addressing Federal research and technology policy reported from the Committee on Science, Space, and Technology, with instructions to the Committee on Ways and Means to give consideration to improving competitiveness of U.S. industry by changes in Federal tax policy, was not germane to the subject matter of the bill.

That was a ruling made on July 16, 1991, and the gentleman from New York [Mr. MCNULTY] was in the chair at that time.

Therefore, the Chair sustains the point of order.

### MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer an additional motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill H.R. 5231 to the Committees on Ways and Means, Energy and Commerce, Government Operations, and the Judiciary with instructions to consider such additional provisions as are necessary to promote the competitiveness of American businesses.

Mr. VALENTINE. Mr. Speaker, I reserve a point of order on the motion to recommit.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. VALENTINE] reserves a point of order on the motion to recommit, and the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes in support of his motion to recommit.

Mr. WALKER. Mr. Speaker, this is the same motion except that it takes out what evidently the Chair regarded as onerous language that gave instructions to the committees as to what they might want to look at. This is simply a straight motion to recommit the bill to the appropriate committees that would in fact have jurisdiction in some of these areas. I would hope they would take a look at what our committee determined were real areas, such as reducing the national debt, such as reducing the cost of capital, such as providing tax incentives to further enhance private capital formation, such as reforming antitrust laws to remove barriers to cooperative enterprise, and such as instituting civil justice reform to reduce the amount of litigation, those things that have to do——

Mr. VALENTINE. Mr. Speaker, I am prepared to withdraw my point of order. We are ready to vote on it if the Chair could use the gavel.

Mr. WALKER. Mr. Speaker, what rules of order are we following?

Mr. VALENTINE. Mr. Speaker, I withdraw my point of order.

The SPEAKER pro tempore. The Chair would ask for order and the Chair would say that the gentleman from Pennsylvania [Mr. WALKER] has the floor.

Mr. WALKER. I thank the Chair.

This has been a most unusual process. I thank the Chair for confirming the fact that I do control the time and am allowed to make a statement with regard to the motion to recommit I have offered.

Mr. VALENTINE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman despite the fact that he would not yield to me earlier.

Mr. VALENTINE. Well, let me say this: "I don't have anything to say to him."

Mr. WALKER. Good. I certainly thank the gentleman. But I did want to yield to him out of the courtesy that most Members do respect on the floor.

Mr. Speaker, this is a motion to recommit to several committees that do have some jurisdiction in areas that evidently the committee believes it does not, despite the fact that we control the competitive issue.

So I would simply offer this motion to recommit as a way of ensuring that we come up with a real competitiveness bill. The fact is that we are being asked to take a phony bill and send it on to the Senate. We do not need phony competitiveness bills in this Congress. What we need is real competitiveness in American industry. That can be done, but it cannot be done with this particular piece of legislation. It can only be done with comprehensive legislation that would be formulated by a group of committees.

This motion is offered to get that kind of bill formulated hopefully within the next few days so it could be addressed before the end of this Congress.

The SPEAKER pro tempore. Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore. Does the gentleman withdraw his point of order?

Mr. VALENTINE. Mr. Speaker, I withdraw my point of order. That is what I wanted to do before.

Mr. Speaker, I want to get about 2 minutes to speak.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. VALENTINE] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. VALENTINE. I thank the Chair.

Mr. Speaker, the gentleman's previous motion to recommit was, as we pointed out, fraught with certain difficulties. It was out of order, we felt, and the Chair has ruled that way.

This motion to recommit, Mr. Speaker, I say to my colleagues, would seem to be technically correct, but I suggest to my colleagues that this is simply a further effort on the part of the gentleman from Pennsylvania to kill the legislation or to delay its passage until such time as it cannot be presented to the President of the United States before the adjournment of the 102d Congress.

□ 1240

Mr. Speaker, I would ask my colleagues, as we have asked them so many times over the last few tortuous hours, to support the committee and oppose the motion of the gentleman from Pennsylvania [Mr. WALKER], which is like all the others.

Mr. HASTERT. Mr. Speaker, I rise today in support of the motion to recommit offered by the gentleman from Pennsylvania. As I am sure you realize, the motion will send this bill back to the Energy and Commerce Committee to consider, among other things, product liability reform.

In the debate on this bill we have discussed many different ways to make America more competitive in world markets. No matter how you may feel about the various proposals put forth over the last week, you have to realize that we can never be truly competitive without putting a stop to needless lawsuits and excessive damage awards.

As an ardent supporter of product liability reform, I urge all of my colleagues to support the motion to recommit so that we can really make America more competitive.

The SPEAKER pro tempore (Mr. TRAXLER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 161, nays 248, not voting 23, as follows:

[Roll No. 411]

YEAS—161

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—248

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Beilenson
Bennett
Bevill
Bilbray
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron

NOT VOTING—23

Alexander
AuCoin
Barnard
Berman
Blackwell
Boxer
Clinger
Conyers
Foglietta
Hayes (LA)
Ireland
Jefferson
Jones
Lowery (CA)
McCurdy
Penny
Perkins
Schulze
Shuster
Solarz
Stokes
Washington
Wolpe

☐ 1302

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. TRAXLER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

The SPEAKER pro tempore. The bill is passed, and without objection a motion to reconsider is laid on the table.

For what purpose does the gentleman from North Carolina [Mr. VALENTINE] rise?

Mr. VALENTINE. Mr. Speaker, on that I request a recorded vote.

Mr. WALKER. It is too late.

The SPEAKER pro tempore. The gentleman requests a recorded vote.

Let the Chair say to the gentleman, the Chair was watching the gentleman over on the other side. The gentleman from North Carolina [Mr. VALENTINE] was at the microphone.

Let the Chair make a statement. If the membership will give me their attention, this is an important matter.

At the conclusion of the vote, the Chair looked to his left to see whether or not there was anyone on his left who was seeking a recorded vote. The Chair waited patiently. No one sought a recorded vote.

Mr. WALKER. Mr. Speaker, had the motion to reconsider been laid on the table?

The SPEAKER pro tempore. If the Chair may finish his statement, it may help what is next going to occur so the Members will all know the circumstance surrounding the vote.

When the Chair announced the vote, a gentleman on the minority side then stood up apparently to demand a vote, and he then did not request a recorded vote.

The Chair then looked to his right as he was reciting the passage of the bill. The distinguished gentleman from North Carolina [Mr. VALENTINE] was at the microphone after the Chair had announced the vote and he requested a recorded vote. The Chair regrets that he did not know the gentleman was at the microphone, and he was at the microphone.

The Chair will say this. In this House, the person in the chair has an obligation to all Members at all times to be courteous and fair. The Chair regrets, and would say this to anyone who was not recognized and who was standing at the microphone, because the Chair did not see him.

I think the fair thing and the appropriate thing, and the traditions of the House, are that the person who was at the microphone seeking and not seen, wherever possible, be accommodated.

### PARLIAMENTARY INQUIRY

Mr. WALKER. Parliamentary inquiry, Mr. Speaker. Has the motion to recommit been laid on the table?

The SPEAKER pro tempore. The motion to recommend had been disposed of. The Chair then recited that the bill was passed and the motion to reconsider laid on the table.

But the Chair will recognize the gentleman from North Carolina, who was on his feet at the time of passage.

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent to proceed.

Mr. Chairman, I request a recorded vote, but may I say 30 seconds worth of words?

Mr. WALKER. Regular order. There has not been intervening business.

### RECORDED VOTE

Mr. VALENTINE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will announce that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 287, noes 122, not voting 23, as follows:

[Roll No. 412]

### AYES—287

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

### NOES—122

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bliley
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Coble
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gingrich
Goodling
Goss
Gradison
Grandy
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Olin
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Rhodes
Riggs
Roberts
Rohrabacher
Roth
Roukema
Saxton
Schaefer
Sensenbrenner
Shaw
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Weber

### NOT VOTING—23

Alexander
AuCoin
Barnard
Blackwell
Boxer
Clinger
Conyers
Dymally
Foglietta
Hayes (LA)
Herger
Jefferson
Jones
Kennedy
Lowery (CA)
McCurdy
Penny
Perkins
Schulze
Shuster
Solarz
Stokes
Washington

□ 1316

Mr. KYL changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. VALENTINE. Mr. Speaker, pursuant to House Resolution 563, I call up from the Speaker's table the Senate bill (S. 1330) to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MR. VALENTINE

Mr. VALENTINE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. VALENTINE moves to strike out all after the enacting clause of the Senate bill, S. 1330, and to insert in lieu thereof the provisions of H.R. 5231 as passed by the House, as follows:

## TITLE I—GENERAL PROVISIONS

### SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Competitiveness Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title; table of contents.
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. Goals.
Sec. 105. Definitions.

TITLE II—MANUFACTURING

Sec. 201. Short title.
Sec. 202. Findings, purpose, and statement of policy.
Sec. 203. Role of the Department of Commerce.
Sec. 204. Commerce Technology Advisory Board.
Sec. 205. Role of the Technology Administration in manufacturing.
Sec. 206. Miscellaneous and conforming amendments.
Sec. 207. Manufacturing Technology Centers.
Sec. 208. National Science Foundation manufacturing activities.

TITLE III—CRITICAL TECHNOLOGIES

Subtitle A—Miscellaneous

Sec. 301. Findings.
Sec. 302. Study of semiconductor lithography technologies.

Subtitle B—Advanced Technology Program

Sec. 321. Development of program plan.
Sec. 322. Technical amendments.

Subtitle C—Technology Development Loans

Sec. 331. Technology development loans.

Subtitle D—Critical Technologies Development

PART I—GENERAL PROVISIONS

Sec. 341. Short title.
Sec. 342. Definitions.
Sec. 343. Establishment of program.
Sec. 344. Advisory Committee.

PART II—PROGRAM STRUCTURE AND OPERATION

Sec. 351. Organization and licensing.
Sec. 352. Capital requirements.
Sec. 353. Financing.
Sec. 354. Issuance and guarantee of trust certificates.
Sec. 355. Capital for qualified business concerns.
Sec. 356. Limitation on amount of assistance.
Sec. 357. Operation and regulation.
Sec. 358. Technical assistance for licensees and qualified business concerns.
Sec. 359. Annual audit and report.

PART III—ENFORCEMENT

Sec. 361. Investigations and examinations.
Sec. 362. Revocation and suspension of licenses; cease and desist orders.
Sec. 363. Injunctions and other orders.
Sec. 364. Conflicts of interest.
Sec. 365. Removal or suspension of directors and officers.
Sec. 366. Unlawful acts.
Sec. 367. Penalties and forfeitures.
Sec. 368. Jurisdiction and service of process.
Sec. 369. Antitrust savings clause.

TITLE IV—MISCELLANEOUS

Sec. 401. International standardization.
Sec. 402. Malcolm Baldrige Award amendments.
Sec. 403. Cooperative research and development agreements.
Sec. 404. Clearinghouse on State and Local Initiatives.
Sec. 405. Competitiveness assessments and evaluations.
Sec. 406. Use of domestic products.
Sec. 407. Severability.

TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 501. Technology Administration.
Sec. 502. National Institute of Standards and Technology.
Sec. 503. Additional activities of the Technology Administration.
Sec. 504. National Science Foundation.
Sec. 505. Availability of appropriations.

TITLE VI—FASTENER QUALITY ACT AMENDMENTS

Sec. 601. References.
Sec. 602. Technical amendments.
Sec. 603. Clarifying amendments.

### SEC. 102. FINDINGS.

The Congress finds that—

(1) the unprecedented competitive challenge the United States has faced during the past decade from foreign-based companies offering high-quality, low-priced products has contributed to a drop in real wages and standard of living;

(2) as international competition has intensified in advanced technology research, development, and applications, the passive nature of United States civilian technology policy has hindered the ability of American companies to compete in certain high technology fields;

(3) there is general agreement on which fields of technology are critical for economic competitiveness in the next century, but the United States Government lacks a comprehensive strategy for ensuring that the appropriate research, development, and applications activities and other reforms occur so these technologies are readily available to United States manufacturers for incorporation into products made in the United States;

(4) strategic technology planning, the support of critical technology research, development, and application, and advancement of manufacturing technology development and deployment are appropriate Government roles;

(5) the cost of and difficulty in obtaining venture capital are significant deterrents to the expansion of small high technology companies; and

(6) standardization of weights and measures, including development and promotion of product and quality standards, has a significant role to play in competitiveness.

### SEC. 103. PURPOSES.

The purposes of this Act are to—

(1) develop a nationwide network of sources of technological advice for manufacturers, particularly small and medium-sized firms, and to provide high quality, current information to that network;

(2) encourage the development and rapid application of advanced manufacturing processes;

(3) expand the scope and resources of the Advanced Technology Program of the National Institute of Standards and Technology;

(4) stimulate and supplement the flow of capital to business concerns engaged principally in development or utilization of critical and other advanced technologies;

(5) establish mechanisms to ensure synergistic linkages between Federal, State, and local initiatives aimed at enhancing the competitiveness of United States products; and

(6) enhance the core programs of the National Institute of Standards and Technology.

### SEC. 104. GOALS.

The goals of this Act are to—

(1) improve the competitiveness of small and medium-sized manufacturers by improving access to the information and expertise required to compete throughout the world;

(2) improve the United States position in technologies essential to economic growth and national welfare by promoting research, development, and timely utilization of those technologies;

(3) utilize the State and local capabilities in industrial extension to improve the efficiency, quality, and strength of national programs to improve the competitiveness of United States products; and

(4) expand the availability of low-cost patient capital to United States companies developing or utilizing critical or other advanced technologies.

### SEC. 105. DEFINITIONS.

For purposes of this Act—

(1) the term "Director" means the Director of the Institute;

(2) the term "Institute" means the National Institute of Standards and Technology;

(3) the term "Secretary" means the Secretary of Commerce; and

(4) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

## TITLE II—MANUFACTURING

### SEC. 201. SHORT TITLE.

This title may be cited as the "Manufacturing Technology and Extension Act of 1992".

### SEC. 202. FINDINGS, PURPOSE, AND STATEMENT OF POLICY.

(a) FINDINGS.—Congress finds and declares the following:

(1) United States manufacturers, especially small businesses, require the adoption and implementation of both modern and advanced manufacturing and process technologies to meet the challenge of foreign competition.

(2) The development and deployment of modern and advanced manufacturing technologies are vital to the Nation's economic growth, standard of living, competitiveness in world markets, and national security.

(3) New developments in flexible, computer-integrated manufacturing, electronic manufacturing communications networks, and other new technologies make possible dramatic improvements across all industrial sectors in productivity, quality, and the speed with which manufacturers can respond to changing market opportunities.

(4) The Department of Commerce's Technology Administration can continue to play an important role in assisting United States industry to develop, test, and deploy modern and advanced manufacturing technologies.

(b) PURPOSE.—It is the purpose of Congress in this title to help ensure the continued leadership of the United States in manufacturing by enhancing the Department of Commerce's technology programs to—

(1) provide, consistent with applicable provisions of law, to the greatest extent possible, within 5 years after the date of enactment of this Act, domestic manufacturers, especially small and medium-sized companies, with access to Federal advice and assistance in the development, deployment, and improvement of modern manufacturing technology; and

(2) encourage, facilitate, and promote the development and adoption of advanced manufacturing technologies by the private sector.

(c) STATEMENT OF POLICY.—Congress declares that it is the policy of the United States that—

(1) Federal agencies, particularly the Department of Commerce, shall work with industry and labor to ensure that within 10 years of the date of enactment of this Act the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology;

(2) because of the importance of manufacturing and advanced manufacturing technology to the Nation's economic prosperity and defense, all the major Federal research and development agencies shall place a high priority on the development and deployment of advanced manufacturing technologies, and shall work closely with United States industry to develop and test those technologies; and

(3) the Department of Commerce, particularly the Technology Administration, shall serve as the lead civilian agency for promoting the development and deployment of advanced manufacturing technology, and other Federal departments and agencies which work with civilian industry shall be encouraged, as appropriate and consistent with applicable statutes and duties, to work with and through the programs of the Department of Commerce.

(d) CONSTRUCTION.—Nothing in this title shall be construed as modifying the duties and responsibilities of the Department of Energy with regard to its technology resources and expertise in matters under its jurisdiction.

### SEC. 203. ROLE OF THE DEPARTMENT OF COMMERCE.

The Department of Commerce shall, consistent with the policies and purposes of section 202, be the lead civilian agency of the Federal Government for working with United States industry and labor to—

(1) develop new generic advanced manufacturing technologies; and

(2) encourage and assist the deployment and use of advanced manufacturing equipment and techniques throughout the United States.

### SEC. 204. COMMERCE TECHNOLOGY ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a Commerce Technology Advisory Board (in this section referred to as the "Advisory Board").

(b) COMPOSITION.—The Advisory Board shall be composed of at least 17 members, appointed by the Under Secretary from among individuals who, because of their experience and accomplishments in technology development, business development, or finance are exceptionally qualified to analyze and formulate policy that would improve the global competitiveness of industries in the United States. The Under Secretary shall designate 1 member to serve as chairman. Membership of the Advisory Board shall be composed of—

(1) representatives of—

(A) United States small businesses;

(B) other United States manufacturers;

(C) universities and independent research institutes;

(D) State and local government agencies involved in industrial extension;

(E) national laboratories;

(F) industrial, worker, and professional organizations; and

(G) financial organizations; and

(2) other individuals that possess important insight to issues of national competitiveness.

(c) DUTIES.—The duties of the Advisory Board shall include advising the Secretary, the Under Secretary, and the Director regarding—

(1) the development and implementation of policies that the Advisory Board considers essential to industrial productivity and technology growth and adoption, with priority given to policies that would benefit small businesses;

(2) the development and rapid application of advanced technologies including advanced manufacturing technologies; and

(3) the planning, execution, and evaluation of programs under the authority of the Technology Administration.

(d) MEETINGS.—(1) The chairman shall call the first meeting of the Advisory Board not later than 90 days after the date of enactment of this Act.

(2) The Advisory Board shall meet at least once every 6 months, and at the call of the Under Secretary.

(e) TRAVEL EXPENSES.—Members of the Advisory Board, other than full-time employees of the United States, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code, while engaged in the business of the Advisory Board.

(f) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with other agencies, as appropriate.

(g) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Board.

### SEC. 205. ROLE OF THE TECHNOLOGY ADMINISTRATION IN MANUFACTURING.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new title:

### "TITLE III—MANUFACTURING TECHNOLOGY

### "SEC. 301. ADVANCED MANUFACTURING SYSTEMS AND NETWORKING PROJECTS.

"(a) PROGRAM DIRECTION.—The Secretary, through the Under Secretary and the Director, shall establish a Department of Commerce Advanced Manufacturing Program (in this title referred to as the 'Advanced Manufacturing Program') which shall include advanced manufacturing systems and networking projects.

"(b) PROGRAM GOAL.—The goal of the Advanced Manufacturing Program is to create collaborative multiyear technology development programs involving United States industry and, as appropriate, other Federal agencies, the States, and other interested persons, in order to develop, refine, test, and transfer design and manufacturing technologies and associated applications, including advanced computer integration and electronic networks.

"(c) PROGRAM COMPONENTS.—The Advanced Manufacturing Program shall include—

"(1) the advanced manufacturing research and development activities at the Institute; and

"(2) one or more technology development testbeds within the United States, selected in accordance with procedures, including cost sharing, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), whose purpose shall be to develop, refine, test, and transfer advanced manufacturing and networking technologies and associated applications through a direct manufacturing process.

"(d) ACTIVITIES.—The Advanced Manufacturing Program, under the coordination of the Secretary, through the Director, shall—

"(1) test and, as appropriate, develop the equipment, computer software, and systems integration necessary for the successful operation within the United States of advanced design and manufacturing systems and associated electronic networks;

"(2) establish at the Institute and the technology development testbed or testbeds—

"(A) prototype advanced computer-integrated manufacturing systems; and

"(B) prototype electronic networks linking manufacturing systems;

"(3) assist industry to develop, and implement voluntary consensus standards relevant to advanced computer-integrated manufacturing operations, including standards for networks, electronic data interchange, and digital product data specifications;

"(4) help to make high-performance computing and networking technologies an integral part of design and production processes where appropriate;

"(5) conduct research to identify and overcome technical barriers to the successful and cost-effective operation of advanced manufacturing systems and networks;

"(6) facilitate industry efforts to develop and test new applications for manufacturing systems and networks;

"(7) involve, to the maximum extent practicable, both those United States companies which make manufacturing and computer equipment and those companies which buy the equipment, with particular emphasis on including a broad range of company personnel in the Advanced Manufacturing Program and on assisting small and medium-sized manufacturers;

"(8) identify training needs, as appropriate, for company managers, engineers, and employees in the operation and applications of advanced manufacturing technologies and networks, with a particular emphasis on training for production workers in the effective use of new technologies;

"(9) work with private industry to develop standards for the use of advanced computer-based training systems, including multimedia and interactive learning technologies; and

"(10) exchange information and personnel, as appropriate, between the technology development testbeds and the Network created under section 303.

"(e) TESTBED AWARDS.—(1) In selecting applicants to receive awards under subsection (c)(2) of this section, the Secretary shall give particular consideration to applicants that have existing computer expertise in the management of business, product, and process information such as digital data product and process technologies and customer-supplier information systems, and the ability to diffuse such expertise into industry, and that, in the case of joint research and development ventures, include both suppliers and users of advanced manufacturing equipment.

"(2) An industry-led joint research and development venture applying for an award under subsection (c)(2) of this section may include one or more State research organizations, universities, independent research organizations, or Regional Centers for the Transfer of Manufacturing Technology (as created under section 25 of the National Institute of Standards and Technology Act).

"(f) ADVICE AND ASSISTANCE.—(1) Within 6 months after the date of enactment of this title, and before any request for proposals is issued, the Secretary shall hold one or more workshops to solicit advice from United States industry and from other Federal agencies, particularly the Department of Defense, regarding the specific missions and activities of the testbeds.

"(2) The Secretary shall, to the greatest extent possible, coordinate activities under this section with activities of other Federal agencies and initiatives relating to Computer-Aided Acquisition and Logistics Support, electronic data interchange, flexible computer-integrated manufacturing, and enterprise integration.

"(3) The Secretary may request and accept funds, facilities, equipment, or personnel from other Federal agencies in order to carry out responsibilities under this section.

"(g) APPLICATION OF ANTITRUST LAWS.—Nothing in this section shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

### "SEC. 302. DEPLOYMENT OF ADVANCED AND MODERN MANUFACTURING TECHNOLOGIES AND PRACTICES.

"(a) IN GENERAL.—The Secretary, through the Under Secretary and the Director, shall work with representatives of State and local governments, manufacturing extension programs, private industry, worker organizations, and academia to encourage and support the use of both advanced manufacturing technologies, including those developed by the Advanced Manufacturing Program, and current best available modern manufacturing technologies and practices to large, medium-sized, and small manufacturing firms throughout the United States.

"(b) MECHANISMS.—The Secretary, through the Under Secretary and the Director, shall carry out this responsibility through—

"(1) the National Manufacturing Outreach Network established under section 303;

"(2) the Manufacturing Technology Centers, Local Manufacturing Offices, and State Technology Extension Program supported under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k-1);

"(3) a National Quality Laboratory, which is hereby established within the Institute, the purpose of which is to assist private sector quality efforts and to serve as mechanism by which United States companies and the Institute can work together to advance quality management programs and to share and, as appropriate, develop manufacturing best practices;

"(4) appropriate activities of the Technology Administration's Office of Technology Policy; and

"(5) such other means as may be appropriate or otherwise authorized by law.

### "SEC. 303. NATIONAL MANUFACTURING OUTREACH NETWORK.

"(a) ESTABLISHMENT AND PURPOSE OF NETWORK.—There is hereby established a National Manufacturing Outreach Network (in this section referred to as the 'Network'). The Network shall organizationally and electronically link centers and other organizations throughout the United States that are engaged in manufacturing or technology extension and outreach activities. The Secretary, acting through the Under Secretary and the Director, shall implement and coordinate the Network in accordance with an initial plan to be prepared and submitted to Congress within 6 months after the date of enactment of this title and a 5-year plan to be submitted to the Congress within a year after the date of enactment of this title and to be updated annually. The purpose of the Network is to assist United States manufacturers, especially small and medium-sized firms, to expand and accelerate the use of modern manufacturing practices, and to accelerate the development and use of advanced manufacturing technology.

"(b) MANUFACTURING OUTREACH CENTERS.—United States Government and private sector organizations, actively engaged in technology or manufacturing extension activities, are eligible for participation in this program as Management Outreach Centers. Participants may include Federal, State, and local government agencies, their extension programs, and their laboratories; centers and local manufacturing offices established under section 25 of the National Institute of Standards and Technology Act; small business development centers; and appropriate programs run by professional societies, worker organizations, industrial organizations, for-profit or nonprofit organizations, universities, community colleges, and technical schools and colleges. The Secretary shall establish terms and conditions of participation and may provide financial assistance, on a cost-shared basis and through competitive, merit-based review processes, to nonprofit or government participants throughout the United States to enable them to—

"(1) join the Network and disseminate its information services to United States manufacturing firms, particularly small and medium-sized firms; and

"(2) strengthen their efforts to help small and medium-sized United States manufacturers to expand and accelerate the use of modern and advanced manufacturing practices.

"(c) COMMUNICATIONS INFRASTRUCTURE.—The Department of Commerce shall provide for an instantaneous, interactive communications infrastructure for the Network to facilitate interaction among Manufacturing Outreach Centers and Federal agencies and to permit the collection and dissemination in electronic form, in a timely and accurate manner, of information described in subsection (d). Such communications infrastructure shall, wherever practicable, make use of existing computer networks. Communications infrastructure arrangements, including user fees and appropriate electronic access for information suppliers and users shall be addressed in the 5-year plan prepared under subsection (f)(2).

"(d) CLEARINGHOUSE.—(1) The Secretary shall develop a clearinghouse system, using the National Technical Information Service and private sector information providers and carriers where appropriate, to—

"(A) identify expertise and acquire information, appropriate to the purpose of the Network stated in subsection (a), from all available Federal sources, providing assistance where necessary in making such information electronically available and compatible with the Network;

"(B) ensure ready access by United States manufacturers and other interested private sector parties to the most recent relevant available such information and expertise; and

"(C) to the extent practicable, inform such manufacturers of the availability of such information.

"(2) The clearinghouse shall include information available electronically on—

"(A) activities of Manufacturing Outreach Centers and the users of the Network;

"(B) domestic and international standards from the Institute and private sector organizations and other export promotion information, including conformity assessment requirements and procedures;

"(C) the Malcolm Baldrige Quality program, and quality principles and standards;

"(D) federally funded technology development and transfer programs;

"(E) responsibilities assigned to the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation under section 102 of this Act;

"(F) how to access data bases and services; and

"(G) other subjects relevant to the ability of companies to manufacture and sell competitive products throughout the world.

"(e) PRINCIPLES.—In carrying out this section, the Department of Commerce shall take into consideration the following principles:

"(1) The Network shall be established and operated through cooperation and co-funding among Federal, State, and local governments, other public and private contributors, and end users.

"(2) The Network shall utilize and leverage, to the extent practicable, existing organizations, data bases, electronic networks, facilities, and capabilities.

"(3) The Network, and the communications infrastructure provided for under subsection (c), shall be subject to all applicable provisions of law for the protection of trade secrets and business confidential information.

"(4) Local or regional needs should determine the management structure and staffing of the Manufacturing Outreach Centers. The Network shall strive for geographical balance with the ultimate goal of access for all United States small and medium-sized manufacturers.

"(5) Manufacturing Outreach Centers should have the capability to deliver outreach services directly to manufacturers, actively work with, rather than supplant, the private sector, and to the extent practicable, maximize the exposure of manufacturers to demonstrations of modern technologies in use.

"(6) Manufacturing Outreach Centers shall focus, where possible, on the development and deployment of flexible manufacturing practices applicable to both defense and commercial applications.

"(7) The Department of Commerce shall develop mechanisms for—

"(A) soliciting the perspectives of manufacturers using the services of the Manufacturing Outreach Centers; and

"(B) evaluating the effectiveness of the Manufacturing Outreach Centers.

"(f) PLAN AND REPORTS.—(1) Within 6 months after the date of enactment of this title, the Secretary, after consultation with the Under Secretary, the Director, the Commerce Technology Advisory Board, and a cross-section of potential participants, shall submit a report to Congress—

"(A) describing how the Technology Administration will carry out its responsibility to create, operate, and support the Network, including interactive linkage of Manufacturing Outreach Centers to the programs of the Technology Administration and other appropriate Federal agencies;

"(B) identifying the Federal, State, local, and other appropriate organizations which the Secretary believes should be eligible to join the Network as Manufacturing Outreach Centers and those organizations eligible to apply for Department of Commerce support to connect to the Network and receive and disseminate its services;

"(C) establishing criteria and procedures for the selection of organizations to receive Department of Commerce services and financial assistance as part of the Network program; and

"(D) evaluating the need for and the benefits of a National Conference of States on Industrial Extension, similar in structure to the National Conference on Weights and Measures, and, if the Secretary determines that such a Conference is advisable, developing, in consultation with the States and other interested parties, a plan for the establishment, operation, funding, and evaluation of such a Conference.

"(2) Within 1 year after the date of enactment of this title, the Secretary, in consultation with the Under Secretary, the Director, and the Commerce Technology Advisory Board, shall prepare and submit to the Congress a 5-year plan for implementing and expanding the Network. Such plan shall identify appropriate methods for expanding the Network in a geographically balanced manner, including a merit-based process for the selection of additional Manufacturing Outreach Centers. In selecting Manufacturing Outreach Centers, and in awarding financial assistance to such Centers, the Under Secretary shall ensure that manufacturers using the Network are consulted as to the past performance of applicants. Such 5-year plan shall include a detailed implementation plan and cost estimates and shall take into consideration and build on the report submitted under paragraph (1).

"(3) Beginning with first year after submission of the 5-year plan under paragraph (2), the Secretary shall annually report to the Congress, at the time of the President's annual budget request to Congress, on—

"(A) progress made in carrying out this section during the preceding fiscal year;

"(B) changes proposed to the 5-year plan;

"(C) performance in adhering to schedules; and

"(D) any recommendations for legislative changes necessary to enhance the Network.

The report under this paragraph submitted at the end of the fourth year of operation of the Network shall include recommendations on whether to terminate the Network or extend it for a specified period of time.

### "SEC. 304. ROLE OF THE SECRETARY AND OTHER EXECUTIVE AGENCIES.

"(a) SECRETARY.—The Secretary, acting as appropriate through the Under Secretary and the Director, shall—

"(1) consult with other Federal agencies, including the Department of Defense and the Department of Energy, to ensure consistent and, where possible, coordinated efforts to promote the development and adoption of modern and advanced manufacturing technologies;

"(2) assist the Office of Science and Technology Policy in its efforts to coordinate the manufacturing technology activities of the various Federal agencies; and

"(3) in carrying out the programs and other responsibilities set forth in this title, consult with representatives of industry, labor, and academia on ways to enhance manufacturing capabilities, including close consultation with the Commerce Technology Advisory Board.

The Secretary shall annually report to Congress on actions taken under this subsection.

"(b) FEDERAL AGENCIES.—To the extent permitted by other law, other Federal agencies shall assist the Secretary in carrying out this title.

### "SEC. 305. AMERICAN WORKFORCE QUALITY PARTNERSHIPS.

"(a) PROGRAM AUTHORIZED.—The Secretary, in consultation with the Secretary of Education and the Secretary of Labor, may make grants to eligible applicants having applications approved under this section to establish and operate American workforce quality partnership programs in accordance with the provisions of this section. The Secretary shall award grants on a competitive basis to pay the Federal share for American workforce quality partnership programs to establish workforce training consortia between industry and institutions of higher education.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"(c) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate an American workforce quality partnership program.

"(d) CONTENTS OF PROGRAM.—An American workforce quality partnership program shall establish partnerships between—

"(1) one or more technology-based or manufacturing sector firms, in conjunction with a labor organization where available or worker representative group or employee representatives; and

"(2) a local community or technical college or other appropriate institutions of higher education, or a vocational training institution or consortium of such education institutions,

to train the employees of the industrial partners through both workplace-based and classroom-based programs of training.

"(e) FEDERAL SHARE.—The Federal share of the cost of an American workforce quality partnership program may not exceed 50 percent of the total cost of the program. The non-Federal share of such costs may be provided in-cash or in-kind, fairly valued. The total contribution of the proposed partnership should reflect a substantial contribution on the part of the industrial partners and appropriate contributions of the education partners, local or State governments, and other appropriate entities.

"(f) APPLICATIONS.—

"(1) IN GENERAL.—Each eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) PLAN.—Each application submitted under this subsection shall contain a plan for the development and implementation of an American workforce quality partnership program under this section. Such plan shall—

"(A) show a demonstrated commitment, on the part of the industrial partners, to adopt total quality management strategies or other plausible strategies to renew its competitive edge;

"(B) demonstrate the need for Federal resources because of the long-term nature and risk of such an investment, the inability to finance such ventures because of the high cost of capitalization, intense competition from foreign industries, or such other appropriate reasons as may limit the industrial partners' ability to launch programs where worker training and development is a substantial component;

"(C) demonstrate long-term benefit for all partners and the local economy, through an enhanced competitive position of the industrial partners, substantial benefits for regional employment, and the ability of the education partners to further their capabilities to educate and train other nonpartnership-affiliated individuals wishing to obtain or upgrade technical, technological, industrial management and leadership, or other industrial skills;

"(D) make full, appropriate, and innovative use of industrial and higher education resources and other local resources such as facilities, equipment, personnel exchanges, experts, or consultants;

"(E) provide for the establishment of an advisory board in accordance with subsection (h);

"(F) include an explanation of the industrial partners' plans to adopt new competitive strategies and how the training partnership aids that effort; and

"(G) include assurances that the eligible entity will maintain its aggregate expenditures from all other sources for employee training at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of the National Competitiveness Act of 1992.

"(3) APPROVAL.—The Secretary shall approve applications based on their potential to create an effective American workforce quality partnership program in accordance with this section.

"(A) CRITERIA.—In reviewing grant applications, the Secretary shall give significant consideration to the following criteria:

"(i) Saliency of argument for requiring a Federal investment.

"(ii) Commitment of partnership to continue operation after the termination of Federal funding.

"(iii) The likelihood that the training will lead to long-term competitiveness of the industrial partners and contribute significantly to economic growth.

"(iv) The likelihood that the partnership will benefit the education mission of the education partners in ways outside of the scope of the partnership, such as developing the capability to train other nonpartnership-affiliated individuals in similar skills.

"(B) PRIORITY CONSIDERATION.—The Secretary shall give priority consideration to industries which are threatened by intense foreign competition important to the long-term national economic or military security of the United States and industries which are critical in enabling other United States industries to maintain a healthy competitive position. In addition, the Secretary shall give priority to applicants in areas of high poverty and unemployment.

"(g) USE OF FUNDS.—

"(1) APPROVED USES.—Federal funds may be used for—

"(A) the direct costs of workplace-based and classroom-based training in advanced technical, technological, and industrial management, skills, and training for the implementation of total quality management strategies, or other competitiveness strategies, contained in the plan;

"(B) the purchase or lease of equipment or other materials for the purpose of instruction to aid in training;

"(C) the development of in-house curricula or coursework or other training-related programs, including the training of teachers and other eligible participants to utilize such curricula or coursework; and

"(D) reasonable administrative expenses and other indirect costs of operating the partnership which may not exceed 10 percent of the total cost of the program.

"(2) LIMITATIONS.—Federal funds may not be used for nontraining related costs of adopting new competitive strategies including the replacement of manufacturing equipment, product redesign and manufacturing facility construction costs, or salary compensation of the partners' employees. Grants shall not be made under this section for programs that will impair any existing program, contract, or agreement without the written concurrence of the parties to such program, contract, or agreement.

"(h) ADVISORY BOARD.—

"(1) Each partnership shall establish an advisory board which shall include equal representation from each of the following categories:

"(A) Multiple organizational levels of the industrial partners.

"(B) The education partners.

"(C) Labor organization representatives where available, worker representative groups, or employee representatives.

"(2) The advisory board shall—

"(A) advise the partnership on the general direction and policy of the partnership including training, instruction, and other related issues;

"(B) report to the Secretary after the second and fourth year of the program, on the progress and status of the partnership, including its strengths, weaknesses, and new directions, the number of individuals served, types of services provided, and an outline of how the program can be integrated into the existing training infrastructure in place in other Federal agencies and departments; and

"(C) assist in the revision of the plans (submitted with the application under subsection (f)(2)(F)) and include revised plans as necessary in the reports under subparagraph (B).".

### SEC. 206. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

"(14) 'Director' means the Director of the National Institute of Standards and Technology.

"(15) 'Institute' means the National Institute of Standards and Technology.

"(16) 'Assistant Secretary' means the Assistant Secretary of Commerce for Technology Policy.

"(17) 'Advanced manufacturing technology' includes—

"(A) numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production which advance the state-of-the-art; and

"(B) novel techniques and processes designed to improve manufacturing quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(18) 'Modern technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers.".

(b) REDESIGNATIONS.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by inserting immediately after section 4 the following new title heading:

**"TITLE I—DEPARTMENT OF COMMERCE AND RELATED PROGRAMS";**

(2) by redesignating sections 5 through 10 as sections 101 through 106, respectively;

(3) by striking section 21;

(4) by redesignating sections 16 through 20, and 22, as sections 107 through 112, respectively;

(5) by inserting immediately after section 112 (as redesignated by paragraph (4) of this subsection) the following new title heading:

**"TITLE II—FEDERAL TECHNOLOGY TRANSFER";**

(6) by redesignating sections 11 through 15 as sections 201 through 205, respectively;

(7) by redesignating section 23 as section 206;

(8) in section 4—

(A) by striking "section 5" each place it appears and inserting in lieu thereof "section 101";

(B) in paragraphs (4) and (6), by striking "section 6" and "section 8" each place they appear and inserting in lieu thereof "section 102" and "section 104", respectively; and

(C) in paragraph (13), by striking "section 6" and inserting in lieu thereof "section 102";

(9) in section 105 (as redesignated by paragraph (2) of this subsection) by striking "section 6" each place it appears and inserting in lieu thereof "section 102";

(10) in section 106(d) (as redesignated by paragraph (2) of this subsection) by striking "7, 9, 11, 15, 17, or 20" and inserting in lieu thereof "103, 105, 108, 111, 201, or 205";

(11) in section 202(b) (as redesignated by paragraph (6) of this subsection) by striking "section 14" and inserting in lieu thereof "section 204";

(12) in section 204(a)(1) (as redesignated by paragraph (6) of this subsection) by striking "section 12" and inserting in lieu thereof "section 202";

(13) in section 112 (as redesignated by paragraph (4) of this subsection) by striking "sections 11, 12, and 13" and inserting in lieu thereof "sections 201, 202, and 203";

(14) in section 206 (as redesignated by paragraph (7) of this subsection)—

(A) by striking "section 11(b)" in subsection (a)(2) and inserting in lieu thereof "section 201(b)"; and

(B) by striking "section 6(d)" in subsection (b) and inserting in lieu thereof "section 102(d)"; and

(15) by adding at the end of section 201 (as redesignated by paragraph (6) of this subsection) the following new subsection:

"(j) ADDITIONAL TECHNOLOGY TRANSFER MECHANISMS.—In addition to the technology transfer mechanisms set forth in this section and section 202 of this Act, the heads of Federal departments and agencies also may transfer technologies through the technology transfer, extension, and deployment programs of the Department of Commerce and the Department of Defense.".

### SEC. 207. MANUFACTURING TECHNOLOGY CENTERS.

(a) MANUFACTURING TECHNOLOGY CENTERS.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), is amended—

(1) by amending the section heading to read as follows: "MANUFACTURING TECHNOLOGY CENTERS";

(2) in subsection (c)(5), by striking "which are designed" and all that follows through "operation of a Center" and inserting in lieu thereof "to a maximum of one-third Federal funding. Each center which receives financial assistance under this section shall be evaluated during its sixth year of operation, and at such subsequent times as the Secretary considers appropriate, by an evaluation panel appointed by the Secretary in the same manner as was the evaluation panel previously appointed. The Secretary shall not provide funding for additional years of the Center's operation unless the evaluation is positive and the Secretary finds that continuation of funding furthers the goals of the Department. Such additional Federal funding shall not exceed one-third of the cost of the Center's operations";

(3) by striking subsection (d); and

(4) by adding at the end the following new subsections:

"(d) If a Center receives a positive evaluation during its third year of operation, the Director may, any time after that evaluation, contract with the Center to provide additional technology extension or transfer services above and beyond the baseline activities of the Center. Such additional services may include, but are not necessarily limited to, the development and operation of the following:

"(1) Programs to assist small and medium-sized manufacturers and their employees in the Center's region to learn and apply the technologies, techniques, and processes associated with systems management technology, electric commerce, or improving manufacturing productivity.

"(2) Programs focused on the testing, development, and application of manufacturing and process technologies within specific technical fields such as advanced materials or electronics fabrication for the purpose of assisting United States companies, both large and small and both within the Center's original service region and in other regions, to improve manufacturing, product design, workforce training, and production in those specific technical fields.

"(3) Industry-lead demonstration programs that explore the value of innovative nonprofit manufacturing technology consortia to provide ongoing research, technology transfer, and worker training assistance for industrial members. An award under this paragraph shall be for no more than $500,000 per year, and shall be subject to renewal after a 1-year demonstration period.

"(e) In addition to any assistance provided or contracts entered into with a Center under this section, the Director is authorized to make separate and smaller awards, through a competitive process, to nonprofit organizations which wish to work with a Center. Such awards shall be for the purpose of enabling those organizations to provide supplemental outreach services, in collaboration with the Center, to small and medium-sized manufacturers located in parts of the region served by the Center which are not easily accessible to the Center and which are not served by any other manufacturing outreach center. Organizations which receive such awards shall be known as Local Manufacturing Offices. In reviewing applications, the Director shall consider the needs of rural as well as urban manufacturers. No single award for a Local Manufacturing Office shall be for more than three years, awards shall be renewable through the competitive awards process, and no award shall be made unless the applicant provides matching funds at least equal to the amount received under this section.

"(f) In carrying out this section, the Director shall coordinate his efforts with the plans for the National Manufacturing Outreach Network established under section 303 of the Stevenson-Wydler Technology Innovation Act of 1980.".

(b) STATE TECHNOLOGY EXTENSION PROGRAM.—(1) Section 26(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278l(a)), is amended—

(A) by inserting immediately after "(a)" the following new sentence: "There is established within the Institute a State Technology Extension Program."; and

(B) by inserting "through that Program" immediately after "technical assistance".

(2) Section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278l) is amended by adding at the end the following new subsection:

"(c) In addition to the general authorities listed in subsection (b) of this section, the State Technology Extension Program also shall, through merit-based competitive review processes and as authorizations and appropriations permit—

"(1) make awards to States and conduct workshops, pursuant to section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, in order to help States improve their planning and coordination of technology extension activities;

"(2) support industrial modernization demonstration projects to help States create networks among small manufacturers for the purpose of facilitating technical assistance, group services, and improved productivity and competitiveness;

"(3) support State efforts to develop and test innovative ways to help small and medium-sized manufacturers improve their technical capabilities;

"(4) support State efforts designed to help small manufacturers in rural as well as urban areas improve and modernize their technical capabilities, including, as appropriate, interstate efforts to achieve such end;

"(5) support State efforts to assist interested small defense manufacturing firms to convert their production to nondefense or dual-use purposes;

"(6) support worker technology education programs in the States at institutions such as universities, community colleges, labor education centers, labor-management committees, and worker organizations in production technologies critical to the Nation's future, with an emphasis on high-performance work systems, the skills necessary to use advanced manufacturing systems well, and best production practice; and

"(7) help States develop programs to train personnel who in turn can provide technical skills to managers and workers of manufacturing firms.".

### SEC. 208. NATIONAL SCIENCE FOUNDATION MANUFACTURING ACTIVITIES.

(a) IN GENERAL.—The Director of the National Science Foundation, after, as appropriate, consultation with the Secretary, the Under Secretary, and the Director, shall—

(1) work with United States industry to identify areas of research in manufacturing technologies and practices that offer the potential to improve United States productivity, competitiveness, and employment;

(2) support research at United States universities to improve manufacturing technologies and practices; and

(3) work with the Technology Administration and the Institute and, as appropriate, other Federal agencies to accelerate the transfer to United States industry of manufacturing research and innovations developed at universities.

(b) ENGINEERING RESEARCH CENTERS AND INDUSTRY/UNIVERSITY COOPERATIVE RESEARCH CENTERS.—The Director of the National Science Foundation shall strengthen and expand the number of Engineering Research Centers and strengthen and expand the Industry/University Cooperative Research Centers Program with the goals of increasing the engineering talent base versed in technologies critical to the Nation's future, with emphasis on advanced manufacturing, and of advancing fundamental engineering knowledge in these technologies. At least one Engineering Research Center shall have a research and education focus on the concerns of traditional manufacturers, including small and medium-sized firms that are trying to modernize their operations. Awards under this subsection shall be made on a competitive, merit review basis.

(c) GRADUATE TRAINEESHIPS.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide traineeships to graduate students at institutions of higher education within the United States who choose to pursue masters or doctoral degrees in manufacturing engineering.

(d) MANUFACTURING MANAGERS IN THE CLASSROOM PROGRAM.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide fellowships, on a cost-shared basis, to individuals from industry with experience in manufacturing to serve for 1 or 2 years as instructors in manufacturing at 2-year community and technical colleges in the United States. In selecting fellows, the Director of the National Science Foundation shall place special emphasis on supporting individuals who not only have expertise and practicable experience in manufacturing but who also will work to foster cooperation between 2-year colleges and nearby manufacturing firms.

(e) PROGRAMS TO TEACH TOTAL QUALITY MANAGEMENT.—The Director of the National Science Foundation, in consultation with the Secretary, the Under Secretary, and the Director, may establish a program to develop innovative curricula, courses, and materials for use by institutions of higher education for instruction in total quality management and related management practices, in order to help improve the productivity of United States industry.

## TITLE III—CRITICAL TECHNOLOGIES

### Subtitle A—Miscellaneous

### SEC. 301. FINDINGS.

The Congress finds that—

(1) the rapid, effective use of a range of advanced technologies in the design and production of products has been a key factor in the success of foreign-based companies;

(2) our competitor nations in the global marketplace have been very successful in targeting critical emerging technologies, such as computers and advanced electronics, advanced materials applications, and biotechnology;

(3) investments in the development of civilian technology have tremendous long-term economic and employment potential;

(4) our most successful competitor nations in the global marketplace have created supportive structures and programs within their national governments to help their domestic industries increase their global market shares;

(5) agriculture and aerospace are two examples of industries that have achieved commercial success with strong support from the United States Government; and

(6) there is a need to strengthen the United States commitment to bridging the gap between research and development and the application of technology.

### SEC. 302. STUDY OF SEMICONDUCTOR LITHOGRAPHY TECHNOLOGIES.

Within 9 months after the date of enactment of this Act, the Under Secretary shall, after consultation with the private sector and appropriate officials from other Federal agencies, submit to Congress a report on advanced lithography technologies for the production of semiconductor devices. The report shall include the Under Secretary's evaluation of the likely technical and economic advantages and disadvantages of each such technology, an analysis of current private and Government research to develop each such technology, and any recommendations the Under Secretary may have regarding future Federal support for research and development in advanced lithography.

### Subtitle B—Advanced Technology Program

### SEC. 321. DEVELOPMENT OF PROGRAM PLAN.

The Secretary, acting through the Under Secretary and the Director, shall, within 6 months after the date of enactment of this Act, submit to the Congress a plan for the expansion of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), with specific consideration given to—

(1) closer coordination and cooperation with the Defense Advanced Research Projects Agency and other Federal research and development agencies as appropriate;

(2) establishment of staff positions that can be filled by industrial or technical experts for a period of one to two years;

(3) broadening of the scope of the program to include as many critical technologies as is appropriate;

(4) changes that may be needed when annual funds available for grants under the Program reach levels of $200,000,000 and $500,000,000; and

(5) administrative steps necessary for Program support of large-scale industry-led consortia similar to, or possibility eventually including, the Semiconductor Manufacturing Technology Institute.

### SEC. 322. TECHNICAL AMENDMENTS.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (b)(1)(B)(ii), by striking "provision of a minority share of the cost of such joint ventures for up to 5 years" and inserting in lieu thereof "the option of provision of either—

"(I) a minority share of the cost of such joint ventures for up to 5 years; or

"(II) only direct costs, and not indirect costs, profits, or management fees, for up to 5 years"; and

(2) by adding at the end the following new subsection:

"(k) Notwithstanding subsections (b)(1)(B)(ii) and (d)(3), the Director may grant an extension of not to exceed 6 months beyond the deadlines established under those subsections for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government.".

### Subtitle C—Technology Development Loans

### SEC. 331. TECHNOLOGY DEVELOPMENT LOANS.

(a) AUTHORITY TO MAKE LOANS.—The Secretary may make loans—

(1) acting through the Under Secretary, to small and medium sized businesses eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), to the extent provided in section 504(b) of the Congressional Budget Act of 1974; or

(2) acting through critical technologies development companies licensed under section 351 of this title, to small and medium sized businesses eligible for assistance under subtitle D of this title, to the extent provided in section 355 of this title.

(b) PURPOSE.—Loans under this section shall be for sound financing of small and medium-sized businesses engaged in research, development, demonstration, or exploitation of advanced technologies and products, including those in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies.

(c) INTEREST RATE, TERMS, AND CONDITIONS.—Loans under this section shall be made at an interest rate equal to the Government borrowing rate plus an insurance surcharge of up to 2 percent, and shall have other terms and conditions consistent with section 355(b) of this title.

### Subtitle D—Critical Technologies Development

### PART I—GENERAL PROVISIONS

### SEC. 341. SHORT TITLE.

This subtitle may be cited as the "Critical Technologies Development Act of 1992".

### SEC. 342. DEFINITIONS.

For purposes of this subtitle—

(1) the term "advanced technologies" means technologies eligible for assistance under the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(2) the term "articles" means articles of incorporation for an incorporated body, and the functional equivalent, or other similar documents specified by the Under Secretary, for other business entities;

(3) the term "critical technologies" means technologies identified as critical technologies pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d));

(4) the term "Department" means the Department of Commerce;

(5) the term "executive agency" has the meaning given such term in section 105 of title 5, United States Code;

(6) the term "license" means a license issued by the Under Secretary under section 351;

(7) the term "licensee" means a critical technologies development company licensed under section 351;

(8) the term "preferred securities" means preferred stock or a preferred limited partnership interest or other similar security, as defined by the Under Secretary by regulation;

(9) the term "private equity capital" means the paid-in capital and paid-in surplus, on hand or legally committed to be provided, of a licensee organized as a corporation, or the partnership capital, on hand or legally committed to be provided, of a licensee organized as an unincorporated partnership, but does not include any funds—

(A) borrowed by the licensee from any source;

(B) obtained from the sale of preferred securities; or

(C) derived directly or indirectly from any Federal source;

(10) the term "qualified business concern" means an incorporated or unincorporated enterprise, organized under the laws of a State, if—

(A)(i) the business of such enterprise includes the pursuit of commercial applications described in section 9(e)(4)(C) of the Small Business Act (15 U.S.C. 638(e)(4)(C));

(ii) the principal business of such enterprise is the development or exploitation of a critical technology; or

(iii) such enterprise is eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) such enterprise is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available (within the meaning of section 851(e)(1) of the Internal Revenue Code of 1986);

(11) the term "State" means several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States;

(12) the term "university sponsored licensee" means a critical technologies development company licensed under section 351 in which a single university or consortium of universities have at least a 25 percent investment interest in the private equity capital of such licensee; and

(13) the term "venture capital" means consideration for such common stock, preferred stock, or other financing with subordination or nonamortization characteristics, issued by a qualified business concern, as the Under Secretary determines to be substantially similar to equity financing, including subordinated debt with equity features which provides for interest payments contingent upon and limited to the extent of earnings.

### SEC. 343. ESTABLISHMENT OF PROGRAM.

(a) ESTABLISHMENT.—In order to stimulate and facilitate the formation and growth of privately managed technology investment firms, for the purpose of encouraging and enhancing the ability of such firms to make available long-term, patient capital needed for the formation, development, and growth of United States business concerns that are engaged principally in the development or utilization of critical and other advanced technologies, and thereby to contribute to United States economic competitiveness, employment, and prosperity, there is established within the Technology Administration of the Department of Commerce a Critical Technologies Development Program. The Secretary, through the Under Secretary and under the provisions of this subtitle, shall, through such Program, provide for the selection, licensing, and financial and technical support of technology investment firms which in turn shall provide financial, management, and technical assistance to qualified business concerns.

(b) RESPONSIBILITIES.—(1) The Secretary, acting through the Under Secretary, and subject to the availability of appropriations, shall be responsible for carrying out this subtitle, and in doing so shall—

(A) consult with and, to the extent permitted by law, utilize the capabilities of other executive agencies, as appropriate, to ensure the efficient and effective implementation of this subtitle;

(B) explore, with other executive agencies, ways to avoid duplication of effort by consolidating the administration of the program established by this subtitle with any other similar Federal program, and as part of such consolidation may delegate administrative functions, as necessary and appropriate, to another executive agency; and

(C) consult with the Secretary of Energy on all policy matters related to the Critical Technologies Development Program that deal with development or utilization of energy technologies.

(2) To the extent permitted by law, other executive agencies shall assist the Under Secretary in carrying out this subtitle.

### SEC. 344. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Under Secretary shall establish an independent advisory committee to advise the Under Secretary on matters related to policy, planning, operation, and performance of the critical technologies development program under this subtitle.

(b) MEMBERS.—The advisory committee shall be composed of at least 7 but not more than 13 members representing industry, small business, academia, and the financial community.

(c) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

## PART II—PROGRAM STRUCTURE AND OPERATION

### SEC. 351. ORGANIZATION AND LICENSING.

(a) IN GENERAL.—A licensee shall be an incorporated body or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this subtitle, which, if incorporated, has succession for a period of not less than 30 years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than 10 years, and possesses the powers reasonably necessary to perform such functions and conduct such activities.

(b) ARTICLES.—The articles of any licensee shall specify in general terms the objects for which the licensee is formed, the name assumed by such licensee, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this subtitle that the licensee may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Under Secretary.

(c) APPROVAL OF ARTICLES; LICENSING.—The articles and amendments thereto shall be forwarded to the Under Secretary for consideration and approval or disapproval. In determining whether to approve a prospective licensee's articles and permit it to operate under the provisions of this subtitle, the Under Secretary shall give due regard, among other things, to the general business reputation, character, suitability, and demonstrated ability in the growth of qualified business concerns, of the proposed owners and management of the critical technologies development company, and the likelihood of successful operations of such company including adequate profitability and financial soundness. After consideration of all relevant factors, if the Under Secretary approves the company's articles and determines that the applicant satisfies the requirements of this subtitle, the Under Secretary may approve the company to operate under the provisions of this subtitle and issue the company a license for such operation.

### SEC. 352. CAPITAL REQUIREMENTS.

(a) CAPITAL REQUIREMENTS AND MANAGEMENT.—(1) The private equity capital of a licensee shall be adequate to ensure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles. Such private equity capital shall not be less than **$10,000,000**, except that, in the case of a university sponsored licensee, such private equity capital shall not be less than **$5,000,000**. At the time of issuance of a license, not less than 75 percent of the private equity capital of the licensee shall be available or committed to be available for new investment in accordance with section 355.

(2) The management and operational control of a licensee shall be carried out by the private sector.

(3) Private and public pension funds may contribute to the private equity capital of a licensee without restriction as to the amount of such contribution.

(4) State and local government entities may contribute not more than 40 percent of the total private equity capital of a licensee.

(b) LIMITATION ON STOCK OWNERSHIP.—The aggregate amount of shares in any such licensee or licensees which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Under Secretary.

### SEC. 353. FINANCING.

(a) AUTHORITY TO PURCHASE AND GUARANTEE PREFERRED SECURITIES.—To encourage and facilitate the formation and growth of a licensee, the Under Secretary may purchase nonvoting, nonparticipating preferred securities with mandatory redemption issued by a licensee, or guarantee the payment of 100 percent of the redemption price of and dividends on such preferred securities, to the extent provided in section 504(b) of the Federal Credit Reform Act of 1990. Such purchases and guarantees shall constitute direct loans and loan guarantees within the meaning of paragraphs (1) and (3) of section 502 of the Federal Credit Reform Act of 1990, respectively. A trust or pool acting on behalf of the Under Secretary may purchase preferred securities that are guaranteed under this subsection.

(b) TERMS AND CONDITIONS OF PREFERRED SECURITIES.—(1) Guarantees and purchases of preferred securities under this section may be made on such terms and conditions as the Under Secretary shall establish by regulation or set forth in contract to ensure compliance with this section and to minimize the risk of loss to the United States in the event of default. Preferred securities issued under this section shall be of such sound value as to reasonably ensure that the requirements of paragraphs (3) and (4) will be satisfied.

(2)(A) Except as provided in subparagraph (B), preferred securities issued under this section shall be senior in priority for all purposes to all non-Federal equity interests in a licensee unless the Under Secretary, in the exercise of reasonable investment prudence and in considering the financial soundness of the licensee, determines otherwise.

(B) The equity interests of a university or consortium of universities in a licensee shall be equal in priority to Federal equity interests in such licensee for all purposes unless the Under Secretary, in the exercise of reasonable investment prudence and in considering the financial soundness of the licensee, determines otherwise.

(3) Preferred securities issued under this section shall be redeemed by the issuer not later than 10 years after their date of issuance for an amount equal to 100 percent of the original issue price plus any accrued and unpaid dividends. Redemption of such preferred securities may be extended by mutual consent for no more than 5 years beyond such expiration date.

(4) Preferred securities issued under this section shall pay dividends at a rate determined by the Secretary of the Treasury at the time of issuance to equal the then current average market yield on outstanding marketable debt obligations of the United States with remaining periods to maturity comparable to the time to required redemption of such preferred securities, plus such additional charge, if any, toward covering expected defaults and reasonable administrative costs of carrying out this subtitle as the Under Secretary may determine to be reasonable and appropriate. Such additional charge shall not exceed 2 percent.

(5) Dividends on preferred securities issued under this section shall be cumulative and preferred and paid out of net realized earnings and returns of capital available for distribution, as defined by the Under Secretary by regulation.

(6) The payment of dividends on preferred securities issued under this section may be deferred by the issuer until such time as, and to the extent that, the issuer realizes earnings and returns of capital available for distribution. Accumulated and unpaid dividends on such preferred securities shall be paid by the issuer before or at the time of redemption of the preferred securities and before any distribution of net realized earnings and returns of capital of the issuer to its non-Federal equity investors, except as provided in subsection (e)(2)(B) and (C). With respect to preferred securities issued under this section to a party other than the Under Secretary, during the time of any deferral under this paragraph, the Under Secretary shall make, on behalf of the issuer, required dividend payments to the holder of the preferred securities, its agents or assigns, or the appropriate central registration agent, if any. The authority to make dividend payments provided in this paragraph shall be limited to the extent of amounts provided in advance in appropriations Acts for such purposes.

(7) For purposes of this subsection, the term "dividends" means dividends on preferred stock and returns on preferred limited partnership interests or other similar securities, as defined by the Under Secretary by regulation.

(c) Limitations and Restrictions.—(1) Not less than 65 percent of the private equity capital of a licensee shall be invested or committed to be invested in qualified business concerns in accordance with its license, this subtitle, and regulations issued under this subtitle, before the Under Secretary may purchase or guarantee, or a trust or pool acting on behalf of the Under Secretary may purchase, preferred securities of the licensee under subsection (a).

(2) The total principal amount of debt, as evidenced by notes, bonds, debentures, or certificates of indebtedness, plus the total face amount of preferred securities purchased or guaranteed by the Under Secretary under subsection (a), issued and outstanding from a licensee shall not exceed 200 percent of the private equity capital of the licensee.

(3) The total face amount of preferred securities purchased or guaranteed by the Under Secretary under subsection (a) and outstanding from a licensee or a combination of licensees which are commonly controlled, as defined and determined by the Under Secretary, shall not exceed $100,000,000.

(4)(A) If preferred securities issued under this section are outstanding, then the issuing licensee shall be subject to the following restrictions:

(i) The total principal amount of debt, as evidenced by notes, bonds, debentures, or certificates of indebtedness, of a licensee issued and outstanding may not exceed 50 percent of the private equity capital of the licensee.

(ii) The annual management expenses of a licensee shall not exceed 2.5 percent of its invested assets plus .5 percent of its cash and cash equivalents, unless the Under Secretary approves a greater amount which the Under Secretary determines to be reasonable and appropriate.

(B) For purposes of this paragraph, the term "management expenses" includes expenses incurred in the normal course of operations, but shall not include the cost of legal, accounting, and consulting services provided by outside parties and by affiliates of the licensee which are not normal practice in making and monitoring investments consistent with the purposes of this subtitle.

(d) Use of Proceeds by Licensees.—(1) A licensee issuing preferred securities under this section shall invest or commit to invest an amount equal to the face value of such preferred securities that are outstanding in the venture capital of qualified business concerns in accordance with section 355.

(2) At least 50 percent of the amount of investments required under paragraph (1) shall be for early stage financing as necessary to prove concepts and develop—

(A) preprototypes or prototypes of products that constitute a critical or other advanced technology; or

(B) services that utilize, in a meaningful and substantial manner, a critical or other advanced technology.

The Under Secretary may alter the percentage requirement under this paragraph to the extent necessary, in the determination of the Under Secretary, to achieve and maintain prudent investment diversification.

(3) Proceeds to a licensee derived from preferred securities issued under this section may be used by the issuer to redeem any preferred securities issued under this section that have been outstanding at least 5 years, as provided in subsection (b)(3).

(4) Proceeds to a licensee derived from preferred securities issued under this section that have not been invested pursuant to paragraph (1) or used for redemptions pursuant to paragraph (3) and are not reasonably needed for the operations of the licensee shall be invested in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution the accounts of which are insured by the Federal Deposit Insurance Corporation.

(e) Profit Distribution by Licensees.—(1) Any distribution of net realized earnings and returns of capital made by a licensee that exceeds amounts required for the purposes stated in paragraph (2) shall be distributed pro rata to all investors entitled to such distributions. The United States shall receive no funds under this paragraph.

(2)(A) Except as provided in subparagraphs (B) and (C), any distribution of net realized earnings and returns of capital made by a licensee shall first be used to pay accumulated and unpaid dividends owed on outstanding preferred securities issued under this section and to satisfy the redemption requirements of subsection (b)(3).

(B) For purposes of subparagraph (A), the redemption requirements of subsection (b)(3) shall be considered to be satisfied if necessary and appropriate actions, as determined by the Under Secretary, have been undertaken by the licensee to ensure that such requirements will be satisfied.

(C) If a licensee is operating as a limited partnership or as a corporation described in subchapter S of chapter 1 of subtitle A of the Internal Revenue Code of 1986 or an equivalent pass-through entity for tax purposes, it may distribute to the partners or shareholders an amount equal to the estimated amount of Federal, State, and local income taxes due from such partners and shareholders on their share of undistributed taxable income for the current taxable year before payments described in subparagraph (A) are made.

(f) Use of Payments to the United States.—Amounts received by the United States from the payment of dividends and the redemption of preferred securities pursuant to this section, and fees paid to the United States by a licensee pursuant to this subtitle, shall be deposited in an account established by the Under Secretary and shall be available solely for carrying out this subtitle, to the extent provided in advance in appropriations Acts.

### SEC. 354. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) Authority To Issue Trust Certificates.—The Under Secretary is authorized to issue trust certificates representing ownership of all or a fractional part of preferred securities issued by licensees and guaranteed by the Under Secretary under this subtitle. Such trust certificates shall be based on and backed by a trust or pool approved by the Under Secretary and composed of preferred securities and such other contractual obligations as the Under Secretary may undertake to facilitate the sale of such trust certificates.

(b) Guarantee of Trust Certificates.—The Under Secretary is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Under Secretary or his agent for purposes of this section. Such guarantee shall be limited to the extent of the redemption price of and dividends on the preferred securities, plus any related contractual obligations, which compose the trust or pool.

(c) Prepayments and Redemptions.—In the event that preferred securities or contractual obligations in such trust or pool are redeemed or extinguished, either voluntarily or involuntarily, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of redemption price and dividends such redeemed preferred security or extinguished contractual obligation represents in the trust or pool. Dividends or partnership profit distributions on such preferred securities and related contractual obligations, shall accrue and be guaranteed by the Under Secretary only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption, whether voluntary or involuntary, of all preferred securities residing in the pool.

(d) FEES.—Except as provided in subsection (f)(2), the Under Secretary shall not collect a fee for a guarantee under this section.

(e) PAYMENT OF CLAIMS.—(1) In the event the Under Secretary pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Under Secretary of ownership rights in the preferred securities residing in a trust or pool against which trust certificates are issued.

(f) REGISTRATION AND INTERMEDIARY OPERATIONS.—(1) The Under Secretary shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale, identification of each licensee, the interest rate or dividend rate paid by the licensee, commissions, fees, or discounts paid to brokers and dealers in trust certificates, identification of each purchaser of the trust certificate, the price paid by the purchaser for the trust certificate, the interest rate paid on the trust certificate, the fees of any agent for carrying out the functions described in paragraph (2), and such other information as the Under Secretary deems appropriate.

(2) The Under Secretary shall contract with an agent or agents to carry out on behalf of the Under Secretary the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Under Secretary, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by securities guaranteed or purchased under this subtitle, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Under Secretary determines to be necessary to fully protect the interests of the Federal Government.

(3) Prior to any sale, the Under Secretary shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

### SEC. 355. CAPITAL FOR QUALIFIED BUSINESS CONCERNS.

(a) PROVISION OF VENTURE CAPITAL.—Each licensee may provide venture capital to qualified business concerns, in such manner and under such terms as the licensee may fix in accordance with the regulations of the Under Secretary. Venture capital provided to incorporated qualified business concerns under this subsection may be provided directly or in cooperation with other investors, incorporated or unincorporated, through agreements to participate on an immediate basis.

(b) LOAN AUTHORITY.—Each licensee may make loans, directly or in cooperation with other lenders, incorporated or unincorporated, through agreements to participate on an immediate or deferred basis, to qualified business concerns to provide such concerns with funds needed for sound financing related to development or utilization of critical or other advanced technologies, subject to the following conditions:

(1) The maximum rate of interest for the licensee's share of any loan made under this subsection shall be determined by the Under Secretary.

(2) Any loan made under this subsection shall have a maturity not exceeding 10 years.

(3) Any loan made under this subsection shall be of such sound value, or so secured, as to reasonably ensure repayment.

(4) Any licensee which has made a loan under this subsection may extend the maturity of or renew such loan for additional periods, not exceeding 5 years, if the licensee finds that such extension or renewal will aid in the orderly liquidation of such loan.

(c) STATE USURY LAWS.—Any provision of the constitution or laws of a State which expressly limits the rate or the amount of interest or other charges related to a loan that may be charged or received by a licensee shall not apply to a loan made under subsection (b).

### SEC. 356. LIMITATION ON AMOUNT OF ASSISTANCE.

If a licensee has issued preferred securities under section 353(a) and such securities are outstanding, then the aggregate amount of obligations and securities acquired and for which commitments may be issued by a licensee for any single qualified business concern shall not exceed 20 percent of the private equity capital of such licensee, unless the Under Secretary approves a greater amount.

### SEC. 357. OPERATION AND REGULATION.

(a) COOPERATION WITH FINANCIAL INSTITUTIONS.—Wherever practicable the operations of a licensee, including the generation of business, may be undertaken in cooperation with banks or other investors or lenders, incorporated or unincorporated, and any servicing or initial investigation required for loans or acquisitions of securities by the licensee under the provisions of this subtitle may be handled through such banks or other investors or lenders on a fee basis. Any licensee may receive fees for services rendered to such banks and other investors and lenders.

(b) USE OF ADVISORY SERVICES; DEPOSITORY OR FISCAL AGENTS.—Each licensee may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any licensee operating under the provisions of this subtitle.

(c) REGULATIONS.—The Under Secretary is authorized to prescribe regulations governing the operations of licensees, and to carry out the provisions of this subtitle, in accordance with the purposes of this subtitle. Regulations to implement this subtitle shall be issued not later than 180 days after the date of enactment of this Act.

(d) LIABILITY OF THE UNITED STATES.—Nothing in this subtitle or in any other provision of law imposes any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any licensee operating under the provisions of this subtitle.

### SEC. 358. TECHNICAL ASSISTANCE FOR LICENSEES AND QUALIFIED BUSINESS CONCERNS.

(a) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and services, as appropriate and needed, to licensees and to qualified business concerns receiving financial assistance under this subtitle, and shall ensure that such qualified business concerns have ready access to assistance available under title II of this Act, or under any other Act, in order to aid such qualified business concerns in their development or utilization of critical or other advanced technologies. Technical assistance and services under this subsection shall include providing licensees and qualified business concerns with—

(1) an assessment of the technological and scientific feasibility of a project, or an analysis of a specific field of technical or scientific endeavor;

(2) improved access to technology developed by the Institute and assistance in obtaining access to technology developed by other Federal agencies and laboratories;

(3) expert analysis of the economics of technology development undertaken by a qualified business concern; and

(4) any other assistance or service that the Under Secretary determines, after consultation with licensees and qualified business concerns, is necessary and appropriate to enhance prospects for success and to reduce technical risk for licensees and qualifed business concerns.

(b) FEES.—The Secretary may charge fees for services and technical assistance provided under subsection (a) in amounts sufficient to cover the reasonable cost of such services and assistance. The Secretary may waive fees established under this subsection.

### SEC. 359. ANNUAL AUDIT AND REPORT.

(a) REQUIREMENT.—The Under Secretary shall prepare, in consultation with the advisory committee established under section 344, and submit annually a report to the Congress containing a full and detailed account of operations under this subtitle. Such report shall include an audit setting forth the amount and type of disbursements, receipts, and losses sustained by the Federal Government as a result of such operations during the preceding fiscal year, together with an estimate of the total disbursements, receipts, and losses which the Federal Government can reasonably expect to incur as a result of such operations during the then current fiscal year.

(b) CONTENTS.—In the annual report submitted under subsection (a), the Under Secretary shall also include full and detailed accounts relative to the following matters:

(1) The Under Secretary's plans to ensure the provision of licensee financing to all areas of the country and to all qualified business concerns, including steps taken to accomplish that goal.

(2) Steps taken by the Under Secretary to maximize recoupment of Federal Government funds incident to the inauguration and administration of the licensee program, and to ensure compliance with statutory and regulatory standards relating thereto.

(3) An accounting by the Treasury Department with respect to tax revenues accruing to the Federal Government from business concerns receiving assistance under this subtitle.

(4) An accounting by the Treasury Department with respect to both tax losses and increased tax revenues related to licensee financing of both individual and corporate business taxpayers.

(5) Recommendations with respect to program changes, statutory changes, and other matters, including tax incentives to improve and facilitate the operations of licensees and to encourage the use of their financing facilities by qualified business concerns.

## PART III—ENFORCEMENT

### SEC. 361. INVESTIGATIONS AND EXAMINATIONS.

(a) Reporting Requirements.—Each license issued under this subtitle shall require a licensee with outstanding preferred securities to provide the Under Secretary such information, including companies financed, disbursements made along with associated terms and conditions, receipts, portfolio valuation at cost and at estimated fair market value, and other financial statements, that the Under Secretary may require to determine, in a timely manner, compliance with this subtitle and regulations promulgated under this subtitle. Such reporting shall be—

(1) uniform for all licensees; and

(2) independently audited, at the expense of a licensee, in accordance with generally accepted auditing standards and submitted to the Under Secretary no later than 60 days after the end of a licensee's fiscal year, with interim unaudited financial statements provided to the Under Secretary no later than 45 days after the end of each 3-month period during a licensee's fiscal year.

The Under Secretary may exempt from making such reports any licensee which is registered under the Investment Company Act of 1940 only to the extent necessary to avoid duplication in reporting requirements.

(b) Valuations.—The Under Secretary shall, by regulation, establish guidelines for estimating the fair market value of investments held by a licensee as required under subsection (a). The board of directors of a corporate licensee and the general partners of a partnership licensee shall have the sole responsibility for making a good faith determination of the fair market value of investments held by such licensee, based on guidelines established under this subsection.

(c) Investigations.—The Secretary may make such investigations as the Secretary deems necessary to determine whether a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this subtitle, or of any rule or regulation under this subtitle or any order issued under this subtitle. The Secretary shall permit any person to file a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a licensee, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(d) Examinations.—(1) Each licensee shall be subject to examinations made at the direction of the Under Secretary by examiners selected or approved by, and under the supervision of, the Under Secretary. The Under Secretary is authorized to enter into contracts with private parties to perform such examinations. The cost of such examinations, including the compensation of the examiners, may in the discretion of the Under Secretary be assessed against the licensee examined and when so assessed shall be paid by such licensee.

(2) Each licensee shall be examined at least every 2 years in such detail so as to determine whether or not—

(A) it has engaged solely in lawful activities and those contemplated by this subtitle;

(B) it has engaged in prohibited conflicts of interest;

(C) it has acquired or exercised illegal control of an assisted qualified business concern;

(D) it has invested more than 20 percent of its capital in any individual qualified business concern;

(E) it has engaged in relending, foreign investments, or passive investments; or

(F) it has charged an interest rate in excess of the maximum permitted by law.

(3) The Under Secretary may waive the examination—

(A) for up to one additional year if, in his discretion he determines such a delay would be appropriate, based upon the amount of debentures and preferred securities being issued by the licensee and its repayment record, the prior operating experience of the licensee, the contents and results of the last examination and the management expertise of the licensee; or

(B) if it is a licensee whose operations have been suspended while the licensee is involved in litigation or is in receivership.

### SEC. 362. REVOCATION AND SUSPENSION OF LICENSES; CEASE AND DESIST ORDERS.

(a) Grounds for Revocation or Suspension.—A license may be revoked or suspended by the Secretary—

(1) for false statements allowingly made in any written statement required under this subtitle, or under any regulation issued under this subtitle by the Under Secretary;

(2) if any written statement required under this subtitle, or under any regulation issued under this subtitle by the Under Secretary, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(3) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this subtitle;

(4) for willful or repeated violation of or willful or repeated failure to observe, any rule or regulation of the Under Secretary authorized by this subtitle; and

(5) for violation of, or failure to observe, any cease and desist order issued by the Secretary under this section.

(b) Cease and Desist Orders.—Where a licensee or any other person has not complied with any provision of this subtitle, or of any regulation issued pursuant thereto by the Under Secretary, or is engaging or is about to engage in any acts or practices which constitute or will constitute a violation of such subtitle or regulation, the Secretary may order such licensee or other person to cease and desist from such action or failure to act. The Secretary may further order such licensee or other person to take such action or to refrain from such action as the Secretary considers necessary to ensure compliance with such subtitle and regulations. The Secretary may also suspend the license of a licensee, against whom an order has been issued, until such licensee complies with such order.

(c) Procedures.—Before revoking or suspending a license pursuant to subsection (a) or issuing a cease and desist order pursuant to subsection (b), the Secretary shall serve upon the licensee and any other person involved an order to show cause why an order revoking or suspending the license or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters of fact and law asserted by the Secretary and the legal authority and jurisdiction under which a hearing is to be held, and shall set forth that a hearing will be held before the Secretary at a time and place stated in the order. If after hearing, or a waiver thereof, the Secretary determines on the record that an order revoking or suspending the license or a cease and desist order should issue, the Secretary shall promptly issue such order, which shall include a statement of the findings of the Secretary and the grounds and reasons therefor and specify the effective date of the order, and shall cause the order to be served on the licensee and any other person involved.

(d) Subpoenas.—The Secretary may require by subpoenas the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States. Witnesses summoned before the Secretary shall be paid by the party at whose instance they were called the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(e) Judicial Review.—An order issued by the Secretary under this section shall be final and conclusive unless within 30 days after the service thereof the licensee, or other person against whom an order is issued, appeals to the United States court of appeals for the circuit in which such licensee has its principal place of business by filing with the clerk of such court a petition praying that the Secretary's order be set aside or modified in the manner stated in the petition. After the expiration of such 30 days, a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition theretofore. The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon certify and file in the court a transcript of the record upon which the order complained of was entered. If before such record is filed the Secretary amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary. The filing of a petition for review shall not of itself stay or suspend the operation of the order of the Secretary, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. The court may affirm, modify, or set aside the order of the Secretary. If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Secretary to reopen the hearing for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file its modified or new findings and the amendments, if any, of its order, with the record of such additional evidence. No objection to an order of the Secretary shall be considered by the court unless such objection was urged before the Secretary or, if it was not so urged, unless there were reasonable grounds for failure to do so. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Secretary shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

(f) ENFORCEMENT.—If any licensee or other person against which or against whom an order is issued under this section fails to obey the order, the Secretary may apply to the United States court of appeals, within the circuit where the licensee has its principal place of business, for the enforcement of the order and shall file a transcript of the record upon which the order complained of was entered. Upon the filing of the application the court shall cause notice thereof to be served on the licensee or other person. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in subsection (e) for applications to set aside or modify orders.

### SEC. 363. INJUNCTIONS AND OTHER ORDERS.

(a) IN GENERAL.—Whenever, in the judgment of the Secretary, a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this subtitle, or of any rule or regulation under this subtitle, or of any order issued under this subtitle, the Secretary may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Secretary that such licensee or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction shall be granted without bond.

(b) EQUITY JURISDICTION.—In any such proceeding the court as a court of equity may, to such extent as it deems necessary, take exclusive jurisdiction of the licensee or licensees and the assets thereof, wherever located; and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(c) TRUSTEESHIP OR RECEIVERSHIP.—The Under Secretary shall have authority to act as trustee or receiver of the licensee. Upon request by the Secretary, the court may appoint the Under Secretary to act in such capacity unless the court deems such appointment inequitable or otherwise inappropriate by reason of the special circumstances involved.

### SEC. 364. CONFLICTS OF INTEREST.

For the purpose of controlling conflicts of interest which may be detrimental to qualified business concerns, to licensees, to the shareholders or partners of either, or to the purposes of this subtitle, the Under Secretary shall adopt regulations to govern transactions with any officer, director, shareholder, or partner of any licensee, or with any person or concern, in which any interest, direct or indirect, financial or otherwise, is held by any officer, director, shareholder, or partner of (1) any licensee, or (2) any person or concern with an interest, direct or indirect, financial or otherwise, in any licensee. Such regulations shall include appropriate requirements for public disclosure (including disclosure in the locality most directly affected by the transaction) necessary to the purposes of this section.

### SEC. 365. REMOVAL OR SUSPENSION OF DIRECTORS AND OFFICERS.

(a) GROUNDS.—The Secretary may serve upon any director or officer of a licensee a written notice of its intention to remove him from office whenever, in the opinion of the Secretary, such director of officer—

(1) has willfully and knowingly committed any substantial violation of—

(A) this subtitle;

(B) any regulation issued under this subtitle; or

(C) a cease-and-desist order which has become final; or

(2) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of his fiduciary duty as such director or officer,

and that such violation or such breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer.

(b) TEMPORARY SUSPENSION.—In respect to any director or officer referred to in subsection (a), the Secretary may, if he deems it necessary for the protection of the licensee or the interests of the Secretary, by written notice to such effect served upon such director or officer, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the licensee. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (d), shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (a) and until such time as the Secretary shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer, until the effective date of any such order. Copies of any such notice shall also be served upon the interested licensee.

(c) HEARING; ORDER OF REMOVAL.—A notice of intention to remove a director or officer, as provided in subsection (a), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Secretary at the request of (1) such director or officer and for good cause shown, or (2) the Attorney General of the United States. Unless such director or officer shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal. In the event of such consent, or if upon the record made at any such hearing the Secretary shall find that any of the grounds specified in such notice has been established, the Secretary may issue such orders of removal from office as he deems appropriate. Any such order shall become effective at the expiration of 30 days after service upon such licensee and the director or officer concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by section of the Secretary or a reviewing court.

(d) STAY OF SUSPENSION OR PROHIBITION.—Within 10 days after any director or officer has been suspended from office and/or prohibited from participation in the conduct of the affairs of a licensee under subsection (b), such director or officer may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director or officer under subsection (a), and such court shall have jurisdiction to stay such suspension and/or prohibition.

(e) FELONIES INVOLVING DISHONESTY OR BREACH OF TRUST.—Whenever any director or officer of a licensee is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Secretary may, by written notice served upon such director or officer, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the licensee. A copy of such notice shall also be served upon the licensee. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Secretary. In the event that a judgment of conviction with respect to such offense is entered against such director or officer, and at such time as such judgment is not subject to further appellate review, the Secretary may issue and serve upon such director or officer an order removing him from office. A copy of such order shall be served upon such licensee, whereupon such director or officer shall cease to be a director or officer of such licensee. A finding of not guilty or other disposition of the charge shall not preclude the Secretary from thereafter instituting proceedings to suspend or remove such director or officer from office and/or to prohibit him from further participation in licensee affairs, pursuant to subsection (a) or (b).

(f) HEARINGS AND REVIEW.—(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the licensee is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. After such hearing, and within 90 days after the Secretary has notified the parties that the case has been submitted to it for final decision, the Secretary shall render a decision (which shall include findings of fact upon which his decision is predicated) and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, upon such notice, and in such manner as he shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to such proceeding may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the director or officer concerned, or an order issued under subsection (e) of this section), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of such paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28 of the United States Code.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

### SEC. 366. UNLAWFUL ACTS.

(a) PARTICIPATION.—Wherever a licensee violates any provision of this subtitle or regulation issued thereunder by reason of its failure to comply with the terms thereof or by reason of its engaging in any act or practice which constitutes or will constitute a violation thereof, such violation shall be deemed to be also a violation and an unlawful act on the part of any person who, directly or indirectly, authorizes, orders, participates in, or causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions which constitute or will constitute, in whole or in part, such violation.

(b) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a licensee to engage in any act or practice, or to omit any act, in breach of his fiduciary duty as such officer, director, employee, agent, or participant, if, as a result thereof, the licensee has suffered or is in imminent danger of suffering financial loss or other damage.

(c) DISQUALIFICATION.—Except with the written consent of the Secretary, it shall be unlawful—

(1) for any person hereafter to take office as an officer, director, or employee of a licensee, or to become an agent or participant in the conduct of the affairs or management of a licensee, if such person—

(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(B) has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; and

(2) for any person to continue to serve in any of the above-described capacities if such person—

(A) is hereafter convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(B) is hereafter found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

### SEC. 367. PENALTIES AND FORFEITURES.

(a) CIVIL PENALTY.—Except as provided in subsection (b) of this section, a licensee which violates any regulation or written directive issued by the Secretary or the Under Secretary shall forfeit and pay to the United States a civil penalty of not more than $1,000 for each day of the continuance of the licensee's failure to file a report required under section 361(a), unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this section shall accrue to the United States and may be recovered in a civil action brought by the Secretary.

(b) EXEMPTIONS.—The Secretary may by rules and regulations, or upon application of an interested party, at any time previous to such failure, by order, after notice and opportunity for hearing, exempt in whole or in part, any licensee from the provisions of subsection (a) of this section, upon such terms and conditions and for such period of time as the Secretary deems necessary and appropriate, if the Secretary finds that such action is not inconsistent with the public interest or the protection of the Department. The Secretary may for the purposes of this section make any alternative requirements appropriate to the situation.

### SEC. 368. JURISDICTION AND SERVICE OF PROCESS.

Any suit or action brought under section 357, 362, 363, 365, or 367 by the Secretary at law or in equity to enforce any liability or duty created by, or to enjoin any violation of, this subtitle, or any rule, regulation, or order promulgated thereunder, shall be brought in the district wherein the licensee maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

### SEC. 369. ANTITRUST SAVINGS CLAUSE.

This subtitle shall not be construed to modify, impair, or supersede the operation of the antitrust laws. For purposes of this section, the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

## TITLE IV—MISCELLANEOUS

### SEC. 401. INTERNATIONAL STANDARDIZATION.

(a) FINDINGS.—The Congress finds that—

(1) private sector consensus standards are essential to the timely development of competitive products;

(2) Federal Government contribution of resources, more active participation in the voluntary standards process in the United States, and assistance, where appropriate, through government to government negotiations, can increase the quality of United States standards, increase their compatibility with the standards of other countries, and ease access of United States-made products to foreign markets; and

(3) the Federal Government, working in cooperation with private sector organizations including trade associations, engineering societies, and technical bodies, can effectively promote United States Government use of United States consensus standards and, where appropriate, the adoption and United States Government use of international standards.

(b) STANDARD PILOT PROGRAM.—Section 104(e) of the American Technology Preeminence Act of 1991 is amended—

(1) by inserting "(1)" before "Pursuant to the"; and

(2) by adding at the end the following new paragraph:

"(2) As necessary and appropriate, the Institute shall expand the program established under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) by extending the existing program and by entering into additional contracts with non-Federal organizations representing United States companies, as such term is defined in section 28(d)(9)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9)(B)). Such contracts shall require cost sharing between Federal and non-Federal sources for such purposes. In awarding such contracts, the Institute shall seek to promote and support the dissemination of United States technical standards to additional foreign countries, in cooperation with governmental bodies, private organizations including standards setting organizations and industry, and multinational institutions that promote economic development. The organizations receiving such contracts may establish training programs to bring to the United States foreign standards experts for the purpose of receiving in-depth training in the United States standards system.".

(c) REPORT ON GLOBAL STANDARDS.—The Secretary, in consultation with the Institute and the Commerce Technology Advisory Board established under section 204 of this Act, shall submit to the Congress a report describing the appropriate roles of the Department of Commerce in aid to United States companies in achieving conformity assessment and accreditation and otherwise qualifying their products in foreign markets, and in the development and promulgation of domestic and global product and quality standards, including a discussion of the extent to which each of the policy options provided in such Office of Technology Assessment report contributes to meeting the goals of—

(1) increasing the international adoption of standards beneficial to United States industries; and

(2) improving the coordination of United States representation to international standards setting bodies.

### SEC. 402. MALCOLM BALDRIGE AWARD AMENDMENTS.

(a) Section 108(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(4) of this Act, is amended to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

(b)(1) Section 108(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) Educational institutions.".

(2)(A) Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing—

(i) criteria for qualification for a Malcolm Baldrige National Quality Award by various classes of educational institutions;

(ii) criteria for the evaluation of applications for such awards under section 108(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980; and

(iii) a plan for funding awards described in clause (i).

(B) In preparing the report required under subparagraph (A), the Secretary shall consult with the National Science Foundation and other public and private entities with appropriate expertise, and shall provide for public notice and comment.

(C) The Secretary shall not accept applications for awards described in subparagraph (A)(i) until after the report required under subparagraph (A) is submitted to the Congress.

### SEC. 403. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 202(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), as redesignated by section 206(b)(6) of this Act, is amended by inserting "(including both real and personal property)" after "or other resources" both places it appears.

### SEC. 404. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

Section 102(a) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended by striking "Office of Productivity, Technology, and Innovation" and inserting in lieu thereof "Institute".

### SEC. 405. COMPETITIVENESS ASSESSMENTS AND EVALUATIONS.

Section 101(e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended to read as follows:

"(e) COMPETITIVENESS ASSESSMENTS AND EVALUATIONS.—(1) The Secretary, through the Under Secretary, shall—

"(A) provide for the conduct of research and analyses to advance knowledge of the ways in which the economic competitiveness of United States industry can be enhanced through Federal programs, including programs operated by the Department of Commerce;

"(B) as appropriate, provide for evaluations of Federal technology programs in order to judge their effectiveness and make recommendations to improve their contribution to United States competitiveness; and

"(C) prepare and submit to Congress annual reports which describe and assess the policies and programs used by governments and private industry in other major industrialized countries to develop and apply economically important critical technologies, compare these policies and programs with public and private activities in the United States, and assess the effects that these policies and programs in other countries have on the competitiveness of United States industries.

"(2) The head of each unit of the Department of Commerce other than the Technology Administration, and the head of each other Federal agency, shall furnish to the Secretary or Under Secretary, upon request from the Secretary or Under Secretary, such data, reports, and other information as is necessary for the Secretary to carry out the functions required under this section.

"(3) Nothing in this section shall authorize the release of information to, or the use of information by, the Secretary or Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

"(4) The head of any Federal agency may detail such personnel and may provide such services, with or without reimbursement, as the Secretary may request to assist in carrying out the activities required under this section.".

### SEC. 406. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act and the amendments made by this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act, and the amendments made by this Act, to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

### SEC. 407. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application thereof to other persons or circumstances shall not be affected thereby.

### SEC. 408. DEPARTMENT OF MANUFACTURING AND COMMERCE.

The Department of Commerce is hereby renamed as the Department of Manufacturing and Commerce, and all references in Federal law or regulation to the Department of Commerce or the Secretary of Commerce shall be deemed to be references to the Department of Manufacturing and Commerce or the Secretary of Manufacturing and Commerce, as appropriate.

## Subtitle B—Technology Transfer Improvements

### SEC. 411. SHORT TITLE.

This subtitle may be cited as the "Technology Transfer Improvements Act of 1992".

### SEC. 412. COPYRIGHT FOR SOFTWARE.

Section 105 of title 17, United States Code, is amended—

(1) by striking "Copyright" and inserting in lieu thereof "(a) GENERAL RULE.—Except as provided in subsection (b), copyright"; and

(2) by adding at the end the following new subsection:

"(b) COPYRIGHT OF COMPUTER PROGRAMS.—Each Federal agency may secure copyright registration on behalf of the United States and the United States shall have all copyright rights in and be the owner of any computer program (including instructions necessary to use the program, but not including data, data bases, or data base retrieval programs) authored in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of section 202(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)(1)) or a similar agreement entered into under section 203(c)(5) and (6) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(5) and (6)), or provided by the United States Government under section 202(b)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)), and may grant or agree to grant in advance to a participating party in the agreement, licenses or assignments for such copyrights, or options thereto, retaining such other rights as the Federal agency deems appropriate.".

### SEC. 413. AMENDMENTS TO SECTION 202 OF THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 202 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (b)(4), by inserting ", including computer software," after "intellectual property"; and

(2) in subsection (b)(5), by inserting "or computer programs described in section 105(b) of title 17, United States Code" after "of the United States".

### SEC. 414. DEFINITION OF COMPUTER SOFTWARE.

Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' has the meaning given the term 'computer program' in section 101 of title 17, United States Code, and includes instructions necessary to use the program, but does not include data, data bases, or data base retrieval programs.".

### SEC. 415. ROYALTY PAYMENTS TO AUTHORS.

(a) Section 204(a)(1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "coinventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "coinventors" each place it appears; and

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 204(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 204(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

### SEC. 416. TECHNICAL AND CONFORMING AMENDMENTS.

Section 202(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

## TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

### SEC. 501. TECHNOLOGY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary of Commerce for Technology Policy, for fiscal year 1994—

(1) for the Office of the Under Secretary, $3,000,000;

(2) for Technology Policy, $5,000,000;

(3) for Japanese Technical Literature, $2,000,000; and

(4) for competitiveness research, data collection, and evaluation, $1,000,000.

(b) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection;

(B) the aggregate amount authorized under subsection (a) is not changed; and

(C) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate; and

(B) 30 days have passed following the transmission of such written explanation.

(c) NATIONAL TECHNICAL INFORMATION SERVICE FACILITIES STUDY.—As part of its modernization effort and before signing a new facility lease, the National Technical Information Service, in consultation with the General Services Administration, shall study and report to Congress on the feasibility of accomplishing all or part of its modernization by signing a long-term lease with an organization that agrees to supply a facility and supply and periodically upgrade modern equipment which permits the National Technical Information Service to receive, store, manipulate, and print electronically created documents and reports and to carry out the other functions assigned to the National Technical Information Service.

### SEC. 502. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) INTRAMURAL SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $272,500,000 for fiscal year 1994.

(2) Of the amount authorized under paragraph (1)—

(A) $1,000,000 are authorized only for the evaluation of nonenergy-related inventions;

(B) $9,000,000 are authorized only for the technical competence fund; and

(C) $5,000,000 are authorized only for the standards pilot project established under section 104(e) of the American Technology Preeminence Act of 1991.

(b) FACILITIES.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary for fiscal year 1994 $25,000,000 for the renovation and upgrading of the Institute's facilities. The Institute may enter into a contract for the design work for such purposes only if Federal Government payments under the contract are limited to amounts provided in advance in appropriations Acts.

(c) EXTRAMURAL INDUSTRIAL TECHNOLOGY SERVICES.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services activities of the Institute—

(1) for Regional Centers for the Transfer of Manufacturing Technology, $35,000,000 for fiscal year 1994;

(2) for the State Technology Extension Program, $2,500,000 for fiscal year 1994; and

(3) for the Advanced Technology Program, $1,570,000,000 for the period encompassing fiscal years 1994 through 1997, of which—

(A) $150,000,000 are authorized only for Program support of large joint ventures; and

(B) $20,000,000 are authorized only for fiscal year 1994 and 1995 Program support of the Advanced Manufacturing Program established under section 301 of the Stevenson-Wydler Technology Innovation Act of 1980.

(d) TECHNICAL AMENDMENTS.—The American Technology Preeminence Act of 1991 is amended—

(1) in section 104(b)(1)(F), by striking "$12,000,000" and inserting in lieu thereof "$12,200,000";

(2) in section 104(b)(1)(H), by striking "$6,300,000" and inserting in lieu thereof "$6,800,000";

(3) in section 104(b)(2)(B)—

(A) by inserting "and" at the end of clause (i);

(B) by striking "; and" from the end of clause (ii) and inserting in lieu thereof a period; and

(C) by striking clause (iii);

(4) in section 105(b), by adding after paragraph (3) the following:

"Of the amounts authorized under this subsection, $5,000,000 are authorized only for the Institute's management of the programs described in paragraphs (1) through (3)."; and

(5) in section 201(d), by inserting ", except in the case of the amendment made by subsection (c)(6)(A)" after "enactment of this Act".

### SEC. 503. ADDITIONAL ACTIVITIES OF THE TECHNOLOGY ADMINISTRATION.

In addition to the amounts authorized under sections 501 and 502, there are authorized to be appropriated to the Secretary—

(1) for the National Manufacturing Outreach Network, $120,000,000 for the period encompassing fiscal years 1994 and 1995;

(2) for the Technology Development Loan Program established under section 331 of this Act, $20,000,000 for fiscal year 1994; and

(3) for the Critical Technologies Development Program established under subtitle D of title III of this Act, $100,000,000 for the period encompassing fiscal years 1994 and 1995.

Amounts appropriated under paragraph (2) or (3) shall remain available for expenditure through September 30, 1995. Of the amounts made available under paragraph (2) for a fiscal year, not more than $2,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses. Of the amounts made available under paragraph (3) for a fiscal year, not more than $5,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses.

### SEC. 504. NATIONAL SCIENCE FOUNDATION.

In addition to such other sums as may be authorized by other Acts to be appropriated to the Director of the National Science Foundation, there are authorized to be appropriated to that Director, to carry out the provisions of section 208 of this Act, $20,000,000 for fiscal year 1994.

### SEC. 505. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

## TITLE VI—FASTENER QUALITY ACT AMENDMENTS

### SEC. 601. REFERENCES.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provison of the Fastener Quality Act (15 U.S.C. 5401 et seq.).

### SEC. 602. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 3(8) (15 U.S.C. 5402(8)) is amended by striking "Standard" and inserting "Standards".

(b) INSPECTION AND TESTING.—Section 5(b)(1) (15 U.S.C. 5404(b)(1)) is amended by striking "section 6; unless" and inserting "section 6, unless".

(c) IMPORTERS AND PRIVATE LABEL DISTRIBUTORS.—Section 7(c)(2) (15 U.S.C. 5406(c)(2)) is amended by inserting "to the same" before "extent".

### SEC. 603. CLARIFYING AMENDMENTS.

(a) CHEMICAL TESTS.—(1) Section 5(a)(1)(B) (15 U.S.C. 5404(a)(1)(B)) is amended by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)".

(2) Section 5(a)(2)(A)(i) (15 U.S.C. 5404(a)(2)(A)(i)) is amended by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)".

(3) Section 5(c)(4) (15 U.S.C. 5405(c)(4)) is amended by inserting "except as provided in subsection (d)," before "state".

(4) Section 5 (15 U.S.C. 5404) is amended by inserting at the end the following new subsection:

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

The SPEAKER pro tempore (Mr. TRAXLER). Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the motion offered by the gentleman from North Carolina [Mr. VALENTINE].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 29, noes 34.

Mr. VALENTINE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 151, not voting 33, as follows:

[Roll No. 413]

YEAS—248

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
Bacchus
Beilenson
Bennett
Bevill
Bilbray
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—151

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Oxley
Packard
Paxon
Petri
Porter
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Skeen
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—33

Alexander
Anthony
AuCoin
Barnard
Berman
Blackwell
Boxer
Clinger
Conyers
Edwards (OK)
Foglietta
Hayes (LA)
Hertel
Ireland
Jones
LaFalce
Leach
Lent
Lowery (CA)
Markey
Mavroules
McCurdy
Moody
Moran
Penny
Perkins
Pursell
Russo
Shuster
Smith (OR)
Stokes
Vander Jagt
Washington

□ 1342

Messrs. GREEN of New York, CAMP, OXLEY, and QUILLEN changed their vote from "yea" to "nay."

Mr. COX of Illinois changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DARDEN). Without objection, the Senate bill is read a third time and passed. The title of the Senate bill is amended and a motion to reconsider is laid upon the table.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania object to the laying of the motion on the table?

Mr. WALKER. Mr. Speaker, I object to the entire sentence as read by the Chair.

The SPEAKER pro tempore. Would the gentleman state his objection.

Mr. WALKER. Well, the Chair read a whole line there where we were substituting for the Senate bill and laying it on the table. So I objected to that, Mr. Speaker.

The SPEAKER pro tempore. The question then is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 65, noes 10.

So the Senate bill was passed.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid upon the table.

Mr. WALKER. I object, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the motion to reconsider being tabled.

Mr. WALKER. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The Chair will put the question on the motion to reconsider.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

The SPEAKER pro tempore. The motion to reconsider is not agreed to.

Mr. VALENTINE. Mr. Speaker, what was the ruling?

The SPEAKER pro tempore. The motion to reconsider, the Chair will advise the gentleman from North Carolina, was not agreed to. Therefore, the bill is passed.

Without objection, a similar House bill (H.R. 5231) was laid on the table.

### PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, what did the Chair just do? I thought the Chair had called it on a voice vote as being that the noes had it on the motion to reconsider; is that correct?

The SPEAKER pro tempore. That is absolutely correct. The gentleman's side prevailed. The motion to reconsider was not agreed to.

Mr. WALKER. Was not agreed to. I thank the Chair.

## GENERAL LEAVE

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5231 and S. 1330, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## REQUEST TO AUTHORIZE THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 1330

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill (S. 1330) to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the action of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## NOTIFICATION OF CHANGE BY COMMITTEE ON RULES IN SCHEDULING OF H.R. 3161, FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES AUTHORIZATION ACT OF 1992

(Mr. FROST asked and was given permission to address the House for 1 minute.)

Mr. FROST. Mr. Speaker, this is to notify Members of a change by the Rules Committee in the scheduling of H.R. 3161, the Federal Property and Administrative Services Authorization Act of 1992. The committee originally planned to take testimony and grant a rule on Thursday of this week.

However, in order to accommodate Members who have not had an opportunity to review a compromise substitute text, the committee will postpone consideration of H.R. 3161 until next week. Therefore, the deadline for submission of amendments to the Rules Committee on this bill is extended from 3 p.m. today until 3 p.m. on Thursday, October 1, 1992. Members interested in offering an amendment to H.R. 3161 should submit, to the Rules Committee in H-312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 3 p.m. on Thursday, October 1, 1992.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 3161.

## FARM CREDIT BANKS AND ASSOCIATIONS SAFETY AND SOUNDNESS ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 573 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 573

*Resolved*, That at any time after the adoption of this resolution, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3298) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill, modified by the amendment printed in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment printed in the report may be offered only in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Any time specified in the report for debate on an amendment shall be equally divided and controlled by the proponent and an opponent. All points of order against amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 3298, it shall be in order to take from the Speaker's table the bill S. 1709 and to consider the Senate bill in the House. All points of order against the Senate bill and its consideration are waived. It shall then be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof a text consisting of the provisions of H.R. 3298, H.R. 4906, H.R. 5237, H.R. 5741, H.R. 5763, and H.R. 5764, each as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendments to S. 1709 and to request a conference with the Senate theron.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill is modified as follows:

Strike all after page 33, line 12 (strike title V).

□ 1350

The SPEAKER pro tempore (Mr. MURPHY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 573 provides for the consideration of H.R. 3298, the Farm Credit Banks and Associations Safety and Soundness Act and for the expeditious consideration of sundry House-passed agriculture bills by the Senate. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

House Resolution 573 makes in order as an original bill for the purpose of amendment the Agriculture Committee amendment in the nature of a substitute which is printed in the bill, as modified by an amendment printed in section 2 of the rule. The modifying amendment strikes title V of the bill which contains the CBO cost estimate. The rule also provides that the substitute, as modified, will be considered as read and waives the provisions of clause 7, rule XVI, the germaneness rule, against the substitute, as modified.

House Resolution 573 provides that no other amendments shall be in order except those amendments printed in the report accompanying this rule. Five amendments, which were the only amendments submitted to the Committee on Rules for consideration for inclusion in the rule, are printed in the report and each will be debatable for 10 minutes, such time to be equally divided and controlled by the proponent and an opponent. The rule provides that the amendments will be considered in the order and manner specified in the report and that they are not subject to a demand for a division of the question. The amendments will be subject to amendment and the rule waives all points of order against them.

The rule provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The rule also provides that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Finally, Mr. Speaker, the rule provides a means for a conference on H.R. 3298 and five other House-passed agriculture bills. The rule provides that after passage of H.R. 3298 it shall be in order to take from the Speaker's table the Senate-passed version of the Farm Credit Act, S. 1709. The rule provides for the consideration of S. 1709 in the House and waives all points of order against the bill and its consideration. The rule provides that it shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof a text consisting of the provisions of H.R. 3298, as well as the five other House-passed bills. Those bills are H.R. 4906, H.R. 5237, H.R. 5741, H.R. 5763, and H.R. 5764. The rule waives all points of order against that motion and provides that if the motion is adopted and the Senate bill, as amended, is passed, that it shall then be in order to move that the House insist on its amendments to S. 1709 and to request a conference with the Senate thereon.

Mr. Speaker, since the collapse of the American agricultural economy in the early 1980's, the Congress has responded with a set of reform and restructuring laws which have given the Farm Credit Administration the regulatory authority it needs to oversee the banks and associations of the Farm Credit System. These reforms sought to prevent another collapse of the farm economy, and today, the system is generally acknowledged to be sound. The bill, H.R. 3298, seeks to further shore up the system and to assure that all Federal moneys borrowed will be repaid to the Treasury.

Mr. Speaker, this bill was considered under suspension of the rules on November 6 of last year but did not receive a two-thirds affirmative vote. The bill did receive a majority vote, however, and the bill before us today is identical to the one considered previously. Mr. Speaker, in order that the House and Senate may get to conference on this important issue prior to our adjournment, I urge adoption of the rule and the bill.

Mr. DREIER of California. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. FROST] for yielding this time to me.

Mr. Speaker, as my friend described, this is a modified closed rule making in order only those amendments which are submitted to the Committee on Rules prior to its meeting on this bill that took place last Thursday. At that meeting last Thursday, Mr. Speaker, the distinguished Republican chairman emeritus, the gentleman from Tennessee [Mr. QUILLEN], offered an amendment calling for an open rule, and that was defeated on a recorded party line vote. However, Members were given notice to submit amendments, and I am pleased to say that the majority did accept all the amendments that were submitted. So, they were made in order.

As required by the Omnibus Budget Reconciliation Act of 1990, Mr. Speaker, this bill is designed to ensure the financial soundness of government sponsored enterprises; in this case, the farm credit system.

Mr. Speaker, as you know, this bill was considered under suspension of the rules in November of last year, as my friend from Texas has said, and, although it failed to receive the necessary two-thirds vote required for passage, a majority of the House did vote in favor of it.

The availability of affordable credit to finance the production of crops and livestock is very important to our agricultural communities. The bill contains a number of provisions to improve the system, such as clarifying the terms of the financial debt repayment. These provisions will help ensure that affordable credit from the system remains available to the American farmer for many years to come.

Mr. Speaker, I am very pleased that we did allow incorporation of amendments, and specifically the one that is being proposed by the gentlemen from Ohio [Mr. GRADISON], and in light of that I am not going to oppose the rule.

Mr. FROST. Mr. Speaker, I have no requests for time.

Mr. DREIER of California. Mr. Speaker, I, too, have not requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. (Mr. MURPHY). Pursuant to House resolution 573 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3298.

□ 1400

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3298) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the primary purpose of H.R. 3298 is to satisfy the intent of the Omnibus Budget Reconciliation Act of 1990 that legislation be enacted to ensure the financial soundness of Government-sponsored enterprises, such as the Farm Credit System.

I cannot emphasize enough how important the availability of affordable credit to finance the production of crops and livestock is to our agricultural sector and our rural communities. A few weeks ago the Wall Street Journal ran a front page story that was headlined: "Stuck in Low: As Farm Belt Leaves Its Debt Binge Behind, Its Caution Lingers On." But it was the subheading that really told the whole story: "Borrowers and Lenders Both Hold Back, Thus Keeping Main Street Business Slow."

Mr. Chairman, the Committee on Agriculture has jurisdiction over two Government-sponsored entities. The Farm Credit System, the oldest GSE, was established in 1916. The other, the Federal Agricultural Mortgage Corporation, was authorized in 1987.

H.R. 3298, was drafted to meet the Committee on Agriculture's obligation under OBRA to provide for the enhanced safety and soundness of the Farm Credit System.

Most of the really tough regulatory and restructuring changes needed to strengthen the Farm Credit System were made in farm credit laws passed in 1985, 1986, and in the Agricultural Credit Act of 1987. These laws were prompted by the collapse of the agricultural economy during the first half of the 1980's.

The good news in 1992 is that as a result of our previous actions, the Congressional Budget Office, the Department of the Treasury, and the General Accounting Office all agree that the Farm Credit Administration today possesses adequate regulatory powers to provide for the effective financial oversight of the banks and associations of the Farm Credit System.

As of June 30, 1992, all Farm Credit System institutions exceeded the minimum permanent capital requirement of 7 percent of risk-adjusted assets. The institutions of the Farm Credit System are fulfilling the goals and purposes of the Agricultural Credit Act of 1987.

This bill, H.R. 3298, provides Congress an opportunity to do a little fine-tuning to better ensure the continued soundness of the Farm Credit System operations. Briefly, here is what H.R. 3298 does:

H.R. 3298 ensures that the Farm Credit System will repay the debt resulting from the financial assistance provided by the Federal Government under the 1987 act. It does so by establishing a system by which System banks will make annual payments to the Farm Credit System Financial Assistance Corporation.

H.R. 3298 requires that the four institutions that received assistance under the 1987 act make annual payments from their earnings into a special account. This special account will ensure that sufficient funds are available to fund the retirement of the preferred stock purchased from the banks by FAC when the bonds issued to fund the stock purchases mature in 2003 and 2005.

H.R. 3298 requires each System bank to record as an expense the annual accrual of their obligation to pay the bonds issued by FAC to finance the retirement of protected borrower stock and the expenses of the Farm Credit System Assistance Board.

The bill requires banks to make annual payments toward the repayment of the interest on FAC debt paid by the Treasury and continues to ensure that the entire amount of Treasury interest will be repaid by the System. While imposing this requirement, the bill also recognizes the need to not make these requirements so stringent that they might force System institutions into insolvency at the taxpayers's expense.

The bill provides that System banks will be liable for all obligations of the System to repay the principal of bonds issued by FAC and the interest paid by the Treasury, including repayment obligations placed on System associations by current law. The banks will be required to pass obligations on to their affiliated associations as necessary to ensure that the obligations are fully discharged.

H.R. 3298 clarifies that the Farm Credit System Insurance Corporation will serve as the statutory successor to agreements between Farm Credit System institutions and the Farm Credit System Assistance Board following the termination of the Assistance Board. The bill also authorizes the representation of stockholders on association and bank boards based on election from specific geographic areas.

H.R. 3298 also clarifies the authority of the Farm Credit Administration to require the merger of any remaining Federal intermediate credit banks that were not merged pursuant to section 410 of the Agricultural Credit Act of 1987, consistent with Congress determination that such banks should be eliminated through merger. This provision will allow borrowers of the remaining Federal intermediate credit bank to reap the benefit of the reduced overhead costs and enhanced safety and soundness resulting from the merger, as the rest of the System has experienced since the other section 410 mergers were completed in 1988.

On the whole, the bill represents a delicate balancing of the interests of the System, its farmer-borrowers, and the taxpayer. It requires System banks to repay the Treasury for assistance provided under the 1987 act in a manner that does not force the weaker banks to seek further Government assistance.

This bill requires the repayment of every dollar of Federal assistance to the System. At the same time, it recognizes the cooperative interests of the System and ensures that affordable credit for the System remains available to the American farmer for years to come.

Mr. Chairman, I might add that this bill is a revenue enhancing bill in that it will bring into the Treasury $67 million in fiscal 1992, according to CBO.

I would like to thank the members of the Committee on Rules for their favorable consideration of our bill and the amendments thereto, the gentleman from Mississippi [Mr. ESPY] and the gentleman from Ohio [Mr. GRADISON], with whom we had the pleasure of working and being able to in a very positive manner address the issues which concern them, and to the chairman of the subcommittee, the ranking member, and all of the members of the committee that worked so diligently with us to allow us to arrive at this point in time before the House.

Mr. Chairman, with that, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this piece of legislation and hope that it will be passed and enacted this year. A majority of the House has already seen fit to support this legislation, and I think it will pass overwhelmingly here today.

I would just say one thing. As I said, even last year the Farm Credit System deserves some credit in that they have put together a program where they are preparing to repay moneys and assistance that a few of the system banks needed during their times of need, and they have already begun to repay that money back to the Treasury. I think this was a very resonsible way of handling it.

What we have done in the Farm Credit System legislation in the past has shown that we handled this thing very well, and I think this bill here today just builds upon that favorable record.

Mr. Chairman, I rise in support of H.R. 3298 and support its enactment before the Congress adjourns.

As Members may recall this legislation was brought to the House floor more than 10 months ago under suspension of the rules where it failed to receive two-thirds majority. However, a majority of the House did approve its adoption, and now the bill comes to the floor under normal procedures.

Nonetheless, the Agriculture Committee and other interested Members, including the gentleman from Ohio [Mr. GRADISON], worked to obtain compromises on two matters that caused concern last year. Those compromises are contained in amendments that Mr. GRADISON and Mr. ESPY will offer. I also understand that Mr. TRAFICANT's concerns have been worked out to the gentleman's satisfaction.

As I said last November, the Farm Credit System should be commended, not criticized and nitpicked, for its responsible action in preparing to repay the assistance a few System institutions received nearly 5 years ago.

And I want to point out to my colleagues that although the Federal Government made available $4 billion in assistance to the Farm Credit System, only $1.26 billion was actually used. The institutions of the Farm Credit System, by tightening their belts but continuing to provide adequate lending services to farmers and ranchers in the more favorable agricultural economy of the late 1980's and early 1990's, are paying back their debts.

Just last week the Farm Credit Bank of Omaha announced the early retirement of its debt, totaling more than $107 million; and other institutions without any statutory requirement are putting aside the funds necessary to retire their debts.

Assistance received under the terms of the 1987 Agricultural Credit Act include: $419 million to four farm credit banks—Spokane, St. Paul, Louisville, and Omaha—whose capital became impaired; 388 million to the Jackson

Federal Intermediate Credit Bank and Federal Land Bank of Jackson, an institution that was liquidated; $417 million to maintain capital preservation agreements; and $37 million to retire borrower stock protected under the 1987 act.

Mr. Chairman, this is a good bill. As I noted a year ago, the Treasury Department, GAO and CBO all have praised the Farm Credit Administration for its regulatory program. As their reports indicate, legislation in 1985 and 1987 had already adopted the recommendations and concerns outlined in the 1989 Financial Institutions Reform, Recovery, and Enforcement Act.

The Treasury Department recommended that GSE regulators provide for risk-based capital standards, require financial disclosure, prescribe adequate standards for books, records, and internal controls, conduct periodic examinations and enforce compliance with these requirements.

Treasury's conclusion then and now is that the Farm Credit Administration has all the regulatory authorities and statute to be an effective regulator.

Not only that but System banks also have agreed to financial performance standards and economic incentives much along the lines as that recommended in the September 17 statement of administration policy. That agreement became effective this past January.

Enactment of this legislation means that the Farm Credit System on its own initiative is meeting its obligations, and I hope earlier criticism of this repayment mechanism has been put to rest.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Oklahoma [Mr. ENGLISH], the chairman of the subcommittee that handled this legislation originally this session.

Mr. ENGLISH. Mr. Chairman, I rise in strong support of this legislation. It combines three separate pieces of legislation that were dealt with in the Subcommittee on Conservation, Credit, and Rural Development.

Mr. Chairman, I want to commend the chairman and certainly ranking member on the Committee on Agriculture, as well as the ranking member of the Subcommittee on Conservation, Credit, and Rural Development, and all members of the Committee on Agriculture for all the hard work they have put into this. I think it is an excellent piece of legislation and I strongly support it.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. STENHOLM], who did yeoman work on the initial legislation between 1987, and has continued to do work with us to make the Farm Credit Administration a stronger entity within the needs of our agriculture community.

Mr. STENHOLM. Mr. Chairman, I want to associate myself with the remarks the distinguished chairman of the House Agriculture Committee, who has worked diligently on behalf of reaching a compromise and resolving this important issue.

Exactly 1 year ago, the House Agriculture Committee passed H.R. 3298, which contained a provision that resolves the longstanding structural anomaly in the fifth District in the Farm Credit System [FCS] created by the failure of the Federal Land Bank [FLB] of Jackson and ensuing litigation. Section 401 required the Federal Intermediate Credit Bank [FICB] to merge. The details of the merger, including association structure after the merger, were left up to the stockholders. This provision was extremely fair and I fully supported it. However, H.R. 3298 was placed on the House Suspension Calendar and did not achieve the necessary votes for passage. Several Members of Congress objected to section 401 and worked against passage of H.R. 3298.

In the following months, the Agriculture Committee and the other interested Members worked to arrive at a resolution that would be acceptable to all parties. That seemed like a tall order. In the end, however, all ultimately agreed that the Federal Intermediate Credit Bank of Jackson must be merged within a reasonable time. A compromise was struck on the means to obtain this goal.

Compromise is the key word here. This package is certainly not everything that I would like to see and I know that is not exactly what some others would prefer. Nonetheless, father time is dictating the negotiation process, leaving those of us involved in this issue facing the overriding concern of safety and soundness within the Farm Credit System. To tarry any longer on a resolution to this issue would be irresponsible and perhaps dangerous to the health of the Farm Credit System. As the very least, this resolution should be achieved for the benefit of the borrowers in the Jackson district who have not realized the potential savings and efficiency that every other district in the System has known since 1988.

The intent of Congress in 1987 was to eliminate the FLB's and FICB's through mandatory mergers and replace them with Farm Credit Banks so that the system would reduce overhead costs and be more efficient. Farmers would receive reasonable credit and the FCS could better compete with other agricultural lenders. Congress intended that associations obtain their financing from Farm Credit Banks. These Banks are larger, more able to manage risk and have a full complement of lending authority. The purpose of this provision is to clarify the authority of the Farm Credit Administration to require a merger of any remaining Federal Intermediate Credit Banks [FICB] that were not merged pursuant to section 410 of the Agricultural Credit Act of 1987 and provides for a vote of the farmer-borrowers in the territory served by the FICB to determine the structure of the associations to serve such farmer-borrowers after the merger.

It has been a year and a half since the litigation in this matter essentially ended. It is time to fulfill the intent of Congress and merge the FICBJ. Once the FICBJ is merged, there can be no further attempts to create a new Farm Credit Bank, which runs contrary to our desire to see consolidation in the System. This legislation will assure a more stable Farm Credit System lending environment, and end Congress' involvement in this matter.

In closing, I would like to express sincere appreciation to Chairman DE LA GARZA, Mr. WHITTEN, Mr. ENGLISH, Mr. ESPY, and Mr. HUCKABY for their efforts and assistance in developing a compromise on a very delicate and contentious issue.

Mr. Chairman, I strongly encourage the Members of this body to support this needed legislation.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to explain the procedure, under the rule our colleague, the gentleman from Ohio [Mr. GRADISON], will have an amendment that has been worked out within the art of the possible. The gentleman from Mississippi [Mr. ESPY] will have an amendment that has been worked out again within the art of the possible. I again extend my appreciation to both gentlemen for their cooperation and allowing us to move forward with enhancing the contents of this legislation. Also the gentleman from Ohio [Mr. TRAFICANT] is allowed an amendment that has been worked out under the rule.

Mr. Chairman, that will be the procedure that we will follow.

Mr. SMITH of Oregon. Mr. Chairman, H.R. 3298, reflects the work of the Agriculture Committee on a number of different subjects. The final product reflects the cooperative spirit of the Agriculture Committee and is worthy of our favorable consideration.

The core of H.R. 3298 is the committee's response specifically to Omnibus Budget Reconciliation Act's requirement to provide legislation to ensure the safety and soundness of government sponsored enterprises. This bill addresses the institutions of the cooperative Farm Credit System.

The various Government reports dealing with Government-sponsored enterprises were unanimous in their analysis that the Farm Credit System is a fully regulated lender under an arm's length Federal agency, the Farm Credit Administration. The Farm Credit Amendments Act of 1985 and the Agriculture Credit Act of 1987 provided a fully complement of regulatory tools to the FCA.

As the U.S. Department of Treasury's report enumerated, the FCA has the authority to establish minimum capital levels, to examine annually, to maintain the adequacy of internal bank controls and information systems, to issue cease and desist orders, to suspend or remove officers of institutions, to impose civil money penalties and to appoint a receiver or conservator for any System institution.

The Agriculture Committee understood the need to make FCA a regulator for safety and soundness, and the 1985 act restructured FCA, providing for a full-time, presidentially appointed board and enforcement powers comparable to other banking regulators.

Indeed, when the General Accounting Office testified before the committee last year on the current regulatory authorities of GSA's, the Farm Credit System and Farmer Mac—which became subject to new regulatory authorities last year—are subject to a full panoply of FCA regulation.

In its report, the Congressional Budget Office agreed with Treasury and the General Accounting Office on the adequacy of FCA regulatory authorities over the Farm Credit System.

When H.R. 3298 originally came before the House on the Suspension Calendar, some expressed reservations about the repayment mechanism. The committee has worked with Mr. GRADISON, and the matter has been resolved to his satisfaction.

Adoption of this legislation weighs the System's responsibility to pay back Government assistance received following the farm recession of the 1980's against the reality that some institutions are still in the process of recovery. Let me be clear on this point: The Farm Credit System banks have accepted fully their obligations, and I believe that is demonstrated in the pay back provisions contained in the bill.

The System is committed to pay back all of the $1.261 billion of debt, plus interest, issued under the authority of the Agricultural Credit Act of 1987.

Beyond this commitment, H.R. 3298 contains other amendments to the 1971 Farm Credit Act dealing with the successor to the Assistance Board, providing for sectional representation on System institutions' boards that should assist any further mergers, and clearing up a long-simmering legal dispute on System institutional lending authorities in Louisiana, Mississippi, and Alabama.

This legislation also includes the text of H.R. 4906, the Agricultural Credit Improvement Act of 1992. Throughout the hearing process on H.R. 4906, many have contributed to the development and improvement of this fine legislation. The end product is one which will encourage new and beginning farmers to join the aging ranks of our Nation's agricultural producers.

During subcommittee consideration of H.R. 4906, I had intended to offer a noncontroversial amendment that maintains the status quo with respect to the Farm Credit System's treatment of patronage equity as permanent capital. I am unaware of any opposition to the substance of this amendment.

However, Chairman DE LA GARZA requested that I defer because this provision is included in the Senate GSE legislation, S. 1709. I understand his desire that all GSE-related matters be handled under the umbrella of strictly GSE legislation, and the fate of S. 1709 and H.R. 3298 was uncertain at that time. The chairman has assured me that he agrees with the merits of this provision and will look favorably upon it in conference with the Senate.

Under the Farm Credit System's cooperative structure, local lending associations (ACAs, PCAs, FLBAs, FLCAs) own stock in their district's Farm Credit Bank [FCB]. Earnings by the FCB are either retained by the FCB or paid as dividends to the associations.

If the FCB retains the earnings, the FCB and its owner/associations agree to allocate some portion of the earnings to the stock held by the associations. The bank retains the earnings and the value of the associations' stock increases.

For regulatory permanent capital purposes only, the FCB and its associations agree on which portion of the association's stock is counted as regulatory permanent capital by the FCB and which portion is counted by the association. There is no double counting.

Current Farm Credit Administration [FCA] regulations require that beginning in 1993, associations may no longer count their investment in the bank as regulatory permanent capital. Practically, this would require FCB's to download excess association stock to associations resulting in a tax liability for the association or the associations would be forced to raise interest rates to farmers and ranchers to build the necessary regulatory permanent capital.

On April 28, 1992, the FCA Board voted to set aside this regulation for 2 years. If allowed to become effective, the FCA regulation would decrease the amount of capital in the system and could cause higher rates or lessen the amount of credit available for farmers and ranchers.

This amendment would have merely codified current System capital practices and permanently override the FCA regulation. System banks and associations could continue to agree on where to allocate the associations' investment for regulatory permanent capital purposes.

Finally, Mr. Chairman, I would like to speak about H.R. 5237, the Rural Electrification Administration Act of 1992, which has also been included into this legislation.

Actually, this legislation includes the original language of H.R. 5237 and H.R. 5238, the Revitalization of Health and Education in Rural America Act of 1992. H.R. 5237 contains a number of provisions suggested by the rural electric and telephone cooperatives from Oregon and from across the Nation.

The bill language on lien accommodation was intended to provide incentives to electric borrowers to seek lending from alternative private sources, thus allowing greater use of increasingly sought after Rural Electrification Administration loan funds. However, due to budget scoring considerations, this provision has been deleted from H.R. 5237.

Language was included that permits Rural Electrification Administration borrowers to prepay their REA loans at a discount based upon the current cost of money to the Federal Government. This will allow and encourage REA borrowers to sever their borrowing relationship with the Government and pursue funding in the private sector. These borrowers would not be allowed to seek REA loans for a 5-year period.

The committee has trimmed other provisions, such as the clarification of the treatment of Rural Telephone Bank credit by removing from credit reform, simply because of cost consequences.

H.R. 5237 creates a new grant program, subject to appropriations, intended to utilize telecommunications technology to improve educational and health care services in our rural communities. During subcommittee consideration, we removed a provision that would have incurred additional spending by extending interest rate subsidies to borrowers participating in the program. Again, the committee has recognized its fiscal responsibility by foregoing this feature of the legislation.

Mr. Chairman, every effort has been made to streamline the original proposals that make up this bill and to minimize its costs. I urge each member to give H.R. 5237 thoughtful consideration.

The Agriculture Committee brings a tidy package of legislative initiatives before the House today. This legislation represents tremendous work and considerable compromise. I urge its swift passage.

Mr. PARKER. Mr. Chairman, almost a year ago, I stood here, on the floor of the House, and discouraged my colleagues from supporting the titled measure that we again consider today. We were successful in defeating this matter on the Suspension Calendar at that time which allowed us the opportunity to reach this compromise which I am now pleased to support. I do so with the understanding that it allows the stockholders of Federal Intermediate Credit Bank of Jackson a full opportunity, until June 30, 1993, to pursue a merger with the partner of its choice without interference by the Farm Credit Administration or other Farm Credit System institutions.

The time has come to put the unique situation of the Federal Intermediate Credit Bank of Jackson behind us and get on with the business of providing the best loan services to the farmer/borrowers in Mississippi, Alabama, and Louisiana. I simply want to note the remarkable successes and excellent service provided by the FICB of Jackson during a period of great adversity and uncertainty. Although their merger partner went into receivership, FICB had a loan volume of $489.3 million at June 30, 1992, compared to a loan volume of $477.4 million at December 31, 1991. FICB of Jackson with its related Production Credit Associations had a net income for the first 6 months of 1992 of $2 million compared with a net income $1.6 million for the same period last year.

These financially strong and well-capitalized institutions have shown a profit for their farmer/borrowers in every single quarter since being forced to operate on their own following the demise of the old Federal Land Bank of Jackson in mid-1988. They have never required or received any financial assistance.

I commend the leadership and boards of the Jackson bank for their efforts to meet the needs of the farmer/borrowers during this difficult time as well as their efforts to financially strengthen the institution, and to bring about the compromise that we consider today.

I am proud to support this compromise offered by the gentleman from Mississippi.

Mr. COLEMAN of Missouri. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendment printed in section 2 of House Resolution 573, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 3298

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Farm Credit Banks and Associations Safety and Soundness Act of 1991".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*TABLE OF CONTENTS*

*Sec. 1. Short title; table of contents.*
*Sec. 2. References to the Farm Credit Act of 1971.*

*TITLE I—FARM CREDIT SYSTEM INSURANCE CORPORATION*

*Sec. 101. Statutory successor to Assistance Board agreements.*

*TITLE II—REMOVAL OF HINDRANCE TO MERGERS*

*Sec. 201. Sectional representation on boards of directors.*

*TITLE III—CLARIFICATION OF OBLIGATION OF FARM CREDIT BANKS FOR REPAYMENT OF DEBT ISSUED BY FARM CREDIT SYSTEM ASSISTANCE CORPORATION*

*Sec. 301. Capital preservation.*
*Sec. 302. Preferred stock.*
*Sec. 303. Sytstemwide repayment obligation.*
*Sec. 304. Repayment of Treasury-paid interest.*
*Sec. 305. Transfer of obligations from associations to banks, and other matters.*
*Sec. 306. Defaults.*
*Sec. 307. Authority of Financial Assistance Corporation.*

*TITLE IV—FEDERAL INTERMEDIATE CREDIT BANKS*

*Sec. 401. Authority regarding remaining Federal intermediate credit banks.*

*TITLE V—BUDGET ACT COMPLIANCE*

*Sec. 501. Congressional Budget Office estimate.*

***SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.***

*Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise provided.*

### *TITLE I—FARM CREDIT SYSTEM INSURANCE CORPORATION*

***SEC. 101. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.***

*(a) IN GENERAL.—Section 5.58(2) (12 U.S.C. 2277a–7(2)) is amended by adding at the end thereof the following: "The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions that certify such institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12.".*

*(b) CONFORMING AMENDMENTS.—Section 5.35(4) (12 U.S.C. 2271(4)) is amended—*

*(1) by striking "and" at the end of subparagraph (A);*

*(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and*

*(3) by adding at the end the following new subparagraph:*

*"(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 6.6 or by the Farm Credit System Insurance Corporation under section 5.61.".*

### *TITLE II—REMOVAL OF HINDRANCE TO MERGERS*

***SEC. 201. SECTIONAL REPRESENTATION ON BOARDS OF DIRECTORS.***

*Section 4.15 (12 U.S.C. 2203) is amended—*

*(1) by amending the section heading to read as follows:*

*"NOMINATION AND ELECTION OF BANK AND ASSOCIATION DIRECTORS.—";*

*(2) by inserting, before the text thereof, the following:*

*"(a) NOMINATION OF DIRECTORS.—"; and*

*(3) by adding at the end thereof the following new subsection:*

*"(b) SECTIONAL REPRESENTATION ON BANK AND ASSOCIATION BOARDS.—*

*"(1) IN GENERAL.—To ensure representation of geographical sections within the territory served by a bank or association of the Farm Credit System, each such bank (other than the National Bank for Cooperatives) or association may include in its bylaws governing the election of its board of directors provisions for the election of some or all of its members of the board to be elected by the stockholders:*

*"(A) at large;*

*"(B) from designated geographical sections of the territory served by the bank or association; or*

*"(C) as provided in both subparagraphs (A) and (B).*

*"(2) PROPORTIONALITY.—If members of the board of directors are elected by stockholders from designated geographical sections, the membership on the board elected from each section should reflect proportionately—*

*"(A) in the case of an association, the same number of stockholders; or*

*"(B) in the case of a bank, the same number of stockholder-borrowers of associations that accept, make, or otherwise provide loans in the designated sections of the bank's territory and that hold voting stock in the bank.*

*"(3) EXAMINATION OF SECTIONS.—The boundaries of the designated geographical sections shall be examined by the bank or association, as appropriate, at least once every three years and shall be readjusted, as necessary, to ensure such proportional representation of membership on the board.".*

### *TITLE III—CLARIFICATION OF OBLIGATION OF FARM CREDIT BANKS FOR REPAYMENT OF DEBT ISSUED BY FARM CREDIT SYSTEM ASSISTANCE CORPORATION.*

***SEC. 301. CAPITAL PRESERVATION.***

*Section 6.9(e)(3) (12 U.S.C. 2278a–9(e)(3)), is amended—*

*(1) by adding at the end of subparagraph (C) the following: "Any bank leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of such future payment had the bank remained in the System. With respect to any bank undergoing liquidation under this Act, a liability to the Financial Assistance Corporation in said amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of such bank. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments received by the Financial Assistance Corporation under this subparagraph and subparagraph (D) prior to the recovery, or, if such recoveries exceed the payments theretofore received from the other banks, shall apply the excess, and all earnings thereon, to reduce the other banks' subsequent payment obligations proportionately.";*

*(2) by redesignating subparagraph (D) as subparagraph (E);*

*(3) by adding a new subparagraph (D) as follows:*

*"(D)(i) In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 1991 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case such bank shall begin making such payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings thereon, to 90% of the bank's ultimate obligation, and the Financial Assistance Corporation will partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings thereon as earned.*

*"(ii) Such agreement shall not require payments to be made to the extent that making a particular payment or part thereof would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.*

*"(iii) The funds received by the Financial Assistance Corporation pursuant to such agreements shall be invested in eligible investments as defined in Section 6.25(a)(1) of this Act, and such funds and the earnings thereon shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection."; and*

*(4) by adding before the period at the end of subparagraph (E), as redesignated by paragraph (2) of this section, the following: ", nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank".*

***SEC. 302. PREFERRED STOCK.***

*Section 6.26(d)(1)(B) (12 U.S.C. 2278b–6(d)(1)(B)), is amended by adding at the end thereof the following: "Each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—*

*"(i) the greater of—*

*"(I) such amount as the institution may be required to appropriate under any assistance agreement it has with the Farm Credit System Assistance Board or the Farm Credit System Insurance Corporation; or*

*"(II) the amount that, if appropriated to such account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in such account to equal the par value of the preferred stock issued by such institution with respect to such obligation; plus*

*"(ii) any amount that had been appropriated to said account in a previous year but had thereafter been offset by losses;*

*"Provided, However, that an annual appropriation shall not be made to the extent that it would exceed the institution's net income (as determined pursuant to generally accepted accountion principles) in that year or to the extent that it would cause the institution's preferred stock to be impaired. The amount in such appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates, and said account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses. Such appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements."*

### SEC. 303. SYSTEMWIDE REPAYMENT OBLIGATION.

*Section 6.26(d)(1)(C) (12 U.S.C. 2278b–6(d)(1)(C)), is amended by adding at the end thereof the following: "The annual increase in the present value of the estimated obligation of each bank to the Financial Assistance Corporation hereunder shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank. A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of such payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, but the bank shall remain primarily liable for such amount. Any bank leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of such future payment had the bank remained in the System, and a liability to the Financial Assistance Corporation in said amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply such recoveries, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have made their payments, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments. Any association leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of such future payment, and a liability to the bank in said amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation."*

### SEC. 304. REPAYMENT OF TREASURY-PAID INTEREST

*(a) CONFORMING AMENDMENT.—Section 6.26(c)(5) (12 U.S.C. 2278b–6(c)(5)), is amended to read as follows:*

*"(5) REPAYMENT OF TREASURY-PAID INTEREST.—*

*"(A) IN GENERAL.—On the maturity date of the last-maturing debt obligation issued under subsection (a) of this section, the Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on such debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on such payments.*

*"(B) ASSESSMENT.—In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank on or about July 1 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual amount equal to .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—*

*"(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last five years prior to the date the Financial Assistance Corporation is obligated to make such repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and*

*"(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings thereon, are sufficient to make such repayment on the due date.*

*"(C) INVESTMENT OF FUNDS.—The Financial Assistance Corporation shall invest funds derived from such investment in eligible investments as defined in section 6.25(a)(1) of this Act, and such funds and the earnings thereon shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).*

*"(D) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of such assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for such amounts.*

*"(E) LIABILITY.—*

*"(i) BANKS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any bank terminating System status pursuant to Section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System, and a liability to the Financial Assistance Corporation in such amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation.*

*"(ii) NO ANTICIPATORY REDUCTIONS IN OTHER OBLIGATIONS.—The obligations of other banks shall not be reduced in anticipating of any such recoveries from banks leaving the System or in liquidation.*

*"(iii) REFUND OF RECOVERIES.—The Financial Assistance Corporation shall refund recoveries under this subparagraph, when received, to the other banks in proportion to the other banks' payments received by the Financial Assistance Corporation under this subparagraph prior to the recovery, or, if such recoveries exceed the payments theretofore received from the other banks, shall apply the excess, and all earnings thereon, to reduce the other banks' subsequent payment obligations proportionately.*

*"(F) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association terminating System status pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank, and a liability to the bank in said amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.*

*"(G) CAPITAL REQUIREMENTS.—*

*"(i) IN GENERAL.—Until the date that is five years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.*

*"(ii) DURING THE FINAL FIVE YEARS PRIOR TO REPAYMENT.—During the period beginning on the date that is—*

*"(I) five years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), ninety percent;*

*"(II) four years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), seventy percent;*

*"(III) three years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), fifty percent;*

*"(IV) two years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), thirty percent; and*

*"(V) one year prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), ten percent;*

*of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.".*

*(b) CONFORMING AMENDMENT.—Section 6.28 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–8) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).*

### SEC. 305. TRANSFER OF OBLIGATIONS FROM ASSOCIATIONS TO BANKS, AND OTHER MATTERS.

*Section 6.26 (12 U.S.C. 2278b–6), is amended—*

*(1) in subsection (c)—*

*(A) by striking "INSTITUTIONS" in the heading of paragraph (2)(B) and inserting "BANKS";*

*(B) by striking the word "institutions" each time it appears in paragraphs (2)(B), (3) and (4) and inserting in lieu thereof the word "banks";*

(C) by amending paragraph (2)(C) to read as follows:

"(C) ALLOCATION.—During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

"(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

"(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year."; and

(D) by striking paragraph (2)(D);

(2) in subsection (d)—

(A) in paragraph (1)(C)—

(i) by striking the word "institution" the first time it appears and inserting in lieu thereof the word "bank";

(ii) by striking "under section 6.7(a)" and inserting in lieu thereof "or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively,";

(iii) by adding after "proportion" the following ", as calculated by the Financial Assistance Corporation,";

(iv) by amending clauses (i) and (ii) to read as follows:

"(i) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

"(ii) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.";

(B) by striking paragraph (1)(D); and

(C) by redesignating paragraph (1)(E) as paragraph (1)(D); and

(3) by adding at the end thereof the following new subsections:

"(e) ADMINISTRATION.—

"(1) DEFINITION OF RETAIL LOAN VOLUME.—As used in this section, the term 'retail loan volume' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

"(2) CALCULATION OF AVERAGE ANNUAL LOAN VOLUMES.—For purposes of this section and section 6.9, average annual loan volumes shall be calculated using month-end balances.

"(3) EXCLUSION OF BANKS UNDERGOING LIQUIDATION.—For purposes of this section and section 6.9, the term 'bank' shall not include a bank that had entered liquidation prior to the enactment of this subsection.".

### SEC. 306. DEFAULTS.

Section 6.26(d) (12 U.S.C. 2278b–6(d)), is amended—

(1) by amending the heading of paragraph (3)(A) to read as follows: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(2) in paragraph (3)(A)(i)—

(A) by striking "subsection (a)," and inserting the following: "subsection (a) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C) of this section, or on the payment of an assessment due under subsection (c)(5)(B) of this section,";

(B) by striking "of the interest" in the two places it appears; and

(C) by striking "institution" wherever it appears, and inserting in lieu thereof "bank";

(3) in paragraph (3)(A)(ii)—

(A) by striking "of interest";

(B) by striking "institution" and inserting in lieu thereof "bank"; and

(C) by striking "such uncollected interest", and inserting in lieu thereof "any uncollected amount";

(4) in paragraph (3)(A)(iii), by striking "added" and all that follows through the period at the end and inserting "allocated to other System banks in accordance with the allocation mechanism applicable under this Act to the particular defaulted obligation.";

(5) by amending the heading of subparagraph (B) of paragraph (3) to read as follows: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—";

(6) in paragraph (3)(C)—

(A) by striking "INSTITUTIONS" in the heading to paragraph (3)(C) and inserting "BANKS";

(B) by striking "institution" and inserting "bank";

(C) by striking "institutions" both places it appears and inserting "banks"; and

(D) by striking "the amount of any interest", and inserting in lieu thereof "any amounts";

(7) in paragraph (4)(A), by adding after "subsection (a)" "of this section or section 6.9(e)(3)(A)";

(8) in paragraph (4)(B)(i)—

(A) by amending the clause heading to read as follows: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(B) by striking "subsection (c)," and inserting "subsection (c) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C) of this subsection, or on the payment of an assessment due under subsection (c)(5)(B) of this section,"; and

(C) by striking "institution" wherever it appears, and inserting in lieu thereof "bank"; and

(9) in paragraph (4)(B)(ii), by amending the clause heading to read as follows: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK—.".

### SEC. 307. AUTHORITY OF FINANCIAL ASSISTANCE CORPORATION.

(a) PURPOSE.—Section 6.21 (12 U.S.C. 2278b–1) is amended by adding before the period at the end thereof: "and to assist, pursuant to section 6.9(e) and subsections (c) through (g) of section 6.26, in the repayment by System institutions of those who provided funds in connection with such program".

(b) Section 6.31(a) (12 U.S.C. 2278b–11(a)) is amended by adding striking "terminate on" and inserting the following: "terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under Section 6.9(e) and subsections (c) through (g) of section 6.26 with regard to repayments by System institutions, but in no event later than two years following".

## TITLE IV—FEDERAL INTERMEDIATE CREDIT BANKS

### SEC. 401. CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANKS.

Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANKS.—

"(1) WRITTEN ORDER AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, within 60 days after the date of the enactment of this section, the Farm Credit Administration shall issue a written order which—

"(i) directs any Federal intermediate credit bank, whether or not in receivership, which has not merged with the Federal land bank in its farm credit district pursuant to this section, to merge with the Farm Credit Bank specified in the written order before the end of the one year period beginning on the date such order is issued;

"(ii) specifies a period (which shall end not less than 6 months nor more than 9 months after the date the written order is issued) within which the stockholders of each of the banks to be merged are to adopt a plan of merger as provided in paragraph (3)(A); and

"(iii) provides for the establishment of the committee described in paragraph (5).

"(B) RECONSIDERATION.—The defeat of a proposed plan of merger by a vote of the stockholders under paragraph (3)(A) shall not preclude the reconsideration of the plan or the consideration of another plan during the period prescribed under subparagraph (A)(ii).

"(2) CONSIDERATIONS.—In issuing any written order under paragraph (1), the Farm Credit Administration shall take into account, as appropriate—

"(A) the cooperative nature of Farm Credit System institutions;

"(B) the potential outlays of financial assistance by the Farm Credit System Assistance Board or the Farm Credit System Insurance Fund, as appropriate;

"(C) the joint and several liability obligation shared among Farm Credit System institutions;

"(D) the specialized lending purposes of Farm Credit System institutions;

"(E) the availability and cost of credit to borrowers;

"(F) the need to provide for the greatest opportunity for the efficient delivery of credit to farmer-borrowers in the farm credit district of the Federal intermediate credit bank; and

"(G) the willingness of the Farm Credit Bank to facilitate the provision of short- and intermediate-term credit to the farmer-borrowers in the farm credit district of the Federal intermediate credit bank.

"(3) CAPITAL STOCK.—The number of shares of capital stock issued by the Farm Credit Bank specified in the order under paragraph (1)(A)(i) to the stockholders and other owners of the Federal intermediate credit bank involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall—

"(A) be determined by a plan of merger adopted by majority vote of—

"(i) the stockholders of the Federal intermediate credit bank; and

"(ii) the stockholders of the Farm Credit Bank specified in the order under paragraph (1)(A)(i), in accordance with the respective bylaws of the banks; or

"(B) if the stockholders of any of such banks fail to approve a plan of merger within the period specified therefor in the written order, be determined by a plan of merger which—

"(i) is prescribed by the Farm Credit Administration by an amendment to the written order within 60 days after the end of such specified period; and

"(ii) specifies the initial board of directors of the Farm Credit Bank resulting from the merger, the membership of which shall—

"(I) reflect an equitable representation of stockholder-borrowers in the territory served by the resulting Farm Credit Bank, in light of the number of stockholder-borrowers served and their loan volume; and

"(II) serve for the period specified in the amendment to the written order under this paragraph, after which the board shall be elected and shall serve in accordance with section 1.4 of the Farm Credit Act of 1971; and

"(C) be consistent with section 4.3A of the Farm Credit Act of 1971, and the regulations issued by the Farm Credit Administration, except as otherwise provided in this subsection.

"(4) AUTHORITY TO AMEND WRITTEN ORDERS.—The Farm Credit Administration may amend any written order issued under paragraph (1) as may be necessary and appropriate to implement the merger that is the subject of the written order.

*"(5) INSTITUTION STRUCTURE AND STOCKHOLDER VOTE.—*

*"(A) ESTABLISHMENT OF COMMITTEE.—The Farm Credit Administration shall provide in the order under paragraph (1) for the establishment of a committee to develop a proposal regarding the structure of the Federal land bank associations, production credit associations, Federal land credit associations, agricultural credit associations, and other Farm Credit System associations within the geographic area of the farm credit district of any Federal intermediate credit bank described under this section.*

*"(B) MEMBERSHIP.—The committee established pursuant to subparagraph (A) shall be composed of equal numbers of stockholder-borrowers representing—*

*"(i) the production credit associations within the geographic area described in subparagraph (A); and*

*"(ii) the Federal land bank associations within the geographic area described in subparagraph (A).*

*"(C) PURPOSE.—The committee established pursuant to subparagraph (1) shall develop a proposal for consideration by the stockholder-borrowers within the geographic area of the farm credit district of the Federal intermediate credit bank described under this section. Such proposal, upon a majority vote—*

*"(i) of the members of the committee representing production credit associations within the geographic area described in subparagraph (A); and*

*"(ii) of the members of the committee representing Federal land bank associations within the geographic area described in subparagraph (A), shall be presented to such stockholder-borrowers for a vote in accordance with subparagraph (E). Such proposal shall provide for a comprehensive plan for the structure of the lending associations within the geographic area described in subparagraph (A).*

*"(D) STOCKHOLDER VOTE.—Not later than 90 days after the effective date of the merger required by this section, the proposal approved by the committee in accordance with subparagraph (C) shall be presented to the stockholder-borrowers for a vote. The comprehensive plan in the proposal shall take effect not later than 90 days after the date on which the proposal is approved by a majority vote of—*

*"(i) the stockholder-borrowers of the production credit associations within the geographic area described in subparagraph (A); and*

*"(ii) the stockholder-borrowers of the Federal land bank associations within the geographic area described in subparagraph (A).*

*"(E) IMPLEMENTATION.—Upon the completion of the merger required by this section, the Farm Credit Administration and the Farm Credit Bank that merges with the Federal intermediate credit bank shall take all appropriate actions to implement the comprehensive plan described in subparagraph (C) if such a plan is approved by the stockholder-borrowers.".*

The CHAIRMAN. No amendment to the substitute, as modified, is in order except those amendments printed in House Report 102-876. The amendments printed in House Report 102-876 shall be considered in the order specified in the report, may be offered only by the named proponent or a designee, shall be considered as read and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It is now in order to consider amendment No. 1 printed in House Report 102-876.

### AMENDMENTS EN BLOC OFFERED BY MR. GRADISON

Mr. GRADISON. Mr. Chairman, I offer amendments made en bloc made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GRADISON:

Page 7, strike lines 4 through 13 and insert the following:

the System or in liquidation, but the Financial Assistance Corporation shall apply such recoveries, when received, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have met their entire payment obligation, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments.";

Page 12, line 5, insert "when received," after "recoveries,".

Page 12, beginning on line 7, strike "made their payments" and insert "met their entire payment obligation".

Page 13, strike line 14 and all that follows through page 14, line 15 and insert the following:

(B) ASSESSMENT.—In order to provide for the orderly funding and discharge of the obligation of the Financial Assistance Corporation under subparagraph (A), each System bank shall enter into or continue in effect, and comply with, an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case such bank shall begin making such payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings thereon, to an amount equal to the bank's ultimate obligation, and the Financial Assistance Corporation will partially discharge the bank from its obligation under this subparagraph to the extent of each such payment and the earnings thereon as earned. Except in the last five years prior to the date the Financial Assistance Corporation is obligated to make such repayment, no annual payment may exceed .0006 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year.

Page 16, line 3, strike "anticipating" and insert "anticipation".

Page 16, strike lines 7 through 18 and insert the following:

Financial Assistance Corporation shall apply such recoveries, when received, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have met their entire payment obligation, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments.

Page 18, line 10, strike "ninety" and insert "sixty".

Page 18, line 15, strike "seventy percent;" and insert "thirty percent; and".

Page 18, line 20, strike "fifty" and insert "zero".

Page 18, strike line 21 and all that follows through page 19, line 5.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. GRADISON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I again express our deep appreciation to the gentleman from Ohio [Mr. GRADISON]. As I mentioned before, this is agreeable to us. The amendment has been worked out and we will be happy to accept it.

Mr. GRADISON. Mr. Chairman, I thank the distinguished chairman of the Committee on Agriculture.

Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN], the distinguished ranking member of the Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Chairman, Mr. GRADISON's amendment is acceptable to the Republican Members.

The gentleman's amendment addresses three areas of concern. First, it would assure that payments made by System institutions to the Financial Assistance Corporation will be sufficient to meet each institution's obligation. Second, the amendment would make certain that all debt obligations, including those of institutions that may leave the System in the future, are fully retired prior to any recovery of funds by remaining institutions. And, third, the amendment accelerates the System's repayment of Treasury-paid interest in the final 5 years of the 15-year payment schedule.

I appreciate the gentleman from Ohio's willingness to work with the Agriculture Committee.

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to thank the chairman and ranking member of the Committee on Agriculture for agreeing to this compromise, and indicate to the membership that the purpose of this amendment is to strengthen the provisions under which the Farm Credit System will repay the Government for assistance given in the late 1980's.

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There are three changes to the committee bill. Very briefly, the first amends language so that when an exiting or bankrupt bank prepays its debt as a condition of leaving, the prepayments remain under the control of the Government and are not refunded to the remaining banks.

The second balances out the annual payments required banks must make to repay the interest on the assistance granted by the Federal Government.

Finally, this committee bill allows the banks to count funds placed into a sinking fund and use it to repay interest to the Federal Government as part of their regulatory capital, and the amendment shortens from 5 to 3 years the time period in which the banks must write off this capital.

Again, I thank my colleagues on the Committee on Agriculture for their assistance on this matter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. GRADISON].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in House Report 102-876.

AMENDMENTS OFFERED BY MR. ESPY

Mr. ESPY. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendment offered by Mr. ESPY:

Page 26, strike line 1 and all that follows through line 12 on page 33 and insert the following (and amend the table of contents accordingly):

### TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

**SEC. 401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.**

(a) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following:

"(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—

"(1) BORROWER VOTE.—Notwithstanding any other provision of law, within 30 days after the date of the enactment of this subsection, the Farm Credit Administration shall conduct a referendum of the farmer-borrowers of the production credit associations that are stockholders in the Federal Intermediate Credit Bank of Jackson to determine whether the merger required under this subsection shall be completed in accordance with the provisions of paragraph (2) or paragraph (3). The Farm Credit Administration shall make available to such farmer-borrowers such information as it determines is appropriate under the circumstances to reasonably inform the farmer-borrowers of the anticipated benefits and potential disadvantages of each of the 2 merger completion options. Each such farmer-borrower shall be entitled to 1 vote.

"(2) ARBITRATED MERGER.—

"(A) APPROVAL BY BORROWERS.—If at least 50 percent of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of the Farm Credit Banks and Associations Safety and Soundness Act of 1992.

"(B) ARBITRATOR.—

"(i) IN GENERAL.—An arbitrator (or panel of arbitrators) named by the American Arbitration Association shall serve as the arbitrator referred to in this paragraph.

"(ii) QUALIFICATIONS.—Any person selected to serve as an arbitrator pursuant to this paragraph shall possess a strong financial, legal, or regulatory background and, to the extent possible, have previous experience or knowledge of the operations of the Farm Credit System.

"(iii) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under this paragraph, such that the terms and conditions are fair and equitable to the 2 banks, their affiliated associations, the stockholders or borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System.

"(iv) EXPENSES.—Notwithstanding any other provision of law, the expenses of the arbitrator shall be paid from the Farm Credit Assistance Fund established under section 6.25.

"(C) REFERENDUM ON ASSOCIATION STRUCTURE.—

"(i) IN GENERAL.—Within 120 days after the date of the enactment of this subsection, the arbitrator shall conduct, and compile the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi to determine whether the farmer-borrowers of each association prefer to have credit delivered—

"(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association; and

"(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association.

"(ii) DISCLOSURE.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of the 2 alternatives presented in the ballots and setting forth factors that farmer-borrowers might consider relevant to the choice between the 2 alternatives. The arbitrator shall develop such disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) TABULATION OF RESULTS.—The results of the vote under this subparagraph shall be compiled, on a 1-farmer-borrower-1-vote basis, separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following 7 geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

"(iv) PUBLICATION OF RESULTS.—The results of the vote under this subparagraph, as tabulated by the arbitrator, shall be made available to the public in a manner determined appropriate by the Farm Credit Administration.

"(D) DEVELOPMENT OF MERGER PLAN.—

"(i) IN GENERAL.—Within 210 days after the date of the enactment of this subsection, the arbitrator shall develop a plan specifying the terms and conditions of the merger of the 2 banks (and any related association mergers) required under this paragraph, such that the terms and conditions are fair and equitable to the 2 banks, their affiliated associations, the stockholders or farmer-borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan the arbitrator shall, to the extent practicable, promote the following objectives:

"(I) Effectuation of the preference expressed by the farmer-borrowers under subparagraph (C).

"(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

"(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the 2 involved farm credit districts equitably and takes account of risk.

"(V) Ensure the viability of the resulting Farm Credit Bank and the ability of the resulting bank and associations of such bank to lend to eligible borrowers at reasonable and competitive rates of interest.

"(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the 2 banks (and any related association mergers) required under this paragraph. The arbitrator may consult with any involved or interested party at the arbitrator's discretion. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations in the States of Alabama, Louisiana, and Mississippi, shall make available all books, records, financial information, and other material that the arbitrator determines is directly necessary to the development of the plan or the fulfillment of any other requirement under this paragraph.

"(iii) CONTENT OF PLAN.—In accordance with the standards in clause (i) and giving due consideration to the views and information submitted or made available under clause (ii), the arbitrator shall develop and submit to the Farm Credit Administration for certification a merger plan that shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(II) The initial lending association structure following the merger, as required under clause (iv), in the States of Alabama, Louisiana, and Mississippi (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(III) The initial composition, following the merger, of the board of directors of any association whose chartered territory or lending authority is altered under the plan (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(IV) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks and any merging associations.

"(V) The capital structure and capitalization levels of the resulting Farm Credit Bank and of the associations described in subclause (III), which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations.

"(VI) The terms of financing agreements between any production credit associations or associations described in subclause (III), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(VII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) Content of Plan; Agricultural Credit Associations.—The plan shall—

"(I) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted that they preferred to have credit delivered through an agricultural credit association, provide for the delivery of credit through an agricultural credit association in such territory; and

"(II) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted that they preferred to have credit delivered through a production credit association or a Federal land bank association, as appropriate, not provide for the delivery of credit through an agricultural credit association, or otherwise alter the existing association structure.

"(E) Certification of Plan.—Within 60 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,

that the resulting bank and associations are organized in such a fashion such that they will, upon certification of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification, and the arbitrator shall incorporate such revisions into the plan as the arbitrator deems appropriate to permit such certification.

"(F) Review.—Actions and determinations of the arbitrator pursuant to this paragraph shall not be subject to judicial review except on Federal constitutional grounds, and shall not be subject to the requirements of the Administrative Procedure Act.

"(G) Implementation.—Within 90 days after the date of the receipt of the plan under subparagraph (E), the Farm Credit Administration shall issue such charters or charter amendments and take any such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan.

"(H) Facilitation.—

"(i) Beginning on the date of the enactment of this subsection, the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan.

"(ii) Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Land Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.

"(3) Negotiated or Regulatory Merger.—

"(A) Approval by Borrowers.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of the Farm Credit Banks and Associations Safety and Soundness Act of 1992.

"(B) Merger Authority.—

"(i) Effective Dates.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection in accordance with the provisions of this paragraph, then the provisions of clause (ii) shall take effect as if such clause had become law at the time the amendment referred to in such clause (ii) took effect, and shall remain in effect until 1 year after the date of the enactment of this subsection.

"(ii) Authority.—Effective only as provided in clause (i), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 of the Agricultural Credit Act of 1987 took effect) and such provisions of the Farm Credit Act of 1971 (as in effect after the amendment), as the Farm Credit Administration may deem appropriate to carry out the purposes of this subsection and such Act.

"(C) Requirement.—Within 11 months after the date of the enactment of this subsection, the Federal Intermediate Credit Bank of Jackson shall merge with a Farm Credit Bank pursuant to section 7.12 of the Farm Credit Act of 1971.

"(D) Effect of Failure to Merge.—If the Federal Intermediate Credit Bank of Jackson fails to comply with subparagraph (C), the Farm Credit Administration shall order the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank which is willing to merge with the Federal Intermediate Credit Bank of Jackson within 30 days after the end of the 11-month period described in subparagraph (C), pursuant to a plan of merger prescribed by the Farm Credit Administration.

"(E) Review.—Actions and determinations of the Farm Credit Administration pursuant to subparagraph (D) shall not be subject to judicial review except on Federal constitutional grounds.

"(F) Facilitation.—

"(i) If a merger under this paragraph is ordered pursuant to subparagraph (D), then beginning on the date of such order the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the order.

"(ii) Until the expiration of 5 years from the effective date of the order under subparagraph (D), or the final resolution of any litigation against the Federal Land Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.".

(b) Long-Term Lending Authority of the Farm Credit Bank of Texas With Respect to the Jackson District.—

(1) In General.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the charter of the bank, as amended by the Farm Credit Administration on February 7, 1989.

(2) Effective Date.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) Denial of Competitive Charters.—Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended by adding at the end the following: "The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System operating in the States of Alabama, Louisiana, or Mississippi under title I or II which would authorize the institution to exercise lending authority in a territory in which the charter of another such institution authorizes such other institution to exercise like authority, except with the approval of (1) in the case of a charter of an association, a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority in any of that territory if such charter action were taken, or (2) in the case of a charter of a bank, a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if such charter action were taken.".

The CHAIRMAN. The gentleman from Mississippi [Mr. Espy] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes..

The Chair recognizes the gentleman from Mississippi [Mr. Espy]/

Mr. ESPY. Mr. Chairman, I yield myself such time as I may consume.

I would like to begin by expressing my sincere appreciation to the chairman of the full committee, the gentleman from Texas [Mr. de la Garza], for his diligent work, his patience and assistance in resolving what was a very thorny issue, and I associate with the comments from the chairman when he said that we have reached a compromise "well within the framwork of the art of the possible." I think it could not be better said.

There are also a couple of other Members to thank: the gentleman from

Missouri [Mr. COLEMAN] and the gentleman from Mississippi, JAMIE WHITTEN, the dean of the Mississippi delegation, the gentleman from Alabama, CLAUDE HARRIS and the gentleman from Texas, BILL SARPALIUS, because all worked diligently to try to resolve this issue.

I am happy to report to this body that after 2 years of work, we have finally reached an agreement that I believe to be fair to all parties involved and, more importantly, which I believe to be fair to the borrowers of both banks involved.

The basic difference in policy philosophies regarding the Farm Credit System has made solving this problem even more difficult. I have been working toward a compromise that would allow the borrowers some say in what would happen to their bank. It is my opinion that the compromise before us does that by allowing them the option to seek a merger partner and negotiate a merger plan or to proceed with an arbitrated merger with the Farm Credit Bank of Texas. The borrowers of the Fifth Farm Credit District would be allowed to determine which option they prefer by a borrower vote.

Specifically, Mr. Chairman, within 30 days of enactment of this bill, the Farm Credit Administration would be required to conduct a referendum of the farmer-borrowers of the Federal Intermediate Credit Bank of Jackson.

If the borrowers choose to seek a merger partner on their own, they would have 11 months approximately to complete a merger with a farm credit bank. If the FICBJ fails to complete a merger within the prescribed 11 months, the Farm Credit Administration would order the FICBJ to merge with a farm credit bank within 30 days. The terms of the merger would be prescribed by the Farm Credit Administration.

If the borrowers vote to proceed with an arbitrated merger, than the arbitrator would have 11 months to complete a merger with the Farm Credit Bank of Texas. The compromise before us would instruct the arbitrator to hold a vote so that the borrowers of both banks would be allowed to determine the credit delivery structure. This approach allows the borrowers to determine the delivery structure they prefer for the future.

In conclusion, let me tell the body and the membership that one of our main objectives through this lengthy process has simply been to ensure that the borrowers of the Fifth Farm Credit District are treated fairly and are afforded the same rights that the borrowers in every other farm credit district have. By allowing the FICBJ the opportunity to seek a merger on their own and allowing the borrowers to vote in the negotiation or, if necessary, in the arbitration process, we have at least guaranteed the borrowers a voice in the determinations that will be made.

Mr. Chairman, I believe that this compromise is effective, efficient, fundamentally fair and democratic, and one which I hope this body will accept.

Again, I want to extend my thanks to the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA] and just announce to the body, on behalf of the gentleman from Texas [Mr. SARPALIUS] that an amendment which had been made in order under the rule which he would have offered he has decided to forgo that and, in fact, not offer it, because he believes that his proposed amendment is very consistent with what we are about to do presently.

So I thank the chairman.

### AMENMDMENT OFFERED BY MR. DE LA GARZA AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. ESPY

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment as a substitute for the amendments.

The clerk read as follows:

Amendment offered by Mr. DE LA GARZA as a substitute for the amendments offered by Mr. ESPY: Strike title IV of the bill (page 26, line 1 and all that follows through line 12 on page 33) and insert the following:

### TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

### SEC. 401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.

(a) CLARIFICATION OF AUTHORITY REGARDING REMAINING, FEDERAL INTERMEDIATE CREDIT BANK.—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—

"(1) BORROWER VOTE.—Notwithstanding any other provision of law, within 30 days after the date of the enactment of this subsection, the Farm Credit Administration shall conduct and compile the results of a referendum of the farmer-borrowers of the production credit associations that are stockholders in the Federal Intermediate Credit Bank of Jackson to determine whether the merger required under this subsection shall be completed in accordance with the provisions of paragraph (2) or paragraph (3) of this subsection. The Farm Credit Administration shall make available to such farmer-borrowers such information as it determines is appropriate under the circumstances to reasonably inform the farmer-borrowers of the anticipated benefits and potential disadvantages of each of the two merger completion options. Each such farmer-borrower shall be entitled to one vote. The Farm Credit Administration shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson and the production credit associations shall cooperate in the conduct of the referendum, as determined necessary by the Farm Credit Administration.

"(2) ARBITRATED MERGER.—

"(A) APPROVAL BY BORROWERS.—If at least fifty percent of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson into the Farm Credit Bank of Texas shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of this subsection.

"(B) ARBITRATOR.—

"(i) IN GENERAL.—If at least fifty percent of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then, not later than 60 days after the date of the enactment of this subsection, an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

"(ii) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

"(iii) EXPENSES.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (C) shall be paid from the Farm Credit Assistance Fund established under section 6.25.

"(C) REFERENDUM ON ASSOCIATION STRUCTURE.—

"(i) IN GENERAL.—Within 120 days after the date of the enactment of this subsection, the American Arbitration Association shall conduct, and compile the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi in accordance with the Election Rules of the American Arbitration Association to determine whether the farmer-borrowers of each association prefer to have credit delivered—

"(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association; and

"(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association. Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum.

"(ii) DISCLOSURE.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of the two alternatives presented in the ballots and setting forth factors that farmer-borrowers might consider relevant to the choice between the two alternatives. The arbitrator shall develop such disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) TABULATION OF RESULTS.—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

"(iv) PUBLICATION OF RESULTS.—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

"(D) DEVELOPMENT OF MERGER PLANS.—

"(i) IN GENERAL.—Within 210 days after the date of the enactment of this subsection, the arbitrator shall develop a plan specifying the terms and conditions of the merger of the two banks (and any related association mergers) required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan the arbitrator shall, to the extent practicable, achieve the following objectives:

"(I) Implementation of the preference expressed by the majority vote of the farmer-borrowers voting under subparagraph (C) in accordance with subparagraph (D)(iv), and expressed by the affected and interested parties under clause (ii).

"(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

"(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

"(IV) Ensure the viability of the resulting Farm Credit Bank and associations of such bank and the ability of the resulting bank and associations of such bank to lend to eligible borrowers at reasonable and competitive rates of interest.

"(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks (and any related association mergers) required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations in the states of Alabama, Louisiana, and Mississippi, shall make available all books, records, financial information, and other material that the arbitrator determines is directly necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas upon the written request of such bank and at such bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

"(iii) CONTENT OF PLAN.—In accordance with the standards in clause (i) and giving due consideration to the views and information submitted or made available under clause (ii), the arbitrator shall develop and submit to the Farm Credit Administration for certification a merger plan that shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(II) The initial association structure following the merger, as required under clause (iv), in the States of Alabama, Louisiana, and Mississippi (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(III) The initial composition, following the merger, of the board of directors of any association whose chartered territory or lending authority is altered under the plan (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(IV) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks and any merging associations. The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of such assets and liabilities in accordance with clause (v).

"(V) The terms and conditions upon which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson, and of any associations that may merge under the plan, will be converted into shares of the Farm Credit Bank of Texas, and shares of the resulting associations, respectively.

"(VI) The capital structure and capitalization levels of the resulting Farm Credit Bank, the associations described in subclause (III), and such other associations in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(VII) The terms of financing agreements between any production credit associations or associations described in subclause (III), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(VIII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—The plan shall—

"(I) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (C)(i) that they preferred to have credit delivered through an agricultural credit association, provide for the delivery of credit through an agricultural credit association in such territory; and

"(II) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted that they preferred to have credit delivered through a production credit association or a Federal land bank association, as appropriate, not provide for the delivery of credit through an agricultural credit association, or otherwise alter the existing association structure.

"(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation under subparagraph (H).

"(E) CERTIFICATION OF PLAN.—Within 45 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify, that the resulting bank and associations are organized in such a fashion such that they will, upon implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, within 15 days of receipt of such recommended revisions, incorporate such revisions into the plan as the arbitrator deems appropriate to secure such certification.

"(F) REVIEW.—Actions and determinations of the arbitrator or the Farm Credit Administration pursuant to this paragraph shall not be subject to judicial review, and the actions and determinations of the arbitrator shall not be subject to the requirements of the Administrative Procedures Act.

"(G) IMPLEMENTATION.—Within 90 days after the date of the receipt of the plan under subparagraph (E), the Farm Credit Administration shall issue such charters or charter amendments and take any such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan.

"(H) FACILITAION.—

"(i) Beginning on the date of the enactment of this subsection, the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan. Assistance shall be on such terms and conditions as the Farm Credit System Insurance Corporation deems appropriate.

"(ii) Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.

"(I) DEFINITIONS.—As used in this paragraph—

"(aa) the term 'agricultural credit association' means an association having the same authorities, attributes and obligation as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8; and

"(bb) the term 'farmer-borrower' means a borrower from a Farm Credit System association or bank in the states of Alabama, Louisiana, or Mississippi who is an individual and who holds voting stock, or is eligible to hold voting stock, in such institution.

"(3) NEGOTIATED OR REGULATORY MERGER.—

"(A) APPROVAL BY BORROWERS.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of this subsection.

"(B) MERGER AUTHORITY.—

"(i) EFFECTIVE DATES.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection in accordance with the provisions of this paragraph, then the provisions of clause (ii) shall take effect as if such clause had become law at the time the amendment referred to in such clause (ii) took effect, and shall remain in effect until 1 year after the date of enactment of this subsection.

"(ii) AUTHORITY.—Effective only as provided in clause (i), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 of the Agricultural Credit Act of 1987 took effect) and such provisions of the Farm Credit Act of 1971 (as in effect after the amendment), as the Farm Credit Administration may deem appropriate to carry out the purposes of this subsection and such Act.

"(C) REQUIREMENT.—Within 11 months after the date of enactment of this subsection, the Federal Intermediate Credit Bank of Jackson shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971.

"(D) EFFECT OF FAILURE TO MERGE.—If the Federal Intermediate Credit Bank of Jackson fails to comply with subparagraph (C), the Farm Credit Administration shall, within 30 days after the end of the 11 month period described in subparagraph (C), order the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank which is willing to merge with the Federal Intermediate Credit Bank of Jackson pursuant to a plan of merger prescribed by the Farm Credit Administration, after consultation with the Farm Credit System Insurance Corporation with respect to the assistance to be provided by the Insurance Corporation under subparagraph (F). The order provided for in this paragraph shall specify the effective date of the merger, which shall be in the sole discretion of the Farm Credit Administration.

"(E) REVIEW.—Actions and determinations of the Farm Credit Administration pursuant to subparagraph (D) shall not be subject to judicial review.

"(F) FACILITATION.—

"(i) If a merger under this paragraph is ordered pursuant to subparagraph (D), then beginning on the date of such order the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the order.

"(ii) Until the expiration of 5 years from the effective date of the order under subparagraph (D), or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.".

(b) LONG-TERM LENDING AUTHORITY OF THE FARM CREDIT BANK OF TEXAS WITH RESPECT TO THE STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that such charter may be further amended by the Farm Credit Administration).

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) DENIAL OF COMPETITIVE CHARTERS.—Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended by adding at the end the following: "The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate in the states of Alabama, Louisiana, or Mississippi under title I or II which would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes such other institution to exercise like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

(A) in a case affecting only the charter of an association—

(i) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if such charter action were taken; and

(ii) the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

(B) in a case affecting the a charter of a bank—

(i) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if such charter action were taken; and

(ii) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if such charter were taken.".

Page 2, in the table of contents, strike the items relating to title IV and section 401 and insert the following:

TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

Sec. 401. Clarification of the status and powers of certain institutions of the Farm Credit System.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

This amendment basically is making the technical corrections suggested by the Farm Credit Administration to the amendment that we were able to work out with the gentleman from Mississippi [Mr. ESPY].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] as a substitute for the amendments offered by the gentleman from Mississippi [Mr. ESPY].

The amendment offered as a substitute for the amendments was agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Mississippi [Mr. ESPY], as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102-876.

It is now in order to consider amendment No. 4 printed in House Report 102-876.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. TRAFICANT:

At the end of the bill, add the following (and amend the table of contents accordingly):

**TITLE VI—DISCLOSURE REQUIREMENTS**

**SEC. 601. DISCLOSURE OF INCOME, FINANCES, AND CONFLICTS OF INTEREST.**

Each director, officer, and employee of each institution of the Farm Credit System (within the meaning of section 5.35(3) of the Farm Credit Act of 1971) and of the Farm Credit System Insurance Corporation, shall annually, while in such position, submit to the Farm Credit Administration—

(1) a statement which discloses the personal income and finances of such director, officer, or employee, as the case may be, in a manner consistent with Federal financial disclosure laws relating to Federal employees; and

(2) a statement which—

(A) certifies that the responsibilities of such position do not present a conflict of interest for such director, officer, or employee, as the case may be; and

(B) describes any circumstances which may reasonably be perceived to present a conflict of interest for such director, officer, or employee, as the case may be,

in a manner consistent with Federal laws relating to disclosure of conflicts of interest.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have an amendment. It is very similar to a piece of legislation, an amendment I offered to the Freddie Mac and Fannie Mae legislation that calls for disclosure by officials involved in the credit system. This one is very similar to that particular amendment.

It would require all the directors and all employees and all staff get full financial disclosure and, in addition, if the perception of a conflict of interest might exist, that they were to give a full accounting of that possible conflict of interest and explain same.

In that regard, I felt that this type of legislation is good. It helps to ensure the integrity and the soundness and eliminate abuses within the system.

Because of the fact that our Congress put $4 billion into this account several years back, we do have a vested investment, and the viability and the integrity of the system should be protected. And a system of such to make sure that protection is there should be buoyed up.

In that regard, the amendment has been considered by the committee, and I believe that a compromise has been reached on this particular amendment.

The only thing I would like to say to everybody involved, I think it sets us on the right track. The compromise is acceptable to me. I want to commend both the ranking member and the distinguished chairman who have worked with us on this particular issue.

### AMENDMENT OFFERED BY MR. DE LA GARZA AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment as a substitute for the amendments.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA as a substitute for the amendments offered by Mr. TRAFICANT:

At the end of the bill, add the following:

### TITLE VI—DISCLOSURE REQUIREMENTS

**SEC. 601. FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST REPORTING BY DIRECTORS, OFFICERS, AND EMPLOYEES OF FARM CREDIT SYSTEM INSTITUTIONS.**

(a) FINDINGS.—The Congress finds that—

(1) the disclosure of the compensation paid to, loans made to, and transactions made with a Farm Credit System institution by, directors and senior officers of such institution provides the stockholders of such institutions with information necessary to better manage such institutions, provides the Farm Credit Administration with information necessary to efficiently and effectively regulate such institutions, and enhances the financial integrity of the Farm Credit System by making such information available to potential investors;

(2) the reporting of potential conflicts of interest by directors, officers, and employees of institutions of the Farm Credit System benefits the stockholders of such institutions, helps to ensure the financial viability of such institutions, provides information valuable to the Farm Credit Administration in periodic examinations of such institutions, and therefore enhances the safety and soundness of the Farm Credit System; and

(3) the directors, officers, or employees of some Farm Credit System institutions may not be subject to the regulations of the Farm Credit Administration requiring the disclosure of such financial information and the reporting of such potential conflicts of interest.

(b) PURPOSE.—It is the purpose of this section to ensure that the information reported by the directors, officers, and employees of Farm Credit System institutions under regulations of the Farm Credit Administration requiring the disclosure of financial information and the reporting of potential conflicts of interest—

(1) provides the stockholders of all Farm Credit System institutions with information to inform such stockholders in making informed decisions regarding the operation of such institutions,

(2) provides investors and potential investors with information necessary to assist them in making investment decisions regarding Farm Credit System obligations or institutions; and

(3) provides the Farm Credit Administration with information necessary to allow the Farm Credit Administration to effectively and efficiently examine and regulate all Farm Credit System institutions and thus enhance the safety and soundness of the Farm Credit System.

(c) REVIEW.—Not later than 120 days after the date of enactment of this section, the Farm Credit Administration shall complete a review of the current regulations of the Farm Credit Administration regarding the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of Farm Credit System institutions. Consistent with the purpose of this section as provided in subsection (b), such review shall address whether the regulations—

(1) are adequate to fulfill the purpose of this section and such other purposes as the Farm Credit Administration determines to be consistent with the Farm Credit Act of 1971, and other applicable law, and to be otherwise necessary or appropriate;

(2) currently require the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of all Farm Credit System institutions; and

(3) currently require the disclosure or reporting of such information by all of the appropriate directors, officers, or employees of Farm Credit System institutions.

(d) IMPLEMENTATION.—Not later than 360 days after the date of enactment of this section, the Farm Credit Administration shall amend its current financial disclosure and conflict of interest regulations as it determines necessary to carry out the purpose of this section and to address any deficiencies in such regulations that the Farm Credit Administration determines necessary pursuant to the review conducted under subsection (c).

Page 2, in the table of contents, add at the end the following:

TITLE VI—DISCLOSURE REQUIREMENTS

Sec. 601. Financial disclosure and conflict of interest reporting by directors, officers, and employees of Farm Credit System institutions.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

This amendment clarifies the intent of our distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT], and insists that his intention and his desire be carried out by the Farm Credit Administration.

They do have disclosure rules at this time, but this will be an insistence that they be administered to the intent which he had in his amendment. I would like to stress also that while the Agricultural Credit Act of 1987 authorized $4 billion in assistance to the Farm Credit System, only $1.26 billion was needed. The legislation before us will ensure the repayment of these funds plus interest. In fact, according to the Congressional Budget Office, the repayment changes authorized by H.R. 3298 will reduce budget outlays by $67 million in fiscal year 1992.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman from Ohio's amendment as amended is acceptable to the Republican members of the Agriculture Committee, but I want to point out, Mr. Chairman, that board members, officers, and employees of the Farm Credit System already are subject to extensive financial and conflict-of-interest disclosures.

The Traficant amendment as originally drafted would have subjected the Farm Credit Administration to a burdensome rewriting of its regulations regarding financial disclosure and conflict of interest not to mention the review, compilation and storage of documents of some 12,000 Farm Credit System employees.

Under current law, disclosure documents are held at System institutions where they are subject to periodic examination by the Farm Credit Administration in the course of its statutory mandate to maintain the safety and soundness of these institutions.

I endorse the amendment.

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Mr. DE LA GARZA. Mr. Chairman, I yield to my distinguished colleague, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise today to address my colleagues regarding H.R. 3298, Farm Credit System financial safety and soundness legislation. This bill is the final element in Congress' response to the 1990 bipartisan budget agreement effort to improve the safety and soundness of Government-sponsored enterprises [GSE's]. Section 13501 of the Omnibus Budget Reconciliation Act of 1990 required that the House committees of jurisdiction report legislation "* * * to ensure the financial soundness of GSE's and to minimize the possibility that a GSE might require future assistance from the Government."

This requirement was fulfilled earlier by the Banking and Education and Labor Committees. Enactment of H.R. 3298 will mean that all of the GSE's will have had their financial practices and regulatory oversight strengthened, thereby reducing the likelihood that Federal rescues of a GSE may be necessary in the future as was necessary for the Farm Credit System in 1987.

I want to commend Chairman DE LA GARZA and the Agriculture Committee for fulfilling the requirement of the 1990 reconciliation law by bringing this bill to the floor. It will strengthen the financial and accounting practices of the Farm Credit System. I am well aware that the argument has been made that the regulation of and the financial condition of the Farm Credit System should be even tighter than this bill provides for. However, we might never be able to reach agreement on how stringently each GSE needs to be regulated by the Government. It still remains that H.R. 3298 is an improvement over current law; the Farm Credit System will be financially more sound and less likely to require Federal aid in the future under this bill. For this reason I support H.R. 3298.

Finally, I would like to note that this legislation also requires the institutions of the Farm Credit System to accelerate repayment of loans they received from the Financial Assistance Corporation, as part of the 1987 rescue by the Government. Acceleration of these repayments will generate pay-go savings and reduce the deficit. CBO estimates savings from H.R. 3298 will be $67 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] as a substitute for the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment offered as a substitute for the amendments was agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT], as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 102-876.

### AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. DE LA GARZA.

Page 2, line 4, strike "1991" and insert "1992".

Page 25, after line 24, insert the following (and amend the table of contents accordingly):

**SEC. 308. TECHNICAL AMENDMENTS.**

(a) TECHNICAL AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 204(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102-237; 105 Stat. 1855) is amended by striking "in section 1221(1)(D) (16 U.S.C. 3821(1)(D))" and inserting "in section 1221(a)(1)(D) (16 U.S.C. 3821(a)(1)(D))".

(b) TECHNICAL AMENDMENTS TO THE FARM CREDIT ACT OF 1971.—

(1) Section 8.11(a)(1)(B)(ii) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11(a)(1)(B)(ii)) is amended by striking "the date of enactment of this section" and inserting "December 13, 1991".

(2) Section 8.32 of such Act (12 U.S.C. 2279bb-1) is amended—

(A) in each of subsections (a), (b)(1)(D), and (b)(2), by striking "the date of the enactment of this section" each place such term appears and inserting "December 13, 1991"; and

(B) in subsection (b)(1)(E), by striking "the date of the enactment of such Act" and inserting "December 13, 1991".

(3) Section 8.3(c)(13) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-3(c)(13)) is amended by striking "8.11(g)" and inserting "8.11(e)".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Chairman, these are technical amendments which address technicalities that needed to be corrected within the Farm Credit System.

Mr. COLEMAN of Missouri. Mr. Chairman, this amendment is technical in nature. We certainly have no objection.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments en bloc were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 3298) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, pursuant to House Resolution 573, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3298, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, pursuant to House Resolution 573, I move to take from the Speaker's table the Senate bill (S. 1709) to amend the Farm Credit Act of 1971 to enhance the financial safety and soundness of the Farm Credit System, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

### MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of the Senate bill, S. 1709, and to insert in lieu thereof a text consisting of the provisions of H.R. 3298, H.R. 4906, H.R. 5237, H.R. 5741, H.R. 5763, and H.R. 5764, each as passed by the House, as follows:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit, Rural Development, and Commodity Marketing Improvements Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FARM CREDIT BANKS AND ASSOCIATIONS SAFETY AND SOUNDNESS ACT OF 1992

Sec. 1001. Short title.
Sec. 1002. References to the Farm Credit Act of 1971.

SUBTITLE A—FARM CREDIT SYSTEM INSURANCE CORPORATION

Sec. 1101. Statutory successor to Assistance Board agreements.

SUBTITLE B—REMOVAL OF HINDRANCE TO MERGERS

Sec. 1201. Sectional representation on boards of directors.

SUBTITLE C—CLARIFICATION OF OBLIGATION OF FARM CREDIT BANKS FOR REPAYMENT OF DEBT ISSUED BY FARM CREDIT SYSTEM ASSISTANCE CORPORATION

Sec. 1301. Capital preservation.
Sec. 1302. Preferred stock.
Sec. 1303. Sytstemwide repayment obligation.
Sec. 1304. Repayment of Treasury-paid interest.
Sec. 1305. Transfer of obligations from associations to banks, and other matters.
Sec. 1306. Defaults.
Sec. 1307. Authority of Financial Assistance Corporation.
Sec. 1308. Technical amendments.

SUBTITLE D—CLARIFICATION OF CERTAIN AUTHORITIES

Sec. 1401. Clarification of the status and powers of certain institutions of the Farm Credit System.

SUBTITLE E—DISCLOSURE REQUIREMENTS

Sec. 1501. Financial disclosure and conflict of interest reporting by directors, officers, and employees of Farm Credit System institutions.

TITLE II—AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Sec. 2001. Short title.

SUBTITLE A—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Sec. 2101. Beginning farmer and rancher program.
Sec. 2102. Processing of applications for farm operating loans.
Sec. 2103. Time period within which county committee is required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
Sec. 2104. Debt service margin requirements; certified lender program.
Sec. 2105. Federal-State beginning farmer partnership.
Sec. 2106. Graduation of borrowers with operating loans or guarantees to private commercial credit.
Sec. 2107. Simplified application for guaranteed loans of $50,000 or less.
Sec. 2108. Targeting of loans to members of groups whose members have been subjected to gender prejudice.
Sec. 2109. Recordkeeping of loans by borrower's gender.
Sec. 2110. Increase in period during which county committee loan eligibility certification continues in effect.
Sec. 2111. Limitation on aggregate indebtedness.
Sec. 2112. Graduation of seasoned borrowers to the loan guarantee program.
Sec. 2113. Deadline for issuance of regulations.

SUBTITLE B—AMENDMENTS TO THE FARM CREDIT ACT OF 1971

Sec. 2201. Valuation of reserves of production credit associations.
Sec. 2202. Elimination of authority of Farm Credit System Insurance Corporation to appoint nonvoting member of Farm Credit System Funding Corporation Board.
Sec. 2203. Expansion of water and sewer lending authority of banks for cooperatives.
Sec. 2204. Equity voting for one director of each bank for cooperatives.
Sec. 2205. Per diem compensation of bank directors.
Sec. 2206. Frequency of examinations of system institutions.
Sec. 2207. Authority to examine system institutions.
Sec. 2208. Repeal of prohibition against guarantee of certain instruments of indebtedness.
Sec. 2209. Clarification of treatment of Farm Credit Administration operating expenses.
Sec. 2210. Approval of competitive charters.

SUBTITLE C—TECHNICAL CORRECTIONS

Sec. 2301. Technical corrections.

SUBTITLE D—EFFECTIVE DATE

Sec. 2401. Effective date.

TITLE III—RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Sec. 3001. Short title.
Sec. 3002. Discounted loan prepayment.
Sec. 3003. Repeal of section 412.
Sec. 3004. Repeal of section 311.
Sec. 3005. Grants to enable providers of health care and educational services in rural areas to implement interactive telecommunications systems.
Sec. 3006. Increase in limitation on population of rural areas for purposes of telephone loans.
Sec. 3007. Sense of the Congress.
Sec. 3008. Regulations.

TITLE IV—PERISHABLE AGRICULTURAL COMMODITIES ACT TECHNICAL AMENDMENTS OF 1992

Sec. 4001. Short title.
Sec. 4002. Reaffirmation of findings.
Sec. 4003. Technical amendment.

TITLE V—EQUITABLE TREATMENT FOR SUGARCANE PRODUCERS

Sec. 5001. Equitable treatment for producers.
Sec. 5002. Adjustment after disaster.
Sec. 5003. Clarifying and conforming amendments.

TITLE VI—USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS

Sec. 6001. Use of electronic cotton warehouse receipts.

## TITLE I—FARM CREDIT BANKS AND ASSOCIATIONS SAFETY AND SOUNDNESS ACT OF 1992

### SEC. 1001. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Farm Credit Banks and Associations Safety and Soundness Act of 1992".

### SEC. 1002. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise provided.

## Subtitle A—Farm Credit System Insurance Corporation

### SEC. 1101. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

(a) IN GENERAL.—Section 5.58(2) (12 U.S.C. 2277a-7(2)) is amended by adding at the end thereof the following: "The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions that certify such institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12.".

(b) CONFORMING AMENDMENTS.—Section 5.35(4) (12 U.S.C. 2271(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 6.6 or by the Farm Credit System Insurance Corporation under section 5.61.".

## Subtitle B—Removal of Hindrance to Mergers

### SEC. 1201. SECTIONAL REPRESENTATION ON BOARDS OF DIRECTORS.

Section 4.15 (12 U.S.C. 2203) is amended—

(1) by amending the section heading to read as follows:

"NOMINATION AND ELECTION OF BANK AND ASSOCIATION DIRECTORS.—";

(2) by inserting, before the text thereof, the following:

"(a) NOMINATION OF DIRECTORS.—"; and

(3) by adding at the end thereof the following new subsection:

"(b) SECTIONAL REPRESENTATION ON BANK AND ASSOCIATION BOARDS.—

"(1) IN GENERAL.—To ensure representation of geographical sections within the territory served by a bank or association of the Farm Credit System, each such bank (other than the National Bank for Cooperatives) or association may include in its bylaws governing the election of its board of directors provisions for the election of some or all of its members of the board to be elected by the stockholders:

"(A) at large;

"(B) from designated geographical sections of the territory served by the bank or association; or

"(C) as provided in both subparagraphs (A) and (B).

"(2) PROPORTIONALITY.—If members of the board of directors are elected by stockholders from designated geographical sections, the membership on the board elected from each section should reflect proportionately—

"(A) in the case of an association, the same number of stockholders; or

"(B) in the case of a bank, the same number of stockholder-borrowers of associations that accept, make, or otherwise provide loans in the designated sections of the bank's territory and that hold voting stock in the bank.

"(3) EXAMINATION OF SECTIONS.—The boundaries of the designated geographical sections shall be examined by the bank or association, as appropriate, at least once every three years and shall be readjusted, as necessary, to ensure such proportional representation of membership on the board.".

### Subtitle C—Clarification of Obligation of Farm Credit Banks for Repayment of Debt Issued by Farm Credit System Assistance Corporation.

**SEC. 1301. CAPITAL PRESERVATION.**

Section 6.9(e)(3) (12 U.S.C. 2278a-9(e)(3)), is amended—

(1) by adding at the end of subparagraph (C) the following: "Any bank leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of such future payment had the bank remained in the System. With respect to any bank undergoing liquidation under this Act, a liability to the Financial Assistance Corporation in said amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of such bank. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply such recoveries, when received, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have met their entire payment obligation, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments.";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by adding a new subparagraph (D) as follows:

"(D)(i) In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 1991 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case such bank shall begin making such payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings thereon, to 90% of the bank's ultimate obligation, and the Financial Assistance Corporation will partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings thereon as earned.

"(ii) Such agreement shall not require payments to be made to the extent that making a particular payment or part thereof would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

"(iii) The funds received by the Financial Assistance Corporation pursuant to such agreements shall be invested in eligible investments as defined in Section 6.25(a)(1) of this Act, and such funds and the earnings thereon shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection."; and

(4) by adding before the period at the end of subparagraph (E), as redesignated by paragraph (2) of this section, the following: ", nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank".

**SEC. 1302. PREFERRED STOCK.**

Section 6.26(d)(1)(B) (12 U.S.C. 2278b-6(d)(1)(B)), is amended by adding at the end thereof the following: "Each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

"(i) the greater of—

"(I) such amount as the institution may be required to appropriate under any assistance agreement it has with the Farm Credit System Assistance Board or the Farm Credit System Insurance Corporation; or

"(II) the amount that, if appropriated to such account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in such account to equal the par value of the preferred stock issued by such institution with respect to such obligation; plus

"(ii) any amount that had been appropriated to said account in a previous year but had thereafter been offset by losses;

"*Provided, However*, that an annual appropriation shall not be made to the extent that it would exceed the institution's net income (as determined pursuant to generally accepted accountion principles) in that year or to the extent that it would cause the institution's preferred stock to be impaired. The amount in such appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates, and said account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses. Such appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements."

**SEC. 1303. SYSTEMWIDE REPAYMENT OBLIGATION.**

Section 6.26(d)(1)(C) (12 U.S.C. 2278b-6(d)(1)(C)), is amended by adding at the end thereof the following: "The annual increase in the present value of the estimated obligation of each bank to the Financial Assistance Corporation hereunder shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank. A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of such payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, but the bank shall remain primarily liable for such amount. Any bank leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of such future payment had the bank remained in the System, and a liability to the Financial Assistance Corporation in said amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply such recoveries, when received, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have met their entire payment obligation, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments. Any association leaving the Farm Credit System pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of such future payment, and a liability to the bank in said amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation."

**SEC. 1304. REPAYMENT OF TREASURY-PAID INTEREST**

(a) CONFORMING AMENDMENT.—Section 6.26(c)(5) (12 U.S.C. 2278b-6(c)(5)), is amended to read as follows:

"(5) REPAYMENT OF TREASURY-PAID INTEREST.—

"(A) IN GENERAL.—On the maturity date of the last-maturing debt obligation issued under subsection (a) of this section, the Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on such debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on such payments.

(B) ASSESSMENT.—In order to provide for the orderly funding and discharge of the obligation of the Financial Assistance Corporation under subparagraph (A), each System bank shall enter into or continue in effect, and comply with, an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case such bank shall begin making such payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings thereon, to an amount equal to the bank's ultimate obligation, and the Financial Assistance Corporation will partially discharge the bank from its obligation under this subparagraph to the extent of each such payment and the earnings thereon as earned. Except in the last five years prior to the date the Financial Assistance Corporation is obligated to make such repayment, no annual payment may exceed .0006 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year.

"(C) INVESTMENT OF FUNDS.—The Financial Assistance Corporation shall invest funds derived from such investment in eligible investments as defined in section 6.25(a)(1) of this Act, and such funds and the earnings thereon shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

"(D) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of such assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for such amounts.

"(E) LIABILITY.—

"(i) BANKS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any bank terminating System status pursuant to Section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System, and a liability to the Financial Assistance Corporation in such amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation.

"(ii) NO ANTICIPATORY REDUCTIONS IN OTHER OBLIGATIONS.—The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation.

"(iii) REFUND OF RECOVERIES.—The Financial Assistance Corporation shall apply such recoveries, when received, and all earnings thereon, to reduce the other banks' payment obligations, or, to the extent such recoveries are received after the other banks have met their entire payment obligation, shall refund such recoveries, when received, to the other banks in proportion to the other banks' payments.

"(F) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association terminating System status pursuant to Section 7.10 of this Act shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank, and a liability to the bank in said amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

"(G) CAPITAL REQUIREMENTS.—

"(i) IN GENERAL.—Until the date that is five years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

"(ii) DURING THE FINAL FIVE YEARS PRIOR TO REPAYMENT.—During the period beginning on the date that is—

"(I) five years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), sixty percent;

"(II) four years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), thirty percent; and

"(III) three years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), zero percent;

of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.".

(b) CONFORMING AMENDMENT.—Section 6.28 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–8) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

### SEC. 1305. TRANSFER OF OBLIGATIONS FROM ASSOCIATIONS TO BANKS, AND OTHER MATTERS.

Section 6.26 (12 U.S.C. 2278b–6), is amended—

(1) in subsection (c)—

(A) by striking "INSTITUTIONS" in the heading of paragraph (2)(B) and inserting "BANKS";

(B) by striking the word "institutions" each time it appears in paragraphs (2)(B), (3) and (4) and inserting in lieu thereof the word "banks";

(C) by amending paragraph (2)(C) to read as follows:

"(C) ALLOCATION.—During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

"(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

"(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year."; and

(D) by striking paragraph (2)(D);

(2) in subsection (d)—

(A) in paragraph (1)(C)—

(i) by striking the word "institution" the first time it appears and inserting in lieu thereof the word "bank";

(ii) by striking "under section 6.7(a)" and inserting in lieu thereof "or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively,";

(iii) by adding after "proportion" the following ", as calculated by the Financial Assistance Corporation,";

(iv) by amending clauses (i) and (ii) to read as follows:

"(i) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

"(ii) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.";

(B) by striking paragraph (1)(D); and

(C) by redesignating paragraph (1)(E) as paragraph (1)(D); and

(3) by adding at the end thereof the following new subsections:

"(e) ADMINISTRATION.—

"(1) DEFINITION OF RETAIL LOAN VOLUME.—As used in this section, the term 'retail loan volume' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

"(2) CALCULATION OF AVERAGE ANNUAL LOAN VOLUMES.—For purposes of this section and section 6.9, average annual loan volumes shall be calculated using month-end balances.

"(3) EXCLUSION OF BANKS UNDERGOING LIQUIDATION.—For purposes of this section and section 6.9, the term 'bank' shall not include a bank that had entered liquidation prior to the enactment of this subsection.".

### SEC. 1306. DEFAULTS.

Section 6.26(d) (12 U.S.C. 2278b–6(d)), is amended—

(1) by amending the heading of paragraph (3)(A) to read as follows: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(2) in paragraph (3)(A)(i)—

(A) by striking "subsection (a)," and inserting the following: "subsection (a) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C) of this section, or on the payment of an assessment due under subsection (c)(5)(B) of this section,";

(B) by striking "of the interest" in the two places it appears; and

(C) by striking "institution" wherever it appears, and inserting in lieu thereof "bank";

(3) in paragraph (3)(A)(ii)—

(A) by striking "of interest";

(B) by striking "institution" and inserting in lieu thereof "bank"; and

(C) by striking "such uncollected interest", and inserting in lieu thereof "any uncollected amount";

(4) in paragraph (3)(A)(iii), by striking "added" and all that follows through the period at the end and inserting "allocated to other System banks in accordance with the allocation mechanism applicable under this Act to the particular defaulted obligation.";

(5) by amending the heading of subparagraph (B) of paragraph (3) to read as follows: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—";

(6) in paragraph (3)(C)—

(A) by striking "INSTITUTIONS" in the heading to paragraph (3)(C) and inserting "BANKS";

(B) by striking "institution" and inserting "bank";

(C) by striking "institutions" both places it appears and inserting "banks"; and

(D) by striking "the amount of any interest", and inserting in lieu thereof "any amounts";

(7) in paragraph (4)(A), by adding after "subsection (a)" "of this section or section 6.9(e)(3)(A)";

(8) in paragraph (4)(B)(i)—

(A) by amending the clause heading to read as follows: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(B) by striking "subsection (c)," and inserting "subsection (c) of this section, on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C) of this subsection, or on the payment of an assessment due under subsection (c)(5)(B) of this section,"; and

(C) by striking "institution" wherever it appears, and inserting in lieu thereof "bank"; and

(9) in paragraph (4)(B)(ii), by amending the clause heading to read as follows: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—".

### SEC. 1307. AUTHORITY OF FINANCIAL ASSISTANCE CORPORATION.

(a) PURPOSE.—Section 6.21 (12 U.S.C. 2278b–1) is amended by adding before the period at the end thereof: "and to assist, pursuant to section 6.9(e) and subsections (c) through (g) of section 6.26, in the repayment by System institutions of those who provided funds in connection with such program".

(b) Section 6.31(a) (12 U.S.C. 2278b–11(a)) is amended by adding, striking "terminate on" and inserting the following: "terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under Section 6.9(e) and subsections (c) through (g) of section 6.26 with regard to repayments by System institutions, but in no event later than two years following".

### SEC. 1308. TECHNICAL AMENDMENTS.

(a) Technical Amendment to the Food, Agriculture, Conservation, and Trade Act Amendments of 1991.—Section 204(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1855) is amended by striking "in section 1221(1)(D) (16 U.S.C. 3821(1)(D))" and inserting "in section 1221(a)(1)(D) (16 U.S.C. 3821(a)(1)(D))".

(b) Technical Amendments to the Farm Credit Act of 1971.—

(1) Section 8.11(a)(1)(B)(ii) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–11(a)(1)(B)(ii)) is amended by striking "the date of enactment of this section" and inserting "December 13, 1991".

(2) Section 8.32 of such Act (12 U.S.C. 2279bb–1) is amended—

(A) in each of subsections (a), (b)(1)(D), and (b)(2), by striking "the date of the enactment of this section" each place such term appears and inserting "December 13, 1991"; and

(B) in subsection (b)(1)(E), by striking "the date of the enactment of such Act" and inserting "December 13, 1991".

(3) Section 8.3(c)(13) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–3(c)(13)) is amended by striking "8.11(g)" and inserting "8.11(e)".

## Subtitle D—Clarification of Certain Authorities

### SEC. 1401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.

(a) Clarification of Authority Regarding Remaining Federal Intermediate Credit Bank.—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

"(e) Clarification of Authority Regarding Remaining Federal Intermediate Credit Bank.—

"(1) Borrower vote.—Notwithstanding any other provision of law, within 30 days after the date of the enactment of this subsection, the Farm Credit Administration shall conduct and compile the results of a referendum of the farmer-borrowers of the production credit associations that are stockholders in the Federal Intermediate Credit Bank of Jackson to determine whether the merger required under this subsection shall be completed in accordance with the provisions of paragraph (2) or paragraph (3) of this subsection. The Farm Credit Administration shall make available to such farmer-borrowers such information as it determines is appropriate under the circumstances to reasonably inform the farmer-borrowers of the anticipated benefits and potential disadvantages of each of the two merger completion options. Each such farmer-borrower shall be entitled to one vote. The Farm Credit Administration shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson and the production credit associations shall cooperate in the conduct of the referendum, as determined necessary by the Farm Credit Administration.

"(2) Arbitrated merger.—

"(A) Approval by borrowers.—If at least fifty percent of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson into the Farm Credit Bank of Texas shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of this subsection.

"(B) Arbitrator.—

"(i) In general.—If at least fifty percent of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then, not later than 60 days after the date of the enactment of this subsection, an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

"(ii) Duties.—The arbitrator shall determine the terms and conditions of the merger required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

"(iii) Expenses.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (C) shall be paid from the Farm Credit Assistance Fund established under section 6.25.

"(C) Referendum on association structure.—

"(i) In general.—Within 120 days after the date of the enactment of this subsection, the American Arbitration Association shall conduct, and compile the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi in accordance with the Election Rules of the American Arbitration Association to determine whether the farmer-borrowers of each association prefer to have credit delivered—

"(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association; and

"(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association.

Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson and the production credit associations shall cooperate in the conduct of the referendum, as determined necessary by the Arbitrator.

"(ii) Disclosure.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of the two alternatives presented in the ballots and setting forth factors that farmer-borrowers might consider relevant to the choice between the two alternatives. The arbitrator shall develop such disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) Tabulation of results.—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

"(iv) Publication of results.—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

"(D) Development of merger plans.—

"(i) In general.—Within 210 days after the date of the enactment of this subsection, the arbitrator shall develop a plan specifying the terms and conditions of the merger of the two banks (and any related association mergers) required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of such associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan the arbitrator shall, to the extent practicable, achieve the following objectives:

"(I) Implementation of the preference expressed by the majority vote of the farmer-borrowers voting under subparagraph (C) in accordance with subparagraph (D)(iv), and expressed by the affected and interested parties under clause (ii).

"(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

"(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

"(IV) Ensure the viability of the resulting Farm Credit Bank and associations of such bank and the ability of the resulting bank and associations of such bank to lend to eligible borrowers at reasonable and competitive rates of interest.

"(ii) Submission of views and information.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks (and any related association mergers) required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations in the states of Alabama, Louisiana, and Mississippi, shall make available all books, records, financial information, and other material that the arbitrator determines is directly necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas upon the written request of such bank and at such bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

"(iii) CONTENT OF PLAN.—In accordance with the standards in clause (i) and giving due consideration to the views and information submitted or made available under clause (ii), the arbitrator shall develop and submit to the Farm Credit Administration for certification a merger plan that shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(II) The initial association structure following the merger, as required under clause (iv), in the States of Alabama, Louisiana, and Mississippi (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(III) The initial composition, following the merger, of the board of directors of any association whose chartered territory or lending authority is altered under the plan (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(IV) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks and any merging associations. The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of such assets and liabilities in accordance with clause (v).

"(V) The terms and conditions upon which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson, and of any associations that may merge under the plan, will be converted into shares of the Farm Credit Bank of Texas, and shares of the resulting associations, respectively.

"(VI) The capital structure and capitalization levels of the resulting Farm Credit Bank, the associations described in subclause (III), and such other associations in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(VII) The terms of financing agreements between any production credit associations or associations described in subclause (III), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the provisions of the Farm Credit Act of 1971 and any applicable regulations).

"(VIII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—The plan shall—

"(I) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (C)(i) that they preferred to have credit delivered through an agricultural credit association, provide for the delivery of credit through an agricultural credit association in such territory; and

"(II) in any of the geographic areas described in subparagraph (C)(iii) where a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted that they preferred to have credit delivered through a production credit association or a Federal land bank association, as appropriate, not provide for the delivery of credit through an agricultural credit association, or otherwise alter the existing association structure.

"(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation under subparagraph (H).

"(E) CERTIFICATION OF PLAN.—Within 45 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,

that the resulting bank and associations are organized in such a fashion such that they will, upon implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, within 15 days of receipt of such recommended revisions, incorporate such revisions into the plan as the arbitrator deems appropriate to secure such certification.

"(F) REVIEW.—Actions and determinations of the arbitrator or the Farm Credit Administration pursuant to this paragraph shall not be subject to judicial review, and the actions and determinations of the arbitrator shall not be subject to the requirements of the Administrative Procedures Act.

"(G) IMPLEMENTATION.—Within 90 days after the date of the receipt of the plan under subparagraph (E), the Farm Credit Administration shall issue such charters or charter amendments and take any such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan.

"(H) FACILITATION.—

"(i) Beginning on the date of the enactment of this subsection, the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan. Assistance shall be on such terms and conditions as the Farm Credit System Insurance Corporation deems appropriate.

"(ii) Until the expiration of five years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.

"(I) DEFINITIONS.—As used in this paragraph—

"(i) the term 'agricultural credit association' means an association having the same authorities, attributes and obligations as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8; and

"(ii) the term 'farmer-borrower' means a borrower from a Farm Credit System association or bank in the states of Alabama, Louisiana, or Mississippi who is an individual and who holds voting stock, or is eligible to hold voting stock, in such institution.

"(3) NEGOTIATED OR REGULATORY MERGER.—

"(A) APPROVAL BY BORROWERS.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection under the provisions of this paragraph, then a merger of the Federal Intermediate Credit Bank of Jackson shall be completed in accordance with the provisions of this paragraph not later than 1 year after the date of the enactment of this subsection.

"(B) MERGER AUTHORITY.—

"(i) EFFECTIVE DATES.—If a majority of the farmer-borrowers voting in the referendum under paragraph (1) vote to complete the merger required under this subsection in accordance with the provisions of this paragraph, then the provisions of clause (ii) shall take effect as if such clause had become law at the time the amendment referred to in such clause (ii) took effect, and shall remain in effect until 1 year after the date of enactment of this subsection.

"(ii) AUTHORITY.—Effective only as provided in clause (i), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 of the Agricultural Credit Act of 1987 took effect) and such provisions of the Farm Credit Act of 1971 (as in effect after the amendment), as the Farm Credit Administration may deem appropriate to carry out the purposes of this subsection and such Act.

"(C) REQUIREMENT.—Within 11 months after the date of enactment of this subsection, the Federal Intermediate Credit Bank of Jackson shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971.

"(D) EFFECT OF FAILURE TO MERGE.—If the Federal Intermediate Credit Bank of Jackson fails to comply with subparagraph (C), the Farm Credit Administration shall, within 30 days after the end of the 11 month period described in subparagraph (C), order the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank which is willing to merge with the Federal Intermediate Credit Bank of Jackson pursuant to a plan of merger prescribed by the Farm Credit Administration, after consultation with the Farm Credit System Insurance Corporation with respect to the assistance to be provided by the Insurance Corporation under subparagraph (F). The order provided for in this paragraph shall specify the effective date of the merger, which shall be in the sole discretion of the Farm Credit Administration.

"(E) REVIEW.—Actions and determinations of the Farm Credit Administration pursuant to subparagraph (D) shall not be subject to judicial review.

"(F) FACILITATION.—

"(i) If a merger under this paragraph is ordered pursuant to subparagraph (D), then beginning on the date of such order the Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the order.

"(ii) Until the expiration of five years from the effective date of the order under subparagraph (D), or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Insurance Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to such merger, or any successor to such association, to pay when due any obligation of principal or interest owed by such association or its successor to the resulting bank.".

(b) LONG-TERM LENDING AUTHORITY OF THE FARM CREDIT BANK OF TEXAS WITH RESPECT TO THE STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that such charter may be further amended by the Farm Credit Administration).

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) DENIAL OF COMPETITIVE CHARTERS.—Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended by adding at the end the following: "The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate in the states of Alabama, Louisiana, or Mississippi under title I or II which would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes such other institution to exercise like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

(A) in a case affecting only the charter of an association—

(i) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if such charter action were taken; and

(ii) the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

(B) in a case affecting the charter of a bank—

(i) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if such charter action were taken; and

(ii) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if such charter were taken."

## Subtitle E—Disclosure Requirements

### SEC. 1501. FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST REPORTING BY DIRECTORS, OFFICERS, AND EMPLOYEES OF FARM CREDIT SYSTEM INSTITUTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the disclosure of the compensation paid to, loans made to, and transactions made with a Farm Credit System institution by, directors and senior officers of such institution provides the stockholders of such institutions with information necessary to better manage such institutions, provides the Farm Credit Administration with information necessary to efficiently and effectively regulate such institutions, and enhances the financial integrity of the Farm Credit System by making such information available to potential investors;

(2) the reporting of potential conflicts of interest by directors, officers, and employees of institutions of the Farm Credit System benefits the stockholders of such institutions, helps to ensure the financial viability of such institutions, provides information valuable to the Farm Credit Administration in periodic examinations of such institutions, and therefor enhances the safety and soundness of the Farm Credit System; and

(3) the directors, officers, or employees of some Farm Credit System institutions may not be subject to the regulations of the Farm Credit Administration requiring the disclosure of such financial information and the reporting of such potential conflicts of interest.

(b) PURPOSE.—It is the purpose of this section to ensure that the information reported by the directors, officers, and employees of Farm Credit System institutions under regulations of the Farm Credit Administration requiring the disclosure of financial information and the reporting of potential conflicts of interest—

(1) provides the stockholders of all Farm Credit System institutions with information to assist such stockholders in making informed decisions regarding the operation of such institutions,

(2) provides investors and potential investors with information necessary to assist them in making investment decisions regarding Farm Credit System obligations or institutions; and

(3) provides the Farm Credit Administration with information necessary to allow the Farm Credit Administration to effectively and efficiently examine and regulate all Farm Credit System institutions and thus enhance the safety and soundness of the Farm Credit System.

(c) REVIEW.—Not later than 120 days after the date of enactment of this section, the Farm Credit Administration shall complete a review of the current regulations of the Farm Credit Administration regarding the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of Farm Credit System institutions. Consistent with the purpose of this section as provided in subsection (b), such review shall address whether the regulations—

(1) are adequate to fulfill the purpose of this section and such other purposes as the Farm Credit Administration determines to be consistent with the Farm Credit Act of 1971, and other applicable law, and to be otherwise necessary or appropriate;

(2) currently require the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of all Farm Credit System institutions; and

(3) currently require the disclosure or reporting of such information by all of the appropriate directors, officers, or employees of Farm Credit System institutions.

(d) IMPLEMENTATION.—Not later than 360 days after the date of enactment of this section, the Farm Credit Administration shall amend its current financial disclosure and conflict of interest regulations as it determines necessary to carry out the purpose of this section and to address any deficiencies in such regulations that the Farm Credit Administration determines necessary pursuant to the review conducted under subsection (c).

## TITLE II—AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

### SEC. 2001. SHORT TITLE.

This title may be cited as the "Agricultural Credit Improvement Act of 1992".

## Subtitle A—Amendments to the Consolidated Farm and Rural Development Act

### SEC. 2101. BEGINNING FARMER AND RANCHER PROGRAM.

(a) OPERATING LOANS; GUARANTEES OF OPERATING LOANS.—Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941-1947) is amended by adding at the end the following:

### "SEC. 318. ASSISTANCE TO BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—The Secretary shall provide assistance in accordance with this section to enable individuals to conduct viable farming or ranching operations. For purposes of this section, the term 'individual' means a natural person or an entity (other than a corporation) (1) all of whose owners or members are related by blood or marriage, and (2) none of whose owners or members has operated a farm or ranch for more than 5 years.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An individual may seek assistance under this section for a proposed or ongoing farming or ranching operation by submitting to the county committee of the county in which the operation is (or is to be) located, not later than 60 days before such assistance is to be first provided, a plan which—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and amounts of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements therefor) and, with respect to each item of needed equipment, whether the individual owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for such period, not exceeding 10 years, as is necessary for the operation to become financially viable without further assistance from the Secretary.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county committee shall approve a plan submitted by an individual in accordance with subsection (b) if the county committee determines that—

"(1) the individual has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

"(2) during the 5-year period ending with the submission of the plan, the individual has had sufficient education and experience to indicate that the individual is able to conduct a successful farming or ranching operation, as the case may be;

"(3) the individual owns, leases, or has a commitment to have leased to the individual the site or sites of the operation;

"(4) there is, or will be, available to the individual equipment sufficient to conduct the operation in accordance with the plan;

"(5) the individual agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

"(6) the individual, or in the case of an entity, each owner or member of the entity meets the requirements of paragraphs (1) and (3) of section 311(a).

"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—The Secretary shall approve an application for assistance under this section for an operation described in a plan approved by a county committee under subsection (c) if the Secretary determines that—

"(1) the operation (taking into account the types of agricultural commodities produced, and the average size of similar operations, in the area in which the operation is, or is to be, located) would generate income sufficient to cover the expenses of the operation, debt service, and adequate family living expenses of the individual, to the extent that other income would not cover such living expenses, if the operation received assistance under this section as provided for in the plan; and

"(2) not later than 10 years after first receiving assistance under this section, the operation will be financially viable without further assistance from the Secretary.

"(e) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF COMMITMENT PERIOD.—

"(A) INITIAL DETERMINATION.—Upon approval of an application under subsection (d), the Secretary shall, subject to subparagraph (C) of this paragraph, determine the period during which assistance under this section is to be provided for the operation described in the application (in this subsection referred to as the 'commitment period').

"(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) of this paragraph and subsections (f) and (g), extend the duration of the commitment period. The Secretary may not reduce the duration of the commitment period.

"(C) LIMITATION.—The duration of any commitment period (including any extensions thereof) shall not exceed 10 years.

"(2) OPERATING LOANS; LOAN GUARANTEES.—

"(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds therefor and subject to subsections (f) and (g), make a commitment to the applicant—

"(i) for each of the 1st, 2nd, 3rd, and 4th years of the commitment period—

"(I) to make a loan under this subtitle to the applicant at the interest rate charged to low income, limited resource borrowers under this subtitle, in the amount specified in the plan contained in the application; or

"(II) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application)—

"(aa) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

"(bb) if the Secretary determines that, despite the provision of the guarantee referred to in item (aa), the applicant will not qualify for such a loan, an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity;

"(ii) for each of the 5th, 6th, 7th, and 8th years of the commitment period—

"(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest; and

"(II) if the Secretary determines that, despite the provision of the guarantee referred to in subclause (I), the applicant will not qualify for such a loan, then—

"(aa) to offer the lender an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount necessary to ensure that the effective rate of interest on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans under this subtitle of comparable size and maturity; or

"(bb) if funds are not available for the interest subsidy payment described in item (aa), to provide to the applicant a loan under this subtitle that is comparable to one for which a person not receiving assistance under this section (but otherwise in the same situation as the applicant) would be eligible; and

"(iii) for each of the 9th and 10th years of the commitment period, to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of not more than 90 percent of the loan principal and interest.

"(B) SPECIAL RULE.—In the case of an application approved under subsection (d) with respect to which the commitment period is less than 10 years, the Secretary shall make the commitments described in subparagraph (A) for such portions of the commitment period as the Secretary deems appropriate.

"(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) of this section to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR SUCH PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

"(A) accord the applicant whose application is approved under subsection (d) priority in the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

"(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance such purchases if the plan contained in the application provides for such assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Agricultural Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) NO LOAN GUARANTEE FEES.—The Secretary may not charge a fee to any lender in connection with any loan guarantee provided in accordance with this subsection.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which such assistance is provided, unless—

"(1) not later than 60 days before such assistance is to be first provided for the particular year, the applicant has revised the plan describing the operation, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the county committee has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke any commitment for assistance made to an applicant under this section if the applicant's operation fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure is due to circumstances beyond the control of the applicant and has not materially reduced the likelihood of the operation becoming financially viable.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date the commitments made to an applicant are revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.".

(b) DOWN PAYMENT LOAN PROGRAM.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding at the end the following:

**"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.**

"(a) IN GENERAL.—Notwithstanding any other section of this subtitle, the Secretary shall establish within the farm ownership loan program under this subtitle a program under which loans are made under this section to eligible beginning farmers and ranchers for down payments on farm ownership loans.

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be of an amount equal to 30 percent of the price of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made under this section shall not exceed the minimum interest rate at which loans are made under subtitle C.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years, or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section, which shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch the price of which exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing which contains any of the following conditions:

"(A) The financing, other than that provided by the Secretary under this section, is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of such loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to eligible beginning farmers or ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers.

"(e) ELIGIBLE BEGINNING FARMER OR RANCHER DEFINED.—As used in this section, the term 'eligible beginning farmer or rancher' means an individual—

"(1) who is eligible for assistance under this subtitle;

"(2) who has operated a farm or ranch for not less than 5 nor more than 10 years;

"(3)(A) in the case of an owner or operator of a farm or ranch, who, individually or with the immediate family of the owner or operator—

"(i) materially and substantially participates in the farm or ranch; and

"(ii) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; and

"(B) in the case of an individual seeking to own or operate a farm or ranch, who, individually or with the immediate family of the individual, will—

"(i) materially and substantially participate in the farm or ranch; and

"(ii) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located;

"(4) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(5) who—

"(A) does not own land; or

"(B) directly or through interests in family farm corporations, owns land the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the individual is to obtain land is located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code;

"(6) who demonstrates that the available resources of the individual and the spouse (if any) of the individual are not sufficient to enable the individual to continue farming or ranching on a viable scale; and

"(7) in the case of an individual whose application for assistance under section 318 has been approved by the Secretary, the individual meets the requirements of section 310F(b)(1).".

(c) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A of such Act (7 U.S.C. 1922–1934) is amended by adding after the section added by subsection (b) of this section the following:

**"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.**

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of an individual for assistance under section 318, the Secretary may not make a loan under this subtitle to the individual or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the individual.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted an operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan; and

"(3) the individual is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an individual referred to in subsection (a) of this section if—

"(1) throughout the applicable period, the individual conducted the operation for which assistance is provided under section 318 in accordance with the plan contained in the application for such assistance;

"(2) the plan provides for such a loan guarantee; and

"(3) the individual is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means—

"(1) in the case of an individual who, at the time the application referred to in this section was approved, had not operated a farm for more than 3 years, the first 5 years for which the individual is provided assistance under section 318; or

"(2) in any other case, the first 3 years for which the individual is provided assistance under section 318.".

(d) TARGETING OF FUNDS.—

(1) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended by adding at the end the following:

"(5) In expending the following percentages of the funds available for insured operating loans under subtitle B for any fiscal year beginning after September 30, 1993, the Secretary shall, to the maximum extent practicable, give priority to making such loans under section 318:

"(A) Not less than 20 percent, for the first 6 months of fiscal year 1994.

"(B) Not less than 30 percent, for the first 6 months of each of fiscal years 1995 and 1996.

"(C) Not less than 40 percent, for the first 6 months of each of fiscal years 1997 and 1998.

"(D) Not less than 50 percent, for first 6 months of each of the succeeding fiscal years.".

(2) FARM OWNERSHIP LOANS.—

(A) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding at the end the following:

"(D)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts available for insured farm ownership loans for any fiscal year shall be for such loans to beginning farmers or ranchers.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(B) FUNDS RESERVED FOR DOWNPAYMENT LOAN PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (A) of this paragraph the following:

"(E)(i) To the extent not inconsistent with an exercise of authority under section 355, not less than the applicable percentage of the amounts reserved for beginning farmers or ranchers under subparagraph (D) for any fiscal year shall be for downpayment loans under section 310E.

"(ii) For purposes of clause (i), the term 'applicable percentage' means—

"(I) 50 percent, for the first 6 months of each of the fiscal years 1994 and 1995; and

"(II) 80 percent, for the first 6 months of each succeeding fiscal year.".

(C) CERTAIN UNOBLIGATED DOWNPAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraph added by subparagraph (B) of this paragraph the following:

"(F) To the extent not inconsistent with an exercise of authority under section 355, any funds reserved for downpayment loans under section 310E for a fiscal year by reason of subparagraph (E) of this paragraph that are not obligated by the end of the 2nd quarter of the fiscal year shall be available throughout the remainder of the fiscal year for any type of insured farm ownership loans, with priority to be given to beginning farmers and ranchers.".

(3) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended by adding at the end the following:

"Not less than 25 percent of the amounts appropriated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be available during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.".

(4) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) of such Act (7 U.S.C. 1994(b)(3)) is amended by adding after the subparagraphs added by paragraph (2) of this subsection the following:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

### SEC. 2102. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding after and below the end the following new subparagraph:

"(B)(i) Within 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. Upon receipt of such an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Within 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Farmers Home Administration with the requested information.

"(iii) If, within 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Farmers Home Administration has not received the information requested, the Farmers Home Administration county office shall notify the applicant, in writing, as to the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application within 15 calendar days after the date of the receipt of the notice.

"(vi) The district office shall notify the State office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 calendar days after receipt by the Secretary, and the reasons therefor.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons therefor.".

### SEC. 2103. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following:

"(e) The county committee shall meet to consider approval of an application received by the committee for a farm ownership or farm operating loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, within—

"(1) 5 calendar days after receipt if at the time of the receipt there is at least 1 other such application or plan pending; or

"(2) 15 calendar days after receipt if at the time of the receipt there are no other such applications or plans pending.".

### SEC. 2104. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDER PROGRAM.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary family living expenses; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of such items).

"(c) CERTIFIED LENDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans (other than loans with respect to which a guarantee is provided under section 318) for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify any lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate its loans.

"(3) CONDITION OF CERTIFICATION.—As a condition of such certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of such certification are being met.

"(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection, relating to creditworthiness and loan closing, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

"(C) be deemed to have guaranteed 80 percent of a loan made by a certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.".

### SEC. 2105. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

(a) COORDINATION OF ASSISTANCE FOR ELIGIBLE BEGINNING FARMERS AND RANCHERS.—Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

"(i)(1) Within 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to eligible beginning farmers and ranchers in the State, the Secretary and the

State shall conclude a joint memorandum of understanding which shall govern how the Secretary and the State are to do so.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide an eligible beginning farmer or rancher (as defined in section 310E(e)) with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds, provide the farmer or rancher with—

"(A) a downpayment loan under section 310E;

"(B) a guarantee of the financing provided by the State program; or

"(C) such a loan and such a guarantee.

"(3) The Secretary may not charge any person any fee with respect to the provision of any guarantee under this subsection.

"(4) As used in paragraph (1), the term 'State beginning farmer program' means any program which is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) Advisory Committee.—

(1) Establishment; purpose.—Within 18 months after the date of the enactment of this section, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to eligible beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act;

(B) ways to maximize the number of new farming and ranching opportunities created through such program;

(C) ways to encourage States to participate in such program;

(D) the administration of such program; and

(E) other methods of creating new farming or ranching opportunities.

(2) Membership.—The Secretary shall appoint the members of the Advisory Committee which shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(3) of the Consolidated Farm and Rural Development Act).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other specialists in lending or technical assistance for beginning farmers and ranchers.

### SEC. 2106. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941–1947) is amended by adding after the section added by section 2101(a) of this Act the following:

### "SEC. 319. GRADUATION OF BORROWERS ASSISTED UNDER THIS SUBTITLE TO PRIVATE COMMERCIAL CREDIT.

"(a) Graduation Plan.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) Limitation on Period for Which Borrowers Are Eligible for Assistance Under This Subtitle.—Notwithstanding any other provision of this subtitle:

"(1) General rule.—Except as provided in paragraph (2), the Secretary may not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to the borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) Transition rule.—If, as of the date of the enactment of this section, the Secretary has made loans to a borrower under this subtitle for 5 or more years, or has provided guarantees for 10 or more years with respect to 1 or more loans made to the borrower for a purpose specified in this subtitle, the Secretary may not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after such date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

### SEC. 2107. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding at the end the following:

"(f)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is $50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

### SEC. 2108. TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.

Section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

### SEC. 2109. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008c) is amended by adding at the end the following:

### "SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

"The Secretary shall classify, by gender, records of applicants for loans and guarantees under this title.".

### SEC. 2110. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.

Section 333(2)(A)(iii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

### SEC. 2111. LIMITATION ON AGGREGATE INDEBTEDNESS.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking "and 310D of this title" and inserting "310D, and 310E".

### SEC. 2112. GRADUATION OF SEASONED BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) is amended by adding after the subsection added by section 2107 of this Act the following:

"(g) Graduation of Seasoned Borrowers to the Loan Guarantee Program.—

"(1) In general.—The Secretary shall annually review the operating loans made under section 312 to each seasoned borrower, and if, based on the review, the Secretary determines that the borrower is able to obtain a loan, guaranteed by the Secretary, from commercial or cooperative lenders at reasonable rates and terms, and for purposes and periods of time similar to those for which the operating loan was made to the borrower, then the borrower shall be ineligible to receive a new operating loan under section 312 for similar purposes, unless the borrower demonstrates to the Secretary that the borrower is unable to obtain such a guaranteed loan.

"(2) Listing of seasoned borrowers.—Within 180 days after the date of the enactment of the Agricultural Credit Improvement Act of 1992, and annually thereafter, the Secretary may direct all county offices to make available to qualified lenders a listing of all seasoned borrowers, as provided in regulations issued by the Secretary.

"(3) Qualified lenders.—Upon request and upon application for a guaranteed loan to a qualified lender, by a seasoned borrower, the Farmers Home Administration shall provide the lender with all current and past documentation relating to the approval and the continued compliance with the terms of the direct operating loan then held by the borrower.

"(4) Interest rate.—To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions under section 351.

"(5) Definitions.—As used in this subsection:

"(A) Seasoned borrower.—The term 'seasoned borrower' means a borrower—

"(i) to whom a loan has been made under section 312; and

"(ii) who has maintained a satisfactory borrowing relationship with the Farmers Home Administration for at least 24 consecutive months.

"(B) Qualified lender.—The term 'qualified lender' means a lender approved by the Secretary under—

"(i) the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, January 1, 1991, edition;

"(ii) the certified lender program established under section 339(c); or

"(iii) any program that is a successor to either of such programs.".

### SEC. 2113. DEADLINE FOR ISSUANCE OF REGULATIONS.

Not later than September 30, 1993, the Secretary of Agriculture shall issue interim final regulations to implement the amendments made by this subtitle.

## Subtitle B—Amendments to the Farm Credit Act of 1971

### SEC. 2201. VALUATION OF RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Section 2.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2074(b)) is amended to read as follows:

"(b) APPLICATION OF EARNINGS.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation of reserves against loan assets in accordance with generally accepted accounting principles)—

"(1) first to the restoration of the impairment (if any) of capital; and

"(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.".

### SEC. 2202. ELIMINATION OF AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION TO APPOINT NONVOTING MEMBER OF FARM CREDIT SYSTEM FUNDING CORPORATION BOARD.

Section 4.9(d)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2160(d)(2)) is amended—

(1) in the paragraph heading, by striking "REPRESENTATIVES" and inserting "REPRESENTATIVE";

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (B), as so redesignated, by striking "persons" and all that follows through "Insurance Corporation" and inserting "person so designated".

### SEC. 2203. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.

Section 3.7(f) of the Farm Credit Act of 1971 (12 U.S.C. 2128(f)) is amended—

(1) by striking "the installation, expansion, or improvement of" and inserting "installing, maintaining, expanding, improving, or operating"; and

(2) by striking "to extend" and inserting "extending".

### SEC. 2204. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended by inserting ", and, notwithstanding section 3.3(d), the bylaws may provide for 1 director to be elected on the basis of 1 vote for each share of voting stock of the bank" before the period.

### SEC. 2205. PER DIEM COMPENSATION OF BANK DIRECTORS.

(a) IN GENERAL.—Section 4.21 of the Farm Credit Act of 1971 (12 U.S.C. 2209) is amended to read as follows:

### "SEC. 4.21. COMPENSATION OF DIRECTORS.

"Each member of the board of directors of a System bank may receive compensation only for days during the year in which engaged in the performance of duties of such a director, and in an amount not exceeding $300 for each such day, adjusted annually to reflect any increase in the cost of living since the end of 1991, as determined under regulations prescribed by the Farm Credit Administration.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

### SEC. 2206. FREQUENCY OF EXAMINATIONS OF SYSTEM INSTITUTIONS.

Section 5.19(a) of the Farm Credit Act of 1971 (12 U.S.C. 2254(a)) is amended by striking the 1st and 2nd sentences and inserting "Not less frequently than once every 3 years, Farm Credit Administration examiners shall examine each institution of the Farm Credit System at such times as the Farm Credit Administration Board may determine.".

### SEC. 2207. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59(b) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-8(b)) is amended to read as follows:

"(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

"(1) EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—If the Board of Directors deems it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this part, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

"(2) APPOINTMENT OF EXAMINERS.—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

"(3) POWERS AND REPORT.—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

"(4) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.".

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—Section 5.19 of such Act (12 U.S.C. 2254) is amended by adding at the end the following:

"(d) Upon receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—

"(1) furnish for the confidential use of the Corporation reports of examination of the institution and other reports or information on the institution; and

"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Corporation the report of the examination and such other information, or

"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.".

### SEC. 2208. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.

Section 4.16 of the Farm Credit Act of 1971 (12 U.S.C. 2204) is hereby repealed.

### SEC. 2209. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.

Section 5.15(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting ", for purposes of sequestration," after "regard"; and

(2) by striking "or any other law".

### SEC. 2210. APPROVAL OF COMPETITIVE CHARTERS.

Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

"(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) in which the charter of an institution that is not seeking the charter amendment authorizes such institution to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

"(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

"(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (where such geographic area was a part of the association's territory as of the date of such reassignment); and

"(ii) will authorize the association to exercise lending authority in any territory in such geographic area in which the charter of an association that is not requesting the charter authorizes such association to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only upon the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and "(iii) the respective boards of directors of the Farm Credit Banks which, if the charter request is approved, would exercise, either directly or through any of the associations, like lending authority in any of the territory described in subparagraph (A)(i).".

### Subtitle C—Technical Corrections

**SEC. 2301. TECHNICAL CORRECTIONS.**

(a) Correction of Reference to Section 1236 of the Food Security Act of 1985.—Title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 is amended, in the item designated "construction and anadronomous fish" under the heading "United States Fish and Wildlife Service", by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))".

(b) Section 1245(b) of the Food Security Act of 1985.—

(1) Correction.—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

(2) Effective date.—The amendment made by paragraph (1) of this subsection shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(c) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(d) Section 310D(a) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

(2) Effective date.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (a) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(e) Section 312(a) of the Consolidated Farm and Rural Development Act.—

(1) Replacement of unexecutable amendment made by the Food, Agriculture, Conservation, and Trade Act of 1990.—

(A) Correction.—Section 1818(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624; 104 Stat. 3830) is amended to read as follows:

"(b) Operating Loan Purposes.—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end.".

(B) Effective date.—The amendment made by subparagraph (A) shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

(2) Repeal of unexecutable amendment made by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102-237; 105 Stat. 1866) is hereby repealed, and the Consolidated Farm and Rural Development Act shall be applied and administered as if such subsection had never become law.

(f) Amendments to Section 331E of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking "Disaster Relief Act of 1974" and inserting "the Robert T. Stafford Disaster Relief and Emergency Assistance Act"; and

(B) in subsection (b), by inserting "Robert T. Stafford" before "Disaster Relief".

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (d) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(g) Section 335(e)(1)(A)(i) of the Consolidated Farm and Rural Development Act.—

(1) Corrections to amendment made by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991.—Paragraph (1) of section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102-237; 105 Stat. 1867) is amended—

(A) by inserting "the 1st place such term appears" before "and all that follows"; and

(B) by striking "borrower-owner (as defined in subparagraph (F)" and inserting "the borrower-owner (as defined in subparagraph (F))".

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect immediately after subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(h) Section 352(a) of the Consolidated Farm and Rural Development Act.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(i) Section 352(b)(2) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking "borrower's" and inserting "borrower-owner's".

(2) Effective date.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by subsection (f) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 took effect.

(j) Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102-237; 105 Stat. 1881) is amended by inserting "section" before "2388(h)(3)".

(k) Section 306C(b)(1) of the Consolidated Farm and Rural Development Act.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking "or connecting such systems to the residences of such individuals" and inserting ", connecting such systems to the residences of such individuals, or installing plumbing and fixtures within the residences of such individuals to facilitate the use of the water supply and waste disposal systems".

(l) Section 306C of the Consolidated Farm and Rural Development Act.—Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following:

"(f) Within 30 days after the date of the enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.".

### Subtitle D—Effective Date

**SEC. 2401. EFFECTIVE DATE.**

Except as otherwise provided in this title, the amendments and repeal made by this title shall take effect on the date of the enactment of this Act.

### TITLE III—RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

**SEC. 3001. SHORT TITLE.**

This title may be cited as the "Rural Electrification Administration Improvement Act of 1992".

**SEC. 3002. DISCOUNTED LOAN PREPAYMENT.**

(a) In General.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) Discounted Prepayment by Borrowers of Electric Loans.—

"(1) In general.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) Exception.—On request of the borrower, an electric loan made under this Act, or a portion thereof, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the loan's present value discounted from the face value at maturity at the rate established by the Administrator.

"(3) Discount rate.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) Tax exempt financing.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) Eligibility.—

"(A) In general.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of the enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act for 60 months after the prepayment; and

"(ii) a borrower that prepaid a loan before such date of enactment at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive such direct or insured loans until 120 months after the date of the prepayment; or

"(II) to apply for or receive such direct or insured loans until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

In cases where a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before such date of enactment, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(B) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

**SEC. 3003. REPEAL OF SECTION 412.**

Section 412 of the Rural Electrification Act of 1936 (7 U.S.C. 950b) is hereby repealed.

**SEC. 3004. REPEAL OF SECTION 311.**

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is hereby repealed.

**SEC. 3005. GRANTS TO ENABLE PROVIDERS OF HEALTH CARE AND EDUCATIONAL SERVICES IN RURAL AREAS TO IMPLEMENT INTERACTIVE TELECOMMUNICATIONS SYSTEMS.**

(a) FINDINGS.—The Congress finds that—

(1) interactive telecommunications systems hold the potential to alleviate many of the problems rural Americans face in obtaining access to adequate health care and expanded educational services; and

(2) access to such systems by providers of health care services and educational institutions in rural areas would greatly increase their ability to provide more comprehensive health care and education to rural, underserved populations.

(b) GRANT PROGRAM.—Subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by adding at the end the following:

### "CHAPTER 3—IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS

**"SEC. 2338. GRANT PROGRAM.**

"(a) ESTABLISHMENT.—The Administrator of the Rural Electrification Administration (in this chapter referred to as the 'Administrator') shall establish a program for providing grants to any qualified consortium to assist the consortium in obtaining access to modern interactive telecommunications systems through the public switched network.

"(b) DEFINITIONS.—

"(1) QUALIFIED CONSORTIUM.—As used in this chapter, the term 'qualified consortium' means a consortium which—

"(A) provides health care services or educational services in a rural area of a qualified State; and

"(B) is composed of—

"(i) a tertiary care facility, rural referral center, or medical teaching institution, or an educational institution accredited by the State;

"(ii) any number of institutions that provide health care services or educational services; and

"(iii)(I) in the case of a consortium seeking a grant under this chapter to improve health care services, not less than 3 rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities; or

"(II) in the case of a consortium seeking a grant under this chapter to improve educational services, not less than 3 educational institutions accredited by the State.

"(2) QUALIFIED STATE.—The term 'qualified State' means a State which has adopted, within 1 year after the date final regulations are prescribed to carry out this chapter, a plan for the upgrading and modernization of the rural telecommunications infrastructure of the State which, among other things—

"(A) provides for the elimination of party line service in rural areas of the State;

"(B) encourages and improves the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas of the State;

"(C) provides for an enhancement in the quality and availability of educational opportunities for students in rural areas of the State;

"(D) provides for improvement in the quality of medical care provided, and access to medical care afforded, to people in rural areas of the State;

"(E) provides incentives for local telephone exchange carriers to improve the quality of telephone service and access to advanced telecommunications services for subscribers in rural areas of the State, including facsimile document transmission, multi-frequency tone signaling services, interactive audio and video transmissions, voicemail services, and other telecommunications services;

"(F) provides for the full participation of rural areas in the modernization of the telecommunications network through the implementation of joint coordinated network planning, design, and cooperative implementation among all local telephone exchange carriers in the provision of public switched network infrastructure and services;

"(G) provides for the achievement, preservation, and enhancement of universal service by bringing reasonably priced, high-quality, advanced telecommunications network capabilities to the people of the rural areas of the State, including through the sharing of public switched network infrastructure and functionality by local telephone exchange carriers at the request of local telephone exchange carriers lacking economies of scale or scope to provide such infrastructure or functionality on their own;

"(H) provides for the achievement of such goals within 10 years after the adoption of the plan; and

"(I) does not alter the boundaries of any local telephone exchange company franchised service area designated or recognized by the State, or the equivalent in the State.

"(3) RURAL AREA.—The term 'rural area' has the meaning given such term in section 203(b) of the Rural Electrification Act of 1936.

"(4) TELEPHONE SERVICE.—The term 'telephone service' has the meaning given such term in section 203(a) of the Rural Electrification Act of 1936.

"(c) SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATION REQUIREMENT.—

"(A) IN GENERAL.—Any qualified consortium that provides services in a State and desires to obtain a grant under this chapter shall submit to a State agency designated by the Governor of the State an application in such form, containing such information and assurance, and at such time, as the Administrator may require.

"(B) CONTENTS OF APPLICATION.—The application shall contain or be accompanied by—

"(i) a copy of the State plan described in subsection (b)(2);

"(ii) the plan of the applicant, for obtaining access to interactive telecommunications systems, which—

"(I) specifies, consistent with subsection (f), the uses to be made of such systems;

"(II) demonstrates that the systems will be capable of being readily connected to the established public switched network; and

"(III) is compatible with the State plan; and

"(iii) a commitment by the State to make a grant to the applicant in an amount equal to 20 percent of the funds required to carry out the plan of the applicant, conditional upon a commitment by the Administrator to make 1 or more grants to the applicant under this chapter in an amount equal to 80 percent of the funds required to carry out the plan of the applicant.

"(2) REVIEW AND COMMENT.—The State agency shall review the application and the applicant's plan and, after any revisions made by the applicant are incorporated, transmit to the Administrator the application and plans, and the comments of the State agency.

"(3) SELECTION OF GRANTEES.—The Administrator shall—

"(A) review the applications and plans transmitted pursuant to paragraph (2);

"(B) consider the comments of the State agency with respect to the application; and

"(C) make grants in accordance with paragraph (4) to each applicant therefor that complies with the requirements of this chapter and the regulations prescribed by the Administrator to carry out this chapter.

"(4) PRIORITIES.—Priority for grants under this chapter shall—

"(A) be accorded to applicants whose applications demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in subsection (f)(1);

"(ii) the participation of the local telephone exchange carrier in providing and operating the telecommunications transmission facilities required by the plan; and

"(iii) unconditional financial support from the local community; and

"(B) so as to ensure, to the extent possible, that various regions of the United States benefit from the use of the grants.

"(d) MAXIMUM AMOUNT OF GRANT.—The amount of each grant under this chapter shall not exceed $1,500,000.

"(e) DISTRIBUTION OF GRANTS.—Grants to any qualified consortium under this chapter shall be disbursed over a period of not more than 3 years.

"(f) USE OF FUNDS.—

"(1) IN GENERAL.—Grants under this chapter may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(A) in the case of grants to improve health care services—

"(i) consultations between health care providers;

"(ii) transmitting and analyzing x-rays, lab slides, and other images;

"(iii) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(iv) developing innovative health professions education programs;

"(B) in the case of grants to improve educational services—

"(i) developing innovative education programs and expanding curriculum offerings;

"(ii) providing continuing education to all members of the community;

"(iii) providing the means for libraries of educational institutions or public libraries to share resources;

"(iv) providing the public with access to State and national data bases;

"(v) conducting town meetings; and

"(vi) covering meetings of agencies of State government; and

"(C) in all cases—

"(i) transmitting financial information; and

"(ii) such other related activities as the Administrator deems to be consistent with the purposes of this chapter.

"(2) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this chapter may be used to acquire interactive telecommunications end user equipment.

"(3) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this chapter may be used to employ or contract with any consultant or similar person.

"(4) PROHIBITIONS.—Grants made under this chapter may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications service for hire.

"(g) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) GRANTS TO IMPROVE RURAL HEALTH CARE SERVICES.—For grants under this chapter to improve health care services, there are authorized to be appropriated to the Administrator not to exceed $30,000,000 for each fiscal year.

"(2) GRANTS TO IMPROVE RURAL EDUCATIONAL SERVICES.—For grants under this chapter to improve educational services, there are authorized to be appropriated to the Administrator not to exceed $20,000,000 for each fiscal year.

"(3) AVAILABILITY OF FUNDS.—Sums appropriated pursuant to this subsection are authorized to remain available until expended.".

(c) ELIMINATION OF PREFERENCE FOR RURAL TELEPHONE BANK LOANS FOR BORROWERS LOCATED IN STATES WITH PLANS FOR UPGRADING RURAL TELECOMMUNICATIONS INFRASTRUCTURE.—Section 408(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(2)) is amended by inserting "which is not located in a qualified State (as defined in section 2338(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990)" after "any borrower".

### SEC. 3006. INCREASE IN LIMITATION ON POPULATION OF RURAL AREAS FOR PURPOSES OF TELEPHONE LOANS.

(a) IN GENERAL.—Section 203(b) of the Rural Electrification Act of 1936 (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "10,000".

(b) CONFORMING AMENDMENT.—Section 13 of such Act (7 U.S.C. 913) is amended by inserting "(except in title II)" before "shall be deemed to mean any area".

### SEC. 3007. SENSE OF THE CONGRESS.

It is the sense of the Congress that persons who are eligible for telephone loans under the Rural Electrification Act of 1936 and are interested in upgrading telecommunications in rural areas should obtain financial assistance under such Act through a subsidiary in order to limit the assets subject to the lien requirements of such Act.

### SEC. 3008. REGULATIONS.

Within 180 days after the date of the enactment of this Act, the Administrator of the Rural Electrification Administration and the Governor of the Rural Telephone Bank shall prescribe such regulations as may be necessary to carry out the amendments made by this title.

## TITLE IV—PERISHABLE AGRICULTURAL COMMODITIES ACT TECHNICAL AMENDMENTS OF 1992

### SEC. 4001. SHORT TITLE.

This title may be cited as the "Perishable Agricultural Commodities Act Technical Amendments of 1992".

### SEC. 4002. REAFFIRMATION OF FINDINGS.

Congress hereby reaffirms the findings of section 5(c)(1) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499(c)(1)) that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities or products, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest; and that section 5(c) of such Act is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

### SEC. 4003. TECHNICAL AMENDMENT.

Section 5(c)(2) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)(2)) is amended to read as follows:

"(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held in trust by such commission merchant, dealer, broker, or by a lender who finances the business operations of such a commission merchant, dealer, or broker, whether or not the lender holds a security interest in such trust assets, for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which has been dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.".

## TITLE V—EQUITABLE TREATMENT FOR SUGARCANE PRODUCERS

### SEC. 5001. EQUITABLE TREATMENT FOR PRODUCERS.

Section 359f(b)(5) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)(5)) (hereinafter referred to as "the 1938 Act"), is amended by striking subparagraph (B) and inserting the following:

"(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

"(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.".

### SEC. 5002. ADJUSTMENT AFTER DISASTER.

Section 359f(b) of the 1938 Act, as amended by section 5001 of this Act, is further amended by inserting after paragraph (6) the following new paragraph:

"(7) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.".

### SEC. 5003. CLARIFYING AND CONFORMING AMENDMENTS.

Section 359f(b) of the 1938 Act, as amended by sections 5001 and 5002 of this Act, is further amended—

(1) in paragraph (1)(B), by—

(A) striking "production of sugar" and inserting "production of sugarcane"; and

(B) inserting "of sugar" before the period at the end;

(2) in the first sentence of paragraph (2), by—

(A) striking "sugar processed from all crops by all processors" and inserting "sugarcane produced by producers in the area"; and

(B) inserting "of sugar" after "provide a normal carryover inventory"; and

(3) in the second sentence of paragraph (2), by inserting "paragraph (7) and" after "under".

### TITLE VI—USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS

### SEC. 6001. USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS.

Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended—

(1) in paragraph (1)(A) of subsection (c)—

(A) by striking "The Secretary of Agriculture, or" and inserting "Notwithstanding any other provisions of State or Federal law, the Secretary of Agriculture, or";

(B) by striking "licensed under this Act" and inserting "licensed under this Act or in any other warehouse";

(C) by striking "section 18" and inserting "section 18 or under any applicable State law";

(2) in paragraph (2)(A) of subsection (c), by striking "of this Act" and inserting "of this Act or State law";

(3) in paragraph (2)(B) of subsection (c), by striking "the Secretary may" and inserting "with respect to cotton stored in a warehouse licensed under this Act, the Secretary may";

(4) in paragraph (3) of subsection (c), by striking "licensed under this Act" and inserting "covered under this subsection"; and

(5) by adding the following new subsection at the end thereof:

"(e) Notwithstanding any other provision of State or Federal law, any person designated as a holder of an electronic cotton warehouse receipt on a record in a system of records applicable to cotton maintained on an electronic cotton warehouse receipt system approved by the Secretary of Agriculture pursuant to regulations issued under this section shall, for the purposes of perfecting the security interest of such person under State or Federal law with respect to the cotton covered by such warehouse receipt, be considered to be in possession of the warehouse receipt. This subsection is applicable to electronic cotton warehouse receipts covering cotton stored in a cotton warehouse, whether or not such warehouse is licensed under this Act.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: to enhance the financial safety and soundness of the banks and associations of the Farm Credit System.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3298) was laid on the table.

☐ 1430

## APPOINTMENT OF CONFEREES ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

The SPEAKER pro tempore (Mr. McNulty). Without objection, the Chair appoints the following conferees on the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military functions of the Department of Defense, to prescribe military personnel levels for fiscal year 1993, and for other purposes:

From the Committee on Armed Services, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. Aspin, Bennett, Montgomery, and Dellums, Mrs. Schroeder, Mrs. Byron, Messrs. Mavroules, Hutto, Skelton, McCurdy, Foglietta, and Hertel, Mrs. Lloyd, Messrs. Sisisky, Ray, Spratt, Ortiz, Darden, Pickett, Lancaster, Evans, Bilbray, Tanner, McNulty, Browder, Dickinson, Spence, Stump, Hopkins, Davis, Hunter, Martin, Kasich, Bateman, Blaz, Ireland, Hansen, Weldon, Kyl, Ravenel, and Dornan of California.

As additional conferees from the Permanent Select Committee on Intelligence, for matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mrs. Kennelly, Mr. Glickman, and Mr. Shuster.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1071, and 4501–02 of the House bill, and sections 838, 1092, 1093, 1094, and 1094B of the Senate amendment, and modifications committed to conference: Mr. Carper, Mr. LaFalce, Ms. Oakar, and Messrs. Vento, Kanjorski, Ridge, Paxon, and Hancock.

As additional conferees from the Committee on Education and Labor, for consideration of sections 3161–62, 4301–13, 4321–25, 4401, 4404–05, and 4607 of the House bill, and sections 333, 344, 531, 532, 804, 814(e), 1060, 1065, 1082–85, 1099E, 1301–07, and 3151–53 of the Senate amendment, and modifications committed to conference: Messrs. Ford of Michigan, Clay, Kildee, Williams, Perkins, Goodling, and Gunderson, and Mrs. Roukema.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 321, 370, 1071, and 3161 of the House bill, and sections 313–17, 319–20, 824, 838, 1205, 2851–55, 2861, 3132, 3135, 3141, 3151–52, and 3201 of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Swift, and Sharp, Mrs. Collins of Illinois, and Messrs. Eckart, Lent, Ritter, and Moorhead.

Provided, Mr. Dannemeyer is appointed in lieu of Mr. Moorhead solely for consideration of sections 370 and 3161 of the House bill and section 3152 of the Senate amendment.

Mr. McMillan of North Carolina is appointed in lieu of Mr. Moorhead solely for consideration of section 1071 of the House bill and sections 824 and 838 of the Senate amendment.

Mr. Schaefer is appointed in lieu of Mr. Moorhead solely for consideration of sections 2851–55 of the Senate amendment.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 146, 175, 204, 233, 234, 241, 304, 324, 365–68, 1031, 1033, 1056, 1057, 1059–60, 1064–65, 1067, 1069–70, 1101–06, 3132, and 3141–45 of the House bill, and sections 112, 223, 304, 361–62, 828, 836, 908, 921–22, 1041, 1043, 1050, 1055, 1057, 1061, 1063, 1066–67, 1071–73, 1075–76, 1091, 1093, 1094A–1094F, 1101–32, 1201–12, and 1401–08 of the Senate amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Solarz, Berman, Broomfield, Gilman, and Lagomarsino.

Provided, that solely for consideration of section 1091 of the Senate amendment, Mr. Gejdenson is appointed in lieu of Mr. Fascell, and solely for consideration of sections 1201–12 of the Senate amendment, Mr. Torricelli is appointed in lieu of Mr. Hamilton.

As additional conferees from the Committee on Government Operations, for consideration of sections 313, 374(f), 640, 814, 819, 821, 1002, and 2823 of the House bill, and sections 1003, 1048(f), and 2841 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mrs. Collins of Illinois, and Messrs. Towns, Thornton, Peterson of Minnesota, Horton, Kyl, and Clinger.

As additional conferees from the Committee on the Judiciary, for consideration of section 374 (d) and (f), 531, 819, and 1060(a) of the House bill, and sections 1046, 1047, 1048 (d) and (f), and 3137 of the Senate amendment, and modifications committed to conference: Messrs. Brooks, Frank of Massachusetts, Synar, Fish, and Gekas.

As additional conferees from the Committee on the Judiciary, for consideration of sections 838(e) and 1062 of the Senate amendment, and modifications committed to conference: Messrs. Brooks, Edwards of California, Conyers, Hyde, and Coble.

As additional conferees from the Committee on the Judiciary, for consideration of section 1068 of the House bill, and modifications committed to conference: Messrs. Brooks, Mazzoli, Berman, McCollum, and Smith of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of section 922 of the Senate amendment, and modifications committed to conference: Messrs. Brooks, Schumer, Hughes, Sensenbrenner, and Schiff.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 536, 1013, 1016(b), 1017, 1019, 1021, 2837, and 3501–04 of the House bill, and sections 612(b), 1021–23, 1045, 1053, 1206, 2837, 2851–55, 3103(e), and 3501–05 of the Senate amendment, and modifications committed to conference: Messrs. Studds, Hubbard, Hughes, Tauzin, Lipinski, Young of Alaska, Fields, and Lent.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 531, 924(a), 1060(a), 1201–06, 1301, 4401, and 4601–06 of the House bill, and sections 341–48, 539, 809(b), 1044–45, 1058(a), 1074, that portion of section 1082 that adds a new section 195H to the National and Community Service Act of 1990, 1099D, 1306 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Ms. OAKAR, and Messrs. SIKORKSI, ACKERMAN, KANJORSKI, GILMAN, HORTON, and MYERS of Indiana.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 4101–06 and 4501–02 of the House bill, and sections 313–17, 320, and 332 of the Senate amendment, and modifications committed to conference: Messrs. ROE, MINETA, NOWAK, KOLTER, HAYES of Louisiana, HAMMERSCHMIDT, and SHUSTER.

Provided, that solely for consideration of sections 4101–06 and 4501–02 of the House bill, and section 332 of the Senate amendment, Mrs. BENTLEY is appointed; and solely for consideration of sections 313–17 and 320 of the Senate amendment, Mr. PETRI is appointed.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 241, 4105, 4201–03, and 4206 of the House bill, and sections 204, 801–06, 809, 810A, 837, 839, 1112, 3139, and 3141 of the Senate amendment, and modifications committed to conference: Messrs. BROWN, VALENTINE, and MINETA, Ms. HORN, and Messrs. BACCHUS, WALKER, LEWIS of Florida, and PACKARD.

As additional conferees from the Committee on Small Business, for consideration of section 4204 of the House bill, and sections 807, 811, 815, and 1032 of the Senate amendment, and modifications committed to conference: Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 641–42 and 4351–68 of the House bill, and sections 536, 538, 549, and 551 of the Senate amendment, and modifications committed to conference: Messrs. PENNY, APPLEGATE, and SMITH of New Jersey.

As additional conferees from the Committee on Ways and Means, for consideration of section 4607 of the House bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, CRANE, and VANDER JAGT.

As additional conferees from the Committee on Ways and Means, for consideration of sections 1404–05 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, DOWNEY, PEASE, ARCHER, CRANE, and VANDER JAGT.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the authority to make additional appointments of conferees and to specify particular portions of the House bill and the Senate amendment as the subject of various appointments.

There was no objection.

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## WATER RESOURCES DEVELOPMENT ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 570 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 570

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5754) to provide for the conservation and development of water and related resources, to authorize the United States Corps of Engineers Civil Works Program to construct various projects for improvements to the Nation's infrastructure, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed four hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI or clause 5(a) of rule XXI are waived. It shall be in order to consider the amendment printed in part 2 of the report if offered by Representative Fazio of California or Representative Matsui of California or their designee. Points of order against the amendment printed in part 2 of the report for failure to comply with clause 7 of rule XVI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1440

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, during the consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 570 is the rule providing for the consideration of H.R. 5754, the Water Resources Development Act of 1992. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

The rule further provides that the bill will be considered for amendment for no more than 4 hours.

Mr. Speaker, the resolution waives clause 8 of rule 21 against consideration of the bill, which requires a CBO pay-as-you-go cost estimate to be included in the text of legislation providing receipts or direct spending.

The resolution also makes in order as original text for the purposes of amendment, the Public Works Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of the report accompanying this rule. The substitute as modified will be considered as read.

All points of order are waived against the substitute as modified for failure to comply with clause 7 of rule 16, which prohibits the offering of nongermane amendments. And clause 5(a) of rule 21, which prohibits appropriations in legislative bills are waived.

Mr. Speaker, the resolution also makes in order the amendment printed in part 2 of the report accompanying this rule to be offered by Representative FAZIO, Representative MATSUI, or their designee. Clause 7 of rule 16 is waived against the amendment.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 5754, the Water Resources Development Act of 1992, authorizes water projects for flood control, navigation, and other water control projects to be undertaken by the Army Corps of Engineers.

The bill also modifies a number of existing water projects that were authorized by past Water Resources Acts. In addition, H.R. 5754 also deauthorizes some previously authorized projects.

Mr. Speaker, in accordance with the 1986 act, the bill continues the cost sharing agreement between Federal and non-Federal assistance.

Under the 1986 act non-Federal interests are required to pay 20 to 60 percent of harbor deepening costs and 25 to 50 percent of flood control construction costs. The bill that the House will consider today authorizes a total of $2.46 billion of which $1.8 billion would be Federal assistance and $616 million non-Federal assistance.

Mr. Speaker, the intent of this bill is to provide for the conservation and development of the Nation's water resources. The bill will utilize the expertise of the U.S. Army Corps of Engineers civil works programs to rebuild our Nation's environmental infrastructure and preserve our delicate water resources.

Mr. Speaker, I would also like to thank the distinguished chairman of the Public Works Committee Mr. ROE, for his assistance in including a provision in this bill that directs the Army Corps of Engineers to study the water supply problem in the city of Brockton, MA.

The city of Brockton has suffered from an inadequate water supply since the early 1980's when drought conditions severely reduced the water level of the city's principal water source. Despite the city's aggressive effort to conserve water, the current reservoirs in the city are unable to meet the future needs of the residents and local businesses.

The city is strategically located between Boston and Providence, an ideal location for high technology investment. But as a result of the water shortage, new businesses have been hesitant to locate in Brockton and existing businesses have halted proposed plans to expand. Finding a solution to the water problem is an essential first step to revitalizing the economy in Brockton.

This provision directs the Army Corps of Engineers to perform a comprehensive study of the water supply, distribution, and transmission needs of the city of Brockton. The Army Corps of Engineers has the expertise and ability to assess the water shortage problem and advise the city of the most effective long-term, environmentally sound solution.

Mr. Speaker, this rule is not without controversy. However, I would like to point out to my colleagues that the bill and the amendment to be offered by Mr. FAZIO are both subject to amendment. I urge my colleagues to adopt this resolution and support passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule because it waives the Rules of the House in an unfair manner. A simple amendment to the rule, an amendment defeated by a party-line vote in the Rules Committee, could have avoided tainting consideration of this very important piece of legislation brought before us by the Public Works Committee.

Mr. Speaker, the distinguished chairman of the Rules Committee, the gentleman from Massachusetts, has outlined the provisions of House Resolution 570. I applaud the general openness of the rule. Unfortunately, while it is essentially an open rule, it is not a fair rule.

The rule waives clause 7 of rule 16, which is the rule prohibiting nongermane amendments to the bill, for consideration of the amendment in the nature of a substitute offered by the chairman of the Public Works.

It also waives that rule for consideration of one of the two amendments submitted to the Rules Committee regarding the controversial Auburn Dam project in California.

While the Rules Committee protects the chairman's amendment and the Fazio-Matsui amendment from the rules, the Doolittle amendment, equally worthy of consideration, is shut out.

Obviously, if we permit the House to consider one side of the Auburn Dam issue, it is only fair to extend that treatment to the other side—especially as Congressman DOOLITTLE came before the Rules Committee with a most responsible presentation and reasonable request.

The Public Works and Transportation Committee, under the able guidance and diligent leadership of Chairman ROBERT ROE and JOHN PAUL HAMMERSCHMIDT, the distinguished ranking Republican, has reported a water resources bill that keeps us on a 2-year authorization for water projects. It is critical that we maintain that process, and I applaud them for their leadership and for their efforts.

This legislation represents one of the final products of the Public Works stewardship of Chairman ROE and JOHN PAUL HAMMERSCHMIDT. Between them, they have served in the House with distinction for nearly half a century. They have provided wisdom, guidance, and assistance to this Member, and I know many others.

These two gentlemen are shining examples of the generation of Americans who took our country from a role as secondary power among the nations of the world, to our position as an unmatched international military, political, and economic superpower. They represent a generation that fought and won the Second World War, persevered and conquered international communism through the cold war, developed the international economy, and showed the world that freedom and democracy were the single road to peace and prosperity.

Each is a combat veteran of World War II. JOHN PAUL HAMMERSCHMIDT was a combat pilot. He flew 217 missions with the Third Combat Cargo Group over the "Hump" in the China-Burma-India theater, and received the Distinguished Flying Cross our Nation's highest honor to the Air Corps with three Oak Leaf Clusters, the Air Medal with four Oak Leaf Clusters, three Battle Stars, the China War Memorial Medal, and the Meritorious Service Award. Chairman ROE fought with infantry and reconnaissance units in the European theater, receiving the Bronze Star for exemplary service.

After serving their Nation in war, each entered the private sector. JOHN PAUL HAMMERSCHMIDT became a lumberman, builder, and building supplies businessman, becoming president of his building supply company in Harrison, AK.

The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has served also on the Committee on Veterans' Affairs in the U.S. House and, after being elected in 1967, was the ranking member from 1973 to 1986. He continues as a senior member with his care and stewardship for veterans.

Mr. Speaker, these two gentlemen have served on three committees, the Committee on Veterans' Affairs, on the Intelligence Committee, and on the Committee on Public Works and Transportation, all three of which I have been honored to serve on as a colleague with them. There simply are no finer examples of service to America or exemplary public service than JOHN PAUL HAMMERSCHMIDT and BOB ROE.

ROBERT ROE became a corporate executive, and soon began to serve his community through elective office. Beginning with his election as a Wayne County committeeman in 1955, Chairman ROE proceeded to serve in office at all levels of local, State, and National Government. JOHN PAUL HAMMERSCHMIDT was elected to this House in 1967, and Chairman ROE 1969. They have left behind a record of accomplishment and success.

Mr. Speaker, I would point out that not only has the gentleman from New Jersey [Mr. ROE] served as chairman of the Committee on Public Works and Transportation and done tremendous work in getting a 2-year authorization on a regular schedule now for the Water Resources Subcommittee of which he was chairman and of which the gentleman from Arkansas [Mr. HAMMERSCHMIDT] was ranking member of the subcommittee, but especially last year, the most important Intermodal Surface Transportation and Efficiency Act of 1991 that has set as revolutionary a change for highway transportation in America as, indeed, the 1956 Interstate Highway Act has done.

□ 1450

Mr. ROE, as chairman of the committee, worked 7 days a week, 16- to 20-hour days, as is his tradition, calling meetings early on Sunday morning, working until Sunday night on weekends as well as during the week.

Chairman ROE said when he announced he would not be running again for reelection:

> I believe I have accomplished much during my 23 years in Congress as chairman of the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation, as well as a host of other leadership roles, particularly on the Committee on Intelligence during a very trying time in our Nation's history.

Mr. Speaker, these two gentlemen are true patriots, they are excellent public servants, they are examples to us all. The House will miss them. The citizens of Arkansas and New Jersey will miss them. America will miss them. Mr. Speaker, I will miss them.

I wish them the very best in whatever pursuits they choose to excel as they return to New Jersey and to Arkansas.

Were I to name seven Members of the House who have been more helpful to me than any others, these two would certainly be among them. I wish them well.

Mr. Speaker, be assured this bill is far from perfect. The administration has a number of concerns with the bill.

I insert a statement of administration policy into the RECORD at this point.

### STATEMENT OF ADMINISTRATION POLICY

### H.R 5754—WATER RESOURCES DEVELOPMENT ACT OF 1992

The Administration strongly opposes enactment of H.R. 5754, because the bill departs from the water resources policies and principles that the Administration and Congress have adhered to since 1986. Further, the cost and number of projects and programs that would be authorized by the bill far exceed what realistically can be expected to be funded in the foreseeable future. Additionally, the Administration's proposal to recover the cost of operating recreational areas is not included in the bill.

Unless H.R. 5754 is substantially amended to delete its numerous unacceptable provisions, the Secretary of the Army would recommend that the President veto the bill. Among the most objectionable provisions are those which would:

Violate the cost-sharing principles established by the landmark Water Resources Development Act of 1986.

Authorize projects and programs that are not the responsibility of the Federal Government or within the traditional missions of the Army Corps of Engineers. There is no justification for undertaking such costly activities, particularly during this period of high budget deficits.

Authorize billions of dollars for projects or project modifications which have not been subject to the established water resources review process. Such a review is crucial to determine a project's (1) economic justification, (2) environmental and engineering feasibility, and (3) compliance with Administration programs and policies.

Expand Federal funding for disposal areas for operation and maintenance dredging at navigation projects around the country. Such an expansion would require the Harbor Maintenance Trust Fund to provide more than $1 billion in additional funds. This would require a significant increase in the port use tax imposed on importers, exporters, and shippers.

Needlessly duplicate existing programs of other Federal agencies.

There are more than one hundred specific provisions which are unacceptable for the reasons stated above.

The bill also contains in excess of 50 other provisions which the Administration finds troublesome. For example, the Administration strongly opposes the bill's requirement that Senior Executive Service (SES) employees of the Corps of Engineers be given special locality pay adjustments. Currently, no SES employee receives such adjustments. This provision is inconsistent with the President's authority, under the Federal Employees Pay Comparability Act, to decide which categories of employees should receive these adjustments.

The Administration urges the House to adopt the Administration's proposal, transmitted by the Department of the Army-Civil Works on March 11, 1992, and introduced as S. 2500, rather than enact H.R. 5754.

Pay-as-You-Go Scoring: H.R. 5754 would increase Federal receipts and is, therefore, subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1991 (OBRA). OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 5754 were enacted, final OMB scoring estimates would be published within 5 days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to Congress.

Estimates For Pay-As-You-Go

[In millions of dollars]

| | 1993 | 1994 | 1995 | 1996 | 1997 | 1993-97 |
|---|---|---|---|---|---|---|
| Receipts | 5 | 0 | 0 | 0 | 0 | 5 |

However, an open rule would give the House the opportunity to direct the various concerns expressed by the administration and others, and I look forward to a final product that will be enacted into law.

I would also like to note the concern of the minority that this rule includes a 4-hour time limit on the amendment process. This time limit seems to be becoming a standard feature of our rules, regardless of the floor schedule of the day, regardless of the consideration of the bill. I believe, as indeed the minority members of the Committee on Rules contend, that this is developing a bad trend.

Mr. Speaker, I wish the Committee on Rules could have treated all members fairly and with equity, that would have let us get promptly to the business of the water resources bill. However, I must rise to oppose the rule in its present condition and yet urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I want to congratulate the gentleman from Ohio for his very laudatory remarks about the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and I heartily concur.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield 8 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I certainly join with previous speakers in commending the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. With reference to the chairman, I want to say at the outset that although we are going to be on different sides of one issue in this bill, I felt that I was treated with eminent fairness by both he and his staff. I for one, and I am sure many others, will miss his guiding hand at the helm of the Committee on Public Works and Transportation.

As the gentleman from Ohio mentioned, I was precluded by the Committee on Rules from offering essentially the same type of amendment as has been granted to two of my colleagues to bring up today with reference to the Auburn Dam. As the Representative for the area where this is to be built, we care very much about what type of facility is going to be constructed. It is my belief and the belief of the people whom I represent that the facility provided for in this bill does not do the job for the people of our region, but basically meets only one special need of the city of Sacramento and ignores all the others.

I would like to just take a few moments to outline what some of those deficiencies are.

Let me say at the outset that I believe in the need to build dams. They provide important benefits for the people of our communities. Auburn has been controversial for years. First authorized in 1965, it remains controversial today, some 27 years later. There is about 300 million dollars' worth of site work that has been done on Auburn Dam. Construction stopped in, I believe, 1978 and has never resumed as the issues swirling around this dam have been debated again and again.

I believe in an expandable dam. The Corps report which is referenced in this bill, purports to be that. We believe, after hearing the testimony in the Committee on Interior and Insular Affairs, that in fact it is not expandable as it claims.

What is at issue here is some $457 million of Federal funds which will be combined with about $293 million of State and local funds to produce a $700 million facility. This facility essentially will be a $700 million concrete pyramid which holds no water in the Auburn Canyon. It, in essence, is an exaggerated flow control device, a structure which provides only flood control and which will never pay for itself.

We think flood control is important, and I endorse that and will work for that as a part of a total package that will include water storage and hydroelectric power generation and recreation.

My district is the site where this facility will be built. We think it will be very detrimental environmentally in terms of the impact that it will have, in a couple of ways: First, in terms of what it does for the periodic or occasional inundations behind the dam, leaving behind a lot of dead vegetation and killing the wildlife. But just as important, and perhaps more important, it will devastate the present reservoir, Folsom Reservoir.

Folsom Reservoir right now stands at about 10 percent of its capacity. During the construction of this corps facility, the lake level will be kept exceedingly low. It destroys recreation in the area.

Mr. Speaker, we heard testimony from the Corps of Engineers that there will be a 35-percent fish kill as a result of the lowered lake level and the higher temperatures of the water in which the fish cannot live.

We will also do tremendous damage to the aquifer in San Joaquin County. San Joaquin County years ago was promised water from the Auburn Dam. Unfortunately, that project has never been completed. In the meantime, San Joaquin has had to turn to ground water as its source of water and over the years has pumped increasingly and, as they do so, they draw saltwater into the aquifer. It is moving east at about 1 foot per year. Once that intrusion of the saltwater into the aquifer occurs, it can never be reversed.

Significant environmental damage is occurring every day that we do not provide an alternative source of water. Additionally, Sacramento County has overpumped its ground water basin for some 50 years. Sacramento County has several environmental hazardous cleanup sites, and we are going to have to provide some relief for the ground water overdrafting that is occurring there.

In addition, we are going to have the need for additional sources of power. Our nuclear reactor at Rancho Seco, which generated a considerable amount of power, was shut down several years ago and we will have to have a replacement source.

Now, in this year of tremendous budgetary difficulty, it seems absolutely ludicrous to me that we would spend almost $500 million of Federal money and build a facility that can never pay for itself.

The ongoing share of the Federal maintenance costs of this facility, once built, will be $1 million per year in perpetuity as long as the facility stands.

By way of contrast, we could build a multipurpose, at least a stageable facility, one that allows us to get to the second stage, the multipurpose stage, and we could do that for no more Federal cost. But in order to do that, we have to have certain considerations taken into account. We have to have gates on this structure.

The Corps of Engineers report calls for only half the gates that are needed. We need the other half in order to be able to eventually have facilities needed to store water behind the dam. Also, we need to have penstocks provided for at the time this dam is constructed. Penstocks for a dam this size will be three openings through the base of a dam, 600 to 700 feet long, about 10 feet wide each in diameter. Those need to be provided for in the beginning.

We also need to allow for the convenient and practical expansion of the dam, and in order to do that we have a seismic study of the dam and make sure that the engineering is such that the dam can retain water.

Testimony by the U.S. Geological Survey indicated that this project has not been evaluated for the seismic ramifications.

□ 1500

Mr. Speaker, a multipurpose facility would pay for itself. We have another facility which was completed in 1954, I believe, the Folsom Dam. That was at a cost of $90 million at the time it was constructed.

In power sales alone from that dam, we have now generated over $300 million, more than three times what the dam cost to build.

Mr. Speaker, we have people, local agencies, ready, willing and able to pay the extra $200 million to build the multipurpose features of the dam that will enable it to pay for itself.

We must have a project that allows for the convenient, practical, and economic expansion of the second stage. That is why I oppose this rule. I was prevented from offering the amendment that would allow that.

I think we have to have that in order to wisely spend the taxpayers' money and in order to relieve the perpetual drain on the Federal Treasury that we will otherwise have if the report goes through as it is contained here in this bill.

So Mr. Speaker, I would urge a no vote on this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the chairman of the Rules Committee for yielding me this time. I had not intended to speak on the rule. I support it and hope that it will carry.

I am very pleased that we have a chance today to finally bring out the facts about the whole controversy surrounding the Auburn Dam. As the gentleman from California [Mr. DOOLITTLE] said, it is an issue that has been before this Congress since the early 1960's when the late Congressman Biz Johnson caused the high dam at Auburn to be authorized.

We have had many changes in our fiscal policy, many changes in our attitude toward the environment. We have had earthquake-prone regions better understood. In California, after the earthquake at Oroville, a State reservoir north of this dam site we learned about a fault line running through the additional site of the Auburn project. So the picture has changed dramatically through the years in our water development policy and particularly in regard to Auburn Dam.

But a number of the basic disputes that have paralyzed our region continue to this day. I think it is important that we bring them out and talk about them in some depth.

Now, the gentleman from California [Mr. MATSUI] and I are working together, along with Governor Wilson and Senator SEYMOUR to bring hopefully to enactment this year what some people might call an interim solution to our problem, and that is an expandable flood control facility, expandable because we want to leave the issue of whether a multipurpose project is feasible whether water and power, now the full finding responsibility of State and local government is feasible to the later Congresses and to the people locally who would determine whether or not they could pay for it.

But we cannot allow the people of our region who are in the flood plain, who have suddenly discovered, since 1986 when our area was hit with major flooding just how vulnerable they are to suffer. We cannot leave these people any longer than necessary to the potential ravages of floods.

For people buying a home in this flood plain today with a normal 30-year mortgage, they would have a 40-percent chance of being flooded to 10 or 20 feet during the life of that mortgage. This is a life and death issue for people, a safety issue.

We have 300,000 people and $23 billion in assessed valuation, vulnerable to this kind of flooding in an area that has historically known the scourge of rushing water. So we are bringing together today, hopefully by adopting this self-executing rule, a flood control project that we think solves the immediate problem, the health and safety problem, the danger to our constituents, and at the same time is absolutely neutral on the question of expansion to a multipurpose project.

My friend, the gentleman from California [Mr. DOOLITTLE] said this project would not pay for itself. Well, it would pay for itself overnight if we had a flood; 9 billion dollars' worth of damage could occur with flooding.

The Government of this country, even though aided by local flood insurance payers, would be liable for costs that would far far exceed the project itself.

This project has a 2.7 to 1 cost benefit ratio. It is one of the best projects we have seen come to this floor in years. In fact, I think it is fair to say we have followed the procedures that were put in place by this very committee, the Water Resources Subcommittee, in the 1986 omnibus water resources enactment that changed the way in which we do flood control projects, major public works projects in this Nation.

We followed every step of the way those requirements, and we are here today proud of the fact that we have a tight project with a major State and local share there.

We think we are saving the Federal taxpayer a tremendous amount of money. And we really think we are being fair to the people in the watershed that the gentleman from California [Mr. DOOLITTLE] represents, because we are not resolving the issue of expansion. We are leaving that to be determined by future Congresses and the people of the region.

In fact, my Appropriations Subcommittee on Energy and Water Development has funded—50 percent Federal, 50 percent local—a feasibility study through the Bureau of Reclamation to determine whether or not expansion should take place. I might add that the administration has not once supported these Federal expenditures. That study is not before us. There is really nothing else before us today, other than the question of whether we want to keep this corps project report in this bill and allow us to go forward to the Senate to see whether we can succeed in our search for a consensus on what is a very divisive issue.

In addition to the opposition to our flood control project we have heard from the gentleman from California [Mr. DOOLITTLE], and I suppose to this bill, you will hear from environmental groups who oppose it as well. They want no structure at all, no dam at all. Mr. PETRI speaks for them.

Mr. Speaker, I think it is fair to say that we have tried as best we could in discussions with the gentleman from California [Mr. DOOLITTLE], his staff and his constituents, to assure the people of Placer and El Dorado Counties and others affected in the region that we have no intention of precluding a multipurpose project from being built with State and local funds.

We have guaranteed a $100 million highway bridge that would link El Dorado and Placer County together that would be built high enough and of sufficient strength that we could build eventually a multipurpose project at this site.

We have provided in the interim a Placer County pumping plant at a cost of $15 million and provide at an annual cost of almost $900,000 in subsidized electricity, the ability to provide 72,000 acre-feet of water to the areas of Placer County that have long been looking forward to the completion of this project as a multipurpose project so that they could upgrade their agricultural areas and develop as well. We allow them to proceed now rather than waiting for a high dam.

We have done everything we could to accept amendments that would guarantee neutrality on the expansion of the flood control project. It can be built upon.

We will certainly not charge the people who wish to make a multipurpose project here, a water and power project, anymore in total than they would have had to pay had they started to build that project from scratch.

We will in effect cause flood control beneficiaries to pick up extra costs for expansion.

I want to make clear to people on both sides of this debate, those who oppose this because we are building a dam and those who oppose this because we are not building their dam, that we want this debate to continue, but we cannot debate it forever and at the same time leave the people of the flood plain in Sacramento County vulnerable to the kind of flooding that occurred in 1986 and that could occur again.

We have 67-year flood protection in this region. We do not have FEMA adequate protection. We need to enact this bill, as amended by this rule, and we need to do it today so that we can move to the Senate and continue negotiations with all the interested parties.

I do not want to break off negotiations with anybody. I simply think that we cannot be asked to bias this project in one direction or the other for or against expansion or we will add even more opposition to what is obviously a contentious and difficult problem.

So Mr. Speaker, I want to thank Chairman ROE, Chairman NOWAK, and the ranking members of this committee who have worked so long and hard with us on this. They have been great leaders of this committee and we will miss them. I want to thank the Rules Committee for giving us our opportunity today.

I certainly hope we will adopt the rule and I hope we will oppose the Petri amendment which is designed to strike this project from the bill. It leaves us nowhere. It leaves us having made no progress, even though during the last 6 years we have worked hard—we're 3 years ahead of schedule—to try to solve the flood problem that Sacramento has, and we have done it without biasing the project against anyone else's interest.

So Mr. Speaker, I urge that we adopt the rule, oppose the Petri amendment and support the committee's product on final passage.

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Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in opposition to House Resolution 570, the rule providing for consideration of H.R. 5754, the Water Resources Development Act.

My opposition is based on that portion of the rule that waives the germaness requirement as it would apply to an amendment to be offered by my colleagues Mr. FAZIO and Mr. MATSUI.

The Fazio-Matsui amendment, which is clearly not germane to the reported bill, would authorize the construction of Auburn Dam—a proposed California project the cost of which approaches $1 billion. If there were ever a time when this House and the American taxpayer needed the protection of the prohibition against nongermane amendments, that time is now. Unfortunately, given the rule the Committee on Rules has brought to the floor, that is not to be the case.

Mr. Speaker, the history of this legislation reveals a shrewd, but unacceptable strategy to avoid the normal bill referrals and grossly distort the regular order.

H.R. 5754 was introduced on August 3 of this year and ordered reported with a strike-all amendment filed in the House on August 12. During these deliberations, we brought to the attention of the Committee on Public Works the fact that a number of items in the strike-all amendment were clearly within the jurisdiction of the Interior Committee. If that measure was reported by Public Works containing these items, the bill would certainly be subject to a sequential referral to the Interior Committee.

Rather than allow the bill to be sequentially referred, the Public Works Committee struck items that would have caused a sequential. Some of these items will then be reinserted back into the bill upon adoption of the rule. This procedure is a blatant and callous procedure designed solely to avoid a legitimate referral.

Then to add insult to injury, the rule will make in order consideration of this amendment, which was not included in the committee bill and contains numerous provisions that are not related to the underlying bill or substitute amendment. In addition, this proposal would be the most costly single project authorized in this bill. This is a $1 billion project that has questionable justification and significant environmental impact.

Mr. Speaker, in 1914, Congressman John J. Fitzgerald of New York pointed out that the purpose of the prohibition again nongermane amendments is "to prevent hasty and ill-considered legislation." That principal is as significant today as it was 78 years ago. The Fazio-Matsui amendment comes before the House without careful review by the committees of jurisdiction, is not related to the subject of the bill and has no place in this debate.

Mr. Speaker, I urge a "no" vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding this time to me, and also, as the gentleman from California [Mr. FAZIO] mentioned, I would like to thank the chairman of the House Committee on Public Works for helping move this process along on the project that we are all looking for, the flood control project at Auburn Dam.

I might just urge my colleagues to support this rule and oppose the Petri motion to strike when we begin debate of this rule. There has been a lot of discussion about the whole subject of this flood control structure up at the Auburn Dam site. I have to tell my colleagues that we do have a significant amount of support in Sacramento County on this legislation.

As the gentleman from California [Mr. FAZIO] has stated, Mr. Speaker, Governor Wilson supports our legislation. In fact, I would like to read a paragraph from a letter he sent out to both the gentleman from California [Mr. FAZIO] and myself and other members of the California delegation.

> Let me take this opportunity to confirm my support for essential flood control facilities for the Sacramento region. My position on this issue has not changed; I support providing necessary flood control on the American River in a manner that has minimal impact on fishery, recreation, and wildlife values. The most certain and expedient means of reconciling these goals is the building of a "dry dam" that is neutral on the question of expansion and would impound water only during a flood.

Mr. Speaker, the Governor of the State of California supports this project; the largest environmental group in Sacramento County, the Environmental Council of Sacramento, supports this project. It is basically national environmental groups that have problems with this bill, even though they have not seen the Auburn site, they have not seen the American River, and they have not seen the damage that could be done to fisheries and wildlife if we do not have this facility up. As the gentleman from California [Mr. FAZIO] mentioned, if, in fact, we do not get this facility, we are jeopardizing 300,000 people in northern California in Sacramento; in addition, $23 billion worth of property.

The gentleman from California [Mr. FAZIO] and I have, in good faith, attempted to negotiate with the gentleman from California [Mr. DOOLITTLE], his staff, his coalition in northern California. We have made many concessions, including the whole issue of whether there should even be a gate at the facility that we have, and, nevertheless, we have not been able to come up with a solution that is acceptable to Mr. DOOLITTLE himself.

It is my hope, Mr. Speaker, that my colleagues, my friends, will do whatever they can to give us assistance. This is not an environmental issue. This is a matter of life and death. I think many of us last week voted for assistance for the hurricane damage in the State of Florida, and it is going to be in excess of over $20 billion. We have appropriated $11 billion for this effort. I would hate to come back 7, or 8, or 9 years from now seeking $23 billion because we did not spend $698 million in 1992.

Mr. Speaker, I urge adoption of this rule, and I urge that my colleagues support us against the motion to strike when the bill is considered.

Mr. Speaker, I rise in strong support of the rule on the Water Resources Development Act.

I have two main reasons for supporting the rule and for asking my colleagues to join me in support.

First, I am aware that there are a number of provisions in this legislation that are controversial in nature. I would suggest, however, that the rule provides plenty of time and opportunity to air all sides on the issues contained in the legislation. In addition, as all of my colleagues are aware, this will be the final Public Works bill that will be considered by the House under the chairmanship of our good friend and esteemed colleague, ROBERT ROE.

If we vote down the rule today, the chances of passing this legislation before we adjourn become slimmer and slimmer, and to simply let this bill die would be a severe injustice to the chairman and his career-long service to this body. I would hope, therefore, that Members who are opposed to some provisions of the legislation will not demonstrate it by opposing the rule that was recommended by Chairman ROE and the Public Works Committee.

Second, I am supporting this rule because it will finally allow the entire House to take an up or down vote in trying to resolve the severe flood control problems in my home city of Sacramento. If the rule passes, we will be debating this in much greater detail tomorrow, but let me just briefly state that Sacramento's current system of flood protection imperils the lives of 300,000 citizens and $23 billion in property.

Ever since we were hit by flood waters in 1986, our community has been working with the Army Corps of Engineers to develop a plan to raise our flood protection to an adequate level. The corps has developed a plan, and under the rule, its recommendations will be included in the bill and subject to amendment and open for debate.

Mr. Speaker, the criteria for judging any rule is in its ability to provide for full and open debate over appropriate provisions. This rule preserves the rights of the Members to offer germane amendments and to fully explore all areas of controversy contained within the Water Resources Development Act, and I urge my colleagues to support it.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I would like to join my colleague from Ohio, who has very ably managed this rule in opposition, and I do so because of what took place up in the Committee on Rules.

I was very concerned the day that we heard testimony on this bill. I do not claim to be an expert on the Auburn Dam or northern California's water problems. In fact, as a southern Californian, there is often a debate and argument over how we are trying to steal the water of our good friends up in northern California. But I am, and I have, certainly having been a member of the Committee on Rules, become a real expert on the issue of fairness, and, frankly, we do not often enough—sometimes we do, but not often enough—get it on our side of the aisle from the treatment that we have had from the majority.

Frankly, Mr. Speaker, the treatment given to the gentleman from California [Mr. DOOLITTLE] on this amendment was a perfect example of abuse by the majority of a minority Member.

Now, as I just walked into the Chamber, I heard my friend, the gentleman from Sacramento [Mr. MATSUI] talk about the fact that good-faith negotiations were going on with the gentleman from California [Mr. DOOLITTLE]. But it seems to me that, if those negotiations broke down, that what we should do is allow the full House to have the opportunity to consider both the Fazio-Matsui amendment as well as the Doolittle-Lehman amendment.

So, Mr. Speaker, it seems to me that the only chance to bring about some semblance of fairness here is to defeat this rule and to make in order the amendment that the gentleman from California [Mr. DOOLITTLE] has sought to offer, and for that reason I join with my friend, the gentleman from Ohio [Mr. MCEWEN], in urging a no vote on this rule.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. MCEWEN. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOOLITTLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 141, not voting 22, as follows:

[Roll No. 414]

YEAS—269

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon

Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—141

Allard
Allen
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Inhofe
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Ackerman
AuCoin
Barnard
Blackwell
Boucher
Boxer
Chandler
Clinger
Conyers
Dymally
Edwards (OK)
Foglietta
Guarini
Hayes (LA)
Ireland
Jones
Mavroules
McGrath
Penny
Shuster
Solarz
Vander Jagt

□ 1539

Messrs. QUILLEN, ATKINS, and LOWERY of California changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 570 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5754.

□ 1540

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5754) to provide for the consideration and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, with Mr. MURPHY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5754 means jobs, productive jobs for American workers, it means the further rebuilding of our Nation's infrastructure, and it means the continued development of our Nation's water resources.

This bill will integrate our Water Resources Development Program with the National Intermodal Transportation System that was created last year. The bill authorizes major expansions and improvements of our water resources infrastructure through projects that will mean thousands of jobs in every part of our Nation.

I want to pay my compliments to JOHN PAUL HAMMERSCHMIDT of Arkansas, our ranking Republican member, HENRY NOWAK of New York, the chairman of the Subcommittee on Water Resources, and THOMAS PETRI of Wisconsin, the subcommittee's ranking Republican member for their outstanding efforts on this bill.

Investment in our Nation's water resources infrastructure means jobs and it means an increased ability for our Nation to compete in the global economy.

H.R. 5754 continues the tremendous progress in our Water Resources Development Program that began with our 1986 water resources bill, it begins to blend our ports and inland waterways into the Intermodal Transportation System that we created last year and it furthers the process of rebuilding our environmental infrastructure.

Our Water Resources Program is a vital part of our Nation's infrastructure rebuilding program and Intermodal Transportation System that includes highways, transit, aviation, and other forms of transportation. Getting the goods to market is critical.

The Water Resources Development Act of 1992 will continue the process of rebuilding the infrastructure and the ports and waterways that are part of the Intermodal Transportation System.

Based on the recommendations of the Corps of Engineers, the bill authorizes and modifies 23 water resources projects at a total of $2.46 billion, of which $1.8 billion would be Federal and $616 million non-Federal. There are seven port developments, three inland waterways, 12 flood control projects, and one environmental restoration project.

The Congressional Budget Office has estimated the cost of H.R. 5754 as $4.3 billion over 9 years. The CBO summary will be included for the RECORD as part of my statement.

This bill recognizes that the Corps of Engineers is a tremendous asset for our entire Nation. It is crucial for the quality of life for all our residents to use the valuable and abundant resources and expertise of the corps to rebuild our Nation's environmental infrastructure.

We will be directing the corps to work with State and local officials on the entire range of environmental infrastructure and resource protection issues.

H.R. 5754 is an innovative initiative that presents our Nation with a water resources development policy for the 1990's, expands our commitment to intermodal transportation and offers significant innovations for the rebuilding of our Nation's infrastructure.

The Public Works and Transportation Committee has addressed the concerns raised by the Members of the House on this important bill. We are bringing before this House a program for water resources development that is environmentally sound and that will meet our Nation's needs for the 1990's and the 21st century.

This legislation will continue the great progress that has been made in the water resources development area and the Corps of Engineers Program since passage of the 1986 Water Resources Act. We will be maintaining the 2-year water resources authorization cycle which is absolutely essential for the proper functioning of the entire program.

The rule places before the House the en bloc committee amendment which includes several items to improve and enhance the Water Resources Development Act of 1992 as reported by the Committee on Public Works and Transportation.

It includes the authorization for the Kissimmee River, FL, ecosystem restoration project and adds the authorization for the flood protection project for the American River, CA.

The committee amendment also includes a number of technical and clarifying amendments to provisions which were adopted by the committee. We have restored to the bill several provisions which were considered by the committee but were not able to be included in the bill as reported from the committee.

The committee amendment adds several important provisions to our Water Resources Program, including specifying for the first time that the non-Federal share for water resources projects for the purpose of environmental protection and restoration shall be 25 percent.

The Water Resources Development Act is vitally needed this year. I urge the Members to vote in support of H.R. 5754 and allow us to move immediately to conference with the Senate.

### ITEMS IN THE COMMITTEE AMENDMENT

### AMENDMENT NO. 1

Authorizes the construction of the project for flood control for the American River Watershed, California, in accordance with the report of the Chief of Engineers dated June 29, 1992. The project has a total cost of $698,200,000, with an estimated Federal cost of $456,200,000 and an estimated non-Federal cost of $242,000,000.

### AMENDMENT NO. 2

Authorizes the construction of the project for ecosystem restoration of the Kissimmee River, Florida, in accordance with the report of the Chief of Engineers dated March 17, 1992. The project has a total cost of $426,885,000, with an estimated Federal cost of $138,943,000 and an estimated non-Federal cost of $286,942,000. The Secretary is also authorized to construct the Kissimmee River headwaters revitalization project in accordance with the report prepared under section 1135 of the Water Resources Development Act of 1986. Total cost of this project is $92,210,000 with an estimated Federal cost of $46,105,000 and an estimated non-Federal cost of $46,105,000.

### AMENDMENT NO. 3

Makes a technical and conforming change to the title of the inland navigation project for locks and dams 2, 3, and 4, Monongahela River, Pennsylvania.

### AMENDMENT NO. 4

Authorizes the Secretary to review lands acquired for the Tennessee-Tombigbee waterway wildlife mitigation project, Alabama and Mississippi, to determine whether mitigation lands may be made available for related project uses, and to require the Secretary to fully replace any mitigation lands made available for other uses.

### AMENDMENT NO. 5

Authorizes the Secretary to establish, operate, and maintain the Passaic River flood warning system element of the project before completion of the construction of the tunnel element of the project. It also requires that streambank protection elements of the project be carried out in cooperation with the city of Newark so as to be compatible with the proposed reconstruction plans for route 21 and the proposed art center.

### AMENDMENT NO. 6

Modifies the flood control and water supply project for Broken Bow Lake, Red River Basin, Oklahoma, to reallocate storage to support the Mountain Fork Trout Fishery.

### AMENDMENT NO. 7

Amends the provision in the bill relating to Ray Roberts Lake, Greenbelt, Texas, which is modified in the bill to provide that the Federal and non-Federal share shall be as in accordance with section 103(c)(4) of the Water Resources Development Act of 1986, to provide that the change should not be construed as modifying the payment schedule or any other provision of the existing local cooperation agreements between the United States and the cities of Dallas and Denton, Texas.

### AMENDMENT NO. 8

Modifies the flood control project for Sims Bayou, Texas, to direct the Secretary to include measures to improve environmental quality and riparian habitat to the maximum extent practicable.

### AMENDMENT NO. 9

Corrects a technical deficiency.

### AMENDMENT NO. 10

Provides that the Federal share of the cost of the construction of the Melvin Price Visitors Center shall be 100 percent.

### AMENDMENT NO. 11

Requires the Secretary to consult with the head of the Smithsonian Institution, the Secretary of the Interior, and the Director of the National Park Service in developing a museum and riverfront interpretative site in the area of Vicksburg, Mississippi.

### AMENDMENT NO. 12

Directs the Secretary to construct the northeastern New Jersey Regional Flood Operations-Response, Engineering, and Visitors Center to serve as the center for the U.S. Army Corps of Engineers operations and emergency response engineering activities within the Passaic, Hackensack, Raritan, and Atlantic Coast floodplain areas and to inform the public of the Corps of Engineers flood damage reduction and emergency preparedness roles for these areas, the socioeconomic development of the region, and events of historical, archeological, cultural, and natural significance to these areas.

### AMENDMENT NO. 13

Strikes the authorization for six harbors of refuge for Minnesota which would have been authorized by the reported bill.

### AMENDMENT NO. 14

Corrects a technical deficiency in the authorization of the flood control project for Salem, Indiana.

### AMENDMENT NO. 15

Modifies the flood control project for Feather Creek, Clinton, Indiana, to provide that, pursuant to section 103(m) of the Water Resources Development Act of 1986, the Federal share of the project shall be limited to the provision of lands, easements, rights of way, relocations, dredged material disposal areas, and a cash contribution in the amount of 5 percent of the cost of construction of the project.

### AMENDMENT NO. 16

Amends the provision authorizing a stream bank and shoreline protection project at Walnut Canyon Creek, Anaheim, California, to provide that the project is to be carried out in accordance with the locally preferred plan and that the non-Federal sponsor is to provide 100 percent of any excess costs above that which would have been incurred in carrying out the project in accordance with the national economic development plan.

### AMENDMENT NO. 17

Directs the Secretary to conduct a feasibility study on Calleguas Creek, California, considering the benefits resulting from a change in agricultural practices within the floodplain to agricultural practices involving non-subsidized crops, and an evaluation of cost effective opportunities for environmental protection of Mugu Lagoon.

### AMENDMENT NO. 18

Authorizes the Secretary to conduct a study on shoreline protection measures at Rancho Palos Verdes, California, seaward of Palos Verdes Drive south in the Portuguese bend and Abalone cove coastline areas. It also requires the Secretary to complete the general reevaluation study for the flood control project, Santa Paula Creek, California, and implement the measures identified as feasible in the reevaluation study.

### AMENDMENT NO. 19

Directs the Secretary in consultation with the Administrator of the Environmental Protection Agency to conduct a study of water supply, water quality, water quantity, and related land resources needs in the area of Brockton, Massachusetts. The report must include recommendations on a location for a water supply reservoir and treatment plant, and recommendations for piping the water from the treatment plant to one or both of Brown's crossing and Brockton.

### AMENDMENT NO. 20

Amends the provision in the bill authorizing the Secretary to provide technical assistance on the proposed uses of the seawall in Haverhill, Massachusetts, to authorize the Secretary to carry out the results of the study on proposed uses and to provide technical assistance.

### AMENDMENT NO. 21

Deletes a provision in the bill relating to naming the Gallipolis Locks and Dam Operation Center on the Ohio River.

### AMENDMENT NO. 22

Provides that the non-Federal share for water resources projects for the purpose of environmental protection and restoration shall be 25 percent. It also increases the amount available for modifying existing water resources projects for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 from $15,000,000 annually to $25,000,000, and requires that any modification with a cost in excess of $5,000,000 be specifically authorized by Congress.

### AMENDMENT NO. 23

Requires that in computing the expected benefits and costs associated with a water resources project, such computation is to include inflation over the life of the project.

### AMENDMENT NO. 24

Addresses the size of the Hopper dredge fleet of the Corps of Engineers. The Secretary is directed to complete the report on a minimum dredge fleet within 90 days of enactment, but is prohibited from taking any action to reduce the size of the fleet for 1 year following completion and submission of the report. If the report includes recommendations to reduce the dredge fleet, the Secretary must certify that a reduction will not have a significant adverse impact on available dredging capacity, would not result in a diminution in quality of service, would not limit the ability of the corps to ensure quick response to emergency dredging, and would not result in a degradation of competition. The Secretary is given specific targets to increase the amount of dredging which is made available for competitive bid. However, the Secretary is authorized to bid with Government owned vessels for proposed work and the Secretary is authorized to use the Federal fleet to undertake projects when industry does not perform as required by the contract or when bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable cost.

### AMENDMENTS NO. 25

Directs the Secretary to report to Congress with specific legislative and other recommendations to improve the equitable distribution of water resources development projects in rural areas and to recognize the unique benefits or water resources projects to rural areas.

### AMENDMENT NO. 26

Amends section 223 of the bill relating to the reclamation of the waste water, to provide that the Secretary is, to obtain services necessary for design, engineering and construction assistance by procurement from private sources unless the Secretary finds that the service requires technology unavailable in the private sector or bids fail to attract 2 bids or proposals.

### AMENDMENT NO. 27

Amends the authorization for the water reuse project for the Santa Clara Valley water district and San Jose, California, to provide that design, construction, and comprehensive health effects studies are to be accomplished by non-Federal interests.

### AMENDMENT NO. 28

Adds the counties of Santa Barbara and San Luis Obispo to the southern California comprehensive water reuse system project.

### AMENDMENT NO. 29

Adds a project for reuse of waste water for Monterey County, California to reduce salt water intrusion into aquifers in the vicinity of Castroville and for improving the water quality of Monterey Bay and enhancing long-term water supply in the area.

### AMENDMENT NO. 30

Amends section 224 relating to environmental infrastructure projects, to provide that the Secretary is, to obtain services necessary for design, engineering and construction assistance by procurement from private sources unless the Secretary finds that the service requires technology unavailable in the private sector or bids fail to attract 2 bids or proposals.

### AMENDMENT NO. 31

Adds an environmental infrastructure project for Washington, DC, and Maryland, authorizing the Secretary to provide planning, design, construction, grant, and loan assistance for measures to alleviate adverse water quality impacts resulting from storm water discharges from Federal facilities in the Anacostia River watershed.

### AMENDMENT NO. 32

Amends the authorization for the environmental infrastructure project on the Rouge River, Michigan, to correct a reference in the title.

### AMENDMENT NO. 33

Authorizes an environmental infrastructure project for Jackson County, Mississippi to provide an alternative water supply.

### AMENDMENT NO. 34

Adds an environmental infrastructure project for the State of New Jersey and the New Jersey waste water treatment trust to authorize assistance to local governments that have ceased the discharge of sewage sludge into the Atlantic Ocean.

### AMENDMENT NO. 35

Authorizes the Secretary to provide technical and financial assistance to the village of Milford, Otsego County, and New Berlin, Chenango County, New York to improve water supply storage, filtration, and distribution systems.

### AMENDMENT NO. 36

Amends the authorization for the environmental infrastructure projects for Lynchburg and Richmond, Virginia, to require that the projects be constructed in accordance with plans adopted by, and currently being implemented by, the non-Federal sponsor.

### AMENDMENT NO. 37

Authorizes the Secretary to make capital improvements to the Illinois and Michigan Canal for the purpose of rehabilitation, renovation, preservation, and maintenance of the canal and its related facilities.

### AMENDMENT NO. 38

Amends section 906(c) of the Water Resources Development Act of 1986 related to cost sharing for fish and wildlife mitigation measures to provide that lands, easements, rights of way, and relocation are to be cost shared as project costs. This section also makes conforming amendments to the cost sharing provisions for harbors and other purposes.

### AMENDMENT NO. 39

Corrects the spelling of Pine Lake, Iowa.

### AMENDMENT NO. 40

Authorizes the Secretary to provide technical assistance to the towns of Winfield, Buffalo, and Eleanor, West Virginia, for the purpose of assisting the residents in analyzing and understanding the remedial options available for dealing with substances posing a risk to the environment at the Corps of Engineers Lock and Dam construction site in the vicinity of Winfield, West Virginia.

### AMENDMENT NO. 41

Adds a new section providing that if the Secretary determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States which is not made in the United States and which is used in a civil works project of the Secretary, the Secretary is to debar the person from contracting with the Federal Government for a period of not less than 3 years and not more than 5 years.

### AMENDMENT NO. 42

Authorizes the Secretary to convey to the city of Fort Smith, Arkansas, approximately 400 acres of real property located adjacent to the city, subject to terms and conditions agreed to between the Secretary and the city and to such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

### AMENDMENT NO. 43

Authorizes the Secretary to conduct a study on flooding problems along the Rahway River, New Jersey, and to implement such measures as the Secretary determines feasible in the interest of flood control along the Rahway River and the south branch of the Rahway River.

### AMENDMENT NO. 44

Authorizes the Secretary to enter into a cooperation agreement with Fairleigh Dickinson University in establishing a riverine laboratory and environmental technology management center in Madison, New Jersey.

### AMENDMENT NO. 45

Authorizes the Secretary to participate as an active Federal member in the Memorandum of Understanding for the interagency ecological study program for implementation of the monitoring requirements in the San Francisco Bay-Delta Estuary, California.

### AMENDMENT NO. 46

Amends the authorization for the flood warning and response system for flood prone areas along the Juniata River, Pennsylvania, to provide that the system is to be implemented at Federal expense.

### AMENDMENT NO. 47

Authorizes the Secretary to carry out a project for the removal of silt and for the control of point and non-point sources of pollution for Woodbridge Creek, New Jersey.

### AMENDMENT NO. 48

Directs that the costs of providing dredged material disposal areas which become necessary for operation and maintenance of a harbor or inland harbor shall be a Federal responsibility.

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CONGRESSIONAL BUDGET OFFICE,
*September 14, 1992.*

Hon. ROBERT A. ROE,
*Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached summary of the estimated cost of H.R. 5754, the Water Resources Development Act of 1992, as reported by the House Committee on Public Works and Transportation on August 12, 1992.

Enactment of H.R. 5754 would affect direct spending. Therefore, the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the required under clause 8 of House Rule XXI is attached.

Sincerely,

ROBERT D. REISCHAUER.

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT OF H.R. 5754, THE WATER RESOURCES DEVELOPMENT ACT OF 1992

[By fiscal year, in millions of dollars]

| | 1993 | 1994 | 1995 | 1996 | 1997 |
|---|---|---|---|---|---|
| Spending subject to appropriations: | | | | | |
| Title I: | | | | | |
| Estimated authorization level | 77 | 124 | 191 | 418 | 527 |
| Estimated outlays | 56 | 129 | 192 | 320 | 474 |
| Title II: | | | | | |
| Estimated authorization level | 179 | 272 | 319 | 231 | 137 |
| Estimated outlays | 131 | 214 | 283 | 279 | 199 |
| Title III: | | | | | |
| Estimated authorization level | 48 | 108 | 116 | 86 | 50 |
| Estimated outlays | 34 | 92 | 112 | 95 | 64 |
| Total—Spending Subject to Appropriations: | | | | | |
| Estimated authorization level | 304 | 504 | 627 | 735 | 713 |
| Estimated outlays | 221 | 434 | 587 | 695 | 736 |
| Direct spending: | | | | | |
| Estimated budget authority | (1) | (1) | (1) | (1) | (1) |
| Estimated outlays | (1) | (1) | (1) | (1) | (1) |

[1] Section 203 would authorize the Army Corps of Engineers to accept contributions for certain environmental and recreation activities. CBO estimates that additional contributions from nonfederal entities would total about $5,000,000 annually. These additional collections would be available for spending without further Congressional action and thus additional spending would offset the added income. We estimate that the net effect on direct spending in any year would be negligible.

In addition to the amounts shown in the above table, CBO estimates that the Army Corps of Engineers would spend approximately $1.6 billion after 1997 to complete construction of the authorized projects.

The costs of this bill fall within budget function 300.

CONGRESSIONAL BUDGET OFFICE ESTIMATE[1]

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

| | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|
| Change in outlays | 0 | 0 | 0 | 0 |
| Change in receipts | ........ | (1) | (1) | ........ |

[1] Not applicable.

Mr. ROE. Mr. Chairman, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5754, the Water Resources Development Act of 1992. This omnibus legislation contains authorizations for important projects and policy directives of the Army Corps of Engineers. The Nation would benefit from many of its provisions related to water resources management, environmental protection, and economic and infrastructure development. While I have serious reservations about a number of the bill's provisions, on balance I support its passage as an important stem in continuing a 2-year authorization cycle.

First, let me congratulate and commend the leadership of the House Public Works and Transportation Committee—most notably, Chairman BOB ROE; Water Resources Subcommittee Chairman HENRY NOWAK; and subcommittee ranking member, TOM PETRI. I also appreciate the many contributions made by chairman emeritus, GLENN ANDERSON, for the many years of commitment to the work of our committee and the needs of our country. This represents the last omnibus Corps of Engineers bill Chairmen ROE and NOWAK will work on, as they are retiring at the end of this session. The entire House, and certainly the Public Works and Transportation Committee, will miss their leadership and bipartisan cooperation.

They have worked long and hard in reviewing thousands of pages of testimony, balancing countless competing interests, and forging consensus on difficult water resources problems that need workable solutions.

Even with their best efforts, however, this isn't a perfect bill. It is compromise legislation that represents a good start, but by no means a final product. Over the next 2 weeks, we will need to refine various provisions to reflect concerns, including serious concerns raised by the administration. it is a task that I believe the committee is up to. I am confident that with the cooperative and bipartisan spirit of our committee we can overcome the obstacles before us.

It is critically important to keep the Corps of Engineers and Congress on a 2-year track for omnibus bills. And we can do that only by fashioning a bill the President can sign.

H.R. 5754, as reported, includes authorizations for Corps of Engineers' projects related to, among other things, flood control, navigation, hydropower, shoreline protection, recreation, water supply, environmental protection and resource management, and infrastructure development. It makes important modifications to existing projects and policies, and it involves the corps in new areas and missions.

Because of the size and scope of our bill, we have contacted and worked with several other committees to gain their input and address possible jurisdictional concerns. In most cases, we were able to reach agreement based on a recognition of the jurisdiction of other committees, as reflected in our committee report on the bill. I would like to thank the leadership of all the other committees that worked with us in developing our bill.

Mr. Chairman, I know that there are provisions in our bill that are the cause of serious concern to the administration. While I believe some of those concerns or very much overstated, others are quite valid. There are examples of second-guessing the corps on projects and policy. In addition, there are projects that are premature in not having received full administration review. However, I believe the bill does remain true to the basic cost sharing principles of the landmark 1986 Water Resources Development Act. For example, where the committee has added additional features to projects we have made those additional features subject to cost sharing. Where we have provided for modest waivers of flood control cost sharing, those waivers are in keeping with the ability to pay waiver envisioned in section 103(m) of the 1986 act.

The administration also objects to provisions in our bill which call for project modifications that the corps feels have not been fully studied. In a few instances, I believe they make a valid point. However, I certainly understand our committee's frustration with the inordinate amount of time required for the corps to fully evaluate projects or project modifications. I know that the corps has made some progress in reducing the time required to complete the project planning process. However, projects still take too long to get under way.

For example, in my region we have been struggling for years to get the corps to move forward on a badly needed project to ensure the integrity of the McClellan-Kerr Waterway. During low water conditions, access to the project is frequently blocked. According to detailed and lengthy studies prepared by the corps, a new lock—originally authorized as part of the overall project but never constructed—is needed to correct the situation. The Assistant Secretary's Office, however, is asking for more study, which will increase the cost of the project and could delay the start of construction. To speed up work on the project, our bill includes language directing the corps to proceed expeditiously with design, land acquisition, and construction of the project.

Another project of importance to my region of the country is section 211(f), which clarifies that needed repairs at Beaver Dam in Arkansas will be treated as dam safety repairs for purposes of the cost-sharing requirements of the Water Resources Development Act of 1986. This means that local ratepayers will save over $15 million of the costs of these needed repairs.

In addition, the committee en bloc amendment also contains language to allow the Secretary of the Army to transfer title to a 400-acre parcel of land to the city of Fort Smith under terms and conditions acceptable to the Secretary. The land is needed by the city for a new solid waste facility which will serve the surrounding community, including nearby Fort Chaffee. The Secretary of the Army's Office has worked closely with the city in developing a plan acceptable to all parties. The language in the committee amendment will allow this needed project to go forward.

While I have serious reservations about the overall scope of the bill, I realize there are many worthwhile projects and provisions in the bill.

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[1] An estimate of H.R. 5754 as reported by the House Committee on Public Works and Transportation on August 12, 1992. This estimate was transmitted by the Congressional Budget Office on September 14, 1992.

They deserve our support. I am confident that, as we have in the past, we can develop a bill on a bipartisan basis which authorizes justified projects, makes appropriate adjustments to corps policy, and yet exercises the kind of fiscal restraint needed to obtain the President's signature. I realize we are running out of time, but I also know our chairman's level of commitment and his capacity for hard work. I urge my colleagues to give us the chance to sit down with the Senate and the administration to resolve our differences and negotiate a bill acceptable to all sides.

□ 1550

Mr. ROE. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in strong support of the Water Resources Development Act. It is a jobs bill. It is new opportunities for our people.

I rise in support of the water resources development bill. I commend Chairman ROE, subcommittee Chairman NOWAK, and the committee staff for their hard work.

I want to thank the chairman for including authorization of an additional 1,200 ft. lock at the Kentucky Lock and Dam. This lock system which is on the Tennessee and Cumberland Rivers currently has some of the longest delays in the Nation. This additional lock will allow larger tows thereby alleviating long delays. The elimination of these delays will reduce the cost of shipping on the Cumberland-Tennessee system. This will ensure that the millions of dollars in cargo shipped on this system will reach the consumers more quickly and presumably, at a lower price.

I also want to address the current state of dam safety in this country. Numerous dams have been allowed to fall into disrepair and pose a great threat to life and property. I am concerned that this House is flirting with disaster.

The Water Resources Development Act of 1986 included a $16 million for a dam safety program. However, funds have never been requested to implement this program. It would be foolish to again deny funding for the dam safety program. When you consider the potential cost incurred if just one of the 95,000 non-Federal dams were to rupture, I think everyone would agree that a $16 million investment in preventive medicine is justified.

As a member of the Subcommittee of Jurisdiction I submitted an amendment which was adopted during committee consideration of this bill. My amendment not only extends the provisions of the 1986 act but also establishes an interagency committee on dam safety as well as, providing for grants to States which do not have an established dam safety program and thus pose the greatest risk.

The chairman of the Energy and Commerce Committee has expressed concerns with provisions of my amendment relating to the role of the Federal Energy Regulatory Commission [FERC]. I feel that FERC must play a role in any dam safety program and therefore must be addressed in any discussions on this issue. In recognition of the chairman's concerns and the desire of all parties to expedite the consideration of this legislation, I agreed to withdraw my amendment.

It is my understanding that Mr. DINGELL shares my concern for dam safety and that he intends to address the issue in his committee in the upcoming year. I am pleased to hear this and look forward to working with Mr. DINGELL on this and other issues in the future.

I again want to commend the gentleman from New Jersey [Mr. ROE] and the gentleman from New York [Mr. NOWAK] for their efforts. The committee and this House will certainly miss their leadership.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. NOWAK], chairman of our subcommittee.

Mr. NOWAK. Mr. Chairman, I am pleased to rise in support of H.R. 5754, the Water Resources Development Act of 1992, and urge my colleagues to give the bill their support.

This bill continues the biennial authorization cycle for the water resources development program of the U.S. Army Corps of Engineers. The Subcommittee on Water Resources, conducted hearings on possible authorizations for the Corps of Engineers Water Resources Program for many days this past March, receiving testimony from the Department of the Army and the Corps of Engineers, numerous I might say, Members of Congress, and public witnesses. H.R. 5754 was introduced following those hearings and reported to the House on August 12, 1992.

The bill will authorize the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. The bill also contains deauthorizations of previously authorized projects, authorizations for studies of water resources problems, modifications to previously authorized projects, and provisions related generally to the water resources development program of the Army Corps of Engineers.

This bill is an effort to balance the water resources needs of the Nation, and the need to make the program more responsive to environmental concerns.

The committee is deeply concerned about the continuing deterioration of the Nation's infrastructure, but is optimistic that legislation such as the Water Resources Development Act of 1992, will allow the Nation to move forward in the improvement of its infrastructure by enhancing intermodal transportation methods, and to strengthen its competitive position in world markets.

I certainly urge my colleagues to support the Water Resources Development Act of 1992.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I want to thank the gentleman for the assistance he has provided on the Auburn project. I know he has been to the region, he has looked at the issue personally and paid a lot of attention to the concerns of the people of our area.

The Democratic study group, which is normally beyond reproach, has inadvertently included some information in their weekly analysis that says that no hearings were held on this project. It is my understanding that we had hearings in the Interior and Insular Affairs Committee this year, not long ago, and two hearings in the Public Works and Transportation Committee on this matter. Is that the gentleman's understanding?

Mr. NOWAK. Yes; that is. And of course, we have had the total corps review on top of all of that. So we have had ample information to review this project.

Mr. FAZIO. I really appreciate the gentleman confirming that. I think it is really too bad, because many Members who are not able to listen to the debate read the very analytical work of the DSG and take it verbatim, and the fact that we have had three hearings on this in the last couple of years is I think very indicative of the amount of attention this issue has been given. And I want to thank the committee for that.

Mr. NOWAK. I want to thank the gentleman for his remarks.

I just want to end at this point in time by thanking the gentleman from New Jersey [Mr. ROE], my chairman, as well as the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for all of their concern and help as we moved through not only this bill but the previous two bills. And certainly last, but not least, I want to thank the gentleman from Wisconsin [Mr. PETRI], my minority leader, for his great concern and help, and certainly vigilance in looking at these projects in a very broad and complementary manner as we moved forward. It has been a difficult process, but once again I think we are bringing that balance to the floor, and I want to thank those gentleman in particular.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 7 minutes to our very distinguished and able colleague, the gentleman from Wisconsin [Mr. PETRI], the ranking member of the Subcommittee on Water Resources.

Mr. PETRI. Mr. Chairman, I thank the gentleman for yielding me the time.

I want to note at the outset that is the final water resources development bill which will be brought to the House floor by our chairman, BOB ROE. Over the years he has served in Congress, many as chairman of the Water Resources Subcommittee and now the full Public Works Committee, he has left his mark on the development of our water resources through the country.

JOHN PAUL HAMMERSCHMIDT, our ranking Republican member on the committee, will also be leaving the Congress this year and he too has played an important role in water resources legislation over the years, particularly in the State of Arkansas.

And finally, Water Resources Subcommittee Chairman HENRY NOWAK has also decided to retire at the end of this Congress. I have enjoyed working with him on the subcommittee these past 2 years and have witnessed his great commitment to the work of the subcommittee, particularly in regard to Great Lakes issues. I know that these three very hard-working Members will be missed.

The bill before us today continues the 2-year authorization cycle which the Public Works Committee reestablished back in 1986.

H.R. 5754 authorizes numerous Corps of Engineers projects for important navigation and flood control projects, including a major environmental restoration project in Florida which has gained attention worldwide. New projects included in the bill have been recommended by the Corps of Engineers, although administration review is continuing on some.

One of these is the Auburn Dam and the American River to provide flood control for the city of Sacramento in California. I have serious reservations about this project, where other less costly and more environmentally sensitive alternatives to increase flood protection for Sacramento apparently exist.

This issue will receive greater attention later during consideration of this bill. I want Members to know that, with the support of the major environmental and antispending organizations, I will be helping to lead the fight against this project.

The committee has been very responsive to the requests made by many Members regarding projects in their districts. These include modifications to current projects, studies of flooding or navigation problems and other types of measures. New programs and policy initiatives are also included in H.R. 5754, some at the request of the administration and others proposed by various Members.

Members should be aware, however, that valid concerns about the size and scope of the bill do exist. Obviously, the bill will have to be scaled back and further discussion occur on many provisions before we will have a bill which can be enacted into law.

I want to make a few brief comments on two issues which have been brought to our attention as this bill was put together.

First, the engineering community raised concerns regarding the proposed Water Reclamation Assistance Program and the Environmental Infrastructure Assistance Program.

Fears have been expressed that business would be taken away from the private sector in favor of the Corps of Engineers. Over the last several weeks, the committee has worked closely with private interests to address their concerns and provisions in the committee amendment adopted today meet their approval.

During our hearings on the water resources bill, many Members appeared before our subcommittee to object to a corps reorganization plan. The corps is no longer pursuing that plan and H.R. 5754 does not authorize the corps to implement a reorganization plan.

However, studies by the corps illustrate just how inefficiently the corps now operates. This inefficiency results in increased overhead costs, which are then passed on to local sponsors through cost sharing. With reduced overhead and a more efficient corps overall, projects would be less costly and Federal money could be devoted to a greater number of projects around the country.

So if and when reorganization is considered in the future, I hope Members will not lose sight of the fact that benefits are to be gained by a more efficient Corps of Engineers.

□ 1600

Mr. ROE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. ANDERSON], a distinguished member of our committee and chairman emeritus, who has done a superb job on this committee over the years.

Mr. ANDERSON. Mr. Chairman, I want to compliment Mr. NOWAK for his leadership on this bill. He will be sorely missed next year.

We have before us one of the most essential bills this Congress deals with every 2 years. In addition to authorizing infrastructure projects across the country, this bill gives life to a new environmental mission for the Corps of Engineers, a mission which I regard as not only fitting, but absolutely necessary. The Corps of Engineers has a reservoir of critical expertise that needs to be applied to the vast array of environmental problems plaguing this Nation. Existing law which restricts the corps from using their skills for environmental remediation is shortsighted, especially when the end of the cold war will free previously committed resources for more pressing domestic needs.

I also want to thank the chairman of the subcommittee for his concern with my constituents in California. These citizens have watched for years as the Environmental Protection Agency has sat on their hands and allowed a contaminated ground water plume to slowly drift toward their community. It has been vitally important to me to get the corps to study what kind of project could be undertaken to stop these contaminants before we have a massive new cleanup on our hands. Again, I thank the chairman, HENRY NOWAK, for his help. He has brought an excellent forward-looking bill to the floor. It deserves the overwhelming support of the House.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I am going to oppose this bill, as I alluded to earlier.

This contains a reference to the Corps of Engineers' proposal affecting Auburn. This is in my district.

The people are overwhelmingly opposed to this structure. Let me just say the issue is: Shall the dam be built in such a way that the expansion is practical and economic to a multipurpose facility, or shall it be built in such a way that the expansion is uneconomic because of the high cost to retrofit the dam? That is what the controversy is all about as far as my district is concerned, where this dam is, in fact, to be built.

We need a structure at Auburn. To me there is no doubt about that. We need it for flood control. We need it for water, for hydroelectric power, and for recreation and for environmental reasons.

The question is though: We have $200 million ready to be put on the table by local water agencies.

In order to be able to do that, we have to have the initial design work, the first stage of the dam, be able to accommodate the expansion. If we have to go back in and retrofit the dam significantly, it will raise our costs 200 or 300 percent, and we will not be able to do it. We need to have operational gates, penstocks, and seismic design for water retention in the dam. These are vital factors. The Corps report does not provide those assurances.

The assurances in this bill are not adequately referenced to Auburn. We cannot allow this Federal money to be spent in such a way that effectively precludes the economic expansion of the dam.

For that reason, I intend to support the motion by the gentleman from Wisconsin [Mr. PETRI] to strike the language, and I intend to oppose the bill in its present form.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR], chairman of our Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I appreciate the opportunity to address one very narrow, specific subject in the legislation. I appreciate the cooperation of my colleague, chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK], first, in responding to a request that I made, and then responding to a further request to amend the initial one.

Behind that second request, which is reflected in the committee amendment, is a very long history. Let me summarize it: Some 5 years ago, I encouraged local governments along the north shore of Lake Superior, extending from Duluth all the way to the Canadian border, to establish a local group as a sounding board consisting of locally elected officials to take the pulse of the people and to respond to their interests in and concerns about harbors of refuge along the north shore. That body, the north shore management board, proposed a harbor development plan as the result of a long series of hearings and public meetings extending over a period of many months. The north shore management board, consisting of locally elected officials representing a broad cross-section of people, proposed to me that these nine harbors of refuge be included in this water resources bill. I assumed that they had done their job, because I had seen the notices of the public meetings and hearings held, and presumed that views for and against had been expressed, considered by the board, and factored into the board's recommendation.

I offered this amendment to include the nine harbors assured that the board's proposal reflected a grassroots, citizen consensus, of refuge in the bill that was pending in the Water Resources Subcommittee, and it was accepted and reported through the full committee.

Once a public announcement was made of the committee action, however, the "noes" surfaced, if you will. People realized that this proposal might become a reality, and suddenly the entire harbors of refuge package became questionable.

I held a public hearing of my own at two harbors, right along the north shore, and received public statements about these harbors of refuge, and in sifting through all the testimony that was given, I whittled the package down to three that were really necessary: Grand Portage, Grand Marais, and Silver Bay. Those three, and only those three harbors of refuge are included in the bill we consider here on the floor today. The six that have been dropped need further review, consideration and consultation, because there is a great deal of controversy about whether some of them even are needed at all.

I would just like to quote from former Governor of the State of Minnesota, Elmer L. Andersen:

> We were certainly pleased and relieved to learn today of a news report that Sugar Loaf Cove had been removed from the harbor development bill. It is a good move. There is more evidence that the north shore management board has not been communicating as well as they need to with the people of the north shore.

Communication is the essence of good public policy. I think the public hearing I held carried the communication issue a step further than the board had been able to do, and the overall best public interest has been served.

We now have in the bill only those three projects on which there is general agreement, and the others have been dropped.

I appreciate the committee's cooperation in coming to that conclusion.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. PETERSON], a valued member of this committee.

Mr. PETERSON of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the bill would authorize 23 water projects to be undertaken by the Army Corps of Engineers for the purpose of navigation, flood control, hydroelectric water supply, recreation, and fish and wildlife mitigation and enhancement. It also contains authorizations for studies of water resource problems and modifications to existing projects.

This bill addresses the environmental needs of both small and large communities. This has been especially true for the State of Florida. The Kissimmee River restoration project will remedy much of the environmental damage caused by flood control work performed by the Army Corps of Engineers on the Kissimmee River many years ago. Dechannelizing the river will largely return it to its original sheet flow path. The project will restore miles of functioning ecosystem that provide habitat for over 300 fish and wildlife species including the endangered bald eagle, woodstork, and reestablish part of the Atlantic flyway habitat identified as critical by the International North American Waterfowl Program. It will also restore thousands of acres of wetlands while maintaining, to the fullest extent possible, the original project's flood control and navigation benefits.

I want to emphasize that this bill not only provides environmental benefits, but economic benefits as well. A sound and strong infrastructure is the essential core foundation of the Nation's economic well-being. This infrastructure investment now gives the Nation the ability to compete in the global economy in the future.

The improvement of the Nation's coastal ports is critical to its ability to efficiently conduct its international business through the import and export of goods. The improvements of the Nation's inland waterway system is a central part of a national transportation system that makes it economically feasible to transport goods between inland and coastal markets. Mr. Chairman, this improvement of the Nation's infrastructure is essential.

I commend Chairman ROE, and Chairman NOWAK, and JOHN PAUL HAMMERSCHMIDT and TOM PETRI for their leadership in moving this critical legislation in such a timely and efficient manner. I would also like to thank the staff of the Water Resources Subcommittee for their unending assistance to my staff as we all labored to craft a bill that would meet this Nation's water resources needs for the next generation.

☐ 1610

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PACKARD], a distinguished member of the committee.

Mr. PACKARD. Mr. Chairman, I want to thank my ranking member for yielding time, and I certainly want to thank the chairman.

Mr. Chairman, I rise in support of the bill before us today, the Water Resources Development Act of 1992.

I would like to commend both the chairman of the committee and the chairman of the subcommittee as well as the ranking minority members. I appreciate their hard work and diligence on this legislation.

The corps has played an important role in the construction of many vital projects and will continue to be an instrumental factor in the development of future programs.

The corps responsibilities include planning, design, construction, operation and maintenance of many activities, especially those related to rivers, harbors, and waterways. They also oversee the administration of laws for protection and preservation of our navigable waters and related resources.

I believe the corps has been a valuable resource, not only for my State of California but for the entire country. The corps' work has contributed to the economic development of many regions and provided those areas with a greater foundation for productive growth.

The advancement of our infrastructure should be a top priority. I would like to take a minute to state again my conviction that the corps should become involved in the development of water reuse systems.

Included in the legislation is language authorizing a study of a water reuse system for southern California. I cannot over-emphasize the need for such programs. Water is one of the State's most valuable resources. Given our limited supply of water, we must concentrate our efforts of fully utilizing our existing supply.

We must make the commitment to reuse systems. I feel that the Army Corps of Engineers will be instrumental in developing these new technologies.

Again, I wish to thank the chairman for his attention to this matter.

The chairman and ranking member have certainly done yeoman work, and I totally support it.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. BORSKI], the chairman of our Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation.

Mr. BORSKI. Mr. Chairman, I rise in support of H.R. 5754, a comprehensive water resources development bill designed to improve our Nation's infrastructure.

H.R. 5754 establishes water resource policy for the 1990's and moves us into the 21st century. It enables us to expand our commitment to our Nation's water infrastructure in much the same way the Intermodal Surface Transportation Efficiency Act [ISTEA], renews our commitment to surface transportation.

It also enables us to really look at the future and use infrastructure improvements to boost our economy.

It is estimated that for every $1 invested in our infrastructure we generate $10 for our economy. With unemployment at a rate of 7.6 percent nationally, and 8.2 percent in Pennsylvania, we need investment like this.

My own city of Philadelphia is a good example of an area which will benefit from money authorized in this bill. What is more important, however, is understanding that water resource projects in Philadelphia and other areas will benefit the Nation.

H.R. 5754 authorizes spending $196 million in Federal funding to deepen the Delaware River channel from Philadelphia to the sea. The project will require an additional $99 million in non-Federal funding.

The Delaware River channel deepening project would ensure that the port could handle larger vessels, putting the Port of Philadelphia in a much more competitive position with other ports along the east coast and globally.

Keeping Philadelphia competitive will help stop the current trend of concentrating services at a small number of ports. If this trend toward fewer ports continues, it could have potentially disastrous effects on consumers and on the Nation's transportation system.

The Ports of Philadelphia are presently dependent on petroleum products and bulk cargo for much of its commerce. But containerized cargo is the future for Philadelphia's ports. Container ships are becoming larger and containerized cargo can make Philadelphia a transportation hub unrivaled on the east coast. With the service of three railroads and a deeper channel to the sea, Philadelphia's potential as a port of the future will be almost unlimited.

With the increase in tonnage the deepening will provide and the efficiency that will result there will be 1,600 new jobs in Pennsylvania and New Jersey, an annual increase of $300 million in revenue to businesses, $170 million in income to workers, and $9 million in State and local tax revenue.

That is the benefit to Philadelphia. There is benefit to the Nation as well.

Philadelphia currently has 10 percent of the Nation's oil refinery capacity and 85 percent of all petroleum products from the Northeast come through Philadelphia. The increase in efficiency in the oil industry will benefit many in the United States, especially in the colder States of the Northeast.

Increasing Philadelphia's ability to handle more goods also increases in the Nation's competitiveness.

Deepening the Delaware channel will increase America's potential for exports out of Philadelphia, helping to reduce our trade deficit. That is definitely important for the Nation's economic future.

Cargo on trade routes from the Far East and Europe that might otherwise go to Canadian ports could come to Philadelphia. Why? Because Philadelphia's transportation advantages mean that goods from distant countries could now come through Philadelphia and be shipped competitively to other parts of North America.

It is that vision of the future that is so very important for the city of Philadelphia and the many other cities which will benefit from funding in this bill.

Mr. Chairman, rebuilding America must be our priority right now if our Nation is to recover from a stagnant economy. Rebuilding America will enable us to retain our position as a world leader for many generations to come.

I support H.R. 5754 for what it enables our Nation to do now and for what it will mean to our future.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California, [Mr. RIGGS].

Mr. RIGGS. I thank my distinguished ranking member and rise in support of the legislation, with certain qualifications and reservations that I will elaborate on here briefly.

Also I would like to commend the Committee on Public Works and Transportation for its efforts in producing a bill that demonstrates a substantial investment in our future. We continue to hear of failing roads, bridges, inland, and oceanic waterways, and the facilities that serve local communities.

Last year the full committee addressed the failing roads and bridges in the Intermodal Surface Transportation and Efficiency Act of 1991—there, I got it all out—ISTEA, and now we endeavor to maximize our investment by taking on and funding vitally needed Corps of Engineers projects, several of which I proposed in the context of the bill for my district.

This legislation not only provides significant services to local communities, but more importantly improves the aging infrastructure of this country and our economic base. The rebuilding of our infrastructure is one of the priorities that this Congress must address. It is an investment in our future that is sure to pay substantial economic dividends down the road. As Members on both sides of the aisle clamor for such investment, this committee has successfully produced a bill that addresses the needs of this country.

There are some provisions of this bill that have drawn the ire of both administration and environmental organizations, and those provisions will be dealt with during debate on amendments.

The controversy over the Auburn Dam is probably the most divisive issue on the slate. The city of Sacramento desperately needs 200-year flood plain protection. There are at least a dozen other cities in this country that are already protected as such, and Sacramento requires the same treatment, speaking from the perspective of a northern California.

In 1986 the residents of the city came within 1 hour of complete inundation in what is currently the flood of record. I, as a Member of this body, cannot condone putting Sacramento in the same position again. The quandary lies in how to provide that protection. And I join with my colleague, the gentleman from northern California [Mr. DOOLITTLE], in believing that any flood control project built to provide long-term flood control protection for the Sacramento flood plain, the basin there, should have the ability to be expanded into a multiuse facility at some point in the future.

Americans are calling for an investment in this country, and it is particularly important in light of the growing importance of world trade.

□ 1620

We must maintain our waterways and our Public Works infrastructure. This bill provides for the dredging and maintenance of many harbors and canals which directly affect this Nation's ability to compete in the global economy of the 21st century

By passing the legislation, we can address our desire to remain the foremost economy in the world.

Again, I commend the leadership of the committee, and in particular the chairman and my ranking member who are retiring from Congress after years of distinguished service and compliment them for their farsightedness in taking bold and innovation action in this bill and the ISTEA bill of last year.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Before I begin, I want to compliment both the gentleman from New Jersey and the ranking member for many, many years of great service to this body and to the Nation. They will be sorely missed in this institution, and I for one am sorry to see them go. They have done a great service to the Nation and to the people they represent.

I would like to thank the committee for including in this bill $3 million for a quarantine facility to study ways to eradicate the melaleuca tree from the Everglades.

The melaleuca was imported from Australia in the early 1900's for use as a potential lumber tree and, because of its extremely high water absorbency rate, for use in efforts to dry sections of the Everglades. Since its introduction into the south Florida environment, this weed has spread throughout the region at an alarming rate. In 1980, melaleuca infested over 1.5 million acres of the Everglades. By the end of this century, if eradication efforts are not successful, it is estimated that the weed will have spread to over 50 percent of the Everglades wetlands.

Melaleuca is clearly no ordinary weed. With its ability to soak up four to five times as much water per acre as the sawgrass traditionally found in the area, this weed poses a serious threat to south Florida's water supply. As melaleuca spreads throughout the Everglades, it dries up the wetlands that serve as water storage areas for the Biscayne aquifer, south Florida's sole source of drinking water. In a region frequently experiencing prolonged droughts, any significant threat to the water supply could have devastating consequences.

After Hurricane Andrew swept through southern Florida last month, millions of trees were uprooted in the Everglades. However, the melaleuca, with its string root structure and thin frame, survived the hurricane. Unfortunately, with all the trees cleared from the glades, there is now fertile ground for the rapid spread of the melaleuca.

This quarantine facility is both vital and timely. I thank Chairman ROE and NOWAK for including it in this bill, and I urge this House's support.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I would like to thank the chairman of the committee for yielding me this time.

I would just like to respond to some of the arguments that the gentleman from Wisconsin [Mr. PETRI] raised, particularly that were set forth in the DSG. First of all, he said that the canyons at the American River would be devastated. That is just not so. In fact, we have studies, both by the environmental community and by the Corps of Engineers that say the most flooding that will occur will be 12 out of 365 days, and it will not be a devastating flood, the flood undoubtedly in Sacramento County with 300,000 people, if in fact that was the problem.

In addition to that, it says that developers will benefit by our proposal. I am frankly somewhat outraged over that. I am talking about 300,000 Sacramentons who will be damaged by this, people who live in single and multifamily residences.

Frankly, I am very disturbed that someone would think that we are defending developers.

My colleague, the gentleman from California [Mr. FAZIO] would like to make some comments on this.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding me this time.

I also want to pick up on the points being made by my colleague, the gentleman from California [Mr. MATSUI]. The same DSG report which includes arguments submitted by the gentleman from Wisconsin [Mr. PETRI] about the Auburn project says that at $700 million the project would be the largest ever built in the United States. Well, that is simply not true. We have a Passaic River project in New Jersey and a Santa Ana River project in California that are twice as expensive as this project would be. In fact, I know it well, because my Subcommittee on Appropriations has been funding these projects at great cost each year and we have not quibbled, by the way, with the people in those regions who want to protect their constituents.

We are putting $80 million into the Santa Ana River project this year. In fact, there are many people in northern California, constituents of mine and perhaps of the gentleman from California [Mr. DOOLITTLE] and the gentleman from California [Mr. MATSUI] who would argue that that project should have been a multipurpose project. They believe that we should have put water into some sort of impoundment there, but we did not do it because it was a flood control project only and, of course, we continued to fund it in our subcommittee without arguing and telling the people of Orange and Riverside and San Bernardino Counties how to build their project, and I would hope people would give us the same sort of courtesy and the same sort of respect today when we try to authorize a flood control project as well.

We are not, as the gentleman from California [Mr. MATSUI] said, protecting developers. In fact, many of the strongest proponents of this flood control project, including the mayor of Sacramento and members of the city council, have led the fight against development in the very areas that would be protected by this project. They are on record as opposing, not just now in the middle of this period of flood danger, but long term, the development of these flood plains.

Mayor Ann Rudin and Councilwoman Heather Fargo, I think, are being maligned when their opposition to flooding their region, when their support for this project is said to be support for developers.

I think it is very important that people understand this project is not being rammed through at the last minute. This is the result of 10 million dollars' worth of 50-50 cost-shared studies over 5 years. It is ripe for passage, and I hope people will join us in supporting this and opposing the gentleman from Wisconsin [Mr. PETRI].

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank my colleague, the gentleman from Arkansas, for yielding me this time.

I will have an amendment when we get to the amendment process to cut some of the spending or cap some of the spending in this bill.

The 1990 water resources authorization bill totaled $3.9 billion. The estimated cost of this legislation is $5.2 billion, or a $1.3 billion increase. That is 25 percent.

I have been on the floor talking about the exorbitant increases in spending over the past several years, spending increases that I believe are going to lead to economic chaos in this country if we do not change the course we are on, so I will be introducing an amendment that will cap some of the spending in this bill.

The administration requested about $1 billion in projects in this bill. There are about 10 to 12 other projects which would add $2 billion, which we believe the administration will approve. The administration will probably approve another $2 billion in projects, but that is still $2.2 billion below what is in this bill.

My amendment, when I present it, would place annual obligation ceilings on the general construction account and the flood control construction account, I think it is something that needs to be done.

My amendment will only save about $300 million, but $300 million is a pretty good hunk of change for most Americans, and I hope my colleagues will think seriously about it when we bring it to the floor.

Mr. RAHALL. Mr. Chairman, I am pleased to rise in strong support of H.R. 5754, the Water Resources Development Act of 1992.

Mr. Chairman, in January of this year, the GAO released its report on water pollution. The title of the report is: "State Revolving Loan Funds Insufficient to Meet Wastewater Treatment Needs."

That title alone says it all.

The 1987 amendments to the Water Resources Development Act dramatically changed the Federal role in financing wastewater treatment, shifting the burden for financing more than $83 billion in treatment needs to the States and, in exchange, authorizing the Federal Government to provide $8.4 billion in capitalization grants for State revolving funds [SRF's] over a 6-year period.

The amount intended to be spent on $83 billion of State and local needs was a mere $8.4 billion, and then it was to be phased out.

That 6-year period ends in fiscal year 1994, according to existing law.

More than 2 years ago I began my crusade, if you will, to bring this alarming situation to the attention of the public, and my colleagues on the Public Works and Transportation Committee, and its Subcommittee on Water Resources, by first introducing simple legislation to reinstate the old title II Grant Program which previously had helped fund wastewater treatment facilities construction projects nationwide. Funding for the grant program was never sufficient to meet the Nation's needs—and yet every time we turned around, Congress itself and the EPA through the regulatory process, was busy imposing more and more burdensome water quality standards for State and local community compliance. These Federal mandates are costly in the extreme, yet our country has been for more than a decade in an economic slump that has totally foreclosed many small communities from being able to reach an economy of scale where they can afford to take out these loans. The small communities in my State and the rest of the Nation can ill-afford to pay the principal on these loans—much less the interest.

In addition to my introduction of legislation to reinstate the grant program, I also recognize the need to establish a dual relationship between the loan program and a new grant assistance program, suggesting that affluent communities able to leverage local support funds, use the loan program, and further suggested use of a poverty formula for communities with no collateral making them eligible for grants, instead of loans.

Subsequently, I introduced my own bill to provide for a set-aside from States' revolving loan funds, specifically for disadvantaged communities that could be provided as grant assistance for purposes of compliance with federally mandated water quality standards.

There can be no action on my amendments to the SRF until next year when the Public Works Committee considers the reauthorization of the Clean Water Act.

But the fact remains, Mr. Chairman, that the GAO report of January this year, put the national need at $83 billion, and we have provided this year a measly $2.4 billion for the whole Nation's needs. To give you an irrefutable fact showing how insufficient SRF funding is, let me tell you that the same January 1992 GAO report cited above goes on to say that West Virginia's needs alone would cost an estimated—you guessed it—$2.4 billion.

Since the inception of the SRF, West Virginia has received a total of $52 million, all it has had to use toward $2.4 billion in statewide needs.

Again, Mr. Chairman, that about says it all. There are 44 communities in West Virginia which have no sewage, or wastewater treatment facilities. Many homes have no running water or indoor bathroom facilities. I hate to think of the health burdens imposed on our States and our citizens as a result of the Federal Government's policy of benign neglect toward funding this Nation's vital wastewater and sewage and safe drinking water supply needs.

Earlier this year, I introduced H.R. 5294, the Environmental Infrastructure Assistance Act. This bill seeks to expand the amount of Federal funds available to assist small communities as they attempt to comply with the ever increasing load of environmental regulations by authorizing the Corps of Engineers to provide planning, design and construction assistance to economically distressed areas.

I am pleased that my colleagues on the Public Works and Transportation Committee have recognized the need to enlarge the shrinking pool of public funds available for this need. H.R. 5754 provides general authority, modeled after my bill, for the Corps of Engineers to provide assistance to local interests to carry out environmental infrastructure and resource protection and development projects. Such projects include wastewater treatment facilities and public drinking water systems. The assistance provided by the corps may be in the form of grants, loans and technical, planning and design, and construction assistance.

This legislation not only increases the amount of Federal resources available to local interests to assist them in complying with Federal regulations, it is also noteworthy that H.R. 5754 expands the mission of the Corps of Engineers. If we are to effectively combat the environmental problems with which we are faced, we must use all of the resources which we have available. The Corps of Engineers is a valuable resource that must not be overlooked as we tackle this problem. In the corps, we have many very talented and knowledgeable men and women with the skills and technical ability necessary to assist small communities. With this new mission, it is expected that the corps will continue to work in conjunction with local businesses and contractors to assure their participation in design and construction of these projects. Mr. Chairman, this measure, which provides so much help to people at the local level and which expands the scope to the corps mission deserves your support and the support of all members.

In addition, this legislation honors a great West Virginian by renaming the Gallipolis Locks and Dam the Robert C. Byrd Locks and Dam. Senator BYRD has done a great deal to assist the State of West Virginia. In his position as chairman of the Senate Committee on Appropriations, Senator BYRD was instrumental in obtaining funds to have the Gallipolis Locks and Dam upgraded.

Before being upgraded, this structure was infamous for the chaos and danger it caused for barges traveling down the Ohio River. Too many times the hazards predicted in the corps' model engineering studies would come true. Down-bound tows approaching Gallipolis during high flows have been swept into the dams or sent crashing into the lock walls. In fact, more navigational accidents had occurred at Gallipolis than at any other lock on the Ohio.

Senator BYRD understood the importance of this structure, which was in continuous service since 1937, to the industrial and commercial future of the Ohio Valley. He appreciated value of a safe, consistent navigation along this vital inland artery and was willing to make the Federal financial commitment necessary to make the upgrade possible.

It is fitting that the Congress should recognize the contributions of this great legislator by naming this important structure in his honor.

Furthermore, Mr. Chairman, this is the last water resources development reauthorization that I will have the pleasure of working on with our fine chairman, Mr. ROE and ranking member, Mr. HAMMERSCHMIDT. This is also the last reauthorization for the Water Resources Subcommittee chairman, Mr. NOWAK and Chairman Emeritus ANDERSON.

As a member of the Public Works Committee, I have enjoyed working with these distinguished gentleman for many years. Under their leadership and cooperation our committee has produced some of the most important legislation that comes out of the Congress. With their guidance on the Water Resources Development Act and the highway reauthorization bill we are able to improve the infrastructure in this Nation and effect the quality of life of all Americans.

The contributions of these three gentlemen will be sadly missed by the members of the Public Works Committee and by every Member of Congress. I wish them the same success and happiness in their private lives as they have achieved as members of this great institution.

Mr. HOPKINS. Mr. Chairman, I rise today to commend and thank the members of the House Public Works Water Resources Subcommittee for the vision and wisdom they have demonstrated by including in this legislation a section that provides Federal assistance for water supply and storage as well as treatment and distribution facilities.

This provision carries out the intent of my legislation, H.R. 1729, which I have sponsored over the past 5 years to allow water supply projects equal consideration with flood control projects for Federal support.

Like many regions across America, the central Kentucky area which I represent is plagued periodically by serious water supply shortages due to drought.

These difficulties are compounded by an estimate that the bluegrass region will need an additional 4.4 billion gallons of water storage by the year 2000 in order to prevent devastation when drought occurs.

The section of this bill to which I refer is entitled "Environmental Infrastructure." It will correct a glaring inadequacy in Federal civil works policy which has treated water supply development as a luxury and flooding as an emergency.

And which has provided support for those in need of agricultural water supplies but denied that same assistance to those who simply need water to live.

I am particularly pleased to note and express my appreciation to Chairman ROE for his strong support of my legislation. I also appreciate the efforts of Chairman NOWAK for his leadership of this dedicated effort to insure a safe and adequate water supply as the lifeblood of future generations of Americans.

To you, gentlemen, and to the members of the committee on both sides of the aisle, I pledge my full efforts to help see that this legislation is enacted into law before my tenure here in the House comes to a close with the end of this session.

Mr. SHAW. Mr. Chairman, I would like to express my support for H.R. 5754, the Water Resources Development Act of 1992. Although this legislation contains many fine provisions, there is one project I would like to bring to my colleagues' attention which is important to the survival of the Florida Everglades. The project to which I refer is the melaleuca research and quarantine facility, to be located in Broward County, FL. As my colleagues may recall, I introduced legislation last November—H.R. 3753—that, among other measures to control this noxious weed, would authorize appropriations for construction of a research and quarantine facility for melaleuca and other noxious weeds that plague Florida. I am pleased that the House Public Works and Transportation has included this part of my bill in its legislation. Furthermore, I view the passage of this bill as the beginning of the end for the continued spread of melaleuca in the Everglades.

H.R. 5754 also contains language beneficial to Port Everglades, whose well-being is crucial to Broward County's economy. I thank my good friend and Florida colleague PETE PETERSON for working to include this provision as part of H.R. 5754.

Mr. Chairman, Mr. NOWAK and the subcommittee he chairs, the Water Resources Subcommittee, has again crafted an excellent piece of legislation. Regrettably, this will be the last water resources bill under Congressman NOWAK's able leadership. HENRY's retirement is a loss for this body, and I wish him all the best for the future. Of course, as HENRY owns a home in my congressional district, I am sure we will be keeping in contact with each other.

I would also like to voice my regret at the retirement of one of Congressman NOWAK's staffers, Cathy Evans. Cathy has served this body with distinction since she was a teenager, juggling for the past quarter century the demands of the Water Resources Subcommittee with the needs of her family. No matter how busy Cathy was, she has always made time to assist my office. For that courtesy I thank her, and wish her well in all her future endeavors.

Mr. Chairman, H.R. 5754 is legislation important to my home State of Florida, and also to the Nation. I urge my colleagues to support this fine bill by voting "yea" on H.R. 5754.

Mr. STUDDS. Mr. Chairman, I want to express my strong support for this bill, in particular two provisions that are of great importance to my constituents in the towns of Chatham and Provincetown and to the residents of the city of Brockton.

I am pleased that the committee, at my request, has directed the Army Corps of Engineers to dredge two harbors—Aunt Lydia's Cove in Chatham and Provincetown harbor. The Army Corps has employed what I believe is a flawed method of calculating the costs and benefits of these projects and has concluded that they are not economically justified.

Under this method, delays resulting from shoaling conditions must be considered leisure time, valued at only $3.92 per hour—one-third the manufacturing wage. Previous Army Corps policy required fisherman's time to be valued the same as the average wage of a manufacturing worker.

The committee has directed the Army Corps to redetermine the cost-benefit ratio using the manufacturing wage rate, rather than the leisure time rate. The Corps is also directed to carry out the dredging projects in Chatham and Provincetown.

I also want to express my strong support for a provision in the chairman's en bloc amendment that will help the city of Brockton, MA, solve its water supply problem. The amendment directs the Army Corps to carry out a study of the city's water supply, distribution and transmission needs.

Mr. Chairman, Brockton has suffered from an inadequate water supply since the early 1980's and the State Department of environmental protection has imposed a moratorium on hookups to the water system. This has made it extremely difficult for new businesses to locate in the city.

The Army Corps study will take a look at the economic, engineering and environmental feasibility of providing additional water for the Taunton River basin area. This is an important step toward guaranteeing the city of Brockton a reliable, adequate source of water to meet its present and future needs, an absolute necessity to ensuring economic growth.

I urge my colleagues to support this bill.

Mr. ALEXANDER. Mr. Chairman, I rise in support of this water resources authorization bill. Since coming to Congress in 1969, it has been my strong belief that investments in America must continue if we are to remain a strong, free, and competitive country.

This bill contains projects of the type which seek to capitalize on the resources of our country, to harness them for the public good.

One of the projects in this bill is in the congressional district I have the honor to represent.

For a number of years now, flooding of homes, businesses, and public structures has been a major problem along several smaller waterways in northeast Arkansas, including Whiteman's Creek, all located primarily within the city limits of Jonesboro.

This project will cure a serious and costly problem.

Four major floods have occurred in this area in the past 23 years—in 1969, 1980, 1983, and 1988. According to estimates, the expected annual damage from flooding in the entire area exceeds $1.6 million.

As long as this problem goes uncorrected: People will suffer. Business will suffer. Economic growth will suffer.

This is, Mr. Chairman, an example of the Federal Government providing a helping hand by investing in a project which will benefit many, and certainly represents an investment in the area's future.

It's a helping hand that is particularly important in a capital-poor State such as Arkansas.

Certainly, the local area will put in its share of the cost of the project, but it is absolutely necessary to have Federal participation if the plan is ever to be reality.

In fact, Mr. Chairman, many of the projects we have been able to carry out in the First Congressional District would be no more than unrealized dreams without this help.

This project, by significantly reducing flood damage, is an investment which should be made, and one which will pay for itself over time.

A business which refuses to invest in itself is doomed to failure. I believe it is the same with nations, and that is why I support this important legislation.

Mr. Chairman, I recently visited with government officials in Managua, Nicaragua.

That nation, as we know, is very poor, but these officials, who came in many political stripes, were locked in discussions of ideology, not economics.

I told them that while it was an interesting discussion, ideology does not make tortillas, and that an all-consuming concern about politics could well stand in the way of economic progress in the country.

It is unfortunate that the same partisan concerns often produce gridlock in Washington, standing in the way of progress and economic expansion.

The importance of investing in America seems often to be lost in a fog of political finger pointing, ill-founded accusations of pork barrel spending, and ideological claptrap.

It would be in our best interest to put all of this behind us and get on with the business of building America, creating jobs and capturing and maintaining both domestic and foreign markets.

It is true that ideology does not make tortillas in Nicaragua. It is equally true that it does not make for economic progress here at home.

It's a lesson all of us should take to heart.

I am very happy that my Governor, Bill Clinton, has an economic plan which rests on the foundation of accelerating our investments in America.

Obtaining the necessary capital to build a strong base for economic growth is a plan we have followed in Arkansas for years, and it's working.

By following the same plan, we can make America stronger and put our people back to work.

It won't be done by sinking in ideological mire. It will be done by having a long-term plan and working hard to put that plan into effect.

Passage of this water resource authorization bill is one of the steps we must take to help ensure that our Nation makes progress in building toward the future.

Mr. HOYER. Mr. Chairman, I rise in strong support of H.R. 5754, the Water Resources Development Act of 1982. This legislation will help ensure that the citizens of our country are protected from natural disasters like floods, and that they are able to navigate our Nation's waterways without obstruction.

This Congress has already stepped out on the path to rebuilding our country's deteriorating infrastructure. The Intermodal Surface Transportation and Efficiency Act [ISTEA] was a necessary investment in the future competitiveness and efficiency of our economy.

The legislation before us today is no different. It is an effort to facilitate the economic growth and productivity which is necessary for job growth, and, ultimately, for pulling our economy out of this long-lasting recession. Without the projects in this bill that ensure our waterways remain navigable, we cannot expect our water borne trade to effectively move people and products.

In addition, this bill authorizes important preventative measures to save States and local communities from the financially devastating effects of floods and erosion. Millions of people in our country face this threat every year, and we must ensure we implement commonsense solutions to these problems.

I also want to call attention to the important conservation projects included in this bill. As our Nation becomes more sensitized to the important natural resources lying within our borders, more agencies like the Army Corps of Engineers, have turned their efforts to restoring and protecting those resources.

In fact, included in the water resources bill today, is a review of the Anacostia watershed and the impact that Federal facilities have on its recovery.

For the past few years, I have been working very hard with the Army Corps of Engineers to clean up the Anascostia River watershed which is an important tributary to the Potomac River and restore the wetlands which once existed along its banks. This restoration project combines the effort of many people and many organizations, and will eventually offer a mostly urban area a clean and safe river.

I also applaud the Public Works and Transportation Committee for including funding for a study to determine the most environmentally sensitive way of disposing dredge materials from the Port of Baltimore. This has been an extremely controversial issue with a potentially serious impact on the Chesapeake Bay.

The water resources legislation is truly an all-American bill. It builds and renovates our infrastructure, protects property and lives from catastrophes, and restores our natural resources to health. This is an important bill and deserves our strong support.

Mr. ESPY. Mr. Chairman, I rise in support of the bill before us, the Water Resources Development Act. The construction authority vested in the U.S. Corps of Engineers by this bill is vital to flood and erosion proned areas of the Nation, and in particular, those of the Mississippi Delta. Although, the Mississippi River basin drains 41 percent of the water that falls on the United States, the Corps of Engineers is charged with taming and controlling this mighty flow.

As much as there could be hazards borne by heavy rains, there is also great bounty that flowed on the mighty Mississippi. No river has played a greater role in the development and expansion of America than the Mississippi. When the Mississippi River Valley opened to American settlers, corn, wheat, flour, timber, and other products from the North made their way downstream to cities such as St. Louis and New Orleans. In the mid-19th century, steamboats hauled cargo and passengers up and down the river. Throughout the world, the Mississippi River is one of the four most commonly recognized American treasures.

Vicksburg, MI, which is in my district, is the home of the Mississippi River Commission, the Vicksburg engineer district of the U.S. Army Corps of Engineers and the Waterways Experiment Station. The Mississippi River Commission in Vicksburg was established by Congress in 1879 to promote commerce, trade, the postal service, flood control, and ease of navigation on the great Mississippi River. The United States Corps of Engineers has played a significant role in managing the river and, as a result, the Lower Mississippi Valley Division of the Waterways Experiment Station in Vicksburg, MI, has established a worldwide reputation as the Nations' center of expertise in coastal engineering.

H.R. 5754 contains provisions for the creation of a museum and interpretive site, the Lower Mississippi River Museum and Riverfront Site. Most Corps of Engineers projects of substantial size include, at least, a visitors information center. The Mississippi River and tributaries project, the largest Corps of Engineers project in the country, has no such facility. This bill would help correct that by authorizing the construction of the museum and interpretive site on the banks of the Mississippi River. The museum and interpretive site would serve as a central place for people to see all the unique features of the Mississippi and learn about the U.S. Army Corps of Engineers' role in developing and managing this significant national resource.

My congratulations to Chairman ROE, Chairman NOWAK, and the ranking minority members, Mr. HAMMERSCHMIDT and Mr. PETRI. I urge that my colleagues pass H.R. 5754.

Mr. EMERSON. Mr. Chairman, I would like to lend my support for House passage of the Water Resources Development Act of 1992.

The reauthorization of this bill is crucial to the continued vitality of our Nation's waterways. This legislation will provide the necessary authority for studying and constructing the water resources projects deemed essential by the Corps of Engineers. The importance of maintaining this country's navigable system of waterways is essential for transporting our products throughout the country and throughout the world.

I continue to be concerned about the issues of cost-sharing and ability-to-pay waivers for economically depressed areas that cannot afford the local share of these important floodway projects. In my district, local communities have sought assistance on Federal flood control projects that have been delayed for years because of the inability of these small, rural communities to pay for the non-Federal share of these projects.

Finally, I would like to thank Chairman ROE, ranking member HAMMERSCHMIDT, as well as the chairman and the ranking member of the Subcommittee on Water Resources, Mr. NOWAK and Mr. PETRI, for their diligence and hard work on this important piece of legislation.

Mr. ORTIZ. Mr. Chairman, I rise in strong support of the Water Resources Development Act—and the amendment offered by my colleague from Texas [Mr. LAUGHLIN]. This money is badly needed in the colonias along the United States-Mexican border.

These areas which will benefit from this amendment are populated by some of the poorest people in our society. The people who live here seldom had access to an adequate water supply or clean drinking water.

Additionally, they lack adequate waste water disposal systems, exposing them to serious health risks. Last fall, I chaired a health care hearing which examined the particular health care problems of Hispanics. Health care professionals who work along the Border and serve the colonias told my committee that diseases which affect residents—such as malaria, tuberculous, cholera, and leprosy—have not been widely seen by the citizenry of this Nation for decades. To think that they even exist in the colonias is genuinely disturbing.

This country is great enough, rich enough, and smart enough to protect all the citizens in our society, making it incumbent upon the U.S. Congress to make life as safe as possible for the most vulnerable in our country. I believe enactment of this amendment will lead to an improved quality of life for the people who live in the colonias, as well as their children.

I worry about the children, because without the basic comforts of life, they will be unable to concentrate at school. Our children are our future, and their education is their most valuable economic asset. It is well worth our while to invest in something which will provide solid ground from which our children can begin their lives.

On another note, I would like to thank the very distinguished chairman of the subcommittee, Mr. NOWAK, for his work in obtaining authorization for the Corps of Engineers to dredge and maintain the Jewel Fulton Canal at 17 feet, as opposed to the current 12 feet. Presently, a company is planning construction of a shipyard near Corpus Christi, TX, on the canal to provide repair and maintenance support for the U.S. Navy ships assigned to Naval Station Ingleside.

Naval Station Ingleside, located on the Corpus Christi Bay, was recently approved as the new homeport for a number of Navy mine countermeasure vessels. The mine warfare ships are essential to the mission and purpose of the base—and the base is a source of pride and assured economic well being for the community.

With the authority to dredge at 17 feet, construction of the new shipyard is secure, assuring the maintenance of the ships at a nearby location. The local community has been informed that State funds are available to pay the capital costs of the initial dredging, so this action requires no additional cost to the corps.

Mr. FORD of Michigan. Mr. Chairman, I rise to express my strong support for H.R. 5754, the Water Resources Development Act, and to urge my colleagues to vote for this important measure.

The bill before us today offers tremendous benefits to our Nation's infrastructure and its people. It affects people's lives and livelihoods, and I commend my colleagues on the Public Works Committee for the fine work that they have done on this proposal.

I am particularly pleased that this legislation authorizes $20 million for the Western Townships Utilities Authority, in my congressional district, for the construction of a comprehensive streamflow enhancement project, a project that will greatly improve southeastern Michigan's environment.

For nearly a decade, the townships of Plymouth, Canton, and Northville, MI, have attempted to construct a sewer system that would ship their wastewater to the nearby Ypsilanti Community Utility Authority for treatment, and its eventual release into the lower branch of the Rouge River. Currently the townships' wastewater is discharged into Belleville Lake. Legitimate concerns have been raised by experts about the level of phosphorus created by this discharge in Belleville Lake, and the possible environmental problems arising from this high content.

The solution proposed by the Western Townships Utilities Authority is to divert the township's highly treated water into the lower branch of the Rouge River, with the hope that the increased flow of 58 million gallons a day will help to cleanse the system river of its contaminants. At times during the year, the lower branch of the Rouge River nearly dries up. The benefits of the increased flow from the WTUA project will dramatically improve that body's flow and its cleanliness. The environmental purity of Belleville Lake will also be enhanced by the cessation of water flow into it.

I have worked with my colleague, Carl Pursell, on this important issue, and I am proud to say that the committee saw the obvious benefits of WTUA's plan. Congressman Pursell and I interceded at the direct request of our local elected officials in this matter, and worked with Chairman Roe for the inclusion of this authorization in the legislation before us today.

I support H.R. 5754, and urge my colleagues to support this worthy measure.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the proposed rule to govern debate on, H.R. 5754, the Water Resources Development Act of 1992, and urge passage of both the rule and the bill.

I am particularly proud to lend my support to the water resources authorizing since it contains a measure to honor a man who is the epitome of what public service is all about.

At a time when Government service is held in such low esteem in the Nation, it is good to recognize William Carl Garner of Heber Springs, an employee of the U.S. Army Corps of Engineers for more than half a century, by naming the visitors center at Greers Ferry Lake in his honor.

Carl has done an exemplary job as resident engineer at Greers Ferry Lake.

But, he has not been satisfied simply to carry out his assigned duties in a very outstanding manner.

Mr. Chairman, Carl Garner has always gone well beyond the call of duty, spending countless off-duty hours in making his city, State, and Nation a better place in which to live by preserving and enhancing the environment.

If only because of the excellent manner in which he has carried out his assigned duties, Carl would deserve the honor we propose today.

But, he richly deserves it because he has not only done an exceptional job, but has gone the extra mile and given of his own time to make his part of the world better.

Some 22 years ago, Carl launched an annual event, the Greers Ferry Lake and Little Red River cleanup. The program was so successful that it has now gone nationwide.

And, because of Carl Garner, public lands are cleaner, safer, and many thousands of people have a greater awareness of their obligation to keep them that way.

In 1979, all Corps of Engineers lakes in Arkansas joined in the cleanup.

In 1984, I was proud to join Senator Dale Bumpers in sponsoring a bill which became the Federal Lands Cleanup Act using the Greers Ferry-Little Red River effort as a model.

The legislation requires Federal land agencies to organize and conduct annual volunteer cleanups.

In 1991, 52 separate cleanups were conducted in Arkansas and more than 1 million volunteers participated in similar projects across the United States.

And, it all started with Carl Garner in Arkansas—a fact of which this native Arkansan is exceedingly proud.

The volunteer aspect of the Greers Ferry Lake and Little Red River cleanup shows that with leadership, Americans will respond and work and make things better.

I have attended most of the cleanups at Greers Ferry. The outpouring of volunteers—from every age group and walk of life—is a sight to behold.

Last year, for example, about 3,000 people—including 1,000 Boy Scouts—turned out cleaning up 300 miles of shoreline on Greers Ferry Lake and 25 miles of shoreline on the Little Red River and picking up trash along 50 miles of roadside.

No public funds were used to carry on this giant task. The $15,000 in expenses was donated by about 300 businesses and, of course, the volunteers gave their time.

Since the effort was launched, Carl has expanded it to the point where it is now a year-round environmental project.

During Earth Day and Keep America Beautiful Month, for example, a number of activities are carried on as part of the overall cleanup effort.

Carl Garner's work and the Greers Ferry Lake and Little Red River cleanup have been honored on numerous occasions.

This year the project was inducted into the Take Pride in America Hall of Fame, after being named a national winner in each of the 6 years the Take Pride in American Awards Program has been in existence.

Keep America Beautiful bestowed on Carl Garner the organization's first Iron Eyes Cody Award, the group's most prestigious honor.

He has also been selected to receive the Decoration for Exceptional Civilian Service, the highest honor the Army can bestow on a civilian employee.

In 1988, his 50th year of service with the Corps of Engineers, Carl received the Civilian of the Year Award from the corps' Little Rock District.

The proposal in this bill will further honor Carl with a lasting testament to his exceptional service to the American people—the designation of the William Carl Garner Visitors Center at Greers Ferry Lake.

Carl would tell you quickly that this honor is also for the thousands and thousands of people who have participated with him in making these annual cleanups such successes—not only in Arkansas, but across the country.

Mr. Chairman, when we honor Carl Garner we honor the best in public service, as well as the spirit of volunteerism which makes this great Nation even greater.

Ms. PELOSI. Mr. Chairman, I rise in support of the many worthwhile projects included in H.R. 5754, the Water Resources Development Act of 1992. Subcommittee Chairman Nowak and Committee Chairman Roe have demonstrated outstanding leadership in their diligent efforts to bring this legislation before us today.

One particular project in H.R. 5754 illustrates the innovative approach the committee has taken to restore wetlands in the San Francisco Bay Area. The Sonoma Baylands demonstration project proposes to utilize safe dredging material to restore a 322-acre tidal marsh habitat. Near the turn of the century, this land was diked from tidal action and converted for agricultural use. Similar practices around San Francisco Bay have resulted in a severe reduction of tidal marsh land.

Over the next 50 years, it is projected that almost one-half billion cubic yards will need to be dredged from San Francisco Bay. Development of the Sonoma Baylands wetland site is a priority because of the environmental importance of recycling suitable dredge material for beneficial reuse, and because of its economic importance for continuing commerce in our community.

This innovative approach would couple the need to dredge with an effort to preserve the bay's natural environment. Both are essential for promoting the economic vitality of the Bay Area.

Again, I thank Chairmen Roe and Nowak for their efforts on behalf of this important project.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, as modified by the amendments printed in part 1 of House Report 102-868, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 5754

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1992".*

*(b) TABLE OF CONTENTS.—*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Findings.*
*Sec. 3. Secretary defined.*

*TITLE I—WATER RESOURCES PROJECTS*

*Sec. 101. Project authorizations.*
*Sec. 102. Project modifications.*
*Sec. 103. Visitor centers.*
*Sec. 104. Small navigation projects.*
*Sec. 105. Small flood control projects.*
*Sec. 106. Sonoma baylands wetland demonstration project.*
*Sec. 107. Upper Mississippi River plan.*
*Sec. 108. Quarantine facility.*
*Sec. 109. Columbia, Snake, and Clearwater Rivers.*

Sec. 110. Outer Harbor, Buffalo, New York.
Sec. 111. Small streambank control projects.
Sec. 112. Montgomery Point Lock and Dam, Arkansas.
Sec. 113. Delaware Canal, Pennsylvania.
Sec. 114. Major rehabilitation.
Sec. 115. Studies.
Sec. 116. Continuation of authorization of certain projects and studies.
Sec. 117. Project deauthorizations.
Sec. 118. Deauthorization of a portion of the Canaveral Harbor, Florida, project.
Sec. 119. Namings.

### TITLE II—GENERALLY APPLICABLE PROVISIONS

Sec. 201. **[Reserved]**
Sec. 202. **[Reserved]**
Sec. 203. Voluntary contributions for environmental and recreation projects.
Sec. 204. Reconstruction of lands adversely affected by water resources projects.
Sec. 205. Beneficial uses of dredged material.
Sec. 206. Definition of rehabilitation for inland waterway projects.
Sec. 207. Construction of shoreline protection projects by non-Federal interests.
Sec. 208. Cost-sharing for disposal of dredged material on beaches.
Sec. 209. Fees for development of State water plans.
Sec. 210. Collaborative research and development.
Sec. 211. Dam safety program extension.
Sec. 212. Safety award and promotional materials.
Sec. 213. Work for others.
Sec. 214. **[Reserved]**
Sec. 215. **[Reserved]**
Sec. 216. Use of private sector resources in surveying and mapping.
Sec. 217. Use of domestic products.
Sec. 218. **[Reserved]**
Sec. 219. Compensation of corps of engineers employees.
Sec. 220. Eligible operations and maintenance for harbor development and navigation projects.
Sec. 221. Expedited completion of projects.
Sec. 222. Contract goals for small disadvantaged business concerns and historically black colleges and universities or minority institutions.
Sec. 223. Reuse of waste water.
Sec. 224. Environmental infrastructure.
Sec. 225. Beach nourishment policy.
Sec. 226. Long-range planning for beach nourishment and inlet management projects.

### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Extension of jurisdiction of Mississippi River Commission.
Sec. 302. New York City zebra mussel program.
Sec. 303. Susquehanna River, Pennsylvania.
Sec. 304. Broad Top region of Pennsylvania.
Sec. 305. Construction of boat ramps and docks at J. Strom Thurmond Lake, Georgia.
Sec. 306. West Virginia trailhead facilities.
Sec. 307. Sediments decontamination technology review and demonstration program.
Sec. 308. Baltimore Harbor, Maryland.
Sec. 309. Toledo Harbor, Ohio.
Sec. 310. Rend Lake, Illinois.
Sec. 311. Portugese and Bucana Rivers, Puerto Rico.
Sec. 312. Sauk Lake, Minnesota.
Sec. 313. Little Goose and Lower Granite, Washington.
Sec. 314. Expansion of educational facilities at Davidson Laboratory, Stevens Institute of Technology.
Sec. 315. Arkansas Water Resources Center.
Sec. 316. Linesville Creek, Pennsylvania.
Sec. 317. South Central Pennsylvania environmental restoration infrastructure and resource protection development pilot program.
Sec. 318. **[Reserved]**
Sec. 319. Virginia Beach, Virginia, technical amendments.
Sec. 320. Transfer facility for beneficial uses of dredged material, San Francisco Bay.
Sec. 321. Pikeville Lake, Kentucky.
Sec. 322. Raystown Lake, Pennsylvania.
Sec. 323. Santa Rosa Plain, California.
Sec. 324. Klamath Glen Levee, California.
Sec. 325. Phoenix, Arizona.
Sec. 326. Water supply needs of Mahoning Valley Sanitary District, Ohio.
Sec. 327. Sault Sainte Marie, Michigan.
Sec. 328. Hackensack Meadowlands Area, New Jersey.
Sec. 329. Land exchange, Allatoona Lake, Georgia.
Sec. 330. New York Bight and Harbor study.
Sec. 331. Availability of contaminated sediments information.
Sec. 332. Milwaukee Harbor, Wisconsin.
Sec. 333. Arthur Kill, New York and New Jersey.
Sec. 334. Harbor maintenance trust fund deposits and expenditures.
Sec. 335. Conemaugh River Basin, Pennsylvania.
Sec. 336. Great Lakes information clearinghouse and repository.
Sec. 337. Transfer of locks and appurtenant features, Fox River System, Wisconsin.
Sec. 338. **[Reserved]**
Sec. 339. Chesapeake bay beneficial use site management.
Sec. 340. Declaration of nonnavigability for portions of Cuyahoga County, Ohio.
Sec. 341. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 342. Lockwoods Folly River, Brunswick County, North Carolina.
Sec. 343. Lake Resource Institute, Storm Lake, Iowa.
Sec. 344. Canaveral Port Authority reimbursement.
Sec. 345. Port Everglades, Florida.
Sec. 346. 1993 World University Games.
Sec. 347. Nuisance aquatic vegetation in Lake Gaston, Virginia and North Carolina.
Sec. 348. Southern West Virginia environmental restoration infrastructure and resource protection development pilot program.
Sec. 349. Tennessee River heritage museum and education facility.
Sec. 350. Tennessee Valley Exhibit Commission of Alabama.
Sec. 351. Red Rock Dam and Lake, Iowa.
Sec. 352. Environmental project modifications, Sacramento River, California.
Sec. 353. Bank stabilization and marsh creation.
Sec. 354. Saco River, North Conway, New Hampshire.
Sec. 355. Connecticut coastal saltmarsh restoration authorization.
Sec. 356. Lake George, Indiana.
Sec. 357. Lakes program.
Sec. 358. Great Lakes sediment reduction.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) a sound and strong infrastructure is the essential core and foundation of the Nation's economic well-being and growth and its ability to compete in the global economy;

(2) the Nation's infrastructure has been sorely neglected for years, and there is a desperate need at every level of government to increase infrastructure investment for the benefit of future generations;

(3) it is the responsibility of the Federal Government to provide coordination, direction, and assistance in the restoration and maintenance of a sound infrastructure, including a national transportation system involving surface, air, and water transportation and facilities for restoration and preservation of water quality, prevention of damages from floods, and provision of hydroelectric power and municipal and industrial water supplies;

(4) it should be a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner;

(5) the Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, water pollution, and the need to rebuild the Nation's infrastructure;

(6) a national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner;

(7) a national intermodal transportation system will enhance the ability of United States industry to compete in the global marketplace by reducing transportation costs;

(8) all forms of transportation, including the transportations system of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development and productivity growth;

(9) investment in the infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(10) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(11) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(12) failure to invest in the Nation's infrastructure has placed the United States in danger of becoming a service-oriented economy rather than having a strong and independent manufacturing-based economy;

(13) foreign competitors in the global economy have surpassed the Nation's productivity growth through massive infrastructure investments, and many foreign competitors have committed to making multi-trillion dollar infrastructure investments in the future;

(14) the improvement of the Nation's coastal ports is critical to its ability to compete in the global economy through the efficient import and export of goods;

(15) the improvement of the Nation's inland waterway system is a central part of a national intermodal transportation system which permits the efficient transport of goods between markets within the Nation and between inland markets and coastal ports;

(16) the prevention of massive flood damages to the Nation's cities, industries, cultural facilities, municipal facilities, and transportation system plays a vital role in the protection of the Nation's infrastructure and the efficient conduct of commerce;

(17) the provision of municipal and industrial water supply plays a crucial role in the well-being and functioning of the Nation's communities and industries and in the health, environment, and quality of life of the Nation;

*(18) the generation of hydroelectric power contributes significantly to the Nation's supply of low-cost energy and plays a significant role in reducing air pollution;*

*(19) the provision of recreational opportunities and the protection and enhancement of fish and wildlife habitat and environmental values contribute to the well-being of the people of the Nation; and*

*(20) improvement and protection of the Nation's infrastructure is an essential, proper, and necessary role of government at all levels.*

### *SEC. 3. SECRETARY DEFINED.*

*For purposes of this Act, the term "Secretary" means the Secretary of the Army.*

## *TITLE I—WATER RESOURCES PROJECTS*

### *SEC. 101. PROJECT AUTHORIZATIONS.*

*Except as provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this section:*

*(1) SOUTHEAST ALASKA HARBORS OF REFUGE, ALASKA.—The project for navigation, Southeast Alaska Harbors of Refuge, Alaska: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,013,000, with an estimated Federal cost of $8,041,000 and an estimated non-Federal cost of $6,972,000.*

*(2) WHITEMAN'S CREEK, ARKANSAS.—The project for flood control, Whiteman's Creek, Arkansas: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $4,978,000, with an estimated Federal cost of $2,838,000 and an estimated non-Federal cost of $2,140,000.*

*(3) AMERICAN RIVER WATERSHED, CALIFORNIA.—The project for flood control, American River Watershed, California: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $698,200,000, with an estimated Federal cost of $456,200,000 and an estimated non-Federal cost of $242,000,000.*

*(4) MORRO BAY HARBOR, CALIFORNIA.—The project for navigation, Morro Bay Harbor, California: Report of the Chief of Engineers, dated June 4, 1992, at a total cost of $2,192,000, with an estimated Federal cost of $1,754,000 and an estimated non-Federal cost of $438,000.*

*(5) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $17,000,000, with an estimated Federal cost of $12,800,000 and an estimated non-Federal cost of $4,200,000.*

*(6) RIO GRANDE ALAMOSA, COLORADO.—The project for flood control, Rio Grande Alamosa, Colorado: Report of the Chief of Engineers, dated October 7, 1991, at a total cost of $6,781,000, with an estimated Federal cost of $5,000,000 and an estimated non-Federal cost of $1,781,000.*

*(7) DELAWARE RIVER MAINSTEM AND CHANNEL DEEPENING, DELAWARE, NEW JERSEY, AND PENNSYLVANIA.—The project for navigation, Delaware River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $294,931,000, with an estimated Federal cost of $195,767,000 and an estimated non-Federal cost of $99,164,000.*

*(8) CANAVERAL HARBOR, FLORIDA.—The project for navigation, Canaveral Harbor, Florida: Report of the Chief of Engineers, dated July 24, 1991, at a total cost of $13,270,000, with an estimated Federal cost of $6,350,000 and an estimated non-Federal cost of $6,920,000.*

*(9) KISSIMMEE RIVER RESTORATION, FLORIDA.—The project for the ecosystem restoration of the Kissimmee River, Florida: Report of the Chief of Engineers, dated March 17, 1992, at a total cost of $426,885,000, with an estimated Federal cost of $139,943,000 and an estimated non-Federal cost of $286,942,000. The Secretary is further authorized to construct the Kissimmee River headwaters revitalization project in accordance with the report prepared under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251–4252) for such headwaters project and any modifications as are recommended by the Secretary based on the benefits derived for the environmental restoration of the Kissimmee River basin, at a total cost of $92,210,000, with an estimated Federal cost of $46,105,000 and an estimated non-Federal cost of $46,105,000.*

*(10) PORT EVERGLADES HARBOR, FLORIDA.—The project for navigation, Port Everglades Harbor, Florida: Report of the Chief of Engineers, dated September 23, 1991, at an annual cost of $98,000.*

*(11) SAVANNAH HARBOR, GEORGIA AND SOUTH CAROLINA.—The project for navigation, Savannah Harbor, Georgia and South Carolina: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $37,740,000, with an estimated Federal cost of $10,474,000 and an estimated non-Federal cost of $27,266,000.*

*(12) KENTUCKY LOCK ADDITION, KENTUCKY.—The project for navigation, Kentucky Lock Addition, Kentucky: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $468,000,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.*

*(13) AMITE RIVER AND TRIBUTARIES, LOUISIANA.—The project for flood control, Amite River and Tributaries, Louisiana: Report of the Chief of Engineers, dated August 27, 1991, at a total cost of $65,902,000, with an estimated Federal cost of $32,951,000 and an estimated non-Federal cost of $32,951,000.*

*(14) SAUGUS RIVER AND TRIBUTARIES, MASSACHUSETTS.—The project for flood control, Saugus River and Tributaries, Massachusetts: Report of the Chief of Engineers, dated August 1, 1990, at a total cost of $95,700,000, with an estimated Federal cost of $61,360,000 and an estimated non-Federal cost of $34,340,000.*

*(15) LAS VEGAS WASH AND TRIBUTARIES, NEVADA.—The project for flood control, Las Vegas Wash and Tributaries, Nevada: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $204,300,000, with an estimated Federal cost of $144,000,000 and an estimated non-Federal cost of $60,300,000. The Secretary is further authorized to construct recreation features as proposed in the draft Feasibility Report and Environmental Impact Statement for Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), dated July 1990, at a total cost of $15,700,000, with an estimated Federal cost of $7,850,000 and an estimated non-Federal cost of $7,850,000.*

*(16) MOREHEAD CITY HARBOR, NORTH CAROLINA.—The project for navigation, Morehead City Harbor, North Carolina: Report of the Chief of Engineers, dated May 21, 1991, at a total cost of $10,030,000, with an estimated Federal cost of $6,360,000 and an estimated non-Federal cost of $3,670,000.*

*(17) WEST ONSLOW AND NEW RIVER INLET, NORTH CAROLINA.—The project for flood control, West Onslow and New River Inlet, North Carolina: Report of the Chief of Engineers, dated November 19, 1991, at a total cost of $14,100,000, with an estimated Federal cost of $7,600,000 and an estimated non-Federal cost of $6,500,000.*

*(18) LACKAWANNA RIVER AT OLYPHANT, PENNSYLVANIA.—The project for flood control, Lackawanna River at Olyphant, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $11,350,000, with an estimated Federal cost of $7,690,000 and an estimated non-Federal cost of $3,660,000.*

*(19) LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.—The project for flood control, Lackawanna River at Scranton, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,120,000, with an estimated Federal cost of $11,350,000 and an estimated non-Federal cost of $3,770,000.*

*(20) LOCKS AND DAMS 2, 3, AND 4, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $556,428,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.*

*(21) RIO GRANDE DE LOIZA, PUERTO RICO.—The project for flood control, Rio Grande De Loiza, Puerto Rico: Report of the Chief of Engineers, dated March 5, 1992, at a total cost of $118,819,000, with an estimated Federal cost of $88,072,000 and an estimated non-Federal cost of $30,747,000.*

*(22) SARGENT BEACH, TEXAS.—The project for navigation, Sargent Beach, Texas: Report of the Chief of Engineers, dated June 25, 1992, at a total cost of $67,667,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.*

*(23) SHOAL CREEK, AUSTIN, TEXAS.—The project for flood control, Shoal Creek, Austin, Texas: Report of the Chief of Engineers, dated June 16, 1992, at a total cost of $6,808,000, with an estimated Federal cost of $5,106,000 and an estimated non-Federal cost of $1,702,000.*

*(24) SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $8,850,000, with an estimated Federal cost of $5,750,000 and an estimated non-Federal cost of $3,100,000.*

### *SEC. 102. PROJECT MODIFICATIONS.*

*(a) TENNESSEE-TOMBIGBEE WATERWAY, ALABAMA AND MISSISSIPPI.—*

*(1) IN GENERAL.—The Tennessee-Tombigbee Waterway Wildlife Mitigation project, Alabama and Mississippi, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4138), is modified to authorize—*

*(A) the Secretary to review lands acquired for the project to determine if such lands can be made available for related project uses (including port, industrial, and other community or regional economic development endeavors);*

*(B) the Secretary to sell or exchange any lands which are determined by the Secretary to be available for such related uses; and*

*(C) the Secretary to acquire from willing sellers lands to replace any lands sold or exchanged by the Secretary under this subsection.*

*(2) LIMITATIONS.—Lands acquired under this subsection shall fully replace lost wildlife habitat value. Acquisition of lands under this subsection may be by purchase, exchange, or a combination thereof. Sales, exchanges, and acquisitions under this subsection shall be at fair market value and shall be with the consent of appropriate Federal and State fish and wildlife agencies. No lands may be sold under this subsection until replacement lands have been acquired under this subsection. Management of lands acquired under this subsection and reimbursement of costs with respect to such lands shall be the same as for lands acquired for the project before the date of the enactment of this Act.*

*(b) GOLETA AND VICINITY, CALIFORNIA.—The project for flood protection, Santa Barbara County Coastal Streams and tributaries in the*

*area of Goleta, California, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1862), is modified to authorize the Secretary to carry out the recommendations contained in the report of the Chief of Engineers relating to flood protection for Goleta and vicinity, California, dated March 25, 1991, at a total cost of $5,970,000, with an estimated Federal cost of $4,140,000 and an estimated non-Federal cost of $1,830,000.*

*(c) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation, Oceanside Harbor, California, authorized by the River and Harbor Act of 1965 (79 Stat. 1092), is modified to authorize the Secretary to repair, operate, and maintain the extension of the south jetty constructed in 1968.*

*(d) SAN LEANDRO MARINA, CALIFORNIA.—*

*(1) MAINTENANCE OF SOUTHERN CHANNEL.—The project for navigation, San Leandro Marina, Jack D. Maltester Channel, California, authorized under section 201 of the Flood Control Act of 1965 by resolutions adopted by the Committee on Public Works and Transportation of the House of Representatives on June 22, 1971, and adopted by the Committee on Environment and Public Works of the Senate on December 15, 1970, is modified to direct the Secretary to maintain the 8-foot deep and 100-foot wide access channel extending from the southern auxiliary access channel to the boat launching ramp in the small boat lagoon.*

*(2) DEAUTHORIZATION OF NORTHERN CHANNEL.—The northern auxiliary access channel of the project referred to in paragraph (1) is not authorized after the date of the enactment of this Act.*

*(3) NAMING OF SOUTHERN CHANNEL.—*

*(A) DESIGNATION.—The southern auxiliary channel referred to in paragraph (1) shall be known and designated as the "Jack D. Maltester Channel".*

*(B) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the channel referred to in subparagraph (A) shall be deemed to be a reference to the "Jack D. Maltester Channel".*

*(e) CROSS FLORIDA BARGE CANAL.—Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt) is amended—*

*(1) by redesignating subsection (f) as subsection (g); and*

*(2) by inserting after subsection (e) the following new subsection:*

*"(f) CONTRACT FOR CONTINUED O&M.—*

*"(1) IN GENERAL.—During the period beginning on November 28, 1992, and ending on September 30, 1993, the Secretary is authorized and directed to offer to enter into a contract with the St. Johns River Water Management District and the Southwest Florida Water Management District of the State of Florida for the continued operation and maintenance by the Secretary of the portions of the project described in subsection (d). The maintenance shall be performed at a level of service that is necessary to ensure safe operating conditions and to prevent deterioration of the structures. No major rehabilitations or renovations shall be performed by the Secretary in such portions of the project during such period.*

*"(2) FUNDING.—Funding for the continued operation and maintenance of the barge canal project by the Secretary under this subsection shall not exceed $300,000. The State of Florida shall pay a non-Federal share of $600,000 to fund the continued maintenance of the portions of the project described in subsection (d) in accordance with paragraph (1).".*

*(f) SAVANNAH HARBOR, GEORGIA.—The navigation project for Savannah Harbor, Georgia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090), is modified to authorize the Secretary to remove the tide gate in the Back River.*

*(g) O'HARE SYSTEM OF THE CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, O'Hare System of the Chicagoland Underflow Plan, Illinois, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary to construct the project at a total cost of $29,000,000, with an estimated Federal cost of $17,800,000 and an estimated non-Federal cost of $11,200,000.*

*(h) ILLINOIS RIVER, ILLINOIS.—The project for inland navigation, Illinois River, Illinois, authorized by the Rivers and Harbors Act of 1935 (49 Stat. 1035), is modified to provide that dredged material disposal areas shall be a Federal responsibility.*

*(i) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended by inserting before the period at the end of the last sentence "or other non-Federal interests".*

*(j) FORT WAYNE, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana, authorized by section 101(a)(11) of the Water Resources Development Act of 1990 (104 Stat. 4607), is modified to include the Headwaters Flood Control and Park feature as a recreation feature of the project and to provide that lands acquired by non-Federal interests for the project before, on, or after the date of the enactment of this Act shall be credited toward the non-Federal share of the cost of construction of the project.*

*(k) CALCASIEU SHIP CHANNEL, LOUISIANA.—The project for navigation, Calcasieu Ship Channel, Louisiana, authorized by the first section of the River and Harbor Act of July 24, 1946 (60 Stat. 635), is modified to authorize the Secretary to carry out measures to control erosion on the west bank of the channel in the area of Dugas Landing at a total cost of $1,000,000.*

*(l) LAKE PONTCHARTRAIN, LOUISIANA.—The project for hurricane-flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified—*

*(1) to direct the Secretary to construct measures to intercept and convey drainage from the landside slopes of project levees in Jefferson Parish, Louisiana, directly to the existing drainage system;*

*(2) to direct the Secretary to reevaluate the benefits of the constructed portions of the project which accrue to St. Bernard Parish and to the Lake Borgne Basin Lever District for the purposes of determining the portion of the benefits which were expected to accrue to the parish and district but which were not realized;*

*(3) to direct the Secretary to reduce the non-Federal share of the capital costs and operation and maintenance attributable to the parish and district by the percentage of the expected benefits which were not realized; and*

*(4) to provide that the parish and district shall not be required to make payments on their respective non-Federal responsibilities until the Secretary has made the reductions under paragraph (3).*

*In carrying out paragraphs (2) and (3), the Secretary shall utilize results of the study conducted under section 116(k) of the Water Resources Development Act of 1990 and any other relevant information.*

*(m) PARISH CREEK, SHADY SIDE, MARYLAND.—The project for navigation, Parish Creek, Shady Side, Maryland, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1031), is modified to reduce the length of the western boundary of the turning basin by 100 feet.*

*(n) BUFFOMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffomville Lake, Massachusetts, authorized by section 3 of the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to add low flow augmentation as a project purpose and to direct the Secretary to operate the project to improve water quality on the French River, Connecticut and Massachusetts.*

*(o) FLINT RIVER, MICHIGAN.—The project for flood control, Flint River, Michigan, authorized by section 201 of the Flood Control Act of 1958 (72 Stat. 311), is modified to authorize the Secretary to purchase and install a fabridam at such project.*

*(p) SOUTH FORK ZUMBRO RIVER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed, Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project at a total cost of $123,100,000, with an estimated Federal cost of $90,800,000 and an estimated non-Federal cost of $32,300,000.*

*(q) SOWASHEE CREEK, MERIDIAN, MISSISSIPPI.—The project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to direct the Secretary to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers, dated August 1991, at a total project cost of $31,994,000, with an estimated Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way, and relocations.*

*(r) NEW MADRID HARBOR, MISSOURI.—The project for navigation, New Madrid Harbor, Missouri, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified to direct the Secretary to assume responsibility for maintenance of New Madrid County Harbor constructed by non-Federal interests before the date of the enactment of this Act.*

*(s) STE. GENEVIEVE, MISSOURI.—The project for flood control, Ste. Genevieve, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to provide that the non-Federal share of the cost of the project shall be limited to the provision of lands, easements, rights-of-way, relocations, dredged material disposal areas, existing local flood control improvements, and a cash contribution in the amount of 5 percent of the cost of construction of the project and to provide that the project may be constructed in phases so long as each phase is a usable segment from an engineering and historic preservation standpoint.*

*(t) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to provide that the non-Federal share of the cost of the project shall be limited to the provision of lands, easements, rights-of-way, relocations, dredged material disposal areas, existing local flood control improvements, and a cash contribution in the amount of 5 percent of the cost of construction of the project.*

*(u) PAPILLION CREEK AND TRIBUTARIES LAKES, NEBRASKA.—The project for flood control, Papillion Creek and Tributaries Lakes, Nebraska, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 743) and section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization*

Change Report, dated April 1992, at a total cost of $12,735,000, with an estimated Federal cost of $9,028,000 and an estimated non-Federal cost of $3,707,000.

(v) GREEN BROOK SUB-BASIN, RARITAN RIVER BASIN, NEW JERSEY.—The project for flood control, Green Brook Sub-basin, Raritan River Basin, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified—

(1) to direct the Secretary to credit the non-Federal share of the cost of the project for the value of the Dismal Swamp and contiguous undeveloped fast lands acquired by the non-Federal interests and used for environmental mitigation purposes; and

(2) to provide that, in computing benefits and costs for the project, loss of life and personal injury benefits which may be associated with flooding and coastal storm events shall be quantified in monetary terms utilizing the contingent valuation method of the Principles and Guidelines for Water and Land Related Resources or other such methods as will reasonably place a fair value on the preservation of human life and personal well-being, including the value of life as dictated by the marginal willingness to pay for federally mandated safety devices and procedures.

(w) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—Section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607–4610) is amended—

(1) by adding at end of subparagraph (A) the following new clause:

"(vi) FLOOD WARNING SYSTEM—The Secretary is authorized to establish, operate, and maintain, at full Federal expense, the Passaic River flood warning system element of the project before completion of construction of the tunnel element of the project.";

(2) in subparagraph (B) by striking "Jackson" and inserting "Brill";

(3) in subparagraph (B) by striking "$6,000,000" and inserting "$25,000,000";

(4) in subparagraph (B) by striking "and scenic overlook facilities" and inserting "scenic overlook facilities, and public access 21";

(5) in subparagraph (B) by inserting after the first sentence the following new sentence: "The project element authorized by this subparagraph shall be carried out, in cooperation with the city of Newark, so that it is compatible with the proposed reconstruction plans for Route 21 and the proposed arts center.";

(6) in subparagraph (B) by striking "may be undertaken" and inserting "shall be undertaken";

(7) in the first sentence of subparagraph (C)(vi) by inserting after "for" the first place it appears "the purpose of assuring the integrity of";

(8) in subparagraph (C)(vii) by inserting "the additional" after "Act, the fair market value of";

(9) in subparagraph (C)(vii) by inserting "integrity of the" before "Wetlands Bank";

(10) in subparagraph (C)(vii) by inserting "and any other flood control project in the Passaic River basin" after "by this paragraph";

(11) in subparagraph (C)(viii) by striking "for the Wetlands Bank" and inserting "in accordance with clauses (ii) and (vi)"; and

(12) in subparagraph (C)(viii) by inserting "and financial" after "economic".

(x) RAMAPO RIVER AT OAKLAND, NEW JERSEY.—The project for flood control, Ramapo River at Oakland, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), is modified to authorize the Secretary to construct the project substantially in accordance with the Report of the Chief of Engineers dated January 28, 1986, with the Ramapo River channel modification realigned through Potash Lake, the modified Pompton Lake Dam bascule flood gates replaced with taintor gates, at a 40 year level of flood protection, and at a total cost of $11,750,000, with an estimated Federal cost of $8,812,500 and an estimated non-Federal cost of $2,937,500.

(y) RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.—The project for hurricane-flood protection, Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), is modified—

(1) to direct the Secretary to complete the project;

(2) to provide periodic beach nourishment for Cliffwood Beach for 50 years; and

(3) to provide that the non-Federal share of the cost of construction and maintenance of the project shall be the original cost incurred, before construction of the project, by non-Federal interests for construction of the seawall at Cliffwood Beach and for maintenance and rehabilitation of such seawall.

(z) SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.—The project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that costs incurred by the non-Federal interests to stabilize the seawall at Belmar and Spring Lake, New Jersey, shall be credited against the non-Federal share of the cost of construction and maintenance of section 2 of the project (Asbury Park to Manasquan).

(aa) FALLS DAM AND RESERVOIR, NEUSE RIVER, NORTH CAROLINA.—The project for flood control, Falls Dam and Reservoir, Neuse River, North Carolina, authorized by section 201(a) of the Flood Control Act of 1965 (79 Stat. 1075), is modified to provide that the Forest Ridge Peninsula Park Recreation Area shall be included as a part of the initial recreation development for the project and to provide that the non-Federal share of the cost of the project, and any other terms of local cooperation, shall be as specified in the local cooperation agreement executed on October 10, 1972.

(bb) RENO BEACH-HOWARD FARMS, OHIO.—The project for flood protection, Reno Beach-Howard Farms, Ohio, authorized by section 203 of the Flood Control Act of 1938, is modified to provide that the value of lands, easements, rights-of-way, and disposal areas shall be determined on the basis of their initial appraisal by the Corps of Engineers.

(cc) BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA.—The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by the Flood Control Act of 1962, is further modified to provide for the reallocation of a sufficient amount of existing and available water supply storage space in Broken Bow Lake to support the Mountain Fork trout fishery. Releases of water from Broken Bow Lake for the Mountain Fork trout fishery shall be undertaken at no expense to the State of Oklahoma and under terms and conditions acceptable to the Secretary.

(dd) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified—

(1) to direct the Secretary to complete the final phase II design memorandum for the project (including the results of a review of nonstructural mitigation plans for the purpose of ameliorating damages from induced flooding) not later than August 8, 1994;

(2) to direct the Secretary—

(A) to cooperate with non-Federal interests to make use of equipment and employees of the non-Federal interests in carrying out the project; and

(B) to credit the non-Federal share of the cost of the project for the value of the use of such equipment and employees;

(3) to provide that, notwithstanding the last sentence of subsection (c) of section 104 of the Water Resources Development Act of 1986, non-Federal interests may apply for crediting under such section 104, against the non-Federal share of the cost of the project, the cost of work compatible with the project carried out after June 1, 1972, by the non-Federal interests; and

(4) to authorize the Secretary to construct an inflatable dam on the Susquehanna River in the Wilkes-Barre area, Pennsylvania, at a total cost of $21,500,000, with the non-Federal share of the cost of such dam to be as provided in section 103(c)(4) of such Act.

(ee) WISTER LAKE, OKLAHOMA.—The flood control project for Wister Lake, LeFlore County, Oklahoma, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1218), is modified to increase the level of the conservation pool by 1 foot and to adjust the seasonal pool operation to accommodate the change in the conservation pool elevation.

(ff) CHETCO RIVER, OREGON.—The project for navigation, Chetco River, Oregon, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092), is modified to direct the Secretary to assume responsibility for operation and maintenance of the approximately 200-foot long access channel to the south commercial boat basin consistent with authorized project depths.

(gg) PORT ORFORD, OREGON.—Section 117 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended by striking the last sentence and inserting the following: "The Secretary is authorized to maintain the authorized Federal navigation channel at Port Orford, Oregon, including those portions of the channel within 50 feet of the port facility.".

(hh) CLIFF WALK, NEWPORT, RHODE ISLAND.—The project for beach erosion, Cliff Walk, Newport, Rhode Island, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092), is modified to authorize the Secretary to carry out additional shoreline protection measures on Cliff Walk, Newport, Rhode Island, at an estimated total cost of $3,500,000, with an estimated Federal cost of $1,750,000 and an estimated non-Federal cost of $1,750,000.

(ii) CLEAR CREEK, TEXAS.—

(1) IN GENERAL.—The flood control project for Clear Creek, Texas, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742), is modified to direct the Secretary to remove, at Federal expense, the Southern Pacific Railroad swing bridge, which crosses the primary channel of Clear Creek at the entrance to Galveston Bay, Texas, including the pivot pier and timber approach bridge.

(2) AGREEMENT.—The Secretary may not remove the bridges and pier referred to in paragraph (1) until the Southern Pacific Transportation Company has entered into a written agreement with the Secretary in which the company—

(A) agrees that the removal of the bridges and pier fully satisfies any responsibility the United States might otherwise have to provide substitute facilities or to replace, relocate, or alter any of the company's railroad facilities affected by the project;

(B) agrees to provide to the United States, without additional consideration, any and all necessary easements at and immediately adjacent to the Second Outlet, Clear Lake to Galveston Bay;

(C) agrees that the salvage value of the pivot pier and timber approach bridge shall accrue to the United States to offset costs incurred by the United States in removing the bridges and pier;

(D) agrees to release the United States from any claims for compensation for damages related to the operation of the railroad facilities;

*(E) agrees to cooperate with the United States in the removal of the bridges and pier; and*

*(F) agrees to hold and save the United States free from all damages arising from the removal of the bridges and pier, except for damages due to the fault or negligence of the United States or its contractors.*

*(3) DISPOSITION OF SWING BRIDGE.—After its removal pursuant to this subsection, the swing bridge referred to in paragraph (1) shall remain the property of the Southern Pacific Transportation Company and shall be loaded on barges provided by the company.*

*(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $550,000 for fiscal years beginning after September 30, 1992.*

*(jj) CORPUS CHRISTI SHIP CHANNEL, TEXAS.—That portion of the project for navigation, Corpus Christi Ship Channel, Texas, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 298), is modified to authorize the Secretary to maintain the Jewel Fulton Canal at a depth of 17 feet.*

*(kk) DALLAS FLOODWAY EXTENSION, DALLAS, TEXAS.—*

*(1) IN GENERAL.—The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that, notwithstanding the last sentence of subsection (c) of section 104 of the Water Resources Development Act of 1986, non-Federal interests may apply for crediting under such section 104, against the non-Federal share of the cost of the project, the cost of work performed by the non-Federal interests in constructing flood protection works for Rochester Park and the north section of the Central Wastewater Treatment Plant.*

*(2) DETERMINATION OF AMOUNT.—The amount to be credited under paragraph (1) shall be determined by the Secretary. In determining such amount, the Secretary may permit crediting only for that portion of the work performed by the non-Federal interests which is compatible with the project described in paragraph (1) and which is required for construction of such project.*

*(3) CASH CONTRIBUTION.—Nothing in this subsection shall be construed to limit the applicability of the requirement contained in section 103(a)(1)(A) of the Water Resources Development Act of 1986 to the project described in paragraph (1).*

*(ll) RAY ROBERTS LAKE, ELM FORK OF THE TRINITY RIVER, TEXAS.—The project for navigation, Ray Roberts Lake, Elm Fork of the Trinity River, Texas, authorized by the River and Harbor Act of 1965 (79 Stat. 1091), is modified to direct the Secretary to construct access ramps to permit boat launching access during periods of high water at the Sanger, Jordan, and FM-372 access areas, at an estimated total cost of $55,000. Operation and maintenance of the access ramps shall be a non-Federal responsibility.*

*(mm) RAY ROBERTS LAKE GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake Greenbelt, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that the Federal and non-Federal shares of the costs of the recreation features of the project authorized by section 101(a)(22) of the Water Resources Development Act of 1990 (104 Stat. 4610) shall be determined in accordance with section 103(c)(4) of the Water Resources Development Act of 1986. Except as provided in the preceding sentence, nothing in this subsection shall be construed as modifying or otherwise affecting the payment schedule or any other provision of the following contracts:*

*(1) Contract number DACW63-80-C-0106 between the United States and the city of Dallas, Texas, for recreation development at Aubrey and Lewisville Lakes, Texas.*

*(2) Contract number DACW63-80-C-0107 between the United States and the city of Denton, Texas, for recreation development at Aubrey and Lewisville Lakes, Texas.*

*(nn) SIMS BAYOU, TEXAS.—The project for flood control, Sims Bayou, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125), is modified to direct the Secretary to include, to the extent practicable, measures to improve environmental quality and riparian habitat.*

*(oo) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia, authorized by section 101 of the Water Resources Development Act of 1990 (104 Stat. 4610), is modified to provide that, pursuant to section 103(m) of the Water Resources Development Act of 1986, the requirement of the non-Federal sponsors for a cash contribution shall be limited to not exceed 5 percent of the cost of construction of the project.*

*(pp) SOUTHERN BRANCH OF ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA.—The project for navigation, Southern Branch of the Elizabeth River, Norfolk Harbor, Virginia, authorized by the Act of June 25, 1910 (36 Stat. 640), is modified to provide that the city of Chesapeake, Virginia, shall not be required to make payments after the date of the enactment of this Act under the cost-sharing agreement which the city entered into with the United States with respect to such project.*

*(qq) VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), is modified to authorize the Secretary to construct the project at a total cost of $112,000,000, with an estimated Federal cost of $72,800,000 and an estimated non-Federal cost of $39,200,000, and an average annual cost of $2,000,000 for the periodic beach nourishment over the 50-year economic life of the project, with an estimated Federal cost of $1,300,000 and an estimated non-Federal cost of $700,000. In carrying out the project, the Secretary is directed to construct the project with a uniform level of protection against a 100-year storm event, plus or minus 15 years, from Rudee Inlet to 89th Street by construction of a seawall from Rudee Inlet to 58th Street with a maximum top of seawall elevation of 13.5 feet (NGVD), dune reconstruction where necessary from 58th Street to 89th Street with a maximum top of dune elevation of 18 feet (NGVD), and construction of a beach berm from Rudee Inlet to 89th Street to a maximum design elevation of 10 feet (NGVD), and a width at design elevation to obtain the desired level of protection. In carrying out the project, the Secretary is also directed to provide for interior storm water to be collected into a pipe which will run longitudinally beneath the reconstructed boardwalk and to be discharged offshore by pumping through subsurface pipelines.*

*(rr) LOWER GRANITE LOCK AND DAM, WASHINGTON.—The Lower Granite Lock and Dam feature of the project for navigation, Snake River, Oregon, Washington, and Idaho, authorized by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21–22), is modified to authorize the Secretary to construct an all weather surface road in Whitman County, Washington, from Whitman County Road 9000 at the mouth of the Wawawai Canyon to existing roads in the vicinity of the Lower Granite Dam. The cost of such construction shall be assigned to navigation.*

*(ss) BONNEVILLE LOCK AND DAM, WASHINGTON.—*

*(1) REQUIRED ACTIONS.—The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by the Water Resources Development Act of 1974 (93 Stat. 35), is further modified to direct the Secretary to complete the relocation of the city of North Bonneville, Washington, by undertaking and completing the following actions:*

*(A) CONVEYANCE OF MUNICIPAL FACILITIES.—On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all constructed municipal facilities, utilities, fixtures, and equipment for the relocated town, together with associated easements and rights of entry.*

*(B) CONVEYANCE OF PUBLIC LANDS.—On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all public lands, as designated in the plats of the initial town. Such lands are identified as open spaces, municipal lots, street rights-of-way, and city park and community center lot (lot 2, block 5), as shown on the plat of relocated North Bonneville.*

*(C) CONVEYANCE OF OPTIMUM TOWN LAND.—In accordance with paragraphs (2), convey to the city all right, title, and interest of the United States to the following parcels of optimum town land, as described and identified in Committee Print 102-67 of the Committee on Public Works and Transportation:*

*(i) PARCELS 2, B, C, AND H.—Parcels 2, B, C, and H on or before the 30th day following the date of the enactment of this Act.*

*(ii) PARCEL 1.—Parcel 1 (other than those lands, not to exceed 10 acres, which are necessary and appropriate for fish and wildlife mitigation as determined by the Secretary, in consultation with the Secretary of the Interior) on or before the 30th day following receipt by the Secretary of certification by the State of Washington Department of Ecology that remedial actions required by such department to address contamination on parcel 1 have been completed to the satisfaction of such department.*

*(D) RELEASE OF CLAIM.—Execute and transmit to the city a release of a claim of the United States in the amount of $365,181.12 (plus interest) for operation and maintenance costs incurred by the Secretary during the period in which the city relocation was not completed.*

*(E) EASEMENTS.—At the time of conveyance of the parcels under subparagraph (C), grant easements—*

*(i) for reasonable public pedestrian and vehicular access to the Columbia River; and*

*(ii) for storm drain outfalls reasonably required to serve the city of North Bonneville.*

*(2) CONSIDERATION.—Conveyance of the parcels under paragraph (1)(C) shall be in consideration of $597,804 to be paid by the city of North Bonneville to the United States. The Secretary shall determine the portion of such sum represented by each parcel and upon the conveyance of a parcel shall require payment for such parcel, without interest, not later than 10 years after the date of such conveyance.*

*(3) EFFECT OF COMPLETION OF REQUIRED ACTIONS.—Completion of the actions required under paragraph (1) shall constitute completion of the relocation of the city of North Bonneville and shall fully satisfy any claim of the city for just compensation relating to the taking by the United States of the municipal facilities and utilities of the city. Upon completion of actions required under paragraph (1) and request by the Secretary, the city shall transmit to the Secretary written certification of such completion and a release of any future claim of the city for just compensation relating to such taking.*

*(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing contained in this subsection, and no action taken pursuant to this sub-*

section, shall effect any change in the municipal boundaries of the city of North Bonneville or the authority of the city under the laws of the State of Washington.

(tt) BEECH FORK LAKE, WEST VIRGINIA.—The project for flood control, Beech Fork Lake, West Virginia, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), is modified to direct the Secretary to complete a study and issue a report on relocation of the lodge resort complex authorized to be constructed as part of the project and to carry out the project substantially in accordance with such report.

(uu) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to prohibit the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(vv) LA CROSSE AND SHELBY, WISCONSIN.—The project for flood protection of State Road and Ebner Coulees, city of La Crosse and Shelby Township, Wisconsin, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742), is modified to direct the Secretary to reimburse the non-Federal sponsor $1,467,000 for the Federal share of work performed by the non-Federal sponsor in connection with the project. Such reimbursement shall be in addition to amounts previously reimbursed by the Secretary for such work.

**SEC. 103. VISITOR CENTERS.**

(a) MELVIN PRICE LOCK AND DAM, ALTON, ILLINOIS.—

(1) CONSTRUCTION.—The Secretary may construct a regional visitor center of at least 24,000 square feet at the Melvin Price Lock and Dam, Alton, Illinois.

(2) PURPOSES.—The purposes of the visitor center to be constructed under this subsection shall be to inform the public of—

(A) the role of the United States Army Corps of Engineers in inland navigation along the Mississippi River and its tributaries,

(B) the role of the Melvin Price Lock and Dam in such inland navigation,

(C) the socioeconomic development of the surrounding area, and

(D) events of historical, archaeological, cultural, and natural significance in such area.

(3) FEDERAL SHARE.—The Federal share of the cost of construction of the visitor center under this subsection shall be 100 percent.

(b) MT. MORRIS DAM, NEW YORK.—

(1) CONSTRUCTION.—The Secretary shall construct a visitor center at Mt. Morris Dam, Mt. Morris, New York, in accordance with alternative 2 contained in the report of the District Engineer, Buffalo District, entitled "Mt. Morris Dam, Interpretive Development Prospectus, Visitor Reception Area", dated February 22, 1991.

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "William B. Hoyt II Visitor Center".

(3) FEDERAL SHARE.—The Federal share of the cost of construction of the visitor center under this subsection shall be 100 percent.

(c) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE.—

(1) ESTABLISHMENT.—The Secretary shall establish and operate in accordance with this subsection an interpretive facility (including a museum and interpretive site) in Vicksburg, Mississippi, which shall be known as the "Lower Mississippi River Museum and Riverfront Interpretive Site".

(2) LOCATION OF MUSEUM.—The museum shall be located on property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi. Title to the property shall be transferred to the Secretary at no cost.

(3) INTERPRETIVE SITE.—The interpretive site shall be located on riverfront property between the Mississippi River Bridge and the Mississippi Riverpark in Vicksburg, Mississippi. The Secretary is authorized to acquire surface use easements for such site on a willing seller basis.

(4) LIMITATION ON ACQUISITION AUTHORITY.—The Secretary may not use condemnation of property in carrying out this subsection.

(5) PURPOSES OF THE MUSEUM AND INTERPRETIVE SITE.—The purposes of the Lower Mississippi River Museum and Riverfront Interpretive Site are to—

(A) promote an understanding of the Lower Mississippi River and the United States Army Corps of Engineers' role in developing and managing this nationally significant resource;

(B) interpret the United States Army Corps of Engineers historic presence in the Lower Mississippi River Valley and its administration of the Mississippi River and Tributaries project;

(C) provide an understanding of the many Corps of Engineers branches and facilities in the Vicksburg area and their relationship to flood control, navigation, and environmental conservation in the Mississippi River;

(D) highlight the Mississippi River's influence on the Vicksburg area and the river valley's natural, historic, and cultural resource contributions;

(E) highlight local Corps of Engineers projects and management strategies;

(F) provide an understanding of the surrounding natural riparian environment adjacent to the Mississippi River through public access and interpretive displays; and

(G) promote the worldwide application of water resource technologies learned from using the Mississippi River as a working model.

(c) VISITOR SERVICES.—The Secretary is directed to provide increased and enhanced visitor services at the United States Army Corps of Engineers, Waterways Experiment Station in Vicksburg, Mississippi.

(6) RELATED AGENCIES AND PROGRAMS.—

(A) SMITHSONIAN INSTITUTION.—The Secretary shall consult with the Secretary of the Smithsonian Institution in the planning and design of the museum and riverfront interpretive site under this subsection.

(B) DEPARTMENT OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior and the Director of the National Park Service in the planning, design, and implementation of interpretative programs for the museum and riverfront interpretive site to be established under this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this subsection, including acquiring and restoring under paragraph (2) the property held by the Resolution Trust Corporation and planning, designing, and constructing the museum and riverfront interpretive site under this subsection.

(d) NORTHEASTERN NEW JERSEY REGIONAL FLOOD OPERATIONS-RESPONSE, ENGINEERING, AND VISITOR CENTER.—

(1) CONSTRUCTION.—The Secretary is directed to construct a visitor center in northeastern New Jersey of at least 15,000 square feet to serve as the center for the United States Army Corps of Engineers operations and emergency response engineering activities within the Passaic, Hackensack, Raritan, and Atlantic Coast floodplain areas and to inform the public of the Corps of Engineers; flood damage reduction and emergency preparedness roles for these areas, the socioeconomic development of the region, and events of historical, archaeological, cultural, and natural significance to these areas.

(2) PARK LAND FOR VISITOR ACCESS.—The visitor center to be constructed under this subsection shall include approximately 5 acres of public park land for visitor access.

(3) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "Northeastern New Jersey Regional Flood Operations-Response, Engineering, and Visitor Center".

(4) FEDERAL SHARE.—

(A) CONSTRUCTION.—The Federal share of the costs of construction of the visitor center under this subsection shall be 100 percent.

(B) OPERATION AND MAINTENANCE.—The visitor center to be constructed under this subsection shall be operated and maintained at Federal expense in accordance with section 101(a)(18)(A)(iv) of the Water Resources Development Act of 1990.

(5) INTERIM MEASURES.—The Secretary is directed to provide increased and enhanced flood emergency operations and engineering preparedness and visitor services at the Corps of Engineers' Passaic River Division office in Hoboken, New Jersey, until such time as the center to be constructed under this subsection is operational.

**SEC. 104. SMALL NAVIGATION PROJECTS.**

The Secretary shall conduct a study for each of the following projects and, after completion of such study, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the existing channel to the Port of Cameron to dimensions of 18 feet by 200 feet.

(2) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the southern portion of the Cameron Loop to dimensions of 18 feet by 140 feet.

(3) PROVINCETOWN HARBOR, MASSACHUSETTS.—A navigation project for Provincetown Harbor, Massachusetts. The Secretary shall evaluate the benefits of the project to commercial fishermen based on full manufacturing wages.

(4) AUNT LYDIA'S COVE, CHATHAM, MASSACHUSETTS.—A navigation project for Aunt Lydia's Cove, Chatham, Massachusetts. The Secretary shall evaluate the benefits of the project to commercial fishermen based on full manufacturing wages.

(5) GRAND MARAIS, MINNESOTA.—A project for a harbor of refuge, Grand Marais, Minnesota.

(6) GRAND PORTAGE, MINNESOTA.—A project for a harbor of refuge, Grand Portage, Minnesota.

(7) SILVER BAY, MINNESOTA.—A project for a harbor of refuge, Silver Bay, Minnesota.

(8) SEAWAY PIER, BUFFALO, NEW YORK.—A navigation project for construction of a floating breakwater at Seaway Pier, Buffalo, New York.

(9) TANGIER ISLAND, VIRGINIA.—A navigation project for construction of a breakwater to protect navigation facilities at Tangier Island, Virginia.

**SEC. 105. SMALL FLOOD CONTROL PROJECTS.**

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects and, after completion of such study, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—A project for flood control, West Fork of the Blue River and Brock Creek, Salem, Indiana.

(2) WHITE RIVER, ELNORA, INDIANA.—A project for flood control, White River, Elnora, Indiana.

(3) WHITE RIVER, GIBSON COUNTY, INDIANA.—A project for flood control, White River, Hazelton, Gibson County, Indiana.

(4) WHITE RIVER, PETERSBURG, INDIANA.—A project for flood control, White River, Petersburg, Indiana.

(5) WABASH RIVER, KNOX COUNTY, INDIANA.—A project for flood control Wabash River, Knox County, Indiana.

(6) RED RIVER AT GRAND MARAIS OUTLET, MINNESOTA.—A project for flood control, Red River at Grand Marais Outlet, Minnesota.

(7) SULLIVAN RUN CREEK, BUTLER, PENNSYLVANIA.—A project for flood control, Sullivan Run Creek, Butler, Pennsylvania. The non-Federal share of the cost of the project shall be determined in accordance with section 103(m) of the Water Resources Development Act of 1986.

(8) LITTLE FOSSIL CREEK, TEXAS.—A project for flood control, Little Fossil Creek, Tarrant County, Texas.

(9) TURPENTINE RUN, ST. THOMAS, VIRGIN ISLANDS.—A project for flood control, Turpentine Run, St. Thomas, Virgin Islands.

(b) KROUT'S CREEK, WEST VIRGINIA, PROJECT MODIFICATION.—Section 104(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4619) is amended by adding at the end the following: "The benefits of the project shall be treated as exceeding the cost of the project.".

(c) LAKE ELSINORE, CALIFORNIA.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Lake Elsinore, California, shall be $8,000,000 instead of $5,000,000. The Secretary shall revise the local cooperation agreement for such project entered into on March 27, 1992, under section 221 of the Flood Control Act of 1970 to conform with the increase under this paragraph in the Federal participation in such project.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

(d) TELEGRAPH CANYON, CHULA VISTA, CALIFORNIA.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Telegraph Canyon, Chula Vista, California, shall be $10,000,000 instead of $5,000,000. The Secretary shall revise the local cooperation agreement for such project entered into, under section 221 of the Flood Control Act of 1970 to conform with the increase under this paragraph in the Federal participation in such project.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

(e) ST. PETERS, ST. CHARLES COUNTY, MISSOURI.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, St. Peters, St. Charles County, Missouri, shall be $10,000,000 instead of $5,000,000. The Secretary shall revise the local cooperation agreement for such project entered into under section 221 of the Flood Control Act of 1970 to conform with the increase under this paragraph in the Federal participation in such project.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

(f) FEATHER CREEK, CLINTON, INDIANA.—The project for flood control, Feather Creek, Clinton, Indiana, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), is modified to provide that, pursuant to section 103(m) of the Water Resources Development Act of 1986, the non-Federal share of the cost of the project shall be limited to the provision of lands, easements, rights-of-way, relocations, dredged material disposal areas, existing local flood control improvements, and a cash contribution in the amount of 5 percent of the cost of construction of the project.

### SEC. 106. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of San Francisco Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation, and site monitoring.

(3) PHASES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed not later than the last day of the 6-month period beginning on the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including construction of on-site improvements, shall be completed not later than the last day of the 10-month period beginning on the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started not later than July 1, 1994.

(D) FINAL PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of developing and carrying out the project under this section shall be 25 percent.

(2) LANDS EASEMENTS AND RIGHTS-OF-WAY.—Subject to paragraph (1), non-Federal interests shall provide lands, easements, and rights-of-way necessary to carry out the project the value of which shall be credited toward the non-Federal share.

(e) REPORTS TO CONGRESS.—Not later than the last day of each of the time periods referred to in subsection (c)(3), the Secretary shall report to Congress on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

### SEC. 107. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF AUTHORIZATION.—Section 1103(e) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)) is amended—

(1) in paragraph (2) by striking "ten" each place it appears and inserting "15";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) TRANSFER OF AMOUNTS.—

"(A) GENERAL RULE.—Subject to subparagraph (B), for each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior, and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer not to exceed 20 percent of the amount appropriated to carry out each of subparagraphs (A), (B), and (C) of paragraph (1) to carry out any other of such subparagraphs.

"(B) LIMITATION.—The aggregate amounts obligated in fiscal years 1988 through 2002—

"(i) to carry out paragraph (1)(A) may not exceed $189,600,000;

"(ii) to carry out paragraph (1)(B) may not exceed $78,800,000; and

"(iii) to carry out paragraph (1)(C) may not exceed $12,040,000.".

(b) FISH AND WILDLIFE HABITAT REHABILITATION AND ENHANCEMENT PROJECTS.—Section 1103(e) of such Act is amended by striking paragraph (7)(A), as redesignated by subsection (a)(2), and inserting the following new paragraph:

"(7)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906(e) of this Act; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is responsible for management activities for fish and wildlife on such lands.".

### SEC. 108. QUARANTINE FACILITY.

(a) CONSTRUCTION.—The Secretary, in consultation with the Governor of Florida, shall construct a research and quarantine facility in Broward County, Florida, to be used in connection with efforts to control Melaleuca and other exotic plant species that threaten native ecosystems in the State of Florida.

(b) OPERATION AND MAINTENANCE.—After construction, the Secretary shall transfer the facility constructed under this section to the Secretary of Agriculture. The facility shall be jointly maintained and operated by the Department of Agriculture and an appropriate agency or agencies of the State of Florida.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $3,000,000 for the construction of the facility described in subsection (a). Such sums shall remain available until expended.

### SEC. 109. COLUMBIA, SNAKE, AND CLEARWATER RIVERS.

(a) DREDGING.—The Secretary is authorized to maintain navigation access to, and berthing areas at, all currently operating public and private commercial dock facilities associated with or having access to the Federal navigation project on the Columbia, Snake, and Clearwater Rivers from Bonneville Dam to and including Lewiston, Idaho, at a depth commensurate with the Federal navigation project.

(b) EXEMPTION FROM LIABILITY.—The Federal Government is exempted from any liability for damages to public and private facilities resulting from work performed under this section, including any damages to docks adjacent to the access channel and berthing areas.

### SEC. 110. OUTER HARBOR, BUFFALO, NEW YORK.

The Secretary may construct such bulkheads along the Outer Harbor, Buffalo, New York, as *may be necessary to protect the shoreline and reduce the flow of pollutants into Lake Erie.*

### SEC. 111. SMALL STREAMBANK CONTROL PROJECTS.

*(a) ST. CROIX RIVER, MINNESOTA.—*

*(1) STUDY AND PROJECT AUTHORIZATION.—The Secretary shall conduct a study for a streambank and shoreline protection project for St. Croix River, Stillwater, Minnesota, consisting of repair and extension of a retaining wall and shall carry out such project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).*

*(2) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 14 of the Flood Control Act of 1946 for the project referred to in paragraph (1) shall be $2,000,000 instead of $500,000.*

*(3) COST SHARING.—Nothing in this section shall be construed as affecting any cost sharing requirements applicable to the project referred to in paragraph (1) under the Water Resources Development Act of 1986.*

*(b) WALNUT CANYON CREEK, ANAHEIM, CALIFORNIA.—The Secretary shall conduct a study for a streambank and shoreline protection project for Walnut Canyon Creek, Anaheim, California, and shall carry out such project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).*

*The project shall be carried out in accordance with the locally preferred plan, and the non-Federal sponsor shall provide 100 percent of any costs incurred in carrying out the project which are in excess of the costs which would have been incurred in carrying out the project in accordance with the National Economic Development Plan developed by the Secretary.*

### SEC. 112. MONTGOMERY POINT LOCK AND DAM, ARKANSAS.

*The Secretary shall proceed expeditiously with design, land acquisition, and construction of the Montgomery Point Lock and Dam on the White River, Arkansas, authorized as part of the McClellan-Kerr Waterway by section 10 of the River and Harbor Act of December 22, 1944 (58 Stat. 895).*

### SEC. 113. DELAWARE CANAL, PENNSYLVANIA.

*The Secretary may participate in the preservation, renovation, and rehabilitation of the Delaware Canal in the State of Pennsylvania, at a total cost of $18,000,000, with an estimated Federal cost of $9,000,000 and an estimated non-Federal cost of $9,000,000.*

### SEC. 114. MAJOR REHABILITATION.

*The costs of major rehabilitation of the following projects are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund:*

*(1) Brandon Road Lock, Dresden Lock, Marseille Lock, and Lockport Lock, Illinois Waterway, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $32,700,000.*

*(2) Lock and dam number 13, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $21,280,000.*

*(3) Locks and dam number 15, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $19,180,000.*

### SEC. 115. STUDIES.

*(a) JACKSON AND DEKALB COUNTIES, ALABAMA.—*

*(1) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study of the water supply, distribution, and transmission needs and the water quality problems of Jackson and DeKalb Counties, Alabama.*

*(2) PURPOSES.—The purpose of the study to be conducted under paragraph (1) is to develop recommendations for Federal and non-Federal participation in solving the problems described in paragraph (1) and to identify environmentally sound water management practices for implementation of the recommendations.*

*(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study to be conducted under paragraph (1), together with recommendations for solving the problems described in paragraph (1).*

*(b) CALLEGUAS CREEK, CALIFORNIA.—The Secretary shall conduct a feasibility study on Calleguas Creek, California, based on the reconnaissance phase analyses of full intensification benefits resulting from a change in agricultural practices within the floodplain to agricultural practices involving nonsubsidized crops. The study shall include an evaluation of cost-effective opportunities providing environmental protection of Mugu Lagoon and of the benefits associated with the environmental protection and restoration of Mugu Lagoon and shall quantify agricultural benefits using both traditional and nontraditional methods.*

*(c) CENTRAL BASIN GROUND WATER PROJECT, CALIFORNIA.—The Secretary is authorized to conduct a study for the purpose of determining whether there is contaminated ground water flowing downstream from the San Gabriel Valley Ground Water Basin to the Central Ground Water Basin in California through existing Federal facilities at Whittier Narrows Dam, Los Angeles County, California.*

*(d) RANCHO PALOS VERDES, CALIFORNIA.—*

*(1) STUDY.—The Secretary is authorized to conduct a study on shoreline protection measures at Rancho Palos Verdes, California, seaward of Palos Verdes Drive South in the Portuguese Bend and Abalone Cove coastline areas.*

*(2) CONDUCT.—In conducting the study under paragraph (1) and in evaluating costs and benefits of the shoreline protection measures, the Secretary shall give consideration to measures undertaken by non-Federal interests to stabilize the Portuguese Bend area.*

*(e) SANTA PAULA CREEK, CALIFORNIA.—The Secretary shall complete the general reevaluation study for the project for flood control, Santa Paula Creek, California, authorized by the Flood Control Act of 1948 (62 Stat. 1175–1182), and implement measures identified as feasible in such general reevaluation study.*

*(f) SUCCESS RESERVOIR, TULE RIVER, CALIFORNIA.—Not later than May 31, 1994, the Secretary shall complete and transmit to Congress a feasibility study for enlargement of the flood control project for the Success Reservoir, on the Tule River, California, authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 901). The study shall include a review of the need for, and desirability of, construction of an upstream toe berm for reservoir embankment stability. The Secretary shall conduct an analysis of the benefits and costs of the proposed enlargement (excluding benefits and costs associated with construction of the toe berm).*

*(f) DISTRICT OF COLUMBIA AND MARYLAND.—The Secretary shall, as part of the ongoing review of the Anacostia River Watershed in the District of Columbia and Maryland—*

*(1) carry out a comprehensive assessment of adverse impacts to such watershed from Federal facilities;*

*(2) review current plans for reducing such adverse impacts; and*

*(3) carry out a feasibility study to identify and recommend measures for implementation to eliminate such adverse impacts.*

*(g) CANAVERAL HARBOR, FLORIDA.—The Secretary shall expeditiously complete the General Design Memorandum for the sand transfer portion of the navigation project for Canaveral Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174).*

*(h) ST. JOHN'S RIVER CHANNEL, FLORIDA.—In carrying out the feasibility study on Federal improvements to the St. John's River Channel, Florida, the Secretary shall—*

*(1) examine the commercial and military uses of the channel in those areas traversed by both military and commercial vessels; and*

*(2) coordinate the activities of the Secretary with those of the Secretary of the Navy in order to utilize available studies and resources projecting future military dredging needs in the channel.*

*(i) TAMPA HARBOR, ALAFIA RIVER AND BIG BEND, FLORIDA.—The Secretary shall complete in an expeditious manner that portion of the navigation study for Tampa Harbor, Alafia River and Big Bend, Florida, relating to the Alafia River. The Secretary may accept contributions from non-Federal sponsors to cover costs incurred by the Secretary in carrying out such portion of such study.*

*(j) CEDAR RIVER AND TRIBUTARIES, BLACKHAWK, IOWA.—The Secretary shall complete the feasibility study for Cedar River and tributaries, Blackhawk, Iowa, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.*

*(k) CALCASIEU PARISH, LOUISIANA.—The Secretary shall conduct a study of the economic, engineering, and environmental feasibility of providing additional water supply for Calcasieu Parish and vicinity in southwest Louisiana, with a view toward providing for future regional increases in municipal and industrial water demand and for increasing agricultural production.*

*(l) PORT FOURCHON NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall complete the study for Federal maintenance of the Port Fourchon Navigation Channel, Louisiana, not later than the last day of the 12-month period beginning on the date of the enactment of this Act.*

*(m) BROCKTON, MASSACHUSETTS.—*

*(1) IN GENERAL.—The Secretary, in consultation with the Administrator for the Environmental Protection Agency, shall conduct a study of—*

*(A) the water supply, distribution, and transmission needs of the city of Brockton, Massachusetts, for the purpose of developing recommendations for Federal participation in meeting such needs;*

*(B) the economic, engineering, and environmental feasibility of providing additional water supply for Brockton, Massachusetts, and vicinity in the Taunton River Basin with a view toward providing for future regional increase in municipal and industrial water demands; and*

*(C) the water quality and quantity and related land resources of the Taunton River for the purpose of developing a detailed survey and evaluation of existing and future uses of the resources.*

*(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1). The report must include, at a minimum, a recommendation for the best location of a reservoir for water supply storage on the Taunton River as well as a treatment plant and a recommendation for a route for piping the water from the treatment plant to Brown's Crossing and to Brockton.*

*(n) HAVERHILL, MASSACHUSETTS.—*

*(1) STUDY.—The Secretary shall conduct a study on proposed uses of the seawall located in Haverhill, Massachusetts.*

(2) IMPLEMENTATION.—The Secretary is authorized to carry out the results of the study conducted under paragraph (1) and to provide technical assistance to non-Federal interests in developing plans for the seawall described in paragraph (1).

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted and the technical assistance provided under this subsection.

(o) GRAND MARAIS HARBOR, MICHIGAN.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall conduct an economic reevaluation of proposed improvements at Grand Marais Harbor, Michigan.

(p) YAZOO BASIN, MISSISSIPPI.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the recreational master plan for Yazoo Basin, Mississippi.

(2) PURPOSE.—The purpose of the review and evaluation to be conducted under paragraph (1) is to develop recommendations for Federal and non-Federal participation in the master plan referred to in paragraph (1).

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the review and evaluation to be conducted under this subsection.

(q) LAKE LEFFERTS AND LAKE MATAWAN, NEW JERSEY.—

(1) STUDY.—The Secretary is directed to study the feasibility of rehabilitating and otherwise ensuring the integrity of the dams and impoundments that created and enlarged Lake Lefferts and Lake Matawan, New Jersey, as a means of maintaining the high quality of the environmental ecosystems therein.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $750,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(r) LITTLE RIVER, NIAGARA FALLS, NEW YORK.—The Secretary shall complete the feasibility study for Little River, City of Niagara Falls, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(s) SHINNECOCK INLET, SUFFOLK COUNTY, NEW YORK.—The Secretary shall complete the feasibility study (including engineering and design) for the water quality project for Shinnecock Inlet, Suffolk County, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act. Such study shall analyze alternatives to the system of barriers and bay channels and pollutants inputs to determine appropriate measures to increase circulation, reduce pollutant loading, or otherwise improve water quality.

(t) STRAWBERRY ISLAND, NEW YORK.—

(1) COMPLETION OF STUDY.—The Secretary shall complete the feasibility study of shoreline protection for Strawberry Island, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(2) INTERIM EMERGENCY MEASURES.—Pending completion of the study of shoreline protection for Strawberry Island, New York, the Secretary shall undertake such emergency measures as may be necessary to provide shoreline protection for Strawberry Island.

(u) MAHONING RIVER, OHIO.—

(1) STUDY.—The Secretary shall enter into a cooperative agreement with Youngstown State University, Youngstown, Ohio, for the purpose of conducting a study of the water and related-land resources of the Mahoning River, Ohio, for the purpose of developing a detailed survey and evaluation of existing and future uses of such resources. The study shall include an identification of contaminated areas and land use alternatives.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000 for fiscal years beginning after September 30, 1992.

(v) CONSTRUCTING CANAL CONNECTING LAKE ERIE AND OHIO RIVER.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of constructing a canal connecting Lake Erie and the Ohio River, Ohio and Pennsylvania, for the purpose of navigation and shall submit to Congress a report containing the results of such study not later than 12 months after the date of the enactment of this Act. The Secretary shall cooperate with the County Engineers of Mahoning, Trumbull, and Ashtabula Counties of Ohio in conducting the study.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000 for fiscal year 1993.

(3) EXPENDITURE OF FUNDS.—The Secretary shall expend all funds appropriated for the study under this subsection.

(w) SALMON HARBOR, OREGON.—The Federal share of the cost of completion of the study for mitigation of shoreline damage attributable to the Federal navigation project at Salmon Harbor, Oregon, authorized by section 111 of the River and Harbor Act of 1968 (82 Stat. 735), shall be 100 percent.

(x) JUNIATA RIVER, PENNSYLVANIA.—

(1) PLAN DEVELOPMENT.—The Secretary shall develop a comprehensive greenway corridor plan for the Juniata River corridor in Pennsylvania. The plan shall address improvement of water quality, creation of recreational opportunities, reduction of flood damages, and improving opportunities for economic development along the river corridor.

(2) CONSULTATION.—In developing the corridor plan, the Secretary shall consult with appropriate Federal and State agencies.

(y) HAMPTON AND POQUOSON, VIRGINIA.—

(1) STUDY.—The Secretary shall conduct independent studies to determine the Federal interest in and feasibility of providing improvements to the Chesapeake Bay shoreline in the cities of Hampton and Poquoson, Virginia, for environmental protection and enhancement, and protection against high tides and wave action as a result of hurricane and other storm events.

(2) REPORT.—The Secretary shall submit to Congress a report on the results of the studies conducted under this subsection together with a plan of action which the Secretary recommends and an estimate of the cost of implementing such plan.

(z) TUG VALLEY GREENWAY, WEST VIRGINIA.—

(1) STUDY.—The Secretary is directed to conduct a study to determine the feasibility of establishing a "Tug Valley Greenway", in relation to those projects along the Tug Fork River in West Virginia authorized by section 202 of Public Law 96-367, for the purpose of utilizing the river environment for public recreation opportunities. Specific consideration shall be given in the study to providing for hiking trails, fishing access points, bike paths, and scenic overlooks.

(2) CONSULTATION.—In conducting the study under this subsection, the Secretary shall consult with interested State and local government authorities and nonprofit organizations.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

### SEC. 116. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS AND STUDIES.

(a) GENERAL RULE FOR PROJECTS.—Notwithstanding section 1001 of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811(a) of the Water Resources Development Act of 1986 (100 Stat. 4168).

(2) LAKE PONTCHARTRAIN, NORTH SHORE, LOUISIANA.—The project for beach erosion control, navigation, and recreation, Lake Pontchartrain, North Shore, Louisiana, authorized by section 601 of the Water Resources Development of 1986 (100 Stat. 4142).

(3) ALBERT LEA LAKE, FREEBORN COUNTY, MINNESOTA.—The project for removal of silt, aquatic growth, and other material, Albert Lea Lake, Freeborn County, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148–4149).

(4) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(5) DEAL LAKE, MONMOUTH COUNTY, NEW JERSEY.—The project for removal of silt and stumps and the control of pollution from nonpoint sources, Deal Lake, Monmouth County, New Jersey, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148–4149).

(6) TYRONE, PENNSYLVANIA.—The project for flood protection, Tyrone, Pennsylvania, on the Little Juniata River authorized by section 10 of the Flood Control Act of December 23, 1944 (58 Stat. 893). The Secretary shall examine lower cost alternative measures for providing flood protection for Tyrone, Pennsylvania, and submit to Congress a report on the results of such examination not later than April 1, 1994.

(7) BIG PINE LAKE, TEXAS.—The project for flood control, Big Pine Lake, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1186).

(b) SANTA CRUZ HARBOR, CALIFORNIA, STUDY.—Notwithstanding section 710 of the Water Resources Development Act of 1986 (100 Stat. 4160), the study for Santa Cruz Harbor, Santa Cruz, California, authorized by section 811(b) of such Act (100 Stat. 4168), shall remain authorized to be carried out by the Secretary.

(c) LIMITATIONS.—

(1) FOR PROJECTS.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(2) FOR STUDIES.—The study described in subsection (b) shall not be authorized after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been appropriated for such study.

### SEC. 117. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BOSTON INNER HARBOR CHANNEL, MASSACHUSETTS.—The following 305,340-square-foot portion of the 35-foot channel in Boston Inner Harbor lying easterly of the Charlestown waterfront and westerly of the 40-foot main ship

channel, authorized by the River and Harbor Act of June 13, 1902:

Commencing at a point of the intersection of the 35-foot channel line and the westerly 40-foot main ship channel line in Boston Harbor, said point being opposite the east face of Pier 11, Charlestown, Massachusetts; thence running south 10 degrees 17 minutes 15 seconds east 323.54 feet to a point; thence turning and running south 15 degrees 21 minutes 11 seconds west 1,785.75 feet to a point, said last two courses being along the westerly 40-foot main ship channel line; thence turning and running south 65 degrees 18 minutes 42 seconds west 573.52 feet to a point at the bend in the existing westerly 35-foot channel line southeasterly of Pier 4 at Charlestown, Massachusetts; thence turning and running north 50 degrees 11 minutes 25 seconds east 523.55 feet to a point; thence turning and running north 15 degrees 21 minutes 11 seconds east 2,016.68 feet to a point of beginning, said last two courses being along the westerly 35-foot channel line.

(2) NEWBURYPORT, MASSACHUSETTS.—The following portion of the project for navigation, Newburyport Harbor, Massachusetts, authorized by the River and Harbor Act of 1910 (36 Stat. 632):

Commencing at a point north 661793.19 east 768152.83 a line running: north 39 degrees 07 minutes 47 seconds east 227.04 feet to a point north 661969.31 east 768296.11 thence turning and running, south 68 degrees 53 minutes 36 seconds east 2402.44 feet to a point north 661104.18 east 770537.38 thence turning and running, north 84 degrees 27 minutes 35 seconds east 1325.37 feet to a point north 661232.14 east 771856.55 thence turning and running, south 54 degrees 05 minutes 43 seconds west 327.30 feet to a point north 661040.20 east 771591.44 thence turning and running, south 25 degrees 40 minutes 37 seconds west 579.02 feet to a point north 660518.31 east 771340.53 thence turning and running, north 67 degrees 15 minutes 59 seconds west 1791.61 feet to a point north 661210.67 east 769688.11 thence turning and running, north 77 degrees 45 minutes 23 seconds west 1187.30 feet to a point north 661462.46 east 768527.82 thence turning and running, north 48 degrees 35 minutes 19 seconds west 500.00 feet returning to a point north 661793.19 east 768152.83.

(3) GREILICKVILLE, MICHIGAN.—The following portion of the navigation project for Greilickville, Michigan, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1173):

Beginning at the northwest corner of the turning basin, Federal navigation project, Grielickville Harbor, Leelanau County, Michigan, having a northing of 1,199,300 and an easting of 529,501 (Michigan Transverse Mercator, Central Zone, NAD 27) and being depicted on the Department of the Army, Detroit District Corps of Engineers Condition of Channel, sheet 1 of 1, dated March 1991; thence 77 degrees 18 minutes 20.4 seconds a distance of 250.7 feet, thence 167 degrees 18 minutes 20.4 seconds a distance of 175 feet, thence 94 degrees 12 minutes 39.2 seconds a distance of 222.8 feet, thence 167 degrees 36 minutes 07.2 seconds a distance of 600 feet, thence 303 degrees 41 minutes 24.2 seconds a distance of 57.7 feet, thence 257 degrees 22 minutes 57.6 seconds a distance of 421.2 feet, thence 347 degrees 19 minutes 23.2 seconds a distance of 797.4 feet to the point of beginning, containing 7.48 acres more or less.

(4) SOUTH HAVEN HARBOR, MICHIGAN.—The following portion of the navigation project for South Haven Harbor, Michigan, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and prevention of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1036):

Beginning at the southwest corner of the turning basin, Federal navigation project, South Haven, Van Buren County, Michigan, having a northing of 330,253.86 and an easting of 358,150.44 (Michigan Transverse Mercator, East Zone, NAD 27) and being depicted on the Department of the Army, Detroit District, Corps of Engineers, condition of channel sheet 2 of 2 dated February 1992; thence north 22 degrees 27 minutes 11 seconds east, along the westerly boundary, a distance of 412.51 feet, thence north 70 degrees 45 minutes 39 seconds east, a distance of 41.91 feet, thence south 61 degrees 05 minutes 08 seconds east, a distance of 325.77 feet, thence south 87 degrees 33 minutes 26 seconds east, a distance of 39.89 feet, thence south 43 degrees 25 minutes 55 seconds west, a distance of 110.35 feet, thence south 70 degrees 45 minutes 56 seconds west, a distance of 472.65 to the point of beginning (containing 2.19 acres, more or less).

(5) SAG HARBOR, NEW YORK.—The navigation project (other than the breakwater) for Sag Harbor, New York, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1030).

### SEC. 118. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

Section 1080 of the Intermodel Surface Transportation Efficiency Act of 1991 (105 Stat. 2020) is amended by inserting "thence north 00°-18'-51" west, a distance of 764.43 feet;" after "551.30 feet;".

### SEC. 119. NAMINGS.

(a) LOCK AND DAM 3, ARKANSAS RIVER, ARKANSAS.—

(1) DESIGNATION.—Lock and dam numbered 3 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "Joe Hardin Lock and Dam".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Joe Hardin Lock and Dam".

(b) GREERS FERRY LAKE VISITORS CENTER, ARKANSAS.—

(1) DESIGNATION.—The visitors center at Greers Ferry Lake, Arkansas, authorized by section 4 of the Act of June 28, 1938 (52 Stat. 2218), shall be known and designated as the "William Carl Garner Visitors Center".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "William Carl Garner Visitors Center".

(c) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) DESIGNATION.—The reservoir created by the James W. Trimble Lock and Dam on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "John Paul Hammerschmidt Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "John Paul Hammerschmidt Lake".

(d) RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—The lock numbered 5 on the Red River Waterway, Louisiana, is designated as the "Joe D. Waggonner, Jr. Lock".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, map, or other paper of the United States to the lock referred to in paragraph (1) shall be deemed to be a reference to the "Joe D. Waggonner, Jr. Lock".

(e) GALLIPOLIS LOCKS AND DAM, OHIO RIVER, OHIO AND WEST VIRGINIA.—

(1) DESIGNATION.—The Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), shall hereafter be known and designated as the "Robert C. Byrd Locks and Dam".

(2) LEGAL REFERENCES.—A REFERENCE IN ANY LAW, REGULATION, DOCUMENT, RECORD, MAP, OR OTHER PAPER OF THE UNITED STATES TO THE LOCKS AND DAM REFERRED TO IN PARAGRAPH (1) SHALL BE DEEMED TO BE A REFERENCE TO THE "ROBERT C. BYRD LOCKS AND DAM".

(f) MILL CREEK RESERVOIR, WASHINGTON.—

(1) DESIGNATION.—The Mill Creek Reservoir, authorized by section 4 of the River and Harbor Act of June 28, 1938 (52 Stat. 1222), shall hereafter be known and designated as the "Virgil B. Bennington Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the reservoir referred to in paragraph (1) shall be deemed to be a reference to the "Virgil B. Bennington Lake".

## TITLE II—GENERALLY APPLICABLE PROVISIONS

### SEC. 201. COST-SHARING OF ENVIRONMENTAL PROJECTS.

Section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) subject to section 906 of this Act, environmental protection and restoration: 25 percent.".

### SEC. 202. PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C 2309a; 100 Stat. 4251–4252) is amended—

(1) by inserting at the end of subsection (b) the following new sentence: "No modification shall be carried out under this section without specific authorization by Congress if the estimated cost exceeds $5,000,000."; and

(2) in subsection (e) by striking "$15,000,000" and inserting "$25,000,000".

### SEC. 203. VOLUNTARY CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.

(a) ACCEPTANCE.—In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

(b) DEPOSIT.—Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out water resources projects described in subsection (a).

### SEC. 204. RECONSTRUCTION OF LANDS ADVERSELY AFFECTED BY WATER RESOURCES PROJECTS.

In carrying out a water resources project, the Secretary, whenever practicable, shall reconstruct any lands adversely affected by such project to an aesthetically appealing and environmentally compatible condition upon completion of the project. Costs incurred pursuant to this section shall be assigned to project purposes as mitigation costs.

### SEC. 205. BENEFICIAL USES OF DREDGED MATERIAL.

(a) IN GENERAL.—The Secretary is authorized to carry out projects for the protection, restora-

*tion, and creation of aquatic and ecologically related habitats, including wetlands, in connection with dredging for construction, operation, or maintenance by the Secretary of an authorized navigation project.*

*(b) SECRETARIAL FINDINGS.—Subject to subsections (c) and (d) of this section, projects for the protection, restoration, or creation of aquatic and ecologically related habitats shall be undertaken in any case where the Secretary finds that—*

*(1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost thereof; and*

*(2) the project would not result in environmental degradation.*

*(c) COOPERATIVE AGREEMENT.—Any project undertaken pursuant to this section shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to—*

*(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and*

*(2) pay 100 percent of the costs of operation, maintenance, replacement, and rehabilitation costs associated with the project.*

*(d) MAXIMUM FEDERAL SHARE.—The Federal share of the cost of each project implemented under this section shall not exceed $2,000,000.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $15,000,000 annually to carry out this section. Such sums shall remain available until expended.*

### SEC. 206. DEFINITION OF REHABILITATION FOR INLAND WATERWAY PROJECTS.

*For purposes of laws relating to navigation on inland and intracoastal waterways of the United States, the term "rehabilitation" means—*

*(1) major project feature restoration—*

*(A) which consists of structural work on an inland navigation facility operated and maintained by the Corps of Engineers;*

*(B) which will significantly extend the physical life of the feature;*

*(C) which is economically justified by a benefit-cost analysis;*

*(D) which will take at least 2 years to complete; and*

*(E)(i) which is initially funded before October 1, 1994, and will require at least $5,000,000 in capital outlays; or*

*(ii) which is initially funded on or after such date and will require at least $8,000,000 in capital outlays; and*

*(2) structural modification of a major project component (not exhibiting reliability problems)—*

*(A) which will enhance the operational efficiency of such component or any other major component of the project by increasing benefits beyond the original project design; and*

*(B) which will require at least $1,000,000 in capital outlays.*

*Such term does not include routine or deferred maintenance. The dollar amounts referred to in paragraphs (1) and (2) shall be adjusted annually according to the economic assumption published each year as guidance in the Annual Program and Budget Request for Civil Works Activities of the Corps of Engineers.*

### SEC. 207. CONSTRUCTION OF SHORELINE PROTECTION PROJECTS BY NON-FEDERAL INTERESTS.

*(a) AUTHORITY.—Non-Federal interests are authorized to undertake shoreline protection projects on the coastline of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.*

*(b) STUDIES AND ENGINEERING.—*

*(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken under subsection (a).*

*(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.*

*(c) COMPLETION OF STUDIES.—The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for shoreline protection which was initiated before the date of the enactment of this Act or, upon the request of such non-Federal interest, to terminate the study and transmit the partially completed study to the non-Federal interest for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b).*

*(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—*

*(1) IN GENERAL.—Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a shoreline protection project or separable element thereof, based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.*

*(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.*

*(3) MONITORING.—The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.*

*(e) REIMBURSEMENT.—*

*(1) GENERAL RULE.—Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized shoreline protection project, or separable element thereof, constructed under this section—*

*(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by such non-Federal interest; and*

*(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.*

*(2) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.*

*(3) MONITORING.—The Secretary shall regularly monitor and audit any project for shore protection constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.*

*(4) LIMITATION ON REIMBURSEMENTS.—No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits or approved plans.*

### SEC. 208. COST-SHARING FOR DISPOSAL OF DREDGED MATERIAL ON BEACHES.

*Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by striking the last sentence and inserting the following new sentences: "At the request of the State, the Secretary may enter into an agreement with a political subdivision of the State to place sand on the beaches of the political subdivision of the State under the same terms and conditions required in the first sentence of this section; except that the political subdivision shall be responsible for providing any payments required under such sentence in lieu of the State. In carrying out this section, the Secretary shall give consideration to the schedule of the State, or the schedule of the responsible political subdivision of the requesting State, for providing its share of funds for placing such sand on the beaches of the State or the political subdivision and shall, to the maximum extent practicable, accommodate such schedule.".*

### SEC. 209. FEES FOR DEVELOPMENT OF STATE WATER PLANS.

*Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—*

*(1) in subsection (b) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:*

*"(3) IN-KIND SERVICES.—Up to ½ of the non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan."; and*

*(2) in subsection (d) by inserting "Indian tribes," after "States of the United States,".*

### SEC. 210. COLLABORATIVE RESEARCH AND DEVELOPMENT.

*Section 7 of the Water Resources Development Act of 1988 (33 U.S.C. 2313) is amended by adding at the end the following new subsection:*

*"(f) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.".*

### SEC. 211. DAM SAFETY PROGRAM EXTENSION.

*(a) STATE SAFETY PROGRAMS.—The first sentence of section 7(a) of Public Law 92–367 (33 U.S.C. 467f(a)) is amended by striking "1992" and inserting "1998".*

*(b) STATE TRAINING PROGRAMS.—The second sentence of section 11 of Public Law 92–367 (33 U.S.C. 467j) is amended by striking "1992" and inserting "1998".*

(c) RESEARCH PROGRAM.—The last sentence of section 12 of Public Law 92–367 (33 U.S.C. 467k) is amended by striking "1992" and inserting "1998".

(d) DAM INVENTORY.—The second sentence of section 13 of Public Law 92–367 is amended by striking "1992" and inserting "1998".

(e) MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.—

(1) IN GENERAL.—The Secretary is authorized to provide planning, engineering and design, construction, technical, and other assistance to non-Federal interests for repair, reconstruction, or other modification to Mussers Dam, Middle Creek, Snyder County, Pennsylvania, in order to bring such dam into compliance with the safety requirements which the Federal Energy Regulatory Commission has determined to be necessary.

(2) COORDINATION.—The Secretary shall provide any assistance under paragraph (1) in coordination with the Federal Energy Regulatory Commission and State and local interests.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting or modifying—

(A) the obligations of non-Federal interests under the Federal Power Act or any license, permit, or exemption issued under such Act; or

(B) the duties and responsibilities of the Federal Energy Regulatory Commission under the Federal Power Act to require and enforce on a timely basis safety compliance with such Act and any license, permit, or exemption issued under such Act.

(f) BEAVER LAKE, ARKANSAS.—All costs incurred in carrying out the project to correct seepage problems at Beaver Lake, Arkansas, shall be treated as costs incurred for a dam safety project and shall be subject to cost sharing in accordance with section 1203 of the Water Resources Development Act of 1986.

### SEC. 212. SAFETY AWARD AND PROMOTIONAL MATERIALS.

(a) PROMOTION OF SAFETY PROGRAM.—

(1) PROCUREMENT OF PROMOTIONAL MATERIALS.—The Secretary is authorized to procure materials that, in the judgment of the Secretary, are necessary to promote the Corps of Engineers safety program.

(2) DISTRIBUTION OF MATERIALS TO EMPLOYEES.—The items purchased pursuant to this subsection shall be distributed to employees of the Corps of Engineers to advance the goals of the safety program.

(b) EMPLOYEE RECOGNITION.—The Secretary is authorized to incur necessary expenses for the honorary recognition of the outstanding safety performance of employees of the Corps of Engineers. Such recognition may be in the form of certificates, plaques, cash, or other forms of awards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $350,000 for each fiscal year beginning after September 30, 1992, for carrying out the purposes of this section.

### SEC. 213. WORK FOR OTHERS.

Section 3036(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'State' includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.".

### SEC. 214. DISCOUNT RATE FOR EVALUATION OF WATER RESOURCE PROJECTS.

Section 80(a) of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-17(a)) is amended by inserting after the first sentence the following new sentence: "Such benefits and costs shall include inflation over the life of the project.".

### SEC. 215. HOPPER DREDGES.

(a) LIMITATION ON ACTIONS TO REDUCE DREDGE FLEET.—Notwithstanding any other provision of law, the Secretary shall not take any action to reduce the size of the dredge fleet of the Corps of Engineers before the last day of the 1-year period beginning on the date of submission of the report under subsection (b).

(b) COMPLETION OF REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete and submit to Congress a report on a minimum dredge fleet for the Corps of Engineers.

(c) CERTIFICATION.—If the report submitted to Congress under subsection (b) contains any recommendation to limit or reduce the dredge fleet of the Corps of Engineers, such report shall also contain a certification by the Secretary that such limitation or reduction—

(1) would not have a significant adverse impact on available dredging capacity necessary to undertake work at reasonable prices and in a timely manner on a local, regional, or national basis;

(2) would not result in a diminution in quality of service for any federally authorized navigation channel which is served by a dredge vessel operated by the Corps of Engineers;

(3) would not limit the ability of the Corps of Engineers to ensure a quick response to emergency dredging needs or natural disasters; and

(4) would not result in a degradation of competition for dredging services at any federally authorized navigation project.

(d) CONSULTATION.—Before submitting the report to Congress under subsection (b), the Secretary shall provide an opportunity for comment to local, regional, and national representatives of ports and other waterway user groups which may be impacted by any proposed limititation or reduction in the dredge fleet of the Corps of Engineers.

(e) COMPETITIVE DREDGING.—

(1) FISCAL YEAR 1993.—In fiscal year 1993, the Secretary shall advertise for competitive bid at least 10,000,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992 or one-third of such volume, whichever is greater.

(2) FISCAL YEARS 1994–1996.—In fiscal years 1994, 1995, and 1996, the Secretary shall further increase the hopper dredge volume advertised for competitive bid, increasing the volume as evenly as practicable over such 3-year period.

(3) BIDDING ON WORK.—The Secretary may bid on work under this subsection with government-owned vessels consistent with methods used to implement section 3 of the Act of August 11, 1888 (33 U.S.C. 622), and section 8 of the Act of March 2, 1919 (33 U.S.C. 624).

(4) AUTHORITY OF SECRETARY TO USE FEDERAL DREDGE FLEET.—Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work.

(B) solicitations for bids are issued after the date of the enactment of this Act.

(3) REPORTS.—The Secretary shall report to Congress on procurements covered under this subsection of products that are not domestic products.

(b) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

### SEC. 218. RURAL PROJECT EVALUATION AND SELECTION CRITERIA.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives with specific legislative and other recommendations on—

(1) improving the equitable distribution of water resources development projects in rural areas, including recommendations for—

(A) giving greater value to properties in rural areas;

(B) making the ability to pay provision of section 103(m) of the Water Resources Development Act of 1986 apply more equitably; and

(C) giving greater value to crop lands and crops; and

(2) giving greater emphasis to—

(A) projected increases in values of property, crop lands, and crops which will result from completion of a proposed water resources development project;

(B) projected increases in the ability to pay by residents which will result from completion of a proposed water resources development project; and

(C) other benefits assumed to increase upon completion of a proposed water resources development project.

### SEC. 219. COMPENSATION OF CORPS OF ENGINEERS EMPLOYEES.

(a) SPECIAL POWER RATE EMPLOYEES.—The Secretary shall conduct a comparative analysis, on a regional basis, of—

(1) the compensation (including basic wage rates and differential pay) provided to employees of the Corps of Engineers who are paid from the Corps of Engineers Special Power Rate Schedule and who are employed at water resources projects of the Corps; and

(2) the compensation provided to employees of other Federal agencies who perform duties similar to those performed by such employees of the Corps of Engineers.

(b) REGULATORY EMPLOYEES.—The Secretary shall conduct a comparative analysis of—

(1) the compensation provided to employees of the Corps of Engineers who carry out regulatory functions; and

(2) the compensation provided to employees of other Federal agencies who carry out functions similar to those performed by such employees of the Corps of Engineers;

for the purpose of determining whether or not an adjustment to the compensation provided to such employees of the Corps of Engineers is needed.

(c) PUBLIC PARTICIPATION.—In conducting the analyses under subsections (a) and (b), the Secretary shall provide opportunities for public participation.

(d) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the analyses conducted under subsections (a) and (b), together with any recommendations of the Secretary, and shall implement such recommendations.

### SEC. 220. ELIGIBLE OPERATIONS AND MAINTENANCE FOR HARBOR DEVELOPMENT AND NAVIGATION PROJECTS.

(a) GENERAL RULE.—Section 214(2) of the Water Resources Development Act of 1986 (100 Stat. 4108) is amended—

(1) by inserting before the period at the end of subparagraph (A) the following: "and including provision of dredged material disposal areas which become reasonably necessary, after the date of the enactment of the Water Resources Development Act of 1992, to maintain such width and depth";

(2) by inserting before the period at the end of subparagraph (B) the following: "and including

provision of dredged material disposal areas which become reasonably necessary, after the date of the enactment of the Water Resources Development Act of 1992, to keep such Seaway or navigation improvements in operation and a reasonable state of repair"; and

(3) in subparagraph (C) by striking "rights-of-way, or dredged material disposal areas," and inserting "or rights-of-way (other than dredged material disposal areas),".

(b) PAYMENTS DURING CONSTRUCTION.—Section 101(a) of such Act (100 Stat. 4082–4083) is amended—

(1) in paragraph (3) by inserting "and" before "relocations" the first place it appears;

(2) in paragraph (3) by striking "), and dredged material disposal areas" and inserting "and dredged material disposal areas)";

(3) by adding at the end the following new paragraph:

"(5) DREDGED MATERIAL DISPOSAL AREAS.—For purposes of paragraph (1), the costs of construction of a project or separable element thereof, on which a contract for construction has not been awarded before the date of the enactment of this paragraph, shall include costs associated with providing dredged material disposal areas necessary for the project or element (including land acquisition costs).".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to projects authorized to be carried out before, on, or after the date of the enactment of this Act.

### SEC. 221. EXPEDITED COMPLETION OF PROJECTS.

(a) STUDY.—The Secretary shall conduct a study for the purpose of developing recommendations for expediting the study, planning, and construction of civil works projects of the Corps of Engineers.

(b) EXAMINATION OF STREAMLINE METHODS.—In conducting the study under subsection (a), the Secretary shall examine methods for streamlining the study, planning, and construction of civil works projects of the Corps of Engineers and review the management structure of the Corps of Engineers.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including a description of measures implemented by the Secretary to expedite the study, planning, and construction of civil works projects of the Corps of Engineers.

### SEC. 222. CONTRACT GOALS FOR SMALL DISADVANTAGED BUSINESS CONCERNS AND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES OR MINORITY INSTITUTIONS.

(a) GOAL.—Except as provided in subsection (c), the Secretary shall establish a goal of 5 percent of the total amount of Civil Works funds obligated for contracts and subcontracts entered into by the Department of the Army for fiscal year 1993 for award to small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d) and regulations issued under such section), the majority of the earnings of which directly accrue to such individuals, and to historically Black colleges and universities or minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

(b) COMPETITIVE PROCEDURE.—To the extent practicable and when necessary to facilitate achievement of the 5 percent goal in subsection (a)—

(1) the Secretary is authorized to enter into contracts using less than full and open competitive procedures, but shall pay a price not exceeding the fair market cost by more than 10 percent in payment per contract to contractors or subcontractors of contracts described in subsection (a); and

(2) the Secretary shall maximize the number of small disadvantaged business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(c) EXCEPTION.—For purposes of subsection (b), the same exception that is recognized in section 712(a) of Public Law 100–656 for set asides pursuant to section 1207 of Public Law 99–661 shall apply.

(d) APPLICABILITY.—Subsection (a) does not apply if—

(1) the Secretary determines that the existence of a national emergency requires otherwise; and

(2) the Secretary notifies the Congress of such determination and the reasons therefor.

### SEC. 223. REUSE OF WASTE WATER.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out projects for the beneficial reuse of waste water. Such assistance may be in the form of grants, loans, and technical planning and design, and construction assistance. If the Secretary is to provide any design, engineering, or construction assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in te private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects for which assistance (other than loans) is provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) AUTHORIZATION BY LAW.—No assistance may be provided by the Secretary to carry out a project under this section unless such project and assistance are specifically authorized by law.

(d) SANTA CLARA VALLEY WATER DISTRICT AND SAN JOSE, CALIFORNIA.—

(1) IN GENERAL.—The Secretary is authorized to make grants and loans under this section to the Santa Clara Valley Water District in San Jose, California, and to the city of San Jose, California, to demonstrate and field test for public use innovative processes which advance the technology of waste water reuse and treatment and which promote the use of treated waste water for critical water supply purposes and for the protection of fish and wildlife in the San Francisco Bay. All design, construction, and comprehensive health effects studies shall be accomplished by non-Federal interests.

(2) GRANTS.—Grants may be made under this subsection—

(A) for the design and construction of an innovative nonpotable waste water reuse treatment facility with distribution systems,

(B) for the design and construction of an innovative potable waste water reuse pilot plant, and

(C) for implementation of a comprehensive health effects study of the performance of the potable waste water reuse pilot plant.

(3) LOANS.—After the pilot plant constructed under paragraph (2) is operational, loans may be made under this subsection for the design and construction of a potable waste water reuse project, along with integration of the additional potable processes into the existing nonpotable facilities, and the extension of the distribution systems to groundwater recharge areas, if the Secretary determines that the established public health requirements and water quality goals and objectives are being met by the pilot plant, the public health and safety is not at risk as a result of the operation of the pilot plant, and the pilot plant is operating reliably. Such loans shall be for terms not to exceed 40 years, 50 percent of such loans shall be interest free loans, the remainder of such loans shall bear interest at a rate equivalent to long-term Treasury bonds plus ⅛ of 1 percent, and annual principal and interest payments on such loans shall commence no later than 1 year after completion of the potable waste water reuse project.

(4) FEDERAL SHARE.—The Federal share for grants made under paragraph (2) shall be 75 percent.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1992—

(A) for making grants under this subsection $100,000,000; and

(B) for making loans under this subsection $200,000,000.

Such sums shall remain available until expended.

(e) SOUTHERN CALIFORNIA COMPREHENSIVE WATER REUSE SYSTEM.—

(1) IN GENERAL.—The Secretary is authorized under this section to participate in the study, engineering, design, and construction of a regional water reuse system for Southern California to treat, store, and transfer water in order to provide a new increment of water supply for agricultural, municipal, industrial, and environmental needs of Southern California.

(2) COOPERATION.—The Secretary shall carry out this subsection in cooperation with the State of California and appropriate local and regional entities.

(3) FEDERAL SHARE.—The Federal share of the costs of carrying out this subsection shall be 50 percent.

(4) REPORT.—Not later than 2 years after the date of the first appropriation of funds to carry out this subsection, the Secretary shall transmit a report on the results of the study authorized by this subsection to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(5) SOUTHERN CALIFORNIA DEFINED.—For purposes of this subsection, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, Ventura, Santa Barbara and San Luis Obispo, California, within the south coast, central coast, and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(f) SAN DIEGO AREA WATER REUSE DEMONSTRATION FACILITIES.—

(1) IN GENERAL.—The Secretary, in cooperation with appropriate Federal, State, and local agencies, is authorized under this section to study, engineer, design, and construct water reuse facilities (in a manner not inconsistent with facilities mandated by the United States District Court in San Diego, California) to develop advance technology for economically and environmentally sound alternative water supplies for the San Diego metropolitan area.

(2) FEDERAL SHARE.—The Federal share of the costs of carrying out this subsection shall be 50 percent.

(3) REPORT.—Not later than 2 years after the date of the first appropriation of funds to carry out this subsection, the Secretary shall transmit a report on the results of the study authorized by this subsection to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

*(g) SANTA ROSA WATER REUSE PROJECTS.—*

*(1) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized under this section to participate, with the city of Santa Rosa, California, and other appropriate authorities, in the design, planning, and construction of water reuse projects to treat waste water and store such treated water for the purposes of providing new water supplies for agriculture, municipal, environmental, and other purposes and reducing the use of potable water supplies for purposes where treated waste water is a viable substitute.*

*(2) FEDERAL SHARE.—The Federal share of the costs of the design and planning authorized by this subsection shall be 50 percent.*

*(h) SOSCOL WASTEWATER TREATMENT PLANT EXPANSION.—*

*(1) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized under this section to participate with the county of Napa, California, and other appropriate authorities, in the design, planning, and construction of expansion of the Soscol Wastewater Treatment Plant in such county.*

*(2) FEDERAL SHARE.—The Federal share of the costs of the design and planning authorized by this subsection shall be 50 percent.*

*(i) MONTEREY COUNTY, CALIFORNIA.—*

*(1) IN GENERAL.—The Secretary, in cooperation with the Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency, is authorized to study, engineer, design, and construct a project to reduce salt water intrusion into acquifers in the vicinity of Castroville, California, for the purposes of improving the water quality of Monterey Bay and enhancing long-term water supply in the area.*

*(2) FEDERAL SHARE.—The Federal share of the costs of the study, design, engineering, and construction authorized by this subsection shall be 50 percent.*

***SEC. 224. ENVIRONMENTAL INFRASTRUCTURE.***

*(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out environmental infrastructure and resource protection and development projects for waste water treatment and related facilities and water supply, storage, treatment, and distribution facilities. Such assistance may be in the form of grants, loans, and technical, planning and design, and construction assistance. If the Secretary is to provide any design, engineering, or construction assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—*

*(1) the service would require the use of a new technology unavailable in the private sector; or*

*(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.*

*(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects for which assistance (other than loans) is provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.*

*(c) AUTHORIZATION BY LAW.—No assistance may be provided by the Secretary to carry out a project under this section unless such project and assistance are specifically authorized by law.*

*(d) SPECIFICALLY AUTHORIZED PROJECTS.—The Secretary is authorized to carry out the following projects under this section:*

*(1) BENTON AND WASHINGTON COUNTIES, ARKANSAS.—The Secretary is authorized to provide planning, design, construction, grant, and loan assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, at an estimated total cost of $31,000,000.*

*(2) WASHINGTON, D.C. AND MARYLAND.—The Secretary is authorized to provide planning, design, construction, grant, and loan assistance for measures to alleviate adverse water quality impacts resulting from storm water discharges from Federal facilities in the Anacostia River watershed, Washington, D.C. and Maryland, at an estimated total cost of $34,000,000.*

*(3) ATLANTA, GEORGIA.—The Secretary is authorized to make a grant in the amount of $82,000,000 to the city of Atlanta, Georgia, for construction of a combined sewer overflow treatment facility.*

*(4) HAZARD, KENTUCKY.—The Secretary is authorized to provide planning, engineering, design, and technical assistance to the city of Hazard, Kentucky, for construction of a water system (including a 13,000,000 gallon per day water treatment plant), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks.*

*(5) ROUGE RIVER, MICHIGAN.—The Secretary is authorized to make a grant in the amount of $20,000,000 to assist in the completion of a comprehensive streamflow enhancement project for the Rouge River, Wayne and Washtenaw Counties, Michigan.*

*(6) JACKSON COUNTY, MISSISSIPPI.—The Secretary is authorized to make a grant in the amount of $8,350,000 to Jackson County, Mississippi, to provide an alternative water supply.*

*(7) EPPING, NEW HAMPSHIRE.—The Secretary is authorized to provide planning, engineering, design, and technical assistance to the town of Epping, New Hampshire, to evaluate and assist in addressing expanded and advanced wastewater treatment needs.*

*(8) MANCHESTER, NEW HAMPSHIRE.—The Secretary is authorized to make a grant in the amount of $10,000,000 to the city of Manchester, New Hampshire, to eliminate combined sewer overflows.*

*(9) ROCHESTER, NEW HAMPSHIRE.—The Secretary is authorized to make a grant in the amount of $11,000,000 to the city of Rochester, New Hampshire, for advanced wastewater treatment.*

*(10) PATERSON AND PASSAIC COUNTY, NEW JERSEY.—The Secretary is authorized to make a grant in the amount of $5,000,000 to the city of Paterson, New Jersey, and Passaic County, New Jersey, for the construction of drainage facilities to alleviate flooding problems on Getty Avenue in the vicinity of St. Joseph's Hospital.*

*(11) STATE OF NEW JERSEY AND NEW JERSEY WASTEWATER TREATMENT TRUST.—*

*(A) IN GENERAL.—Subject to subparagraph (B), the Secretary is authorized to make grants under this section to the State of New Jersey to be used for making interest-free loans to those local government units that ceased the discharge of sewage sludge in the Atlantic Ocean.*

*(B) LIMITATIONS ON LOANS.—The State of New Jersey may only make interest free loans with funds from grants under this subsection—*

*(i) if such loans will be used only—*

*(I) for the development of innovative beneficial uses of sewage sludge; and*

*(II) for the design and construction of conventional and innovative facilities to dispose of sewage sludge or to make reusable products from sewage sludge;*

*(ii) if all amounts received in repayment of such loans will only be made available for use in the New Jersey Wastewater Treatment Financing Program; and*

*(iii) if the amount of any such loan to a local government unit will be matched or exceeded by market rate loans made by the New Jersey Wastewater Treatment Trust to the local government unit for carrying out the project.*

*(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $300,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

*(12) ERIE COUNTY, NEW YORK.—The Secretary is authorized—*

*(A) to make a grant in the amount of $7,000,000 to the city of Buffalo, New York, for design and construction assistance in the development and implementation of best management practices to reduce pollution from the combined sewer system in the city;*

*(B) to construct a tunnel from North Buffalo to the Amherst Quarry to relieve flooding and improve water quality at a total cost of $15,000,000;*

*(C) to construct a storm water control project on Sheridan Drive between Evans Road and Transit Road in the town of Amherst, New York, at a total cost of $5,500,000;*

*(D) to construct a sludge processing disposal facility to serve the Erie County Sewer District Number 5 at a total cost of $4,700,000; and*

*(E) to construct a resource recovery facility on South Park Avenue in the city of Buffalo at the former site of Republic Steel at a total cost of $4,000,000.*

*(13) OTSEGO AND CHENANGO COUNTIES, NEW YORK.—The Secretary is authorized—*

*(A) to provide technical and financial assistance to the village of Milford, Otsego County, New York, for development and construction of a water tank and an adequate water filtration system, at an estimated cost of $500,000; and*

*(B) to provide technical and financial assistance to the South New Berlin Water District, New Berlin, Chenango County, New York, for locating, field testing, and constructing a primary source water well and improving a water distributon system, at an estimated cost of $375,000.*

*(14) LYNCHBURG, VIRGINIA.—The Secretary is authorized to construct a project in Lynchburg, Virginia, to alleviate combined sewer overflow at a total cost of $30,000,000. The Secretary shall construct such project in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.*

*(15) RICHMOND, VIRGINIA.—The Secretary is authorized to construct a project at Richmond, Virginia, to alleviate combined sewer overflows at a cost of $40,000,000. The Secretary shall construct such project in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.*

***SEC. 225. BEACH NOURISHMENT POLICY.***

*(a) PLANNING.—Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281; 100 Stat. 4185) is amended—*

*(1) by inserting "(a) IN GENERAL.—" before "Enhancing"; and*

*(2) by adding at the end the following new subsection:*

*"(b) COST-BENEFIT ANALYSIS.—For the purposes of formulating, evaluating, and displaying the benefits and costs (pursuant to subsection (a)) of any water resources project that involves beach renourishment or that involves inlet dredging or other navigation improvements that are likely to affect erosion patterns on beaches adjacent to such project, the Secretary shall address—*

*"(1) economic costs to non-Federal interests of not placing beach-quality sand on eroded or eroding beaches; and*

*"(2) cost savings, if any, that may be achieved by restoring or renourishing eroded or eroding beaches during a dredging or other navigation project as compared to performing such restora-*

*tion or renourishment at a later date as a separate project.".*

*(b) PROTECTION OF COASTAL RESOURCES AS PUBLIC INTEREST.—Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is further amended by adding at the end the following new sentence: "For purposes of this section, the Secretary shall consider the protection of coastal resources through placement of beach quality sand on beaches as being in the public interest whenever such sand would otherwise be disposed of offshore.".*

### SEC. 226. LONG-RANGE PLANNING FOR BEACH NOURISHMENT AND INLET MANAGEMENT PROJECTS.

*(a) PROCESS FOR DEVELOPMENT OF PLANS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish by regulation a process for development of long-range plans for financing and execution of projects for beach nourishment and inlet management within each affected State.*

*(b) DESCRIPTION OF PROCESS.—The plan-development process established pursuant to subsection (a) shall provide for the Secretary and the State, jointly or cooperatively, to conduct studies and other actions, including at minimum—*

*(1) an analysis of the merits of basing beach nourishment project decisions on natural boundaries that account for physical oceanographic, meteorological, and other processes and phenomena affecting beach erosion and accretion patterns instead of basing such project decisions on local or State political boundaries;*

*(2) the submission by the State to the Secretary of a proposed State funding and management plan that covers a period of at least 10 years following the date of submission of such plan and that describes how the State intends to provide administrative support and financing for the non-Federal share of beach nourishment projects;*

*(3) a review by the Secretary of the plan submitted pursuant to paragraph (2) and approval by the Secretary of such plan, subject to such revisions to the plan as the Secretary may recommend to make the plan acceptable; and*

*(4) upon approval by the Secretary of such plan, submission by the Secretary of the plan to Congress with a recommendation for legislation to authorize the Secretary to proceed with implementation of the plan, which shall thereafter govern Federal-State cooperation in the management of Federal, or federally assisted beach nourishment projects in the State.*

*(c) AMENDMENT OR TERMINATION OF PLANS.—At the request of the Secretary or of the affected State, or not less than 1 year before a Federal-State plan established pursuant to subsection (b) expires, the Secretary and the State shall conduct additional studies or other actions described in subsection (b) with the objective of amending the Federal-State plan to the extent determined to be necessary. The Secretary shall submit the amended plan to Congress for authorization for implementation.*

*(d) FUNDING.—There is authorized to be appropriated for carrying out this section $1,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.*

## TITLE III—MISCELLANEOUS PROVISIONS

### SEC. 301. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

*The jurisdiction of the Mississippi River Commission (established by the Act of June 29, 1879 (33 U.S.C. 641)) is extended to include the area bounded by the East Atchafalaya Basin Protection Levee, the Mississippi River Levee, and Bayou Lafourche and extending from Morganza, Louisiana, to the Gulf of Mexico, insofar as such area is affected by the flood waters of the Mississippi River.*

### SEC. 302. NEW YORK CITY ZEBRA MUSSEL PROGRAM.

*(a) MONITORING AND PREVENTION.—*

*(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the city of New York, shall—*

*(A) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;*

*(B) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and*

*(C) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.*

*(2) COST SHARING.—The Secretary shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.*

*(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary $2,000,000 for each fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.*

*(b) EXOTIC AQUATIC ORGANISMS.—*

*(1) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:*

*"(3) The Secretary, in consultation with the Task Force—*

*"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 percent; and*

*"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes.".*

*(2) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".*

### SEC. 303. SUSQUEHANNA RIVER, PENNSYLVANIA.

*(a) WETLANDS DEMONSTRATION PROJECT.—The Secretary, in cooperation with appropriate Federal agencies, may enter into a cooperative agreement with the Earth Conservancy to develop, and carry out along the Susquehanna River between Wilkes-Barre and Sunbury, Pennsylvania, a wetlands demonstration project for the purposes—*

*(1) of enhancing municipal waste water treatment in the region;*

*(2) restoring and maintaining the physical, chemical, and biological integrity of the Susquehanna River and its tributaries as well as nearby lands; and*

*(3) developing cleanup technologies which can be utilized for various environmental restoration initiatives.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000 for fiscal years beginning after September 30, 1993. Such sums shall remain available until expended.*

### SEC. 304. BROAD TOP REGION OF PENNSYLVANIA.

*(a) WATERSHED RECLAMATION AND WETLANDS PILOT PROJECT.—The Secretary, in cooperation with appropriate Federal and State agencies, shall enter into a cooperative agreement with non-Federal interests to develop and carry out along the Juniata River and its tributaries, Pennsylvania, a watershed reclamation and protection and wetlands creation and restoration project for the purposes of—*

*(1) restoring and maintaining the physical, chemical, and biological integrity of Trough Creek, Stroups Run, and the Raystown Branch of the Juniata River as well as nearby lands;*

*(2) constructing or restoring wetlands and using other methods to treat acid mine drainage and other runoff to protect surface and ground water;*

*(3) enhancing municipal water supplies in the region; and*

*(4) developing innovative reclamation technologies, removing public safety hazards, and developing related recreation facilities for various environmental restoration and cultural resource and economic development opportunities.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

### SEC. 305. CONSTRUCTION OF BOAT RAMPS AND DOCKS AT J. STROM THURMOND LAKE, GEORGIA.

*Section 1134(e) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "(1)" before "In any case" and by adding at the end the following new paragraph:*

*"(2) If a person who purchased property under paragraph (1) for replacement of property for which a lease held by such a person was terminated under this section and the property for which the lease was terminated had a boat ramp or dock, or both, the Secretary shall permit such person to construct or have constructed a boat ramp or dock, or both, as the case may be, at the replacement property. A boat ramp or dock constructed under this paragraph shall be comparable in size and configuration to, and shall be maintained in accordance with, regulations issued by the Secretary.".*

### SEC. 306. WEST VIRGINIA TRAILHEAD FACILITIES.

*(a) IN GENERAL.—The Secretary is authorized to construct trailhead facilities at the following projects in West Virginia:*

*(1) Beech Fork Lake.*

*(2) R.D. Bailey Lake.*

*(3) East Lynn Lake.*

*(4) Projects authorized by section 202 of Public Law 96-367.*

*(b) AGREEMENTS.—The Secretary is authorized to enter into such arrangements, contracts, and leases as may be necessary with public and private entities for the purposes of construction and maintenance of a network of trails, including trailside facilities, for motorized recreation use connecting the projects referred to in subsection (a).*

*(c) ACQUISITION OF LANDS.—The Secretary is authorized to acquire such lands and interests in land as may be necessary for the purposes of carrying out subsection (a).*

### SEC. 307. SEDIMENTS DECONTAMINATION TECHNOLOGY REVIEW AND DEMONSTRATION PROGRAM.

*(a) IN GENERAL.—Section 412(c) of the Water Resources Development Act of 1990 (33 U.S.C. 2239 note; 104 Stat. 4650) is amended to read as follows:*

*"(c) SEDIMENTS DECONTAMINATION.—*

*"(1) TECHNOLOGY REVIEW.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly select removal, pretreatment, and decontamination technologies for contaminated sediments.*

*"(2) DECONTAMINATION PROGRAM.—*

*"(A) NEW YORK/NEW JERSEY HARBOR.—Upon selection of technologies under paragraph (1),*

*the Secretary and the Administrator shall jointly implement a 5-year demonstration program in the New York/New Jersey Harbor to assess the removal, pretreatment, and decontamination technologies selected under the review in rendering sediments safe for unrestricted ocean disposal and beneficial reuse.*

*"(B) Recommendations for additional sites.—After the first year of implementation of the demonstration program, the Secretary and the Administrator shall jointly transmit to Congress recommendations for 1 additional site on the Gulf of Mexico, 1 additional site in the Great Lakes, and 1 additional site on the west coast for conducting the demonstration program.*

*"(3) Advisory panel.—The Secretary and the Administrator shall jointly establish an advisory panel composed of academic and agency scientists (including participants of the Great Lakes Assessment and Remediation of Contaminated Sediments Program) and members of environmental and port communities to advise the Secretary and the Administrator in conducting the technology review and demonstration program under this subsection, to provide professional advice to the Secretary and the Administrator, and to improve local scientific and academic community knowledge on contaminated dredge material management.*

*"(4) Report to congress.—Not later than 1 year after the date of completion of the demonstration project conducted under this subsection, the Secretary and the Administrator shall jointly transmit to Congress a final report on the results of the demonstration program, including an assessment of the effectiveness and the technical and economic feasibility of the technologies and methods demonstrated. Such report shall also contain a statement of the views of the advisory panel established under this subsection and any recommendations of the advisory panel for future applications of the demonstrated technologies.".*

*(b) Authorization of Appropriations.—Section 412(e) of such Act is amended to read as follows:*

*"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out subsection (c) $3,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $20,000,000 per fiscal year for each of fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended. Of amounts appropriated pursuant to this subsection, such sums as may be necessary shall be made available for regional and environmental research laboratory project administration and supervision.".*

### ***SEC. 308. BALTIMORE HARBOR, MARYLAND.***

*(a) Analytical Procedures.—*

*(1) Study.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of developing analytical procedures and criteria for contaminated dredged material in order to distinguish those materials which should be placed in containment sites from those materials which could be used in beneficial projects (such as beach nourishment, shoreline erosion control, island reclamation, and wetlands creation) or which could be placed in open waters without being chemically altered.*

*(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.*

*(b) Decontamination Study.—*

*(1) Study.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of determining the feasibility and necessity of decontaminating dredged materials and the feasibility of dewatering and recycling dredged materials for use as marketable products. In conducting the study, the Secretary shall consider requirements and locations for a processing or staging area, evaluate the marketability of potential products, and assess financial costs.*

*(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.*

*(c) Demonstration Project.—*

*(1) Description.—The Secretary shall conduct a demonstration project to assess the extent of contamination of sediments in Baltimore Harbor, Maryland, to inventory the types of sediments in such harbor, to assess the need for remedial action in such harbor, and to prioritize contaminated areas of such harbor in terms of need for remediation.*

*(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the project conducted under this subsection.*

### ***SEC. 309. TOLEDO HARBOR, OHIO.***

*(a) Strategy.—Not later than October 31, 1993, the Secretary, in coordination with the Toledo Port Authority and the Ohio Environmental Protection Agency, is directed to develop a comprehensive 5-year and 20-year sediment management strategy for Toledo Harbor, Ohio, and transmit a copy of the strategy to Congress. The strategy may include a combination of several sediment disposal and containment alternatives and shall emphasize innovative environmentally benign alternatives, including reuse and recycling for agriculturally-related uses and wetland restoration.*

*(b) Technology Transfer.—The Secretary is authorized and directed to conduct technology transfer of innovative sediment management techniques developed pursuant to subsection (a) through engineering and design technical assistance to other Great Lakes States and local sponsors for use at federally authorized harbors and navigation channels.*

*(c) Authorization of Appropriations.—There is authorized to be appropriated $2,000,000 for the implementation of subsection (a) for fiscal years beginning after September 30, 1993, and $3,000,000 per fiscal year for each fiscal year beginning after September 30, 1993, for the implementation of subsection (b). Such sums shall remain available until expended.*

### ***SEC. 310. REND LAKE, ILLINOIS.***

*The Secretary shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for unused water supply storage if the State, at the time of such amendment, relinquishes—*

*(1) its rights to future unused water supply storage in Rend Lake; and*

*(2) any rights which the State may have for repayment of capital expenditures the State made toward construction of the project at Rend Lake.*

### ***SEC. 311. PORTUGESE AND BUCANA RIVERS, PUERTO RICO.***

*Section 31 of the Water Resources Development Act of 1988 (102 Stat. 4030) is amended by striking "temporarily residing and".*

### ***SEC. 312. SAUK LAKE, MINNESOTA.***

*Section 109 of the Water Resources Development Act of 1990 (104 Stat. 4621) is amended by inserting ", operation, and maintenance" after "acquisition".*

### ***SEC. 313. LITTLE GOOSE AND LOWER GRANITE, WASHINGTON.***

*The Secretary is directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington, at a total cost of $10,000,000. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects.*

### ***SEC. 314. EXPANSION OF EDUCATIONAL FACILITIES AT DAVIDSON LABORATORY, STEVENS INSTITUTE OF TECHNOLOGY.***

*(a) Cooperative Agreement.—The Secretary shall enter into a cooperative agreement with the Alliance for Coastal Engineering at the Davidson Laboratory, Stevens Institute of Technology, Hoboken, New Jersey, for expansion of the educational facilities for the graduate program in coastal engineering, for expansion of such program, for development of a demonstration component in such facilities, and for conducting research at such facilities. Funds made available under such agreement may be used for developing techniques to improve erosion control, to enhance performance of beach replenishment projects, and to support ongoing projects in coastal pollution models.*

*(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1993, $3,000,000. Such sums shall remain available until expended.*

### ***SEC. 315. ARKANSAS WATER RESOURCES CENTER.***

*(a) Cooperative Agreement.—The Secretary shall enter into a cooperative agreement with the University of Arkansas, Fayetteville, Arkansas, for expansion of facilities and efforts at such University.*

*(b) Use of Funds.—Funds made available under the agreement entered into under subsection (a) may be used for facilities and equipment, maintenance and supplies, staffing, training, demonstration, investigation, and monitoring activities, and other purposes to enhance knowledge and efforts relating to water quality, water resources, watershed protection, and waste management at the laboratories referred to in subsection (a).*

*(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1993, $8,400,000. Such sums shall remain available until expended.*

### ***SEC. 316. LINESVILLE CREEK, PENNSYLVANIA.***

*(a) Cooperative Agreement.—The Secretary shall enter into a cooperative agreement with the University of Pittsburgh for acquisition and analysis of a 36-acre area within the Linesville Creek, Pennsylvania, watershed for the purposes of ecosystem protection, flood control, and related objectives.*

*(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1992, $100,000. Such sums shall remain available until expended.*

### ***SEC. 317. SOUTH CENTRAL PENNSYLVANIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.***

*(a) Establishment of Program.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in south central Pennsylvania. Such assistance may be in the form of grants, loans, and technical, planning and design, and construction assistance for environmental infrastructure and resource protection and development projects in south central Pennsylvania, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.*

*(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.*

*(c) CONSULTATION WITH SARCD COUNCIL.—In carrying out this section, the Secretary shall consult the SARCD Council.*

*(d) LOCAL COOPERATION AGREEMENTS.—*

*(1) IN GENERAL.—Before providing assistance (other than technical assistance) under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for planning, design, construction, and operation and maintenance of the project to be carried out with such assistance.*

*(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—*

*(A) the payment of a local share of the total project cost of not less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986;*

*(B) the provision of necessary lands, easements, and right-of-way owned or controlled by the non-Federal interest which may be included as part of the local contribution required under paragraph (1);*

*(C) the development by the Secretary, in consultation with the SARCD Council and other appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications; and*

*(D) the establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.*

*(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.*

*(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.*

*(g) ALLOCATION OF APPROPRIATIONS.—*

*(1) GENERAL RULE.—Funds appropriated to carry out this section for each of fiscal years 1993 through 1998 shall be expended as follows: 50 percent for providing assistance in the Chesapeake Bay watershed area of south central Pennsylvania and 50 percent for providing assistance in the Ohio River watershed area of south central Pennsylvania.*

*(2) TRANSFERS.—The Secretary may expend up to 20 percent of the amounts required to be expended under paragraph (1) for providing assistance in a watershed area for providing assistance in the other watershed area referred to in paragraph (1); except that the aggregate amount expended for providing assistance in the Chesapeake Bay watershed area for fiscal years 1993 through 1998 shall be 50 percent of the aggregate of the funds appropriated to carry out this section for such fiscal years.*

*(h) DEFINITIONS.—For purposes of this section, the following definitions apply:*

*(1) SARCD COUNCIL.—The term "SARCD Council" means the Southern Allegheny Resource Conservation and Development Council.*

*(2) SOUTH CENTRAL PENNSYLVANIA.—The term "south central Pennsylvania" means Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset Counties, Pennsylvania.*

### *SEC. 318. ILLINOIS AND MICHIGAN CANAL.*

*(a) IN GENERAL.—The Secretary is authorized to make capital improvements to the Illinois and Michigan Canal.*

*(a) AGREEMENTS.—The Secretary shall, with the consent of appropriate local and State entities, enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the Illinois and Michigan Canal and its related facilities, including trailside facilities for recreational use connecting the waterways referred to in subsection (c).*

*(c) ILLINOIS AND MICHIGAN CANAL DEFINED.—For the purpose of this section, the "Illinois and Michigan Canal" consists of the following existing waterways: the east branch of the Chicago River to Lake Michigan; the south branch of the Chicago River; the Chicago Sanitary and Ship Canal; the Cal-Sag Channel; and the entire length of those waterways designated as the Illinois and Michigan Heritage Canal between Chicago, Illinois, and LaSalle/Peru, Illinois.*

*(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.*

### *SEC. 319. VIRGINIA BEACH, VIRGINIA, TECHNICAL AMENDMENTS.*

*Section 407(a) of the Water Resources Development Act of 1990 (104 Stat. 4647) is amended—*

*(1) by striking "145" and inserting "156"; and*

*(2) by striking "33 U.S.C. 426j" and inserting "42 U.S.C. 1962d–5f".*

### *SEC. 320. TRANSFER FACILITY FOR BENEFICIAL USES OF DREDGED MATERIAL, SAN FRANCISCO BAY.*

*(a) IN GENERAL.—The Secretary shall carry out a project in accordance with this section at the Leonard Ranch property owned by the Sonoma Land Trust and adjacent to Port Sonoma-Marin, California.*

*(b) PURPOSE.—The purpose of the project to be conducted under subsection (a) is to establish a transfer facility at the property described in subsection (a) for the drying and rehandling of dredged material from San Francisco Bay which is to be transported to an upland site for beneficial uses. Such uses include lining, capping, and cover material for sanitary landfills, levee maintenance, and restoration of subsided agricultural lands.*

*(c) PLAN.—*

*(1) DEVELOPMENT.—The Secretary, in cooperation with appropriate Federal, State, and local governmental entities and in accordance with applicable Federal and State environmental laws, shall develop a plan for carrying out the project under subsection (a).*

*(2) CONTENTS.—The plan to be developed under paragraph (1) shall include initial design and engineering plans for the project and a description of necessary environmental and financial studies on beneficial uses of dredged materials.*

*(3) DEADLINES.—*

*(A) FIRST PHASE.—The Secretary shall complete final design and engineering for the project to be conducted under this section not later than the last day of the 180-day period beginning on the date of the enactment of this Act.*

*(B) SECOND PHASE.—The Secretary shall begin use of the transfer facility described in subsection (b) for transport of dredged material to an upland site not later than December 31, 1993.*

*(d) COOPERATIVE AGREEMENTS.—Before initiating the project under subsection (a), the Secretary shall enter into a cooperative agreement with non-Federal interests in accordance with section 221 of the Flood Control Act of 1970. Under such cooperative agreement non-Federal interests shall agree to the following terms and conditions:*

*(1) Except as provided in paragraph (2), non-Federal interests shall provide 25 percent of the costs of the project, including provision of all lands, easements, rights-of-way, and necessary relocations.*

*(2) Non-Federal interests shall provide 100 percent of the costs of operation, maintenance, replacement, and rehabilitation of the project.*

*(e) QUALITY OF DREDGED MATERIAL.—In carrying out the project under this section, the Secretary shall ensure that the dredged material used in the project is of appropriate quality.*

*(f) MONITORING AND REPORT.—The Secretary shall monitor the results of the project conducted under this section and transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the project not later than 2 years after the date on which the transfer facility described in subsection (b) first becomes operational.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

### *SEC. 321. PIKEVILLE LAKE, KENTUCKY.*

*Subject to the provisions of section 1135 of the Water Resources Development Act of 1986, the Secretary is directed to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, Kentucky, project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky, including lake restoration, elimination of stagnant water, and other measures necessary for water quality improvement.*

### *SEC. 322. RAYSTOWN LAKE, PENNSYLVANIA.*

*The Secretary shall undertake a revision of the master plan for the Raystown Lake project, Pennsylvania, and submit to Congress for approval any proposed changes that significantly change uses of the Lake, the surrounding land resources, or any facilities located thereon. As part of the revision, the Secretary shall evaluate opportunities for development of portions of the Lake and adjacent lands by private parties. Pending submission to and approval by the Congress of the results of the revision, the Secretary may not make any significant land use changes at the project.*

### *SEC. 323. SANTA ROSA PLAIN, CALIFORNIA.*

*The Secretary may participate with the Sonoma County Vernal Pool Task Force in developing a plan for the development and preservation of seasonal wetlands on the Santa Rosa plain in California.*

### *SEC. 324. KLAMATH GLEN LEVEE, CALIFORNIA.*

*The Secretary shall correct the design deficiency at the Klamath Glen levee at the confluence of Klamath River and Tewer Creek in Del Norte County, California, that is resulting in erosion at the toe of the levee.*

### *SEC. 325. PHOENIX, ARIZONA.*

*The Secretary may participate in the study and construction of a water resources project in the vicinity of Phoenix, Arizona, for the purpose of providing flood control and improving water quality in the Tres Rios wetlands, Arizona, at a total cost of $7,500,000.*

### *SEC. 326. WATER SUPPLY NEEDS OF MAHONING VALLEY SANITARY DISTRICT, OHIO.*

*The Secretary shall cooperate with State and local officials in reviewing the water supply needs of the Mahoning Valley Sanitary District, Ohio. As part of such review, the Secretary shall conduct a study of current and future water allocations at Lake Milton and Neander and Berlin Reservoirs, Ohio.*

### *SEC. 327. SAULT SAINTE MARIE, MICHIGAN.*

*Section 202 of the Water Resources Development Act of 1990 (104 Stat. 4632) is amended by* striking "the parcel of land" and all that follows through the period at the end and inserting the following: "for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan, the parcel of land, with a building located thereon, lying in the north one-half of fractional Section 5, T47N, R1E, Michigan Meridian, city of Sault Sainte Marie, Chippewa County, Michigan, commencing at the northeast corner of Lot 561 of Assessors Subdivision No. 13, city of Sault Ste. Marie, Chippewa County, Michigan; thence North 24 degrees 01 minutes 00 seconds East, 128.20 feet to the point of beginning; thence North 65 degrees 59 minutes 00 seconds West, 77.30 feet; thence North 08 degrees 04 minutes 00 seconds East, 152.00 feet; thence North 30 degrees 02 minutes 00 seconds East, 40.80 feet; thence North 59 degrees 46 minutes 00 seconds East, 72.75 feet; thence South 65 degrees 59 minutes 00 seconds East, 72.30 feet; thence South 24 degrees 01 minutes 00 seconds West, 245.80 feet to the point of beginning, containing 0.565 acre more or less.".

### SEC. 328. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to the Hackensack Meadowlands Development Commission of the State of New Jersey for the development of the Phase I Environmental Improvement Program of the Special Area Management Plan for the Hackensack Meadowlands area, New Jersey. Such assistance may be in the form of construction, design, technical, and planning assistance, and financial assistance in the form of grants to the Commission.

(b) REQUIRED ELEMENTS.—The program to be developed under subsection (a) shall include at a minimum the following areas:

(1) Mitigation and enhancement for significant wetlands that contribute to the Meadowlands ecosystem.

(2) Development and implementation of a regional system to protect, preserve, and monitor wetlands.

(3) Water quality monitoring.

(4) Watershed cleanup at Bellmans and Penhorn Creeks.

(5) Storm water management research and demonstration.

(6) Tide gate improvement and reconstruction to control flooding in the Berry's Creek drainage basin.

(7) Research and development for a water quality improvement program.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $15,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

### SEC. 329. LAND EXCHANGE, ALLATOONA LAKE, GEORGIA.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall initiate a program to exchange lands above 863 feet in elevation which are excess to the operational needs of Allatoona Lake, Georgia, for lands on the north side of Allatoona Lake which are needed for wildlife management and for protection of the water quality and overall environment of Allatoona Lake.

(b) TERMS AND CONDITIONS.—Land exchanges under the program to be conducted under subsection (a) shall be subject to the following terms and conditions:

(1) Lands acquired under the program must be contiguous to the lands in Federal Government ownership on the date of the enactment of this Act.

(2) Lands acquired under the program shall be from willing sellers only.

(3) The basis for all land exchanges under the program shall be a fair market appraisal so that lands exchanged are of equal value.

### SEC. 330. NEW YORK BIGHT AND HARBOR STUDY.

(a) IN GENERAL.—As a continuation of the study pursuant to section 728 of the Water Resources Development Act of 1986, the Secretary shall study a hydro-environmental monitoring and information system in the New York Bight and New York Harbor and tributaries to the head of tide, in the form of a system using computerized buoys and radio telemetry that allows for the continual monitoring (at strategically located sites throughout the New York Bight and Harbor region) of the following: wind, wave, current, salinity, and thermal gradients and sea chemistry, in order to measure the effect of changes due to air and water pollution, including changes due to continued dumping in the Bight. This effort will include the study of a verified, nested, high-resolution Harbor/Bight Apex numerical model, and supportive monitoring and information systems.

(b) HYDRAULIC MODEL.—In addition, the Secretary shall study a proper physical hydraulic model of the New York Bight and for such an offshore model to be tied into the existing inshore physical hydraulic model of the Port of New York and New Jersey operated by the United States Army Corps of Engineers.

(c) PURPOSE.—This New York Bight and Harbor effort will address the engineering, environmental, and social impacts of natural and man-made changes to the New York Bight, including water quality parameters such as contaminant and sediment transport effects, and nutrient eutrophication.

(d) COORDINATION WITH EPA; REPORTS.—The Secretary shall coordinate fully with the Administrator of the Environmental Protection Agency in carrying out the study described in the section and shall report any findings and recommendations to Congress. The Secretary and the Administrator shall also consider the views of other appropriate Federal, State, and local agencies, academic institutions, and members of the public who are concerned about water and sediment quality in the New York Bight and Harbor region.

(e) REMEDIATION TECHNIQUES.—

(1) IN GENERAL.—To test and verify contaminant and sediment tracking ability of the models, and to reduce the problems associated with the dredging and disposal of dioxin contaminated sediments in the region, a study shall be performed to identify appropriate remediation techniques (including isolation and treatment) for mitigating dioxin contaminated sediments at their sources. The study and report are not intended to encumber civil works projects under development or scheduled to be maintained. Work on these projects shall proceed along the present schedule.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and to the State of New Jersey a report on—

(A) the dioxin study and monitoring required in this subsection; and

(B) the effectiveness and costs of all reasonable remediation measures, including recommendations as to a plan for implementation of the most time and cost-effective measure.

(f) FUNDING.—There is authorized to be appropriated not more than $4,000,000 per fiscal year for each of fiscal years 1993 and 1994 to carry out this section. Such sums shall remain available until expended.

### SEC. 331. AVAILABILITY OF CONTAMINATED SEDIMENTS INFORMATION.

(a) STUDY.—The Secretary shall—

(1) conduct a national study on information that is currently available on contaminated sediments of the surface waters of the United States; and

(2) compile information obtained in such study for the purpose of identifying the location and nature of contaminated sediments in the Nation.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for the collection of additional data on the contaminated sediments and including the compilation of information referred to in subsection (a).

### SEC. 332. MILWAUKEE HARBOR, WISCONSIN.

(a) IN GENERAL.—The Secretary is authorized to cooperate with non-Federal interests in the completion of a study on contaminated sediments in Milwaukee Harbor, Wisconsin, and surrounding areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

### SEC. 333. ARTHUR KILL, NEW YORK AND NEW JERSEY.

The Secretary shall complete planning, design, and construction of the project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098).

### SEC. 334. HARBOR MAINTENANCE TRUST FUND DEPOSITS AND EXPENDITURES.

(a) REPORT.—Not later than March 1, 1993, and annually thereafter, the President shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on expenditures from and deposits into the Harbor Maintenance Trust Fund.

(b) CONTENTS.—

(1) IN GENERAL.—Each report to be transmitted under subsection (a) shall contain the following:

(A) A description of expenditures made from the trust fund in the previous fiscal year on a project-by-project basis.

(B) A description of deposits made into the trust fund in the previous fiscal year and the sources of such deposits.

(C) A 5-year projection of expenditures from and deposits into the trust fund.

(2) PREVIOUS YEARS INFORMATION.—In addition to information required under paragraph (1), the initial report to be transmitted under subsection (a) shall contain the information described in subparagraphs (A) and (B) of paragraph (1) for fiscal years 1987 through 1992.

### SEC. 335. CONEMAUGH RIVER BASIN, PENNSYLVANIA.

The Secretary, in cooperation with Federal, State, and local agencies, is authorized—

(1) to conduct investigations and surveys of the watersheds of the rivers in the Conemaugh River Basin, Pennsylvania; and

(2) to develop and implement restoration projects for abatement and mitigation of surface water quality degradation caused by abandoned mines and mining activity in such basin.

### SEC. 336. GREAT LAKES INFORMATION CLEARINGHOUSE AND REPOSITORY.

(a) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with the University at Buffalo under which the Secretary will assist the Great Lakes Program and the National Center for Geographic Information Analysis of such university in establishing an information clearinghouse and repository for spatial and attribute data concerning the Great Lakes watershed.

(b) FUNCTION.—The clearinghouse and repository referred to in subsection (a) shall assist

*Federal and State agencies in assessing and analyzing Great Lakes data for management of Great Lakes resources.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 per fiscal year for fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.*

### *SEC. 337. TRANSFER OF LOCKS AND APPURTENANT FEATURES, FOX RIVER SYSTEM, WISCONSIN.*

*(a) TRANSFER.—The Secretary is authorized to transfer to the State of Wisconsin the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin, extending from Green Bay, Wisconsin, to Lake Winnebago, Wisconsin, subject to the execution of an agreement by the Secretary and the State of Wisconsin which specifies the terms and conditions for such transfer.*

*(b) TREATMENT OF LOCKS AND APPURTENANT FEATURES.—The locks and appurtenant features to be transferred under subsection (a) shall not be treated as part of any Federal project after the effective date of the transfer.*

*(c) OPERATION AND MAINTENANCE.—Operation and maintenance of all features of the Fox River System, Wisconsin, other than the locks and appurtenant features to be transferred under subsection (a), shall continue to be a Federal responsibility after the effective date of the transfer under subsection (a).*

### *SEC. 338. FISH AND WILDLIFE MITIGATION.*

*(a) LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—Section 906(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2293(c)) is amended by inserting ", including lands, easements, rights-of-way, and relocations," before "from implementation and operation".*

*(b) CONFORMING AMENDMENTS.—*

*(1) HARBORS.—Section 101(a)(3) of such Act (33 U.S.C. 2211(a)(3)) is amended by striking "The non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".*

*(2) FLOOD CONTROL AND OTHER PURPOSES.—Section 103(i) of such Act (33 U.S.C. 2213(i)) is amended by striking "the non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".*

### *SEC. 339. CHESAPEAKE BAY BENEFICIAL USE SITE MANAGEMENT.*

*(a) STUDY.—The Secretary is authorized to conduct a study on environmentally beneficial ways to expand or supplement existing placement options and sites serving channel dredging operations of the Port of Baltimore. Such study shall enhance an ongoing long-term management study for the Chesapeake Bay area being conducted by the State of Maryland and the Secretary.*

*(b) CONDUCT.—In conducting the study under subsection (a), the Secretary shall—*

*(1) in coordination with Federal agencies and the Maryland Port Administration, demonstrate beneficial uses of dredged materials to enhance public recreational opportunities, increase living resource habitats, and enhance the environmental quality of the Chesapeake Bay;*

*(2) identify areas for beneficial use placement of dredged materials to enable the Port of Baltimore to continue maintenance dredging until a long-term management study recommends viable alternatives; and*

*(3) develop options for beneficial use placement of dredged materials for each site identified under paragraph (2).*

*(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a).*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

### *SEC. 340. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CUYAHOGA COUNTY, OHIO.*

*(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of the county of Cuyahoga, Ohio, described as follows, are not in the public interest then, subject to subsections (b) and (c), those portions of such county, bounded and described as follows, are declared to be nonnavigable waters of the United States:*

*Situated in the city of Cleveland, county of Cuyahoga, and State of Ohio, T7N, R13W, and known as being a part of original two acre lots numbers 16, 17, 18, 19, and 20 and the northerly extensions thereof, and being more fully described as follows:*

*Beginning at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of Relocated Erieside Avenue, N.E. (70 feet wide); thence south 56 degrees 06 minutes 52 seconds west on the centerline of Relocated Erieside Avenue, N.E., a distance of 112.89 feet to a point; thence north 33 degrees 53 minutes 08 seconds west a distance of 35.00 feet to a ⅝ inch rebar on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E.; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 335.00 feet and whose chord bears south 42 degrees 36 minutes 52 seconds west 156.41 feet, an arc distance of 157.87 feet to a ⅝-inch rebar; thence south 29 degrees 06 minutes 52 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝-inch rebar; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 39 degrees, 49 minutes 33 seconds west 247.19 feet, an arc distance of 248.64 feet to a ⅝-inch rebar and the true place of beginning of the parcel herein described; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 53 degrees, 17 minutes 33 seconds west 64.05 feet, an arc distance of 64.08 feet to a ⅝-rebar set; thence south 56 degrees 03 minutes 30 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 248.38 feet to a ⅝-rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 265.00 feet and whose chord bears north 79 degrees 02 minutes 42 seconds west 374.09 feet, an arc distance of 415.31 feet to a drill hole set; thence north 34 degrees 08 minutes 55 seconds west on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 505.30 feet to a ⅝-inch rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 112.00 feet and whose chord bears north 40 degrees 32 minutes 41 seconds west 24.95 feet, an arc distance of 25.01 feet to a drill hole set on the southerly right-of-way line of former Erieside Avenue, as vacated by city of Cleveland Ordinance No. 1100–87, passed June 16, 1987; thence northeasterly on the former right-of-way line along the arc of a curve to the right, with a radius of 515.00 feet and whose chord bears north 75 degrees 36 minutes 18 seconds east 136.45 feet, an arc distance of 136.85 feet to a ⅝-inch rebar set; thence north 86 degrees 13 minutes 04 seconds east on said former right-of-way line a distance of 294.57 feet to a ⅝-inch rebar set; thence north 52 degrees 57 minutes 23 seconds east on said former right-of-way line a distance of 56.98 feet to a ⅝-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 244.65 feet to a ⅝-inch rebar set; thence south 78 degrees 53 minutes 08 seconds east a distance of 105.04 feet to a ⅝-inch rebar set; thence north 56 degrees 06 minutes 52 seconds east a distance of 70.75 feet to a ⅝-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 274.74 feet to the true place of beginning containing 325,706 square feet (7.477 acres) more or less.*

*(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply to those parts of the areas described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statues and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbor Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.*

*(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set forth in subsection (b), or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.*

### *SEC. 341. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.*

*(a) IN GENERAL.—Except as provided in subsection (c), the Secretary shall, on or before September 30, 1993, convey to South El Monte Associates, L.P. all right, title, and interest of the United States to the property described in subsection (b)(1) as consideration for—*

*(1) all right, title, and interest of South El Monte Associates, L.P. in the property described in subsection (b)(2); and*

*(2) an amount equal to any difference in the fair market value of the property described in subsection (b)(1) and the property described in subsection (b)(2), if the fair market value of the property described in subsection (b)(1) is determined to be greater than the fair market value of the property described in subsection (b)(2) in accordance with subsection (f).*

*All amounts received by the Secretary under this subsection shall be deposited in the general fund of the Treasury.*

*(b) PROPERTY DESCRIPTIONS.—*

*(1) UNITED STATES PROPERTY.—The property described in this paragraph is the approximately 9.02 acres of land owned by the United States and located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (State Route 60) and east of Santa Anita Avenue in the city of South El Monte, California.*

*(2) SOUTH EL MONTE ASSOCIATES, L.P. PROPERTY.—The property described in this paragraph is the approximately 9.02 acres of land owned by South El Monte Associates, L.P. and located within the Whittier Narrows Flood Control Basin, adjacent to the property described in paragraph (1).*

*(c) DETERMINATION.—The Secretary shall not be required to convey any property under sub-*

*section (a) if the Secretary determines, on or before the 90th day after the date of the enactment of this Act, that the conveyance is contrary to the best interests of the United States.*

*(d) Terms and Conditions.—The land conveyance to be carried out under subsection (a) shall be subject to the following terms and conditions:*

*(1) The United States will be granted a perpetual easement which enables the Secretary to carry out any necessary flood control activities with respect to the property described in subsection (b)(1) after such exchange.*

*(2) South El Monte Associates, L.P. will be granted permission to remove 100,000 cubic yards of earth from the property described in subsection (b)(2), if South El Monte Associates, L.P. ensures that any cut and fill of the reservoir lands within the Whittier Narrows Flood Control Basin will be balanced so as not to reduce the storage capacity and level of protection of the Whittier Narrows Dam and Reservoir or impede the passage of floodflows.*

*(e) Legal Descriptions.—The exact location, area, and legal descriptions of the properties described in subsections (b)(1) and (2) shall be determined by survey by a registered civil engineer at a cost to be incurred by South El Monte Associates, L.P.*

*(f) Fair Market Value.—For the purposes of subsection (a), the fair market value of the properties described in subsections (b)(1) and (2) shall be determined by an independent appraiser at a cost to be incurred by South El Monte Associates, L.P.*

*(g) Limitation on Statutory Construction.—Nothing in this section shall be construed as affecting the application of any other Federal law, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 404), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969.*

### *SEC. 342. LOCKWOODS FOLLY RIVER, BRUNSWICK COUNTY, NORTH CAROLINA.*

*The Secretary shall carry out an exchange rate demonstration project under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251) at the Eastern Channel of the Lockwoods Folly River, Brunswick County, North Carolina.*

### *SEC. 343. LAKE RESOURCE INSTITUTE, STORM LAKE, IOWA.*

*(a) Participation.—The Secretary is authorized to participate in constructing and equipping the Lake Resource Institute, Buena Vista College at Storm Lake, Iowa. Such participation shall be for the purpose of enhancing regional and national efforts to protect surface and ground water resources, particularly from nonpoint source pollution, and increasing the utilization of water for industry, agriculture, and recreation.*

*(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $6,500,000 for fiscal years beginning after September 30, 1992.*

### *SEC. 344. CANAVERAL PORT AUTHORITY REIMBURSEMENT.*

*The Secretary is authorized to reimburse the Canaveral Port Authority an amount equal to the estimate of the Federal share of the cost of widening the West Turning Basin, Port Canaveral, Florida, if the work performed by the Port Authority is consistent with the plans and recommendations contained in the report entitled "Canaveral Harbor, West Channel, Florida", as approved by the Secretary. Nothing in this section shall be construed as waiving any requirement that the Port Authority obtain any permit required under Federal or State law.*

### *SEC. 345. PORT EVERGLADES, FLORIDA.*

*(a) Determination.—The Secretary shall review the construction performed by non-Federal interests at the project for navigation, Port Everglades, Florida, to determine the Federal navigation interest in such work.*

*(b) Reimbursement.—If the Secretary determines under subsection (a) that the work performed by non-Federal interests is consistent with the Federal navigation interest, the Secretary may reimburse non-Federal interests an amount equal to the estimate of the Federal share of the cost of construction of the Southport channel and turning notch at Port Everglades, Florida.*

### *SEC. 346. 1993 WORLD UNIVERSITY GAMES.*

*The Secretary is authorized to use available resources (both personnel and material) to the greatest extent possible to support the logistical and minor construction needs of the local organizing committee of the 1993 World University Games in Western New York for the purpose of supplementing the involvement by the Secretary in the games requested by the Department of Defense, Office of Special Events Management.*

### *SEC. 347. NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.*

*(a) In General.—The Secretary is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.*

*(b) Authorization of Appropriations.—There is authorized to be appropriated for the Federal share of the cost of the program authorized by this section $200,000 per fiscal year for each of fiscal years 1993 and 1994.*

### *SEC. 348. SOUTHERN WEST VIRGINIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.*

*(a) Establishment of Program.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in southern West Virginia. Such assistance may be in the form of grants, loans, and technical, planning and design, and construction assistance for environmental infrastructure and resource protection and development projects in southern West Virginia, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.*

*(b) Public Ownership Requirement.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.*

*(c) Local Cooperation Agreements.—*

*(1) In general.—Before providing assistance (other than technical assistance) under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for planning, design, construction, and operation and maintenance of the project to be carried out with such assistance.*

*(2) Requirements.—Each local cooperation agreement entered into under this subsection shall provide for—*

*(A) the payment of a local share of the total project cost of not less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986;*

*(B) the provision of necessary lands, easements, and right-of-way owned or controlled by the non-Federal interest which may be included as part of the local contribution required under paragraph (1);*

*(C) the development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications; and*

*(D) the establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.*

*(d) Applicability of Other Federal and State Laws.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.*

*(e) Report.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.*

*(f) Southern West Virginia Defined.—For purposes of this section, the term "Southern West Virginia" means Raleigh, Wayne, Cabell, Fayette, Lincoln, Summers, Wyoming, Webster, Mingo, McDowell, Logan, Boone, Mercer, Pocahontas, Greenbrier, and Monroe Counties, West Virginia.*

### *SEC. 349. TENNESSEE RIVER HERITAGE MUSEUM AND EDUCATION FACILITY.*

*The Tennessee Valley Authority is authorized to establish a facility to be known as the "Tennessee River Heritage Museum and Education Facility" for the purpose of encouraging science and technology as it relates to developing, managing, and preserving rivers as a nationally significant resource.*

### *SEC. 350. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA.*

*(a) Cooperation by Tennessee Valley Authority.—The Tennessee Valley Authority shall cooperate with the Tennessee Valley Exhibit Commission of Alabama to establish an exhibit in Florence, Alabama, on research and development in the area of inland navigation, tributary development and related activities.*

*(b) Contributions.—The Tennessee Valley Authority may accept contributions from private sources in carrying out this section.*

### *SEC. 351. RED ROCK DAM AND LAKE, IOWA.*

*(a) Study.—The Comptroller General shall conduct a study to review the operation of the project for flood control, Red Rock Dam and Lake, Iowa, authorized by the Flood Control Act of June 28, 1938.*

*(b) Purpose.—The purpose of the study to be conducted under subsection (a) shall be—*

*(1) to determine whether the property adjacent to the project referred to in subsection (a) is being inundated by high reservoir levels beyond the levels permitted by existing easements; and*

*(2) to review actions taken by the Secretary to implement the requirement contained in section 108(b) of Public Law 99–190 (99 Stat. 1316).*

*(c) Report.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, including recommendations on whether easements of the Secretary referred to in subsection (b)(1) should be renegotiated with landowners.*

### *SEC. 352. ENVIRONMENTAL PROJECT MODIFICATIONS, SACRAMENTO RIVER, CALIFORNIA.*

*(a) In General.—In carrying out modifications, under section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), in the structures and operations of the project for flood control, Sacramento River, California, authorized by section 2 of the Flood Control Act of 1917 (39 Stat. 949), for the purpose of improving the quality of the environment in the public interest, the Secretary shall—*

*(1) credit the value of all lands, easements, and rights-of-way provided by non-Federal interests for such modifications to the non-Federal share of the cost of such modifications;*

*(2) treat construction of operation and maintenance facilities for such modifications as a feature of such modifications for the purpose of cost sharing; and*

*(3) in addition to the plan contained in the Yolo Basin Wetlands Project Modification Report dated April 1992, plan, design, and construct as part of such modifications historical wetlands at an alternative site located contiguous to the Yolo Bypass, immediately east of the Davis Water Pollution Control Plant, and along the north side of the Willow Slough Bypass.*

*(b) REPORT DEADLINE.—The Secretary shall complete a project modification report to carry out subsection (a)(3) on or before September 30, 1993.*

### *SEC. 353. BANK STABILIZATION AND MARSH CREATION.*

*(a) STUDY.—The Secretary shall conduct a study on bank stabilization and marsh creation by construction of a system of retaining dikes and by beneficial use of dredged material along the Calcasieu River Ship Canal, Louisiana, at critical locations.*

*(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for specific measures to be undertaken under section 205 of this Act (relating to beneficial uses of dredged material) as a result of such study.*

### *SEC. 354. SACO RIVER, NORTH CONWAY, NEW HAMPSHIRE.*

*The Secretary, in cooperation with appropriate Federal and State agencies and other non-Federal interests, shall develop and carry out a wetlands creation and water quality demonstration project along the Saco River in the vicinity of North Conway, New Hampshire, at a total cost of $10,000,000.*

### *SEC. 355. CONNECTICUT COASTAL SALTMARSH RESTORATION AUTHORIZATION.*

*Subject to the cost sharing provisions of the Water Resources Development Act of 1986, the Secretary shall, as part of the long term goal of Corps of Engineers water resources development program of increasing the quality and quantity of the Nation's wetlands, investigate and carry out saltmarsh restoration projects along the coastline of the State of Connecticut.*

### *SEC. 356. LAKE GEORGE, INDIANA.*

*The Secretary, in cooperation with the Soil Conservation Service of the Department of Agriculture, shall develop a watershed management plan for the Lake George area of Indiana. The plan developed by the Secretary shall address specific concerns related to the Deep River Basin area, including sediment flow into Deep River, Turkey Creek, and other tributaries; control of sediment quality in Lake George; flooding problems; the safety of the Lake George Dam; and wetlands management.*

### *SEC. 357. LAKES PROGRAM.*

*Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148–4149) is amended—*

*(1) by striking "and" at the end of paragraph (10);*

*(2) by striking the period at the end of paragraph (11) and inserting a semicolon; and*

*(3) by inserting after paragraph (11) the following new paragraphs:*

*"(12) Aquabi Lake, Iowa, removal of silt and aquatic growth;*

*"(13) Pine Lake, Iowa, removal of silt and aquatic growth;*

*"(14) Lake Miami, Iowa, removal of silt and aquatic growth; and*

*"(15) Wesley Lake, New Jersey, removal of silt and water quality improvement.".*

### *SEC. 358. GREAT LAKES SEDIMENT REDUCTION.*

*(a) GREAT LAKES TRIBUTARY SEDIMENT TRANSPORT MODELS.—*

*(1) IN GENERAL.—For each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or area of concern, the Secretary, in cooperation and coordination with the Administrator and in consultation and coordination with the Great Lakes States, the heads of the Soil Conservation Service of the Department of Agriculture, the Geological Survey, and the United States Fish and Wildlife Service of the Department of the Interior, and the International Joint Commission, shall develop a tributary sediment transport model which shall—*

*(A) measure stream discharge rates, total suspended solids loadings, and bedload transport;*

*(B) measure additional parameters, such as nitrates, phosphates, persistent toxic substances, and heavy metals, on a river-by-river basis in accordance with any agreement between the Secretary, the Administrator, the host State, and any other relevant non-Federal entity;*

*(C) estimate the percentage of total sediment loadings into such harbors, channels, and areas of concern originating from each subwatershed of a river system; and*

*(D) characterize the physical nature of the sediment materials.*

*(2) REQUIREMENTS FOR MODELS.—In developing such tributary sediment transport models, the Secretary shall—*

*(A) coordinate tributary sediment transport modeling efforts with the efforts of the Administrator to produce comprehensive Lakewide Management Plans, Remedial Action Plans, and mass balance models;*

*(B) build upon data and monitoring infrastructure generated in earlier studies and programs; and*

*(C) complete models for 30 major river systems within a 5-year period.*

*(b) SEDIMENT LOAD REDUCTION.—*

*(1) IN GENERAL.—*

*(A) MODEL.—Not later than 18 months after the date of the enactment of this section, the Secretary, with the concurrence of the Administrator and in consultation and coordination with the Great Lakes States, the heads of the Soil Conservation Service of the Department of Agriculture, the Geologic Survey of the Department of the Interior, and other relevant Federal agencies, shall—*

*(i) develop an analytical method to project the effectiveness and efficiency of sediment source reduction approaches and scenarios in reducing upstream sediment loadings into specific Great Lakes federally authorized commercial harbors, channel maintenance project sites, and areas of concern;*

*(ii) for each model developed under subsection (a), use the method described in clause (i) to conduct sediment load reduction analyses to estimate the potential effectiveness and efficiency of upstream sediment source reduction approaches and scenarios to reduce sedimentation in Great Lakes federally authorized commercial harbors, channel maintenance sites, and areas of concern; and*

*(iii) provide sediment load reduction analysis information to States upon request regarding river systems within their jurisdiction.*

*(B) DEVELOPMENT AND APPLICATION.—In developing and using such analyses, the Secretary shall consider only those sediment reduction approaches and scenarios which are consistent with the guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b(g)), relevant Federal and State nonpoint source pollution control programs, and the recommendations of any relevant Remedial Action Plans and programs and measures contained in Annex 3, and its supplement, of the Great Lakes Water Quality Agreement.*

*(2) LOAD REDUCTION GRANTS.—The Secretary, with the concurrence of the Administrator, shall make grants available to States for projects to reduce erosion that leads to sedimentation of federally authorized commercial harbors, channel maintenance project sites, and areas of concern. Projects funded under this subsection must—*

*(A) be proposed by a State or States, or proposed by a State or States at the request of a remedial action planning committee, local government, port authority, or any other governmental, public, or private entity;*

*(B) be consistent with the nonpoint source pollution control program of each recipient State, the guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b(g)), and the recommendations of any relevant Remedial Action Plans and Lakewide Management Plans;*

*(C) be administered by agencies designated in the nonpoint source management program of the State;*

*(D) improve water quality; and*

*(E) have the potential to reduce projected dredging costs, including environmental dredging, in an amount comparable to the cost of the erosion control project, within the lifetime of the dredging project.*

*(3) STATE GRANTS.—To carry out a project under this subsection, a State may award grants from funds made available under a project funded under this subsection for the implementation of an erosion control measure. The amount of any such grant may not exceed 75 percent of the cost of carrying out such erosion control measure.*

*(4) ADMINISTRATION OF GRANTS.—*

*(A) IN GENERAL.—Grants under this section shall be in such amounts and subject to such conditions as the Secretary, with the concurrence of the Administrator, shall determine.*

*(B) FEDERAL SHARE.—The Federal share of a grant made under this subsection shall be an amount equal to 75 percent of the cost of the project funded by the grant.*

*(C) STATE SHARE.—The State share of a grant made under this subsection shall be provided from non-Federal sources.*

*(c) AUTHORIZATION.—There is authorized to be appropriated to Secretary to carry out subsections (a) and (b) $15,000,000 per fiscal year for each of fiscal years 1994, 1995, 1996, 1997, 1998, and 1999. Not less than 50 percent of such amounts shall be reserved for the implementation of subsection (b)(2).*

*(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:*

*(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.*

*(2) AREA OF CONCERN.—The term "area of concern" means a geographic area located within the Great Lakes in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement.*

*(3) GREAT LAKES STATES.—The term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.*

*(4) GREAT LAKES WATER QUALITY AGREEMENT.—The term "Great Lakes Water Quality Agreement" means the bilateral agreement between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987.*

*(5) LAKEWIDE MANAGEMENT PLAN.—The term "Lakewide Management Plan" means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement.*

*(6) REMEDIAL ACTION PLAN.—The term "Remedial Action Plan" means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement.*

*(7) REMEDIAL ACTION PLANNING COMMITTEE.—The term "remedial action planning committee" means a committee that is involved in the development of a Remedial Action Plan.*

### ***SEC. 360. WINFIELD, BUFFALO, AND ELEANOR, WEST VIRGINIA.***

*"(a) TECHNICAL ASSITANCE.—The Secretary shall provide technical assistance to the towns of Winfield, Buffalo, and Eleanor, West Virginia, for the purpose of assisting the residents of such towns in analyzing and understanding the remedial options available for dealing with substances posing a risk to the environment at the Corps of Engineers lock and dam construction site in the vicinity of Winfield, West Virginia.*

*"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

### ***SEC. 361. DEBARMENT OF PERSONS CONVICTED OF FRAUDULENT USE OF "MADE IN AMERICA" LABELS.***

*If the Secretary determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States which is not made in the United States and which is used in a civil works project of the Secretary, the Secretary shall debar the person from contracting with the Federal Government for a period of not less than 3 years and not more than 5 years. For purposes of this section, the term "debar" has the meaning that term has under section 2393(c) of title, 10, United States Code.*

### ***SEC. 362. LAND CONVEYANCE, CITY OF FORT SMITH, ARKANSAS.***

*The Secretary may convey to the city of Fort Smith, Arkansas, all right, title, and interest of the United States (excluding all oil, gas, and other minerals and subject to existing encumbrances) in and to a tract of real property (including improvements thereon) of approximately 400 acres located adjacent to the city and under the jurisdiction of the Secretary. Such conveyance shall be subject to terms and conditions agreed to between the Secretary and the city and to such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.*

### ***SEC. 363. RAHWAY RIVER, NEW JERSEY.***

*The Secretary is authorized to conduct a study on flooding problems along the Rahway River, township of Woodbridge and city of Rahway, New Jersey, and to implement such measures as the Secretary determines feasible in the interest of flood control along the Rahway River and the South Branch of the Rahway River.*

### ***SEC. 364. RIVERINE LABORATORY AND ENVIRONMENTAL TECHNOLOGY MANAGEMENT CENTER.***

*"(A) COOPERATIVE AGREEMENT.—The Secretary is authorized to enter into a cooperative agreement with Fairleigh Dickinson University to provide financial assistance for the costs of constructing and equipping a center for training specialists in managing large-scale technology efforts in water resources and other program areas to improve the effective use of resources. The center shall be located in Madison, New Jersey, and shall be known and designated as the "Riverine Laboratory and Environmental Technology Management Center".*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.*

### ***SEC. 365. SAN FRANCISCO BAY, CALIFORNIA.***

*The Secretary is authorized to participate as an active Federal member in the Memorandum of Understanding for the Interagency Ecological Study Program for implementation of the monitoring requirements in the San Francisco Bay—Delta Estuary, California, dated October 19, 1990, and March 9, 1992, including the coordination, conduction, and transfer of funds, equipment, and personnel between the cooperating agencies.*

### ***SEC. 366. FLOOD WARNING RESPONSE SYSTEM.***

*Section 17(a) of the Water Resource Development Act of 1988 (102 Stat. 4026) is amended by striking "consistent" and all that follows through "1986" and inserting "at full Federal expense".*

### ***SEC. 367. WOODBRIDGE CREEK, NEW JERSEY.***

*The Secretary is authorized and directed to carry out a project for the removal of silt and for the control of point and nonpoint sources of pollution from Woodbridge Creek, New Jersey.*

*Conform the table of contents of the bill accordingly.*

*Page 97, strike lines 4 through 24 and insert the following:*

*(a) FEDERAL SHARE FOR PROVISION OF DREDGED MATERIAL DISPOSAL AREAS.—Section 101(b) of the Water Resources Development Act of 1986 (100 Stat. 4083) is amended by adding at the end the following new sentence: "The Federal share of the cost of providing dredged material disposal areas which become reasonably necessary after the date of the enactment of the Water Resources Development Act of 1992 to maintain the width and depth of a navigation project for a harbor or inland harbor constructed by the Secretary shall be 100 percent.".*

The CHAIRMAN. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 4 hours.

Are there any amendments to the bill?

### AMENDMENT OFFERED BY MR. LAUGHLIN

Mr. LAUGHLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAUGHLIN: Page 111, after line 10, insert the following new paragraph:

(12) COLONIAS ALONG UNITED STATES-MEXICO BORDER.—The Secretary is authorized to provide planning, design, construction, grant, and loan assistance for construction of wastewater treatment facilities and construction of water systems (including water treatment plants), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for colonias in the United States along the United States-Mexico border, at an estimated total cost of $150,000,000.

Mr. LAUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LAUGHLIN. Mr. Chairman, I rise today to offer an amendment to the Water Resources Development Act. This amendment will set aside $150 million for colonias along the United States-Mexico border.

This funding is necessary to construct wastewater treatment facilities, safe drinking water systems, and solid waste disposal facilities. a similar provision is included in the water resources legislation which is currently awaiting legislative action by the Senate. Colonias are rural settlements along the United States-Mexico border which lack or have inadequate basic water and sewer facilities.

All of the colonias to receive funding under this amendment are located in the United States. Approximately 350,000 people live in the estimated 842 colonias that are situated in several counties along the border. Most of the inhabitants of these communities use outhouses or substandard septic tanks for their waste disposal.

A set-aside for these areas is particularly crucial from a health standpoint.

Because of substandard water resources, contagious diseases pose a particular threat to people living in colonias. Particularly frightening to these people is the cholera epidemic that is moving northward from central Mexico.

Health officials believe that border towns are particularly susceptible to the cholera bacteria. Other infectious diseases of great concern to health officials is the much higher rate of hepatitis, tuberculosis, and intestinal disorders that exist in the colonias.

An infectious disease which begins in the colonias certainly will not stop there. The counties along the United States-Mexico border rank among the poorest in the country. Unemployment exceeds 40 percent in these counties and 25 percent of all family incomes fall below the poverty line.

Indeed, 50 percent of all families in these areas earn less than $12,000 per year. Clearly, these communities cannot sustain the financial burden to build adequate water and wastewater facilities.

Without this funding, Americans living along the border will be forced to continue to live in substandard conditions no one living in a nation of our strength should be forced to endure.

□ 1630

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we have reviewed the amendment offered by the gentleman from Texas [Mr. LAUGHLIN] and support its inclusion in the bill. It is in conformance with the background of the bill, it is in conformance with the hearings that have been held, the majority believes that the amendment is worthy, and we support the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, we, too, have reviewed the amendment offered by the gentleman from Texas [Mr. LAUGHLIN], and we accept it. We congratulate the gentleman on his amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the amendment and the bill. This amendment provides authorization for the necessary funding authority to the Secretary of the Army and the Army Corps of Engineers to provide the planning, design, construction, and other assistance to install and improve water and wastewater services to the colonias along the United States–Mexico border. This amendment brings another segment of our Government resources into the picture to help address this very important issue.

I would also like to take this opportunity to express my gratitude to the members of the Appropriations Committee who supported my request for a $25 million appropriation for colonia water services in the agriculture appropriations conference report that has been signed into law.

This USDA funding will—for the first time—provide grant assistance through the Rural Development Administration to help low-income residents of the colonias afford the hook-up costs involved in connecting water lines to their homes.

I also understand that conferees on the VA–HUD and independent agencies reached agreement yesterday to earmark $50 million in EPA funding for colonia projects. Again, this is a funding request that I supported and I applaud the conferee's action.

Taken together, the USDA funding, the EPA funding and the authority provided under this amendment will help bring clean drinking water and adequate wastewater services to tens of thousands of poor people who live on the U.S. side of the border. As a member of Congress who represents thousands of colonia residents, I want my colleagues to know my heartfelt appreciation for their support in our fight to improve living conditions for people living in the colonias.

Mr. ORTIZ. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from Texas.

Mr. ORTIZ. Mr. Chairman, I support the bill and the amendment offered by the gentleman from Texas [Mr. LAUGHLIN].

This is a good bill. I support it. I hope my colleagues will vote for it.

Mr. LAUGHLIN. Mr. Chairman, I appreciate support I have received for my amendment, and I thank my colleagues.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today to thank my colleague, Mr. LAUGHLIN, Chairman ROE, Chairman NOWAK, and the other members of the committee for their recognition of the desperate needs of some of the poorest citizens of our country—the residents of the colonias.

Those of us who represent these districts along the United States-Mexico border have been struggling for years to focus attention on the plight of the approximately 350,000 people who live in the colonias. I began in the Texas legislature, trying to get my State to stop the proliferation of these communities, in which people live without running water or safe sewage disposal. In the mid-1980's, the State passed a law to stop the development of any more colonias, and began committing significant funds to providing the people of the colonias with safe water and wastewater services. To date, the state has committed approximately $257 million to this problem. In addition, since 1990 when the Congress accepted my amendment to the housing billl to require Texas and other States to set aside a portion of their Federal CDBG funds for the colonias, the State has spent an additional $5.7 million on the problem.

However, the Texas Water Development Board estimates that it will cost $700 million to provide water and wastewater services to existing colonias. The counties along the border are among the poorest in the country; they cannot afford to pay for a problem that was caused by the Federal Government's failed immigration policy.

Failure by the Federal Government to address the water and sewage needs of the colonias could have dire statewide and national consequences. In the colonias, residents live with the ever present threat of cholera—a Third World disease that menaces only where people live in the most unsanitary conditions. This disease threatens because many of the people must draw their water from wells that are dangerously close to substandard septic systems and, therefore, contaminated with human waste.

Across the border from my district of El Paso, a number of people in the colonias of Juarez, Mexico have been struck with cholera, and experts say it is only a matter of time before it is found in the colonias on the El Paso side of the border. While the colonia residents may be the first victims of cholera or hepatitis, another disease that runs rampant through the colonias, the border region is not an isolated community. It is a community that is visited by tourists and winter residents from northern areas of the United States and it is home to migrant farm workers who follow the crops season throughout the country. This raises the possibility that infectious diseases such as cholera and hepatitis could spread far beyond the border States.

The only solution that will allow us to finally put the threat of these Third World diseases behind us is to provide the water and wastewater facilities that most Americans take for granted. With this amendment, we will take an important step towards that goal and, again, I thank the committee and I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. TRAXLER). The question is on the amendment offered by the gentleman from Texas [Mr. LAUGHLIN].

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY: Page 111, after line 2, insert the following new paragraph:

(10) GREENSBORO, AND GLASSWORKS, PENNSYLVANIA.—The Secretary is authorized to make a grant of $4,000,000 to appropriate non-Federal interests for construction of a sewage treatment plant for the borough of Greensboro, Pennsylvania, and the unincorporated village of Glassworks, Pennsylvania.

Renumber subsequent paragraphs of section 224(d) of the bill accordingly.

Mr. MURPHY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURPHY. Mr. Chairman, I commend and thank the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, for his dedicated service to the committee and the people of this country during his tenure as chairman of the committee, and I appreciate being allowed the opportunity to offer this amendment out of order and appreciate the gentleman from Wisconsin allowing me to proceed ahead of the committee members.

Mr. Chairman, this amendment would merely provide the transfer of $4 million from the Corps of Engineers out of their contingency fund.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the committee has reviewed the amendment. The amendment is in conformance with the legislation, and we have no objection to accepting an amendment on this side.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, we too have studied the amendment. I am familiar with it and am in concurrence, and we accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURPHY].

The amendment was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 5754, the Water Resources Development Act of 1992. I would like to congratulate chairman of the full Public Works and Transportation Committee, ROBERT ROE; the ranking Republican on the full committee, JOHN PAUL HAMMERSCHMIDT; subcommittee chairman, HENRY NOWAK, and subcommittee ranking Republican

TIM PETRI for their work moving this monumental legislation.

This 2-year authorization provides spending authority for port development projects, inland waterway projects, flood control projects, and environmental restoration projects nationwide. These projects, like other infrastructure spending provide a great return on investment. For instance, the work carried out by the Army Corps flood control program saved approximately $117 billion over the last 10 years. Last year alone, it is estimated that operation of corps flood control facilities prevented $17.4 billion in flood damages nationwide.

This legislation makes great strides toward rebuilding our Nation's environmental infrastructure and offers opportunities for the Army Corps of Engineers to work with State and local governments to address the great needs that exist in our country. I believe this legislation will have a positive effect on the program and provide a foundation for the future mission of the Corps of Engineers.

While this legislation is not without controversy, the committee has made great strides to accommodate the requests of Members to the greatest extent possible.

I support this legislation because it addresses the needs of the Nation. It authorizes the necessary programs of the corps. It allows the corps to address important infrastructure issues and it continues the critically important 2-year authorization cycle for water resource programs.

### AMENDMENT OFFERED BY MR. LEWIS OF FLORIDA

Mr. LEWIS of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of Florida: At the end of paragraph (8) of section 101 of the bill, relating to the project for Kissimmee River Restoration, Florida, insert the following new sentence:

The Secretary shall take such action as may be necessary to ensure that implementation of the project to restore the Kissimmee River will maintain the same level of flood protection as is provided by the current flood control project.

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Public Works and Transportation, and also the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for their tremendous cooperation in working with me and also my colleague, the gentleman from Florida [Mr. PETERSON], who worked with me on the amendment.

Mr. Chairman, the amendment I am offering is at the end of paragraph 8 of section 101 of the bill relating to the project for Kissimmee River restoration in Florida.

The majority of this proposed restoration project lies in my district.

The original channelization of the Kissimmee River was selected as the means for flood damage reduction and is part of a comprehensive flood control and water management system now in place in south Florida.

Modifications that would negate the flood control systems which currently protects this region must be considered carefully so as not to create the potential for a major flood event.

My amendment very simply asks that the Secretary shall take such action as may be necessary to provide the same level of protection against flooding as is currently available.

I strongly support providing for the safety and welfare of those living in the surrounding communities.

Congress has a responsibility to assure there will be no doubt in the minds of those who will ultimately implement this project as to those intentions.

Mr. Chairman, I appreciate your sensitivity to this priority and my colleagues support of this important amendment.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Florida. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the amendment in our judgment clarifies that the Kissimmee River ecosystem restoration project we authorize in this bill is in conformance. It is an improvement of the bill. I know the gentleman has worked vigorously with the gentleman from Florida [Mr. PETERSON], and it is a good amendment. This side accepts the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Florida. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, we are familiar with the amendment. I congratulate the gentlemen from Florida, Mr. LEWIS and Mr. PETERSON for working out this amendment on behalf of the committee's interest, and we accept it.

Mr. LEWIS of Florida. Mr. Chairman, I appreciate the tremendous support of my colleagues for my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. LEWIS].

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. GEREN OF TEXAS

Mr. GEREN of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEREN of Texas: At the end of title III, insert the following new section:

SEC. . Section 101(n) of Public Law 99-500 (100 Stat. 1783-345) and Section 101 of Public Law 99-591 (100 Stat. 3341-345) are each amended by striking "*Provided*, That in" and all that follows through "and Marine Creek".

Mr. GEREN of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.Jersey

Mr. GEREN of Texas. Mr. Chairman, I rise today to offer an amendment to H.R. 5754 to correct a technical error in Public Law 99-500, an appropriations bill passed by the Congress and signed by the President in 1985.

Mr. Chairman, this amendment has no budget impact for the 1993 budget, either outlays or authority.

Public Law 99-500 contained a provision authorizing the EDA to fund economic development in Tarrant County, TX, and appropriated $7.5 million in funds for that purpose. The funds, appropriated in 1985, were made available until expended. As of today, the funds have not been applied.

Mr. Chairman, I am offering this amendment today to clarify the intent of the 1985 legislation so that this 6-year-old EDA project may go forward according to the intent of the 1985 legislation. My amendment simply clears up confusion caused by additional language in the 1985 bill that instructed the Corps of Engineers to undertake additional projects in Tarrant County. My amendment removes the language instructing the corps to do so.

Again, Mr. Chairman, this bill has no budget impact. It deals only with funds appropriated 7 years ago.

Mr. Chairman, this amendment will clarify the intent of the original appropriations language, and I ask that the amendment be adopted.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. ROE. Again, Mr. Chairman, this amendment has been reviewed. It is a clarifying, technical amendment. It is increasing the dynamics of the bill, and we have no objection to the amendment on this side.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I am very familiar with the amendment offered by the gentleman from Texas [Mr. GEREN]. It goes back to the time of Jim Wright, his predecessor, and I know of his great interest in it. I think it is a worthwhile amendment, and we accept it.

Mr. GEREN of Texas. Mr. Chairman, I appreciate my colleagues' support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GEREN].

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. CRAMER

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER:

Page 174, after line 15, insert the following:

**SEC. 359. RELEASE OF CERTAIN USE RESTRICTION.**

(a) RELEASE.—Notwithstandng any other provision of law, the Tennessee Valley Authority is authorized and directed to grant a release or releases, without monetary consideration, from the restriction and covenant which requires that property described in subsection (b) shall at all times be used solely for the purpose of erecting docks and buildings for shipbuilding purposes or for the manufacture or storage of products for the purpose of trading or shipping in transportation.

(b) DESCRIPTION OF PROPERTY.—This section shall apply only to those lands situated in the city of Decatur, Morgan County, Alabama, and described in an indenture conveying such lands to the Ingalls Shipbuilding Corporation dated July 29, 1954, and recorded in Deed Book 535 at page 6 in the office of the Probate Judge of Morgan County, Alabama, which are owned or may hereafter be acquired by the city of Decatur, Alabama.

Conform the table of contents of the bill accordingly.

Mr. CRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. CRAMER. Mr. Chairman, my amendment is a simple and noncontroversial amendment to H.R. 5754 that has been agreed to by both sides.

Mr. Chairman, the amendment is limited in scope and is supported by the Tennessee Valley Authority, the city of Decatur, AL, and Morgan County, AL—the three affected parties.

The amendment would simply authorize and direct the Tennessee Valley Authority to release certain restrictions from lands situated in Decatur, AL, in order to allow the city of Decatur to have the opportunity to make an unencumbered purchase of those identified tracts of land for riverfront development and other economic development purposes.

The current restrictions require that the property be used solely for the purpose of erecting docks and buildings for shipping purposes or for the manufacture or storage of products for the purpose of trading of shipping in transportation.

The purpose of this amendment is to remove this obstacle if Decatur ultimately decides to acquire the property from the present owner.

By authorizing and directing TVA to release these restrictions, we are enabling Decatur to carry out its desired objectives of acquiring the identified tracts of land and using the land for a beneficial purpose—namely economic and riverfront development initiatives—unrelated to shipping.

If for some reason Decatur decides not to purchase the lands the restrictions remain intact.

The mayor of the city of Decatur supports this amendment. In a letter to me that I have shared with the committee he states that the potential for this property is unlimited for the growth of our area and also for the preservation and promotion of the impact the Tennessee River has had on our north Alabama area. It is his plan to purchase the property.

The Morgan County Industrial Development Association supports this amendment. The IDA, in a letter to me that I have shared with the committee, feels that removing these restrictions will better enable Decatur to utilize the property in economic development plans.

The Tennessee Valley Authority has no objection to the amendment. TVA is assisting the city of Decatur in this effort. I have shared with the committee a letter from TVA on this subject.

The Army Corps of Engineers already has an active and vital role in this community. This role would be enhanced once this amendment is agreed to. The corps would continue to provide the expertise needed and oversight required for the economic development envisioned for this area as it relates to developing, managing, and preserving the Tennessee River.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from New Jersey.

Mr. ROE. Again, Mr. Chairman, this amendment has been reviewed, and it is an improvement to the legislation we have today. It is really technical in nature, and we have no objection on this side of the aisle.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, we, too, have reviewed the amendment, and it is acceptable to our side of the aisle.

Mr. CRAMER. Mr. Chairman, I thank the chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. ROE] and the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. CRAMER].

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS:

Page 174, after line 15, add the following new section:

**SEC. 368. FORT POINT, GALVESTON, TEXAS.**

(a) CONSTRUCTION OF INTERAGENCY CHILD CARE FACILITY.—Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to construct, establish, equip, maintain, and operate (or assist in constructing, equipping, maintaining, and operating) an interagency child care facility at Fort Point, Galveston, Texas, on Federal property under the management and control of the Galveston District, United States Army Corps of Engineers. The purpose of such facility shall be to provide child care services for children who are members of households of Federal employees.

(b) FEES, TRANSFERS, AND ACCEPTANCE OF DONATIONS.—

(1) FEES.—The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Galveston District, United States Army Corps of Engineers, employees and others who are beneficiaries of the services provided by the child care facility to be constructed under this section.

(2) TRANSFERS.—A Federal agency may transfer to the Secretary for use in connection with the child care facility to be constructed under this section amounts available to the agency for child care services.

(3) DONATIONS.—The Secretary is authorized to accept donations of money, equipment, and other property for use in connection with the child care facility to be constructed under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1992, $1,500,000. Such sums shall remain available until expended.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Chairman, the amendment I am offering today is a simple one; it would authorize the construction of a child care facility at Fort Point in Galveston, TX. This facility would be under the management and control of the Galveston District, Army Corps of Engineers, and its purpose would be to provide child care services for the children of employees of Fort Point, both military and civilian.

Quite possibly one of the most pressing concerns families face today is the day care of children. We are in an era today where more and more families are either headed by single working parents, or in which two parents work away from the home. This trend has been evident for quite some time, and I see no reason to think it will reverse itself. Therefore, the demand for child care facilities will only grow and my amendment will address this need in Galveston.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New Jersey.

Mr. ROE. Again, Mr. Chairman, we have reviewed the amendment. We have no objection to the amendment. It is in conformance with the legislation. We would accept the amendment on this side.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentlemar from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I know the gentleman from Texas [Mr. BROOKS] is long-term interested in child care, and I know what his amendment does, and we certainly support him in it. We congratulate him.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, could the gentleman from Texas [Mr. BROOKS] explain to me if this is a public child care center that is going to be built or that he would like to be built?

Mr. BROOKS. Yes, Mr. Chairman, it is a child care center that would be under the management and control of the Galveston district of the Army Corps of Engineers and would be providing child care services for the children of employees way out there at Fort Point for both military and civilian children.

Mr. BURTON of Indiana. So, there would be military and civilian children that would be in this child care facility?

Mr. BROOKS. The gentleman from Indiana [Mr. BURTON] is correct. This is where their parents work right there in that area. It is kind of out at the edge of town.

Mr. BURTON of Indiana. And there are no other child care facilities in the area?

Mr. BROOKS. That is correct.

Mr. BURTON of Indiana. If I might inquire a little further, Mr. Chairman, I just wonder if there is a germaneness problem with that in this bill.

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Mr. BROOKS. Mr. Chairman, there is no problem with the bill whatsoever. The chairman of the committee and the ranking minority member both agree that this is a worthwhile, desirous, and commendable amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NOWAK

Mr. NOWAK. Mr. Chairman, I offer an amendment on behalf of Mr. MILLER of California.

The CHAIRMAN. Does the amendment being offered by the gentleman from New York [Mr. NOWAK] address section 214?

Mr. NOWAK. Mr. Chairman, this would amend section 214 relating to the discount rate for evaluation of water resource projects. This will change the language.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendent offered by Mr. NOWAK: Amend section 214 (relating to the discount rate for evaluation of water resource projects) to read as follows:

**SEC. 214. DISCOUNT RATE FOR EVALUATION OF WATER RESOURCE PROJECTS.**

Section 80(a) of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-17(a)) is amended by inserting after the first sentence the following new sentence: "Such benefits and costs shall include inflation over the life of the project, except that this sentence does not apply to any project under the jurisdiction of the Secretary of the Interior.".

Mr. NOWAK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NOWAK. Mr. Chairman, I am pleased to offer an amendment on behalf of Mr. MILLER of California. The bill before the Committee of the Whole House includes a provision providing that in evaluating water resources projects, the evaluation of benefits and costs include inflation over the life of the project. Currently, project costs are adjusted for inflation but not the benefits. The gentleman's substitute amendment would exclude projects under the jurisdiction of the Secretary of the Interior from this modification. I am pleased to defer to the Interior Committee concerning matters within the jurisdiction of the Secretary of the Interior.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we have reviewed this amendment. It is consistent with the bill and the purpose of the bill. We have no objection.

Mr. HAMMERSCHMIDT. Mr. Chairman, if the gentleman will yield, as I understand it, the gentleman has just now said that the Corps of Engineers cost/benefits is what is under consideration. We have excluded the Department of Interior from that consideration.

Mr. NOWAK. Mr. Chairman, that is correct.

Mr. HAMMERSCHMIDT. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NOWAK].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROE: Page 81, after line 2, insert the following new subsection:

(g) PASSAIC RIVER STREAMBANK AREA, NEW JERSEY.—

(1) DESIGNATION.—The area for which environmental and other streambank restoration measures are authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990, relating to the project for flood control, Passaic River Mainstem, New Jersey and New York, shall hereafter be known and designated as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area.".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the area referred to in paragraph (1) shall be deemed to be a reference to the "Joseph G. Minish Passaic River Waterfront Park and Historic Area."

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Chairman, this amendment proposes to name the new waterfront restoration area being created in the City of Newark as part of the Passaic River flood control project for our distinguished former colleague, Joseph G. Minish.

Joe Minish served in this body for 22 years, providing outstanding representation for the city of Newark and other parts of Essex County, NJ.

He worked long and hard with a great many notable achievements for the people of New Jersey on a widerange and broad array of issues.

Joe Minish was first elected to Congress in 1962 during his 22 years in the House, he served on the Banking and House Administration Committees but his interests ranged much farther than those Committees' jurisdictions. Joe was involved in numerous issues on behalf of the State of New Jersey, whether it was the early stages of the Nation's mass transit program, environmental protection for the pinelands or funding formulas and appropriations for the State.

Prior to his election to Congress, he had been a labor official in New Jersey.

He served as executive director and executive secretary of the Essex-West Hudson Industrial Union Council. For more than two decades in this House, Joe Minish was an energetic advocate on behalf of the people of New Jersey. He stood for common sense, for decency, and for doing the right thing for all people.

Many of Joe Minish's accomplishments are not the kind of which we can hang a sign. They are tangible and concrete for the people of New Jersey, nevertheless, the new waterfront park will be a jewel that will place Newark in the forefront of our nation's urban centers.

It is totally appropriate that this new park which will link a major flood control project with the New Jersey Center for the Arts and with the massive transportation improvements that will revitalize the city of Newark be named the Joseph G. Minish Passaic River Waterfront Park and Historic Area.

It is a well-deserved tribute for his outstanding work of more than two decades.

Mr. HAMMERSCHMIDT. Mr. Chairman, if the gentleman will yield, I wholeheartedly accept the amendment offered by the gentleman from New Jersey [Mr. ROE]. I congratulate the gentleman for offering it in honor of our former distinguished colleague.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New Jersey naming a portion of the Passaic River project for our former colleague, the Honorable Joseph G. Minish of New Jersey.

Joe Minish served with great distinction in this body for 22 years, from 1962 to 1984. He was a senior member of the Banking, Finance and Urban Affairs Committee, where he served as chairman of the General Oversight and Renegotiation Subcommittee.

He was also a member of the House Administration Committee and chaired that Committee's Personnel and Police Subcommittee.

Joe Minish worked long and hard and extremely effectively for the interests of New Jersey, and it is entirely appropriate that this important water project in his home State should bear his name. I urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ROE].

The amendment was agreed to.

### AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: Strike paragraph (3) of section 101 of the bill, relating to American River Watershed, California, and redesignate subsequent paragraphs of such section accordingly.

Mr. PETRI. Mr. Chairman, this amendment would strike paragraph 3 of section 101 deleting the authorization for construction of a 425-foot high dry dam on the North Fork of the American River near Auburn, CA, to provide a 200-year level of flood protection for the city of Sacramento.

Although the current cost estimate stands at $700 million, it is a safe bet that by the time this project is completed, costs could easily top $1 billion.

While I am sympathetic to those who want increased flood control protection for Sacramento, I am not ready to endorse this plan. Indeed, this project is still under review by the administration, in part due to the fact that other Federal agencies still have concerns with the Corps of Engineers report regarding such issues as the selection process, whether it is possible to mitigate for lost fish and wildlife resources, and a $171 million dispute over actual mitigation costs.

In addition, other studies are ongoing which could have an effect on flood control decisions we might make.

Other less costly options apparently exist which would substantially increase the flood protection now afforded Sacramento. These include utilizing the current Folsom Dam more properly and correctly for flood control, making structural modifications at Folsom, and increasing the carrying capacity of the levees.

To be honest, I have to question the rationale behind some flood control projects. Over 300,000 people now live in the Sacramento area and nothing much can be done about that.

But this project will open up to new residential development land which is prone to very deep flooding; 20-foot high flooding could still occur no matter what we do. So, in essence, we will be spending $1 billion to encourage an increase in the number of people living in the lowest lying, highest risk area.

The non-Federal cost-sharing requirement for this project amounts to over $250 million. The State of California is already in financial difficulty, and has trouble meeting its current flood control cost-share responsibilities, but, of course, this question would have to be resolved by the State.

Many dams already exist on the American River so some may question why there would be such vigorous opposition to just one more. But the deep canyons of the North Fork of the American River are special and one of the few remaining free flowing segments of the river. In fact, this segment has recently been determined eligible for addition to the National Wild and Scenic Rivers System. Surely there is value to preserving the American River when other flood control measures can be implemented at far less cost.

This project is opposed by major environmental and antispending groups.

I might also add that this particular proposal is also opposed for very different reasons by those who favor a larger multipurpose dam for additional water supply and hydropower purposes. So this is being attacked on all sides—by those who think it is not really needed and by those who think it unfairly hurts their ultimate cause of a larger dam.

Yesterday, the senior Senator from California stated that he was not ready to proceed with this project at this time.

While I have the highest respect for the two sponsors of the dry dam proposal, I believe we should consider other effective, but less costly and more environmentally benign, flood control measures which could provide up to a 150-year level of flood protection. At the very least, questions remain and reviews are ongoing which make this authorization premature.

Therefore, I urge my colleagues to support this amendment.

Mr. Chairman, the following organizations oppose this project:

### OPPONENTS OF AUBURN DAM

National Taxpayers Union.
Citizens Against Government Waste.

### ENVIRONMENTAL

National Audubon Society.
National Wildlife Federation.
Sierra Club.
League of Conservation Voters.
Environmental Defense Fund.
American Rivers.
Friends of the River.
American River Coalition.
Defenders of Wildlife.
Friends of the Earth.
Save the American River Association.
California Trout.
California Wilderness Coalition.
American River Land Trust & Nature Center.
Mountain Lion Foundation.
The Bay Institute of San Francisco.
Natural Resources Defense Council.

### GOVERNMENT NEAR AUBURN DAM SITE

Board of Supervisors of El Dorado County (opposed to dry dam).
Board of Supervisors of Placer County (refused to endorse dry dam).

### NEWSPAPERS

L.A. Times.
San Jose Mercury News.
The Auburn Sentinel.
Sacramento Union.
Sacramento News & Review.

### BUSINESS

America Outdoors (North American River & Trail Outfitters).
California Outdoors.
American River Guide Association.
Local recreation businesses.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in reluctant opposition to the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

I am reluctant because I realize his amendment comes from heartfelt conviction about the cost of the project and its environmental consequences. However, I am persuaded that something needs to be done to protect the citizens of Sacramento from potentially devastating floods and that the current provision in the bill offers the best compromise at this point.

I understand the arguments on the other side. But as you know, Mr. Chairman, this project has been studied and studied and debated through and through. Some of its opponents will never be totally satisfied. In the meantime, though, the citizens of the area are lacking adequate protection.

Mr. Chairman, we have listened to all sides in this debate. We have listened to those who have urged us to build a large multipurpose reservoir which would provide more flood protection plus water supply and recreation benefits at a better benefit to cost ratio. Clearly, they have some excellent arguments. We have also listened to the project opponents who argue that increased flood control can be provided at far less additional cost. They too have some excellent arguments.

I have been persuaded, however, by the balance of the committee's proposal which I might add is also the plan recommended by the corps, the State of California, and the community most directly affected—Sacramento.

The dry dam we have in our bill does not destroy the American River because it would only impound water during a serious flood event. At the same time, the corps' recommended project provides a much higher and better level of flood control by holding back the flood waters rather than simply increasing levees in Sacramento. If these levees fail, 300,000 people are in jeopardy of being under as much as 15 feet of water. The risks are too great to rely on partial solutions.

The current provision in the bill is the best compromise, strongly supported by many interests. It will get the Federal Government moving forward in some way to address the serious flood control concerns of the citizens. It is the corps' plan and the plan supported by a wide range of congressional and local interests.

In all due respect to the gentleman from Wisconsin, I urge my colleagues to oppose his amendment at this time.

□ 1650

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

I rise to support the amendment of the gentleman from Wisconsin. He and I would differ, I think, as to the need for a structure at Auburn. To me it is quite clear that a structure is going to be the only long-term solution to flood control as well as water and power and environmental and recreational needs.

While it is true that this structure, this corps structure in the bill will not destroy the American River, the reoperation of Folsom will destroy the Folsom Reservoir and the recreation that goes on there, and it will destroy it for several years into the future.

Folsom Reservoir, which is in my district and the proposed site of this corps structure is in my district, Folsom Reservoir is at 10 percent of its capacity.

We are entering the 7th year of drought in California.

The Sacramento Bee just recently, just last week came out with a story saying that our region is going to be the fastest growing region in the State of California. We are going to grow by over 33 percent. That will translate into 500,000 people in this decade.

We already are experiencing habitual water rationing in the summertime. What are we going to do when we have a half million additional people?

When this dam comes on line, whether it is the dry dam or the expandable dam that I am favoring, we are talking about something that is 10 years down the road. The half million new people will be in place in our district.

The present bill that we seek to change with this amendment will spend $457 million of Federal money to build a flood control structure. It is a structure that will never pay for itself.

Folsom Dam, which was built by the Federal Government in 1954 at a cost of $90 million, in power sales alone, because it is a multipurpose dam, has paid for itself more than three times over. We have sold 300 million dollars' worth of power.

This corps structure, we believe, is not capable of expansion, contrary to the claims. It is not capable of being economically expanded. And, therefore, it will be a perpetual drain on the Federal Treasury for as long as the structure remains in place.

That is why the National Taxpayers Union is opposed to this. That is why I am opposed to this. I feel we must have a structure that gives us the assurances that we can make the economic expansion.

We have present water districts right now in the Counties of Placer, Sacramento, and San Joaquin, which are the regions, the areas involved with this, that are willing to pay for the multipurpose features of this dam. It is $200 million, if we can pyramid it off of the first stage. If we cannot pyramid off of the first stage, because it has not been designed and built properly, then we are going to have to double or triple our costs, and that means it will never become a multipurpose structure.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I just wanted to ask the gentleman, the gentleman is adamant about his belief that this is not an expandable project. Of course, the gentleman from California [Mr. MATSUI] and I are adamant about our intention that it be so.

Yet when the gentleman went to the Committee on Rules, he had an amendment to preauthorize the multipurpose project and not to provide whatever amendments would have been needed to assure all of us, the gentleman's constituents and mine, our colleagues, that this would be an expandable project.

Is the gentleman truly interested in an expandable project, as I hear him say, or does he want to preauthorize a multipurpose project that is not yet before us?

We do not have a report from the Bureau or the corps. We do not have the study, that the gentleman knows I have been funding without the support of the administration, to do the water analysis, to do the cost analysis that the gentleman has alluded to here. We have not completed that.

When that is completed, I believe we then could have a valid debate on that. We do not have it now. Yet the gentleman's proposal in the Committee on Rules was to preauthorize a multipurpose project.

So my question again is, why are we not seeing from the gentleman amendments that would, from his perspective, guarantee expansion?

Mr. DOOLITTLE. Mr. Chairman, as the gentleman may or may not know, I sought to offer such amendments in the Committee on Rules and was precluded from doing so.

Mr. FAZIO. Mr. Chairman, if the gentleman will continue to yield, the amendment the gentleman sought to offer in the Committee on Rules was a prior, a preauthorization of a multipurpose project. It was not a series of amendments to guarantee expansion of this flow-through expandable facility.

Mr. DOOLITTLE. Mr. Chairman, reclaiming my time, it was not a multipurpose. It was a two-stage facility. It was the flood control first, followed by the expansion.

It was never a multipurpose facility, although I vastly would have preferred that. But we have not, because of the circumstance the gentleman alluded to, we are not in a position to go directly to multipurpose.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Wisconsin [Mr. PETRI], and I do so with full recognition of the incredible number of hours that my colleagues, the gentleman from California [Mr. MATSUI] and the gentleman from California [Mr. FAZIO], have spent trying to work out a solution to what is, in fact, a very serious problem. And we will not minimize that problem.

That is the issue of flood control with respect to the safety and the well-being of the citizens downstream on the American River.

The gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. MATSUI] have spent an incredible number of hours talking not only to their colleagues in the House of Representatives but to environmental groups, to labor groups, to business organizations, irrigation districts, the entire spectrum of people that might be involved in this project.

I must, however, oppose their efforts and support this amendment, because I do not believe that we are ready to move forward with the commitment that the bill requires us to do so and that is to initiate the downpayment on what, if my colleagues just heard the dialog between the two Members, may, in fact, end up costing the taxpayers in excess of $2 billion.

It is clear that something must be done about the flood control needs of Sacramento. We had a scare in the Sacramento area in 1986, but I think it is also clear that with an objective review of what happened at that time that clearly the Folsom Dam, the flood control project currently in the area, was not operated under proper procedures and, in fact, put at a greater risk the citizens of Sacramento and the downstream neighborhoods.

I think clearly also what we have here is a decision to decide upon a threshold of 200 years of protection for the Sacramento Basin. And the reason that is decided upon, not because that provides a margin of safety for the citizens of Sacramento, but I think, in fact, because if we do not accept the 200-year threshold of flood control protection, there is no way that we could justify the commitment of funds for the Auburn Dam.

□ 1700

Clearly there are a number of things that can be done: the reformulation of Folsom Dam, the levee improvement, many of these things that will have to be carried out in any case under any plan. However, we have not moved forward with those efforts.

As the gentleman from Sacramento has pointed out, he has funded a number of studies to look at these suggestions, to look at these problems, and to see how best they might be put together. However, my concern is that we are moving forward with a dam that cannot be justified at this time.

Let me say in the debate about whether or not this will be an expandable dam, if we should go forward with that, this is not a minor flood control project. That dam will stand behind only Oroville Dam, Hoover Dam, Glen Canyon Dam, or Dworshak Dam in terms of the height of this dam. This is not a minor facility. This will be the fifth tallest dam in the United States.

I also think that it is very clear that this is premature for the reasons that we heard in the Committee on Interior and Insular Affairs. At the request of my colleagues we held an all-day hearing in that committee, and we were told then by the Department of the Army that this project still has major unresolved issues, and the administration would object to the enactment of any project authorization.

I think, in fact, I must come down on the side of support of the Petri amendment, and recognize that clearly we must continue to work on the problem. The gentleman pointed out that we have been arguing over this for some 20 years. The fact is we have, and that is because we have not come up with a solution that is accepable to all parties involved.

Just to put one's head down and bulldoze forward, and suggesting that the draft indicates that we must invest $2.2 billion of the taxpayers' money to solve this problem, is incorrect.

I would hope my colleagues would join me in support of the Petri amendment and in opposition to the Auburn Dam, and let us again check and make sure that in fact this is a facility that is needed, because once it is done, the impacts on the canyon, the damage that will be done in spite of all the pledges of mitigation and remediation, simply will not be able to be carried out. I would hope that we would support the petri amendment.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I think there is some sort of impression left by the gentleman from Wisconsin [Mr. PETRI] and the gentleman from California [Mr. MILLER] that asking for 200-year protection is profligate and unnecessary and wasteful. I would like to read to the Members the communities in this country that are in river basins that have from 200- to 400-year protection: New Orleans, Albuquerque, St. Louis, Memphis, Omaha, Kansas City, Tacoma, Fairbanks, Seattle, and Rapid City.

These are States, these are communities that have tremendous flood protection problems and have been given, with the aid of the Federal Government in an earlier era when the local cost share was minimal, if at all, the kind of protection that our community also thinks is minimal. Two-hundred-year protection is not too much to ask. These communities in many cases have as much as 400-year protection. That is not unusual, and I think it can be warranted in an area that has about 1.5 million people and is growing rapidly, as the gentleman from California [Mr. DOOLITTLE] has said.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I did not intend to suggest that somehow this was unusual. I raise the question as to whether or not we can justify 200 years of protection in this particular situation, given the patterns that we have seen in this basin, and whether or not we can provide the assurances necessary for the city of Sacramento, for the environs, when something less than that can be done much more cost-efficiently with respect to the taxpayers, that can be done within the current confines of that system, both respect to the operation and the improvements at Folsom and the improvements that need to be done with respect to the levees in the downstream system. That is the only point that I was raising.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the motion of my colleague, the gentleman from Wisconsin [Mr. PETRI].

Mr. Chairman, I would like to ask my colleagues, the gentleman from California [Mr. FAZIO], I represent, as he knows, a district in southern California. He may think "Why are you intruding in this fight?" My district is at the end of the ditch.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I know where the gentleman's district is. I have been happy to provide funds for flood protection to his constituents from the Santa Ana Project.

Mr. DANNEMEYER. The sixth year of a drought in California is a very serious concern for all of us. That is why I am here.

Mr. FAZIO. If the gentleman will continue to yield, it may be even more so in my area, the area of origin for the gentleman's water.

Mr. DANNEMEYER. In 1965, Congress authorized a multipurpose dam at Auburn. I would ask the gentleman, is that right?

Mr. FAZIO. If the gentleman will yield, that is correct.

Mr. DANNEMEYER. I would ask the gentleman, does he support a multipurpose dam at Auburn?

Mr. FAZIO. If the gentleman will continue to yield, I think I have said on many occasions in my district, so I would be happy to say it here for the gentleman's political purpose, that I think this is an issue that will be resolved by this study that my subcommittee has been funding.

Mr. DANNEMEYER. Mr. Chairman, I would say to the gentleman from California [Mr. FAZIO], the question is, does he support a multipurpose dam?

Mr. FAZIO. If the gentleman will yield further, under some circumstances, I would say to the gentleman, if it proves to be a viable project economically, if we find that we have no alternatives to find the water, I may well support it.

Mr. DANNEMEYER. Mr. Chairman, I will reclaim my time.

Mr. FAZIO. The gentleman may reclaim his time. I have tried to answer his question honestly.

Mr. DANNEMEYER. The reason I asked the question of the gentleman, Mr. Chairman, is very simple. If the existing law authorizes a multipurpose dam, why did he take the trouble to put something into this bill that would change the nature of the dam that can be constructed at Auburn, specifically, only a flood control dam?

Mr. FAZIO. If the gentleman will continue to yield, let me respond. First of all, the corps project that is in this bill is in a different part of the Auburn Canyon. It is not possible, given the problems we found after the Lake Oroville earthquake, to build the original design of the Biz Johnson-Auburn Dam. As a result of inflation, it is economically out of authorization, and would have to be reauthorized for that purpose anyway. But for purposes of the design and engineering of even a multipurpose project, it could not have been built in the original site that it was proposed to be built on because of the earthquake fault that was found.

Mr. DANNEMEYER. Mr. Chairman, I want to reclaim my time. I think there is an engineering dispute as to whether or not the statement that the gentleman has just made is correct, that the multipurpose dam can or cannot be built on the existing foundation, of which already $300 million has been spent for the construction.

Mr. FAZIO. If the gentleman will continue to yield, it is regrettable that that much was spent on a site that has been proven by many people's studies to be inadequate for that size dam and that design of dam since the earthquake fault was found. That is why Senator SEYMOUR and Governor Wilson joined us in opposing the old project and supporting the flood project we bring today.

Mr. DANNEMEYER. Mr. Chairman, regular order.

I am going to say to my colleagues that I think the reason, and I am not saying it is what the gentleman from California [Mr. FAZIO] intended, but the result of what the amendment he got into this bill will do, it will change the basic authorization for a multipurpose dam to only a dam for flood control purposes. Mr. Chairman, we do not need a dry dam in northern California, given the sixth year of a drought. We need to adopt the motion of my colleague, the gentleman from Wisconsin [Mr. PETRI] to strike out this aberration that has been put in this bill that changes the basic authorization of what we are going to build there to limit it only to a flood control dam which some claim can be expanded, but the circumstances under which it could be expanded, under which this so-called expandable dam can be expanded, will be economically so extensively undesirable that in my judgment for all practical purposes they will never take place.

This is a classic illustration of "now you see it, now you don't." I think what we should do is adopt the motion to strike from the gentleman from Wisconsin [Mr. PETRI] which puts us back to the basic authorization whereby we have authority in the law for a multipurpose dam. We hope to store there some 2.3 million acre-feet yielding about 237-acre feet sustainable yield a year.

Mr. Chairman, we need this water in California, whether we like growth or not. The agriculture industry in my State suffered a 50-percent reduction in sustainable yield from existing water sources this last summer. We are in serious trouble, and we need a multipurpose facility. We do not need a dry dam.

Mr. MATSUI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like for my colleagues to hear the underscore of what just happened. The gentleman from California [Mr. DANNEMEYER] has in my opinion attacked the other gentleman from California [Mr. FAZIO] on this issue. What is very interesting is that Governor Wilson supports our provisions, the provision of Mr. FAZIO and I. David Kennedy, the Director of the Department of Water Resources, favors our position. Almost all of Sacramento County favors our position.

Do the Members know why? It is because we need it for 300,000 people. We need flood control protection. I have to tell the Members, the two gentlemen from California, Mr. DANNEMEYER and Mr. DOOLITTLE, although Mr. DANNEMEYER particularly, that in this situation they cannot come up with the money to build the big dam that Mr. DOOLITTLE wants.

In fact, about 1½ years ago or 2 years ago up in the district of the gentleman from California [Mr. DOOLITTLE] they said they finally had the money, and we found out that it was a Saudi prince they were talking to to come up with the financing. That shows how far out this whole notion of the multipurpose dam really is.

□ 1710

And you know, I think it says something to the credit of the gentleman from California [Mr. FAZIO] and myself that Mr. PETRI and the environmentalists are opposed to us, and the gentleman from California [Mr. DANNEMEYER] is opposed to it as well. It probably shows how good our project really is.

The fact of the matter is that Mr. FAZIO and I have been working on this project for the last 5½ years. Here is a photograph of what happened after the flooding in February 1986. These houses are 10 feet under water. If, in fact, we had the flood that is projected that could occur, it would be 20 feet under water.

The gentleman from Wisconsin [Mr. PETRI] talks about we do not want to flood the canyon. It would be flooded 12 days perhaps if we have this big flood. And the flood will go into Sacramento County if, in fact, we do not have this structure.

This is a very serious effort on our part. These are not games we are playing. I know it is an election year. But the fact of the matter is that we need this project. We have been working on it for years and years, and if anybody thinks that we are playing games, political games, they are greatly mistaken.

I have to tell Members that we have this project in a position where it can be expanded. This project is an expandable project. We are neutral on that issue. That is why the Governor, and that is why the director of the water resources favors it, and the Corps of Engineers says this project is expandable. But we cannot preauthorize this project.

What Mr. DOOLITTLE wants is to preauthorize this project so that we are committed to $2.5 billion to $3 billion someplace down the road, even though we do not have the water contracts for this project.

Mr. Chairman, I rise today to urge my colleagues to reject the motion to strike the provisions of the bill that will provide much needed protection against catastrophic floods in my home city, Sacramento, CA.

Sacramento currently faces the threat of widespread flooding which endangers hundreds of thousand of human lives and billions of dollars of property. We learned just how vulnerable we are in the winter of 1986. In February of that year, heavy rains caused river waters to burst through levees and rush down the streets and though the homes of many citizens in Sacramento.

Had the storms continued even 3 hours longer, it is estimated that the resultant devastation would have been catastrophic. More than 300,000 lives and $23 billion in property were at risk. Three more hours of rain could have created more damage and loss of human life than the Loma Prieta earthquake of 1989, the Oakland fires of 1991, or this year's Los Angeles riots combined.

In spite of all of the damage, in spite of the economic losses suffered by our people and by our businesses, Sacramento was fortunate; the rains stopped three hours short of causing the catastrophic flooding we now know is possible in our city. We were lucky. But luck is not something we, as elected officials, can count on. We have a responsibility to our constituents to do what is right and to provide protection from foreseeable tragedy.

Today, more than 6 years after the floods of 1986, Sacramento's flood protection continues to imperil our population. Sacramento's flood protection level is currently rated at a mere 63-year level. That means a flood, the magnitude of which occurs once every 63 years, will breach our levees and flood our city.

We cannot accept this level of public safety risk. Increasing Sacramento's flood protection to adequate levels is not just a priority, it is a mandate. This is not, as some have alleged, a gold-plated public works project we are talking about; this is a matter of human life and public safety upon which Congress cannot turn its back.

The flood-control legislation contained in the Water Resources Development Act takes a realistic approach to solving the problem. The centerpiece of our proposal is a flood control dry dam which allows water to flow freely through apertures unless heavy volume threatens to flood areas below the dam. In dangerously high-volume situations, water backs up behind the dam and is retained until flow volume decreases and waters can recede. In the absence of perilous circumstances, river waters flow as if there were no dam.

In addition to the dry dam, Sacramento's flood control package includes the heightening of levees downstream and the reoperation of Folsom Dam as a flood control facility during construction of the facility at Auburn in order to provide short-term flood protection that Sacramento desperately needs.

The flood control package contained in the bill will provide Sacramento and its citizens with 200-year flood protection. That is not, as many have alleged, an inordinately high level of flood protection for a major population areas such as ours. In fact, 200-year flood protection would still leave Sacramento behind most metropolitan cities that rely of Corps of

Engineer projects for flood control. In addition, despite the cost of the project, $698 million, the flood control dam has a cost-benefit ratio of 2½ to 1, meaning that the benefits derived from the project will be 2½ times its cost.

The proposal for Sacramento flood control is not without controversy. Many of my colleagues may be hearing about Auburn Dam for the first time, and merely see it as a $698 million water project, but in fact, construction of a dam in the Auburn Canyon has been a matter of political battles in California since the 1960's.

Many people in northern California want a multipurpose dam that will flood the canyon, forming a reservoir for water and power. Unfortunately for those people, the studies needed to authorize such a project are years away, and because the Federal Government only pays for flood control, the funding for such a structure is a long-term project as well.

Many people want no structure at all in the canyon for fear of losing the natural beauty of the American River. Their solution for flood control is to beef up the levees in Sacramento and to permanently lower the reservoir behind Folsom Dam, also on the American River. Unfortunately, this solution provides little more than 100-year protection, which means that the system would have a 63-percent chance of being breached in the next 100 years. Those are not good odds when you are dealing with human lives. Furthermore, permanent reoperation of Folsom Dam would have its own serious environmental consequences.

My primary concern and my primary responsibility is for the safety and well-being of the people of Sacramento. The only way to provide adequate flood control protection for the people of Sacramento for the foreseeable future is to construct a flood-control dam in Auburn.

Furthermore, the flood control project contained in the bill does not prejudice the underlying concerns of the multipurpose dam supporters or those who do not support any dam. If funding, need, environmental feasibility, and political viability warrant construction of a multipurpose dam at some point in the future, the flood control dam does not provide any more obstacles than those that currently exist. In the meantime, however, the flow-through dam contained in the bill will keep the river flowing through the canyon and cause minimal long-term environmental damage.

Let me close with one final observation. Last year, if one of our colleagues had come to the floor and asked Congress to spend nearly $700 million to protect against $23 billion in natural disaster damage in Florida, we would have had a discussion similar to this. Many of us would have concluded that $700 million is too much to spend on protection from a natural occurrence that may or may not happen.

No governmental action could have adequately protected the citizens of Florida from Hurricane Andrew. In Sacramento, however, the Government can make a difference. We can save lives, protect property, and prevent devastation through passage of this legislation. I think that is not bad for a day's work, and certainly worth the investment.

I urge my colleagues to vote no on the motion.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, maybe I have been misinformed, but there are two sizes of multipurpose dams that are talked about, one that will store 1.2 million acre-feet for $900 million, and one that will store 2.3 million acre-feet for $1.1 billion.

For a multipurpose dam, the local people have said they could come up with $200 million. When you add that to the $457 million that is in this bill you are getting a good way toward the objective of the money necessary to build the multipurpose dam. Would that not make more sense?

Mr. MATSUI. That is where the gentleman is misinformed. If he will recall, in 1982 when Dave Stockman was the Director of the Office of Management and Budget, and the gentleman was in Congress at that time, they decided they would not finance any multipurpose projects in water unless it was for flood control only. That is why we are able to get 75 percent matching funds from the Federal Government. This is a flood control project. But if you want a multipurpose project that produces hydroelectric power and recreation, the people of the State of California and the State will have to pay for it. That makes sense. Why should Connecticut pay for our water needs in California. But if you will just let me finish to answer the comment, as a result of that, if in fact we do a multipurpose project, anything dealing with anything other than flood control would have to be paid for by the local people, and you cannot come up with the money. That is just the point. Dave Kennedy checked with every farmer, and everyone, and they could not come up with the money.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to my colleague from California.

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding. I just want to sort of imply to the gentleman from California [Mr. DANNEMEYER], the reason that he is misinformed is because we have not finished the study which would determine the optimum size of the dam, what the yield would be, who would need water, how, and where it would be distributed, and how it would be funded and who the beneficiaries would be. That is not before us. We are funding that on a 50/50 cost-share with the local government. The Federal Government is putting that money up through the Bureau of Reclamation to see whether or not we can build on this project. That is why this is a premature effort to defeat this flood control structure that could be the foundation for a multipurpose project.

That is why we do not have the facts to preauthorize a project that the Public Works and Transportation Committee or the Interior and Insular Affairs Committee would not begin to be able to analyze and understand and pass judgment on at this point in time.

So the gentleman from California [Mr. DANNEMEYER] is raising a lot of issues and concerns, but frankly he is throwing us off the mark. The point is that we have got to protect the people of Sacramento now with a flood control facility.

Mr. MATSUI. I thank my colleague from California.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words, and I yield to my friend, the gentleman from northern California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I just want to make a couple of points of clarification.

The people of Sacramento County do not support this corps proposal. They voted on a countywide ballot initiative in 1990 by almost 59 percent of the vote directing the board of supervisors to support a multipurpose project. So I think that point of clarification is important. The people themselves in Sacramento County, the intended beneficiaries of this thing, do not even support it.

Mr. FAZIO. Will the gentleman yield so that we can actually have a debate?

Mr. DOOLITTLE. Let me make the second point. I will come back, but I want to make a second point that the other gentleman from the Sacramento area referred to.

I have never heard of a Saudi prince. I mean that is a good one. That is news to me too. I will tell the gentleman who these entities are that are going to pay for the multipurpose features of the dam. It is no secret. It is the Sacramento Metropolitan Water Authority which represents water districts in northeastern Sacramento County, it is the county of San Joaquin, and it is the Placer County Water Authority, and it is the San Juan Suburban Water district. Those are the big ones who are going to provide the $200 million to build the expandable part of this dam.

But the problem is if we go with the corps facility we do not know if we are going to get gates, we do not know if we are going to get pin stocks, we do not know if we are going to get a dam that is seismically engineered to hold water behind it. This is supposed to be an expandable dam, and the Corps of Engineers itself testified, along with the Bureau of Reclamation, that never in the history of the United States has such a dam ever been built before.

Now if we are going to have such a dam for the first time, one would think they would be a little bit cautious and make sure that they provide in the first phase some of the features we need to go to an expansion which is economic and be sure we can economically expand the dam. But the difference is are we going to spend $200 million like our local agencies are prepared to spend, or are we going to spend $700 million? We cannot afford $700 million in non-Federal dollars. It means that the expansion will never be made. That is precisely the issue here.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I wanted to make a couple of points. First of all, the 59 percent result that the gentleman related had no reference to cost in it. There was no understanding frankly, I think, by most of the voters who would pay for it. In fact, I think many people think that the Federal Government is going to pay for this dam.

The Sacramento Union that has been mentioned as opposing the expandable dam, and certainly in our region has been strongly an advocate of the multipurpose project, tested its own readers, which is a very limited sample I might add, and asked them whether they would be willing to spend some of their hard-earned dollars to build the dam, and it was defeated in the call-in to the newspaper 90 to 10 percent. My newsletters tell me that 90 percent of our constituents want to build a flood control structure, and want to do it now, without precluding the development of a multipurpose project down the road.

The gentleman mentioned who would fund this project, who would fund the local cost-share of a flood control dam. I can say the names of the groups that he read are funding this study that he knows he has come before our committee and asked that we continue to match with Federal funds to the tune of $5 million. I have done it, as I have indicated, without any support of the administration, and frankly we have not had the support of any of our recent Presidents of either party for this project. But I put the funds in, and I will continue to put them in because we need to know whether these people can fund a project when we finish.

Mr. DOOLITTLE. If I may continue on the time of the gentleman from California [Mr. CUNNINGHAM], I would just point out to the gentleman from California that that was an advisory ballot measure, and the ballot measure itself unfairly, in my opinion, implied that the people of Sacramento would bear the entire cost of the dam. And despite that fact, 58 percent, over 58 percent said that they wanted the multipurpose dam, and they voted, and this is the only poll that counts, is a vote, and they voted to direct their elected officials to pursue that. Instead it was ignored, and they went right to the dry dam, and that is where we have been ever since. And it was in direct contravention of the will of the people.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Petri amendment.

Mr. Chairman, as a northern Californian I rise in support of the Petri amendment while supporting strongly the development of a multipurpose Auburn dam.

□ 1720

The Corps of Engineers' proposal contained in this bill falls far short of meeting the water needs of Californians who currently are suffering through their sixth consecutive year of drought. We have not added any new water storage capacity in California for nearly 20 years.

California's water supply system is designed for a State with 6 million fewer residents than it has now, while our population continues to increase by more than a million people annually.

It would be far more cost-effective to build a multipurpose dam than a dry dam which holds no water at all as proposed in this bill. A dry dam would cost $700 million and generate no revenues for the Treasury. A multipurpose dam would pay for it, in addition to providing much-needed water for agriculture, municipal use, and for fish and wildlife preservation.

Moreover, additional water storage will make an important contribution to preserving California fish populations whose survival has been threatened by the prolonged drought. Tree-ring studies have shown that this region has in the past experienced numerous multiyear droughts.

If we agree to this proposal today, many believe that we effectively kill off a multipurpose dam. That would be a tragedy and a costly mistake.

I urge adoption of the Petri amendment.

Mr. MATSUI. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I am happy to yield to the gentleman from California.

Mr. MATSUI. Mr. Chairman, you know, the gentleman speaks about the fact that there is no money being generated. But what about the protection it provides to $23 billion worth of homeowners and property? What if a somebody came on the floor last year and said, "For $700 million we could protect ourselves from Hurricane Andrew," and we turned it down? And now it is $23 billion, and $11 billion out of the Federal revenues. Is that not the same kind of argument?

I mean, the reality is that we are really, from a cost-benefit protection, we are protecting a lot of people, 300,000 people and $23 billion worth of assets. That is what we are protecting. That is a cost benefit.

Now, the gentleman wants a multipurpose dam. The problem is you cannot pay for it. The Federal Government will not pay for water storage, recreation, and hydroelectric power. That was decided 10 years ago in 1983, 9 years ago, under the Reagan administration. I happen to agree with that. You do, too.

How are you going to pay for something like that?

Mr. HERGER. If I could respond to the gentleman, I believe we can do both. I believe we do not have to settle for half a loaf today, and that is what I believe that the gentleman is asking. I believe that we can both legitimately protect the needs, the flood needs, of the Sacramento area as well as hold water at the same time, and I believe that the thought of building a dam at a time that California is in such dire need of water with a hole in the bottom of it that will not hold any water which is called a dry dam, and oxymoron to a dam, I think is ridiculous.

I believe we can do both.

Mr. MATSUI. If the gentleman will yield further, if the gentleman can have some water contracts that would demonstrate that we could pay for this, we could probably look at it a little differently. But the fact is the gentleman cannot come up with water contracts. We have been trying for the last 6 years.

Mr. HERGER. Again, just answering the gentleman, the fact is we do have letters of intent from individuals and groups that are willing to help pay for this, and I believe that what the gentleman is stating is not accurate. We can do both. We can have flood protection and supply needed water for a State that is hungry for water at the same time.

Mr. JONTZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think any of us would deny the importance of addressing the flooding problem in the Sacramento area, but I would ask, before we vote on this amendment, that we consider exactly what it is we would be buying with this particular project.

First of all, one thing that is different about this project for many, many Federal flood control projects is that the level of protection that is involved here is a 200-year flood. That is twice what is normally made available by Federal projects.

Why is that? Because the supporters of this project know that anything less than 200-year flood means that this dam is not needed. The higher level of protection claimed to be needed for downstream areas is simply the cleanest way to justify a big dam at the Auburn site.

So what is it that we are protecting with this particular dam? Is it nursing homes? Is it hospitals? Is it housing developments? What is it that we are protecting?

Well, according to the Corps of Engineers, one of the things that Auburn Dam will be protecting is prime undeveloped real estate in an area adjacent to Sacramento. And let me say that again: We are protecting undeveloped real estate in this particular area.

The Corps of Engineers has a word for this. They call them location benefits. The corps admits protection for this area, the Natomas area, is the primary purpose of the project, and let me quote from the report on the project:

> Location benefits result when flood-control measures make flood-plain lands available for a new economic use, for example, for residential instead of agricultural use. Since the land use analysis for Natomas indicates that there will be significant difference in development under with- and without-project conditions, location benefits were estimated for the area.

That is what the Corps of Engineers says that these benefits are to developments which do not now exist and will be somewhere between $8 and $30 million of the benefits each year for the project, depending upon the amount of flood protection.

What we are being asked to do is to spend money to allow development to occur in an area where it could not now occur. And I ask you: Is that what we should be spending our tax dollars for?

I know that the Committee on the Interior, of which I am a member, had hearings that went on for hours and hours and hours about this project. Issues were raised which ought to be thoroughly investigated, but I think that it is premature for us to be authorizing a project here where it is not at all clear that this is the most cost-effective way to protect existing developments and existing interests. To be justifying a project to protect things which are not now there does not make any sense. Why should the Federal Government assist in funding a project to lead to increased development in a flood-prone area? Have the city and county of Sacramento adopted land-use and building code restrictions to limit flood damages in this area? Or are we going to send more dollars to protect something that should not happen in the first place?

I would urge support for the Petri amendment and let these issues be properly discussed.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I appreciate the sincerity of the gentleman's opposition, but I must say that I know the gentleman is a strong environmentalist, and he speaks for many environmental groups that oppose this.

I must say that locally when we get environmental groups together, we form an organization called the Environmental Council of Sacramento. They are made up of people like the Sacramento Audubon Society, the American Lung Association, many other environmental groups which have national affiliations. Those people voted unanimously to proceed on this project knowing full well that in some cases they were going against the national grain.

Mr. JONTZ. Reclaiming my time, I mentioned the word environment once in my comments. Those are legitimate issues, but it seems to me that the principal issue here is: Is this a good investment of Federal tax dollars? I would argue that to use Federal tax dollars to allow development to occur in a flood-prone area is not very wise.

Mr. FAZIO. If the gentleman will yield further, the reason these environmental groups supported the project is that they believe it is good for the environment. They do not want to destroy the lower reaches of the American River that would be turned into a Los Angeles River if some would have their way, to avoid any structure at the Auburn site. They believe this is a good environmental process, too, because they do not want to see us flooding neighborhoods and communities where people already live, so it is not all raw land.

Mr. JONTZ. Reclaiming my time, I do not know any environmental group that believes that.

Mr. NOWAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to speak in support of the flood control project for the American River watershed, California. This flood control project would provide flood control for Sacramento, the capital of California, and the highly urbanized communities in its surrounding area.

The project to be authorized in accordance with the report of the chief of engineers would provide a 200-year level of flood protection, with a benefit to cost ratio of 2.5 to 1. The Corps of Engineers originally reviewed a project to provide a 400-year level of protection, protecting 390,000 people and $37 billion in damageable property. As it is the project will protect over 300,000 people and 23 billion dollars' worth of property—much of it in downtown Sacramento, and including the State capitol complex.

Mr. Chairman, this project has been criticized as being harmful to the environment. However, the recommended plan includes mitigation for project impacts, by acquiring and managing about 5,400 acres along the South Fork American River and, as part of operation maintenance conducting an adaptive management plan in the detention dam area, to replace vegetation in possible sloughing zones and the removal of potential sedimentation in the channel. Also included is about 2,700 acres to be managed for impacts to the federally listed threatened valley elderberry longhorn beetle. In addition, data recovery and preservation activities would be performed of historic and prehistoric sites in the detention area.

The mitigation plan also calls for acquiring and managing about 300 acres near the Sutter and Sacramento County lines, for construction impacts to wildlife and vegetation, limiting the construction season for instream work to avoid impacts to salmon fisheries, and planting trees at selected locations along recreation trails. In addition, the non-Federal sponsor will develop and implement a long-term mitigation program for growth inducing impacts in the flood plain.

Mr. Chairman, this is not the large multipurpose reservoir which was originally envisioned by the Bureau of Reclamation and halted in the 1970's. Instead, it represents a reasonable attempt to provide an adequate level of flood protection to the people in the Sacramento area and to protect the public and private investment which has already occurred. No one wants to encourage development in flood prone areas. However, once development has occurred and property is in place, it is sound Federal investment to protect the property rather than risk paying billions of dollars in flood insurance damages at some later date.

Mr. Chairman, I urge my colleagues to support the provision for the American River watershed.

□ 1730

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say to my colleagues from California that the gentleman from New Jersey, on the other coast, has listened intently to the debate. In addition to that, I have served 23 years on the Committee on Public Works and Transportation, and there seems to be an assumption that the Committee on Public Works and Transportation does not really have an understanding of what is happening.

And if you think a minute, we had a similar situation going back in 1986, I say to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], where there was a dam and a reservoir and a multipurpose project down in the southern part of our Nation. We had said to the good people in that section of the country, "For God's sake, listen to yourselves for once."

Now, the purpose of coming back and saying you are going to kill the project, let me tell you what you are going to do. If you kill the project and you vote this resolution into effect and agree with Mr. PETRI, who is my dear personal friend, what you do is you go back to square one. So you start at square one and you have to start all over again in building the needs you are talking about, whether it is the flood protection issues for the thousands and tens of thousands of people involved; whether it is the water supply issue that the gentleman from California [Mr. DOOLITTLE] and others have spoken to; there is nothing there. Now, whether it is the environmental issue that you speak to, there is nothing there.

What gives anybody the great point of view saying a lot of this property cannot be developed? Of course it can. Everybody wants to move to California—until you run out of water.

So you have three things going here which we are trying to resolve and help you to do it. We are saying to you, Does California need a quality water supply? The answer is most assuredly "yes," that is if the State is to prosper and grow. Do we have an obligation to 300,000 people who live not because of somebody's terrible thing that they did, they are there, the homes are there. We have a similar situation in the State of New Jersey.

My father taught me something in life: that half of nothing is nothing. Just recently when the argument was spread out about the idea whether we should have an accelerated public works bill, we could not afford to spend $10 billion. Where would we find it? "My God, with the exacerbated debt we have, that is a terrible thing to do," except that the good Lord decided, not anybody in this body or in the other body or in the executive branch, the good Lord decided and He called it a hurricane, and we named it Andrew. And Andrew did 35 billion dollars' worth of damage in the State of Florida.

And, by God, where are we going to get the money from? You know where we are going to get the money from? We are going to get it right now because we need it for the people of Florida. Otherwise they are living in tents by the thousands.

What do you do with your fellow citizens? What do you do in 1992 if there is a topping of those dikes? Who will then speak to the people who lose their lives because this body could not get its act together?

Now, I did not ask to vote in one way or the other on this situation, but I am saying to the people of California, whether it is the total perfect solution is not the issue before us today as far as the chairman of your committee looking at it. He is saying you are taking a quantum step forward. It is not a complete program. It is not complete. There is a long way to go from here to the ultimate resolution that will come on this particular project.

If you turn it down today, you start all over again.

Now let me caution you as friends, the American people, not the people of California, spent $300 million of taxpayers' money already. If I had $300 million in the State of New Jersey, I could solve a major flood control problem we have been working on for 35 years in the State of New Jersey.

So the American people have invested $300 million—yes, in part, California money—to try to do this. I would strongly caution you not to vote for the Petri amendment, my dear friend from Wisconsin, not to turn this down at this point, but let it go forth from here.

I believe that the basic reasoning that is maturing in your own minds is: give it a chance to grow, but set the foundation now. It is my understanding, quite clearly, just double checked it to be sure, that the design of this plan is not based upon the point of finality in any stretch of the imagination. There is additional studies being considered and being carried out. And I think the Members of this House should go home and when they vote on this and say this is not the beginning or the end, this project needs more wisdom and more good judgment. It needs people who can work together to solve the problem.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 2 additional minutes.)

Mr. ROE. Mr. Chairman, it needs more attention from the people of California. But there is something more important—and then I will conclude my time—you know, we do not build dams and reservoirs and ports and harbors and highways because we are building dams, reservoirs, ports, and highways; we are building structures for the environmental health of the people of this country.

This is an investment, not in bricks and mortar and stone, it is an investment in the needs of the people in California. And therefore politicians of both political parties do not have the luxury to sit and pick and nitpick and defeat what is trying to be done when you have a responsibility to people in the State.

What you are deciding today, if you kill this particular situation, you sit under the sword of Damocles. If there is a storm in California and it tops that situation, who then speaks for those people, all those people who may lose their lives?

□ 1740

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. ROE. Yes, I will, of course, yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I appreciate the gentleman yielding to me.

Let me pick up where the gentleman left off with a small reminder that just last week this House voted almost $10 billion for disaster relief for people who were hit by Hurricane Andrew, Hurricane Iniki, and the typhoon. That disaster in the picture next to the gentleman is every bit as much of a disaster as any of those hurricanes. If we could have built a wall to prevent that hurricane for a few hundred million dollars, we would have prevented the Federal Government from having to expend $10 billion and the locals and the State and the people themselves and the insurance companies probably will put up on the table another $40 billion before we pay for all the damage.

This investment is the wisest investment that you could make to save down the road, God forbid that disaster occurs again, billions upon billions of dollars, and even that is not the ultimate best interest, because of the disruption of people's lives.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

At the request of Mr. SMITH of Florida, and by unanimous consent, Mr. ROE was allowed to proceed for 2 additional minutes.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield further?

Mr. ROE. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, the disruption in people's lives, the loss not only of their houses, their cars, their furniture, their mementos, their pictures, the disruption takes years to give back to them. They have lost years out of their lives. The investment of a few hundred million dollars of money by the Federal Government will save countless dollars; but more than that, it saves the grief and the aggravation and the deprivation of hundreds of thousands of people if it can be built.

We could not build a wall to protect ourselves from Hurricane Andrew, but we can build this to protect ourselves from what you see in that picture.

Mr. Speaker, I congratulate the gentleman on his efforts.

Mr. ROE. Mr. Speaker, let me conclude by simply saying I do hope the people of California, and you know we have 57 Members and we will probably have more before it is over, but you need the rest of the country to solve problems, too.

It is the right thing to do at this time in the direction of the needs of California and the people of California.

I believe that amendment should be voted down.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of California. Those of us who sit in fear of a monolithic 52-Member California delegation maybe have learned from this debate that we do not have so much to worry about after all.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I am happy to yield to my colleague, the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I was not even going to speak on this issue, but as I sit and hear the debate, it angers me. Why?

California desperately needs water, and especially down in our district of San Diego. I have heard about real estate, I have heard tree hunters. I have heard environmentalists.

If you take a look, a dam with a hole in it that will not support water is great other than that, but in the Puma Valley we tried to build a dam and the environmentalists stopped us because of the bird called the gnat catcher.

We tried to start three other dams to hold water. San Diego County only has about 7 days' supply of water. Most of that water comes across the San Andreas Fault.

When they say they cannot pay for it, there was a referendum in 1990 up in Sacramento and the people voted that they wanted a long-term multipurpose dam. If I could build a bridge and have cars go across it and collect that revenue, I think I would like that as a State, or even as a community.

When you think of the hydroelectric power when we are a State also looking for generation in alternative fuels, especially in the future; also the water that could be sold down south. But no, they do not want growth.

The tree hunters, the extremists, the environmentalists, have got behind this. They want to build a dam that has got a hole in it that will not hold water because they know it will shut down real estate.

You can pay for this dam and it is a no-growth issue.

It is also interesting to see Florida, New Jersey, New York, and those supportive, talk about California.

We who live here want this dam as a multipurpose dam. When you build a dam that has a hole in the bottom, that is not economically feasible to upgrade it to a multipurpose dam, that ought to send a message in first place.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

I am just going to take about 20 seconds. We have been on this amendment now for a little over an hour, and we are limited to 8:30 on all amendments. I do not want to interfere in the debate. I am not that knowledgeable on the problems in California, but let me just say to my colleagues, there are a number of other amendments that we would like to get on to, and I would urge my colleagues to expedite this so we can get on to some other business.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the American River project is the result of nearly 6 years of work by the U.S. Army Corps of Engineers. Just months after the nearly catastrophic flood of February 1986, at the request of Congress, the Corps launched a reconnaissance level study of flood control alternatives for the American River Watershed. That study was completed in January 1988, and over the next 3½ years, the Corps of Engineers, the Sacramento Area Flood Control Agency and the State of California worked hard to put together the American River project, a desperately needed proposal to provide additional flood protection to 300,000 Sacramentans and some 23 billion dollars' worth of property.

The plan was put together in full conformance with the Landmark Water Resources Act of 1986, which finalized a whole new process and cost-share regime for the development of U.S. Army Corps of Engineers water resource projects. This new Corps of Engineers process as fully observed, including the requirement of local cost-sharing feasibility study. The non-Federal sponsors contributed $5 million or half of the $10 million price tag of the American River project feasibility study.

The corps' Board of Rivers and Harbors and the Chief of Engineers have approved the project. It is now making its way through the interagency review process, and we expect formal administration support, the Corps of Engineers' plan sometime before the bill is finalized in conference. Most other projects in the Water Resources Development Act of 1992 are in this same procedural status.

The American River project calls for the Corps of Engineers to construct an expandable, flood control only structure in the Auburn Canyon and to provide levee improvements in the Natomas area of Sacramento as well as along portions of the lower American River.

While this is fully and complete a corps project, because it does entail the use of a site in the vicinity of the legendary, multipurpose dam at Auburn, which was previously authorized, the chairman of the Interior Committee, Mr. MILLER, has some legitimate jurisdictional concerns. Mr. MATSUI and I have consulted with the chairman of the Interior Committee, we have sought to address the issues that he has raised in a manner consistent with his expressed concerns. We have consulted with him and we have kept him fully informed of our proposals.

And, we pledge to continue that effort as this streamlined authorization for the American River flood control project moves forward to conference committee.

Mr. Chairman, we have been equally vigilant in our efforts to ensure that this flood control facility does not create any new hurdles for those who wish to expand the corps facility into a new multipurpose project that would provide water and power benefits. We have worked with Mr. DOOLITTLE toward that end, and we have agreed to accommodate a great number of his requests as this measure moves to conference committee. We are committed to continuing that dialog.

Mr. Chairman, I would just point out that my commitment to providing the gentleman from California [Mr. DOOLITTLE] with his day in court, so to speak, on the multipurpose project is exemplified in my continuing support—without any assistance from any of the last two Republican administration's—of a study by the Bureau of Reclamation of the expansion of the flood control facility to provide water and power benefits. I have been intimately involved in funding this effort for the last 3 years. Again, it has never been requested by any President. In fact, the multipurpose project has not been supported by either Governor Wilson nor was it supported by Governor Deukmejian.

Nonetheless, I have continued to work to ensure that this funding is provided so that Mr. DOOLITTLE and Mr. LEHMAN and others can be given the opportunity to bring before this House a full studied, well defined project to provide additional water and power benefits to the region.

I would just sum up, Mr. Chairman, by saying that boosting flood protection for the people of Sacramento, who live with such a high risk of cataclysmic flooding, is an overwhelming priority.

In the February 1986 flood, just another hour of rainfall would have caused massive destruction and catastrophic levee failures. A 100-year flood event, a flood that has a more than 63 percent chance of being exceeded in the next 100 years, would leave downtown Sacramento and the State capitol under three feet of water. The same event would leave Natomas, where 70,000 people live, under 15 to 20 feet of water, creating a massive lake that would take up to a month to drain.

Much has been made of the cost of the project, but the $457.7 million one-time Federal costs—$698 million total costs—pales in comparison to the $9 billion in damages that a single flood event would cause. The project has an exceptionally high 2.7 to 1 benefit-cost ratio.

And, finally, the environmental damage from periodic inundation has been grossly overstated. It is estimated that the cumulative total damage to vegetation from periodic inundation will range anywhere from 800 to 1,700 acres, over the entire 100-year life of the project. The project mitigates for that damage by requiring the purchase of 5,385 acres of land. Moreover, just 12 days after a 200-year storm, the river would be back within the scour zone of the canyon, that part of the canyon that has historically flooded without any kind of structure in the river and therefore is less susceptible to permanent damage.

Mr. Chairman, as these photos show, occasional inundations caused by the proposed dry flood control dam will not do significant damage to the Auburn Canyon. Beginning in 1973, when construction started on another Auburn Dam—the famous multipurpose facility that would have created a reservoir—a temporary earthen coffer dam was erected to keep the worksite dry. The coffer dam worked exactly as a dry dam would: restricting high flows; passing normal ones without impoundment. Four times from 1973 to 1986, inundations occurred, lasting several days and reaching depths of 215 above the riverbed. Further, the water was moving unusually fast through the canyons, and it drained suddenly, in the most damaging way possible, when the coffer dam gave way to the flows.

As photos taken since then show, permanent damage to the canyon has been insignificant, even negligible.

Different pictures circulated by environmentalists in the Congress which purport to show the damage inundation would cause are in fact taken of an entirely different canyon on the New Melones River. This canyon is now part dry because of the drought, but it was inundated constantly for many years. And, prior to inundation, the Bureau of Reclamation chopped down most of the trees around the waterline. The New Melones Canyon does now look like a wasteland, but it is a gross exaggeration to even compare it to the consequences of occasional inundations at Auburn.

Moreover, Sacramento will establish a fund immediately to completely revegetate the canyon as a special condition of the legislation we would propose. This is in addition to conventional mitigation, which will also be undertaken.

Damage to the Auburn Canyon will be trival. On the other hand, the same flows would cause catastrophe in Sacramento.

Mr. Chairman, we must act this year to move this flood control project along. Northern California is in the midst of its sixth consecutive year of drought, but a catastrophic flood could occur next year or the year after or the year after that.

I urge my colleagues to support this authorization and oppose the Petri amendment. The public safety and financial stakes are clear. We cannot allow these 300,000 Americans to be held hostage to the 2 extremes in this debate—one side that says no structure, of any size, is acceptable and the other that says only a multipurpose project, which has not been fully studied by a single agency of this government and whose costs and impacts are unknown, can be supported.

These 300,000 people are living under the threat of massive flooding. We know it. We know how to protect them, in an environmentally sensitive and cost-effective way. They are committed to paying their fair share of the project. They deserve our help.

Again, I urge my colleagues to oppose the Petri massive flooding. We know it. We know how to protect them, in an environmentally sensitive and cost-effective way. They are committed to paying their fair share of the project. They deserve our help.

Again, I urge my colleagues to oppose the Petri amendment and support Chairman ROE and the continued Federal commitment to help communities achieve a safe level of flood protection.

Mr. Chairman, I would first like to say to the gentleman from Indiana [Mr. BURTON], I certainly get the message. There will be times when I may remember to ask the gentleman to shorten up his contribution to debate, but I will try to be brief.

I really do feel very frustrated at the moment, and I apologize to everybody for occasionally being a little bit out of control today, because this is a very frustrating experience for me.

I have been trying to find a way through the labyrinth of opposition to find protection for the people that the gentleman from California [Mr. MATSUI] and I represent. We have done everything we could to follow the requirements that this committee and the 1986 omnibus water projects bill imposed on us. That was a bill, as you know, supported by the National Taxpayers Union, the Sierra Club, and all the people who continue to oppose water projects here today, because they said it would smoke out the pork barrel and make sure that we do things that were viable with local cost sharing that really got rid of all the chaff that was giving us a bad name every time we brought a water projects bill to the floor. It was immediately a pork barrel bill. Some tried to kill it. Presidents wanted to veto them to make a point. And as a result we did not do much for water development. We went 10 years without a bill coming out of this committee, but we are here today because we have done it right. We have gone through the process. We funded the corps studies. We are on the verge of trying desperately to find a common ground, middle road position, to save these people from the kind of disaster the gentleman from Florida [Mr. SMITH] talked about.

We have not obviously brought everyone together, and I do not think it would be fair to say we ever will, but I think it is worth continuing to try.

So Mr. Chairman, I urge the House not to support the motion the gentleman from Wisconsin [Mr. PETRI] has made to strike this project at the moment.

We have a short timeframe and a very disparate group of Senators who have a lot to say. You know, they say over there 99 is never enough.

We are a long way from home, but we want to continue to work to assure people on the environmental side that we are not going to scour the canyons as they said we would, by pointing to New Melones, where the Bureau went in and cut down trees.

We are trying to assure the gentleman from California [Mr. DOOLITTLE] that we in fact want this to be an expandable project. That was our concept. That was our intent when we put this together.

I could not speak more eloquently than the gentleman from New Jersey [Mr. ROE], the gentleman from Indiana [Mr. HAMMERSCHMIDT], and the gentleman from New York [Mr. NOWAK]. They looked at this project. They are not interested in finding solutions that we cannot afford or that are not acceptable to people on any end of the political spectrum. They have tried a consensus effort here to put together a project that will sell.

I can only say to the committee, I wish we could do as well in our private negotiations as the gentleman have done in their public effort. They have given us the time. They have given us the opportunity.

I think, frankly, if we are to proceed at all, we have to see this bill leave the House with this project in it.

I pledge to continue to work with all sides of this to see if we can find a way home by the end of this session. If we do not, we are another 2 years away.

You know, there is not going to be any magic bullet, no study that is going to resolve it for everybody. This is as close as we get to a consensus for now.

I would certainly hope that my friends who have seen me operate on my Subcommittee on Energy and Water, chaired by the gentleman from Alabama [Mr. BEVILL], know that I have been objective about the many water projects we face. We have funded them when they came along.

I voted for some that frankly have not helped me at home. I have not gone searching for opportunities at the expense of my colleagues to make my name with the Taxpayers' Union or the environmental movement. When people have asked me to support projects like the Santa Ana River project that does not deliver one drop of water to the people of southern California, I have gone along with it. I am not looking to trouble people. I am looking to help people.

The gentleman from California [Mr. MATSUI] and I are asking for your help today, and I certainly hope we get it because we would like to continue to be as accommodating to all of you as we have been in the past.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PETRI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 140, not voting 19, as follows:

[Roll No. 415]

AYES—273

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Atkins
Bacchus
Baker
Ballenger
Barrett
Barton
Beilenson
Bentley
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Boxer
Brewster
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Carr
Clinger
Coble
Coleman (MO)
Cooper
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Eckart
Edwards (CA)
English
Erdreich
Evans
Ewing
Fawell
Fields
Fish
Ford (MI)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lantos
LaRocco
Leach
Lent
Levin (MI)
Levine (CA)

Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
McCandless
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison
Murphy
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Pursell
Rahall
Ramstad
Ravenel
Ray
Reed
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Russo
Sanders
Sangmeister
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Vucanovich
Walker
Walsh
Washington
Waxman
Weldon
Williams
Wolf
Wolpe
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—140

Anderson
Andrews (TX)
Annunzio
Anthony
Aspin
Bateman
Bennett
Bevill
Bilbray
Borski
Boucher
Brooks
Brown
Bustamante
Byron
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Costello
Coyne
Davis
de la Garza
Dingell
Durbin
Dwyer
Early
Edwards (TX)
Emerson
Engel
Espy
Fascell
Fazio
Feighan
Flake
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gonzalez
Guarini
Hall (OH)
Hall (TX)
Hammerschmidt
Hatcher
Hefner
Hertel
Horn
Horton
Hoyer
Huckaby
Jefferson
Jenkins
Kanjorski
Kaptur
Kleczka
Kolter
Kopetski
LaFalce
Lancaster
Laughlin
Lehman (CA)
Lehman (FL)
Lewis (CA)
Lipinski
Lowery (CA)
Manton
Matsui
Mavroules
Mazzoli
McDade
McHugh
McNulty
Mfume
Miller (OH)
Moakley
Mollohan
Moran
Mrazek
Murtha
Myers
Nagle
Natcher
Nowak
Obey
Olin
Ortiz
Pastor
Payne (NJ)
Perkins
Pickett
Poshard
Price
Quillen
Rangel
Regula
Rinaldo
Roe
Rogers
Rose
Rostenkowski
Roukema
Roybal
Sabo
Sarpalius
Savage
Scheuer
Shuster
Sisisky
Skelton
Smith (FL)
Smith (IA)
Stokes
Swift
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Visclosky
Volkmer
Waters

Wheat
Whitten
Wilson
Wise
Yates
Yatron

NOT VOTING—19

Alexander
AuCoin
Barnard
Blackwell
Bonior
Campbell (CO)
Chandler
Conyers
Dymally
Edwards (OK)
Foglietta
Hayes (IL)
Hayes (LA)
Ireland
Jones
McCrery
Penny
Santorum
Weber

☐ 1816

Messrs. OWENS of Utah, COBLE, OWENS of New York, VANDER JAGT, MARKEY, SKEEN, MONTGOMERY, CARR, RUSSO, INHOFE, DOWNEY, DARDEN, and RHODES, Mrs. LOWEY of New York, Ms. LONG, and Messrs. LAROCCO, BEILENSON, SPRATT, GORDON, DIXON, HARRIS, MARTINEZ, PANETTA, FORD of Michigan, PICKLE, DERRICK, BREWSTER, DICKS, PAYNE of Virginia, and ROWLAND changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: At the end of title II of the bill, insert the following new section:

**SEC. 227. ANNUAL OBLIGATION CEILINGS.**

Section 901 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended by inserting after paragraph (5) the following new paragraphs:

"(6) For the fiscal year ending September 30, 1992, the sum of $1,800,000,000.

"(7) For the fiscal year ending September 30, 1993, the sum of $1,800,000,000.

"(8) For the fiscal year ending September 30, 1994, the sum of $1,800,000,000.".

Conform the table of contents of the bill accordingly.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, there have been a number of times during the past 6 months that I have come to the floor, and I have talked about the deficit spending.

The gentleman, my colleague from Florida, is looking very intently at this chart right now. I hope all of my colleagues will.

Mr. Chairman, the chart on my left is a chart that was not concocted out of my mind. It was produced by the Federal Reserve Board, and my colleagues will notice that the debt, which was $1 trillion 10 years ago, is over $4 trillion now. And the projection is that it will be $13.5 trillion in about 6½ years.

What that means is that the interest alone on the national debt is going to be as much as almost all of the tax revenues being collected by the Treasury, $1.2 trillion.

How are we going to take care of the Social Security recipients, the people on welfare, the infrastructure, and the defense of this Nation, if this occurs?

☐ 1820

The reason I bring this up on this authorization bill is because in 1990 we authorized in the authorization bill $3.9 billion. This year we are authorizing $5.2 billion, a 25-percent increase, a 25-percent increase. In just 2 years this bill has been increased by $1.3 billion and the administration's request transmitted to the House in March included 8 project authorizations, 1 project modification, and 24 other provisions. The total estimated administration request to date was $1 billion, $1 billion.

There are 10 to 12 other projects which the administration is in the process of reviewing which would cost another $2 billion. That is a total of $3 billion. Once again, this bill today is over $2 billion above what the administration has requested. There are numerous projects and programs within this bill that are not the responsibility of the Federal Government, or within the traditional missions of the Army Corps of Engineers.

A while ago the gentleman from Texas [Mr. BROOKS] had added to this bill a child day care center. What in the world does a child day care center have to do with these water projects? It does not have anything to do with them. Nevertheless, the committee allowed that to be added.

There are a lot of other pork barrel projects in this bill, and I will get those later. Numerous projects in the bill have not gone through the established review process. Projects totaling $2.57 billion have not been approved by the administration or the Army Corps of Engineers. Spending on these types of projects have grown completely out of control. There is no justification for spending on these projects, particularly during this time of very tight budgets and big deficits.

My amendment, and I hope my colleagues are paying attention, my amendment would place annual obligation ceilings on the general construction account and the flood control construction account. We used to do this. These annual ceilings were in the 1986 reauthorization bill, but they were taken out in the 1988 and the 1990 reauthorization bills. What this means is we took the ceilings off the spending. I want to put them back on.

If we put them back on, we will save $100 million this year and $200 million next year, in the next fiscal year. That is a grand total of $300 million the Members will vote to save in authorizations if they vote for my amendment. It is still way above where we ought to be, but it is a step in the right direction.

Before the Members vote, before the Members vote, I hope they will remember these two charts. We talk a lot around here about getting control of spending. We talk a lot around here about setting priorities on different kinds of projects, and we never seem to do it. As a result, the deficit continues to rocket upwards, rocket upwards, the interest on the debt continues to rocket upwards, and we are setting ourselves up for a major calamity, hyperinflation. The people on fixed incomes and welfare are going to really be hurt if we do not get control of the spending.

This is an amendment that everybody in this House ought to support. It cuts $300 million in authorizations, and I urge my colleagues to support it.

Mr. ROE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if our colleagues will forgive us, we are almost finished with this bill. There are two amendments. This is one of them, and there is one other, as I understand it.

Mr. Chairman, every time we have something come to the floor, the distinguished gentleman from Indiana [Mr. BURTON] comes back and he raises the budget specter, and he is right on that. I think he makes a point, but let me tell the Members, these programs are programs that are needed for the people of this country. For everybody in this room, including the gentleman from Indiana [Mr. BURTON], there is a phase of our program that involves their respective district and their respective States. It is something that people need.

It reminds me of the story of "the operation was a success but the patient died." It was brought up by the gentlemen recently in another bill here this morning where they came back and they talked about the point of view, and I am not opposed to it, I voted for it, should we help the Soviet Union.

By God, we can spend billions for those purposes, billions for everything else, but when it comes to the water supply, the needs of the American people, we vote no, no, no every time. That is the argument.

Who comes first around here? Do the American people come first? Do the needs of the American people? Do the jobs of the American people? All of the debate that goes on in this place denigrates the American people.

I am saying to the Members, we have worked for 2 years on this bill. We have worked with the people individually. It did not matter whether they were a donkey or an elephant, it did not matter. It was what was needed for the people. There has been no committee in this House that has been as bipartisan and working for the needs of the people in every respective State.

By God, this time this vote is an American people's vote. It is for the things we need in America. If the Members do not want to build their roads, if they do not want a water supply, they do not need this and they do not need that for the very quality of life of the American people, then vote for this amendment. What they are doing is denigrating the people of this country.

This committee has worked its heart out. There is nothing in this bill that we are coming aboard and trying to put anything over on anybody whatsoever. It is the need of the American people that is involved.

Some place along the line, I agree, we are going to have to temper what our situation is on cost. We know that. That is what we have a Budget Committee for. That is what we have an Appropriations Committee for. That is what we have that process for, not from the point of authorizing committees, who are authorizing programs that the people need.

Can the Members build half a dam? Can the Members build half a water supply? Can they build half a road? That is what they are saying. Do they think by putting ceilings on we are going to save money? It is going to cost us five times as much because we simply will not be able to get the projects built in the proper timeframe, and it is going to cost more to do it. We know that after 35 or 50 years of experience. We know that is so.

So I would hope to end the debate and vote this amendment down. It is not in the interests of the Congress nor is it in the interest of the American people. I urge a vote in opposition to this amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise to support all the points my chairman just made. I associate myself with him, and strongly oppose the amendment. I ask for a no vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 104, noes 303, not voting 25, as follows:

[Roll No. 416]

AYES—104

Allen
Andrews (TX)
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Boehner
Broomfield
Burton
Byron
Callahan
Camp
Campbell (CA)
Coble
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Franks (CT)
Gekas
Gingrich
Glickman
Goodling
Goss
Hancock
Hastert
Hefley
Henry
Holloway
Houghton
Hunter
Hutto
Jacobs
James
Johnson (TX)
Jontz
Kennedy
Klug
Kolbe
Kostmayer
Kyl
Lewis (FL)
Marlenee
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Nichols
Orton
Oxley
Packard
Porter
Ramstad
Rhodes
Ritter
Roberts
Roemer
Rohrabacher
Roth
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shays
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Swett
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zimmer

NOES—303

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Bacchus
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hayes (IL)
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hyde
Inhofe
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolter
Kopetski
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCrery
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)

Peterson (MN)
Petri
Pickett
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zeliff

### NOT VOTING—25

Allard
AuCoin
Barnard
Blackwell
Boxer
Campbell (CO)
Chandler
Conyers
Dymally
Edwards (OK)
Foglietta
Hatcher
Hayes (LA)
Hefner
Horton
Ireland
Jones
Lehman (FL)
McCloskey
McGrath
Olin
Penny
Pickle
Vento
Wilson

□ 1845

Mr. TAYLOR of Mississippi changed his vote from "aye" to "no."

Messrs. HUNTER, WILLIAMS, and SARPALIUS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: On Page 42, line 15, strike section 103 (Visitor Centers) through page 46, line 16, and renumber the sections accordingly.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN (Mr. MURPHY). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, it is obvious the Indians are restless. Everybody wants to depart so I will not take much time. I will not take even the 5 minutes.

Let me just say this: This bill is entitled "The Water Resources Development Act of 1992."

Mr. Chairman, many of my colleagues felt they could not support the last amendment which would have saved, I believe, $300 million which still would have been way, way, way above the spending levels of 2 years ago. Nevertheless, we could not get that passed.

But this particular amendment deals with specific pork-barrel projects. Now, this is a Water Resources Development Act, and in section 103 we have authorized the secretary to construct a regional visitors' center of at least 24,000 square feet at the Melvin Price Lock and Dam in Alton, IL, and that site is currently a construction site and visitors are not even encouraged. That site is going to cost probably $4–$5 million for this visitors' center. I do not know what business it has in a Water Resources Development Act.

In addition to that, this bill authorizes the construction of a visitors' center at the Mount Morris Dam in Mount Morris, NY, which will cost additional millions of dollars. This is not going to protect anybody from flood or provide water resources.

And, finally, it provides for a museum and interpretive site in Vicksburg, MS, to be known as the Lower Mississippi Museum and Riverfront Site.

□ 1850

I understand that we are all concerned about flood control and providing adequate water resources for people in this country, and we should be doing that. But these are pork-barrel projects for specific Congressmen that are in this bill, and it is going to cost $10 million, $15 million, $20 million, nobody knows for sure. It has no place in this legislation.

My colleagues, we should vote it down. We have to get control of our appetite for spending at some point. I talked about the chaotic conditions that would ensue if we do not control spending. Here is a good place to start. $15 million, maybe $20 million, in pure pork.

Earlier today the gentleman from Texas got a daycare center in this water resources bill. There is something amiss here.

Vote for this amendment and save the taxpayers some money.

Mr. HAMMERSCHMIDT. Mr. Chairman, I will not take but just a moment except to say that all visitors centers in this country which afford access to many Members' constituents have been authorized in water resources development acts for many, many years. This is just another being authorized in the regular procedure.

Mr. Chairman, I oppose the gentleman's amendment.

Mr. ROE. My colleagues, we are ready to vote, and after this we will go to the final vote. Again, this is more of the same. Anything you want to build someplace else is pork-barrel unless it appears in that Member's district. I agree with the gentleman from Arkansas [Mr. HAMMERSCHMIDT], this has gone through the regular procedures, committee meetings and all that. The amendment should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken, and the chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 125, noes 282, not voting 25, as follows:

[Roll No. 417]

### AYES—125

Allard
Allen
Andrews (ME)
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Carper
Coble
Combest
Condit
Cox (IL)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Dornan (CA)
Dreier
Duncan
English
Ewing
Fawell
Fields
Fish
Frank (MA)
Franks (CT)
Gallegly
Gekas
Gilchrest
Gilman
Glickman
Goodling
Goss
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hefley
Henry
Holloway
Hopkins
Hubbard
Hunter
Inhofe
Jacobs
James
Johnson (TX)
Jontz
Kasich
Kennedy
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Leach
Lewis (FL)
Marlenee
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Neal (NC)
Nichols
Orton
Oxley
Patterson
Porter
Ramstad
Ravenel
Regula
Rhodes
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schiff
Sensenbrenner
Shays
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Sundquist
Swett
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Walker
Weber
Weldon
Wolf
Wylie
Young (FL)
Zimmer

### NOES—282

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Coughlin
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Ford (MI)
Ford (TN)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gingrich
Gonzalez
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hammerschmidt
Harris
Hayes (IL)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer

Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Riggs
Rinaldo
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff

NOT VOTING—25

AuCoin
Barnard
Blackwell
Boxer
Campbell (CO)
Chandler
Conyers
Cox (CA)
Dymally
Edwards (OK)
Feighan
Foglietta
Hatcher
Hayes (LA)
Horton
Ireland
Jones
Lehman (FL)
McGrath
Olin
Penny
Roybal
Schulze
Vander Jagt
Vucanovich

☐ 1911

Messrs. COX of Illinois, KENNEDY, and DOOLEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

Mr. BREWSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the chairman of the Committee on Public Works and Transportation, the distinguished floor manager of the bill, the gentleman from New Jersey [Mr. ROE], to enter into a brief colloquy regarding section 358 of H.R. 5754, which creates a new sedimentation program to be carried out by the Secretary of the Army in the Great Lakes States.

I am concerned that we are setting up a new program here that will get the corps into the business of regulating nonpoint pollution in the Great Lakes region. Although Oklahoma is far from the Great Lakes, I am concerned that we are establishing a precedent that will soon be applied to other areas of the country with respect to control on nonpoint pollution.

I interpret section 358 of the bill as requiring the Secretary of the Army to develop sediment transport models and remedial action plans for major river systems in the Great Lakes region in order to reduce sediment loadings in harbors, channel maintenance projects, and areas of concern.

In developing these models and action plans, the Secretary must develop approaches that are consistent with the nonpoint pollution control guidance that EPA is now developing under the Coastal Zone Management Act. Many Members are concerned about the impact of this EPA nonpoint control guidance, which is yet to be finalized, as it will likely impact operations on farmlands, forestlands, and other agricultural activities.

In reading the language of the provision it seems to me that the corps may in fact be required to implement this nonpoint control guidance in order to carry out its sediment load reduction analyses. If that is in fact the case, we have, in effect, created a new nonpoint pollution control program for the Great Lakes Region. I was under the impression that we were not addressing the Clean Water Act related issues in this bill and I mentioned earlier that we are setting a dangerous precedent for the consideration of nonpoint controls when we do reauthorize the Clean Water Act in the next Congress.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. BREWSTER. I yield to the gentleman from New Jersey.

Mr. ROE. I would say to my good friend from Oklahoma that the language in section 358 of the bill does not implement this nonpoint guidance in the Great Lakes States. Also, the Secretary is not directed to develop remedial action plans—it simply directs the Secretary to coordinate his modeling efforts with the plans being developed by the Administrator. In my reading of the amendment, it does not in fact create any authority for the Secretary of the Army to control nonpoint pollution.

Mr. BREWSTER. I appreciate the gentlemen's assurance that it is not the intent of this provision to give the Secretary authority to regulate nonpoint pollution. However, I remain concerned about the wording of the provision. For instance, the Secretary is required

> * * * to conduct sediment load reduction analysis to estimate the potential effectiveness and efficiency of upstream sediment source reduction approaches and scenarios to reduce sedimentation in Great Lakes federally authorized commercial harbors, channel maintenance sites, and areas of concern.

The provision goes on further to say, "in developing and using such analyses, the Secretary shall consider only those sediment reduction approaches and scenarios which are consistent with the guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990," which of course is the EPA nonpoint guidance.

Mr. ROE. I would say to my friend from Oklahoma, while I understand his concerns, I do not share his interpretation. I will, however, continue to work with you through conference on this bill and, if necessary, seek to change the legislative language in conference to clarify this does not give the Secretary of the Army any authority to regulate nonpoint pollution.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. BREWSTER. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I want to associate myself with the comments and concerns expressed by the gentleman from Oklahoma. I, too, have heard some concerns from people back in Wisconsin and would agree that we do not give the corps broad new authority to establish, implement, or enforce a nonpoint source program. So, I appreciate the comments of Chairman ROE in this regard.

Mr. MINETA. Mr. Chairman, I rise today in support of the Water Resources Development Act of 1992.

Americans generate 14 billion gallons of wastewater every day. What we do—and what we should be doing—with that water is hardly insignificant.

Look to the West, if you want to know how much we value our water.

Water is the lifeblood of California. Californians know that when we waste water, we lose a precious natural resource that we can ill afford to lose.

Twenty years ago, one of my greatest challenges was to reign in the indiscriminate growth—and indiscriminate waste—that was taking place.

My district—the Valley of the Heart's Delight—which produced California's finest peaches, apricots, cherries, and prunes—was transforming into Silicon Valley—which produced the semiconductor revolution and the Information Age.

Moving from agriculture to high-tech industry strained just about every resource we had. High-technology industry used water ways we had never imagined before. And the toxic waste that resulted threatened and in fact contaminated some of our own ground water.

The last thing I believed we could do was wait for disaster to strike. So, we tried to get ahead of the curve.

Early on as mayor of San Jose, I advocated building the San Jose/Santa Clara Water Pollution Control Plant—and I am proud to say that this plant was one of the first tertiary treatment facilities in the country and today produces some of the cleanest wastewater in the United States.

What I learned in our campaign to build this plant was that we need to make investments that are visionary, and essential.

Mr. Chairman, some believe that pollution is a necessary cost of progress in America. But even if this is true, I believe, we are obligated as a society to do all that we can to reduce that pollution, recycle the waste, and protect our environment with balanced public investments.

I believe, it is essential that Congress thinks and acts more innovatively when it comes to waste recycling in all its forms. Our health depends upon it. Our environment depends upon it. Our society depends upon it.

But no matter what the solution becomes in the end, Congress has an obligation to uphold one principle in particular: The Federal Government must act in partnership with State and local agencies. We can't just sit here in Washington and dictate new standards without helping America to meet those standards.

Mr. Chairman, too often in the last dozen years, the executive branch has tried to shift new responsibilities to State and local agencies without providing the money to help them meet those obligations. That must stop.

Mr. Chairman, we need quality legislation like the Water Resources Development Act of 1992 for the America we need to build for the 21st century, and I urge the support of our colleagues for this new law.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. MURPHY, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5754) to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, pursuant to House Resolution 570, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HAMMERSCHMIDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were— ayes 326, noes 87, not voting 19, as follows:

[Roll No. 418]

AYES—326

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Bacchus
Baker
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Inhofe
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff

NOES—87

Allard
Allen
Archer
Armey
Atkins
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Dreier
Duncan
Ewing
Fawell
Fields
Frank (MA)
Franks (CT)
Gekas
Glickman
Goodling
Goss
Gradison
Hancock
Hansen
Hastert
Hefley
Henry
Hubbard
Hunter
Ireland
Johnson (CT)
Johnson (TX)
Jontz
Kasich
Klug
Kolbe
Kyl
Lewis (FL)
McCollum
Meyers
Michel
Miller (WA)
Neal (MA)
Nichols
Olver
Orton
Oxley
Pease
Porter
Ramstad
Rhodes
Ritter
Roberts
Roemer
Rohrabacher
Schaefer
Sensenbrenner
Shays
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Taylor (NC)
Thomas (WY)
Upton
Vento
Walker
Weber
Wolf
Wylie
Young (FL)
Zimmer

NOT VOTING—19

AuCoin
Barnard
Blackwell
Campbell (CO)
Chandler
Conyers
Dymally
Edwards (OK)
Foglietta
Hatcher
Hayes (LA)
Horton
Jacobs
Jones
Lehman (FL)
McGrath
Penny
Rangel
Schulze

□ 1934

Mr. OLVER and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

### PERSONAL EXPLANATION

Mr. PENNY. Mr. Speaker, due to a death in the family I was in my home district. Had I been here, I would have voted "aye" on rollcall 409, "aye" on rollcall 410, "aye" on rollcall 411, "no" on rollcall 412, "no" on rollcall 413, "aye" on rollcall 414, "aye" on rollcall 415, "aye" on rollcall 416, "aye" on rollcall 417, and "aye" on rollcall 418.

### REPORT OF RESOLUTION AUTHORIZING FURTHER POSTPONEMENT OF PROCEEDINGS ON QUESTION OF AGREEING TO A CERTAIN MOTION TO SUSPEND THE RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–898) on the resolution (H. Res. 577) authorizing further postponement of proceedings on the question of agreeing to a certain motion to suspend the rules, which was referred to the House Calendar and ordered to be printed.

### APPPOINTMENT OF CONFEREES ON H.R. 4016, COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, and I do not intend to object, I would ask the distinguished gentleman from Washington State for an explanation.

I yield to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, this is a request to go to conference with the Senate on a bill that provides for expedited release of the property on Federal facilities that become closed.

Mr. LENT. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington? The Chair hears none, and without objection, appoints the following conferees, and without objection, reserves the authority to make additional appointments of conferees and to specify particular portions of the House bill and Senate amendment as the subject of the various appointments:

From the Committee on Energy and Commerce, for consideration of the House bill, and Senate amendments, and modifications committed to conference: Messrs. DINGELL, SWIFT, ECKART, SLATTERY, SIKORSKI, LENT, RITTER, and RINALDO.

As additional conferees from the Committee on Public Works and Transportation, for consideration of the House bill, and Senate amendments, and modifications committed to conference: Messrs. ROE, NOWAK, and HAMMERSCHMIDT.

As additional conferees from the Committee on Armed Services, for consideration of Senate amendments numbered 1 through 4, and modifications committed to conference: Mr. ASPIN and Mr. RAY.

There was no objection.

### PERMISSION TO FILE A CONFERENCE REPORT ON H.R. 5517, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Wednesday, September 23, 1992, to file a conference report on the bill—H.R. 5517—making appropriations for the government of the District of Columbia and the activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

### PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the manager may have until midnight tonight, Wednesday, September 23, 1992, to file a conference report on the bill—H.R. 5679—making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

### PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Wednesday, September 23, 1992, to file a conference report on the bill—H.R. 5503—making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

□ 1940

### MAKING IN ORDER ON THURSDAY, SEPTEMBER 24, 1992, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT, AMENDMENTS IN DISAGREEMENT, AND MOTIONS ON H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause (2) of rule XXVIII, that it be in order at anytime on Thursday, September 24, 1992 or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill H.R. 5428, making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement be considered as read when called up for consideration.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## MAKING IN ORDER ON THURSDAY, SEPTEMBER 24, 1992, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT, AMENDMENTS IN DISAGREEMENT, AND MOTIONS ON H.R. 5517, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 2 of rule XXVIII, it be in order at any time on Thursday, September 24, 1992, or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee on conference to dispose of amendments in disagreement be considered as read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

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## APPOINTMENT OF CONFEREES ON H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Mr. Speaker, reserving the right to object, and I do not plan to object, I take this time so the Chairman may explain the reasons for the unanimous-consent request.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman, and I am delighted that he agrees.

Let me say to the ranking minority leader of the Committee on Banking, Finance, and Urban Affairs, who is also one of the leaders on the Subcommittee on Housing and Community Development, that this is the Housing and Community Development Act that the House passed overwhelmingly that includes amendments as well as the extension of the current affordable housing laws, plus the homelessness and the McKinney Homelessness Act.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, this is very important legislation. It did pass the House by a vote of 369 to 54. Although we are in the home stretch and it is rather complicated legislation, I am hopeful and confident that the two bills, the House and the Senate bills, can be merged, and that we can get a vote on this before the session ends.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees: From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Messrs. VENTO, SCHUMER, FRANK of Massachusetts, and WYLIE, Mrs. ROUKEMA, and Mr. BEREUTER.

As additional conferees from the Committee on Education and Labor, for consideration of sections 165 and 912 of the House bill, and sections 946, 1011(a) and (e), 1012(h)-(j), 1021, and 1023 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, GAYDOS, and HENRY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1011(g), 1015, 1022, 1031, 1032, and 1056 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SWIFT, WAXMAN, ECKART, SIKORSKI, LENT, DANNEMEYER, and RITTER.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1021 and 1023 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SWIFT, and LENT.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the authority to make additional appointments of conferees and to specify particular portions of the House bill and Senate amendments as the subjects of various appointments.

There was no objection.

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## INVESTMENT ADVISER OVERSIGHT ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2266) to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. RINALDO. Mr. Speaker, reserving the right to object, while I will not object, I take this reservation for the purpose of asking the gentleman from Virginia [Mr. BOUCHER] to explain exactly what is in this bill.

Mr. BOUCHER. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Virginia.

Mr. BOUCHER. I thank the gentleman for yielding to me.

Mr. Speaker, I would offer, by way of explanation, that this motion merely completes the necessary action on H.R. 5726, which the House passed last night, by taking from the Speaker's table a similar Senate measure and amending it with the text of H.R. 5726.

The motion merely allows the House to proceed with the process of engaging the Senate in a procedure to resolve differences between the two bills.

Mr. RINALDO. Mr. Speaker, I thank the gentleman. I have no objection to the gentleman's request, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2266

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Investment Adviser Oversight Act of 1992".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

**SEC. 3. REGISTERED INVESTMENT ADVISER FEES.**

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 203 the following new section:

**"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.**

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected and specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

| "Assets under management | Fee due: |
|---|---|
| Less than $10,000,000 | $300 |
| $10,000,000 or more, but less than $25,000,000. | $500 |
| $25,000,000 or more, but less than $50,000,000. | $1,000 |
| $50,000,000 or more, but less than $100,000,000. | $2,500 |
| $100,000,000 or more, but less than $250,000,000. | $4,000 |
| $250,000,000 or more, but less than $500,000,000. | $5,000 |
| $500,000,000 or more | $7,000. |

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

### SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

### SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".

### SEC. 6. CERTAIN PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

MOTION OFFERED BY MR. BOUCHER

Mr. BOUCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOUCHER moves to strike out all after the enacting clause of the Senate bill, S. 2266, and to insert in lieu thereof the text of House bill, H.R. 5726, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Investment Advisers Act of 1940 to improve the supervision of investment advisers, to provide additional investor protections, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5726) was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that the six suspension votes postponed yesterday will be further postponed until tomorrow.

## MORE CAMPAIGN ISSUES CONCERNING GOVERNOR CLINTON

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. DORNAN of California. Mr. Speaker, it is only 41 days until the election, and there are still a lot of things to get out. This is the 213th anniversary of John Paul Jones. His words echo down through history, "I have not yet begun to fight."

The President is a naval officer. I suggest that he continue this pace of fighting and add a few items. Only yesterday I learned that Mr. Clinton in the early 1970's, according to his own statement, went to Moscow for a week when he was a student in Europe. Europe means England. England means Rhodes scholarship. He did not even go to class his second year. He was living from room to room. One of his traveling companions ditching the draft committed suicide.

What did Bill Clinton do in Moscow for a week, front page of the paper out of his own mouth?

Now we find out that this million dollar fundraiser from Barbra Streisand and gang was at the home of Ted Field. He can afford this Hollywood multimillion-dollar mansion because he is the president of Time-Warner. Time-Warner not only put out and arrogantly defended the rapper music of Ice-T, "Cop Killer," but here is another one, Tupac Shakur. He has a rap album saying kill cops, and there was a guy that had a cassette in his tape deck of it, and he killed a cop in Texas.

Maybe Bill Clinton would want to give back all of that money he raised at Ted Field's house.

[From the Washington Post, Sept. 20, 1992]

### MUSIC TO KILL COPS BY?

(By Chuck Phillips)

Cops on my tail, so I bail till I
 dodge them,
They finally pull me over and I laugh.

Remember Rodney King
And I blast his punk ass
Now I got a murder case . . . What the [expletive] would you do?
Drop them or let them drop you?
I choose droppin' the cop!—from Tupac's "Soulja's Story"

The question of whether life imitates rap is headed for the courtroom—and the charge is murder.

Six weeks after Time Warner Inc. and rapper Ice-T pulled the controversial "Cop Killer" song off the market, an unprecedented legal battle over another album released by a Time Warner subsidiary promises to reopen the bitter national debate over artistic expression, free speech and corporate responsibility.

Ronald Ray Howard, a 19-year-old Texan, is being held in the town of Edna, Tex., on a murder charge following the shooting death in April of 43-year-old state trooper Bill Davidson on a highway about 100 miles outside Houston.

Howard, according to most accounts, was driving a stolen car and listening to a tape of rapper Tupac Amaru Shakur's violence-laced "2pacalypse Now." The album, which has sold 400,000 copies, includes half a dozen songs that portray the killing of police officers—songs that Howard's attorneys now claim influenced him to shoot the officer.

In addition to the murder charge, the officer's widow has filed a separate civil suit against the Bay Area-based Shakur and his Interscope Records label, a Time Warner subsidiary. The president of Interscope Records is Hollywood executive Frederick W. (Ted) Field, a leading financial donor to the Washington-based anti-censorship group, People for the American Way. The suit charges that the label and the rap artist were grossly negligent in manufacturing and distributing music that incites "imminent lawless action."

The lyrics of the album read like "pages out of a cop-killing manual," says a lawyer for widow Linda Davidson, who has been promised assistance by an organization headed by former White House aide Oliver North.

According to both the prosecution and the defense, Howard, an eighth-grade dropout on probation for car theft, was driving a stolen Chevy Blazer down Highway 59 near Victoria on April 11 when Davidson stopped the vehicle to issue a ticket for a missing headlight.

Moments after being pulled over, Howard shot Davidson in the neck with a 9mm pistol. A witness called police immediately. After a chase, Howard was arrested and reportedly confessed, Davidson died April 14 as a result of the gunshot wound.

The defendant has told authorities that he was listening to "2pacalypse Now" as he loaded his weapon, aimed it at the officer and pulled the trigger, sources close to the case said. Police recovered a copy of the "2pacalypse Now" cassette from the tape deck of the stolen Blazer.

(Howard, who has been held in lieu of $1 million bond at Jackson County Jail since the shooting, was unavailable for comment. He has claimed that he did not intend to kill the officer, sources said.)

Jury selection is scheduled to start March 15. No court date has been set for the civil case, but it will not take place until after the criminal trial. The outcome of the murder case is also likely to affect the civil case.

The two cases will most certainly renew criticism of the record industry and rekindle the free-speech debate over rock and rap lyrics. In past music-related wrongful-death civil cases against heavy metal artists Ozzy Osbourne and Judas Priest, judges have ruled that controversial song lyrics are protected by the First Amendment. Several obscenity cases involving Miami rappers 2 Live Crew were also dismissed or defeated on free-speech grounds in recent years.

Even if Time Warner prevails in the Texas civil case, record industry representatives expressed concern that the costly legal battle and negative press facing the New York based media giant in the months ahead will only intensify criticism of the entertainment business, which has grown increasingly more cautious about releasing "gangsta" rap records.

"In every other industry, companies are held liable for dangerous products they produce," said Ron DeLord, president of the Combined Law Enforcement Association of Texas, the police group that initiated the boycott against Time Warner over Ice-T's music. "If it's illegal to produce physical pollution, it ought to be illegal to produce mental pollution."

Since the Ice-T "Cop Killer" controversy this summer, record industry firms have beefed up lyric review committees to screen troublesome violent and sexually explicit projects before they get recorded. Whether the case against Tupac and Time Warner is successful, it seems certain to intensify the pressure on record companies.

Imagine what a nightmare it would be if a preposterous suit like this ever succeeded in court," said Jason Berman, president of the Recording Industry Association of America, the Washington organization that represents the nation's major record labels. "What if everyone who committed a crime could offer the defense that a record or a movie or a book influenced his actions? A ruling like that would not only restrict free speech in the future, it would turn the concept of what we consider to be artistic freedom completely on it head."

Robert Bell, the Texas district attorney who will argue that Howard deserves the death penalty, also is convinced the case will be a ground-breaker, but for a different reason.

"Frankly, it doesn't matter to me whether Tupac told to him kill somebody or whether Charlie Manson or the Devil told him to do it," Bell said. "There isn't any doubt in my mind that this young man is responsible for his conduct."

"But the big question here is whether he should be put to death or whether he should get life imprisonment for the crime. Can violent music, like drugs or alcohol, be considered a mitigating factor in the shooting? To my knowledge, there has never been a murder trial before where a jury has had to answer that question."

Howard's attorneys plan to introduce the music argument in the penalty phase of Howard's trial. If he is convicted, they hope to prove that music can affect the actions of a person committing a crime in order to win a sentence of life in prison or Howard.

"In all my years of defending inner-city clients I have never introduced music before as a mitigating circumstance in a murder case," said Al Tanner, Howard's court-appointed attorney. "But I do believe it applies in this case. Without the music riling him up. I do not think that this incident would have occurred."

In the civil suit, Davidson's widow intends to test the limits of free speech, holding Time Warner accountable for manufacturing music containing constitutionally unprotected "fighting words"—a legal term that is frequently applied to inflammatory language intended to provoke illegal acts.

"Our goal is to punish Time Warner and wake up the executives who run the music business," said Jim Cole, the attorney representing Linda Davidson. "This suit isn't just about some storyteller spouting militant rhetoric here. Tupac is dangerously serious. This suit is about stopping giant corporations from shamelessly making money off music designed to incite impressionable young men to shoot and kill cops like Bill."

Davidson seeking unspecified money damages to compensate for her husband's death. She is also suing for punitive damages and to recover money for medical bills and financial support for herself and their two children.

Austin attorney James George, who is representing Time Warner in the civil case, said he thought the lawsuit was motivated by reasons that have nothing to do with rap.

"It is ridiculous for anyone to seriously believe that this terrible tragedy could have been caused by Tupac Shakur or Time Warner," George said.

Time Warner is expected to argue that Davidson's shooting had nothing to do with Shakur's music, but was prompted by a history of crime and social problems that haunted Howard from childhood.

"Tupac is an artist who writes protest music about inner-city tensions," George added. "We do not want to comment on the defendant's history at this time, but this idea that the music caused the shooting has no basis in fact or law." Shakur—a nationally known rapper and actor who was in the 1991 film "Juice" and will star opposite Janet Jackson in director John Singleton's upcoming "Poetic Justice"—declined to be interviewed.

The widow's civil case has already attracted the attention of North, the ex-Reagan White House aide and Iran contra figure, whose Freedom Alliance joined this summer's effort to boycott Time Warner and stop the sale of Ice-T's "Cop Killer."

North contacted Davidson's attorney in early September after the suit was filed against Time Warner, offering to provide free legal advice and expert testimony during the civil trial. Cole said Davidson's widow hopes that her civil case against Time Warner "stops the recording industry in its tracks."

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[From the New York Times, Sept. 23, 1992]

### ON QUAYLE'S LIST: A RAPPER AND A RECORD COMPANY

Vice President Dan Quayle has set his family-values sights on what he believes is a new demon in the entertainment world.

Having fired a few values volleys at Murphy Brown—and taken a few hits in return—he now is targeting a rap performer. Tupac Amaru Shakur, and his record company, Interscope Records of Los Angeles.

The rapper's latest album, "2pacalypse Now," includes some angry lyrics about killing police officers, and the Vice President says the album's production and distribution constitute "an irresponsible corporate act." He thinks the album should be pulled from stores.

Underscoring his concern, Mr. Quayle met yesterday in Houston with the daughter of a state trooper who was fatally shot by a man who said he had been listening to "2pacalypse Now" and its lyrics about "droppin' the cop."

Interscope Records is a subsidiary of Time-Warner and is run by Frederick W. Field. A week ago Mr. Field was the host of a glittering Hollywood fund-raiser for Gov. Bill Clinton.

But Mr. Quayle insists he is not trying to make a political nexus between the cop-killer rap and Mr. Clinton. Rather, he says, record executives should think twice before backing productions like "2pacalypse Now."

"There is absolutely no reason for a record like this to be published by a responsible corporation," he asserted in Houston.

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[From the New York Times, Sept. 23, 1992]

### QUAYLE SEEKS WITHDRAWAL OF RAP ALBUM

(By Richard Tapscott)

HOUSTON Sept. 22,—Vice President Quayle, expanding his attack against the entertainment industry, today called on a recording company to withdraw a rap music album that has been linked to the shooting death of a Texas state trooper.

Attorneys for the 19-year-old man accused in the trooper's April death said he was influenced by listening to a tape of rapper Tupac Amaru Shakur's "2pacalypse Now" album.

After meeting here today with Kimberly Davidson, the 20-year-old daughter of slain trooper Bill Davidson. Quayle said Shakur's album should be pulled from the shelves.

The vice president addressed this remarks to Time Warner Inc. and a subsidiary, Interscope Records. "I'm going to continue to speak out on issues like this, and I hope there'll be common sense and responsibility exercised from corporate America," Quayle said.

Aides traveling with Quayle made certain that reporters were aware that the president of Interscope Records is Hollywood executive Frederick W. "Ted" Field, whose Hollywood mansion was the site of last week's million-dollar fund raiser for Democratic presidential nominee Bill Clinton.

But Quayle said he was not implying any connection. "I am pointing out the facts," he said.

[In Austin, Tex., attorney James George, who represents Time Warner, told the Associated Press that Quayle "is misinformed about the facts of this case, from the content of the tape to what happened."]

Earlier this year, Quayle criticized Time Warner over rapper Ice-T's "Cop Killer" song. The rapper withdrew the song after it was assailed by law enforcement groups and Quayle.

The vice president also seemed to revel today in his battle with "Murphy Brown," which took numerous shots at him in its season premiere Monday night. The program was watched by 44 million Americans, CBS said.

"They spent an hour of television time to answer one sentence in a [May] speech," Quayle said. "That shows we've struck a responsive chord."

*[Omitted from the Congressional Record of Tuesday, September 22, 1992]*

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## YOUNG MEN SERVING THEIR COUNTRY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I ask the last speaker and all my colleagues to consider our Nation's entire history. Most 23-year-olds in the U.S. military are men, mature men. And I am going to do a 1-hour special order on that tomorrow night to discuss the pathetic attempt of Gov. Bill Clinton to avoid his past history as a calculating draft dodger by claiming he was "only a 23-year-old boy," when he dodged the draft. Those are his exact words to Ted Koppel on "Nightline" last February that he was, "only a 23-year-old boy." How obnoxious, yet how revealing.

When I was 23 my Sallie and I had two children and one on the way. And, as an Air Force lieutenant, I was flying F–100 supersonic fighters as a flight leader at George Air Force Base. I repeat, I was 23 and I was not "a boy."

Let me tell a story about two men who studied at Yale University. One graduated as a teacher at age 21 and served as a captain on Gen. George Washington's staff—one of our new Nation's intelligence officers. On September 22, 1776, 216 years ago today, that captain, Nathan Hale, was executed by the British. He was denied a Bible and hung after proclaiming his now famous last words which every school child memorizes with pride. In good schools that is.

I just found out over the weekend that Clinton never earned his Rhodes masters degree at Oxford University because he never even registered at Oxford his second year, let alone attended class when he went back to England as a Rhodes candidate in September 1969. That was after he cleverly deceived the commandant of the Army ROTC at the University of Arkansas in order to buy time for his fourth evasion of the military draft. It seems all he did at Oxford in the fall and winter of 1969 was organize demonstrations against his country in a foreign land, and the words "in a foreign land" have special impact. And now we find out he squeezed in a trip to Moscow. His roommate, who it appears did the same thing, committed suicide 2 years later, and the third roommate, or rather student whose dorm floor was where Willy threw his sleeping bag, was Strobe Talbot. That's the Time magazine editor who made Gorbachev man of the decade—not of the year but the whole decade of the eighties. Gorby did not even appear on the world scene until March 11, 1985. Naturally, liberal Strobe Talbot ignored the contributions of Pope John Paul II, Lech Walesa, and President Ronald Reagan toward the demise of Soviet communism. I guess Talbot learned that blind approach to history in the sixties, maybe from a Marxist professor or two at Oxford.

My colleagues, the contrast between William J. Clinton, the Yale law school graduate, and hero-martyr Nathan Hale, the Yale graduate teacher, is stunning. And there are thousands, thousands of Nathan Hale types serving in Vietnam from 1961 to 1975, maybe including the four men—and they were men, probably age 19 or 20 or 21—who served in place of the draft-dodger Clinton.

Nathan Hale said, "My only regret is that I have but one life to give for my country." Boy Clinton's unspoken motto at age 23 in 1969 was, "My only regret is that I have only one country to run from, to a foreign land, to screw around creating ugly demonstrations against my nation."

Mr. Speaker, in another arena of distorting the truth, l'affair Flowers, Governor Willy says his wife sat in the kitchen of the Governor's mansion and monitored all of his phone calls with the aspiring singer that he later put on the Arkansas payroll making more money than the Lieutenant Governor. How's that again? His wife Hillary monitored his mistress' conduct?

Hardly, my colleagues, hardly. I submit here for the historical record excerpts of taped conversations between Clinton and Flowers. Judge for yourself. Was this woman, as Willy describes over and over, just "a friendly acquaintance?"

And after you decide that, ask yourself if Bill Clinton—who has attacked the character of George Bush, a genuine war hero—will raise taxes on working, middle-income Americans. Ask yourself if Clinton will work to keep America's defenses strong and sound.

This man, who cannot truthfully confront his draft-dodging past, cannot be counted on to protect our pocketbooks or our defenses. And by the way, his 1969 or 1970 trip to Moscow with other pro-Hanoi peaceniks was controlled in every aspect, large and small, by the hated KGB. Read on.

[Extracts of telephone conversations between Gov. Bill Clinton and Ms. Gennifer Flowers between September and December 1991, as released by The Star at a New York press conference in January 1992]

Note: Portions of these tapes contain sexually explicit language to which you might not wish to expose members of your family.

FLOWERS. Well, it's like the girl in the [Sen. Charles] Robb deal, from what I read she said, she needed to come out because she was being threatened and so forth—but, I don't know. She may well have had a thing with him. But—the fact that she goes on to do Playboy.

CLINTON. Kind of undermines her credibility, doesn't it?

FLOWERS. Sure does.

CLINTON. He said she didn't and.

FLOWERS. Well now, come on. (laughs) C'mon, Bill.

CLINTON. When I saw her—I kind of doubted he'd turn her down and he didn't.

FLOWERS. I bet he didn't.

CLINTON. I bet he didn't, either. She's very pretty.

FLOWERS. She is pretty. You know, his wife's not nearly that pretty (laughs)

Well, anyway, like I said, I didn't want to worry you with all this, I just wanted you to know.

CLINTON. I need to know every time—'cause it enables me to run the traffic, see what else is going on.

FLOWERS. Well, it's like I told you, if I leave a message, it's important. I won't call you unless something like this has gone on. So get back to me, because like I said I'm not good at this and may need advice.

CLINTON. You can always call me here.

FLOWERS. Where's here?

CLINTON. At the mansion.

FLOWERS. Well, I did call there.

CLINTON. They gave me the number (yawn).

FLOWERS. Well, same to you.

FLOWERS. Are you there? Sorry about that. Mother was—wanted me to get her a glass of water. See that was another thing. See my parents are here and I'll tell you what, the last thing I needed was to.

CLINTON. Have that happen.

FLOWERS. Have that happen cause my mother would get very concerned and worried and so far you know.

CLINTON. [garbled] If they ever hit you with it just say 'no' and go on, there's nothing they can do.

FLOWERS. Well I will, but I mean I—you know—she's my mother and you know how mothers can be.

CLINTON. They don't want to hear it at all.

FLOWERS. Well, she would just get all in a tizzy about—about it and uh, so I thought Good God, that's all I need.' Cause they're, uh, they're gonna be here, well they're leaving Wednesday morning and they were at the club tonight and they'll be here tomorrow night, which, you know, parents do. And I thought, 'Oh, please Jesus, don't let those people be out there.'

CLINTON. I'm just sorry that you ever had to put up with that [next word is garbled].

FLOWERS. Well, you know, to be real honest with you, I'm not completely surprised. I didn't think it would start this quickly. But I think, Bill, you're being naive if you think that these other shows like 'Current Affair' and, oh, what are some of the others, uh——

CLINTON. Well, I thought they——

FLOWERS. 'Hard Copy.'

CLINTON. I thought they'd look into it. But, you know, I just think a crazy person like Larry Nichols is not enough to get a story on the television with names in it.

FLOWERS. Right. Well, he better not get on there and start naming names.

CLINTON. Well, that's what I mean. You know, if all the people who are named deny it. That's all, I mean, I expect them to come look into it and interview you and everything, uh, but I just think that if everybody's on record denying it you've got no problem.

FLOWERS. Well, I don't think—I don't think it—I don't—Well, why would they waste their money and time coming down here unless someone showed'em some interest? See, they weren't here tonight and they're not going to be there.

CLINTON. No, no. See, that's it. I mean, they're gonna run this Larry Nichols thing down, they're gonna try to goad people up, you know, but if everybody kinda hangs tough, they're just not going to do anything. They can't.

FLOWERS. No. They can't.

CLINTON. They can't run a story like this unless somebody said, 'Yeah, I did it with him.'

CLINTON. I'll tell you what, it would be extremely valuable if they ever do run anybody by me, you know. If they ever get anybody to do this, just to have, like I told you before when I called you, is to have an on-file affidavit explaining that, you know, you were approached by a Republican and asked to do that.

FLOWERS. Mm hmm. Well——

CLINTON. [garbled] . . .the more I think about it, you should call him back [garbled] just don't know.

FLOWERS. Well, I think that—Well, are you going to run? [laughs] Can you tell me that?

CLINTON. I want to. I wonder if I'm going to be blown out of the water with this. I don't see how they can [garbled word] so far.

FLOWERS. I don't think they can——

### "IF THEY DON'T HAVE PICTURES . . ."

CLINTON. If they don't, if they don't have pictures——

FLOWERS. Mh hmm.

CLINTON. Which they [garbled] anybody and no one says anything then they don't have anything and arguably if someone says something, they don't have much.

FLOWERS. If they could blow you out of the water they would have already blown you. I really believe that because I believe that there are various ones that have been trying hard lately. See, like that 'Inside Edition.' Uh, there've probably been other sources too. [Pause] So—I don't think so. I honestly don't. That's my gut feeling. I would tell you if I did. [pause] But—you may know more about——

CLINTON. How do you like holding [garbled word] future in [garbled word] hands? Do you like that?

FLOWERS. Yeah. [laughs] No. Well, if it's positive I do, you know. I mean cause I want you to—I would love to see you go—Oh, I'd love to see you be President. I think that would be wonderful. I think you'd make a, a damn good one. I don't like Bush. I think he's a sneaky bastard. [laughs] [garbled] He's two-faced. I'd just love to see somebody get in there for a change, really make a difference. But uh—It's like I told you before, whatever you need me to do, just let me know.

CLINTON. I will.

FLOWERS. Remember a long time ago when you called me and said that if you announced for, well, it was back the first time you were going to announce for, uh——

CLINTON. Governor?

### "NOTHING TO THE RUMOR"

FLOWERS. No. President [laughs] [garbled] And you said [garble] 'Gennifer, I just wanted you to know that there might be some reporters or something out there' and you said. 'Now, uh, you be sure to [garbled words] [both laugh] say there's nothing to the rumor,' and I said, 'O.K., I, well I shouldn't even say this to you, probably embarrass you. Do you remember what I said to you?'

CLINTON. No. What'd you say?

FLOWERS. I said, 'Well, at the time you eat good (street term used for female genitalia).' [laughs]

CLINTON. What?

FLOWERS. I said I had to tell them that you ate good (feline term for female genitalia) and you said, 'Well you can tell them that if I don't run for President [laughs]. I've got to keep my voice down, my parents are in the other . . [laughs] [garbled]

CLINTON. [garbled]

FLOWERS. And I thought, you know that's not real funny right now. But anyway I try to find the humor in things.

CLINTON. Don't I know it. [garbled]

FLOWERS. Well, I can guarantee you that's not something I've thought about [laughs], that's not the first thing on my mind when I think about those reporters being down there.

CLINTON. God.

FLOWERS. Oh, Lord.

CLINTON. [garbled]

FLOWERS. But, anyway, I think we're OK for now.

CLINTON. [garbled] We have to watch as we go along.

FLOWERS. Well you're uh, you know, from the feedback I'm getting around me about various things that are going on with what you're doing. I'm getting very positive feedback.

CLINTON. Yeah, there's no negative except this.

FLOWERS. This is the only thing.

CLINTON. And there's no negative to me running except this and even if I win—as a matter of fact it might be better for me to lose the primary, I might lose the nomination to Bob Kerrey because he's um—got all the Gary Hart/Hollywood money and because he's single, looks like a movie star, won the Medal of Honor, and since he's single, nobody cares if he's screwing. [laughs]

FLOWERS. What I hear—they think you're likely to get the nomination.

CLINTON. I'm feeling pretty good about it.

FLOWERS. Well, I think you should.

CLINTON. It's just awful, you know I go on for a day and then I hear this stuff and I hear this stuff and it just takes all the energy out.

FLOWERS. Well, see I hate it. That's why I hate it, to tell you.

CLINTON. No, I love that you've called.

[Dial tone] [Dialing sounds] [Ringing]

VOICE. Governor's mansion, Roger Creek, can I help you?

FLOWERS. Is Bill Clinton in please?

VOICE. M'am, he's with some people right now. May I ask who's calling?

FLOWERS. This is Gennifer Flowers, I'm returning his call.

VOICE. Gennifer Fowler?

FLOWERS. Flowers.

VOICE. O.K. Hang on just a second.

FLOWERS. All right.

[long pause]

CLINTON. Hello?

FLOWERS. Bill?

CLINTON. Hey.

FLOWERS. It's Gennifer.

### "HOW YA DOING?"

CLINTON. How ya doing?

FLOWERS. Well, I'm fine, it hardly sounds like you.

CLINTON. Oh, I'm having terrible throat problems.

FLOWERS. [cough] You're making me want to clear my throat. Can you talk? Can you talk a second?

CLINTON. Yes.

FLOWERS. Uh, I'm sorry I had missed your call. I went up to see my mother for a few days.

CLINTON. That's what I figured. How's she doing?

FLOWERS. Well, she's, she's doing O.K. physically. But let me tell you what all has been going on. Uh, the first thing that happened was Friday night a reporter and cameraman from A Current Affair met me in the parking lot at the Quapaw Towers, I was going in to sing. And I didn't say anything, I just went in the door and uh, he tried to come in one time and John Cain, who's the manager there (manager of the Flaming Arrow in Quapaw Tower—a club where Gennifer performed) uh, made him go on——

CLINTON. Great.

FLOWERS. And I did not know he was from A Current Affair because I did not stop long enough to, to, I just went in the doorway, and, uh, but John said that's who it was.

CLINTON. What network is that on?

FLOWERS. I don't know. Uh, O.K., it's on Channel 11, whatever that is—CBS. I don't know the guy's name, uh, at any rate. I had booked some more jobs there in December, and, uh, John has asked me not to come back. He says he really doesn't want—"Cause see, that's the third—the Dallas Morning News also called there for me. And then Inside Edition had called there and uh——

CLINTON. They didn't hassle you there?

FLOWERS. No they didn't. But Current Affairs had not called beforehand, either for someone to call them back. They just showed up. And anyway, then Wednesday there, there was a grievance filed in my office when I got the job a girl by a girl who felt like she should have gotten it. A black girl named Charlette Perry. And they called me as a witnesses. So I go in and uh, nothing big came of it, it's just that they were questioning me about how I found out about the job and I said well, that personnel said there was a possibility there would be a position and then uh, and they told me it would be advertised in the newspaper, it was, and then I pursued it from there.

CLINTON. Good for you.

FLOWERS. Well, it caught me off guard cause, I—I at first I just didn't know, I just didn't expect that, for some reason. I thought about a lot of things, about my qualifications, and all that business, but I didn't think about that.

CLINTON. Yeah.

FLOWERS. Okay, and then the next thing that happens and the reason I went to my mother's is that my mother gets a phone call. This has all happened to me last week. I'm going to tell you, I am a nervous wreck.

CLINTON. Your mother got a call?

FLOWERS. My mother gets a call from a man who won't identify himself and tells her, 'Boy, you ought to really be proud of your daughter.' And goes on and on, and of course my mother now, you know is not one—she's not gonna take this from this guy and says, 'Now look.' You know she's telling him, 'don't call'—and he says, and he says to her, 'Well, I think she'd be better off dead.' And hangs up the phone. Are you there?

CLINTON. A long distance call, do you think?

FLOWERS. My mother said it sounded like, now here's the thing, Bill, my mother's name is [deleted]. It's not Flowers.

CLINTON. So someone had to go——

FLOWERS. Somebody, yeah, somebody had to know to ask for that name——

CLINTON. Republican harassment trying to break you and me.

FLOWERS. Oh, listen, I'm not going to break, but I'll tell you what I've about decided is that I really would like to leave here.

CLINTON. Just leave town?

FLOWERS. Yeah. My mother is in . . . one of the reasons I have stayed here as long as I have——

CLINTON. Oh, wow.

FLOWERS. We had a little bit of a scare recently cause she had a spot on an x-ray and she went and had it checked again and it wasn't cancer, Bill, what I'm afraid of, is that if somebody in the press finds out that I'm working for the state——

CLINTON. Yeah.

FLOWERS. And I just—I don't know, I'm of course, I, I'll have to tell you, I'm about to cry because my nerves at this point after this week—and I'm a pretty strong little lady, but I have been through a lot—

CLINTON. But the people at the place were from *A Current Affair*?

FLOWERS. That's what John [Cain] said—I just headed for that door—I said, 'Leave me alone, this is absurd.' He started sticking that thing and I knew—I mean that's a private club and I didn't think they would follow me—but here's the thing. I have to have these singing jobs to survive. I'm only making $17,500 on this job, Bill.

CLINTON. You mean this guy won't hire you any more?

FLOWERS. I don't blame him. He's getting telephone calls from these people—The last time he said, 'Gennifer, I don't want any problems.'

CLINTON. So, what did you tell him? Did you tell him there's nothing to it?

FLOWERS. I did—I said, 'John, I have nothing to do with this. It is not true, I was hoping it would not come to this—I'm glad to hear this, I just hope they just go away.' I didn't have a chance to tell you about the *Dallas Morning News*.

CLINTON. No, but I figured they'd just try and run it down.

FLOWERS. That guy's name was George Kempell and that was the night before the day you announced—Anyway, I would really like to leave Little Rock.

CLINTON. How can I help?

FLOWERS. I don't know anybody anywhere to speak of—I have mixed emotions about it because I consider this my home—

CLINTON. Not only that—I mean this is just crazy—there's not going to be any stories—no one has said anything.

FLOWERS. The only thing that concerns me at this point is the state job.

CLINTON. Yeah, I've never thought about that, but as long as you say you've just been looking for one, you'd check on it—If they ever ask if you talked to me about it you can just say no.

FLOWERS. I would but here's the thing I have to consider, too. I have to go in to work every day there and if these people start talking to the press——

CLINTON. Have they been nice to you there?

FLOWERS. Yea, they have been, but I just want you to know what's going on. I'll be glad to hang in there.

CLINTON. Has the grievance committee ruled yet?

FLOWERS. No, not that I know of—I forget the guy's name—Don Barnes [chairman of the Board of Review who overruled the grievance committee's findings] was there.

CLINTON. Is he happy with you?

FLOWERS. Oh, sure, I'm good at what I do, Bill, but when this guy was trying to beat up on me a little—I found that curious, how I found out about the job, but maybe at this point I'm paranoid.

CLINTON. You don't want me to get this guy to reconsider?

FLOWERS. What guy?

CLINTON. The guy at the Flaming Arrow—it wouldn't be through me, but I have a lot of friends there.

FLOWERS. No, I'd rather just leave that alone for now—but if things might stay quiet.

CLINTON. He might change his mind and I'd rather it be his idea.

FLOWERS. Hello?

CLINTON. Gennifer?

FLOWERS. Yes.

CLINTON. It's Bill Clinton.

FLOWERS. Hi Bill.

CLINTON. Hey I tried to call ya. I can't believe I got ya.

FLOWERS. Well whendya try to call me?

CLINTON. Last night. Late.

FLOWERS. Well I was here.

CLINTON. Did you take your phone off the hook?

FLOWERS. Well, I did, Well, I've been getting these hang-up calls——

CLINTON. Oh.

FLOWERS. And at one point I took my phone—I well, I didn't take it off the hook, I just uh——

CLINTON. Turned it off?

FLOWERS. Yeah.

CLINTON. Oh that's what it was. I called. I started calling soon as I got home last night and I called for a couple of hours.

FLOWERS. Well, sorry I missed you.

CLINTON. [garbled] I was afraid I screwed up the number or something, and I kept calling.

FLOWERS. Well are you—you got a cold?

CLINTON. Yeah. Oh it's just my—every year about this time I—my sinuses go bananas.

FLOWERS. Yeah, me too.

CLINTON. And I've been in this stupid airplane too much, but I'm O.K.

FLOWERS. Well, good. Good. The reason I was calling was to tell you that, uh, well, a couple things. Uh, this last Wednesday, someone got into my apartment.

CLINTON. Hold on a minute.

FLOWERS. O.K.

[long pause]

CLINTON. O.K. I got it.

FLOWERS. Are you in Little Rock?

CLINTON. No.

FLOWERS. No.

CLINTON. I am going to be there tonight late. I'm in, uh, Washington now and——

FLOWERS. Well——

CLINTON. I'm going to Dallas, and then I'm coming to Little Rock.

FLOWERS. Uh, well——

CLINTON. So somebody broke in your apartment?

FLOWERS. Well, yeah, well, There wasn't any sign of a break-in, uh, but the drawers and things. There wasn't anything missing that I can tell but somebody had——

### "GONE THROUGH YOUR STUFF?"

CLINTON. Somebody had gone through all your stuff?

FLOWERS. And gone through my stuff.

CLINTON. You think they were—but they didn't steal anything?

FLOWERS. No. No, my jewelry—I had jewelry here and everything, it was still here.

CLINTON. You think they were trying to look for something on us?

FLOWERS. I think so. Well, I mean—why, why else? Ummm——

CLINTON. You weren't missing any, any kind of papers or anything?

FLOWERS. Well, like what kind of papers?

CLINTON. Well I mean did—any kind of personal records or checkbooks or anything like that? Phone records?

FLOWERS. Do I have any?

CLINTON. Yeah.

FLOWERS. Unh unh. I mean, why would I?

CLINTON. I don't know I just——

FLOWERS. You, you usually call me, for that matter. And besides, who would know?

CLINTON. Isn't that amazing?

FLOWERS. Even if I had it on my phone record. Oh, well, I guess they might be able to say 'Oh, well, you were in Washington on this date and maybe at that number and connect that but——

CLINTON. Well——

FLOWERS. See, you've always called me. So that's not a——

CLINTON. I wouldn't care if they—you know, I, I—They may have my phone records on this computer here, but I don't think it—. That doesn't prove anything.

FLOWERS. Well, that—that's true. But I just want to tell you about that.

CLINTON. Wow.

FLOWERS. Let me tell you something positive.

CLINTON. What?

FLOWERS. Uh, I heard, uh—I've heard a couple of people say, one had been to San Antonio, the other had been to Los Angeles, and they both said that they were, uh, that all they heard out there was 'Clinton, Clinton, Clinton,' so——

CLINTON. Really?

FLOWERS. Yeah. So I thought that was exciting.

CLINTON. We've worked so hard.

FLOWERS. I know you have, but I—That may not be a lot, but I mean, that's a—I think that's a good indication.

CLINTON. Well, no. Most people think, you know, that, except for Cuomo, I'm doing the best right now and uh—We've leading in the polls in Florida—without Cuomo in there, but Cuomo's at 87 percent name recognition, and I have 54 percent so, I mean, I'm at a terrible disadvantage in name recognition still, but we're coming up, and, so I, we're moving pretty well. I'm really pleased about it.

FLOWERS. Well, I don't particularly care for Cuomo's uh, demeanor.

CLINTON. Boy, He is so aggressive.

FLOWERS. Well, he seems like he could get real mean [laughs].

CLINTON. [garbled] Acts like Mafioso.

FLOWERS. Yeah—I wouldn't be surprised if he didn't have some mafioso major connections.

CLINTON. Well he acts like one [laughs].

FLOWERS. Well, he comes off that way to me on television.

CLINTON. Well tell me how you're doing. What's the deal with the singing?

FLOWERS. They tried to contact me after Connie's [Hamzy-rock groupie who said Clinton once tried to seduce her] business—which was a minor joke around here.

CLINTON. Good thing they have four witnesses.

FLOWERS. Well, I'm going to tell you something, Bill, nobody believes that sleazebag. I'm a liberated woman. I believe a woman should do what she wants to do—but that girl is just a sleaze.

CLINTON. The only time I met her and have really seen her, I told the people who were with me that she was really a sick person.

FLOWERS. There was another call from Inside Edition, a news reporter here, Mark somebody——.

CLINTON. Oswald?

FLOWERS. Could be—there was one other—I can't remember, I have, I have these written down, but he caught me off guard.

CLINTON. That is so weird, that break in, but I wouldn't put it past the m... the Republicans are really sort of frightened of this whole deal—they've made no secret that they think I'm the only guy who can beat Bush and——

FLOWERS. He's not doing real well in the popularity ballgame.

CLINTON. Well, he's out of it, Gennifer—he's a nice enough guy—but basically he doesn't have a clue what's going on, what ordinary people's lives are like, he has no idea how awful it is for them.

FLOWERS. Let me tell you a couple of things real quick. I talked to [deleted * * *]. I have a little company with a guy name * * * and * * * called * * *.

CLINTON. Beautiful *** ? The one I allegedly had an affair with? The only time I ever saw her was at the inaugural * * * she was so good looking, I wished it was true (laughs).

FLOWERS. She's very talented, too.

CLINTON. Is she?

FLOWERS. She's the [title deleted].

CLINTON. What's that?

FLOWERS. That's the [name of company] that idiot * * * is at, and when I met with * * * we had done a little sample for the campaign he gave me the number for * * * and coordinate with his schedule the other thing is you and I need to talk about me getting out of here. I'm getting uncomfortable being in Little Rock. I don't like my place being gone through. I have a state job. I just think I need to leave here.

CLINTON. What happened to the grievance?

FLOWERS. Nothing. Oh, uh, well it hasn't come back up.

CLINTON. So you haven't lost it?

FLOWERS. I'm not going to lose it.

CLINTON. I don't see how you can lose it. Dawn Creary told me it was a straight deal.

FLOWERS. I disciplined her and she yelled at me * * * and I suspended her and she's yelling race discrimination * * * but that's not even been brought up again.

CLINTON. Listen, I'll tell you what I'll do. Are you going to be—What are you doing tonight?

FLOWERS. What is tonight?

CLINTON. I don't know (laughs).

FLOWERS. If it's Thursday, I've got Tai Kwan Do from 7 to 9 but I'll be here after that.

CLINTON. Are you doing that? Good for you. Is it keeping you in shape?

FLOWERS. Yes, I guess I need it—it's toned my little butt up, so good—I love it.

CLINTON. Why don't you just call me tonight after 11. I'll try to get [State Trooper] Carl Kirkland on the phone—call me at the mansion—I'll be home.

FLOWERS. Alright, darling, well you hang in there. I don't mean to worry you. I just—

CLINTON. [garbled] I just want to know these things and if I can help you, you let me know [garbled].

FLOWERS. Well, when you can help me is if I decide I want to get the heck out of here.

CLINTON. All you need to do is let me know.

FLOWERS. Because I don't know I don't know where to turn. I really don't. I mean my contacts have just sort of fizzled in Nashville, it's been a long time and, I don't know, I don't know anybody.

CLINTON. [garbled words]—I'll help you.

FLOWERS. O.K. Well, I'll be back in touch, and, uh, you will let me know if you know anything I need to know about.

CLINTON. I will.

FLOWERS. O.K? [laugh].

CLINTON. Goodbye, baby.

FLOWERS. Talk to you later. Bye.

## VACATION OF SPECIAL ORDERS

Mr. EWING. Mr. Speaker, I ask unanimous consent to vacate the 60-minute special order today granted to the gentleman from Illinois [Mr. EWING], myself, and the gentleman from Illinois [Mr. HASTERT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

☐ 1750

## UNNECESSARY GOVERNMENT REGULATION

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Mr. Speaker, I requested recently for the Republican Policy Committee to hold a hearing in my district. We held this hearing on September 14, in Bloomington, IL. The hearing involved regulation and regulatory policy of this Government.

Why did I seek this hearing? I sought this hearing because through my travels in my district I am constantly reminded by my constituents of what they consider to be excessive, burdensome, expensive, foolish, and unproductive regulations.

Some regulation, of course, is necessary. But the key is how do we control it and contain it within reasonable means without overkilling, without causing our businesses to lose their competitive edge, and without costing us jobs.

I would like to introduce into the RECORD excerpts of testimony received, and I will read to Members a few of those excerpts.

Tom Coady, who is with Hicks Oils and Hicks Gas said, "Congress has made it almost impossible to do business in the United States. Government is putting business out of business."

Dave Kuhl of Busey Bank said:

> Truth in savings is going to be a massive regulatory solution to an unknown problem. I'm afraid this is an example of 1 percent of the industry causing 99 percent of the problems for our industry.

Jan Grayson of the Illinois Department of Commerce and Community Affairs said:

> I've seen estimates that 6 percent of our GNP is absorbed by environmental regulations today. If this is true, this clearly prevents us from being internationally competitive. This translates to $450 tax per capita in this country.

Bob Wells of the Illinois Fertilizer and Chemical Association said:

> From 1990 to 1994, the average retail dealer will experience a $53,000 increase in the annual cost of complying with Federal regulations. In 1990, the average cost was $24 000 per year, and in 1994, the average cost will be $77,000 per year.

Norm Jones of Growmark said:

> In 1975, I had the responsibility for what we called at that time, time safety. And I had three people working in the safety area. Today, we have an entire division called Environmental and Regulatory Services, with a staff of 33.

Sharron Beard, a female business owner, said:

> Even the Small Business Administration reported that the proportional cost of regulation per employee is three times higher for small businesses—500 employees or less—than for larger businesses.

And Steven Ayers, Central Illinois Manufacturing, said:

> Every regulation is a hidden tax that eats into profit. We need to dedicate more resources into quality control, competitive manufacturing techniques, and research and development from innovative products for a global economy.

And on and on went the testimony from city managers, mayors, and business people.

Mr. Speaker, It is imperative that we address the problem of overregulation in this Government, and I have introduced legislation which I think will put some teeth in the Regulatory Flexibility Act which we passed in 1992. Let us do put some teeth into this bill. Let us work together, business and labor, to control excessive regulation so that we can protect jobs in America and improve our economy.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I certainly thank the gentleman for putting together and helping put together the hearing that was held in Bloomington, IL, and subsequently the hearing held just outside of Aurora, IL, in Sugar Grove. I think we heard time after time in testimony after testimony that Government gets bigger and lays on layer after layer of regulation on business, small business, big business, and of course small business feels it first and it has almost a strangling effect. And what happens is that jobs shrink, jobs go to other places, and otherwise small businesses find that they cannot compete anymore. And it is really a terrifying situation to sit and listen to the testimony of those people, the small-business people, the big-business people talking about what Government regulators and Government bureaucrats actually do to those people who are productive in our country.

As America seeks to restore its competitive edge worldwide, I think it is our job in Congress, as the gentleman from Pontiac, IL, brings out, that we need to enact policies that level the playing field for American business, and certainly create an environment that is conducive to an economic expansion. It seems like what we have in this country now is an environment that strangles economic growth with unneeded and duplicative regulations, and certainly we must change that if we want to create jobs and get the economy moving again.

The real issue it seems, as the gentleman from Illinois pointed out, is that linked to competitiveness is job creation, and what is really at stake when we have unnecessary, burdensome regulations is the American worker is the one who loses.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. EWING] has expired.

## UNNECESSARY AND BURDENSOME GOVERNMENT REGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HASTERT] is recognized for 5 minutes.

Mr. HASTERT. Mr. Speaker, if I may continue and share some time with my colleague here from Illinois, we are talking about the unnecessary, burdensome regulations that we have in this country. It is interesting that the small-business owners, the representatives of larger companies, and every one of our citizens who are self-employed really are the engine that drives the economy in this country. They are the ones who deal every day with meeting payrolls, creating jobs, and trying to produce the product or service that people want.

Too often in this body all we hear is the same tired arguments from bureaucrats and economists whose livelihoods depend on the creation of more Federal red tape. What I hope we can talk about during this special order today for just a few minutes are the challenges that face small-business owners and what Government can do to stimulate job creation.

I too in taking some notes on the testimony that we had before us remember the words of a banker from Aurora, IL, a gentleman who is the President of the Merchants Banks by the name of Cal Myer. Mr. Myer said:

> Home ownership is being strangled by rules and regulations. If someone wants a variable rate mortgage, he or she must first produce a ream of documents required by a 1½-page list.

On farm regulations, certainly the farmer, the guy who tills the soil and reaps the harvest is not exempt from Government regulation. John White is the president of the Illinois Farm Bureau, and in his testimony Mr. White said that:

> Farmers find it saddening that Federal regulators think that we, as individual entrepreneurs, have the time or the ability to sort out 400 pages of regulatory gobbley-gook to figure out what applies to us and what changes we must make to be in compliance.

And finally, a manufacturer, a guy who makes machine tools from Mendota, IL, Richard King of Black Brothers' Machine Tool Co., said:

> The current nationwide patchwork of conflicting and confusing product liability laws dictated largely through court decisions in various States has forced our company to operate with uncertainty. It has stifled innovation and any expansion of employee benefits.

I am sure the gentleman from Pontiac, IL, certainly will agree that we see, especially in industries like machine tools where we have to create the implements that drive the economy, that make the things that make our economy work, we see those manufacturers and those products and those jobs going offshore. And one of the biggest reasons is product liability.

□ 2000

When a machine manufacturer has a machine out there that is 50 years of age and it has been altered and changed and you have workers that take the guards off or maybe owners who take the guards off, but yet that company that made that machine 50 years ago, 40 years ago, or maybe only 25 years ago is still liable, and every time that they are charged with a lawsuit and even though they can go to court and defend themselves, they are talking about $15,000 or $20,000 or $25,000 or $30,000 out of their bottom line that they have to use to defend themselves.

Recently it was calculated that the cost of regulation that we have in this country today costs every family, every American family $4,100 out of their bottom line every year. Now, when you look at that, that is amazing. That is stupendous. $4,100 out of every family's pocketbook, out of every family's budget just for regulation.

Mr. EWING. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I am happy to yield to the gentleman from Illinois.

Mr. EWING. Mr. Speaker, one thing that came out was that some of the regulations are absolutely useless. I had one businessman who said he spent 100 days a year at a cost of $125,000 to do these forms. They are MSD forms. He has never had one request from an employee or anyone else to ever look at these forms, and it has cost his company $125,000.

Mr. HASTERT. Well, absolutely. I hope that there is one goal that we can all agree on, that we need to cut unnecessary red tape. The Federal overregulation is strangling economic growth. It is dulling our competitive edge. It is certainly costing us jobs.

I think we need to make an important point that no one is saying that we should eliminate all new Federal regulations. Clearly, some regulations are necessary, especially those that protect public health and safety.

But how much is enough? Since 1989 the Federal Government has printed more than 50,000 pages of new regulations that businesses must understand and comply with. All of those regulations, coupled with the burden of State and local regulations, make it more difficult for the farmer, the shopkeeper, the tool manufacturer to compete.

## CATACLYSMIC CHANGES IN EUROPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 60 minutes.

Mr. LANTOS. Mr. Speaker, this is a very special, special order, and I want to thank many of my colleagues who will join me in this special order both in person and through submitting their written statements: Congressman TOM CAMPBELL, Republican of California; Congressman ROBERT DORNAN, Republican of California; Congressman DAVID DREIER, Republican of California; Congressman ED FEIGHAN, Democrat of Ohio; Congressman BEN GILMAN, Republican of New York; Congressman STENY HOYER, Democrat of Maryland; Congressman ROBERT MCEWEN, Republican of Ohio; Congressman JOHN PORTER, Republican of Illinois; Congressman DANA ROHRABACHER, Republican of California; Congressman STEVEN SCHIFF, Republican of New Mexico; Congressman CHRIS SHAYS, Republican of Connecticut; Congressman DICK SWETT, Democrat of New Hampshire; Congressman CHRIS COX, Republican of California; Congressman CHRIS SMITH, Republican of New Jersey; Congresswoman CONSTANCE MORELLA, Republican of Maryland; Congressman ROBERT TORRICELLI, Democrat of New Jersey; Congressman FRANK WOLF, Republican of Virginia; and I believe some others.

Mr. Speaker, one of the great events of our lifetime was the collapse of the Soviet empire, and for the last 3 years we have been breathing more easily in a more carefree fashion because the danger of a thermonuclear holocaust has receded.

The overthrow of communist dictatorships in Central and Eastern Europe has been one of the great developments of this globe since the end of the Second World War, and we all remember the euphoria when the Berlin Wall came down. I remember I was there with my wife and our distinguished majority leader, DICK GEPHARDT, and his wife, and we were chipping away at that wall, and we were part and parcel of that euphoria.

But this cataclysmic change unleashed not only positive and democratic forces, but this cataclysmic change also unleashed evil, dangerous, profoundly negative forces: racial hatred, ethnic hatred, religious hatred, neonazism, and neofascism.

Almost nightly on our television screens, Mr. Speaker, we see the demented minds of the skinheads of east Germany engaged in violence. Now, not all Fascists engage in violence. There are some yuppie Fascists, yuppie Fascists like the political leader of the extreme rightwing in Austria, Mr. Schonhuber of Germany, the leader of the radical right, Jean Marie Le Pen of France, and so many others.

Perhaps the most extreme manifestation of the unleashing of these evil, dangerous, and poisonous forces has been witnessed in the former Yugoslavia. It was not too many years ago, Mr. Speaker, that Yugoslavia was the most prosperous, the most peaceful, the most open, the most democratic, pluralistic country in Central and Eastern Europe. I remember my wife, Annette, and I would take our two daughters to Yugoslavia regularly, and it was a delightful contrast with the rest of the region. People got passports. Catholics, Protestants, Moslems, Jews lived together in peace and harmony, and the country was developing as the leader of this region in becoming a market-oriented and increasingly more and more democratic society.

But the West was not watching, and while not all the angels are on one side, the Communist dictator Milosevic has brought this wonderful former country to a sorry pass.

Over 20,000 innocent people have been killed; 2½ million have been made refugees in the very heart of Europe; and with the coming of winter, we are dreading the prospect of thousands and tens of thousands freezing to death in the coming months.

What was Mr. Milosevic's battle cry? It was a racist, ethnic battle cry. The whole concept of ethnic cleansing in the heart of Europe makes your stomach turn. But the West did nothing, and nightly we see the slaughter at Sarajevo, the destruction of Vukovar, the anguish and tragedy of thousands and tens of thousands and, yes, by now millions of innocent people.

It is not surprising that even the most developed and the most democratic of the countries in this region, my beloved native country of Hungary, has recently shown the manifestations of the resurgence of fascism and nazism in high circles. Now, I am not an alarmist, Mr. Speaker, and I am pleased to report to my colleagues, I am very pleased to report to my colleagues that the overwhelming bulk of the people and the bulk of the political leadership across the board is committed to democratic principles and democratic practices, but there are some important exceptions.

One of these is a man who is the vice-chairman of the leading party in the Hungarian governing coalition, a man by the name of Csurka, who last month published a vicious antidemocratic, Fascist manifesto that makes everyone who has democratic goals in his mind have his stomach turn.

□ 2010

It is not surprising that it should happen in Hungary. This is a country with a deep, noble, proud democratic tradition.

Mr. Speaker, it was my privilege to organize a remarkable event in this House not too long ago when the Congress of the United States and the American people allowed Hungary's greatest democratic—with a small "d"—in history, hero of the 1848 uprising, Louis Kossuth, to have his statue placed in the Congress of the United States. This was a noble action by the American people and the Congress of the United States, and the Hungarian people have very deeply appreciated it.

But while there is a noble and democratic tradition, exemplified by this great Hungarian patriot, Louis Kossuth, there is sickening Fascist tradition culminating in the Arrow Cross mob of 1944 and 1945, a mob which, in its brutality and cruelty, outdistanced Hitler's Nazi hordes. Some remnants of that mob still live in Hungary, and there is a renaissance at the far right which, unless checked, can lead to similar consequences.

Now, it is always the cry of dictatorial regimes and dictatorially oriented individuals to claim that what they do in their own country is their own domestic affair. We have heard this from the Stalinists in Stalinist Soviet Union, we heard it not too long ago at the time of the Tiananmen Square by the communist dictators of China. Deng Xiaoping felt that the massacre of the democratic units of students and intellectuals and workers was a private affair that the rest of the world should not worry about.

The segregationists in South Africa claim that apartheid is a domestic affair. Every dictatorially oriented politician who is ashamed to have his dirty linen washed in public, to have scrutiny directed in his direction, always cries, "It is a domestic affair."

Well, none of these events are domestic affairs. Hitler was not a domestic affair at the time when he could have been stopped. Mussolini was not a domestic affair when he marched on Rome. None of the 2-bit or more successful dictators tragically turned out to be domestic affairs because while they first took their own countries to ruin, the rest of the world paid a heavy price for allowing them to flourish domestically.

It is sort of interesting that some of these new Fascists are not just claiming that their Fascist statements are matters of domestic concern only, but they engage in a remarkable degree of hypocrisy. Some of the Hungarian Fascists, for instance, are delighted when some of us in the Congress of the United States denounce the persecution of Hungarians by some countries neighboring their society.

Just yesterday, Mr. Speaker, it was my privilege to lead the fight which stopped the granting of most-favored-nation treatment to Romania because of its suppression of its Hungarian minority and its suppression of religious freedom.

Just yesterday in this hall we deprived Yugoslavia of most-favored-nation treatment because of its policies of brutality and ethnic cleansing.

And just yesterday the United Nations deprived Yugoslavia of membership.

Well, today it is the turn of the new Hungarian Fascists to be explored in this body. They still represent only a minority. But as is the case in all societies where economic conditions are deteriorating, where the number of unemployed is rising, where social tensions are increasing, the political demagogue of the far right or the far left has a very fertile terrain in which to operate.

The new Hungarian Fascists are counting on bad economic times, social turmoil, to peddle their evil wares.

Mr. Speaker, I need not tell my colleagues the lessons of the Weimar Republic. The Weimar Republic in post-World War I Germany was a full-fledged democracy. It had free elections and free press. People were free to leave the country. But it was moving inexorably toward the Fascist dictatorship that caused the Second World War because the democratic forces were not strong enough and the democratic forces were not supported strongly enough from abroad so that the Fascist elements could not gain power.

There are poisonous mushrooms in the soil of Hungary today. It will not do the country any good to pretend that they do not exist. They must be put out in the glaring light of international publicity, denounced for what they are: evil enemies of democratic society.

That is what we are doing today.

A few days ago in the International Herald Tribune, the columnist William Pfaff, among others, had the following to say:

> A French historian of Germany, Pierre Behar, has observed that during the totalitarian period we just have left, when state power used every means at its command to suppress free thought and speech, a psychological deformity was produced in the people who were its victims. They were put in a position where they could only think negatively—about what they hated and opposed. They had no positive thoughts because positive ideas were useless. There was no hope of applying them.
>
> They were also cutoff for a half century (three-quarters of a century in the Soviet case) from the positive ideas that existed elsewhere. The whole intellectual and moral evolution the postwar West experienced from the 1940s to the 1980s passed them by. Thus they do not understand what enabled the Germans and French and British to overcome a century of hating and fighting one another. They do not grasp how the Europeans in the 1950s and 1960s were able to make an economic and political community where before there was violent rivalry, chauvinism, willful distortion.
>
> The ex-communist countries emerged from their totalitarian experience as if 1992 was the day after 1945, with every hatred and struggle ready to be resumed as if the time passed were a trance. The result is mesmerizing the rest of Europe, pulling it back in turn, time unraveling. It seems to be closing time for democracy.

□ 2020

Well, I do not think it is. I think this time the Democratic and liberal forces will not remain silent. We will support our friends in Hungary and Czechoslovakia or in the Czech lands and Slovakia, in the successor states to Yugoslavia, in Poland and everywhere else, and we will point to the new Fascist crimes of the new Fascist elements, because they are a poison to their society. They are a poison to Europe and they are a poison to the peace of this world.

Mr. Speaker, I now yield to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the Democratic caucus, the Chairman of the Helsinki Commission, my good friend from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California for yielding to me. TOM LANTOS has been a giant in this Congress, in this country, and indeed internationally when it comes to concerns of human rights.

He and my friend, the gentleman from Illinois [Mr. PORTER] who cochair the Human Rights Caucus of the Congress have been in the forefront of bringing to the attention of the Congress, and to the attention of the American public, actual violations of human rights and threatened violations of human rights.

I have just been listening to my friend, as all of us have, as he has recited a history which he knows so well. As Hungarian freedom fighter himself and a European by birth, but an American in every sense of the word, not only by citizenship, but by commitment to the principles that make this country such a special one in the world.

I am pleased that my friend invited me and others to participate in this special order.

It is a sad fact, but nevertheless a true one, that the imposition of regularity of a totalitarian regime, while taking freedom away to exercise it in a positive fashion also can be seen in some respects to take away options to exercise some of the worst actions that human beings direct toward one another—racism, nationalism that manifests itself in hate for those not of a certain nationality, or the predominant nationality within a nation.

We have all stood and cheered as the formerly captive nations of Eastern Europe have emerged and the Republics of the Soviet Union have declared their independence as members of the international community; but we have also watched with concern, as the gentleman from California has so well articulated, and I just want to rise and say in particular, as it relates to Hungary, which is I think the particular impetus, but certainly as the gentleman pointed out, not the only concern that we have in Europe.

Istvan Csurka's divisive article, which the gentleman from California spoke about, its anti-Semitism evident, its nationalistic appeal to ethnic division, evident, and it is a matter of great concern to the international community.

We empathize with the people of Hungary in that there are those voices in our own country who would raise similar sentiments. It is important for us to stand up and speak out against those in our country. We have that personal responsibility.

We would urge, as their friends and allies, that others throughout the world, when confronted in their countries with similar sentiments, stand up and speak out strongly.

The gentleman from California has recited some of the underlying causes and historical development that led to the Second World War. Too many people stood silent. Not enough people on this floor said early enough that is our problem as well. It is not a segregated problem.

The international community will find that a cancer in one part of it will surely, if left untended, require major radical surgery and will affect the whole body.

Csurka is just one example of individuals who now rise in appeals to nationalistic sentiments, racist and anti-Semitic sentiments, for political gain, as Milosevic is doing, with tragic consequences in Yugoslavia.

Csurka is not just somebody in Hungary. He is the Vice President of the major ruling party in Hungary. Unfortunately, the response to his anti-Semitic, nationalist appeals, was weak at best, and at worst, nonexistent.

So I am pleased to join with my friend, TOM LANTOS, and with others on this floor of both parties.

This is not a partisan issue. Human rights is probably the strongest bipartisan, nonpartisan issue, in this House. If we remain silent, we will be culpable. If we speak out, if we accept our personal responsibility for identifying, criticizing, indeed condemning those who act against human rights, democratic principles, and individual human rights, democratic principles, and individual human dignity, then when we retire from the stage, our colleagues will say of us, and those with whom we serve will say to us, that we kept the faith.

Mr. Speaker, I congratulate the gentleman from California for always keeping the faith with individuals who need a strong voice in this House and around the world. I thank the gentleman for giving me this time to join him in this very important special order.

Mr. LANTOS. Mr. Speaker, I am deeply grateful to the distinguished chairman of the Democratic caucus, the Chairman of the Helsinki Commission, for his remarkable observations.

Mr. Speaker, it gives me a great deal of pleasure to call next on the distinguished cochairman of the congressional human rights caucus. Over the years he has demonstrated a degree of commitment to human rights and democratic principles rare even in the halls of Congress, and I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I am pleased to join my colleague and cochairman of the congressional human rights caucus, TOM LANTOS, in this special order to call attention to the threat of anti-Semitism in Hungary.

My colleague has been a champion of human rights all across the world, and as a victim of the Holocaust, there has been no one more vigilant against the threat of fascism and genocide than my colleague, the gentleman from California.

□ 2030

I share his sense of shock and outrage over the recent public pronouncement from a leading Hungarian politician, Mr. Csurka, which blames Jewish people particularly for the problems confronting Hungary. This expression of anti-Semitism adds to the alarming trend toward rightwing extremism and neo-fascism that is infecting many countries across Europe.

The social and economic turmoil taking place in Eastern Europe is obviously creating crisis conditions and leading many citizens to violent protests of the conditions in which they find themselves. Tragically, irrationally, intolerantly, many of these people have focused their anger and frustration on minority groups within their countries, targeting them as scapegoats and creating a climate of fear. Although we cherish the freedom of expression and the right to protest injustice, we cannot remain silent when that freedom is used to incite violence and hatred against innocent people. The disturbing parallels between recent outbreaks of racial and ethnic hatred and the atmosphere that prevailed in pre-war Nazi Germany cannot be denied and must be denounced in the strongest possible terms.

As a newly democratic country, Hungary has made substantial progress in providing human rights protections to all its citizens. For that progress to continue, the Government must reiterate its commitment to protect and respect religious minorities, by condemning the outbursts of intolerance and hatred from extremist groups or individuals. I call on all Members of Congress to remain vigilant against the threat that this creeping wave of scapegoating and hatred poses to human freedom.

Mr. Speaker, I have been to Dachau, I have been to Birkenau, I have been to the memorial at Yad Veshem. I understand—do my best to understand—the horror of the Holocaust. And I know the complicity of all those all across this world who stood by in silent acquiescence as millions of Jews were systematically exterminated by the Nazis.

I pledged then and renew that pledge now that I will never remain silent in the face of anti-Semitism or any other intolerence of people of different religion, race, sex, or nationality.

The people of Hungary who participate in or tolerate this anti-Semitic diatribe, or those who stand silently by, should hang their heads in shame. They should spend long hours in deep contemplation of what human freedom means. It is not, Mr. Speaker, emphatically not, the license to do what one pleases. The rights of freedom do not come without heavy responsibilities. It stains the banner of free speech to use that precious freedom to foment intolerance toward others.

In the end, the destiny of every nation depends on the character of its people. This is true under any system of governance. For this reason, Mr. Speaker, I cannot believe that our brothers and sisters of Hungary can be in any way supportive of the disgrace of scapegoating and anti-Semitism. But if this is the way they will choose, the American people will not remain silent, but will break the bonds of friendship and support that we thought were being forged through mutually shared values and beliefs.

Mr. Speaker, I cannot believe that the people of Hungary will allow this to happen. I urge them, through their government, to repudiate the neo-nazis and neo-fascists who pollute their society.

In addition, Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] for calling us together in this very special order calling to the attention of the American people, and the people of this world, the situation in Hungary and the creeping neofascism and neonazism that is infecting too many societies of Eastern Europe.

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague, the gentleman from Illinois [Mr. PORTER] for his most eloquent and moving statement.

It gives me extraordinary pleasure, Mr. Speaker, to call on the ranking Republican member of the Europe and Middle East Subcommittee of the Committee on Foreign Affairs, the incoming ranking member of the full Committee on Foreign Affairs, one of the best champions of human rights in this body, my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS].

Mr. Speaker, I rise to commend the distinguished gentleman from California [Mr. LANTOS] for his leadership in calling this special order to discuss the despicable Fascist treatise recently written by the No. 2 man in the Hungarian Democratic Forum [HDF], Mr. Istvan Csurka.

In our increasingly interdependent, increasingly free world, Mr. Csurka's worldview is eerily reminiscent of the Nazi era. Csurka writes about the genetic roots of social deterioration, and the need to support only those Hungarians who are "fit for life." Those phrases are reminiscent of a social Darwinism—Adolph Hitler style.

Throughout his work, Csurka plays on the Hungarian Peoples' fear of Communist restoration. He plays on the strong sense of nationalism inherent in all Hungarians. But I believe Csurka misreads his Hungarian audience. The Hungarian people are inherently people of good will. They are highly educated, they are compassionate, and they are tolerant. They are the very same people who helped Swedish diplomats, Raoul Wallenberg and Per Anger, save so many Jews from the gas chamber during World War II.

In his explanation of why his political party is labeled anti-Semitic, Csurka opines that the emergence of the HDF represented a "threat to the hegemony of Jews" by being an organization that had no "people delegated by them in its leadership." Throughout his work, Csurka equates communism and opposition to his party with Jewry. He also repeats the age-old label in what he calls an international Jewish conspiracy. His commentary is appalling.

Csurka's abominable document is unique, even for Hungary's ultra-right movement. In the past, Hungarian extremists rarely directly "blamed the Jews" for their problems, but rather, used a code-language going back to the turn of the century. They spoke of the "looming threat of cosmopolitanism"—a euphemism for Jews in Hungary going back almost 90 years. Mr. Speaker, Mr. Csurka does not leave much to our imagination. His comments are passionate. His ideology is the ideology of prejudice.

Mr. Speaker, while we recognize that our own Nation is not any model of tolerance, we recognize that we have our own racial and ethnic tensions. But we do not have, as a criteria for acceptance in our society, any requirement that one's ancestors be *Mayflower* descendants.

The resurgence of anti-Semitism and the religious and ethnic intolerance in Europe concerns many of us greatly. "Ethnic cleansing" in Bosnia, the beatings of Asian refugees in Great Britain, and the resurgence of anti-Semitism throughout Europe is indicative of an ailing society.

In response to such outrageous bigoted allegations, I urge my colleagues in the Congress to let our voices be heard. Mr. Csurka, as a public figure you are an embarrassment to your great nation and to your people. We in the U.S. Congress find your deplorable treatise a disservice to your nation and to the emergence of your people from the oppression of communism.

Mr. LANTOS. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN], my friend.

It gives me a great deal of pleasure to call on my good friend, the gentleman from New Jersey [Mr. SMITH] who, among his many human rights fights, has been perhaps our leader in fighting for the suppressed Hungarian minority in Transylvania. I am delighted to yield the floor to Mr. SMITH.

□ 2040

Mr. SMITH of New Jersey. Mr. Speaker, I thank my very good friend for those kind remarks and for calling us together in this very important and historic special order in highlighting our concern about a highly disturbing trend toward anti-Semitism and racial discrimination and hatred in the fledgling democracies of Eastern Europe and elsewhere on the continent.

With the flagrant display of racism in recent weeks in Germany and the release of a disturbing report by the Hungarian Democratic Forum authored by Vice President Csurka, we feel it is vitally important that we bring these developments to the attention of our colleagues and to the attention of the American people.

Mr. Speaker, it seems to me that international scrutiny, light, if you will, remains a very powerful disinfectant, especially when the disease is in its earliest stages.

I am sad to say that a spate of news reports coming out of Eastern Europe, Newsweek and many other media, have been replete with examples of racism and anti-Semitism, and the number is growing, not diminishing.

A case in point, as has been pointed out on this floor, is a report entitled "Thoughts on the Two-Year History of the Political Changes and on the MDF's New Program," authored by Vice President Csurka.

The report, which I have read and I know others have read, Mr. Speaker, drips with anti-Semitism and makes bogus claims of an international Jewish conspiracy. And where have we heard that before? It reminds us of the Nazis.

While a New York Times article on September 19 noted that, "No one can say how much support Mr. Csurka has in his party," and that, "There does not appear to be much popular support for a far right political surge in Hungary," the Times does point out that, "Now many commentators have said that the Csurka study hit a chord of anger in society, appealing in particular to embittered, poor, elderly Hungarians who feel they have gained nothing from the end of communism but rising prices."

Mr. Speaker, disappointment in the face of reform, disappointment in the face of change in Eastern Europe, might indeed lend itself to exploitation by those who hate, by those who are intolerant of others. Disappointment and fear have always been fertile ground to the demagog, and this is another case in point.

Mr. Speaker, I would suggest, and by this very special order we are not being silent like some tragically were during the 1930's when the obscenity of fascism, when the ugliness of anti-Semitism was slowly and inexorably taking foot and root in Europe. It seems to me that respect for the sanctity and sacredness of human life, respect for human rights, respect for peoples of all faiths, colors, creeds, and nationalities, is absolutely fundamental. The responsibility of a free people to ensure those protections, wherever and whenever they are bridged, is indeed a heavy responsibility that cannot in any way be shirked, ignored, or trivialized.

It seems to me again that vigilance in the cause of human rights means in part being able to read the signs of danger, and those signs are growing. Like neon lights they are flashing on and off, danger, danger.

Yet I remain hopeful, Mr. Speaker, that we in this body and people in other free countries, and people in Hungary and in the fledgling democracies of Eastern Europe, have learned those lessons from the bitter, not so distant past, when to be Jewish or to be different in some way was enough to relegate you to a life of discrimination, deprivation, and even death.

Mr. Speaker, I would suggest that all of us take heed of those two word that have been said again and again, and that as of tonight they take on even more meaning, never again, Mr. Speaker, must mean never again.

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleagues for his most eloquent statement. I am at a loss to know who to call on next, because I know all of my colleagues have difficult schedules. If my colleagues would give me an indication as to who would like to go next.

Mr. Speaker, I am delighted to call on my fellow Californian, a unique champion of human rights across this globe, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I would say to my good friend from California [Mr. LANTOS], we solved that problem very easily over here as we solved so many, we reverted to the old horse of seniority. I came here in our bicentennial years, with a short break in service. And when joined by you, I must say I discovered a new champion for human and civil rights around the world. So you did not have to ask me twice, TOM, to join this special order.

Mr. Speaker, the gentleman from California [Mr. LANTOS] was instrumental in getting that statue of one of Hungary's great leaders put in the first floor of this beautiful building, the world's most gorgeous office building. Since I have been serving on Intelligence the last 4 years, going through the old crypt area where George and Martha Washington were supposed to lay in rest, but Virginia would not give them up, understandably, I pass by that statue probably every day of service here.

So I have taken note of the dates of the long life that God gave him, Louis Kossuth, 1802 to 1894.

You can reach out to someone who lived and died in the last century sometimes very easily. My dad was 2 years old when Kossuth died. I notice that you and others put on his beautiful pedestal, and I might add he has got a wonderful looking beard, you put on there freedom fighter, which has a modern ring to it. And yet it has got an ancient ring to it.

That is what the people were doing on Masada, fighting for their freedom in the ancient land of Israel.

I look at that statute and the words "freedom fighter," and then I look at the dates for the freedom fighter, and it is 1848 and 1849.

That was a tumultuous year in Europe. The first year was the completion of Karl Marx's "Das Kapital, 1849."

Kossuth did not succeed in freeing Hungary. He went into exile, and therefore lived 43 years in exile, as the gentleman from California [Mr. LANTOS] lived in exile all of his adult life, until recent times when the gentleman began to return to his beloved land of birth regularly.

When I came here we had three sons of Hungary serving in this Congress, one on our side, two on your side. Ours lost in a fair election fight. Yours just passed on to his reward in heaven a few days ago, Ted Weiss.

The gentleman from California [Mr. LANTOS] is the only son of Hungary by birth now in this Chamber, so it must pain the gentleman particularly to see this ancient, reviled custom of scapegoating and picking one people out to blame with some ugliness, economic woes, and economic problems on the Hebrew people, the Jews of Europe.

I came across a quote of General Eisenhower the other day of why he went through, as he put it, every nook and cranny of the first concentration camp he came across. He said, "I want to do this," and I get this vision from a man that is beloved, but never thought of particularly as a visionary intellect. He said, "I forced myself to do that," and remember he also caused the mayor and wife of Buchenwald to take a tour of that camp, and that night they committed suicide they were so overwhelmed by the horror of what took place within the smell and sight and sound of their own little village.

But Eisenhower said:

> I forced myself to go through every nook and cranny of the camp just on the outside chance that at some future point in history people would say none of this took place, that this was all created or made up as propaganda.

So as President Eisenhower could see the dark side of human nature and that we would always, always have to be reminded ourselves, as our colleague, the gentleman from New Jersey [Mr. SMITH], said, never again, we find in the very dawn of a rebirth of freedom throughout Eastern Europe one of the ugliest specters of all coming back to haunt us.

I did some reading on this when the gentleman from California [Mr. LANTOS] asked me to join in this about the different political parties in Hungary. Obviously none of us here intend to condemn an entire political party because of one loud mouth in that party appealing to the basest instincts of the men and women in his electorate, but certainly he has not been properly chastised, if not suppressed, by the members of his own party, two of the stronger parties out of I think it is six that are in contention in that multiparty system.

□ 2050

I hope to be a part of a quincentenary celebration next month. I hope I can sneak away from my campaign for just a few hours to celebrate with some reflection one of the greatest deeds that we were all taught about in school, an act of discovery by a Genovese, with Hispanic help and support in 1492, 500 years ago.

But one of the things they do not teach school boys and girls initially about that act of amazing discovery, bringing two worlds together, is that was the very same year that the Jews were driven from Spain by that same King Ferdinand and Queen Isabella that had the foresight to launch the great navigator to become the admiral of the ocean seas.

And if we just go back in history 500 years, not to all the pogroms and slaughters of the centuries before that, if we just go back 500 years, what a terrible, mixed, and glorious at the same time, history this has been over the years.

I cannot think of anything, of anything uglier than in emerging democracies, anywhere but particularly in Eastern Europe, the scene of all of the extermination camps, the concentration camps and the labor camps, than to have some politician, obviously unworthy of the name, not even attempting to claim title to statesman, appealing to this basic instinct of dividing people and scapegoating a people and trying to bring back this ugly specter of anti-Semitism.

In closing, I would just like to observe that all my life I have seen anti-Semitism more akin to a physical illness combined with a mental illness than it is. It is like a fever. It is a mental disease that once you have failed to stamp it out at its very beginning, to kill the virus in every dark moldy corner of the society, the virus will begin to run away from you. And in our lifetimes, at least most of us in this room, we have seen the end result of that. And we also see before our very eyes every night on television the bloody results and the suffering of women and children and the elderly with ethnic hatred just a little bit south of Hungary in, as a matter of fact, considering Vojvodina, the Hungarian province in what used to be Yugoslavia, there is an actual ethnic blood and flesh interconnect between Hungary and the slaughter in the Balkans.

So I do not thank the gentlemen, because it was his idea. But I praise the gentleman for bringing this special order forward, and I hope that wiser statesmen and women in Eastern Europe and throughout all of Europe, from Ireland to the Urals and beyond, will realize that this is something that must be robustly and universally condemned and stamped out in its infancy.

As Churchill said about communism, "Sometimes you must strangle something in its crib or it will come back to slaughter you by the millions."

Thank you, TOM. God bless you, and let us hope that some of this message gets through to Budapest and your great land of birth.

Mr. LANTOS. Mr. Speaker, I am very grateful to my friend and colleague from California. It gives me a great deal of pleasure to call on another good friend from California, my distinguished colleague who has been so remarkable in his fight for human rights in Afghanistan, among many other places.

I yield to the gentleman from California, Congressman DAVID DREIER.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for yielding to me. I do not plan to take long, but I do want to extend congratulations to my very dear friend and a native of Hungary, the gentleman from California [Mr. LANTOS] for ensuring that the words of Istvan Csurka are heard around the world.

On a very cold January afternoon, in 1990, I had the opportunity to take my first trip, and plan to go again sometime in the future, to the horrible Nazi concentration camp at Auschwitz in southern Poland. And I underscore the date, because I was there January 1990, just as we had completed the Revolution of 1989, just as we were celebrating the November 9 fall of the Berlin Wall and the tremendous moves which has been in behalf of democracy and freedom.

And it seems to me that that was an experience that I now look back on with a bit of trepidation. Like anyone going on a cold afternoon in January, it was, needless to say, a very, an especially moving experience. But when you walk by and see the broken glasses, eye glasses, and when you see the tattered clothes of young children who have gone through those horrendous gas chambers and other modes of torture that took place at Auschwitz, one cannot help but think of the words that we are now quoting of Istvan Csurka. One would have thought that, having read articles like that written by Francis Fukiyama about the end of history, that in January 1990, we could rejoice. And we did at that time rejoice. And it is tragic that we are here this evening talking about this horrendous situation, which has taken place by a leader in Hungary, but as my friend, the gentleman from California [Mr. LANTOS] said, has been on the move throughout Central, Eastern and, yes, tragically, Western Europe. So it seems to me that we need to look at the root of this problem and figure how it is that we can turn the corner.

My friend was absolutely right when he referred to the democracy that existed in the Weimar Republic following World War I, but we also have to remember that there are some other similarities that exist today that existed at the end of the Weimar Republic.

We have to realize that there was certainly economic problems that existed then, and we know today that the currency crisis that is taking place throughout Europe is one which is playing a role in exacerbating the already bad economic situation which exists there.

The other thing that we must learn from the experience of World War II is, of course, the fact that trying to find a scapegoat for economic and social problems in no way solves those problems. And that is why I believe that what my friend, the gentleman from California [Mr. LANTOS] has done here is he has taken a positive approach, trying to figure out ways in which we can solve this problem.

The most important way to begin it is by letting the American people, our colleagues, and the world know that this kind of activity, trying to get back to words like "genetic roots" that were used in Mr. Csurka's article, cannot be accepted.

What do we need to do to deal with these problems? I happen to believe, as I know my colleagues do, that economic reform, an end to the command and control economy that we have seen for decades in Hungary and in other countries through Eastern and Central Europe, and a greater degree of tolerance.

We have seen these actions in large part due to a level of frustration that people have, and I think that Simon Wiesenthal, who has described this situation, did so very accurately when he said, "They are unhappy people, victims of cultivated fear."

That quote from Simon Wiesenthal, I believe, very accurately describes the article of Istvan Csurka.

Mr. Speaker, it seems to me that we have no choice other than to underscore the tragic words that we have been hearing. Work to encourage tolerance, work to expand democracy, work to expand economic reform. And as we move toward a market, yes, it has been a rough road, but as we move toward the kinds of changes which the people who have spent decades clawing their way from totalitarianism have been seeking, I am convinced that the world will not tolerate this neo-Fascist neonazism which seems to be tragically emanating in the home of the gentleman from California [Mr. LANTOS].

I thank my friend and congratulate him for his fine work.

Mr. LANTOS. Mr. Speaker, I want to thank my colleague from California.

I want to introduce one of my very dear friends in this body, with whom I have shared a lot of experiences, one which is apropos the comments of the gentleman from California [Mr. DREIER] I am reminded of, a joint visit to Simon Wiesenthal and our discussions with him.

It gives me extraordinary pleasure to call on my friend and yield to the gentleman from Ohio [Mr. MCEWEN].

□ 2100

Mr. MCEWEN. Mr. Speaker, I thank my colleague and my dear friend, for whom I have not only great affection, but great admiration.

The service of the gentleman from California [Mr. LANTOS] to our Nation and to this Congress is a great asset and a national treasure. I for one am grateful not only for his leadership and for his friendship, but just for examples such as this.

For those of us who are of the post-World War II generation, the baby boomers, those who were born after the tragedy of the world conflagration of the 1940's, it is sometimes hard to understand and fully appreciate the circumstances whereby the activities of the 1930's could take place. We look at it as through a glass or through a tunnel and say that that was a different era, and yet, as we have discussed here tonight, we see how quickly man's inhumanity to man is just under the surface of civilization.

During the period of the 1920's and the 1930's there was a responsibility of leadership particularly upon the British, and the British nation chose not to exert itself, and this Nation, a nation of the leading powers, but not the leading nation of the world, the United States, failed to take the proper voice that was our responsibility.

Indeed, in the course of the meetings that were held in the 1930's of "America first" rallies, there was an effort to silence those who would speak out against not only man's inhumanity to man but the tragedy that history now must record and we must remember as the Holocaust.

Because we chose not to listen, because we chose not to see, because we chose to remain dumb and not speak out, millions and millions of lives were lost, millions of symphonies were not scored, books were not written, plays were not written and presented. Indeed, the capacity to calculate the loss is beyond man's ability.

We have now hopefully learned from that in this 25,000 days from the beginning of a new century, the beginning of a new millenium, the beginning of the 21st century. We would hope that all of that would be behind us, that we would never face it again.

Yet, we see bubbling under the surface of our friends in Europe, a certain tolerance for the intolerable. I speak, for example, and I will leave many other examples in the RECORD, not only just in Hungary but in Austria and in Germany and in Poland and elsewhere, of the same sort of statements, the same sort of foreboding, the same sort of telltale signs that history now can look and observe so clearly in the late 1920's which are now beginning to surface again.

The United States is in a different position than it was in the 1920's and the 1930's. Not only is it more recognized as a national leader, but we have recognized our mistake of the past and are willing to speak out. I commend my colleague and my friend, and the one to whom I look for leadership, the gentleman from California [Mr. LANTOS] for his excellent example in this area.

I also commend my colleagues here tonight, and speak specifically of the gentleman from Maryland [Mr. HOYER], who is the chairman of the Helsinki Commission delegation, as well as the other members of the human rights caucus.

Reference has been made to Istvan Csurka, who in an interview made statements, and we wish to highlight them so that the world will know.

I understand that a reporter and newspaper in Hungary mentioned that we would be having this event here tonight, and I wish to communicate to them that when we hear, we in civilized America and in the rest of the world, hear references to Hungarians who are "fit for life," we in this country understand.

The Preamble of our Constitution, for which America stands, is that "for this cause governments are instituted among men for the preservation of life and of liberty." Thomas Jefferson has inscribed on his memorial that "the God who gave us life gave us liberty." At the same time, when we speak of liberty, we speak of life, and there is no right by anyone ever to deny a person life.

When we refer to those who are "fit for life," the natural conclusion has to be that there are those who are unfit for life, and we lift our voices as loudly and boldly as we can to say that we will not tolerate this in the 21st century.

He gave his own party an ultimatum that it must "change or die." He refers to liebenstraum, which sends chills in the hearts of not just Hungarians or Austrians, but of all of Europe, and indeed, all the world.

He stated that we cannot ignore any more the fact that this deterioration has genetic roots. Speaking of his economic condition, and indeed, in Hungary today there is reason to be afraid, the vast majority have seen drastic drops in their standard of living, by some estimates more than a quarter of all Hungarians living below the official poverty line, and unemployment threatens to hit the million mark at the end of the year.

Whenever these situations arise, and when we think of the Weimar Republic and of the Depression of the 1930's, we know there are those who will seek a scapegoat.

Mr. Csurka says, and I quote:

> We cannot ignore any more the fact that this deterioration has genetic roots as well. We must understand that we have been living far too long together with a handicapped social strain in groups whose natural selection is nonexistent because it has no force among them.

This is so repulsive that it barely deserves to be read, and yet he says:

> Society must now support the strong families that are fit for life and are organized for work and performance.

I would say to the world that if there ever was a time in which we should listen, in which we should look, in which we should speak, it is now, not after it is too late, not after conflagration begins to make its march, as we have seen in the Balkans, but now. This is the moment.

The United States will speak out, but I join my colleagues, and I have developed vast respect and admiration that I hold for the gentleman from California [Mr. LANTOS], as he is the leader of the American delegation to the European Parliament, and the European Parliament uses so much of its time and energy to castigate the United States on its leadership in the world, and how somehow or another it is throwing its weight around and it is interfering where it should not be interfering.

I would say to those leaders of the European Parliament, I would say to those leaders in Europe, "Now is your time. This is your moment. You have protested for now some 40 years, since World War II, about your inequality in the international arena. This is your moment. You do not have to take a ship, you do not have to fly, you can walk right to the potential disaster that is taking place on your doorstep. This is the time in which you should speak, in which you should act, in which you should move."

On behalf of the world, on behalf of civilization, we say boldly, and we mean, from this generation, we join with those angels that listen to us, who are watching us, because of the inactivity of the 1920's and the 1930's they are not with us, but see us from a different vantage point, we say to them, "Never again."

Mr. FEIGHAN. Mr. Speaker, I first would like to thank my distinguished colleague, Mr. LANTOS, for his diligent efforts to bring attention to a very disturbing trend we see in Europe today.

Like Mr. LANTOS, I am deeply disturbed over news reports coming out of Europe. We see increasing evidence of a resurgent far-right. While neo-Nazi skinheads storm immigrant hostels and terrorize their desperate inhabitants, and political leaders deny the existence of the Holocaust, extremist candidates win more and more votes by appealing to the basest xenophobia instincts of people.

One recent example is particularly disturbing. A leader of the Hungarian ruling party published an attack on opposition forces in Hungary in which he used some of the most vicious, paranoid, anti-Semitic rhetoric to come out of Europe in a long time. Even his own party colleagues condemned his poisoned ultra-nationalist invective, likening it to Nazi ideology.

Thankfully, the majority of Hungarians do not share such extremism. I had the good fortune of being in Budapest in July and found Hungary to be free and open. Hungary is truly a democracy and its people should be proud for having made such a smooth transition.

Nevertheless, when such a prominent individual chooses to make public his extremist and eccentric views, it is incumbent upon us in the U.S. Congress to object. We should not simply wish such extremism away as some suggest. That approach has been tried—and has failed—already in history. Rather, we owe it to freedom loving and tolerant people everywhere to shine light on this extremism and condemn it in the loudest of terms.

Again, I thank my colleague, Mr. LANTOS, for leading this effort in the U.S. Congress.

Mr. TORRICELLI. Mr. Speaker, I rise today to address an issue of grave concern, the revival of fascism in Hungary and the rest of Europe.

We have all been appalled at the rise of neo-Nazi violence and fascism in Europe. France, Germany, Austria, Belgium, Denmark, Italy and Hungary have all seen a resurgence in anti-immigrant, anti-foreigner statements, writings, or even violence.

As the global recession and economic reforms in Eastern Europe trigger economic hardship throughout the continent, some Europeans are responding to the nationalist, isolationist, intolerant messages of the far right. People are channeling their hatred toward foreigners and ethnic minorities, who are seen as burdens to the economy and competitors for scarce jobs. This situation is exacerbated by a recent increase of refugees in Europe, who are fleeing ethnic bloodshed and strife in the former Communist bloc.

Of particular concern is the possibility that fascism will penetrate European governments. Recently, Istvan Csurka, a leader of the Hungarian Democratic Forum Party, Hungary's center-right governing party, stated that foreigners, Jews, liberals and the press are undermining Hungary's ability to govern. These statements were rightfully characterized by some of his own party members as neo-Fascist. When the Hungarian Democratic Forum holds its party congress in November, I urge Members to renounce this message of hatred and intolerance.

Unfortunately, similar messages continue to be sent by extremists across the continent. And this type of message is resonating and cultivating fear among those in Hungary and the rest of Europe who are economically disadvantaged and politically alienated. This scenario provides memories of the events leading to the horrors of Nazi Germany. We cannot allow history to repeat itself.

I commend my colleague, Congressman LANTOS, for convening a special order on this issue. The messages of intolerance and acts of violence must be condemned in public forums. I encourage my congressional colleagues and policy makers in Europe to raise their voices in opposition to this frightening Fascist revival.

Mr. WOLF. Mr. Speaker, this special order is timely and warranted. I appreciate Representative LANTOS bringing to our attention a concern that is becoming more pervasive not only in Eastern Europe, but around the world.

The cause of concern: neo-Nazis in Germany; growing sentiments of anti-Semitism in Poland; anti-immigration parties surging in Austria and Switzerland. Hate-filled and xenophobic nationalism destroys the roots of democracy and hopes for freedom. Ethnic division flourishes on hard times and the insecure feelings that follow. The classical concept of the toleration of individuality and universal rights is quickly forgotten when the bread is not delivered and jobs are not available.

In Eastern Europe, nations which have recently undergone transformations, though in some cases incomplete, are struggling to carve out an identity in the midst of economic hardships and uncertainty. After decades of communism and suppression, the peoples of Eastern Europe are finally free to express themselves. Some of those first words have been unkind.

What can be done to combat these rising feelings of hatred and ethnic enmity? The answers are not easy. These problems of transition require sensitivity on the part of the leadership and a willingness on the part of the majority to accept and adapt to new realities. I urge those in leadership who must contend with these feelings to attempt to harness the newly released emotions to more beneficial ends. Leadership must also make it very clear that hate motivated sentiments will be unequivocally condemned and actions promoting hostility toward minorities outlawed. The leadership in each reborn nation must make certain that ethnic hatred never becomes respectable.

There must also be a movement in Eastern Europe and in the former Soviet Union to turn nationalistic sentiments and xenophobia into the building of strong, tolerant societies based on the respect for individual liberties and a sense for the common good.

Mrs. MORELLA. Mr. Speaker, I want to commend my colleague, Mr. LANTOS, for calling this special order today to discuss congressional concern with the escalation of hatred and violence, both rhetorical and real, against minority groups in Hungary and across Europe. As a Hungarian Jew who escaped the Holocaust, the gentleman from California brings a truly unique perspective to this subject, and his credibility and expertise are unquestionable.

Mr. Speaker, I have viewed the intensifying violence against minorities in Europe with great concern. Who could have witnessed the films of recent demonstrations in Germany against Gypsies and Asians without recalling the Nazi Kristalnacht of 1938? So elated were we in the collapse of communism and the Berlin Wall in 1989 that we had forgotten that the struggle for freedom is ongoing, that hateful ideas of racism and anti-Semitism had never been defeated by the Allies in World War II, but were only subsumed by Stalinist tyranny, and now have been liberated like tigers from their cages by the lifting of the Iron Curtain. We have seen the worst example of this in the former Yugoslavia, if only because in Serbia xenophobia has been promoted and supported by the power of the State. Lurking in the wings are Austria, Poland, Romania, and other countries where demagogues are bent on achieving power by preaching hatred.

We now face a similar prospect in Hungary, where Istvan Csurka, vice president of the Hungarian democratic forum [MDF], has authored a political tract championing the Hungarian cause, and branding as its enemies Jews, liberals, leftists, and others. Csurka, evoking such modern-day images of Nuremburg as brown-shirted Magyars marching through the streets of Budapest prepared to carry out his every whim, has declared that there is no engaging in politics without the demonstration of force.

Hungarian Prime Minister Jozsel Antall, who is also president of the MDF, has appropriately distanced himself from his fellow party member and has disavowed his views. He has said that Csurka's writings offer politically harmful and wrong answers, with which neither the government nor I can agree.

Mr. Speaker, Csurka has proclaimed that there is nothing to justify the search for any kind of consensus. That is not the statement of a democrat, it is the thinking of a bully. We in Congress and the administration must continue our struggle to instill democratic values. Indeed, it is a lesson which must be taught over and over again, for there is too much to lose in forgetting it for even a short period.

For the people of Hungary, Europe, Africa, Asia, and the Western hemisphere, the lesson is this—democracy is not about the rule of the majority, for that road leads to tyranny. Democracy is to be found in respect for the rights of the individual—his right to think for himself, to reach his own decisions, to practice his religious beliefs as he chooses, to be secure in his home and in his person. These fundamental human rights justify the search for consensus.

In a word, Mr. Csurka, humanity justifies, and demands, the achievement of consensus.

## GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of this special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## CATACLYSMIC CHANGES IN EUROPE

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I would say to the gentleman from California [Mr. LANTOS] that he did not provide for backup. The heavens have been good to him. I had a very important special order that I was going to deliver, but no subject is more important than this.

If I could implement, out of not selfishness but out of recognition, I just went in and counted on the calendar, out of recognition that we have only 8 days left to close down the 102d Congress, maybe 9, at the most, if we have two all-night sessions.

Because there are so few nights left, but we have so many distinguished colleagues left, I count five. If I yielded 25 minutes and implemented a sort of not exact 5-minute rule, if the Members would kind of adhere to about 5 minutes each, I will cut mine down to 35 and have a little buffer in there.

I would ask the gentleman from California, how does that sound?

Mr. LANTOS. If the gentleman will yield, I am deeply grateful to him.

Mr. DORNAN of California. Then the gentleman may take over my special order from this point and recognize the remaining five speakers.

Mr. LANTOS. I thank the gentleman very much.

It gives me a great deal of pleasure to first thank my good friend, the gentleman from Ohio [Mr. MCEWEN] for his most eloquent and moving statement; and then to call on my neighbor, friend, colleague, and trusted ally, TOM CAMPBELL.

Mr. CAMPBELL of California. Mr. Speaker, I thank the gentleman, my colleague and friend, for yielding to me. It is an honor to participate in this dialog tonight on a very important issue.

I would like to begin by giving tribute to my colleague and friend, the gentleman from California, TOM LANTOS. Mr. LANTOS and I represent adjoining districts. Over the last 4 years it has been a pleasure to work with him, always a joy to have him by my side. The gentleman and I stood together, alone among all Representatives in the bay area of northern California, against the tyranny of Iraq invading Kuwait.

It is to the gentleman's credit, and I commend him on the floor, that he stood in favor of the use of force against Iraq, though a majority of his party did not. Tonight we again stand against tyranny. It is an honor to share again with him a courageous position he has held for so many years.

I have been honored to visit Hungary. I have also had the honor and tremendous personal experience of visiting Yad Vashem. My colleagues have spoken eloquently tonight. "Never again." That is my feeling as well. Yet as we look at both Eastern and Western Europe, there are frightening instances from France, Italy, Germany, Hungary, and Russia of a resurgence of anti-Semitism.

□ 2110

My wife, Susanne, is a specialist in the former Soviet Union, and she speaks to me often of the resurgence of PAMYAT, an organization dedicated to an ethnic cleansing approach to Russia, as sadly we have heard the phrase used recently in Bosnia-Hercegovina and now in Hungary.

The phraseology used by Istvan Csurka has been referenced tonight. I would like to turn to one particular quotation that is chilling to me and should give a lesson to all free people. After using the phraseology "liebensraum" for Hungary's middle class. Istvan Csurka speaks the following phrase:

> Is there an authority in the world now in the wake of the Serbian death camps and child murders that could claim the right to interfere in Hungary's domestic policy by deploring authoritarian and resolute actions from the government? We don't need to wait for foreign countries . . .

What he is saying is that because the world was silent on Bosnia, because the world was slow to condemn what he admits are death camps and child murderers there, we in Hungary can undertake authoritarian and resolute actions without fear of outside criticism. What a terrible lesson that is, and how critical in preventing that lesson from having its fruition that we participate in this session tonight. Let no one in Hungary say, if we attempt an ethnic cleansing here, the world will be silent and we can get away with it—as the world was silent for too long in Serbia, and as the world was, to its forever shame, so silent in the Second World War, until the liberation of the death camps.

What can we do about this? We can speak. We can speak here. We can speak in the international courts. We can speak before the United Nations Commission on Human Rights. We can ask others to speak on behalf of decency before the European community and their Commission on Human Rights.

In the long run there may be an international organization allowing us to adjudicate questions of human rights violations within foreign countries. As we speak tonight, there is no such organization. The World Court does not, at present, serve that function. And so all we can do is speak out. But that is of great importance. For example, in our own country we have seen occasional instances that frighten us, that chill us. I think of the Nazis parading in Skokie, IL. When this happened, a righteous people, our Nation, stood up and said we understand the first amendment protections, but we will not allow this speech to go on unchallenged. We will speak out against it. And so tonight that is what we are doing.

There is no international court to which we can bring a case. Some day perhaps there will be. My thought is that in the long run we might eventually have an international court before which claims of human rights abuses might be brought. Right now we are struggling to have an international court which would serve the function of taking action against nations that invade their neighbors, simple invasions of another's territory. We have not even achieved that.

Until we have such an international tribunal, it is here that we must speak.

Mr. Speaker, my colleague and esteemed friend from California, and my other colleagues, because I chose to run for the other body I will not be able to speak from the floor of the House after we adjourn this October. It is likely that we will adjourn before another week and a half has passed. It is therefore likely that this is my final speech on the floor of the House of Representatives. I can think of no more appropriate final remark that I have to share with all of you, with our nation, and with our world than to speak out against bigotry, to speak out for human rights, to speak out for what is good and right in humankind, and against those who would take away from others their inherent worth as humans.

Mr. LANTOS. I want to thank my colleague. Let me just say that we will look forward to the time when he will return to public service in which he has performed such distinguished and remarkable efforts on behalf of the American people.

It gives me a great deal of pleasure now to call on my distinguished friend and colleague from California, Congressman DANA ROHRABACHER.

Mr. ROHRABACHER. Mr. Speaker, I appreciate this opportunity to join with my colleague from California [Mr. LANTOS] and other colleagues to send a special message to Hungary and the other emerging democracies in Eastern Europe.

Having suffered from decades of repression, our friends in Eastern Europe need to be aware of some of the pitfalls of freer societies and, yes, the responsibilities of decent people in a democracy.

One of the downsides of liberty is that it is used by people of ill will, as well as by those of a positive and democratic spirit. Because those captured by the negative impulses aggressively express themselves in a free society, it befouls people of good will to set the record straight and to voice a higher standard.

One of the murkier undercurrents polluting the process in democratic countries is racism and anti-Semitism. It is something all free people must watch for and quickly filter from the body politic before it spreads and befouls the entire system.

In the current environment found in Central and Eastern Europe, philosophical viruses like anti-Semitism are particularly dangerous. People are uneasy, old truths and institutions have been demolished. Uncertainty can, in such conditions, outweigh hope and give rise to an anxiety that is fertile ground for false prophets, hatemongers, and powerseekers offering easy answers, at a time when so many are asking questions.

One of the more disturbing reports is of utterances of anti-Semitism, both spoken and written, attributed to individuals of influence within the ruling party of Hungary, and similar expressions in other Central and Eastern European countries. Equally disturbing and perhaps what we are most worried about tonight, is a lack of appropriate response to these verbal offenses.

It should be noted that I am a strong anti-Communist and dedicated much of my life to the liberation of the captive nations and the defeat of Marxism-Leninism. And since I have been in this body I have worked with Congressman LANTOS and the human rights caucus, working for the human rights and freedom of people everywhere and people of all ethnic and racial backgrounds.

With this in mind, let me send this message to those in the democracies that are emerging from the ashes of Communist dictatorship: Freedom for the individual, respect for human rights, and free market economics go hand-in-hand with good will, tolerance, and benevolence among all people. Racism, anti-Semitism, classism, tyranny, and repression are part of the same negative spirit that undermines human liberty and the advancement of humankind.

When individuals launch verbal assaults on racial or religious groups it behooves all free people, all people of good will, all true democrats, to speak up and to clearly and forcefully condemn such verbal thuggery.

Anti-Semitism must not only be rejected, it must be condemned in a clear and certain voice. Those using anti-Semitic language or catering to anti-Semitic or racist attitudes should understand their words and ideas are totally unacceptable. The bottom line: not only are good and decent people not anti-Semitic, but they condemn it, then are adversaries of it, and they will not condone it and they will not offer excuses for it. Once someone utters such nonsense, and such hatred that person should no longer be a part of a political team, if that team expects respect from positive and democratic forces in the free societies around the world.

In the end, communism, fascism, nazism are all part of the same heap of dung.

□ 2120

Only the shape of their lapel pins separate them.

I stand in sympathy with those in Eastern Europe who face this challenge. Those good and decent people who we expect to act. It is difficult to confront anyone, especially a political ally and tell that person that he or she is supremely wrong that he or she is beyond the bounds of acceptability.

I am not here condemning the government or people of Hungary. Hungary now has a democratic government and I wish the government, the ruling party and the people well. There is, however, reason for concern, and we want to alert those people of Hungary of our heartfelt concern.

We have had similar problems to deal with in the United States. In the past, some right wingers, steeped in Christian rhetoric and tradition, were attracted to anti-Semitic ideas and absurd world views and weird theories of world history. To the credit of the conservative movement of the United States, these fringe elements were isolated and removed from positions of influence. They were condemned and never permitted to feel welcome by mainstream conservatives and other anti-Communists. They were not within the range of acceptability on the American right, to the very people that have championed the fight against communism in these last four decades, and we must make clear that it is not acceptable whenever anti-Semitism raises its evil and ugly head.

More recently, Rev. Jesse Jackson, a Democratic candidate for President, made anti-Semitic remarks, even referring to New York in an anti-Semitic epithet. His statements were met with a barrage of outrage and criticism from across the spectrum.

Our friends in Hungary should be aware that this is the response of people who love freedom, because in a free society we must trust and love each other, as well. Anyone who sows the seeds of distrust is an enemy of freedom and an adversary of the values at the heart of liberty.

I wish the people of Hungary well and know they will succeed in creating a society of justice, tolerance, progress, and freedom.

We now look to them for the courage to do what is right.

Mr. LANTOS. I am profoundly grateful for my friend's very eloquent comments.

It gives me a great deal of pleasure to yield to my good friend, the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding and advise the Chair that I will abide by the 5-minute rule set by the gentleman from California [Mr. DORNAN], since this is his time.

Mr. Speaker, what I want to say is that I am pleased to join in this special order. I commend the gentleman from California for arranging this special order.

I cannot be more eloquent than he is as cochairman of the congressional human rights caucus in the House of Representatives on this issue, particularly because the immediate point involves his native Hungary.

But I wanted to participate very much in this special order, because I wanted to address one point. My experience is that when we take the floor in the House of Representatives and talk about matters occurring in another country, in this particular case Hungary, that we can expect a certain degree of letters and telephone calls from American citizens in our districts and elsewhere around the country basically making the following point:

> We agree with you on the point that you may be making, particularly about Hungary, but given the problems that the United States faces right now with respect to employment, health care costs rising, crime, and innumerable other problems, why are you taking the time on the floor of the House of Representatives in the United States of America in Washington, DC, to talk about matters happening in Hungary.

And I wanted to respond in advance to what I believe may be coming, what has in the past, by saying that, in addition to human rights speaking for itself, I think the fact is that the United States of America has always been affected by events in other countries, and particularly in Europe.

Before our Nation was in fact an independent nation, we were constantly caught up, that is, our colonists were constantly caught up in the wars in the mother countries in Europe. When England and France were at war, English and French colonists on this side of the Atlantic Ocean were at war. This has proceeded throughout the 200-year-plus history of the United States. In this century, when Europe went to war in 1914, there were many who thought in the United States, "It will not affect us, and we could avoid it." And, of course, we were drawn in in 1917. The same thing happened in 1939, "It will not affect us," and we were drawn into it in 1941.

Therefore, I just want to state that it is our view here tonight that these events can affect Americans if they are unrestrained. I think we are all better off with the fall of the Soviet Union, but we also all know this does not mean that all of our problems are solved, and if we, through taking a couple of hours of time on the floor of the United States House of Representatives, are able, by focusing international attention on the events in Hungary to change the direction now, then I think that we have made a great service not only to the people around the world, but, I think, to the people of the United States of America.

Mr. LANTOS. I want to thank my colleague for his particularly appropriate point, and I am very pleased to yield to my dear friend and colleague in the congressional human rights caucus, a champion for human rights, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend my colleague, Mr. LANTOS, for calling this special order today to discuss congressional concern with the escalation of hatred and violence, both rhetorical and real, against minority groups in Hungary and across Europe. As a Hungarian Jew who escaped the Holocaust, the gentleman from California brings a truly unique perspective to this subject, and his credibility and expertise are unquestionable.

Mr. Speaker, I have viewed the intensifying violence against minorities in Europe with great concern. Who could have witnessed the films of recent demonstrations in Germany against gypsies and Asians without recalling the Nazi Kristalnacht of 1938? So elated were we in the collapse of communism and the Berlin Wall in 1989 that we had forgotten that the struggle for freedom is ongoing, that hateful ideas of racism and anti-Semitism had never been defeated by the Allies in World War II, but were only subsumed by Stalinist tyranny, and now have been liberated like tigers from their cages by the lifting of the Iron Curtain. We have seen the worst example of this in the former Yugoslavia, if only because in Serbia xenophobia has been promoted and supported by the power of the state. Lurking in the wings are Austria, Poland, Romania, and other countries where demagoges are bent on achieving power by preaching hatred.

We now face a similar prospect in Hungary, where Istvan Csurka, a vice president of the Hungarian Democratic Forum [HDF], has authored a political tract championing the Hungarian cause, and branding as its enemies jews, liberals, leftists, and others. Csurka, evoking such modern day images of Nuremburg as brown-shirted Magyars marching through the streets of Budapest prepared to carry out his every whim, has declared that "there is no engaging in politics without the demonstration of force."

Hungarian prime minister Jozsel Antall, who is also president of the MDF, has appropriately distanced himself from his fellow party member and has disavowed his views. He has said that Csurka's writings "offer politically harmful and wrong answers, with which neither the Government nor I can agree."

Mr. Speaker, Csurka has proclaimed that "there is nothing to justify the search for any kind of consensus." That is not the statement of a Democrat, it is the thinking of a bully. We in Congress and the administration must continue our struggle to instill Democratic values. Indeed, it is a lesson which must be taught over and over again, for there is too much to lose in forgetting it for even a short period.

For the people of Hungary, and Europe, and Africa and Asia and the Western Hemisphere, the lesson is this—Democracy is not about the rule of the majority, for that road leads to tyranny. Democracy is to be found in respect for the rights of the individual—the right to think for oneself, to reach one's own decisions, to practice one's religious beliefs as one chooses, to be secure in one's home and in one's person. These fundamental human rights justify the search for consensus.

In a word, Mr. Csurka, humanity justifies, and demands, the achievement of consensus.

☐ 2130

Mr. LANTOS. I want to thank my colleague for her most eloquent and moving statement.

Mr. Speaker, my good friend from Connecticut and I have been comrades in arms in some important investigations in another area, trying to bring some honesty and clean dealings into the works of the Department of Housing and Urban Development.

I am delighted to welcome him here on this most important subject, Congressman CHRISTOPHER SHAYS of Connecticut.

Mr. SHAYS. I thank the chairman for yielding.

Mr. Speaker, I was watching this special order in my office, and felt compelled to come and thank the gentleman from California for drawing attention to what is happening in Hungary and other parts of the world.

Mr. Speaker, the expressions of hatred, of fascism, of anti-Semitism, of bigotry, of ethnic strife, of racism, the anti-immigrant rioting in Rostok, Germany—cannot go unanswered. They must be condemned.

The cold war has ended. We saw the removal of the Berlin Wall. We saw the breakup of the Warsaw Pact and the setting free of Eastern European nations. And then, we even saw the breakup of the Soviet Union and the creation of many republics.

What a blessed opportunity for all mankind to have this cold war end. But we obviously have to recognize that there is tremendous pain and suffering, of unemployment, of hunger, and a great concern about the future.

There is a transition from communism to a free market democratic system, but in no way can we tolerate seeing hatred and fascism and anti-Semitism and bigotry and ethnic strife and racism be part of that transition.

As I stand in this Chamber, I think about my experience as a new Congressman, as Lech Walesa walked down our center aisle spoke, I believe, as the third nongovernment official ever to address this chamber. He looked out at us and said, "For you, World War II ended in 1945, and the cold war began. For us, World War II ended in 1989."

Then he said to us something I will never forget. He said, what you do in this country matters.

He talked about climbing over the fence at the Gdansk shipyard at great risk to himself. He knew his life was in danger. He knew he could be killed. But he also knew the people of the United States and this Congress would watch his every move and draw all of the world's attention on his actions.

I thought we did not do all that much for Solidarity except speak out in support of it. And yet he said we made a difference. Isn't that really what we are doing tonight?

What we are doing tonight matters. What the American people do, not just tonight but each and every day, matters.

Then I think of President Havel, who addressed us a few months later and said you came to the aid of Europe in World War I. Then you came to the aid of Europe in World War II. We have American soldiers buried on our land because of what you did to protect democracy and fight fascism and anti-Semitism. And then he said, As if this wasn't enough you prevented the nightmare of communism from pushing the free world into the sea.

He ended by thanking us and saying, that Europe does not have the right to ask the American people to do anything more. He said you have done enough.

There is a lot more that needs to be done in Europe. And one thing we must never forget. We will always have to pay attention to what happens there and in the rest of the world as well. We must always speak out about acts of hatred and violence that we see and not think that because the cold war has ended we have done one job and withdraw into our country.

I vote for foreign aid because I think the world needs our foreign aid and because I think our country benefits by what we do overseas. We need to provide tangible help to other nations but we also need to speak out and provide moral support to those in other lands who are facing hatred anti-Semitism, bigotry, and racism

I came here tonight because I wanted to join my good friend TOM LANTOS and others who are taking the time to speak out about an issue that we need to address and confront. It is at the core of what we are about as a nation.

I am very grateful to my distinguished colleague from California for providing me and others the opportunity to speak on such an important issue.

Mr. LANTOS. Mr. Speaker, I want to thank my very good friend from Connecticut for his remarkable and powerful statement.

Mr. Speaker, it gives me extraordinary pleasure to present the last speaker of this special order.

Mr. Speaker, I have had the great experience of taking him on his first visit to Hungary. I had the great pleasure of taking three of his six children on various occasions to Hungary—I have three more to go. And I know that while his commitment is to work indefatigably for the good people of New Hampshire, he has a vision beyond his beloved State of New Hampshire. He has the vision of a good society.

It gives me a great deal of pleasure to call on my friend and distinguished Congressman SWETT of New Hampshire.

Mr. SWETT. I thank the gentleman very much.

First I would like to take this opportunity to thank my colleague from southern California [Mr. DORNAN] for extending his time to allow me to speak out on an issue that I feel, not by association, not by reading, not by learning that I have through years in school, but by blood, of the importance of what is happening in Hungary and the outrage that we should feel as we battle to bring about an end to the forces of evil in this world.

I have known my colleague from California for over a decade now. And now I speak of Congressman LANTOS.

I have seen him as a candle burning brightly against the darkness. But he is a candle whose wick does not grow meager and short with time. But it is a flame that has brightened that darkness and spread itself to ignite the next generation, which this evening I choose to represent.

I thank him for the illumination, the inspiration that he has brought to my life, and I know that that has, indeed, spread beyond the dark corners of my life to those lives of many people like myself, and I wish to express a heartfelt appreciation for all that he has done to bring me into that light and to stand up and speak out against those things which the entire world should be standing up and speaking out against.

Mr. Speaker, the road to democracy and to a market-oriented economy in Hungary has not been an easy one. The government of Prime Minister Jozsef Antall is encountering severe problems as it undertakes the task of restructuring the Hungarian economy. The Government is seeking to turn the economy from a planned economy, which was largely run by directives from Budapest, into a free market economy in which production is regulated by supply and demand.

The cost of the early stages of that transformation, however, are high. Each month as unemployment figures for Hungary are released, the number and percentage goes still higher. Economists estimate that by the end of this year nearly 1 million Hungarians will be out of work, and that represents an unemployment rate of nearly 20 percent.

□ 2140

Mr. Speaker, we are looking at depression-level unemployment figures.

The United States, the countries of the European community, and to a lesser extent Japan, have undertaken to help the Hungarians to deal with these difficult problems of adjustments. The social, political, and particularly the economic changes are difficult now and will continue to be difficult until the privatization and economic restructuring begin to have their effects.

In this context, Mr. Speaker, it is extremely disturbing to see demagogs, like Istvan Csurka and his allies in the Hungarian Democratic Forum using the political and social unrest of these difficult times to preach their appalling and disgusting Fascist ideas. The one that I find most disturbing is the effort to scapegoat, to blame others, to single out racial groups for the blame.

As one of the deputy leaders of the Hungarian Democratic Forum, Hungary's leading Government political party, Istvan Csurka has raised the most serious questions. In his infamous essay published in Magyar Forum, Mr. Csurka blames the Jews for all of Hungary's current problems.

First of all, he claims that the Jews are responsible for Soviet communism in Hungary. After World War II, Mr. Csurka claims that most returning Hungarian Jews supported the Communist Party, and he pointedly notes that four Communist leaders were Jewish. In fact, the overwhelming majority of Hungarian Jews perished in the Holocaust and Jews made up only a small portion of the membership of the Hungarian Communist Party. Hungary was Communist because the Soviet Union wanted it to be Communist, and the Red army physically occupied Hungary to enforce that decision.

But according to Mr. Csurka, even though the Communist era has come to an end, the Jews are still to blame for Hungary's problems. Now it is the international Jewish financial conspiracy that is the cause of Hungary's economic problems. He claims that, of course, it is the international Jewish capitalists who are controlling the country's fate. In one particularly disgusting paragraph, Istvan Csurka identifies the foreign connections that are pulling the strings in Hungary—forces in "Paris, New York, and Tel Aviv." The International Monetary Fund, he asserts, is part of that Jewish conspiracy.

Mr. Speaker, the problems Hungary is facing are indeed grave, but this kind of racist scapegoating is not contributing to the solution of these difficulties. This is the kind of finger pointing that only makes the problem grow worse. This advocacy of simplistic, nationalist solutions led to the horror and catastrophe and tragedy of the 1930's and 1940's, as we have heard so clearly described by my colleagues before me.

Mr. Speaker, I would like to make one final comment on the charge that has been made by some in Hungary that we in the United States are interfering in Hungary's internal affairs by discussing these internal issues today here in the United States Congress.

Mr. Speaker, we live in an interdependent world. Today with the development of international transportation and rapid telecommunications, our world has become even more interdependent than it was even a decade ago, to say nothing of half a century ago. What happens in Budapest or in Tapolca can have a profound effect upon those of us in Berlin, Germany, or Berlin, NH. The course that ultimately is taken in Hungary will be determined by the Hungarian people through the democratic process which they have established, but the people of Hungary are not acting in a vacuum. They need to know what the world thinks. They need to know what the people of the United States think, and they need to know what the representatives of all Americans think.

In this post-cold-war world, Mr. Speaker, the Hungarian people and their elected representatives are taking the wrong course if they pursue the racist and discredited ideas of the German Nazis, the Italian fascists, and the Arrow Cross scoundrels of the 1930's and the 1940's. We are living in a world which has seen growth in respect for human rights, much due to the efforts of colleagues of mine, especially my good colleague, the gentleman from California [Mr. LANTOS]. We have seen respect for civil rights and respect for democratic values and democratic ideals. That is where the future lies, Mr. Speaker. That is where the forces of change and progress will lead us. It is my sincere hope that the Hungarian people will reject those who would lead them down the racist, nationalist path that has already been discredited and rejected.

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished colleague for his moving and eloquent statement. I want to thank all my colleagues.

I want to express special appreciation to Congressman DORNAN of California for giving so much of his time on this special order.

Let me just say that in the last few minutes, Mr. Speaker, we have heard Catholics and Protestants and Jews, Republicans and Democrats across this great land speak up for human rights and democratic principles. There is no doubt in my mind that the people of Hungary and the people of the United States are listening and these two democratic societies will progress long after the advocates of hate will have been dumped into the ashcan of history.

## WHAT HAPPENS IF NO SECOND TERM FOR GEORGE BUSH?

Mr. DORNAN of California. Mr. Speaker, I thank the Chair for the generosity of a few moments here.

I am glad that my special order followed the gentleman from California [Mr. LANTOS], because it was as important a special order as I have seen. It was directed toward some of the emerging nations of Europe.

I might add something that is my wont when I begin a special order at night, because we are still suffering from an ancient fight here from two speakers ago.

As you know, Mr. Speaker, there are about 1 million people watching right now this great Chamber, this splendid Chamber, as it was nicknamed 150 years ago, this splendid Hall, 1 million people watching, and yet the cameras were ordered 2 Speakers ago out of anger at some Republicans who were effectively using this well to press for some reform in the House of Representatives.

The then-Speaker said, "Let's have the cameras pan the empty Chamber to indicate that the person speaking isn't really reaching anybody."

Well, since this House kicked off its televising to the Nation on my birthday, April 3, 1979, delayed from George Washington's birthday, as a matter of fact, because of a 2½-foot snowfall, the audience has steadily built up, thanks to C-SPAN and all the cable people across the country carrying the proceedings of this Chamber and the proceedings of the U.S. Senate free as part of the cable service.

So I hope those million people out there watching, Mr. Speaker, understand what we were attempting to do, send a powerful message to friends and foes alike in the little emerging nation of Hungary that we will not tolerate any reliving of the horrors of World War II, although ironically we are seeing that same type of ethnic hatred turn into massive slaughter in the Balkans.

□ 2150

Mr. Speaker, my special order tonight involves some past history also. I was 23 years of age when Hungary reached out for freedom on October 23, 1956. I had been born April 3, 1933. I was 23½, and I felt, not like a boy, to use Governor Clinton's expression about his own 23d year when he was dodging the draft; I felt very much like a man. I had been married for 2 years. We had two children already, Irish twins, when you have one and then another 11 months apart. And a third was on the way shortly thereafter. I had bailed out of an F–86 Saber jet in August 1956, broke my back. I just had a hip replacement from that very hard parachute landing several decades ago, and I had just reached my final fighter pilot assignment on active duty. I was checking out an F–100 Super Saber, the world's only supersonic aircraft on level flight, the world's best fighter at the time, and suddenly Hungary was thrown into chaos.

President Eisenhower had problems coming at him very quickly. Suez was aflame. He had the congressional elections coming up in a few weeks. He suffered a heart attack during that period of time. And here was Hungary responding, in a sense, to pleas that we had put out over the radio for literally years telling the people to rise up against their Communist slavemasters, and now that they had arisen, here we were in a quandary about what to do to support a true freedom fighter revolution against communism in a country surrounded by other Communist countries. And the President was being advised to send our fighter units to assist those young men and women that were facing tanks in the streets of Hungary.

The cardinal of Hungary, Cardinal Mindszenty, sought asylum in the American Embassy, lived there for years and years thereafter, and the death toll has been quoted as somewhere between 30,000 and 50,000 people.

Mr. Speaker, I have carried in my wallet for all of my life since then the final words, final plea, over the Hungarian freedom fighter radio station on Sunday, November 4, 1956. These are the closing words:

> People of the world, listen to our call. Help us not with advice, not with words, but with action, with soldiers, with arms. Please do not let this wild attack of Bolshevism win. You may be the next victim. Save us. Our ship is sinking. The light vanishes. The shadows grow darker from hour to hour. Listen to our cry. Start moving. Extend to us brotherly hands. God be with you and us.

Communism prevailed. Most of the leaders of the revolution were taken into exile and executed, some of them buried in unmarked graves in the neighboring Communist country of Romania.

As a young fighter pilot, I was hoping my training would be utilized. We actually drew up our maps. We were to fly to North Carolina, to Seymour Johnson Air Force Base, where young fighter pilots launched into Desert Shield and Storm years later. We were to fly to the Azores, refuel, and fly to Ankara, Turkey, stage out of Turkey and support the Hungarian revolution. I was in an absolute panic because I had not finished my transition training, this fighter. I had not even gone into gunnery training in this new advanced fighter. And I was afraid I would be left behind and miss an opportunity to free people by a matter of weeks, if not days.

But President Eisenhower could not figure out how to reach out to help the Hungarian people. So, they were suppressed. They watched their neighbors in Czechoslovakia 12 years later suppressed under communism. The death toll dropped from 50,000 to maybe 4,000 or 5,000 killed in Czechoslovakia.

That was in the middle of Vietnam. It was the bloodiest war of the year. It was President Johnson's last year. McNamara had already resigned. Clark Clifford, in the fight of his life in his eighties and the fight for his reputation, was the Secretary of Defense for only that year of 1968.

It was an amazing, terrifying and sad year. Martin Luther King was assassinated, Bobby Kennedy was assassinated, Dwayne Hodges was killed on the deck of the *Pueblo* as the only U.S. ship of the line ever to be captured and turned into an enemy museum, and it is still a museum to this day against us in the harbor at Wonsan. The end of the year saw Colonel Borman circling the Moon, politically incorrect reading, but beautiful reading, from Genesis to the whole world as *Apollo VIII* circled the Moon, and in the middle of the Democratic Convention were riots over whether we should be praising Ho Chi Minh or stopping his advance on South Vietnam, his Communist aggression, Czechoslovakia falls.

Hungary then went through the rest of the sixties, all during the seventies, and all the way up to the late eighties, a few years ago, because we were unable to help them. But I would have gladly put my life on the line, as not a boy, but a man, of 23, and a young father leaving a wife behind, and, as young Americans had done before me, putting their lives on the line for little islands in the Pacific, for France itself, for Great Britain, for all the countries of Europe, literally for the whole world, in World War II, as 33,629, many young American men and a few young Army nurses, died to keep half of South Korea free all this time.

I see all of this, I believe, historically, not simplistically, as one major conflict from the Berlin airlift, where men died flying supplies into a freezing, starving city of Berlin, all the way down to a struggle that still goes on where communism rears its head in North Korea possibly developing nuclear weapons and Vietnam still suffering, unified under the cruel tyranny of communism and still suffering. Boat people are drowning on the high seas at this moment, crowding into the camps in Hong Kong, ending up on the beach of Indonesia and Malaysia as we talk. The horror of communism in the world's largest nation, five times precisely bigger than our 255 million people, the nation of China has outlawed the words "brother" and "sister." They cruelly crush a great people, one of the world's oldest civilizations, and 90 miles from Florida is Castro, the oldest surviving leader of any movement in the world, a cruel Communist tyrant who is personally torturing to death some of his citizens who had the courage to stand up to him, the Plantados, the ones who would not be broken.

Mr. Speaker, communism still manages to kill people as people pretend they have renounced communism in Romania, and in Bulgaria, and in what is left of Yugoslavia, torn apart and still kill their people, and in this long struggle we have seen many young men and women choose sides. Sometimes they have just simply chosen peace. Other times they have demonstrated for the enemy and chanted in favor of the Communist aggressors from Hanoi.

And that brings me to the principal point of my subject tonight: the Governor of Arkansas, Mr. Clinton.

Now there are mysteries swirling around us about he evaded and dodged the draft, what he did in Europe, what happened to his second year at Oxford, and I want to not answer questions tonight so much as to ask them because all of this will come out if President Bush, a war hero, is unable to close this wide gap and succeed in asking the American people to give him a second term. If Governor Clinton succeeds in beating George Bush, the man upon whose watched Soviet communism dissolved before our eyes, the Berlin Wall came down, this freedom that is so fragile in Hungary that we discussed for an hour and a half here tonight, still trying to find its way, and in all of the other what we properly call captive nations; if this man is set aside, as Churchill was set aside after the Second World War, then we must really understand the quality, the character and the decency of the man who would replace him, Governor Clinton.

Now Governor Clinton is described by the press as young. He is not young as a fighter pilot, or a prizefighter, or a father. I was a grandfather when I was 2 years older than he is. Napoleon lost at Waterloo a year younger than Bill Clinton, was beginning his long final exile on the island of St. Helena when he was 46, Bill Clinton's exact age. He thought he conquered half the world in his thirties.

□ 2200

But here are the mysteries surrounding Governor Clinton. One, he is not a Rhodes scholar. He never got his master's degree at Oxford. It is in a book that has just come out this week called "The Life and Times of Bill Clinton—The Comeback Kid."

He attended the Socratic style of seminars and lectures his first year, when he should have already faced up to the draft, because there was no more student deferment for graduate students. That ended while he was a senior down the road here at Georgetown University.

But he managed through the help of his uncle and political friends, the type of elitism that you expect from people born to privilege, managed to con his draft board into letting him leave the country for his first year at Oxford. And during that year he had two roommates. One was 4F, not his fault, that is God's call, and he finished and got his Rhodes degree, took his final exam. That is all you have at Oxford, one exam at the end of 2 years. No quizzes, no exams all during that.

It flashed through my mind that our POW's were going through intense torture that in a bravado, typical American spirit they called quizzes at the hands of the Communist guards in North Vietnam and throughout North Vietnam and Laos, quizzes. Some of them quizzed to death, tortured to death.

But no quizzes for Bill Clinton, just an exam waiting for him 2 years down the line, which he either took and flunked or never took at all.

During that year this one 4F student stayed on and got his Rhodes degree. The second student allowed himself to be drafted. He probably could have played games like Clinton. He allowed himself to be drafted, served honorably in the Army, came back and got his degree at Oxford years later, and became a true Rhodes scholar.

Clinton came home from that first year and, by his own admission, joined the Mobilization Committee in this city, the leadership of which was not just antiwar, but was pro-Hanoi. The focus was on this great patriotic leader they call him, Ho Chi Minh, using a phony name like Stalin took the name Steel, Schickelgruber took the name Hitler. It is amazing. Lev Bronstein took the name Trotsky. It is amazing how these Communists and Fascist dictators all take fictitious names, like they are some movie star, sometimes one-word names like Che, as though they are entertaining the world with their blood and killing.

But he came home, joined this movement, and I suspect—and I want answers to this—I suspect was more pro-Hanoi than he was antiwar.

He did not go back to Arkansas. He hung around here. He went to Senator Fulbright's office, got letters written for him, put this tremendous pressure on Col. Eugene Holmes, the survivor of the Bataan death march and 3½ incredibly, almost indescribable years of brutal captivity under the Japanese warlords. He put pressure on Colonel Holmes, Colonel Holmes' deputy commander of the ROTC unit at the University of Arkansas, to call the draft board. It is all coming out now in only two papers that I know of, the L.A. Times and the New York Times, although it is cleverly structured in the New York Times to give more play to anti-Vice President QUAYLE stories, that are all regurgitations of 1968. They run the QUAYLE stories on Sunday, their highest day circulation out of the seven days of the week. They ran the Clinton stories about Colonel Holmes on Saturday, the lowest circulation day of the week.

But during that summer was the great deception, the lying, the deceit, where he embarrassed these two colonels so much they remained silent for 23 years until this very year. Then back he went to Oxford.

Now, here are the questions: Did he or did he not register at Oxford that year? I think he did not. I cannot prove it, but the press could. The press can send a reporter to Oxford tomorrow and find out if he ever registered.

I do know this out of Clinton's own mouth: He never got a room at Oxford or in town. He says he slept on the floor of other students there, that he suffered all during that period.

Now, he says that he never finished his courses that second year. That is in this new book on page 31, "The Life and Times of Bill Clinton." And he said it was because of the distractions of Vietnam, the pressure, and that they had the biggest dropout class ever.

I have been written to by a Rhodes scholar who did get his degree from that period, and he said that is another lie, that 80 percent of that class graduated from 1969–70, and that 80 percent was the average. He gave me the name of the Oxfordian Book of Rhodes Scholars to look it up. From 1903 to 1981, he said, "You will see, Congressman, that that is a steady average, 80 percent for 10 years before Clinton's years there and for 10 years after, probably right up to now."

So there was not this high dropout rate.

Now, Strobe Talbot, one of the editors at Time magazine who wrote what I think is the disgraceful essay selecting Gorbachev as the Man of the Year for 1989, this would be a January 1990 issue of Time, this man Strobe Talbot was a roommate of sorts of Bill Clinton.

Strobe Talbot says he was 4F. Again, not his fault, God's call. He went on the get his Rhodes degree and now he is rising up, in his mid-forties, an editor of Time magazine. I don't know where he learned his history. I hope Oxford wasn't going through the period in the late thirties where young men at Oxford said we will not die for king or country. Some of them recanted and went on to become heroes in World War II, a reversal of youthful stupidity.

But I do believe Oxford was going through that phase that the colonies, we, had gone crazy, that we were imperialist interventionists, monsters, that Ho Chi Minh was a great leader, a nationalistic civil war, ad nauseam.

Strobe Talbot rejected the part that Pope John Paul II played in the dissolution of communism in Poland, which was the trigger for all of the captive nations. He disregarded Lech Walesa, who spent time in prison, who climbed over that shipyard wall at Gdansk and organized those workers in a pure labor movement, pure in the essence of what they accomplished in Poland, and thereby for all the captive nations all the way down to Bulgaria, Romania, and playing out in the bloody way today unfortunately in what is the six nations that made up Yugoslavia and the two autonomous parts of Yugoslavia.

Strobe Talbot also rejected President Ronald Reagan, who called the Soviet Union an evil empire and energized people inside, behind the Iron Curtain, all over those captive nations that made up the 15 so-called Republics of the Soviet Union and the one sort of bastard Republic, Mongolia, that was like a 16th Republic, a rubber stamp vote in the United Nations. Mongolia has torn down its statues of Stalin and Lenin and is now struggling to find some form of democracy.

But Ronald Reagan's role was key. Every historian will acknowledge that. Every historian will acknowledge the heroic man Lech Walesa, who put his life on the line, and every historian who is not hung up by anti-Catholicism or anti-Christian bigotry in general will acknowledge these three great leaders.

Gorbachev looks now, I saw him in Moscow a few months back in February, just looks like a lost page of history, a remote columnist for the New York Times, a man who was a great catalyst, but like a skier on the face of an avalanche, a surfer surfing the wall of a great tsunami tidal wave, he was always about to be overwhelmed. He never understood the forces he had unleashed, that were really understood by the Pope and Lech Walesa and Ronald Reagan. And then in the end he put on the payroll all the special nomenclature that turned around and meant to slit his throat in the end, that almost undid him.

Yeltsin will go down in Soviet history, although his favorable ratings have plummeted from 80 percent after his heroic putting your body on the line stand on the Russian tanks a year ago mid-August, he is now down to 30 percent acceptable ratings because of their economic crisis, because this is not an easy thing, to switch from totalitarian slave system of communism to a market system.

But Yeltsin will be more favorably remembered in the long run in history than Gorbachev.

But Strobe Talbot, back to my theme, was a man who let young Bill Clinton sleep on his floor. This is the way Strobe Talbot tells the story.

With him was another man who was being pursued, quote/unquote, by Uncle Sam and the draft. And this other young man from Tacoma, WA, also dodged the draft with Bill Clinton. And this young man, Strobe Talbot says, committed suicide back home in the State of Washington 2 years later, in 1971.

Interestingly, in yesterday's paper I heard Bill Clinton musing about, in a trip to Washington State, so I guess that is last week, musing about a friend that he had from Tacoma. But he never told the crowd that this young man took his own life, he was so ashamed of the fact that he had let some other young man take his place in the draft, something that Bill Clinton did at least three times, maybe four, and they were probably farm kids from the rural areas around Hot Springs that wore the Nation's uniform in his name.

So now here is Clinton, sleeping on the floor, crying at all-night candlelight vigils at Oxford because the draft is chasing him, rebuffing two draft notices while he is at Oxford. This is the spring of 1969.

Now he comes home, again that summer of 1969, works with the Moratorium Committee, mobilization committees, all these antiwar groups, the more fevered ones with the more pro-Hanoi focus. And then he goes back, sleeps on the floor in 1969 of all these rooms, and somewhere in this period he visits the Soviet Union.

□ 2210

There is a front page interview with, I will say this slowly because it is a little complex, a Soviet intern journalist in 1989, before the Berlin Wall comes down, June 1989, does a cover story profile on the Governor of Arkansas, Bill Clinton. The reporter's name is, I believe, Samnovov. He is 23, interestingly. Clinton would then be, 3 years ago, 43. This young journalist, in June 1989, writes on the front page of the Arkansas Gazette, now renamed the Arkansas Democrat-Gazette, combined with another paper just 3 years ago, he writes in the interview with Bill Clinton that Bill Clinton had visited the Soviet Union sometime in the 1970's, early 1970's, probably 1970, and then out of Clinton's own mouth, insides quotes, Clinton says, "When I visited the Soviet Union, it was during a period of détente."

That was not détente, 1970. It was Brezhnev's 5th year of his 17-year run, and things were rough. And they were manning all of the SAM sites in Vietnam shooting down my friends. They were running the war in Vietnam, the Soviet Union was in 1970.

Clinton says, "It was détente. There was a good feeling between all of us, and it was an enjoyable trip."

And I thought to myself, wait a minute, he is in the Soviet Union. He said, "I hope to go back someday."

Now it is unfolding over the last few days, the following mysteries and rumors that I believe he must answer, if he intends to serve honorably as the President of the United States and the Commander in Chief, if President Bush does not close this gap.

Here are the questions. Was he on the peace train, the so-called peace train from Paris to Moscow, filled with radical students who were enamored with Communism, the Soviet Union, and Ho Chi Minh? Does he know or acknowledge that all those peace trips, particularly this big one of the peace train in early 1970, does he know that everything on their itinerary in Moscow was controlled and manipulated by the dreaded KGB, the Russian secret police?

Not charging any conspiracy here because in the records of the KGB they said they gave no money to this so-called American peace and free Hanoi movement because the movement had an impetus and a speed of its own. All they did was rejoice in it, encourage them, thank them, and trade all these ignoramuses peace lines back and forth, because the Soviet Union had no intention of pulling out of Vietnam. They were going to break us there in their desire of world conquest.

Now, is this what Clinton is hiding from? This trip to Moscow?

Now, I am told just today that one of the Berrigan brothers, the wild, radical Jesuit, Daniel, one is a Jesuit, Daniel, the other one, Phil, married a nun and left the order he was in in Maryland, that one of the Berrigan brothers has a book, came out a few months ago, it is going to be delivered to my office tomorrow, where one of the Berrigan brothers brags that the Governor of Arkansas, Bill Clinton, when he was in England in that 1969–70 year, where he never went to class, either flunked or never took the tests and never got his Rhodes scholarship so, in fact, he is not a Rhodes scholar. He was a Rhodes candidate and had a scholarship, but he never was a Rhodes scholar, that Clinton himself carried the casket, either in white makeup, black hoods or just his own little bearded face, he had a beard at that time, Strobe Talbott put a picture in Time magazine with a close-cropped beard.

He is the one who carried the casket up to the steps of the Embassy. Remember when I speculated here, some of you regular listeners to C–SPAN, Mr. Speaker, excuse me for referring to them through you, I will say the regular viewers will recall I mentioned that he probably led demonstrations in Grosvenor Square.

He brags in his letter to Colonel Holmes, December 3, 1969, that he organized and led demonstrations, October 15 and November 16, 1969. Are the networks going through their morgue, their archives of 0.16 millimeter film and early videotape to see if they can see Bill Clinton demonstrating in Grosvenor Square in front of the statue of Eisenhower and the statue on the south side of the park of the Eagle Squadron pilots, the dead ones and the ones that still survive who went over to England at risk of losing American citizenship to fly against Hitler in 1940 and 1941, before we were in the war, in the shadow of that eagle at the top of that monolith and in front of the Franklin Delano Roosevelt statue, the Commander in Chief of World War II.

Did he really carry a casket symbolizing his revulsion to this one part of the cold war called the Vietnam war and dump this casket on the steps of our Embassy? I think that this is something he should answer.

This whole mystery of why he did not simply say, in the spring, "I was against the war, I evaded the draft in every way I could and that is part of the agony of my generation," and let it go at that.

But this disassembling, this lying, this deceit that he submitted himself to the draft, when he knew by the time he went into the draft, and who knows if he submitted himself, because Colonel Holmes, Eugene Holmes, and Colonel Jones, his deputy, they knew by then that he had lied to them and gone back to Oxford, not going to school, I repeat, but just organizing demonstrations, going to Moscow, raising holy hell in a foreign country.

That is what gives this such a twist, doing this in this country is one thing, but in a foreign country, berating your country and its policies while the draft board is chasing you and you are already aged into a man of 23. You have already had a year of graduate school under your belt, in addition to your college years, and high school kids are taking your place.

No, the American people have a right to know if this is what he was lying about and hiding from when he said on 60 Minutes, the special show following the Super Bowl game, using the line that Mandy Grumwald gave him, "They are accusing me of sleeping with a woman I never slept with and dodging the draft I never dodged." That is a lie. He did dodge the draft, and I am beginning to find out, the more I investigate this, that he did it with some great measure of dishonor.

If I had a full hour, Mr. Speaker, and I will close on this, because I think I am going to have to do part 2 tomorrow, I was going to read from the book that I had sent to me, because I had read the original in 1973 and this has been updated because the remains of this hero have come home.

His name is Navy Lieutenant Frank Elkins. The book is called "The Heart of a Man." It is by his wife.

It is all of his diaries and his cruise off Yankee Station and Dixie Station off South Vietnam in 1966, where he gave his life fighting communism and being unsure of the course of the war. McNamara visited his carrier, the U.S.S. *Oriskany*.

I want to read some passages from this book, because this man was only a few years older than 23, to show the contrast between a man and boy Clinton and these mysteries that swirl around Mr. Clinton involving whether or not he inhaled, whether or not Gennifer Flowers was a mistress, and whether or not he calculatingly dodged the draft and now asks to be Commander in Chief.

Part 2 tomorrow, Mr. Speaker.

## GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## TRIBUTE TO HON. CLARENCE E. MILLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA] is recognized for 60 minutes.

Mr. REGULA. Mr. Speaker, I rise today to honor CLARENCE MILLER, a good friend, a dedicated colleague, a member of the Ohio Republican delegation for the past 26 years.

Mr. MILLER will be leaving this body at the end of this legislative year and certainly has given this Nation, given the State and his district super representation as a Member of this House of Representatives.

He was first elected in 1966 to represent a district in southeast Ohio. It is an Appalachian region.

☐ 2220

It is a large region which encompasses several counties. He has given that district excellent service for all of these years. He is highly respected by the voters for his responsiveness to constituent concerns, for his dedication to improving the infrastructure of the Appalachian area, for caring about the people that he represented.

I was interested, and the fact of the matter is, Monday of this week I was at the Ashland County Fair. This is part of the new 16th District. While there, two couples came up to the booth where I was standing and chatted with me, and said, "We are not in this county. We are from CLARENCE MILLER'S district."

They made the statement, and both couples said something along these lines. One I remember in particular said, "We just love CLARENCE MILLER." That is nice in this day and age when we hear so much about Members of Congress, to have people that care, and it is clear from my conversation with the two couples that they represented a lot of people in the district who felt the same way, that they had a tremendous affection, tremendous, and they used the word "respect," for their Congressman, CLARENCE MILLER.

CLARENCE began his political career in Lancaster, OH, in local government. He was a council member, he was a mayor, and while serving in these positions of responsibility he played a key role in bringing new industry to the city of Lancaster. That meant jobs for people, that meant growth for the community that he represented as a member of city government.

He worked for 30 years as an employee of the Columbia Gas Co. He started, really, at the bottom and worked his way to a position as an electrical engineer for Columbia. I think it is interesting that he developed two technical patents, for which he was honored by the Department of Commerce's Patent Office in 1977. These are technical patents that he developed as a result of his experience with Columbia and his working with them.

When he first came to Congress he served on the House Committee on Public Works and Transportation and on the Committee on Agriculture, and then was appointed to the Committee on Appropriations in 1973. Since that time, he has served as a member of the Committee on Appropriations, and now is a member of the very influential, very important Subcommittee on Defense. He has served a number of years on that subcommittee as part of the Committee on Appropriations.

For the past 15 years he has been a member of the board of the Office of Technology Assistance, and was cochair during the 101st Congress.

Just recently the lock and dam project at Gallipolis is about to be completed, and CLARENCE was very instrumental in securing the money to make this project possible. This is a vital installation as part of the Ohio River control on the Ohio River waterway. It is vital to the shipping that goes up and down the river, and will be an extremely important contribution to West Virginia as well as the State of Ohio, and most importantly, to the district that CLARENCE represents.

While a member of the Subcommittee on Defense, he has worked to reduce military recruiting budgets and he has worked also on the new national energy policy. CLARENCE has a long record in this body of pushing to reduce expenditures.

Many times his amendments to bills, particularly in the appropriations process, were to reduce the amount of money that was expended by a percentage. This idea has now been adopted. As a matter of fact, in this session we are going to get appropriations bills that will be under the President's numbers. Those reductions that were initiated by actions of CLARENCE in years past are now hitting reality as we face the huge deficits that are so much a problem for all of us.

I thought this was a very interesting and little-known item, and perhaps something we ought to revive. CLARENCE was known for his "take pride in America" endeavor in the early years of his career. When he was first here, every day he would place in the CONGRESSIONAL RECORD a statement about the greatness of America. He would cite facts showing that America was first among all nations in areas of business, development, education, health care, literature, research, and technology.

In this day and age, when there is a tendency on the part of many to denigrate the United States of America, perhaps this would be well to revive this pattern of inserting in the RECORD each day items that would give us pride in America.

Certainly we have much to be thankful for as citizens of the United States, and CLARENCE's efforts early on were part of reminding people of their heritage. He has shown us all how important it is to honor America and its accomplishments, and certainly it is appropriate that we honor CLARENCE MILLER, as our statements about this good Member and his accomplishments are recorded in the CONGRESSIONAL RECORD.

CLARENCE takes great pride in his family. It is a very close relationship. He has two children, Jacqueline Williams and Ronald Miller, and he has five grandchildren: Tyler Williams, Todd Williams, Amy Jackson, Jennifer Smith, and Drew Miller.

I might particularly note that his grandson, Drew Miller, is a member of the U.S. Navy. He is a medic. He served in Desert Storm and certainly carries on the tradition of patriotism and caring for his Nation that is so much a part of the service and the record of CLARENCE MILLER as a Member of this body.

Mr. Speaker, I have a number of statements from our colleagues that they have asked me to insert in the RECORD, and I will include them in the RECORD at the conclusion of our special order.

Mr. WYLIE. Mr. Speaker, would the gentleman yield?

Mr. REGULA. I yield to my colleague, the gentleman from Ohio, for a statement.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Canton for yielding me this time, and I want to express my sincere appreciation for the time he has taken here to honor our respected colleague from Ohio, CLARENCE MILLER.

CLARENCE MILLER is a native and lifelong resident of Lancaster, OH. He was born in 1917. He was the third of six children born to Clarence Miller, Sr., and Delores Lloyd Miller. He married his high school sweetheart, Helen Brown, on December 25, 1936, and they spent 50 happy years together until her passing in 1986.

As has been mentioned, CLARENCE has two children, Jacqueline and Ronald, both married, and he has five grandchildren and a great-grandchild, and another on the way. He has a surviving sister, Laura Belle Rider, a retired employee of Anchor Hocking Glass in Lancaster, and a surviving brother, Paul, a retired broadcaster and marketing executive in Cincinnati.

CLARENCE grew up during the Great Depression, like many of us. He was the son of an electrician. CLARENCE and his brothers and sisters worked to help the family financially during those troubled times, and in school he delivered papers for the Lancaster Eagle Gazette.

During high school he unloaded trucks after school at the Omar Bakery, often not returning home until after midnight, and then rising early the next morning to attend classes.

CLARENCE always prided himself on being a self-made man. He talked about that on occasion when we were with him. Following high school he went to work digging ditches for the Ohio Fuel and Gas Co., now called Columbia Gas, and rose through the ranks to become a practicing electrical engineer. While continuing to work full time at Ohio Fuel, CLARENCE and his brother, Paul, along with their mother, started Miller Electric, a small retail and electric wiring business in Lancaster.

CLARENCE first became interested in politics in the 1950's when the Ohio Fuel and Gas Co. offered courses in civics to its employees to help provide them with a better appreciation of how government operates. CLARENCE found the subject so captivating that he himself started teaching those courses, and afterwards began thinking about entering politics.

□ 2230

His political career began in 1957 when he was appointed to fill, as the gentleman mentioned, an unexpired term as a member of the Lancaster City Council. He was then elected to a full term, and then he was elected mayor of Lancaster and received I think the largest plurality in the history of the city. You mention some of the things he did which were instrumental in making Lancaster a growing and thriving community that it is today.

CLARENCE was first elected to the House of Representatives in 1966 and has been elected each succeeding Congress by wider margins. CLARENCE, President Bush and I were all Members of the same freshman class. During our orientation period down at the Airlie House, Helen and Marjorie became good friends, and when Marjorie came to Washington, usually the first call she made went to Helen to see if she wanted to go to breakfast, or lunch, or dinner, or maybe just go shop. And Marjorie and I rented a room at the old Coronet Hotel that same year, and CLARENCE and Helen rented another room just down the hall from us, so we were in frequent contact, and we had many pleasant occasions with them.

Until 1973 CLARENCE served on the House Agriculture Committee and the Public Works and Transportation Committee, and then he was selected to the powerful Appropriations Committee, as the gentleman mentioned.

CLARENCE has always had a keen interest in technology, as the gentleman mentioned, and he was one of a handful of Members of the House to hold both United States and Canadian patents for technical innovations developed while he worked as an electrical engineer. CLARENCE has successfully merged his technical background with his work in Congress. In 1977 he was appointed by the Speaker to be a member of the Technology Assessment Board of the Congress, a position he continues to hold today.

He has also served on the House Republican Task Force on Energy and Resources, and on the Republican Research Committee.

Among his honors and awards are: honorary doctorate degrees from Marietta College in Marietta, OH, and Rio Grande College in Rio Grande, OH; the Phillips Medal of Public Service from Ohio University in Athens, OH; the National Associated Businessmen's "Watchdog of the Treasury Award"; the Americans for Constitutional Action's "Distinguished Service Award"; and the National Rifle Association's "Legislator of the Year Award."

That goes back to what you have said about his work on the appropriations bills and his 2-percent amendment which, as you have mentioned here, has come into vogue now. He has always taken great pride in his work, and to serve his constituents. He was not one to seek the public limelight. CLARENCE worked quietly and diligently over the years for our Nation and for his constituents. He always said it is not important to get your name in the Washington Post or on the network news. Instead you have to look after the people who sent you here to represent them, and to do what they think is best for the country as a whole.

Apparently CLARENCE's philosophy paid off, because he has consistently defeated his opponents over the years by a better than 2-to-1 margin. The people of the 10th District have been well served by CLARENCE MILLER, and as a fellow Ohioan I am proud to have served with him as a Member of the U.S. House of Representatives.

Marjorie joins me in extending best wishes in the years ahead, good luck, and Godspeed to CLARENCE.

Mr. REGULA. I thank the gentleman from Ohio. At this time I would like to yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding. When I think of CLARENCE MILLER the word "solid" comes to mind.

In a sense, it is regrettable that we cannot in some respect go back to the future, because if we could take the best from the past and apply it to the genius of the technology for the future, then we would at least arrive at the gate of something that we could be proud to call civilization.

When I think of CLARENCE MILLER I think of another term, "salt of the earth, product of the Midwest, civility." He reminds I think of no one so much as our late and great and towering figure in American history from Ohio, the Honorable Bill McCulloch, a man of great civility, a man of erudition, a man of courtly ways, courtesy. When I first noticed CLARENCE as a Member of the House of Representatives he was offering amendments to appropriation bills to cut them 2 percent across the board. It sounded right to me. No matter how hard anybody works on any budget you know there is at least 2, 3, or 4 percent worth of water in it. It is like writing a novel. No one can write a short novel and get to the point, and CLARENCE recognized that. And they became known as the Miller amendments. Unfortunately, I think certain committees inured to them and added 2 percent, which he then subtracted, and it is pretty hard to get ahead.

But I think of a line from Kipling when I think of CLARENCE also. To talk with crowds and keep your virtue or walk with kings or lose the common touch, that is CLARENCE MILLER. Good friend, one of God's noble men, as is the gentleman in the well, Mr. REGULA, and the gentleman from Ohio who just spoke, who I am more inclined to call Dan Dailey than CHALMERS WYLIE, but he is CHALMERS WYLIE, I guess, or the reincarnation of the movie actor, Dan Dailey.

But the nice part about this occasion is that when people usually say something nice about you, you are dead. Will Rogers once said when he came out of the hospital after an illness that people could not have been nicer to me if I had died. And this is an occasion where we do not speak of the memory of CLARENCE MILLER. He is our friend. He is alive, he is well, and he is funny. He is intelligent, and he is going to remain our friend for a long long time to come.

Mr. REGULA. I thank the gentleman for his contribution. As I mentioned earlier, I think the couple who spoke to me expressed the sentiments that you have, that they loved him, but they also thought of him as their good friend as well as their Congressman.

I yield to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I come here as a freshman in a unique position. I will represent hopefully in January Mr. MILLER's hometown.

Mr. MILLER has served many years here, and it is interesting to hear Mr. JACOBS, and Mr. WYLIE, and Mr. REGULA talking, because you get to know someone when you hear his colleagues talking so fondly about him and his service in this body.

Mr. MILLER was first elected, as we have talked about, to the Congress in 1966 after serving on the city council and as mayor of Lancaster. As I said before, that is a town that I will represent. I have been in that town, and I know the fondness that they have for Mr. MILLER. They talk about him with great reverence and great fondness. And I know from talking to people there what a great job he did with constituent services, because people say to me that you know, CLARENCE MILLER cared about us, and when we asked questions he was there, and he responded, and his office responded.

I think that is what a Congressman's job is, and he has proven that over and over again in the community. As a matter of fact, the community wants an office there in the future, and I have told Mr. MILLER and the community that we are going to do that. And frankly, I have told him that I need his help, and that he can come into the office any time and talk to constituents, and he can help me with those constituents.

Mr. MILLER does have a great commitment to keeping costs down in this government, and trying wherever he can over the years to trim that budget deficit. And I can tell you that is another reason that he has been so endeared to those people within the communities that he has represented.

□ 2240

Also, we recently had the opportunity to work together on a project that has been near and dear to him for many years. That was the bypass around the community, and Mr. MILLER is the kind of person that he wanted to do this at a time when the community came together, and the community has come together, we think, on the project, and we are working together on that project.

I am going to carry on his traditions. The 10th Congressional District has enjoyed his leadership, and he has been visible throughout the 26-year term attending county fairs, meetings, and elected officials. He has kept his constituents informed about activities in Washington through newsletters and prompt responses.

I think one of the next things he does is at the fair in this particular county, in Fairfield County, they do not allow you to have a tent in the fair, so Mr. MILLER is pretty ingenious. He has got a place right outside at the gate where he meets his constituents as they come into the fair, and they all know he is there, and it is this type of thing that I think has endeared him to the people of that district.

I think that the best tribute to a person when they served in the Congress is that the people in his district still have a great high regard for all that he has done for them over the years.

And so I want to thank him, too, for the friendship that he has extended to me at a very difficult time in redistricting. That is not fun for anyone, but I want to tell you that he has been very, very thoughtful in stepping forward for me within that community, and I think that talks about what you were talking about before, the quality of this man, that he wants to see his constituents served in the future. I have pledged to him that I will attempt, and I do not think I can do it as well as he has, but I will certainly try with my best to keep that constituent service to the level that you have, sir, and to follow those traditions that you have established in that community.

It is a wonderful community, and it is a better place because you, sir, have represented it with such distinguished ability over these last 26 years. You make it easy for a person like me in some respects, but you make it very, very difficult to follow in your footsteps.

I want to assure you that I will try, sir, and I wish you the best, and as I told you, and I have said earlier, anytime you want to come in and handle the constituent problems, you are certainly welcome, sir, anytime.

Mr. REGULA. I cannot help but think, as I have listened to all of you, that down in the country where I come from we have the old saying that still water runs deep, and I think that describes CLARENCE very well. He runs deep in his district, and his response to constituents, and I am pleased to yield to our good friend, the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. I thank you very much for what has been said and who has said it. I appreciate it very much, and I want to take this opportunity to express my personal heartfelt thanks to the Members of the House who have taken the time and made the effort to speak this evening.

I am truly grateful to all my colleagues, and I am especially thankful for the thoughtful comments offered by my friends from the Ohio congressional delegation and from the Defense Appropriations Subcommittee.

I understand that there are quite a few remarks that will be presented and have been presented for the RECORD, and at the late hour, I can understand why the people could not be here to present them personally. But I am grateful for it anyway.

We have worked closely over the years with many of the people, and the friendships we formed will sustain us for many, many years to follow.

Those who have spoken this evening have touched upon many memorable occasions and situations we have shared over the past 26 years together. I have rarely had or taken the time to look back and contemplate my years of public service, but this occasion has both allowed me that opportunity and served to highlight that.

I have tried, as noted, to be an effective watchdog for the American taxpayer. We have a responsibility to spend money wisely, to invest the hard-earned finances of our constituents in worthy programs which will help America grow and our Nation prosper. Some might call me a congressional pennypincher or tightwad. Perhaps I am. But if it is the public's pennies which are being pinched in the name of saving money, then it is a description I will accept with pride.

I have tried to diligently represent the best interests of the citizens of southeastern Ohio in the House for more than two decades. Together, these good folks and I have endured war, enjoyed the blessings of liberty, witnessed the administrations of six Presidents, ridden the roller-coaster of economic upheaval and spirals, and through it all count it as our good fortune the fact that we live in the greatest country on Earth.

I will let those who analyze Congress and its impact on the public to assess my contributions. For me, I will focus instead upon the blessings of great friendships I have known while in the service of Ohio.

Allow me to close, as I began, by thanking those who have spoken this evening. I am extremely grateful to all of you, and I thank the gentleman from Ohio [Mr. REGULA] for taking the time at this late hour in order to express what they all have expressed, and to all of you I sincerely say thank you.

Mr. REGULA. I thank you, CLARENCE, and once again, I reiterate on behalf of my colleagues and your constituents that I think it was said so well by those two couples that came in when they said, "We just love CLARENCE MILLER." And they said it for a lot of people, and we are trying to say that tonight to you. We care about you as a person as well as respecting you as a Member of this body and thank you for all your many contributions.

Mr. CRANE. Mr. Speaker, CLARENCE MILLER's decision to retire from the House of Representatives will leave a void that few are capable of filling. For almost 26 years, CLARENCE MILLER has served his Ohio constituents and the Nation with distinction. He put his important position on the House Appropriations Committee to good use—using it as a platform to tenaciously fight wasteful Federal Government spending for years.

CLARENCE MILLER was one of the first who, realizing that big spenders view the sky as the limit for Federal spending, introduced numerous amendments calling for across-the-board cuts of specific percentages in department spending. His efforts resulted in the slowing of the outward flow of taxpayer dollars—certainly not to the extent he wished, but his work did reduce the waste in Government spending.

CLARENCE displayed dedication to his congressional post from the very beginning after first being sworn in as a Member of the House of Representatives. He ran up a record of answering over 1,000 consecutive rollcall votes. His string was snapped only when family illness forced him to miss votes.

CLARENCE MILLER has written an outstanding record of serving the people he was elected to represent * * * from the city council to the mayor's office in Lancaster, OH, to the U.S. House of Representatives here in Washington. CLARENCE is a friend who will be missed by all of us. We certainly wish him well in his retirement years.

Mr. OXLEY. Mr. Speaker, I rise today to pay tribute to an outstanding politician, leader, and friend: CLARENCE MILLER.

Representative MILLER is a native and lifelong resident of the region that he came to represent. Growing up and coming of age in this area instilled within him the inherent ability to know what was best for his constituents.

Representative MILLER's constituents knew that he had their best interests in mind. Rollcall has consistently ranked him as one of the most obscure Members of Congress. This round-about compliment highlighted the fact that he came to Washington and accomplished the job of representing his district to the best of his abilities.

While on Capitol Hill, CLARENCE shunned positions in the limelight. Instead he opted for roles that would allow him to speak for the people in his district. In these roles, he espoused beliefs which are finally coming to the political forefront. He has consistently been a standard bearer of fiscal responsibility and free trade. Representative MILLER was one of the first to propose that appropriations be reduced by 5 percent across the board.

From his earliest days as the mayor of Lancaster, OH, to the present–in Washington, CLARENCE MILLER has been an anomaly in politics: a gentleman, an advocate, and, in the truest sense of the word, a Representative.

As a fellow Congressman and Ohioan, I will miss your presence here.

Mr. GALLO. Mr. Speaker, I want to join with my colleagues today to recognize our colleague and friend, the gentleman from Ohio [Mr. MILLER], who has served the people in his home State, and the Nation, for 26 years as a Member of the U.S. House after a distinguished term of service in local government.

I have had the distinct privilege of serving with CLARENCE MILLER as a member of the House Appropriations Committee and appreciate his longstanding commitment to deficit reduction and fiscal controls.

Long before there was a Gramm-Rudman-Hollings deficit reduction law, CLARENCE MILLER was a consistent advocate for spending controls in Congress.

His efforts on behalf of the people of Ohio's 10th District and his dedication to national service deserves the recognition of the Members of this body.

Those of us who have had the pleasure of serving with him salute his determination and his willingness to stand up for basic principles on the issues of importance to his district and to the Nation.

Mr. Speaker, I want to take this opportunity to thank our colleague, Mr. REGULA from Ohio, for his leadership in organizing this special order.

I join with my colleagues on both sides of the aisle in recognizing the many accomplishments of the gentleman from Ohio [Mr. MILLER], and join with them also in wishing him all the best.

Mr. BROOMFIELD. Mr. Speaker, this great institution may not have desks and inkwells and lots of elbowroom, as does the floor of the other body, but I'd like to think our shoulder-to-shoulder, elbow-to-elbow seating arrangement befits our role as America's more down-to-earth, friendly, representative institution.

One of the virtues of this seating arrangement is that it gives you a much better chance to get to know your many colleagues. In early 1967, a big, friendly new Congressman from eastern Ohio ambled over and sat down next to me. We struck up a conversation and a friendship that has lasted for 25 years.

For the quarter century I have known him, CLARENCE MILLER has been a man of great integrity and one who has kept faith with his constituents. He knows that America's tax burden falls most heavily on those who work hardest to eke out a living, and he has been scandalized by the careless, devil-may-care way this institution too often throws around their hard-earned money.

I'd like to think that CLARENCE will be remembered best as a prophet before his time. Long before budget cutting became the politically popular issue it now is, CLARENCE MILLER stood right here and urged some fiscal responsibility on this Congress.

The nickname, "Five Percent CLARENCE" may have sounded humorous back in the free-spending 1970's, but even then CLARENCE MILLER was onto something that even the finger-in-the-wind pollsters hadn't yet figured out: That voters were fast becoming contemptuous of big spending Congresses.

One of the hallmarks of his faithful representation is his attendance record. I recall a comedian who once said that 90 percent of life is just showing up. If the comedian meant to point up the virtues of responsibility and dependability, as I presume he did, he could have found few people better to exemplify those virtues than Clarence Miller.

Those of us who know CLARENCE well will miss his companionship, his courage and integrity, and his genuine decency.

CLARENCE has been a good friend, a fine Congressman, and a great American, and we wish him well in retirement.

Mr. SENSENBRENNER. Mr. Speaker, for the past 26 years, the people of Ohio's 10th District have benefited from the representation of CLARENCE MILLER. CLARENCE is a gentleman whose example challenges all of us in this House.

His record reflects a dedication of addressing needs of his district while balancing those with the needs of the Nation. His hard work and conscientious voting have earned him the admiration of his constituents and fellow Members of Congress.

As one of the most frugal Members of Congress, CLARENCE has labored continuously for reduced spending, often when it was not particularly popular. His spending cutting amendments on appropriation bills were often unsuccessful on the House floor; fortunately, he was not discouraged, but continued to fight for his beliefs.

I join my fellow colleagues today in thanking him for his efforts and for the privilege it has been to work with him. I wish him well for the future.

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to my good friend and distinguished colleague on the House Appropriations Committee, CLARENCE MILLER, who, at the close of the 102d Congress, is retiring after serving for 26 years.

I should also like to thank our colleague, Mr. CHALMERS WYLIE, also of Ohio, for sponsoring tonight's special order in CLARENCE'S honor.

It has been my privilege to work with the gentleman from Ohio on the House Appropriations Committee. He has set an example of high standards through his contribution and presence on the committee. CLARENCE has gained the deserved respect and admiration of all of those who have had the pleasure of working with him in this body.

At this time, I should like to offer CLARENCE my very best upon his retirement. I know that my colleagues join me in thanking him for his dedication to the State of Ohio as well as the Nation as a whole.

Mr. RINALDO. Mr. Speaker, I rise today to pay tribute to our distinguished colleague, and my dear friend, Congressman CLARENCE E. MILLER of Ohio.

First elected to the U.S. House of Representatives in 1966, Congressman MILLER has served the people of Ohio's 10th Congressional District for 26 consecutive years. During that time, he has distinguished himself as an able and competent legislator on the House Appropriations Committee, earning a solid reputation for fiscal responsibility and free enterprise. Congressman MILLER recognized the simple fact that our budget deficit has risen, not because the American people do not pay enough taxes, but because Congress spends far too much, and he has devoted much of his time in Congress to cutting pork and wasteful spending.

His career in public service began in 1957, serving on the Lancaster City Council. In 1963, he was elected mayor of Lancaster by one of the largest pluralities ever recorded in the city. His hard work brought new industries, and new jobs, to the city, and he was successful in allowing existing industries to expand.

Congressman MILLER'S awards and honors over the years are numerous. He holds honorary doctorate degrees from Marietta College in Marietta, OH, and Rio Grande College in Rio Grande, OH, and was awarded the Phillips Medal of Public Service from Ohio University. His efforts on behalf of fiscal responsibility have earned him the National Associated Businessmen's Watchdog of the Treasury Award and the National Taxpayers Union's Taxpayer Responsibility Award. He has been honored for his work in Congress by such varied groups as the Americans for Constitutional Action, the National Rifle Association, the National Federation of Independent Businesses, the Conservative Caucus, the American Security Council, and he received special recognition by the Ohio Chapter of the National League of Families of American Prisoners and Missing in Southeast Asia.

Congressman MILLER was employed as an electrical engineer before embarking on a career in public service, and holds United States and Canadian patents for technical innovations that he developed. In 1977, the Speaker of the House appointed him to be a member of the Technology Assessment Board, putting his technical aptitude and engineering background to good use.

CLARENCE MILLER has built his career in Congress on the basis of honest hard work and diligent service to his constituents and to the people of this country. This institution will be losing a great friend and a fine legislator when he retires at the end of the 102d Congress. I wish him well.

Mr. LIVINGSTON. Mr. Speaker, I am proud to rise in honor of my friend, CLARENCE MILLER, and I thank our good friend, RALPH REGULA, for taking out this special order.

CLARENCE and I have served next to each other on the Defense Appropriations Subcommittee since our appointment to that subcommittee in 1984. Prior to that we worked together well, through less frequently, since I first came to Congress in 1977.

I have grown to know, like, and respect CLARENCE MILLER as a super Congressman, a fine public servant, and a good friend. He is an exceptionally hard worker and an unusually tough competitor. And he is a very fine representative of this constituents.

Lincolnesque in stature and voice, CLARENCE first caught my attention when he would with great authority move to cut appropriations bills by 2–5 percent at the end of the amendment process on virtually every bill.

As we began to serve together on the Defense Subcommittee, I watched CLARENCE attentatively sit in long and drawn-out hearings, upright and soldierly as always, in his courtly and gentlemanly fashion, asking tough, direct, and pertinent questions, always aimed at saving the taxpayer some hard-earned money. Even when his beloved spouse was desperately ill, CLARENCE never lost his composure in committee on in Congress at large, where he handled the business of his constituents with steadfast purpose.

The loss of his dear wife was a terrible blow to him, but CLARENCE carried on, and even then, I didn't appreciate this full measure of the man.

It wasn't until we travelled together to Saudi Arabia shortly before Operation Desert Storm, that I realized how tough CLARENCE MILLER really is. On the trip, several members and accompanying staff contracted food poisoning. All were dangerously ill, and most became totally incapacitated with every malady of the stomach imaginable.

But not CLARENCE. While the other were totally knocked out, CLARENCE maintained a vigorous schedule on the trip, only excusing himself periodically for a few minutes each time. Thereafter, he would be impeccable dressed and rigidly composed, and you would never have known CLARENCE was ill. Critically ill, in fact, for on his return, CLARENCE had much of his intestines removed due to infection, yet he bounced back from the hospital and continued his service in Congress unabated.

CLARENCE MILLER is one tough hombre, Mr. Speaker, and I admire him greatly. His constituents are losing a fine representative, and they, and I will miss him.

Once again I'd like to thank my friend from Ohio [Mr. REGULA] for providing me this opportunity.

Mr. STOKES. Mr. Speaker, I am pleased that my colleague, the distinguished gentleman from Ohio [Mr. REGULA] has reserved this time to honor our friend, CLARENCE MILLER, for his service in the U.S. House of Representatives. CLARENCE'S departure from this body brings to a close a 26-year record of notable public service to his constituency and to the Nation. I am proud to join in this special order saluting our good friend and colleague.

Mr. Speaker, CLARENCE MILLER has crusaded tirelessly on behalf of his constituents for nearly four decades. As member of the Lancaster City Council; as the mayor of Lancaster, OH; and as the U.S. Representative of Ohio's 10th District since 1966, CLARENCE MILLER'S career in public service is matched by few.

Although CLARENCE MILLER had been in Congress only 2 years prior to my arrival in 1969, it was clear at that point that this individual would play an integral role in this body. As a member of the Committee on Appropriations since 1973, CLARENCE MILLER has earned a reputation as one of the foremost budget watchdogs in the Congress. For nearly 20 years, CLARENCE has been a leading national spokesman for fiscal responsibility and free enterprise, introducing and cosponsoring legislation to heighten the public's awareness of these critical economic issues. It has been an honor to work on the Appropriations Committee with CLARENCE on issues and projects of concern to the State of Ohio. Having this unique partnership across the aisle has been of mutual interest to our State and I will certainly miss the benefit of his presence on the Appropriations Committee and in the Congress.

During his tenure in Congress, CLARENCE MILLER'S efficacy has also been evidenced in his diligent work on the Agriculture Committee and Public Works and Transportation Committee, his assignments prior to his selection to serve on the Appropriations Committee. In addition, as a member of the House Republican Research Committee, the Republican Task Force on Energy and Resources, and the Technology Assessment Board of the U.S. Congress, CLARENCE has repeatedly demonstrated his dedication to this body and his commitment to the legislative process.

Prior to his career in the Congress, CLARENCE MILLER experienced much success as a local politician and as an electrical engineer. As the mayor of Lancaster, OH, CLARENCE was instrumental in attracting new industry to the city and encouraging existing industry to expand. During his mayoral tenure, CLARENCE served on the legislative committees of the Ohio Municipal League, the National League of Cities, and the executive committee of the Mayor's Association of Ohio. This distinguished gentleman also holds United States and Canadian patents for technical innovations developed during his engineering career.

Mr. Speaker, I join with my colleagues today in paying tribute to our friend and colleague, CLARENCE MILLER. It has been an honor to serve in the Congress with such an esteemed legislator. While we will miss his presence in this body, his record of legislative service to the State of Ohio and to this Nation will become a permanent part of history.

Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to my friend and colleague, CLARENCE E. MILLER, who is retiring from the House of Representatives after serving Ohio's 10th District for 26 years.

During his long career as a House Member, CLARENCE looked out for the interests of his constituents, the State of Ohio, and the Nation. I don't think there is a Member in the House who paid more attention to the needs of his constituents. Yet he also cared deeply about the course of the National Government and he was not afraid to influence the direction of Federal spending.

It was my privilege to work with him on Ohio-related matters, especially those that affected the Air Force, since we both had major Air Force installations in our district.

Perhaps most of all, CLARENCE will be remembered for conducting himself with dignity at all times. He always held the highest respect for this institution and the people it served.

I wish happiness and good health to CLARENCE in his retirement.

Mr. QUILLEN. Mr. Speaker, it is indeed an honor and a privilege for me to pay tribute to my colleague and friend, CLARENCE E. MILLER, of Ohio.

CLARENCE has distinguished himself through years of leadership while serving on the House Appropriations Committee's Subcommittee on Defense, earning a reputation for being a watchdog of the budget, and receiving numerous awards and civil honors from organizations in his district.

He has championed many efforts to help bring a better life to the people through fiscal responsibility and free enterprise. I have admired for him his legislative abilities, tireless service to the people, and his effective leadership—the personification of a true public servant.

He is a great example, and we will miss him and wish him well. CLARENCE leaves with us a great record of achievement and service, with his stamp on countless pieces of legislation for a better America.

Mr. ANNUNZIO. Mr. Speaker, I want to express my best wishes to Congressman CLARENCE MILLER of Ohio, who, like myself, is retiring from the House of Representatives at the conclusion of the 102d Congress.

Congressman MILLER has served this House with integrity, honesty, dedication, and plain hard work for the past 26 years. He came to Congress in 1966 as a former mayor of Lancaster, OH. An engineer by profession, he brought with him a knack for weighing policy choices in the light of hard realities.

In this age of Federal red ink, it's interesting to note that during the 1970's CLARENCE MILLER helped pioneer the idea of across-the-board budget cuts in appropriations bills. Over time, Congress has developed few, if any, methods for controlling spending that have improved on this basic formula.

Like myself, Mr. MILLER views service to constituents as one of the primary duties of a Member of Congress. Few, if any of my colleagues are more visible in their districts than Congressman MILLER.

Other examples of Mr. MILLER's dedication to public service include his innovative ideas for using military technology to address the problems of hazardous waste disposal. He also has maintained an outstanding record of attendance during votes on the House floor. For all these efforts and more, Mr. MILLER has earned many awards, including two honorary doctoral degrees and the Phillips Medal of Public Service from Ohio University at Athens, OH.

In recognizing his service over the past four decades, I would like to wish Congressman MILLER the very best during his upcoming retirement. While I am familiar with the sadness associated with leaving this House, I am sure Mr. MILLER can return to Lancaster with a strong sense of accomplishment. He has done much to help his southeast Ohio constituents as well as people through the United States of America.

Mr. GILLMOR. Mr. Speaker, it is with great pleasure that I rise to salute my fellow Ohioan, Congressman CLARENCE MILLER.

My colleagues and I have come to the floor to commemorate CLARENCE MILLER's 26 years of distinguished service here in the House. He will be sorely missed in the 103d Congress. But our tribute to CLARENCE should not end with our words of praise and gratitude for his service, although he is most deserving of them. We should use this day to pledge to CLARENCE that we will carry the torch of the cause so dear to him: the fight for fiscal responsibility.

CLARENCE MILLER came to Washington in 1966 and for 13 terms, resisted the beltway's greatest temptation: to spend more and more of the taxpayers' money. Even Calvin Coolidge, a conservative Republican, admitted that Federal spending was a habit of an extremely seductive nature.

Coolidge said:

> Nothing is easier than spending the public money. It does not appear to belong to anybody. The temptation is to bestow it upon somebody.

I think most of us would agree that the temptation of which Coolidge spoke is nowhere greater than on the Appropriations Committee, where CLARENCE has so ably served. Without fail, CLARENCE MILLER never forgot to whom the money belonged. He knew it belonged to the people of his southern Ohio district and other hard working Americans. He made every spending decision and vote with them in his heart, and in his mind.

In his desire to reduce the burden to the taxpayer, CLARENCE has been admirably consistent. In his determination to stop the insanity of bequeathing massive debt to future generations, he has been unyielding. He has understood that it is not enough just to pay lip service to a balanced budget. He has understood that supporting the balanced budget amendment is the right thing to do, but not the only thing to do. He has understood that when it comes right down to it, you have to have the courage to say no to excessive spending.

That is what CLARENCE had done. He is known on the Appropriations Committee for proposing across-the-board spending cuts. When those amendments would be defeated he would always come back, unbowed, unapologetic, poised to try again. His persistence reminds me of how President Eisenhower once described the philosophy of Abraham Lincoln:

> In all those things that deal with the people's money and their economy, or their form of government, be conservative—and don't be afraid to use the word.

It is no wonder why the Almanac of American Politics has referred to CLARENCE's brand of politics as, quote, "conscientious conservatism." It is no wonder why the people of Ohio have repeatedly and overwhelmingly pulled the lever next to the name CLARENCE MILLER.

So today, we could hardly do our country a bigger favor than to commit ourselves to CLARENCE's approach to fiscal matters. I do not think it would be realistic for me to suggest that this House, with its current makeup, should begin to vote as CLARENCE would. This would be no less difficult than trying to change a frog into a prince. But whether you are liberal or conservative, Democrat or Republican, each of us would do well to embrace the responsibility, seriousness, and integrity that CLARENCE has exemplified when it comes to spending the taxes paid by the American people.

CLARENCE, I wish you the best in the years ahead, and I thank you for the work you have done as a Member of the U.S. Congress.

Mr. SMITH of Iowa. Mr. Speaker, our respected colleague, CLARENCE E. MILLER of Ohio, was elected to the House in 1966, the same year President Bush won a congressional seat from Texas, and has served consecutive terms since then. For a number of years, CLARENCE and I have been colleagues on the Appropriations Committee and for a time he was a hard-working member of the subcommittee I am now privileged to chair. He prided himself on never missing rollcall votes.

His career, prior to his election to Congress, is a typical American story of the self-made man and he used that experience to an advantage in considering legislation. He started at the bottom rung of a large gas company as a ditchdigger and worked his way through the ranks to a position as electrical engineer. He grew up in the Depression and could not afford a formal college education, but to his great credit, attained his standing as engineer through correspondence courses. During these years, he developed two technical patents for the gas company that employed him.

CLARENCE served his southeastern Ohio district with diligent attentiveness to community and constituent needs. When CLARENCE leaves Congress at year's end he will be remembered by this colleagues as a Member who was uniformly both conscientious and congenial.

Mr. APPLEGATE. Mr. Speaker, it would be an understatement for anyone in this Chamber to say that more than just a few Members of Congress will be departing the House of Representatives at the end of the 102d Congress.

While we would like to recognize all of our colleagues who will be leaving this year and remember all that they have done while serving here, there is certainly one Member from Ohio who most certainly deserves our special recognition.

CLARENCE MILLER has represented the 10th Congressional District of Ohio since January 1967, a record of public service which will total 26 years upon his departure at the end of this year. When combined with his prior record of public service as a member of the Lancaster City Council and as mayor of Lancaster, CLARENCE's record of public service spans nearly four decades.

As a fellow Member of the Ohio delegation, and as my neighbor to the south and west of my own congressional district, I have always enjoyed working together with CLARENCE MILLER on a number of key issues of interest and concern to the citizens of Ohio living in the impoverished Appalachian region which runs through our districts. His service on the Appropriations Committee has proven to be invaluable over all of these years when it comes to lending a helping hand and reaching down to help those who need assistance. We have accomplished many things together on behalf of the people of southeastern Ohio, and I will certainly miss his support of these important endeavors throughout the future years following CLARENCE's departure.

I have enjoyed these many years together and I, along with many other people in the House and Senate, will miss CLARENCE MILLER upon his departure. I wish him and his children all the very best.

Mr. Speaker, I would like to take this opportunity to submit for the RECORD the following biography. I think this truly shows the outstanding individual that CLARENCE MILLER is, has been, and always will be.

### BIOGRAPHY OF CLARENCE E. MILLER

Congressman Clarence Miller has been a leading national spokesman for fiscal responsibility and free enterprise. As a member of the powerful House Appropriations Committee, Miller has earned a reputation as one of the foremost "budget watchdogs" in the Congress.

Congressman Miller is a native and lifelong resident of Fairfield County, Ohio. He was born on November 1, 1917, to Clarence, Sr. and Delores Lloyd Miller. He married Helen Brown on December 25, 1936; Mrs. Miller passed away January 31, 1987. Congressman Miller has two children, Ronald and Jacqueline, both married; and he has five grandchildren. He was employed as an electrical engineer before beginning his career in politics.

The Congressman's political career began in 1957 when he was appointed to fill an unexpired term as a member of the Lancaster City Council and was elected to the full term in 1961. In 1963, Miller was elected Mayor by one of the largest pluralities in the history of the city. As Mayor of Lancaster, he was instrumental in attracting new industry to the city and encouraging existing industry to expand. He served on the Legislative Committees of the Ohio Municipal League and the National League of Cities. In addition, he served on the Executive Committee of the Mayor's Association of Ohio.

Congressman Miller has served on the Board of Directors of the Fairfield County Red Cross and the Y.M.C.A. He is a member of the B.P.O.E. He belongs to the First United Methodist Church of Lancaster, Ohio.

Among his honors and awards are: honorary doctorate degrees from Marietta College in Marietta, Ohio and Rio Grande College in Rio Grande, Ohio; the Phillips Medal of Public Service from Ohio University in Athens, Ohio, the National Associated Businessmen's Watchdog of the Treasury Award; the Americans for Constitutional Action's Distinguished Service Award; the National Rifle Association's Legislator of the Year Award; the National Taxpayers Union's Taxpayer Responsibility Award; the National Federation of Independent Business' Guardian of Small Business Award; the National Alliance of Senior Citizens' Public Service Award; the Civil Libertarian Award of the Conservative Caucus; the Leadership Award from the American Security Council; and special recognition by the Ohio Chapter of the National League of Families of American Prisoners and Missing in Southeast Asia. The Congressman also holds U.S. and Canadian Patents for technical innovations developed during his previous employment as an electrical engineer.

Congressman Miller was first elected to the United States House of Representatives in 1966 and has been reelected to each succeeding Congress. In January 1973, Representative Miller was selected to serve on the House Appropriations Committee. He presently serves on the committees' Subcommittee on Defense. Prior to 1973, he served on the House Agriculture and House Public Works and Transportation Committees. Congressman Miller has also served on the House Republican Research Committee and the Republican Task Force on Energy and Resources. In 1977, Representative Miller was appointed by the Speaker of the House to be a member of the Technology Assessment Board of the U.S. Congress on which he continues to serve.

## CONFERENCE REPORT ON H.R. 5517

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes:

### CONFERENCE REPORT (H. REPT. 102-899)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 6, 8, 9, 12, and 13.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 20, 21, 22, and 25, and agree to the same.

The committee of conference report in disagreement amendments numbered 4, 5, 7, 10, 14, 15, 16, 17, 18, 19, 23, 24, 26, 27, and 28.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
MARTIN OLAV SABO,
LES AUCOIN,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
RALPH REGULA,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
CHRISTOPHER S. BOND,
SLADE GORTON,
MARK O. HATFIELD
(except death penalty and abortion),
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

### MRS. L.L. LEN

The conferees note the recent death of Mrs. L. L. Len, a friend of the Committees on Appropriations, the Fire Department and the Metropolitan Police Department. Mrs. Len provided a valuable community service in presenting testimony at committee hearings concerning issues of importance to the rank and file that sometimes escaped the attention of higher ranking officials. She was always very knowledgeable about the issues she discussed and her presentations were always clear and convincing. She was tenacious yet caring and gentle. Her counsel and humor will be missed.

During the joint hearings on the District's fiscal year 1993 budget, the Committees received testimony from Mrs. Len concerning the Fire Department's Dive/Rescue Teams and issues regarding the Emergency Ambulance Bureau. Regarding the Dive/Rescue Teams, the conferees are concerned there are not sufficient trained personnel available on each platoon to constitute a Dive/Rescue Team. In 1988, in response to a tragic helicopter crash within sight of water emergency response units, the Congress included additional funds to equip sufficient Dive/Rescue Teams to enhance their response capability. Four years later it appears that lessons of that fatal accident may have been forgotten. The conferees request that the Department inform the Committees not later than January 31, 1993, of the current status of Dive/Rescue Teams in the city, including the number of personnel assigned, number of dive and rescue responses on an average monthly basis, the status of training and certification of personnel, and other pertinent information related to the operation of those units.

Also, by the same date the conferees request information on the following suggestions which were made at the April 6, 1992, meeting of the Consumer Affairs Subcommittee of the Emergency Medical Services Advisory Committee by the community representative, Mrs. Len:

1. Arrangements should be made to give all Emergency Medical Services personnel bullet proof vests.
2. The Emergency Ambulance Bureau should have a separate line item budget for FY 1993.
3. Arrangements should be made to provide the ambulance drivers with spool seats to sit on to help with their back problems.

### Budget Justifications

The conferees are pleased to note that during the fiscal year 1993 hearings before the House Committee on Appropriations the budget director stated that the District plans to automate the preparation of the budget documents and streamline the budget process. The budget documents have evolved over a number of years based on experience and need and are designed to reflect the relationship between the local administration's policy and the implementation of that policy as well as track the District's revenues and expenditures.

One of the witnesses at a joint hearing held by the House and Senate Committees on Appropriations presented testimony on a major District agency and stated that the amounts budgeted by that agency for nonpersonal services and for personal services bear little relation to the monies actually spent in these categories. In other words, year after year more is spent on personnel than is budgeted while less is spent on nonpersonel costs than is budgeted with one feeding the excess of the other.

The witness went on to say "This systematic, habitual and growing discrepancy makes the current budget something of fiction."

The conferees direct the District government, including the Board of Education and all independent agencies, to be forthright in preparing and presenting their budgets and to reflect vacant positions and show where funds are actually expended when preparing and revising their budgets. The budget document and presentations should be closer to reality.

District officials should refer to previous discussions concerning this subject in the conference report accompanying the Second Supplemental Appropriations Act for 1984 (House Report 98-977, page 44) and the District of Columbia Appropriations Act for 1985 (House Report 98-1088, pages 3 and 4).

The conferees direct District officials to consult with the House and Senate Committees on Appropriations prior to making any changes to the budget documents for the fiscal year 1994 budget.

### Funded, Vacant Positions

The conferees continue to be concerned about the number of authorized and funded, but unfilled positions in the District government. A report submitted by the District government as of November 1991 revealed that there were 3,589 funded, authorized positions that were not filled. In addition, the Board of Education (public schools) had 688 funded, vacant positions as of September 30, 1991. Even if one assumed a minimum salary of $20,000 for each position, the savings that could be realized totals over $85 million.

The conferees request the District, including the Board of Education and all independent agencies and entities, to submit an updated report on funded, vacant positions as of September 30, 1992, to the House and Senate Committees on Appropriations no later than January 31, 1993.

### Capital Outlay Positions

The conferees are concerned about the increasing use of borrowed funds by the District government for personnel costs with no comparable increase in the construction program for which the funds are borrowed. To illustrate, in fiscal year 1987 the District's construction program totaled $437 million and 680 people were paid with borrowed funds. In fiscal year 1992, five years later, the construction program totals $364 million and 1,156 people are paid with borrowed funds. Over the five year period the number of people paid from the construction funds has increased by 476 people or 70 percent while the funding level for the program has decreased by $73 million or 16.7 percent. This comparison shows an inverse relationship between the number of people paid which is increasing and the dollars being borrowed for construction projects which is decreasing. Clearly it would seem that something is askew.

In other words, it appears that even though the program level has decreased over 16 percent, the number of people has increased by 70 percent. A surface observation might very well point to a productivity problem. An indepth objective analysis might indicate that other factors are involved, at least when compared with fiscal year 1987.

The following table reflects the comparison for fiscal years 1987 through 1992.

POSITIONS FUNDED FROM CAPITAL OUTLAY (BORROWED FUNDS)

| Fiscal year | Pos. | Amount | Increase over previous year | | Capital budget authority |
|---|---|---|---|---|---|
| | | | Pos. | Amount | |
| 1987 | 680 | $17,902,847 | | | $437,295,000 |
| 1988 | 787 | 21,082,912 | 107 | $3,180,065 | 296,724,000 |
| 1989 | 805 | 22,243,681 | 18 | 1,160,769 | 293,208,000 |
| 1990 | 876 | 27,046,920 | 71 | 4,803,239 | 216,237,000 |
| 1991 | 1,051 | 31,833,037 | 175 | 4,786,117 | 387,488,000 |
| 1992 | 1,156 | 34,672,058 | 105 | 2,839,021 | 364,143,946 |

Note.—Total increase in positions since 1987, +476 positions (+70 percent). Total reduction in capital budget authority, 1987–92, −$73,151,054 (−16 percent).

The conferees urge District officials to review their practice of placing employees on the capital payroll which is more expensive because borrowed funds must be repaid with interest over the designated period of years for which the funds are borrowed. Not only is the District paying the salary and benefits of the employee but in addition, the city is required to pay interest on the money that is borrowed to make those payments. The conferees hope that District officials are not shifting non-capital personnel from the operating budget to the capital budget simply to cover a shortfall in operating budget revenues or to provide more discretionary operating revenues.

The conferees request the District government to analyze and review its use of capital funds for personnel costs and to submit a report to the House and Senate Committees on Appropriations by February 28, 1993. The report should be objective and thorough and should include the standards and guidelines followed by District officials in assigning personnel to the capital payroll as well as a justification for the 70 percent increase in personnel since 1987.

### Washington Metropolitan Area Transit Authority

Effective October 1, 1992, the conferees expect the District of Columbia to provide quarterly operating subsidy payments to WMATA in accordance with current policies followed by WMATA and the Compact jurisdictions. The conferees also affirm the authority of WMATA and the Compact jurisdictions to jointly agree to modify the current schedule of quarterly prepayments. The conferees direct the District government to make, no later than September 30, 1993, a contribution to the WMATA Workers' Compensation reserve funds to restore any monies, including interest, used by WMATA from these funds to maintain operations.

### Natural Gas and Alternative Fuel Vehicles

The conferees believe that opportunities exist to reduce auto emissions in the city by the use of natural gas vehicles (NGV's) and biodiesel ethanol fuel.

According to information available to the conferees, NGV's are in use in many municipal and private fleets including Scottsdale, AZ; north Miami, FL; Enumclaw, WA; the Harbor Creek, PA, School District; and Mountain Fuel Supply Co., Salt Lake City, UT.

Because these fuels burn cleaner than either gasoline or diesel fuel, there is considerable engine-maintenance cost savings including extended intervals between oil changes, less frequent tune-ups and fewer exhaust system repairs. In addition, replacement engine component parts are relatively inexpensive. Experience with a large natural gas school bus fleet in Texas has demonstrated a maintenance cost reduction of more than 50 percent. Finally, these fuels are safer to operate since they have a higher ignition point than either gasoline or diesel fuel. Consequently, the potential of fire or explosion is reduced.

Fuel costs will be significantly reduced, although exact savings depend on the structure of current fuel contracts. Natural gas vehicle transportation fuel costs, for example, from Washington Gas in the District of Columbia range from a low of 56 cents per equivalent gallon, without taxes, to 81 cents/gallon with taxes. The potential savings may be 25 cents per gallon or more.

Presently, there are three NGV refueling locations in the District: Capitol Hill, Haines Point and Anacostia. Within the next calendar year, at least three more sites are anticipated with more to be added as demand requires.

The conferees understand that a variety of dedicated NGV's are now becoming available that could be used by the District for its vehicle fleets, including, sedans, vans, wagons, pick-up trucks, school buses, and fork lifts. Recent reports in the Washington Post indicate that nearly half of the Metrobuses currently on the streets should be replaced within the next four years. The average age of Metrobuses is about 10 years, but some are 30 years old. The Federal Transit Administration and the transit industry recommend that buses be replaced after 12 years.

The conferees are aware of almost $3 million in oil overcharge funds available to the District of Columbia for energy-related project designation that have largely remained unexpended for more than three years. In light of the U.S. Department of Energy's efforts to see that these funds are utilized expeditiously, and in ways of best value to the recipients, the conferees urge the District to consider several specific projects, including:

(1) The purchase of new, dedicated natural gas and alternative fuel powered school buses and the purchase of natural gas and/or alternative fuel replacement engines for existing school buses;

(2) the purchase of new, natural gas and alternative fuel powered light- and medium-duty trucks and the purchase of natural gas

and/or alternative fuel replacement engines for existing light- and medium-duty trucks; and

(3) discussions with the Washington Metropolitan Transit Authority about the possibility of purchasing new transit buses powered by natural gas and/or alternative fuels.

CEDAR KNOLL JUVENILE DETENTION FACILITY

The conferees note the attention that the Cedar Knoll Youth Detention Facility has had in the past, the most recent example having been the congressional initiative in providing funds for enhancing physical security at the site in fiscal year 1990. Over 20 juveniles have escaped from the facility this year, and the facility has averaged three to five escapes a month over the past ten years. District officials have indicated that Cedar Knoll is obsolete and that ensuring adequate security for the surrounding community would be inordinately costly and inefficient given the court order to close the facility.

As a result of a consent decree signed by the District government in 1986, the facility was scheduled to close by December of 1987. The period from February of 1992 to June of 1993 approximates the same period of time between the date the consent decree was signed in 1986 and the date Cedar Knoll was originally scheduled to close. The conferees have included language in section 133 of the bill requiring that Cedar Knoll be closed before June 1, 1993, and expect the District of Columbia to comply with this provision. The conferees believe this deadline provides an adequate adjustment period during which the detainees at Cedar Knoll may be provided appropriate alternative placement.

If the District government is unable to meet the June 1, 1993, closing date and obtains a modification of the consent decree that ordered the December 1, 1987, closing of the Cedar Knoll Facility, the District government may apply to the Committees on Appropriations of the House of Representatives and the Senate for an extension of the date set forth in the statute.

MUNICIPAL FISH WHARF

The conferees reiterate their strong interest in preserving the Municipal Fish Wharf as the oldest open-air fresh seafood retail market on the East Coast of the United States. The conferees have received testimony concerning a study undertaken to examine a redevelopment plan for the Wharf. The conferees request a report by January 1, 1993, with respect to any redevelopment plan proposed by the District government. The report should outline the physical features and cost of the proposed development plan, the metes and bounds of the Wharf real property along the Potomac River between 11th and 12th Streets, S.W., as established by the 62nd Congress in 1913, and should also outline the plans and time lines for (1) meeting environmental impact statement requirements, (2) seeking financing of the project, and (3) obtaining waivers necessitated by the involvement of the Army Corps of Engineers, the Coast Guard or other District of Columbia or Federal entities. This report should outline a realistic time line for concluding the project, including any Federal, District of Columbia, Redevelopment Land Agency, or other requirements for public comments or hearings.

## TITLE I

## FISCAL YEAR 1993 APPROPRIATIONS

### FEDERAL FUNDS

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

Amendment No. 1: Deletes language proposed by the Senate that would have delayed until October 1, 1993, the availability of $26,035,000 together with interest of $1,992,000 for the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds. By deleting the proposed language, the full appropriation of $52,070,000 requested in the President's budget will become available in fiscal year 1993 as proposed by the House.

FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

Amendment No. 2: Restores language proposed by the House and stricken by the Senate that requires the District to submit a detailed plan for approval by the House and Senate Committees on Appropriations prior to the obligation of funds appropriated under this heading and deletes language proposed by the Senate which would have required the Mayor to submit a detailed plan concurrently with making the funds appropriated under this heading available for obligation. The amendment also deletes language proposed by the Senate that would have prohibited the use of funds in this Act to implement or enforce D.C. Act 9-188, the District's Health Care Benefits Expansion Act of 1992, or any system of registration of unmarried cohabiting couples whether they are homosexual, lesbian, or heterosexual.

PRESIDENTIAL INAUGURATION

Amendment No. 3: Appropriates $5,514,000 out of the general fund of the Treasury for payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities as proposed by the House instead of $5,514,000 from an account established in the United States Treasury to receive payments from the Presidential Inaugural Committee and other sources and transferred to the District of Columbia government as proposed by the Senate.

The inauguration of a new President has become a large undertaking that is financed jointly by the private Presidential Inaugural Committee (PIC), the Federal government and the District of Columbia government. Planning for the 1993 inaugural is well underway by Federal and local officials who will be joined by the President-elect's representatives after the November 1992 election.

According to the Constitution, the only requirement for the inauguration is the prescribed oath of office. The Inaugural Ball has grown from one taking place several weeks after the swearing in for the first inauguration to nine Balls in 1985. The traditional parade emerged in Madison's inaugural in 1809, and the Gala is even more recent, appearing for the first time in 1941.

As the size and scope of the event have increased, so has the burden on the governments, both Federal and District, and therefore on their taxpayers. The General Accounting Office has made several recommendations on the need for legislation clarifying the authority of Federal agencies and their support for the private Presidential Inaugural Committee.

The District government provides police protection, traffic and crowd control, fire protection and inspection, emergency ambulance service, medical services, health inspections, cleanup activities before and after the parade, construction of inaugural stands, securing of manholes and installing and removing poles and cable along the parade route, providing potable water and portable toilets along inaugural parade route, and operating the Mayor's Command Center.

It is the conferees' intention that the District government incur no unreimbursed expenses in connection with the 1993 Presidential inaugural. The conferees direct that should this appropriation be inadequate, the Mayor is to seek agreement on reimbursement with the Director of the Office of Management and Budget, as provided for in D.C. Code sec. 1-1132(a) for the identified costs of the District government's participation in the Presidential inaugural of 1993. The authority for the District of Columbia to receive such reimbursement is found in section 737(b) of Public Law 93-198, as codified in the D.C. Code at 1-1132, which states, in part:

"The United States shall reimburse the District for necessary expenses incurred by the District in connection with assemblages, marches, and other demonstrations in the District which relate primarily to the Federal government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section."

In addition, the conferees note that there is precedent for the advance payment of anticipated costs. In preparation for the 1985 Presidential inauguration, an advance payment was made to the Smithsonian Institution by the PIC for the use of the National Air and Space Museum for an inaugural ball and for the use of the parking facilities at the National Zoo.

METROPOLITAN POLICE DEPARTMENT

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the matter stricken by said amendment, and on page 2 of the House engrossed bill, H.R. 5517, strike line 16 down to and including "funds." in line 23, and insert in lieu thereof:

*TRAUMA CARE FUND*

*For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes the heading and appropriation of $400,000 of which $250,000 was for police training and continuing education programs and $150,000 was for a summer youth program proposed by the House and stricken by the Senate and deletes the heading and paragraph appropriating $30,798,600 for a Federal contribution for Crime and Youth Initiatives as proposed by the House and the Senate. The conference action also inserts a heading and paragraph appropriating $5,561,600 to establish a Trauma Care Fund to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia. See amendment number 19 for a further discussion of the Trauma Care Fund.

The $400,000 was intended to strengthen the Metropolitan Police Department's efforts to upgrade the quality and caliber of police officers and to assist the department in its efforts to reduce crime by providing young people with some degree of respect and self-esteem through summer employment opportunities under the auspices of the Chief of Police. The President's budget for the District of Columbia government did not include a request for the $400,000 to support these programs.

The $30,798,600 for a Federal contribution for Crime and Youth Initiatives that is being deleted would have provided funds to support the Mayor's Crime and Youth Initiatives in an effort to reduce crime through more intensive and aggressive law enforcement and to provide District youth with a new start through various early intervention programs such as "A New Start: A War of Values to Save Our Children" which is designed by the Mayor to address the underlying causes of youth violence. The Metropolitan Police Department was expected to play a leading role in establishing the policies and programs that would have been funded with this appropriation.

### BOARD OF EDUCATION

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the matter stricken and inserted by said amendment, and on page 2 of the House engrossed bill, H.R. 5517, delete line 15.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $83,000 proposed by the House and stricken by the Senate and $1,379,000 proposed by the Senate and also deletes the paragraph heading.

The appropriation of $83,000 would have provided $43,000 for an adult literacy program and $40,000 for a program to teach self-discipline, motivation, and respect to children 6 to 11 years old in public schools as proposed by the House and deleted by the Senate. The appropriation of $1,379,000 proposed by the Senate would have provided $779,000 to equip additional learning labs in the public schools with a computer-based mathematics instructional system, $350,000 to expand a successful intensive dropout prevention program, $150,000 to expand a successful public schools program to train low-income parents from public housing to participate in their children's educational development and $100,000 to establish a bilingual component to the program.

The President did not request these funds in his budget for the District of Columbia government.

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Amendment No. 6: Deletes heading and appropriation of $1,140,000 proposed by the Senate for a Home Purchase Assistance Program. This appropriation would have been used to bring the sales price of 57 homes that are being developed under the "Nehemiah Housing" concept into the mortgage reach of families with income of less than $25,000.

The President did not request these funds in his budget for the District of Columbia government.

### DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 21 through and including line 25 on page 3 and lines 1 and 2 on page 4 of the House engrossed bill, H.R. 5517.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $140,000 proposed by the House and stricken by the Senate and $1,000,000 proposed by the Senate and deletes the heading and paragraph relative to a Federal contribution to the District of Columbia Institute for Mental Health.

This appropriation would have provided funds for low-cost professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia.

The President did not request this appropriation in his budget for the District of Columbia.

The conferees support the goals and programs of the District of Columbia Institute for Mental Health. The Institute is the larger provider of outpatient mental health services to the poor and underinsured individuals and families in the city. The Institute has been plagued by the same high costs of uncompensated care that are stretching the resources of already overburdened acute care hospitals. The District government provides no support for the Institute. Deletion of these funds does not represent a lack of commitment on the part of the conferees, but rather is the result of efforts to avoid a Presidential veto.

### GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER

Amendment No. 8: Deletes heading and appropriation of $50,000,000 over a three-year period for the construction and renovation of the George Washington University Medical Center proposed by the Senate. The Senate amendment would have appropriated $250,000 for fiscal year 1993, $24,875,000 for fiscal year 1994, and $24,875,000 for fiscal year 1995 as a Federal contribution for this project which is authorized under Public Law 101–590 (104 Stat. 2929).

### VERY SPECIAL ARTS

Amendment No. 9: Deletes heading and appropriation of $500,000 proposed by the Senate to provide partial funding for the second international festival involving more than 1,000 people with physical and mental disabilities from the 50 states and more than 55 countries who will travel to the Nation's Capital to share their accomplishments in the Arts.

The President did not request funds to support the Very Special Arts in his budget request for the District of Columbia government.

The conferees are unable to include funds this year to support the Very Special Arts International Festival to be held in Washington, DC, in June 1994, the twentieth anniversary of the Very Special Arts.

Very Special Arts was founded in 1974 by Jean Kennedy Smith as an educational affiliate of The John F. Kennedy Center for the Performing Arts to integrate opportunities for participation in dance, drama, music, creative writing, and visual arts activities for people from all over the world with disabilities. Deletion of this appropriation should not be interpreted as a lack of support on the part of the conferees, but rather a necessary action to avoid a Presidential veto.

### CHILDREN'S NATIONAL MEDICAL CENTER

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 3 through and including line 6 on page 4 of the House engrossed bill, H.R. 5517.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $140,000 proposed by the House and stricken by the Senate and $2,000,000 proposed by the Senate and deletes the heading and language relative to a Federal contribution to the Children's National Medical Center.

This appropriation would have provided funds to assist in the construction of a National Child Protection, Trauma, and Research Center which will focus on child and substance abuse prevention, trauma and emergency medical care, pediatric AIDS/HIV treatment, critical care in newborn as well as pediatric and adolescent patients, pediatric medical research and other related specialized programs. This project is a cost-shared public and private undertaking with $19,800,000 coming from the Federal government and $30,200,000 from private sources. To date $16,000,000 has been raised from the private sector.

Deletion of this appropriation should not be interpreted as a lack of support on the part of the conferees for the goals and objectives of the project, but rather should be viewed as a necessary action to avoid a Presidential veto.

## DISTRICT OF COLUMBIA FUNDS

### GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 11: Deletes language proposed by the House and stricken by the Senate that would have required the District of Columbia Retirement Board to transfer not to exceed $400,000 to the general fund of the District of Columbia.

### ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 12: Appropriates $102,888,000 as proposed by the House instead of $104,028,000 as proposed by the Senate. The reduction of $1,140,000 below the Senate allowance reflects the elimination of Federal funds proposed by the Senate under amendment number 6. This allowance would have provided $1,140,000 for a Home Purchase Assistance Program designed to bring the sales price of 57 homes being developed under the "Nehemiah Housing" concept into the mortgage reach of families with incomes of less than $25,000.

The Senate's proposed increase of $1,140,000 in this appropriation was dependent on the Federal contribution under amendment number 6 and is being deleted because the President did not include the funds in his budget request for the District of Columbia government.

The conferees are also aware that the project's sponsors are estimating that the project could require a total of $1,140,000 in Home Purchase Assistance Program (HPAP) in fiscal years 1993 and 1994 to bring the sales price of the homes that will be created into the mortgage reach of lower income families. This will insure that working families earning annual incomes of less than $25,000 will have home ownership opportunities. The conferees believe that this project in the 14th Street corridor as well as projects such as this across the city should receive the highest priority in the allocation of HPAP funds.

Amendment No. 13: Restores language proposed by the House and stricken by the Senate concerning reference to the general fund of the District of Columbia.

*D.C. Housing Finance Agency.*—The conferees reiterate their concern expressed in House Report 102-638, pages 38 and 39, and Senate Report 102-333, pages 44 and 45, concerning the District government not requesting any appropriated funds to finance this agency whose mission is to increase the supply of funds available for residential mortgages and construction and rehabilitation loans and to reduce the cost of such financing.

The District government's budget for the Housing Finance Agency for fiscal year 1993 is based on nonappropriated and alternative financing sources which District officials have been trying to identify. The conferees note that for every dollar of District appropriations received by the agency, $4 in property, transfer and recordation taxes are generated and deposited into the District's general fund, and for every million dollars in District appropriations, the agency leverages $100 million in private investment capital. Nearly $300 million in single family mortgage rate bonds have been issued to-date providing 3,000 loans for District residents, and $244 million in rental housing bonds have been issued providing 4,136 housing units, including 2,400 for low-income tenants.

The conferees are pleased that District officials recognize the unique status of the agency relative to other State housing finance agencies since it is one of only two created after the 1980 congressional arbitrage ruling that restricted the use of bond proceeds and earnings on agency investments and, as result, did not have the opportunity to earn any reserves for future operations. District officials have stated that sufficient funding will be provided for the agency's operations until the agency is able to become self-sufficient. However, the conferees note that the agency's estimate of funds required to operate at a level that will enable it to adequately address some of the District's housing needs is greater than the commitment of the District government. The conferees direct District officials to take whatever steps are necessary to resolve the issue of funding for this agency so that the agency's board and personnel can focus on their important mission without distractions related to administrative matters. The conferees will consider a reprogramming request to assist the District in this effort. The conferees view this belated funding effort as a temporary solution to the agency's long-term budget difficulties and note that the agency has proposed changes to D.C. Law 2-135, the District of Columbia Housing Finance Agency Act, that will alleviate the situation. The conferees request the District government to take whatever steps are necessary to resolve the issue of funding the Housing Finance Agency's operating expenses prior to the submission of the fiscal year 1994 District budget.

The conferees are cognizant of the recent lapses in the Housing Finance Agency's internal controls which may have resulted in inappropriate uses of agency funds. Those findings are not the subject of investigations by appropriate Federal and District authorities. The conferees expect District government and agency officials to take whatever steps are necessary to strengthen and improve those controls prior to the submission of the fiscal year 1994 budget so that future lapses do not occur.

### PUBLIC SAFETY AND JUSTICE

### (INCLUDING TRANSFER OF FUNDS)

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $945,551,000 together with $1,523,000 by transfer from personal services under the heading "Governmental Direction and Support" instead of $945,951,000 as proposed by the House.

*Metropolitan Police Department.*—The reduction of $400,000 below the House allowance reflects the elimination of the Federal appropriation under amendment no. 4 that would have been used for policy training and continuing education programs ($250,000) and for a summer youth program ($150,000) under the auspices of the Metropolitan Police Department.

The President did not request funds in his budget for the District of Columbia to finance these programs.

*Police and Fire Clinic.*—The conference action also provides $1,523,000 by transfer as proposed by the Senate to keep the clinic operational during fiscal year 1993 at the fiscal year 1992 revised operating level. These funds will supplement existing funds that were to be used for severance pay and contractual services and will provide a total of $3,087,000. Both the House and the Senate Committees on Appropriations did not approve the District's request to close the clinic. The conferees direct that no changes be made in the operation, funding, or staffing of the clinic until a plan is submitted and approved by the Mayor, the District Council, and the House and Senate Committees on Appropriations.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment insert: *: Provided further, That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefigthing Division or Emergency Ambulance Division to an unfunded or unauthorized position with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes*

, and

on page 7, after line 1 of the House engrossed bill, H.R. 5517, insert "(Including Transfer of Funds)" as a centerhead.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes language proposed by the House earmaking $299,000 for outside training and continuing education programs for the Metropolitan Police Department and $150,000 for a summer youth jobs program under the direction of the Chief of Police. These earmarkings are deleted because of the action taken in amendment number 4 eliminating the Federal appropriation of $400,000 which was not included in the President's budget request for the District of Columbia. This amendment also inserts language in the paragraph heading to indicate that the appropriation includes a transfer of District funds and inserts language that prohibits the use of funds in this Act to pay any full-duty employee of the District of Columbia Fire and Emergency Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or the Emergency Ambulance Division to an unfunded or unauthorized position with the exception that up to four employees may be detailed for not to exceed a total of 100 days to the Fire Department Training Academy solely for the purpose of teaching recruits as well as special training classes. This restriction does not apply to uniformed members of the department who are on limited or light duty as a result of a determination by the Police and Fire Clinic that the employee is unable to perform his or her regular fire fighting duties because of work-related injuries.

The conferees direct the Fire Chief to take whatever action necessary to return all full-duty employees and other detailed personnel to his or her assigned and funded position and thereby eliminate the backfilling of those positions which results in unnecessary overtime costs. The conferees have taken this action because of the continuing high costs of overtime resulting from the backfilling of a fire fighter position at overtime rates because the fire fighter regularly assigned to the position is detailed to some other division. Overtime costs of the department are estimated at $7,088,000 in fiscal year 1992. This is a concern that has been expressed probably more than once in the past. The conferees request that the department's quarterly reports on fire fighter strength include a separate schedule on a monthly basis that shows the number of fire fighters detailed and related overtime costs under the division to which the fire fighters were detailed. The allocation of overtime costs should be charged to the division that received the fire fighter's services instead of to the Firefighting Division which would have had no need for the overtime had the fire fighter not been detailed.

The District's budget requested the elimination of 10 battalion chiefs and two deputy chiefs and a three platoon/seven battalion fire fighting system. The conference action reflects the elimination of five vacant battalion chief positions and the deputy fire chief for special projects assigned to staff services when the present incumbent leaves or is reassigned from that position and a four platoon/seven battalion system instead of the elimination of four vacant battalion chief positions and the deputy fire chief for special projects and a four platoon/seven battalion system as proposed by the House. The Senate in good faith proposed that no changes be made until a management audit that was underway was completed and the recommendations were forwarded to the Mayor. According to District officials, this was expected to occur during the late summer of 1992. The conferees have been informally advised that the management audit is being reviewed by District officials and does not address the issue of battalion or deputy chiefs or the number of platoons or battalions. The conferees direct that the additional vacant battalion chief position that is being eliminated be identified by the Fire Chief and come from one of the seven battalion chief positions assigned to staff services outside the Firefighting Division. The conference action provides the Firefighting Division with four deputy chiefs and 28 battalion chiefs to maintain a four platoon/seven battalion system instead of 22 battalion chiefs and three deputy chiefs which would have required additional overtime costs. The conference action regarding retaining the four platoon system instead of switching back to the three platoon system is taken without prejudice.

*Fire suppression liquid.*—The conferees understand that the Fire Department has purchased limited quantities of Pyrocap B-136, a nontoxic fire suppression liquid concentrate, for use on all class A, B, and D (metal) fires. According to testimony received by the Committees at a joint hearing, use of the concentrate in small percentages of six percent or less in available water retards burnback and eliminates excessive heat and toxic smoke. In addition, Fire Department officials testified that the product is carried on eight pumpers and the department is currently assessing and analyzing how to use Pyrocap operationally.

The conferees recommend that the department in cooperation with the manufacturer use the product in its training program and, if warranted, in a variety of fire ground situations. The conferees request a brief report by March 31, 1993, on the characteristics of this product and the department's experience in using the concentrate.

### PUBLIC EDUCATION SYSTEM

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$713,592,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $713,592,000 instead of $713,675,000 as proposed by the House and $714,971,000 as proposed by the Senate. The reduction of $83,000 below the House allowance reflects the action taken in amendment number 5 deleting the Federal appropriations of $43,000 for an adult literacy program and $40,000 for a program to teach self-discipline, motivation, and respect to children six to 11 years old in the public school system. The reduction of $1,379,000 below the Senate allowance also reflect the action taken in amendment number 5 deleting the Federal appropriations of $779,000 to equip additional learning labs in the public schools with a computer-based mathematics instructional system, $350,000 to expand a successful intensive dropout prevention program, $150,000 to expand a successful public schools program to train low-income parents from public housing to participate in their children's educational development, and $100,000 to establish a bilingual component to the program.

The President did not request these funds in his budget for the District of Columbia government.

Deletion of funds for the various programs should not be interpreted as a lack of support on the part of the conferees for any of the enumerated goals and objectives of the programs, but is necessary to avoid a Presidential veto.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$513,552,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allocates $513,552,000 for the public schools instead of $513,635,000 as proposed by the House and $514,931,000 as proposed by the Senate. The reductions of $83,000 below the House allowance and $1,379,000 below the Senate allowance are the result of action taken on the Federal appropriation at the direction of the President in amendment number 5. This action is reflected in amendment numbers 16 and 17.

Deletion of funds for the various programs should not be interpreted as a lack of support on the part of the conferees for any of the enumerated goals and objectives of the programs, but is necessary to avoid a Presidential veto.

*Options Program*—The conferees are aware of the difficulty that the Options Program at the National Learning Center has experienced with social workers provided by the D.C. Public Schools. According to the information available to the conferees, the social workers assigned from the public schools had a "work to rules" mentality which contrasted with the intense involvement of the rest of the staff. Because of these in harmonious attitudes, social workers have not been provided and school officials have told Options Program staff that the social workers would not be provided nor would additional funds be provided to hire replacements. The conferees intend that the Options Program, which is a successful intensive dropout prevention program, have every opportunity for success, and therefore, direct that the public schools make provisions for the required social workers, either by providing staff acceptable to Options administrators or by providing funds for the Options Program to hire the needed personnel. The conferees request a report on the status of this request on or before October 22, 1992.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert: *of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for the continued implementation of the urban model demonstration initiative in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000);*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts language earmarking $1,000,000 of the $513,552,000 allocation to the public schools for the Anacostia Project and not to exceed $600,000 for the Cooperative Employment Education Project instead of $43,000 for the Washington Literacy Council and $40,000 for the Joy of Discipline Program as proposed by the House and $779,000 for the Center for Change, $350,000 to expand the Options School, and $250,000 for the Parents as Teachers program as proposed by the Senate. The conference action provides for the administration and coordination of the Anacostia Project and the Cooperative Employment Education Project through the District of Columbia Public Schools Foundation with a designated program coordinator to monitor and coordinate the programs and provide the necessary semiannual reports and evaluations to the Board of Education and the House and Senate Committees on Appropriations.

The District of Columbia Public Schools Foundation was formed in 1985 to provide leadership in developing, securing and directing resources for educational and training projects on behalf of the public school system. The Foundation is governed by an 18-member board of independent business and community leaders.

In earmarking $1,000,000 for the Anacostia Project, the conference action is intended to provide:

Continued support of the Multiple Intelligence (MI) School at Patricia Roberts Harris with an extended site model at Fletcher-Johnson Educational Center in upper Southeast Washington;

Continued support for pilot programs to improve instructional programs at Ballou High School;

Continued support for Learning Logic urban demonstration sites at Patricia Roberts Harris Educational Center and Ballou High School and, if feasible, an additional site in Southeast Washington;

Continued support for staff development in improving the instructional delivery systems for schools in Southeast Washington;

Establishment of demonstration programs in additional Southeast schools and other prototype schools within the D.C. Public School system; and

A new initiative for a regional Community Learning and Information Network (CLIN).

The earmarking of not to exceed $600,000 for the Cooperative Employment Education Project targets out-of-school youth, public housing residents, ex-offenders and students interested in careers in the building industry.

### TRAUMA CARE FUND

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

*TRAUMA CARE FUND*

*For the purpose of establishing the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

, and

on page 16 of the House engrossed bill, H.R. 5517, after line 18 insert:

*PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS*

*The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included $5,561,600 to establish a Trauma Care Fund to partially reimburse Level I trauma centers in the District for their uncompensated trauma care, instead of $10,000,000 to be derived from a one-time transfer from the Water and Sewer Enterprise Fund. The House had no similar provision.

The cost of uncompensated care was $212 million in 1989. In 1990 that figure grew seven and one-half percent to $228 million. In May of 1991 the General Accounting Office reported that "Urban trauma care systems are threatened as many trauma centers have shut their doors to trauma patients. Providing trauma care is expensive and treatment costs usually exceed patient revenues in urban centers."

The District of Columbia Hospital Association released a study in October 1991 that put the cost of criminal violence to hospitals in the District at $20.4 million in 1989. Sixty-eight percent of the victims of violent crime were uninsured, and 55 percent of the costs were due to crimes involving a firearm.

Trauma care is the most expensive element of uncompensated care, even more so than emergency room care. It is also the element most closely related to criminal violence, an area that has held the conferees' attention and captured considerable resources in recent years. For instance, according to the study, trauma care is three times as expensive as the average hospital admission. Since eighty percent of patients eventually return to full-time work, it is also highly cost effective when taking into account lifetime work history. According to information available to the conferees, the average emergency room case cost of care for one year—not charges, but cost—will be approximately $300, whereas the average one-year cost of care for a trauma case is $32,039.

The Commissioner of Public Health took a three-month period and assessed the amount of care that was provided at the six Level I trauma care facilities and the degree to which it was reimbursed. The results were contained in "A Study of Uncompensated Trauma Care in the District of Columbia" (Commission on Public Health, June 1992). For the purposes of the survey, uncompensated care was defined as unpaid care provided to individuals who cannot pay for the care they receive within the context of a health care facility (excluding therefore any follow-up care required by the injuries). During that period, the Commissioner found that the hospitals lost approximately $5 million in uncompensated trauma care. In the event the 35 percent limitation results in any unallocated funds, the conferees direct that the balance be reallocated in the same proportion as the original allocation.

The amendment also inserts a new heading and paragraph just before the Capital Outlay heading authorizing the Mayor to reduce the District's fiscal year 1993 budget by $30,798,600 to reflect the reduction in the Federal payment from $655,653,000 to $624,854,400 which is based on the formula Federal payment authorized by Public Law 102–102. The District is required by section 442(a) of Public Law 93–198 to have a balanced budget and submitted its budget based on a Federal payment to the general fund of $655,653,000 which was consistent with their interpretation of the new formula authorization in Public Law 102–102, approved August 17, 1991. The Act sets the authorized level of the Federal payment at 24 percent of local revenues collected two years prior to the budget year as reviewed by the Comptroller General of the United States.

A subsequent review of the legislation by the Congress clarified the revenue base to which the 24 percent is applied and resulted in a Federal payment authorization and appropriation of $624,854,400 for fiscal year 1993. In addition to the Federal payment, the House and Senate bills included a Federal contribution of $30,798,600 for crime and youth initiatives which has been deleted because it was not included in the President's budget request for the District of Columbia government. As a result of deleting the $30,798,600 Federal contribution to the District, it is necessary to reduce the "District funds" part of the budget by the same amount.

### FURLOUGH ADJUSTMENT/WITHIN-GRADE SALARY ADJUSTMENTS

The action by the Congress in approving the District government's requested furlough adjustment and within-grade salary adjustments was taken without prejudice to any party in any court proceedings, past, present or future.

The District government takes many actions with which individual members of Congress, and citizens of the District, may agree or disagree. And because of the unique, and sometimes awkward, role the Congress plays in District matters, often the Congress is called upon to ratify or to let pass various city actions. The conferees believe that this is such a matter and that it should be decided on its own merits by the local branches of government. It is the conferees' hope that matters of this type can be decided at the local level by the citizens and their government and not be viewed through the prism of congressional action or inaction.

### CAPITAL OUTLAY

Amendment No. 20: appropriates $393,639,000 as proposed by the Senate instead of $333,639,000 as proposed by the House. The increase of $60,000,000 above the House allowance reflects the amount requested in a budget amendment transmitted subsequent to House action on H.R. 5517. The amendment was submitted in House Document 102–383 on September 9, 1992, and requests the District's additional capital contribution needed by the Washington Metropolitan Area Transit Authority (WMATA) to complete the construction of the remaining 13.5 miles of Metrorail. The conferees have also approved the reprogramming request of $20,000,000 included in House Document 102–383 "from the Metrorail project (SA1) to the FY 1993 Metrorail Construction project (SA4) that will be used for completing the remaining 13.5 miles." The District's justification further states that "the current balance of authority will be sufficient to cover the remaining expenditures for the project. This project will be completed in FY 1994; therefore, no additional authority is required." This $20,000,000 combined with the $60,000,000 in new capital authority in the budget amendment together with the $10,000,000 already included in the District's fiscal year 1993 capital program will provide a total of $90,000,000 in fiscal year 1993 to be used as the District's match toward the Federal construction authorization.

*Library Plaza.*—The conferees are aware of the proposed restoration of the Library Plaza on G Street, N.W., between 9th and 10th Streets, to allow for vehicular traffic. This proposal has been made because of criminal activity on the plaza and disruption to traffic flow. The conferees expect that the Department of Public Works will give careful consideration to this project and obtain a final cost estimate that can be used as a basis for a possible supplemental request in fiscal year 1993 or may be included in the fiscal year 1994 budget estimate when it is submitted to the Council of the District of Columbia.

Amendment No. 21: Allocates $13,779,000 of the capital outlay appropriation for project management as proposed by the Senate instead of $8,232,000 as proposed by the House.

Amendment No. 22: Allocates $12,749,000 of the capital outlay appropriation for design work as proposed by the Senate instead of a decrease of $2,734,000 as proposed by the House.

### GENERAL PROVISIONS

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate will an amendment as follows:

Delete the matter proposed by said amendment and on page 33 line 12 of the House engrossed bill, H.R. 5517, delete "or any other".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes language proposed by the Senate which would have amended D.C. Code, sec. 6–2302, by deleting tear gas devices which includes "mace" from the definition of "Destructive device" effective January 1, 1993, thereby making it legal in the District of Columbia to purchase and carry such devices. Legislation has been introduced by the Chairman of the Council of the District of Columbia to legalize the purchase and possession of "mace" and similar compounds. According to the Council Chairman, a markup by the Council's committee of jurisdiction is scheduled for October 7, 1992, and he expects to transmit the legislation after public hearings and approval by the Council and Mayor to the Congress for congressional review by December 18, 1992.

*Embassy Parking Tickets.*—The conference agreement also deletes the words "or any other" from section 135 of the bill and thereby removes from the scope of the bill those foreign diplomatic and consular vehicles registered by the United States Department of State under the terms of the Vienna Convention.

The conferees direct the State Department and the District of Columbia government to work together to resolve long-standing difficulties related to the effective collection of legitimate fines for parking infractions committed in the District of Columbia by vehicles registered to foreign missions and to their fully accredited diplomatic and consular personnel.

The conferees, in recognition of the need for practical measures to bring about compliance with local law, including the payment of properly issued parking violations, direct the U.S. Department of State and the District of Columbia to reach agreement within 90 days from enactment of this Act on procedures to clarify the responsibilities of all concerned parties in a manner that will maximize the actual collection of such fines on the part of the District of Columbia government without interfering with treaty obligations of the United States or with other relevant statutory requirements.

The conferees further direct the U.S. Department of State and the District of Columbia to report to the House and Senate subcommittees on District of Columbia Appropriations the terms of the agreement and the timeline for the collection of all fines.

Amendment No. 24: Reported in true disagreement.

## TITLE II

## FISCAL YEAR 1992 SUPPLEMENTAL

### DISTRICT OF COLUMBIA FUNDS

### GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 25: Deletes language proposed by the House and stricken by the Senate that would have required the District of Columbia Retirement Fund to transfer not to exceed $400,000 to the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language redirecting $1,000,000 in the Metropolitan Police Department's budget from personal services to nonpersonal services for equipment purchases and contractual services and increasing the Police Chief's confidential fund by $200,000 (from $500,000 to $700,000) within existing funds.

The conferees note that a recent article in the press indicated that one of the Police Chief's regrets was a frustration over the Metropolitan Police Department's inability to get equipment it needed and to modernize with new technology. The report stated that many officers bring their own electric typewriters to work and scavenge for castoff computers.

PUBLIC WORKS

*Washington Metropolitan Area Transit Authority.*—The Conferees agree that the rescission of $26,000,000 requested by the District government and recommended in the bill is due to a proposal by the District government to move the funding calendar for the operating subsidy to a pay-behind calendar which has not yet been agreed to by WMATA.

CAPITAL OUTLAY

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language allocating part of the capital outlay appropriation for project management ($150,000) and design purposes ($285,000).

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language proposed by the Senate that deems the appropriations and language provisions in Title II to be available for the fiscal year ending September 30, 1992. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1992 supplemental request as approved in Title II of this Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 budget estimates, and the House and Senate bills for 1993 follow:

*Federal Funds*

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $699,850,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 688,084,000 |
| House bill, fiscal year 1993 | 714,000,000 |
| Senate bill, fiscal year 1993 | 687,957,000 |
| Conference agreement, fiscal year 1993 | 688,000,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | −11,850,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | −84,000 |
| House bill, fiscal year 1993 | −26,000,000 |
| Senate bill, fiscal year 1993 | +43,000 |

*DISTRICT OF COLUMBIA FUNDS*

| | |
|---|---|
| *New budget (obligational) authority, fiscal year 1992* | *3,895,772,000* |
| *Budget estimates of new (obligational) authority, fiscal year 1993* | *4,013,658,000* |
| *House bill, fiscal year 1993* | *3,954,141,000* |
| *Senate bill, fiscal year 1993* | *4,026,177,000* |
| *Conference agreement, fiscal year 1993* | *3,988,421,000* |
| *Conference agreement compared with:* | |
| *New budget (obligational) authority, fiscal year 1992* | *+92,649,000* |
| *Budget estimates of new (obligational) authority, fiscal year 1993* | *−25,237,000* |
| *House bill, fiscal year 1993* | *+34,280,000* |
| *Senate bill, fiscal year 1993* | *−37,756,000* |

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
MARTIN OLAV SABO,
LES AUCOIN,
BERNARD J. DWYER,
JAMIE L. WHITTEN
DEAN A. GALLO,
RALPH REGULA,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

BROCK ADAMS,
WYCHE FOWLER, Jr.,
ROBERT KERREY,
ROBERT C. BYRD,
CHRISTOPHER S. BOND,
SLADE GORTON,
MARK O. HATFIELD,
(Except death penalty and abortion),
*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FOGLIETTA (at the request of Mr. GEPHARDT), for September 22, 23, 24, and 25, on account of medical emergency.

Mr. BLACKWELL (at the request of Mr. GEPHARDT), for today, on account of official business in the District.

Mr. MYERS of Indiana (at the request of Mr. MICHEL), until 12:30 p.m. today, on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EWING) and to include extraneous matter:)

Mr. INHOFE, for 5 minutes each day, today and September 24.

Mr. THOMAS of Wyoming, for 5 minutes each day, today and September 24.

Mr. EWING, for 5 minutes, today.

Mr. HASTERT, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. GILMAN, for 60 minutes, on September 30.

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mr. VENTO.
Mr. JACOBS.
Mr. NEAL of Massachusetts.
Mr. HAMILTON.
Ms. HORN.
Mr. SWETT.
Mr. HARRIS.
Ms. OAKAR in two instances.
Mr. ORTIZ.
Mr. TRAFICANT.
Mr. STARK.
Mr. SLATTERY.
Mr. TORRES.

(The following Members (at the request of Mr. EWING) and to include extraneous matter:)

Mr. CLINGER.
Mr. DORNAN of California.
Mr. SOLOMON in two instances.
Mr. BILIRAKIS.
Mr. BEREUTER.
Mr. DREIER of California.
Mrs. VUCANOVICH in two instances.
Mr. ZIMMER.
Mr. GALLEGLY.
Mr. LAGOMARSINO in three instances.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1731. An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes, and

S. 3175. An act to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

## ADJOURNMENT

Mr. REGULA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Thursday, September 24, 1992, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4303. A letter from the Board of Governors, Federal Reserve System, transmitting the

Board's third annual report on the assessment of the profitability of credit card operations of depository institutions, pursuant to 15 U.S.C. 1637; to the Committee on Banking, Finance and Urban Affairs.

4304. A letter from the Secretary of Education, transmitting notice of Final Priorities—Educational Media Research, Production, Distribution, and Training Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4305. A letter from the Secretary, Department of Health and Human Services, transmitting the eighth report on the Status of Health Personnel in the United States Health Professions, pursuant to 42 U.S.C. 292h(d)(1), (2); to the Committee on Energy and Commerce.

4306. A letter from the Secretary of Transportation, transmitting the annual report on Transportation User Fees, pursuant to 45 U.S.C. 421 et seq.; to the Committee on Energy and Commerce.

4307. A letter from the Chairman, Securities and Exchange Commission, transmitting the 21st annual report of the Securities Investor Protection Corporation for the year 1991, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Energy and Commerce.

4308. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Marshall Fletcher McCallie, of Tennessee, to be Ambassador to the Republic of Namibia; and of Mark Johnson, of Montana, to be Ambassador to the Republic of Senegal, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4309. A letter from the Acting Secretary, Department of the Navy, transmitting the Department's report pursuant to section 27(e) of the Office of Federal Procurement Policy Act (42 U.S.C. 423); to the Committee on Government Operations.

4310. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4311. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4312. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, dated November 19, 1991, submitting a report together with accompanying papers and illustrations (H. Doc. 102-393); to the Committee on Public Works and Transportation and ordered to be printed.

4313. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, dated June 1, 1992, submitting a report together with accompanying papers and illustrations (H. Doc. 102-394); to the Committee on Public Works and Transportation and ordered to be printed.

4314. A letter from the Secretary, Department of Commerce, transmitting a report in response to inspector general's Report No. ATD-024-0-001; and modernization and business plans for the National Technical Information Service, pursuant to Public Law 102-245, section 103(d) (106 Stat. 8); to the Committee on Science, Space, and Technology.

4315. A letter from the Chairman, Investment Policy Advisory Committee, transmitting the report of the Investment Policy Advisory Committee on the Investment Chapter of the North American Free-Trade Agreement; to the Committee on Ways and Means.

4316. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to protect the security of National Reconnaissance Office operations, and for other purposes; jointly, to the Committee on Intelligence (Permanent Select), Government Operations, and Armed Services.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4542. A bill to prevent and deter auto theft; with amendments (Rept. 102-851, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 5324. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration Fleet Replacement and Modernization Program for fiscal years 1993 through 1997; with an amendment (Rept. 102-896). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASPIN: Committee on Armed Services. H.R. 4481. A bill to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the Reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the Reserve components, and for other purposes; with an amendment (Rept. 102-897). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 577. Resolution authorizing further postponement of proceedings on the question of agreeing to a certain motion to suspend the rules. (Rept. 102-898). Referred to the House Calendar.

Mr. DIXON: Committee on Appropriations. Conference Report on H.R. 5517 (Rept. 102-899). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 2357. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant the jurisdiction of the courts of the United States in certain cases involving tortious conduct occurring in a foreign state; with amendments (Rept. 102-900). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CALLAHAN (for himself and Mr. ALLEN):

H.R. 5997. A bill to prohibit the expenditure of Federal funds for constructing or modifying highway signs that are expressed only in metric system measurements; to the Committee on Public Works and Transportation.

By Mr. PARKER:

H.R. 5998. A bill for the relief of the Wilkinson County School District, in the State of Mississippi; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. BACCHUS):

H.R. 5999. A bill to relieve the regulatory burden on depository institutions and credit unions that are doing business or that seek to do business in an emergency or major disaster area, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARNARD (for himself, Mr. THOMAS of Georgia, Mr. ROWLAND, Mr. DARDEN, Mr. LEWIS of Georgia, Mr. HATCHER, Mr. GINGRICH, and Mr. RAY):

H.R. 6000. A bill to redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area"; to the Committee on Agriculture.

By Mr. CARR (for himself and Mr. SHARP):

H.R. 6001. A bill to amend the Motor Vehicle Information and Cost Savings Act; to the Committee on Energy and Commerce.

By Mr. CHANDLER (for himself and Mr. MCDERMOTT):

H.R. 6002. A bill to treat health professionals who are faculty members at a dental school and who operate an intramural dental faculty practice plan at such school as paid by a common paymaster for purposes of Social Security taxes; to the Committee on Ways and Means.

By Mr. GOODLING (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. HYDE, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. GRANDY, Mr. BEREUTER, and Mr. HENRY):

H.R. 6003. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT (for himself, Mr. ROE, Mr. NOWAK, and Mr. PETRI):

H.R. 6004. A bill to amend the Federal Water Pollution Control Act to extend the deadline by which permits for discharges for municipal and industrial stormwater discharges are required until October 1, 1994; to the Committee on Public Works and Transportation.

By Mr. JACOBS:

H.R. 6005. A bill to prohibit States and localities from receiving certain Federal economic development assistance if the State or locality provides improper incentives for location of businesses or organizations within the State or locality; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

By Mr. LAGOMARSINO (for himself, Mr. HANSEN, Mr. SMITH of Oregon, Mr. DUNCAN, Mr. HEFLEY, Mr. TAYLOR of North Carolina, and Mr. GALLEGLY):

H.R. 6006. A bill to provide for the reformation of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LIPINSKI:

H.R. 6007. A bill to amend the Civil Rights Act of 1964 to provide a remedy for individuals harmed by past test norming related to employment; to the Committee on Education and Labor.

By Mrs. LOWEY of New York (for herself and Mr. SHAYS):

H.R. 6008. A bill to enhance local law enforcement efforts; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 6009. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for deficit reduction; to the Committee on Ways and Means.

By Mr. WISE:

H.R. 6010. A bill to reform the program of Aid to Families With Dependent Children; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. ZIMMER (for himself and Mr. Gallo):

H.R. 6011. A bill to direct the Secretary of the Interior to conduct a study on the suitability and feasibility of establishing the Thomas Nast Home in New Jersey as a unit of the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. SOLARZ:

H. Con. Res. 361. Concurrent resolution condemning the persecution of Cuban poet Maria Elena Cruz Varela, and for other purposes; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROSE introduced a bill (H.R. 6012) for the relief of Donald W. Sneeden, Mary S. Sneeden, and Henry C. Best; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Mr. Tanner, Mr. Traxler, Mr. Edwards of California, Mr. Spratt, Mr. Panetta, Ms. DeLauro, Mr. Roybal, Mr. Myers of Indiana, Mr. Abercrombie, Mr. Montgomery, Mr. Peterson of Florida, Mr. Darden, Mr. Mazzoli, Mr. LaRocco, Mr. Cramer, Mr. Sabo, Mr. McCrery, Mr. Callahan, Mr. Bilirakis, Mr. Brown, Mr. Houghton, Mr. Torricelli, Mr. Costello, Mr. Moran, Mr. Richardson, Mr. Hunter, Mr. Ewing, Mr. Spence, Mr. McDermott, Mr. Roemer, Mr. Fields, Mr. Geren of Texas, Mr. Torres, Mr. Franks of Connecticut, Mr. Martinez, Mr. Hobson, Mr. Conyers, Ms. Kaptur, Mr. Whitten, Mr. Fazio, Mr. Pastor, Mr. Leach, Mr. Saxton, Mr. Vander Jagt, Mr. Hoagland, and Mr. AuCoin.

H.R. 504: Mr. Klug.

H.R. 643: Ms. Kaptur.

H.R. 791: Mr. Shays.

H.R. 1502: Mr. Smith of New Jersey and Mr. Moakley.

H.R. 1696: Mr. Mineta.

H.R. 2106: Mr. Mazzoli.

H.R. 2400: Mr. Hatcher, Mr. Tallon, Mr. Bliley, Mr. Cooper, Mr. Gunderson, and Mr. Swift.

H.R. 2580: Mrs. Collins of Michigan.

H.R. 2594: Mr. Sisisky.

H.R. 3217: Mr. Stearns.

H.R. 3627: Mr. Sundquist.

H.R. 3826: Mr. Bereuter, Mrs. Collins of Michigan, Mr. Dixon, Mr. English, Mr. Martinez, Mr. McCloskey, Mrs. Morella, Mr. Sabo, Mr. Sanders, Mr. Torres, and Mr. Valentine.

H.R. 4182: Mr. Cox of California.

H.R. 4255: Mr. Ford of Michigan, Mr. Markey, Mr. Ravenel, and Mr. Sawyer.

H.R. 4300: Mr. Markey.

H.R. 4472: Mr. Shays.

H.R. 4538: Mr. Ackerman, Ms. Molinari, and Mrs. Collins of Michigan.

H.R. 4558: Mrs. Mink.

H.R. 4725: Mr. Hayes of Illinois.

H.R. 4897: Mr. Bustamante.

H.R. 5020: Mr. Shays, Mr. McNulty, and Mr. Lewis of Florida.

H.R. 5443: Mr. Klug, Mr. Sensenbrenner, and Mr. Barton of Texas.

H.R. 5476: Mr. Blackwell, Mr. Blaz, Mr. Ewing, Mr. Frank of Massachusetts, Mr. Hayes of Louisiana, Ms. Horn, Mr. Mazzoli, Mr. Parker, Mr. Stark, and Mr. Wylie.

H.R. 5501: Mr. Roth.

H.R. 5539: Mr. Johnson of Texas, Mr. Gunderson, and Mr. McEwen.

H.R. 5550: Mr. Stearns.

H.R. 5551: Mr. Stearns.

H.R. 5553: Mr. Stearns.

H.R. 5554: Mr. Stearns.

H.R. 5626: Mr. Shays.

H.R. 5720: Mr. Weldon.

H.R. 5733: Mr. Hyde.

H.R. 5745: Mr. Tanner.

H.R. 5790: Mr. Dreier of California and Mr. Sensenbrenner.

H.R. 5823: Mr. Emerson and Mrs. Johnson of Connecticut.

H.R. 5828: Mr. Montgomery and Mr. Jacobs.

H.R. 5872: Mr. Studds and Mr. Synar.

H.R. 5897: Mr. Gallegly, Mr. Oxley, and Mr. Lipinski.

H.R. 5928: Mr. Moran.

H.R. 5948: Mr. Anderson, Mr. Baker, Mr. Lewis of Florida, Mr. Burton of Indiana, Mr. Roberts, and Mr. McNulty.

H.J. Res. 431: Mr. McDermott and Mr. Dickinson.

H.J. Res. 469: Mr. Durbin, Mr. Washington, and Mr. Moorhead.

H.J. Res. 495: Mr. Hastert, Mr. Bryant, Mr. Hansen, Mr. Kleczka, Mr. Machtley, Ms. Kaptur, Mr. Dingell, Mr. Rahall, Mr. Synar, Mr. Kennedy, and Mr. Laughlin.

H.J. Res. 523: Mr. Gillmor, Ms. Kaptur, Mr. Dorgan of North Dakota, Mr. Bilbray, Mr. Callahan, Mr. Foglietta, Mr. Gunderson, Mr. Hastert, Mr. Hyde, Mr. Johnson of South Dakota, Mr. Kanjorski, Mr. McDade, Mrs. Meyers of Kansas, Mr. Miller of Ohio, Mr. Neal of Massachusetts, Mr. Oberstar, Mr. Orton, Mr. Packard, Mr. Perkins, Mr. Porter, Mr. Pursell, Mr. Ravenel, Mr. Rinaldo, Mr. Smith of New Jersey, Mr. Swett, Mr. Tauzin, Mr. Smith of Oregon, Mrs. Johnson of Connecticut, Mr. Rhodes, Mr. Young of Alaska, Mr. Andrews of New Jersey, Mr. AuCoin, Mr. Dicks, and Mr. Lewis of Florida.

H.J. Res. 531: Mr. Manton, Mr. LaRocco, Mr. Boehlert, Mr. Carper, Mr. DeLay, Mr. Doolittle, Mr. Duncan, Mr. Frank of Massachusetts, Mr. Gilchrest, Mr. Green of New York, Mr. Hastert, Mr. Henry, Mr. Holloway, Mrs. Johnson of Connecticut, Mr. Kasich, Mr. Laughlin, Mr. Lightfoot, Mrs. Lloyd, Ms. Molinari, Mr. Ravenel, Mr. Richardson, Mr. Sarpalius, Mr. Shaw, Mr. Smith of New Jersey, Mr. Thomas of California, Mr. Young of Florida, Mr. Lantos, Ms. Horn, Mr. Baker, Mr. Edwards of Oklahoma, Mr. Fazio, Mr. Hunter, Mr. Kanjorski, Mr. Kolbe, Mr. Neal of Massachusetts, Ms. Pelosi, Mrs. Vucanovich, Mr. McHugh, Mr. Moran, and Mr. Natcher.

H.J. Res. 532: Mr. Laughlin.

H.J. Res. 538: Mr. Washington, Mr. Coleman of Texas, Mr. McHugh, Mr. Conyers, and Mr. Manton.

H.J. Res. 540: Mr. Stallings and Mr. Ballenger.

H.J. Res. 546: Mr. Dingell, Mr. Fawell, Mr. Rowland, and Mr. Regula.

H.J. Res. 548: Mr. Serrano, Mr. Mrazek, Mr. Blackwell, Mr. Manton, Mr. Waxman, Mr. Matsui, Mr. Moakley, Mr. Smith of Florida, Mr. Jacobs, Mr. Beilenson, Mr. Penny, Mrs. Morella, Mr. McDermott, Mr. Slattery, Mr. Lehman of Florida, Mr. Jontz, Mr. Pallone, Mr. Yates, Mrs. Unsoeld, Mr. Sawyer, Mr. Ackerman, Mr. Cardin, and Mr. Payne of New Jersey.

H.J. Res. 550: Mr. Hyde, Mr. Sangmeister, and Mr. Evans.

H.J. Res. 551: Mr. Stearns, Mr. Miller of California, Mr. Laughlin, Mr. Manton, Mr. Hammerschmidt, Mr. Guarini, Mr. de la Garza, Mr. McNulty, Mr. Fish, Mr. Horton, Mr. Mrazek, Ms. Slaughter, Mr. Sabo, Mr. Solomon, Mr. Peterson of Florida, Mr. Kasich, Mr. Jontz, Mrs. Lowey of New York, Mr. Owens of New York, Mr. Towns, Mr. Spence, and Mr. Mfume.

H. Con. Res. 223: Mr. Sawyer.

H. Con. Res. 324: Mr. Green of New York.

H. Res. 470: Mr. Kildee and Mr. Cramer.

H. Res. 515: Mr. Ackerman and Mr. Serrano.

H. Res. 538: Mr. Skeen, Mr. Sawyer, and Mr. McDermott.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5962

By Mrs. VUCANOVICH:

—Page 27, line 13, insert the phrase "and except as otherwise set forth in Section 405" after "(2)."

—Page 28, line 15, insert the phrase "to the extent applicable" after "and."

—Page 34, line 12, delete the word "high" and insert in lieu thereof "reasonable."

—Page 35, line 15, insert the phrase "has been served by the Secretary or an authorized representative a notice of non-compliance with and" after "applicant."

—Page 35, line 17, insert the phrase "and is not in good faith performing under the terms of an approved remediation plan" after "regulations."

—Page 35, line 20, insert the phrase "had been served by the Secretary or an authorized representative a notice of non-compliance with and" after "201(d)(1)."

—Page 35, line 22, insert the phrase "and was not in good faith performing under the terms of an approved remediation plan" after "approved."

—Page 36, lines 14 and 15, delete the phrase "and in no case for more than 10 years."

—Page 38, lines 24 and 25, Page 38, lines 1–25, Page 40, lines 1–14, delete subsection 201(j) in its entirety and insert in lieu thereof the following:

(j) Temporary Cessation of Operations.—(1) Promptly after temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall notify the Secretary of such cessation of operations.

(2) Upon receipt of such notice, the Secretary may, upon a review of the plan of operations and in light of the change in circumstances, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

—Page 40, line 16, insert the phrase "final agency action and" after "be."

—Page 40, line 17, insert the word "judicial" after "to" and delete "202(f)" and insert in lieu thereof "202(g)(2)."

—Page 41, delete lines 20-24 in their entirety and insert in lieu thereof "(4) Upon determination by the Secretary of each of the following:"

—Page 42, line 4, insert a colon after "fulfilled," and then insert "the Secretary shall release in whole or in part the financial assurance."

—Page 42, line 6, insert the phrase "or such other schedule as the Secretary and the operator shall mutually agree to."

—Page 42, delete lines 7-15 in their entirety, and insert in lieu thereof "(A) after the operator has completed 50 percent of the reclamation required by an approved plan of operations (as reasonably determined by the Secretary), 50 percent of the total financial assurance secured for the area subject to mineral activities may be released."

—Page 43, delete lines 12-20 in their entirety

or in the alternative

—Page 43, line 13, insert the phrase "at any time within two years" after "determines."

—Page 44, line 5, insert the phrase "to the extent practicable" after "shall."

—Page 44, lines 7 and 8, delete the phrase "Except as provided under paragraphs (5) and (7) of" and insert in lieu thereof "In accordance with the standards set forth in."

—Page 44, line 9, delete the word "backfilled."

—Page 44, delete in subsection (m)(3) lines 7-10 in their entirety."

—Page 47, lines 15-17, delete the phrase "Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5)" and insert in lieu thereof "To the extent practicable."

—Page 48, line 2, insert the phrase "plan of operations shall establish a reasonable" after "the."

—Page 48, line 3, delete the phrase "shall be for a period of," insert a comma after "revegetation," and insert the phrase "not to exceed."

—Page 48, lines 5-7, delete the phrase "except that such period shall be 10 full years where the annual average precipitation is 26 inches or less."

—Page 48, line 10, delete the word "approved" and insert in lieu thereof "those," and add the phrase "contemplated by the plan of operations" after "areas."

—Page 49, line 23, delete the phrase "even if not."

—Page 50, lines 2-6, delete the last sentence of Section 201(o)(1) in its entirety.

—Page 50, delete lines 16-22.

—Page 51, line 14, delete the phrase "for beneficiation."

—Page 52, deletes lines 9-13 in their entirety.

—Page 52, line 14, delete the phrase "has reason to believe they are" and insert in lieu thereof the word "is."

—Page 55, line 5 of subsection (b)(3)(B), after "representative." add the following, "Any such notice or order shall be deemed final agency action."

—Page 55, line 25 of subsection (b)(6), delete "and" and in lieu thereof insert the world "or"

—Page 60, line 22, delete from subsection (f) "or cessation order"; line 24, delete "decisions"; line 25, delete "or order,"; page 60, line 1, delete "or order"; line 2, delete "or order"

—Page 60, delete subsection (f)(1)(C) lines 9-14 in their entirety and renumber accordingly.

—Page 62, delete from subsection (f)(3) lines 3-7, beginning with the word "Where"

—Page 64, subsection (h), line 8, delete, "person" and insert in lieu thereof "party to the proceeding"; line 12, delete "person" and insert in lieu thereof "party"; line 14, delete "either" and insert in lieu thereof "the losing"

—Delete subsection (h), lines 7-16, in their entirety.

—Sec. 204. *Unsuitability Review.* should be deleted in its entirety. (page 66, line 23 through page 74, line 25)

or in the alternative

—Page 70, line 15, in subsection 204(d) after subsection 204(d)(4), insert a new subsection 204(d)(5) as follows:

"(5) Such determination pursuant to Section 204 affecting claims located pursuant to this Act or the general mining laws shall be deemed a taking to the extent of the diminution in value resulting from such determinations, and claimholders shall be entitled to maintain a claim against the Secretary for just compensation therefor."

—Page 70, line 23, in subsection 204(e)(1) delete the word "where—" and insert the following: "that mining is not in the public interest where the economic benefits such as employment, federal, state and local revenues, balance of payments impacts, and strategic and national security interests are outweighed by the cost from the degradation or loss of nonmineral values where—"

—Page 72, line 4, in subsection 204(e)(2) delete the word "where—" and insert the following: "that mining is not in the public interest where the economic benefits such as employment, federal, state and local revenues, balance of payments impacts, and strategic and national security interests are outweighed by the cost from the degradation or loss of nonmineral values where—"

—Page 72, line 22, in Section 204(2)(2) after the word "in," insert the word "net."

—Page 73, line 17, insert a new subsection 204(g) as follows:

"(g) ECONOMIC IMPACT STUDY.—Any unsuitability review under this Section, including those pursuant to citizen petition under subsection (h) below, shall include an analysis of the direct and indirect economic impact of an unsuitability determination. Such economic impact study shall address, without limitation, the following:

(A) Direct financial impact on existing claimholders;

(B) Direct and indirect impact on employment, output and earnings;

(C) Impact on federal, state and local treasuries from losses of tax and other revenue;

(D) Effect on production costs and mineral reserves and resources;

(E) Impact on balance of payments; and

(F) strategic implications from change in trade relationships."

—Page 73, line 17, delete "(g)" and insert "(h)."

—Page 75, line 4, delete from subsection (a) "date of enactment" and insert in lieu thereof the following "effective date"

—Page 76, line 14, delete from subsection (b) "and maintained"; line 14, insert after the word "laws" the words "and properly maintained under Section 314 of FLPMA"; line 15, delete "date of enactment" and insert in lieu thereof "effective date"; line 18, delete "Act, and that such claim continues to be valid." and insert in lieu thereof "Act."

—Page 82, line 13, in subsection (a) after the word "Enforcement" add "for lands and waters eligible for reclamation expenditures under Section 423 of this Act."

# EXTENSIONS OF REMARKS

## TRIBUTE TO JUDGE JAMES E. NOLAND

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### HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. JACOBS. Mr. Speaker, America has suffered an insufferable loss.

James E. Noland, Federal judge for the southern district of Indiana and former Member of the U.S. House of Representatives, was taken from us by death in this year of 1992.

He was a man possessed of a superior intellect and he was refreshingly pleasant. In other words, a scholar and a gentleman.

If you look up the term, "judicial temperament" or if you would look up the term, "scholar and a gentleman", in both cases you would find the words, "James E. Noland." The following are articles from the Indianapolis Star and Indianapolis News, including an excellent tribute to Judge Noland by Dean William F. Harvey of the Indiana University School of Law, who himself is most distinguished in the legal circles of the United States.

[From the Indianapolis Star, Sept. 10, 1992]

TRIBUTE TO JUDGE NOLAND

There was greatness in Judge James E. Noland, as there is in his wife Helen. To their marriage they brought two of Indiana's highly accomplished families. They have made distinctive contributions to the discipline of law, the art of medicine, and the examination of history.

It is not difficult to understand how together they gave all of us so very much.

Noland was a great judge. He was one of the finest in our time, whatever the court. This is shown by the selection to one of the most sensitive judicial positions in the United States and in the Western world. He was appointed to a seven-year term on the U.S. Foreign Intelligence Surveillance Court by Chief Justice Warren Burger in 1983. He was selected as that court's chief judge by Chief Justice William Rehnquist in 1988.

If measured by function, the position he held is arguably the second most important judicial position in the United States, after the chief justice. This might not be widely understood, but we may confidently say that intelligence agencies throughout the world, whether the KGB in the Soviet Union or the DGI in Castro's Cuba, keenly understand this court and the position that Noland held.

His greatness as a judge did not come, however, from position or function. It came because he understood the equality of restraint imposed upon judicial power by humility and grace.

No person I have known had a more pleasing and engaging personality. When I speak about his judicial sense of "humility and grace" I do not mean his personality. I refer to his understanding that no exercise of judicial power can effect a remedy that is superior to an amicable social order and its natural arrangement, and that judicial power whenever invoked neither creates nor imitates the mutual satisfaction found in agreements among free persons or persons who are unencumbered by the shackles of the regulatory state.

In short, Jim Noland was great because he understood that the strength of the Constitution of the United States comes from the natural American social order and that it is not found in decrees from the federal or state judicial systems.

He constantly sought to protect and defend this Constitution, just as he said he would when he took his oath of office. He was a man for our time, and for all time.

His leadership, his guidance and his gifts were bestowed on all of us.

WILLIAM F. HARVEY.

Indiana University School of Law, Indianapolis.

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[From the Indianapolis Star, Sept. 17, 1992]

JUDGE JAMES NOLAND

Judges pass judgment on their fellow human beings thousands of times, but judges too are judged, by their peers, whose candid opinions are most revealing.

James E. Noland, former chief judge of the U.S. court of the Southern District of Indiana, who died Wednesday at 72, won the praise of his colleagues.

He was patient, warm, kind, compassionate, considerate, clear thinking, wise and fair. He presided over many widely known cases.

Among them was the extortion trial of former Indiana Senate President Pro Tem Philip E. Gutman, the USAC-CART case, the first Speedway bomber Brett Kimberlin trial and the lawsuit over stolen Byzantine mosaics acquired by a Carmel art dealer but awarded to a Greek church on Cyprus.

In another case, a suit was filed on behalf of a 16-year-old boy against North Central High School, which had barred him from attending classes because of his long hair. It was argued that the school had violated the boy's constitutional rights.

Judge Noland ruled for the school, upholding the right of school officials to set standards for hair length and style. The three judges of the 7th U.S. Circuit Court of Appeals overruled Judge Noland and reinstated the student.

Books could be written about the breakdown in discipline, school authority and behavior standards that paralleled the appeals court's upset of Judge Noland's sensible ruling.

Appointed to the bench in 1966 by President Lyndon B. Johnson, Noland succeeded Judge S. Hugh Dillin as chief judge in 1984 and took senior status, lowering his case load, in 1986.

Final rites and prayers will be said for Judge Noland today at Meridian Street Methodist Church. He will long be remembered in the hearts and minds of his colleagues and friends both as a good judge and a fine human being.

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[From the Indianapolis News, Sept. 14, 1992]

JUDGE JAMES E. NOLAND

U.S District Judge James E. Noland set an unusually high and fair standard in his years on the bench in the Southern District of Indiana.

Noland, who died earlier this week at the age of 72, served on the federal bench from 1966 to 1986.

He also was chief judge for the district from 1984 to 1986, when he assumed senior status and a reduced caseload.

Earlier in his career he served one term in Congress, in the old 7th district that included Bloomington.

The primary characteristics that he brought to the bench are important ones for any judge—impartiality and respect for people on all sides of the hard cases that come before a court.

Richard Darko, an Indianapolis attorney and Noland's clerk in 1968–1969, recalled the way Noland set an appropriate tone in his courtroom.

"He got along with lawyers, he got along with litigants," he said. "He went out of his way not to embarrass anyone in the courtroom. He really set the standard for the lawyers in the Southern District of Indiana as to how you should act in the courtroom. He always expected people to be civil, to be polite." Recalling draft-dodging trials of the late 1960s, Darko said Noland showed respect towards all involved. "He had a remarkable ability to see both sides of the situation and deal with people fairly."

"He always gave everyone a chance to say their piece," added his colleague, Judge Hugh Dillin.

In his career, Noland presided over a wide range of controversial cases.

They ranged from the first Speedway bombing trial of Brett Kimberlin to the complex auto racing dispute in 1979 between the United States Auto Club and Championship Auto Racing Teams around the 500-Mile Race.

It is a testimony to his character and integrity that he managed to develop his reputation in the midst of handling these kinds of cases.

Another colleague, federal Judge Sarah Evans Barker explained his abilities as a judge this way: "I got to lawyer before him and be his colleague. That was twice a blessing, twice a gift. There is a maxim about what it takes to make a good judge: patience, patience and patience. He mastered it."

His service on the bench will be missed by many.

But the example he set remains as a good standard for other judges to follow.

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[From the Indianapolis News, Sept. 13, 1992]

JAMES E. NOLAND DIES AT 72

James E. Noland, former chief judge of the federal court for the Southern District of Indiana, died Wednesday at Methodist Hospital.

Noland was 72. Flanner & Buchanan Broad Ripple Mortuary will handle the services.

Appointed to the bench by President Lyndon Johnson in 1966, Noland succeeded Judge S. Hugh Dillin as chief judge in 1984. He took senior status as a judge, reducing his case load, in 1986.

Noland presided over many notable cases, including the 1982 trial of former Indiana

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Senate President Pro Tem Phillip E. Gutman, who was convicted of extorting $53,000 from railroad lobbyists to influence the state's "full crew" law.

He also presided over the 1979 dispute between the United States Auto club and Championship Auto Racing Teams over whether race drivers from CART could participate in the 500-Mile Race sanctioned by USAC; the first trial of Speedway bomber Brett Kimberlin and the recent lawsuit over the ownership of four stolen Byzantine mosaics acquired by a Carmel art dealer but eventually awarded to the Autocephalous Greek-Orthodox Church of Cyprus.

Gov. Evan Bayh, who clerked for Noland in 1982, said Noland's death "brings grief for the entire state of Indiana and particularly for me. In the time that I was privileged to serve this man dedicated to the law and to Indiana, I found in Judge Noland an inspiring commitment to public service and a lifelong friend as well."

Dillin, a friend of Noland's for half a century, said, "He was a great judge. He had a great career."

"He was always pretty calm in the courtroom. He always gave everyone a chance to say their piece. I thought he handled (the mosaics case) extremely well. That case will have international repercussions in the art field, all for the good."

Dillin said Noland's work as chairman of the American Bar Association's National Conference of Federal Trial Judges made him "known all over the country from one end to another."

Judge Sarah Evans Barker said, "I got to lawyer before him and be his colleague. That was twice a blessing, twice a gift. There is a maxim about what it takes to make a good judge: patience, patience and patience. He mastered it."

John O'Neal, clerk of the Southern District court, called Noland "very considerate and gentle. His loyalty to this staff was exceptional, and in return we were undyingly loyal to him.

"If I could use a worn-out cliche to describe his manner on the bench and in conference with attorneys, his motto would be 'kill them with kindness.' That's the way he operated."

A native of LaGrange, Mo., Noland grew up in Indiana in Spencer and Bloomington. He graduated from Indiana University is 1942, from the Harvard University School of Business in 1943 and the I.U. Law School in 1948.

Living in Bloomington, the 28-year-old Noland was elected to Congress for one term in 1948 in the old 7th District. He was defeated in 1950 by William G. Bray.

Noland was the Democrat member of the State Election Board from 1959 to 1966 and also secretary of the Democrat State Committee in those years.

The judge served 1973-1982 on a special committee of the Judicial Conference of the United States that dealt with the operation of the federal magistrate system.

In 1983, Chief Justice Warren Burger appointed Noland to a 7-year term on the U.S. Foreign Intelligence Surveillance Court. Chief Justice William Rehnquist appointed him presiding judge of the intelligence surveillance court in 1988.

Survivors—wife, Helen W. Noland; daughter Kimberly Bonstrom; sons Dr. James E., Christopher Noland; sister Margaret A. Noland.

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[From the Indianapolis Star, Sept. 14, 1992]

### JUDGE NOLAND

Services for Senior U.S. District Judge James E. Noland, 72, Indianapolis, a former chief judge of the Southern Indiana Judicial District, will be at 11 a.m. Monday in Meridian Street United Methodist Church.

Calling will be from 1 p.m. to 4 p.m. Sunday in Flanner & Buchanan Broad Ripple Mortuary.

Judge Noland, named to the bench by President Lyndon B. Johnson in 1966, died Wednesday.

In one of his last noted cases, Judge Noland presided over the trial of the Kanakaria mosaics. He ruled that Carmel art dealer Peg L. Goldberg did not own the four Cypriot mosaics, which had been taken from a church in Cyprus.

The case was termed a landmark because the judge ruled that countries have a right to regain their cultural heritage.

He was chief judge from 1984 to 1987, when he took senior status, a move that reduced his caseload.

Judge Noland also presided over the 1982 trial of Phillip E. Gutman, former president pro tempore of the Indiana Senate, who was convicted of extortion.

The judge also presided over the conviction of "Speedway bomber" Brett Kimberlin.

Gov. Evan Bayh, a law clerk for Judge Noland in 1982, said: "The loss of Judge James Noland brings grief for the entire state of Indiana and particularly for me.

"In the time that I was privileged to serve this man dedicated to the law and to Indiana, I found in Judge Noland an inspiring commitment to public service and a lifelong friend as well."

Fellow U.S. District Judge John D. Tinder said of the judge: "He was a very kind person, and it was an honor to have been on the same court with him. We are all richer for having known him, and the court will feel his loss for years to come."

U.S. Attorney Deborah J. Daniels said Judge Noland "gave a great deal to this community throughout a long and illustrious career. As a judge, he never backed away from a tough issue; but more importantly, he treated all those who appeared before him—both litigants and lawyers—with dignity and respect."

Former U.S. Attorney Virginia Dill McCarty said: "It was always a pleasure to have a case in his court. He treated everyone with respect, and he had a wonderful sense of humor which didn't get in the way of the serious business of the court, but there were times when that helped a lot."

Indiana Appeals Court Judge Stanley B. Miller, also a former U.S. attorney, said: "He was kind; he was sensitive; he was completely fair to both sides. Never did any of my people or myself get the impression he was opinionated or favored one party over another. He was a very, very nice person and had a great sense of humor.

A Democrat, Judge Noland served in the U.S. House of Representatives from 1949 to 1950 from the 7th Congressional District.

In 1983, Chief Justice Warren Burger named Judge Noland to the U.S. Foreign Intelligence Surveillance Court, which approves wiretapping and other orders involving U.S. intelligence work overseas. He was presiding judge of that court from May 1988 to the end of his term in 1990.

A graduate of the Indiana University School of Law, Judge Noland received a master's degree from the Harvard University Graduate School of Business. He was an Army veteran of World War II.

Judge Noland was the Democratic member of the State Election Board from 1959 to 1966 and was the secretary of the Democratic State Central Committee during those years.

Memorial contributions may be made to Haverford Moravian Church, of which he was a member; IU Law School; or the Indiana State Museum endowment fund.

Survivors: wife, Helen Warvel Noland; sons, Dr. James E. Jr. and Christopher Noland; daughter, Kimberly Noland; sister, Margaret A. Noland; four grandchildren.

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## FAMILY AND MEDICAL LEAVE BEST LEFT TO EMPLOYERS/EMPLOYEES

## HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. BEREUTER. Mr. Speaker, with respect to the mandatory family and medical leave bill passed by the House recently I would endorse and commend the September 18, 1992, editorial of the Norfolk Daily News. As the editorial points out, the big government inclination to take more and more decisions away from employers and employees is slowly draining away the economic freedom which sustains democracy.

Also, Mr. Speaker, the Daily News editorial and the following Omaha World Herald editorial from September 9, 1992, both point out that this legislation is a phony campaign issue, intentionally delayed many months and then raised callously near the end of an election year. This Member commends both editorials to his colleagues.

The Democratic majority in Congress has challenged President Bush, in effect, to veto motherhood and apple pie. The 241-161 vote for the Family Leave bill was mostly along party lines, but is insufficient to pass in the face of a presidential veto.

Mr. Bush has promised one. So, the majority leadership in Congress sees the chance to make points with a "family values" issue that had been presumed to favor conservative Republicans more than liberal Democrats.

There is a fundamental difference on this issue that is worth careful examination. It is not about family values, however. It is about how far independent Americans expect their government to go in overseeing the conditions under which they work, the agreements free men and women make with their employers and their employers make with them.

Many employers today offer as much as the 12 weeks of unpaid family leave, which the government would impose by decree. Some of them do it with formal agreements. Smaller firms wishing to retain valuable employees do it by less formal means. Some also provide paid leave or advance vacation time under special circumstances.

Where a crisis demands the presence at home of a worker and tasks can be assumed temporarily by others, business managers accommodate employees. The burden this imposes on remaining workers or on the provision of services to customers and profits to the firm are accepted. It is not a practice that can be dictated, however, without economic consequences to efficiency and productivity in any business or industry affected.

Historically, this special granting of leave has been the sort of arrangement between employers and employees that was left to them to work out. An all-wise, all powerful federal establishment did not get involved.

It will increasingly, however, if this first attempt at mandating unpaid leave succeeds. The limitation of the law to firms with 50 or more employees would soon be lowered, and "unpaid" leave could be expected to become "paid."

It would not take much of a shift in philosophy or votes to bring about such broad changes. They would be further severe tests of this democratic society and its government. The power to vote more benefits is so appealing as to eventually defeat the economic freedom which sustains democracy.

Opponents of the bill are, correctly, pointing out the political callousness of congressional action at this time. It is more serious than that, however, because it is more evidence that there is no limit to the steps politicians are willing to take to intervene whenever they perceive voluntary agreements not producing utopian results.

### FAMILY LEAVE BILL IS BACK; IT'S A PHONY CAMPAIGN ISSUE

One of the phonier campaign issues of this election year is materializing in Congress. Democratic leaders in the House are getting ready for another attempt to pass a family leave bill.

President Bush vetoed similar legislation in 1990. Capitol Hill observers have reported no significant shift in the lines of support to indicate that the chances of overriding a veto have improved.

But the Democrats are trying nonetheless. George Mitchell, the Maine Democrat who serves as the Senate's majority leader, says there are few more important pieces of legislation on this autumn's agenda.

To understand how a recycled piece of veto bait could receive such lofty status from the majority leader, consider the failure of Mitchell's party to come up with a coherent position on the family values concerns that Dan Quayle raised in his San Francisco speech last May.

The first Democratic response was to distort Quayle's throwaway line about Murphy Brown, making it falsely appear that the vice president held single mothers, and even working mothers, in contempt.

It didn't silence Quayle. The Democrats' problem was that not everyone shared their one-dimensional view of Quayle's concerns. More than a few mainstream voters recognized that Quayle was telling the truth when he traced violence in American cities in part to dysfunctional families in which kids grow up in poverty and sometimes anger, lacking respect for other people, lacking the values they need to succeed in the workplace and even lacking the knowledge to form stable, self-sufficient families of their own. And when he pointed out that cultural elites often mock values that are associated with stable family life.

So now the action shifts to Congress. If things go according to some people's plan, the family leave bill will be passed before the election, sent to the White House and vetoed. Then Bush's critics will accuse him of being a hypocrite who supports family values but vetoes "pro-family" legislation.

The tactic is morally bankrupt. It suggests a profound lack of familiarity with what Quayle was talking about. And it reflects no understanding of the damage the government could cause in the business climate by forcing employers to provide more benefits.

Such a bill would allow a key employee to take an extended leave. Insurance coverage would be preserved even though the person was contributing nothing to the revenues of the business. A replacement would have to be found and trained. Perhaps other employees would have to do double duty. Then the person could return, nudging aside the replacement.

Granted, some employers allow their people to take time off without pay when a relative is seriously ill, or when a new baby arrives in the household.

But it's one thing for employers to provide a family leave program voluntarily, with precautions tailored to preserve efficiency of their particular operation and to be fair to all their employees. It would be something else again for the government to mandate a benefit willy nilly, as the Democrats propose to bash Bush for refusing to do.

The issue has been dead since 1990. It deserves to stay dead, not only because it is a phony campaign issue but also because it would be bad for the economic recovery.

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## TRIBUTE TO BARBARA GREENWOOD

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. SOLOMON. Mr. Speaker, local government is the level most Americans are not familiar with. That being the case, the people of the town of Moreau in New York's 24th District have been lucky to know someone of the stature of Barbara Greenwood.

After more than 25 years of service, Barbara Greenwood is retiring October 5 as town clerk. Those years of service represent only one of the reasons we are all going to miss her. So often, a valued public official also turns out to be active in her community, and Ms. Greenwood is a good example of that.

After 10 years as deputy clerk, Ms. Greenwood was elected town clerk in 1977, the position she has held ever since. Along with her town board duties, she has also overseen assessments and the collection of water rents and county and school taxes. Her office has issued all licenses and maintained records of all births and deaths.

But that is not all. She still found time to participate in the Moreau Republican Club and the American Legion Auxiliary. She has served as a Sunday school teacher and choir member of the South Glens Falls United Methodist Church. And since I have been involved in Scouting for many years, I am glad to note that Ms. Greenwood also has assisted Girl Scouts of America for 30 years.

Ms. Greenwood told a local newspaper that she will miss the day-to-day contact with people. I am sure that is true but we will miss her even more, because she will be moving to Orlando, FL. And even as we appreciate her well-deserved chance to relax in the Sun, we will have a hard time replacing her.

Mr. Speaker, on September 30 her many friends will honor her with a retirement dinner. I ask this House to rise with me to pay our own tribute to a very special lady and dedicated public servant, Barbara Greenwood of the town of Moreau.

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## FOURTH ANNUAL CHINESE CULTURAL AND HERITAGE FESTIVAL

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. PALLONE. Mr. Speaker, on Saturday, September 26, 1992, the Garden State Arts Center in Holmdel, NJ, will be the site of the Fourth Annual Chinese Cultural and Heritage Festival. Previous years' festivals have drawn at least 5,000 visitors, and I will be proud to be one of the thousands in attendance this Saturday.

The Chinese festival is an opportunity for people of Chinese descent from throughout New Jersey and the entire New York metropolitan area to celebrate centuries of cultural achievement. It is also an opportunity for people from other ethnic groups to learn about the traditions and proud history of one of the world's oldest and most enduring civilizations. Beyond paying tribute to past accomplishments, the festival offers an occasion for Chinese-Americans, part of a vibrant and growing community in New Jersey and many other regions of the United States, to look toward an exciting future.

The festival is coordinated with Chinese-American organizations from throughout the State of New Jersey. A particularly important role has been played by the Chinese schools, a network of educational facilities that meet on Saturdays to provide Chinese-American children with an opportunity to learn the language and customs of China, and keep this brilliant culture alive in this part of the world. Groups from the schools will perform at Saturday's festival. In addition, we will be very fortunate this year to enjoy performances in the traditional style, arranged by the Taiwanese Good Will Mission.

Recent years have witnessed the collapse of the Soviet empire and the reawakening of hope for many nations living under oppression. The one billion citizens of the People's Republica of China, however, still await a loosening of political and economic repression. United States policies should encourage the peaceful transition to a democratic, free-market system in China. In addition, we must endeavor to protect the economic gains of Hong Kong, and try to ensure that unification with the People's Republic results in a general improvement in living standards, rather than a general lessening of the quality of life.

For all their hard work in bringing together Saturday's festival, credit must be given to festival co-chairpersons Margaret Ko-Ma and Chia Wang Whitehouse, as well as the many indispensable volunteers. Proceeds from the festival go to the Garden State Arts Center Cultural Fund, helping senior citizens, disabled people, and children throughout New Jersey.

## VOTE "NO" ON THE BROOKS BILL, H.R. 5096

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. STARK. Mr. Speaker, next week the House is likely to vote on H.R. 5096, commonly referred to as the Brooks bill. I urge a vote in opposition.

I firmly believe that consumers will benefit from new, emerging information services. I also believe these services should be brought to the marketplace without improper Government intervention. As long as these services are developed without cross-subsidization and priced fairly and made available to all consumers at reasonable prices, I believe we should foster competition.

H.R. 5096, unfortunately, inhibits the development of information services and new jobs in the East Bay. I will vote "no" and urge my colleagues to do the same.

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## TRIBUTE TO SHIRLEY WEEKS

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Shirley Weeks, who is retiring this year after 44 years of public service to the people of Ventura County.

Shirley, who began working for the county in 1948, became the acting clerk to the county board of supervisors in 1952. In the succeeding, years, she worked under three county clerks and recorders—L.E. Hallowell, Robert Hamm, and Richard Dean. In 1988, she received her 40-year service award from the county.

Shirley is a native of Ventura County, and grew up in Ojai. Her father, a native of Finland who emigrated to the United States, was an artist and sculptor who created many works, including the famous statue of Father Junipero Serra, founder of the California missions, which stands in front of Ventura City Hall. A meticulous recordkeeper, Shirley has a deep interest in local history and is a trustee of the Native Daughters of the Golden West.

She is a volunteer each year at the Ventura County Fair, serves as a volunteer in the county alcohol information school, and is interested in mental health issues. Last year, Shirley received her associate of arts degree from Ventura College.

Mr. Speaker, on behalf of the people of Ventura County and the U.S. House of Representatives, it's my pleasure to extend congratulations to Shirley for her exemplary career in public service, and to wish her the best in years to come.

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## WHAT BILL CLINTON REALLY HAS UP HIS SLEEVE

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. DREIER of California. Mr. Speaker, this past weekend I met with a very capable member of California's State Board of Equalization, my good friend Matthew Fong.

Mr. Fong has authored an insightful analysis of Bill Clinton's horrendous tax proposals. Rather than expanding on them I simply commend this article to our colleagues.

### WHAT BILL CLINTON REALLY HAS UP HIS SLEEVE

(By Matthew K. Fong)

One of my jobs as a Member of California's State Board of Equalization is to evaluate the impact of new tax proposals. I have taken a look at the taxing and spending proposals offered by Mr. Clinton in his bid for the Presidency. If you think California is now in the economic frying pan, get ready to jump down into the fire if Bill Clinton's proposals ever become law.

Mr. Clinton wants to impose one of the largest gross tax increases in history on the American people—more than 150 billion dollars. And, he intends at the same time to increase government spending by 220 billion. He openly proposes to substantially increase the national debt over the next four years. His runningmate, Senator Gore, was a leading supporter of the Congressional filibuster that recently killed the Balanced Budget Amendment supported by President Bush and most Americans.

Higher taxes do not lead to smaller deficits. They dig the nation deeper into debt. Over the past 40 years, for every $1.00 in increased taxes, government spending has gone up $1.58. Bill Clinton claims he wants to change history, but the fact is he wants to repeat it—higher taxes and more spending.

The interest on our national debt now consumes 27 cents of every tax dollar raised. The debt is growing at the rate of $1 billion a day. Mr. Clinton's scheme will significantly increase the size of the debt and the interest owed on it. It will force further tax increases just to pay for the increased interest due.

It appears that the tax increase promised by Bill Clinton today is only the rumbling of an avalanche of tax and spending increases yet to come under a Clinton administration. Mr. Clinton repeatedly raised taxes and fees as Governor of Arkansas, and there is no reason to suspect he will change course if he becomes President of the United States. A leopard does not suddenly change its spots.

Bill Clinton's record as Governor of Arkansas for 12 years is distressing to say the least. Under his leadership, Arkansas remains one of the poorest states in the union. If Mr. Clinton's policies did not make life better in Arkansas, they surely won't improve things nationwide.

Mr. Clinton claims his tax and spending increases will be a New Deal for America, something like Roosevelt achieved in the late 1930's. He proposes to create new jobs by placing more people on the government payroll through public works projects. But, such programs cost at least twice as much to create jobs as in the private sector. Bill Clinton does not seem to fully grasp the importance of focusing on creating jobs in the private sector. Gross National Product (GNP) is created only by private sector jobs—not government jobs. Mr. Clinton's misplaced emphasis on government jobs is perhaps understandable in view of his own career which has been lived from one government paycheck to the next.

Bill Clinton attempts to shelter his tax increase from criticism by calling it a "tax-the-rich" plan. It turns out, however, that many of the so-called "rich" targets of the Clinton scheme are small businesses—Subchapter "S" corporations operated as family concerns. Bill Clinton conveniently forgets that 99% of all businesses in the United States are small businesses, and they generate 67% of all new jobs. In 1991, two out of three new American jobs were created by small business.

More than 75% of the new taxes to be raised under the Clinton proposal will be taken from Subchapter "S" corporations, sole proprietorships, partnerships, and family farms. Families and their family-run businesses are struggling to balance their own budgets by cutting spending. The "pink slips" and business bankruptcies that will flow from the Clinton plan will result not from failed business entrepreneurship, but from failed government "tax and spend" policies. Bill Clinton's "tax-the-rich" scheme is really a disguised job-killer aimed at small businesses who cannot afford to pay one penny more in taxes.

Bill Clinton targets the so-called "rich" because, in his view, they are not paying their "fair share" in taxes. The truth is, however, that in the decade of the 1980's, taxes on upper incomes increased dramatically, while taxes on middle and lower incomes actually went down. According to the Congressional Budget Office, the percent share of all income taxes paid by the top one percent of taxpayers rose 40%, the top five percent went up 23%, the top ten percent increased 15%, and the top twenty percent went up 9%. The bottom sixty percent of taxpayers experienced a 20% decline in their share of all income taxes, the bottom forty percent declined 33%, and the bottom twenty percent plummeted downward by 150%.

Taxing the rich may redistribute wealth, but it will not solve our national budget problems. If the United States confiscated every cent of personal income over $100,000 (a 100% tax), the money collected would only run the federal government for less than 3 weeks. Contrary to Mr. Clinton's ideas, Washington does not need to take more tax dollars out of any citizen's wallet, rich or poor. The federal government needs to learn how to balance its budget and operate more efficiently.

The golden rule of politics and the economy is this: "Beware of any politician who claims a tax increase will cure our economic ills." Economic prosperity comes from private enterprise, not government bureaucracy. Bill Clinton says he wants to soak the rich, but if he has his way all of us, rich, poor and in between are going to take a bath.

That is exactly what happened when the last governor from the South, Jimmy Carter, occupied the White House. Who can forget waiting all night in long gas lines just to get enough fuel in the morning to drive to work? The double digit unemployment of those dark days far exceeded today's troubles. Inflation reduced the value of our incomes and everything we owned at the alarming rate of 13% a year. Interest rates chewed up our purchasing power at a shocking 21% per annum.

The last time the nation had a Democrat in the White House, the whole country went to the poor house. To be sure, Bill Clinton is no Jimmy Carter. Clinton is worse.

Abraham Lincoln, the first Republican President of the United states, died on April 15, 1865—the day of the month our federal and state taxes are now due. He would roll over in his grave if he knew what Bill Clinton and the Democrats want to do to Americans on April 15 of next year.

I believe people are beginning to see what Bill Clinton has up his sleeve for our country. What they see are not winning cards, but losers in the form of tax bills and pink slips. I do not believe Americans want the hand Bill Clinton is prepared to deal the nation.

## TRIBUTE TO MILTON GALIMITAKIS

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. TRAFICANT. Mr. Speaker, I proudly rise here today to pay tribute to a man whose valor and courage saved the lives of many of his countrymen. Mr. Speaker, Milton Galimitakis is my district's most highly decorated American-Greek Vietnam War veteran. It brings me great pleasure to recognize him in this, the 10th anniversary of the Vietnam War Memorial.

Mr. Galimitakis served in Vietnam for 10½ months from 1968–69. He toured first with Big Red 1, then with the 9th Division, A Company, 5th/60 in the Mekong Delta. As a soldier in the Delta, Mr. Galimitakis distinguished himself as a courageous leader honored by both the United States and South Vietnamese Governments.

Mr. Galimitakis earned the Army Commendation Medal—with V device—after he saved a fellow American from the deadly jaws of a booby trap. In doing so, he not only saved the life of his friend, but of the entire company readying to walk through the area.

Mr. Speaker, this type of courage is indicative of Mr. Galimitakis' tour through this war-torn country. He earned the Cross of Gallantry from the grateful South Vietnamese and the infantryman's highest award, the Combat Infantrymen's Badge [CIB], from the United States. The CIB is bestowed upon soldiers who have seen heavy battle while putting their lives at risk. Mr. Galimitakis also was decorated with two Bronze Star and Oak Leaf awards, recognizing valor in the face of war.

But his heroics were not confined to the ground. Mr. Galimitakis was awarded the Air Medal after he led more than 25 successful helicopter raids into enemy territory.

Mr. Speaker, as Veterans Day approaches, it is important to remember men like Milton Galimitakis. He was lucky to survive, but Agent Orange got the better of him. He is now a disabled veteran trying to make ends meet on whittled down Veterans assistance. We must never forget our heroes.

Best of luck to you, Mr. Galimitakis, your accomplishments and courage are forever part of our country's history.

## THE 17TH ANNUAL SLOVAK CULTURAL AND HERITAGE FESTIVAL

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. PALLONE. Mr. Speaker, on Sunday, September 27, 1992, the Garden State Arts Center in Holmdel, NJ, will be the site of the 17th Annual Slovak Cultural and Heritage Festival. Previous years' festivals have drawn thousands of visitors from throughout New Jersey and the New York metropolitan area. It will be a joy and an honor for me to be among those in attendance at Sunday's festival.

The Slovak Festival has provided an opportunity for people of Slovak descent to celebrate their proud and enduring culture, as well as a chance for people of other ethnic groups to learn about a nation and a people who have not received the degree of understanding and appreciation to which they are entitled. Through the years of oppression and foreign dominance, most recently under the grip of the new-defunct Soviet Empire, the people of Slovakia have held on to their language, their culture, their way of life—in a word, their nation. A large share of credit should go to the Slovak community in the United States, who supported their brothers and sisters during those hard years under communism. In 1989, the Slovak people played a major role in the Velvet Revolution that toppled the Soviet-imposed Communist puppet regime.

This year is one of the most exciting and important in the history of the Slovak people. The Slovak nation has successfully—and peacefully—secured its independence from the Czech lands. The new independent Slovak Republic will begin its existence at the end of this year, and I am confident that the United States-Slovak relationship will be a warm one, with a strong foundation in the shared values of peace, religious and political freedom, human rights and democracy.

Sunday's festival will begin with a Mass celebrated by Bishop Edward Kojnok of the Diocese of Roznava, who was installed after the fall of the Communist government. The Slovak National Theater, in its first American appearance, will present a special performance. There will, of course, be lots of good food, as well as crafts and other exhibits to make the festival an enjoyable afternoon for all.

I would like to take this opportunity to pay tribute to the festival chairman, Judge Joseph Talafous of Jersey City, NJ, and the many Slovak fraternal organizations from New Jersey and throughout the United States who have worked so hard to make Sunday's festival the great success I'm sure it will be.

## TRIBUTE TO PAT NEAR

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. SOLOMON. Mr. Speaker, there are quite a few of them in our congressional district. I call them quiet Americans. They are people who, without much fanfare, make their communities nicer places to live.

I'd like to talk about one of them today. Her name is Pat Near, and she is a very special lady.

She has just retired as village clerk-treasurer for the village of Philmont, after 30 years of service. She began as a librarian in 1962. Five years later she accepted the post of deputy clerk. She moved into her last position in June of 1980.

From her first day to her last, she was a model public servant, always willing to help the public at that level of government closest to the people.

This she did while managing a family. She and her husband, Herbert, have two sons, Michael and Thomas. They were also the parents of a daughter, Coleen, who recently passed away.

And, as is so often the case with these quiet Americans, Pat was active in her community. As a former volunteer fireman myself for many years, I am glad to note that Pat was a member of the Philmont Fire Company Auxiliary. She was also a member of Sacred Heart Church.

Pat and Herb, who is retired from the Columbia County Department of Weights and Measures, plan to travel. Whatever their plans, I know I speak for everyone who knows them when I wish them well.

Mr. Speaker, there will be a testimonial dinner to Pat Near on October 17. Let us rise to pay our own tribute today to Pat Near, a model public servant and a pillar of her community.

## A TRIBUTE TO VERY SPECIAL ARTS AND ITS VERY SPECIAL PEOPLE

### HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Very Special Arts and the outstanding people who have worked to make this organization a great success internationally, nationally, and especially in my own State of New Hampshire.

Very Special Arts was founded in 1974 as an educational affiliate of the John F. Kennedy Center for the Performing Arts and has been designated by Congress as the coordinating agency of its arts programs for persons with disabilities.

Very Special Arts is a very special program made possible by very special people. As an architect and amateur artist, I have a great personal appreciation for the arts. When I was a student, my class schedule always included at least one art class. Art has brought my life great gifts of joy, enrichment, and satisfaction. That is one reason why I am so enthusiastic about the Very Special Arts program which helps to bring those same gifts to people with disabilities.

The selfless and dedicated individuals who serve in this organization are an inspiration to all. Their commitment and patience in helping people with disabilities to find joy and fulfillment through the arts is truly commendable.

I am most familiar with the New Hampshire chapter of Very Special Arts whose good works I have seen as I travel throughout my district. It reaches out to hundreds of individuals across the State and helps them to become involved in arts festivals, school-based art education classes, training programs with accomplished artists, and many other worthwhile activities. Its residency programs have included students from the Spaulding Youth Center, the Jolicouer School, and the Pike School, among others. Very Special Arts New Hampshire also works with adults in cooperative programs with local arts councils, mental health programs, and residential facilities. In addition, it is a strong advocate for integrated programming, accessing community arts experiences for all people.

Mr. Speaker, many fine individuals associated with this organization deserve our praise. I wish to particularly recognize the efforts of New Hampshire Very Special Arts executive director, Deborah Stuart, and assistant director, Perkins Foss. The tremendous success of this program is due in large part to the efforts of these two outstanding individuals and those who work with them.

To highlight the accomplishments of Very Special Arts, I am sponsoring an outstanding art exhibit organized by Very Special Arts New Hampshire to be displayed in the Cannon Rotunda here on Capitol Hill from September 23 until October 2. "New Hampshire Images: Artist as Teacher/Student as Artist" highlights some of the Granite State's finest artists and the young people with whom they work. After its debut here in Washington, this exhibit will open in Concord, NH, at the Kimball Jenkins Estate Gallery, where it will be on display through November.

The exhibit incorporates the creativity of almost 200 children and adults. It includes many diverse pieces, ranging from a stained glass door done by adults with severe mental illness to a large collaborative weaving made by the residents of a community for the developmentally disabled.

I am particularly pleased that a number of the artists and organizers of this impressive exhibit have been able to come from New Hampshire to Washington for the exhibit's opening. In addition to Deborah Stuart and Perkins Foss, I want to pay special tribute to Maureen Hall, Althea Haropulos, Bobbie Herron, Christian Hoffman, James Magee, Travis Puffer, Lori Seog, and Ann Marie Sweeny.

I also want to recognize the contributions of Very Special Arts National in helping to make the Washington opening of this exhibit a success. I especially want to thank the head of this organization, Gene Maillard, for his leadership and support. This group has been particularly active recently. A few weeks from now, they will be participating in the 200th birthday of the White House where they will again exhibit artwork of people with disabilities.

Mr. Speaker, I want to remind my colleagues that the exhibit will be on display from today through October 2 in the Cannon rotunda. I encourage them to make every effort to see this extraordinary exhibit of New Hampshire art.

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## NATIONAL CENTER FOR LEAD-SAFE HOUSING

## HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Ms. OAKAR. Mr. Speaker, I would like to commend the Fannie Mae Foundation, which yesterday announced a $5.5 million grant to finance a new National Center for Lead-Safe Housing. The grant is the largest single grant ever made by the Fannie Mae Foundation.

The Center was jointly established by the Enterprise Foundation and the Alliance to End Childhood Lead Poisoning. The Center is the largest privately funded project in the United States devoted to lead poisoning and will develop, test, and promote the nationwide adoption of cost-effective strategies for preventing childhood lead poisoning.

Lead contaminates as many as 5 million housing units and threatens the health of as many as 3 million of America's children. It is only when we review these statistics that we realize the importance of this grant and the creation of this center.

I would like to insert the statement of the executive director of the Alliance to End Childhood Lead Poisoning at the announcement of the grant.

STATEMENT BY DON RYAN, EXECUTIVE DIRECTOR, ALLIANCE TO END CHILDHOOD LEAD POISONING

It is my pleasure to be here today on behalf of the Alliance's Board of Directors and staff—and on behalf of all those working to wipe out childhood lead poisoning across the nation—in all levels of government, the private sector, academia and the advocacy community.

This Fannie Mae Foundation grant truly marks a turning point: the first commitment from a major player in the world of housing and the first joint venture between advocates for environmental health and affordable housing. When the history of lead poisoning prevention is written, this day will be circled.

I want to salute the Fannie Mae Foundation for your courage in tackling this tough issue, your commitment to seeing this problem solved, and your vision in making possible the creation of the National Center for Lead-Safe Housing.

This $5.5 million grant is the largest ever made by a private foundation for lead poisoning. But just as important as the money is the message that Fannie Mae's investment in preventing lead poisoning sends across the world of housing:

The hazards posed by lead-based paint in housing are real,

These threats to children's healthy development can no longer be ignored, and

Most importantly, this problem can be solved—this disease can be prevented.

I will be the first to admit that the problem of lead-based paint in housing is vexing: half our housing stock has some lead paint; 20 million homes are plagued by lead hazards; millions of children are affected; and the full abatement of all lead paint would cost hundreds of billions of dollars and take decades.

The sheer magnitude of the problem has until now pushed us into a reactive mode—nothing is done until after a child is found poisoned, and then maybe the lead paint in that one house is attacked. Naturally, parents want and need to know if their child has been poisoned. And our health system is making progress towards the national goal of "universal screening."

But screening children for lead poisoning is not enough. Screening means reacting to lead poisoning. Health and housing experts now agree that we must identify lead hazards and take steps to correct them before the damage is done. And there's the rub.

What constitutes a lead-based paint hazard—and what should be done to fix it? When is cleaning and repainting enough—and when is full abatement required? What steps does a landlord have to take—to do the right thing? And how do we start getting the right thing to happen on a broad scale?

What we need are some smart answers, common sense solutions, and new approaches to make clear to property owners what they need to do. We need to find ways of giving landlords incentives and credit for doing the right thing. And we must ensure, at the same time, that children are being protected.

I am elated to see the Congress putting the finishing touches on a break-through piece of legislation that provides a more workable framework for reducing lead hazards in housing. Title X of the Senate-passed Housing Reauthorization Bill (S. 3031) takes a responsible, enlightened and well-reasoned approach to the problem. This bill enjoys wide support among both health and housing groups as well as the Administration. This bill is crucial to progress in prevention of childhood lead poisoning—it needs to be passed and signed into law this year.

In closing, I would like to emphasize how honored the Alliance is to join in creating this National Center with the Enterprise Foundation, one of the nation's foremost leaders in the battle for affordable housing. Our joint sponsorship of this Center will ensure the balance it needs to find honest, objective, credible answers—and to put prevention strategies into practice on a broad scale.

Thank you again Fannie Mae for making this Center possible.

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## HONORING JOSEPH M. FARLEY

## HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. HARRIS. Mr. Speaker, as this House prepares to pass comprehensive national energy legislation, I believe it is important to acknowledge the contributions of a key leader in the American electric utility industry, particularly the nuclear energy industry. Joseph M. Farley this year will retire as chairman of the board of Southern Nuclear Operating Co. and corporate counsel of the Southern Co. in Birmingham, AL. He will also be stepping down as chairman of the American Nuclear Energy Council.

It is through the hard work and dedication of industry leaders, such as Joe Farley, that Congress approved an energy bill with substantial support from both sides of the aisle.

Mr. Farley has worked in law and the nuclear energy industry for more than 40 years. After earning an engineering degree from Princeton University and a law degree from Harvard, Mr. Farley returned home to Alabama and began to practice law at age 25.

Mr. Farley became executive vice president of Alabama Power Co. in 1965 and was elected president of the utility 5 years later. In 1989, Mr. Farley was named executive vice president, nuclear of the Southern Co., one of the Nation's largest investor-owned electric utilities, serving more than 6 million people, and the parent company of Alabama Power, Georgia Power, Gulf Power, Mississippi Power, and Savannah Electric.

In 1991, Mr. Farley became president and chief executive officer of Southern Nuclear Operating Co., a subsidiary of the Southern Co., formed to provide operating and management expertise, not only to the other members of the Southern Co., but to provide long-term leadership in the nuclear energy industry. Since 1989, Mr. Farley has served as chairman of the American Nuclear Energy Council which represents more than 100 utilities and organizations with interests in nuclear energy.

Under the leadership of Joe Farley, the nuclear energy industry has earned its most significant gains in nearly four decades of work to sustain the nuclear option in this country's future energy mix. During this session, both Chambers overwhelmingly passed nuclear energy plant licensing reforms in the national energy measure.

Recognizing the crucial need to provide safe storage for spent nuclear fuel and decommissioned reactors, Mr. Farley has worked hard to break the impasse between the Federal Government and the State of Nevada on the site characterization of Yucca Mountain as a potential high-level nuclear waste repository. The studies necessary for this site characterization are now moving forward. In August, Nevada granted the Department of Energy [DOE] a water permit that will enable DOE to proceed in a timely manner.

Mr. Farley has also championed an effort to restructure the Federal Government's uranium enrichment program. This new enterprise program will make our domestic enriched uranium more competitive in the world market.

A man of great integrity and vast knowledge of the business world and the role electric utilities play in a strong America, Mr. Farley has often testified before congressional panels seeking straightforward answers to the most complicated energy issues. During the 102d Congress, Mr. Farley testified before House and Senate committees examining issues ranging from nuclear energy regulation, safety and design certification of advanced reactors to Russian uranium prices, funding for advanced reactor research, restructuring the DOE's uranium enrichment enterprise, decommissioning costs and high-level waste disposal.

In August of this year, Mr. Farley met with President Bush in the White House to discuss the initiatives that must be taken to develop a solid, forward-looking energy policy for this Nation. I am proud to honor Joseph Farley, an Alabama native, for his great leadership to our State and Nation in the field of energy.

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## ANNOUNCING FURTHER AMENDMENTS TO H.R. 918 THE MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1992

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### HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mrs. VUCANOVICH. Mr. Speaker, in furtherance of my desire to inform Members of potential amendments to H.R. 918, the ill-advised mining law repeal bill which has engendered a strong veto threat from the administration, I insert in the CONGRESSIONAL RECORD the following amendments:

AMENDMENT TO TITLE II, SEC. 201 OF H.R. 5962

Page 27, line 13, insert the phrase "and except as otherwise set forth in Section 405" after "(2)."

Page 28, line 15, insert the phrase "to the extent applicable" after "and."

Page 34, line 12, delete the word "high" and insert in lieu thereof "reasonable."

Page 35, line 15, insert the phrase "has been served by the Secretary or an authorized representative a notice of noncompliance with and" after "applicant."

Page 35, line 17, insert the phrase "and is not in good faith performing under the terms of an approved remediation plan" after "regulations."

Page 35, line 20, insert the phrase "had been served by the Secretary or an authorized representative a notice of noncompliance with and" after "201(d)(1)."

Page 35, line 22, insert the phrase "and was not in good faith performing under the terms of an approved remediation plan" after "approved."

Page 36, lines 14 and 15, delete the phrase "and in no case for more than 10 years."

Page 38, lines 24 and 25, Page 39, lines 1–25, Page 40, lines 1–14, delete subsection 201(j) in its entirety and insert in lieu thereof the following:

(j) TEMPORARY CESSATION OF OPERATIONS.—(1) Promptly after temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall notify the Secretary of such cessation of operations.

(2) Upon receipt of such notice, the Secretary may, upon a review of the plan of operations and in light of the change in circumstances, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

Page 40, line 16, insert the phrase "final agency action and" after "be."

Page 40, line 17, insert the word "judicial" after "to" and delete "202(f)" and insert in lieu thereof "202(g)(2)."

Page 41, delete lines 20–24 in their entirety and insert in lieu thereof "(4) Upon determination by the Secretary of each of the following:"

Page 42, line 4, insert a colon after "fulfilled," and then insert "the Secretary shall release in whole or in part the financial assurance."

Page 42, line 6, insert the phrase "or such other schedule as the Secretary and the operator shall mutually agree to."

Page 42, delete lines 7–15 in their entirety, and insert in lieu thereof "(A) After the operator has completed 50 percent of the reclamation required by an approved plan of operations (as reasonably determined by the Secretary), 50 percent of the total financial assurance secured for the area subject to mineral activities may be released."

Page 43, delete lines 12–20 in their entirety.

Or in the alternative.

Page 43, line 13, insert the phrase "at any time within two years" after "determines."

Page 44, line 5, insert the phrase "to the extent practicable" after "shall."

Page 44, lines 7 and 8, delete the phrase "Except as provided under paragraphs (5) and (7) of" and insert in lieu thereof "In accordance with the standards set forth in."

Page 44, line 9, delete the word "backfilled."

Page 44, delete in subsection (m)(3) lines 7–10 in their entirety.

Page 47, lines 15–17, delete the phrase "Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5)" and insert in lieu thereof "To the extent practicable."

Page 48, line 2, insert the phrase "plan of operations shall establish a reasonable" after "the."

Page 48, line 3, delete the phrase "shall be for a period of," insert a comma after "revegetation," and insert the phrase "not to exceed."

Page 48, lines 5–7, delete the phrase "except that such period shall be 10 full years where the annual average precipitation is 26 inches or less."

Page 48, line 10, delete the word "approved" and insert in lieu thereof "those," and add the phrase "contemplated by the plan of operations" after "areas."

Page 49, line 23, delete the phrase "even if not."

Page 50, lines 2–6, delete the last sentence of Section 201(o)(1) in its entirety.

Page 50, delete lines 16–22.

Page 51, line 14, delete the phrase "for beneficiation."

Page 52, delete lines 9–13 in their entirety.

Page 52, line 14, delete the phrase "has reason to believe they are" and insert in lieu thereof the word "is."

AMENDMENT TO TITLE II, SEC. 202 OF H.R. 5962

Page 55, line 5 of subsection (b)(3)(B), after "representative." add the following, "Any such notice or order shall be deemed final agency action."

Page 55, line 25 of subsection (b)(6), delete "and" and in lieu thereof insert the word "or"

Page 60, line 22, delete from subsection (f) "or cessation order"; line 24, delete "decisions"; line 25, delete "or order,"; page 60, line 1, delete "or order"; line 2, delete "or order"

Page 60, delete subsection (f)(1)(C) lines 9–14 in their entirety and renumber accordingly.

Page 62, delete from subsection (f)(3) lines 3–7, beginning with the word "Where"

Page 64, subsection (h), line 8, delete, "person" and insert in lieu thereof "party to the proceeding"; line 12, delete "person" an insert in lieu thereof "party"; line 14, delete "either" and insert in lieu thereof "the losing"

Delete subsection (h), lines 7–16, in their entirety.

AMENDMENT TO TITLE II, SEC. 204 OF H.R. 5962

SEC. 204. UNSUITABILITY REVIEW.—Should be deleted in its entirety. (page 66, line 23 through page 74, line 25).

Or in the alternative.

Page 70, line 15, in subsection 204(d) after subsection 204(d)(4), insert a new subsection 204(d)(5) as follows:

"(5) Such determination pursuant to Section 204 affecting claims located pursuant to this Act or the general mining laws shall be deemed a taking to the extent of the diminution in value resulting from such determinations, and claimholders shall be entitled to maintain a claim against the Secretary for just compensation therefor."

Page 70, line 23, in subsection 204(e)(1) delete the word "where—" and insert the following: "that mining is not in the public interest where the economic benefits such as employment, federal, state and local revenues, balance of payments impacts, and strategic and national security interests are outweighed by the cost from the degradation or loss of nonmineral values where—"

Page 72, line 4, in subsection 204(e)(2) delete the word "where—" and insert the following: "that mining is not in the public interest where the economic benefits such as employment, federal, state and local revenues, balance of payments impacts, and strategic and national security interests are outweighed by the cost from the degradation or loss of nonmineral values where—"

Page 72, line 22, in Section 204(2)(2) after the word "in," insert the word "net."

Page 73, line 17, insert a new subsection 204(g) as follows:

"(g) ECONOMIC IMPACT STUDY.—Any unsuitability review under this Section, including those pursuant to citizen petition under subsection (h) below, shall include an analysis of the direct and indirect economic impact of an unsuitability determination. Such economic impact study shall address, without limitation, the following:

(A) Direct financial impact on existing claimholders;

(B) Direct and indirect impact on employment, output an earnings;

(C) Impact on federal, state and local treasuries from losses of tax and other revenue;

(D) Effect on production costs and mineral reserves and resources;

(E) Impact on balance of payments; and

(F) Strategic implication for change in trade relationships."

Page 73, line 17, delete "(g)" and insert "(h)."

AMENDMENT TO TITLE II, SEC. 205 OF H.R. 5962

Page 75, line 4, delete from subsection (a) "date of enactment" and insert in lieu thereof the following "effective date"

Page 76, line 14, delete from subsection (b) "and maintained"; line 14, insert after the word "laws" the words "and properly maintained under Section 314 of FLPMA"; line 15, delete "date of enactment" and insert in lieu thereof "effective date"; line 18, delete "Act, and that such claim continues to be valid." and insert in lieu thereof "Act."

AMENDMENT TO TITLE III, SEC. 301(A) OF H.R. 5962

Page 82, line 13, in subsection (a) after the word "Enforcement" add "for lands and waters eligible for reclamation expenditures under Section 423 of this Act."

# CONGRATULATIONS TO MISS AMERICA 1993 JACKSONVILLE, FLORIDA'S OWN MISS LEANZA CORNETT

## HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. BENNETT. Mr. Speaker, I stand before you today to congratulate Jacksonville, Florida's own Miss Leanza Cornett, who on Saturday night was crowned Miss America 1993. I have always known Jacksonville to be the home of intelligent, talented and beautiful women and it is now nice to be recognized for that distinction!

In the 66 years of the competition, Leanza, daughter of Richard and Patti Cornett, is the first Miss Florida to be crowned Miss America—and what a deserving winner she is. Leanza is a 1989 graduate of Terry Parker High School. She began her college career at Jacksonville University and is now studying communications at Rollins College in Winter Park. Our new Miss America is an accomplished singer and actress, and has played the role of Ariel, from the Little Mermaid, at Walt Disney World/MGM Studios.

In her year as Miss America, Leanza plans to speak out about the AIDS virus in order to raise awareness of the deadly disease.

All of us throughout Jacksonville and the State of Florida are proud of Leanza and her accomplishments. We wish Leanza well in her year as Miss America and as she pursues her life's dreams and ambitions.

# PRESERVE THE HOME OF THOMAS NAST

## HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. ZIMMER. Mr. Speaker, today I am introducing legislation to preserve an important American landmark, the home of the famed cartoonist, Thomas Nast.

Thomas Nast was the preeminent political cartoonist of the 19th century. During his 23-year career at Harper's Weekly he created the images of "Uncle Sam," the Republican elephant, the Democratic donkey, and the world-renowned portly image of Santa Claus. His cartoons promoting the Civil War led Abraham Lincoln to call Nast the Union's best recruiting sergeant.

However, Nast is probably best known for his depictions of Boss Tweed the Tammy Tiger. In fact, Nast's drawings deriding the corrupt Tweed and his Tammany Hall gang are widely recognized as helping break Tweed's grasp on New York's city hall. Boss Tweed once threatened:

> Let's stop them damned pictures. I don't care so much what they write about me—my constituents can't read, but damn it, they can see pictures!

Nast's magnificent 20-room house in Morristown, NJ, was his home and studio from 1873 to 1902. Villa Fontana, as it was known, was frequented by numerous luminaries of Nast's time including Ulysses S. Grant, who claimed that Nast's favorable portrayals of him helped elect him President, and Mark Twain, who stopped all of its clocks one night so that he could sleep.

Unfortunately, the Nast house has suffered from 20 years of neglect. A generous couple from the Morristown area has graciously offered to donate the funds necessary to acquire and restore the home to its original condition if it would then be operated as a museum by the National Park Service.

The legislation I am introducing would begin the process of acquiring the house. The only expense to the taxpayers would be the maintenance and operation of the Nast house as a museum.

Mr. Speaker, the work of Thomas Nast greatly influenced the politics and culture of his day. History was made in his home, which still contains a number of the artist's works. I urge the Congress to take advantage of a unique opportunity to preserve this important piece of Americana.

# THE FINANCIAL IMPACTS OF H.R. 918

## HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mrs. VUCANOVICH. Mr. Speaker, on July 24, 1992, I asked the Bureau of Mines to provide me with a financial impact analysis of the Interior Committee-adopted substitute to H.R. 918 and to similar legislation pending in the other body, S. 433 as proposed for substitution by Senator BUMPERS on July 1, 1992. On September 17, the Bureau provided me with its study.

Based on a financial assessment—employing standard economic analysis in use by the companies that explore the land, raise the capital, and develop the mines—the Bureau found that the royalty and backfilling requirements alone would more than double current capital requirements. In one of the four operations examined, a fourfold increase was estimated. Accordingly, typical mines now operating in the Western United States would never have been developed under H.R. 918.

The Bureau looked at four operations that encompass a range of commodities being produced today under the mining law of 1872 on Federal lands in the West—gold, copper, lead, zinc, and silver. These aren't hypothetical operations, they are mines operating today that are actually producing wealth and generating employment. The Bureau took the approach of analyzing these operations as if H.R. 918 or S. 433 were in effect—answering the question of whether these operations would have been developed under these conditions.

The study examined the price that would be needed to justify development of these and similar properties. The study utilizes a standard business approach in determining the economics and feasibility of any property. A prudent investor would not make an investment on public lands under H.R. 918. Instead, economics would dictate that operations be developed offshore or on private holdings. For the two gold operations the price needed was over $600 per ounce for one operation and over $800 per ounce for the other. There haven't been too many gold price forecasts of $600 per ounce lately. The copper operation would need over double the current price. These operations would never have been developed under H.R. 918. Many like them would never have been developed under H.R. 918. There would be no jobs, no tax revenues, and no royalty income.

The royalty provision alone was found to add anywhere from 8 percent to 20 percent to the price needed to obtain the same rate of return as the company now gets. This is equivalent of raising the cost of production by up to 20 percent. Few companies can absorb such cost increases. But there is also an additional problem—the commodity prices are set on world markets. Every other producer of these commodities would love to see H.R. 918 enacted, because it would increase their market share at the expense of U.S. production.

There is another burdensome provision of this legislation—the requirement that the pits be backfilled. Yes, it is technically feasible to move the waste back into the pit but it is neither economically feasible nor logical. A reclamation bond purchased prior to the start of production, as required under present reclamation laws, raises the total capital required for these operations by two to four times. Financing a new mine today is very difficult—H.R. 918 would make it impossible. Some here will say we've heard it before—that's what the coal companies said before the Surface Mining Control and Reclamation Act was enacted. This isn't strip mining where the deposit is mined in a sequential manner and reclamation is an ongoing process; one strip is being reclaimed while the next is being mined. In coal mining reclamation bonding can be phased and only the portion of the deposit being actively mined requires bonding. The open pit mines of the West, due to the nature of the deposits, have to wait until the last truckload of ore has left the pit before the reclamation can begin. There would be no incremental or phased bonding.

In many operations, low grade or subeconomic resources may exist below the present minable reserves. With a change in price or technology these potential resources become recoverable and can be produced economically. If the pit is backfilled, these resources will never be recovered. In many cases, particularly gold and copper, what was once considered waste is being processed and a resource is being recovered. If this material has been placed back into the pit, the resource would not be economically recovered.

Mining law reform is also happening in Mexico. The objective is to increase the development of the mining activity, its contribution to the country's economy and to intensify the more adequate use of its mineral resources. They are not adding royalties; Mexico has eliminated royalties; Mexico is not limiting access to public lands, they are expanding access; Mexico is not increasing administrative procedures, they are simplifying them. Mexico is not alone in its efforts. What does this have to do with the present efforts to change the mining law? Exploration dollars are flowing out of this country. And without exploration there will be no production.

As stated before, the United States competes in a world marketplace in the supply and demand for these minerals. However, the average grade of these minerals mined in this country has fallen. Up until now, technology improvements, such as heap leaching used in Nevada, has allowed the United States to compete in the world marketplace. Faced with the lower ore grades and the added cost burdens imposed by H.R. 918, this country cannot compete.

## FREMONT PUTS EDUCATION FIRST

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. STARK. Mr. Speaker, on Saturday, September 26, the Fremont, CA community will gather together for Education Fest '92, an event to celebrate the tradition of involvement in education that makes Fremont a great place for families to raise children.

Working together, business partners, community organizations, and the Fremont Unified School District make possible important programs like Turn-on-to-Reading Week, the District Science Fair, Parent University, and the Partners in Education Program. The level of participation is very high as parents and students join together to get the most out of the educational resources available in our schools.

In the Fremont schools, students have incentives not only to attend class, but to be active, caring participants. These students are learning early that the more they put into an effort, the more they get out of it. The community helps out with scholarships, equipment donations, mentor programs, and avenues for student entrepreneurs to follow.

Fremont teachers are rewarded for exceptional performance, and are part of a faculty continuing education effort that includes workshops and support organizations to keep the community award of school needs and enlist their support and understanding.

The Fremont Education Foundation was founded by volunteers with donated resources to bring together different segments of the Fremont community into a single, cooperative effort. The foundation raises money and consciousness, because the schools and our students should not be an isolated part of a disparate community, but the focus of its concerted effort to give our children every opportunity to succeed and grow.

We can all be proud of my neighbors in Fremont, Mr. Speaker, who have shown they care. They're not waiting for a bureaucracy to descend upon them and churn out answers. Fremont is getting involved where it counts and I salute the efforts of the Fremont Education Foundation to make it work.

## TRIBUTE TO ROBERT ALLEN

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Robert D. Allen, who retired this summer after 17 years as superintendent of Ocean View School District in Ventura County.

Bob Allen is a native of Auburn, CA, which is in northern California—but he rectified that by getting his B.A. from the University of Southern California. Bob served in the U.S. Army Air Corps in Europe and the Pacific during World War II, receiving a Bronze Star, a Purple Heart, Combat Infantry Badge, and, in 1945, a field commission.

Bob's first career assignment was in Pasadena, where his former football coach was principal. In 1954, he received his master's degree and administrative credential from USC. He became a vice principal and then principal in the Torrence School District. In 1968, he became superintendent of the Buckeye Mother Lode District in Placerville, and in 1976, superintendent of Ocean View.

Bob's professional affiliations include stints as Pasadena representative on the Los Angeles County Commission on Human Relations; regional president of the California Elementary Administrators Association; the Freedom Foundation Award; Charter Committee for formation of the Association of California School Administrators; Superintendents Advisory Committee for the ACSA; and president, Individual Instruction Association.

Bob is a board member of Missionary Church of Ventura and the Early Childhood Council of Ventura County, and is a past president of the Oxnard Kiwanis. He and his wife of 37 years, Beverly, a former Miss Fort Worth, have six children, nine grandchildren and one great grandchild.

Mr. Speaker, on behalf of the U.S. House of Representatives, it's my pleasure to extend warmest congratulations to Bob on his exemplary career in education and his service to the people of the Ocean View District. Thank you, Bob.

## SALUTE TO CHAD PEEK

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. GALLEGLY. Mr. Speaker, I am proud to rise today to honor Chad Peek, a fellow resident of Ventura County, CA, who recently helped police apprehend an alleged drunken driver who has been charged with running over a 9-year-old boy.

On the evening of August 29, Mr. Peek helped prove that Americans do care about their neighbors and they do care about helping their police fight crime. Incidentally, Mr. Speaker, I was participating in a ride-along with the Ventura Police Department while this drama was taking place, and heard the events as they happened.

According to the police department report, Mr. Peek saw the suspect, Antonio Torres Castrejon, speed down a residential street at about 50 mph and collide with the boy, who had darted onto the street while riding his scooter.

When Mr. Castrejon allegedly failed to even attempt to stop and help the child, Mr. Peek got into his vehicle and pursued Mr. Castrejon's careening pickup truck for several blocks and ultimately forced him to pull over. Mr. Peek then detained Mr. Castrejon until police arrive. Officers discovered 18 empty beer cans in the back of the pickup, and a handgun under the driver's seat.

Mr. Castrejon, who had a blood-alcohol level of .19—over twice the legal limit—has been charged with two felonies, driving under the influence and hit and run driving. Fortunately, the boy who was hit, Dustin Anshutz, did not sustain life-threatening injuries, but sadly he lost a toe in the action and his doctors said he will never walk normally again.

It is an outrage that this young boy has suffered this tragic injury, for Mr. Castrejon should never have been in Ventura in the first place. You see, he is an illegal alien, and he is exactly the kind of person who my package of bills to regain control over our borders is designed to keep out.

Mr. Speaker, I ask my colleagues to join me in honoring the outstanding officers of the Ventura Police Department, who did their job efficiently and professionally, and in honoring Chad Peek, a man who saw his duty as a citizen and did it unquestionably. It is law-abiding citizens like Mr. Peek who are helping Americans from all across our great Nation reclaim our streets and neighborhoods from the criminals who would hold us hostage.

## WASTE, FRAUD, AND ABUSE IN SSI BENEFITS PROGRAM

### HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. HENRY. Mr. Speaker, I have recently been made aware of an appalling situation concerning the administration of the Supplemental Security Income Program. Some alarming contentions have been passed on to me by a local claims representative for the Social Security Administration, which, even if they are only partially true, represent a wholesale abdication by the Social Security Administration of their responsibility to the taxpayers of this country.

In the wake of the Sullivan versus Zebley case decided by the Supreme Court in 1990, the Social Security Administration made official changes in its evaluation criteria for children applying for disability benefits. These changes were duly reported in the Federal Register in February 1991. Apparently, however, the claims process for disability applications has also undergone substantial unwritten changes as well.

I have been informed by a Social Security Administration claims representative, a person on the frontlines, so to speak, that there is widespread abuse of the Supplemental Security Income Program with the full knowledge and complicity of the Social Security Administration. I have been told of parents begging teachers to place their gifted children in special education classes so that they can get money from supplemental security income. Doctors are reporting that parents are asking them to put their children on the drug Ritalyn, because the parents have learned that a prescription for this drug is treated by the Social Security Administration as a criterion for automatic entitlement to supplemental security income checks. Claims based on such criteria as these go unchallenged almost as a matter of routine.

In one case, the parent of a student claimed that the child was a disciplinary problem. In spite of strong teacher reports that the child was not a disciplinary problem, but, in fact, was a model student, the Social Security examiner was instructed by her superiors to approve the claim anyway. In another case, the parents of a 15-month-old child applied for disability benefits because the child had tested as being 2 months behind its age group. Not only was the claim approved despite the protestations of the examiner, but it was approved in an unusually short time—4 days.

If these individual cases weren't bad enough, examiners are being instructed to routinely approve back claims as well—claims that amount to as much as $90,000, and, in some cases, are going to people who are in prison. Examiners report that applicants are fully aware that even the weakest claims will be approved almost as a rule and, in some cases, every member of a household has been approved for disability.

Mr. Speaker, this is an outrage. Congress and the American people have the right to know if, in fact, the Social Security Administration is complicity in this exercise of waste, fraud, and abuse—and, if so, why. If the cases that have been related to me are illustrative of the way in which the Supplemental Security Income Program is being administered throughout the country, Congress clearly has the responsibility to put a stop to it.

## INTRODUCTION OF THE WELFARE REFORM AND RESPONSIBILITY ACT

### HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. WISE. Mr. Speaker, today I introduced the Welfare Reform and Responsibility Act of 1992, a bill designed to make the welfare system more accountable by moving people from the welfare roll to the payroll and to help support them once they get a job.

My bill would require all eligible welfare recipients who are not enrolled in education or job training programs to participate in a work experience program in their community. Our country has a wide range of unmet public needs in areas such as public works, parks, nature preserves, community organizations, volunteer organizations, and schools. I believe that instituting a community work program such as the one included in my bill will give welfare recipients valuable work experience and a sense of dignity, and will help society in the process.

In addition, my bill has several incentives to help former welfare recipients stay off the welfare rolls and on the payroll. My bill changes the earnings test to encourage welfare recipients to find jobs to supplement their benefits and, eventually, to move into the work force.

My bill also addresses two of the biggest obstacles that welfare recipients face in retaining a job by extending the eligibility period for former welfare recipients for medical and child care assistance.

My bill would also:

Combat welfare fraud by requiring States to establish, staff and publicize 24-hour 1–800 telephone numbers for reporting welfare fraud and abuse claims;

Require States to develop individual employability plans, including specific goals and timetables, designed to move each welfare recipient from welfare to work in 2 years;

Establish welfare review panels to review welfare cases after 2 years to evaluate welfare recipients' participation in the JOBS and work experience programs, and to reduce AFDC benefits if the requirements are not met;

Make previously appropriated Federal JOBS job training money more accessible to States hard hit by the recession and unable to make the State match;

Support the family by requiring States to establish parenting classes and to make them available for all teenage parents; and

Provide incentives for the use of certain contraceptives.

I believe that this bill, which builds on the successful elements of the 1988 Family Support Act, represents a comprehensive and balanced approach toward moving welfare recipients from welfare to work.

## A TRIBUTE TO MARTYRS MEMORIAL AND MUSEUM OF THE HOLOCAUST

### HON. HOWARD L. BERMAN

OF CALIFORNIA

### HON. MEL LEVINE

OF CALIFORNIA

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to the Martyrs Memorial and Museum of the Holocaust, which after 14 years is relocating to a new facility on Wilshire Boulevard in Los Angeles. The new and larger building is appropriate for one of the most important centers of learning and remembrance in Los Angeles.

In the last few years, following the collapse of Soviet communism, there have been numerous reports of a resurgence of anti-Semitism in Eastern Europe, Russia, Ukraine, and the former East Germany. Though frightening and awful, isolated anti-Semitic acts are not a guarantee that neo-Nazis are on the verge of dominating the newly configured Europe. They do emphasize the point, however, that we must never forget what the world was like when the real Nazis were in power.

A visit to Martyrs Memorial and Museum of the Holocaust is one of the best ways to reinforce this historical lesson. By combining vivid eyewitness testimony and sober documents, the memorial and museum captures both the theory and practice of Hitler's final solution. This account traces a straight line from the rise of Hitler to beatings, deportation and, eventually, mass murder.

We have always been impressed by the sheer breadth of materials located at Martyrs Memorial and Museum of the Holocaust, as well as the content of those materials. There is enough to interest high school kids and serious students of Nazi Germany.

Mr. Speaker. We ask our colleagues to join us in saluting Martyrs Memorial and Museum of the Holocaust for its comprehensive, intelligent and moving efforts in the area of Holocaust education.

## THE NATIONAL COMPETITIVENESS ACT OF 1992

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. KOSTMAYER. Mr. Speaker, we in Congress have been watching the world change dramatically over the past few years. The international economy is now characterized by constant, rapid, change. Capital, information and technology all flow at breakneck speed. I believe that the lynchpin of our economic success, defined by the number and type of jobs we create, in the 21st century will be our ability to develop and bring to market new technologies. Our success in keeping up with the fast pace of technological change will determine whether we can indeed create and keep good manufacturing jobs during the next century.

I am proud to be an original cosponsor of legislation, passed by the House today, that will dramatically enhance the impact of Federal involvement on the economy of the 21st century. H.R. 5231, the National Competitiveness Act of 1992, is an excellent road map for the future of Federal involvement in technology development.

H.R. 5231 addresses long term development to advanced technologies that will be the foundation of our economy for many years to come. Some of our competitors have much more coherent technology policies than we do, and it is time we make a change.

H.R. 5231 breaks new ground by setting up a manufacturing extension service for bringing advanced technologies to market, enhancing U.S. international competitiveness.

The goal of this extension service is to keep small and medium-sized manufacturers technologically current. This service will help make available to smaller manufacturers the resources and accomplishments of States, universities, and Government labs. Most new U.S. jobs are now created by small and medium-sized companies, and this bill is designed to help these firms thrive and create jobs. It will help companies that are not large enough to afford management consultants and their own research and development facilities.

We have already begun—at both the State and Federal levels—to invest in manufacturing outreach and the results are very promising. I can point to many small and medium-sized manufacturers in my own district that have made important improvements in their manufacturing process as a result of working with a nonprofit organization that focused on their efficiency.

The world has changed. We have traditionally relied on defense related R&D to be the Government source of new technologies to U.S. industry. The National Competitiveness Act of 1992 will shift Federal technology efforts away from defense related Government research to nondefense private sector based research.

The defense bureaucracy takes too long to get a technology to market. Most importantly, many Americans want defense spending reduced. Each year, we will be less and less able to fund defense R&D at the level necessary to achieve significant civilian technology spinoffs. The National Competitiveness Act of 1992 relies on the private sector to conduct and evaluate much research, and it will leverage private sector funds to encourage investment.

We are no longer driven by a cold war with the U.S.S.R. The global imperative of efficient and sustainable economic development must now drive our policy. The development of efficient industrial technology is vital if we want to create jobs in this country. I and many of my colleagues contend that it is also vital if we want to maintain a livable and healthy environment.

For example, Japan has been investing in technology development that resulted in commercial energy efficiency since 1970—they still plan to halve the cost of energy per unit of production by the end of the century. Part of their energy policy in the 1970's was to set stringent air and water pollution standards, the logic being that the more efficient the production process, the less polluting it will be. These efficiency achievements not only make for more environmentally benign products, they have contributed to Japan's competitive edge since many products can attribute a 5 to 6 percent price advantage to lower energy costs.

According to John Newhouse, writing in the June 1 New Yorker, we will see more of Japan's energy efficiency expertise in the coming years. MITI, the Ministry of International Trade and Industry, has its eye on the global pollution control industry, estimated to be worth hundreds of billions of dollars annually by the end of this century. This vast market includes not only clean-up and pollution abatement equipment but also a wide array of environmentally benign industrial equipment and technology. The Japanese, who appeared to be somewhat split on how green to be at Rio, are clearly engaging in development that is environmentally and economically sound.

I and many of my colleagues in Congress have been working hard to promote pollution prevention and efficiency as an important tenet in U.S. economic policies. I believe that H.R. 5231 represents vital and strategic investment in our industrial technological capability and therefore the viability and success of our 21st century industrial base.

One of the purposes of H.R. 5231 is to enhance the core programs of the National Institute to Standards and Technology [NIST]. This agency already engages in R&D with profound potential for industrial and environmental advancements. For example, the Center for Building Technology at NIST is doing vital basic research on alternative refrigerants to support the efforts of manufacturers of air conditioners and other refrigeration equipment to end their reliance on ozone-depleting CFC's and HCF's. While a completely safe and ozone-friendly alternative still eludes researchers, NIST has developed a number of more environmentally friendly refrigerants and refrigerant mixtures.

Many countries have signaled their commitment to ending production of ozone-depleting CFC's, and development of acceptable substitutes is vital to our ability to meet the goal of reducing our reliance on CFC's and related chemicals. There will obviously be a huge market for the most acceptable CFR substitute, so this research is extremely important to our industrial economy.

I believe the importance of the Federal investment in basic R&D and manufacturing technologies contained in H.R. 5231 cannot be overstated. This bill now goes to conference committee with a similar Senate bill, and I will look forward to an expeditious conference and passage of this important bill into law.

## BIG 30 ALLSTAR CHARITIES CLASSIC

### HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. CLINGER. Mr. Speaker, I am pleased to take this opportunity to recognize the Big 30 Allstar Charities Classic, an outstanding organization located in Bradford, PA.

The Big 30 Allstar Charities Classic started as an annual football game to recognize outstanding high school football players in the Bradford area. Since the first game in 1974, the Big 30 Classic has grown and now recognizes players from northwestern Pennsylvania and southwestern New York State.

Every year this football game is an exciting event for the whole community, however, the funds that are raised from ticket sales are what makes the classic such an extraordinary event. Throughout its history, the Big 30 Classic had donated the proceeds of every game to deserving individuals and organizations in the community. This year as they celebrate the 19th annual Big 30 Allstar Charities Classic, the organization plans to reach over $500,000 in total funds raised.

Mr. Speaker, I would like to extend special recognition to all of the officers, members, and volunteers who donate their time to make the Big 30 Classic such a success. The Bradford Area Jaycees should also be recognized as the service organization in the community who has supported this event since its inception.

Finally, I would like to recognize the young players and the people of western Pennsylvania and southwestern New York State for lending their talent and time to support such a worthy cause.

## DR. RICHARD C. WALLACE, JR.: A LEADER FOR EDUCATIONAL EXCELLENCE

### HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to Dr. Richard C. Wallace, Jr., an outstanding educator who is retiring after 12 years as superintendent for Pittsburgh Public Schools.

Dr. Wallace has earned the gratitude of countless parents, teachers, students, and the Pittsburgh community for his leadership in making Pittsburgh Public Schools one of the best systems in the United States today. A leader in education reform, Dr. Wallace began to effect positive changes in Pittsburgh's schools immediately after becoming superintendent in 1980. He worked with teachers and the community to implement a number of changes in curriculum and instruction that have won national recognition.

Newsweek magazine took note of these reforms last year when it honored Pittsburgh public schools for having the best arts education program in the world. This arts education program, PROPEL, incorporates projects and portfolios into the daily instructional program for children learning about visual art, music, and creative writing. The success of this initiative had led to plans to expand these techniques for use in other areas of study. It is one example among many of the progress Pittsburgh Public Schools have made under Dr. Wallace's leadership.

During Dr. Wallace's time as superintendent, Pittsburgh Public Schools have successfully implemented a number of reforms to enhance the quality of early childhood education and promote the academic achievements of children at every level of instruction. Pittsburgh Public Schools have set districtwide goals for measuring the degree of their programs' success and have taken communitywide steps towards improving the skills of Pittsburgh school children.

Dr. Wallace has also worked with the Pittsburgh Federation of Teachers to enhance the quality of instruction techniques. Pittsburgh Public Schools currently offer teachers an opportunity to enter intensive training programs outside the regular classroom. Teachers are able to practice new teaching methods and study ways in which their own teaching skills can be further improved. Dr. Wallace developed an excellent working relationship with Pittsburgh teachers and has succeeded in maintaining a positive labor-management policy which has resulted in the negotiation of several early bird labor contracts.

The success of Pittsburgh Public Schools depends on the steadfast support of our community. Dr. Wallace has acted to ensure that the city of Pittsburgh understands the role quality schools play in the economic well-being of a city. He has worked with numerous business groups to ensure that their concerns are reflected in efforts to improve the level of skills attained by public school graduates. Dr. Wallace has also been active in working with local foundations and has won the generous support of Pittsburgh's philanthropic community for local public education programs.

Mr. Speaker, I believe the achievements of Dr. Richard C. Wallace, Jr., should serve as a role model for public school administrators in every community. Dr. Wallace's 12 years of service as Pittsburgh Public Schools superintendent have been a period of progress and educational achievement. I want to commend him for his dedication to the quality of education in the Pittsburgh community and wish him the very best in all future endeavors.

## TRIBUTE TO MARY ELLEN SAARE

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a tenacious and strong willed woman from my 17th Congressional District whom I admire very much. She is a woman that has been through some very difficult times, all the while keeping a happy disposition and a clear head.

Mr. Speaker, the woman I speak of is named Mary Ellen Saare of Girard, OH. When she was 15 years old, Mary Ellen contracted juvenile diabetes and tried to hide the disease throughout her teens. Because she did not take good care of her body through her twenties, Mary Ellen's hopes of having children were greatly jeopardized. After eight miscarriages, her daughter, Heidi, was born as a testament to her determination and faith in God.

Over the years, she suffered from several health problems that again tested her perseverance. In the early 1970's she began to lose her eyesight and was nearly blind. Then she suffered ulcerations on her feet that required antibiotics which nearly destroyed her kidneys. In 1984, Mary Ellen began losing her toes, one by one. In 1987, doctors replaced her pancreas. This operation was a near total failure, and a negative side effect was the amputation of her right leg halfway to the knee.

Mary Ellen's heart and kidneys malfunctioned forcing her onto a dialysis machine. During the 18 months before another donor could be found, Mary Ellen developed cataracts in both eyes. In 1989, the kidney-pancreas transplant was complete and everything went remarkably well. But 2 weeks later the euphoria was over as her gallbladder had to be removed and her left foot amputated just above the ankle.

Eventually, the new pancreas and cataract surgery healed her near blindness. Soon she had her 20–20 vision back. Mary Ellen obtained a driver's license and with the use of artificial limbs, she had her mobility back.

I realize, Mr. Speaker, that Mrs. Saare's story is very tragic and sad, but there is a lesson to be learned in another's experience. You see, not once during her terrible ordeal, and by no means is it over, did Mary Ellen Saare let any of this bring her spirit down. In fact, she wrote a book offering encouragement for other people who are down. The title of the book is "Feet First," and it will be available this Friday. A book-launching party is planned and I know it will be a huge success.

Mr. Speaker, women like Mary Ellen Saare are very special. She has probably suffered through life more than anyone I know. Yet, despite her pain and suffering, she never lost hope or faith. She never gave up. She even used her indomitable spirit to write an upbeat book on the subject. I wish her success with her book and hope many will prosper from its information. Mr. Speaker, Mary Ellen is a very special person. May God bless her.

## IN MEMORY OF ALBERTO CASTILLO

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. TORRES. Mr. Speaker, it is with deep regret that I rise today in honor of one of my constituents, Alberto Castillo, who was tragically killed in a car accident on September 6, 1992, in Costa Rica.

In 1989, Alberto participated in the Congressional Award Program, earning a Bronze Medal. At the time of his death, Alberto was completing the requirements to earn a Silver Medal.

A student at La Puente High School, Alberto came from a hardworking, tight-knit family. As described by his friends, Alberto was a young man who didn't get involved in gangs or drugs, but rather he preferred to volunteer to help out others.

For the last 9 years, Alberto has been a volunteer at the Delhaven Community Center in La Puente. Delhaven provides residents of the greater La Puente area recreation programs, vacation and summer day camps, leadership programs, a social service club and athletic competition events.

According to Delhaven's executive director, Bobbi Seal, Alberto "was just one of the good kids. He knew right from wrong." Several of his classmates have said that Alberto was different than their other classmates; he always respected people. Even though he did not seek rewards or recognition for his volunteer efforts, Alberto was the recipient of Delhaven's Joseph Dunn Outstanding Youth Award and savings bonds for his college education.

In addition to his interest in helping others, Alberto dreamed of one day attending college. As he often told friends, going to college would give him the vehicle to improve himself and to help his family. Unfortunately, Alberto will not be able to fulfill his dreams.

Although his life was cut short, Alberto has taught each of us a valuable lesson. All too often, we're caught up in our own daily pursuits. We fail to recognize that our neighbors need our help or we fail to commit our time and energy to helping them. Alberto's life teaches each of us that we must commit our time and energy, we must volunteer.

Mr. Speaker, it is with a sad but proud heart, that I ask my colleagues to rise and join me in a moment of silence to pay tribute to the memory of an outstanding young man, Alberto Castillo.

## VOLUNTARY DEBT REDUCTION CHECK OFF ACT OF 1992

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. VENTO. Mr. Speaker, today, I am introducing legislation to create a deficit tax check off on income tax forms that will work.

Much has been said regarding the President's ill-conceived idea to allow people to set aside up to 10 percent of their tax liability for deficit reduction. That is bad public policy that serves a political but no real purpose.

In order to give people a real chance to reduce the deficit, I am introducing the Voluntary Debt Reduction Check Off Act. This bill will create a new voluntary checkoff on Federal tax return forms for taxpayers to voluntarily dedicate at least $10 of their income tax refund solely to deficit reduction.

Currently, taxpayers can and do dedicate portions of their returns or other funds to the Bureau of Public Debt. It is not an easy task and only the most persistent person may succeed. My legislation would simplify the process, creating a voluntary checkoff for taxpayers to direct at least $10 of their refund to pay toward the national debt. This type of voluntary checkoff has a proven successful track record. States, including my own State of Minnesota, have implemented checkoff programs that provide valuable financial assistance to wildlife conservation and other efforts.

The Voluntary Debt Reduction Check Off Act offers real potential to help reduce the deficit. In 1990, over 82 million people received refunds with a total value of over $76 billion. This represents an average return of $925. If as many people use this checkoff as the Presidential campaign checkoff, $325 million would be dedicated to deficit reduction. If the average checkoff was 10 percent of a return, over $3 billion would be raised.

Mr. Speaker, as I have visited with my constituents, I have heard over and over their concern about our national deficit and their personal desire to help lower the debt. The voluntary efforts of people, motivated by a concern for our country's future and for their children's future, should be encouraged through the tax processing system to take positive, meaningful steps. We offer, through law, a streamlined process to invest in a sound economic future.

No one should be misled, this bill is not the answer for all-out debt reduction, but it is a very good step. My proposal is, however, a winner if it helps us to reduce our debt and avoid gutting essential programs and services like Head Start, WIC or Medicare.

Mr. Speaker, this is the right checkoff. This is the checkoff that is more than a political slogan. It is the checkoff that will work. I ask my colleagues to join me in supporting it.

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## THE NATIONAL PARK SYSTEM REFORMATION ACT

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. LAGOMARSINO. Mr. Speaker, as the longest serving current Member, on the House subcommittee with jurisdiction over National Park Service [NPS] authorization issues, I have become increasingly concerned by the direction, or more properly the lack thereof, which has been set for the National Park System over the last decade.

These concerns have increased substantially since 1980 when the NPS was directed to absorb the programs and personnel of the Heritage, Conservation and Recreation Service [HCRS]. At the same time, the Department of the Interior attempted to refocus the mission of the NPS to protection and management of existing "crown jewel" park areas. Any programs which dealt with expansion of the National Park System, or even land acquisition at existing units, were abolished or severely limited. Secretary Watt launched a new multi-billion-dollar program called the Park Repair and Improvement Program, which was designed to fix up the failing park infrastructure.

Environmentalists were pleased that Secretary Watt retained the basic operational funding level at NPS, especially while other Interior agencies were being cut, but they never accepted this shift in focus. Special interest groups which had been the benefactors of the programs at HCRS were most severely impacted, but even traditional NPS supporters dismissed the Watt change in emphasis as a cosmetic facelift which failed to address the critical problems of park protection and expansion of the park system. Environmental groups proposed a number of park expansions, new parks and new programs to meet their interests. A number of groups even developed their own visions for the future of the NPS.

This strategy of focusing on existing NPS areas was successful on reducing the number of park expansion proposals in the 97th, 98th, and 99th Congresses. However, in the last several sessions, the logjam has broken and we have seen a significant number of new proposals enacted to expand the National Park System.

In recent years, the NPS has been unable to develop a comprehensive vision of where the agency is headed and tends to react to legislative proposals on a piecemeal, case-by-case basis. In part, this is because the NPS has never fully integrated its new program responsibilities inherited from HCRS with its longstanding park management responsibilities. In part, it is because a very large portion of this Nation's most significant natural and cultural heritage is already being protected by public or private institutions. Nonetheless, the result has been that the administration has not been an active player in shaping the destiny of the NPS.

Undaunted by the lack of participation by the administration, Congress and the special interest groups have stepped in to fill the void and establish a direction for the agency. With nearly 3,000 designated natural and cultural landmarks which have all been determined to be of adequate significance to warrant their consideration as units of the park system, there is no shortage of candidates for addition to the National Park System. However, sites should be required to meet more than a simple test of significance to be suitable for establishment as NPS units. Unfortunately, even the most basic information has been lacking on a number of recent proposals for expansion of the National Park System. And of course, park supporters are invariably prepared to raise the threat of imminent development to justify swift congressional action, if analysis indicates further study may be warranted.

The terminology developed to describe such new areas as national heritage corridors, trail centers, cultural centers, heritage parks, and so forth attests to the creative talents of the supporters of these new areas. A number of the projects authorized are little more than economic redevelopment projects disguised as additions to the National Park System. The truth is, that this country cannot afford all these new parks. In the decade of the 1980's, over 100 existing park areas lost ground to inflation. Park rangers who gave talks and protected public safety were eliminated, hours were shortened at visitor centers to pay the utility bills, and important historic buildings deteriorated. This is a problem which needs to be addressed jointly by the administration and the Interior Authorization and Appropriations Committees. To his credit, Director Ridenour recognizes this problem and I am submitting his comments on "Thinning the Blood" to accompany this statement.

In the 101st Congress, the Public Lands and National Parks Authorization Committee passed over 50 measures to expand the size and responsibilities of the NPS. In total, over $275 million in new spending by the NPS over the next 5 years was authorized. In the 102d Congress, nearly 50 park bills have been passed by the House which would authorize new spending totaling nearly $1 billion over the next 5 years. These park system expansion proposals will only add to the current NPS backlog of more than $2 billion for the land acquisition and $400 million annually for park operations.

Funding priorities and programs established by the Appropriations Committee do not address the most pressing funding problems faced by the NPS. While overall NPS funding has increased substantially in recent years, relatively few dollars actually make it to the parks. The largest funding increases are for new construction. Many of the projects identified for funding cannot be found anywhere on the NPS construction priority list, which identifies the agency's top 2 billion dollars' worth of construction needs. Funding of these relatively low-priority projects, will only increase future demands for operational maintenance funding. The amount authorized for land acquisition does not even keep pace with inflation, especially if you consider the rate at which new parts and park expansion bills are being authorized.

I certainly recognize and agree that Congress must use its own judgment in considering the priorities established by the administration. However, those priorities of the professionals must be given greater weight in the political process, both with respect to new legislative authorization and funding priorities.

The legislation I am introducing today, the National Park System Reformation Act, is designed to get this agency back on the proper track. The bill has several major components. First, it would direct the preparation of a plan to guide the direction of the agency, especially in terms of designating new park areas.

Second, it calls for elimination of those units of the park system which do not merit continued Federal involvement. Over the years, Congress has lost sight of the high ideals we had in setting aside such places as Yosemite, Yellowstone, and Independence Hall. We have designated for inclusion in the park system such sites as recreated historical sites, water reservoirs, performing art centers, and simple open space lands. While I do not object per-se to Federal participation in these projects, I do not believe they belong in the same park system with the great natural and cultural heritage sites in this country.

Third, my bill would establish a new process for designation of NPS areas. This system would ensure that only the most worthy sites are actually considered by Congress.

Fourth, my bill would establish an increased technical assistance program for support of areas which would no longer be eligible for inclusion in the park system. These non-Federal areas would receive recognition and Federal support for a limited time period. I have included these provisions to respond to the many proposals for Federal action which are received by Congress for sites which do not merit inclusion in the park system.

Let me say that this measure is not designed as a cost-cutting measure. It is designed as a measure to improve the quality of the park system and ensure that limited Federal dollars are directed only to the most important sites in the country.

I hope that my colleagues will join me in this effort to restore the National Park System to its former high standards and establish a process to ensure it will remain the best park system in the world.

[From the Courier, Nov.-Dec. 1990]

THINNING THE BLOOD

(By James M. Ridenour)

I have a growing concern that we, as a nation, are "thinning the blood" of our national park system. In using the term, "thinning the blood" I am referring to the problem of lowering our standards, being willing to accept something that is less than nationally significant into our park system.

These concerns grow stronger as I see so many things that need to be done to take proper care of our present system, and how stretched our personnel are to try to accomplish their work. In short, I am concerned that we are spreading our limited resources over a growing base and that, as a result, we may suffer the possibility of sliding into mediocrity rather than continuing to enjoy the prominence that we have long received.

Obviously I am not going to name any specific parks or park proposals here. It is not my intention to offend our Congressional leaders or our own NPS personnel. However, I do hope you will take a few moments after reading this to reflect on some of the additional parks—and the duties associated with them—that we have acquired during the past ten to fifteen years. Compare them to the "crown jewels" with which we long have been entrusted.

In a recent meeting, my Canadian counterpart indicated that Parks Canada has a goal of completing its park system by the year 2000. That is an interesting concept. What could he mean? How would you complete a park system?

In a nutshell, he indicated that they have defined a number of major theme areas that should be represented in the natural parks of Canada. Certain types of topography might be one example. Areas of unique plant diversity might be another. Another might be certain types of complete ecosystems. They believe they have properly identified the theme areas to be acquired. Therefore, once those requirements have been fulfilled, the park system of Canada would be complete.

Of course, he had to fudge a bit and admit that they would not expect the historical and cultural parks to be complete as each day puts down a new element of history and culture to be considered for possible future park status.

It is an interesting concept—to complete something. I had a similar experience in my home state that involved nature preserves. We had done our homework, inventorying the state's natural resources. We became convinced that we knew what was worth saving and that we could accurately predict which of these valuable resources would be gone if we didn't act quickly. Working with The Nature Conservancy, we went to the legislature and laid our story out.

Our story was that we needed to acquire certain areas and that once we had acquired them our nature preserve system would be complete. Their response was disbelief. They asked, "Do you mean you wouldn't be coming back to us year after year, asking for new areas as you have been?"

Our answer was "yes."

They were fascinated by the concept and, after the mechanics of the plan were worked out, they bought into it. As a result, Indiana has one of the finest nature preserve systems in the country.

I throw this idea out, not as a possible NPS approach but as food for thought. I do know, however, that we can't continue to expand the system indefinitely. There are limits. As far as I'm aware, no one has ever run the 100-yard dash in nothing flat. In the same way, we can't transform the whole of the United States into a national park.

That doesn't mean that we should quit looking for new areas. It does mean that these areas should undergo rigorous examination prior to being proposed for inclusion. I would not want to see our "crown jewels" suffer further deterioration at the expense of adding new parks that might more readily fit into the management categories of state and local governments or private management by individuals and organizations. You, at the grassroots of the NPS—whether in management, planning, science, interpretation, or any of the other important areas of park responsibility—can play a big role in these tough decisions. As you talk with local people or Congressional members and staff, give them your best and most honest advice. To us falls the consequences of the possible "thinning of the blood."

## IN OPPOSITION TO H.R. 5096

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. DORNAN of California. Mr. Speaker, I rise today to oppose H.R. 5096, the Antitrust Reform Act of 1992.

In September, we celebrate the 205th anniversary of the Constitution of the United States. It is truly ironic that as we celebrate that anniversary, we are debating a bill which makes a mockery of that noble document, the Constitution. For H.R. 5096 is unconstitutional. It violates the first amendment's protection of free speech. And H.R. 5096 is a blatant, textbook example of an unconstitutional bill of attainder in regulating seven corporations in an industry rather than the entire industry.

But H.R. 5096 mocks more than the Constitution of this Nation. The very foundation of this Nation is a free-market economy, unshackled by intrusive government interference and regulation. H.R. 5096 creates a travesty of that free-market vision. It lets bureaucrats, not consumers, decide what products and services they can buy and from whom they can buy them. It creates jobs for lawyers, not engineers. Instead of stimulating competition, H.R. 5096 stifles competition.

Perhaps the ultimate irony is that H.R. 5096 sends our hard-earned dollars overseas instead of building jobs here. Imagine—the Eastern European Nations will soon enjoy a modern telecommunications system—funded in part by investments by American telephone companies. If H.R. 5096 passes, we can expect to see similar overseas investments—because of the stifling regulatory climate that H.R. 5096 will create.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT

## HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mrs. LOWEY of New York. Mr. Speaker, it is an abomination that the omnibus crime bill remains stalled in the other body at a time when our local law enforcement officials are crying out for assistance in fighting crime in our neighborhoods.

While partisan politics continues to imprison the crime bill, criminals are terrorizing our streets, our homes, and our communities. Our local law enforcement agencies are being overwhelmed by the rising tide of violent crime. They need help, and they need it now.

Today, I am joined by my colleague, CHRIS SHAYS of Connecticut, in an effort to end this gridlock and gain rapid agreement on Federal assistance to fight crime more effectively in our communities.

We are introducing the Local Law Enforcement Enhancement Act, a bill aimed at bringing significant aid to local law enforcement officials, and we are calling on our colleagues to pass this legislation by the end of the current legislative session.

This legislation will be an important aid to our local law enforcement agencies in fighting crime. It contains three of the most innovative proposals for fighting crime: Community policing, to expand the number of cops on the beat in our neighborhoods; scholarships to students who agree to serve in local police departments, so that law enforcement agencies can expand their pool of talent; and tough new sentencing provisions for youthful offenders, including military-style boot camps designed to prevent young criminals from becoming locked into a life of crime.

These programs were originally part of the omnibus anticrime package that passed the House overwhelmingly last year. However, that entire package has been held up in the Senate since then over unrelated provisions. With only a short time remaining in the current congressional session, the proposals are in danger of dying when Congress adjourns.

People in our communities are angry and afraid about the tide of violence that we are witnessing. I share that anger and frustration. We cannot let gridlock in the Congress stand in the way of making our neighborhoods safe again. That is why I'm calling on my colleagues to end all the posturing and partisan politics and agree on a bipartisan package of reforms that we can pass right away.

Community policing is an effective crime fighting tool which stresses expanded cooperation between law enforcement officials and local communities in preventing criminal activity. The police corps provides scholarships to students who agree to spend 4 years in a local law enforcement agency. And the new measures for youthful offenders include military style boot camps which will put the youth through a rigorous physical program, get them off drugs and train them so that they can earn their own way and be productive members of our society.

These measures have all been introduced separately and have received broad bipartisan support. They were all contained in the omnibus crime bill when it passed overwhelmingly in the House on September 27, 1991. There is absolutely no reason why Congress cannot quickly approve this plan and provide urgently needed assistance to our communities.

Mr. Speaker, the American people are pleading for action to bring crime under control, and jail the criminals who are terrorizing our streets. We still have an opportunity to hear that plea—an opportunity for meaningful action that our constituents will understand.

I urgently call on my colleagues and the leadership of this body to consider this plea and move this legislation before we adjourn.

## A TRIBUTE TO THE SPRINGFIELD BUSINESS AND PROFESSIONAL WOMEN'S CLUB

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 23, 1992*

Mr. NEAL of Massachusetts. Mr. Speaker, on October 18, 1992, Springfield Business and Professional Women's club will celebrate 75 years of promoting the economic, intellectual, and social welfare of working women. The members and their guests will gather to hear keynote speaker Pat Taylor, past president of the National Federation of Business and Professional Women's Clubs, Inc. Also joining the members will be local politicians and leaders of other women's organizations.

Part of the day will be spent reflecting on the 16 women who gathered at the YWCA in October 1917, to found the club. As the original objective stated "the club would blend together women in the professions and businesswomen so that the standard of working women could be raised." Two years later, delegates traveled to Europe, this time to help found the International Federation of Business and Professional Women's Clubs. The first treasurer of the International Federation was Henrietta Harris of Springfield.

Back in Springfield, the organization supplied several of the presidents of the New England Federation of Business and Professional Women's Clubs and later the Massachusetts Federation of Business and Professional Women's Clubs, but the club did much more.

In 1936, Amelia Earhardt came to speak to the club about her life as an aviator. Also the club sponsored the Springfield Forums, bringing speakers on current topics to the public. In the seventies, they marched and rallied for the equal rights amendment on Beacon Hill just as earlier members marched and rallied to earn the right of women to vote. In the later 1980's and early 1990's, the club as part of the Massachusetts Federation supported the Family and Medical Leave Act on Beacon Hill.

Locally, the club has been involved through their Harris-Bullman Fund with local charities and organizations. This past June, they gave to the Open Pantry, Camp Star-Camp Angelina, and the Forest Park Zoological Society. Other past recipients have included the Grey House and the Children's Study Home. Also through their Jessie M. Bourne scholarship fund, the club gives scholarships to the nontraditional woman student. These recipients are over the age of 21 and have either returned to college or are beginning college as a need to further their career or begin a new one.

These women have aided the improvement of women's place in the business world. Their hard work and determination in the last 75 years is to be commended. I wish this organization the best in the next 75 years.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 24, 1992, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### SEPTEMBER 25

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine Federal and State efforts to combat fraud and abuse in the insurance industry, focusing on the Blue Cross/Blue Shield program of Maryland.

SD-342

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings to examine the financial strength of the Pension Benefit Guaranty Corporation, which insures retirement benefits for over 40 million American workers.

SD-215

Select on Indian Affairs

Business meeting, to mark up S. 2977, to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, H.R. 2144, to extend Federal recognition to certain California Indian groups, S. 3155, to establish the National Indian Policy Research Institute, S.3237, to limit the 4-year waiting period that certain tribal governments have been confronted with in administering Federal programs under the Indian Self- Determination Act, and proposed legislation relating to Indian education trust funds.

SR-485

2:30 p.m.

Foreign Relations

To hold hearings on pending nominations.

SD-419

#### SEPTEMBER 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on the implementation of the Alternative Agriculture Research and Commercialization (AARC) Act of 1990 (P.L. 101-81), focusing on the current activities of the AARC Board and future activities with regard to establishment of regional AARC centers and the development of patent and licensing agreements.

SR-332

10:00 a.m.

Foreign Relations

Business meeting, to consider pending calendar business.

SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on international piracy of intellectual property.

SD-226

2:15 p.m.

Foreign Relations

To hold hearings to examine the proposed sale of P-15 aircraft to Saudi Arabia.

SD-419

#### SEPTEMBER 30

9:00 a.m.

Finance

To continue hearings on issues relating to the North American Free Trade Agreement.

SD-215

### POSTPONEMENTS

#### SEPTEMBER 24

2:30 p.m.

Small Business

Business meeting, to mark up S. 2941, to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program to the year 2000.

SR-428A

# HOUSE OF REPRESENTATIVES—*Thursday, September 24, 1992*

The House met at 10 a.m.

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayers of thanksgiving rise to You, O gracious God, for all the benefits that are given us. We are especially grateful as individuals and as a nation that we have been blessed as no other people with both material wealth and with the gifts of freedom and liberty. We earnestly pray, O God, that we will be sensitive to the needs of those who do not share in the blessings of life and be aware of their needs and hear their voices. May justice and mercy be the values we hold high and an understanding heart our earnest desire. Bless us, O God, this day and every day. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. PAXON] please come forward and lead the House in the Pledge of Allegiance.

Mr. PAXON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PRESIDENT BUSH AND TEXTILES

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, when it comes to dispensing White House pork, President Bush has not been embarrassed about raiding the U.S. Treasury. He should be ashamed.

First, he promised $1 billion to wheat farmers. Then, he pledged millions to aircraft companies in his home State of Texas and Missouri. Who will benefit next from the Presidential pork?

You can bet the electoral college—it will not be American textile and apparel workers.

President Bush's veto of the textile and apparel bill 2 years ago has done irreparable damage to what was once the Nation's largest manufacturing industry.

The Bush veto helped padlock hundreds of textile mills. The Bush veto expedited the departure of thousands of U.S. apparel jobs to foreign countries.

Presidents Bush and Reagan have presided over the loss of 500,000 U.S. textile jobs.

Mr. Speaker, this election is about jobs. This administration has delivered a lethal blow to the American textile industry.

## CLINTON SHOULD ENROLL IN A FREQUENT TAXER PROGRAM

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, Bill Clinton has raised taxes so many times in Arkansas that he should get many in Congress to enact a Democrats' frequent taxer program. In it Clinton could earn free miles, just like you do in a frequent flyer program, and then he could get off that bus, and travel in a style commensurate with the excessive way he had taxed the people of Arkansas.

For the over 120 times he has taxed the working people of Arkansas he could earn all sorts of miles and valuable prizes. For taxing food, he could win a free trip to a grocery store. For taxing food stamps, he could win a trip to the welfare office so he could see how hard it is to pull yourself out of hardship while a State government conspires to keep you there. For taxing tourism, he could earn a free trip to a school of economics where maybe they could explain the economic stupidity of taxing an activity you want to encourage.

Of course all these prizes would be small potatoes compared to what he could earn in his Democrats' frequent taxer club if he should get to the White House. There his grandiose tax schemes could earn him global travel. Take his $200 billion play-or-pay health care plan, which would cut the average worker's take home pay by $1,700 a year. With that whopper he could probably even get to revisit his Oxford chums from jolly old England.

I hope my other friends will seriously consider implementing a frequent taxer plan. Not that Mr. Clinton has ever needed an incentive to tax and spend, but just think of all the money you could claim you had saved the American people.

## WHAT HAPPENED TO MANUFACTURING CENTERS?

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this has always been a country where hard work got you ahead. Our skill in manufacturing gave us high wage jobs and brought each family hope for a better future. That skill gave us the world's highest living standard, the most powerful economy and it won two world wars.

Yet all this strength could not withstand the corrosive forces of the past 12 years. The greed triggered by deregulation drew huge sums of money away from manufacturing and squandered it on hostile takeovers that shook down profitable companies, leaving them hollow shells. It encouraged high risk investments that crippled our financial infrastructure and dried up capital.

Those economic policies devastated the proud manufacturing centers of the Northeast and Midwest, stripping them of more than 1 million manufacturing jobs over the past 10 years. My State of Connecticut alone lost more than a quarter of its manufacturing jobs as the recession deepened and the trade deficit tripled.

Last month alone this country lost 97,000 manufacturing jobs. Now working harder doesn't mean getting ahead. It doesn't even mean staying even.

Mr. Speaker, we are a country with a proud past and highly skilled workers betrayed by 12 years of bad economic policy and leaders without vision. We can have a bright future and recover those jobs—all we need is a change.

## THE POWER TO DESTROY

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, John Marshall once said:

> The power to tax involves the power to destroy.

If Bill Clinton is elected President, his desire to tax will destroy our economy and working families.

The lesson of the 1980's when we had the longest economic expansion of our Nation's history, is: tax cuts spur economic growth and new jobs.

The lesson of the 1990 Budget Act is: tax hikes cause economic ills and job losses.

Bill Clinton will raise taxes by at least $150 billion. He will have a 7 per-

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cent payroll tax on every worker to pay for his health care plan. He will raise taxes on the wealthy and middle class families.

Bill Clinton will tax our economy to kingdom come, cost us millions of jobs.

The power to tax does indeed involve the power to destroy. I suggest the American people keep that in mind for the coming election.

## THE FAMILY LEAVE ACT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, very soon the House will attempt to override President Bush's veto of the Family Leave Act. Now, the conscience of the world has spoken on this issue. Every single industrial democracy has a family leave act in effect. An enormous percentage of the Fortune 500 companies have an enlightened family leave proposal.

And interestingly enough, President Bush, at the White House, has a very enlightened family leave proposal for White House employees, as do Republican as well as Democratic Members of the House and Senate.

At the White House, when someone has an infant who is ill or a parent who is ailing, of course they are permitted to take leave. And their pay is not docked. Their pay is not docked in the overwhelming percentage of cases.

So in effect what President Bush is telling the American public is that they are not entitled to the same caring and compassionate family leave policies, the same benefits and privileges as his own staff at the White House. That is what Republicans are telling the American public, too, that their own staff are provided a far more caring and compassionate policy for family leave than is the American public.

□ 1010

I believe that the President is defining himself not only as mean spirited, cruel, and insensitive, but also as hypocritical. This is not a message that the American public will accept gladly.

## CLINTON LIED

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Bill Clinton lied.

Bill Clinton lied to the commander of the University of Arkansas ROTC to avoid military service.

Bill Clinton lied when he said that he was never drafted. He was.

Bill Clinton lied when he said he never had a deferment. He did.

Bill Clinton lied when he said he never opposed the draft. We have in writing his rabid opposition.

Bill Clinton lied.

He lied to achieve a personal goal and to maintain his political viability.

We all know now that Bill Clinton has lied about his past.

The question today is: What lies has he told about our future?

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 250) entitled "An act to establish national voter registration procedures for Federal elections, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4880. An act to reduce the stockpile requirement for, and authorize the disposal of, cobalt from the national defense stockpile;

H.R. 5008. An act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes;

H.R. 5095. An act to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes; and

H.R. 5504. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4880) "An act to reduce the stockpile requirement for, and authorize the disposal of, cobalt from the National Defense Stockpile," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5095) "An act to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Act of 1964 for certain employees, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BOREN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE. From the Committee on Armed Services: Mr. NUNN and Mr. THURMOND to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5504) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1993 and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. GARN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) "An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.".

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2661. An act to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson;

S. 3136. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 3137. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes;

S. 3138. An act to authorize appropriations for fiscal year 1993 for military personnel of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 3140. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 3141. An act to authorize appropriations for fiscal year 1993 for military construction, and for other purposes;

S. 3142. An act to authorize appropriations for fiscal year 1993 for defense activities of the Department of Energy, and for other purposes;

S. 3144. An act to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes; and

S. 3145. An act to amend title 10, United States Code, to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base; to encourage and assist the conversion of the national defense technology and industrial base to commercially competitive capabilities, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2322) "An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans" with amendments.

## FAMILY VALUES BELONG TO THE PEOPLE, NOT TO THE POLITICIANS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, if one were to watch television or read the newspapers, one would be tempted to think that family values were somehow invented by politicians. Actually, long before politicians came along millions upon millions of Americans in traditional and nontraditional settings have been living family values.

What are these family values? Loving, caring, sharing, patience, respect, constancy, fidelity, these are the real family values.

On Saturday at home, there will be a day of reflection sponsored by the Catholic Archdiocese of Louisville's African-American Ministries Division, at which the African-American Catholic Family will be the subject of discussion which will be led by Deacon James Turner and Mrs. M. Annette Turner, Deacon Turner's wife.

I intend to be there, Mr. Speaker, and I intend to be there both to support that worthwhile activity, and also to remind the people there that family values do not belong to the politicians. Family values belong to the people.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make an announcement, before proceeding further with 1-minute requests.

The Chair will not diminish current protections against references to the President or the Vice President of the United States in debate, or to U.S. Senators, who, by long tradition of the House, are recognized as deserving comity and respect.

The Chair understands that under the precedents and practices of the House that a greater degree of latitude does exist with respect to references to nominated candidates for President and Vice President of the United States who are not incumbents or Members of the Congress. However, the Chair believes that in order to maintain decorum in the House, certain minimal standards of propriety in debate should apply to all nominated candidates for President and Vice President of the United States, and that the record and character of such candidates may be properly debated without references which constitute a breach of decorum, and the Chair advises all Members that future references to nominated candidates for President and Vice President of the United States may be subject to admonishment and restriction by the Chair if the Chair believes that such decorum has been violated.

To do otherwise would create a distinct discrimination between candidates of two parties when candidates on one side are incumbents, such as Presidents and Vice Presidents, or are Members of Congress, and other candidates do not hold such traditional protection in debate. The Chair hopes it will have the cooperation and sensitive regard of all Members with respect to such debate.

## CONGRESS SHOULD WELCOME INNOVATIONS IN TELECOMMUNICATIONS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, we have recently seen some exciting innovations in telecommunications, and the future holds amazing potential for progress. Unfortunately a committee chair, some Members of Congress, and a few powerful groups want to put up road blocks on this path of progress in the form of H.R. 5096.

Those that are afraid of competing against the Baby Bells in information services do have some legitimate concerns. We can and should ensure that all companies providing services are treated fairly. However, the sponsors of H.R. 5096 choose to protect these companies by keeping the Bells out of new fields, and denying innovative new technologies to the American people. I can't support that approach. The Bells should be required to treat all other companies as they treat their affiliates, but to ban the Bells from entering these fields is bad policy, and bad for the American people.

Telecommunications play a vital role in today's world, and even more so in rural areas. We must take a long, hard look, including hearings in the Energy and Commerce Committee, before we deny the American public innovations enjoyed in other parts of the world.

## PRESIDENTIAL VETOES COST AMERICANS JOBS AND FAMILY VALUES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush has made an issue of family values, and after all, it has gotten so bad a 12-year-old boy is suing his own mother, suing his mother for divorce.

Is this really a surprise? What has it come to? It started with "let the Government handle it," then "let the police handle it," then "let the schools handle it," then "let the church handle it;" now, "get a divorce."

The truth of the matter is, while the President keeps running his mouth about family values, America would be better served and have much more family values if mom and dad had a job and could take care of their own family. The truth of the matter is, while we hear all this rhetoric, the bottom line is the President of the United States vetoed family and medical leave. That is what I call a kinder, gentler America.

I say it is time for Congress to tell the President to shove his veto pen up his deficit.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to advise Members to be a little more guarded in making analogies to anatomical factors.

## IF YOU THINK YOU ARE FRUSTRATED NOW

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, the American people are understandably frustrated with the state of the American economy.

They are frustrated because after the longest peacetime expansion in history during the 1980's, the economy is now growing very, very slowly.

But, if you think the people are frustrated with the present conditions, I can't even imagine the level of frustration that would be caused by a Clinton Presidency.

How much more frustration would be caused by higher taxes, more Government regulations, more Government spending, higher inflation, and higher interest rates?

Yes, the people are frustrated, but this is a mild case compared to the frustrations of a Clinton tax-and-spend administration.

## HCFA SHOULD MONITOR PRIVATE INSURANCE COMPANIES

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, all over our country senior citizens are having to wrestle with private insurance heavyweights to get their Medicare claims paid.

A major reason for this problem is that the Health Care Financing Administration is letting the private insurance companies that process these claims run amok, denying claims with no legal basis.

Yesterday, the General Accounting Office made some insightful comments about why this problem is growing. They told the subcommittee that in 27 years of Medicare, not a single carrier has had their contract terminated for poor performance.

According to the General Accounting Office, the fact that nearly two-thirds of claim denials are reversed on appeal is not even used by Medicare to evaluate the contractors making these mistakes.

The subcommittee was told, in effect, that the private insurance carriers are in charge, not Medicare. For example, GAO said yesterday that the Health Care Financing Administration does not even question the so-called screens developed by carriers to tell them which claims should be denied. The Health Care Financing Administration was asked to appear yesterday before the Aging Committee. They indicated they could not, so I would like to ask today that seniors transmit their concerns to Members so that our colleagues can let the Health Care Financing Administration know that it is time to impose some discipline on the unsupervised and unaccountable private insurance Medicare contractors.

□ 1020

## REPEALING THE WRIGHT AMENDMENT

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, I would like to take a moment to talk about a situation that has been before the Aviation Subcommittee but is yet to be resolved. That situation is the Wright amendment.

This amendment which was passed in 1978 limits direct, nonstop flights to Dallas' Love Field to flights originating in Texas and its four surrounding States.

This amendment has been devastating to airports such as Wichita's Mid-Continent Airport. It is estimated 20,000 passengers a year avoid flying into or out of Wichita because of the Wright amendment.

The Department of Transportation recently completed a study of the Wright amendment. It says modifying or repealing the Wright amendment would increase competition, increase service, and lower fares in the Dallas-Fort Worth area, all without harm to the Dallas-Fort Worth Airport. This would save travelers $183 million per year.

It is my hope that Congress will give the repeal of the Wright amendment its urgent attention during the 1993 session.

## PRESIDENTIAL RECOLLECTION

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the President and his surrogates have been daily, just recently on the floor, attacking Governor Clinton for his recollection of events 20 years ago when he was a student, a private citizen opposed to the war in Vietnam.

Well, it turns out that the President's recollection of affairs of state a mere 6 years ago when he was Vice President of the United States are contradicted by Secretary Weinberger and Secretary Shultz. I quote from the Washington Post:

> * * * New information emerging from court cases and congressional records since Bush last ran for President has cast fresh doubt on his assertion that he was "out of the loop," generally uninvolved in and largely unaware of the most controversial Iran-Contra operations.
>
> There are numerous indications in the documentary record that Bush was at meetings where decisions were taken in the mid-1980's about both the secret sale of arms to Iran and some of the covert efforts to aid the Contra rebels in Nicaragua. * * *

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman——

Mr. WALKER. Mr. Speaker, I demand the gentleman's words be taken down. I demand the gentleman's words be taken down.

Mr. DEFAZIO. I did not say that the President lied.

The SPEAKER pro tempore (Mr. MAZZOLI). If the gentleman from Pennsylvania will withhold for just a minute, the Chair was about to rule that what the gentleman from Oregon said just a moment ago is violative of the statement that the Speaker of the House made a moment ago with regard to the propriety and the abusive nature of the language used. And under the circumstances the Chair would advise the gentleman from Oregon that he should correct his statement.

Mr. WALKER. I demand the gentleman's words be taken down.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania continue to demand?

Mr. WALKER. Yes. I want the words withdrawn, Mr. Speaker.

Mr. DEFAZIO. I am certainly not going to withdraw the printed quote.

### PARLIAMENTARY INQUIRY

Mr. WALKER. A parliamentary inquiry, Mr. Speaker: Did the gentleman get permission to read from papers?

Mr. DEFAZIO. Did the gentleman object at the time? He did not.

Mr. WALKER. Did the gentleman get permission to read from papers?

The SPEAKER pro tempore. If the gentleman from Pennsylvania will withhold for just a moment, and if the gentleman from Oregon would consent to withdraw those remarks which occurred after his reading of the newspaper, his conclusion from that reading, that would solve the problem that has been cited by the gentleman from Pennsylvania.

Mr. DEFAZIO. I would be happy to withdraw those remarks and stand on the quote which I read from the newspaper.

The SPEAKER pro tempore. Without objection.

Mr. WALKER. Does the gentleman ask unanimous consent to do so?

Mr. DEFAZIO. I asked unanimous consent at the beginning to proceed and the gentleman did not object. He is a little late.

Mr. WALKER. The gentleman has not yet asked unanimous consent to withdraw the words. Is the gentleman going to ask unanimous consent and follow the appropriate procedures?

The SPEAKER pro tempore. The Chair believes he asked.

Mr. DEFAZIO. I asked that the concluding remarks after the quote from the Washington Post be withdrawn.

The SPEAKER pro tempore. The gentleman asked unanimous consent. Is there objection to the request of the gentleman from Oregon?

There was no objection.

### PARLIAMENTARY INQUIRY

Mr. WALKER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, did the gentleman ask permission to be able to read from the newspapers?

The SPEAKER pro tempore. The Chair has no direct recollection, but on the other hand, the gentleman from Pennsylvania did not make a point of that earlier.

Mr. WALKER. A further parliamentary inquiry: The Chair has just announced a few minutes ago all kinds of new standards on the House floor. Is the Chair going to protect the membership from other people who do not obey the rules?

The SPEAKER pro tempore. The Speaker of the House will have to address whether those are new directions.

Mr. WALKER. A further parliamentary inquiry. Did I understand, and I was listening on television, did I understand that the Speaker has now extended the same rights to candidates for President as the President has under House rules?

The SPEAKER pro tempore. The Chair would obviously need the guidance of the Speaker of the House who made those statements a moment ago. It is the belief of the Chair that those matters have been discussed by the Speaker and that they stand.

If the gentleman from Pennsylvania wishes to invoke the rule about seeking unanimous consent to read from printed material, the gentleman is obviously free to do that, and he did not do it with respect to the gentleman from Oregon. So the Chair at this point would rule that the gentleman from Oregon——

Mr. WALKER. My parliamentary inquiry, Mr. Speaker, was whether or not the Chair is going to protect the Members with regard to this?

The SPEAKER pro tempore. Obviously the Chair will always protect the Members.

Mr. WALKER. So the Chair will not permit people to read from papers unless they get permission to do so?

The SPEAKER pro tempore. The Chair has ruled that the gentleman from Oregon was out of order on that part of his remarks that went beyond what the Speaker had enunciated today. If the gentleman wishes to object to any of the other Members who may want to read from printed material, the gentleman would be in order, subject to the will of the House.

The Chair would wish to proceed with the day's business. The gentleman from Pennsylvania will be protected as in all cases.

## FEDERAL MANDATES DO NOT HELP THE FAMILY

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and permission to read from papers.)

Mr. HASTERT. Mr. Speaker, much has been said about the importance of family values over this election year. In my mind, the best way to support the family is to encourage a growing and vibrant economy.

A job does more for the family than anything we will say or do here today.

Federal mandates are the worst thing the Congress could do to the economy. But here we go again. Today, we will have another vote on a Federal mandate, that dictates how employers run their business and how workers work.

The Democrats of this Congress know the President cannot sign their form of a strong Federal mandate on business.

They know that these kind of Federal mandates kill economic growth.

And they know the President has introduced an alternative that will help businesses prosper while they provide their employees with family leave.

Unfortunately, some here would rather try to embarrass the President with this override attempt than to work together to provide a real alternative to this burdensome, costly Federal mandate.

And I think that is a shame.

## CAN WE KEEP GOOD JOBS IN INDIANA

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, it used to be that someone with a high school diploma could go out and work hard, make a decent living for themselves and their family. But that is not true anymore. Today, after 12 years of trickledown economics, working class families need two incomes to even have a chance of a decent standard of living. We have a lot of people working who are into really making it.

Mr. Speaker, we have a choice about our economic future. We can decide to take a low-wage, low-skill route which will benefit a few, or we can choose the high-wage, high-skill economy that will sustain a decent standard of living for all Americans. If we continue down the present road, Mr. Speaker, we are opting for the low-wage economy.

In my own State, real wages declined during the 1980's by 5.2 percent when adjusted for inflation, and that decline is continuing. The question is, Mr. Speaker, are we going to continue and to send our jobs to Mexico from the manufacturing sector, are we going to continue to ship our high tech jobs to Japan, are we going to let a unified Europe dictate the terms of international trade without a challenge?

□ 1030

No, Mr. Speaker, we have to take control of the future and stop the slide of our national economy toward Third World status. It is time to invest in our future, build the infrastructure, educate our children, retain our work force, take the steps that must be taken to capture the high-skilled, high-wage jobs of the 21st century.

Let us rebuild our economy, Mr. Speaker, so that all Americans can have a decent standard of living.

## INTRODUCTION OF LEGISLATION TO RESEARCH EFFECTS OF HIGH-SPEED WINDS ON BUILDINGS

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, I rise today with admiration for those who volunteered their efforts to aid the victims of Hurricane Andrew and to introduce a bill to lessen the damage of future storms.

My heartfelt appreciation goes to Buck Christian and the staff at the South Florida Fairgrounds who ran the distribution center for supplies donated from around the country.

More than 20,000 volunteers loaded 1,200 semitrailers with 6 million pounds of donated emergency supplies for families in Dade County.

The Palm Beach area media banded together to create Media-Aid for South Florida, a telethon which raised more than $2.2 million for relief efforts.

A big "thank you" to talk show host Jack Cole of WJNO for that telethon idea.

For the volunteers and the thousands of others that responded, I take this opportunity to honor you who reached out to help our neighbors.

Thank you. Your generosity will never be forgotten.

Looking to the future, today I am introducing legislation to provide research into the effects of high speed winds on homes and other structures. Making these buildings safer will save lives and millions, if not billions, of dollars.

I urge my colleagues to cosponsor this bill and help prevent future damages caused by storms like Hurricane Andrew.

## LEADERSHIP NEEDED TO BRING BACK MANUFACTURING VITALITY

(Mr. ANDREWS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Texas. Mr. Speaker, the loss of manufacturing jobs threatens to erode the American standard of living. Manufacturing is the source of much of American's wealth. A healthy economy depends upon manufacturing to create the goods necessary for commerce and civilization.

Since 1980, my home State of Texas has lost over 70,000 manufacturing jobs. Nationwide, we have lost over 1.2 million jobs.

How do we reverse this destructive trend? We need economic leadership, a balanced budget, and cooperation with industry. We must work together to bring back the manufacturing vitality that made the United States the premier economic power in the world

## PASS HEALTH CARE REFORM INITIATIVES WE AGREE ON NOW

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to bring to the attention of my colleagues here a resolution I just introduced. It calls on the House and Senate to pass a health care reform initiative that has gained overwhelming bipartisan support.

Mr. Speaker, we should pass these initiatives before we adjourn. There are portions of every major piece of legislation on health care in the Senate and the House. There are areas where we can all agree.

Let us take a look at these areas. The first is job lock security. If you will look at the chart, you will see that every major piece of legislation in the Senate and the House agrees on job lock security.

Preexisting illness exclusions, 100-percent deductibility for the self-employed, and administrative simplification: As my chart shows, all the major health care initiatives here in Congress all agree on these four provisions.

By passing these provisions, we can get quick agreement and get going on health care reforms. They can be added onto in the next congressional term.

Let us put aside our political differences and break the health care gridlock in Congress. Please sign on to my House resolution and force Congress to address health care reform in America now.

## THE RECORD OF ECONOMIC CHANGE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I have been interested in the charges and allegations made about Governor Clinton and what may happen under his administration.

If you do not have the facts running in your favor, then scare everybody to death, I guess.

Let us look at the Bush record of change since 1989. For instance, we see that median household income, that is, all family members in a household working together, has not dropped just 1 year. It has dropped in real terms 2 years, almost $1,600 below what it was 2 years ago, more people working for less money.

The average hourly wage in this country has dropped in real terms under the Bush administration. Private-sector manufacturing jobs have dropped in real terms under the Bush administration. There are less people working in the private-sector payrolls today than when George Bush raised his hand on the steps of this Capitol 4 years ago.

That is the record of change, and so I would question those who want to frighten you about Governor Clinton. The fact is Governor Clinton has a program for change.

There is a record of change under the Bush administration. I do not think too many people want to continue going that way.

## ECONOMIC DOWNTURN IS WORLDWIDE

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, we hear a lot from Governor Clinton about the state of the U.S. economy. To hear him speak, the President alone is responsible for all our economic ills. Apparently, Congress and its Democratic leadership play no part in establishing economic policy and have no responsibility for Government spending or the deficit.

It is also very clear that the United States is not alone in dealing with a struggling economy. All of the world's major industrialized nations are facing similar problems of high unemployment and low rates of growth. According to the International Monetary Fund, Italy, Great Britain, and Canada are each expected to have unemployment rates of 10 percent or more in 1992, exceeding that in the United States. None of the industrialized nations of the Group of Seven are expected to experience growth rates of more than 2½ percent.

It is as unreasonable to attribute the worldwide economic downturn to President Bush as it is to believe Governor Clinton will be able to deliver the United States and the rest of the industrialized world from its current problems. Governor Clinton should keep in mind that he is running for President of the United States of America, not President of the world. The United States is, clearly, part of a global economy and other nations will look to the United States for leadership. It is imperative that we have a President who has demonstrated strength and conviction in addressing international problems and has proven he can work with other nations. In November, I am confident the American people will recognize that it is President Bush who has the experience to continue to provide that leadership.

## FEDERAL PREEMPTION

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, what do the three major credit-reporting agencies, the Chase Manhattan Bank, the American Bankers Association, and other corporate giants all have in common? They all want us to vote against the Gonzalez-Torres-Rinaldo amendment to H.R. 3596, the Consumer Reporting Reform Act, that the House is scheduled to consider later today.

The Gonzalez-Torres amendment would delete the Federal preemption clause in H.R. 3596 and guarantee that States across this country will continue to be able to play a leadership role in protecting their citizens from the abuses of the giant credit bureaus. These abuses are the No. 1 source of consumer complaints in America.

Mr. Speaker, last year TRW made an egregious error when it listed every property taxpayer in Norwich, VT, as a tax deadbeat. Hundreds of Vermonters in other towns were similarly treated.

In response, the State of Vermont passed what is widely considered to be one of the toughest fair credit reform laws in the country. And now these corporate giants want the U.S. Congress to strike down Vermont's law and the credit reporting laws in some 20 States.

Mr. Speaker, every single State attorney general in the country has spoken out against this unwarranted Federal preemption of State law and for the Gonzalez-Torres amendment.

Mr. Speaker, the Congress must stand tall and protect those people who sent us to Congress—the millions of people who have been treated unfairly by the giant credit-reporting agencies.

## INTRODUCTION OF THE SAVE THE FLORIDA BAY ACT OF 1992

(Mr. SHAW asked and was given permission to address the House for 1 minute.)

Mr. SHAW. Mr. Speaker, today, I am introducing bipartisan legislation entitled the "Save the Florida Bay Act of 1992." For my colleagues who have never had the pleasure of visiting this magnificent body of water, Florida Bay is located off the southern tip of Florida, between the Everglades National Park and the Florida Keys. Florida Bay serves as the principal nursery for Florida's largest commercial fishery, and its warm, clear tropical waters have attracted visitors from all over the world.

Unfortunately, today, Florida Bay is a dying body of water. Its clear waters are turning murky, and the sealife which was once abundant is now disappearing at an alarming rate. The coral reefs off the Florida Keys, the only living coral reefs in the Nation, are being threatened by the changes occurring in Florida Bay.

Poor decisions and poor planning by the Government years ago are the principal reasons for the decline of Florida Bay, and we must now take immediate action to reverse this trend before it is too late.

Mr. Speaker, we can save Florida Bay, but we must act now. I urge my colleagues to support this effort by becoming a cosponsor of the Save the Florida Bay Act.

□ 1040

## CLOSING OF OHIO PLANT ADDS TO DECLINE IN U.S. MANUFACTURING

(Mr. PEASE asked and was given permission to address the House for 1 minute.)

Mr. PEASE. Mr. Speaker, on November 16, the U-Brand Corp. will cease its operations in Ashland, OH, thereby terminating 413 workers. This case represents just one in a sad series marking the decline of the manufacturing sector in this country and the evaporation of high-wage jobs in the United States.

On a regional level, the Northeast-Midwest Institute reported recently that the industrial Northeastern and Midwestern States have lost 1.8 million jobs since the national recession began in July 1990. This region accounted for three-fourths of all U.S. jobs lost during this period.

I urge my colleagues to take note of the U-Brand plant closing and of the latest unemployment figures from the industrial Northeast and Midwest. These are the sort of details that should influence policy decisions on issues including strategic investment, trade initiatives, and worker adjustment assistance.

## NORTH AMERICAN FREE TRADE AGREEMENT HOLDS PROMISE FOR OUR ECONOMIC SECURITY

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, approval by Congress of the North American Free-Trade Agreement would do for our economic security what tearing down the Berlin Wall did for our national security.

It could be that big.

Consider the findings of a new study conducted by the Stern Group and released by the United States Council of the Mexico-United States Business Committee:

Even without a trade agreement, Mexican demand for United States goods has risen 167 percent since 1986.

In 1992, 800,000 working men and women in this country owe their jobs to United States exports to Mexico.

United States exports to Mexico will reach $44 billion in 1992, a 255-percent increase since 1986.

Every dollar's worth of additional plant and equipment spending by Mexican businesses generates 70 cents worth of demand for United States investment goods.

All of these trends will continue under NAFTA.

We will have more jobs, we will have more exports, and we will have more investment.

Mr. Speaker, NAFTA issues related to worker adjustment and the environment are important, but we need to keep our eye on the ball—a free trade agreement will mean increased economic prosperity for all of North America.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise Members of the House that the President or any person is to be addressed through the Chair and not directly.

## DEMOCRATIC CONTROL WOULD BE FRIGHTENING

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, perhaps it is appropriate that this election season coincides with our approach to Halloween because the scare tactics being used by Governor Clinton and my colleagues on the other side are outrageous.

We all know the economy is weak and that people are hurting, unemployment is over 7 percent. But look at interest rates at 6 percent, inflation at 3.2 percent.

Let us put a real scare into the American people, Mr. Speaker; let us look at what it was the last time the Democrats controlled the White House and the Congress.

Inflation at 12.5 percent, interest rates at 15.3 percent, unemployment at 7.1 percent.

Mr. Speaker, let us unmask Freddie Kruger and we are going to see a big donkey hiding behind that mask.

## VETO OF THE FAMILY MEDICAL LEAVE BILL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush did in fact veto the family medical leave bill. Today we will try to override it. Unfortunately, we probably will not, for the 31st time.

So much for family values.

But another one of those family value bills that he vetoed was one which would have extended unemployment compensation. The next Congress, we should go one step forward for more family value, and I will be introducing legislation, and I will ask my Members to join me in exempting unemployment compensation from Federal income tax for the more than 11 million unemployed Americans, because it makes no sense whatsoever to tax these benefits of people who have been deprived of their livelihood.

I have an idea that whoever is going to be President better make sure they take a good look at this one, and I am sure President Bill Clinton will sign it.

## S. 1216, CHINESE STUDENT PROTECTION ACT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, last night the Senate passed S. 1216, the Chinese Student Protection Act. The bill now goes to the President, who is expected to sign it.

Last November I introduced companion legislation to S. 1216, H.R. 3871. There was broad bipartisan support for my bill, and the Committee on the Judiciary, after a full hearing on both bills, easily passed the Senate version, which was passed quickly by the House.

Currently, prodemocracy Chinese nationals are protected by Executive Order 12711, but only until January 1, 1994.

Since the Communist Chinese Government has demonstrated its unwillingness to respond to human rights of its own citizens, a legislative remedy is needed to continue the protection after the Executive order expires.

This legislation authorizes the U.S. Attorney General to adjust the status of Chinese nationals protected by the Executive order to that of permanent resident if the President has not certified before July 1, 1993, that conditions in mainland China permit their safe return.

Three years after the terrible massacre in Tiananmen Square, I am pleased prodemocracy Chinese nationals in the United States now have the assurance that they will not be forcibly returned if conditions in China do not improve.

I am proud that the Congress has again shown its commitment to the advancement of democracy and the preservation of human rights with the passage of the Chinese Student Protection Act. When President Bush signs this bill, it will show that the United States continues to be a beacon to the world for freedom and liberty.

## TO DEBATE OR NOT TO DEBATE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the American people wonder why President Bush will not debate Bill Clinton. Before the Republican Convention the President was telling the American people, "I can't wait until I get into my campaign mode. Then I am going to get at 'em." He seemed to be saying that we see a political shootout at high noon, man to man.

Well, it is high noon. It is time. It is debate time. But now George Bush says, "No, I didn't mean that at all, I am not available, I am not willing." Why would he say that?

The reason, I think, is because this President has an economic record of deficits, decline, and despair. He would have to debate a Presidential candidate who preaches a message and has a plan for economic hope and opportunity. That is a debate the American people want to see, and that is the debate that George Bush wants to avoid.

## DEMOCRATS, AMERICA DOES NOT TRUST YOU WITH THE ECONOMY

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, remember when Paul Tsongas said:

> Democrats, America does not trust us with the economy, and that is the hard truth.

Well, we will see a good reason for that distrust later today.

The Democrats, with the full support of Bill Clinton, will attempt to override the President's veto of family leave.

This legislation, if signed into law, will hurt small businesses in this country. It will cost the American people jobs, and it will slow economic growth.

The President has offered an alternative that will give businesses the opportunity to implement family leave without hurting their competitiveness.

But the Democrats have rejected this approach. They would rather impose mandates to achieve political objectives.

America, Paul Tsongas was right. Don't trust the Democrats with the economy. Given the opportunity, they will run it into the ground.

## PRESIDENT BUSH IS OUT OF TOUCH WITH REALITY

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, why was President Bush afraid to go to East Lansing and debate Bill Clinton? Why does he refuse to go next week to Louisville, KY, and enter into a Presidential debate, suggested by a bipartisan panel?

I think the reason is that the Bush-Quayle administration have been so preoccupied with Murphy Brown that they are not in touch with reality. They are not in touch with the real problems facing families across America.

Late the other evening, the President came to Washington and vetoed the Family and Medical Leave Act, late at night, after the newscasts were over, to try to minimize the bad publicity, because President Bush knows that American families with both parents working need help. If there is a medical emergency at home, the birth of a child, an illness in the family, a parent who is critically ill, we have to give working parents the option of going home to take care of those folks without being fired. Every industrialized country in the world has that worker protection.

Mr. Speaker, that is a family value. The reason George Bush does not want to face Bill Clinton is that he realizes that all the talk about Murphy Brown is not in the real world. The real world with working parents is a world that needs the family value of the Family and Medical Leave Act.

Mr. Speaker, I hope the House overrides the President's veto today. If we do not, I hope the voters override the President on November 3.

### PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, is it not against the House rules to ascribe motivations to Members?

The SPEAKER pro tempore. The Chair does not know that the Chair observed carefully what the gentleman from Illinois said, but it did not appear to the Chair that was done.

Mr. WALKER. My question is, Mr. Speaker, Is it not outside the rules to ascribe motivations?

The SPEAKER pro tempore. Motivations are not to be ascribed to Members.

Mr. WALKER. The Chair did not hear in the gentleman's remarks a moment ago any ascribing of motivations?

The SPEAKER pro tempore. The Chair would say they should not be directly attributed, motivations should not be directly attributed.

Mr. WALKER. The Chair did not hear directly attributed to George Bush a moment ago ascribing motivations, when the gentleman said, for example, that the President came to town late in the dark night to sign a bill so that he could avoid having it known by the American people; that is not ascribing motivations?

The SPEAKER pro tempore. I believe the gentleman attributed that in an indirect sense.

Mr. WALKER. He ascribed it directly to the President.

If the Chair will permit, the Chair will confirm in my parliamentary inquiry that ascribing motivations is against the rules of the House?

The SPEAKER pro tempore. Arraignments of motives are against the rules of the House.

Mr. WALKER. Mr. Speaker, I thank the Chair.

## THE PRESIDENT'S UNWISE VETO OF THE CABLE BILL

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, we definitely need some Presidential debates. If we had a Presidential debate, I would like to see President Bush debate Governor Clinton on why he will not sign the cable bill.

Cable rates in this country have been going up at three times the rate of inflation. According to the Wall Street Journal this morning, 5 years after the cable industry was deregulated fewer than 1 percent of the cable markets are served by two or more providers, and rates have risen 61 percent for most services; yet President Bush is going to veto this legislation that would save consumers across this country millions of dollars.

It is supported by overwhelming majorities on both sides of the political aisle. More than two-thirds of both bodies have voted for this legislation.

Mr. Speaker, the President has an opportunity to end the political deadlock, and to save the consumers millions of dollars.

Mr. Speaker, I ask the President to change his mind, sign the cable bill. It is good for America.

## CONFERENCE REPORT ON S. 2344, VETERANS' MEDICAL PROGRAMS AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I call up the conference report on the Senate bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, September 17, 1992, at page 25380).

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 30 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Mississippi [Mr. Montgomery].

### GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, on the conference report now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

The conference agreement contains many provisions to improve health care for our Nation's veterans. It would do so in a cost-effective manner. The agreement tackles a number of important issues—problems among the families of some Persian Gulf war veterans, for treatment of post-traumatic stress disorder; and rehabilitation of homeless veterans. I will focus on just a few key provisions at this time.

First, the agreement would provide help, where needed, to Persian Gulf war veterans and their families through establishment of a program of marriage and family counseling.

In the case of veterans who suffer from post-traumatic stress disorder [PTSD], the agreement would require the Secretary of Veterans Affairs to provide Congress with a formal assessment of the VA's ability to provide treatment for PTSD now and in the future and a plan for meeting those needs. We view such a plan as a vital step in our ongoing efforts to help veterans suffering from PTSD.

The conference agreement would also provide for increased efforts to help homeless veterans. It would both extend authority, and authorize increased funding, for VA programs that help rehabilitate homeless veterans. It would also call on VA hospital directors to catalog and assess all available programs that assist the homeless, and to coordinate with other Government and nongovernmental organizations in planning programs to serve homeless veterans.

The agreement would also increase VA payments to veterans whose disabilities require them to make home modifications. Veterans would be eligible for up to $4,100 in grant support in connection with a service-connected condition and non-service-connected disabled veterans for up to $1,200. The amount of VA grant support has never been increased, although costs of construction have gone up greatly since 1976 when the grants were first authorized.

The agreement would also provide that no funds may be appropriated or expended for any major medical project or new major medical facility lease unless funds for such project or lease have been authorized by law.

Mr. Speaker, as I stated earlier, the conference agreement on S. 2344 contains many important and much needed provisions. I have mentioned only a few.

Mr. Speaker, we have some blue sheets on both sides of the aisle. I wish Members would come by and pick up these blue sheets. This is a major medical provision for our veterans to improve medical care in our VA hospitals and outpatient clinics. We have this all on the blue sheets.

Mr. Speaker, I urge my colleagues to support this important legislation, and I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. STUMP.

Mr. Speaker, I rise in strong support of the conference report on S. 2344, as amended, the Veterans' Health Programs Amendments of 1992. The House passed a majority of these provisions on May 12, 1992. In addition, this legislation contains several compromise provisions on health care and benefits agreed to by our colleagues in the other body.

Mr. Speaker, I want to thank the distinguished chairman of the committee, the gentleman from Mississippi, Mr. SONNY MONTGOMERY, and the ranking minority member of the Subcommittee on Hospitals and Health Care, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for their leadership and expertise on these important issues.

I urge the support of my colleagues on passage of the conference report on S. 2344, as amended, and I yield back the balance of my time.

□ 1100

Mr. MONTGOMERY. Mr. Speaker, I also would like to thank the gentleman from Arizona [Mr. STUMP] for working in the cooperation we have had together in this legislation. It is long overdue to bring these medical programs up to date, and I also would like to thank the gentleman Arkansas [Mr. HAMMERSCHMIDT].

Mr. SMITH of New Jersey. Mr. Speaker, I join my Veterans' Affairs Committee colleagues in urging the House to swiftly approve the conference report on S. 2344, the Veterans' Health Programs Admendments of 1992.

Our chairman, Mr. MONTGOMERY, and the gentleman from Arizona, our ranking member on the full committee, are to be commended for shepherding this measure through the legislative process. Furthermore, the ranking member on the Hospitals and Health Care Subcommittee, Mr. HAMMERSCHMIDT, deserves our thanks as well.

Mr. Speaker, I am very pleased that we have finally secured an agreement in both the House and the Senate to adopt the many needed provisions of this legislation. In April 1991, we began our first hearings on the draft legislation reflected in this measure. The Veterans' Committee conducted its markup of H.R. 2280, the Veterans Health Care and Research Amendments of 1991, on May 29, 1991. H.R. 111 and H.R. 2280 each were approved by the House earlier and finally, in May 1992, the House adopted the Senate version of this omnibus health reform bill, S. 2344.

As an original cosponsor of H.R. 2280, I fully support the conference report and would like to call particular attention to several provisions of this final measure.

First, the expansion of grants paid by the Department of Veterans Affairs to disabled veterans who may need to adapt their homes for everyday type living needs.

Second, allow totally and permanently disabled veterans with a service-connected disability to be able to receive hospital and medical services form facilities not connected with the Department of Veterans Affairs. This treatment could only be obtained if the needed service were not available at a VA facility.

Third, require a report from the Secretary of Veterans Affairs to Congress by August 30, 1993. This report would stipulate the VA plans for providing and expanding treatment to veterans with posttraumatic stress disorder.

Fourth, allow the VA and community health centers to jointly purchase major medical equipment with the VA paying no more than half the cost. The health center and VA would share the use and ownership of the said equipment after its purchase.

Fifth, require recipient of the health care scholarships to serve a minimum of 2 years, effective for scholarships awarded after enactment.

As the author of legislation increasing the educational support for students who agree to serve in the VA, I am pleased to see that the program has filled a clear need in the VA and needs to be expanded by this legislation.

Mr. Speaker, this bill will help veterans keep up with changing economic times by updating several laws benefiting our veterans. I urge its approval by the House.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the conference report for S. 2344, the Veterans' Medical Programs Amendments of 1992, and I wish to thank the committee's distinguished chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking member of the Committee on Veterans' Affairs, Mr. STUMP of Arizona, for their work in bringing this conference report before us in such a timely fashion. The measure before us incorporates the majority of the provisions of S. 2344 as passed by the House earlier this session.

This measure will help our Nation's veterans in several important areas. It will raise the limit on grants for both non-service-connected veterans and service-connected veterans for home structural alterations from $600 to $1,200 and from $2,500 to $4,100, respectively. Additionally, the bill requests a study from the VA as to the backlog in the provision of prosthetic appliances.

Of particular importance to Vietnam-era veterans are provisions to assist homeless veterans and to assist veterans suffering from posttraumatic stress disorder [PTSD]. Under the bill, the Secretary is instructed to expand programs benefiting homeless veterans. All VA centers are required to develop lists of agencies providing aid to the homeless and to implement local programs for providing for the homeless, including the establishment of one-stop nonresidential service and support teams to serve eligible veterans.

Mr. Speaker, this measure also addresses an ailment afflicting a particularly high percentage of American Vietnam veterans, that ailment being posttraumatic stress disorder [PTSD]. S. 2344 would require the Secretary of Veterans Affairs to place a high priority on research of this disease. In addition, the measure improves service, expands treatment, expands outreach programs, and assures veterans in rural areas access to PTSD centers.

In addition to the important programs mentioned above, the bill makes a number of other minor changes in the VA that will benefit programs. For these reasons, Mr. Speaker, I commend Chairman MONTGOMERY and ranking member STUMP for their efforts, and I urge all of my colleagues to fully support this excellent measure.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time.

Mr. STUMP. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. YATES submitted the following conference report and statement on the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPORT. 102-901)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5503) "making appropriations for the Department of the Interior and related Agencies, for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 11, 20, 24, 25, 29, 30, 34, 35, 58, 60, 63, 64, 65, 66, 75, 79, 81, 82, 83, 88, 91, 98, 100, 105, 119, 123, 129, 134, 140, 142, 146, 147.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 5, 6, 9, 13, 14, 15, 16, 17, 27, 32, 36, 40, 41, 42, 43, 45, 46, 49, 50, 51, 52, 53, 56, 59, 67, 68, 71, 76, 96, 106, 114, 115, 116, 117, 118, 121, 122, 125, 127, 130, 149, 151, 152, 153, 155, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$544,877,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$544,877,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

Strike the matter stricken and inserted by said amendment.

And the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$15,810,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$28,034,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*FOREST ECOSYSTEMS HEALTH AND RECOVERY*

*(REVOLVING FUND, SPECIAL ACCOUNT)*

*There is hereby established in the Treasury of the United States a special fund to be derived hereafter from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.*

*There is hereby appropriated an amount of $1,000,000, to remain available until expended to establish this fund. Nothing in this provision shall alter the formulas currently in existence by law for the distribution of receipts for the applicable lands and timber resources.* And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Retain the matter proposed by said amendment, amended as follows:

In lieu of the matter stricken and proposed by said amendment insert: *: Provided further, That notwithstanding any other provision of law and effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e), and the filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744(a) and (c)), each claimant shall, except as provided otherwise by this Act, pay a claim rental fee of $100.00 to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the assessment year ending at noon on September 1, 1993: Provided further, That for fiscal year 1993, each claimant—(i) that is producing under a valid notice or plan of operation not less than $1,500 and not more than $800,000 in gross revenues per year as certified by the claimant from 10 or fewer claims; or—(ii) that is performing exploration work to disclose, expose, or otherwise make known possible valuable mineralization on 10 or fewer claims under a valid notice or plan of operation; and that has less than 10 acres of unreclaimed surface disturbance from such mining activity or such exploration work, may elect to either pay the claim rental fee for such year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims and certify the performance of such assessment work to the Secretary by August 31, 1993: Provided further, That for fiscal year 1994, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)), each claimant shall, except as provided otherwise by this Act, pay an annual claim rental fee of $100.00 per claim to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following assessment year beginning at noon on September 1: Provided further, That in fiscal year 1994, each claimant—(i) that is producing under a valid notice or plan of operation not less than $1,500 and not more than $800,000 in gross revenues per year as certified by the claimant from 10 or fewer claims; or—(ii) that is performing exploration work to disclose, expose, or otherwise make known possible valuable mineralization on 10 or fewer claims under a valid notice or plan of operation; and that has less than 10 acres of unreclaimed surface disturbance from such mining activity or such exploration work, may elect to either pay the claim rental fee for such year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims and certify the performance of such assessment work to the Secretary by August 31, 1993: Provided further, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act through September 30, 1994, the locator shall pay $100.00 to the Secretary of the Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: Provided further, That the co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures through fiscal year 1994: Provided further, That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: Provided further, That nothing in this Act shall change or modify the requirements of section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by section 314(b), which shall remain in effect: Provided further, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the effective date of this Act: Provided further, That for purposes of determining eligibility for the exemption from the claim rental fee required by this Act, any claims held by a husband and wife, either jointly or individually, or their children under the age of discretion, shall be counted together toward the ten claim limit*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *and $440,000 which shall be available only for a contract, without competition, with the National Research Council for a study of the Endangered Species Act of 1973, as amended, $535,085,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$82,085,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,685,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$76,192,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,250,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$992,431,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$23,765,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$231,801,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: In lieu of the sum named in said amendment insert: *$450,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That of the funds provided under this heading, $4,200,000 shall be available to the State of West Virginia for replacement construction of the Fayette Station bridge and related approaches in the New River Gorge National River :Provided further, That notwithstanding any other provision of law a single procurement for the construction of the Franklin Delano Roosevelt Memorial may be issued which includes the full scope of the project :Provided further, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.323.18 :Provided further, That up to $600,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470a (d)(3)(A)(i)), shall be available until expended for the stabilization, rehabilitation and longterm protection of Lowell's Boat Shop in Amesbury, Massachusetts*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$118,911,000*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That none of the funds in this Act may be used to upgrade the Burr Trail National Rural Scenic Road in Utah except to meet health, safety and environmental concerns*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$581,692,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$197,014,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$175,729,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$110,179,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$189,541,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,353,899,000*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$270,638,000*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: After the words "tribal priority allocation" in said amendment, insert: *: Provided further, That the obligated and unobligated balances for construction contract support for Public Law 93–638 contractors associated with the housing improvement program and the road maintenance program shall be transferred to this account from the "Construction" account, and shall remain available until expended: Provided further, That any funds granted to the All Indian Pueblo Council of New Mexico pursuant to Public Law 93–638 for a study of the best use of the land and planning associated with development of the site of the former Albuquerque Indian School, at the discretion of the Secretary, may include the preparation of bid proposals in response to solicitations issued by the General Services Administration for commercial leases, with the condition that evidence of agreements with the City of Albuquerque and the State of New Mexico concerning payments of all local and State taxes equivalent to taxes applicable to similarly situated office buildings and compliance with land use requirements be provided to the General Services Administration: Provided further, That no funds provided for the purpose described in the previous provision shall be used for planning or development of Class I, II, or III gaming, as defined in the Indian Gaming Regulatory Act of 1988, 102 Stat. 2476*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$150,896,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$38,609,000, of which $500,000 shall be available to the Trust of St. George pursuant to the provisions of 16 U.S.C. 1166(e), as amended*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

Restore the matter stricken in said amendment amended to read as follows: *: Provided, That of the funds provided herein $3,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks cancelled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), and (2) to restore to Individual Indian Monies trust funds amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, including any interest on these amounts that may have been earned, but was not because of the default*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$81,651,000*; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,546,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,249,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$31,727,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the matter proposed in said amendment insert:

*SEC. 114. (a) Notwithstanding the provisions of section 101(c) of Public Law 98–473, Act of October 12, 1984, 98 Stat. 1849 (25 U.S.C. 123c), the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred between February 1, 1991, and July 31, 1992, on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the U.S. Treasury held jointly for the Kiowa, Comanche, and Apache Tribes: Provided, That such payments may not exceed an aggregate of $1,300,000.*

*(b) Prior to exercising the discretion described in section (a):*

*(1) the Secretary or his designee shall by no later than November 1, 1992, provide written notice to the Kiowa, Comanche, and Apache Tribes, and the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary has identified as lawful debts described in section (a); and*

*(2) the Kiowa, Comanche, and Apache Tribes shall have until February 1, 1993, to resolve any of the lawful debts described in section (a) in accordance with the terms of their respective tribal constitutions.*

*(c) In the event the Kiowa, Comanche, and Apache Tribes individually or through the Kiowa Comanche Apache Intertribal Land Use Committee do not provide documentation to the Secretary by March 1, 1993, confirming payment of the lawful debts described by the Secretary or justifying why any of the amounts should not be paid, the Secretary may exercise his discretion to pay the obligations.*

And the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$184,281,000*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$157,566,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$26,000,000*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,318,481,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$190,785,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$257,447,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$88,190,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$169,257,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$62,947,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.* And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment to read as follows:

*To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation to timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.* And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

*The Forest Service may offer for sale salvageable timber in Region 5 and Region 6 in fiscal year 1993: Provided, That for forests known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: Provided further, That timber salvage activity in spotted owl habitat is to be done in full compliance with all existing environmental and forest management laws.* And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab, Dixie, Idaho Panhandle, and Coconino National Forest and the Lake Tahoe Basin Management Unit are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected programs: Provided, That timber removed shall count toward meeting the Congressional expectations for the annual timber harvest.* And the Senate agree to the same.

Amendment number 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*Hereafter, funds appropriated to the Department of Agriculture, Forest Service may be used to pay transportation, lodging, and subsistence expenses of student interns, defined as employees who assist scientific, professional, or technical employees and who are bona fide students of accredited colleges or universities who are pursuing courses related to the field in which employed.*

*Notwithstanding any other provision of law, the Forest Service is authorized to issue a contract without competition to the National Research Council to begin an assessment of the forests in the Pacific Northwest.* And the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate number 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$421,939,000*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate number 107, and agree to the same with an amendment, as follows: Retain the matter proposed by said amendment, amended as follows:

After the words "Naval Petroleum" in said amendment, insert: *and Oil Shale*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate number 108, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: In lieu of the sum named in said amendment insert: *$1,500,000*; and the Senate agree to the same.

Amendment Numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,675,000*; and the Senate agree to the same.

Amendment Numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment Insert: *$583,866,000*; and the Senate agree to the same.

Amendment Numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment Insert: *$231,757,000*; and the Senate agree to the same.

Amendment Numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment Insert: *$1,500,000*; and the Senate agree to the same.

Amendment Numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$3,000,000 of the amount provided under this head in this Act and $3,000,000 provided under this head in Public Law 102–154 shall be available for financial assistance to the recipient of funds appropriated under Public Law 101–512 for the development of an integrated management information system for the steel industry, for use in continuing that project, and the Government's share of the cost of this project shall not exceed 50 percent using the same criteria for acceptance of contributions as used for steel and aluminum research: Provided further, That $18,091,000*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$137,000,000.*

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*The first paragraph under this head in Public Law 101–512, as amended, is further amended by striking the phrase "and $250,000,000 on October 1, 1992" and inserting "$150,000,000 on October 1, 1993, and $100,000,000 on October 1, 1994" and by striking the phrase "$275,000,000 on October 1, 1992, and $225,000,000 on October 1, 1993" and inserting "$250,000,000 on October 1, 1993, and $250,000,000 on October 1, 1994"*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,537,851,000*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$320,827,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$336,500,000*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,312,000*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$298,094,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$27,579,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$16,830,000*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$51,627,000*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,561,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$145,555,000*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,400,000*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$152,518,000*; and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$26,416,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,350,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,750,000*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$21,450,000: Provided, That all employees of the memorial on April 1, 1992, including employees currently on excepted appointments covered under schedules A, B, and C, who are performing inherently governmental functions which will continue after the opening of the museum shall be brought into the competitive service in accordance with the classification and pay policy guidelines contained in title V of the United States Code*; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 312. Section 204 of the Energy and Water Development Appropriations Act for the fiscal year ending September 30, 1993, H.R. 5393 (102nd Congress), is amended as follows:*

*Before the period at the end of said section insert the following: ": Provided, That the balance of the appraised value of the Grandview State Park lands transferred shall be applied towards the requirements of Section 103(a)(1)(B) of Public Law 99–662, for said projects"*

, and

on page 73, line 1, of the House engrossed bill, H.R. 5503, strike "expenditure" and insert in lieu thereof *obligation*;

and on page 74, line 5, of the House engrossed bill, H.R. 5503, strike "expenditure" and insert in lieu thereof *obligation*;

and on page 42, line 19, of the House engrossed bill, H.R. 5503, strike "$2,190,000" and insert in lieu thereof *$2,040,000*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows: In lieu of Sec. "321" insert: *319*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: In lieu of Sec. "319" insert: *320*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

***SEC. 321. REMOVAL OF RESTRICTIONS.***

*(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c).*

*(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 56.805 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium.*

*(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.*

*(d) CONDITIONS FOR REMOVAL OF RESTRICTIONS.—Subsections (a), (b), and (c) shall not be effective until the City and County of Honolulu have identified an equal amount of additional land and have agreed that such land shall be dedicated in perpetuity for public park and public recreation uses.*

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

***SEC. 322. FOREST SERVICE DECISIONMAKING AND APPEALS REFORM***

*(a) IN GENERAL.—In accordance with this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.) and shall modify the procedure for appeals of decisions concerning such projects.*

*(b) NOTICE AND COMMENT.*

*(1) NOTICE.—Prior to proposing an action referred to in subsection (a), the Secretary shall give notice of the proposed action, and the availability of the action for public comment by:*

*(A) promptly mailing notice about the proposed action to any person who has requested it in writing, and to persons who are known to have participated in the decisionmaking process; and,*

*(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of action in the Federal Register; or*

*(ii) in the case of any other action referred to in subsection (a), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.*

*(2) COMMENT.—The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).*

*(c) RIGHT TO APPEAL.—Not later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a), a person who was involved in the public comment process under subsection (b) through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.*

*(d) DISPOSITION OF AN APPEAL.*

*(1) INFORMAL DISPOSITION.*

*(A) IN GENERAL.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (c) and attempt to dispose of the appeal.*

*(B) TIME AND LOCATION OF THE MEETING.—Each meeting in accordance with subparagraph (A) shall take place:*

*(i) not later than 15 days after the closing date for filing an appeal; and,*

*(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.*

*(2) FORMAL REVIEW.—If the appeal is not disposed of in accordance with paragraph (1), an appeals review officer designated by the Chief of the Forest Service shall review the appeal and recommend in writing, to the official responsible for deciding the appeal, the appropriate disposition of the appeal. The official responsible for deciding the appeal shall then decide the appeal. The appeals review officer shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.*

*(3) TIME FOR DISPOSITION.—Disposition of appeals under this subsection shall be completed not later than 30 days after the closing date for filing of an appeal, provided that the Forest Service may extend the closing date by an additional 15 days.*

*(4) If the Secretary fails to decide the appeal within the 45 day period, the decision on which the appeal is based shall be deemed to be a final agency action for the purpose of chapter 7 of title 5, United States Code.*

*(e) STAY.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision:*

*(1) for 45 days, if an appeal is not filed, or,*

*(2) for an additional 15 days after the date of the disposition of an appeal under this section, if the agency action is deemed final under subsection (d)(4).*

And the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: In lieu of Sec. "322" insert: *323*; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 324. With the exception of budget authority for "Miscellaneous payments to Indians", Bureau of Indian Affairs, Department of the Interior; "Salaries and expenses", National Indian Gaming Commission, Department of Interior; "Payment to the Institute", Institute of American Indian and Alaska Native Culture and Arts Development; "Salaries and expenses", Woodrow Wilson International Center for Scholars; "Salaries and expenses" and "National capital arts and cultural affairs", Commission on Fine Arts; "Salaries and expenses", Advisory Council on Historic Preservation; "Salaries and expenses", National Capital Planning Commission; "Salaries and expenses", Franklin Delano Roosevelt Memorial Commission; and "Salaries and expenses" and "Public development", Pennsylvania Avenue Development Corporation, each amount of budget authority for the fiscal year ending September 30, 1993, provided in this Act, for payments not required by law is hereby reduced by 0.85 per centum: Provided, That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.*

And the Senate agree to the same.

SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
BILL LOWERY,
JOE SKEEN,
*Managers on the Part of the House.*

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PAT LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRITZ HOLLINGS,
HARRY RIED,
KENT CONRAD,
DON NICKLES,
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
WARREN B. RUDMAN,
PETE V. DOMENICI,
SLADE GORTON,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5503), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 5503 incorporates some of the provisions of both the House and the Senate versions of the bill. The language and allocations set forth in the House Report 102-626 and Senate Report 102-345 shall be complied with unless specifically addressed to the contrary in the conference agreement and accompanying statement of the managers.

## TITLE I—DEPARTMENT OF THE INTERIOR

### BUREAU OF LAND MANAGEMENT

#### MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $544,877,000 for management of lands and resources instead of $531,967,000 subject to authorization as proposed by the House and $545,665,000 as proposed by the Senate. The net decrease below the amount proposed by the Senate consists of increases of $200,000 for the Oregon Trail sesquicentennial in cultural resources; and $8,000,000 to restore the allocation reduction; and decreases of $1,680,000 in oil and gas and $840,000 in other material resources, both in energy and minerals development; $1,100,000 for indirect costs of Indian contracts in Alaska lands; $500,000 for eastern Oregon and Washington forest health in forest management; $500,000 for wild horses and burros; $315,000 for base restoration, $150,000 for noxious weed control, and $525,000 for range improvement project planning, all in rangeland management; $1,000,000 from the general increase and $270,000 for Lake Havasu, both in wildlife habitat management; $100,000 for prehistoric trackways (NM) and $100,000 for Chacoan outliers, both in cultural resources; $148,000 from the general increase in recreation resources; $100,000 for resource management planing; $200,000 for surveying native land selections and $250,000 for research and development on satellite navigation systems, both in Alaska cadastral surveys; $210,000 for resource protection and law enforcement; and $1,000,000 for facilities management.

The managers agree that:

1. The $350,000 provided for the Mary's River (NV) land exchange project is in the wildlife habitat and fisheries management activity.

2. Funds for wild horse and burro management include the Senate earmarks for immunocontraception, fertility control, and monitoring.

3. All project planning for range improvement projects is to be funded in this account.

4. The Bureau must provide a report to the Appropriations Committees on the scope of the Lake Havasu Fisheries Improvement Partnership Program, including the benefits of the program, the total cost of the program, the relative contributions of each participant, and a schedule for implementation and funding, in time for consideration of the plan during the fiscal year 1994 appropriations process.

5. The $800,000 provided in Alaska cadastral surveys may be used for indirect costs of Indian Self Determination Act contracts or additional surveying of native land selections if the indirect costs are determined to be less than the $800,000 provided.

6. Research and development on a satellite navigation system for cadastral surveys may be conducted within Alaska cadastral survey funding.

7. No less than $500,000 is available within resources protection for the interagency Archeological Resources Protection Act (ARPA) unit in the Four Corners area of New Mexico, Arizona, Utah, and Colorado.

8. Priority should be given to continuation of the restoration and development of wetlands and riparian systems in the Upper Crab Creek Management Unit located north of Odessa, WA.

Amendment No. 2: Provides an estimate of appropriations of $544,877,000 instead of $531,967,000 as proposed by the House and $545,665,000 as proposed by the Senate.

Amendment No. 3: Deletes language proposed by the House prohibiting the issuance of patents for mining and mill site claims, and deletes Senate language proposing modifications to the Mining Law of 1872. The managers agree that this issue should be addressed in the authorizing process.

### FIRE PROTECTION

Amendment No. 4: Appropriates $119,310,000 for fire protection as proposed by the Senate instead of $119,560,000 subject to authorization as proposed by the House.

### EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

Amendment No. 5: Deletes House proposed language making appropriations for the Emergency Department of the Interior Firefighting Fund subject to authorization. The Senate had no similar provision.

Amendment No. 6: Deletes House proposed language making appropriations for the Emergency Department of the Interior Firefighting Fund subject to authorization. The Senate had no similar provision.

Amendment No. 7: Deletes Senate proposed language which specified the nature of the President's notification to Congress of emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985. The House had no similar language.

### CONSTRUCTION AND ACCESS

Amendment No. 8: Appropriates $15,810,000 for construction and access instead of $13,225,000 subject to authorization as proposed by the House and $17,913,000 as proposed by the Senate. The decrease below the amount proposed by the Senate consists of $1,100,000 for the Campbell Creek Environmental Education Center in Anchorage, AK, and $1,003,000 to delete the four lowest ranked projects listed in the budget justification.

### LAND ACQUISITION

Amendment No. 9: Inserts language proposed by the Senate which allows for activities authorized under P.L. 102–259, the Morris K. Udall Scholarship Act. The Foundation is to seek to raise private funds for the balance of the Endowment.

Amendment No. 10: Appropriates $28,034,000 for land acquisition instead of $25,940,000 as proposed by the House and $24,550,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

| | |
|---|---|
| Cache Creek ACEC, CA ...... | $200,000 |
| Central Valley Wetlands, CA .................................. | 1,000,000 |
| Carrizo Plains Natural Area, CA ........................ | 500,000 |
| Desert Tortoise Habitat, CA .................................. | 700,000 |
| Dos Palmos/Salt Creek ACEC, CA ...................... | 1,000,000 |
| East Mojave NSA, CA ........ | 1,000,000 |
| Fishtrap Lake (Miller Ranch), WA ..................... | 2,350,000 |
| Hulls Gulch Uplands, ID .... | 625,000 |
| Idaho Land Exchange, ID .. | 4,200,000 |
| King Range NCA, CA ......... | 500,000 |
| Morongo Canyon ACEC, CA | 500,000 |
| Oregon City, OR ................ | 750,000 |
| Organ Mountains ACEC, NM .................................. | 1,000,000 |
| Point Colville/Chadwick ACEC, WA ...................... | 200,000 |
| San Miguel, CO .................. | 800,000 |
| San Pedro Ecosystem, AZ | 800,000 |
| San Pedro Riparian ACEC, AZ .................................. | 500,000 |
| Santa Rosa Mountains NSA, CA ......................... | 2,000,000 |
| Udall Scholarship Foundation ................................. | 5,000,000 |
| Upper Sacramento River, CA .................................. | 1,000,000 |
| West Eugene Wetlands, OR | 1,000,000 |
| Inholdings, emergencies, hardships ....................... | 1,000,000 |
| Acquisition management .. | 1,409,000 |
| Total, land acquisition ....................... | 28,034,000 |

The managers authorize the Bureau of Land Management to acquire for fair market value the Wood River Ranch in Klamath County, Oregon and approve the reprogramming of $1,000,000 from the Steens Mountain Ranch acquisition and $300,000 from the Warner Wetlands acquisition project for this purpose. The managers expect the Bureau after acquisition to administer the land and to consult with the Bureau of Reclamation and the U.S. Fish and Wildlife Service with regard to common management issues affecting the Klamath Basin. In addition, the Bureau should dispose of appropriate lands under its control in Klamath County in order to compensate for the loss of local tax revenues associated with the Wood River Ranch acquisition.

The managers understand that additional land purchases are contemplated under the proposed Idaho lands exchange, beyond the amounts included in FY 1993. Additional funding to continue this effort may be considered in future years.

### OREGON AND CALIFORNIA GRANT LANDS

Amendment No. 11: Appropriates $83,122,000 for Oregon and California grant lands as proposed by the House instead of $83,932,000 as proposed by the Senate. The amount proposed includes a decrease of $500,000 from the House amount to finance a separate timber salvage sale account offset by an increase of $500,000 to restore the House reduction for transportation facilities maintenance.

The managers agree that all necessary assets must be applied to maintaining current efforts for the development and earliest completion of the new decadal plans and the associated environmental impact statements.

The managers also agree that timber salvage efforts should be applied to highest priority areas with funds in this account and the newly established Forest ecosystems health and recovery account, and not earmarked specifically for any individual district at a specific dollar level.

### FOREST ECOSYSTEMS HEALTH AND RECOVERY

Amendment No. 12: Establishes a Forest Ecosystems Health and Recovery account on a revolving fund basis and appropriates $1,000,000 to the fund, making technical changes to the Senate amendment for that purpose and specifying that no existing receipt distribution formulas are altered by the new account. The House had no such provision.

The managers agree that since amounts reduced from the management of lands and resources and Oregon and California (O&C) grant lands accounts were to emphasize the health of eastern Oregon and Washington forests, and the O&C grant land forests respectively, the use of funds in this account should emphasize those areas.

The managers also agree that none of these funds are to be used for the sale of "green" timber.

### RANGE IMPROVEMENTS

Amendment No. 13: Deletes House proposed language making appropriations for range improvements subject to authorization. The Senate had no similar provision.

### SERVICE CHARGES, DEPOSITS, AND FORFEITURES

Amendment No. 14: Deletes House proposed language making appropriations for service charges, deposits, and forfeitures subject to authorization. The Senate had no similar provision.

### MISCELLANEOUS TRUST FUNDS

Amendment No. 15: Deletes House proposed language making appropriations for miscellaneous trust funds subject to authorization. The Senate had no similar provision.

### ADMINISTRATIVE PROVISIONS

Amendment No. 16: Allows the expenditure of funds for surveys of Federal lands and for protection of State of Alaska lands as proposed by the Senate. The House had no similar provision. An identical provision has been carried in the bill for several years, and is particularly important in the protection of Alaska lands.

Amendment No. 17: Specifies procedures for dealing with reductions in grazing allotments as proposed by the Senate. The House had no similar provision. An identical provision has been carried in the bill for many years and is part of BLM's standard procedures with regard to grazing allotment management.

Amendment No. 18: Establishes a holding fee of $100 for mining claims for a two-year period, with exemptions for small claimants modified from the Senate proposed language, and providing a definition of eligibility for families for the small claimant exemption. Both the House and Senate had proposed a permanent fee and the House had no small claimant exception. The managers agree that a permanent fee should be considered in the authorizing process.

### U.S. FISH AND WILDLIFE SERVICE

### RESOURCE MANAGEMENT

Amendment No. 19: Appropriates $535,085,000 for resource management instead of $530,211,000 as proposed by the House and $531,177,000 as proposed by the Senate.

The net increase to the House includes increases of:

| | |
|---|---|
| California Condor (captive breeding) | $250,000 |
| San Juan River recovery | 150,000 |
| Pacific Island recovery | 300,000 |
| Washington County, UT (HCP) | 150,000 |
| Hawaii endangered bird captive propagation | 300,000 |
| Wildstock monitoring program | 300,000 |
| General consultation | 325,000 |
| Rio Grande bosque habitat research | 200,000 |
| Galveston Bay | 50,000 |
| Gulf of Maine | 50,000 |
| Southern New England/Long Island Sound | 50,000 |
| Bay Estuary National Office | 10,000 |
| Appropriate technology transfer for rural areas | 1,300,000 |
| Silvio Conte NWR planning | 100,000 |
| Ohio River Islands NWR, WV | 75,000 |
| St. Catherine NWR, MS | 40,000 |
| Yukon Delta Cooperative Education | 200,000 |
| Emperor goose and black brant surveys | 225,000 |
| Forensics Laboratory (Ashland, OR) | 195,000 |
| Baltimore port of entry | 200,000 |
| Arctic Nesting Goose Surveys | 200,000 |
| Predator Control in Alaska | 150,000 |
| Mammoth Springs NFH, AR | 80,000 |
| Norfolk NFH, AR | 100,000 |
| Bowden NFH, WV | 30,000 |
| Lake Champlain activities | 500,000 |
| Columbia River Basin Salmon | 150,000 |
| Marine Mammal protection in Alaska | 300,000 |
| Yukon Salmon assessments | 100,000 |
| Leetown NFRC-acid mitigation studies | 345,000 |
| Waterfowl surveys | 200,000 |
| Biodiversity initiative, University of Nevada, Reno | 1,050,000 |
| Spectacled and stellar's eider research | 250,000 |
| Tustumena Lake | 100,000 |
| Striped bass research, Leetown NFRC | 250,000 |
| National Wetlands Research, LA | 400,000 |
| Platte River wetland studies, Univ. of Nebraska-Lincoln | 198,000 |
| Patuxent (Maintenance) | 100,000 |
| Leetown (environmental and handicapped fishing complex) | 75,000 |
| Co-op unit vacancies | 73,000 |
| Monell Chemical Senses Center | 100,000 |
| Office of the Director | 50,000 |
| Training programs | 500,000 |
| Office of Training and Education | 148,000 |
| Decreases to the House position include: | |
| Endangered species permits | 225,000 |
| Central Valley, CA | 200,000 |
| Puget Sound | 300,000 |
| Delaware Bay | 75,000 |
| Albemarle-Pamlico Sound | 50,000 |
| So. California Coast/San Diego Bay | 100,000 |
| San Francisco Bay | 96,000 |
| National Wetlands Inventory | 57,000 |
| Water rights | 400,000 |
| Refuge maintenance | 100,000 |
| Law enforcement operations | 415,000 |
| Hatchery maintenance | 300,000 |
| Aquatic nuisances | 100,000 |
| Aquaculture Research (Gadsden) | 100,000 |
| Southern California wetlands research | 300,000 |
| Procurement workforce training | 182,000 |
| Health and Safety | 185,000 |
| Pay Costs | 1,860,000 |

The managers have included bill language providing $440,000 to the Fish and Wildlife Service, which shall be available only for a contract with the National Research Council, to conduct a review and an evaluation of how the following items relate to the overall purposes of the Endangered Species Act: Definition of species, conflicts between species, role of habitat conservation, recovery planning, risk, and issues of timing.

The managers agree to the following:

1. There is $150,000 within available funds for non-game biodiversity at Grand Island, NE.

2. As part of its habitat conservation efforts, the Service should work cooperatively with the agriculture community on restoration projects that contribute to the goals of the North American Waterfowl Management Plan and that complement Service efforts being undertaken through the refuges and wildlife activity to demonstrate the compatibility of migratory bird management with sustainable agricultural practices.

3. Up to $150,000 within prelisting funds may be used for Atlantic salmon activities.

4. Of the amount provided for peregrine falcon recovery, $300,000 is for the Peregrine Fund, Inc.

5. The Service should give attention to restoration plan development for wetlands in Mississippi within wetlands reserve technical assistance funds.

6. No specific amount is earmarked for raptor monitoring within the migratory bird management appropriation.

7. $200,000 is provided for the Riverside County Habitat Conservation Agency to conduct biological surveys in western Riverside County, California, as part of the preparation of a multi-species habitat conservation plan focusing on coastal sage scrub habitat and its resident species, which includes four candidate species: California gnatcatcher, cactus wren, orange-throated whiptail, and San Diego horned lizard.

8. There is a general reduction of $1,480,000 for Fish and Wildlife Service regional offices rather than a reduction specific to administrative functions of the regional offices. None of this reduction is to be assessed to the field units.

9. Within funds provided for the Puget Sound Program, WA, $300,000 is made available for the Fish & Wildlife Service to conduct a Habitat Survey on Hood Canal, in cooperation with local governments.

10. Included is $400,000 for the San Diego region to continue multi-species planning and implementation activities throughout the San Diego region, and to integrate the four on-going multi-species habitat conservation plans. These activities focus on multiple habitat areas including coastal sage scrub and its resident species, which include several endangered and candidate species such as the California gnatcatcher, cactus wren, orange-throated whiptail, and San Diego horned lizard.

11. For the biodiversity initiative associated with the University of Nevada, Reno there is to be 30 percent non-Federal cost sharing.

### CONSTRUCTION AND ANADROMOUS FISH

Amendment No. 20: Retains the heading "and Anadromous Fish" as proposed by the House instead of deleting it as proposed by the Senate.

Amendment No. 21: Appropriates $82,085,000 for Construction and Anadromous Fish instead of $47,513,000 as proposed by the House and $90,351,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

| | |
|---|---|
| Aransas National Wildlife Refuge, TX (office/residence restoration) | $250,000 |
| Audubon Species Institute, LA | 8,672,000 |
| Bear River Migratory Bird Refuge, UT (flood damage repair) | 766,000 |
| Bowerman Basin NWR, WA (trails, boardwalks) | 500,000 |
| California Condor captive breeding facility | 400,000 |
| Cameron Prairie National Wildlife Refuge, LA (visitor center) | 2,900,000 |
| Cape Romain National Wildlife Refuge, SC (replacement) | 600,000 |
| Chincoteague National Wildlife Refuge, VA (storm damage repair) | 400,000 |
| Coquille Point National Wildlife Refuge, OR (revegetation, signage) | 400,000 |
| Craig Brook NFH, ME (retrofit) | 400,000 |
| D.C. Booth Hatchery, SD (continue rehabilitation) | 1,250,000 |
| Dexter National Fish Hatchery, NM (upgrade facilities) | 1,428,000 |
| Hakalau National Wildlife Refuge, HI (fencing) | 300,000 |
| J Clark Salyer National Wildlife Refuge, ND (carp control structure) | 1,000,000 |

| | |
|---|---|
| Jackson National Fish Hatchery, WY (relocation of road) | 925,000 |
| Juneau Ecological Services Station, AK (replace boat dock and pilings) | 664,000 |
| Kenai National Wildlife Refuge, AK (Skilak loop) | 2,500,000 |
| Ketchikan Ecological Services Station, AK (replace waterfront facilities) | 430,000 |
| Las Vegas National Wildlife Refuge, NM (Storrie Lake Dam) | 2,000,000 |
| Leavenworth National Fish Hatchery, WA (pollution abatement) | 527,000 |
| Lower Suwannee National Wildlife Refuge, FL (fueling facility/oil and paint storage building) | 200,000 |
| Makah National Fish Hatchery, WA (water sterilization system) | 812,000 |
| McDowell Fish Hatchery, WV | 900,000 |
| National Education and Training Center, WV | 15,000,000 |
| National Fisheries Contaminant Research Center, Columbia, MO: | |
| Rehabilitation of analytical building | 730,000 |
| Replacement of technical center building | 1,500,000 |
| National Fisheries Research Center, LaCrosse, WI (modification of HVAC system) | 2,716,000 |
| Okefenokee National Wildlife Refuge, GA (asbestos removal) | 102,000 |
| Ottawa NWR, OH (dike restoration, Metzger Marsh) | 2,700,000 |
| Ouray National Wildlife Refuge, UT (selenium abatement) | 549,000 |
| Pacific Institute of Natural Sciences, OR | 1,700,000 |
| Parker River National Wildlife Refuge, MA (hazardous waste cleanup) | 1,164,000 |
| Patuxent Wildlife Research Center, MD (exhibits) | 626,000 |
| Stillwater National Wildlife Refuge, NV: | |
| Water delivery system | 1,250,000 |
| Closure of hunter drain | 370,000 |
| Tishomingo National Wildlife Refuge, OK (replacement facility) | 450,000 |
| Togiak National Wildlife Refuge, AK (aircraft hangar) | 600,000 |
| Trempealeau National Wildlife Refuge, WI (dike rehabilitation design) | 440,000 |
| Wichita Environmental Education Center, KS | 2,000,000 |
| Wichita Mountains National Wildlife Refuge, OK: | |
| Road rehabilitation | 1,400,000 |
| Visitor center | 3,000,000 |
| Williams Creek National Fish Hatchery, AZ (road rehabilitation) | 400,000 |
| Winthrop National Fish Hatchery, WA (pollution abatement) | 110,000 |
| Bridge inspection | 500,000 |
| Bridge replacement/repair | 1,950,000 |
| Dam inspection | 445,000 |
| Dam rehabilitation | 10,280,000 |
| Emergency projects | 1,000,000 |
| Striped bass study | 300,000 |
| Construction management | 4,579,000 |
| Offset: Unobligated balances (Lake Elmer Thomas dam) | −2,000,000 |
| Total | 82,085,000 |

The managers support cooperative efforts in the completion of the Storrie Lake Dam which is jointly owned by water users including the Fish and Wildlife Service (57% ownership). To provide for dam safety protection measures, the Service will undertake repairs to the dam with funding provided herein. Service responsibility for repairs to the dam should not exceed its ownership share.

For the water delivery system and the closure of Hunter drain at Stillwater NWR, NV, the managers have agreed to provide half of the money for the projects. The balance of the costs should be borne by the Bureau of Reclamation as is being done with the J. Clark Salyer NWR, ND carp control structure.

The managers agree to change the original proposal for the Mora Fish Hatchery to a fish technology center which can be built with funds already appropriated. The new proposal will allow for advancement of fish cutlure technology, development of water conservation technologies, applied development of new genetic initiatives and maintenance of threatened and endangered fish species.

The $400,000 provided for California condor captive propagation facilities should be awarded on a competitive basis with consideration given to maximizing cost sharing.

The $2,700,000 provided for the Ottawa NWR, OH is for construction of a dike restoration project to protect metzger Marsh. Funding for this project will also be provided by the State of Ohio and other Federal sources. The Fish and Wildlife Service is to work with the United States Geological Survey in planning this project to determine how Metzger Marsh operates as an ecosystem and how that ecosystem would be modified by the construction of the dike. The dike should be designed and constructed to maintain the marsh as a viable, dynamic ecosystem. Following construction, the Fish and Wildlife Service should monitor the performance of the dike in meeting the goal of preventing further erosion of the shoreline.

There is to be 30 percent non-Federal cost sharing for the Wichita Environmental Education Center, KS.

### NATURAL RESOURCE DAMAGE ASSESSMENT

Amendment No. 22: Appropriates $4,685,000 for Natural Resource Damage Assessment and Restoration instead of $5,000,000 as proposed by the House and $4,365,000 as proposed by the Senate.

Funds made available to the Fish and Wildlife Service for Natural Resource Damage Assessment (NRDA) activities in Commencement Bay, Tacoma, are to be equally divided between restoration and damage assessment activities. The managers expect the agency to continue to work closely with the Commencement Bay Cleanup Action Committee (CBCAC) and local governments in coordinating all NRDA activities.

### LAND ACQUISITION

Amendment No. 23: Appropriates $76,192,000 for land acquisition instead of $67,397,000 as proposed by the House and $78,615,000 as proposed by the Senate.

The managers agree to the following distribution:

| | |
|---|---|
| ACE River Basin, SC | $2,250,000 |
| Archie Carr NWR, FL | 2,000,000 |
| Back Bay NWR, VA | 1,800,000 |
| Balcones Canyonlands, TX | 2,000,000 |
| Bayou Cocodrie NWR, LA | 3,000,000 |
| Block Island NWE, RI | 1,500,000 |
| Boque Chitto NWR, LA | 500,000 |
| Bon Secour NWR, AL | 600,000 |
| Buenos Aires NWR, AZ | 600,000 |
| Cape May NWR, NJ | 3,500,000 |
| Chincoteaue NWR, VA | 1,000,000 |
| Cypress Creek NWR, IL | 4,500,000 |
| Dahomey NWR, MS | 2,500,000 |
| E.B. Forsythe NWR, NJ | 4,500,000 |
| Grand Bay NWR, MS/AL | 200,000 |
| Grasslands, CA | 2,000,000 |
| Great Meadows NWR, MA | 2,000,000 |
| Great Swamp NWR, NJ | 750,000 |
| Idaho Land Exchange | 800,000 |
| Kilauea NWR, HI | 2,700,000 |
| Lower Rio Grande Valley NWR, TX | 5,000,000 |
| Makena Beach, HI | 1,000,000 |
| Meredosia NWR, IL | 500,000 |
| Minnesota Valley NWR, MN | 750,000 |
| Moosehorn NWR, ME | 900,000 |
| National Key Deer NWR, FL | 2,000,000 |
| Oregon Coastal Refuges, OR | 750,000 |
| Petit Manan NWR, ME | 500,000 |
| Roanoke River NWR, NC | 3,500,000 |
| Sacramento River NWR, CA | 5,000,000 |
| San Francisco Bay NWR, CA | 2,500,000 |
| Savannah River NWR, GA (Bear Island) | 812,000 |
| Stillwater NWR, NV | 2,000,000 |
| Tensas NWR, LA | 2,000,000 |
| Trinity River NWR, TX | 2,000,000 |
| Wallkill NWR, NJ | 1,500,000 |
| Willapa NWR, WA | 2,000,000 |
| Acquisition management | 7,700,000 |
| Unobligated balances | −9,920,000 |
| National Fish and Wildlife Foundation | 5,000,000 |
| Emergency, hardships | 1,000,000 |
| Inholdings | 1,000,000 |
| Total, Land acquisition | 76,192,000 |

Included within the unobligated balances used as an offset is $2,700,000 for the Ottawa NWR, OH.

Funds for E.B. Forsythe NWR, NJ are for properties at Reedy Creek, Port Republic/Chestnut Neck and other critical properties as the Fish and Wildlife Service deems appropriate.

The $800,000 for the Idaho land exchange is for purchase of property in Arkansas.

Amendment No. 24: Deletes Senate provision which would have transferred $2,988,000 in unobligated balances from Fish and Wildlife Service land acquisition to construction and anadromous fish. The House had no similar provision.

### NATIONAL WILDLIFE REFUGE FUND

Amendment No. 25: Appropriates $11,849,000 for the National Wildlife Refuge fund as proposed by the House instead of $12,964,000 as proposed by the Senate.

### NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 26: Appropriates $9,250,000 for the North American Wetlands Conservation Fund instead of $7,500,000 as proposed by the House and $11,000,000 as proposed by the Senate.

### NATIONAL PARK SERVICE

Amendment No. 27: Earmarks $600,000 for the Roosevelt Campobello International Park Commission as proposed by the Senate instead of $559,000 as proposed by the House.

### OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 28: Appropriates $992,431,000 for Operation of the National Park System instead of $992,059,000 subject to authorization as proposed by the House and $989,282,000 as proposed by the Senate.

In management of park areas, the change of the House position includes increases of $75,000 for the Maine Acadian Culture Commission, $50,000 for Natchez NHP, MS, $200,000 for the New Jersey coastal heritage trail, $75,000 for Big South Fork River NRA, $200,000 for Grand Teton NP, WY, $100,000 for Harpers Ferry NHP, WV, $100,000 for Jean Lafitte NHP, LA, $300,000 for New River Gorge NR, WV within which the New River Parkway Authority is to receive support at prior year levels, $100,000 for Manhattan Sites; $275,000 for Adams NHS, MA, $400,000 for Hawaii parks; and decreases of $100,000 for socioeconomic studies, $200,000 for Boston parks, $100,000 for Minuteman NHP, MA, $150,000 for Carlsbad Cavern NP, NM, $220,000 for Women's Rights NHP, NY, $350,000 for America's Industrial Heritage Project and $7,276,000 for the Presidio.

Under interpretation and visitor services the change to the House position includes increases of $1,000,000 for seasonal interpreters, $100,000 for Salem Maritime NHS, MA and $100,000 for the President's Park and a decrease of $1,545,000 for the Parks as Classrooms program.

In visitor protection and safety the change to the House position is a decrease of $500,000 for the drug enforcement program.

Under maintenance the change to the House position includes increases of $400,000 for regional cyclical maintenance, $550,000 for regional repair and rehabilitation, $800,000 for equipment replacement, $1,000,000 for underground storage tanks, $200,000 for maintenance of the Phoenix Indian School, $100,000 for Lake Mead NRA, $100,000 for Cape Cod NS, MA and $200,000 for Grand Canyon trail maintenance.

In resources management the change to the House position includes increases of $400,000 for resource management in Hawaii, $150,000 for Lake Mead NRA, $350,000 for Mimbres National Monument, $300,000 for Chaco Cultural National Monument, $100,000 for Weir Farms NHS, CT and $2,600,000 for natural resource inventorying and monitoring; and decreases of $2,500,000 for natural resources research and restoration, $250,000 for global climate change, and $250,000 for spotted owl research.

Under International park affairs there is a decrease of $125,000 in the Western Hemisphere program and in the volunteers in parks program there is an increase of $250,000 over the House. Within the amount provided for international affairs is $100,000 for the Mexican Affairs Branch at New Mexico State University. The Mexican Affairs Branch is responsible for bringing the resource management expertise of the National Park Service to international constituencies, specifically in Mexico and Latin America.

The managers agree to the following distribution of funds under Statutory and Contractual Aid:

| | |
|---|---|
| Birmingham Heritage Corridor, AL | $250,000 |
| Blackstone River Corridor | 350,000 |
| Dayton Aviation Heritage Commission | 50,000 |
| Delaware and Lehigh Navigation Canal | 350,000 |
| Horseshoe Curve NHL, PA | 250,000 |
| Ice Age National Scientific Reserve | 563,000 |
| Johnstown Area Heritage Association | 180,000 |
| Lowell Historic Preservation Canal Commission | 732,000 |
| Maine Acadian Cultural Preservation Commission | 25,000 |
| Martin Luther King, Jr. Center | 540,000 |
| Mississippi River Corridor Heritage Commission | 150,000 |
| National Constitution Center, PA | 250,000 |
| Native Hawaiian Culture and Arts program | 2,000,000 |
| Roosevelt Campobello International Park Commission | 600,000 |
| Southwestern Pennsylvania Heritage Preservation Commission | 350,000 |
| Wheeling National Heritage Area | 2,324,000 |
| William O. Douglas Outdoor Education Center, CA | 250,000 |

In general administration the change to the House position includes an increase of $100,000 for White House visitor center space and decreases of $220,000 for financial management, $132,000 for a drug free workplace, $475,000 for management controls and $100,000 for human resources.

The managers agree to the following:

1. There should be competition for the cooperative park studies unit to serve Florida parks.

2. Within cyclic maintenance funds is $100,000 for Fort Sumter, NM, SC.

3. Within regional funds is $150,000 for trailer replacement at Mount Rainer NP, WA.

4. Within the additional amount provided for drug enforcement, the Service should give special consideration to Big Bend NP, TX.

5. The Spanish Colonial Research Center is to be funded as it has been in previous years.

The managers have deferred providing additional money for the Parks as Classrooms program for fiscal year 1993 to give the Service an opportunity to present a well-planned proposal for future consideration.

Amendment No. 29: Deletes language proposed by the Senate providing $14,000,000 for the U.S. Army Post at the Presidio, California. The House had no similar provision. Funding for operations at the Presidio will be addressed in the Department of Defense appropriations bill.

Amendment No. 30: Restores House language stricken by the Senate which provides $775,000 for the National Institute for Conservation of Cultural Property as proposed by the House.

### NATIONAL RECREATION AND PRESERVATION

Amendment No. 31: Appropriates $23,765,000 for national recreation and preservation instead of $22,715,000 subject to authorization as proposed by the House and $23,791,000 as proposed by the Senate.

The changes to the House include increases of $300,000 for the Connecticut River Valley, $250,000 for Lake Champlain activities and $500,000 for the Institute for the History of Technology and Industrial Archeology. There is $75,000 within available funds to continue Merrimack River Trail activities.

### HISTORIC PRESERVATION FUND

The Historic Preservation Fund appropriation is distributed as follows:

| | |
|---|---|
| Grants-in-aid | 30,734,000 |
| National Trust | 6,197,000 |

Of the amount provided for grants-in-aid, $1,500,000 is for Indian tribes.

Amendment No. 32: Allows a grant to Palau from the Historic Preservation Fund, as proposed by the Senate.

### CONSTRUCTION

Amendment No. 33: Appropriates $231,801,000 for construction instead of $237,806,000 subject to authorization as proposed by the House and $206,570,000 as proposed by the Senate.

The managers agree to the following distribution:

| Park area | Planning conference | Line item conference |
|---|---|---|
| Acadia NP, ME (Carriage Trails) | 0 | 1,500,000 |
| Adams NHS, MA (Beale Estate) | 450,000 | 0 |
| Alaska Park Areas: | | |
| Employee Housing | 0 | 3,835,000 |
| Rehabilitate Communication System | 0 | 1,100,000 |
| Andersonville NHS, GA | 125,000 | 0 |
| Appalachian NST, NY: | | |
| Nuclear Lake (dam safety) | 0 | 200,000 |
| Little Dam Lake (dam safety) | 0 | 1,300,000 |
| Augusta Canal NHL, GA | 75,000 | 0 |
| Big South Fork NRA, TN | 0 | 1,200,000 |
| Blackstone River | 0 | 1,000,000 |
| Blue Ridge Parkway (Fisher Peak) | 1,276,000 | 0 |
| Boston NHP, MA: | | |
| Freedom Trail | 500,000 | 0 |
| Old South Meeting House | 300,000 | 0 |
| USS Constitution Museum | 0 | 1,500,000 |
| Botto House, American Labor Museum, NJ (stabilization) | 0 | 140,000 |
| Buffalo National River, AR (employee housing) | 500,000 | 0 |
| Canyonlands NP, UT (Needles District) | 0 | 4,081,000 |
| Capital area parks, DC (biking/hiking trails) | | 1,150,000 |
| Capitol Reef NP, UT (bury powerlines) | 0 | 350,000 |
| Chamizal NM, TX (landscape planning) | 109,000 | 0 |
| C & O Canal NHP | 0 | 800,000 |
| Chickamauga/Chattanooga NMP, GA (road relocation) | | 4,000,000 |
| Chickasaw NRA, OK: | | |
| Campsite Rehabilitation | 0 | 200,000 |
| Veterans Lake Trails | 0 | 500,000 |
| Coulee Dam NRA, WA | 0 | 416,000 |
| Crater Lake NP, OR | 900,000 | 0 |
| Cuyahoga Valley NRA, OH: | | |
| Oak Hill Environmental Education Center | 0 | 945,000 |
| Ohio and Erie Towpath Canal | 0 | 1,700,000 |
| Virginia Kendall Sewers | 0 | 2,447,000 |
| Historic Structure Restoration | 100,000 | 600,000 |
| Frazee House Restoration | 0 | 320,000 |
| Rail Line Bridge & Track Restoration | 0 | 500,000 |
| Abandoned Structure Demolition | 0 | 300,000 |
| Krejci Waste Disposal | 0 | 2,320,000 |
| Armington Dam | 0 | 200,000 |
| Delaware Water Gap NRA (Route 209 repairs) | 0 | 300,000 |
| Denali NP, AK (Southside Visitor Center EIS) | 225,000 | 0 |
| Everglades NP, FL | 0 | 7,000,000 |
| Fire Island NS, NY: | | |
| Ferry Terminal/Information Center | 315,000 | 0 |
| Lighthouse Restoration | 0 | 550,000 |
| Fort Necessity NB, PA | 0 | 2,500,000 |
| Fort Vancouver NHS, WA (Trading Post) | 32,000 | 652,000 |
| FDR Memorial, DC | 0 | 10,000,000 |
| Gateway NRA, NJ, NY: | | |
| Jacob Riis Park | 477,000 | 0 |
| Rehabilitation Beach Centers (Sandy Hook) | 0 | 9,250,000 |
| Great Kills Bathhouse | 0 | 7,910,000 |
| Gettysburg NMP, PA (technical assistance) | 175,000 | 0 |
| Golden Spike NM, UT (transportation study) | 200,000 | 0 |
| Grand Canyon NP, AZ: | | |
| Acquire New Buses | 0 | 1,500,000 |
| Employee Housing | 0 | 2,750,000 |
| Great Basin NP, NV (water system) | 250,000 | 0 |
| Haleakala NP, HI (fencing) | 0 | 300,000 |
| Hamilton Grange, NY (rehabilitation) | 0 | 1,000,000 |
| Harpers Ferry NHP, WV | 445,000 | 2,835,000 |
| Hawaii Volcanoes NP, HI: | | |
| Fencing | 0 | 300,000 |
| Water Storage | 0 | 2,485,000 |
| Hot Springs NP, AR: | | |
| Stabilization/Landscaping | 0 | 500,000 |
| Flood Study | 450,000 | 0 |
| Dam Safety | 0 | 200,000 |
| Independence Hall NHP, PA | 0 | 530,000 |
| Indiana Dunes NL, IN (West Beach Trail) | 0 | 350,000 |
| Isle Royale NP, MI (employee housing) | 0 | 1,500,000 |
| James A. Garfield NHS, OH | 575,000 | 851,000 |
| Jean LaFitte NHP&P, LA: | | |
| Abbeville | 150,000 | 0 |
| Baratana Levee | 150,000 | 0 |
| Chalmette | 0 | 260,000 |
| Kershaw House, SC (rehabilitation) | 0 | 125,000 |
| Klondike Gold Rush, AK | 0 | 931,000 |
| Lackawanna Valley, PA | 425,000 | 0 |
| Lincoln Center, IL | 1,000,000 | 700,000 |
| Lincoln Home NHS, IL: | | |
| Dubois House | 205,000 | 0 |
| Julia Sprigg House | 0 | 644,000 |
| Lowell NHS, MA: | | |
| Boott Mill Completion | 0 | 386,000 |
| Commission Reauthorization Projects | 0 | 3,000,000 |

| Park area | Planning conference | Line item conference |
|---|---|---|
| Kirk Street Agents House | 0 | 747,000 |
| Surveillance System | 0 | 100,000 |
| Lyndon B. Johnson NHP, TX: | | |
| Visitor Center | 0 | 3,500,000 |
| Bus Acquisition | 0 | 1,000,000 |
| Mammoth Cave NP, KY (wastewater treatment) | 0 | 3,023,000 |
| Manzanar NHS, CA | 0 | 1,100,000 |
| Martin Luther King NHP, GA | 0 | 2,240,000 |
| Minuteman NHP, MA: | | |
| Battle Road Bike Trail | 350,000 | 0 |
| Meriam House Rehabilitation | 290,000 | 0 |
| Mt. Rainier NP, WA (water/sewage treatment) | 0 | 3,643,000 |
| Natchez NHP, MS: | | |
| William Johnson House | 0 | 500,000 |
| Melrose | 0 | 250,000 |
| Natchez Trace Parkway | 0 | 10,000,000 |
| National Capital Region: | | |
| Storage | 780,000 | 0 |
| Lincoln/Jefferson Memorials | 0 | 5,546,000 |
| White House Area | 500,000 | 0 |
| New Jersey Coastal Heritage Trail | 0 | 207,000 |
| New River Gorge NR, WV: | | |
| Fayette Station Bridge | 0 | 4,200,000 |
| Kaymoor | 600,000 | 0 |
| Parkwide Trails | 80,000 | 350,000 |
| Middle Gorge Access | 0 | 210,000 |
| Penn Center, SC | 0 | 400,000 |
| Perry's Victory NM, OH | 446,000 | 0 |
| Saguaro NM, AZ | 0 | 1,500,000 |
| Salem Maritime NHS, MA: | | |
| Wharves Rehabilitation | 550,000 | 625,000 |
| Preservation Technical Assistance | 175,000 | 0 |
| Haverhill/Salem Walkways | 0 | 125,000 |
| Lowell Boat Shop | 0 | 600,000 |
| Tall Ship | 440,000 | 0 |
| San Antonio Missions NP, TX | 545,000 | 2,690,000 |
| Sequoia NP, CA: | | |
| General's Highway Relocation | 0 | 693,000 |
| Replace Giant Forest Facilities | 0 | 2,282,000 |
| Sleeping Bear Dunes NL, MI | 0 | 700,000 |
| Southwestern PA Heritage Preservation Comm | 2,225,000 | 9,170,000 |
| Springfield Armory, MA (technical assistance) | 250,000 | 0 |
| Steamtown NHS, PA | 1,000,000 | 13,000,000 |
| Stones River NB, TN | 0 | 395,000 |
| Vicksburg NMP, MS (technical assistance) | 200,000 | 0 |
| Walk on the Mountain, WA | 0 | 2,000,000 |
| Weir Farms NHS, CT | 0 | 250,000 |
| Yosemite NP, CA: | | |
| El Portal (employee housing) | 0 | 5,238,000 |
| Warehouse/Maintenance Facility | 0 | 12,775,000 |
| Zion NP, UT (shuttle system) | 250,000 | 750,000 |
| Subtotal, line item construction | 18,090,000 | 181,722,000 |
| Emergency projects/Housing Rehabilitation | 0 | 13,000,000 |
| General Mgt Plans | 6,320,000 | 0 |
| Planning | 20,374,000 | 0 |
| Subtotal, Park Service other | 26,694,000 | 13,000,000 |
| Burr Trail | 0 | (7,705,000) |
| Grand total | 44,784,000 | 187,017,000 |

Under general management plans, there is an increase of $115,000 above the House level for Weir Farm NHS, CT, $30,000 for the Jazz Heritage and $25,000 for Atchafalaya.

The managers have not distributed funds requested for construction planning purposes on a project-by-project basis. As identified above, a reduction of $2,126,000 is recommended to the planning amount proposed in the budget request. Within thirty days of enactment of this Act, the National Park Service should report to the Committees on Appropriations a proposed distribution, by project, of the fiscal year 1993 planning funds allowed herein. During the balance of the fiscal year, the Park Service should report quarterly on any changes to the planning distribution identified in the initial report. This will allow the Service to exercise the flexibility that is sometimes required as a result of changes in construction schedules or other delays that might affect planning for a project. It will also assist the Committees in their review of the NPS construction program. Changes in the course of each quarter are not subject to the reprogramming guidelines, but should be reflected in the next quarterly report, with an explanation for the reallocation. In providing the planning funds on a lump-sum basis, the Park Service will have the flexibility to begin planning for new park areas that might be authorized subsequent to action on this bill, such as the proposed Keweenaw NHP, MI and the Monroe School NHS, KS.

Of the amount provided for Big South Fork NRA, $200,000 may be used for the Obed Wild and Scenic River.

The managers are concerned about the escalating costs associated with development at Crater Lake NP. Costs of the project have been driven up in part because of restoration of the original lodge, the inclusion of a concessioner support facility and a proposal for a second lodge. No money is provided to plan either the concessioner facility or the second lodge during fiscal year 1993. The managers ask the National Park Service to conduct a thorough review of these projects during 1993 and report to the Committees by March 31, 1993, on the following:

1. Review of appropriate winter use activities and where these uses will occur.

2. Availability of lodging (both winter and non-winter) outside the Park.

3. Additional operating costs to the Park for the winter operations envisioned with the second lodge.

4. Alternatives for lodging and support facility operations including how these services would be provided if neither of these projects were pursued.

The managers have reluctantly postponed providing money for the final phase of development at Biscayne NP, FL. There is uncertainty as to whether the project will be able to go forward in fiscal year 1993 as a result of damage sustained during Hurricane Andrew. There is also a question as to what the actual cost may be in the post-hurricane atmosphere.

Funding for the Yosemite transportation study was removed without prejudice to future appropriations.

Up to $200,000 in planning funds is to be available for the Tenement Museum, NY.

For Jacob Riis Park at Gateway NRA, $447,000 in planning funds is provided which will allow progress to be made so that a construction contract could be awarded in fiscal year 1994. Funding for the contract will be addressed at that time.

Amendment No. 34: Earmarks $1,700,000 for the Lincoln Center in Springfield, Illinois as proposed by the House. The Senate had no similar provision.

Amendment No. 35: Earmarks $2,000,000 for A Walk on the Mountain as proposed by the House. The Senate had no similar provision. The managers agree that there should be 50 percent cost sharing on this project.

Amendment No. 36: Earmarks up to $140,000 to correct deficiencies at the Botto House American Labor Museum National Historic Landmark as proposed by the Senate.

Amendment No. 37: Earmarks $450,000 for a cost-shared feasibility study of flood protection for the downtown area of Hot Springs, AR which contains a significant amount of National Park Service property and improvements. The Senate had proposed $680,000. The House had no similar provision.

Amendment No. 38: Inserts Senate language which earmarks $4,200,000 for replacement construction of the Fayette Station bridge in the New River Gorge National River, WV as proposed by the Senate and adds provisions regarding Lowell's Boat Shop and the Franklin Delano Roosevelt Memorial.

The managers agree that the $600,000 provided for Lowell's Boat Shop, a National Historic Landmark in Amesbury, Massachusetts shall be derived from the Historic Preservation Fund. Of this amount, up to $250,000 shall be provided to the National Trust for Historic Preservation to ensure the long-term preservation of the site including technical assistance and acquisition of real property interests. The balance of these funds will be provided to the Massachusetts State Historic Preservation Office to undertake the rehabilitation of the facility.

The managers have agreed to bill language which permits the Service to enter into a single contract to complete construction of the FDR Memorial, subject to the availability of funds in future fiscal years.

Amendment No. 39: Appropriates $118,911,000 for land acquisition and state assistance instead of $106,500,000 as proposed by the House and $119,271,000 as proposed by the Senate.

The managers agree to the following distribution:

| | |
|---|---|
| Assistance to States: | |
| Matching grants | $25,000,000 |
| Administrative expenses | 3,456,000 |
| Subtotal | 28,456,000 |
| Acadia NP, ME | 3,400,000 |
| Appalachian NST | 7,000,000 |
| Big Cypress NP, FL | 2,000,000 |
| Cape Cod NS, MA | 500,000 |
| Channel Islands NS, CA | 8,000,000 |
| Chattahoochee NRA, GA (Hyde Farm) | 900,000 |
| Cuyahoga Valley NRA, OH | 3,000,000 |
| Denali NP, AK | 3,000,000 |
| Everglades NP, FL | 7,500,000 |
| Fredericksburg and Spotsylvania NMP, VA | 700,000 |
| Fort Frederica NM, GA | 2,300,000 |
| Gettysburg NMP, PA | 1,000,000 |
| Golden Gate NRA, CA (Dunn property) | 2,000,000 |
| Kalaupapa NHS, HI | 975,000 |
| Lowell NHP, MA | 530,000 |
| Mimbres NM, NM | 150,000 |
| Monocacy NB, MD | 7,000,000 |
| Olympic NP, WA | 750,000 |
| Petroglyphs NM, NM | 6,000,000 |
| Pinelands NR, NJ | 1,500,000 |
| Saguaro NM, AZ | 6,000,000 |
| Santa Monica Mountains NRA, CA | 13,250,000 |
| Stones River NB, TN | 3,000,000 |
| Inholdings, emergencies hardships, deficiencies | 3,000,000 |
| Acquisition management | 8,500,000 |
| Unobligated balance offset | −1,500,000 |
| Subtotal, NPS acquisition | 90,455,000 |
| Total, Land acquisition and assistance | 118,911,000 |

The $150,000 provided for acquisition at Mimbres NM, NM is to be available only upon enactment of appropriate authorization.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Amendment No. 40: Appropriates $20,806,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $13,556,000 as proposed by the House.

The Kennedy Center has identified a number of critical capital needs projects for repairs, rehabilitation and improvements needed to meet safety standards, comply with the Americans With Disabilities Act, and generally restore the infrastructure of this Presidential memorial. As such, the managers have provided $12,806,000 for the repair. Examples of items which the Kennedy Center has identified which the managers consider high priorities for funding include upgrading the antiquated and dangerous wiring system and electrical equipment, improving the safety of the rigging system and asbestos abatement.

Amendment No. 41: Earmarks $12,806,000 to remain available until expended for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $6,500,000 as proposed by the House.

Amendment No. 42: Limits provision of transportation costs for children to and from units of the National Park System to $100,000; and limits options for the purchase of land at not to exceed $1 for each option as proposed by the Senate, provisions which have been carried in the bill many years. The House had no similar proposal.

Amendment No. 43: Allows transfer of funds within the National Park Service to maintain law and order in emergency and other unforeseen law enforcement situations as proposed by the Senate. The House had no similar proposal.

Amendment No. 44: Restores House language stricken by the Senate prohibiting upgrade of the Burr Trail amended to except matters related to health, safety and environmental concerns.

Amendment No. 45: Permits use of helicopters and motorized equipment at Death Valley National Monument for removal of feral horses and burros as proposed by the Senate. The House had no similar proposal.

Amendment No. 46: Inserts "property" and strikes "vacant lot" as proposed by the Senate in a provision dealing with the acquisition of a landscaped parking lot for the Martin Luther King National Historic Site.

### UNITED STATES GEOLOGICAL SURVEY

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 47: Appropriates $581,692,000 for surveys, investigations, and research instead of $587,668,000 as proposed by the House and $570,821,000 as proposed by the Senate. The net decrease below the amount proposed by the House consists of increases of $200,000 for Hawaii volcanoes; $300,000 for Louisiana wetlands studies and $500,000 for follow-on studies of Louisiana barrier islands, both in coastal studies; and $500,000 for a National minerals assessment; and decreases of $500,000 for side-looking airborne radar (SLAR); $250,000 for west-central Florida coastal studies and $300,000 to provide for completion of Alabama/Mississippi studies, both in the coastal studies program; $500,000 for offshore geologic surveys; $1,000,000 for development of assessment techniques in mineral resource surveys; $751,000 for data collection and analysis, $500,000 for the National Water Information Clearinghouse, $500,000 for toxic substance hydrology, $325,000 for acid rain, $1,000,000 for global change hydrology, and $1,050,000 for nuclear waste hydrology, all in the Federal water program; and $23,000 for automated procurement systems development and $777,000 in general reductions, both in general administration.

The managers agree that funds for hydrogeologic studies of the KuaLapu'u aquifer on Molokai in Hawaii may be provided through the Federal-State cooperative water program if submitted by the State as a priority need.

The managers also agree that within the allowed funds for National geologic mapping $1,350,000 should be applied to State geologic mapping.

The managers encourage the Survey to work with the Skokomish Tribe and other interested parties on developing a study plan for sediment processes in the Skokomish River.

### MINERALS MANAGEMENT SERVICE

#### LEASING AND ROYALTY MANAGEMENT

Amendment No. 48: Appropriates $197,014,000 for leasing and royalty management instead of $197,514,000 as proposed by the House and $194,014,000 as proposed by the Senate. The decrease to the amount proposed by the House consists of a $500,000 reduction to the Outer Continental Shelf (OCS) oil and gas leasing program. This reduction should be achievable, consistent with the smaller OCS five-year program recently adopted by the Department of the Interior.

The managers expect that the Minerals Management Service will continue to operate its current accounting system in fiscal year 1993 in lieu of switching to the Department's Federal Financial System or to any other alternative system.

Amendment No. 49: Provides for the deduction of 50 percent of program administrative costs prior to the distribution of mineral leasing receipts to the States and the Federal Treasury as proposed by the Senate instead of 100 percent as proposed by the House.

#### OILSPILL RESEARCH

Amendment No. 50: Deletes House language providing a reference to the Oil Spill Liability Trust Fund as proposed by the Senate. The Senate had a similar provision in Amendment No. 52.

Amendment No. 51: Specifies that activities under the oil spill research account include responsibilities associated with Title I, section 1016 of the Oil Pollution Act of 1990 as proposed by the Senate. The House had no similar provision.

Amendment No. 52: Inserts a reference to the Oil Spill Liability Trust Fund as proposed by the Senate. The House had a similar provision which was stricken in Amendment No. 50.

Amendment No. 53: Deletes a provision, proposed by the House and stricken by the Senate, limiting activities under the oil spill research account to those associated with Section VII of the Oil Pollution Act of 1990.

### BUREAU OF MINES

#### MINES AND MINERALS

Amendment No. 54: Appropriates $175,729,000 for mines and minerals instead of $173,056,000 as proposed by the House and $176,513,000 as proposed by the Senate. The net increase to the amount proposed by the House includes increases of $1,000,000 for the Casa Grande in-situ copper demonstration, contingent on a 25 percent industry cost share, $750,000 for in-house laboratory support for the Casa Grande project, $225,000 for an evaluation of selected low cost acid mine drainage treatment technologies for the North Branch of the Potomac River, $600,000 for arctic coal research, and $2,250,000 for allotment grants to the 30 Mineral Institutes. These increases are partially offset by decreases of $50,000 for mountain bumps, $25,000 for rockbursts, $25,000 for gateroad entry design, $100,000 for mine fires, $2,000 for in-situ leaching, $500,000 for clean processing, $450,000 for materials research at the Idaho National Engineering Laboratory, $500,000 for smart materials, and $500,000 for low cost titanium.

The managers agree that the funds provided above the budget request for dust monitoring research may be used to fund work on control technology as well as monitoring technology.

The managers expect that the funds provided for arctic coal research will be matched on a dollar-for-dollar basis with non-Federal funds and that the funds will be used for research as follows: $300,000 for engineering surface pits including slope stability in permafrost ($150,000 in Federal funds); $300,000 for reclamation of mined lands in permafrost ($150,000 in Federal funds); $200,000 for surface drainage, water quality, and underground flow in permafrost ($100,000 in Federal funds); $100,000 for assessment of economic and social issues ($50,000 in Federal funds); $100,000 for blasting in permafrost ($50,000 in Federal funds); and $200,000 for district characterization of resources ($100,000 in Federal funds).

The managers agree that in lieu of $100,000 for the House-proposed study of freezing mine shafts at the Lackawanna County coal demonstration mine in Pennsylvania, the funds should be used to develop and demonstrate at the mine an educational display using interactive personal computer programs, which highlights Bureau activities, conveys the impact of coal and other minerals on our society, and is geared toward a target audience of school age children.

Amendment No. 55: Earmarks $110,179,000 to remain available until expended for research programs instead of $107,506,000 as proposed by the House and $97,013,000 as proposed by the Senate.

### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

#### REGULATION AND TECHNOLOGY

Amendment No. 56: Deletes House provision stricken by the Senate requiring that funds to implement and operate the Applicant Violator System be used only to the extent that system is in compliance with the January 24, 1990 Settlement Agreement between Save Our Cumberland Mountains, Inc. and Manuel Lujan, Jr., Secretary, United States Department of the Interior, et al.

The managers expect that the Office of Surface Mining Reclamation and Enforcement will make every effort to obtain reliable operator and contract mine data for the Applicant Violator System (AVS) at the most beneficial cost to the taxpayer. The managers are concerned that improvements to the AVS continue and that emphasis be placed on the accuracy and completeness of the data in the system and not just on improvements to system hardware and software.

#### ABANDONED MINE RECLAMATION FUND

Amendment No. 57: Appropriates $189,541,000 for the abandoned mine reclamation fund instead of $188,041,000 as proposed by the House and $191,041,000 as proposed by the Senate. The $1,500,000 increase to the amount proposed by the House is for the rural abandoned mine reclamation program.

Amendment No. 58: Restores House language stricken by the Senate requiring that 23 full-time equivalent positions are maintained in the Wilkes-Barre, PA field office.

Amendment No. 59: Inserts language proposed by the Senate limiting administrative expenses for the rural abandoned mine reclamation program (RAMP) to 15 percent of total RAMP funds, and permitting the Secretary of the Interior to deny 50 percent of a State's abandoned mine reclamation grant if the State is systematically failing to administer its regulatory program. The House had no similar provisions.

#### ADMINISTRATIVE PROVISION

Amendment No. 60: Restores House provision stricken by the Senate prohibiting the use of funds to create or maintain more than one deputy director position in the Office of Surface Mining Reclamation and Enforcement (OSM). The managers agree that a single, career, deputy director position should be sufficient for OSM. The recently established deputy director position for external affairs should be abolished as should the formerly established deputy director position for finance and administration.

### BUREAU OF INDIAN AFFAIRS

### OPERATION OF INDIAN PROGRAMS

Amendment No. 61: Appropriates $1,353,899,000 for operation of Indian programs instead of $1,354,151,000 as proposed by the House and $1,335,944,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $1,000,000 for tribal priority allocations; $2,237,000 for other recurring programs, including under education, $400,000 to school operations, $250,000 to school facilities O&M, and $550,000 to tribally controlled community colleges ($400,000 for Title I colleges and $150,000 for Navajo Community College), $150,000 to community development for other facilities O&M, and $887,000 for resources management (decreases of $200,000 to Columbia River Intertribal Fish Commission, $123,000 to Great Lakes Indian Fish and Wildlife Commission, $100,000 to Chippewa/Ottawa Treaty Fishery Management Authority, $200,000 to U.S./Canada Pacific Salmon Commission, $100,000 to Circle of Flight wetlands, $50,000 to the bison project, $75,000 to Skokomish delta recovery, $125,000 to the timber-fish-wildlife program, and increases of $49,000 for the Fond du Lac tribe and $37,000 for the Umatilla tribe, for the tribe's integrated resource planning); a decrease of $500,000 for non-recurring programs, including a decrease of $500,000 for contract support, an increase of $250,000 for business development grants and a decrease of $250,000 to community and economic development grants; and increases of $2,250,000 for Central Office operations, including $350,000 for emergency management improvements, $500,000 for accounting management, $250,000 for the Reorganization Task Force, $300,000 to restore partially the general reduction, $300,000 for the Joint Federal-State Commission on Policies and Practices Affecting Alaska Natives, and $550,000 for Indian gaming oversight activities; $200,000 for Area Office operations, including $50,000 for Juneau Area Social services, and $150,000 for safety management positions; and $1,035,000 for special programs, including a decrease of $65,000 to Haskell Indian Junior College (leaving $100,000 for the teacher training program, which is to become part of Haskell's base funding), $1,000,000 for financial trust management, and $100,000 for construction program management.

The managers reiterate the direction regarding the changes agreed to in the BIA budget structure, reprogramming changes, and reporting requirements. The managers are aware of the concerns of various tribal governments and native organizations with regard to premature implementation of proposals of the Reorganization Task Force. It is the understanding and intent of the managers that only the limited changes expressly authorized in this bill be implemented at this time. Additional study and consultation with tribal governments and Native organizations will be required prior to implementation of other Reorganization Task Force proposals.

The managers agree that none of the increase provided for the Indian Child Welfare Act program is for the non-reservation part of the program. The managers expect the Bureau to work with tribes in eastern Oregon and Washington, including the Colville Tribe, to address their forest health needs in fiscal year 1993. Unless specifically indicated otherwise, add-ons in the resources management program (other recurring programs) are to be added to the base of the tribe or tribal organization, and to be included in future budget requests, beginning in fiscal year 1994. The Bureau is directed to provide pay costs to the Great Lakes Indian Fish and Wildlife Commission and other tribal contractors, as required by law. The Bureau is to provide resource management funds to the Seneca Nation on the same basis as it does for tribes whose lands are held in trust, and to submit the report requested by the House by February 1, 1993. The funds provided include $200,000 for the Council of Energy Resource Tribes and $300,000 to complete the forest assessment. Funds included for special higher education scholarships are for scholarships in all fields, including those identified as priority fields.

The managers support the House report language establishing base budgets for the four self-governance tribes. However, if it is determined by the Assistant Secretary—Indian Affairs that taking the entire amount of fiscal year 1993 supplemental funding from BIA programs will adversely affect non-participating tribes, then fiscal year 1993 supplemental funding should be used. Savings from any BIA restructuring shall be used to reduce the amount needed from supplemental funding.

Funding to continue the Navajo and Hopi child sexual abuse prevention projects at the current level is included within tribal priority allocation base funding, not within the Indian Child Welfare Act funding. Within special distributions, there is $500,000 for an increase to the base for the Michigan tribes. Although a specific amount is not earmarked for EARN programs under the general assistance program, the managers expect that many tribes will use the flexibility provided in the bill to initiate or continue EARN-type programs. Further direction on this subject is provided under Amendment No. 69. The managers reiterate the Senate request for a report on the housing improvement program by February 1, 1993, and direct the Bureau to work with the Washoe Tribe to address their housing needs and report by February 1 on how these needs are being addressed by the program. With regard to fish hatchery funds inadvertently diverted to self-governance tribes in 1992 and 1993, the managers direct the Bureau to include restoration of these funds in the fiscal year 1994 budget request; and if available funds can be identified in fiscal year 1993, to submit a reprogramming to restore the funds in fiscal year 1993. Within the funding provided, there is $375,000 for the Arkansas Riverbed cadastral survey and $200,000 in litigation support for the Arkansas Riverbed Authority. The report on how the Bureau has worked with the Osage Tribe on administering the tribe's mineral resources should be submitted by April 1, 1993. Within water rights negotiation and litigation, there is $1,800,000 to continue Little Colorado River litigation support; however, the managers do not intend to earmark litigation support funds in the future. The managers encourage the Bureau to continue working with the University of Oklahoma and to provide technical assistance in developing an economic development curriculum to train Native American economic development professionals. Within special law enforcement funds, there is $125,000 for the Hungry Valley area of the Reno-Sparks Colony. The colony should provide for continuing this program in fiscal year 1994 and beyond by allocating a portion of its tribal priority funds, including the increase to be received in fiscal year 1993. The managers are aware of the economic development projects sought by several tribes and organizations mentioned in both House and Senate reports, including the Confederated Tribes of the Umatilla reservation, and expect these groups to proceed through the established procedures to obtain funding for these projects. The managers expect the Bureau to give serious consideration to these worthy projects.

The managers are concerned at the failure of the Department and the Bureau to inform the Committees of shortfalls in funding, and the lack of effort to address these shortfalls. The managers direct that the Bureau provide a quarterly report on projected shortfalls to the Committees during fiscal year 1993, including proposed methods to address these shortfalls. Because of the failure of the Department to address the need for funding to carry out the Department's Indian gaming responsibilities, the managers have included $550,000 for this purpose, of which $150,000 was derived from reducing the funds available to the Indian Gaming Commission. The balance of funding needed to establish a base for this effort in the Department, up to $950,000 from funds available to the Bureau and the Office of the Secretary, should be identified in a reprogramming letter to the Committees to provide the balance of funding needed to establish a base of up to $1,500,000 for this effort in the Department.

The managers encourage the Alaska HIPPY (home-based instruction program for preschool youngsters) to apply for funding under the PAT/PACE program to encourage parental involvement in a preschool program for Alaska Native children, and encourage the Bureau to give full consideration to this application.

Amendment No. 62: Provides $270,638,000 for school operations costs instead of $271,038,000 as proposed by the House and $270,938,000 as proposed by the Senate. The decrease below the amount proposed by the House is $400,000 in school operations costs.

Amendment No. 63: Provides $53,954,000 for housing improvement and road maintenance as proposed by the House instead of $50,291,000 as proposed by the Senate.

Amendment No. 64: Provides $71,954,000 for higher education scholarships and other purposes as proposed by the House instead of $71,985,000 as proposed by the Senate.

Amendment No. 65: Deletes Senate proposed language which would have made forestry funds included in this and other Acts available for technical and on the ground assistance to Alaska Native Corporations.

Amendment No. 66: Deletes Senate proposed language which addressed eligibility of Alaska native villages for Indian roads program funding. This matter is addressed under Amendment No. 67.

Amendment No. 67: Includes Senate proposed language which includes all Indian reservation roads identified in the 1990 BIA Juneau Area Transportation Study in the BIA system for distribution of highway trust fund formula funds in fiscal year 1993. The language will accomplish the same results as the proposed BIA needs-based allocation formula, and will expire when the new BIA formula is implemented, which is expected to occur during fiscal year 1993.

Amendment No. 68: Includes Senate proposed language which clarifies that changes to general assistance payments or eligibility made by a tribe apply to individuals within the Service area of such tribe.

Amendment No. 69: Includes Senate proposed language which provides that any changes in general assistance payments or eligibility must be part of a comprehensive tribal plan, and that any net increase in costs due solely from tribally-increased payment levels must come from tribal priority allocation funds. The amendment also adds language to transfer construction contract support related to the housing improvement and road maintenance programs. Also added is language regarding a grant for the All Indian Pueblo Council in New Mexico. The managers are aware that the Council has received a self-determination grant in fiscal year 1992 for a study of the best use of the site of the old Albuquerque Indian School, which may include preparation of a bid proposal in response to solicitations issued by the General Services Administration for commercial leases. The managers encourage the Council to apply for a self-determination grant to continue planning and bid preparation efforts for the site in fiscal year 1993. The managers expect the Bureau to give serious consideration to this grant application.

The managers encourage additional tribes to develop comprehensive plans to reduce the long-term need for general assistance payments, and to enter into EARN-type programs. As in the past, increased costs associated with EARN-type programs should come, to the maximum extent possible, from general assistance funding. However, if the Bureau identifies any projected shortfalls in the general assistance program, whether due to increased caseloads or increased numbers of EARN-type programs, the Bureau should immediately notify the Appropriations Committees of the amount and reason for the projected shortfall, and plans to address it.

The managers are aware that treatment of contaminated water has started at the Midnite uranium mine near Spokane, Washington; however, no overall, satisfactory reclamation plan exists. Therefore, the managers direct the Department to examine options for reclaiming this site, including the development of an overall reclamation plan and a comprehensive review of the authorities available. The managers understand that the Department is convening a steering committee chaired by BIA to evaluate all options related to the Midnite Mine site and urge the steering committee to develop a strategy to ensure continued operation of the water treatment plant. The Department shall submit a report to the House and Senate Appropriations Committees by February 1, 1993, which reports on the strategies recommended to develop and approve a reclamation plan for the site, and keep the water treatment plant operating, including expected costs and the anticipated timeframe for reclamation. By August 1, 1993, the Department shall report to the Committees on the progress achieved toward implementing the reclamation strategy.

### CONSTRUCTION

Amendment No. 70: Appropriates $150,896,000 for construction instead of $152,446,000 as proposed by the House and $141,746,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $500,000 to Ramah Navajo employee housing, $500,000 to Miner Flat Dam, $800,000 to dam safety, and $1,300,000 for acquisition of Puget Sound tidelands; and increases of $1,500,000 for Suquamish land acquisition and $50,000 for Ely Shoshone land acquisition.

While no specific funds are earmarked for the Lake Capote Dam, the managers understand that the Bureau of Reclamation will perform a hazard analysis investigation of the dam through the BIA Safety of Dams program. If the Nazlini School is placed on the fiscal year 1994 FI&R priority ranking list, the managers expect the Bureau to consider using any funds which may become available due to project schedule delays in fiscal year 1993 for this project, and to include it in a reprogramming proposals to the Committees. Within funds provided for FI&R, there is $997,000 for a replacement student union/cafeteria for the Sequoyah High School in Oklahoma. The managers expect the Bureau and the Indian Health Service to provide technical assistance, as requested, to the Choctaw tribe in planning how to address the health and safety conditions in the Choctaw jail and law enforcement building. If the Bureau identifies available funding, a reprogramming should be submitted to provide the $500,000 needed to finish the Hannahville School in Michigan.

Amendment No. 71: Includes language proposed by the Senate providing that funds appropriated in fiscal years 1991 and 1992 for the Flathead Irrigation Project for monitoring irrigation water shall be made available on a nonreimbursable basis and shall not be subject to the statutory appropriations limit on the project.

### MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 72: Appropriates $38,609,000 for miscellaneous payments to Indians instead of $39,109,000 as proposed by the House and $35,109,000 as proposed by the Senate. The change from the amount proposed by the House is a decrease of $1,000,000 for payment of liabilities for trust fund account losses, and an increase of $500,000 for the Trust of St. George in Alaska, for purchase of home heating fuel and other basic necessities. Language has been included earmarking the $500,000 for the Trust. The managers expect the Bureau to include the balance of funding required to cover losses from cancelled checks and failed savings institutions in its fiscal year 1994 budget request.

Amendment No. 73: Restores language proposed by the House and stricken by the Senate to authorize the use of the $3,000,000 provided to liquidate obligations for any checks cancelled pursuant to the Competitive Equality Banking Act of 1987, and to restore funds invested in savings institutions which were not federally insured. The language is amended to include credit unions as well as savings and loan's associations.

## TERRITORIAL AND INTERNATIONAL AFFAIRS

### ADMINISTRATION OF TERRITORIES

Amendment No. 74: Appropriates $81,651,000 for administration of territories instead of $81,151,000 as proposed by the House and $78,831,000 as proposed by the Senate.

The increase over the amount recommended by the House consists of an increase of $2,700,000 for territorial administration which includes $500,000 for Water Island disposal, Virgin Islands, $2,000,000 for the disaster assistance fund for the Ebeye hospital, and $200,000 for the brown tree snake; and decreases of $700,000 for American Samoa ($400,000 for the operations grant and $300,000 for schools and buses), and $1,500,000 for the grant to the Virgin Islands for repairs and reconstruction of the University of the Virgin Islands.

Included within the funds provided for technical assistance, there is $1,000,000 for Compact impact payments. If the funds provided for Ebeye hospital reconstruction are not sufficient, the Department should consider the use of unobligated disaster recovery funds for this purpose. The brown tree snake funds include $200,000 for research and control, and $200,000 for the Hawaii Department of Agriculture. The managers intend for brown tree snake funds in the future to be allocated in accordance with the program's management plan.

Within the O&M program, the managers expect OTIA to provide for continuation of the O&M contract for the Nan Pil hydroelectric power plant in the FSM in fiscal year 1993, and to work with FSM to ensure that O&M of the plant is continued over the longer term.

Amendment No. 75: Provides $77,105,000 for technical and maintenance assistance, disaster recovery and grants as proposed by the House instead of $74,205,000 as proposed by the Senate.

Amendment No. 76: Includes disaster recovery as proposed by the Senate, as one of the purposes for which the funds discussed in Amendment No. 75 are provided.

Amendment No. 77: Provides $4,546,000 for the Office of Territorial and International Affairs instead of $4,046,000 as proposed by the House and $4,636,000 as proposed by the Senate. The increase over the amount proposed by the House is $500,000 for activities related to the disposal of Water Island in the Virgin Islands.

### TRUST TERRITORY OF THE PACIFIC ISLANDS

Amendment No. 78: Appropriates $23,249,000 for the Trust Territory instead of $26,796,000 as proposed by the House and $20,809,000 as proposed by the Senate. The increase over the amount proposed by the Senate is $587,000 for Republic of Palau operations (including an increase of $642,000 for the operations grant and a decrease of $55,000 for the Weather Service), and $1,853,000 for construction for the following projects in Palau: $1,465,000 for Koror/Airai electric power; and $388,000 for outer islands schools rehabilitation.

Funds have not been included for Koror-Babelthaup bridge repair at this time, since Palau has $1,380,000 of previously appropriated funds available to begin the project on a phased basis. The managers expect OTIA to provide the Committees with the report on the Army Corps of Engineers' review of this project as soon as it is available.

With regard to the funds included for the Koror/Airai electric power project, the managers expect Palau to move towards establishment of a public utilities commission, and to start accounting for utilities services on a business basis. The progress made on these issues will be considered before any additional funding for electric power projects is considered.

With regard to road construction projects in Palau, the managers expect that any road construction will be performed in a manner consistent with United States environmental law.

The managers expect Palau to provide for continued adequate levels of maintenance for all projects for which construction funding is provided, including the outer islands schools.

Amendment No. 79: Provides $18,596,000 for operations of the Government of Palau as proposed by the House instead of $18,009,000 as proposed by the Senate.

## DEPARTMENTAL OFFICES

### OFFICE OF THE SECRETARY

### SALARIES AND EXPENSES

The managers agree to the following distribution of funds:

| | |
|---|---|
| Departmental Direction: | |
| Secretary's Immediate Office ............................ | $2,778,000 |
| Executive Secretariat .... | 851,000 |

| | |
|---|---|
| Congressional/Legis Affairs | 1,325,000 |
| Equal Opportunity | 1,626,000 |
| Public Affairs | 877,000 |
| Small and Disadvantaged Business | 516,000 |
| Quality Assurance | 304,000 |
| Subtotal, Departmental Direction | 8,277,000 |
| Program Direction and Coordination: | |
| A/S Water and science | 800,000 |
| A/S Land and Minerals Mgt | 919,000 |
| A/S Fish and Wildlife/Parks | 852,000 |
| A/S Indian Affairs | 809,000 |
| American Indian Trust | 655,000 |
| Office of Self-Government | 689,000 |
| Audit and Evaluation | 1,160,000 |
| A/S Territorial/International | 634,000 |
| A/S Policy, Mgt and Budget | 1,150,000 |
| Subtotal, Program Direction | 7,668,000 |
| Administration: | |
| Environmental Affairs | 3,715,000 |
| Acquisition and property mgt | 1,973,000 |
| Office of personnel | 2,069,000 |
| Administrative services | 1,725,000 |
| Library services | 1,000,000 |
| Information resources mgt | 2,810,000 |
| Program analysis | 2,400,000 |
| Office of budget | 2,300,000 |
| Financial management | 1,650,000 |
| Security and drug enforcement | 696,000 |
| Subtotal, Administration | 20,338,000 |
| Hearings and Appeals | 6,789,000 |
| Aircraft services | 2,719,000 |
| Central services | 17,842,000 |
| Grant total | 63,633,000 |

### Office of the Solicitor

### SALARIES AND EXPENSES

Amendment No. 80: Appropriates $31,727,000 for the Office of the Solicitor instead of $31,941,000 as proposed by the House and $31,128,000 as proposed by the Senate.

The change to the House position is a reduction of $214,000 in the amount requested to cover pay raise costs.

### Construction Management

### SALARIES AND EXPENSES

Amendment No. 81: Appropriates $2,191,000 for Construction Management as proposed by the House instead of $2,215,000 as proposed by the Senate.

### General Provisions, Department of the Interior

Amendment No. 82–83: Restore House language stricken by the Senate which pertains to the management of Matagorda Island, Texas.

Amendment No. 84: Includes Senate proposed language which provides for payment of debts incurred by the Kiowa-Comanche-Apache Intertribal Land Use Committee in Oklahoma, revised to provide a three-month period during which the Kiowa, Comanche, and Apache Tribes may take action, under their constitutions, to address this situation.

The managers agree that prior to making any payments authorized by this section, the Secretary shall submit a report to Congress describing the efforts of the Kiowa, Comanche, and Apache Tribes to resolve the lawful debts described in the language in accordance with their respective tribal constitutions, and describing the extent to which the Secretary intends to exercise the discretion authorized in the language. The managers wish to make clear that this action is not in any way intended to be a precedent, and that it is being taken reluctantly, and only because of the unique circumstances in this situation where the payments of debts could have remained unaddressed indefinitely.

## TITLE III—RELATED AGENCIES

### Department of Agriculture—Forest Service

### FOREST RESEARCH

Amendment No. 85: Appropriates $184,281,000 for forest research instead of $186,657,000 as proposed by the House and $178,723,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of the following: in forest protection research, decreased of $90,000 for biotechnology at Delaware, OH, $50,000 for global change and $100,000 for root disease at Berkeley, CA, $100,000 for global change at Fort Collins, CO, $100,000 for old growth at Madison, WI, $150,000 for global change at Radnor, PA; and increases of $120,000 for termiticides at Gulfport, MS, $100,000 for the Blue Mountains Institute at LaGrande, OR, and $50,000 for semi-arid agroforestry at Lincoln, NE; in resource analysis research, decreases of $75,000 for inventory at Radnor, PA, $150,000 for global change in Raleigh, NC, $50,000 for tropical forestry at Rio Piedras, PR, $100,000 for global change at Seattle, WA, $150,000 for wildland/urban interface, Riverside, CA; $250,000 for inventory at St. Paul, MN, $50,000 for wilderness at Missoula, MT; and an increase of $300,000 for southwestern forestry, Fort Collins, CO; in forest management research, decreases of $60,000 for Sierras old growth study, $133,000 for tropical forestry at Rio Piedras, $50,000 for old growth at Redding, CA, $1,025,000 for new perspectives partners (including $200,000 for the Pacific Northwest research station, $225,000 for the Olympic Natural Resources Center, $400,000 for Cascades/H.J. Andrews, and $200,000 for the Aerial Forest Management Foundation); and increases of $200,000 for hardwoods ecology at Asheville, NC, $200,000 for the integrated forest management center at Monticello, AR, $72,000 for global change at Raleigh, NC, $100,000 for timber and watershed at Honolulu, HI, and $65,000 for genetics at Rinelander, WI: in forest environment research, decreases of $100,000 for wetlands at Grand Rapids, MN, $250,000 for neotropical migratory birds (including $100,000 at Fresno and a total of $150,000 at Rhinelander, Columbia and St. Paul), $50,000 for threatened and endangered plants at Clemson, SC, $100,000 for watershed/reclamation at Logan, UT, $100,000 for forest health at LaGrande, OR, $100,000 for black-footed ferret at Rapid City, SD, $50,000 for threatened and endangered aquatic species at Blacksburg, VA, $200,000 for Pacific Northwest temperate forests research, $150,000 for global change, Raleigh, NC; and an increase of $60,000 for management practices at Parsons, WV; in forest products and harvesting research, decreases of $100,000 for pulp bleaching at Madison, WI and $60,000 for harvesting/wetlands at Auburn, AL; and increases of $200,000 for timber bridges for West Virginia University and $100,000 for tannins at Pineville, LA.

Within the total funds provided, the managers intend for the western bark beetle program to be continued at the 1992 level to the extent possible, if lower priority funds for this purpose can be identified for reprogramming. The $150,000 provided for the scientific review of the remaining old growth in the national forests of the Sierra Nevada in CA and for a study of the entire Sierra Nevada ecosystem is for a study by an independent panel of scientists, with expertise in diverse areas related to this issue. Within the funds for the Olympic Natural Resource Center is $278,000 for the Forest Service to develop landscape management approaches to forest practices in cooperation with the Washington State Departments of Wildlife and Natural Resources. The managers have agreed to an increase of $100,000 for the Blue Mountains Institute, and agree that additional funds may be made available to the Institute, from research or National Forest System funds. The managers are aware of the newly identified bark beetle pest in northern Ohio, the European pine bark beetle, and expect the Forest Service to report to the Committees as soon as the level of research activity necessary in fiscal year 1993 related to this pest has been determined, along with a source of funds from resetting priorities. Both the House and the Senate have included $350,000 for the international arid lands consortium, which is to be made available to the consortium directly or through Fort Collins, if the consortium so indicates. The managers have included $200,000 each as a base for two new cooperative research programs: the integrated forest management center at Monticello, AR, and the Pacific Northwest temperate forest research program. Any additional program funding above this base level should be sought through the cooperative research program of the U.S. Department of Agriculture. The managers agree that there should be more coordination of international forestry research, and request the Chief of the Forest Service and the Director of the Smithsonian Institution to establish a process for consultation and cooperation, where appropriate, on their international forestry research programs, and to report to the Committees on the process when established.

### STATE AND PRIVATE FORESTRY

Amendment No. 86: Appropriates $157,566,000 for State and private forestry instead of $136,929,000 as proposed by the House and $160,591,000 as proposed by the Senate. The increase over the amount proposed by the House consists of an increase of $16,287,000 for forest pest management, including increases of $10,817,000 for Federal pest suppression, $2,000,000 for cooperative health management, and $5,470,000 for cooperative suppression, and a decrease of $2,000,000 for Federal health management; a decrease of $450,000 for forest management and utilization, including increases of $1,700,000 for rural development and $1,800,000 for timber bridges, and decreases of $500,000 for forest resource management, $2,000,000 for stewardship incentives/tree planting, $450,000 for wood utilization, and $1,000,000 for urban forestry; and $4,800,000 for special projects, including increases of $5,000,000 for the Forest Legacy program and $750,000 for Columbia Gorge economic development grants, and decreases of $450,000 for tropical forestry and $500,000 for old growth diversification projects in Washington and Oregon.

The managers agree that within fire protection, there is $200,000 for the Burton/Santini lots within Incline Village/Crystal Bay, Lake Tahoe. At least half of the tree planting funds should be provided for other stewardship activities, such as wildlife habitat and soil and water improvements. Within the tree planting program, there is $500,000 for the Ohio Arbor program. Within urban forestry, there is $1,000,000 for Chicago, $500,000 for Ohio Arbor, $100,000 for Tacoma, WA, $50,000 for Bremerton, WA, $50,000 for Port Orchard, WA, $500,000 for Atlanta, GA, and $500,000 for northern New Jersey.

Within forest resources management, there is $150,000 for the forest management plan to protect the Chesapeake Bay and $200,000 for the Center for Semi-Arid Agroforestry. The managers intend for the rural development program to be a nationwide program; however, the Forest Service should make every effort to provide continuation funding for projects initiated in prior years, with new efforts to compete for the remaining funds. The managers encourage the World Forestry Center, OR, to apply for an economic recovery grant to continue their efforts focusing on economic recovery of the Pacific Northwest.

A total of $10,000,000 is provided for the Forest Legacy program. Of this amount, $3,000,000 is available for the New York/New Jersey highlands region, for which the New York/New Jersey highlands study suffices as an adequate needs assessment for the acquisition of lands, on a willing seller basis, in Sterling Forest or other critical properties in the New York/New Jersey highlands. In the balance of the Forest Legacy program, any political subdivision within New York State must agree to include itself, in order to participate in the program. A subdivision is defined as a village, city, town or county.

The managers encourage the Forest Service to participate in monitoring studies of a Salt Lake City, UT, pilot project evaluating the use of shade trees to sequester carbon and reduce energy use.

### EMERGENCY PEST SUPPRESSION FUND

Amendment No. 87: Appropriates $26,000,000 for the emergency pest suppression fund instead of $42,315,000 as proposed by the House and $20,000,000 as proposed by the Senate. The agreed upon amount will provide a total of $42,287,000 for pest suppression on both Federal and cooperative lands in fiscal year 1993, including $16,287,000 in the State and private forestry account.

Amendment No. 88: Deletes language proposed by the Senate which would have required that the Presidential notification to Congress of his designation of emergency pest suppression amounts as emergency requirements be in the form of an official budget request. The House had no similar provision.

### NATIONAL FOREST SYSTEM

Amendment No. 89: Appropriates $1,318,481,000 for the national forest system instead of $1,312,937,000 as proposed by the House and $1,306,077,000 as proposed by the Senate. The increase over the amount proposed by the House consists of decreases of $350,000 for land line location, $500,000 for maintenance of facilities, $1,500,000 for reforestation and stand improvement, $4,400,000 for wildlife and fish habitat, $200,000 for range management (including a decrease of $300,000 for structural improvements and an increase of $100,000 for wild horses and burros); and increases of $500,000 for minerals, $1,750,000 for timber sales (including increases of $250,000 for inventory for an independent assessment of the Green Mountain NF sales program, and $6,000,000 for harvest administration; and decreases of $500,000 for silvicultural examination, for the new perspectives demonstration, and $4,000,000 for sales preparation), $394,000 for recreation use (including decreases of $2,000,000 for timber support and $500,000 for wilderness management, and increases of $2,519,000 for the recreation initiative and $375,000 for cultural resources), $1,450,000 for soil, water and air operations, and $8,400,000 for general administration, including $8,500,000 to restore the general reduction and a decrease of $100,000 for the Wayne, NF Supervisor's Office in Ohio.

The recommendations discussed above allow for a total appropriated timber sales program of $225,746,000. This is before the application of any across-the-board reduction that may be necessary to bring the bill into compliance with scoring requirements. The managers have not included any specific distribution of the fiscal year 1993 timber sales program volume on a region-by-region basis, due to the tremendous uncertainty facing the timber sales program at this time. This treats all regions in the same manner. As a starting point, the Forest Service should develop a preliminary distribution of the proposed fiscal year 1993 timber sales program starting with regional distributions and total volume discussed in the Senate report, and adjust them, taking into account the funds provided herein for timber sales and road construction. This proposed distribution, which should be submitted to the Committee within 45 days of enactment, should be reflective of current on-the-ground conditions, the need to comply fully with existing legal requirements, the certainty of the timber base as a result of legislation and land management plans, current market demand, and actual sale and harvest activity in each of the regions in recent years.

The Forest Service should report quarterly on its organizational structure and efforts to "rightsize" the field structure and Washington and regional offices in light of reductions in the program nation-wide. In addition, the Forest Service should continue its monthly timber sales program status reports, addressing preparation, offer, and harvest levels by region.

Consistent with the current-year timber sales program, the managers recommend timber salvage sale authority as has been provided in recent years. The Forest Service has indicated that both the House and the Senate recommended the same increases to the salvage sale program above the amounts proposed in the budget. In addition, the managers agreed to the continued use of up to $20,000,000 in salvage funds for continued pipeline activity. As directed last year, the allocations should be developed and reported to the Committees within 45 days of enactment, taking into account the need for pipeline activity, certainty of the timber base, meeting all legal requirements, market demand, and the need for advance work. This report should identify anticipated accomplishments through gates 2 and 3, by region. The managers also agree that if the Forest Service believes it has additional capacity to complete pipeline activities in fiscal year 1993 after the $20,000,000 is spent, the Forest Service should notify the Committees.

The managers expect the Forest Service to continue efforts underway to reduce below-cost sales. The public review and implementation of the below-cost policy should be completed as soon as possible. The managers will expect the efforts to address the below-cost issue to include consideration of the desired future condition in the analysis that precedes sale determinations. The managers expect the Forest Service to subject any minimum bid proposal to public review and comment through the normal channels before proceeding with implementation. The Forest Service should undertake this comment process during FY 1993 and prepare for implementation as soon as possible thereafter.

With respect to the move to more tree measurement, the managers expect the Forest Service to report to the Committees regarding the extent to which any changes away from log scaling will result in methods of measurement that are at least as accurate as current methods. The managers are concerned that no change be undertaken that will not ensure no net loss to the Treasury. The Forest Service should identify steps taken to ensure consistency and standardization of measuring practices.

The managers agree that $1,500,000 of land line location funds allocated to timber be redirected to deal with the backlog of trespass cases. The $500,000 increase in silviculture funds, along with $1,000,000 in Region 6's base funds, are for the Pacific Northwest New perspectives Partners demonstrations. The Forest Service should consult with the partners, including the Douglas Project in southern Oregon, on carrying out the demonstrations. Within the funds for timber inventory, $250,000 is to complete the old growth inventory on the Colville National Forest, WA. The Forest Service is to prepare for each region representative samples of reforestation and timber stand improvement costs incurred in fiscal year 1992, in accordance with the requirements of section 6(l) of the National Forest Management Act, and to submit them to the Committees by March 15, 1993, and to include them in future years' annual reports.

The decrease in wildlife and fish habitat includes $200,000 for neotropical migratory birds, $800,000 for other wildlife, $800,000 for inland fish, $1,800,000 for threatened and endangered species, and $800,000 for anadromous fish. Within these funds is $90,000 for the wolverine study in the Sawtooth NRA, ID, and $300,000 for the Tongass NF for the timber and wildlife study identified in the Senate report. Timber support costs in wildlife and fish habitat should remain at the 1992 level, with the proposed increases being provided for other wildlife and fish activities. While the managers have not provided any earmark for ecosystem management, they support these activities, and expect the wildlife program to take the lead in these efforts. Such efforts should also be carried out in cooperation with the Fish and Wildlife Service and State fish and wildlife agencies.

Funds are included for establishing a Wayne NF Supervisor's office in Ohio, but are not included for establishing a district office in Marietta, OH. The Forest Service should report back to the appropriate committees on any proposed realignments in the Wayne and Hoosier National Forests as a result of the establishment of the Supervisor's Office in Ohio. The report on the allocation of the Washington Office/Regional Offices reduction of $13,000,000 should be provided to the Committees by February 1, 1993. The managers expect these reductions to be allocated to the maximum extent possible in relation to programmatic decreases, and not to programs with stable or increasing budgets.

The Forest Service should make available $200,000 for an independent party to conduct an outside review of the Forest Service's proposals to address its future organizational requirements, to be overseen by the Assistant Secretary for Natural Resources, and to include the Research and State and private forestry organizations.

Within the recreation fund for Region 6, $537,000 is to be made available for the management plan for the Newberry National Volcanic Monument. Also within recreation funds, $300,000 is for evaluation of rivers in Arizona for possible inclusion in the wild and scenic rivers program. There is also $237,000 in recreation management funds and $166,000 in cultural resources for the Wayne NF, OH, and $375,000 for Columbia River Gorge cultural resources information. This cooperative effort will involve tribal governments, Washington/Oregon historic preservation offices, historical societies, and the Columbia River Gorge Commission in developing cultural resources information. Priority efforts would focus on Native Americans, including contemporary oral histories and an archaeological survey of Native American sites. The Forest Service should cooperate with the Oregon Department of Fish and Wildlife in monitoring of forest plan implementation and compliance with forest plan standards and guidelines. The managers understand that the cleanup of the White King and Lucky Lass Mines will begin in fiscal year 1993, and that the cleanup is expected to be completed in fiscal year 1994. Within soil and water improvements for Region 6, $1,000,000 is for watershed restoration on the Olympic NF, WA.

The managers note that the University of Arkansas at Fayetteville is interested in locating a biological field station near the Mulberry River in the Ozark National Forest. The Forest Service and the University have been engaged in discussions on this issue and the managers request that the Forest Service continue to work and cooperate with the University on this matter. The managers make no commitment to Federal funding for any such station.

The managers again direct the Forest Service to expedite the preparation and offering of timber salvage sales on the eastside forests of Region 6. In order to accomplish this goal, the managers direct the Forest Service to first prepare and offer the greatest proportion possible of the salvage program from areas which are accessible through the existing road network.

### FOREST SERVICE FIRE PROTECTION

Amendment No. 90: Appropriates $190,785,000 for Forest Service fire protection instead of $192,785,000 as proposed by the House and $188,785,000 as proposed by the Senate. The decrease below the amount proposed by the House is $2,000,000 for fire presuppression.

Within the funds provided is $200,000 for the Smoky Bear 50th Anniversary celebration, Lincoln NF, NM.

### EMERGENCY FOREST SERVICE FIREFIGHTING FUND

Amendment No. 91: Deletes language proposed by the Senate which would have required the Presidential notification to Congress of his designation of emergency firefighting amounts as emergency requirements to be in the form of an official budget request.

### CONSTRUCTION

Amendment No. 92: Appropriates $257,447,000 for construction instead of $241,449,000 as proposed by the House and $258,570,000 as proposed by the Senate. The increase over the amount proposed by the House consists of in facilities, increases of $600,000 for the aerial fire depot, Missoula, MT, $650,000 for the Helena, MT ranger district office, $1,350,000 for the Androscoggin, NH ranger district office, $1,100,000 for the Winding Stair NRA, OK, $1,000,000 for the Oconee NF, $2,500,000 for the southeast Alaska visitors center, $100,000 for the Toiyabe NF (Kyle Station), $911,000 for the Monongahela NF, $771,000 for Timberline Lodge (including $425,000 for rewiring and $450,000 for chimney replacement, offset by a decrease of $104,000 for an elevator), $250,000 for Multnomah Falls, $375,000 for the Green Mountain NF, $350,000 for Kisatchie NF storm damage, $210,000 for Tongass NF ranger boat restoration, and $350,000 for the White Mountain NF; and decreases of $700,000 for El Portal visitors center, $375,000 for Hells Canyon NRA, OR, $250,000 for Snow Bunny Lodge, OR, $250,000 for Lake Vesuvius, Wayne NF, $400,000 for Uwharrie NF (Badin Lake), $998,000 for rehabilitation projects in the National Forests, TX, and $1,800,000 for Corinth recreation area, AL; an increase of $7,877,000 for road construction, including an increase of $8,500,000 for timber roads and $250,000 for recreation roads in the Dixie NF, and decreases of $700,000 for Haley's Ferry, TX (leaving $1,000,000 for the road and no funds for facilities planning), and $173,000 related to rehabilitation projects in TX; and an increase of $2,332,000 for trail construction, including an overall $2,000,000 increase and $190,000 for Winding Stair and $142,000 for the Monongahela NF.

The managers direct that none of the funds provided for the Helena, MT ranger district are to be expended until the Forest Service certifies that all hazardous materials have been removed from the site by the seller.

Within the funds for trail construction, there are the following earmarks: $250,000 for the Pinhoti Trail, AL; $176,000 for the Cascades area, Jefferson NF, VA; $274,000 for Hells Canyon, OR; and $300,000 for the Wayne NF, OH.

The managers direct the Forest Service not to use region-wide survey and design or operating funds, to initiate any activity on new facilities, unless such facilities have been specifically presented to and approved by the Congress.

For timber road construction, an increase of $8,500,000 over the House level is provided. This results in a total decrease of $18,250,00 from the amount requested in the budget for timber roads. In addition, both the House and Senate had agreed on reductions of $30,000,000 for recreation roads and $14,000,000 for general purpose roads. In allocating the funds provided to the various categories for timber roads, the Forest Service should spread the funding consistent with the actual expenditures for support, new construction, reconstruction, and purchaser support in fiscal year 1991, and consistent with the actual ratios for fiscal year 1992. For recreation and general purpose roads, the funds should be allocated proportionate to the program breakdown.

Amendment No. 93: Provides $88,190,000 for facilities construction instead of $82,401,000 as proposed by the House and $86,063,000 as proposed by the Senate. The increase over the amount proposed by the House is discussed under Amendment No. 92.

Amendment No. 94: Provides $169,257,000 for construction of roads and trails instead of $159,048,000 as proposed by the House and $172,507,000 as proposed by the Senate. The increase over the amount proposed by the House is discussed under Amendment No. 92.

### LAND ACQUISITION

Amendment No. 95: Appropriates $62,947,000 for land acquisition instead of $62,072,000 as proposed by the House and $62,240,000 as proposed by the Senate.

The managers agree to the following distribution:

| | |
|---|---|
| Apalachicola NF, FL | $1,000,000 |
| Appalachian Trail | 3,000,000 |
| Big Sur, CA | 2,000,000 |
| Chattooga WSR, NC, SC, GA | 1,800,000 |
| Chippewa NF, MN | 500,000 |
| Cleveland NF, CA | 2,000,000 |
| Columbia River Gorge NSA, OR, WA | 1,000,000 |
| Daniel Boone NF, KY | 1,000,000 |
| Francis Marion NF, SC | 600,000 |
| Green Mountain NF, VT | 1,275,000 |
| Hoosier NF, IN | 1,000,000 |
| Lake Tahoe Basin, NV, CA | 3,000,000 |
| Lewis and Clark NF, MT | 2,525,000 |
| Monongahela NF, WV | 2,000,000 |
| Mount Rogers NRA and Jefferson NF, VA | 500,000 |
| Oconee NF, GA | 1,500,000 |
| Olympic NF, WA | 1,000,000 |
| Oregon Dunes NRA, OR | 5,000,000 |
| Osceola NF, FL (Pinhook Swamp) | 2,400,000 |
| Ouachita NF, AR | 2,000,000 |
| Ozark NF, AR | 500,000 |
| Pacific Crest Trail | 1,500,000 |
| San Bernardino NF, CA | 1,000,000 |
| Seneca Rocks NRA, WV | 400,000 |
| Shawnee NF, IL | 1,017,000 |
| Skagit W&SR, WA | 750,000 |
| Toiyabe NF, NV | 2,000,000 |
| Uwharrie NF, NC | 500,000 |
| Wasatch-Cache NF, UT (Albion Basin) | 80,000 |
| Wayne NF, OH | 2,000,000 |
| Wenatchee NF, WA | 3,600,000 |
| White Mountain NF, NH | 3,000,000 |
| Cash equalization | 1,000,000 |
| Emergency, hardships, inholdings | 2,000,000 |
| Acquisition management | 8,500,000 |
| Total, Land acquisition | 62,947,000 |

$150,000 is to be made available within funds provided for the Lewis and Clark National Forest (LWCF), to be directed to the Gallatin National Forest for the acquisition of City of Bozeman lands in Bozeman Creek, Montana, for the purpose of watershed rehabilitation and recreation, as part of the Peets Hill project.

The amount provided for the Skagit WSR, WA shall be used to acquire lands outside the Skagit WSR corridor, for addition to the Skagit River Bald Eagle Natural Area.

### ADMINISTRATIVE PROVISIONS

Amendment No. 96: Includes Senate proposed language which provides for the use of salvage sale funds for timber sales preparation to replace sales lost to fire or other causes and to replace sales inventory on the shelf, and for the 25 percentum payments to local governments from salvage sales receipts.

Amendment No. 97: Restores language as proposed by the Senate, allowing up to $1,000,000 of available funds to be used for Youth Conservation Corps programs, as authorized by the Act of August 13, 1970. The word "if" has been deleted, as it is no longer required.

Amendment No. 98: Deletes Senate proposed language which would have prohibited the use of funds to purchase or upgrade computer hardware or software until the Secretary of Agriculture implemented organizational reforms.

Amendment No. 99: Restores language proposed by the House and deleted by the Senate, amended to prohibit the use of funds for timber sales using clearcutting on the Shawnee National Forest in Illinois to the greatest extent possible and consistent with the forest land management plan.

Amendment No. 100: Restores language proposed by the House and deleted by the Senate which establishes a supervisor's office in Ohio for the Wayne NF.

Amendment No. 101: Deletes language proposed by the House and language inserted by the Senate, and inserts language which provides for timber salvage activity in Regions 5 and 6, as long as such activity in spotted owl habitat does not render the habitat unsuitable for the owl, and such sales are done in full compliance with all existing environmental and forest management laws.

Amendment No. 102: Includes language proposed by the Senate, providing for a pilot effort on stewardship end result contracts, and amends the language to include the Kaibab, Dixie, Idaho Panhandle and Coconino National Forests and the Lake Tahoe Basin Management Unit in the pilot effort, and to delete language proposed by the Senate regarding 25 per centum payments to local governments. The House had no similar provision. The managers agree that this pilot effort should continue, and should be limited to the five forests named. The language proposed by the Senate regarding 25 per centum payments has been dropped, since these demonstration projects are not traditional timber sales, and authorizing language regarding 25 per centum payments to local governments under 16 U.S.C. 500 is not necessary. As part of the pilot effort, the Forest Service should study the issue of how payments to local governments could be included in such a program if it were adopted Forest Service-wide, and what methodologies would be used to determine the appropriate amounts of such payments, and methods of payment. The Forest Service should include this information in its report on the pilot effort to the Committees, as called for in the House report.

Amendment No. 103: Includes language proposed by the Senate which allows the use of Forest Service funds hereafter for expenses of student interns employed by the Forest Service. The amendment adds the words "student interns' to clarify which employees are the subject of the provision. The House had no similar provision. The amendment also adds language authorizing a noncompetitive contract with the National Research Council for an assessment of Pacific Northwest forests. Funding for this purpose was provided to the Forest Service in fiscal year 1992.

### DEPARTMENT OF ENERGY

### FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 104: Appropriates $421,939,000 for fossil energy research and development instead of $412,597,000 as proposed by the House and $422,669,000 as proposed by the Senate. The net decrease below the amount proposed by the Senate consists of increases of $2,500,000 for modification and operation of the LaPorte indirect liquefaction facility; $800,000 for non-utility applications in advanced combustion technology; $1,000,000 for tubular solid oxide fuel cells; $2,000,000 for planar solid oxide fuel cells; $1,675,000 for magnetohydrodynamics (MHD); $1,000,000 for fundamental and supporting research in advanced extraction and process technology (AEPT); a net of $3,415,000 in the use of prior year funds; and $7,000,000 to restore the allocation reduction; and decreases of $20,000 in coal preparation; $1,600,000 in gas stream cleanup; $200,000 in advanced research in coal liquefaction; $2,000,000 for the Wilsonville facility in pressurized fluidized bed combustion; $500,000 for the indirect cycle in advanced combustion technology; $2,000,000 for molten carbonate fuel cells; $1,000,000 for a direct-fired turbine CRADA, $800,000 for METC research, and $500,000 for completion of the industrial scale proof-of-concept unit, all in heat engines; $1,000,000 for the gasification product improvement facility; $500,000 for co-products gasification to leave $880,000 for the Illinois mild gasification facility; $2,000,000 for university geoscience research in AEPT; $1,000,000 for light oil and $250,000 for tar sands in enhanced oil recovery; $250,000 for oil shale; $500,000 for gas storage; $2,000,000 for low quality gas fuel cell activity; $2,000,000 for competitive industrial procurements in the high efficiency gas turbine program; $500,000 for equipment for the National Center for Coal and Energy; $500,000 for general plant projects; and $1,000,000 for environmental restoration.

The managers agree that:

1. For the use of prior year funds the only amounts to be applied to overall fossil energy needs are $8,500,000 to be identified by METC, including $454,000 for the generic heat exchanger facility study; $3,250,000 to be identified by PETC; $600,000 to be transferred from the fossil energy construction account; $500,000 for BPO for upgrading of heavy crude oil; $285,000 from advanced research and technology development for unused supercomputer time; and $450,000 in deobligated funds not used for the fiscal year 1992 reprogramming. A breakdown of the proposed METC and PETC funds to be made available should be provided to the Committees as soon as possible but no later than December 1, 1992. Funds from the gasification product improvement facility and the Illinois mild gasification plant are not to be used as offsets and are to be available for those facilities.

2. In advanced combustion technology funding provided for non-utility applications concludes commercial applications projects. Additional funding to complete industrial projects may be considered in future years.

3. Funding for monolithic solid oxide fuel cells is to complete work on a 100 watt stack. A comprehensive review of this technology and those chosen for a proposed procurement on planar concepts, funded at $2,000,000, should be undertaken before any commitments are made to continue work beyond this stage. Because of expected limited availability of funds in the future it is not certain that both types of technology can be pursued at larger scales.

4. Within the funds for MHD, $20,000,000 is for topping cycle activities and $7,480,000 is for the bottoming cycle.

5. Funds added for university geoscience research in AEPT should be combined with existing fiscal year 1992 funds and those budgeted in fiscal year 1993 for an overall total of approximately $4,000,000 for cost-shared research.

6. The scope of work in procurement for the planned high efficiency gas turbine initiative must be limited to technology base development, power systems design, and component design and development until a comprehensive program plan has been received and reviewed by the Committees.

7. Up to 5% of internal (non-contract) research and development funds for METC, PETC, UNDEERC, and NIPER, and up to 5% of all funds provided to National Laboratories, may be used for equipment. Such use should be reported on a quarterly basis. This practice may continue in future years unless changed by future Congressional action.

8. Argonne National Laboratory should be supported at 90% of fiscal year 1992 levels with maximum emphasis on its core research and development program.

9. Amens National Laboratory should be supported at a level of $500,000.

10. Within AEPT, $1,000,000 should be allocated to the thermodynamics program at NIPER.

11. Construction modifications may be made at the LaPorte liquefaction facility.

12. The report to Congress on oil technology transfer should address the capabilities available in various outside organizations as well as the practicality of the use of competition for technology transfer activities.

13. Within AEPT, $350,000 is for University of Oklahoma participation in the Gypsy Field Project. Funding should be for a specific well-defined scope of work in reservoir characterization. Funding does not imply DOE responsibility for continued operation of the field site. Future work must be based on acceptable technical proposals integral to the overall DOE program and must include industrial participation.

14. Within supporting technology and environmental research in AEPT $350,000 is to be made available on a matching basis to the University of Oklahoma for a study on the use of liquefied natural gas (LNG) as a transportation fuel for the heavy trucking industry. No funds are to be made available for design studies, process development work, or demonstrations. Any future experimental or demonstration work should be considered, if proposed, in the alternative fuels development program in energy conservation.

Amendment No. 105: Restores House language stricken by the Senate which derives $600,000 from unobligated balances in the Fossil energy construction account for use in fossil energy research and development.

Amendment No. 106: Strikes the word "and" as proposed by the Senate.

Amendment No. 107: Makes a correction to the title of one of the two offices for which the Senate language established employment floors. The House had no similar provision. The managers agree that the office of the Strategic Petroleum Reserve and the Office of the Naval Petroleum and Oil Shale Reserves require personnel floors to assure sufficient staffing for these strategically important programs.

Amendment No. 108: Provides $1,500,000 for a grant to the National Research Center for Coal and Energy instead of $2,000,000 as proposed by the Senate and nothing as proposed by the House.

Amendment No. 109: Earmarks $30,675,000 for magnetohydrodynamics instead of $32,800,000 as proposed by the House and $29,000,000 as proposed by the Senate.

### NAVAL PETROLEUM AND OIL SHALE RESERVES

The managers agree with the House position, stated in House Report 102-626, with regard to the use of unexpended balances from the Naval Petroleum and Oil Shale Reserves account for activities relating to Naval Petroleum Reserve No. 1, Elk Hills, for the redrilling of an exploratory well, beginning efforts on a cogeneration facility, and an independent study of Reserve operations, and expect these activities to proceed.

### ENERGY CONSERVATION

Amendment No. 110: Appropriates $583,866,000 for energy conservation instead of $591,859,000 as proposed by the House and $571,288,000 as proposed by the Senate. The net increase above the amount proposed by the Senate consists of increases of $771,000 for the industrialized housing program in building systems; $500,000 for metal casting research in materials processing; $1,200,000 for advanced ceramic materials, including chemical vapor composites, in enabling materials; $6,380,000 for low income weatherization; $814,000 for State energy conservation grants; $1,413,000 for institutional conservation grants; $2,000,000 for technical and financial assistance management; and $7,000,000 to restore the allocation reduction; and decreases of $1,500,000 for lighting and appliances research; $1,000,000 for industrial wastes; $1,800,000 for the integrated manufacturing information system; $200,000 for the High Temperature Materials Laboratory in materials development; $1,000,000 for heat engine development; and $2,000,000 for the fuel cell bus program in the electric and hybrid vehicle program.

The managers agree that:

1. The $1,000,000 above the budget in industrialized housing is for continuing existing activities with the University of Oregon, the Florida Solar Energy Center, the new industrialized housing center being established in the Northeast, and the National Association of Homebuilders within the context of a new comprehensive advanced housing program.

2. Within amounts for alternative fuels utilization the increase of $1,000,000 is for natural gas "adsorption" rather than "absorption" systems.

3. Within the hybrid vehicle program, the Department of Energy shall insure that a company's participation will be in the economic interest of the United States, as evidenced by investment in the U.S. in research, engineering, and manufacturing (including, for example, the substantial manufacture of major components and subassemblies in the U.S.); significant contributions to employment in the U.S.; and agreement with respect to any technology arising from the project to require the manufacture within the U.S. of products resulting from that technology for a period of five years for the U.S. market.

4. The reduction in technical and financial assistance management is to return that activity to the fiscal year 1992 level which is based on funds available from fiscal year 1991 combined with fiscal year 1992 appropriations.

5. In the inventions and innovation activity recommended funding includes $1,800,000, as budgeted, for the National Institute of Standards and Technology to carry out invention evaluations. This is $150,000 above planned fiscal year 1992 levels.

6. The Department is expected to request funding for advanced data processing functions and crosscutting planning, analysis, and technology evaluation activities as a separate, identifiable line item in the fiscal year 1994 budget. Fiscal year 1993 levels should be the same as those in fiscal year 1992 and should be derived from the same sources.

7. Within amounts for integrated resource planning, the Department should support system efficiency and demand side management aspects of the Resource Supply Expansion Program (RSEP) being developed in the Northwest to the extent possible.

8. Within the amount for light duty heat engines, no less than $2,500,000 is for integration of ceramic components into aircraft gas turbine auxiliary power units.

Amendment No. 111: Earmarks $231,757,000 for energy conservation grants instead of $240,365,000 as proposed by the House and $220,150,000 as proposed by the Senate. The amount consists of $186,980,000 for low income weatherization, $15,614,000 for State energy conservation grants, and $29,163,000 for institutional conservation grants.

Amendment No. 112: Earmarks $1,500,000 for metal casting research instead of $2,000,000 as proposed by the House, and $1,000,000 as proposed by the Senate.

Amendment No. 113: Earmarks $18,091,000 for the metals initiative as proposed by the House instead of $17,991,000 as proposed by the Senate, and includes new language clarifying the use of $3,000,000 of previously appropriated funds and earmarking $3,000,000 in fiscal year 1993 appropriations for continuing an integrated management information system project with 50 percent cost-sharing.

Amendment No. 114: Earmarks up to $28,700,000 for electric and hybrid vehicle battery research as proposed by the Senate instead of $38,700,000 as proposed by the House.

Amendment No. 115: Extends certain trade secret, commercial, and financial information protections to the hybrid vehicle propulsion development program as proposed by the Senate. The House had no similar provision. This protection is also offered to 50 percent cost-shared programs in battery research and Clean Coal Technology.

Amendment No. 116: Strikes "on" and inserts "or" as proposed by the Senate to correct a spelling error in the House-passed bill.

Amendment No. 117: Adds participants in the hybrid vehicle propulsion development program to those who can produce trade secret, commercial, and financial information eligible for protection under the Act as proposed by the Senate. The House had no similar provision. This is the same protection contained in Amendment No. 115.

### STRATEGIC PETROLEUM RESERVE

Amendment No. 118: Deletes House language restricting leasing of oil for the Strategic Petroleum Reserve from foreign sources, as proposed by the Senate. Congressional review processes in existing law, the Energy Policy and Conservation Act, would continue to apply to such transactions.

Amendment No. 119: Deletes language proposed by the Senate which would allow unrestricted leasing of oil from foreign sources without Congressional review, and waive certain provisions regarding regional reserves and Naval Petroleum Reserve operations. The House had no similar provision.

Amendment No. 120: Limits outlays from all funds in the SPR petroleum account to $137,000,000 as proposed by the Senate, instead of $145,000,000 as proposed by the House. The amendment also includes new language that changes the availability of Clean Coal Technology funds originally appropriated in fiscal year 1991. Funds for completion of round four, $250,000,000, are made available as follows: $150,000,000 in fiscal year 1994, and $100,000,000 in fiscal year 1995. Funds for completion of round five, $275,000,000, are made available as follows: $25,000,000 (for a total of $250,000,000 including other available amounts) in fiscal year 1994, and $250,000,000 in fiscal year 1995. Changing the availability of these funds has no effect on the execution of the program, and the managers expect the Department to continue the program as planned.

### ENERGY INFORMATION ADMINISTRATION

Amendment No. 121: Appropriates $82,627,000 for the Energy Information Administration as proposed by the Senate instead of $83,427,000 as proposed by the House.

Amendment No. 122: Transfers $49,000,000 from unobligated balances in the Biomass Energy Development account to the Energy Information Administration as proposed by the Senate instead of $44,000,000 as proposed by the House.

Amendment No. 123: Deletes language proposed by the Senate making funds remaining in the Biomass Energy Development account available for administering the alcohol fuels loan guarantee program. The House had no similar provision. Sufficient funds to administer the program are contained in the Alternative Fuels Production account.

### ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

The bill contains an administrative provision prohibiting the expenditure of funds for the preparation, issuance, or processing of procurement documents for programs or projects for which appropriations have not been made. In addition, the managers direct that, should significant duties and responsibilities be imposed on organizations funded in this bill by energy legislation passed by the Congress, no activities that differ significantly from those in the existing fiscal year 1993 budget justifications or those provided for in addition by this Act may be undertaken without a reprogramming or a supplemental budget request.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES—INDIAN HEALTH SERVICE

### INDIAN HEALTH SERVICES

Amendment No. 124: Appropriates $1,537,851,000 for Indian health services instead of $1,559,615,000 as proposed by the House and $1,518,553,000 as proposed by the Senate. Changes to the House proposed level include a realignment of funds for staffing at new facilities based on recently-provided information from IHS and a 50 percent reduction in the funds proposed for population growth. Specifically, the net decrease to the amount proposed by the House includes increases of $57,000 in health education for staffing at the Belcourt, ND hospital and $1,964,000 in urban health for the transfer of 10 projects previously funded under the alcohol and substance abuse activity; and decreases for population growth of $7,631,000 in hospitals and clinics, $387,000 in dental health, $228,000 in mental health, $702,000 in alcohol and substance abuse, $2,577,000 in contract care, $157,000 in public health nursing, $53,000 in health education, $332,000 in community health representatives, and $91,000 in urban health; decreases for staffing of new facilities of $367,000 in hospitals and clinics of which $307,000 is for the Pine Ridge, SD hospital and $60,000 is for the Taos, NM health center, $245,000 in dental health of which $196,000 is for the Belcourt, ND hospital and $49,000 is for the Kotzebue, AK hospital, $529,000 in mental health of which $465,000 is for the Belcourt, ND hospital and $64,000 is for the Kotzebue, AK hospital, and $172,000 in public health nursing of which $115,000 is for the Belcourt, ND hospital and $57,000 is for the Kotzebue, AK hospital; and decreases of $1,100,000 in hospital and clinics of which $1,000,000 is for the self determination fund and $100,000 is for AIDS treatment, $2,250,000 in dental health for mobile dental unit replacements, $4,464,000 in alcohol and substance abuse of which $1,964,000 is for a transfer of 10 projects to the urban health activity and $2,500,000 is for the proposed alcoholism initiative, $500,000 in public health nursing and $1,000,000 in health education for proposed program expansions, $400,000 in urban health for substance abuse, and $600,000 in self-governance of which $500,000 is for grants to tribes and $100,000 is for the IHS office of self-governance.

The managers have agreed to transfer funding from the alcohol and substance abuse program to the urban health program for 10 projects which the IHS has determined to be clearly urban projects as defined by Title V of the Indian Health Care Improvement Act, as amended. The managers expect that, through existing resources and the increase provided for the alcohol and substance abuse program, funds should be available to support services for the Squaxin Island Tribe and the other tribes in the rural Washington area.

Last year the managers directed the IHS to report on the possible consolidation of the social services program within the mental health account. This direction appears to have been ignored. The managers expect the IHS to respond to the Committees on this issue prior to submission of the fiscal year 1994 budget request. The managers intend to transfer the social services function to the mental health account in fiscal year 1994 if a compelling case to the contrary or acceptable alternative recommendations are not received from IHS.

The managers agree that:

1. The Oklahoma City and Tulsa clinics should receive a fair share of the increases provided for inflation and population growth and these facilities should receive the same consideration as other service areas for inclusion on the priority list for construction of new facilities;

2. Contract support costs associated with tribally-operated programs should be included as a separate line item in the budget beginning in fiscal year 1994 and these costs should be fully budgeted;

3. The total funding provided in fiscal year 1993 should be allocated to fund fully contract support costs as required by law;

4. IHS should continue to assist the Mississippi Choctaw Tribe in addressing the tuberculosis outbreak in that community;

5. Ten percent of loan repayment funds in fiscal year 1993 should be used for dentists to ensure that dental services do not fall below the current level;

6. Within the funds provided for mental health, $150,000 should be provided for the child sexual abuse program of the Washoe Tribe and the IHS should work with all the tribes to identify the extent of the need for new and expanded child sexual abuse programs and include an estimate of required funding with other budget priorities in future budget requests;

7. The fetal alcohol syndrome research project at the University of Washington should be continued at the fiscal year 1992 level ($125,000), as should the Navajo Gallup alcoholism project ($1,226,000);

8. Funds for billing clerks may be reprogrammed from the direct operations activity to the hospitals and clinics activity;

9. Joint venture program funding may be reprogrammed from the hospital and clinics activity to other activities such as dental health and public health nursing as needed, and future budget requests should reflect joint venture funding in the appropriate budget line items;

10. Funds provided for population growth and for unmet need are for direct program expenses and should not be used for administrative expenses at the headquarters and area office levels; and

11. Medicaid and Medicare collections should continue to be used for addressing deficiencies, including construction requirements up to $1,000,000 for temporary or permanent space needs which may be funded without advance approval from the House and Senate Committees on Appropriations, and the IHS should report in annual budget submissions on the uses of Medicaid and Medicare collections in the most recently completed fiscal year.

Amendment No. 125: Deletes House provision stricken by the Senate requiring that an appropriate amount of funding be reserved and available only for contract support costs. The IHS should report to the Committees twice a year on the extent of any shortfalls in contract support costs and options for reprogramming funds to address those shortfalls. The first report should be received no later than December 1, 1992, and reflect shortfalls as of the end of fiscal year 1992.

Amendment No. 126: Earmarks $320,827,000 for contract medical care instead of $323,404,000 as proposed by the House and $318,249,000 as proposed by the Senate. The decease to the amount proposed by the House reduces the amount provided for population growth by 50 percent.

Amendment No. 127: earmarks $5,000,000 for the Indian Self-Determination Fund as proposed by the Senate instead of $6,000,000 as proposed by the House.

### INDIAN HEALTH FACILITIES

Amendment No. 128: Appropriates $336,500,000 for Indian health facilities instead of $338,596,000 as proposed by the House and $329,079,000 as proposed by the Senate. The net decrease to the amount proposed by the House consists of decreases of $2,000,000 in maintenance and improvement projects and $2,000,000 in sanitation facilities for new and renovated homes, and increases of $72,000 for population growth, $1,000,000 for additional sanitation engineers and support personnel, and $832,000 for facilities and environmental health support at new facilities of which $465,000 is for the Belcourt, ND hospital, $307,000 is for the Pine Ridge, SD hospital, and $60,000 is for the Taos, NM health center.

The managers agree that:

1. The $3 million increase above the budget request for maintenance and improvement projects should remain in the base for future budget requests and should be used to address potential environmental hazards, such as the required asbestos removal at the old Sacaton hospital;

2. Up to $600,000 should be reprogrammed from funds available due to lower-than-expected construction contract awards to complete the regional youth treatment center in Fairbanks, Alaska;

3. IHS should continue to apply its current leasing priority system for additions to IHS facilities, tribal facilities, and GSA-assigned space, and should continue to provide the quarterly leasing report to the Committees on the current time schedule; and

4. IHS may reprogram up to $1.4 million to complete design and site work for the Fort Belknap, MT project and up to $7.4 million to complete phase I construction of the Kotzebue, AK hospital staff quarters to the extent that additional funds, in excess of those already directed for reprogramming, are available due to lower-than-expected construction contract awards.

### DEPARTMENT OF EDUCATION—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

### INDIAN EDUCATION

Amendment No. 129: Appropriates $81,274,000 for Indian education as proposed by the House instead of $81,205,000 as proposed by the Senate.

## OTHER RELATED AGENCIES

### OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

### SALARIES AND EXPENSES

Amendment No. 130: Appropriates $27,935,000 for the Office of Navajo and Hopi Indian Relocation as proposed by the Senate instead of $28,935,000 as proposed by the House. The net decrease to the amount proposed by the House includes a decrease of $2,000,000 in housing funds and an increase of $1,000,000 for the Spider Point water system.

The managers expect that $8,000,000 of the funds provided for housing will be used to continue road development on the New Lands and that $1,000,000 will be transferred to the Indian Health Service for a water system at Spider Point on the Hopi partitioned lands.

The managers are concerned about the lack of progress in developing lots in the Tuba City subdivision for relocatees. The managers originally funded this project with the expectation that 280 lots would be developed and that half of those lots would be made available to relocatees. The managers understand that to date only 25 lots have been provided for relocatees and that the number of lots to be developed will be less than the 280 originally planned. The managers expect a full explanation of the situation in Tuba City before any further funds are committed to this project. The Office should report to the Committees by December 1, 1992, explaining why less lots will be developed, what assurances it has that at least half of the developed lots will be available for relocatees, and when the remaining lots are expected to be provided to relocatees. The Office should keep the Committees apprised, on at least a quarterly basis, of the status of the Tuba City subdivision and of other subdivisions being developed for relocatees.

### INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

### PAYMENT TO THE INSTITUTE

Amendment No. 131: Appropriates $9,312,000 for the payment to the Institute instead of $9,812,000 as proposed by the House and $8,512,000 as proposed by the Senate. The decrease below the amount proposed by the House is for operations of the Institute.

### SMITHSONIAN INSTITUTION

### SALARIES AND EXPENSES

Amendment No. 132: Appropriates $298,094,000 for salaries and expenses instead of $298,656,000 as proposed by the House and $290,645,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $308,000 for research, including an increase of $39,000 for the Assistant Secretary, a decrease of $155,000 for the Astrophysical Observatory (including a decrease of $191,000 to global change research and an increase of $36,000 for education), a decrease of $210,000 to the Tropical Research Institute (including a decrease of $135,000 to global change research, leaving $200,000 for canopy biology program, and a decrease of $75,000 for the safety specialist and game wardens), a decrease of $137,000 to the Environmental Research Center for global change research, an increase of $160,000 for the National Zoological Park (including an increase of $235,000 for global change research, and a decrease of $75,000 to the additional positions for new facilities), an increase of $86,000 for the Archives, and a decrease of $91,000 for the international environmental science program; a decrease of $50,000 to museums, including an increase of $72,000 to the Assistant Secretary for African-American programming, an increase of $193,000 for the National Museum of Natural History (including increases of $130,000 for biodiversity and $216,000 for facilities coordination, and decreases of $78,000 for human ecological history and $75,000 for the Handbook of North American Indians), a decrease of $101,000 to the National Air and Space Museum for global change research, an increase of $50,000 to the National Museum of American History for asbestos removal, a decrease of $11,000 to the National Museum of the American Indian (including increases of $23,000 for the Custom House program and $150,000 for repatriation, and decreases of $65,000 for Custom House maintenance and $119,000 for education program technology), an increase of $23,000 for the National Museum of American Art, a decrease of $54,000 to the Freer Gallery of Art, an increase of $11,000 for the Archives of American Art, a decrease of $25,000 for the Cooper-Hewitt Museum, a decrease of $100,000 to the Conservation Analytical Laboratory, and a decrease of $108,000 to the Museum Support Center; a decrease of $81,000 to public service, including a decrease of $108,000 to folklife programs (including a decrease of $79,000 to cultural conservation, an increase of $21,000 for education, and a decrease of $50,000 for Folklife Festival infrastructure), and an increase of $27,000 for academic and educational programs; a decrease of $30,000 for international activities for the Institute of the Americas; a decrease of $175,000 for administration, including an increase of $75,000 for financial management to restore lapse rate reduction, and decreases of $130,000 for equal opportunity and $120,000 for human resources; and an increase of $82,000 for facilities services, including a decrease of $118,000 for protection services and increases of $100,000 for utilities and $100,000 for rent.

The managers have agreed not to take any reductions based solely on assumed lapse rates, and have restored funds accordingly in the various line items noted above. This policy would also apply to the Anacostia Museum, where funding has been provided for one education specialist, as requested by the Smithsonian.

Amendment No. 133: Provides that $27,579,000 shall remain available until expended instead of $27,633,000 as proposed by the House and $27,481,000 as proposed by the Senate. The decrease from the amount proposed by the House is discussed under Amendment No. 132.

### REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 134: Appropriates $24,400,000 as proposed by the House instead of $24,900,000 as proposed by the Senate.

### CONSTRUCTION

Amendment No. 135: Appropriates $16,830,000 for construction instead of $17,330,000 as proposed by the House and $18,100,000 as proposed by the Senate. The decrease from the amount proposed by the House is $500,000 for the planning for the proposed collections research center in Suitland, MD.

## NATIONAL GALLERY OF ART

### SALARIES AND EXPENSES

Amendment No. 136: Appropriates $51,627,000 for salaries and expenses instead of $51,663,000 as proposed by the House and $51,438,000 as proposed by the Senate. The decrease from the amount proposed by the House consists of decreases of $88,000 for care and utilization of art collections, for new positions; $63,000 for operation and maintenance for new positions ($22,000) and services and supplies ($45,000), offset by an increase of $4,000 for travel; $7,000 for protection of buildings, grounds and contents, including a decrease of $15,000 for new positions and an increase of $8,000 for travel; and an increase of $122,000 for general administration, including decreases of $11,000 for travel and $24,000 for new positions, and increases of $72,000 for filling positions at higher grades and $85,000 for electronic data services.

### REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 137: Appropriates $3,561,000 for repair, restoration and renovation of buildings instead of $3,600,000 as proposed by the House and $3,750,000 as proposed by the Senate. The decrease below the amount proposed by the House is $39,000 for repair and renovation projects.

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

## NATIONAL ENDOWMENT FOR THE ARTS

### GRANTS AND ADMINISTRATION

Amendment No. 138: Appropriates $145,555,000 for grants and administration instead of $145,839,000 as proposed by the House and $144,245,000 as proposed by the Senate. The managers agree to the following distribution:

| | |
|---|---|
| Arts in Education | $7,578,000 |
| Dance | 7,000,000 |
| Design Arts | 3,550,000 |
| Expansion Arts | 5,475,000 |
| Folk Arts | 3,000,000 |
| Inter-Arts | 3,150,000 |
| International | 700,000 |
| Literature | 4,350,000 |
| Local Programs | 2,090,000 |
| Media Arts | 8,325,000 |
| Museums | 7,950,000 |
| Music | 7,720,000 |
| Opera—Musical Theater | 3,260,000 |
| Theater | 7,774,000 |
| Visual Arts | 5,250,000 |
| Advancement | 1,400,000 |
| Challenge | 250,000 |
| Subtotal, Program Grants | 78,822,000 |
| State Grants | 33,348,000 |
| State set-aside | 9,095,000 |
| Subtotal, Grants | 121,265,000 |
| Administrative Areas: | |
| Policy, Planning and Research | 780,000 |
| Administration | 23,510,000 |
| Subtotal, Administrative Areas | 24,290,000 |
| Total, Grants and Administration | 145,555,000 |

### MATCHING GRANTS

Amendment No. 139: Appropriates $30,400,000 for matching grants instead of $30,116,000 as proposed by the House and $30,500,000 as proposed by the Senate.

Amendment No. 140: Earmarks $13,300,000 for challenge grants as proposed by the House instead of $13,000,000 as proposed by the Senate.

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### GRANTS AND ADMINISTRATION

Amendment No. 141: Appropriates $152,518,000 for grants and administration instead of $152,108,000 as proposed by the House and $152,669,000 as proposed by the Senate.

Changes to the House position include an increase of $336,000 for college teachers fellowships and seminars, $300,000 for school teachers fellowships and seminars and $174,000 for administration; and a decrease of $100,000 for research.

For Preservation and access, the managers agree to the following distribution of funds:

| | |
|---|---|
| Brittle books microfilming | $11,300,000 |
| U.S. Newspaper program | 3,100,000 |
| Education/training | 900,000 |
| Preserving special collections | 800,000 |
| National Heritage Preservation | 5,600,000 |
| Intellectual access to collection | 1,200,000 |
| Other preservation activities | 400,000 |

Amendment No. 142: Earmarks $5,600,000 for the Office of Preservation to remain available for two years as proposed by the House instead of $3,750,000 as proposed by the Senate.

### MATCHING GRANTS

Amendment No. 143: Appropriates $26,416,000 for matching grants instead of $26,826,000 as proposed by the House and $26,009,000 as proposed by the Senate.

Amendment No. 144: Earmarks $14,350,000 for challenge grants instead of $14,700,000 as proposed by the House and $14,000,000 as proposed by the Senate.

## COMMISSION OF FINE ARTS

### NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

The managers agree that the authorized level for this program should be increased from $7.5 million to $12.5 million. The managers recommend that the current $500,000 cap on grants to individual institutions per year be raised to $750,000. However, increases above the current $500,000 cap should be in increments proportional to any increase in appropriated funds in excess of $7.5 million.

## NATIONAL CAPITAL PLANNING COMMISSION

### SALARIES AND EXPENSES

Amendment No. 145: Appropriates $5,750,000 for salaries and expenses of the National Capital Planning Commission instead of $5,400,000 as proposed by the House and $6,100,000 as proposed by the Senate. The managers expect that the increase above the amount proposed by the House will be used for development of the monumental core plan.

## FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

### SALARIES AND EXPENSES

The managers agree that the $500,000 provided for a fundraising effort to help offset the cost of the memorial construction is a one-time appropriation to provide "seed money" for the fundraising effort. The Commission has reported that an additional $32,000,000 will be required to complete construction of the memorial. The managers have agreed to provide $10,000,000 in the National Park Service construction account in fiscal year 1993, leaving a balance of $22,000,000. The managers expect that at least $10,000,000 of that balance will be raised from private sources.

## PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

### PUBLIC DEVELOPMENT

Amendment No. 146: Appropriates $4,947,000 as proposed by the House instead of $4,847,000 as proposed by the Senate.

### LAND ACQUISITION AND DEVELOPMENT FUND

Amendment No. 147: Appropriates $6,500,000 for the land acquisition and development fund as proposed by the House instead of $1,750,000 as proposed by the Senate.

## UNITED STATES HOLOCAUST MEMORIAL COUNCIL

### HOLOCAUST MEMORIAL COUNCIL

Amendment No. 148: Appropriates $21,450,000 for the Holocaust Memorial Council as proposed by the House instead of

$18,504,000 as proposed by the Senate and deletes a House provision limiting the maximum compensation of Federal employees. Federally funded positions will continue to be subject to government-wide classification and pay standards. The amendment also provides for the conversion to Federal service of certain employees who are currently performing functions which will continue to be necessary for the operation of the museum. The employees to be converted are limited to those who are performing inherently governmental functions and the conversion will take place at the time of museum opening.

TITLE III—GENERAL PROVISIONS

Amendment No. 149: Deletes House language providing for a grazing fee increase, as proposed by the Senate. The managers agree that this matter should be addressed in the authorizing process.

Amendment No. 150: Deletes language proposed by the Senate which required agencies to absorb pay raise costs. The House had no similar provision. The amendment also inserts new language amending section 104 of the Energy and Water Development Appropriations Act for the fiscal year ending September 30, 1993, H.R. 5393 (102nd Congress), to allow the balance of the appraised value of the Grandview State Park lands transferred from the State of West Virginia to the National Park Service to be applied as a credit towards the requirements of section 103(a)(1)(B) of Public Law 99-662 as pertains to the Moorefield and Petersburg, West Virginia flood protection projects. The amendment also clarifies language in the bill, providing that funds provided for contract medical care and for scholarship programs of the Indian Health Service are available for obligation for two fiscal years; and reduces the amount provided for the National Indian Gaming Commission by $150,000 as a like amount has been provided for Bureau of Indian Affairs oversight of Indian gaming.

Amendment No. 151: Deletes House language, as proposed by the Senate which would have prohibited the use of funds for the sale of timber on National Forest Lands in Texas which would be exported by the purchaser.

Amendment No. 152: Changes the section number as proposed by the Senate.

Amendment No. 153: Deletes House provision stricken by the Senate mandating reductions to various accounts in the bill as proposed by the Senate.

Amendment No. 154: Restores House proposed Buy American requirements stricken by the Senate and changes section number.

Amendment No. 155: Deletes House proposed language that would have prohibited the use of funds to process rights of way claims under section 2477 of the Revised Statutes, as proposed by the Senate.

The managers agree that by May 1, 1993, the Department of the Interior shall submit to the appropriate committees of the Congress a report on the history of rights of way claimed under section 2477 of the Revised Statutes, the likely impacts of current and potential claims of such rights of way on the management of the Federal lands, on the access to Federal lands, private lands, State lands, Indian and Native lands, on multiple use activities, the current status of such claims, possible alternatives for assessing the validity of such claims and alternatives to obtaining rights of way, given the importance of this study to the Western public land States. In preparing the report the Department shall consult with Western public lands States and other affected interests.

The managers expect sound recommendations for assessing the validity of claims to result from this study, consonant with the intent of Congress both in enacting R.S. 2477 and FLPMA, which mandated policies of retention and efficient management of the public lands.

Such validity criteria should be drawn from the intent of R.S. 2477 and FLPMA.

The managers further expect that any proposed changes in use of a valid right of way shall be processed in accordance with the requirements of applicable law.

Amendment No. 156: Inserts Senate finding regarding corporate responsibility and changes section number. The House had no similar provision and the managers on the part of the House take no position on the Senate finding.

Amendment No. 157: Includes language proposed by the Senate which authorizes the Secretary of the Interior to remove restrictions applicable to the use of real property located in Halawa, Ewa, Island of Oahu, State of Hawaii as set forth in the quitclaim deed from the United States of America dated June 30, 1967. The managers have amended the provision so that the removal of the restrictions shall not be effective until the city and county of Honolulu have dedicated in perpetuity an equal amount of additional land for public park and public recreation uses.

Amendment No. 158: Includes language proposed by the Senate amended to change the section number, and to change the Senate language which was limited to Forest Service appeals, to provide an expanded Forest Service decision-making and appeals process. This process includes a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans, and modifies the procedure for appeals of decisions concerning such projects.

Amendment No. 159: Authorizes the Secretary of the Interior to exchange a historic property in Anchorage, Alaska with property owned by the Municipality of Anchorage as proposed by the Senate and changes section number. The House had no such provision. The new property must meet the requirements of the United States Geological Survey, current occupants of the historic property.

Amendment No. 160: Deletes Senate language providing for bonding procedures under the general mining laws, as proposed by the House. The House had no similar provision. The managers agree that this issue should be addressed in the authorizing process. The amendment also provides for a 0.85 percent reduction to all accounts in the Act with the exception of payments required by law, payments to certain Indian groups, and certain small independent agencies. The reduction is made to reduce the budget authority in the Act to a total that is within the President's budget.

LAND ACQUISITION

The managers on the part of the House do not agree with the Senate report language which directs the Secretaries of the Interior and Agriculture to submit with the President's fiscal year 1994 budget request a list of federally-owned properties which could be disposed of to generate offsetting receipts equivalent to the level of funding proposed for new land acquisitions within that budget request.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Deficit Reduction Act of 1985, if such reductions are required in fiscal year 1993, is defined by the managers as follows:

As provided for by section 256(1)(2) of Public Law 99-177, as amended, and for the purposes of a Presidential Order issued pursuant to section 254 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges, research units, regional, State and other administrative units and the like, for which funds are provided in fiscal year 1993.

The managers emphasize that any item for which a specific dollar amount is mentioned in an accompanying report, including all increases over the budget estimate approved by the Committees, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all domestic discretionary accounts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $12,523,400,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 12,224,546,000 |
| House bill, fiscal year 1993 | 12,649,152,000 |
| Senate bill, fiscal year 1993 | 12,643,449,000 |
| Conference agreement, fiscal year 1993 | 12,150,492,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | −372,908,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | −74,054,000 |
| House bill, fiscal year 1993 | −498,660,000 |
| Senate bill, fiscal year 1993 | −492,957,000 |

SIDNEY R. YATES,
JOHN P. MURTHA,
NORM DICKS,
LES AUCOIN,
TOM BEVILL,
CHESTER G. ATKINS,
JAMIE L. WHITTEN,
RALPH REGULA,
JOSEPH M. MCDADE,
BILL LOWERY,
JOE SKEEN,
*Managers on the Part of the House.*

ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PAT LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRITZ HOLLINGS,
HARRY REID,
KENT CONRAD,
DON NICKLES,

TED STEVENS,
JAKE GARN,
THAD COCHRAN,
WARREN B. RUDMAN,
PETE V. DOMENICI,
SLADE GORTON,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## APPOINTMENT OF CONFEREES ON H.R. 5504, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. MURTHA, DICKS, WILSON, HEFNER, AUCOIN, SABO, DIXON, DWYER of New Jersey, WHITTEN, MCDADE, YOUNG of Florida, MILLER of Ohio, LIVINGSTON, and LEWIS of California.

### MOTION OF CLOSE CONFERENCE COMMITTEE MEETINGS

Mr. MURTHA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MURTHA moves that pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 5504, making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, be closed to the public at such items as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

On this motion the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 29, as follows:

[Roll No. 419]

YEAS—403

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Ackerman
Alexander
Anthony
Barnard
Beilenson
Bustamante
Campbell (CO)
Chandler
Chapman
Crane
Downey
Edwards (OK)
Foglietta
Hayes (LA)
Hunter
Ireland
Jones
Kaptur
Lehman (FL)
Livingston
McDermott
Mrazek
Orton
Rangel
Ray
Roe
Savage
Smith (FL)
Washington

☐ 1126

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. ORTON. Mr. Speaker, earlier today I was detained and missed rollcall vote No. 419. Had I been present, I would have voted "aye."

## CONFERENCE REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Mr. TRAXLER submitted the following conference report and statement on the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes:

### CONFERENCE REPORT, (H. REPT. 102-902)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5679) "making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 6, 8, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 38, 39, 44, 45, 46, 50, 52, 53, 54, 56, 57, 58, 68, 76, 77, 81, 82, 84, 95, 99, 100, 101, 102, 103, 109, 110, 112, 114, 121, 123, 124, 125, 126, 128, 129, 130, 150, 152, 153, 154, 155, 157, 158, 162, 167, 174, 177, 181, 187, 188, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 223, 228, 229, 234, 238, 239, 240, 251, 255, 257, 258, 261, 271, 276, 285, 288, 294, 297, and 302.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 26, 30, 31, 32, 43, 61, 62, 63, 65, 70, 74, 75, 85, 92, 93, 94, 97, 104, 105, 106, 108, 111, 115, 116, 118, 119, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 147, 149, 165, 169, 173, 179, 184, 185, 186, 198, 204, 224, 225, 226, 248, 263, 265, 270, 275, 279, 283, 289, 291, 292, 296, 298, 299, 300, and 301, and agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,642,723,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *(of which $405,700,000 is available as a result of the cost savings provision of the last proviso under this heading)*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) and (c)(11) or any other law, with respect to any loan guaranteed for any purpose specified in 38 U.S.C. 3710 which was closed before October 1, 1993, the term "net value" for purposes of paragraphs (4) through (10) of 38 U.S.C. 3732 shall mean "the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost of the Government of borrowing funds"*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$811,919,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$70,668,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$31,182,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$492,674,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,936,731,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$400,000,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the first sum named in said amendment, insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That of the $9,223,965,000 total under this head, $600,750,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f)*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$581,750,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: *$1,350,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That, notwithstanding the language preceding the first proviso of this paragraph, $260,000,000 shall be used for special projects in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of the managers (H. Rept. 102–902) accompanying H.R. 5679: Provided further, That of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 746), $850,000 made available to the City of Lawrence, Massachusetts to purchase, remodel and equip a vacant Jewish Community Center building for use as a Girls' Club facility shall instead be made available to the Lawrence Boys' Club to remodel any building for use as a Girls' Club facility: Provided further, That of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 746), $290,000 made available to Marquette, Michigan for communications and other equipment shall instead be made available for training and equipment to the Upper Peninsula Emergency Medical Services Corporation in Marquette County, Michigan for use throughout the Upper Peninsula of Michigan*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,223,965,000*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,000,000*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,000,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,600,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$892,000,000*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$46,160,000*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,500,000*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$73,000,000*; and the Senate agree to the same.

Amendment numbered 172:

That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,480,000*; and the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,318,965,000*; and the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum proposed by said amendment insert: *$274,000,000*; and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$42,799,000*; and the Senate agree to the same.

Amendment numbered 193:

That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$20,000,000*; and the Senate agree to the same.

Amendment numbered 195:

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,573,528,000*; and the Senate agree to the same.

Amendment numbered 199:

That the House recede from its disagreement to the amendment of the Senate numbered 199, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$260,000,000*; and the Senate agree to the same.

Amendment numbered 201:

That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,200,000*; and the Senate agree to the same.

Amendment numbered 202:

That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,550,000,000*; and the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,927,500,000*; and the Senate agree to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "$63,500,000" named in said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 250:

That the House recede from its disagreement to the amendment of the Senate numbered 250, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$129,000,000*; and the Senate agree to the same.

Amendment numbered 253:

That the House recede from its disagreement to the amendment of the Senate numbered 253, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *22*; and the Senate agree to the same.

Amendment numbered 262:

That the House recede from its disagreement to the amendment of the Senate numbered 262, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "$1,300,000" named in said amendment, insert: *$900,000*; and the Senate agree to the same.

Amendment numbered 264:

That the House recede from its disagreement to the amendment of the Senate numbered 264, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,089,300,000*; and the Senate agree to the same.

Amendment numbered 273:

That the House recede from its disagreement to the amendment of the Senate numbered 273, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,615,014,000*; and the Senate agree to the same.

Amendment numbered 274:

That the House recede from its disagreement to the amendment of the Senate numbered 274, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,062,000*; and the Senate agree to the same.

Amendment numbered 284:

That the House recede from its disagreement to the amendment of the Senate numbered 284, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$158,000,000*; and the Senate agree to the same.

Amendment numbered 286:

That the House recede from its disagreement to the amendment of the Senate numbered 286, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$487,500,000*; and the Senate agree to the same.

Amendment numbered 290:

That the House recede from its disagreement to the amendment of the Senate numbered 290, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,688,000*; and the Senate agree to the same.

Amendment numbered 293:

That the House recede from its disagreement to the amendment of the Senate numbered 293, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "$10,000,000" named in said amendment, insert: *$5,000,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 5, 7, 9, 10, 15, 27, 28, 29, 36, 40, 41, 42, 47, 48, 49, 51, 64, 78, 79, 87, 88, 89, 90, 91, 96, 98, 107, 113, 120, 127, 131, 139, 151, 156, 159, 160, 161, 163, 164, 170, 171, 178, 180, 182, 189, 190, 191, 192, 194, 196, 197, 200, 218, 219, 220, 221, 222, 227, 230, 231, 232, 233, 235, 236, 237, 241, 242, 243, 244, 245, 246, 247, 249, 252, 254, 256, 259, 260, 267, 268, 269, 272, 277, 278, 280, 281, 282, 287, and 303.

Bob Traxler,
Louis Stokes,
Alan B. Mollohan,
Jim Chapman,
Chester G. Atkins,
Marcy Kaptur,
Jamie L. Whitten,
Bill Green,
Lawrence Coughlin,
Bill Lowery,
*Managers on the Part of the House.*

Barbara A. Mikulski,
Patrick Leahy,
J. Bennett Johnston,
Frank R. Lautenberg,
Wyche Fowler, Jr.,
J. Robert Kerrey,
Robert C. Byrd,
Jake Garn,
Alfonse D'Amato,
Don Nickles,
Phil Gramm,
Kit Bond,
Mark O. Hatfield,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

### TITLE I—DEPARTMENT OF VETERANS AFFAIRS

#### VETERANS BENEFITS ADMINISTRATION

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for administrative costs associated with the Omnibus Budget Reconciliation Act by reimbursement from compensation and pensions instead of by transfer as proposed by the House.

Amendment No. 2: Appropriates $814,010,000 for readjustment benefits as proposed by the Senate, instead of $729,000,000 as proposed by the House.

Amendment No. 3: Appropriates $40,524,000 for administrative expenses of the guaranty and indemnity program account as proposed by the House, instead of $42,500,000 as proposed by the Senate.

The Federal Credit Reform Act of 1990 requires that all administrative expenses for direct loan and loan guarantee programs be funded through a program account. The conferees agree that all administrative funds for the loan guaranty, guarantee and indemnity fund, and direct loan programs may be administered in a consolidated account.

Amendment No. 4: Appropriates $87,869,000 for administrative expenses of the loan guaranty program account as proposed by the House, instead of $89,870,000 as proposed by the Senate.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that funds for administrative expenses in the loan guaranty program account may be transferred to the general operating expenses appropriation.

Amendment No. 6: Appropriates $1,393,000 for administrative expenses of the direct loan program account as proposed by the House, instead of $1,469,000 as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that funds for administrative expenses in the education loan fund program account may be transferred to the general operating expenses appropriation.

Amendment No. 8: Appropriates $962,000 for administrative expenses of the vocational rehabilitation loans program account as proposed by the House, instead of $1,040,000 as proposed by the Senate.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that funds for administrative expenses for the vocational rehabilitation loans program account may be transferred to the general operating expenses appropriation.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing a new native American veteran housing loan program; and appropriating $4,500,000 for program costs, $500,000 for administrative expenses, and establishing a loan limitation of $58,400,000.

#### VETERANS HEALTH ADMINISTRATION

Amendment No. 11: Appropriates $14,642,723,000 for medical care, instead of $14,631,920,000 as proposed by the House and $14,668,920,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget estimate:

+$35,805,000 above the budget request for additional direct patient care staff.

+$8,500,000 above the budget request to expand the post-traumatic stress disorder program; including $1,500,000 for the National Post-Traumatic Stress Disorder Center in White River Junction, Vermont, $1,000,000 for program enhancements at the Togus VA Medical Center's PTSD treatment center, and not less than a total of $2,000,000 for the Pacific Center for PTSD and War-Related Disorders.

+$10,000,000 above the budget request for veterans homeless programs, including any subsequently authorized programs, subject to normal reprogramming requirements.

+$350,000 above the budget request for a homeless chronically mentally ill veterans program in Toledo, Ohio.

+$375,000 above the budget request for additional funding for the outreach clinic in Prestonsburg, Kentucky. This increase will provide for an additional physician, nurse, and pharmacist; and space expansion to eliminate overcrowding problems.

+$1,000,000 above the budget request for podiatric resident stipends not currently funded.

+$7,500,000 above the budget request for programs to address the needs of women veterans, including counseling and treatment activities for female veterans who were sexually assaulted or harassed while serving in the military.

+$400,000 above the budget request for a geriatric research, education, and clinical center at the Omaha VA Medical Center.

+$70,000 above the budget request for a pilot program to support veterans with Alzheimer's disease and their families and caretakers. This project is to be in cooperation with the Thomas Fitzgerald State Veterans Home and the Omaha VA Medical Center.

+$1,000,000 above the budget request for continuation of a demonstration project involving the Clarksburg VA Medical Center and Ruby Memorial Hospital.

+$10,803,000 which has been reallocated from the construction, minor projects account due to the reorganization of the Office of Facilities.

−$40,000,000 due to a lower average salary cost than was estimated.

−$25,000,000 due to reallocating research salary costs from the medical care to medical and prosthetic research.

The conferees urge that, within available funds, the Secretary provide up to $3,000,000 for the expansion of the rural/mobile health care clinic programs.

The conferees are concerned that the Brockton VA Medical Center, primarily due to its laundry service, is exacerbating a water shortage situation in the City of Brockton, Massachusetts. The Department is directed to use available funds to take the steps to reduce water consumption to be recommended in a study to be completed this fall. The VA shall provide to the Committees on Appropriations and to the Brockton Water Resource Officer, within 30 days of completion, copies of this, and another ongoing study, of the status of an existing contaminated well and its potential for providing water for all laundry operations.

Amendment No. 12: Inserts language proposed by the Senate indicating that $582,650,000 of the appropriation results from cost savings provisions, amended to change the amount to $405,700,000.

Amendment No. 13: Restores language proposed by the House and stricken by the Senate earmarking $9,440,000,000 for personnel compensation and benefits costs.

Amendment No. 14: Deletes language proposed by the Senate that would transfer not to exceed $2,000,000 to the medical administration and miscellaneous operating expenses (MAMOE) appropriation for quality assurance activities. The conference agreement includes $2,000,000 above the budget request for quality assurance activities in the MAMOE account.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate delaying the research funding prohibition on career development research costs until fiscal year 1993.

Amendment No. 16: Deletes language proposed by the Senate earmarking $4,000,000 for contract counseling and other care for eligible veterans for the after effects of sexual assault trauma.

Amendment Nos. 17, 18, 19, 20, 21, and 22: Deletes language proposed by the Senate extending and expanding copayments for prescription drugs and inpatient and nursing home per diem payments.

Amendment No. 23: Deletes language proposed by the Senate extending for one year the provision enabling VA to access Internal Revenue Service and Social Security Administration records.

Amendment No. 24: Deletes language proposed by the Senate extending for one year the limitation on a veterans pension if the veteran is in a Medicaid-covered nursing home and receiving Medicaid assistance.

Amendment No. 25: Inserts language proposed by the Senate regarding cost savings provisions for the veterans housing loan guaranty program and other veterans benefits programs, amended to cover only the home loan guaranty program.

This language requires VA to include resale losses in the net value calculation when determining whether to acquire the property or pay the claim under the guarantee in the veterans home loan guaranty program. This requirement is expected to make property acquisitions more cost effective to the Department. These savings *will not* come out of veterans pockets, rather savings will come from the lenders. Recently, the government has been losing billions of dollars in the home loan guaranty program because the VA has been paying off foreclosed mortgages, instead of simply paying off the guaranteed amount. The conferees have agreed to include this language because the savings generated total $405,700,000 in both budget authority and outlays. Without these additional funds, vital programs funded in the bill would have to be reduced. This situation results from an inadequate allocation and the approximate $950 million increase in outlays above the 1992 level for the medical care account. This comes at a time when the outlay allocation for this bill is approximately $300 million above the 1992 level. Without these savings, funding for vital programs carried in the bill will have to be reduced.

Amendment No. 26: Appropriates $232,000,000 for medical and prosthetic research as proposed by the Senate, instead of $242,000,000 as proposed by the House.

The committee of conference agrees that within the amount recommended, funding for prostate research is increased by $2,000,000, to a total of $5,000,000.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $5,000,000 to enable the VA to initiate a new health professional education loan repayment program for nurses and other allied health professionals.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$71,954,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement reflects the following changes from the budget estimate:

+$28,454,000 due to the reorganization of the Office of Facilities.

+$2,000,000 for quality assurance activities. The conferees direct that, within the funds provided, no less than $3,000,000 and 36 FTE be allocated for quality assurance activities, including medical quality management, credentialing and privileging, site inspections, prosthetic needs and oversight, and total quality management. The VA is to inform the Committees on Appropriations of the progress being made in quality assurance improvements through a quarterly status report, beginning December 1, 1992.

−$400,000 from the Office of the Chief Medical Director.

−$6,100,000 as a general reduction to be taken at the discretion of the Secretary, subject to normal reprogramming guidelines.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting $25,000,000 of the funds provided to be transferred to the medical and prosthetic research account for the career development program, should the Chief Medical Director determine it to be a priority.

Amendment No. 30: Appropriates $7,000 for the program costs of the transitional housing loan program as proposed by the Senate, instead of $4,000 as proposed by the House.

Amendment No. 31: Establishes a direct loan limitation for the transitional housing loan program of $70,000 as proposed by the Senate, instead of $35,000 as proposed by the House.

Amendment No. 32: Provides $50,000 by transfer for administrative expenses of the transitional housing loan program as proposed by the Senate, instead of $25,000 as proposed by the House.

### Departmental Administration

Amendment No. 33: Appropriates $811,919,000 for general operating expenses, instead of $808,882,000 as proposed by the House and $826,765,000 as proposed by the Senate.

The Committee of Conference is in agreement with the following changes from the budget estimate:

+$5,000,000 for approximately 90 FTEs in the Veterans Benefits Administration regional offices to reduce the backlog of claims.

+$2,000,000 for training of staff, primarily for regional office adjudicative personnel. Due to the increase for training, the travel limitation for general operating expenses is increased to $13,102,000.

+$1,919,000 due to the reorganization of the Office of Facilities.

−$18,765,000 as a general reduction to be applied to Veterans Benefits Administration and general administration activities in headquarters offices, including the Office of the Secretary, Congressional Affairs, and Public and Intergovernmental Affairs, subject to normal reprogramming guidelines. None of the reduction is to be applied to the Board of Veterans Appeals or to any field activity. The conferees note the recent 1992 supplemental appropriation of $14,100,000 and expect that the distribution of those funds will be detailed in the 1993 operating plan.

Amendment No. 34: Appropriates $70,668,000 for the National Cemetery System, instead of $67,894,000 as proposed by the House and $73,441,000 as proposed by the Senate.

Amendment No. 35: Appropriates $31,182,000 for the Office of Inspector General, instead of $30,719,000 as proposed by the House and $31,646,000 as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the payment of claims analysts from project funds.

Amendment No. 37: Appropriates $492,674,000 for construction, major projects, instead of $533,974,000 as proposed by the House and $213,274,000 as proposed by the Senate.

The conference agreement includes the following changes from the budget estimate:

+$42,000,000 above the budget request for construction of a new ambulatory care facility at El Paso.

+$97,000,000 above the budget request for construction of a clinical addition project at the Ann Arbor VA Medical Center.

+$8,000,000 above the $10,000,000 requested for relocation of DOD facilities from E-Wing, and renovation and design of a new medical hospital and regional office in Honolulu, Hawaii.

+$450,000 above the budget request for planning of a new national cemetery in the Dallas/Ft. Worth area.

+$750,000 above the budget request for the advanced planning and design of a 60-bed expansion of the nursing home care unit at the Prescott VA Medical Center.

+$300,000 above the budget request for the advanced planning of an outpatient clinical addition at the Columbia (MO) VA Medical Center.

−$35,000,000 from the $65,969,000 requested for the environmental improvements (phase II) project at the North Chicago VA Medical Center.

+$6,000,000 above the budget request of $10,300,000 requested for the relocation of the regional office in Jackson, Mississippi, to the hospital grounds.

+$2,800,000 for planning and design of a joint project with the College of Medicine for the relocation of medical school functions and renovation of buildings 2, 3, and 5 at the Mountain Home, Tennessee, VA Medical Center.

−$11,900,000 from the $22,900,000 requested for the Martinez replacement hospital. These funds will provide for the demolition of the existing Martinez facility and planning and design for the replacement facility. The conferees understand that the present site of the existing hospital is the preferred location for the new nursing home care unit. The conferees agree that the VA may demolish the existing facility if it is determined by the Secretary as necessary to ensure that nursing home care is available as soon as possible for veterans.

Amendment No. 38: Restores language proposed by the House and stricken by the Senate requiring a Medical Center Director to approve that a construction project's design is acceptable from a patient care standpoint.

Amendment No. 39: Deletes language proposed by the Senate earmarking $11,000,000 of the funds appropriated for the Martinez project.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the payment of claims analysts from project funds.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, on page 12 of the House engrossed bill, strike out the sum "$190,701,000" on line 21, and insert in lieu thereof "$149,525,000"; strike out the proviso beginning on line 25, through "technology" on line 3 of page 13 and insert in lieu thereof ": *Provided*, That notwithstanding any other provision of this Act, no part of the funds appropriated under this heading shall be available to carry out the functions of the Office of Facilities"; and on page 15 of the House engrossed bill, insert after line 19 the following new paragraph:

*Notwithstanding any other provision of this Act, funds appropriated under the following headings shall be available to carry out the functions of the Office of Facilities to support the purposes enumerated for each account: (1) "Medical administration and miscellaneous operating expenses" for administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; (2) "Medical care" for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; and oversight, engineering and architectural activities not charged to project cost; and (3) "General operating expenses" for construction program oversight; legal services; and in addition to the availability of other accounts, expenses in support of lease-purchase agreement and enhanced-use lease activities.*

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

The VA has proposed reorganizing the Office of Facilities. The proposal is to move most of the funds for the office to the Veterans Health Administration, with a small amount to be included under general administration. The conferees have distributed the $41,176,000 that would have been provided for the Office of Facilities as follows: $28,454,000 in the medical administration and miscellaneous operating expenses appropriation, $10,803,000 in the medical care appropriation, and $1,919,000 in the general operating expenses appropriation. The conferees agree that these amounts for the transferred activities are not to be exceeded. The conferees are especially concerned that medical care funding not be diverted from direct patient care activities for the added responsibilities brought on by the reorganization.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring the Department to award a contract for construction of a pedestrian bridge at the Little Rock VA Medical Center.

Amendment No. 43: Appropriates $1,317,000 for the parking garage revolving fund as proposed by the Senate, instead of $9,917,000 as proposed by the House. The conferees agree that $8,600,000 is to be taken from the reserve account, in addition to the $10,000,000 previously appropriated, for construction of parking facilities at the Ann Arbor VA Medical Center.

Amendment No. 44: Appropriates $40,000,000 for grants for construction of State extended care facilities as proposed by the House, instead of $80,000,000 as proposed by the Senate.

### ADMINISTRATIVE PROVISIONS

Amendment No. 45: Deletes language proposed by the Senate regarding definitions for the purpose of drug and biological procurements.

## TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### HOUSING PROGRAMS

Amendment No. 46: Restores language proposed by the House and stricken by the Senate appropriating $161,000,000 for the HOPE for public and Indian housing homeownership program, $95,000,000 for the HOPE for homeownership of multifamily units program, $95,000,000 for the HOPE for homeownership of single family homes program, and $10,000,000 for the HOPE for elderly independence demonstration program.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert the following: *Of the amounts provided under this heading for the HOPE for Homeownership of Multifamily Units Program, $10,000,000 shall be available for assistance to mutual housing associations, to the extent that such associations submit approvable grant applications under such program.*

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Insert the matter proposed by said amendment, amended as follows: *In lieu of the number "$350,000,000", insert "$300,000,000".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included $300,000,000 for the HOPE VI initiative, instead of $350,000,000 as proposed by the Senate. The House included no similar provision. The conferees strongly endorse the purpose and intent of this program, as outline in Senate Report 102-356. HOPE VI's unique combination of shelter, self-sufficiency services, and community sweat equity make it a meaningful and constructive alternative to other programs with similar objectives that have not achieved the desired results. The conferees wish to make clear that the 500-unit limit specified in the bill language, and outlined in the Senate report, refers to the maximum number of units for which the funds provided in any one grant award may be used. It does not, however, limit the use of funds to housing developments with 500 or fewer housing units. The conferees note that numerous distressed developments contain more than 500 units and these developments are among those most in need of the funds available under HOPE VI.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that $3,000,000 of 1992 HOPE for homeownership of multifamily units program funds be made available for a cooperative agreement between HUD and the National Center for Tenant Ownership.

Amendment No. 50: Restores the center heading inserted by the House and stricken by the Senate.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, $1,000,000,000, to remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 52: Restores language proposed by the House and stricken by the Senate reducing the allocation threshold consistent with the appropriation recommended.

Amendment No. 53: Restores language proposed by the House and stricken by the Senate requiring that HUD take into account the actual development costs in each area to ensure compliance with the matching contributions waiver provided for 1992 HOME funds.

Amendment No. 54: Restores language proposed by the House and stricken by the Senate requiring the greater of $750,000 or 0.2 percent of HOME funds be provided for insular areas.

Amendment No. 55: Appropriates $8,936,731,000 for annual contributions for assisted housing, instead of $10,000,000,000 as proposed by the House and $3,581,000,000 as proposed by the Senate.

The conferees expect the Department and the Office of Management and Budget to adhere to the 1993 program detailed in the following table:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1993—GROSS RESERVATIONS

| | Units | Cost | Term | Budget authority |
|---|---|---|---|---|
| Recaptures | NA | NA | NA | $236,300,000 |
| McKinney FAF Recaptures | NA | NA | NA | 16,000,000 |
| Recission of McKinney Recaptures | NA | NA | NA | (8,000,000) |
| Reuse of Recaptures | NA | NA | NA | 244,300,000 |
| Transfers from Other Accounts | NA | NA | NA | 42,934,000 |
| New Authority | NA | NA | NA | 8,936,731,000 |
| Total Available | NA | ........ | ........ | 9,223,965,000 |
| Public and Indian Housing: | | | | |
| Public Housing | 4,926 | 81,200 | NA | 400,000,000 |
| Indian Housing | 2,800 | 91,900 | NA | 257,320,000 |
| Lease Adjustments | NA | NA | NA | 21,755,000 |
| Amendments | NA | NA | NA | 61,300,000 |
| Modernization | NA | NA | NA | 3,100,000,000 |
| Total, Public & Indian Housing | 7,726 | ........ | ........ | 3,840,375,000 |
| Elderly and Disabled: | | | | |
| Section 202 (Elderly): | | | | |
| Capital Grants | [8,906] | 59,200 | NA | 527,234,000 |
| Rental Assistance | 8,906 | 3,306 | 20 | 588,865,000 |
| Service Coordinators (Elderly) | NA | NA | NA | 15,438,000 |
| Subtotal, Elderly | 8,906 | ........ | ........ | 1,131,537,000 |
| Disabled: | | | | |
| Capital Grants | [1,569] | 57,400 | NA | 90,038,000 |
| Rental Assistance | 1,569 | 3,306 | 20 | 103,716,000 |
| Subtotal, Disabled | 1,569 | ........ | ........ | 193,754,000 |
| Total, Elderly/Disabled | 10,475 | ........ | ........ | 1,325,291,000 |
| Section 8 and Other: | | | | |
| Incremental Vouchers | 17,878 | 6,508 | 5 | 581,750,000 |
| Elderly Independence | [1,500] | 5,105 | 5 | [38,288,000] |
| Incremental Certificates | 17,638 | 6,812 | 5 | 600,750,000 |
| Property Disposition | 953 | 6,508 | 15 | 93,032,000 |
| Loan Management | 8,404 | 4,808 | 5 | 202,000,000 |
| Preservation/Homeownership | 30,875 | NA | NA | 600,000,000 |

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1993—GROSS RESERVATIONS—Continued

| | Units | Cost | Term | Budget authority |
|---|---|---|---|---|
| Moving to Opportunity | 1,371 | 7,294 | 5 | 50,000,000 |
| Foster Child Care | 2,202 | 6,812 | 5 | 75,000,000 |
| Housing Opportunities for Persons with AIDS | [1]587 | 6,812 | 5 | 100,000,000 |
| Lead-Based Paint Demonstration | NA | NA | NA | 100,000,000 |
| Section 23 Conversions | 665 | 3,837 | 5 | 12,767,000 |
| Family Investment Centers | NA | NA | NA | 25,000,000 |
| Special Purpose Grants | NA | NA | NA | 260,000,000 |
| Amendments: | | | | |
| Existing Housing | [172,637] | NA | 1 | 400,000,000 |
| Project Reserves | [385,043] | NA | NA | 675,750,000 |
| Moderate Rehab | [11,045] | NA | 10 | 185,250,000 |
| Property Disposition | [917] | NA | 15 | 19,000,000 |
| Rainer View Requirements | [21,297] | NA | 1 | 70,000,000 |
| Subtotal, Amendments | [590,939] | NA | NA | 1,350,000,000 |
| Subtotal, Annual Contributions | 98,774 | NA | NA | 9,215,965,000 |
| McKinney Act FAF | NA | NA | NA | 8,000,000 |
| Total, Annual Contributions | 98,774 | NA | NA | 9,223,965,000 |
| Total, Annual Contributions (w/amendments) | [689,713] | NA | NA | NA |

[1] Based on certificate per unit cost. Indications are that only about 20 percent of the funding provided would be used for rental assistance.

Note: Units associated with amendments are estimates based on the average amendment cost contained in the Conference Report to the 1992 Appropriations Act.

Amendment No. 56: Provides for the use of $287,234,000 in prior year funds in the annual contributions for assisted housing account as proposed by the House, instead of $563,234,000 as proposed by the Senate.

Amendment No. 57: Restores language proposed by the House and stricken by the Senate providing for the use of $24,000,000 of budget authority previously made available under the flexible subsidy fund.

Amendment No. 58: Deletes language proposed by the Senate providing for the use of $300,000,000 of budget authority previously made available in the annual contributions for assisted housing account for non-incremental activities.

Amendment No. 59: References that a total of $9,223,965,000 is available for programs in the annual contributions for assisted housing account, instead of $10,287,234,000 as proposed by the House and $4,144,234,000 as proposed by the Senate.

Amendment No. 60: Earmarks $400,000,000 for public housing, instead of $609,000,000 as proposed by the House and $250,000,000 as proposed by the Senate.

Amendment No. 61: Deletes language proposed by the House and stricken by the Senate earmarking funds provided for public housing for persons with disabilities.

Amendment No. 62: Deletes language proposed by the House and stricken by the Senate earmarking $200,000,000 of the amount provided for public housing for major reconstruction of obsolete projects. This activity has been provided for in the HOPE account.

Amendment No. 63: Deletes language proposed by the House and stricken by the Senate earmarking funds provided for major reconstruction of obsolete public housing projects for persons with disabilities.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That of the $9,223,965,000 total under this head, $3,100,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including $4,750,000 for technical assistance and training under section 20 of the Act (42 U.S.C. 1437(r)) and $10,500,000 for the inspection of modernization units and provision of management and technical assistance for troubled Public Housing Authorities and Indian Housing Authorities.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 65: Deletes language proposed by the House and stricken by the Senate earmarking $30,000,000 for supportive services for public housing residents who are elderly, disabled, or handicapped.

Amendment No. 66: Restores language proposed by the House and stricken by the Senate earmarking $25,000,000 for family investment centers, amended to reference the conference agreement on total funds available in this account.

Amendment No. 67: Restores language proposed by the House and stricken by the Senate earmarking $851,500,000 for section 8 certificates, amended to earmark $600,750,000.

Amendment No. 68: Deletes language proposed by the Senate earmarking $350,000,000 for section 8 certificates.

Amendment No. 69: References that a total of $9,223,965,000 is available for programs in the annual contributions for assisted housing account, instead of $10,287,234,000 as proposed by the House and $4,144,234,000 as proposed by the Senate.

Amendment No. 70: Earmarks $75,000,000 for the foster child care program as proposed by the Senate, instead of $100,000,000 as proposed by the House.

Amendment No. 71: References that a total of $9,223,965,000 is available for programs in the annual contributions for assisted housing account, instead of $10,287,234,000 as proposed by the House and $4,144,234,000 as proposed by the Senate.

Amendment No. 72: Earmarks $581,750,000 for the housing voucher program, instead of $813,500,000 as proposed by the House and $350,000,000 as proposed by the Senate.

Amendment No. 73: Restores language proposed by the House and stricken by the Senate earmarking $1,616,304,000 for amendments to section 8 contracts, amended to earmark $1,350,000,000.

Amendment No. 74: Earmarks $600,000,000 for the prepayment/preservation program as proposed by the Senate, instead of $1,000,000,000 as proposed by the House.

Amendment No. 75: References $600,000,000 for the prepayment/preservation program as proposed by the Senate, instead of $1,000,000,000 as proposed by the House.

Amendment No. 76: Restores language proposed by the House and stricken by the Senate providing that the $25,000,000 of prepayment/preservation funds earmarked for nonprofit organizations be used as provided by existing legislation.

Amendment No. 77: Deletes language proposed by the Senate providing that the $25,000,000 of prepayment/preservation funds earmarked for nonprofit organizations be used as provided in proposed legislation.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $50,000,000 for assistance to families with children to move out of areas with high concentrations of persons living in poverty.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and proposed by said amendment, insert the following: *and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 80: References that a total of $9,223,965,000 is available for programs in the annual contributions for assisted housing account, instead of $10,287,234,000 as proposed by the House and $4,144,234,000 as proposed by the Senate.

Amendment No. 81: Earmarks $100,000,000 for housing opportunities for persons with AIDS as proposed by the House, instead of $75,000,000 as proposed by the Senate.

Amendment No. 82: Earmarks $100,000,000 for grants to States and local governments for lead-based paint abatement activities as proposed by the House, instead of $127,350,000 as proposed by the Senate.

The conferees agree that $500,000 of the $2,000,000 earmarked for lead-based paint abatement grants for technical assistance and evaluation studies be for a grant to the National Center for Lead-Safe Housing to develop and field test the evaluation protocol and data collection instruments, provide technical assistance to grantees, and conduct efficacy studies of abatement and in-place management in public housing. This grant should be made on an expedited basis to assure coordination from the start with cities receiving first-round grants.

Amendment No. 83: Inserts language proposed by the Senate earmarking $126,275,000 for special purpose grants, amended to earmark $260,000,000 and modify two 1992 special purpose grants.

The conferees are in agreement with the following special purpose grants:

+$1,500,000 for the Tacoma, WA job opportunity and neighborhood revitalization program.

+$1,350,000 for the Seattle community action capitol project for social services and working capital to assist four areas in Seattle, WA.

+$150,000 for the North East Community Center Association in Spokane, WA.

+$1,500,000 to the city of Santa Fe, NM for infrastructure development connected with the Tierra Contenta Affordable Housing program.

+$1,000,000 for a facility for the Roadrunner Food Bank in Albuquerque, NM.

+$1,700,000 for the Wayne Miner homeownership project in Kansas City, MO.

+$300,000 for a multi-purpose social service center for at-risk children, youth and adults in Springfield, MO.

+$250,000 for a water tower for the Joplin Industrial Park in Joplin, MO.

+$3,000,000 for the expansion of the Swope Parkway Health Center in Kansas City, MO.

+$450,000 for a day care center for low-income residents at the Wherry complex in Pine Lawn, MO.

+$750,000 to the city of Tulsa, OK for the Kendall-Whittier neighborhood demonstration program.

+$2,750,000 to the city of Oklahoma City, OK for infrastructure needs in conjunction with the Oklahoma School of Science and Mathematics.

+$500,000 for the city of Enid, OK for providing educational opportunities through the Enid Economic Development Authority.

+$1,000,000 for the continued rehabilitation of the Windsor Park neighborhood in North Las Vegas, Nevada.

+$1,000,000 for economic development and natural resource infrastructure repair along the Atlantic coast of New Jersey.

+$1,500,000 for a lead-paint demonstration project in the city of New Jersey.

+$250,000 for the Arkansas Enterprise Group to create a wood products modernization and market development fund.

+$1,000,000 for a community-based health insurance program in two rural communities in the Mississippi River delta region of Arkansas.

+$1,500,000 for a manufacturing incubator facility in North Dakota to develop emerging technologies that generate business in rural areas.

+$1,000,000 for infrastructure improvements in low-income housing in Grand Forks, ND.

+$1,000,000 for the construction of a new public health facility in Merced County, CA.

+$2,500,000 for infrastructure demolition and repair in Richardson Bay in the Marin County, California area.

+$1,000,000 for the creation of business outreach centers sponsored by the Council of Jewish Organizations in New York.

+$2,000,000 for the acquisition and renovation of two facilities that serve developmentally disabled children to be run by the Hebrew Academy for Special Children in New York.

+$2,000,000 for the expansion of non-profit neighborhood social service centers run by the Greater Rochester Foundation in Rochester Foundation in Rochester, NY.

+$500,000 for low-income housing in the village of Kaiser, NY.

+$500,000 for the Erie County Industrial Development Agency for an advanced training center in Erie County, NY.

+$2,000,000 for the renovation of the Pediatric Intensive Care Unit at the Children's Hospital of Buffalo, NY.

+$300,000 for the Chicanos Por La Causa, Inc., an Arizona state non-profit organization, for a new housing initiative to leverage the purchase of RTC properties and to provide technical assistance to other non-profit groups to participate in this program.

+$250,000 for the Bethel New Life, Inc. in Chicago, IL for adapting a hospital complex into a facility that provides housing, health care and community social services to a distressed area of Chicago.

+$2,000,000 for a children's health care project in Hartford, CT.

+$3,000,000 for the Old State Houses project in Hartford, CT.

+$1,200,000 for infrastructure improvements in the Planeview area of Wichita, Kansas.

+$1,000,000 for the city of Topeka, KS to acquire and renovate an abandoned facility as a law enforcement facility.

+$250,000 for the Cypress Drug and Alcohol Recovery program in Olathe, KS.

+$500,000 for the Wichita Children's Home in Wichita, KS.

+$250,000 for job training and placement activities for disadvantaged and underrepresented youth at the America-First Printing Center in Atlanta, GA.

+$1,000,000 for restoration of the Liberty Theater in Columbus, GA in conjunction with the city's 5th and 6th Avenue Area Redevelopment Plan.

+$1,000,000 for restoration of the Lucas Theater in Savannah, Georgia's historic district, as part of the city's urban revitalization plan.

+$2,100,000 for the King Center in Atlanta, GA for activities to combat poverty, racism and violence, including technical assistance, direct grants and community capacity-building activities.

+$900,000 for land acquisition by the city of Vienna, GA in conjunction with an economic development project that involves a new poultry processing facility.

+$2,200,000 for the River Park Residential Development project in Salt Lake City, UT.

+$1,700,000 for the creation of a West Salt Lake City Affordable Housing Enhancement fund in Salt Lake City, UT.

+$500,000 for the Utah Technology Finance Corporation.

+$250,000 for the Utah Fund for Rural Development.

+$500,000 for the Provo City, UT and Utah County, UT women and children shelter for transitional housing for abused spouses and their children.

+$350,000 for the Provo City, UT and Utah County, UT Franklin neighborhood preservation and homeownership program.

+$350,000 for the Midvale City Housing and Economic Development Agency for activities connected with the Sharon Steel superfund site in Midvale, UT.

+$800,000 for housing rehabilitation and revitalization in Ogden, UT.

+$1,500,000 to the city of Cleveland to implement the plan of the Cleveland Foundation's Commission on Poverty to combat persistent poverty.

+$1,250,000 for infrastructure to connect the Alliance Community Hospital and an on-site nursing home in Alliance, OH.

+$1,500,000 for an individual home acquisition program run by the Iowa Finance Authority.

+$1,000,000 for neighborhood improvement in the Hilltop section of Davenport, IA.

+$200,000 for the dismantling, environmental cleanup and upgrading of the Gra-Iron Foundry in Marshalltown, IA.

+$100,000 for the Battered Persons Advocacy project in Roseburg, OR.

+$2,500,000 for job training for displaced timber workers and fishermen in Oregon.

+$2,200,000 for approximately 89 units of single-room occupancy housing to help with displacement of individuals resulting from the construction of a federal courthouse in Portland, OR.

+$3,000,000 for water, sewer, housing rehabilitation and community improvements in the Arthurtown, Taylors, and Little Camden communities in Richland County, SC.

+$500,000 for day care and head start facilities in conjunction with an affordable housing project in Beaufort County, SC.

+$1,000,000 for improvement of existing social service and public health facilities in Fairfield County, SC.

+$1,200,000 for continued infrastructure development in the Hawaiian Home Lands.

+$1,300,000 for continued assistance to two sugarcane mills on Hilo-Hamakua coast of Hawaii.

+$2,900,000 for new affordable housing initiatives in Hawaii, including a women's shelter in the Maui County, additional housing initiatives in Kauai County, and site acquisition and development for use as assisted housing development run by non-profit groups in the city and county of Honolulu.

+$250,000 for a small business loan project run by the city of New Orleans, LA.

+$350,000 for housing and comprehensive services for homeless women and their families at the "My House" project in New Orleans, LA.

+$5,000,000 for the continuation of activities in the city of New Orleans, LA to provide job training, education, and functional skills to at risk residents of public housing, in conjunction with Loyola University.

+$750,000 for Project Hope in Milwaukee, WI for low-income homeownership housing counseling and drug education activities.

+$1,000,000 for the Wisconsin small business development center.

+$650,000 for a university/neighborhood crime intervention demonstration program at Milwaukee, WI.

+$5,000,000 for a regional demonstration center for advanced care for the elderly at the New England Deaconness Hospital in Boston, MA.

+$600,000 for expansion of the Gateway project at the Omaha Nebraska Housing Authority in Omaha, NE.

+$200,000 for the Mercade Economic Development Project in South Omaha, NE.

+$900,000 for renovation and equipment for the expansion of the rural health education network in Kearney, NE.

+$900,000 for the expansion of the Panhandle Community Health Center in Scottsbluff, NE.

+$4,500,000 for the Cathedral Health Care System's Women's and Children's Service Network for construction, renovation, site work and medical equipment in Newark, NJ.

+$300,000 for the New Jersey Institute of Technology to continue the test of affordable housing technologies.

+$150,000 for the development of an outdoor learning facility for disabled children in Willingsboro, NJ.

+$300,000 for the renovation of three senior centers in Atlantic County, NJ.

+$400,000 for comprehensive economic development activities in Penns Grove, NJ.

+$400,000 for the Hammonton Revitalization Corporation of Hammonton, NJ to revitalize Hammonton's central business district.

$1,500,000 for site clearance and design work on the Newark/University Heights Science Park in Newark, NJ.

+$3,000,000 for economic revitalization and infrastructure repair in the following Vermont communities: Montpelier, $1,250,000; Randolph, $1,000,000; and Hardwick, $750,000.

+$2,000,000 for the Vermont Housing and Conservation Board to assist in constructing or rehabilitating up to seven affordable housing projects located in up to six Vermont communities.

+$1,500,000 for the five following existing economic development revolving loan funds in Vermont, for loan activity for start up, expansion and improvement of small business development, to be divided evenly among the five funds in $300,000 increments: the Vermont Job Start Program; the Transition Fund of the Economic Development Council of Northern Vermont; the Small Entrepreneurial Loan Fund of the Northern Community Investment Corporation; the town of Hartford Business Revolving Loan Fund; and the town of Bennington Revolving Loan Fund.

+$1,800,000 for the renovation of the Eddystone Center as a center for homeless veterans in Detroit, MI.

+$900,000 for infrastructure improvements for the city of Albino, MI.

+$800,000 for a community stabilization and revitalization project in Flint, MI.

+$6,000,000 for a health care and social service facility for the citizens of central Mississippi and the Mississippi Delta region.

+$200,000 to the Kentucky Highlands Investment Corporation for economic development activities in McCrary County, KY.

+$250,000 to the Mountain Association for Community Economic Development for the development of flexible manufacturing networks in eastern Kentucky.

+$1,000,000 for the development of a technology-based business information center in Manchester, NH.

+$3,000,000 for program planning and development of a model community-based rural health network headquartered at the Carolinas Medical Center in Charlotte, NC.

+$300,000 for the expansion of Uplift, Inc. and for the development of statewide activities and services for at-risk children and families in North Carolina.

+$200,000 for activities of the eastern North Carolina Poverty Committee to expand affordable housing opportunities for rural residents of eastern North Carolina.

+$1,000,000 for the construction of a regional fire training center and related equipment in Clinton, TN.

+$1,000,000 for renovation and development of the Lehigh Park community service center in Philadelphia, PA.

+$500,000 to provide grants and technical assistance to community development corporations through the Philadelphia Development Partnerships to develop affordable housing in Philadelphia, PA.

+$750,000 to Genesis II, Inc., in Philadelphia, PA for renovation of a residential drug treatment facility.

+$75,000 for community facilities in Nanty Glo, PA

+$50,000 for community facilities in Garrett, PA.

+$3,200,000 for continued renovation of an abandoned building to convert into an economic development and training facility in Elkins, WV.

+$700,000 for construction of a child development center in Buckhannon, WV.

+$100,000 for an addition to a local fire and emergency rescue facility in McDowell County, WV.

+$500,000 for the development of an integrated community center and health clinic through the use of an abandoned facility in Sheperdstown, WV.

+$4,500,000 for construction of an ambulatory care center and health science library in Huntington, WV.

+$4,000,000 for the construction of a science and technology facility to provide training, advanced technology, and electronic computational capability in Sheperdstown, WV.

+$1,800,000 to complete construction of the Mid-Atlantic Aviation and Training Center near Clarksburg, WV.

+$950,000 for the construction of a facility for the Mountaineer Food Bank in Gassaway, WV.

+$1,000,000 for the Thunder Child Residential Substance Abuse Treatment Center near Sheridan, WY.

+$350,000 for a grant to the Community Enterprise Development Corporation of Alaska to promote economic development in Alaska Native villages through the development and marketing of native prototype products and their production components.

+$100,000 for downtown economic development activities in Sioux Falls, SD.

+$2,275,000 for an economic development project, including environmental cleanup, pollution abatement, and job retention and creation activities, in the county of Aroostook, ME and the city of Presque Isle, ME.

+$2,000,000 to continue the Neighborhood Development Demonstration.

+$1,000,000 to Lowell, MA, to demolish and/or rehabilitate abandoned properties to combat arson, gangs, and drugs.

+$1,200,000 to Lawrence, MA, to demolish and/or rehabilitate abandoned properties to combat arson, gangs, and drugs; and for computer hardware for city hall to assess arson damage.

+$650,000 to Methuen, MA, for public safety equipment and to purchase and rehabilitate vacant property for use as a human services center.

+$650,000 to relocate, renovate and expand the Middlesex Shelter homeless facility in Lowell, Massachusetts.

+$3,000,000 to Oregon City, Oregon, for an economic development project, including site acquisition, wetlands restoration, and final design and planning for a wetlands restoration, and final design and planning for a western frontier-Oregon Territory historical center.

+$1,500,000 for restoration and renovation of the Lamar and Pickens County, Alabama, courthouses.

+$500,000 for the Freedom Ranch in Blount County, Alabama, to provide housing for homeless and abused children.

+$2,500,000 to Philadelphia, Pennsylvania, to establish the Institute for the Advancement of Mathematics and Science Teaching.

+$1,000,000 to the Philadelphia (PA) Regional Port Authority for revitalization of the Tioga Marine Terminal.

+$1,000,000 for Southwest Development Financing, Inc. to capitalize a revolving loan fund to encourage economic development and tourism in Southwest Virginia.

+$1,500,000 to the Ark-Tex Council of Governments, located in Bowie County, TX, for infrastructure, community or economic development activities.

+$500,000 to the East Texas Council of Governments, located in Kilgore, TX, for infrastructure, community or economic development activities in Wood, Camp, Gregg, Harrison, Marion, Rusk, Upshur, or Panola counties.

+$400,000 for a child development center and social service facility in Longview, TX.

+$250,000 for expansion, equipment and infrastructure associated with the Rusk County Exposition Center in Rusk County, TX.

+$850,000 to the Upshur County Civic Improvement Foundation, located in Upshur County, TX, for community development activities.

+$2,900,000 for renovation of an industrial building for Focus: HOPE Center for Advanced Technologies in Detroit, MI.

+$400,000 for the central Norristown redevelopment project in PA.

+$1,900,000 to the city of Mackinac Island, MI, to restore historic buildings and for other municipal purposes.

+$480,000 for the establishment of a Wellness Institute by Marquette General Hospital, in Marquette, MI.

+$1,500,000 to Enterprise Development, Inc. of Columbia, SC, for a video conferencing and training facility.

+$5,900,000 to the Bay County Building Authority in Bay County, MI, for a conference center and for other municipal purposes.

+$500,000 for housing rehabilitation and for creating employment opportunities in the eastside neighborhood in Tacoma, WA.

+$1,750,000 to Los Angeles, CA, for the East Los Angeles Community Union for commercial redevelopment activities.

+$1,750,000 to Los Angeles, CA, for a loan fund to be administered by a nonprofit community organization in support of small business revitalization that will create a beneficial impact on employment, income, savings, and the development of a stronger community economic base in South Central Los Angeles.

+$1,000,000 to the city of San Jose, CA, for the Mexican Heritage Plaza and Gardens project.

+$500,000 to develop a business incubator program in the Rio Linda/North Highlands area of California, to provide job training and start-up business assistance to low-income residents in those areas.

+$500,000 for the Dixon, CA, sewer plant expansion to bring the sewage treatment facility into compliance, which will help reduce housing costs for low and moderate income families.

+$500,000 to West Sacramento, CA, for the Margaret McDowell Senior Center project.

+$200,000 for the Washington State University Affordable Housing program.

+$200,000 for a handicapped access project at the Spokane Marketplace in Spokane, WA.

+$150,000 to Agri-Technics International, of Pullman, WA, for rural economic development activities.

+$121,000 for handicapped access projects in three rural areas: $84,000 at Preston Hall, Waitsburg, WA; $7,000 for City Hall, Starbuck, WA; and $30,000 for the North County (Cutter) Theater, Metaline Falls, WA.

+$77,000 for the Walla Walla Small Business Center program in Walla Walla County, WA.

+$500,000 for the Spokane (WA) Food Bank to purchase a warehouse.

+$2,200,000 for migrant farm workers' housing in Hillsborough County, FL.

+$480,000 to Murfreesboro, TN, to renovate the Bradley Academy for a multi-purpose community/cultural/heritage and civic center.

+$1,500,000 for community development in Astoria, NY.

+$1,000,000 for the People's Firehouse, Inc. for community development activities in Brooklyn, NY.

+$500,000 for the Hispanic Information and Telecommunications Corporation in New York, NY.

+$225,000 for storm water drainage improvements in Smallwood Village in Charles County, MD.

+$200,000 for Opportunity Park, in Bowie, MD.

+$500,000 for rehabilitation of facilities in the Nanjemoy community in Charles County, MD.

+$125,000 for restoration of a well under the jurisdiction of the Potomac Heights Home

Owners Association in western Charles County, MD .

+$1,000,000 to Tulsa, OK, for the Kendall-Whittier neighborhood revitalization and stabilization demonstration project.

+$1,800,000 to Nanticoke, PA, for infrastructure and economic development activities.

+$2,000,000 to the city of Toledo, OH, to create a strong community anchor in the heart of the downtown, concentrating on restoring the Toledo Farmers' Market and helping rehabilitate the nearby abandoned Portside Marketplace.

+$1,000,000 to the city of Toledo, OH, to work in conjunction with the Toledo Area Transit Authority and other agencies to renovate Central Union Terminal through abandoned building demolition and site improvements.

+$500,000 to the city of Oregon, OH, for completion of a sanitary sewer system serving the city and the adjacent unincorporated village of Harbor View.

+$2,000,000 for relocation of the Camillus House shelter and medical clinic in Miami, FL.

+$3,800,000 for emergency repair and reconstruction of the water supply system for the City of Landers, CA.

+$2,750,000 for permanent restoration of public buildings and equipment in the Big Bear area of San Bernardino County, CA.

+$800,000 for the Project Access programs of the Green Hills Rural Development Corporation in Trenton, Missouri, and the Northwest Missouri Regional Development Corporation in Maryville, Missouri.

+$850,000 to continue the economic development activities of the Redwood Region Economic Development Commission in Humboldt County, CA.

+$1,000,000 for South Chandler housing and community redevelopment in Chandler, Arizona.

+$375,000 for construction and public improvements near Crestline in San Bernardino County, CA.

+$1,150,000 for downtown renovation and the revitalization of central city recreation infrastructure serving low- and moderate-income citizens in Lewiston, Maine.

+$950,000 for infrastructure improvements related to the construction of low- and moderate-income housing in Ames, Iowa.

+$960,000 for the Casa Pacifica shelter care facility in Ventura County, CA.

+$400,000 for an economic development project based at the Indian Hills Community College in Ottuma, Iowa.

+$500,000 to construct a new facility for the Boys and Girls Club of San Marcos, CA.

+$375,000 for facility costs for the Boys and Girls Club of Escondido, CA.

+$1,375,000 for equipment for Children's Hospital and Health Center of San Diego, CA.

+$1,250,000 to the Mesa Grande Indian Tribe of San Diego County, CA, for a manufacturing plant for factory-built wood frame structures.

+$1,000,000 for a drug elimination demonstration programs at a state-owned public housing complex known as Levister Towers in Mount Vernon, NY.

+$600,000 for construction of a senior center in the Town of Smithfield, RI.

+$1,300,000 to Newburyport, MA, for renovation/addition to police facilities.

+$700,000 for the Monroe County, PA, Housing Authority to rehabilitate a low-income elderly and disabled housing project.

+$1,800,000 for Lackawanna Junior College, Scranton, PA, to establish the National Career Prep and Distance Training Center for low-income and public housing residents.

+$1,500,000 for a feasibility study on infrastructure improvements needed for the economic development of the Peoria, Illinois, area.

+$2,000,000 for capital repairs to the facilities operated by Federated Dorchester Neighborhood Houses, Inc. in Dorchester, MA.

+$1,000,000 to the West Virginia High-Technology Consortium for a high-technology incubator facility in Marion County, WV, to promote emerging technologies in rural areas.

+$600,000 to the city of Wheeling, WV, for educational and recreational opportunities for at-risk youth and the acquisition and renovation of dilapidated housing.

+$1,000,000 to the city of Morgantown, WV, for downtown renewal and revitalization activities.

+$500,000 to Arthurdale Heritage, Inc., for needed revitalization and infrastructure improvements to the Community of Arthurdale, WV.

+$400,000 for the city of Mannington, WV, to rehabilitate arson damaged areas and for other revitalization projects within the Mannington district.

+$1,500,000 for Victory Housing, Inc., to build Bartholomew House, a facility for the frail elderly, in Montgomery County, MD.

+$1,300,000 for facility improvements at the Laurel Mountain Recreation Area in Ligonier, PA.

+$1,360,000 for the renovation of Point Stadium in Johnstown, PA.

+$1,000,000 to renovate Perry School in Washington, DC, into a multi-purpose service center designed to meet the poverty-related needs of the community.

+$1,500,000 for temporary shelter for families while their homes are undergoing lead-based paint abatement in Newark, NJ.

+$1,500,000 to establish a center for Pacific Rim Studies at the University of San Francisco, CA.

+$1,000,000 for the North Carolina Housing Trust Fund.

+$2,000,000 to New York City, NY, for New York City Medical College to improve health care delivery in the city.

+$500,000 for the Clayton Housing Authority's (New Mexico) comprehensive improvement project.

+$900,000 to the city of Elkhart, Indiana, to establish an Elkhart Entrepreneur's Revolving Loan Fund.

+$1,300,000 to the city of Chicago's (IL) Low-Income Housing Trust Fund.

+$500,000 for the expansion of the Salesian Boys and Girls Club in East Los Angeles, CA.

+$1,000,000 for the National Jewish Center for Immunology and Respiratory Medicine in Denver, CO, for a research facility to investigate the relationship between urban air pollution and respiratory disease and factors influencing the extent indoor air pollution contributes to occupational illness.

+$1,500,000 to Cibola County, NM, for a multi-agency visitor center to provide economic benefits for the western part of New Mexico.

+$2,747,000 to the Bay Area Foundation in Bay City, MI, for municipal infrastructure, economic development, and other municipal purposes.

+$2,000,000 for the Community Development Resource Center in western Monroe County, NY, at Roberts Wesleyan College.

+$1,500,000 for renovation of facilities in the Adirondack Destruction Assessment Program in NY.

+$2,000,000 to develop a training program in East Cleveland (OH) for single mothers to enable them to be economically self sufficient.

+$1,000,000 for the Hitchcock Center in Cleveland, OH, for assistance to women who are substance abusers.

+$300,000 to Michigan State University for continuation of an urban extension program.

+$2,000,000 for the Bellefaire Residential Treatment Center for Children in Cleveland, OH, for renovation activities and to enhance special service needs.

+$1,000,000 for the Katheryn Tyler Multi-Purpose Family Center in Cleveland, OH.

+$650,000 for an urban redevelopment and small business development project in Kalamazoo, MI.

+$1,500,000 for the redevelopment of the Broadway Corridor project in Gary, IN.

+$900,000 to the city of Chicago (IL) for non-profit counseling organizations for a prepurchase and foreclosure-prevention counseling demonstration program.

+$1,500,000 for the New Directions project for homeless veterans in Los Angeles, CA.

+$1,300,000 for the City of Chicago's (IL) Preservation Predevelopment Program.

Amendment No. 84: Deletes language proposed by the Senate requiring HUD to continue to work with the Department of Agriculture in the voucher program. While agreeing to delete the language from the bill, the conferees wish to make clear that in fiscal year 1993 HUD shall continue to work with the Department of Agriculture to use section 8 vouchers in serving low-income families in rural areas who are unable to afford existing housing.

Amendment No. 85: Deletes language proposed by the House and stricken by the Senate providing that section 8 funds to set-aside for assistance to persons with disabilities.

Amendment No. 86: References that a total of $9,223,965,000 is available for programs in the annual contributions for assisted housing account, instead of $10,287,234,000 as proposed by the House and $4,144,234,000 as proposed by the Senate.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,116,099,000*

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing language for the section 202 housing for the elderly program.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that unreserved balances of funds previously provided for the housing for the elderly program be merged with amounts provided herein.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $15,438,000 for service coordinators in the housing for the elderly program. The House provided the same funding level but did not provide a specific earmarking for such funds.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Of the $9,223,965,000 total under this head, $193,754,000 shall be*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment Nos. 92, 93, and 94: Deletes technical language proposed by the House and stricken by the Senate which consolidated funding for the elderly and disabled programs.

Amendment No. 95: Deletes language proposed by the Senate appropriating $981,200,000 for amendments to section 8 subsidy contracts. The conference agreement includes $1,350,000,000 for such amendments in the annual contributions for assisted housing account.

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

At the end of the amendment, add the following: *Notwithstanding any other provision of this Act, the amount appropriated under this heading for fiscal year 1993 shall be "$6,076,135,000" and the amount under this heading for fiscal year 1994 shall be "$720,000,000".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 97: Deletes language proposed by the House and stricken by the Senate providing $7,500,000 for congregate services.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *For contracts with and payments to public housing agencies and non-profit corporations for congregate services programs, $21,000,000, to remain available until September 30, 1994, of which up to $10,800,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for such programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101–625).*

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

Amendment No. 99: Deletes language proposed by the Senate appropriating $3,350,000,000 for modernization of low-income public housing projects. The conference agreement earmarks $3,100,000,000 for modernization of public housing projects in the annual contributions for assisted housing account.

Amendment No. 100: Appropriates $2,282,436,000 for payments for operation of low-income housing projects as proposed by the House, instead of $2,450,000,000 as proposed by the Senate.

Amendment No. 101: Deletes language proposed by the Senate prohibiting the use of funds for costs beyond control.

Amendment No. 102: Appropriates $6,025,000 for housing counseling assistance as proposed by the House, instead of $3,515,000 as proposed by the Senate.

Amendment No. 103: Deletes language proposed by the Senate raising the FHA mortgage loan limit to 95 percent of the area median sales price with a national ceiling of 75 percent of the Fannie Mae and Freddie Mac conforming loan limit. Similar language has been included in amendment numbered 157.

Amendment No. 104: Appropriates $255,645,000 for administrative expenses of the FHA-mutual mortgage insurance program account as proposed by the Senate, instead of $257,021,000 as proposed by the House.

Amendment No. 105: Transfers not to exceed $249,542,000 for administrative expenses of the FHA-mutual mortgage insurance program account to the salaries and expenses appropriation as proposed by the Senate, instead of $251,011,000 as proposed by the House.

Amendment No. 106: Transfers not to exceed $6,103,000 for administrative expenses of the FHA-mutual mortgage insurance program account to the appropriation for the Office of Inspector General as proposed by the Senate, instead of $6,010,000 as proposed by the House.

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: *$104,652,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 108: Establishes the loan limitation for the FHA-general and special risk program account at $8,864,230,000 as proposed by the Senate, instead of $9,038,980,000 as proposed by the House.

Amendments Nos. 109 and 110: Deletes language proposed by the Senate authorizing and appropriating $41,500,000 for a new multifamily finance demonstration program.

Amendment No. 111: Appropriates $175,000,000 for drug elimination grants for low-income housing as proposed by the Senate, instead of $165,000,000 as proposed by the House. The conferees agree that the Secretary has discretion to utilize up to $6,000,000 for "weed and seed" activities.

Amendment No. 112: Restores language proposed by the House and stricken by the Senate earmarking $5,000,000 for a new violence prevention in low-income housing program.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That $10,000,000 of the foregoing amount shall be made available for grants for federal-assisted, low-income housing.*

*Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a is amended—*

*(1) in subsection (a), by striking "in" and insert "for residents of";*

*(2) in subsection (b)(5), after "nonprofit organizations", by inserting "and institutions of higher learning"; and*

*(3) in subsection (d)(3), after "cultural activities,", by inserting "transportation costs,"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 114: Deletes language proposed by the Senate amending the public housing youth sports program. Similar language has been included in amendment numbered 113.

Amendment No. 115: Appropriates $6,936,000 for administrative expenses of the GNMA-mortgage-backed securities loan guarantee program account as proposed by the Senate, instead of $6,680,000 as proposed by the House.

Amendment No. 116: Transfers not to exceed $6,936,000 for administrative expenses of the GNMA-guarantees of mortgage-backed securities loan guarantee program to the salaries and expenses appropriation as proposed by the Senate, instead of $6,680,000 as proposed by the House.

HOMELESS ASSISTANCE

Amendment No. 117: Appropriates $50,000,000 for the emergency shelter grants program, instead of $17,450,000 as proposed by the House and $67,450,000 as proposed by the Senate.

Amendment No. 118: Appropriates $105,000,000 for the section 8 moderate rehabilitation single room occupancy program as proposed by the Senate, instead of $103,926,000 as proposed by the House.

Amendment No. 119: Appropriates $266,550,000 for shelter plus care as proposed by the Senate, instead of $265,902,000 as proposed by the House.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate merging unexpended 1992 balances in the shelter plus care single room occupancy and section 202 rental assistance programs into the combined shelter plus care program.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 121: Appropriates $4,000,000,000 for community development grants as proposed by the House, instead of $4,100,000,000 as proposed by the Senate.

Amendment No. 122: Earmarks $40,000,000 of community development grant funds for Indian tribes, instead of $39,950,000 as proposed by the House and $41,000,000 as proposed by the Senate.

Amendment No. 123: Restores language proposed by the House and stricken by the Senate earmarking $500,000 for a grant to develop an integrated data base system and computer mapping tool. The conferees agree that this grant is targeted for the Population and Marketing Analysis Center in Towanda, Pennsylvania, for mapping projects in Lackawanna County, Dunmore, Carbondale, Tioga County, Wilkes-Barre, and Hazelton.

Amendment No. 124: Restores technical language proposed by the House and stricken by the Senate.

Amendment No. 125: Restores language proposed by the House and stricken by the Senate earmarking $5,000,000 for the early childhood development program.

Amendment No. 126: Deletes language proposed by the Senate prohibiting lump sum payments to revolving funds established for housing rehabilitation activities.

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting section 108 community development loan commitments to not to exceed $2,000,000,000, of which $1,700,000,000 shall become available upon enactment of authorizing legislation, instead of limiting section 108 loan commitments to not to exceed $300,000,000 as proposed by the House.

Amendment No. 128: Deletes language proposed by the Senate appropriating $1,500,000,000 for the HOME investment partnerships program. The conference agreement includes $1,000,000,000 for the HOME program in amendment numbered 51.

### POLICY DEVELOPMENT AND RESEARCH

Amendment No. 129: Restores language proposed by the House and stricken by the Senate earmarking $1,000,000 of research and technology funds for the Research Center of the National Association of Home Builders and $1,000,000 for the National Commission on Manufactured Housing.

Amendment No. 130: Deletes language proposed by the Senate including an evaluation of XRF technologies as an eligible activity for the $500,000 earmarked for lead-based paint abatement research and studies.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $1,000,000 of research and technology funds for a study by the National Academy of Public Administration on HUD staffing and human resources management and requirements.

### FAIR HOUSING AND EQUAL OPPORTUNITY

Amendment No. 132: Appropriates $15,000,000 for fair housing activities, instead of $13,350,000 as proposed by the House and $21,000,000 as proposed by the Senate.

The conference agreement includes $2,000,000 in the salaries and expenses appropriation for fair housing assistance program activities because some State and local agencies are no longer certified to administer fair housing laws and ordinances.

Amendment No. 133: Earmarks not less than $10,600,000 of fair housing activities funds for the fair housing initiatives program, instead of $8,600,000 as proposed by the House and $16,250,000 as proposed by the Senate. The conferees agree that at least $1,000,000 of the increase above the budget request is for additional testing activities and at least $1,000,000 above the budget request is for additional education and outreach activities.

### MANAGEMENT AND ADMINISTRATION

Amendment No. 134: Appropriates $892,000,000 for salaries and expenses, instead of $698,027,000 as proposed by the House and $910,942,000 as proposed by the Senate. The conferees have agreed to provide salaries and expense funding in a consolidated account. However, the Department is directed not to reduce field staff. Any reduction in staffing is to be applied to headquarters activities only.

Amendment No. 135: Transfers $432,497,000 from the various funds of the Federal Housing Administration as proposed by the Senate, instead of $393,575,000 as proposed by the House.

Amendment No. 136: Transfers $6,936,000 from the Government National Mortgage Association to salaries and expenses as proposed by the Senate, instead of $6,680,000 as proposed by the House.

Amendment No. 137: Inserts technical change in the language as proposed by the Senate.

Amendment No. 138: Deletes language proposed by the House and stricken by the Senate permitting the transfer of funds from any headquarters' office to the salaries and expenses appropriation for field staffing and administrative expenses.

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: : *Provided further, That of the total amount, $1,000,000 and 20 staff years shall be for the Office of Lead-Based Paint Abatement and Poisoning Prevention, which shall be located within the Office of the Secretary: Provided further, That not to exceed $8,793,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters budget activity of Departmental Management, including not to exceed $673,000 for travel expenses: Provided further, That not to exceed $14,609,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of General Counsel, including not to exceed $259,000 for travel expenses: Provided further, That not to exceed $8,717,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of Policy Development and Research, including not to exceed $141,000 for travel expenses*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment Nos. 140, 141, 142, 143, 144, 145, 146, and 147: Deletes language proposed by the House and stricken by the Senate providing individual appropriations for headquarters offices. The funds for these activities have been included in the consolidated salaries and expenses appropriation.

Amendment No. 148: Appropriates $46,160,000 for the Office of Inspector General, instead of $45,773,000 as proposed by the House and $46,548,000 as proposed by the Senate.

Amendment No. 149: Transfers $10,148,000 from the various funds of the Federal Housing Administration to the Office of Inspector General as proposed by the Senate, instead of $10,055,000 as proposed by the House.

### ADMINISTRATIVE PROVISIONS

Amendment No. 150: Restores language proposed by the House and stricken by the Senate allowing HUD to make payment to the Milton Residences for the Elderly for certain development costs incurred in a section 202 project in Milton, Massachusetts.

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to add the following:

*Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 (as such section existed immediately before October 1, 1991), the City of Harrisburg, in the State of Pennsylvania, shall not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grants awarded under section 17(d) of such Act to the city for use in connection with the Washington Square Phase II housing development project (Project No. PA009HG701), if before October 1, 1993, the city (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts remain available.*

*Amounts made available for a housing development grant under section 17(a)(1)(B) of the United States Housing Act of 1937 for NJ 008–HG7–01 in Camden, NJ, shall be deemed to have been recaptured, and shall be made available during fiscal year 1993 for such project.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 152: Restores language proposed by the House and stricken by the Senate authorizing the State of Oklahoma to use its community development grant funds to repay an economic development loan.

Amendment No. 153: Restores language proposed by the House and stricken by the Senate granting environmental clearance waivers to enable Youngstown, Ohio, to receive funds for three urban development action grant projects.

Amendment No. 154: Restores language proposed by the House and stricken by the Senate limiting the number of non-career senior executive service positions at HUD to 15.

Amendment No. 155: Restores language proposed by the House and stricken by the Senate forgiving loans for the Sunbright Utility District in Morgan County, Tennessee.

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Section 213(e) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439(e)), is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project" and inserting "Jefferson County, Texas"; and, notwithstanding the provisions of section 213(c) of such Act, of the budget authority set aside in section 213(e) of such Act, the Secretary shall enter into annual contributions contracts under section 8(b) of the United States Housing Act of 1937 with the Housing Authority of the City of Galveston, Galveston, Texas, for 18 units, with the Housing Authority for the City of Rockwall, Rockwall, Texas, for 36 units, and for the balance of such budget authority, with the Port Arthur Housing Authority, Port Arthur, Texas.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 157: Restores language proposed by the House and stricken by the Senate raising the FHA mortgage loan limit to 95 percent of the area median sales price with a national ceiling of 75 percent of the Fannie Mae and Freddie Mac conforming loan limit. The Senate raised the FHA mortgage loan limit in amendment numbered 103.

Amendment No. 158: Restores language proposed by the House and stricken by the Senate eliminating the current 57 percent limitation on the amount of closing costs that can be financed in an FHA-insured loan.

Amendment No. 159: Reported in technical disagreement. The managers on the part of House will offer a motion to recede and concur in the amendment of the Senate relating to organizational location and responsibilities of the Office of Lead Based Paint Abatement and Poisoning Prevention.

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring the Department to revise its fiscal year 1992 notice of funds availability for public housing development/major reconstruction of obsolete projects.

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring fiscal year 1992 fair market rents for the Salt Lake City and Ogden, Utah, area to remain in effect through fiscal year 1993.

Amendment No. 162: Deletes language proposed by the Senate amending legislation which earmarked housing assistance for the

Park Central new community project. Similar language is included in amendment numbered 156.

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring HUD to extend the reservation period and increase the funds for disabled housing projects in Newark and Teaneck, New Jersey.

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

At the end of the matter inserted by said amendment, insert the following:

*Notwithstanding any other provision of the law, the Secretary of Housing and Urban Development shall immediately forego and forbear from all efforts to recapture funding, by means of offset or reduction, against current or future subsidy, or other means, from the Housing Authority of the City of Seattle based on a finding pertaining to tenant utility allowances contained in the Office of Inspector General Report 86-SE-201-1003, dated February 21, 1986, and shall restore any funds previously recaptured.*

*The Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MIS-22-PFL0094). The town of McLain Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct the Department to accept expenditures made by the City of Indianapolis on public housing projects in that city as a credit against its debt to HUD associated with the Lockefield Gardens project and that the Department accept this credit as payment in full on that debt.

## TITLE III—INDEPENDENT AGENCIES

### CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### SALARIES AND EXPENSES

Amendment No. 165: Appropriates no funds for the Chemical Safety and Hazard Investigation Board as proposed by the Senate, instead of $2,500,000 as proposed by the House.

The committee of conference notes that in fiscal year 1992, $1,000,000 was appropriated for this newly established Board and those funds have not been obligated to date. It is hoped that every effort will be made to expeditiously appoint Board members.

### COMMISSION ON NATIONAL AND COMMUNITY SERVICE

### SALARIES AND EXPENSES

Amendment No. 166: Appropriates $2,500,000 for the salaries and expenses of the Commission on National and Community Service, instead of $2,000,000 as proposed by the House and $3,000,000 as proposed by the Senate.

Amendment No. 167: Deletes language inserted by the Senate allowing the Commission's Executive Director to appoint up to 17 staff to administer the Commission.

### PROGRAMS AND ACTIVITIES

Amendment No. 168: Appropriates $73,000,000 for the programs and activities of the Commission on National and Community Service, instead of $35,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

The Commission is expected to provide an operating plan 30 days after enactment of this Act detailing its plans for expenditure of these appropriated funds.

### CONSUMER PRODUCT SAFETY COMMISSION

### SALARIES AND EXPENSES

Amendment No. 169: Appropriates $48,400,000 for the Consumer Product Safety Commission as proposed by the Senate, instead of $42,100,000 are proposed by the House.

The conferees are in agreement on the following changes to the budget request:

−$200,000 from executive direction and general administrative services.

+$200,000 for hazardous assessment and reduction, subject to normal reprogramming guidelines.

+$6,300,000 for the relocation of the Commission's headquarters facilities.

Of the $1,000,000 requested in the budget for the Little Cigar and Cigarette Safety Study, $400,000 is to be provided to the National Institute of Standards and Technology. The remaining $600,000 is for completion of this study.

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*That funds shall not be available for the personnel compensation and benefits of more than three Commissioners of the Consumer Product Safety Commission for fiscal year 1993 and thereafter*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate providing an additional $6,300,000 for the relocation of the Commission headquarters.

### COURT OF VETERANS APPEALS

Amendment No. 172: Appropriates $8,480,000 for salaries and expenses, instead of $8,630,000 as proposed by the House and $8,330,000 as proposed by the Senate.

### CEMETERIAL EXPENSES, ARMY

The conferees are concerned with the condition of Section 27 at Arlington National Cemetery. This is the section where former residents of Freedman's Village, United States Colored Troops, and other original burials took place. While there has been progress toward restoration of Section 27, the conferees direct Arlington's administrators to ensure that the items outlined in the House Report are accomplished. A progress report should be submitted to the Committees on Appropriations by December 31, 1992. The report should include total funds spent to date on Section 27 projects, an estimate of future funding requirements, and the estimated completion date(s) of the restoration projects.

### ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 173: Appropriates $323,000,000 for research and development as proposed by the Senate, instead of $338,500,000 as proposed by the House.

The conferees are in agreement on the following changes to the budget request:

+$500,000 for the Adirondack Destruction Assessment program.

+$3,200,000 for the Center for Environmental Management.

+$500,000 for global warming and stratospheric ozone mitigation research.

+$400,000 for a National Academy of Sciences study of wetlands. The conferees have agreed that the study to be prepared by the National Academy of Sciences should include the provisions carried in House Report 102-710. Additionally, the committee of conference believes that the study should investigate methodologies to identify, measure, and compare wetlands functions and values.

+$575,000 for the American Water Works Association Research Foundation.

+$2,000,000 for the Southwest Environmental Research Center.

The conferees direct EPA to consider reprogramming additional funds to the Southwest Environmental Research and Policy Center, for a total of $10,000,000. The conferees expect that the Administration's fiscal year 1994 budget request will include sufficient funds for this meritorious activity.

+$250,000 for continued research on the zebra mussel.

+$1,200,000 for the Center for Excellence in Polymer Research and Environmental Study.

+$200,000 for an airshed model along the Illinois-Missouri border.

+$750,000 for the Great Lakes National program office to be primarily dedicated to the large lakes laboratories in Duluth, Minnesota, and Grosse Isle, Michigan.

+$150,000 for research on sulfonated plastics and tires.

+$400,000 for a nutrient loading research project in Boston Harbor and Massachusetts Bay. These funds should be allocated to the Naragansett laboratory.

+$125,000 for interagency coordination of Great Lakes research with the International Joint Commission.

+$700,000 for indoor air research. Indoor air pollution has been identified as one of the most significant environmental risks to human health. Research activities should include the development of a database, exposure work, and surveys of federal buildings.

The conferees are concerned that EPA may consider reductions in allocations of discretionary research funds regarding the effects of airborne toxic materials on human health in urban environments. The conferees urge EPA to give priority in directing its discretionary research funds to ensuring that ongoing efforts to develop the body of scientific research pertaining to the effects of urban air toxics on human health be continued. Specifically, the conferees encourage EPA to continue its support of the Mickey Leland Urban Air Toxics Research Center.

+$800,000 for neurotoxicology research. The EPA should expand its neurotoxicological research in the areas identified by the FCCSET committee including the study of susceptible populations, environmentally-induced neuro degenerative disease, and *in vitro* neurotoxicology.

+$1,000,000 for biotechnology/bioremediation efforts. The agency should provide a report to the Committees on Appropriations concurrent with the submission of the agency's operating plan detailing how these funds will be utilized.

+$700,000 for the Water Environment Research Foundation.

+$1,600,000 for the Energy and Environmental Research Center at the University of North Dakota for a cradle-to-grave assessment and control technology development program for toxic metal emissions.

+$700,000 for a recycling and reuse technology development project at the Iowa Waste Reduction Center. These funds are to be used for providing businesses with a comprehensive resource center for information on reuse and recycling of primarily nonhazardous waste materials.

+$800,000 for the experimental program to stimulate competitive research (EPSCoR). The conferees direct EPA to work with NASA, the National Science Foundation, the National Institutes of Health, and the Departments of Agriculture, Energy, and Defense to ensure greater integration.

Utilizing the funds provided, the conferees expect EPA to initiate a merit-based EPSCoR research competition among the states designated by NSF as eligible to participate in EPSCoR. The conferees have directed NSF to develop a plan to integrate all EPSCoR programs into a single coordinated effort. EPA is expected to cooperate in that effort.

+$700,000 for urban waste management research at the University of New Orleans.

+$1,850,000 for air toxics dispersion tests at the liquefied gaseous fuels spill test facility, as authorized by the Clean Air Act amendments.

+$700,000 for the national ultraviolet monitoring center, a national program to monitor the ultraviolet flux reaching the Earth's surface. The monitoring center is to be established at the University of Georgia, Athens, GA.

+$1,450,000 for a pollution prevention research and development center at the University of Connecticut.

+$250,000 for the Center for Analysis of Environmental Change to provide comprehensive approaches needed for wise management of the Columbia and Snake Rivers ecosystem resources.

The conferees expect that at least two fuel cell demonstration projects will be continued at current levels.

The committee of conference directs EPA to fund the National Acid Precipitation Assessment Program at $1,450,000 from this account.

The conferees support the President's request of $3,500,000 for the university portion of the Southern Oxidants Study, which is becoming renowned as a model for cooperative research.

The conferees are supportive of the partnership between EPA's Office of Research and Development and the Urban Consortium of Public Technology, Inc. and urge the agency to continue these activities and provide the necessary funds to continue at no less than current levels.

The conferees direct EPA to prepare, in consultation with the Maine Science and Technology Commission (MS&TC) and the Loring Readjustment Committee (LRC) and other relevant Maine institutions, feasibility studies for the following proposals: a national remediation training center; a national cold climate multimedia remediation research center; and a national laboratory for research on global environmental change. In cooperation with the Department of Energy, EPA also should prepare a feasibility study for a national laboratory for research on alternative energy sources. These studies shall be completed and reported to the Committees by March 31, 1993.

The feasibility studies shall include, but not be limited to: (1) an assessment of specific buildings or other property appropriate for each potential use; (2) potential needs for new construction or modification; (3) recommended phases for development over five- and 10-year periods; (4) cost estimates and projections; (5) an assessment of regional resources and educational, scientific, and technological infrastructure that might be used in support of a facility; (6) potential priorities for State, local, or private involvement in support of each proposal; and (7) policy or program needs, including future remediation training and certification requirements, relating to each proposal which may require legislation.

−$34,000,000 as a general reduction, of which at least $15,000,000 should be from contracts.

−$3,000,000 from operating expenses. This, in effect, reduces the expense ceiling from $48,067,000 to $45,067,000.

Amendment No. 174: Restores language proposed by the House and stricken by the Senate providing for a new account structure and all administrative expenses to be paid for out of the abatement, control, and compliance account.

Amendment No. 175: Appropriates $1,318,965,000 for abatement, control, and compliance, instead of $1,331,055,000 as proposed by the House and $1,116,860,000 as proposed by the Senate.

The committee of conference is in agreement on the following changes to the budget request:

+$274,000,000 for administrative expenses

+$5,775,000 for asbestos grants, under the asbestos-in-schools loans and grants program, of which $100,000 is for minority contractors. EPA is directed to provide funds from this total for the development and implementation of asbestos training and accreditation programs. An additional $30,225,000 is provided in a separate account for loan subsidies for a total programmatic level of $77,275,000.

The conferees agree that a total of $1,500,000 should be provided to administer this program. This level is $500,000 above the House amount and $500,000 less than the Senate amount.

+$4,000,000 for the Clean Lakes program.

+$6,000,000 for an alternative fuels demonstration project in the South Coast Air Quality Management District.

The Administrator of the Environmental Protection Agency (EPA), in cooperation with the Secretary of the Department of Energy (DOE), is directed to conduct a study of the relative merits of compliance with future automotive emissions standards in diesel trucks by the use of direct injected systems, catalytic converters, particulate traps, and/or other technologies. The Administrator shall report the findings to the Committee not later than March 30, 1993.

+$950,000 for the Rural Community Assistance Program.

+$3,300,000 for the National Rural Water Association.

+$1,000,000 for NRWA's groundwater protection program.

+$2,493,000 for LAN/WAN communications at EPA.

+$1,400,000 for a PM–10 air study in Central Valley, California.

+$8,870,000 for expansion of EPA's supercomputer, including new processors and a solid state device.

+$1,000,000 for Indian multimedia grants.

+$350,000 to support ongoing efforts by EPA's Water Conservation Task force.

+$900,000 for the Clean Air Great Waters program.

+$500,000 for the Florida Keys National Marine Sanctuary.

+$350,000 for the National High Altitude Center.

+$210,000 for a documentary of the Hudson River Highlands.

+$800,000 for pollution prevention grants.

+$350,000 for the Tar-Pamlico River Basin nonpoint source demonstration and watershed pilot program.

+$750,000 for EPA's environmental statistics initiative. It is expected that this initiative will be part of EPA's new initiative at the Center for Ecology and Research Training.

+$1,200,000 for controlling erosion and sedimentation in the Great Lakes Basin.

+$800,000 for cleanup of contaminated sediments in the Buffalo River.

+$1,860,000 for EPA's Earth Vision Program, visualization programs, and video centers. Additionally, EPA is directed to produce a documentary on the Center for Ecology and Research Training.

+$1,250,000 for continued work on the Maumee River and Bay basinwide assessment of hazardous waste sites.

+$1,000,000 for the Saginaw River Watershed.

+$200,000 for an underground injection control program.

+$1,000,000 for continued work on the Spokane aquifer.

+$260,000 for Great Lakes modeling activities.

+$150,000 for a Long Island Sound management plan.

+$150,000 for Class I visibility air studies.

+$520,000 for the Lake Roosevelt water quality recovery plan.

+$850,000 for EPA's Region V Lake/Watershed management plan.

+$150,000 for a wetlands mitigation bank prototype in Warrenton, Oregon.

+$2,500,000 for the Great Lakes National Program office activities including $500,000 for enhanced monitoring activities.

+$1,000,000 for the National Estuary Program, of which $400,000 is for the Puget Sound Estuary and $400,000 is for Buzzards Bay Estuary programs.

+$400,000 for a Southern Appalachian Mountain Air Quality study.

+$700,000 for a wetlands demonstration project on the Susquehanna River in northeastern Pennsylvania.

+$600,000 for a wetlands study of the McKenzie River Basin.

+$200,000 to conduct a groundwater study of the Calumet Lake region.

+$750,000 for the Hayward Marsh wetlands restoration.

+$500,000 for an innovative and alternative wastewater treatment demonstration project in the Florida Keys.

+$1,956,000 for continued operations at the Center for Ecology and Research Training, including project management, training activities, Great Lake activities, off-road engine research and testing activities and other appropriate activities. This sum, plus other sums provided in the bill, may be used for activities at the Center for Ecology and Research Training.

+$750,000 for the Methane Energy and Agriculture Development program.

+$250,000 for a pilot project on microsale chemistry techniques to support innovative research in pollution prevention.

+$900,000 for the binational agreement regarding pollution prevention. The managers note the importance of addressing mercury contamination of Lake Superior, and the opportunity that the Lake Superior Binational program offers for tracking the sources and fate of mercury in the Great Lakes System. The managers direct EPA to coordinate with the States of Wisconsin, Michigan and Minnesota to make a mercury study a priority as part of the U.S. efforts of the Lake Superior Binational Program. To the greatest extent possible, EPA is directed to coordinate with, and seek support from, Canadian counterparts in carrying out this effort.

+$50,000 for the Office of Small and Disadvantaged Business Utilization for additional training for minority and women contractors.

+$1,000,000 for alternative wastewater treatment technologies such as solar aquatics.

+$400,000 for grants for training minority and women contractors in areas such as lead abatement, radon and underground storage tank cleanup, to be managed by EPA's Office of Small and Disadvantaged Business Utilization.

+$2,175,000 for lead abatement technical support and infrastructure development. Of this amount, $300,000 is targeted for follow-on dissemination and application of the primary prevention strategies lead poisoning prevention project to maximize the benefits of lead-based paint abatement funds.

+$750,000 for EPA's Earth Observing System activities.

+$250,000 for Canaan Valley, West Virginia, wetlands complex.

+$1,000,000 for the EPA National Training Center at West Virginia University.

+$1,000,000 for the Small Flows Clearinghouse at West Virginia University.

+$550,000 for dairy pollution research.

+$350,000 for a Rio Grande coastal impact monitoring station.

+$1,850,000 for academic training and education (vocational environmental training).

+$2,250,000 for the continued development of a pollution prevention and protection plan for Lake Champlain.

+$1,750,000 for the Lake Onondaga restoration.

+$550,000 for lake water quality activities by the State of New Jersey, including activities at Strawbridge Lake, and continuing work at Lake Musconetcong and Alcyon Lake, or other lakes the State deems appropriate. This sum should be in addition to, and not in lieu of, any other Federal assistance.

+$100,000 for the St. Croix River International Waterway Commission.

+$1,000,000 for oyster reseeding in the Chesapeake Bay.

+$3,800,000 for Lake Pontchartrain water quality improvements.

+$2,500,000 for the Northwest Indian tribes for coordinated and cooperative environmental protection approaches.

+$1,000,000 for multimedia project funding to be utilized by the Inter Tribal Council of Arizona to continue to meet solid waste needs assessment and planning requirements of the Arizona tribes.

+$650,000 for a constructed wetlands demonstration project to address wastewater treatment needs of colonias in New Mexico.

+$200,000 for the High Altitude In-Use Compliance Center.

+$1,500,000 for a national demonstration project of onsite wastewater treatment technologies and management systems.

+$2,000,000 for green programs, including a training program to promote green market incentives in developing countries and for other green initiatives, including green lights, golden carrot refrigerator, and energy star computer programs, through EPA's Global Change Program within the air office.

+$700,000 for the Small Towns Environment Program to aid small communities in new approaches to design and construct water and wastewater systems.

+$450,000 for a small business pollution prevention demonstration program in New Jersey.

+$2,700,000 for a coastal sediment decontamination program authorized by section 405 of the Water Resources Development Act;

+$350,000 for water quality monitoring along the eastern Oklahoma/western Arkansas border.

+$400,000 to investigate the causes and develop potential solutions to the algal bloom crisis in west Maui.

+$100,000 to assist in the development and implementation of a long-range strategy to protect and enhance the water quality and living resources of the Potomac River.

+$1,500,000 for the continuation of a nonprofit source pollution study in Nebraska, Iowa, and Kansas to study the origins and migrations of nonprofit source pollution, using advanced land-imaging techniques.

+$1,000,000 to restore Decker Lake in West Valley City, UT.

+$400,000 for the cleanup of Black Hawk Lake near Wall Lake, IA.

+$2,000,000 for the integrated pollution prevention initiative at the New Jersey Institute of Technology.

+$1,000,000 for a study of the Fresh Kills landfill, to determine whether the landfill is in compliance with Federal regulations for municipal landfills.

+$300,000 for the Northeast States for coordinated air use management for interstate pollution control and ozone reduction;

+$1,350,000 for wastewater operator training under the 104(g) technical assistance program.

+$350,000 for small business ombudsman studies concerning the regulatory impacts on small businesses.

+$400,000 for the Association of State and Interstate Water Pollution Control Administrators.

+$400,000 for the Grand River Basin nonpoint source pollution program.

+$4,000,000 for the Consortium for International Earth Science Information Network.

+$1,881,000 for grants and cooperative agreements to develop and implement asbestos training and accreditation programs.

−$109,845,000 as a general reduction to be taken at the discretion of the Administrator. None of this reduction should be taken from state and local grants.

None of the general reduction should be applied to large water programs, especially the Great Lakes and Chesapeake Bay programs.

−$500,000 for the transfer of funds to the Council on Environmental Quality. The conferees maintain their disapproval of interagency transfers for base program activities.

−$10,000,000 from the Montreal Protocol Facilitation Fund.

−$26,000,000 from section 319 nonpoint source grants. These grants are funded in the state revolving fund/construction grants account.

The committee of conference directs EPA to expend $1,450,000 for the National Acid Precipitation Assessment Program from this account.

To ensure systematic involvement of the nation's largest cities and urban counties in agency-wide multimedia activities, the conferees urge EPA to work with the Urban Consortium of Public Technology, Inc. to create a program that will enable urban governments to define needs and develop cost-effective solutions.

The conferees wish to underscore the importance of the agency's promptly promulgating rules pursuant to section 129(a)(3) of the Clean Air Act. As indicated in the House Report, the conferees believe that siting requirements for the physical location of solid waste incinerators are an important element of the new mandated source performance standards for incinerators. The conferees are concerned abut the proximity of incinerators to sensitive areas, especially in areas with schools and health care facilities.

The conferees are aware that many local governments depend upon flow control as part of their municipal solid waste management plans. The conferees direct EPA to study flow control as a means of municipal solid waste management and report to the Congress within two years. In particular, the study should review comparatively States with and without such authority and describe the impact of such legislation on (1) the protection of human health and environment, (2) the development of State and local waste management capacity, and (3) the achievement of State and local goals for source reduction, reuse and recycling.

The managers believe the funding that has been included for addressing U.S./Mexico environmental problems should be used by the EPA to support and complement the efforts of the many non-governmental organizations (n.g.o.'s) and local governments on both sides of the border who are already working to resolve these critical environmental issues. These entities have been responsible for virtually all of the monitoring of environmental problems in the border region. Consequently, they have unique knowledge and expertise in addressing the environmental issues affecting the border region.

The conferees recognize that control of combined sewer overflows (CSOs) is a great concern to the nation's water quality. Over 1,200 cities and localities in the U.S. have CSOs and will be required to implement expensive control technologies to protect the environment and public health.

The conferees urge that EPA address CSO problems in a manner which employs site-specific, flexible standards that balance environmental and economic considerations.

Amendment No. 176: Provides $274,000,000 for the administrative expenses under the abatement, control, and compliance account, instead of $304,000,000 as proposed by the House and none as proposed by the Senate.

Amendment No. 177: Deletes language proposed by the Senate providing that not less than $2,900,000 be made available for the National Acid Precipitation Assessment Program.

This amount has been provided, as specified under the research and development account and the abatement, control, and compliance account.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 179: Inserts center heading as proposed by the Senate instead of center heading as proposed by the House.

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken, amended to read as follows:

*PROGRAM AND RESEARCH OPERATIONS*

*For necessary expenses, not otherwise provided for, for personnel compensation and bene-*

*fit costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individual not to exceed the per diem rate equivalent to the rate for GS–18; $823,607,000: Provided, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42. U.S.C. 6913): Provided further, That if the agency determines that it would be more cost effective and less disruptive of accomplishing the agency's mission in issuing a new research support contract, after the agency has notified the appropriate committees of the Congress, not more than $10,000,000 of the amount appropriated herein may be made available for personnel compensation and benefits and travel of additional personnel (on a temporary or permanent basis) needed to replace contract services at the agency's environmental research laboratories.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have restructured two accounts within EPA. The administrative expenses have been removed from the former salaries and expenses account and included in the abatement, control, and compliance account. The personnel compensation and benefits and travel will now be in a separate account.

The conferees understand the complexity and difficulty of implementing this change in a short time period, but expect that most issues will be resolved within this fiscal year. The conferees wish to establish some basic parameters that will provide the agency with guidelines for the administrative expenses ceiling in the abatement, control, and compliance account. All elements identified in the management and support section of the agency's Congressional budget justification should be included under the ceiling. The initial report from the agency regarding administrative and programmatic expenses is acceptable to the conferees, thus all grants, programmatic expenses and programmatic contracts should be excluded from the ceiling. All operating expenses and administrative contracts remaining throughout the agency's programs are to be included under the administrative expenses ceiling.

The conferees expect further refinements will be made to this initial definition and direct the agency to report, as needed, on any further statement of definition. The conferees remind the agency of the goal to have a single definition of operating/administrative expenses across all accounts.

Further, the conferees are concerned with the agency's inaccurate estimating of object classifications. The conferees expect the agency to adhere more closely to its own object classifications as presented in the Congressional budget justification and direct the agency to provide a report to the Committee on Appropriations by February 1, 1993 on its progress on this issue.

Amendment No. 181: Deletes language proposed by the Senate providing for the current salaries and expenses account structure.

A provision has been included in the previous amendment allowing the agency to expend up to $10,000,000 for additional personnel to replace contract services at EPA's environmental laboratories if it deems this to be appropriate.

The conferees direct the agency to provide the necessary resources and workyears to continue and expand the activities of the Center for Ecology and Research Training. An estimated 45 workyears are required for the activities at this Center.

Further, the committee of conference directs the agency to provide the necessary resources to continue the Long Island Sound program office.

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing for construction, alteration, repair, rehabilitation, and renovation of facilities within the Office of Inspector General.

To clarify the Agency's authority to obligate Superfund, LUST, and OIG funds for minor repairs and improvement activities, the conferees have included language in the bill that allows such activities in these respective accounts.

Amendment No. 183: Appropriates $42,799,000 for the Office of Inspector General, instead of $42,240,000 as proposed by the House and $43,358,000 as proposed by the Senate.

Amendment No. 184: Provides $15,770,000 to be derived from the Hazardous Substance Superfund trust fund for the Office of Inspector General as proposed by the Senate instead of $16,428,000 as proposed by the House.

Amendment No. 185: Provides $610,000 to be derived from the Leaking Underground Storage Tank trust fund for the Office of Inspector General as proposed by the Senate instead of $636,000 as proposed by the House.

Amendment No. 186: Deletes language proposed by the House and stricken by the Senate providing not less than $27,970,000 to be available for personnel compensation and benefits for the Office of Inspector General.

Amendment No. 187: Appropriates $134,300,000 for buildings and facilities as proposed by the House instead of $38,000,000 as proposed by the Senate.

The conferees are in agreement on the following changes to the budget request:

+$85,000,000 for the construction and site acquisition for the Center for Ecology and Research Training. The conferees direct the agency to utilize the funds provided for the Center for Ecology and Research Training for activities previously identified as well as for activities related to off-road engine research and testing.

+$10,000,000 for an environmental health science research center at Columbia University.

+$12,500,000 for a grant for the Christopher Columbus Center of Marine Research and Exploration.

+$1,000,000 for a grant for the Maine Quarternary Studies Institute.

+$5,000,000 for a grant to the University of Utah for an Intermountain Regional Network and Scientific Computation Center.

+$5,500,000 for the EPA research laboratory at Research Triangle Park.

+$3,200,000 for a consolidated laboratory facility for the Central Regional Laboratory and the Analytical Chemistry and Microbiology Laboratory.

−$14,600,000 for an office addition for EPA's A.W. Breidenbach Environmental Research Center.

−$15,000,000 for the EPA headquarters facility. The committee of conference wishes to express its strong support for EPA's relocation and buildout of a headquarters facility. It is hoped that this issue will be expeditiously resolved. The agency is expected to keep the Committees on Appropriations apprised of any development in this regard.

−$400,000 as a general reduction.

Amendment No. 188: Restores language proposed by the House and stricken by the Senate providing $10,000,000 for an environmental health science research facility at Columbia University.

Amendment No. 189: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $12,500,000 to be available for the Christopher Columbus Center of Marine Research and Exploration in Baltimore, Maryland.

Amendment No. 190: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing EPA to establish a consolidated laboratory facility for the Central Regional Laboratory and the Analytical Chemistry and Microbiology Laboratory.

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $1,000,000 for a grant to the University of Maine for construction of the Maine Quaternary Studies Institute.

Amendment No. 192: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $5,000,000 for a grant to the University of Utah for the design and construction of an intermountain regional network and scientific computation center.

Amendment No. 193: Provides $20,000,000 for the oil spill response account, instead of $18,434,000 as proposed by the House and $23,340,000 as proposed by the Senate.

Amendment No. 194: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing for construction, alteration, repair, rehabilitation, and renovation of facilities within the Hazardous Substance Superfund trust fund.

Amendment No. 195: Provides $1,573,528,000 for the Hazardous Substance Superfund, instead of $1,416,228,000 as proposed by the House and $1,616,228,000 as proposed by the Senate.

The conferees are in agreement on the following changes from the budget request:

+$18,000,000 for ATSDR. From within this amount, $4,000,000 of the funds provided are for a research program in cooperation with the Association of Minority Health Professions Schools; $3,000,000 is for a study of human health impacts of contaminated fish; $250,000 is for chemical sensitivity/low level chemical and environmental exposure workshops; $250,000 for a PCB exposure study in Monroe County, Indiana; and $50,000 for the Lipari information network.

+$20,000,000 for NIEHS worker training grants.

+$20,000,000 for NIEHS basic research grants.

+$2,500,000 for the Gulf Coast Hazardous Substance Research Center.

+$300,000 for training agents for minority and women contractors.

+$3,000,000 for Clark Atlanta University Hazardous Substance Research Center.

+$2,500,000 for the SITE program to develop the Mine Waste Pilot Program.

+$1,750,000 for bioremediation research in groundwater. The conferees recognize that the inability of available technology to remediate contaminated groundwater often poses the limiting factor in the cleanup of hazardous waste sites and that the fundamental advances in our understanding of the movement and transformation of pollutants in groundwater is required for further progress on this problem. Therefore, the conferees have added $1,750,000 for basic research on the environmental process affecting the remediation of contaminated groundwater disposal sites.

+$612,000 for the Carver Terrace Superfund site. It is expected that this amount will complete this project.

To the extent possible, without causing any further reduction in funding for actual Superfund site cleanups, the conferees urge EPA to continue to fund the research and development efforts within the Superfund program. This includes university-based research and technical transfer and training programs, such as the Hazardous Substance Research Centers Program (HSRC).

−$233,434,000 as a general reduction, to be taken at the discretion of the Administrator.

−$11,700,000 to be taken from administrative expenses.

Amendment No. 196: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *consisting of $1,323,528,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $201,120,000 during fiscal year 1993, with all of such funds*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 197: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken, amended to read as follows: *: Provided, That notwithstanding any other provision of law, such sums as may be necessary shall be available for a cooperative agreement to demonstrate the use of the latest gas-phase thermo-chemical technology for the remediation of a municipal landfill located on a river island.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides for a demonstration project of a hazardous waste site using the latest gas-phase thermo-chemical technology for remediation of a municipal landfill.

Amendment No. 198: Provides $60,036,000 to the Agency for Toxic Substances and Disease Registry as proposed by the Senate, instead of $51,036,000 as proposed by the House.

Amendment No. 199: Limits funds available for administrative expenses to $260,000,000, instead of $264,000,000 as proposed by the House and $256,000,000 as proposed by the Senate.

Amendment No. 200: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing for construction, alteration, repair, rehabilitation, and renovation of facilities within the Leaking Underground Storage Tank program.

Amendment No. 201: Limits funds available for administrative expenses to $7,200,000 for the Leaking Underground Storage Tank trust fund, instead of $7,400,000 as proposed by the House and $7,000,000 as proposed by the Senate.

Amendment No. 202: Appropriates $2,550,000,000 for the State Revolving Funds/Construction Grants account, instead of $2,400,000,000 as proposed by the House and $2,650,000,000 as proposed by the Senate.

Amendment No. 203: Provides $1,927,500,000 for title VI of the Federal Water Pollution Control Act, instead of $1,834,000,000 as proposed by the House and $2,563,500,000 as proposed by the Senate.

Amendment No. 204: Deletes language proposed by the House and stricken by the Senate reserving five percent of title VI funds until October 1, 1993. EPA is an entity of the government and therefore can be subjected to rescissions. It has been stated that the inability of EPA to make a commitment regarding state revolving fund allocations could potentially disrupt the bond market. Because the Congress cannot guarantee that such funds will not be subject to rescissions this fiscal year or in future years, this risk should be understood by all grant recipients of state revolving funds' monies.

Amendment No. 205: Provides $50,000,000 for the section 319 non-point source grant program, instead of $63,500,000 as proposed by the House and none as proposed by the Senate.

The conferees agree that none of the funds provided for non-point source grants shall be used for administrative expenses or for any other set-asides.

Amendment No. 206: Restores language proposed by the House and stricken by the Senate providing $32,500,000 for section 510 of the Water Quality Act of 1987 for an international sewage treatment facility in Tijuana, Mexico.

Amendment No. 207: Restores language proposed by the House and stricken by the Senate limiting the total amount EPA may provide for section 510 to $239,400,000.

Amendment No. 208: Restores language proposed by the House and stricken by the Senate providing $305,500,000 for making grants under title II of the Federal Water Pollution Control Act, and also restores language proposed by the House and stricken by the Senate providing $100,000,000 for a construction grant to Boston, Massachusetts.

The conferees intend for the Administration to award these funds directly to the cities as 55 percent matching grants under title II.

Amendment No. 209: Restores language proposed by the House and stricken by the Senate providing $70,000,000 for a construction grant to New York, New York.

Amendment No. 210: Restores language proposed by the House and stricken by the Senate providing $55,000,000 for a construction grant to Los Angeles, California.

Amendment No. 211: Restores language proposed by the House and stricken by the Senate providing $45,000,000 for a construction grant to San Diego, California.

Amendment No. 212: Restores "and" stricken by the Senate.

Amendment No. 213: Restores language proposed by the House and stricken by the Senate providing $35,000,000 for a construction grant to Seattle, Washington.

Amendment No. 214: Restores language proposed by the House and stricken by the Senate providing $82,000,000 for the Rouge River National Wet Weather Demonstration Project in Wayne County, Michigan.

Amendment No. 215: Restores language proposed by the House and stricken by the Senate providing $40,000,000 for making grants under title II of the Federal Water Pollution Control Act for the purpose of constructing advanced sewage treatment facilities to serve Baltimore, Maryland.

Amendment No. 216: Restores language proposed by the House and stricken by the Senate providing $19,000,000 for a grant to the Ocean County Utilities Authority, in the State of New Jersey, for necessary modifications and replacements to the Carver-Greenfield sewage treatment plant.

Amendment No. 217: Restores language proposed by the House and stricken by the Senate providing $7,000,000 for a grant for necessary work to remove and reroute the existing sewer lines at the Centennial Olympic site in the City of Atlanta, Georgia.

Amendment No. 218: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $50,000,000 for a grant to the State of Texas for the purpose of improving wastewater treatment in colonias in that State, including $2,000,000 for planning and design.

Amendment No. 219: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $10,000,000 for a grant to the State of New Mexico for the purpose of improving wastewater treatment in colonias in the State.

Amendment No. 220: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $10,000,000 for a grant to the State of Arizona for an interceptor/collection system in the City of Avondale, Arizona.

Amendment No. 221: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making a technical correction to the language by including the words "the limitations contained in".

Amendment No. 222: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing up to one-half of one percent to be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

Amendment No. 223: Deletes language proposed by the Senate permitting States to utilize funds provided under title VI of the Federal Water Pollution Control Act to make loans to the International Boundary and Water Commission.

Amendment No. 224: Deletes language proposed by the House and stricken by the Senate permitting the State of Texas to utilize up to $50,000,000 of its title VI funds for wastewater treatment in colonias.

Amendment No. 225: Deletes language proposed by the House and stricken by the Senate permitting the State of California to utilize up to $10,000,000 of its title VI funds for wastewater treatment in colonias.

Amendment No. 226: Deletes language proposed by the House and stricken by the Senate permitting the State of Arizona to utilize up to $5,000,000 of its title VI funds for wastewater treatment facilities in colonias.

Amendment No. 227: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken, amended to read as follows:

*Notwithstanding any other provision of the Federal Water Pollution Control Act, as amended, or this Act, $80,000,000 of fiscal year 1992 and 1993 funds for San Diego allocation for coastal cities shall be available only for the construction of the San Diego wastewater treatment facilities included in the consent decree lodged in the United States and California v. City of San Diego, Civil Action #88–1101(S.D. Cal.). The extension of the Point Loma outfall for which a certified EIR has been reviewed by EPA, and for which construction has begun, shall be eligible for funding. The Federal share for construction of these projects will be 55 per centum. Nothing in this provision shall be interpreted or is intended to modify commitments made by the City of San Diego in the above referenced consent decree. Nothwithstanding any provision of the Federal Water Pollution Control Act, the City of San Diego shall be entitled to retain all funds received under EPA construction grant C–06–03014–110.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 228: Restores language proposed by the House and stricken by the Senate concerning pretreatment standards of the Gulf Coast Waste Disposal Authority.

Amendment No. 229: Restores language proposed by the House and stricken by the Senate providing for the conditions of pretreatment standards of the Gulf Coast Waste Disposal Authority.

Amendment No. 230: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Notwithstanding any other provision of law, the Administrator shall make a grant of up to $2,500,000 under title II of the Federal Water Pollution Control Act, as amended, from funds deobligated by and available to the State of Florida under section 205 of the Act to Dixie County, Florida, for a publicly-owned treatment works for the community of Suwannee, Florida: Provided further, That the geographic scope of the advanced water treatment project specified and supported from funds appropriated under this heading may be modified as deemed necessary and appropriate after advanced notification to the Appropriations Committees.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 231: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for an eight percent set-aside requirement for all prime and subcontracts awarded in certain EPA programs.

Amendment No. 232: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 56 workyears for the Immediate Office of the Administrator; (2) 45 workyears for the Office of Congressional and Legislative Affairs; (3) 78 workyears for the Office of Communications, Education, and Public Affairs; (4) 192 workyears for the Office of General Counsel; and (5) 1,477 workyears for the Office of Administration and Resources Management, of which 120 workyears shall be for contract management activities.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees wish to impress upon the agency that the caps provided are only ceilings to which EPA must adhere. This in no way means that this level must be reached.

The conferees continue to be concerned with the many management problems at EPA. However, the conferees expect that some of the planned reforms will be effective in remedying these deficiencies. Therefore, the conferees believe that 120 workyears for contract management activities is warranted, provided that sufficient resources exist to achieve this level. It is the conferees' intent that these workyears are for contract management activities only and not to augment the Office of Administration and Resources Management. However, it is understood that these resources will be a part of this office. The conferees expect that a large proportion of these workyears will be devoted to the regions for contract management. The committee of conference directs EPA to provide a plan concurrent with the operating plan on the allocation of these 120 workyears.

Amendment No. 233: Reported in disagreement.

Amendment No. 234: Deletes language inserted by the Senate concerning lead abatement training and certification.

Amendment No. 235: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate directing that the library facility on the Marine Science Center at Oregon State University be donated to the University through the EPA.

Amendment No. 236: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate concerning certain reporting requirements mandated by the Pollution Prevention Act.

Amendment No. 237: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the comment period for revisions to certain hazardous waste rules and providing for a study of metals recovery.

The conference agreement includes language proposed by the Senate which changes and extends a deadline on EPA to revise its "mixtures" and "derived-from" hazardous waste rules to October 1, 1994, while prohibiting the promulgation or implementation of such revisions prior to October 1, 1993. This new deadline is enforceable as a failure to perform a non-discretionary duty under the Solid Waste Disposal Act.

The conferees do not intend to express any opinion on the agency's "mixture" and "derived-from" rules which are currently under legal challenge. The delay permitted by this provision is simply to allow the agency additional time to consider the views of all interested parties on these significant aspects of the hazardous waste program.

Amendment No. 238: Deletes language inserted by the Senate authorizing the Administrator of EPA to assess pesticide registration fees.

Amendment No. 239: Deletes language inserted by the Senate concerning reformulated gasoline.

Amendment No. 240: Deletes language inserted by the Senate providing that a competitive process be carried out by EPA in funding research centers that are operated by non-federal entities.

Amendment No. 241: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows :

In lieu of the matter proposed by said amendment, insert the following:

*SOLID WASTE DISPOSAL ACT*

*No funds appropriated to the Environmental Protection Agency for fiscal year 1993 may be expended for the promulgation, implementation, or enforcement of any regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) concerning process wastewater from phosphoric acid production and phosphogypsum from phosphoric acid production. The preceding sentence shall not apply to the regulation of those wastes under section 3007, 3013, and 7003 of that Act (42 U.S.C. 6927, 6934, and 6973, respectively).*

*EXXON VALDEZ SETTLEMENT FUND*

*Such sums provided for the Environmental Protection Agency under the Exxon Valdez settlement shall be credited during fiscal year 1993 and thereafter to the Exxon Valdez Settlement Fund established by this heading and shall remain available until expended for environmental restoration activities by the Environmental Protection Agency to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Water Pollution Control Act, as amended by the Oil Pollution Control Act of 1990, and other appropriate authorities of the Administrator.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included language allowing the EPA to receive funds from the Exxon Valdez settlement. EPA was involved in environmental restoration activities as a result of the Exxon Valdez oil spill. It is anticipated that approximately $4,000,000 will be credited to this account.

### EXECUTIVE OFFICE OF THE PRESIDENT

### COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Amendment No. 242: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert the following: *: Provided, That the Council on Environmental Quality and Office of Environmental Quality shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that agencies must be reimbursed not less than one-half of the cost of the personnel compensation and benefits of individuals detailed to the Council, instead of three-fourths as proposed by the Senate and none as proposed by the House.

### NATIONAL SPACE COUNCIL

Amendment No. 243: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*NATIONAL SPACE COUNCIL*

*SALARIES AND EXPENSES*

*For necessary expenses of the National Space Council, including services as authorized by 5*

*U.S.C. 3109; $1,591,000, of which not to exceed $1,000 may be for official reception and representation expenses: Provided, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to modify the language proposed by the Senate changing the percentage of nonreimbursable detailees permitted from 25 percent to 50 percent of the total personnel compensation provided under this paragraph.

### OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Amendment No. 244: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$6,225,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

−$221,000 to be taken as a general reduction.

+$2,000,000 for activities associated with the Consortium for International Earth Science Information Network (CIESIN).

Amendment No. 245: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: Provided further, That the Office of Science and Technology Policy may award grants and enter into cooperative agreements with qualified recipients to further science, technology development, education, and other purposes*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to modify the language proposed by the Senate concerning the number of nonreimbursable detailees permitted and have extended to the Office of Science and Technology Policy the authority to make grants and contract awards.

### FEDERAL EMERGENCY MANAGEMENT AGENCY

### DISASTER RELIEF

Amendment No. 246: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*Chapter X of title XI of the Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet the Present Emergencies Arising from the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities (H.R. 5620) is amended by (1) striking the matter under the heading "Disaster relief" and insert in lieu thereof: "For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the 'Disaster Assistance Direct Loan Program' account for administrative expenses and subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended." and (2) striking the matter under the heading "Disaster assistance direct loan program account" and insert in lieu thereof: "The limitation on direct loans for the 'Disaster assistance direct loan program account' is increased, within existing funds, by $230,000,000 to not to exceed $258,000,000: Provided, That not to exceed $58,000,000 is available for direct loan obligations provided to eligible applicants or to States under section 319 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: Provided further, That not to exceed $200,000,000 is available for community disaster loans to local governments under section 417 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: Provided further, That any unused portion of the direct loan limitation shall be available until September 30, 1993: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are concerned about the 36 month delay in reimbursement for the costs of Watsonville Community Hospital in Santa Cruz, California. This acute care hospital was severely damaged by the 1989 Loma Prieta earthquake and now operates in an unstable condition. Any further delay in a resolution of this case may place the health of the entire county residents at great risk. In light of the attention and resources FEMA must now direct toward the disasters resulting from the recent hurricanes, it is imperative that Watsonville Community Hospital's case be finalized. Therefore, the conferees urge FEMA to resolve this case expeditiously by reporting on Watsonville Community Hospital land acquisition and development costs essential for the relocation of the hospital by October 1, 1992.

This amendment makes technical corrections to the fiscal year 1992 supplemental appropriation for disaster relief.

Amendment No. 247: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*$160,409,000: Provided further, That up to $1,000,000 of the funds appropriated under this heading may be transferred to and merged with sums appropriated for "Office of Inspector General".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates $160,409,000 for the Salaries and Expenses of the Federal Emergency Management Agency, instead of $156,409,000 as proposed by the House and $160,277,000 as proposed by the Senate.

The committee of conference is in agreement on the following changes to the budget request:

+$500,000 for the disaster assistance program. The Agency may at its discretion allocate some of these resources to the implementation of the MRE program, subject to normal reprogramming requirements.

−$890,000 from management and administration, to be taken as follows:

−$140,000 from Office of the Director,

−$200,000 from the Office of the General Counsel,

−$350,000 from the Office of the Executive Director, and

−$200,000 from financial management.

+$180,000 for the Dam Safety program.

−$4,724,000 as a general reduction.

+$120,000 for the implementation of the underground storage tank program.

−$6,120,000 from Federal preparedness.

Finally, language has been included in the salaries and expenses account providing a permissive transfer of $1,000,000 to the office of inspector general.

Amendment No. 248: Appropriates $3,000,000 for the office of inspector general as proposed by the Senate, instead of $2,974,000 as proposed by the House.

The conferees expect that the amount provided will require the office of inspector general to be scaled back. Any staff reductions are to be achieved by balancing losses among headquarters and field locations. In no case should a reduction be over 50 percent of a staff or so severe as to cause the closing of a field location.

Amendment No. 249: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$253,243,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Provides $253,243,000 for emergency management planning and assistance, instead of $255,543,000 as proposed by the House and $257,743,000 as proposed by the Senate.

The conferees are in agreement on the following changes to the request:

+$4,000,000 for SARA, title III activities.

+$432,000 for the dam safety program.

+$150,000 for the Vermont Fire Service Training Council.

−$6,232,000 as a general reduction from contracts.

+$1,750,000 for the Earthquake Emergency Center, in Reno, NV.

+$300,000 for upgrades to Weston Observatory in Massachusetts.

+$700,000 for an Earthquake Hazard Mitigation Program for the City of Portland and Oregon Department of Geology and Minerals Industries.

+$5,000,000 for site administration costs at the Emmittsburg, MD facility. This is to be taken from the defense allocation for FEMA.

+$250,000 for an emergency operating center in Jones County, MS.

+$6,500,000 for emergency management assistance grants.

+$8,500,000 for cleanup of underground storage tanks.

+$4,375,000 for acquisition of direction control and warning facilities.

+$500,000 for the Urban Search and Rescue program.

+$71,000 for warning sirens in Northwest Ohio, particularly in the counties of Lucas, Wood and Fulton.

−$32,496,000 from Federal preparedness.

+$400,000 for a National Academy of Public Administration review of Federal disaster response policy.

The conferees have been concerned with the effectiveness of the Federal government's response to major natural disasters. Therefore, the conferees are instructing the Director of the Federal Emergency Management Agency to enter into a contract no later than October 31, 1992, with the National Academy of Public Administration for a comprehensive and objective study of the Federal, state, and local governments' capacities to respond promptly and effectively to major natural disasters occurring in the United States.

The contract shall provide for the Academy, in conducting this study, to address the following: (1) Federal executive branch coordination and contingency planning, including leadership exercised by the Executive Office of the President, (2) state and local government organizational capability and coordination with the Federal government, (3) the Federal Emergency Management Agency's role, mission, planning, resources and leadership capability, (4) congressional legislative and oversight practices involving disaster assistance and their impact on the government's response capability, (5) governmental coordination with private relief agencies and business and citizen initiatives to provide assistance, and (6) the effectiveness of governmental responses to major disasters prior to establishment of the Federal Emergency Management Agency and lessons applicable to future disasters.

The Academy report on this study shall be completed in final form no later than February 28, 1993, and such report shall be transmitted upon receipt and without revision by the Director to the Committees on Appropriations of the House of Representatives and the Senate. The Academy shall, from time to time, provide oral progress reports on the study to the Director and the Committees on Appropriations.

The conferees note that the General Accounting Office has been tasked with a similar review. This study is meant to complement, but not duplicate, GAO's efforts.

The conferees are aware of the highly technical disaster claim made by the City of Greenville, Texas, and is concerned that FEMA has denied the city's request for a Step 3 outside third party review of their appeal as provided for in regulations [206.206(e)(3)&(4)]. The conferees believe an independent scientific and technical review by an unbiased third party is warranted and urges FEMA to grant this review and to obtain the third party services in consultation with the City of Greenville.

Amendment No. 250: Appropriates $129,000,000 for the emergency food and shelter program, instead of $109,000,000 as proposed by the House and $134,000,000 as proposed by the Senate.

Amendment No. 251: Restores language proposed by the House and stricken by the Senate allowing the Federal Emergency Management Agency to store and stockpile Meals, Ready-to-Eat (MREs).

Amendment No. 252: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate including the language "by the end of" as proposed by the Senate, instead of "during" as proposed by the House. This provision will allow the Federal Emergency Management Agency to reduce the number of political appointee positions by the end of fiscal year 1993.

Amendment No. 253: Provides 22 "other than career appointee" positions instead of 20 as proposed by the House and 27 as proposed by the Senate.

Amendment No. 254: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*(1) six workyears for the Office of the Director, (2) 22 workyears for the Office of General Counsel,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 255: Deletes language proposed by the Senate providing for a certain number of workyears for the Office of Director and the General Counsel. This language is included in the preceding amendment.

Amendment No. 256: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing all non-supervisory FEMA employees to participate in collective bargaining activities.

Amendment No. 257: Deletes language proposed by the Senate prohibiting FEMA from making any changes to the budget justification.

Amendment No. 258: Deletes language proposed by the Senate limiting any changes to the budget justification to those allowed per the Joint Explanatory Statement of the Committee on Conference for H.R. 5679.

Amendment No. 259: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Hazardous Materials Branch of the Office of Technological Hazards, and all funds and staff years provided to it by this Act, shall be transferred from the State and Local Programs and Support Directorate to the United States Fire Administration within 90 days of the enactment of this Act.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included bill language transferring the activities and functions of the Hazardous Materials Branch of the Office of Technological Hazards from the State and Local Programs and Support Directorate to the United States Fire Administration. This transfer includes 22 FTEE and $1,200,000 in salaries and expenses, and $585,000 in emergency management planning and assistance funds, in addition to the $4,000,000 added by the conferees. This action is in recognition of the fact that fire fighters are the first responders to hazardous materials accidents.

The conferees note that the Department of Transportation and the National Institute of Environmental Health Sciences, as well as FEMA, currently have responsibility for hazardous materials training programs. USFA is to ensure that FEMA's program is coordinated with those in other agencies, to avoid duplication and to ensure an effective allocation of resources. USFA is also directed to coordinate with the other components of FEMA with regard to all aspects of the hazardous materials program. In addition, the U.S. Fire Administration is to ensure proper coordination of the hazardous materials training program with the emergency management community.

While the conferees have not transferred responsibility for the urban search and rescue program to the U.S. Fire Administration, the conferees recognize that the only capability for immediate rescue operations and disaster mitigation resides with local fire and rescue services. The conferees direct FEMA in its reorganization proposal to consider transferring this program to USFA.

Prior to the implementation of this transfer, the conferees direct the agency to provide its plans to allocate staff and other resources between headquarters and its Emmittsburg facility to the Committees on Appropriations.

Amendment No. 260: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*The Director of the Federal Emergency Management Agency shall undertake a review of the agency's organizational structure and, within 180 days of enactment of this Act, submit to the appropriate committees of the Congress a reorganization plan which reflects changing mission requirements and priorities. The review shall include an assessment of the National Preparedness Directorate and examine potential alternatives to meet that directorate's principal objectives while increasing overall agency efficiency.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included bill language requiring the Director of the Federal Emergency Management Agency to undertake a review of the agency's organizational structure, and to propose a plan to reorganize, within 180 days of enactment of this Act. The conferees believe that in light of changing world conditions, many activities within the National Preparedness Directorate may no longer be necessary, or may duplicate activities within the State and Local Programs and Support Directorate. While the conferees believe a separate National Preparedness Directorate may no longer be necessary, the conferees wish to ensure that the expertise of employees within the National Preparedness Directorate is incorporated into a new structure. In reorganizing the agency, the conferees are concerned that the State and Local Programs and Support Directorate not become a "super directorate"; the new organizational structure should be balanced and effective. Finally, the conferees note that the General Accounting Office is currently undertaking a review of federal disaster response policy, and the National Academy of Public Administration is being tasked to review the agency as well. Findings and recommendations from these two entities should be incorporated into the report.

Amendment No. 261: Deletes language proposed by the Senate providing that no funds may be used to support the activities of the Office of the Deputy Director.

### INTERAGENCY COUNCIL ON THE HOMELESS

Amendment No. 262: Restores matter proposed by the House and stricken by the Senate appropriating $1,300,000 for salaries and expenses, amended to appropriate $900,000.

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### RESEARCH AND DEVELOPMENT

Amendment No. 263: Inserts center head as proposed by the Senate.

Amendment No. 264: Appropriates $7,089,300,000 for research and development, instead of $6,670,650,000 as proposed by the House, and $7,117,100,000 as proposed by the

Senate. The conference agreement reflects the following changes from the budget request:

−$150,000,000 from space station including:

−$103,000,000 from space station development activities;

−$35,000,000 from space station operations; and

−$12,000,000 from studies for the assured crew rescue vehicle.

The conferees have agreed to provide a program level of $2,100,000,000 for space station in fiscal year 1993. In allocating these funds, NASA is directed to maintain all of its commitments to the current program consistent with House Report 101-900 and its letter to the Committees on Appropriations of March 20, 1991, and April 15, 1991, outlining the content of the restructured space station program. The conferees have agreed to include bill language proposed by the Senate to ensure that the current assembly sequence remains in place.

The conferees continue to be concerned that a disproportionate share of space station funding is devoted to "overhead" costs—which currently constitute more than 50 percent of station resources. Therefore, the conferees direct that NASA should consider alternative management approaches that will reduce these costs. In that connection, the conferees strongly urge that the agency examine the possibility of collapsing the existing contractual arrangement into a single prime contractor with a single lead center in order to strengthen program execution and accountability. The timing of such action, of course, should be undertaken so as to minimize technical risk and program disruption.

−$10,000,000 from spacelab development and operations.

−$10,000,000 from engineering and technical base.

−$25,000,000 from payload operations.

−$25,000,000 from advanced programs including not more than $5,000,000 for studies on the National Launch System.

−$115,000,000 from the National Launch System (NLS). The remaining $10,000,000 should be primarily allocated for continued work on new engine development.

−$17,000,000 from research operations support.

−$7,500,000 from the Advanced X-ray Astrophysics Facility (AXAF).

−$5,000,000 from spacelab payload development and mission management.

+$27,000,000 for continued development of the gravity probe-B mission.

−$20,000,000 from physics and astronomy mission operations and data analysis, to be taken as a general reduction subject to the normal reprogramming guidelines. The conferees agree that funding for the Hubble space telescope should be maintained at the budget request.

−$11,000,000 from physics and astronomy research and analysis.

−$13,500,000 from the Search for Extraterrestrial Intelligence.

−$4,000,000 from life science research and analysis. The conferees agree that $1,000,000 is included under this activity for the Center for Life Support.

−$10,000,0000 from the centrifuge.

+$10,000,000 for space biological sciences to implement the NASA—NIH biomedical protocol in microgravity sciences.

−$7,000,000 from human space flight and systems engineering.

−$20,000,000 from life sciences, to be taken as a general reduction subject to the normal reprogramming guidelines.

−$9,000,000 from planetary exploration mission operations and data analysis.

−$6,500,000 from planetary exploration research and analysis. The conferees agree that within the funds provided for this activity $12,000,000 shall be made available for ground based radio astronomy in connection with the Toward Other Planetary Systems Survey (TOPS); $30,400,000 for advanced programs including an increase of $5,000,000 above the budget request for the Discovery series of which $2,500,000 shall be allocated for the Near-Earth Asteroid Rendezvous project and $2,500,000 for the Mars Environmental Survey mission.

+$20,000,000 for the Consortium for International Earth Science Information Network (CIESIN).

−$15,000,000 from earth science mission operations and data analysis, to be taken as a general reduction subject to the normal reprogramming guidelines.

−$15,000,000 from Landsat. This reduction is made without prejudice and the conferees will consider an enhancement of this activity at the time the operating plan is submitted and following an opportunity to review the proposed follow-on program for Landsat, including its fiscal viability and integration with the Mission to Planet Earth project.

The conferees have agreed to include within the $174,200,000 requested for earth science research and analysis, $500,000 for the Georgia Research Alliance; $400,000 for the University of Nebraska—Lincoln; $200,000 for the MID-Net Center in Lincoln, Nebraska; and $6,000,000 for independent validation and verification activities.

−$3,100,000 from the airborne program.

−$25,000,000 from materials processing.

−$5,000,000 from information systems.

−$10,000,000 from space science and applications research operations support.

−$9,000,000 for commercial programs. The conferees agree that within the funds provided, $4,400,000 shall be made available for the National Technology Transfer Center; $2,100,000 for AdaNet; $22,000,000 for the Comet mission; not less than $48,000,000 for spacelab (CMAM); and $7,000,000 for Advanced Communication Technology Satellite (ACTS) experiments.

−$5,000,000 from high performance computing.

+$1,300,000 for civilian tilt rotor technology.

+$25,000,000 for the high speed civil transport program.

The conferees agree that included within the funds provided for aeronautical research and technology, $1,700,000 is made available for completion of work on the stratified charge rotary engine critical technology enablement program.

−$65,000,000 from space research and technology, to be taken as a general reduction subject to the normal reprogramming guidelines.

−$31,800,000 (the budget request) from space exploration.

−$80,000,000 (the budget request) from trans-atmospheric research and technology (NASP).

+$6,000,000 for academic programs. The conferees agree that within the funds provided for academic programs, $400,000 shall be made available to the Nebraska Department of Education to expand the NASA Teacher Resource Center at the University of Nebraska at Lincoln; $2,800,000 for the Classroom of the Future; $4,500,000 for the Oregon system of higher education for computer network infrastructure for advanced technology research and education projects; $500,000 for distance learning activities at the Marine Science Center at Oregon State University; $10,000,000 for the University of Utah Intermountain Network and Scientific Computation Center; and $4,000,000 for expansion of the capacity for informal science education activities at the Cosmosphere at Hutchinson, Kansas.

−$2,000,000 from safety, reliability, and quality assurance and academic programs, to be taken at NASA's discretion. The conferees note that in 1991 NASA conducted flights for ozone depletion research form northern Maine. The conferees direct NASA also to prepare a feasibility study for a permanent base of operations and research activity in Limestone, Maine. This study should include the same or similar elements as those suggested by the conferees under the Environmental Protection Agency and shall be completed and reported to the Committees on Appropriations by March 31, 1993.

Amendment No. 265: Strikes language proposed by he House limiting funding for the award of any contract for a high speed processor for the numerical aerodynamic simulator.

Amendment No. 266: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate restating the existing agreed to content and assembly sequence of the restructured space station program.

Amendment No. 267: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $391,000,000 in fiscal year 1993 for the development of the Earth Observing System.

Amendment No. 268: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate establishing the total program costs for Mission to Planet Earth at not less than $8,000,000,000 through fiscal year 2000.

Amendment No. 269: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding $14,300,000 from the Climsat Mission.

Amendment No. 270: Appropriates $5,086,000,000 for space flight, control, and data communications as proposed by the Senate, instead of $4,961,500,000 as proposed by the House.

The conference agreement reflects the following changes from the budget request:

+$195,000,000 for the advanced solid rocket motor (ASRM) program. Taken together with $165,000,000 provided under the construction of facilities account, a total program level of $360,000,000 is available for ASRM. The Committee of Conference has agreed to rebaseline the ASRM program for space station assembly flight six to assembly flight 12. This change will provide for a first launch of the ASRM in December of 1998. The conferees further agree that sufficient fiscal year 1994 funding will be proposed by NASA to maintain the December 1998 first launch of ASRM and understand that the agency is prepared to amend the fiscal year 1994 budget request to include such an appropriate funding level. The conferees expect that action will be taken as soon as possible. The conferees believe that this approach will place the ASRM program on an attainable schedule with the assurance of adequate funding, and will provide for an enhanced shuttle and/or shuttle C payload capacity necessary to support space station assembly and resupply operations well into the next century.

In recommending the continuation of the ASRM program, the conferees recognize the continuing and increasing difficulties confronting the agency and its role in the Nation's space program. Unprecedented constraints have already been imposed on future year budgetary resource allocations, and such constraints are only expected to grow more severe. The conferees are very disturbed that even conservative projections of funding needs of previously authorized and initiated missions substantially exceed any reasonable expectation of available budgetary levels.

The conferees therefore direct the agency to examine all programmatic requirements both with respect to development and deployment/assembly scheduling of the Space Station Freedom program, and with other National space requirements. This study should be conducted in close coordination with the Department of Defense, and with other participating agencies of the National Space Council. The review should also thoroughly assess national space launch requirements, potential alternatives and strategies to address such needs, and make recommendations on improvements in the utilization of limited budgetary resources after revalidating both civilian and defense requirements. The report should be submitted to the appropriate committees of the Congress by March 31, 1993, to permit formulation of multi-year program plans.

−$60,000,000 from shuttle production, to be taken at the agency's discretion subject to the normal reprogramming guidelines.

−$10,000,000 from structural spares.

−$155,000,000 from shuttle operations, to be taken at the agency's discretion subject to the normal reprogramming guidelines.

−$20,000,000 from space flight, control and data communications research operations support.

−$40,500,000 from expendable launch vehicles, to be taken at the agency's discretion subject to the normal reprogramming guidelines.

−$25,000,000 from the Office of Space Communications, to be taken at NASA's discretion subject to the normal reprogramming guidelines.

−$65,000,000 of the $74,500,000 requested for a new start for the Tracking and Data Relay Satellite II.

The conferees agree that within the funds provided for the Office of Space Communications, $15,000,000 shall be made available to upgrade the existing network control center.

Finally, the obligation of $20,000,000 included for the second tracking and data relay satellite system ground terminal shall be delayed pending review of a NASA study concerning significant cost growth and faulty contractor workmanship and/or management issues in connection with this project.

Amendment No. 271: Appropriates $525,000,000 for construction of facilities as proposed by the House, instead of $319,200,000 as proposed by the Senate. The conference agreement reflects the following changes from the budget request:

+$165,000,000 for construction, equipment, and other requirements for the advanced solid rocket motor program.

+$42,000,000 for the CIESIN facility.

+$8,000,000 for constructing, equipping, and furnishing the Delta College science learning center and planetarium.

+25,000,000 for aeronautics facilities consistent with the expanded high speed civil transport initiative.

−$34,200,000 to be taken as a general reduction subject to the normal reprogramming guidelines.

Amendment No. 272: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the use of moneys for the lease and amortized payment of contractor-funded facilities.

Amendment No. 273: Appropriates $1,615,014,000 for research and program management, instead of $1,600,027,000 as proposed by the House and $1,630,000 as proposed by the Senate. The conference agreement reflects the following changes from the budget request.

−$26,000,000 and 500 full-time equivalent employment for contract conversions.

−$2,000,000 from travel.

−$17,013,000 to be taken as a general reduction subject to the normal reprogramming guidelines.

Amendment No. 274: Appropriates $15,062,000 for the office of Inspector General, instead of $14,925,000 as proposed by the House and $15,200,000 as proposed by the Senate.

Amendment No. 275: Deletes language inserted by the House establishing user fees for NASA exercise facilities.

Amendment No. 276: Deletes language proposed by the Senate authorizing the agency to test a new procurement procedure for the valuation of prices offered in competitive proposals.

Amendment No. 277: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*The Mission Simulator and Training Facility, Building Number 5, of the National Aeronautics and Space Administration, located at the Johnson Space Center in Houston, Texas, is hereafter named and designated the "Jake Garn Mission Simulator and Training Facility". Any reference in a law, rule, map, regulation, document, record, or other paper of the United States to such facility shall be held to be a reference to the "Jake Garn Mission Simulator and Training Facility".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

### NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Amendment No. 278: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $500,000 for salaries and expenses of the Commission.

### NATIONAL SCIENCE FOUNDATION

Amendment No. 279: Appropriates $1,859,000,000 for research and related activities as proposed by the Senate, instead of $1,879,000,000 as proposed by the House.

The conferees agree with the following adjustments from the request by the Administration:

−$11,000,000 for major research equipment for mathematical and physical sciences. Within this program element, the conferees are providing $38,000,000 for construction of the laser interferometer gravitational wave observatory (LIGO); $17,000,000 for the Gemini 8-meter telescopes; and $13,000,000 for the national high magnetic field laboratory. The conferees also agree to provide $5,000,000 within the physics subactivity for research and development of the LIGO project.

The conferees again want to reiterate the understanding that the United States will provide no more than one half ($88,000,000) of the total required for funding of the 8 meter telescope project. The conferees believe that the international commitment for its full 50 percent contribution (in cash) should be in place by October 1, 1992.

−$1,250,000 from funds for the Arctic research vessel. This provides $1,500,000 for engineering design and initial construction of the vessel. The conferees agree that in view of on-going budget constraints, leasing an Arctic research vessel may be the preferable approach. Thus, the conferees urge the NSF to lease an American-built ship for research purposes in the Arctic.

−$2,750,000 from the jet research aircraft at the National Center for Atmospheric Research (NCAR). This project has been delayed, without prejudice, owing to the significant out-year requirements necessary to sustain it.

−$337,500,000 to be taken as a general reduction at the agency's discretion subject to the normal reprogramming guidelines.

The conferees agree that within the amount made available, $5,000,000 is set aside for increased support of the Foundation's manufacturing initiative to establish an industry-led institute that would bring together cross-disciplinary research teams from industry and universities to address fundamental issues critical to the development and implementation of agile manufacturing techniques and infrastructure. The conferees direct that the NSF give preference in making this award to an existing institute that is bringing together the elements emphasized above. In addition, the recipient should provide a non-Federal match equal to that made by the Foundation and be required to outline a plan for self sufficiency independent of NSF funds, within no more than five years from the time of the award.

The conferees have also included $2,000,000 within the amount provided for a super computer/advanced telecommunications test bed operated by a non-profit, non-academic entity with experience interfacing between researchers and technology users.

The conferencees have reluctantly agreed to suspend the funding floors in the Senate report on manufacturing, high performance computing, and interdisciplinary research on the environment until after submission of the Foundation's fiscal year 1993 operating plan.

The conferees commend the National Science Board and the Director of NSF for establishing a commission on the Foundation's future. The conferees believe that this review is both timely and necessary if NSF is to remain a strong and viable force in our nation's research enterprise in the post-Cold War period. This point is confirmed by a recent Science Board report, "The Competitive Strength of U.S. Industrial Science and Technology: Strategic Issues", that found that: the U.S. spends too few dollars on research and development in industrial science and technology; does not allocate research and development expenditures well; and does not utilize its investment effectively. This sober assessment of the state of U.S. research, and the concerns it raises about the United States' economic strength, confirms the sentiments outlined in the Senate report. If the NSF is to help transform this condition, it seems apparent that it must in fact change the fundamental emphasis it places on various research initiatives.

The conferees believe that the recently-formed Commission may offer some chance for this transformation to begin—but only if the changes proposed are serious, substantive, and broad-based in the Foundation's approach to research and development. The conferees agree with the recommendations of the Science Board report that proposes a reallocation of expenditures to strengthen certain priority areas: process research and development; engineering research; emerging and pre-competitive technologies; and fundamental research with ties to future industrial interests. The conferees hope, at a minimum, that specific reflection upon, and recommendations by, the Commission on these areas are included in its final report.

For these reasons, the conferees have temporarily set aside the three directives in the Senate report referred to earlier. They believe that the Commission should have the chance to proceed and complete its work by the end of November as is now planned before potentially reinstating these directives. Should their concerns not be addressed, the Committee reserve the right to revisit these issues in the operating plan.

As a result, the Foundation should submit its operating plan to the Committees on Appropriations by no later than December 15, 1992, with a detailed assessment of how it proposes to implement the Commission's recommendations through its allocation of resources, and how these actions address the issues raised in Senate Report 102-356. In addition, the Foundation should revise its strategic plan accordingly, emphasizing more this change in direction than simply the wish for obtaining additional federal appropriations.

Finally, with regard to high energy physics facilities, the conferees note that there are proposals for B-Factories from Cornell University and Stanford University. Careful and objective examination of the technical merits and costs of both proposals are essential elements of a prudent decision between the two.

Amendment No. 280: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate prohibiting the transfer of any funds between NSF appropriation accounts.

Amendment No. 281: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring the Foundation to make proportionate cuts in NSF programs when the amount appropriated is less than the amount authorized.

Amendment No. 282: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate restricting the construction of an Arctic research vessel to a shipyard located in the United States and requiring that such ship shall be of United States registry.

Amendment No. 283: Appropriates $50,000,000 for academic research facilities and instrumentation as proposed by the Senate, instead of $33,000,000 as proposed by the House. The conferees agree that of the funds provided $37,500,000 shall be allocated for facilities and $12,500,000 shall be allocated for instrumentation.

Amendment No. 284: Appropriates $158,000,000 for United States Antarctic research activities, instead of $163,000,000 as proposed by the House and $143,000,000 as proposed by the Senate. The conferees direct that none of the reduction shall be applied to the United States Antarctic Research Program.

Amendment No. 285: Restores $63,360,000 for United States Antarctic logistical support activities as proposed by the House.

The conferees are in agreement that of the total provided $14,000,000 has been included for activities involving the health, safety, and environment of Antarctic programmatic requirements requested in fiscal year 1993 under the Department of the Navy's budget. In addition, the conferees have included $49,360,000 for the purchase of one LC130 ski-equipped airplane. The conferees expect that this airplane will be owned by the Navy or the Department of Defense and used for naval requirements in Greenland and other polar areas and for NSF Antarctic requirements during the five months of the Antarctic summer.

Amendment No. 286: Appropriates $487,500,000 for education and human resources activities, instead of $465,000,000 as proposed by the House and $510,000,000 as proposed by the Senate. The conferees agree that included within the funds provided are the following changes to the budget request:

+$5,000,000 for a new urban systemic initiative limited to not more than three cities.

+$5,000,000 for the experimental program to stimulate competitive research (EPSCOR). This will provide a total of $24,500,000 for the EPSCOR activity in 1993. However, the conferees are in agreement with the concerns expressed in the Senate report and direct the Foundation to withhold $5,000,000 in funds for this activity until the NSF produces a plan to integrate all EPSCOR programs at other government agencies into a single unified effort to maximize investment in this program.

−$2,000,000 as a general reduction.

Finally, the conferees agree that within the funds provided the Foundation shall continue the graduate traineeship program at the fiscal year 1992 level of $23,000,000.

Amendment No. 287: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring the Foundation to make proportionate cuts in NSF programs when the amount appropriated is less than the amount authorized.

Amendment No. 288: Deletes funding proposed by the Senate to initiate a new defense engineering trainee program.

Amendment No. 289: Appropriates $111,000,000 for salaries and expenses as proposed by the Senate instead of $115,500,000 as proposed by the House. Included within the reduction of $24,000,000 from the budget request is $16,000,000 requested for expenses associated with moving the NSF to Ballston, Virginia, and $8,000,000 to be taken as a general reduction. The conferees recognize that the GAO has recently reported that all aspects of the proposed move of the Foundation from Washington to Virginia have been appropriately addressed and concur that the move should proceed. However, in view of the exceedingly difficult budget environment, and the fact that the NSF basic research appropriation account is less than that provided in fiscal year 1992, the conferees believe that funds associated with the headquarters move would more appropriately be expended on research activities.

Amendment No. 290: Appropriates $3,688,000 for the Office of Inspector General, instead of $3,625,000 as proposed by the House and $3,750,000 as proposed by the Senate.

### NEIGHBORHOOD REINVESTMENT CORPORATION

### PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 291: Appropriates $27,976,000 for the Neighborhood Reinvestment Corporation as proposed by the Senate, instead of $29,476,000 as proposed by the House.

The committee of conference is in agreement on the following changes from the budget request:

−$250,000 from creation of new NeighborWorks organizations.

+$250,000 for designing strategies for human resources development in the community-based, nonprofit development industry.

### SELECTIVE SERVICE SYSTEM

Amendment No. 292: Deletes language proposed by the House and stricken by the Senate requiring that funds be obligated at the current rate through March 31, 1993.

## TITLE IV—CORPORATIONS

### FEDERAL DEPOSIT INSURANCE CORPORATION

### LOW-INCOME HOUSING

Amendment No. 293: Appropriates $5,000,000 for the low-income housing program in the Federal Deposit Insurance Corporation instead of $10,000,000 as proposed by the House and no funds as proposed by the Senate.

### BANK ENTERPRISE PROGRAM

Amendment No. 294: Restores language as proposed by the House and stricken by the Senate establishing the Bank Enterprise Program at a level of $1,000,000.

### RESOLUTION TRUST CORPORATION

### OFFICE OF INSPECTOR GENERAL

Amendment No. 295: Appropriates $33,510,000 for the Office of Inspector General of the Resolution Trust Corporation as proposed by the House, instead of $37,328,000 as proposed by the Senate.

## TITLE V—GENERAL PROVISIONS

Amendment No. 296: Deletes language proposed by the House and stricken by the Senate limiting 1993 obligations for all Washington, D.C. headquarters offices of the Department of Veterans Affairs, Department of Housing and Urban Development, Environmental Protection Agency, Federal Emergency Management Agency, National Aeronautics and Space Administration, and the National Science Foundation to the 1992 levels.

Amendment No. 297: Restores language proposed by the House and stricken by the Senate waiving the Single Audit Act for Walnut Creek, California.

Amendment No. 298: Deletes language proposed by the House and stricken by the Senate requiring the completion of an environmental impact statement before any action can be taken regarding a stadium complex at the Potomac Yard in Alexandria, Virginia.

Amendment No. 299: Deletes language proposed by the House and stricken by the Senate restricting the expenditure of funds unless in compliance with the "Buy American Act."

Amendment No. 300: Deletes language proposed by the House and deleted by the Senate expressing the sense of Congress that only American-made equipment and products should be purchased with appropriated funds.

Amendment No. 301: Deletes language proposed by the House and stricken by the Senate instituting a one-percent across-the-board cut, excluding the Department of Veterans Affairs.

The conferees have carefully evaluated the recommendation for all salaries and expense accounts and are mindful of the disruptive effects that a furlough or reductions-in-force may have on agency productivity. It should be clearly understood that it is not the intent of the conferees that such counterproductive personnel actions result from the recommended funding level. Furthermore, aggregate budgetary limitations are the only basis for this very constrained appropriation, and it is therefore the intent of the conferees that budgetary execution of this Act by all agencies be premised on expenditure restraint which does not have detrimental effect on the civil workforce. The conferees direct the agencies to immediately advise the Congress of any potential impact on currently employed Federal personnel, and to expedite administratively available measures to avoid such an impact. Should further congressional action be necessary to sustain currently employed personnel, it is the conferees intent to consider such measures early in the next Congress.

Amendment No. 302: Deletes language proposed by the Senate amending the civil statute of limitations for tort actions brought by the Resolution Trust Corporation.

Amendment No. 303: Reported in disagreement.

### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $82,425,265,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 90,566,976,810 |
| House bill, fiscal year 1993 | 85,870,832,000 |
| Senate bill, fiscal year 1993 | 86,849,254,000 |
| Conference agreement, fiscal year 1993 | 86,919,973,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | +4,494,708,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | −3,647,003,810 |
| House bill, fiscal year 1993 | +1,049,141,000 |
| Senate bill, fiscal year 1993 | +70,719,000 |

BOB TRAXLER,
LOUIS STOKES,
ALAN B. MOLLOHAN,
JIM CHAPMAN,
CHESTER G. ATKINS,
MARCY KAPTUR,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
BILL LOWERY,
*Managers on the Part of the House.*

BARBARA A. MIKULSKI,
PATRICK LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
JAKE GARN,
ALFONSE D'AMATO,
DON NICKLES,
PHIL GRAMM,
KIT BOND,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## APPOINTMENT OF CONFEREES ON H.R. 5095, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. McCURDY. Mr. Speaker, pursuant to clause 1 of rule XX and by direction of the Permanent Select Committee on Intelligence, I move to take from the Speaker's table the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Oklahoma [Mr. McCURDY].

The motion was agreed to.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the chair appoints the following conferees:

From the Permanent Select Committee on Intelligence: Mr. McCURDY, Mr. WILSON, Mrs. KENNELLY, and Messrs. GLICKMAN, MAVROULES, RICHARDSON, SOLARZ, DICKS, DELLUMS, BONIOR, SABO, OWENS of Utah, SHUSTER, COMBEST, BEREUTER, DORNAN of California, YOUNG of Florida, MARTIN, and GEKAS.

From the Committee on Armed Services (for the consideration of Department of Defense tactical intelligence and related activities): Messrs. ASPIN, SKELTON, and DICKINSON.

There was no objection.

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## CONFERENCE REPORT ON H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

Mr. HEFNER. Mr. Speaker, pursuant to the order of the House of Wednesday, September 23, 1992, I call up the conference report on the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

□ 1130

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the order of the House of September 23, 1992, the conference report is considered as read.

The gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes, and the gentleman from California [Mr. LOWERY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

### GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous and tabular material, on the conference report and the amendments in disagreement on the bill, H.R. 5428.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report we present to the House today for military construction, family housing, and base closure contains agreements on about 300 line items. The conference agreement recommends appropriation of $8,389,000,000 which is under the President's request. Our recommendation is not only under the President's request but it is $173 million under last year's appropriated level.

If you discount base closure funding where there is significant growth, the balance of the bill is $1.5 billion under last year's level.

As you know, the President has stated that he would veto any appropriations bill that exceeds his request. We have met that challenge but I think it is unfortunate because it meant reducing the military construction portion of the bill by 40 percent from last year's level. Such a reduction is too dramatic in view of the facility needs that exist but we had no other choice.

Mr. Speaker, I include at this point in the RECORD a letter from the Director of the Office of Management and Budget which establishes the President's request for the military construction bill.

OFFICE OF MANAGEMENT
AND BUDGET,
*Washington, DC, September 21, 1992.*

Hon. W.G. (BILL) HEFNER,
*Chairman, Subcommittee on Military Construction Appropriations, Committee on Appropriations, House of Representatives, Washington, DC. 20515*

DEAR MR. CHAIRMAN: The purpose of this letter is to express the Administration's views on H.R. 5428, the Military Construction Appropriations Bill, FY 1993, as passed by the House and by the Senate. Your consideration of these views would be appreciated. This letter updates information provided to the Committee on September 14, 1992.

In his FY 1993 Budget, the President proposed to freeze domestic discretionary spending at FY 1992 levels, and to cut defense discretionary spending below the FY 1992 level. The President has stated that he will veto any bill that exceeds his request. Based on OMB's preliminary scoring, the House version of H.R. 5428 exceeds the President's request for defense discretionary budget authority by $84 million while the Senate version of the bill is within the President's request. If the bill presented to the President were to exceed his request for defense discretionary budget authority of $8,390 million, the President would veto the bill. Enclosed is a table that provides OMB's preliminary scoring of the bill.

The remainder of this letter discusses other Administration concerns with the House and Senate versions of H.R. 5428. The discussion addresses the Administration's priorities for program funding and provides suggestions that would lead to the development of a bill that the President could sign. The Administration urges the Conferees to consider these views.

Identical letters sent to Honorable Joseph M. McDade, Honorable Jamie L. Whitten, Honorable Bill Lowery, Honorable Robert C. Byrd, Honorable Mark O. Hatfield, Honorable Robert Dole, Honorable Jim Sasser, and Honorable Phil Gramm.

The Conferees are urged to: (1) eliminate unrequested funding for low-priority projects and restore funding for the high-priority activities requested by the Administration; (2) restore NATO Infrastructure funding to the requested level; and (3) restore funding for other high-priority overseas construction projects, consistent with the President's request. These changes, together with adjustments to other programs, would result in a fiscally responsible bill that funds programs of national significance.

### CONSTRUCTION PRIORITIES

The Administration strongly opposes the numerous shifts from high-priority activities and U.S. commitments to low-priority unrequested projects contained in both versions of the bill. Many of these low-priority projects have not been designed or are not sufficiently designed for award in FY 1993. The Administration urges the Conferees to delete funding for unrequested programs and to restore funding for the programs requested by the Administration.

The House adds $810 million for unrequested low-priority construction projects, including 126 projects for Reserve component construction. One of the more objectionable additions would provide funds to begin replacement of the Hospital at Fitzsimons Army Medical Center in Denver, Colorado. The hospital, which could cost up to $400 million to complete, is necessary since the Denver area has an estimated excess health care capacity of 40 percent.

The Senate adds $964 million for unrequested low-priority construction projects, including 149 Reserve component construction projects.

### NATO INFRASTRUCTURE

The Administration strongly opposes the proposed cuts in the NATO Infrastructure program. From the request of $221 million, the House bill would cut $100 million, and the Senate bill would cut the entire request. These cuts would require the United States to default on its financial agreements and would raise serious questions about our commitment to NATO.

The cuts would also jeopardize a major U.S. cost sharing initiative under which NATO has agreed to fund the operation and maintenance costs of U.S. reinforcement facilities in Europe. Eliminating the U.S. contribution to the NATO Infrastructure program would seriously undermine prospects for expanded cost sharing as directed by Congress. These reductions would also jeopardize $177 million of NATO funding for eighteen major construction projects in Connecticut, Florida, Georgia, Kansas, New Jersey, North Carolina, South Carolina, Texas, and Virginia. The Administration urges the Conferees to restore NATO Infrastructure funding to the requested level.

### OVERSEAS CONSTRUCTION PROJECTS

The Senate bill would provide none of the $531 million requested for high-priority overseas construction while the House bill would provide $436 million. The Administration urges restoration of funding for high-priority overseas construction projects, including: necessary construction associated with relocation of naval forces from the Philippines to Guam ($60 million). All naval personnel must be withdrawn from the Philippines by December 1992; Phase VIII Fuel Facilities at Keflavik, Iceland—the final phase of this project, which is cost shared with NATO—to integrate facilities completed in prior years; a replacement power plant at Roi Namur Island, Kwajelein, to prevent creation of an environmental hazard; and the Forward Operating Base program, which is jointly funded with Canada, to prevent breaking our commitment to Canada.

### BASE REALIGNMENT AND CLOSURE

The House reduces the $2.2 billion request for base realignment and closure programs by $170 million. The Administration urges restoration of these funds in order to avoid delays in the cleanup of these bases.

### LANGUAGE PROVISIONS

Both versions of the bill contain objectionable language provisions that should be deleted. Section 113 would require notification of Congressional committees prior to conducting military exercises involving construction costs anticipated to exceed $100,000. Section 117 would require a report to Congressional committees concerning details of efforts to encourage NATO nations and Japan to assume a greater share of the common defense burden. These sections raise concerns regarding the President's constitutional powers as Commander-in-Chief and in the conduct of foreign affairs and protection of national security information.

We look forward to working with the Committee to address our mutual concerns.

With best regards,

RICHARD DARMAN,
*Director.*

PRELIMINARY OMB SCORING—MILITARY CONSTRUCTION APPROPRIATIONS BILL, FISCAL YEAR 1993

[In millions of dollars]

| Major Programs | Fiscal year 1993 budget |  | House floor |  | Senate floor |  | House difference from request |  | Senate difference from request |  |
|---|---|---|---|---|---|---|---|---|---|---|
|  | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays |
| Base realignment and closure account[1] | 2,184 | 929 | 2,103 | 863 | 2,253 | 881 | −81 | −67 | 69 | −49 |
| Military construction, defense agencies | 312 | 699 | 308 | 699 | 195 | 689 | −3 | −0 | −117 | −10 |
| Military construction, Army | 410 | 800 | 535 | 825 | 366 | 791 | 125 | 25 | −43 | −9 |
| Military construction, Army National Guard | 12 | 307 | 161 | 319 | 145 | 318 | 148 | 12 | 133 | 11 |
| Military construction, Air Force | 672 | 1,211 | 699 | 1,216 | 705 | 1,217 | 26 | 5 | 32 | 6 |
| NATO infrastructure | 221 | 293 | 121 | 268 | .......... | 237 | −100 | −25 | −221 | −55 |
| Other | 523 | 1,588 | 679 | 1,612 | 673 | 1,609 | 156 | 24 | 151 | 20 |
| Subtotal, military construction | 4,334 | 5,827 | 4,605 | 5,801 | 4,337 | 5,741 | 271 | −26 | 3 | −86 |
| Family housing, Navy and Marine Corps | 1,074 | 872 | 1,029 | 868 | 1,056 | 872 | −44 | −5 | −18 | −0 |
| Family housing, Air Force | 2,264 | 1,115 | 1,261 | 1,106 | 1,204 | 1,607 | −4 | −9 | −6 | −8 |
| Other | 1,717 | 1,662 | 1,733 | 1,654 | 1,669 | 1,655 | 16 | −8 | −48 | −7 |
| Subtotal, family housing | 4,056 | 3,648 | 4,024 | 3,627 | 3,929 | 3,634 | −32 | −22 | −127 | −15 |
| Scorekeeping adjustment for transfer of funds from DOD appropriations | .......... | .......... | −69 | −54 | −69 | −54 | −69 | −54 | −69 | −54 |
| Across-the-board cut | .......... | .......... | −86 | −30 | .......... | .......... | −86 | −30 | .......... | .......... |
| Total | [2]8,390 | [2]9,475 | 8,474 | 9,344 | 8,197 | 9,321 | 85 | −131 | −193 | −154 |

[1] Increase in Base realignment and closure account ($1,300,000,000) for base closure and environmental cleanup efforts provides almost all of the increase in the 1993 budget request for this bill.

[2] Reflects updated estimates.

|  | House 602(b) |  | Senate 602(b) |  | House floor less House 602(b) |  | Senate floor less Senate 602(b) |  |
|---|---|---|---|---|---|---|---|---|
|  | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays |
| Comparison of 602(b) allocations: |  |  |  |  |  |  |  |  |
| Defense | 8,560 | 9,487 | 8,223 | 9,407 | −86 | −143 | −26 | −86 |

Let me just go over some of the special features of the bill. If you are pro environment, the bill contains a total of $800 million for environmental cleanup at closed bases and for environmental compliance projects at active bases.

If you are for cutting costs overseas, this bill reduces overseas spending by $307 million below the budget request.

If you support the Guard and Reserve, this bill restores some of the cuts recommended by the Department but still remains under last year's level by $44 million.

If you are for economic payback, this bill provides for projects that offset costs in other parts of the Defense budget.

If you are for closing bases, this bill keeps the base closure process on track.

If you are for jobs, this bill is a job producer.

For other features of the bill, family housing is $199 million below the President's request but $292 million over last year's level.

For the NATO Infrastructure fund, the conference agreement is $60 million which is $161 million below the requested level. It should be noted that an additional $59 million in NATO funds is expected from recoupment from prefinanced projects.

For base closure, the conference agreement is $1.3 billion over last year's level. In addition, $231 billion has been appropriated for base closure and realignment activities in the recent enacted disaster relief supplemental.

Mr. Speaker, I would like to thank the members of the subcommittee for their bipartisan support and cooperation throughout the year, and especially our committee chairman, Mr. WHITTEN, who has been a great supporter of our Guard and Reserve. The Congress will be losing four valuable members of the Military Construction Subcommittee. First, there is LINDSAY THOMAS, a five-term Member of Congress, who will be going back to Georgia to head up the Government Affairs Office of the Atlanta Olympic Committee. It was LINDSAY THOMAS who was so instrumental in assuring that adequate funding was provided for orderly construction of the strategic nuclear base at Kings Bay, GA. I will miss LINDSAY and especially those sweet vidalia onions that he was able to keep us supplied with. Next, is BILL ALEXANDER, who has served this institution and his constituents for 24 years. BILL has been a great supporter of economic development programs and has fought hard for improving quality of life for the people of his district. I will miss BILL. Next is MICKEY EDWARDS, who has served his constituents and Tinker Air Force Base for 16 years. I commend MICKEY on his years of service. Last, but not least, is BILL LOWERY, the current ranking minority member of the subcommittee. I commend BILL for his years of great service. Working together with BILL, as I have with other ranking minority members such as MICKEY EDWARDS and RALPH REGULA, we have been able to bring to the floor each year a military construction bill that was always a bipartisan effort. I think the city of San Diego and the Navy have lost a valuable advocate. If I could say one thing about BILL LOWERY, it is that he always ran over the time limit at our hearings. That was because of his great interest in the military programs from a supportive as well as critical viewpoint.

Mr. Speaker, I submit for the RECORD a comparative statement of budget authority.

## Military Construction, FY 1993 (H.R. 5428)

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| Military construction, Army | 880,820,000 | 409,750,000 | 534,520,000 | 366,260,000 | 425,270,000 | -455,550,000 |
| Rescission | -39,000,000 | | | | | +39,000,000 |
| Total, Military construction, Army (net) | 841,820,000 | 409,750,000 | 534,520,000 | 366,260,000 | 425,270,000 | -416,550,000 |
| Military construction, Navy | 883,859,000 | 347,722,000 | 396,059,000 | 336,829,000 | 368,887,000 | -514,972,000 |
| Rescission | -56,392,000 | | | | | +56,392,000 |
| Total, Military construction, Navy (net) | 827,467,000 | 347,722,000 | 396,059,000 | 336,829,000 | 368,887,000 | -458,580,000 |
| Military construction, Air Force | 1,005,954,000 | 672,450,000 | 698,599,000 | 704,690,000 | 717,280,000 | -288,674,000 |
| Rescission | -94,400,000 | | | | | +94,400,000 |
| Total, Military construction, Air Force (net) | 911,554,000 | 672,450,000 | 698,599,000 | 704,690,000 | 717,280,000 | -194,274,000 |
| Military construction, Defense agencies | 724,740,000 | 311,526,000 | 308,176,000 | 194,516,000 | 262,116,000 | -462,624,000 |
| Total, Active components | 3,305,581,000 | 1,741,448,000 | 1,937,354,000 | 1,602,295,000 | 1,773,553,000 | -1,532,028,000 |
| North Atlantic Treaty Organization Infrastructure | 225,000,000 | 221,200,000 | 121,200,000 | | 60,000,000 | -165,000,000 |
| Military construction, Army National Guard | 231,117,000 | 12,300,000 | 160,665,000 | 145,331,000 | 209,639,000 | -21,478,000 |
| Military construction, Air National Guard | 217,566,000 | 132,270,000 | 230,209,000 | 233,790,000 | 287,559,000 | +69,993,000 |
| Military construction, Army Reserve | 110,389,000 | 8,300,000 | 8,300,000 | 42,150,000 | 42,150,000 | -68,239,000 |
| Military construction, Naval Reserve | 59,900,000 | 9,900,000 | 9,900,000 | 17,200,000 | 15,400,000 | -44,500,000 |
| Military construction, Air Force Reserve | 9,700,000 | 24,380,000 | 34,330,000 | 43,210,000 | 29,900,000 | +20,200,000 |
| Total, Reserve components | 628,672,000 | 187,150,000 | 443,404,000 | 481,681,000 | 584,648,000 | -44,024,000 |
| Total, Military construction: | | | | | | |
| New budget (obligational) authority (net) | 4,159,253,000 | 2,149,798,000 | 2,501,958,000 | 2,083,976,000 | 2,418,201,000 | -1,741,052,000 |
| Appropriations | (4,349,045,000) | (2,149,798,000) | (2,501,958,000) | (2,083,976,000) | (2,418,201,000) | (-1,930,844,000) |
| Rescissions | (-189,792,000) | | | | | (+189,792,000) |
| Family housing, Army: | | | | | | |
| Appropriation | 1,557,245,000 | 1,556,117,000 | 1,572,079,000 | 1,507,857,000 | 1,523,819,000 | -33,426,000 |
| Portion applied to debt reduction | -125,000 | -127,000 | -127,000 | -127,000 | -127,000 | -2,000 |
| Total, Family housing, Army (net) | 1,557,120,000 | 1,555,990,000 | 1,571,952,000 | 1,507,730,000 | 1,523,692,000 | -33,428,000 |
| Family housing, Navy and Marine Corps | 902,140,000 | 1,073,947,000 | 1,029,495,000 | 1,055,587,000 | 1,039,680,000 | +137,540,000 |
| Family housing, Air Force | 1,075,283,000 | 1,264,398,000 | 1,260,895,000 | 1,204,074,000 | 1,211,727,000 | +136,444,000 |
| Family housing, Defense agencies | 26,200,000 | 28,400,000 | 28,400,000 | 28,400,000 | 28,400,000 | +2,200,000 |
| Homeowners Assistance Fund, Defense | 84,000,000 | 133,000,000 | 133,000,000 | 133,000,000 | 133,000,000 | +49,000,000 |
| Total, Family housing: | | | | | | |
| New budget (obligational) authority (net) | 3,644,743,000 | 4,055,735,000 | 4,023,742,000 | 3,928,791,000 | 3,936,499,000 | +291,756,000 |
| Appropriations | (3,644,868,000) | (4,055,862,000) | (4,023,869,000) | (3,928,918,000) | (3,936,626,000) | (+291,758,000) |
| Applied to debt reduction | (-125,000) | (-127,000) | (-127,000) | (-127,000) | (-127,000) | (-2,000) |
| Base realignment and closure accounts: | | | | | | |
| Part I | 658,600,000 | 440,700,000 | 415,700,000 | 440,700,000 | 415,700,000 | -242,900,000 |
| Part II | 100,000,000 | 1,743,600,000 | 1,618,600,000 | 1,743,600,000 | 1,618,600,000 | +1,518,600,000 |
| Total, Base realignment and closure accounts | 758,600,000 | 2,184,300,000 | 2,034,300,000 | 2,184,300,000 | 2,034,300,000 | +1,275,700,000 |
| Reduction of appropriations (1%) | | | -85,600,000 | | | |
| Grand total: | | | | | | |
| New budget (obligational) authority (net) | 8,562,596,000 | 8,389,833,000 | 8,474,400,000 | 8,197,067,000 | 8,389,000,000 | -173,596,000 |
| Appropriations | (8,752,513,000) | (8,389,960,000) | (8,474,527,000) | (8,197,194,000) | (8,389,127,000) | (-363,386,000) |
| Applied to debt reduction | (-125,000) | (-127,000) | (-127,000) | (-127,000) | (-127,000) | (-2,000) |
| Rescissions | (-189,792,000) | | | | | (+189,792,000) |

Mr. Speaker, I reserve the balance of my time.

Mr. LOWERY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Military Construction Subcommittee I strongly support this conference report.

First, I would like to thank Chairman HEFNER for his work in producing the conference report. I have served on this subcommittee for 8 years and I cannot remember a conference as difficult as this one. We had over 300 items to resolve and had to reduce the funding level from the House-passed bill. Under Chairman HEFNER'S leadership we were able to bring a conference agreement back to the House which is a fair compromise.

The conference report on H.R. 5428 contains $6.35 billion for military construction and family housing. Also included in the bill is $415.7 million for continued funding of the 1988 base closures and $1.6 billion for the 1991 base closures.

When combined, the total appropriation is $8.389 billion. This is within our revised 602(b) allocation; it is $85 million below the House-passed bill; and, $173.5 million under last year's appropriation. In addition, Mr. Speaker, the conference agreement is below the President's request and is within the budgetary criteria established by OMB for the President's signature.

It is important my colleagues understand that although we are moving the appropriations bill prior to completion of the authorization conference, the projects included in this bill will be subject to that authorization.

Mr. Speaker, this is a good bill, a responsible bill. It provides the bare essentials in housing and infrastructure for our Armed Forces in a changing world. I urge adoption of the conference report.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I rise today in support of the conference report on H.R. 5428, the military construction appropriations bill for fiscal year 1993.

I would like to commend Chairman BILL HEFNER and ranking member BILL LOWERY for their leadership and also recognize the subcommittee staff for their hard work. Once again the job has been carried out in an enthusiastic, professional manner.

H.R. 5428 is a good bill. We had over 300 differences to be settled in conference totaling over $1.2 billion. The conference report before you totals $8.389 billion, that is almost $100 million below the bill this House passed in June. Yet the bill reflects our commitment to giving the men and women of the armed services the best we can afford.

Our emphasis this year is on base closure. We have reduced military construction spending by 40 percent over last year. And we have increased the base closure account by 168 percent. We also reduced the administration's NATO infrastructure request from $221 million to $60 million.

I do not believe we can justify large infrastructure requests for NATO until previously unexpended NATO infrastructure money is spent and until Congress finally decides troop levels and the role of American troops in Europe.

Finally I would like to return an issue I mentioned when we considered the House version of the bill. Even with our emphasis on a leaner Armed Forces, there is still some basic construction that must occur.

I am disappointed the administration's budget request this year did not reflect our Nation's true military construction needs. Ignoring these needs does not make the problem go away. It simply raises our out year costs. As we are discovering in other appropriation bills, we cannot afford to continue pushing off problems. It is our responsibility to make these decisions.

Again Mr. Speaker, I would like to commend the gentleman from North Carolina and the gentleman from California for putting together an excellent bill. And I will greatly miss the leadership of Mr. LOWERY next year.

I urge my colleagues to support this bill.

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Mr. LOWERY of California. Mr. Speaker, I yield myself such time as I may consume to make just a brief statement.

Mr. Speaker, this is the last time I will manage a military construction bill on the floor of the House. I am retiring at the end of this session and I want to take this opportunity to say that it has been a true honor and highlight of my life serving as the ranking member of the Military Construction Subcommittee.

This subcommittee has always worked in a bipartisan fashion to provide housing and infrastructure in support of our armed services and our men and women in uniform throughout the world.

I want to especially thank Chairman BILL HEFNER for his leadership and friendship during the 8 years I have been on this subcommittee. The gentleman from North Carolina has provided great service to our Nation.

I also want to acknowledge the other departing members of our subcommittee: LINDSAY THOMAS; MICKEY EDWARDS; and, BILL ALEXANDER, all great Americans.

Finally, I want to thank one of the finest staffs in the Congress. Bill Marinelli, Hank Moore, and Mary Arnold are fine, knowledgeable professionals who have always provided expert, unbiased information and support to me and all the members on both sides of the aisle of the subcommittee.

I particularly want to say a special thanks to Elizabeth Dawson of the minority staff. Liz has been an indispensable help to me for many years both on my personal staff and now as a member of the professional staff of the Appropriations Committee. I also have been able to accomplish a fair bill on behalf of the men and women wearing the uniform around the globe, but especially the sailors and marines in San Diego, and that could not have been done without the diligent work and honest advice of Liz Dawson.

Again, it has been a true honor for me to serve in the U.S. Congress and to serve on this subcommittee, and I thank very much my constituents in San Diego for the opportunity this last 12 years to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I would just like to echo the accolades that my colleague heaped on the staff. I think it is certainly the most efficient staff in the entire House, and I want to pay my tribute to them.

Mr. PANETTA. Mr. Speaker, I rise in support of the conference report to accompany H.R. 5428, the military construction appropriations bill for fiscal year 1993. This is the third of the 13 annual appropriations bills to be considered by the House.

This conference report provides $8,389 million in defense discretionary budget authority and $9,350 million in defense discretionary outlays, which is $171 million below the 602(b) subdivision for budget authority, and $137 million below the 602(b) subdivision for outlays for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the impact of all spending legislation. I will provide a "Dear Colleague" letter describing how each appropriations measure compares to the 602(b) subdivision for that subcommittee.

I look forward to working with the Appropriations Committee in the future and commend the committee for the work they have done in adhering to the limits set forth in the budget agreement and the 1993 budget resolution.

[Fact sheet]

CONFERENCE REPORT TO ACCOMPANY H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS BILL, FISCAL YEAR 1993 (H. REPT. 102–888)

The House Appropriations Committee filed the conference report to accompany H.R. 5428, the Military Construction Appropriations bill, for Fiscal Year 1993 on Tuesday, September 22, 1992. This conference report could be considered at any time.

COMPARISON TO THE 602(B) SUBDIVISION

The conference report provides $8,389 million of discretionary budget authority and $9.350 million of discretionary outlays. This bill is below the discretionary budget authority 602(b) subdivision for this committee by $171 million and below the discretionary outlay subdivision by $137 million in outlays.

COMPARISON TO DISCRETIONARY SPENDING SUBDIVISION

This conference report is defense spending only and has no domestic discretionary or international spending. The table below compares the conference report's spending with the 602(b) defense subdivision.

DEFENSE DISCRETIONARY SPENDING SUBDIVISION

[In millions of dollars]

| | Military construction appropriations bill | | Appropriations committee 602(b) subdivision | | Bill over (+)/under (−) 602(b) subdivision | |
|---|---|---|---|---|---|---|
| | BA | 0 | BA | 0 | BA | 0 |
| Discretionary | 8,389 | 9,350 | 8,560 | 9,487 | −171 | −137 |
| Mandatory | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 8,389 | 9,350 | 8,560 | 9,487 | −171 | −137 |

Note.—BA—New budget authority; 0—Estimated outlays.

The following are the major program highlights for the Military Construction Appropriations Bill for Fiscal Year 1993, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

| | Budget authority | New outlays |
|---|---|---|
| Military Construction: | | |
| Army | 425 | 86 |
| Navy | 369 | 70 |
| Air Force | 717 | 123 |
| Defense Agencies | 262 | 22 |
| NATO Infrastructure | 60 | 15 |
| Family Housing: | | |
| Army | 1,524 | 1,045 |
| Navy and Marine Corps | 1,040 | 424 |
| Air Force | 1,212 | 705 |
| Base realignment and closure | 2,034 | 244 |

The House Appropriations Committee filed the Committee's subdivision of budget authority and outlays on June 11, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-529, the conference report to accompany H. Con. Res. 287, Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on the fiscal year 1993 military construction appropriations bill. I want to commend Chairman HEFNER, ranking member BILL LOWERY and the committee staff for the fine work they have done in putting this bill together.

Mr. Speaker, this conference report provides a total of $8.4 billion for military construction projects, family housing and base closure cleanup funding. It is a responsible bill that takes care of the needs of military personnel and their families. The Appropriations Committee has always given special emphasis to quality of life issues, and this bill is successful in providing essential services to our servicemen and women.

The bill also includes a total of $134 million for environmental restoration activities at bases scheduled for closure or realignment under round I, and another $308 million for bases closing under round II. Environmental cleanup is essential if we are going to enable affected communities to convert these installations to civilian use in an expeditious manner. The enormity of environmental restoration work needed at these sites is already presenting significant barriers to this process.

The conference report includes a general provision to extend the operation of the Defense Environmental Restoration Task Force, created under Public Law 101–510, to explore ways to expedite and streamline environmental restoration activities at closing military bases.

We continue to be concerned about the slow pace of cleanup at many closing bases. The task force will bring together representatives of the various agencies involved so that they can coordinate and cooperate where base closure cleanups are concerned. These agencies include the Defense Department, Environmental Protection Agency, Department of Justice, General Services Administration, a representative of a State environmental agency, a representative of the State attorneys general, and a representative of a public interest environmental organization. The provision also adds a new member to the task force by providing for the participation from the Urban Land Institute, a nonprofit think tank made up of private land developers and land use planners.

We need to avoid situations like we have with Hamilton Air Force Base in California. Hamilton was closed in 1971. Cleanup of the base has not even begun. How many committees can be treated like the Hamilton community and be successful in recovering from the economic consequences of a base closure?

It is important that we continue our efforts to expedite the cleanup process. The task force will ensure an ongoing line of communication between the various participants in the cleanup process.

Mr. Speaker, I would also like to point out a number of projects in H.R. 5428 that affect bases in northern California. Specifically, the bill includes additional funding for several key projects at Beale Air Force Base in Marysville, McClellan Air Force Base in Sacramento, Travis Air Force Base in Fairfield, and Mare Island Naval Shipyard in Vallejo. Each of these projects is critical for the continued successful operation of the bases.

For Beale Air Force Base, the bill funds a new fire training facility. The new facility is needed to train firefighters in handling mass fuel spills and three dimensional—running fuel—fires, and is needed to comply with Federal and State environmental standards. Additionally, the bill authorizes construction of a new security police operations center is needed. The new facility will add nearly 15,000 square feet of space for all security operations, law enforcement, resource and personnel protection, and base security functions. Finally, Beale is also authorized to undertake utility improvements and a new fire safety system in the base hospital. This project will increase patient safety and improve efficiency of the hospital's operations.

At McClellan Air Force Base, H.R. 5428 includes two environmental projects. The first project would fund the upgrade or replacement of underground storage tanks to meet Federal and State regulatory requirements. The second project consists of improvements to the base's waste water collection system.

One additional project for McClellan involves the construction of a modern, state-of-the-industry plating shop. This project will ensure compliance with Federal, State, and local environmental laws, eliminate the risk of line or shop closure by the California Environmental Protection Agency, reduce plating process solution wastes, improve safety and improve operations efficiency.

Mr. Speaker, Travis AFB continues to play a pivotal role in supporting the airlift requirements of the Defense Department. As the major west coast airlift port, it is important for Travis to maintain facilities capable of supporting the high volume of personnel traveling through the base. With this in mind, the committee has authorized two projects for Travis. The first project is an upgrade in the sanitary sewer mains. The second project funds the final phase of a six-phase dormitory renovation project that has been ongoing over the last several years. The project is needed to renovate the existing facilities which have inadequate lighting, no air conditioning, and generally poor living conditions. This project has important implications for the quality of life and morale of our troops.

Finally, Mr. Speaker, the fiscal year 1993 military construction approprtions bill provides funding for a new hazardous waste storage facility at Mare Island Naval Shipyard. This project is very important for the shipyard's ability to meet stringent environmental requirements and would replace the existing, 50-year-old warehouse used for these purposes.

These projects reinforce the important role that each of these military bases plays in our Nation's defense. We, in northern California, continue to be very supportive of our local bases and our local military personnel. We plan to continue our efforts to modernize and improve facilities on the bases to ensure efficient operations as well as a good quality of life for our servicemen and women.

In conclusion, I want to commend again the committee members, and the committee staff for the long hours and hard work they put into this legislation. It is reflective of what our country needs to maintain a strong base infrastructure at a price that we can afford. I strongly urge my colleagues to support the conference report.

Mr. BEREUTER. Mr. Speaker, this Member wishes to take a moment to thank the members of the committee for the excellent work they have put into crafting this bipartisan conference report. This Member understands their task was difficult, and that the demands upon them were great. Indeed, as the United States proceeds in the downsizing of our Armed Forces, it is particularly important that military construction funds be used where they can do the most good.

This Member would extend his particular thanks for the committee's strong support for several projects that are critical to the future of the Nebraska Air National Guard. The Nebraska Air Guard is in the process of making the transition from a photo-reconnaissance unit to an air tanker squadron. They are have embraced their new mission, and are moving forward with typical Nebraska enthusiasm.

Yet despite the enthusiasm of our Air Guardsmen, it is quite clear that the existing physical plant is inadequate to serve this important new mission. The KC–135R's that the Air Guard will be flying have totally different support needs than the RF–4's that have been flown heretofore. Their modernization requirements are not extraordinary, but they are essential. The committee has agreed to support a number of important modernizations, including a fuel systems maintenance dock, a squadron operations supply and communications building, and a new dining hall. This member wishes to thank the committee for their support, and confidently predicts these new facilities will be put to good use.

Again, I thank the chairman, the ranking minority member, and all members of the Subcommittee for their outstanding effort, and would urge adoption of conference report 102–888.

Mr. HEFNER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

### AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the order of the House of Wednesday, September 23, 1992, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of the amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, line 12, strike out "$698,599,000" and insert: "$704,690,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$717,280,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HEFNER).

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 4, line 17, after "therefor" insert ": *Provided further*, That the Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519)".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 5, line 10, strike out "$160,665,000" and insert: "$145,331,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 11, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "209,639,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 5, line 18, strike out "$230,209,000" and insert: "$233,790,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$287,559,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 6, line 16, strike out "$34,330,000" and insert: "$43,210,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$29,900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 7, line 10, strike out "$339,640,000" and insert: "$359,410,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 19, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$378,434,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 7, line 12, strike out "$689,855,000 and insert: $696,177,000".

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$661,246,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 16, strike out all after line 12 over to and including line 14 on page 17.

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 125. (a) The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are completed—

(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

(2) annually submit to the Congress a report containing—

(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

(B) any additional recommendations that the task force considers appropriate; and

(C) a summary of the progress by relevant Federal and State agencies in implementing the recommendations of the task force.

(b) The task force shall consist of—

(1) the individuals (or their designees) described in section 2923(c)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1821); and

(2) a representative of the Urban Land Institute (or such representative's designee), appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

On page 9 of the House engrossed bill, H.R. 5428, strike line 4, and beginning on line 11 strike all after "restoration" down to and including "restoration" on line 17.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 17, line 17, insert:

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the section number named by said amendment, insert: "126".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 50: Page 17, after line 17, insert:

SEC. 128. None of the funds appropriated in this Act may be used to support the design or construction of any project to expand or rehabilitate the Pentagon reservation.

### MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: In lieu of the section number named by said amendment, insert: "127".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the conference report on the military construction appropriations bill for fiscal year 1993 and I do so for three reasons.

First, the bill is fiscally responsible. It is below the President's budget request and almost $100 million under the House-passed level of $8.5 billion.

Second, the conference report makes needed adjustments in the distribution of military construction funds. It recognizes the need for our allies to pull their own weight on mutual defense matters by trimming the NATO infrastructure account by over $100 million from the 1992 level of $225 million.

I might add that Congress again has been obliged to take the lead on defense burdensharing issues—in this case, on military construction. The White House has not in its own right, or in response to congressional initiatives, striven to realign mutual defense spending with the respective capabilities of allied nations to contribute toward these costs.

Finally, the bill meets key military construction requirements in North Dakota. It approves the budget request for housing, environmental, and sewage treatment projects of the Minot, Grand Forks, and Cavalier Air Force facilities. It also includes important additions for a vitally-needed water storage facility at Minot and a vehicle maintenance facility of the Fargo Air National Guard to complete a facilities modernization project at Hector Field. I regret that the conference was not able to fund an armory and aviation support facility for the Army National Guard in Bismarck. However, the conference report defers action on this project without prejudice and provides for construction through any available reprogrammed funds. I urge the Pentagon to proceed accordingly.

In conclusion, I want to congratulate Chairman HEFNER and his staff for their cooperation and excellent work. Personnel in uniform in any State and around the globe are indebted to them and all members of the subcommittee for meeting the housing and facilities needs of our armed forces.

## PORK IN THE MILITARY CONSTRUCTION BILL

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the military construction bill we just passed I got here a little bit late on because we were getting all of the information, and everything is coming in so quickly here on the appropriation bills at the end of the session that it is hard to get all of the information we want on the kind of pork that is in each bill that we cannot get it assimilated and typed up and brought here by the time we have passed the bill. So I am a little disappointed because the military construction bill that we just passed, although it was below what passed the House and below the President's request, still has a lot of pork in it.

For instance, the budget request for a military facility construction in Georgia was $5.62 million, but the final bill that passed was $57 million, 10 times what was requested and passed by the House.

The Patuxent River Naval Air Station in southern Maryland is going to receive $10 million for a phase 1 advanced systems integration facility, even though the Pentagon did not request any more for that facility. That facility happens to be in the district of the distinguished Democrat caucus chair who is also a member of the Appropriations Committee, so he had a little power and was able to get that in this.

The budget request for the military facilities construction in Mississippi was $6.08 million, but they appropriated $58.155 million, nearly 10 times as much.

□ 1150

This includes $19 million for an unneeded access road to a National Guard base which I tried to strike earlier.

The budget request for military facility construction for Oregon was $1.7 million, and we passed $20 million, over 10 times what was requested.

The budget request for military facility construction for West Virginia, and the chairman of the Senate Appropriations Committee is from the State, and thanks to his hard work, they are going to get $29 million. It was zero. That is 29 times, well, I do not know how many times it is. The fact of the matter is it was not requested, and $29 million is going to West Virginia.

The budget request for military facility construction for Texas was $122 million, and they are going to get $223 million, over $100 million more.

The budget request for the naval family housing construction included in Hawaii was $2.3 million, and thanks to the hard work of a very distinguished member of the Appropriations Committee in the other body who is from Hawaii, Hawaii received not $2.3 but $119 million.

Now, although the overall bill was below what the administration requested, there still was a tremendous amount of pork in that bill, hundreds of millions of dollars, and at a time when we are suffering huge deficits, at a time when we are heading into uncharted waters as far as the economy is concerned. We are looking at a $13.5 trillion deficit in the next 6½ to 7 years.

The fact of the matter is we cannot afford to have this pork shoved through this Congress in the waning hours.

This was a bill that should have been scrutinized very closely, and although the overall amount was within the budget request, we still have hundreds of millions of dollars of pork in there that should not have been in there.

## ARE WE RUBBERSTAMPS?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I would just like to underline what the last speaker said and put it in capital letters, and that was that it was under what the President requested, so the bill was under, and that is the issue.

The question is: Does this body get to speak on things, or do we just totally rubberstamp? I think if we come in under, we can be very proud of that.

### OVERRIDE VETO OF FAMILY LEAVE ACT

Let me say this one other thing that I am very proud about today, and often I am not, and that is that the other body has clearly overridden the President's veto on family leave. They are really showing who is for families and who is just faking. You can look at that vote and you can tell who is faking and who is not.

There is nothing more important for America's families than the right to recognize their caregiver role in the workplace. When a majority of Americans say that if in the morning something happened to their children or something happened to their spouse, they would be much better off lying and telling their employer their car broke down than they would to tell them the truth.

Something is wrong. We do not have a family-friendly workplace.

This is the most important thing we could do to start to turn around this whole workplace issue and recognize how much families have changed and the incredible stress they are under as they try to stay even.

So I hope this body is going to be able to rise to the same challenge that the other body did and that we will be also able to override, because it is so very important. America's families have been waiting 7 years since this bill was introduced, and it is time that we finally, finally give them this right once and for all.

## THE MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute.)

Mr. MYERS of Indiana. Mr. Speaker, night before last, this body passed a bill to improve mammography in this country, and I am sorry that I was unable to be on the floor late in the evening because of my wife's health.

My wife a number of years ago faithfully always had her mammograms, and 3 years ago it was discovered her mammograms had been improperly read. There is nothing any worse, I think, than someone who is doing everything that technology has available today, particularly mammography, to have the pictures taken and then presume that they are being properly interpreted and read, and only to find out 6 years later that they possibly were never read at all.

Something had to be done, and I think that it is most appropriate that the language in the bill that was passed by the House night before last will standardize, improve the quality of mammography both as far as the equipment used, modern equipment, as far as the technology used in making sure the entire breast is examined in the film, and most importantly, that the film is properly interpreted by the radiologist.

Mammographes today are accredited by the American College of Radiology. But there are a great many who are not, and I am not suggesting that every mammography in the country is bad because it is not accredited by the ACR, but we do know the accreditation standards that the American College of Radiology demands assures women who have mammography that if they are accredited that quality work is being done.

But the false assurance that many people who faithfully have examinations and then only to find out years later that those mammograms were either improperly administered as far as the picture is concerned, but even worse, not properly interpreted, so I think we are standardizing. I think this is a step in the right direction.

I hope the Senate will soon take this up and get it passed so that women can be assured the tests that they do take will be properly interpreted, and we can avoid cancer. In most cases, early interpretations can avoid more severe cancer treatment.

## SUPPORT THE GONZALEZ-TORRES-RINALDO AMENDMENT

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, today the House will vote on very important bill that will impact all Americans. It will impact them so much that 50 attorneys general of the United States are endorsing this legislation to protect consumers.

Every consumer at one time or another has had a credit report or a credit history that he has requested from a major credit reporting bureau. Fifty/fifty are the chances that those credit reports have erroneous entries in there. We must correct that.

We must protect consumers against those inaccuracies. Moreover, we must protect the American consumer concerning privacy, because these credit histories are being sold to direct marketers.

Today this House will have an opportunity to protect the American consumer.

The Governors' Association has endorsed this bill. We want the States to continue to have the right to enforce these strong laws in their States. We cannot have Federal preemption of those State laws.

So I ask my colleagues today in Congress to vote for the consumers of America, protect this legislation, vote yes on the Gonzalez-Torres-Rinaldo amendment.

## CONFERENCE REPORT ON H.R. 5517, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1992

Mr. DIXON. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the order of the House on Thursday, September 23, 1992, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 23, 1992, at page H. 9285.)

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House today the highlights of the conference report on the fiscal year 1993 District of Columbia Appropriations Act.

There were 28 Senate amendments and we were able to resolve 27 in conference. We are bringing one back in true disagreement; amendment No. 24, which puts the death penalty initiative on the ballot.

Let me say at the outset that this conference agreement is within our revised 602(b) allocations in both budget authority and outlays.

And it is at the exact level of the President's request.

This conference agreement includes $688 million in Federal funds and $3.3 billion in District funds.

Over 82 percent of this budget is financed from local revenues—income taxes, property taxes, and various fees and charges.

Mr. Speaker, this was a difficult conference which was made even more difficult by the President's announcement that he would veto any bill that was above his request. It made no difference to him that we were within our 602(b) allocation in both budget authority and outlays.

The conferees had to go back to the drawing board and cut $26 million from the bill this House approved just 2½ months ago. And that $26 million was taken from the Youth and Crime Initiative—a program designed by the Mayor to reduce the level of violence in this city.

And it was taken from an adult literacy program and from Children's Hospital and from mental health programs; just to name a few areas in this District that will be impacted by these cuts.

In Federal funds, the conference agreement provides a total of $688 million which is $12 million below last year's level and $26 million below the House-passed bill.

The $688 million consists of: $624.8 million for the Federal payment which is the same as the House- and Senate-passed bills; $52.1 million for the police, fire, teachers, and judges retirement funds; $5.5 million to reimburse the city for police, fire, and other expenses that it will incur in connection with the January 1993 Presidential inauguration; and $5.6 million to establish a trauma care fund to partially cover the costs of uncompensated care at the six level 1 trauma centers in the city.

The conference agreement does not include any funds for George Washington University to build a new medical center. That was amendment No. 8.

In District funds, the conference agreement provides $3.9 billion which is $26 million below the budget request because of the cut that was made to comply with the President's directive.

Let me touch on two or three other matters in this conference.

The Senate receded on amendment No. 23 which would have made it legal on January 1, 1993, to buy and carry Mace and other tear gas devices in the District. The city council introduced a bill back in July and the council chairman has indicated that following their hearings and markup, it will be transmitted to Congress by mid-December of this year for Congressional layover.

The Senate receded on amendment No. 2 which would have prevented the District from implementing the Health Care Benefits Expansion Act of 1992. This act allows unmarried partners—whether they are homosexuals or heterosexuals, an unmarried grandparent and unmarried child raising grandchildren; or unmarried elderly or widows—to register with the city as domestic partners and be eligible for group health insurance. If they are D.C. government employees, the employee must assume the total cost of the additional family coverage. Private sector employers would be entitled to a tax deduction.

Senate amendment No. 24 provides language and requires that a referendum be held in the District within 90 days on a mandatory life imprisonment or death penalty for murder. At the appropriate time, I will offer a motion that the House insist on its disagreement to this amendment.

The distinguished gentleman from New Jersey [Mr. GALLO], who also happens to be the ranking member of our subcommittee, will offer a preferential motion to recede and concur with an amendment.

□ 1200

Mr. Speaker, I am opposing the death penalty for several reasons. First, I feel it totally violates the Home Rule Act and spirit. There is no reason why the citizens of the District of Columbia, if they wish to do so through their legislative body or through a referendum impose a death penalty on certain crimes, cannot do so on their own.

Second, although Senator SHELBY's issue is well meaning, there is certainly no correlation between the death penalty and a reduction in crime.

Third, it seems to me that this Congress should not mandate a referendum when in fact at this very moment there is a petition circulating within the District of Columbia to have a death penalty on the ballot. The District's citizens should in fact be allowed to work their will on the issue through the democratic process.

So Mr. Speaker, I will oppose the gentleman from New Jersey's preferential motion to mandate the District of Columbia to have a plebiscite on the death penalty.

Mr. Speaker, at this point in the RECORD, I will insert a tabulation summarizing the conference action.

The table referred to follows:

## District of Columbia Appropriations Bill, FY 1993 (H.R. 5517)

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| FISCAL YEAR 1993 APPROPRIATIONS | | | | | | |
| FEDERAL FUNDS | | | | | | |
| Federal payment to the District of Columbia | 630,500,000 | 630,500,000 | 624,854,400 | 624,854,400 | 624,854,400 | -5,645,600 |
| Federal contribution to retirement funds | 52,070,000 | 52,070,000 | 52,070,000 | 26,035,000 | 52,070,000 | |
| Advance appropriation, fiscal year 1994 | | | | 28,027,000 | | |
| Federal contribution to Crime and Youth Initiatives | | | 30,798,600 | 30,798,600 | | |
| Presidential Inauguration | | 5,514,000 | 5,514,000 | | 5,514,000 | +5,514,000 |
| Metropolitan Police Department | 75,000 | | 400,000 | | | -75,000 |
| Board of Education (Public schools) | 3,205,000 | | 83,000 | 1,379,000 | | -3,205,000 |
| District of Columbia General Hospital | 9,500,000 | | | | | -9,500,000 |
| Department of Human Services | 500,000 | | | | | -500,000 |
| Department of Housing and Community Development | | | | 1,140,000 | | |
| Trauma care fund | | | | | 5,561,600 | +5,561,600 |
| Total, Federal funds to District of Columbia | 695,850,000 | 688,084,000 | 713,720,000 | 712,234,000 | 688,000,000 | -7,850,000 |
| D.C. Institute for Mental Health | 1,000,000 | | 140,000 | 1,000,000 | | -1,000,000 |
| Children's National Medical Center | 3,000,000 | | 140,000 | 2,000,000 | | -3,000,000 |
| George Washington University Medical Center | | | | 250,000 | | |
| Advance appropriation, fiscal year 1994 | | | | 24,875,000 | | |
| Advance appropriation, fiscal year 1995 | | | | 24,875,000 | | |
| International Very Special Arts Festival | | | | 500,000 | | |
| Total, Federal funds to other institutions | 4,000,000 | | 280,000 | 53,500,000 | | -4,000,000 |
| Total, Federal funds | 699,850,000 | 688,084,000 | 714,000,000 | 765,734,000 | 688,000,000 | -11,850,000 |
| Appropriations, fiscal year 1993 | (699,850,000) | (688,084,000) | (714,000,000) | (687,957,000) | (688,000,000) | (-11,850,000) |
| Advance Appropriations, fiscal year 1994 | | | | (52,902,000) | | |
| Advance Appropriations, fiscal year 1995 | | | | (24,875,000) | | |
| DISTRICT OF COLUMBIA FUNDS | | | | | | |
| Operating Expenses | | | | | | |
| Governmental direction and support | (110,921,000) | (115,591,000) | (115,591,000) | (115,591,000) | (115,591,000) | (+4,670,000) |
| Economic development and regulation | (106,430,000) | (102,888,000) | (102,888,000) | (104,028,000) | (102,888,000) | (-3,542,000) |
| Public safety and justice | (930,836,000) | (945,551,000) | (945,951,000) | (945,551,000) | (945,551,000) | (+14,715,000) |
| (By transfer) | | | | (1,523,000) | | |
| Public education system | (708,536,000) | (713,592,000) | (713,675,000) | (714,971,000) | (713,592,000) | (+5,056,000) |
| Human support services | (875,033,000) | (886,777,000) | (886,777,000) | (886,777,000) | (886,777,000) | (+11,744,000) |
| Public works | (234,390,000) | (227,622,000) | (227,622,000) | (227,622,000) | (227,622,000) | (-6,768,000) |
| Washington Convention Center Fund | (13,110,000) | (13,250,000) | (13,250,000) | (13,250,000) | (13,250,000) | (+140,000) |
| Repayment of loans and interest | (277,577,000) | (291,299,000) | (291,299,000) | (291,299,000) | (291,299,000) | (+13,722,000) |
| Repayment of general fund recovery debt | (41,170,000) | (38,342,000) | (38,342,000) | (38,342,000) | (38,342,000) | (-2,828,000) |
| Optical and dental benefits | (3,423,000) | (3,423,000) | (3,423,000) | (3,423,000) | (3,423,000) | |
| Inaugural expenses | | (5,514,000) | (5,514,000) | (5,514,000) | (5,514,000) | (+5,514,000) |
| Facilities rent/leases | | (16,682,000) | (16,682,000) | (16,682,000) | (16,682,000) | (+16,682,000) |
| Trauma care fund | | | | (10,000,000) | (5,561,600) | (+5,561,600) |
| Furlough adjustment | | (-36,000,000) | (-36,000,000) | (-36,000,000) | (-36,000,000) | (-36,000,000) |
| Within-grade salary adjustments | | (-13,000,000) | (-13,000,000) | (-13,000,000) | (-13,000,000) | (-13,000,000) |
| Personal and non-personal services adjustment | | | | | (-30,798,600) | (-30,798,600) |
| Total, operating expenses, general fund | (3,301,426,000) | (3,311,531,000) | (3,312,014,000) | (3,324,050,000) | (3,286,294,000) | (-15,132,000) |
| (By transfer) | | | | (1,523,000) | | |
| Capital Outlay | | | | | | |
| General fund | (312,453,946) | (393,639,000) | (333,639,000) | (393,639,000) | (393,639,000) | (+81,185,054) |
| Enterprise Funds | | | | | | |
| Water and Sewer Enterprise Fund: | | | | | | |
| Operating expenses | (219,752,000) | (251,630,000) | (251,630,000) | (251,630,000) | (251,630,000) | (+31,878,000) |
| Capital outlay | (51,690,000) | (45,908,000) | (45,908,000) | (45,908,000) | (45,908,000) | (-5,782,000) |
| Total, Water and Sewer Enterprise Fund | (271,442,000) | (297,538,000) | (297,538,000) | (297,538,000) | (297,538,000) | (+26,096,000) |
| Lottery and Charitable Games Enterprise Fund | (8,450,000) | (8,450,000) | (8,450,000) | (8,450,000) | (8,450,000) | |
| Cable Television Enterprise Fund | (2,000,000) | (2,500,000) | (2,500,000) | (2,500,000) | (2,500,000) | (+500,000) |
| Total, Enterprise Funds | (281,892,000) | (308,488,000) | (308,488,000) | (308,488,000) | (308,488,000) | (+26,596,000) |
| Total, District of Columbia funds | (3,895,771,946) | (4,013,658,000) | (3,954,141,000) | (4,026,177,000) | (3,988,421,000) | (+92,649,054) |
| (By transfer) | | | | (1,523,000) | | |
| Total, fiscal year 1993 appropriations: | | | | | | |
| Federal Funds to the District of Columbia | 695,850,000 | 688,084,000 | 713,720,000 | 712,234,000 | 688,000,000 | -7,850,000 |
| Advance Appropriations, fiscal year 1994 | | | | (28,027,000) | | |
| Federal funds to other institutions | 4,000,000 | | 280,000 | 53,500,000 | | -4,000,000 |
| Advance Appropriations, fiscal year 1994 | | | | (24,875,000) | | |
| Advance Appropriations, fiscal year 1995 | | | | (24,875,000) | | |
| District of Columbia funds | (3,895,771,946) | (4,013,658,000) | (3,954,141,000) | (4,026,177,000) | (3,988,421,000) | (+92,649,054) |
| (By transfer) | | | | (1,523,000) | | |

## District of Columbia Appropriations Bill, FY 1993, including FY 1992 Supplemental (H.R. 5517)

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| FISCAL YEAR 1992 SUPPLEMENTAL | | | | | | |
| DISTRICT OF COLUMBIA FUNDS | | | | | | |
| Operating Expenses | | | | | | |
| Governmental direction and support | | (3,177,000) | (3,177,000) | (3,177,000) | (3,177,000) | (+3,177,000) |
| Rescissions | | (-5,427,000) | (-5,427,000) | (-5,427,000) | (-5,427,000) | (-5,427,000) |
| Economic development and regulation | | (6,361,000) | (6,361,000) | (6,361,000) | (6,361,000) | (+6,361,000) |
| Rescissions | | (-5,094,000) | (-5,094,000) | (-5,094,000) | (-5,094,000) | (-5,094,000) |
| Public safety and justice | | (114,000) | (114,000) | (114,000) | (114,000) | (+114,000) |
| Rescission | | (-22,356,000) | (-22,356,000) | (-22,356,000) | (-22,356,000) | (-22,356,000) |
| Public education system | | (300,000) | (300,000) | (300,000) | (300,000) | (+300,000) |
| Rescission | | (-48,000) | (-48,000) | (-48,000) | (-48,000) | (-48,000) |
| Human support services | | (45,565,000) | (45,565,000) | (45,565,000) | (45,565,000) | (+45,565,000) |
| Rescissions | | (-3,405,000) | (-3,405,000) | (-3,405,000) | (-3,405,000) | (-3,405,000) |
| Public works (rescission) | | (-31,308,000) | (-31,308,000) | (-31,308,000) | (-31,308,000) | (-31,308,000) |
| Washington Convention Center Fund (rescission) | | (-560,000) | (-560,000) | (-560,000) | (-560,000) | (-560,000) |
| Repayment of loans and interest (rescission) | | (-2,544,000) | (-2,544,000) | (-2,544,000) | (-2,544,000) | (-2,544,000) |
| Repayment of general fund deficit | | (2,245,000) | (2,245,000) | (2,245,000) | (2,245,000) | (+2,245,000) |
| Resizing | | (5,510,000) | (5,510,000) | (5,510,000) | (5,510,000) | (+5,510,000) |
| Optical and dental benefits | | | | | | |
| Facilities rent/leases | | (16,667,000) | (16,667,000) | (16,667,000) | (16,667,000) | (+16,667,000) |
| Total, operating expenses, general fund (net) | | (9,197,000) | (9,197,000) | (9,197,000) | (9,197,000) | (+9,197,000) |
| Capital Outlay | | | | | | |
| General fund | | (11,000,000) | (11,000,000) | (11,000,000) | (11,000,000) | (+11,000,000) |
| Rescissions | | (-10,000,000) | (-10,000,000) | (-10,000,000) | (-10,000,000) | (-10,000,000) |
| Total, Capital Outlay (net) | | (1,000,000) | (1,000,000) | (1,000,000) | (1,000,000) | (+1,000,000) |
| Enterprise Funds | | | | | | |
| Water and sewer enterprise fund: | | | | | | |
| Operating expenses | | (26,507,000) | (26,507,000) | (26,507,000) | (26,507,000) | (+26,507,000) |
| Rescissions | | | | | | |
| Total, Enterprise Funds (net) | | (26,507,000) | (26,507,000) | (26,507,000) | (26,507,000) | (+26,507,000) |
| Total, fiscal year 1992 supplemental: | | | | | | |
| Total, District of Columbia funds (net) | | (36,704,000) | (36,704,000) | (36,704,000) | (36,704,000) | (+36,704,000) |
| Appropriations | | (117,446,000) | (117,446,000) | (117,446,000) | (117,446,000) | (+117,446,000) |
| Rescissions | | (-80,742,000) | (-80,742,000) | (-80,742,000) | (-80,742,000) | (-80,742,000) |
| Grand total: | | | | | | |
| Federal funds to the District of Columbia | 699,850,000 | 688,084,000 | 714,000,000 | 765,734,000 | 688,000,000 | -11,850,000 |
| District of Columbia funds, 1993 | (3,895,771,946) | (4,013,658,000) | (3,954,141,000) | (4,026,177,000) | (3,988,421,000) | (+92,649,054) |
| (By transfer) | | | | (1,523,000) | | |
| District of Columbia funds (net), 1992 | | (36,704,000) | (36,704,000) | (36,704,000) | (36,704,000) | (+36,704,000) |
| Appropriations | | (117,446,000) | (117,446,000) | (117,446,000) | (117,446,000) | (+117,446,000) |
| Advance Appropriations, fiscal year 1994 | | | | (52,902,000) | | |
| Advance Appropriations, fiscal year 1995 | | | | (24,875,000) | | |
| Rescissions | | (-80,742,000) | (-80,742,000) | (-80,742,000) | (-80,742,000) | (-80,742,000) |

Mr. Speaker, as I mentioned a few moments ago, this conference was particularly difficult and went on for 2 days.

But I believe we reached a fair and equitable resolution on every amendment except amendment No. 24.

I want to thank the gentleman from New Jersey [Mr. GALLO] for his support and his willingness to work through issues and resolve them. I appreciate his hard work and dedication.

Mr. Speaker, I ask for an "aye" vote on the adoption of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on H.R. 5517, the fiscal year 1993 appropriations for the District of Columbia, as described by the chairman of the Subcommittee, JULIAN DIXON.

It has not been easy reaching agreement on this bill.

Like all the other appropriations subcommittees this year, our funding was limited and so were our choices.

But, we have reached an agreement that I believe is fair and responsible.

This conference agreement fulfills the Federal responsibility to the District by:

Providing the full Federal formula payment to the District of $624.8 million;

Fully funding the Federal contribution to the retirement fund by providing $52 million; and

Providing $5.5 million for inaugural expenses that will be incurred by the District next January.

Finally, what little money we had left over, we provided $5.6 million to help the trauma centers in the District of Columbia offset some of their uncompensated costs.

Overall, this bill is $25 million less than the House bill and is within the President's budget request.

With regard to abortion, the conference agreement restricts the use of Federal funds for abortion except in the case of the life of the mother.

The conference agreement does not restrict the District's funds, which is consistent with both the House-passed and Senate-passed bills.

I realize that the President will veto the bill unless the prohibition extends to District funds as well.

I fully expect this bill, once approved, will return to the Congress for reconsideration of this issue.

Let me also say a few words now about a vote that will take place after we consider the conference report.

One item in our conference was reported back to this House in true disagreement.

This relates to an amendment approved by the other body that would place a referendum on the November ballot in the District of Columbia.

This referendum would allow District residents to decide whether or not the death penalty and life imprisonment without parole would be allowed for persons convicted of first-degree murder in the District of Columbia.

While I will discuss this issue in greater detail later, I simply want Members to be aware of this issue and the debate that will follow consideration of the conference report.

For now, I urge my colleagues to support this conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the distinguished Delegate from the District of Columbia [Ms. NORTON].

Ms. NORTON. I thank the chairman for yielding to me.

Mr. Speaker, I rise first to thank the chairman and ranking member of the Subcommittee on the District of Columbia Appropriation. This was a particularly difficult year for the subcommittee. It held faith with the Federal payment formula, which the members, among others, worked so hard for. But this was a year in which a threatened veto meant that the District could not in fact get the amount that the House had recommended.

Therefore, although the District did not in fact agree and does not in fact agree with everything in the conference report, the District is very grateful for the very hard work of the committee during this very difficult year when it was very difficult to achieve what we were able to achieve in the House.

I ask my colleagues in the House who may have disagreements here or there, with one or another part of the conference report, to show the maturity we in the District are trying to show; that is, to respect the conscientious work that the subcommittee has put into bringing this conference report to you. It took long hours, and many attempts were made to accommodate other members and to accommodate the District.

Mr. Speaker, this is a conference report that deserves the support of the entire House precisely for the very skillful way it deals with very difficult issues.

Mr. GALLO. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BLILEY], the ranking member of the Committee on the District of Columbia.

Mr. BLILEY. I thank the gentleman from New Jersey for yielding time to me.

Mr. Speaker, first let me commend the chairman and the ranking Republican of the D.C. Appropriations Subcommittee, Mr. DIXON and Mr. GALLO, for their excellent work in sending us a good appropriations bill. They worked hard to protect the integrity of the Federal formula and labored to stay within the President's recommendations and deserve our thanks. But there is one important item of unfinished business.

Shortly, we will have before us a motion to instruct conferees to halt the implementation of the domestic partnership act which was passed by the District Council earlier this year. We all know that the council tried to hide the true intent of this act by disguising it as a health care bill. We now know that it is not a health care bill. The District government itself has acknowledged that it will benefit only 25 to 50 people. The council can no longer hide behind the facade that the purpose is to end discrimination because the act itself discriminates against families.

We all know that the only real benefit to be derived from this misguided legislation is official recognition and sanction of homosexual and heterosexual relationships which are outside the bonds of marriage. By giving official status to these relationships, this legislation forces the residents of the District and indeed all Americans to accept the devaluation of marriage. Is this the policy we want to uphold for the Nation's Capital? Maybe so, maybe not. But we should not simply allow 14 local officials to make that decision for the U.S. Congress and the 250 million Americans who are also citizens of their Nation's Capital.

Mr. Speaker, according to some of my colleagues, local politicians, and some recent editorials, the misguided policies of the local government of our Nation's Capital are none of our business. But nothing could be further from the truth. The Nation's Capital belongs to all Americans, not just to those who live and work here. We have a constitutional responsibility to legislate for the District in all cases whatsoever. And, quite frankly, we have some practical responsibilities as well. In the D.C. appropriations bill before use, the Federal Government will provide nearly 40 percent of the general revenue to be used by the District government.

Mr. Speaker, some of my colleagues are invoking the magical and mystical myths of home rule to ward off amendments which reverse local policies. Let me assure my colleagues that such amendments are entirely consistent with the mechanisms of congressional review under the Home Rule Act. Congress has only delegated authority to the District government, it has not abdicated its constitutional obligations.

The purpose of the 1973 District of Columbia Self-Government and Governmental Reorganization Act was to relieve Congress of the burden of legislating upon essentially local District matters. The history of home rule reflects the careful and delicate balance between the Federal interest and local decisionmaking. When home rule was passed by the House, the chairman of the Committee on the District of Columbia told members that it was appropriate for Congress to correct misactions on the part of the local body. Mr. Speaker, the Lott amendment corrects a misaction of monumental proportions.

Mr. Speaker, let me advise my colleagues that for every $1 raised in local revenue, the Federal Government contributes 59 cents to the District. By comparison, Federal funds account for just 8 percent of the average local government budget. If the Lott amendment is not sustained, tax dollars from around the country will be used to grant official status to these illicit relationships.

The city has greatly benefited from its improved working relationship with the Congress. The Federal payment to the District has been increased by $200 million in the past 2 years. Mr. Speaker, the District wants the money but not the accountability.

This appropriations bill repeals a tax on the suburbs. It closes a youth correctional facility the District operates in Maryland. It directs the city to fulfill its obligations to Metro. It contains over 50 restrictions on the District. So it is now absolute folly to suggest that the amendment to repeal the Domestic Partners Act is somehow inconsistent with home rule. The responsibility for these acts and all policies of the Nation's Capital lies with us.

I urge my colleagues to support Mr. DELAY's motion to recommit with instructions.

□ 1210

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. Speaker, I thank the gentleman from New Jersey for giving me this time to speak. I speak directly to address the motion to recommit to the conference on the issue of the Domestic Partners Act.

I am going to trace just for a second where this has developed through Congress. We offered a resolution of disapproval which went before the D.C. Committee, and we were not allowed to offer it on the floor. We did offer to vote against the motion to rise on the bill, and the Honorable Senator LOTT offered an amendment in the Senate.

I just want to explain to the House that when the vote in the Senate took place, many, many of the Senators found out what it was and came back into the Chamber to change their votes, because they found out exactly what the Domestic Partners Act is. It authorizes domestic partners that can be changed every 6 months. You simply go down to city hall and if you find a different partner, same sex, heterosexual, or whatever, you just simply go down and change your domestic partner, and that changes your insurance.

Now, it this a Federal issue? I feel it is, because actually our funding is affected here, and that is what we are making an attempt to change. It is not to allow funding to the District of Columbia for this act, and to me it is precedent-setting for the whole Nation.

So Mr. Speaker, I ask in the strongest language that I can, that this body please look at the motion to recommit by the gentleman from Texas and that we actually send this back and take the Lott amendment and use it in this bill. We all want affordable health care and good health care, but under this bill, someone could come to you and not have any type of relationship whatsoever, because there is no followup on it. They could come to you and say, "Will you be my partner? I have got a serious illness and if you will put me on this sheet of paper as your partner, I have all the health care benefits that I ever want."

We are going to be paying for part of those. I simply say it is wrong. It sends the wrong message to this Nation. What this says is, we do not need any commitment as a Government. We do not have to have followup on what we pass. Who cares if they follow the rules on it? That is what the District of Columbia is saying. We do not have to follow rules. We just set them, and we allow people to do what they want.

The original intent of this bill was to allow same-sex marriages and that it be authorized in this Nation and legal.

I do not think we want that as a country. I do not think our taxpayers in this Nation want this bill to go forward.

Mr. Speaker, in the strongest sense, I ask this body to please vote for the DeLay motion to recommit.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the Delegate from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I do not know how many times this measure deserves to be on the House floor, but I certainly do not think this conference report is an appropriate place for us to devote time to a measure which has survived the very same arguments we are hearing this morning.

The fact is that the registration proposal has nothing to do with unmarried couples or cohabitating. Most of the people in the District of Columbia who are eligible to take advantage of this provision are members of the same family, living in the same household, or people like single mothers who live in the same household and want to get the benefit of getting on the other person's health insurance policy. We are only talking about people who happen to work for the District of Columbia government, so it is a small universe of people in the first place.

Please let me explain what the registration section does. As long as you are going to allow people to get on the same health insurance policy, you have to protect the integrity of that provision, and the way you protect it is by making sure that you have a record of who those people are.

The residents of the District of Columbia, through their elected Representatives, overwhelmingly approved this measure. If I were to suggest to the voters of Louisiana that there was a better way to run their business, they would have something to say to me about that.

All we in the District of Columbia ask you to do is to let us run our own affairs.

As for the notion mentioned earlier that, after all, Congress has plenary power over the District and Congress can do anything to you Congress wishes, let me indicate that that is surely the case, but that in the Home Rule Act what the Congress said it would do would be to cede to the District of Columbia the local law enactment power and to exercise congressional power, its constitutional plenary power over the District, on motions of disapproval of specific legislation.

Mr. Chairman, this amendment was presented in committee and defeated. This amendment got all the way to the House floor and was defeated. This House has spoken on this issue. Please let the conference report stand.

□ 1220

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], also a member of the Committee on the District of Columbia.

Mr. DELAY. Mr. Speaker, I thank the gentleman from New Jersey [Mr. GALLO] for yielding this time to me and also for the opportunity to bring this to a vote, the only vote that we have had, up or down, on the Domestic Partners Act. That act has been renamed, by the way, to the Health Care Benefits Extension Act, because the proponents knew what a problem this was.

Mr. Speaker, there are so many things to talk about here, but I just want to talk about a couple of things.

In answer to the gentlewoman from the District of Columbia [Ms. NORTON], I have a reprint from the Gay Blade, the Washington gay newspaper, Gay Blade, that proves all of her arguments absolutely wrong. This act was not designed to provide benefits for intact families. This bill, this act, was designed for homosexuals and unmarried couples to receive medical benefits, as the gentleman from Louisiana has so aptly described.

In fact, it is a symbol. We are a country of symbols, and for the Nation's Capital to stand up and pass legislation like this sends a signal to the rest of the Nation if Congress does not act to reject it.

Mr. Speaker, even the homosexual rights advocates see this as a real symbol because they have praised the bill calling it, and I quote, from The Gay

Blade, "an important symbol," to them.

Mr. Speaker, this will be a symbol to the rest of the Nation that intact families no longer are the standard in America. This will be a symbol that intact families, by anybody's definition, if they want to participate in health care benefits, all they have to do is sign up. I feel that it is incumbent on this body to protect the rights and the symbols that come out of this Nation's Capital.

Home rule does not say that they can do anything they want to. The District of Columbia, as the gentleman from Virginia so aptly said, is the Nation's Capital. It is owned by the Nation. And let me just remind the House that article I, section 8, clause 17, of the Constitution gives the Congress the power of exclusive legislation in all cases whatsoever over the District of Columbia, and this constitutional mandate was explicitly preserved in section 601 of the Home Rule Act which says:

> Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature of the District, by enacting legislation for the district on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

This is such an important symbol to the Nation, it is such a critical symbol to the Nation, as to what an intact family is and what benefits it can receive, that it is incumbent on this House to express itself on this issue.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New Jersey [Mr. GALLO], my good friend, for yielding this time to me, and I want to congratulate the committee for coming in under the President's request which would eliminate the possibility of a veto.

But I would like to vent my spleen, Mr. Speaker, on a couple of issues that are really bothering me, and that is one of the reasons why, even though they are under the budget, I will probably not support this conference committee report, because there is so much that needs to be done here in D.C.

My colleagues, I called Indianapolis my hometown, which is bigger than Washington, DC. We have about 750,000 people there, and the District of Columbia has about 650,000 or so. I wanted to find out how much they are paying their city-county councilmen there. They are paying our city-county councilmen $9,985, and then when they go to meetings and council meetings, it can up another $4,000, $4,500, to $14,817. Marion Barry, the former Mayor who was convicted of using drugs not long ago and who just got out was just elected to city council in Washington, and, for the edification of my colleagues, he is making $72,000 a year base salary. That is seven times what they are paying in Indianapolis, a larger city.

Now, in addition to that, the crime problem in this city is almost out of control. If my colleagues read the Roll Call newspaper last week, they saw there were several muggings, beatings, some killings done right around the Capitol in just the last few months. One person was shot in the head sitting in their car at a stop light and not doing anything.

But let me give my colleagues some personal experience. I had a staff person three blocks from the Capitol. She was in her apartment, second floor. A fellow shinnied up a drain pipe, came at her with a 4-inch knife, tried to rape her, stabbed her several times, bit her. She fell down some stairs. She was a pretty strong young lady. She got the door open, and her screaming aroused the neighbors, and the fellow fled. But the worst of it is that the policeman who came could not hardly read well enough to fill out the report. The next day she went out in the yard adjacent to her apartment and found parts of his clothing and other things out there. The police did not even find this in the initial investigation.

Mr. Speaker, I have been told that someone can be on the police force in this town after admitting using drugs many, many times; some say as many as 18 times. I also found that someone can get on the D.C. police force by getting a test score of 40 on the test. It used to be 50, but they lowered it 10 percent because they were allowing people from outside the city to get on the force.

Mr. Speaker, those sorts of things make people in this body concerned because we are spending so much money on D.C., and we are not getting much from the taxpayers dollars from around the country. The crime problem is out of control. They are paying these councilmen seven times what a bigger city is paying. Do they wonder why we have concern about that?

I hope that the Mayor of D.C. and the council will really come to grips with the law and order problem in this city and really come to grips with the hard decisions that have to be made on expenditures, and, if they do that, maybe one day they will get my support.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. Speaker, the appropriations conference report before us is the first of seven to be affected by the President's promise to veto appropriations bills that exceed his budget.

I rise to praise the President for his steadfastness which has resulted in a substantial reduction in the proclivity of this House for unnecessary and unjustified spending.

Although some are complaining that there is not enough money in this bill, I would point out that the Federal payment in this bill is the full amount authorized by law, according to the authorization formula we passed last year.

Most Federal agencies are not so fortunate as to have their authorization fully funded, if they have a current authorization at all.

I would also point out that this bill even goes beyond the authorization formula, which I believe was too generous in the first place, by adding a few million for D.C. General Hospital in addition to what the hospital will get from the general Federal payment.

So, Mr. Speaker, while I think this bill still contains too much money, I congratulate the President for his successful efforts to reduce the amount of deficit spending coming out of this Congress.

□ 1230

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding me this time.

I think it is appropriate to let the gentlewoman from the District of Columbia [Ms. NORTON] speak, and if she would not mind, I would just like to have a colloquy with her. Is the gentlewoman receptive to that?

Ms. NORTON. Certainly, if the gentleman will yield.

Mr. STEARNS. Mr. Speaker, I have three questions. When the bill was before us before, it was called the Domestic Partnership Act. Now, as I understand it, it is called the Health Care Benefits Expansion Act. I was wondering, why was the name changed?

Mr. Speaker, I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, the bill, when it came to the Congress, was never called the Domestic Partnership Act when it came here, and that name was given to it because it far more accurately describes what it does. It does indeed extend benefits to members of the same family and to others who live together and share a household, as many people do because of the expense of living in cities like the District.

Mr. STEARNS. The second question I have is this: How much will this cost? Has there been any investigation by the city council to determine how much a year this will cost?

Ms. NORTON. Yes, there was. Yes, there has been an investigation because that issue was raised and we asked the District to look into that very question. The cost of getting on the insurance policy of the individual who is your partner is borne entirely by you and not by the District government.

For administrative costs, we believe it is about $5.50 per person, and we believe that based on what we understand has been the experience of other cities, there will be very few people who will take advantage of this privilege.

Mr. STEARNS. Has anyone done a random sampling to see what costs would be incurred because of either catastrophic that would kick in or more primary care or more preventive health care that would kick in because two folks who are living together would now benefit under one person's health care policy? I ask that because the administrative costs and the signup costs are just a fraction of what this thing could cost.

Ms. NORTON. It certainly is not the signup costs I am talking about. This matter went through very extensive debate in the District at a time when the District has been in the midst of the longest recession since World War II and was not inclined to move toward this legislation if any substantial cost to the District itself could be found, and indeed we know of no way in which costs incurred because of the health needs of someone who is on this plan could be transferred to the government of the District of Columbia.

Mr. STEARNS. Mr. Speaker, I have one last question. If this was passed, how would you determine when domestic partners are no longer partners? Is there a deregistration? And how would you prevent a person who registers with one domestic partner having multiple domestic partners? What are the safeguards in this to prevent that from happening? And, I think, most importantly, if one partner moves out of the house or the home, how are you administratively keeping track of that?

Ms. NORTON. The reason that I am surprised at the notion of deregistration is that the only way in which you can keep track of who in fact is a domestic partner is to have a form of registration or else anybody can pop up and say, "I have a domestic partner," or, for example, "I have a son who goes to college in the West. He is now going into his junior year." If he chooses to come home and I work with the District government, I would want to add him to my policy perhaps. In order to do so, I ought to be able to prove that he is a member of my household and continues to live with me. This registration is intended both to control who gets on and who gets off.

Mr. STEARNS. Mr. Speaker, I thank the gentlewoman, and I will just conclude my remarks by making a part of the RECORD an op-ed piece I did on this subject, as follows:

### "DOMESTIC PARTNERS" BILL DEGRADES THE NATION'S CAPITAL

(By Representative Cliff Stearns)

More than 200 years ago, George Washington envisioned our Nation's Capital as more than just the center of our government. He wanted it to be a city that rose above all others and set standards for our nation. However, our Founding Father probably rolled over in his grave as a result of recent legislation that passed the U.S. House of Representatives.

On July 8, 1992, the House passed the District of Columbia Appropriations bill HR 5517) for the coming fiscal year. Because the District of Columbia is a federal city, Congress and the President must approve these funds.

Buried deep in this legislation were provisions that recognize non-married relationships of homosexuals and heterosexuals as "domestic partners." My colleague, Clyde Holloway (R-La.), was blocked by a procedural vote from offering an amendment that would have prohibited the use of federal funds in support of the domestic partners law. [See rollcall, July 25, page 19.]

There was also a provision in the D.C. bill to provide funding for programs that would distribute condoms to children in the seventh grade through high school. Some of these children would be receiving condoms before they have been in a sex education class.

Are these the types of policies envisioned by George Washington to set standards for our nation to follow? Does recognition of domestic partners in our Nation's Capital set such standards? Will providing condoms to our children lead our country to great accomplishments? Policies such as these will only set America on a course that leads to more promiscuity and decay.

The domestic partners provision of this bill would extend health benefits and sick and bereavement leave to the heterosexual (non-married) and homosexual partner of a D.C. public servant.

To receive these benefits all this partner would have to do is register with the city. These individuals would gain benefits without any commitment. It is disturbing that it would be easier to register for benefits as a domestic partner under this bill than it is to get a driver's license in the city of Washington.

In 1850, Congress set a standard for our nation—more than a decade before Lincoln's Emancipation Proclamation—by passing Clay's Compromise, which included a provision that outlawed the slave trade in the District of Columbia. During this debate, Sen. Daniel Webster of Massachusetts delivered his famous defense of this compromise: "I speak today for the preservation of the Union! Hear me for my cause!"

The District of Columbia set a standard in 1850 by marking its opposition to the slave trade. Just as slavery eroded the freedoms outlined in our Constitution, so too would recognition of domestic partners further erode the family values so important to Americans.

House passage of this legislation has allowed the D.C. City Council to set new standards for the nation. Liberals in Congress are ready and willing to follow their lead and pass similar laws to be enforced nationwide. In doing so, they are redefining the institution of the American family.

Passage of this bill says that, as a domestic partner, an individual should be granted the same rights as those who have promised themselves (before their peers and God) to a committed, life-long relationship. Legally married couples, i.e., a man and a woman, have promised themselves for richer and poorer, for sickness and in health, 'til death do us part. Domestic partners have merely filled out a government form that says they share a street address.

These provisions are simply additional attempts of the far left to pluck away the backbone from our traditional family structure. Individuals who file as domestic partners will have little legal oversight after their "declaration of domestic partnership" has been signed. Fraud and abuse of these benefits will likely result.

Surely, offering condoms to our children and allowing people to live together without a legal commitment is not the solution to our AIDS problem nor a responsible way to extend health care benefits to the uninsured. It sends a mixed message. We should be promoting parental involvement and education rather than pushing condoms and promiscuity.

It is essential that we educate our children that abstinence is not old-fashioned. Contrary to popular opinion, abstinence is a lifestyle option that many single people still choose. They choose that lifestyle not as a moral statement, but because it has proven to be an effective means of preventing unwanted pregnancies and sexually transmitted diseases.

The District of Columbia's sister city Baltimore highlights abstinence as a responsible choice through youth educational programs like Preparing Responsible Individuals. Given the threat of AIDS, abstinence has become the best insurance against this deadly disease for persons not married.

It's not too late to restore the dignity of our Capital City. The Senate repealed the domestic partners law when it voted on the appropriation for the District of Columbia, and let us hope the repeal survives the House-Senate conference.

If we steer our country back on this course, our society will be better served and we will live in an improved nation. Congress should not allow policies such as these to become the law of our Nation's Capital—a precedent sending shock-waves through America. We must not allow the capital city of our nation to be further tarnished by such destructive policy.

Mr. EMERSON. Mr. Speaker, the conference report before us today represents yet another attempt to invite a Presidential veto on the issue of abortion. Once again, this conference report would allow the District of Columbia to use federally appropriated taxpayer funds for abortion.

Year after year, proponents of this abortion provision rally behind the cry for home rule. They tell us that this is not an abortion issue, it's an issue of home rule. Yet these abortion advocates are talking out of both sides of their mouths. Many of these same home rule supporters are also cosponsoring the so-called Freedom of Choice Act, a bill which would eliminate the ability of the District of Columbia and of any sovereign State to exercise home rule and place reasonable restrictions on abortion. They are telling us that home rule is necessary only if it supports abortion. It is obvious from this that home rule is nothing more than a rule of convenience.

The issue remaining here is abortion. When the President vetoes this bill, we should vote to sustain, strike the pro-abortion provision, and send the President a D.C. bill that he can sign.

Mr. HAYES of Illinois. Mr. Speaker, I rise today because I feel I simply must speak out against the inhumane provision in the District of Columbia appropriation conference report, which forces the District of Columbia to hold a referendum on the death penalty in the November election. I am a staunch supporter of home rule for the District of Columbia, and this provision is a classic example of why we need to pass statehood legislation. Efforts are already underway by D.C. residents to address this issue. The death penalty will go on the ballot in the near future, and regardless of my personal opinion, I feel it is disrespectful to the citizens of the District to preempt their efforts by passing this amendment.

Time and time again it has been proven that the threat of execution does not serve as a deterrent to crime. I have always opposed the death penalty because it is my belief that state-sanctioned murder is unacceptable, no matter the circumstance. That is not to say, however, that drastic steps aren't necessary to curb the wave of crime sweeping our Nation, as well as the District of Columbia.

This Nation's preoccupation with the death penalty suggests that rehabilitation, a concept that should be fundamental in a civilized society, is no longer an option. Programs in which the focus lies on prevention and rehabilitation have proven to be effective. There are several such programs currently in place across this Nation. We should change our focus from the death penalty to the encouragement and development of programs like these.

I cannot turn away from the compelling evidence which suggests that race is often a determining factor in death sentencing. Studies have shown that black defendants are more likely to be sentenced to death than white defendants and that the death penalty is imposed more often when the victim is white rather than in cases when the victim is black. Increasing the use of the death penalty for poor, minority youth should not be the focus of our efforts to curb crime. We cannot deny the politics of racism in this Nation and the injustices which follow.

Rehabilitation and prevention programs are the answer to this Nation's crime wave, not state-supported murder.

Mr. GALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

### MOTION TO RECOMMIT OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DELAY moves to recommit the conference report on the bill H.R. 5517 to the committee of conference with instructions to the managers on the part of the House to recede from disagreement with the provisions of Senate amendment number 2 relating to a prohibition against the use of funds to implement or enforce any system of registration of unmarried, cohabiting couples or to implement or enforce D.C. Act 9-188.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DELAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time in which a vote by electronic device, if ordered, will be taken on the question of the adoption of the conference report.

This first vote is a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 173, not voting 24, as follows:

[Roll No. 420]

### YEAS—235

Allard
Allen
Andrews (TX)
Archer
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Boucher
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Burton
Byron
Callahan
Camp
Carper
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hopkins
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
James
Johnson (SD)
Johnson (TX)
Kaptur
Kasich
Klug
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Luken
Marlenee
Martin
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Myers
Neal (NC)
Nichols
Nussle
Ortiz
Orton
Owens (UT)
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

### NAYS—173

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Beilenson
Berman
Blackwell
Boehlert
Bonior
Borski
Boxer
Brown
Campbell (CA)
Cardin
Carr
Clay
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gradison
Green
Gunderson
Hatcher
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Jacobs
Jefferson
Johnson (CT)
Johnston
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Moran
Morella
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Price
Rangel
Reed
Richardson
Roe
Rohrabacher
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Waters
Waxman
Wheat
Williams
Wolpe
Wyden
Yates

### NOT VOTING—24

Ackerman
Alexander
Anthony
Barnard
Bunning
Bustamante
Campbell (CO)
Chandler
Downey
Foglietta
Ford (TN)
Guarini
Hayes (LA)
Huckaby
Ireland
Jenkins
Jones
Livingston
McCrery
Michel
Ray
Savage
Washington
Whitten

□ 1303

The Clerk announced the following pair:

On this vote:

Mr. RAY for, with Mr. ACKERMAN against.

Mr. BONIOR and Mr. ROSE changed their vote from "yea" to "nay."

Mr. PETERSON of Florida, Mr. RUSSO, Ms. KAPTUR, and Messrs. BILBRAY, MOLLOHAN, COLEMAN of

Texas, SISISKY, BRYANT, LEHMAN of California, MAZZOLI, SLATTERY, CONDIT, MURPHY, KOLTER, YATRON, and OWENS of Utah changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AUTHORIZING THE SPEAKER TO SCHEDULE FURTHER CONSIDERATION OF PROCEEDINGS POSTPONED ON QUESTION OF SUSPENDING RULES AND PASSING HOUSE JOINT RESOLUTION 512, EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE PRODUCTS OF ROMANIA

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to designate a time or place in the legislative schedule within 5 legislative days after the granting of this request for further consideration of proceedings postponed under clause 5(b)(1) of rule I on the question of agreeing to the motion that the House suspend the rules and pass the joint resolution (H.J. Res. 512) to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, September 23, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5419, by the yeas and nays;

H.R. 5716, by the yeas and nays;

H.R. 5323, by the yeas and nays;

H.R. 5938, by the yeas and nays; and

H.R. 5673, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote on this series.

## INTERNATIONAL DOLPHIN CONSERVATION ACT OF 1992

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5419, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5419, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 389, nays 15, not voting 28, as follows:

[Roll No. 421]

YEAS—389

Abercrombie
Alexander
Allard
Allen
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—15

Anderson
Armey
Barton
Cunningham
Dannemeyer
DeLay
Doolittle
Fields
Hammerschmidt
Hancock
Hunter
Marlenee
Packard
Stump
Young (AK)

NOT VOTING—28

Ackerman
Anthony
Barnard
Bustamante
Campbell (CO)
Chandler
Downey
Foglietta
Gibbons
Hayes (LA)
Huckaby
Hughes
Ireland
Jones
Lancaster
Livingston
Lowery (CA)
McCrery
Miller (CA)
Moakley
Morella
Nichols
Ridge
Sarpalius
Savage
Tallon
Volkmer
Washington

☐ 1325

Mr. JOHNSON of Texas changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

## OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5716, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5716, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 399, nays 10, not voting 23, as follows:

[Roll No. 422]

YEAS—399

Abercrombie
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—10

Armey
Burton
Crane
Dannemeyer
Hancock
Johnson (TX)
Penny
Sensenbrenner
Stenholm
Stump

NOT VOTING—23

Ackerman
Anthony
Barnard
Bustamante
Campbell (CO)
Chandler
Conyers
Downey
Foglietta
Hayes (LA)
Huckaby
Hughes
Ireland
Jones
Livingston
Lowery (CA)
McCrery
Morella
Olin
Ridge
Savage
Washington
Whitten

□ 1335

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

Mr. EWING and Mr. DUNCAN changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CUBAN DEMOCRACY ACT OF 1992

The SPEAKER pro tempore (Mr. McNULTY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5323, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. TORRICELLI] that the House suspend the rules and pass the bill, H.R. 5323, as amended, on which the yeas and nays are ordered.

The Chair reminds Members that this is a 5-minute vote to be followed by two more 5-minute votes. Members are requested to stay in the Chamber.

The vote was taken by electronic device, and there were yeas 276, nays 135, answered "present" 1, not voting 20, as follows:

[Roll No. 423]

YEAS—276

Allen
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barton
Bateman
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Brewster
Brooks
Broomfield
Browder
Brown
Bryant
Bunning
Burton
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Ford (MI)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hatcher
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (TX)
Kaptur
Kasich
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Machtley
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum

McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murphy
Murtha
Myers
Neal (NC)
Nichols
Oakar
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stump
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—135

Abercrombie
Alexander
Allard
Andrews (ME)
Atkins
Barrett
Beilenson
Bereuter
Blackwell
Boehner
Bonior
Boucher
Boxer
Bruce
Camp
Campbell (CA)
Clay
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Dooley
Durbin
Dwyer
Dymally
Early
Edwards (CA)
English
Espy
Evans
Ewing
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Gejdenson
Gonzalez
Gradison
Grandy
Green
Hastert
Hayes (IL)
Hoagland
Hochbrueckner
Houghton
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kennedy
Kennelly
Kolbe
Kopetski
Laughlin
Lewis (GA)
Lightfoot
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
McCloskey
McDermott
McHugh
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Morella
Morrison
Mrazek
Nagle
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Olver
Owens (NY)
Panetta
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Poshard
Rahall
Ramstad
Rangel
Reed
Roberts
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Scheuer
Schumer
Serrano
Sikorski
Skaggs
Smith (IA)
Stark
Stenholm
Stokes
Studds
Synar
Torres
Towns
Unsoeld
Upton
Valentine
Vento
Waters
Wheat
Wolpe
Wyden
Yates

ANSWERED "PRESENT"—1

Richardson

NOT VOTING—20

Ackerman
Anthony
Barnard
Bustamante
Campbell (CO)
Chandler
Downey
Foglietta
Hayes (LA)
Huckaby
Hughes
Ireland
Jones
Livingston
Lowery (CA)
McCrery
Olin
Ray
Savage
Washington

□ 1344

Mrs. COLLINS of Illinois, Mr. HOAGLAND, and Mr. COSTELLO changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

The SPEAKER pro tempore (Mr. McNULTY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5938, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5938, as amended, on which the yeas and nays are ordered.

The SPEAKER pro tempore. This is a 5-minute vote, and it will be followed by another 5-minute vote.

The vote was taken by electronic device, and there were—yeas 390, nays 18, not voting 24, as follows:

[Roll No. 424]

YEAS—390

Abercrombie
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—18

Allard
Armey
Callahan
Combest
Crane
Dannemeyer
DeLay
Dornan (CA)
Duncan
Emerson
Grandy
Hall (TX)
Hancock
Johnson (TX)
Kyl
Penny
Stenholm
Stump

NOT VOTING—24

Ackerman
Anthony
Barnard
Brewster
Bustamante
Campbell (CO)
Chandler
Downey
Feighan
Foglietta
Hayes (LA)
Huckaby
Ireland
Jones
Livingston
Lowery (CA)
McCrery
Miller (CA)
Murtha
Olin
Savage
Washington
Whitten
Williams

☐ 1352

Mrs. JOHNSON of Connecticut changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## AGENCY FOR HEALTH CARE POLICY AND RESEARCH REAUTHORIZATION ACT OF 1992

The SPEAKER pro tempore (Mr. McNULTY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5673, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5673, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 8, not voting 27, as follows:

[Roll No. 425]

YEAS—397

Abercrombie
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Byron
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—8

Burton
Dannemeyer
Doolittle
Hancock
Hunter
Johnson (TX)
Penny
Stump

NOT VOTING—27

Ackerman
Anthony
Barnard
Bustamante
Callahan
Campbell (CO)
Chandler
Coughlin
Downey
Edwards (OK)
Foglietta
Hayes (LA)
Huckaby
Ireland
Jones
Kaptur
Livingston
Lowery (CA)
Markey
McCrery
Miller (CA)
Mrazek
Olin
Savage
Slaughter
Washington
Whitten

☐ 1403

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I just learned that my vote on the last rollcall, No. 425, was not recorded, although I did vote on the machine. This is a very important measure to me because mammography safety is something I have been working toward. I ask that my statement be placed in the RECORD immediately following the vote.

## ESTABLISHMENT OF AIR FORCE MEMORIAL

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 3627) to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. BARRETT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining the bill.

Mr. CLAY. Mr. Speaker, this bill originally was scheduled for debate on Tuesday of this week. Because of the heavy schedule, it was pulled from the calendar.

Mr. BARRETT. Mr. Speaker, reclaiming my time, I thank the gentleman for his statement.

Mr. Speaker, in times of peace, it is easy to forget the courage of our countrymen who serve or have served in the Armed Forces. It was only 20 months ago that thousands of men and women served bravely in Operation Desert Storm. We should not forget their heroism, and that of the many who served before them.

As we sat glued to our televisions, Americans watched in fear and hope as Iraqi forces fought our own. Although each branch of our military served honorably, clearly the factor which decided our quick victory, was our Air Force. For the first time, we saw with our own eyes, the complete effectiveness of repeated air strikes across enemy territory, as they flashed across our television screens. Clearly, throughout and since World War II, men and women who have served in the Air Force have proved their worthiness.

H.R. 3627 is a wonderful opportunity for us to express our full respect for this branch of the military.

The memorial will honor members of the Air Force past and future, and there are plans to include a distinctive wall of honor, recognizing airmen who have been awarded Medals of Honor.

With over half of the Members of the House as cosponsors of this bill, it is clear that I am not alone in my support of this memorial. Further, no Federal funds will be used in its construction or maintenance. It is a real pleasure to support H.R. 3627.

Mr. Speaker, I urge my colleagues to support this measure.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, the Air Force Association is seeking authority to establish a memorial to the men and women who serve and have served in the U.S. Air Force, and its predecessor the Army Air Corps.

This legislation has overwhelming support, with over half the Members of the House signing on as co-sponsors. No Federal funds will be used for the establishment of this memorial.

Mr. Speaker, this memorial is a celebration of aviation history. It will serve as a historical reminder of the past—and an educational environment to the future of aerospace.

I urge my colleagues to support H.R. 3627.

Mr. BARRETT. Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, H.R. 3627 which has 237 cosponsors, authorizes the construction of an Air Force memorial on Federal lands in Washington, DC. This new memorial will be privately financed. No taxpayers funding is involved.

Since the evolution of the old Army Air Force to the U.S. Air Force in 1947, our brave men and women in blue have faithfully defended our Nation. However, unlike the memorials to the Army, Navy, and Marine Corps, Washington, DC, does not pay tribute to Air Force men and women. That's right. The Air Force is the only service that does not have a memorial in Washington. The Air Force Association will dedicate the memorial on September 18, 1997, to commemorate the 50th anniversary of the Air Force as a separate service.

Interestingly, while the Air Force is our youngest military service, it had its roots in 1905, when the War Department considered an offer from the Wright brothers to provide the Government with a heavier-than-air flying machine. The first Wright plane was delivered to the Government in 1909. Since that time many men and women have significantly contributed to making the U.S. Air Force the finest air force in the world. From the flight of the B-17 in World War II to the bombing runs of the F-117 in Desert Storm, the Air Force has been instrumental in preserving the peace. Certainly, the Air Force's contribution in the Korean war, Vietnam war, and the conflicts in Grenada and Panama has also reminded the world of our highly professional Air Force personnel who operate their effective and sophisticated air and missile weaponry. Clearly, our Air Force men and women deserve to be commended for their service to our country.

In this time of deficit spending we must be concerned with the cost of a fitting Air Force memorial. Therefore, I am pleased that the Air Force Memorial Foundation will finance the memorial at no expense to the American taxpayers. My bill simply authorizes existing Federal land to be used for this memorial. I hope the Members of this body will join in my effort to pass this important legislation which honors the men and women in the U.S. Air Force.

□ 1410

Mr. BARRETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3627

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SEC. 1. AUTHORITY TO ESTABLISH MEMORIAL.**

(a) IN GENERAL.—The Air Force Association is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor the men and women who have served in the United States Air Force.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

**SEC. 2. PAYMENT OF EXPENSES.**

The Air Force Association shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

**SEC. 3. DEPOSIT OF EXCESS FUNDS.**

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act, there remains a balance of funds received for the establishment of the memorial, the Air Force Association shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 9(b)(1) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days during which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## AUTHORIZING APPROPRIATIONS FOR THE AMERICAN FOLKLIFE CENTER, FISCAL YEAR 1993

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 5058) to authorize appropriations for the American Folklife Center for fiscal years 1993, 1994, 1995, 1996, and 1997, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5058

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "and" after "1991,"; and

(2) by inserting after "1992" the following: ", $1,171,769 for the fiscal year ending September 30, 1993, $1,358,463 for the fiscal year ending September 30, 1994, $1,562,322 for the fiscal year ending September 30, 1995, $1,666,857 for the fiscal year ending September 30, 1996, and $1,834,792 for the fiscal year ending September 30, 1997".

### AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CLAY

Mr. CLAY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. CLAY: Strike out all after the enacting clause and insert the following:

That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "1991, and" and inserting in lieu thereof "1991,"; and

(2) by inserting after "1992" the following: ", and $1,120,000 for the fiscal year ending September 30, 1993".

Mr. CLAY. Mr. Speaker, when the Congress approved the American Folklife Preservation Act and placed the American Folklife Center in the Library of Congress in 1976, the Congress reinforced a half-century-old tradition of folklore studies at the Library.

Contrary to remarks previously made on the floor of the House, the Archive of Folk Song, which was established in the Library of Congress in 1928 and is now a part of the American Folklife Center, has been supported by public funds for almost 50 years. The rich traditions of American folksong and American folklore which have been collected since the 1930's—from ex-slave narratives to native American chants and rituals, to the roots of folk, Gospel, and blues music—are now preserved in the American Folklife Center for today's scholars, to draw upon, so that the Nation may enjoy in the future, the richness of these cultures, and their musical and story telling contribution to the American mosaic.

We think it is important to reauthorize this program because it has proven its value over the last 15 years. The program also supports and enhances the activities of public sector folklore organizations in almost every State across the Nation.

Because of Members' concern about the Federal deficit and Government spending in general, however, this bill has been amended for a reauthorization period of only 1 year, with the authorization amount frozen at $1.1 million—the same level that was authorized for fiscal year 1992.

The American Folklife Center is not an exhibit, it is a research center. It is a resource of more than one million items that is used on a daily basis by scholars and citizens seeking to learn more about our diverse American roots. The American Folklife Center preserves our grassroots tradition, and this legislation continues its work.

I urge my colleagues to support and adopt H.R. 5058, as amended.

Mr. BARRETT. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, The American Folklife Center was created in 1976, to preserve and present American folklife. In this quickly changing world, many traditional American customs are becoming a memory. Our folklife defines who we are, through the songs we sing, the names we give our children, and the songs and stories that are passed down over the years.

I want to stress that the American Folklife Center at the Library of Congress is a research center, which includes more than one million items. The Center is open on a daily basis for use by scholars and citizens alike, and serves as a clearinghouse to State, local, and Federal agencies.

This sharing of resources is crucial at a time when the funding for libraries, and the arts and humanities has declined throughout the Nation. The Folklife Center provides consultant services and access to its collections, and scholarship to its constituencies in all 50 States. Major field projects, surveys, conferences, exhibitions, and board of trustees meetings have been conducted in 29 difference States.

As my colleagues will recall, a 5-year reauthorization proposal for the Folklife Center was defeated in June of this year. This bill before us today is a 1-year reauthorization for fiscal year 1993, frozen to the fiscal year 1992 spending level.

Mr. Speaker, I urge my colleagues to support this responsible measure.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. CLAY].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for the American Folklife Center for fiscal year 1993."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## ANNOUNCEMENT OF MODIFICATION IN APPOINTMENT OF CONFEREES ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

The SPEAKER pro tempore. The Chair wishes to make the following modificiation in the appointment of conferees on the bill (H.R. 5506) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activites of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pursuant to the authority granted on September 23, 1992, the Chair announces the following modification in the appointment of conferees on H.R. 5006, Department of Defense authorization:

As an additional conferee from the Committee on Government Operations, Mr. SYNAR is appointed in lieu of Mrs. COLLINS of Illinois.

The Clerk will notify the Senate of the change in conferees.

## CONSUMER REPORTING REFORM ACT OF 1992

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 569

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3596) to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the Act, and to improve enforcement, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After general debate, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Any time specified in the report for debate on an amendment shall be equally divided and controlled by the proponent and an opponent. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1420

The SPEAKER pro tempore (Mr. MCNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 569 is a modified open rule providing for the consideration of H.R. 3596, the Consumer Reporting Reform Act of 1992.

The rule waives points of order against consideration of the bill for failure to comply with rule XXI, clause 8, which requires a Congressional Budget Office pay-as-you-go cost estimate to be included in any legislation providing for or changing receipts or direct spending.

It provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs.

Further, the rule makes in order the Committee on Banking, Finance and Urban Affairs amendment in the nature of a substitute now printed in the bill as an original bill for the purposes of amendment. The substitute shall be considered as read. All points of order are waived against the substitute for failure to comply with the provisions of clause 7 of rule XVI, which prohibits nongermane amendments.

No amendments to the substitute are to be in order except those printed in the report of the Committee on Rules. The amendments are to be considered in the order and manner specified in the report. The amendments are not subject to amendment nor to a demand for a division of the question.

Mr. Speaker, I wish to emphasize that this rule makes in order all amendments submitted to the Rules Committee. House Members were asked to inform the Rules Committee if they wished to offer amendments to the bill, and this rule provides for full House consideration of all amendments which were submitted.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3596, the bill for which the Rules Committee has recommended this rule, is the first major revision of the Fair Credit Reporting Act since its enactment in 1970. In the ensuing years, advances in computer and communications technology have revolutionized the credit reporting industry.

H.R. 3596 updates and upgrades the Fair Credit Reporting Act's consumer protections. It is designed to ensure the information in credit reports is accurate and complete, and gives consumers more control over how that information is used. Several of the amendments which the rule makes in order will give the House the opportunity to decide other important issues about the scope of the bill's protections, particularly whether Federal law should preempt State credit reporting laws.

Mr. Speaker, I ask my colleagues to support this rule so that we may proceed with consideration of the merits of this important consumer protection legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am disappointed by the fact that this is not an open rule. The distinguished chairman of the Committee on Banking, Finance and Urban Affairs [Mr. GONZALEZ] indicated both in the Committee on Rules and back in June, when this measure was moving forward, that he wanted an open rule, and, Mr. Speaker, he and I usually are marching arm in arm in support of open rules. I am disappointed that it is not an open rule at this time.

However, I will say that I am pleased that our committee did decide to make in order every amendment that was submitted to the committee, and so it is for that reason that I do not intend to launch the standard vitriolic attack that comes from this side of the aisle against closed rules.

Likewise, Mr. Speaker, I am supportive of the legislation that this makes in order, and this bill will enhance the accuracy of credit reports and protect the privacy rights of consumers. It offers what I think is a very balanced approach to addressing these issues without undermining the interests of businesses engaged in credit reporting.

The glue that holds this legislation together, Mr. Speaker, is Federal preemption. Without uniform nationwide credit-reporting standards, businesses could face an array of costly and inconsistent State regulatory burdens without any added benefit to the consumer.

Federal preemption has, I am happy to say, very strong bipartisan support. That support includes the ranking Republican members of both the full committee, the gentleman from Ohio [Mr. WYLIE], and the subcommittee.

It also includes the chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, the gentleman from California [Mr. MCCANDLESS]. It also includes the chairman of the Subcommittee on Commerce, Consumer, and Monetary Affairs, our very good friend, the gentleman from Georgia [Mr. BARNARD], who has just undergone surgery, heart surgery, last week, and I know we all pray for his speedy recovery and are sorry he cannot be with us here today.

Mr. Speaker, the chairman of the subcommittee of jurisdiction, the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance, and Urban Affairs, my very good friend, the gentleman from California [Mr. TORRES], and I am privileged to represent the district that adjoins his, stated earlier this year that Federal preemption is, and I quote, "something I think is reasonable."

Mr. Speaker, it is reasonable and it is fair. In fact, this bill contains tougher standards on credit reporting than any of the 50 State laws.

Mr. Speaker, at this time I include for the RECORD two reportedly conflicting statements that have come from the Congressional Research Service on this issue.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, September 23, 1992.*

To: House Subcommittee on Consumer Affairs and Coinage, Attention: Amy Friend.

From: American Law Division.

Subject: Federal Preemption of State Consumer Protection Regulation.

This is in response to your request for an opinion on a number of issues related to Federal preemption of state consumer protection regulatory activities. Specifically, you have asked for an examination of major Federal consumer protection legislation enacted over the past 20 years, to determine whether such statutes totally or partially preempt state regulation in the area of statutory coverage.

FEDERAL PREEMPTION OF STATE CONSUMER PROTECTION LAWS

In examining the Federal consumer protection laws that expressly preempt state or local regulation, it appears that most statutes provide for partial preemption of state regulatory authority. Generally these statutes provide that the application of state consumer protection laws in the subject area is preempted only where such laws are "not identical" to or "inconsistent" with the Federal requirements; and then only to the extent of such inconsistency. However, the administrative agency charged with implementing the Federal standards is either required or conferred discretionary authority to exempt from the general preemption provision, state laws that are "substantially similar" to the Federal requirements or that provide a greater degree of protection to the consumer. Thus, state regulation under these statutes is preempted only to the extent that the state requirements would conflict with Federal standards or would provide a lessor degree of consumer protection.

Of the Federal statutes examined within the time frame of your inquiry, those containing partially preemptive language include: provisions within the Consumer Credit Protection Act relating to consumer leases; the Consumer Product Safety Act; Electronic Funds Transfer Act; Equal Credit Opportunity Act; Fair Credit Billing Act; Fair Credit Reporting Act; Fair Debt Collection Practices Act; Fair Packaging and Labeling Act; Flammable Fabrics Act; section 521 of the Food, Drug and Cosmetics Act; Hazardous Substances Act; Magnuson-Moss Warranty Act; Motor Vehicle Information and Cost Savings Act; National Traffic and Motor Vehicle Safety Act; Poison Prevention Packaging Act; and the Truth-in-Lending Act.

With regard to total Federal preemption in the consumer protection area of the statutes examined, only the Cigarette Labeling and Advertising Act and provisions within the Truth-in-Lending Act relating to credit and charge card solicitation disclosures appear to occupy the regulatory field in these areas. The Cigarette Labeling and Advertising Act precludes state imposition of smoking and health requirements or prohibitions related to the advertising or promotion of cigarettes labeled in conformity with the act; and prohibits any labeling requirement other than those set out in the act. Section 111(e) of the Truth-in-Lending Act totally preempts state law relating to the disclosure of information on credit and charge card applications and solicitations which are subject to the requirements of the act.

KEVIN B. GREELY,
*Legislative Attorney, American Law Division.*

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CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, March 24, 1992.*

To: Honorable Doug Barnard Jr.,
Attention: Jeffrey Tassey.
From: American Law Division.
Subject: Preemptive Language in Major Federal Consumer Protection Statutes.

Pursuant to your request, the following is a listing of the major consumer protection statutes that expressly provide for partial or complete preemption of state regulation in the area of statutory coverage. Please note that the parenthetical citations refer specifically to the provision containing the preemptive language. You have also inquired as to any legislative precedent which requires a private entity to provide a service to the consumer free of charge or below the cost of providing such service. Although no such precedent can be found, provisions within the Communications Act of 1934 requiring broadcasters to charge any candidate for public office the "lowest unit charge" for airtime prior to primary and general elections may be the most closely related example. See 47 U.S.C. §315(b).

Cigarette Labeling and Advertising Act (15 U.S.C. §1334)—Section 5 of the act prohibits the requirement of any statement relating to smoking and health, other than the statement required under section 4 of the act. In addition, the provision prohibits state laws which impose requirements or prohibitions based on smoking and health "with respect to the advertising or promotion of any cigarette the packages of which are labeled in conformity with the provisions of [the act]."

Consumer Leases (15 U.S.C. §1667e)—This provision preempts state laws regarding consumer leases where such laws are inconsistent with the act; and then only to the extent of the inconsistency. In addition, the Board of Governors of the Federal Reserve System is required to exempt from the requirements of the act any class of consumer lease transactions within any state upon a determination that such transactions are subject to requirements within the state which are "substantially similar" to those imposed under the act and that the state laws give "greater protection and benefit to the consumer and that there is adequate provision for enforcement."

Consumer Product Safety Act (15 U.S.C. §2075(a))—Section 26 of the act preempts state and locally enacted consumer product safety standards unless such standards are identical to those promulgated under the act. Exceptions are made for standards promulgated by the Federal, state and local governments which are applicable to consumer products for the use of the governmental entity if such standards provide a higher degree of protection from the risk of injury than those promulgated under the act. State and local standards may be exempted from the general preemption requirements if such standards provide a "significantly higher degree of protection" than the standards under the act and such standards do not "unduly burden interstate commerce".

Electronic Funds Transfer Act (15 U.S.C. §§1693qq, 1693r)—State laws governing electronic fund transfers are preempted if such laws are inconsistent with the provisions within the act; and then, only to the extent of such inconsistency. State laws are not deemed inconsistent where such laws afford greater protection than that afforded by the provisions of the act. The Board of Governors of the Federal Reserve System is required to exempt from the requirements of the act "any class of electronic fund transfers within any [s]tate * * * which are subject to [state] requirements substantially similar to those imposed by [the act] and [for which] there is "adequate provision for enforcement."

Equal Credit Opportunity Act (15 U.S.C. §1691d)—This provision preempts state laws which "prohibit the separate extension of consumer credit to each party to a marriage * * * where each party to a marriage voluntarily applies for separate credit from the same creditor." State laws related to credit discrimination are preempted when inconsistent with the provisions within the act; and then only to the extent of such inconsistency. In addition, the Board of Governors of the Federal Reserve System is required to exempt from the requirements of the act any class of credit transactions subject to state requirements that are "substantially similar to those imposed under [the act] or requirements that give "greater protection to the applicant" and for which there is "adequate provision for enforcement".

Fair Credit and Charge Card Disclosure Act (Pub. L. 100-583)—Section 4 of the act amends section 111 of the Truth in Lending Act to supersede state laws regarding disclosure of information in credit and charge card applications and solicitations and regarding the tabular format required for certain disclosures. However, states may elect laws to enforce the requirements of these provisions.

Fair Credit Billing Act (15 U.S.C. §1666j)—Section 171 of the act preempts state credit billing laws only to the extent that such laws are "inconsistent" with the act; and then, only to extent of such inconsistency. Subsection (b) requires the Board of Governors of the Federal Reserve to exempt from the requirements of the act "any class of credit transactions within any [s]tate" upon a determination that "under the law of that state that class of transactions is subject to requirements substantially similar to those imposed under [the act] or that such law gives greater protection to the consumer, and that there is adequate provisions for enforcement."

Fair Credit Reporting Act (15 U.S.C. §1681t)—Preempts state laws relating to the collection, use and distribution of information on consumers which are inconsistent with the provisions within the act; and then, only to the extent of such inconsistency.

Fair Debt Collection Practices Act (15 U.S.C. §§1692n, 1692o)—Preempts state debt collection practice laws that are inconsistent with the requirements imposed under the act; and then, only to the extent of such inconsistency. State laws are not inconsistent with the act if such laws afford greater protection to the consumer than the provisions within the act. The Federal Trade Commission is required to exempt from the applicability of the act "any class of debt collection practices" within a state that are subject to state requirements "substantially similar" to those imposed under the act and for which there is "adequate provision for enforcement."

Fair Packaging and Labeling Act (15 U.S.C. §1461)—Section 12 of the act "supersedes any and all laws of the States or political subdivisions thereof insofar as they * * * provide for the labeling of the net quantity of contents of the package of any consumer commodity covered under [the act] which are less stringent or require information different from [that required under the act] or regulations promulgated pursuant thereto".

Flammable Fabrics Act (15 U.S.C. §1203(a))—Section 16 of the act preempts state and locally enacted "flammability standards or other regulation for a fabric, related material or product" for which a standard has been promulgated under the act unless such standards are identical to the Federal standard. Exceptions are made for Federal, state and local flammability standards applicable to fabrics for the use of the governmental entity where such standards afford a higher degree of protection than the standard promulgated under the act. State and locally enacted standards may be exempted from the preemption provisions where the standard would not cause the fabric, related material or product to be in violation of the Federal standard and the standard affords a higher degree of protection from fire and does not unduly burden interstate commerce.

Food, Drug and Cosmetic Act (21 U.S.C. §860(k))—Section 521 of the act preempts state and local requirements regarding a device intended for human use which is "different from, or in addition to, any requirement applicable under [the act] to the device" and which "relates to the safety or effectiveness of the device or to any other matter included in a requirement [under the act]." The Secretary of Health and Human Services may exempt such state and local requirements if the requirements are more stringent than the requirements imposed under the act or are "required by compelling local conditions and compliance with the requirement would not cause the device to be in violation of any applicable requirement under [the act]."

Hazardous Substances Act (15 U.S.C. §1261n)—Section 18 of the act preempts state and local cautionary labeling requirements "designed to protect against the same risk of illness or injury" as requirements established by the CPSC under section 2(p) or 3(b) of the act, if such requirements are not identical to the Federal standards. In addition, where CPSC promulgates standards applicable to a hazardous substance under section 2(q) of the act, nonidentical state and local requirements applicable to such hazardous substance are preempted if the requirements are designed to protect against the same risk of illness or injury. Exceptions are made to these preemption requirements for standards promulgated by the Federal, state or local government which are applicable to hazardous substances for the use of the government if the standards provide a "higher degree of protection from the risk of illness or injury than do the CPSC requirements. In addition state and local governments may apply for and receive an exemption from the preemption requirements, if compliance with the state standards would not cause the hazardous substance to be in violation of the Federal requirements and such standards provide a higher degree of protection and do not unduly burden interstate commerce.

Magnuson-Moss Warranty Act (15 U.S.C. §2811(c))—Section 111 preempts state requirements relating to labeling or disclosure of written warranties when such requirements are not identical to requirements imposed by sections 102 (disclosure of terms and conditions of warranty), 103 (designation of warranties) and 104 (Federal minimum standards for warranty) or regulations promulgated thereunder. State agencies may apply to the Federal Trade commission for exemption from the preemption provisions if the requirements "afford protection to consumer greater than the requirements of the act" and such requirements do not "unduly burden interstate commerce."

Motor Vehicle Information and Cost Savings Act (15 U.S.C. §1920)—Section 110 of the act preempts state and locally enacted motor vehicle bumper standards unless identical to a "Federal bumper standard". Exception is made for bumper standards established by Federal, state or local governmental entities which relate to vehicles or equipment procured for the use of government if such standards impose "an additional or higher standard of performance".

National Traffic and Motor Vehicle Safety Act (15 U.S.C. §1392)—Section 103(d) of the act preempts state and locally adopted motor vehicle safety standards which are not identical to the Federal standard governing the same aspect of performance of such vehicle or item of motor vehicle equipment. Exceptions are made for requirements established by Federal, state and local governments governing motor vehicles procured for governmental use if such requirements impose a "higher degree of performance than that required to comply with the otherwise applicable Federal standard."

Poison Prevention Packaging Act (15 U.S.C. §1476(a))—Section 7 prohibits the States or political subdivisions thereof from establishing or continuing in effect any standards governing the special packaging of household substances covered by the act which are not identical the standards established by the Consumer Product Safety Commission (CPSC) under section 8 of the act. Exceptions are made for standards relating to household substances for the use of the federal, state or local government where such standards afford a higher degree of protection than the standard issued by CPSC. In addition, state and local governments may apply for exemption from the preemption requirement if compliance with standards would not cause the household substance to be in violation of the Federal standard and the standard affords a higher degree of protection and does not unduly burden interstate commerce.

Telephone Consumer Protection Act of 1991 (Pub. L. 102-243)—Subsection 9 of the act preempts state adoption of technical and procedural standards regarding the use of telephone facsimile and automatic telephone dialing machines. In addition, in the event the FCC establishes a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, states may not require the use of any database that does not include the part of such single national database that relates to such state.

KEVIN B. GREELY,
*Legislative Attorney,*
*American Law Division.*

Mr. TORRES. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the gentleman from California.

Mr. TORRES. Mr. Speaker, I thank the gentleman for yielding. I simply wanted to react to that. He quoted me, and I would like to react to that.

Indeed, those were my words that the gentleman said. In fact, I support the Federal preemption that exists in current law. It mandates that Federal law preempt State law, but only where and when the State law is inconsistent or weaker, an important word, "weaker," than the Federal law. The total preemption is simply that. That is my position.

Mr. DREIER of California. Mr. Speaker, what we are proposing here is clearly stronger than most other State laws. I thank my friend, and that is the reason I wanted to tell him that I was going to be quoting from the speech that he had given earlier this year.

Mr. Speaker, the gentleman from Georgia [Mr. BARNARD], the subcommittee chairman, has asked me to point out that the most recent memo is incomplete, and to point out that our most recent amendment to the Truth in Lending Act, the Fair Credit and Charge Disclosure Act of 1988, did contain a strong Federal preemption provision that the gentleman from Georgia [Mr. BARNARD] and the gentleman from New York [Mr. SCHUMER] had sponsored.

Mr. Speaker, there is an additional comment that I would like to add. H.R. 3596 is one of the last bills that will come to us under the leadership of the very distinguished ranking member of the full committee, the gentleman from Ohio [Mr. WYLIE]. I would like to repeat what I have been saying since the day he announced his retirement, when I have been handling reviews that have come from his committee. That is that we all will miss him, and he has done a superb job as the ranking member, and will be sorely missed when he chooses to retire and will not be part of the 103d Congress.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3½ minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time.

Mr. Speaker, I rise in support of the rule. It is a fair rule that permits debate on all of the amendments that Members filed with the Rules Committee to the Consumer Reporting Reform Act.

H.R. 3596 overhauls the Fair Credit Reporting Act, a law that has simply failed to keep pace with the technological advances of the last two decades.

Sophisticated computers now allow each of the three major credit bureaus to compile, sort, and sell information on the finances and lifestyles of 150 to 170 million consumers. Serious errors, abuses, and breaches of privacy has accompanied this explosion of consumer information, costing people jobs, homes, and credit.

H.R. 3596 is a direct response to the public outcry about the credit reporting industry.

The bill before us today represents a bipartisan effort and carefully crafted compromise between consumer advocates and representatives of the reporting industry. It is the product of a full and fair debate at the subcommittee and full committee levels.

Most of the important issues have been satisfactorily resolved through the committee process, and I believe that my Banking Committee colleagues on the other side of the aisle would agree with this assessment.

The rule will give the House the opportunity to debate a number of issues, some of which have been in contention throughout consideration of the Banking Committee, such as whether to permit this bill to preempt all related State laws, and some of which have never been the subject of amendments.

While I cannot support several amendments, particularly the Johnson amendment that will gut enforcement under the bill, it is my colleagues' right to consider them on the floor.

The rule will allow debate on what I consider the most pressing and pivotal issue remaining in the bill—whether States should maintain their ability to provide their residents with stronger consumer protections than those in the bill.

Let me emphasize the word "maintain," because under current law, States can now enact and enforce stronger consumer laws. The Fair Credit Reporting Act, which we will amend today, preempts only weaker State laws. A provision added to the bill by the Banking Committee, however, would change the entire enforcement landscape by robbing States of their traditional authority to better protect their residents.

Later in this debate, I will join my colleagues, Chairman GONZALEZ and Representative RINALDO, in offering an amendment that would restore to States their traditional role of protecting their consumers. While I will not present the case for the amendment now, suffice it to say that a vote against the amendment is a vote to kill the bill.

☐ 1430

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to my friend, the very distinguished ranking member of the full Committee on Banking, Finance and Urban Affairs, the gentleman from what his wife likes to claim is Worthington, OH, Mr. WYLIE.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California for his complimentary remarks which he made a little earlier about my service on the Committee on Banking, Finance and Urban Affairs, and I wish to say it was a pleasure to serve with him when he was a great member of our committee and made many significant contributions there. I am glad to see that he has been advanced to the Rules Committee. I know he would not have gone to the Rules Committee if he had not thought it was an advancement, and I am glad to see he thinks it is an advancement, and I do too. We did not kick him off, but the gentleman has been a good friend, and his friendship is much appreciated.

Mr. Speaker, I rise in support of this rule. I agreed and testified in favor of an open rule, agreed with the chairman of the full committee, as has been pointed out, that I would testify in favor of an open rule. But I will have to say that this rule permits, as was mentioned a little earlier, the offering of all 10 amendments which were filed timely by interested Members. And I cannot imagine any other possible amendments that could improve this legislation. I think the offering of other amendments would only serve to be dilatory, and could be interpreted as such. And so, on balance, I think the Committee on Banking, Finance and Urban Affairs has reported out a good bill which I support, and I believe it is desirable legislation.

The bill for the first time does provide needed proconsumer reforms to improve the accuracy of credit reporting, as the gentlewoman from New York mentioned, since 1970. And I was one of the coauthors of that legislation in 1970 called the Fair Credit Reporting Act, and I have always been very, very proud of that.

But I do think times have changed, and we do need some improvements to it, and the time has come. So given my support of the underlying legislation, I do urge an aye vote on the rule.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 4 minutes to my dear friend, the gentleman from La Quinta, CA, Mr. MCCANDLESS, who is a very hardworking Member and the ranking member of the subcommittee.

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman from Claremont for yielding me this time.

Mr. Speaker, as the ranking Republican on the Subcommittee on Consumer Affairs and Coinage, I support this rule.

H.R. 3596, the Consumer Credit Reporting Reform Act of 1992, represents the first major reform of the Fair Credit Reporting Act since it was enacted over 20 years ago.

The underlying text of the bill, as reported by the Banking Committee, reflects the provisions of a substitute offered in subcommittee by Chairman TORRES, Congressman BARNARD, and myself.

The legislation is the product of many months of work, and is truly a bipartisan bill.

However, at the risk of understating the obvious, that does not mean that everyone agrees with everything in the bill. I'm sure we will hear more on that later.

With regard to this rule, I must admit that I generally do not support closed rules. However, I do support this rule, and do so for two reasons.

First, a closed rule in the final days of a legislative session is not unusual.

Second, while most closed rules are intended to stifle debate and preclude germane amendments, that is not the case here.

This bill was marked up by the Banking Committee in March, and reported in June. The report has been available to Members for over a month.

Chairman MOAKLEY asked Members to file their proposed amendments with the Rules Committee.

Ten amendments were filed. This rule makes all 10 of those amendments in order. Consequently, the rule should be supported.

Having said that, however, I do hope that this rule will not be used as a precedent to require the prefiling of amendments on all bills. In addition, I have strong reservations about a time limit of only 10 minutes of debate on 9 of the 10.

Nevertheless, for the reasons I have outlined, I would again encourage Members to support the rule.

The rule will allow for the House to decide one of the most important aspects of credit reporting reform.

As reported by the Banking Committee, H.R. 3596 would establish a tough, pro-consumer uniform national standard for credit reporting.

Because some Members would prefer to have a system of 50 different credit reporting laws and regulations, the rule makes in order the Gonzalez amendment to strike the uniform standard from the bill.

Although I am strongly opposed to the Gonzalez amendment, I do believe the issue should be debated and decided by a direct up or down vote.

That is how this place is supposed to work.

We should adopt this rule.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Dallas, TX, Mr. JOHNSON, one of our great heroes in the House who has been here 1 year and 4 months and who is a member of the Committee on Banking, Finance and Urban Affairs.

Mr. JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in support of this rule, and later I will offer an amendment to strike a section of the bill giving the Federal Trade Commission civil penalty authority. This provision is nothing more than regulatory overkill.

For over 20 years the FTC has enforced the Fair Credit Reporting Act through the complaint and consent process. The only purpose of this provision is to fine businesses to compel compliance with the law. But as already stated, the FTC is able to achieve compliance without penalties.

□ 1440

H.R. 3596 would allow the FTC to place a civil penalty of up to $10,000 per day per violation on a reporting agency not found in compliance. This is really unreasonable for an industry that handles up to 2 billion tabulations per month.

The bill does not differentiate between intentional and unintentional violations. Consumers can already sue for actual and punitive damages for willful negligence on the part of reporting companies.

In fact, this bill broadens this power. It also allows the States' attorneys general the power to take these agencies to court under the fair credit statute.

We need to put our purpose in perspective. This provision does not just affect the big three reporting bureaus. It affects many small, and mid-sized reporting agencies across the country. Do we want to penalize and drive companies out of business, or do we want to reform the credit reporting process?

Do not give the bureaucrats more power than they need. The FTC has been very effective in using its current consent and agreement authority. The FTC also has and uses its power to order monetary restitution.

I want my colleagues to know that my amendment will not weaken compliance but, rather, ensure fairness and eliminate offensive government control.

I hope you will vote for that amendment when it is offered, and I hope you will vote for the rule, because it is a fair rule.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am going to reluctantly urge support of the rule and look forward to moving ahead toward passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 569 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3596.

□ 1441

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3596) to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the act, and to improve enforcement, and for other purposes, with Mr. FEIGHAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. TORRES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House will consider legislation to modernize and reform the Fair Credit Reporting Act of 1970 [FCRA]—a law that has not been substantially updated in more than 20 years. The FCRA was enacted to ensure that the Nation's credit reporting system functioned fairly, accurately and without undue intrusion into the consumer's privacy. For many years the law generally achieved these goals. Consumers were provided necessary credit, while banks and merchants were protected from unnecessary risks.

But our Nation has changed dramatically over the past two decades, and so too has the technology that facilitates the credit reporting system. Credit reports are no longer filed in manila envelopes and stored in metal cabinets. Today, reports are stored, manipulated and relayed by the most sophisticated computers in the world. When the FCRA was passed in 1970, the largest credit bureau had but 27 million files on consumers. Today, each of the three largest bureaus keeps files on 150 to 170 million consumers.

The nature and magnitude of the Nation's consumer credit needs have also changed dramatically over the past two decades. When the FCRA first became law, Americans owed about $125 billion. Today, consumer debt is approaching $800 billion.

The present state of computer technology and the volume of credit transactions that fuel the American economy have rendered the FCRA dangerously ill-equipped to meet the needs of today's consumers.

The FCRA sought to achieve a balance between the legitimate business need to obtain accurate consumer credit information, and the right of consumers to protect the privacy of their personal and financial records. But that delicate balance has been lost. Today, consumers lives are an open book. Sensitive personal and financial data is bought and sold with little or no regard for the privacy of the consumer. Workers are denied employment or even blackballed because of faulty information placed in their files. And inaccurate credit information is difficult if not impossible to correct. Clearly, it is time to regain the balance that is needed to protect American consumers against the abuses of the credit reporting industry.

Updating the FCRA is no small task. Credit reports play a vital role in the lives of virtually every adult in America. Whenever you apply for a loan, rent an apartment, buy a house, seek insurance or even apply for a job, your credit report is examined to determine eligibility. The Subcommittee on Consumer Affairs and Coinage has spent the past 4 years examining the credit reporting industry. After four exhaustive hearings and thousands of hours of investigation, we found a critically flawed regulatory system desperately in need of major reform.

The most serious problem uncovered by the subcommittee was the number of errors contained in credit reports. Last year alone, 10,000 consumers complained to the Federal Trade Commission about inaccurate credit reports. Recent studies have found that almost half of all credit reports contain errors and that 1 of every 4 reports has serious errors that could result in the denial of credit, insurance or even the loss of a job. These studies have also found that consumers spend an average of 6 months getting credit bureaus to correct errors in their reports, and that even if mistakes are corrected, they often return in subsequent reports.

The human consequences of these errors can be devastating. The subcommittee heard from a cable company executive who was fired from his job after he was mistakenly identified on his credit report as a convicted drug dealer. A homeowner who had paid off his mortgage and never missed a payment was refused credit from banks and retailers for close to a year because his credit report incorrectly listed a tax lien on property that he did not own, located in a State where he had never lived. Almost 1,500 taxpayers in Norwich, VT, were erroneously recorded as deadbeats because of an error by TRW, one of the Nation's three largest credit bureaus. The residents of south Middlesex County, MA, suffered the same nightmarish fate a few months later. And the horror stories go on, and on, and on.

Another critical deficiency uncovered by the subcommittee was the lack of privacy protections in credit reporting. Credit bureaus and the companies that use credit reports were found to blatantly ignore the privacy rights of consumers.

Credit reports contain the most sensitive personal and financial information collected on consumers. Information about where you live, how much money you make, who and how much you owe, how promptly you pay your debts, and the type of car you drive is collected and sold by credit bureaus. Given to the wrong person, this information can prove embarrassing, and in certain situations, dangerous.

The FCRA allows credit bureaus to sell credit reports only to those people with a permissible purpose, such as credit, insurance and employment. It also requires bureaus to establish procedures to ensure that reports are sold only to those with such a purpose. Despite these requirements, credit reports are often sold to private investigators, business competitors and unscrupulous attorneys for illegal purposes.

The bill we are considering here today will help put an end to the pain and suffering the credit reporting industry is inflicting on thousands of decent and responsible Americans. It will increase the accuracy of credit reports and better protect the privacy of those reports. With over 40 new consumer protections, it is a significant improvement over current Federal law.

The Consumer Reporting Reform Act gives consumers greater access to their credit histories and makes it easier to correct mistakes. It makes banks and merchants accountable for the quality of the information they turn over to credit bureaus. And it increases privacy by requiring employers to get permission before they can check a worker's credit report.

The bill increases consumer access to reports by capping the cost of credit reports at $8 and requiring credit bureaus to standardize and simplify reports. It makes it easier to correct mistakes by requiring credit bureaus to establish toll-free numbers and to investigate complaints within 30 days. Disputed information that is not verified during that time must be deleted. And for the first time, banks and merchants that turn over information to credit bureaus are responsible for updating and correcting information they know is inaccurate or incomplete.

The bill will improve compliance with the law by giving the Federal Trade Commission civil penalty authority. Under current law, credit bureaus and their customers blatantly flout the law because they face no real liability for continued violations. Civil penalty authority provides the FTC with the necessary tools to enforce the law.

The bill also contains a provision to help ease the pain of the recession. Finding work in these tough recessionary times is difficult. Jobs are scarce, competition is tight and opportunities fleeting.

But even after unemployed workers find new jobs or are rehired, they are often haunted by a bad credit record. The bills they were unable to pay while unemployed will show up as delinquencies in their files for up to 7 years, no matter how conscientious they were about meeting their obligations before losing their jobs. Under current law, bringing their payments current will not erase the damage already done to their credit records while they were out of work. Because of this, millions of trustworthy men and women are unfairly branded credit risks, simply because they had the misfortune of losing their jobs.

The bill addresses this problem by prohibiting credit bureaus from keeping or reporting information regarding late payments that a worker made while they were unemployed. To prevent the information from appearing on their credit record, a worker need only meet all credit obligations for one year after returning to work.

Lastly, the bill tightens restrictions on credit repair organizations. More often than not these organizations are scam artists that prey on consumers when they are at their most vulnerable, down in their luck and searching for a quick fix to their credit problems. The bill would prohibit these businesses from collecting a fee until the services are fully performed.

Later today you will be asked to vote on several amendments to the bill reported by the Banking Committee. Some of these amendments I will support. But I will oppose a number of amendments because they would remove consumer protections and weaken the bill.

One such amendment will be offered by Mr. JOHNSON. The same industries that have so arrogantly ignored the law are pushing this amendment to strip the FTC of civil penalty authority. After stripping consumers injured by these companies of their legal recourse, they are now trying to remove the only remaining enforcement authority left in the bill. I urge you to reject this outrageous attempt to gut the bill and vote no on the Johnson amendment.

With one major exception, the Consumer Reporting Reform Act represents landmark consumer legislation. It is a strong but fair bill that balances the legitimate needs of business, with the rights of consumers.

But a poison pill has been added to the bill at the urging of the credit reporting industry that undermines all of its consumer protections. This insidious provision would strip States of the right to enforce or enact stronger consumer protections. Unless this poison pill is removed, and States are allowed to protect their residents, I will not be able to support the bill.

I will later be joining Chairman GONZALEZ and Representative RINALDO in offering an amendment to strike this poison pill from the bill. The amendment is supported by all 50 State attorneys general, the National Governors Association and every major consumer and privacy group in the country.

Without Federal preemption this bill represents landmark consumer legislation. But with preemption the bill provides a safe haven for the credit reporting industry that has ruined the lives of hundreds of thousands of decent and handworking Americans.

The choice we have is simple. We can protect consumers against the abuses of this rogue industry, or we can pander to special interests. We can vote for our constituents and send the bill to the Senate, or we can vote for special interests and effectively kill the bill. I urge my colleagues to join me in voting for true reform. Let us stop the horror stories.

□ 1450

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I rise to indicate my strong support of H.R. 3596, and I yield myself such time as I may consume.

Mr. Chairman, I think the bill reported out of the Committee on Banking, Finance and Urban Affairs is an excellent bill and brings much-needed reform to the credit reporting industry. I do urge my colleagues to support the committee bill.

Mr. Chairman, there exists widespread agreement on the bill as reported out of the committee, that it is proconsumer, that it is much needed, that it does give additional reforms so there will be more accuracy and better reporting and gives additional privacy protections to consumers.

For example, the bill would clarify that corporate facilities may freely exchange consumer information from credit reports and otherwise after proper disclosure. Further, it would limit outside access to credit reports without the consumer's consent; it would require that disputed information be investigated and resolved within 30 days and that the consumer be informed of the results of that reinvestigation. It would limit the use of credit reports for employment purposes, while providing current and prospective employees additional rights and privacy protections.

It would require comprehensive disclosure to consumers of their rights under the Fair Credit Reporting Act. It would allow consumers to prevent the consideration of their credit files for unsolicited offers. It would expand the rights to a free credit report by providing that any time a report is used for any purpose which results in an adverse determination, the consumer may request a free copy of his or her credit report within 60 days from all three nationwide credit reporting agencies. It would limit the cost of a consumer's credit report which is not otherwise free, to a charge of no more than $8. It would prohibit the reporting of credit information that is inaccurate or incomplete. It would require reports to include information pertaining to parents' status as delinquent in their child support obligations. It would significantly increase the penalties for obtaining credit reports under false pretenses.

Mr. Chairman, because Ohio does not currently have any fair credit reporting legislation, none of the above protections are now available to Ohio consumers. Unfortunately, there does seem to be one remaining issue that Chairman GONZALEZ, Mr. TORRES, and I cannot agree on in this legislation, and that is the issue of Federal preemption.

I strongly believe that consumers will be benefited by a uniform Federal statute as contained in the bill as reported out of the committee. I cosponsored the amendment in the subcommittee with my good friend, the gentleman from Georgia [Mr. BARNARD], who is a strong advocate and very articulate spokesman for this issue and would explain it much more clearly than I, I am sure. But unfortunately Congressman BARNARD is in the hospital, unable to be here today, but he certainly did authorize me to say that he would oppose an amendment which would strike the preemption provision.

Now, this amendment which he and I offered prevailed in the subcommittee; it prevailed in the full Banking Committee.

Whereas Mr. TORRES, in his opening statement a little while ago, mentioned there are 40 reasons to vote for this bill, he said he will vote against it if his amendment, if his and Mr. GONZALEZ' amendment to strike the Federal preemption, would fail.

Now, that makes absolutely no sense to me because of the fact there are many other reasons to vote for it in the first instance.

He also mentioned there are 160 million credit reports put out during the course of a year now, which I think is a very strong and good argument for uniformity in the dissemination of the information with regard to applications for credit reports.

Today the market for consumer credit is operated on a nationwide basis. As my colleagues are well aware, Congress often implements uniform Federal standards in areas that substantially affect interstate commerce. As a matter of fact, we are required to do that by the commerce clause of the Constitution.

In fact, we have adopted uniform legislation with reference to the credit card legislation, with reference to the Lending Act that we now have, the Fair Credit Reporting Act.

I think that in this case it would lower the cost to the consumers, it would lower the cost of credit, it would make unnecessary duplication paperwork, and, third, it would increase the amount of credit available to consumers.

Fourth, it would reduce unnecessary and frivolous litigation. Last, a Federal uniform standard will give consumers better knowledge of their rights in any individual State.

At the present time only 24 States have fair credit reporting legislation. This bill, with the Federal preemption, would say there has to be fair credit reporting in all 50 States. As I mentioned, my State of Ohio does not have it at the present time.

So, it would add teeth to those otherwise desirable provisions in the legislation.

The gentleman from California [Mr. TORRES] said that 50 attorneys general are opposed to the preemption clause. I have difficulty understanding that, unless it is to provide them with some other mechanism which could be interpreted as being proconsumer and might enhance their own political ambitions.

But in this bill we allow the States' attorneys general to have the authority under the law to impose the harsher standards which will be required by Federal law. The States' attorneys general have recently used these powers against nationwide credit bureaus, and it will protect them in that regard.

So, for these reasons, I will oppose the amendment that will be offered very soon by the gentleman from Texas [Mr. GONZALEZ], and the gentleman from California [Mr. TORRES], and I urge adoption of the bill regardless of the outcome and suggest there are many other provisions in the bill which are desirable which ought to be passed on to the Senate for their consideration. It is important legislation. I urge that we keep the Federal preemption and will have more to say about that later on.

Mr. Chairman, I reserve the balance of my time.

Mr. TORRES. Mr. Chairman, I yield 3 minutes to the chairman of the full Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, H.R. 3596, the Consumer Credit Reporting Act of 1992, is what I would say is an essential piece of legislation. It long addresses the need we have for a lawmaking body to address the tremendous changes that have occurred since the original Fair Credit Reporting Act of 1970. Chairman TORRES, of the subcommittee, is to be commended for his exemplary handling and guiding through the intricate legislative process over a period of 4 years this very essential legislation.

□ 1500

He has done a magnificant job and I congratulate him. He has certainly stood tall against very great odds.

Now, one of the issues that the gentleman from California [Mr. TORRES] had to work against, along with myself and many of our other colleagues on this essential issue in the committee on a vote, and it was the amendment I offered then, we just had a difference of about two or three votes. That is about all that this tremendous what I call credit reporting cartel in our country was able to do in the full committee.

Now, since then, of course, I think most Members have been deluged with cartel-originating letters asking our colleagues to vote against the amendment that we will propose on preemption of consumer protection under State laws.

I will be offering this amendment, together with cosponsors like Chairman TORRES, Congressmen RINALDO, SCHUMER, and many others.

Now, credit reports are no longer just references used by banks to determine creditworthiness. Today credit reports are used by landlords, employers, and for every financial agreement an individual can enter into, and this is an awesome power in this day and time in which an error can result in such a basic injustice that it can hardly be done right.

Mr. Chairman, supporting H.R. 3596 with the amendment that we will be offering I think is in line with the legitimate protection of the overall interests of the greatest number of our constituents.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MCCANDLESS], a member of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs.

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

Mr. Chairman, for good or for bad, the use of credit has exploded in recent years.

With the growth of credit, there was a need for an impartial third party to provide an objective overview of an individual's creditworthiness.

Hence, the rise of the credit bureau industry has corresponded with the expanded use of credit.

A credit bureau is a private business which performs the function of soliciting, collecting, maintaining, and providing information on an individual's credit history.

The ready availability of this information has greatly enhanced consumers' access to goods and services, and other benefits.

H.R. 3596 will amend the Fair Credit Reporting Act—the FCRA—which was enacted to regulate the credit reporting industry.

It is a bipartisan bill which was offered in the Subcommittee on Consumer Affairs by Representatives TORRES, BARNARD, and myself.

Specifically, this bill: Requires that disputed information be reinvestigated and resolved within 30 days, and that the consumer be informed of the results of that reinvestigation; requires comprehensive disclosures to consumers of their rights under the FCRA; allows consumers to prevent the consideration of their credit files for unsolicited offers; limits the cost of a consumer's credit report, which is not otherwise free, to a charge of no more than $8; prohibits the reporting of credit information that is inaccurate or incomplete; requires credit reports to include information pertaining to parents' status as delinquent in their child support obligations; allows State officials access to Federal courts to enforce the FCRA; and, significantly increases the penalties for obtaining credit reports under false pretenses.

The legislation will also put an end to the fraudulent practices of so-called credit repair clinics.

This is tough, proconsumer legislation, which has strong bipartisan support.

A key provision of the bill establishes the FCRA as the uniform national standard for credit reporting.

I find it ironic that some who have praised this legislation and its proconsumer provisions, have threatened to derail it because it would establish a uniform standard.

Frankly, I don't understand that argument.

If you believe that this is a good bill and strong enough to merit your support, then it should be strong enough to be the uniform standard.

If you believe that this bill is deficient or inadequate, then you should oppose it on those grounds, and not because of preemption.

In any event, contrary to some of the arguments which have been made, this bill will not prevent State attorneys general from protecting their citizens.

A provision in the bill specifically grants State officials the largely unprecedented power to enforce Federal law in Federal courts.

In addition, State officials will retain their current authority to impose higher standards and harsher remedies against reporting agencies which engage in unfair or deceptive trade practices.

Without a uniform standard for credit reporting, we could be faced with a system of 50 different State laws and regulations.

Such a system would increase costs to consumers, and may deny them access to credit. A uniform standard will help the economy, help ease the credit crunch, and will enhance interstate commerce.

For these reasons, I support H.R. 3596 as reported by the Banking Committee, and oppose the Gonzalez-Torres amendment to strike "pre-emption" from the bill.

Mr. TORRES. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEHMAN] the former chairman of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs, and indeed the father of the fair credit reform legislation, in that he started the process and guided it in the first 2 years of this 4-year effort.

Mr. LEHMAN of California. Mr. Chairman, I thank my colleague, the gentleman from California [Mr. TORRES] and congratulate him on this bill he has brought to the floor today. He has truly done great work, and I thank my friend, the gentleman from Ohio [Mr. WYLIE] as well for his cooperation.

Mr. Chairman, in the 101st Congress, I had the privilege of serving as chairman of the Banking Subcommittee on Consumer Affairs and Coinage. One of the most important priorities I set as chairman of the subcommittee was addressing the problems arising from credit reporting.

Credit reports play an important role in our day-to-day lives. They can affect a person's ability to get a job, to buy a car, and to purchase a home. In 1970, Senator William Proxmire led the campaign to ensure that reporting agencies adopt procedures that will allow them to meet the credit information needs of business while also ensuring that information is furnished in a manner that respects the consumer's interest in confidentiality, accuracy, relevancy, and the proper utilization of the information.

The Fair Credit Reporting Act which Senator Proxmire championed has been in effect for over 20 years essentially without change or even regular congressional review. Yet, in that time, enormous advances in computer capabilities have been made that have greatly expanded the extent to which information could now be collected and accessed. The law lacks the flexibility to keep pace with these developments.

Evidence that the law is insufficient is clearly reflected in the number of consumer complaints that have arisen. These complaints indicated to me that either consumers were unaware of their rights under the Fair Credit Reporting Act or were having difficulty exercising them. They were running into real problems getting credit or employment as a result.

Under the original law a number of consumer rights were created including the right to review the nature and substance of information in the consumer's file at the reporting agency, and the right to dispute the accuracy of that information. Reporting agencies are under an obligation to follow reasonable procedures—of their own creation—that will allow them to achieve maximum possible accuracy in consumer reports. If a consumer is turned down for credit, insurance or employment based on a credit report, the consumer has the right to a free copy of the report. The law also contains restrictions on when and to whom a reporting agency is allowed to furnish information from the consumer's file.

As chairman of the Consumer Subcommittee I held two hearings on the effectiveness of the original law. At the first hearing, several shortcomings were revealed. For instance, many consumers were dismayed that—through prescreening and without their consent—information from their reports was being given out to credit solicitors and direct marketers for a fee to the reporting agencies. Inaccuracies in reports were too high, and settlements of disputes too slow. In addition, the enforcement mechanisms in the original act were insufficient and no oversight of those reporting credit information to the agencies was in effect.

As a result, I introduced comprehensive legislation in the last Congress to address some of these concerns. Briefly, my bill required reporting agencies to advise consumers of their rights under the Fair Credit Reporting Act, to investigate inaccuracies within 30 days, to provide written notice to consumers when an investigation was finished, to give consumers a free copy of their report annually, and to give consumers a chance to opt-out from prescreening. In addition, the bill required persons who furnish information to reporting agencies to establish procedures to ensure accuracy and to alert consumers of their role.

I held a second hearing to seek comments on my legislation. Some of the suggestions made to enhance the bill have already come to pass. For instance, the three major credit bureaus—Trans Union, TRW, and Equifax—should be commended for voluntarily agreeing to share information with each other when they find inaccuracies. In addition, TRW has been proactive in agreeing to supply consumers with a free copy of their report.

While time ran out in the last Congress to enact these amendments into law, I want to thank Chairman TORRES for continuing this effort and going forward with his own legislation to reform the Fair Credit Reporting Act. While our bills differ in some respects, I believe they both get to the heart of the concerns in this area—increased accuracy and informed consumers.

I do disagree with the preemption provision in this bill, however, for two reasons. First and foremost, the original Fair Credit Reporting Act did not preempt State law, and nor should these amendments. Second, my bill in some respects was stronger than what is currently being considered here, and I believe—as some States do—that different aspects of this law could be enhanced. The States should retain the ability to do that. The Fair Credit Reporting Act has been in effect for over 20 years without Federal preemption, and this provision would set a major precedent in the States' ability to provide consumer protection.

Again, I want to thank Chairman TORRES for his hard work and dedication in moving this legislation forward. I ask my colleagues to support this bill and bring the Fair Credit Reporting Act into the information age.

□ 1510

Mr. TORRES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ANNUNZIO], another dean of the Committee on Banking, Finance and Urban Affairs, a former chairman of the Subcommittee on Consumer Affairs and Coinage, the gentleman will be leaving us soon to return to his district, but I know of the kind of work that he has committed himself to in this realm.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 3596, the Consumer Reporting Reform Act of 1992. This bill would improve protections for the estimated 170 million American consumers whose credit histories are in the hands of impersonal credit bureaus.

Many Americans have had their credit histories destroyed, and their dreams for a new home, car, or job dashed by errors in a credit report. It can take months of frustrating telephone calls, letters, and lawsuits to correct these errors. By then, the home, loan, or job has been lost.

A person's credit history is often confused with someone with a similar name or the same former address. Transposed digits in a Social Security number or a misread application can change a perfect credit history into a disastrous one. Witness the mistake of a data collector at TRW, one of this nation's largest credit bureaus, who mistook a list of taxpayers for a list of tax delinquents. The mistake resulted in all the residents of Norwich, Vermont being reported as tax deadbeats.

Studies by consumer groups have shown the need for this bill. Among 161 credit reports reviewed by Consumer Unions in 1991, almost 50 percent had at least one error and nearly 20 percent had mistakes serious enough to ruin one's creditworthiness. In a Nation whose economy depends on the availability of credit, these inaccuracies are inexcusable and intolerable.

H.R. 3596 will ensure that credit reporting agencies maintain accurate information, give consumers easy access to their credit histories, and make remedies available in instances of errors.

The bill also contains an amendment I offered in committee that allows State officials to enforce the Fair Credit Reporting Act in Federal courts. This provision will improve the current low level of enforcement by the Federal Trade Commission.

There is one amendment that is absolutely crucial to the bill and which this House ought to adopt. That is the amendment which will restore the rights of the States to pass their own Fair Credit Reporting Acts. This amendment is absolutely necessary to maintain the rights of the States to protect their consumers.

H.R. 3596 will help to correct the problems and abuses now found in this Nation's credit reporting industry. It is a bill that is desperately needed to protect this Nation's consumers and their creditworthiness. I urge this House to support the amendment deleting the preemption of State Fair Credit Reporting Acts and to support H.R. 3596.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to take this opportunity to commend and compliment the gentleman from Illinois [Mr. ANNUNZIO]. Mr. ANNUNZIO was chairman of the Subcommittee on Consumer Affairs and Coinage for several terms. I was the ranking member of that subcommittee. We worked very well together, and we became good friends. When we worked together, he as chairman, and I as the ranking member, we never brought a bill to the House floor that did not pass.

Mr. Chairman, the gentleman from Illinois [Mr. ANNUNZIO], was very instrumental in bringing the Fair Credit Reporting Act to the floor back in 1970. I know Senator Proxmire started with it over in the Senate, but we made some modifications, Chairman ANNUNZIO and I, which made it possible to pass in the House, and it ultimately was signed into law.

We also worked together on the truth in lending legislation, and may I say that I am a little bit surprised that the gentleman from Illinois, whose judgment and opinion I respect, is supporting the Gonzalez-Torres amendment.

Mr. Chairman, that does not mean that my respect for him is any less at all. Friends can disagree without being disagreeable, and this is one of those times.

The gentleman offered an amendment to the Fair Credit and Charge Card Disclosure Act which would have deleted the Federal preemption clause in that case, and it was defeated on a vote of 324 to 5.

Now I know the gentleman feels very strongly about it, and for those reasons I respect his judgment, but I suggest that it is in error in this case.

We also worked on the Fair Debt Collection Practices Act, we worked on the Equal Credit Act, and I would say that maybe a milestone, as far as the gentleman from Illinois is concerned, is the work that he and I did on the Electronic Fund Transfer Act. We indeed plowed new ground at a time in history when this legislation had to be enacted. It was a fast growing industry, and we all know how rapidly it has grown.

But the structure which is on the books today, Mr. Chairman, has served us in good stead. It has protected the consumer. It has been a good thing for everybody who uses the bank teller machines and the debit cards, and I would say the gentleman for Illinois has truly been a friend of the consumer, and I will miss the opportunity to be associated with him here in the House of Representatives and on legislation which will benefit the consumer.

Mr. Chairman, I reserve the balance of my time.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I want to thank the gentleman from Ohio [Mr. WYLIE] very much for those very excellent statements.

Mr. TORRES. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman and Members, let me, first of all, acknowledge the gentleman from California [Mr. TORRES] for his generosity in providing me 5 minutes to speak on this important consumer bill.

Mr. Chairman and Members, I rise in strong support of the Consumer Reporting Act of 1992. This is the second major consumer bill within the last 2 weeks that this House is addressing.

Last week we sent on to the President a cable reform bill, one which the consumers of this Nation were vitally interested in, one which would hopefully curtail the rapidly increasing rates for consumers throughout this Nation.

Now we take up another bill which is vitally important to consumers of the Nation. It is one which addresses companies which keep rather large files on each and every one of us as regards our credit history, and it is something I think the bulk of Americans see as very important. It is information which is quite sensitive. However I think there are some questionable business practices going on with these credit reporting firms. They are in the business now of selling this confidential data to other businesses in an attempt for that business to sell their products, and I think the bill before us will curtail some of these very questionable practices.

☐ 1520

If I might relate to the House a personal experience I have had with a credit reporting company, it occurred a couple of years ago when I wanted some lawn work done, some reseeding done. I contacted three firms to come forward and give me an estimate on the work.

I chose one of the firms, signed a contract, and the work was accomplished. However, one of the unsuccessful bidders came out to my home a week later, and, even though they saw that the lawn was thatched, that it was reseeded, they came out to the property with their equipment and redid it. Nevertheless, I did have nice green grass and a green lawn next year, much too much seed I might add, but nevertheless I never contracted for the work.

When I was called by the company to pay the bill, I related the experience that I did not sign the contract and did not want the work accomplished by this firm.

Well, they went ahead and found their favorite consumer reporting company and indicated that this gentleman from Wisconsin is a deadbeat and that that should be put in his file. The only reason I found out about it was because I applied for credit and was refused because of that incident.

So I merely contacted the consumer credit reporting company and asked them for a copy of my file, which I did have to pay $25 for. Then I saw the error in the record involving this lawn service company. So I sent to the fair credit reporting company a copy of the unsigned contract with a detailed letter as to what transpired.

That was not enough. I, as a consumer, I, as the person named in that file, did not have any control over the record of that company, even though it was my record.

I finally had to go and seek the services of an attorney. It took in excess of 6 months, but we finally cleared it up.

Now, how many millions of Americans are there in the same boat? I say that based on the statements of the chairman, the gentleman from California [Mr. TORRES], the FTC is deluged with complaints very similar to this.

So I think that the bill before us, which is one building upon the original legislation of 1970, is the first major reform in this business called credit reporting, on which is long overdue.

Some of the problems that I have had personally will be corrected under this bill. This selling of lists will not be permitted. Consumers can opt out of that situation.

However, one of the major flaws in the committee bill, one of the amendments which was narrowly adopted in the committee, was this amendment called preemption.

Mr. Chairman, rarely does this Congress trample State's rights to the extent that we do in this legislation. In fact, we do in a limited fashion preempt States in many of our enactments. To name a few, the Electronic Funds Transfer Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act, the Flammable Fabrics Act, the Hazardous Substances Act, to name a few of them. What we have done in that preemption was preempted the States from coming through with a weaker law, but clearly permitted them and left them the opportunity to come forward with stronger laws.

Mr. Chairman, there are 20 States in this Nation, and I am sorry to say Wisconsin is not one of them, which have tougher credit reporting laws. If in fact we do not adopt the Torres-Gonzalez-Rinaldo amendment, those 20 State laws are automatically stricken from their State statutes.

I think it is wrong that we do that. I think the bill before us sets a base for these types of credit reporting companies, clearly not the ceiling, and if my State or any other wants to be tougher than the Federal law, they should be able to do so.

Mr. Chairman, I urge support of the Gonzalez amendment, and strong support of the bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, the bill before us today, the Consumer Reporting Reform Act of 1992, is the first significant revision of the Fair Credit Reporting Act in more than 20 years. With literally thousands of Americans denied credit, turned down for jobs, or suffering ruined reputation each day due to erroneous information provided by credit bureaus, the Consumer Credit Reporting Reform Act is an important measure, one which Congress must enact.

The abuses and negligence of the credit reporting industry are legendary. Not only are the confidential credit records of millions of Americans handled carelessly and with complete disregard for privacy, but the industry has repeatedly shown its reluctance to reform.

Last year, for example, the Wall Street Journal detailed the problems of a New York woman, Cathy Saypol, who paid a credit bureau $20 to view her credit file. She was responding to the bureau's own advertising which warned that "total strangers see your credit report." In fact, a total stranger—a retired Long Island telephone operator—did see Ms. Saypol's credit file when a copy was mailed to the wrong address. But the story didn't end there since the credit report included three store accounts that Ms. Saypol didn't have, including two which were listed as closed at the stores' request. Only after many phone calls to the credit bureau was Ms. Saypol able to correct her records.

A few years ago, a Business Week reporter decided to test the privacy of information. He called a wholesaler of credit information and pretended to be a business. On the application blank, he left a number of questions unanswered. Not only did the credit information bureau approve his request, but they also advised him how to avoid complying with the FCRA. Once he had access to the computer, he called up Vice President DAN QUAYLE's credit file. He could just as easily have been a thief—or a spy.

Even more shocking is the cavalier attitude that credit bureaus have shown toward these errors. A U.S. Public Interest Research Group study of complaints registered with the Federal Trade Commission suggests that over 60 percent of the consumers who wrote the FTC with unresolved complaints had already contacted the credit bureau five times or more. The average duration of their complaints was over 20 weeks.

In one case, a Washington, DC, man was fired from his job because a routine credit check by his employer turned up a felony cocaine conviction—a conviction which was on someone else's criminal record. But even after the credit bureau was made aware of their mistake, the agency refused to correct their records. It had to be resolved by the courts.

There are other stories as well.

For example, a New Jersey man was turned down for a mortgage because his credit report had 16 separate errors in it. This included 13 listed accounts that were not his. The credit bureau informed him that it would take 6 to 8 weeks to correct the errors.

And a Virginia man had false entries on his credit file. They appeared to come from the credit histories of three other people. He asked for a reexamination. The credit bureau contacted its regional office, which confirmed the records without contacting the sources of the information. The disputed records reappeared on his credit file.

Credit records are more than just account numbers. They are a consumer's reputation. By using this information, all sorts of information about his or her personal habits, buying practices, or lifestyle can be determined. It is one thing for this information to be collected and used with the permission and knowledge of a consumer, but it is quite another for this to be done secretly and behind his or her back.

All of us have had our credit records checked without our knowledge or consent. As an example, the bank that offers a consumer a preapproved line of credit has examined the credit file before writing to the person.

There are minimal restrictions on what credit records can be used for, and a credit bureau's imagination is the only real limit on what it can do with the information. It really makes no difference whether credit records are checked by computer or by hand. A consumer's privacy has been violated regardless of the method used.

Since credit bureaus make huge profits by finding new ways to sell personal credit records, they have shown no interest in seriously protecting a consumer's privacy. These records are valuable to anyone, including swindlers and unscrupulous business people, who want to find out about a person's financial condition or lifestyle. As the Business Week story showed, it is only too easy to get this type of information. It is time to stop this practice now.

The bill before us is a good start toward reform. It requires credit bureaus to reinvestigate errors and disputed information within 30 business days instead of allowing an unlimited period of time. The bill also restricts the allowable uses of credit information and improves consumer disclosure.

But our work is still not finished. In particular, I strongly believe that Congress must act to strip out the Federal preemption language that credit industry interests slipped into H.R. 3596 during Banking Committee action. And we must approve stronger protections from the abuses of lenders and marketing firms that continually probe the credit histories of consumers.

I urge my colleagues to support these important reforms so that we can pass a consumer credit bill that will truly protect consumers.

Mr. TORRES. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], a member of the committee.

Mr. VENTO. Mr. Chairman, this week we get the opportunity to counter a secret bureaucracy that rivals the KGB. The sacrosanct credit reporting agencies growing power is turning our justice system upside down—keeping secret information on each of us which is then sold to its clients.

Far too many consumers have been denied credit, turned down on a mortgage or a personal loan—just because of inaccurate secret information in a credit report maintained by a private profit making mega credit reporting business.

The strong Consumer Credit Reporting Reform Act proposes to restore a level playing field for the consumer by improving the accuracy of consumer credit reports and requiring the prompt reinvestigation and correction of inaccurate credit reports.

We need to reform the consumer credit reporting system for the sake of fairness of today's young families who are striving to buy a new home or car. New accountability must be the rule to be certain the sloppy inaccurate credit reports don't misrepresent, undercut and deny credit to those worthy.

Such common sense changes should permit national and State laws that are consistent with real teeth and penalties for abuse or damage. Lets vote to improve our economy, let's vote for the young people with big dreams, let's vote for a tough Consumer Reporting Act.

Most consumers trying to correct their credit reports initially believe that all they have to do is provide the credit reporting bureau with the facts or a logical explanation and the matter will be corrected. This optimism is soon lost, as the hearing record of the subcommittee and the files of the States' attorneys general have more than adequately demonstrated, consumers do not get a fair deal in seeking to correct their record. Dealing with a bureaucracy that rivals the KGB, credit reporting agencies have turned our system of justice upside down. Under these credit bureau rules, the consumer is guilty until he or she proves themselves innocent and the credit bureau is the judge, jury, and prosecutor.

H.R. 3596 is a needed reform for this process. This legislation restores a fair playing field for the consumer by improving the accuracy of consumer credit reports and requiring the prompt reinvestigation and correction of inaccurate reports.

Under this bill, consumers will be notified about adverse actions that are based on a credit report. In addition to that information, the consumer must be furnished with the name, address and telephone number of the credit reporting agency which provided the information and must be informed on his or her right to obtain free credit reports. These requirements seem logical and a sound basis to run a credit reporting agency, which might be the reason that they are not in operation today.

Beyond these responsible consumer safeguards, H.R. 3596 also provides greater protection for consumer privacy. The legislation prohibits the use of a credit report for employment purposes unless the consumer is notified and is provided with an opportunity to respond. The bill also imposes new restrictions on the use of credit reports for direct marketing and gives the consumer the right to prohibit the distribution of their name.

Mr. Chairman, we need to reform the current consumer credit reporting system. While H.R. 3596 does go a long way to accomplish that goal, the bill as currently drafted does contain a fatal flaw. I am most concerned about the provision in the bill which will preempt States' from passing tougher consumer credit laws. Approximately 20 States already have credit reporting laws, including several with more stringent credit reporting requirements and consumer protections than are in this legislation. By retaining the preemption provision, this legislation would gut those State consumer protections.

I am pleased that Chairman TORRES, Chairman GONZALEZ and Congressman RINALDO will offer an amendment to strip out the preemption provisions. This matter is of grave concern to the States' attorneys general. As Minnesota Attorney General Humphrey wrote to me, "The ability of Minnesota and other States to offer such protections to their citizens should not be hamstrung by Federal preemption."

I urge my colleagues to support the Torres amendment and to approve the Consumer Reporting Reform Act. These common sense changes are needed and they are needed today.

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. TORRES. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER], a member of the committee.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first let me salute the gentleman from California [Mr. TORRES] and the gentleman from Texas [Mr. GONZALEZ] for their leadership on this issue.

Mr. Chairman, we all know that there is a real problem here. Technology has advanced so far and so fast that all sorts of organizations and particularly credit bureaus have information on each and every one of us.

□ 1530

That is not a bad purpose. It is a good idea that other companies know people's abilities to pay and their history of paying. But what happens when the information is wrong?

The number one issue here is that time and time again the credit bureaus have, for whatever reason, gotten wrong information about people. And then the burden seems to be on the poor individual who is wronged to right the information, to correct it.

There is the story of a whole town in Connecticut, through some error on a computer, that was denied credit. There is the story repeated over and over and over again of someone who paid every bill on time and then could not get a mortgage and could not get a loan and could not get anything because there was a mistake. And try and try and try again, as this person might, they could not get the records changed.

My colleagues, we must protect the consumer in a place where the consumer is basically defenseless in terms of the information. The bill attempts to do that.

Unfortunately, States that have done a good job in this bill are prevented from doing it by the preemption amendment, which in a few minutes we will have an opportunity to strike. And then I believe we should move on to one further issue, which is the right of privacy.

The gentleman from Ohio [Mr. WYLIE] and I are sponsoring two amendments which will protect a consumer's right to privacy. I think if someone wants to sell information about everything I buy and everything I do, they should at least have my permission to do it.

This is a good bill, but it is a bill that needs improvement. We can do that here today.

My colleagues, I hope we will.

Mr. TORRES. Mr. Chairman, I yield myself such time as I may consume.

The choice we have before us is simple. We can protect consumers against the abuses of this rogue industry, or we can pander to special interests. We can vote for our constituents and send the bill to the Senate, or we can vote for special interests to preempt State law and effectively kill the bill. I urge my colleagues to join me in voting for true reform. Let us stop the horror stories.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 3596, the Consumer Credit Reporting Reform Act. I want to commend Chairman TORRES for his diligent work on this important legislation. He and his staff have done an outstanding job in bringing sweeping reforms to the credit reporting industry. This is an excellent bill, a strong consumer bill, and it deserves our support.

We have all heard of the nightmares of many consumers who were unfairly denied credit because of erroneous information contained in their consumer credit reports. We have all heard of instances where correcting this bad information has been an even bigger nightmare for these individuals. Today, Mr. Chairman, we have an opportunity to set the record straight and make many consumers whole again.

H.R. 3596 places the responsibility for providing accurate credit information squarely on the shoulders of the credit reporting industry and the lenders who use the information. The bill requires greater accuracy in consumer credit information. It requires expedited correction of inaccurate reports. Moreover, the legislation increases access of consumers to their own credit reports and limits the cost of such reports. In short, the bill increases accuracy and protects the privacy of consumers.

There is one issue in this bill on which I disagree with the distinguished chairman, Mr. TORRES, and I do so with great respect for my colleague from California. The issue involves the preemption language contained in the bill.

H.R. 3596 is the single most stringent consumer credit reporting law in the country. It provides stronger consumer protections against credit reporting mistakes than any single State. Additionally, the bill greatly expands the ability of State attorneys general to enforce consumer credit reporting laws.

Preemption of State laws does not reduce these protections. What it will do is promote uniform national credit reporting standards that are easier to comply with and easier to enforce. H.R. 3596 provides the credit reporting industry with a much tougher, but more efficient regulatory environment in which to conduct business. I firmly believe that every American will enjoy greater protections from unfair and erroneous credit reporting activities under this legislation.

At the same time, the preemption language will provide uniform standards for credit bureaus and lending institutions to follow, many of which are small businesses. It will not saddle a very important industry with cumbersome and costly regulations, particularly at a time when credit is scarce.

I believe H.R. 3596 is a well-balanced bill. It is an important consumer protection bill that makes sense and achieves its objectives without being a regulatory burden on industry. I urge my colleagues to give their support.

Mr. TORRES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3596

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## *TITLE I—AMENDMENTS TO FAIR CREDIT REPORTING ACT*

### *SEC. 101. SHORT TITLE.*

*This title may be cited as the "Consumer Reporting Reform Act of 1992".*

### *SEC. 102. DEFINITIONS.*

*(a) ADVERSE ACTION.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:*

*"(j) The term 'adverse action'—*

*"(1) has the meaning given to such term in section 701(d)(6) of the Equal Credit Opportunity Act; and*

*"(2) includes—*

*"(A) any denial of, increase in any charge for, or reduction in the amount of, insurance for personal, family, or household purposes made in connection with the underwriting of insurance;*

*"(B) any denial of employment or any other decision for employment purposes which adversely affects any current or prospective employee; and*

*"(C) any action taken, or determination made—*

*"(i) with respect to a consumer for—*

*"(I) an application for an extension of credit;*

*"(II) a report for the cashing of a check drawn by the consumer;*

*"(III) an application for a transaction account (as that term is defined in section 19(b)(1) of the Federal Reserve Act) at a depository institution (as that term is defined in section 3(c) of the Federal Deposit Insurance Act);*

*"(IV) an application for the leasing of real estate; and*

*"(ii) which is adverse to the interest of the consumer.".*

*(b) EXCLUSIONS FROM DEFINITION OF CONSUMER REPORT.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended in the second sentence—*

*(1) by inserting before the semicolon at the end of clause (A) the following: ", or (i) any communication of that information among persons related by common ownership or affiliated by corporate control; or (ii) any communication of information from a credit application by a consumer among persons related by common ownership or affiliated by corporate control, provided that it is clearly and conspicuously disclosed with the application that the information may be communicated among such persons and the consumer consents";*

*(2) in clause (B) by striking "or" after the semicolon at the end;*

*(3) in clause (C) by striking the period and inserting a semicolon; and*

*(4) by adding at the end the following: "(D) any communication of information about a consumer between persons who are affiliated by common ownership or common corporate control and in connection with a credit transaction which is not initiated by the consumer, if either of those persons has complied with section 615(d)(2)(B) with respect to a consumer report from which the information is taken and the consumer has consented to use of the report for the transaction in accordance with section 615(d)(2)(C); (E) any report furnished for use in connection with a transaction which consists of an extension of credit to be used for a commercial purpose, or (F) any report or information furnished to a government agency pursuant to section 608 for law enforcement purposes.".*

*(c) CONSUMER REPORTING AGENCY.—Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) is amended by striking "practice" and inserting "business".*

*(d) FIRM OFFER OF CREDIT.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (j) (as added by subsection (a) of this section) the following:*

*"(k) The term 'firm offer of credit' means any offer of credit to a consumer that will be honored if, based on information in a consumer report on the consumer and other information bearing on the creditworthiness of the consumer, the consumer is determined to meet the criteria used to select the consumer for the offer.".*

*(e) CREDIT TRANSACTION WHICH IS NOT INITIATED BY THE CONSUMER.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (k) (as added by subsection (d) of this section) the following:*

*"(l) The term 'credit transaction which is not initiated by the consumer' does not include the use of a consumer report by a person with which the consumer has an account, for purposes of—*

*"(1) reviewing the account; or*

*"(2) collecting the account.".*

*(f) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY DEFINED.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (l) (as added by subsection (e) of this section) the following:*

*"(m) The term 'State or local child support enforcement agency' means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.".*

*(g) STATE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (m) (as added by subsection (f) of this section) the following:*

*"(n) The term 'State' means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.".*

*(h) CLERICAL AMENDMENT.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended in the first sentence—*

*(1) by inserting "(1)" after "in whole or in part for"; and*

*(2) by striking "(1)" before "credit or insurance".*

### *SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EMPLOYMENT PURPOSES.*

*(a) FURNISHING CONSUMER REPORTS FOR BUSINESS TRANSACTIONS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—*

*(1) by inserting "(a) IN GENERAL.—" before "A consumer reporting agency";*

*(2) in subsection (a) (as designated by paragraph (1)) by moving the left hand margins of paragraphs (1) through (3) (including such margins of subparagraphs (A) through (E) of paragraph (3)) 2 ems to the right; and*

*(3) in subsection (a)(3) (as designated by paragraph (1) of this subsection) by amending subparagraph (E) to read as follows:*

*"(E) otherwise has a legitimate business need for the information in connection with—*

*"(i) a review of an existing account of the consumer; or*

*"(ii) a business transaction that—*

*"(I) is initiated by the consumer; or*

*"(II) is a direct marketing transaction for which the furnishing of a consumer report by the agency is not prohibited under subsection (e).".*

*(b) FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is further amended by adding at the end the following new subsection:*

*"(b) CONDITIONS FOR FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—*

*"(1) CERTIFICATION FROM USER.—A consumer reporting agency may furnish a consumer report for employment purposes only if—*

*"(A) the person who obtains such report from the agency certifies to the agency that—*

*"(i) the disclosure required under paragraph (2) or (3), as the case may be, with respect to such consumer report has been made; and*

*"(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and*

*"(B) the consumer reporting agency provides with the report a summary of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).*

*"(2) DISCLOSURE TO PROSPECTIVE EMPLOYEES.—A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer who is not an employee at the time such report is procured or caused to be procured unless—*

*"(A) a clear and conspicuous disclosure has been made in writing to the consumer before the report is procured or caused to be procured that a consumer report may be obtained for purposes of considering the consumer for employment; and*

*"(B) the consumer authorizes in writing the procurement of the report.*

*"(3) DISCLOSURES TO EXISTING EMPLOYEES.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any employee unless the employee has received, at any time after becoming an employee and before the report is procured, a written disclosure that consumer reports may be used for employment purposes.*

*"(B) WRITTEN MATERIAL CONSTITUTING DISCLOSURE.—A written statement that consumer reports may be used for employment purposes which is contained in employee guidelines or manuals available to employees or included in written materials provided to employees shall constitute a written disclosure for purposes of subparagraph (A).*

*"(4) CONDITIONS ON USE FOR ADVERSE ACTIONS.—In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report a person shall provide to the consumer to whom the report relates—*

*"(A) a copy of the report;*

*"(B) a description of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3); and*

*"(C) a reasonable opportunity to respond to any information in the report that is disputed by the consumer.".*

### *SEC. 104. AMENDMENTS RELATING TO PRESCREENING OF CONSUMER REPORTS; PROHIBITION ON UNAUTHORIZED OR UNCERTIFIED USE OF INFORMATION.*

*(a) IN GENERAL.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b), as amended by section 103, is further amended—*

*(1) in subsection (a) by striking "A consumer reporting agency" and inserting "Subject to subsection (c), any consumer reporting agency"; and*

*(2) by adding after subsection (b) (as added by section 103(b)) the following new subsections:*

*"(c) FURNISHING REPORTS IN CONNECTION WITH CREDIT TRANSACTIONS NOT INITIATED BY THE CONSUMER.—*

*"(1) IN GENERAL.—A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subsection (a)(3)(A) in connection with any credit transaction which is not initiated by the consumer only if—*

*"(A) the consumer authorizes the agency to provide such report to such person; or*

*"(B)(i) the transaction consists of a firm offer of credit;*

*"(ii) the consumer reporting agency has complied with subsection (d); and*

"(iii) the consumer has not elected in accordance with subsection (d)(1) to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.

"(2) LIMITS ON INFORMATION RECEIVED UNDER PARAGRAPH (1)(B).—A person may receive pursuant to paragraph (1)(B) only—

"(A) the name and address of a consumer; and

"(B) information pertaining to a consumer that is not identified or identifiable with the consumer.

"(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(4), a consumer reporting agency shall not furnish to any person a record of inquiries solely resulting from credit transactions which are not initiated by a consumer.

"(d) ELECTION OF CONSUMER TO BE EXCLUDED FROM LISTS.—

"(1) IN GENERAL.—A consumer may elect to have his or her name and address excluded from any list provided by a consumer reporting agency in connection with a transaction which is not initiated by the consumer and which is a credit or direct marketing transaction, by—

"(A) notifying the agency, through the notification system maintained by the agency under paragraph (3), that the consumer does not consent to any use of consumer reports relating to the consumer in connection with any transaction which is not initiated by the consumer; and

"(B) returning to the agency a signed written notice of the election, if provided by the agency in accordance with paragraph (2).

"(2) PROVISION OF WRITTEN NOTICE TO CONSUMER.—A consumer reporting agency shall provide to a consumer a written notice for purposes of paragraph (1)(B), by not later than 5 business days after being notified of the election of the consumer in accordance with paragraph (1)(A).

"(3) NOTIFICATION SYSTEM.—Each consumer reporting agency which furnishes a consumer report in connection with any transaction which is not initiated by a consumer and which is a credit or direct marketing transaction, shall—

"(A) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any list of names and addresses provided by the agency for such a transaction; and

"(B) publish by not later than 12 months after the date of the enactment of the Consumer Reporting Reform Act of 1992, and at least annually thereafter, in a publication of general circulation in the area served by the agency—

"(i) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

"(ii) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under subparagraph (A).

Establishment and maintenance of a notification system and publication by a consumer reporting agency in accordance with this paragraph is deemed to be compliance with this paragraph by each affiliate of the agency.

"(4) AGENCIES WHICH OPERATE NATIONWIDE.—Each consumer reporting agency which compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (3) jointly with other such consumer reporting agencies.

"(5) EFFECTIVENESS OF ELECTION.—An election of a consumer under paragraph (1)—

"(A) shall be effective with respect to a consumer reporting agency beginning on the later of—

"(i) the date on which the consumer notifies the agency in accordance with paragraph (1)(A); or

"(ii) the date on which the consumer returns to the agency a signed written notification of the election in accordance with paragraph (1)(B), if provided by the agency; and

"(B) shall not be effective after the earlier of—

"(i) the date which is 2 years after that effective date; or

"(ii) the date on which the consumer notifies the agency (through the system established by the agency under paragraph (3)) that the election is no longer effective; and

"(C) shall be effective with respect to each affiliate of the agency.".

(b) FURNISHING CONSUMER REPORTS FOR DIRECT MARKETING TRANSACTIONS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is further amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

"(e) FURNISHING CONSUMER REPORTS FOR DIRECT MARKETING TRANSACTIONS NOT INITIATED BY CONSUMER.—

"(1) FURNISHING REPORTS PROHIBITED.—A consumer reporting agency may not furnish a consumer report for use for a direct marketing transaction that is not initiated by the consumer to whom the report relates, if—

"(A) the consumer notifies the agency that the consumer does not consent to that use;

"(B) the report includes any information other than the name and address of the consumer; or

"(C) the furnishing of the consumer report bears on the status of any account of the consumer, because of the criteria used to decide to furnish the report.

"(2) NOTIFICATION.—A consumer may notify a consumer reporting agency for purposes of paragraph (1)(A) by notifying the joint notification system established under subsection (d)(4).".

(c) USE OF INFORMATION OBTAINED FROM REPORTS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is further amended by adding after subsection (e) (as added by subsection (b) of this section) the following new subsection:

"(f) CERTAIN USE OR OBTAINING OF INFORMATION PROHIBITED.—A person shall not use or obtain information from a consumer report for any purpose unless—

"(1) it is obtained for a purpose for which the consumer report is authorized to be furnished under subsection (a); and

"(2) the purpose is certified in accordance with section 607 by a prospective user of the report.".

(d) FIRST NOTIFICATIONS BY CONSUMERS.—A consumer may notify a consumer reporting agency through a notification system established and maintained by the agency under section 604(d) of the Fair Credit Reporting Act, as amended by subsection (a), on or after the date which is 455 days after the date of the enactment of this Act.

**SEC. 105. AMENDMENTS RELATING TO OBSOLETE INFORMATION AND INFORMATION CONTAINED IN CONSUMER REPORTS.**

(a) OBSOLETE INFORMATION.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) by striking "(a) Except as authorized" and inserting "(a) OBSOLETE INFORMATION.—Except as authorized";

(2) by adding at the end the following:

"(7) OTHER ACCOUNTS INFORMATION.—Information regarding an account of a consumer with a person, whether obtained from the person or any other source (including public record information), that relates to a payment which—

"(A) was not more than 30 days overdue on the date of payment and was made more than 3 years before the date of the making of the report;

"(B) was more than 30 days, and not more than 60 days, overdue on the date of payment and was made more than 4 years before the date of the making of the report; or

"(C) was more than 60 days, and not more than 90 days, overdue on the date of payment and was made more than 5 years before the date of the making of the report."; and

(3) by moving the left margin of paragraphs (1) through (6) 2 ems to the right so as to align with paragraph (7) (as added by paragraph (2) of this subsection).

(b) INCREASE IN EXEMPTED AMOUNTS.—Section 605(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c(b)) is amended—

(1) by striking "(b) The provisions" and inserting "(b) EXEMPTED TRANSACTIONS.—The provisions";

(2) in paragraph (1) by striking "$50,000" and inserting "$200,000";

(3) in paragraph (2) by striking "$50,000" and inserting "$200,000"; and

(4) in paragraph (3) by striking "$20,000" and inserting "$100,000".

(c) CLARIFICATION OF REPORTING PERIOD.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding at the end the following new subsection:

"(c) RUNNING OF REPORTING PERIOD.—The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall begin, with respect to any delinquent account which is placed for collection (internally or by referral to a 3d party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.".

(d) ADDITIONAL INFORMATION ON BANKRUPTCY FILINGS REQUIRED.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (c) (as added by subsection (c) of this section) the following new subsection:

"(d) INFORMATION REQUIRED TO BE DISCLOSED.—Any consumer reporting agency which furnishes a consumer report which contains information regarding any case involving the consumer which arises under title 11, United States Code, shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information.".

(e) DISCLOSURE OF PERSONAL INFORMATION.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (d) (as added by subsection (d) of this section) the following new subsection:

"(e) DISCLOSURE OF PERSONAL INFORMATION.—A person who prepares any credit report which includes personal credit information on any consumer shall not include in the report any adverse item of information on the consumer with respect to matters which antedate the report by more than 10 years or which could not be included in any consumer report on the consumer in accordance with this section.".

(f) INDICATION OF CLOSURE OF ACCOUNT.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (e) (as added by subsection (e) of this section) the following new subsection:

"(f) INDICATION OF CLOSURE OF ACCOUNT BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 622(a)(4) that a credit account of a consumer was closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.".

(g) PROHIBITION ON MAINTAINING OR FURNISHING MEDICAL INFORMATION.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (f) (as added by subsection (f) of this section) the following new subsection:

"(g) MEDICAL INFORMATION.—A consumer reporting agency shall not maintain in the file of a consumer, or furnish for credit or employment purposes a consumer report on a consumer which contains, any medical information about the consumer without the consent of the consumer.".

(h) INCLUSION OF INFORMATION REGARDING OVERDUE CHILD SUPPORT OBLIGATIONS.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (g) (as added by subsection (g) of this section) the following new subsection:

"(h) OVERDUE CHILD SUPPORT OBLIGATIONS.—A consumer reporting agency shall include in any consumer report furnished by the agency pursuant to section 604(a) information (if any) on the failure of the consumer to pay overdue support (as that term is defined in section 466(e) of the Social Security Act), which is—

"(1) provided to the agency by a State or local child support enforcement agency; or

"(2) provided to the agency and verified by any local, State, or Federal Government agency.".

(i) PROHIBITION ON MAINTAINING OR FURNISHING CERTAIN ACCOUNT INFORMATION.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (h) (as added by subsection (h) of this section) the following new subsection:

"(i) CERTAIN ACCOUNT INFORMATION.—

"(1) EXCLUSION FROM CONSUMER REPORTS.—A consumer reporting agency shall not maintain in the file of a consumer, or furnish a consumer report on a consumer which contains, any information regarding a failure of the consumer to make any payment on an account of the consumer that became due in a period during which the consumer was receiving unemployment compensation under the laws of any State (or but for the exhaustion of benefits would be entitled to receive such compensation), if—

"(A) the consumer requests in writing that the consumer reporting agency exclude the information from either the file or such reports;

"(B) the consumer provides to the agency appropriate documentation which demonstrates that the consumer was receiving (or would so be entitled to receive) such compensation during that period; and

"(C) the account is maintained in a current status during the one-year period ending on the date of the submittal of the request.".

"(2) APPROPRIATE DOCUMENTATION.—The Federal Trade Commission shall prescribe what constitutes appropriate documentation for purposes of paragraph (1).".

(j) CLERICAL AMENDMENTS.—

(1) The heading for section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by striking "**Obsolete information**" and inserting "**Requirements relating to information contained in consumer reports**".

(2) The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 605 and inserting the following:

"605. Requirements relating to information contained in consumer reports.".

### SEC. 106. AMENDMENTS RELATING TO COMPLIANCE PROCEDURES.

(a) DISCLOSURE OF CONSUMER REPORTS BY USERS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding at the end the following new subsection:

"(c) DISCLOSURE OF CONSUMER REPORTS BY USERS ALLOWED.—A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken, or is contemplated, by the user based in whole or in part on the report.".

(b) NOTICE TO USERS AND PROVIDERS OF INFORMATION TO ENSURE COMPLIANCE.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is further amended by adding after subsection (c) (as added by subsection (a) of this section) the following new subsection:

"(d) NOTICE TO USERS AND FURNISHERS OF INFORMATION.—

"(1) NOTICE REQUIREMENT.—A consumer reporting agency shall provide to any person—

"(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

"(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

"(2) CONTENT OF NOTICE.—The Federal Trade Commission shall prescribe the content of notices under paragraph (1).".

(c) RECORD OF IDENTITY OF USERS AND PURPOSES CERTIFIED BY USERS OF REPORTS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is further amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) PROCUREMENT OF CONSUMER REPORT FOR RESALE.—

"(1) DISCLOSURE.—A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency which originally furnishes the report—

"(A) the identity of the ultimate end-user of the report (or information), and

"(B) each permissible purpose under section 604 for which the report is furnished to the ultimate end-user of the report (or information).

"(2) RESPONSIBILITIES OF PROCURERS FOR RESALE.—A person which procures a consumer report for purposes of reselling the report (or any information in the report) shall—

"(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604, including by ensuring that the person—

"(i) identifies each prospective user of the resold report (or information);

"(ii) certifies each purpose for which the report (or information) will be used; and

"(iii) certifies that the report (or information) will be used for no other purpose; and

"(B) before reselling the report, makes reasonable efforts to verify the identifications and certifications made under subparagraph (A).".

### SEC. 107. AMENDMENTS RELATING TO CONSUMER DISCLOSURES.

(a) ALL INFORMATION IN CONSUMER'S FILE REQUIRED TO BE DISCLOSED.—Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended to read as follows:

"(1) All information in the consumer's file at the time of the request.".

(b) MORE INFORMATION CONCERNING RECIPIENTS OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended to read as follows:

"(3)(A) Identification of—

"(i) each person who for employment purposes within the 2-year period preceding the request; and

"(ii) each person who for any other purpose within the 6-month period preceding the request;

procured a consumer report.

"(B) An identification of a person under subparagraph (A) shall include—

"(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

"(ii) upon request of the consumer, the address of the person.".

(c) INFORMATION REGARDING INQUIRIES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) by adding at the end the following:

"(4) A record of all inquiries received by the agency in the 6-month period preceding the request that identified the consumer in connection with a credit transaction which is not initiated by the consumer."; and

(2) by moving the left margin of paragraph (2) 2 ems to the right so as to align with paragraph (4) (as added by paragraph (1) of this subsection).

(d) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

(1) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following new subsection:

"(c) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

"(1) SUMMARY OF RIGHTS.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

"(A) a written summary of all rights the consumer has under this title; and

"(B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number which the consumer can use to communicate with the agency.

"(2) SPECIFIC ITEMS REQUIRED TO BE INCLUDED.—The summary of rights required under paragraph (1) shall include—

"(A) a brief description of this title and all rights of consumers under this title;

"(B) an explanation of how the consumer may exercise the rights of the consumer under this title;

"(C) a list of all Federal agencies responsible for enforcing any provision of this title and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency; and

"(D) a statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under section 605 or cannot be verified.

"(3) FORM OF SUMMARY OF RIGHTS.—For purposes of this subsection and any disclosure by a consumer reporting agency required under this title with respect to consumers' rights, the Federal Trade Commission (after consultation with each Federal agency referred to in section 621(b)) shall prescribe the form and content of any disclosure of the rights of consumers required under this title.".

(2) TECHNICAL AMENDMENT.—Section 606(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681d(a)(1)(B)) is amended by inserting "and the written summary of the rights of the consumer prepared pursuant to section 609(c)" before the semicolon.

(e) FORM OF DISCLOSURES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) are amended to read as follows:

"(a) FORM OF DISCLOSURE, GENERALLY.—Except as provided in subsection (b), the disclosures required to be made under section 609 shall be provided to a consumer in writing.

"(b) OTHER FORMS OF DISCLOSURE.—

"(1) IN GENERAL.—A consumer reporting agency may make the disclosures required under sec-

*tion 609 other than in writing if authorized by the consumer, and in such form as may be specified by the consumer and available from the agency.*

*"(2) FORM.—A consumer may specify pursuant to paragraph (1) that disclosures under section 609 shall be made—*

*"(A) in person, upon—*

*"(i) the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice; and*

*"(ii) the furnishing of proper identification by the consumer;*

*"(B) by telephone, if the consumer has made a written request for disclosure by telephone that includes proper identification of the consumer;*

*"(C) by electronic means, if available from the agency; or*

*"(D) by any other reasonable means that is available from the agency.".*

*(2) SIMPLIFIED DISCLOSURE.—Section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) is amended by adding at the end the following:*

*"(f) SIMPLIFIED DISCLOSURE.—The Federal Trade Commission shall prescribe the form in which a consumer reporting agency shall make the disclosures required under section 609(a), for the purpose of maximizing the comprehensibility and standardization of such disclosures.".*

*(3) CONFORMING AMENDMENTS.—*

*(A) Section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) is amended in the heading for the section by inserting "**and form**" after "**Conditions**".*

*(B) The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended in the item relating to section 610 by inserting "and form" after "Conditions".*

### SEC. 108. AMENDMENTS RELATING TO PROCEDURES IN CASE OF THE DISPUTED ACCURACY OF ANY INFORMATION IN A CONSUMER'S FILE.

*(a) IN GENERAL.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended to read as follows:*

*"(a) REINVESTIGATIONS OF DISPUTED INFORMATION.—*

*"(1) IN GENERAL.—If the completeness or accuracy of any item of information contained in any consumer's file at any consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information before the end of the 30-business-day period beginning on the date the agency receives the notice of the dispute from the consumer.*

*"(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION.—Before the end of the 5-business-day period beginning on the date a consumer reporting agency receives notice of a dispute from any consumer in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person.*

*"(3) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—*

*"(A) IN GENERAL.—Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to resolve the dispute.*

*"(B) NOTICE OF DETERMINATION.—Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer within 5 business days of such determination (including the reasons for the determination), by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.*

*"(4) CONSIDERATION OF CONSUMER INFORMATION.—In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1) with respect to such disputed information.*

*"(5) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—*

*"(A) IN GENERAL.—If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file.*

*"(B) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED MATERIAL.—*

*"(i) CERTIFICATION OF ACCURACY OF INFORMATION.—If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file after the deletion unless the person who furnishes the information certifies that the information is complete and accurate.*

*"(ii) NOTICE TO CONSUMER.—If any information which has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall promptly notify the consumer of the reinsertion in writing or, if authorized by the consumer for that purpose, by any other means available to the agency.*

*"(iii) ADDITIONAL INFORMATION.—As part of or in addition to the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing within the 5-business-day period beginning on the date of the reinsertion—*

*"(I) a statement that the disputed information has been reinserted;*

*"(II) a notice to the consumer that if requested by the consumer the agency shall provide to the consumer, within 15 days after the date of the request, the name, business address, and telephone number of any furnisher of information contacted, or of any furnisher of information which contacted the consumer reporting agency, in connection with the reinsertion of such information; and*

*"(III) the toll-free telephone number of the consumer reporting agency that the consumer can use to contact the agency with respect to obtaining the information described in subclause (II).*

*"(C) PROCEDURES TO PREVENT REAPPEARANCE.—A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).*

*"(6) NOTICE OF RESULTS OF REINVESTIGATION.—*

*"(A) IN GENERAL.—A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection within 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.*

*"(B) CONTENTS.—As part of or in addition to the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing within the 5-business-day period referred to in subparagraph (A)—*

*"(i) a statement that the reinvestigation is completed;*

*"(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;*

*"(iii) a description or indication of any changes made in the consumer report as a result of those revisions to the consumer's file;*

*"(iv) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with such information;*

*"(v) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and*

*"(vi) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.*

*"(7) DESCRIPTION OF REINVESTIGATION PROCEDURE.—A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iv) by not later than 15 days after receiving a request from the consumer for that description.".*

*(b) CONFORMING AMENDMENT.—Subsection (d) of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is amended by striking "The consumer reporting agency shall clearly" and all that follows through the end of the subsection.*

### SEC. 109. AMENDMENT RELATING TO CHARGES FOR DISCLOSURE.

*Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended to read as follows:*

### "§612. Charges for certain disclosures

*"(a) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—Except as provided in subsections (b) and (c), a consumer reporting agency may impose a reasonable charge on a consumer—*

*"(1) for making a disclosure to the consumer pursuant to section 609, which—*

*"(A) shall not exceed $8, or such other amount as is prescribed by the Federal Trade Commission under subsection (d); and*

*"(B) shall be indicated to the consumer prior to making disclosure; and*

*"(2) for furnishing a notification, statement, summary, or codification to any person designated by the consumer pursuant to section 611(d), which—*

*"(A) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and*

*"(B) shall be indicated to the consumer prior to furnishing such information.*

*"(b) FREE CONSUMER REPORT AFTER ADVERSE NOTICE TO CONSUMER.—Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 609 without charge to the consumer if, within 60 days after receipt by such consumer of a notification pursuant to section 615 or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609.*

*"(c) CHARGE FOR CERTAIN NOTICES PROHIBITED.—A consumer reporting agency shall not impose any charge for—*

*"(1) providing any notice to a consumer required under section 611; or*

*"(2) notifying a person pursuant to section 611(d) of the deletion of information which is found to be inaccurate or which can no longer be verified, if the consumer designates that person to the agency before the end of the 30-day period beginning on the date of the notification of the consumer under section 611(a)(6).*

"(d) Adjustment of Fee.—The Federal Trade Commission shall annually adjust the maximum amount of the fee authorized under subsection (a)(1)(A), to reflect changes in the consumer price index.".

### SEC. 110. AMENDMENTS RELATING TO DUTIES OF USERS OF CONSUMER REPORTS.

(a) Duties of Users Taking Adverse Actions.—Section 615(a) of the Fair Credit Reporting Act (15 U.S.C. 1681m(a)) is amended to read as follows:

"(a) Duties of Users Taking Adverse Actions on the Basis of Information Contained in Consumer Reports.—If any person takes any adverse action with respect to any consumer in connection with any transaction initiated by the consumer or any employment determination, which is based in whole or in part on any information contained in a consumer report, the person shall—

"(1) provide written notice of the adverse action to the consumer;

"(2) provide to the consumer—

"(A) the name, address, and telephone number of the consumer reporting agency which furnished the report to the person; and

"(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken;

"(3) provide to the consumer a written notice of the consumer's right—

"(A) to obtain, under section 612, a free copy of a consumer report on the consumer, from the consumer reporting agency referred to in paragraph (2) and from any other consumer reporting agency which compiles and maintains files on consumers on a nationwide basis, which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

"(B) to dispute, under section 611, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency; and

"(4) in the case of an adverse action based in whole or in part on a credit score or other predictor of credit worthiness, provide to the consumer—

"(A) notice that the predictor was used; and

"(B) the principal factors used to determine that predictor, if those factors are required to be disclosed by the person for purposes of compliance with section 701(d)(3) of the Equal Credit Opportunity Act.".

(b) Duties of Users Who Make Certain Credit Solicitations.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(d) Duties of Users Who Make Written Credit Solicitations on the Basis of Information Contained in Consumer Files.—

"(1) In general.—Any person who uses a consumer report of any consumer in connection with any credit transaction which is not initiated by the consumer and which consists of a firm offer of credit shall provide with any written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

"(A) information contained in the consumer's consumer report was used in connection with the transaction;

"(B) the consumer received the offer of credit because the consumer satisfied the criteria for creditworthiness under which the consumer was selected for the offer;

"(C) if applicable, the credit may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer;

"(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency to be used in connection with any credit transaction that is not initiated by the consumer; and

"(E) the consumer may exercise the right referred to in subparagraph (D) by notifying the joint notification system established under section 604(d).

"(2) Limitation on application.—Paragraph (1) does not apply to the use of a consumer report by a person if—

"(A) the person is affiliated by common ownership or by common corporate control with the person who procured the report;

"(B) the person who procured the report clearly and conspicuously disclosed to the consumer to whom the report relates, before the report is provided to the person who will use the report, that the report might be provided to and used by other persons who are affiliated in the manner described in subparagraph (A) to the person who procured the report; and

"(C) that provision and use of the report is consented to by the consumer in writing.

"(3) Maintaining criteria on file.—A person who makes an offer of credit to a consumer under a credit transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, until the end of the 3-year period beginning on the date on which the offer is made to the consumer.".

(c) Duties of Users for Direct Marketing Transactions Not Initiated by Consumers.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is further amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) Duties of Users for Direct Marketing Transactions Not Initiated by Consumers.—Any person who, in connection with a direct marketing transaction that is not initiated by a consumer, uses information concerning the consumer that is provided by a consumer reporting agency shall provide to the consumer with each solicitation made to the consumer regarding the transaction a clear and conspicuous written statement—

"(1) that information concerning the consumer that was provided by a consumer reporting agency was used in connection with the transaction;

"(2) that the consumer has the right under section 604(e) to prohibit any information concerning the consumer from being provided by the consumer reporting agency for use in connection with any direct marketing transaction that is not initiated by the consumer;

"(3) that the consumer may exercise the right referred to in paragraph (2) by notifying the joint notification system established under section 604(d)(4).".

### SEC. 111. AMENDMENTS RELATING TO CIVIL LIABILITY.

(a) Civil Liability for Willful Noncompliance, Generally.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by striking "Any consumer reporting agency or user of information which" and inserting "Any person who".

(b) Minimum Civil Liability for Willful Noncompliance.—Section 616(1) of the Fair Credit Reporting Act (15 U.S.C. 1681n(1)) is amended to read as follows:

"(1)(A) any actual damages sustained by the consumer as a result of the failure; or

"(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, such damages or $1,000, whichever is greater;".

(c) Civil Liability for Negligent Noncompliance.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by striking "Any consumer reporting agency or user of information which" and inserting "Any person who".

### SEC. 112. AMENDMENTS RELATING TO RESPONSIBILITIES OF PERSONS WHO FURNISH INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) In General.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by redesignating section 622 as section 623 and inserting after section 621 the following new section:

### "§622. Responsibilities of furnishers of information to consumer reporting agencies

"(a) Duty of Furnishers of Information to Provide Complete and Accurate Information.—

"(1) In general.—A person shall not furnish any information to any consumer reporting agency if the person knows or should know the information is incomplete or inaccurate.

"(2) Duty to correct and update information.—A person who—

"(A) in the ordinary course of business, regularly and on a routine basis furnishes information to one or more consumer reporting agencies about their own transactions or experiences with a consumer; and

"(B) furnishes information to a consumer reporting agency, that the person determines is not complete or accurate;

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate.

"(3) Duty to provide notice of continuing dispute.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency continues to be disputed to such person, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

"(4) Duty to provide notice of closed accounts.—A person who regularly furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the closure of that account by the consumer in information regularly furnished for the period in which the account is closed.

"(5) Duty to provide notice of delinquency of accounts.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall notify the agency of the commencement of the delinquency immediately preceding that action, by not later than 90 days after the date of that commencement.

"(b) Notice to Consumers of Information Furnished to Consumer Reporting Agencies.—

"(1) Notice required.—A person who in the ordinary course of business regularly and on a routine basis furnishes information about that person's transactions or experiences with any consumer to any consumer reporting agency, shall give notice of that fact in writing to the consumer before first providing any information about the consumer to any consumer reporting agency.

"(2) Contents of notice.—Written notice provided to a consumer by a person pursuant to paragraph (1) shall contain the following information:

"(A) A brief description of the type of information which may be furnished regularly to any consumer reporting agency.

"(B) A brief description of the frequency with which or the circumstances under which information is furnished to any consumer reporting agency.

"(3) Notice by certain persons.—A person who furnishes information about consumers *who have written checks with insufficient funds may give notice for purposes of paragraph (1) by posting the notice in a conspicuous manner at each location where checks are accepted by the person.*

*"(c) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—Upon receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—*

*"(1) complete an investigation with respect to the disputed information and report to the consumer reporting agency the results of that investigation before the end of the 30-business day period beginning on the date the agency receives notices of a dispute from the consumer in accordance with section 611(a)(1); and*

*"(2) review relevant information submitted to the consumer reporting agency by the consumer in accordance with section 611(a)(4).*

*"(d) LIMITATIONS.—*

*"(1) CIVIL LIABILITY.—Sections 616 and 617 shall not apply to any failure to comply with subsection (a).*

*"(2) ENFORCEMENT.—Subsection (a) shall be enforced exclusively under section 621 by the Federal agencies identified in that section.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 622 and inserting after the item relating to section 621 the following:*

*"622. Responsibilities of furnishers of information to consumer reporting agencies.*
*"623. Relation to State laws.".*

### SEC. 113. INCREASED CRIMINAL PENALTIES FOR OBTAINING INFORMATION UNDER FALSE PRETENSES.

*(a) OBTAINING INFORMATION UNDER FALSE PRETENSES.—Section 619 of the Fair Credit Reporting Act (15 U.S.C. 1681q) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".*

*(b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES.—Section 620 of the Fair Credit Reporting Act (15 U.S.C. 1681r) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".*

### SEC. 114. ADMINISTRATIVE ENFORCEMENT.

*The 2d sentence of section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended—*

*(1) by striking "Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective" and inserting "Act. All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection and not subject to enforcement pursuant to section 8 of the Federal Deposit Insurance Act, irrespective"; and*

*(2) by inserting ", including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule" before the period.*

### SEC. 115. STATE ENFORCEMENT OF FAIR CREDIT REPORTING ACT.

*Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:*

*"(c) STATE ACTION TO ENFORCE FAIR CREDIT REPORTING.—*

*"(1) AUTHORITY OF STATES.—Whenever the chief law enforcement officer of the State, or an official or agency designated by a State, has reason to believe that any person has violated this title the State may bring a civil action on behalf of its residents to enjoin such violation, an action to recover for actual monetary loss, or both.*

*"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection.*

*"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission or appropriate Federal regulator shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.*

*"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.*

*"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.*

*"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.*

*"(7) LIMITATION.—Whenever the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action for violation of this title, no State may, during the pendency of such action instituted by the Commission or the appropriate Federal regulator, subsequently institute a civil action against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation as alleged in the complaint.".*

### SEC. 116. FEDERAL RESERVE BOARD AUTHORITY.

*Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), is further amended by adding after subsection (d) (as redesignated by section 115) the following new subsection:*

*"(e) INTERPRETIVE AUTHORITY.—The Federal Reserve Board may issue interpretations of any provision of this title as it may apply to any persons identified under subsection (b) (1), (2), and (3), or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in subsection (b) (1), (2), and (3).".*

### SEC. 117. ESTABLISHMENT OF TOLL-FREE TELEPHONE NUMBER.

*Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish (and thereafter maintain) a toll-free telephone number pursuant to section 609(c)(1)(B) of the Fair Credit Reporting Act, as amended by section 107(d) of this Act, before the end of the 455-day period beginning on the date of the enactment of this Act.*

### SEC. 118. RELATION TO STATE LAWS.

*Section 623 of the Fair Credit Reporting Act, as redesignated by section 112(a), is amended to read as follows:*

**"§623. Relation to State laws**

*"(a) STATE LAW PREEMPTED.—The provisions of this title shall supersede any provision of the law of any State relating to the subject matter of this title, including but not limited to any provision of State law relating to the furnishing, collection, distribution, or use of any information on consumers or any fees imposed upon or any disclosure to consumers associated with the furnishing, collection, distribution, or use of any information on consumers, except that any State may employ or establish State laws for the purpose of enforcing the requirements of this title.*

*"(b) LIMITATION.—Nothing in this section restricts the ability of any State to employ or establish laws to address unfair or deceptive acts or practices, or laws protecting aspects of consumer privacy which do not relate to the subject matter of this title. Nothing in this section restricts the ability of any State to employ or establish its own penalties to enforce violations of this title.".*

### SEC. 119. ACTION BY FTC.

*The Federal Trade Commission shall prescribe all matters required by this title (including the amendments made by this title) to be prescribed by that Commission, before the end of the 270-day period beginning on the date of the enactment of this Act.*

### SEC. 120. MISCELLANEOUS CLERICAL AMENDMENTS.

*The Fair Credit Reporting Act is further amended—*

*(1) in section 605(a)(1) (15 U.S.C. 1681c(a)(1)) by striking "cases" and inserting "Cases";*

*(2) in section 606(b) (15 U.S.C. 1681d(b)) by striking "shall" the second place it appears;*

*(3) in section 617(1) (15 U.S.C. 1681o(1)) by adding "and" after the semicolon at the end; and*

*(4) in section 621(b)(1)(C) (15 U.S.C. 1681s(b)(1)(C)) by striking the period at the end and inserting a semicolon.*

### SEC. 121. EFFECTIVE DATES OF AMENDMENTS.

*(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall be effective after the 455-day period beginning on the date of the enactment of this Act.*

*(b) EXCEPTIONS.—*

*(1) NOTIFICATION SYSTEM.—Section 604(d)(3) of the Fair Credit Reporting Act, as amended by section 104(a), shall be effective after the 365-day period beginning on the date of the enactment of this Act.*

*(2) FTC AUTHORITY.—Subsection (a) shall not affect the authority of the Federal Trade Commission to prescribe matters under the amendments made by this title.*

## TITLE II—CREDIT REPAIR ORGANIZATIONS

### SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZATIONS.

*Title IV of the Consumer Credit Protection Act is amended to read as follows:*

## "TITLE IV—CREDIT REPAIR ORGANIZATIONS

*"Sec.*

"401. Short title.
"402. Findings and purposes.
"403. Definitions.
"404. Prohibited practices by credit repair organizations.
"405. Disclosures.
"406. Credit repair organizations contracts.
"407. Right to cancel contract.
"408. Noncompliance with this title.
"409. Civil liability.
"410. Administrative enforcement.
"411. Relation to State law.

### "SEC. 401. SHORT TITLE.

"This title may be cited as the 'Credit Repair Organizations Act'.

### "SEC. 402. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Consumers have a vital interest in establishing and maintaining their creditworthiness and credit standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of such consumers.

"(2) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and who are inexperienced in credit matters.

"(b) PURPOSES.—The purposes of this title are as follows:

"(1) To ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services.

"(2) To protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

### "SEC. 403. DEFINITIONS.

"For purposes of this title—

"(1) CONSUMER.—The term 'consumer' means an individual.

"(2) CONSUMER CREDIT TRANSACTION.—The term 'consumer credit transaction' means any transaction in which credit is offered or extended to an individual for personal, family, or household purposes.

"(3) CREDIT REPAIR ORGANIZATION.—The term 'credit repair organization'—

"(A) means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

"(i) improving any consumer's credit record, credit history, or credit rating;

"(ii) removing adverse credit information that is accurate and not obsolete from the consumer's record, history, or rating;

"(iii) altering the consumer's identification to prevent the disclosure of the consumer's credit record, history, or rating for the purpose of concealing adverse credit information that is accurate and not obsolete;

"(iv) providing advice or assistance to any consumer with regard to any activity or service described in clause (i), (ii), or (iii); and

"(B) does not include—

"(i) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) any attorney-at-law who is a member of the bar of the highest court of any State or otherwise licensed under the laws of any State, with respect to services rendered which are within the scope of regulations applicable to members of such bar or such licensees.

"(4) CREDIT.—The term 'credit' has the meaning given to such term in section 103(e) of this Act.

### "SEC. 404. PROHIBITED PRACTICES BY CREDIT REPAIR ORGANIZATIONS.

"No credit repair organization, and no officer, employee, agent, or other person participating in the conduct of the affairs of any credit repair organization, may—

"(1) charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed;

"(2) make any statement, or counsel or advise any consumer to make any statement, which is untrue or misleading (or which, upon the exercise of reasonable care, should be known by the credit repair organization, officer, employee, agent, or other person to be untrue or misleading) with respect to any consumer's creditworthiness, credit standing, or credit capacity to—

"(A) any consumer reporting agency (as defined in section 603(f) of this Act); or

"(B) any person—

"(i) who has extended credit to the consumer; or

"(ii) to whom the consumer has applied or is applying for an extension of credit;

"(3) make any statement, or counsel or advise any consumer to make any statement, the intended effect of which is to alter the consumer's identification to prevent the display of the consumer's credit record, history, or rating for the purpose of concealing adverse information that is accurate and not obsolete to—

"(A) any consumer reporting agency;

"(B) any person—

"(i) who has extended credit to the consumer; or

"(ii) to whom the consumer has applied or is applying for an extension of credit;

"(4) make or use any untrue or misleading representation of the services of the credit repair organization; or

"(5) engage, directly or indirectly, in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.

### "SEC. 405. DISCLOSURES.

"(a) DISCLOSURE REQUIRED.—Any credit repair organization shall provide any consumer with the following written statement before any contract or agreement between the consumer and the credit repair organization is executed:

#### "'Consumer Credit File Rights Under State and Federal Law

"'You have a right to dispute inaccurate information in your credit report by contacting the credit bureau directly. However, neither you nor any "credit repair" company or credit repair organization has the right to have accurate, current, and verifiable information removed from your credit report. The credit bureau must remove accurate, negative information from your report only if it is over 7 years old. Bankruptcy information can be reported for 10 years.

"'You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The credit bureau must provide someone to help you interpret the information in your credit file.

"'You have a right to sue a credit repair company that violates the Credit Repair Organization Act. This law prohibits deceptive practices by credit repair companies.

"'You have the right to cancel your contract with any credit repair organization for any reason within 3 business days from the date you signed it.

"'Credit bureaus are required to follow reasonable procedures to ensure that creditors report information accurately. However, mistakes may occur.

"'You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the credit bureau.

"'If reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau, to be kept in your file, explaining why you think the record is inaccurate. The credit bureau must include a summary of your statement about disputed information with any report it issues about you.

"'The Federal Trade Commission regulates credit bureaus and credit repair organizations. For more information contact:

The Public Reference Branch
Federal Trade Commission
Washington, D.C. 20580'.

"(b) SEPARATE STATEMENT REQUIREMENT.—The written statement required under this section shall be provided as a document which is separate from any written contract or other agreement between the credit repair organization and the consumer or any other written material provided to the consumer.

"(c) RETENTION OF COMPLIANCE RECORDS.—

"(1) IN GENERAL.—The credit repair organization shall maintain a copy of the statement signed by the consumer acknowledging receipt of the statement.

"(2) MAINTENANCE FOR 2 YEARS.—The copy of any consumer's statement shall be maintained in the organization's files for 2 years after the date on which the statement is provided to the consumer.

### "SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.

"(a) WRITTEN CONTRACTS REQUIRED.—No services may be provided by any credit repair organization for any consumer—

"(1) unless a written and dated contract (for the purchase of such services) which meets the requirements of subsection (b) has been signed by the consumer; or

"(2) before the end of the 3-business day period beginning on the date the contract is signed.

"(b) TERMS AND CONDITIONS OF CONTRACT.—No contract referred to in subsection (a) meets the requirements of this subsection unless such contract includes the following information (in writing):

"(1) The terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person.

"(2) A full and detailed description of the services to be performed by the credit repair organization for the consumer, including—

"(A) all guarantees and all promises of full or partial refunds; and

"(B) an estimate of—

"(i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or

"(ii) the length of the period necessary to perform such services.

"(3) The credit repair organization's name and principal business address.

"(4) A conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer's signature on the contract, which reads as follows: 'You may cancel this contract without penalty or obligation at *any time before midnight of the 3rd-business day after the date on which you signed the contract. See the attached notice of cancellation form for an explanation of this right.'.*

**"SEC. 407. RIGHT TO CANCEL CONTRACT.**

*"(a) IN GENERAL.—Any consumer may cancel any contract with any credit repair organization without penalty or obligation by notifying the credit repair organization of the consumer's intention to do so at any time before midnight of the 3rd-business day which begins after the date on which the contract or agreement between the consumer and the credit repair organization is executed or would, but for this subsection, become enforceable against the parties.*

*"(b) CANCELLATION FORM AND OTHER INFORMATION.—Each contract shall be accompanied by a form, in duplicate, which has the heading 'Notice of Cancellation' and contains in bold face type the following statement:*

*"'You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day which begins after the date the contract is signed by you.*

*"'If you cancel, any payment you made under this contract will be returned before the end of the 10-day period beginning on the date the seller receives your cancellation notice.*

*"'To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice, or any other written notice to [ name of credit repair organization ] at [ address of credit repair organization ] before midnight on [ date ]*

*"'I hereby cancel this transaction,*
*[ date ]*
*[ purchaser's signature ].'.*

*"(c) CONSUMER COPY OF CONTRACT REQUIRED.—Any consumer who enters into any contract with any credit repair organization shall be given, by the organization—*

*"(1) a copy of the completed contract and the disclosure statement required under section 405; and*

*"(2) a copy of any other document the credit repair organization requires the consumer to sign,*

*at the time the contract or the other document is signed.*

**"SEC. 408. NONCOMPLIANCE WITH THIS TITLE.**

*"(a) CONSUMER WAIVERS INVALID.—Any waiver by any consumer of any protection provided by or any right of the consumer under this title—*

*"(1) shall be treated as void; and*

*"(2) may not be enforced by any Federal or State court or any other person.*

*"(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right of the consumer under this title shall be treated as a violation of this title.*

*"(c) CONTRACTS NOT IN COMPLIANCE.—Any contract for services which does not comply with the applicable provisions of this title—*

*"(1) shall be treated as void; and*

*"(2) may not be enforced by any Federal or State court or any other person.*

**"SEC. 409. CIVIL LIABILITY.**

*"(a) LIABILITY ESTABLISHED.—Any credit repair organization, and any officer, employee, agent, or other person participating in the conduct of the affairs of any credit repair organization, which fails to comply with any provision of this title with respect to any person shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:*

*"(1) ACTUAL DAMAGES.—The greater of—*

*"(A) the amount of any actual damage sustained by such person as a result of such failure; or*

*"(B) any amount paid by the person to the credit repair organization.*

*"(2) PUNITIVE DAMAGES.—*

*"(A) INDIVIDUAL ACTIONS.—In the case of any action by an individual, such additional amount as the court may allow.*

*"(B) CLASS ACTIONS.—In the case of a class action, the sum of—*

*"(i) the aggregate of the amount which the court may allow for each named plaintiff; and*

*"(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.*

*"(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.*

*"(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any credit repair organization under subsection (a)(2), the court shall consider, among other relevant factors—*

*"(1) the frequency and persistence of noncompliance by the credit repair organization;*

*"(2) the nature of the noncompliance;*

*"(3) the extent to which such noncompliance was intentional; and*

*"(4) in the case of any class action, the number of consumers adversely affected.*

*"(c) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the later of—*

*"(1) the end of the 2-year period beginning on the date of the occurrence of the violation involved; or*

*"(2) in any case in which any credit repair organization has materially and willfully misrepresented any information which—*

*"(A) the credit repair organization is required, by any provision of this title, to disclose to any consumer; and*

*"(B) is material to the establishment of the credit repair organization's liability to the consumer under this section,*

*the end of the 2-year period beginning on the date of the discovery by the consumer of the misrepresentation.*

**"SEC. 410. ADMINISTRATIVE ENFORCEMENT.**

*"(a) IN GENERAL.—Compliance with the requirements imposed under this title with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.*

*"(b) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF FEDERAL TRADE COMMISSION ACT.—*

*"(1) IN GENERAL.—For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act, any violation of any requirement or prohibition imposed under this title with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.*

*"(2) ENFORCEMENT AUTHORITY UNDER OTHER LAW.—All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—*

*"(A) is engaged in commerce; or*

*"(B) meets any other jurisdictional tests in the Federal Trade Commission Act.*

*"(c) STATE ENFORCEMENT OF TITLE.—*

*"(1) IN GENERAL.—The attorney general of any State, or an official or agency designated under the law of any State, may enforce the provisions of this title in Federal or State court.*

*"(2) CIVIL ENFORCEMENT ACTIONS.—Any State may bring a civil action in any Federal or State court to enjoin any violation of this title and recover damages under this title for consumers who reside in such State.*

**"SEC. 411. RELATION TO STATE LAW.**

*"This title shall not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with any law of any State except to the extent that such law is inconsistent with any provision of this title, and then only to the extent of the inconsistency.".*

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102–867. The amendments printed in House Report 102–867 shall be considered in the order specified in the report, may be offered only by the named proponent or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It is now in order to consider amendment No. 1, printed in House Report 102–867.

### AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GONZALEZ: Page 57, beginning at line 12, strike section 118 (and redesignate the subsequent sections of the bill accordingly).

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

Mr. WYLIE. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes at the appropriate time.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

I rise today in strong support of H.R. 3596, the Consumer Reporting Reform Act of 1992. This bill, with the amendment Mr. TORRES, Mr. RINALDO, and I are proposing, should be passed.

The original Fair Credit Reporting Act of 1970 made great strides toward protecting consumers from abuses by an industry that each year is becoming more and more significant to every American's daily life. When the original act was passed 22 years ago, credit reports were predominantly only a tool used by lending institutions in determining the eligibility of a potential borrower. But since then the use of computers and on-line reporting systems has grown to dominate credit reporting, credit reports have increasingly become an integral part of numerous aspects of everyday life—and the information contained in these reports, and uses of these reports, increasingly more personal. And yet, as many as half of those reports contain errors. Reporting errors and abuses of consumers are rampant, with some cases resulting in entire towns being miscast as deadbeats due to a recording error by a single clerk.

In 1970, credit cards were just coming into use on a large scale by the general public. Today credit cards are an inseparable part of the Nation's economy, representing billions of dollars in transactions annually. With this increased usage of revolving credit has come an increased risk of errors in credit reports. The fact is, the appearance of a single late payment on a credit report, accurate or not, may jeopardize an individual's ability to purchase a home, send a child to college, or even acquire a job. And all too often, credit reports are just flat wrong.

An inaccurate credit report can, and all too often does, create havoc in people's lives. It is the responsibility of the Congress to the American consumer to provide the updated, and much needed, protections contained in this bill.

Unfortunately, while H.R. 3596 contains many needed consumer protections, more needs to be done. Specifically, we should eliminate language within the bill containing a Federal preemption of State consumer protection laws. Because of this preemption language, which was added during the markup of the bill, I am offering this amendment, with my colleagues ESTEBAN TORRES and MATT RINALDO, to strike the preemption language.

The preemption of State consumer protection laws provided in H.R. 3596 is a blatant overreach by the lobbyists for the credit industry, the Nation's biggest retailers, the major credit card companies, the finance company conglomerates, the banks, and the credit reporting cartel. These lobbyists are asking that the Congress accomplish what the industry has been unable to do—to stop the more progressive State legislatures and attorneys general from protecting consumers.

Twenty States now have laws on the books regarding credit reporting and at least 30 additional bills are pending to either strengthen existing State laws or to enact basic credit reporting statutes. The States and their attorneys general have become essential partners with the Federal Government in the enforcement of fair credit reporting and we should not undo all the hard-fought accomplishments of these States.

The Congress recognized the prime importance of keeping the States involved when it passed the original Fair Credit Reporting Act. The act specifically spelled out the right of the States to enact and enforce additional and stronger protections. This has worked for 22 years and there has been no rational or substantive reason put forward for a change in this policy.

On July 31 of this year, I held a press conference with Mr. TORRES, Mr. RINALDO, and Hubert H. Humphrey III. Mr. Humphrey, the son of our venerable former Vice President, is the president-elect of the National Association of Attorneys General. Mr. Humphrey was not just representing himself and the State of Minnesota in his opposition to the preemption language, he brought with him the unanimous support of the attorneys general from all 50 States. It is a very rare occasion indeed when the chief legal officers of every single State, without exception, can agree that a piece of legislation is such an infringement on the right of each State to protect its citizens that they will put aside all political and regional differences and unite against it. The attorneys general of the 50 States know that the only groups that benefit from the preemption of State law are the big credit providers and the credit reporting agencies themselves.

The record of the credit reporting industry clearly calls for more, not less, vigilance from both State and Federal agencies. Complaints about the credit reporting industry flood the Federal Trade Commission, topping those from any other industry. A recent survey conducted by Consumers Union found that more than 50 percent of the credit reports in the study contained substantial errors. There have been cases where entire communities were effectively redlined when a credit reporting company falsely reported that virtually all their citizens were delinquent on their taxes.

Today, credit reports invade every aspect of a citizen's life. Jobs, mortgages, educational opportunities and every situation involving credit depend upon files maintained and distributed by the major credit bureaus—and on the data poured into these companies by banks, finance companies, landlords, credit card corporations, department stores, and local, State, and Federal Governments. Efforts by consumers to correct errors have provided a new and mindboggling definition of futility.

The weight of a credit report has become far too important in people's lives for this Congress to tie the hands of State legislatures. These State laws are not frivolous attempts to bog down the industry, but rather have been passed as direct responses to actual problems that have arisen within credit reporting. We must not take away any State's ability to react to issues that threaten consumers.

H.R. 3596 is critically needed consumer protection that recognizes the role credit reports play in today's society. These excellent provisions should not be negated by taking away valuable consumer protections provided by the States. This is an issue that affects every person in every State and every congressional district. The preemption language should be deleted and the legislation adopted as a clearly unequivocal consumer protection measure.

□ 1540

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Gonzalez amendment.

I believe that this bill contains many valuable provisions which enhance consumer protections. For that reason, I am in favor of applying the provisions uniformly throughout the United States. A uniform national standard, as it relates to credit bureaus operating on a nationwide basis, would benefit consumers and enhance the free flow of interstate commerce.

Currently, only 24 States have some type of credit reporting legislation, leaving 26 States, with no legislation at all. In addition, States are in the process of amending and enacting new legislation, causing both the credit reporting industry and consumers to comply with and understand many and varied State laws. Thus, without preemption, credit bureaus and credit grantors that operate on a multi-State basis will be faced with not only varied State laws, but may be faced with inconsistent legal requirements.

I believe sincerely that a uniform Federal standard has several advantages for consumers. First, it would lower the cost of credit to consumers. Inconsistencies in State laws cause significant operational problems for the credit industry, which both impede the compliance efforts of credit bureaus and increase the chance for errors in credit reports. Uniform reporting requirements would not only reduce the chances for errors, but would reduce operational problems, as well as unnecessary litigation, and would therefore decrease the costs to the credit bureaus and credit grantors. Reduced costs, in turn, then may be passed on to consumers, establishing a lower cost of credit to consumers throughout the United States.

Second, it would reduce regulatory burden by reducing unnecessary and duplicative paperwork. Small and community banks are being crushed by the regulatory burden being placed on them. Surveys indicate that regulatory compliance costs banks over $10 billion per year. This is money that could be used to make loans in a credit-starved economy. The impact on consumers comes in two forms: either a reduction in the number of services offered, or in higher fees for those services. This is particularly devastating in rural areas. Complying with conflicting state laws will be one more costly regulatory hurdle facing small banks. Therefore, I believe we should reject increasing the regulatory burden for small and community banks by supporting the preemption provisions.

Third, preemption would increase the amount of credit available to consumers. During this time of a credit crunch, any effort to make consumer credit more readily available, which is what H.R. 3596 would do by lowering the cost of consumer credit, is welcome indeed.

Fourth, preemption would reduce unnecessary and frivolous litigation. Preemption of both varied and inconsistent State laws would help to cut down on litigation related to the interpretation of conflicting, State laws. This in turn, would make the industry easier to police overall, whether by States or by the Federal Government.

Lastly, a single uniform standard will give consumers a better knowledge of their rights in any individual State. Uniform reporting requirements would establish more uniform credit reports, enabling consumers to better understand their protections. Given the fact that 26 States currently do not have credit reporting legislation, H.R. 3596 would give such rights and protections to all consumers, regardless of where the consumer, credit bureau or credit grantor is located.

As the members know, H.R. 3596 amends the Fair Credit Reporting Act [FCRA] which already contains preemption provisions. Preemption of State laws is not something that most Members of Congress take lightly, but we do frequently choose to take that route when there is a national interest to be served, such as public safety or interstate commerce. Examples of laws in which Congress has chosen to completely pre-empt State law include: the Consumer Product Safety Act; the Fair Packaging and Labeling Act; the Food, Drug and Cosmetic Act; the Magnuson-Moss Warranty Act; the National Traffic and Motor Vehicle Safety Act; and the Fair Credit and Charge Card Disclosure Act of 1988, which is part of the truth in lending bill.

I referred to that a little earlier. We had a truth-in-lending bill which was not uniform in application. We decided to make it uniform in application later on to make it more workable and have provided model forms.

In all of these instances, Congress decided that there was a compelling interest which dictated uniformity of regulation over allowing the States to set varied and conflicting standards. Many of us voted for these bills after making the same kind of balancing analysis we are making of this bill.

The preemption language in H.R. 3596 would provide for preemption of only those state laws related to the specific subject matter of the Fair Credit Reporting Act and States would retain the very considerable ability to enforce the new credit reporting requirements as well as to bring other State consumer statutes to bear.

For instance, the bill would not affect the ability of States to address unfair or deceptive acts or practices through mini-FTC statutes. Moreover, the language makes clear that the States are free to adopt whatever penalties and statutory remedies they see fit to assist them in enforcing the new credit reporting requirements. A State attorney general is free to impose standards harsher than Federal law in settling or adjudicating a particular case.

For example, the State attorneys general recently required TRW to provide free credit reports to consumers on a nationwide basis. Nothing in this bill impedes this power of the States. The State attorneys general were only able to impose this tough standard on TRW because they were operating with a uniform statute, in this case the State mini-FTC acts.

The bill also breaks new ground by granting to State attorneys general, for the first time, the authority to enforce the Federal statute in Federal court. This important provision was sought and obtained by the National Association of Attorneys General.

I do not understand the opposition of the Attorney General to this provision of the bill.

Finally, I would like Members to know that the preemption provisions contained in the bill are strongly supported by a variety of groups. I would like to enter letters in the RECORD signed by the Independent Bankers Association of America, the American Bankers Association, Mastercard International, the Consumer Bankers Association, the American Financial Services Association, VISA International, the Associated Credit Bureaus, U.S. Chamber of Commerce, the National Retail Federation, and the Association for Children for Enforcement of Support.

Mr. Speaker, I think this is particularly significant right here. The gentleman a little while ago said that the powerful lobbyists have been overreaching to support this provision in the bill and against deletion of the Federal preexemption provisions. This is powerful lobbying group right here which I support.

It says:

> The preemption clause in H.R. 3596 will set up reporting to be done by all States for seven years on all cases if States are allowed to set their own reporting time lengths. Child support nonpayers in some States would be reporting for less than the seven-year time period. This will add to the lack of uniformity and complexity of the child support enforcement system.
>
> Please keep it simple. Make sure that the reporting is for seven years in all States. The children will benefit from your action to keep this preemption.

Each of these groups believes that the bill's preemption provision will greatly benefit consumers. I urge my colleagues to support the committee reported bill and oppose the Gonzalez-Torres-Rinaldo amendment.

Mr. Chairman, I include for the RECORD these letters to which I just referred:

U.S. CHAMBER OF COMMERCE,
*Washington, DC, September 18, 1992.*

*Members of the House of Representatives:*

In the next few days, you will be considering H.R. 3596, the "Consumer Reporting Reform Act," as unanimously reported by the House Banking Committee on June 18, 1992. The U.S. Chamber of Commerce Federation of local and state chambers of commerce, businesses, and associations urges, you to support H.R. 3596 and to oppose any efforts to strike the bill's critical preemption clause. By preserving the preemption provision, you will ensure that an important goal of the legislation remains: one national regulatory scheme governing credit reporting and credit reports.

In numerous regulatory areas, the business community is confronting a piecemeal approach by legislators that has resulted in cumulative layers of federal, state, and even local regulations. By engaging in such fragmented regulation, government at all levels has managed to balkanize the national economy. Interstate commerce is being hindered, economies of scale are jeopardized, and compliance costs have escalated as businesses try to keep up with the multitude of regulations. Businesses, consumers, and the economy ultimately suffer as this trend continues.

In approving H.R. 3596 with the preemption clause intact, you have the opportunity to enact a comprehensive set of protections and benefits for consumers that will be uniformly applicable across the country. Neither consumers nor national retailers, banks, or credit reporting and granting industries need to be saddled with an additional series of inconsistent state laws that could well result from the removal of the preemption language.

As reported out of the Banking Committee, H.R. 3596 strikes a long-sought balance between the rights and remedies desired by consumers and the needs of businesses in the consumer credit industry. The Chamber Federation hopes that when the bill comes before the full House, you will vote to maintain the preemption provision, thereby ensuring that crucial balance between consumer protection and the needs of industry. If the preemption language is removed, our members will oppose the legislation based on the regulatory burden it would invite by allowing both federal and state regulation.

Sincerely,

WILLIAM T. ARCHEY.

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INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
*Washington, DC, March 24, 1992.*

Hon. HENRY B. GONZALES,
*Chairman, Committee on Banking, Finance, and Urban Affairs, U.S. House of Representatives, Washington, DC.*

DEAR CHAIRMAN GONZALEZ: On Wednesday, March 25, 1992, the House Banking Committee is scheduled to mark up H.R. 3596, Amendments to Fair Credit Reporting Act. The Independent Bankers Association of

America (IBAA) urges you to oppose two possible amendments during committee consideration. They are: (1) to remove federal preemption language; and (2) to mandate that a free credit report be provided once a year to a consumer upon request.

H.R. 3596, as reported by the Consumer Affairs Subcommittee, contains a strong nationwide standard preempting laws that relate only to credit reporting and credit bureaus. It does not preempt state consumer protection or privacy laws. Moreover, a state may use its own laws to enforce the federal statute. Uniformity and consistency ease consumer understanding and reduce the regulatory burden on the industries. A uniform federal law will make it easier for our association and others to assist small banks in complying with this statute. In addition, in 1988, the Congress set the precedent and passed the Credit Card Disclosure Act which contained a similar preemption provision. It made sense then and it makes sense now.

The IBAA believes that the government should not require businesses to provide free services. If the consumer does not pay for the credit report, he or she will pay indirectly through higher bank fees or tighter credit. If a credit bureau makes a business decision to provide a free credit report to consumers, it has made the choice voluntarily. The government should not then require all other businesses to follow suit.

We thank you for your attention to these matters. The IBAA is the only national trade association that exclusively represents the interests of this nation's community banks.

Sincerely,

DORI M. GILLMAN,
*Senior Legislative Representative.*
STEPHEN J. VERDIER,
*Senior Legislative Counsel.*

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OPPOSE AMENDMENT TO DELETE FEDERAL PREEMPTION

DEAR MEMBER OF CONGRESS: We understand that H.R. 3596, the Consumer Reporting Reform Act of 1992, will be considered by the House in the near future. The bill as reported by the House Banking Committee would amend the Fair Credit Reporting Act to establish strong new consumer rights and protections regarding the accuracy of credit reports and privacy of credit information. In doing so, the bill imposes significant new burdens on both credit bureaus and credit grantors.

Just as important, the bill establishes the FCRA as the uniform standard for credit reporting throughout the United States by preempting inconsistent state laws. Despite the approval of this important preemption provision by specific votes of both the Consumer Affairs and Coinage Subcommittee and the full House Banking Committee, Representative Gonzalez, Chairman of the Banking Committee, intends to offer an amendment to strike the preemption provision from the bill. We strongly urge you to oppose the Gonzalez amendment on the House floor. If the Gonzalez amendment is adopted, we strongly urge you to oppose the bill entirely.

The federal preemption provision is an essential element of the bill which ensures that consumers in every state in the nation will receive the benefit of the tough new standards imposed by the bill, while attempting to control the regulatory burden imposed on credit bureaus and credit grantors under the bill. The preemption provision of H.R. 3596 is based on similar preemption provisions that Congress has enacted in the past when regulating activities which, like credit reporting, involve national markets. For example, the preemption provision of H.R. 3596 is similar to those included in the consumer Product Safety Act, the Food, Drug and Cosmetic Act, the Fair Credit and Charge Card Disclosure Act of 1988, the National Traffic and Motor Vehicle Safety Act, and other federal statutes.

Although the bill would preempt corresponding state laws, the preemption provision of H.R. 3596 has been carefully crafted to actually enhance the ability of states to protect their residents. Thus, the preemption provision makes it clear that states may take whatever actions they deem appropriate to enforce the federal FCRA. States also may establish their own penalties for FCRA violations. Moreover, the bill greatly expands the enforcement authority of state attorneys general by specifically authorizing them to bring suits in federal district court for violations of the FCRA.

The Gonzalez amendment would impose dramatically increased regulatory burdens on credit grantors and credit bureaus alike. Both credit grantors and credit bureaus operate in what truly has become a national credit market. Without federal preemption, credit grantors and credit bureaus that operate on a multistate basis would be forced to comply with as many as 50 inconsistent regulatory schemes. Not only would this greatly impede the ability to comply with the many new requirements of H.R. 3596, but the inconsistent laws would lead to consumer confusion as well. The compliance costs of these regulatory burdens also would adversely affect consumers by increasing the cost of credit and decreasing the availability of credit. Such a result would be particularly unfortunate in view of the shortage of credit being experienced in many parts of the country today.

American Bankers Association.
American Financial Services Association.
Consumer Bankers Association.
MasterCard International Incorporated.
National Retail Federation.
VISA U.S.A. Inc.

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AMERICAN FINANCIAL SERVICES ASSOCIATION,
*Washington, DC, August 3, 1992.*

Hon. ROBERT H. MICHEL,
*House Minority Leader, U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN MICHEL: The American Financial Services Association (AFSA)[1] urges your serious consideration of the impact that striking federal preemption from the Consumer Reporting Reform Act (H.R. 3596) would have on consumers, credit grantors and the credit bureaus. It is our understanding you will be asked to allow H.R. 3596 to come to the floor before the August recess, and to allow an amendment by Congressmen Gonzalez and Torres to strike the federal preemption language currently in the bill.

Throughout the hearing and mark up process of H.R. 3596 at both the full Banking Committee and Consumer Affairs Subcommittee level, the merits of preemption were debated. Votes taken at both the full committee and subcommittee were supportive of the preemption language due to the national nature of the credit granting industry and credit reporting system.

H.R. 3596 significantly strengthens the Fair Credit Reporting Act. The bill would increase responsibilities on the credit reporting agencies and creditors and subject them to new liability for failure to comply. In recognition of these significantly increased burdens, the federal legislation would also ensure that the regulatory burdens were consistent. The credit reporting system, as a nationwide information clearinghouse, would be seriously hampered if credit bureaus and creditors, in addition to the proposed comprehensive set of requirements, were also subject to 50 different and sometimes conflicting state laws.

Under the proposed bill, states and their attorneys general would still have the ability to enforce the provisions of the comprehensive federal law by legal action. The Federal Trade Commission and consumers themselves would gain increased ability to enforce and recover damages under the Fair Credit Reporting Act.

The credit industry faces the prospect of the most comprehensive consumer protection law in the credit reporting area. Their ability to comply with the myriad of proposed, specific requirements would be unnecessarily complicated if different requirements would also be imposed by the states. A uniform standard for creidt reporting would also benefit consumers, who would be better able to understand the duties and responsibilities of all parties with a consistent credit reporting scheme that applies no matter where they live.

Federal preemption in H.R. 3596 is a necessary and vital part of the legislation. It must be retained in the final package. Thank you for your consideration.

Sincerely,

FRANK M. SALINGER,
*Vice President, General Counsel & Director of Government Affairs.*
SHERYL PETERSON MCGRATH,
*Director of Legislative Affairs.*

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CONSUMER BANKERS ASSOCIATION,
*Arlington, VA, September 14, 1992.*

DEAR CONGRESSMAN: In the next week, the full House will be voting on H.R. 3596, legislation to amend the Fair Credit Reporting Act. The House Rules Committee is expected to meet on the 16th of September in order to decide on a rule for this legislation, and the bill could be on the House floor as early as the 17th.

H.R. 3596 as reported out of the House Banking Committee is a well balanced bill that responds to the needs of both consumers and the credit industry. The bill improves and updates the Fair Credit Reporting Act by adding approximately fifty new protections for consumers. This bill also imposes new requirements on credit grantors and credit bureaus. It sets time limits for the reinvestigation of inaccurate information and requires creditors to give customers additional information about their rights under the FCRA.

One of the most important provisions of H.R. 3596 as passed by the Banking Committee is a federal preemption clause. This provision ensures that the protections incorporated in H.R. 3596 apply uniformly throughout the country. Today, credit granting is truly a national business—in fact very few consumers obtain credit cards from institutions that are located in the state in which they live. Preemption protects such consumers by ensuring that the provisions outlined in H.R. 3596 are applied uniformly throughout the country.

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[1] AFSA is the nation's largest trade association representing nonbank providers of consumer financial services. Organized in 1916, AFSA represents 367 companies operating 10,910 offices engaged in the extension of $190 billion of consumer credit throughout the United States. These companies range from independently-owned consumer finance offices to the nation's largest financial services, retail and automobile companies.

Today, existing state law generally parallels the FCRA, and virtually no state law provides consumer protections as comprehensive as those found in H.R. 3596. Under H.R. 3596, state Attorneys General would still be able to enforce the FCRA.

During floor consideration of H.R. 3596, it is likely that an amendment to delete this preemption clause will be introduced. On behalf of CBA's members, I urge you to vote against such an amendment. With the preemption provision, H.R. 3596 is a fair and well-balanced bill that serves both consumers and the credit granting industry. Without it, the bill presents difficult compliance and enforcement problems.

Again, I urge you to vote against any attempts to delete the federal preemption clause from H.R. 3596. Please feel free to contact me if you have any questions.

Sincerely,

JOE BELEW,
*President.*

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ASSOCIATED CREDIT BUREAUS, INC.,
*Washington, DC, September 14, 1992.*

DEAR REPRESENTATIVE: On behalf of Associated Credit Bureaus, Inc. (ACB), I want to thank you for your support of the federal preemption provision in the Torres bill, H.R. 3596.

As you know the bill is scheduled for Rules Committee consideration and possibly a floor vote this week, and we urge you to support H.R. 3596 as reported by the House Banking Committee without amendments.

Our industry agreed to support H.R. 3596 with the understanding that preemption would stay in the bill. Without preemption, and the potential for 50 different sets of regulations, financial institutions as well as the credit reporting industry are subject to a major regulatory burden. We are an interstate nationwide business, and are willing to support and accept additional regulation, only if we have a single Federal statute.

Therefore, ACB opposes any amendments to strike the preemption clause in H.R. 3596 or to add a provision requiring credit bureaus to give ALL consumers a FREE copy of their credit report on an annual basis.

If we lose on the preemption amendment, than we urge you to oppose final passage of the bill.

Once again, thank you for your support. Please feel free to contact me if you have any questions, or if I can be of assistance to you.

Sincerely,

STEVEN I. FIER,
*Vice President, Government Relations Legislative Counsel.*

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ASSOCIATED CREDIT BUREAUS INC.,
*Washington, DC, September 22, 1992.*

DEAR CONGRESSMAN: Soon you will be asked to vote on H.R. 3596. Our industry fully supports passage of this bill as it was reported out of the House Banking Committee.

An amendment to strike language in the bill related to federal preemption of state laws will be offered by House Banking Committee Chairman Henry Gonzalez and Congressman Torres. We strongly oppose this amendment and ask for your help in defeating it.

Enclosed is a comparison of both H.R. 3596 and current federal law with your state statute. You'll see few, if any, material differences, and therefore, the 45 additional pro-consumer benefits found in H.R. 3596 will greatly help your state's citizens. We have enclosed these benefits for your review.

Despite the rhetoric you may hear on the House floor, one thing is clear, that H.R. 3596 is the most comprehensive proposal to regulate the credit reporting industry in the nation. For example, unlike H.R. 3596, no state currently imposes liability on the companies who provide information to the credit bureau.

Please vote against the Gonzales-Torres amendment to strike preemption, and for passage of this bill as reported out of committee.

Sincerely,

D. BARRY CONNELLY,
*Executive Vice President.*

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ASSOCIATED CREDIT BUREAUS, INC.,
*Washington, DC.*

[Memorandum]

New York enacted their FCRA in 1971, and much of its language is derived from current federal law. When comparing state law with both the current federal law and H.R. 3596, the following differences remain.

Differences with current law or H.R. 3596:

1. The credit applicant must be informed that a credit report will be requested as part of the credit granting process. Generally, in all states, the consumer is informed of the fact that a credit file will be used in the process of granting credit.

SUMMARY

When you consider the 45 additional pro-consumer benefits found in H.R. 3596, New York consumers would greatly benefit from its passage. Note that under H.R. 3596, the state Attorney General is granted authority to bring suit in federal court for alleged violations of the act.

AMENDMENTS BENEFITING CONSUMERS, FAIR CREDIT REPORTING ACT REFORM—H.R. 3596

Disclosure to the consumer:

Requires disclosure of a consumer's right to a free credit file whenever adverse action is taken, including instances where credit files are used for employment, check cashing services, tenant screening, and transaction accounts at financial institutions.

Codifies a 50-day period in which the consumer has the right to request a free disclosure from all three nationwide systems at no charge following adverse action.

Throughout the disclosure process, the consumer is informed, numerous times, of his rights under the Act. Notice specifications are designed by the FTC.

Requires the three credit reporting systems to maintain toll free telephone numbers for consumers to use following disclosure.

Disclosure of the credit file by the user (e.g., credit granter) cannot be prohibited.

Full disclosure of the credit file contents (not just "nature and substance") is required, and the consumer may specify format (e.g., hard copy, telephone).

Requires free disclosure of the credit file following a reinvestigation of disputed information.

Places a legislative cap of $8 on the cost of disclosures to the consumer which are not the result of adverse action, used for employment purposes, or reinvestigation. Current costs range from $10–$20.

Prescreening:

All prescreened credit offers must include a firm offer of credit.

Consumers must be informed by credit reporting agencies and users of prescreened lists of the right to have their name removed (opt out) from any future prescreened list offer.

Consumers will be provided a toll-free telephone number when exercising their right to opt out.

Limitations are placed on the types of information which the prescreened list purchaser may receive.

Users of prescreened lists are required to provide the consumer with a "clear and conspicuous" statement that:

A consumer report was used.

The consumer met the criteria for selection.

The offer of credit may be withdrawn if the consumer accepts the offer, and he no longer meets the criteria.

The consumer has the right to opt out of future solicitations.

CREDIT REPORTS USED FOR EMPLOYMENT PURPOSES

"Clear and conspicuous" disclosure to the consumer of the fact that an employment report may be obtained is required.

Users of employment reports must certify that they have provided proper disclosure to the current or prospective employee.

Information shall not be used in violation of any applicable Federal or State equal employment opportunity law or regulation.

The report must be accompanied by a summary of the consumer's rights under the Act.

The FTC will prescribe the format for the summary of a consumer's rights.

The consumer must give permission for the report to be used.

Before adverse action is taken, the user of the employment report must provide the current or prospective employee with a copy of the report at no charge, along with a summary of consumer rights.

Before adverse action is taken, the current or prospective employee must be given a reasonable opportunity to respond to any information in the report that is disputed.

RESELLERS (BROKERS) OF CREDIT FILE INFORMATION

Resellers are required to disclose to the credit bureau the identity of the "ultimate end-user."

Resellers are required to certify each permissible purpose for which the report is furnished.

Resellers are required to establish and comply with reasonable procedures to ensure the report is used only for the purpose certified.

LIABILITY AND DUTIES OF FURNISHERS OF INFORMATION

Duty to provide complete and accurate information to consumer reporting agencies, including a duty to correct and update information.

Where a consumer disputes information furnished to a consumer reporting agency, a duty of the furnisher to provide to the agency, along with the disputed information, a notice that the consumer disputes such information.

A duty to promptly investigate disputes regarding the completeness or accuracy of any information provided to the consumer reporting agency.

Disclose to consumers a description of the type of, and frequency with which information is provided to the consumer reporting agency.

Liability for willful and negligent noncompliance with the Act. FTC and Federal banking agencies are empowered with civil penalty authority to enforce.

INCREASED CRIMINAL PENALTIES AND CIVIL REMEDIES FOR VIOLATIONS

Provides the consumer with a statutory cause of action and a minimum $1000 damages against anyone who willfully obtains a credit report under false pretenses or knowingly does so without a permissible purpose.

Increases criminal penalties for all remedies specified under the current Act.

Administrative enforcement by the Federal regulatory agencies of jurisdiction for willful violations and civil remedies provided under the act for furnishers of information.

Provides FTC with administrative enforcement powers and FRB with interpretive powers as it relates to financial institutions.

### REINVESTIGATION OF DISPUTED INFORMATION

When an item in the credit report is disputed, requires both furnishers of information and consumer reporting agencies to consider all relevant information provided by the consumer.

Requires furnishers of information and consumer reporting agencies to complete reinvestigation of disputed information within 30 business days.

Requires notification of results be sent to the consumer.

When information is disputed, requires credit reporting agencies to inform the furnisher of the information of the dispute before the end of five business days.

Specifies how to handle inaccurate or unverifiable information.

Requires reasonable procedures to prevent the reappearance of unverifiable information which has been deleted from the credit file, unless the furnisher now certifies that the information in dispute is accurate.

Requires notification to the consumer of the reinsertion of previously deleted information.

### OTHER AMENDMENTS

Credit reporting agencies will report accounts closed by the consumer as such.

Requires credit reporting agencies to report available delinquent child support information.

Prescribes method for reporting bankruptcies to ensure differentiation between Chapter 13 cases and those reported under Chapter 7.

Prescribes method for calculating the seven-year period for reporting certain negative information.

Establishes Title II of the act, which regulates the credit repair industry. Thus, these often illicit operations which prey on innocent consumers are brought under Federal Law.

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THE ASSOCIATION FOR CHILDREN FOR
ENFORCEMENT OF SUPPORT, INC.,
*Toledo, OH, September 24, 1992.*

KEEP H.R. 3596 CHILD SUPPORT PROVISIONS,
KEEP PREEMPTION

DEAR REPRESENTATIVE: H.R. 3596 Child Support Provisions require Credit Bureaus to report those who fail to pay child support as part of their credit history. This will help to prevent those who fail to feed their own children from gaining credit to purchase new cars etc. while their children go hungry.

This is a very important part of H.R. 3596! The pre-emption clause in H.R. 3596 will set up reporting to be done by all states for seven years on all cases. If states are allowed to set their own reporting time lengths, child support non-payors in some states will be reported for less than the seven year time period. This will add to the lack of uniformity and complexity of the child support enforcement system.

Please, Keep It Simple! Make sure that the reporting is for seven years in all states. The children will benefit from your action to keep the pre-emption.

Thank You!

GERALDINE JENSEN
*National President.*

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the amendment sponsored by Representatives GONZALEZ, TORRES, SCHUMER, and RINALDO that would repeal the State preemption provision of H.R. 3596. This provision would allow the Fair Credit Reporting Act to preempt any State law relating to consumer credit reporting.

I cosponsored a similar amendment when this bill was considered in the Banking Committee. Unfortunately, that amendment was defeated by a close vote. The House now has a chance to do what the Banking Committee should have done—remove this ill-advised preemption clause by passing this amendment.

This Federal preemption is wrong for two reasons. First, it tramples on the traditional role States have played in consumer protection. Second, it weakens the main purpose of this bill—to strengthen the rights and remedies of consumers concerning their credit reports.

Traditionally, consumer protection has been an area where the ability of States to enact and enforce their own laws has been preserved, not eliminated. Besides the Fair Credit Reporting Act, a number of other Federal laws expressly preserve the right of the States to enact stronger consumer protection laws than the Federal Government. States have this jurisdiction because they have a direct interest in consumer-related transactions that take place within their borders. States also serve as the forum for many innovative reforms. Preempting the States' role in consumer protection will inhibit the creation of innovative consumer protection laws.

Twenty States have their own fair credit reporting laws. Many other State legislatures around the country are currently considering bills to enact new laws or to strengthen existing State credit reporting statutes. Many of these State laws provide more protection to consumers than existing Federal law and go well beyond the reforms offered in H.R. 3596. Congress should not prevent States from enacting such tougher fair credit reporting statutes.

The preemption clause sweeps away State fair credit reporting laws. It also severely limits a State's ability to enforce its unfair and deceptive acts and practices laws in the area of credit reporting.

The importance of State unfair and deceptive practice laws is shown by the recent suit filed by the attorneys general of 20 States against TRW, one of this Nation's largest credit reporting agencies. Because of this suit, TRW agreed to correct and improve many of its credit reporting practices. If this bill is enacted with its preemption provision, States may not be able to obtain such improvements in credit reporting practices in the future.

We must not lose sight of the purpose of this bill—to further protect consumers and their credit histories. The preemption clause of this bill would prevent States from doing that. The amendment would reaffirm the role of the States and make this bill truly a consumer protection bill. I urge the House to adopt the Gonzalez-Torres-Schumer-Rinaldo amendment.

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Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, the following is an analysis prepared by the American Law Division of the Congressional Research Service on the issue of preemption in federal consumer protection and banking laws:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, September 24, 1992.*

To: Members of Congress.
From: American Law Division.
Subject: Additional Examples of Preemptive Language Found in Federal Consumer Protection and Banking Laws.

This is in reference to our recent conversation concerning a memorandum prepared by the Congressional Research Service on September 23, 1992 which contained a list of select federal consumer protections laws that provide for partial or complete preemption of state regulation. That earlier memorandum was not intended to be exhaustive in its delineation of applicable federal provisions, and several additional examples could be cited. Among those are a variety of federal provisions related to the regulation of financial institutions that limit or preempt the operation of state law in the consumer protection area. These are the subject of this memorandum.

In several instances, Congress has mandated total or partial preemption of state consumer protection laws as applied to federally regulated financial institutions. This is particularly apparent in the mortgage lending realm. The Home Mortgage Disclosure Act preempts all state regulation of national banking institutions, leaving the states the right to regulate state institutions when such regulations are not inconsistent with federal provisions. The Garn-St Germain Act mandates exclusive federal regulation of all financial institutions, state and national, in regard to due-on-sale clauses.[2] Another provision of the same law included a preemption of state laws that restrict the making of adjustable rate mortgage loans.[3] Similarly, Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 preempted state usury laws until and unless the state acted expressly to override such preemption within three years of its effective date.[4]

Congress took another approach when it enacted the Truth in Lending Simplification and Reform Act of 1980[5] (TILSA) which altered a prior federal rule preempting inconsistent state laws on disclosure consumer credit transactions. Under TILSA, the Federal Reserve Board is required to determine whether state laws related to disclosure of information with consumer credit transactions are "inconsistent" or "substantially the same" as federal requirements.[6] If the state law is substantially the same, a lender may comply with it rather than its federal counterpart.[7] A similar procedure has been developed by the Board to govern state law preemption determinations under the Equal Credit Opportunity Act[8] and the Expedited Funds Availability Act.[9]

In addition, the U.S. Supreme Court has made clear that regulatory preemption, made in the exercise of an administrator's judgment pursuant to a congressional mandate, has the same effect as a federal statute. So long as an agency has statutory authority to issue regulation, it appears that those rules will preempt inconsistent state law by the simple operation of the Supremacy Clause.

It is hoped that this is of assistance to you.

CHARLES V. DALE,
*Legislative Attorney.*

FOOTNOTES

[1] 12 U.S.C. §2805(a).

[2] 12 U.S.C. §1701j-3(b)(1). The Act states: "Notwithstanding any provision of the constitutions or laws (including judicial decisions) of any State to the contrary, a lender may . . . enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan."

[3] 12 U.S.C. §§3803(c). See, also, *Conference of State Bank Supervisors v. Conover*, 710 F.2d 878 (D.C. Cir. 1983) (Comptroller of Currency has authority to issue regulations governing adjustable rate mortgages which preempt inconsistent state law).

[4] 12 U.S.C. §1735f-7. A different approach to regulation of usury is provided by the National Bank Act. The federal usury provision there gives national banks the option of lending at the highest permitted state rate or lending at a rate one percent above the local district Federal Reserve Bank rate for ninety-day commercial paper, 12 U.S.C. §85. The Act has been held to provide the exclusive civil remedy for usury received or charged by national banks, preempting state law remedies. *Schuyler National Bank v. Gadsden*, 191 U.S. 451 (1903). See also *Panos v. Smith*, 116 F.2d 445 (6th Cir. 1950); *M. Hahas Co., v. First National Bank of Hot Springs*, 739 F.Supp. 1338 (W.D. Ark. 1990).

[5] P.L. 96-221, 94 Stat. 132, 168 (1980) (codified as amended in scattered sections of 15 U.S.C. §§1601–1667e).

[6] 15 U.S.C. §1610(a).

[7] The Board created a procedure by which an interested party could apply for a determination on an *ad hoc* basis, and established a rule for inconsistency: the "contradictory standard." Under this standard, a state law that requires any disclosure or action on a creditor's part that contradicts the federal requirements is inconsistent. 12 C.F.R. part 226. Contradiction occurs when the state law requires either the use of the same term as the federal provisions require to represent a different amount or meaning, or the use of a different term to represent the same item. *Id.* §226.28(a)(1). Any creditor, state, or other interested party may request a determination from the Board regarding a particular state law under this standard. *Id.*

[8] 15 U.S.C. §§1691–1691f. *See* 12 C.F.R. part 202.

[9] 12 U.S.C. 4001-4010, Board regulations require banks to make funds available to their customers within specified time frames, and to disclose their funds availability policies to their customers. A number of states have also enacted rules governing funds availability. The Act and Regulation CC provide that any provision of state law in effect on or after September 1, 1989, that provides for a shorter hold for a category of checks than is provided under federal law will supersede the federal provision. 12 C.F.R. §229.20.

Mr. Chairman, I thank the gentleman for yielding me the time and I rise in strong opposition to the Gonzalez amendment.

Because the time for debate is limited, let me make five quick points against the amendment.

First, no State has more comprehensive laws, or one that provides as many consumer protections as the one we are considering here today.

Second, contrary to what has been said, this bill will not prevent State attorneys general from protecting their citizens. A provision in the bill sought and obtained by the National Association of Attorneys General grants State officials the largely unprecedented power to enforce Federal law in Federal Courts.

In addition, State officials will retain their current authority to impose higher standards and harsher remedies against reporting agencies which engage in unfair or deceptive trade practices.

Third, the issue was not, the issue is not States rights. The issue is one of regulating interstate commerce.

Credit grantors, such as VISA, Master Card, American Express, Sears, and the rest operate across State lines. The three credit reporting agencies likewise operate on an interstate basis.

In short, we are talking about interstate commerce, and the Constitution gives to Congress responsibility to regulate interstate commerce.

Fourth, preemption is not unprecedented. A nearly identical debate took place in this body in 1988 when we were considering consumer credit disclosures. The issue of preemption was debated, and in the end by a vote of 342 to 5, this body decided that a tough, uniform national standard of credit disclosure would benefit consumers. The rationale for preemption then is the same as it is today. If Members voted for preemption in 1988 and want to be consistent, they should vote against the Gonzalez amendment.

If any Member wants to see how he or she voted in 1988, I have here at the desk, Mr. Chairman, a voting list of that event.

Fifth, without a uniform standard for credit reporting we could be faced with a system of 50 different State laws and regulations. Such a system would increase costs to consumers, and may deny them access to credit.

At a time when we are attempting to get the economy moving, at a time when we are trying to ease the credit crunch, at a time when we are concerned with the regulatory burden on our financial institutions, and at a time when we need to enhance interstate commerce, we need a uniform standard.

These are the reasons why preemption was approved by the Subcommittee on Consumer Affairs and by the full Committee on Banking, Finance and Urban Affairs, and these are the reasons why the Gonzalez amendment should be defeated.

Mr. Chairman, I will enter into the RECORD a document from the Congressional Research Service, the subject of which is the American law as it relates to preemption. I quote quickly the areas in which this document deals. Mortgage lending, the Garn-St Germain Act, the Home Mortgage Disclosure Act, the Depository Institutions Deregulation and Monetary Control Act of 1980 are used as examples in this document about preemption and how it has benefited the financial institutions of the country, and more importantly, the consumers.

The document referred to follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, September 24, 1992.*

To: Hon. Paul E. Kanjorski. Attention: Mike Radway.

From: American Law Division.

Subject: Additional Examples of Preemptive Language Found in Federal Consumer Protection and Banking Laws

This is in reference to our recent conversation concerning a memorandum prepared by the Congressional Research Service on September 23, 1992 which contained a list of select federal consumer protections laws that provide for partial or complete preemption of state regulation. That earlier memorandum was not intended to be exhaustive in its delineation of applicable federal provisions, and several additional examples could be cited. Among those are a variety of federal provisions related to the regulation of financial institutions that limit or preempt the operation of state law in the consumer protection area. These are the subject of this memorandum.

In several instances, Congress has mandated total or partial preemption of state consumer protection laws as applied to federally regulated financial institutions. This is particularly apparent in the mortgage lending realm. The Home Mortgage Disclosure Act preempts all state regulation of national banking institutions, leaving the states the right to regulate state institutions when such regulations are not inconsistent with federal provisions.[1] The Garn-St Germain Act mandates exclusive federal regulation of all financial institutions, state and national, in regard to due-on-sale clauses.[2] Another provision of the same law included a preemption of state laws that restrict the making of adjustable rate mortgage loans.[3] Similarly, Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 preempted state usury laws until and unless the state acted expressly to override such preemption within three years of its effective date.[4]

Congress took another approach when it enacted the Truth in Lending Simplification and Reform Act of 1980[5] (TILSA) which altered a prior federal rule preempting inconsistent state laws on disclosure of consumer credit transactions. Under TILSA, the Federal Reserve Boards is required to determine whether state laws related to disclosure of information in connection with consumer credit transactions are "inconsistent" or "substantially the same" as federal requirements.[6] If the state law is substantially the same, a lender may comply with it rather than its federal counterpart.[7] A similar procedure has been developed by the Board to govern state law preemption determinations under the Equal Credit Opportunity Act[8] and the Expedited Funds Availability Act.[9]

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Footnotes at end of article.

In addition, the U.S. Supreme Court has made clear that regulatory preemption, made in the exercise of an administrator's judgment pursuant to a congressional mandate, has the same effect as a federal statute. So long as an agency has statutory authority to issue regulation, it appears that those rules will preempt inconsistent state law by the simple operation of the Supremacy Clause.

It is hoped that this is of assistance to you.

CHARLES V. DALE,
*Legislative Attorney.*

FOOTNOTES

[1] 12 U.S.C. §2805(a).

[2] 12 U.S.C. §1701j-3(b)(1). The Act states: "Notwithstanding any provision of the constitutions or laws (including judicial decisions) of any State to the contrary, a lender may . . . enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan."

[3] 12 U.S.C. §§8808(c). See, also, Conference of State Bank Supervisors v. Conover, 710 F.2d 878 (D.C. Cir. 1983)(Comptroller of Currency has authority to issue regulations governing adjustable rate mortgages which preempt inconsistent state law).

[4] 12 U.S.C. §1735f-7. A different approach to regulation of usury is provided by the National Bank Act. The federal usury provision there gives national banks the option of lending at the highest permitted state rate or lending at a rate one percent above the local district Federal Reserve Bank rate for ninety-day commercial paper, 12 U.S.C. §85. The Act has been held to provide the exclusive civil remedy for usury received or charged by national banks, preempting state law remedies. Schuyler National Bank v. Gadsden, 191 U.S. 451 (1903). See also Panos v. Smith, 116 F.2d 445 (6th Cir. 1950); M. Hahas Co. v. First National Bank of Hot Springs, 739 F. Supp. 1938 (W.D. Ark. 1990).

[5] P.L. 96-221, 94 Stat. 132, 168 (1980)(codified as amended in scattered sections of 15 U.S.C. §§1601–1667s).

[6] 15 U.S.C. §1610(a).

[7] The Board created a procedure by which an interested party could apply for a determination on an ad hoc basis, and established a rule for inconsistency: the "contradictory standard." Under this standard, a state law that requires any disclosure or action on a creditor's part that contradicts the federal requirements is inconsistent. 12 C.F.R. part 226. Contradiction occurs when the state law requires either the use of the same term as the federal provisions require to represent a different amount or meaning, or the use of a different term to represent the same item. Id. §226.28(a)(1). Any creditor, state, or other interested party may request a determination from the Board regarding a particular state law under this standard. Id.

[8] 15 U.S.C. §§1691–1691f. See 12 C.F.R. part 202.

[9] 12 U.S.C. 4001–4010. Board regulations require banks to make funds available to their customers within specified time frames, and to disclose their funds availability policies to their customers. A number of states have also enacted rules governing funds availability. The Act and Regulation CC provide that any provision of state law in effect on or after September 1, 1989, that provides for a shorter hold for a category of checks than is provided under federal law will supersede the federal provision. 12 C.F.R. §229.20.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to our distinguished colleague, the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding the time, and I rise in strong support of the Gonzalez-Torres-Rinaldo proconsumer amendment.

Mr. Chairman, I rise in support of the bill and the Gonzales-Torres-Rinaldo amendment to strike the Federal preemption clause. My support stems from a simple cost-benefit analysis. The cost, as the amendment's opponents have suggested, is a more complicated nationwide system of consumer protection law. But the overriding benefits are stronger consumer protections State by State than we can all agree on at the Federal level. Without the amendment, we lose tough protections already in place in roughly 20 States, such as low credit report fees and short dispute resolution deadlines. We lose the chance that stronger protections could be put in place in many others. We lose flexibility for States to respond to regional problems and the preservation of important State rights. And we lose the opportunity to better prevent our constituents from unjust denials of loans, credit cards, and even jobs.

Consumers should not be forced to surrender stronger safeguards to gain the protections H.R. 3596 provides. Join me in support of the Gonzalez-Torres-Rinaldo amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from New York [Mr. SCHUMER], the ranking member on the majority side of the Committee on Banking, Finance, and Urban Affairs.

Mr. SCHUMER. Mr. Chairman, this amendment really tells whether we will have a bill on this issue or not, plain and simple. Make no mistake about it. If Members vote against the Gonzalez-Torres-Schumer-Rinaldo-Bryant amendment, there will be no bill, nor should there be. And the bottom line is that if this amendment fails, and the bill passes without this amendment, it is not that we are moving only one step forward for consumers as opposed to two or three, but we actually will be moving a step backward.

That is not just my view. That is the view of the Consumer Union. That is the view of the Consumers Federation of America. That is the view of the Association of Attorneys General of the United States.

The reason is a simple one. First, 18 States have laws that go way beyond this. Those laws would be rolled back. That would be a disgrace at a time when consumers have such little protection against these credit bureaus.

And let me say, my colleagues, that I have been working on this issue for years. First, when the gentleman from California [Mr. LEHMAN] was the chairman of the subcommittee, and now under the outstanding leadership of the gentleman from California [Mr. TORRES]. And the credit bureaus fought us tooth and nail. It is only the fact that there were court suits, and State action, and popular rebellion against what they were doing that we are even here.

But second, I would say to my colleagues that there are many things not in this bill that ought to be there. There should be a free credit report. If a credit bureau has all of this information on you, do you think you ought to pay for the list of all of that information, or should you have a right to it? I believe you should have a right to it. That is not here.

☐ 1600

There are no tough privacy provisions. Should these groups be allowed to sell every little bit of information about you to anyone under the Sun without your OK? No. So none of these things are in there.

In addition to that, if we were then to roll back the protections that many States have given consumers, more protections, unfortunately, then we are offering today, we may as well not do this bill at all.

So I say to my colleagues that this amendment is the key amendment on the entire bill. With it, while we have not gone all the way, we would have taken a few steps in favor of the consumer. Without it, we will go home in October and tell the consumers, every American, "We have made your situation worse."

I strongly urge support of the Gonzalez-Torres-Rinaldo-Schumer-Bryant amendment.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, I rise to read a statement opposing the amendment on behalf of our colleague, DOUG BARNARD, Jr., who coauthored the language the amendment seeks to delete and who cannot be here because of illness.

The bill before us, based on several years of public hearings, amends the Fair Credit Reporting Act with 50 legislative pages of new consumer protections and credit industry duties. Under the preemption provisions the amendment seeks to delete, those new protections and duties will provide a uniform, nationwide standard for credit reporting while leaving intact state legislative and regulatory prerogatives for enforcement purposes. More importantly, even if the preemption provisions complained of were eliminated, state law would continue to be subject to existing preemption provisions contained in the Fair Credit Reporting Act as first adopted in 1970 as part of a regime of consumer protections known as the Truth-in-Lending Act, so regardless of which provision prevails, state law is still substantially preempted.

Preemption of state law is not something that most of us take lightly, but we do frequently choose to take that route when there is a national interest to be served, such as public safety or in this case interstate commerce.

Some examples of consumer protection laws where Congress has completely preempted state law include: the Consumer Product Safety Act; the Fair Packaging and Labeling Act; the Food, Drug and Cosmetic Act; the Magnuson-Moss Warranty Act; the National Traffic and Motor Vehicle Safety Act; and the Fair Credit and Charge Card Disclosure Act of 1988, which is part of the same statute that H.R. 3596 amends.

In all of these instances, Congress decided that there was some compelling interest which dictated uniformity of regulation over allowing the states to set conflicting standards or no standards.

Let me leave you with a final thought. At some point in our education, many of us were forced to read a 200 year old book called "Democracy in America" written by a French aristocrat named Alexis de Tocqueville, widely considered one of the most astute observers of America, and one whose predictions have come to pass throughout our history.

De Tocqueville warned that one of the greatest risks of our type of government is that it would cover society "with a network of small complicated rules, minute and uniform, through which the most original minds and most energetic characters cannot penetrate". While his prophesy has come to pass in many areas of our law, in no area has it rung more true than in financial services law and this bill is a classic example.

If we must persist in enacting these "networks of small complicated rules", then the least we can do is provide some uniformity for those who must labor under them, and accordingly, I urge my colleagues to vote against this amendment and support the committee bill.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I rise in strong support of the Gonzalez-Torres amendment. I feel that it is the right policy for the country.

Mr. Chairman, I rise in support of H.R. 3596, the Consumer Reporting Reform Act of 1992. This bill is proconsumer. It will improve accuracy and fairness in credit reporting.

But there is a poison pill right in the middle of this reform bill that is bad for consumers. It is the unfair and unnecessary preemption of State consumer laws—which are sometimes stronger than Federal law. Therefore, I support the Gonzalez-Torres amendment to preserve State consumer laws.

This is one of the most important consumer votes we will have on this floor.

Mr. Chairman, just because Congress has decided to provide some much needed credit bureau reform—American consumers should not have to sacrifice their rights under State law to get it. It's comparable to drafting a transportation safety bill that requires seat belts but outlaws brakes.

Arguments that preemption and a uniform Federal standard is needed are patently absurd. The credit industry has thrived under Federal and 50 State laws for 20 years.

And millions of consumers support Gonzalez-Torres—individually and through organizations like Consumers Union, the Consumer Federation of America, the National Consumers League, U.S. PIRG, Public Citizen's Congress Watch, and ACORN, to name a few.

H.R. 3596 provides needed reforms to eliminate erroneous credit bureau reports that victimize ordinary hard-working Americans, but to get some additional Federal protection, there is no need to prohibit stronger State laws.

For example, in Massachusetts we already have a law that is stronger in some respects than H.R. 3596. We already require reporting the failure to make child support payments. And violations of our State consumer laws are also considered violations of our unfair and deceptive acts and practices act—which makes it easier to enforce fines and penalties.

In addition, the Massachusetts Legislature now has a bill pending that would strengthen consumer protections beyond those provided in H.R. 3596.

We are not trying to enact our State law in every State—but we do want the right to protect our own consumers. Gonzalez-Torres preserves the States this important power.

Today there is an insatiable appetite for credit information—it's a huge business. Last year the three industry leaders alone; TRW, Equifax, and Trans Union Corp. issued 450 million reports.

It is a powerful business: Few private businesses wield as much power as credit bureaus do. Credit bureaus decide who can purchase a house, buy a car, rent an apartment, get a loan, or obtain a credit card.

And most troublesome: It's a business where mistakes can ruin one's credit—and a business where mistakes abound.

Inaccurate credit bureau reports can cost consumers a loan, an apartment, a house, a job, and something even more valuable—their good name.

Last year half of the credit reports surveyed by consumers union had at least one inaccuracy in it—and one in five reports had mistakes serious enough to ruin one's credit worthiness.

The FTC gets more complaints about credit bureaus than about any other American industry.

Last year, one TRW data collector misread a word and listed every taxpayer in Norwich, VT as delinquent. Recently Equifax entered an agreement with 18 States' attorneys general to stop making so many errors on credit reports.

In my own State, just this year, errors in reporting municipal tax liens resulted in one of the big three credit bureaus—Equifax—reporting hundreds of Middlesex County residents as deadbeats. Before the mistake could be corrected—many first time home buyers lost the home of their dreams.

No vital national interest requires preemption of the States from their historic role in consumer protection. Preemption in the area of consumer protection is virtually unprecedented.

The Current Fair Credit Reporting Act expressly preserves the rights of States to enact even stronger consumer protection. The Truth in Lending Act, the Home Equity Consumer Protection Act of 1988, the Fair Credit Billing Act, and the Fair Debt Collection Practices Act to name a few also preserve States' powers to protect their consumers.

The original fair credit reporting act did not preempt the States. Our amendments today do not require amendments.

For real consumer protection—vote "yes" on the Gonzalez-Torres amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, what do the three major credit reporting agencies, TRW, TransUnion, and Equifax; and the Chase Manhattan Bank; the American Bankers Association; and other corporate giants all have in common? They all want us to vote against the Gonzalez-Torres-Rinaldo amendment to H.R. 3596, the Consumer Reporting Reform Act.

Why is that?

The reason is that credit reporting errors have become so pervasive that States across the country, including my own State of Vermont, are passing tough credit reporting laws to protect their citizens. Despite the extensive lobbying of the credit reporting agencies and their allies, State legislatures and Governors are moving to offer greater consumer protections. Now, the credit reporting agencies want the U.S. Congress to do their dirty work for them. They are hoping that in one fell swoop we will undo all the protections that some 20 States have chosen to implement.

Mr. Chairman, last year TRW made an egregious error when it listed every property taxpayer in Norwich, VT, as a tax deadbeat. Hundreds of Vermonters in Woodstock and other towns in Vermont were similarly treated. This error resulted in embarrassment, aggravation, and denied credit.

In response, the State of Vermont passed what is widely considered to be one of the toughest Fair Credit Reform Laws in the country. And now these corporate giants want the U.S. Congress to strike down Vermont's law and the credit reporting laws in some 20 States.

Mr. Chairman, the attorneys general of every State in the Nation have spoken out against this unwarranted Federal preemption of State law and for the Gonzalez-Torres-Rinaldo amendment. Major consumer organizations as Consumers' Union, U.S. PIRG, and the Consumer Federation of America support this amendment. They understand that States need the flexibility to protect their citizens, flexibility that would be eliminated if State law is preempted.

Mr. Chairman, this Congress should provide protection to consumers in those States which have not. But, we should not prevent States from enacting legislation to provide even more protection to their consumers.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I want to make two points in my 1 minute.

One is that I am for the bill, but I am against the amendment. I just want to make the point that credit reporting is a business. It is a business in the private sector, and they are hired by business people to perform this function that needs to be performed.

Mr. Chairman, there is not a conspiracy of folks trying to damage all the consumers in the world. As a matter of fact, businessmen want to give credit, not to deny it.

The second point I would like to make is that I am a States' rights person and have a bill on preemption. The fact is the Federal Government does have a responsibility to preempt in the course of providing smooth interstate commerce. That is what we are talking about here, not a matter of giants.

In my State there are several reporting agencies, very small, who have half a dozen employees but have consumers in a number of States and would like to have uniform reporting rules and regulations.

Therefore, I support the bill and oppose the amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LaRocco], a member of the committee.

Mr. LaROCCO. Mr. Chairman, I rise today in support of H.R. 3596 and in support of the Gonzalez-Torres-Rinaldo amendment to remove the section of the bill that preempts State laws.

Mr. Chairman, I have a special interest in the bill before the House as coauthor of the Weiss-LaRocco child support amendment.

This was an amendment that I joined our friend, the late Ted Weiss, in offering at subcommittee, where it passed easily. It requires credit bureaus to include unpaid child support in credit reports if at least $1,000 is overdue and if the report comes from an official State or local child enforcement agency.

This amendment means that if a parent is not paying court-ordered child support, the dealership that is thinking of giving him credit to buy that new boat is going to know about it.

The principle here is that bad debt is bad debt—and unpaid child support is just as much a bad debt as an unpaid mortgage.

There is a strange story going around that unless we preempt State laws we are going to do harm to the child support amendment. The argument is that—some time in the future—some State will elect inept legislators who will pass laws to contravene the Federal law and protect deadbeat dads.

This is an incredibly far-fetched argument—but it goes back to the underlying rationale of those who want us to preempt State laws today: They seem to believe that we in Washington are smarter and better informed and more thoughtful and closer to reality than our State legislators are. They think that what we do here inside the beltway is better than what legislators do in Boise, ID, and other State capitals.

Well, I do not believe that. The States have not passed terrible legislation on credit bureaus in the past and I don't believe they will now.

The State legislature in my State works very hard on a number of issues, including child support. Let us give them some help by passing the Weiss-LaRocco provision in this bill.

Between $15 and $20 billion of court-ordered child support is not getting paid in this country. State child support collection agencies have more than 12 million cases underway where they are trying to collect on behalf of children of divorce. They are succeeding in less than 20 percent of the cases.

Let us try to help the other 80 percent, the kids who have to do without or go on welfare because their parents do not meet their obligations.

Let us vote for H.R. 3596, and let us not preempt good State laws.

□ 1610

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, I just want to say that I support the preemption of State law simply because child support has become a problem of mobility. Deadbeat dads cross State lines and then you get into a question of conflicts of laws. Anybody who has studied law understands the whole field of conflicts of laws. There are 50 different States, and you can have 50 different sets of laws, and some may be vastly different than others. But this is a national problem. We need a uniform standard, and we need to have the deficiencies of child support recorded on these credit reports.

That is one way to enforce child support.

Now, the one organization that I am aware of that is very strong in this field is called ACES, Association for Children for Enforcement of Support. They strongly urge that Federal preemption stay in this legislation, that we not succumb to the problem of various different States having different and conflicting regulations. Those are an obstacle course to enforcing child support.

We all want the same thing. We want child support to be paid so that young kids are not victimized by deadbeat dads, or mothers, as the case may be, ignoring their responsibility to support their children. But if we are going to have to submit to 50 different standards and laws, that is the way of never getting to the bottom line, supporting the children.

So, please, in this instance it is wisdom to understand a national standard is preferable, to have a national standard in place for enforcement and for reporting, because on that credit report, if you owe several thousand dollars and it shows up, that is one way to get that paid and support the children.

So, for the children's sake, and at the recommendation of the Association for Children for Enforcement of Support, please defeat this amendment and keep the national standard in place for reporting these very important credit matters. I urge defeat of the Gonzalez amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I rise in favor of the Gonzalez amendment and State preemption. Mr. Chairman, we should not let our colleagues turn this argument of State preemption upside down. This is not a debate about delinquent support payments. Many of us commend our friends and colleagues, Mr. Hyde, Mr. Downey, our former colleague Ted Weiss, and Congressman LaRocco, for their work on the problems of child support. The good work of Congressmen Weiss and LaRocco should not be used to denigrate the issue of State preemption.

I mean this is a far-fetched argument, that States somehow do not know what they are doing. The fact is the States have led in terms of credit reporting, the States have led in terms of dealing with child support problems. The fact is we can go through all sorts of machinations to justify this, but they do not hold water.

Mr. Chairman, this is illogical, unfair, a transparent attempt to use this issue of child support against the best interests of consumers.

I hope the House, the Members of this body, have the wisdom to see this for what it is and to vote up the Gonzalez amendment with regard to providing State preemption.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Riggs].

Mr. RIGGS. I thank the gentleman for yielding to me.

Mr. Chairman, I want to salute the committee chairman, since I was not here during the debate on the rule and general debate; I compliment him for his advocacy in the Committee on Rules for an open rule, a modified open rule.

I would just like to speak to my colleagues as we conclude debate on the preemption amendment that the debate really boils down to a very simple argument: With the preemption language contained in the bill, H.R. 3596 is good legislation. It balances the need for consumer protection with the creation of a uniform national standard for credit reporting.

Without the preemption language, should this amendment pass, this bill would be another regulatory boondoggle, more redtape imposed on the private sector, conflicting with and duplicating State law.

If you have gone out and talked to your business people in your districts recently, you probably heard the same complaint I have over and over and over again about onerous, costly, and duplicative regulation between Federal and State government. Let us avoid that with this bill. Let us defeat the Gonzalez-Torres amendment.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island [Mr. Machtley].

Mr. MACHTLEY. I appreciate the gentleman yielding to me, and I rise in strong support. I would urge my colleagues to support the Gonzalez-Torres-Rinaldo amendment.

Congress should support the Gonzalez-Torres-Rinaldo amendment.

This amendment simply restores to States the right to enact consumer laws which are stronger than those enacted by the Federal Government under this bill.

This is not a partisan issue. This is a simple issue of fairness.

The bill's preemption provision would throw out the baby with the bathwater.

Years of complaints from consumers regarding the credit reporting industry has produced the legislation we consider today.

This bill is basically a good bill which strengthens consumer protections.

Yet, while enacting new consumer protections with one hand, a provision in this bill would busily take away existing stronger State laws with the other.

The Gonzalez-Torres-Rinaldo amendment simply ensures this legislation is not a waste of time which merely robs Peter to pay Paul.

A vote for the amendment is a vote for consumers.

Vote against gutting the bill.

Support the amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I rise in strong support of the Gonzalez-Torres-Rinaldo amendment. It is an essential, consumer protection amendment that should be adopted.

Federal preemption is the single most critical issue that we will debate today. The preemption provisions in H.R. 3596 reverse 21 years of Federal and State consumer protection laws in this area and cuts the heart out of the original Fair Credit Reporting Act.

In the two decades since the FCRA was enacted, computers have revolutionized the transfer of consumer information and transformed an industry that once relied upon handwritten notes and thick file folders into a highly automated and sophisticated enterprise.

Now credit reporting agencies consist of huge interconnected computer networks that contain incredible volumes of information. The advent of computers has made collecting and manipulating credit records very easy. Unfortunately, the law has not kept pace, and there are increasing reports of abuses.

The New York State Assembly is currently considering a measure that would provide strong consumer safeguards. This bill would require a free credit report annually upon request, set minimum damages for violations, and require consumer notification before adverse information is added to a consumer's credit record. These provisions are all stronger consumer protections than the Banking Committee's version of H.R. 3596. That is why every attorney general in the United States is opposed to Federal preemption.

The consumers in my State deserve a bill that ensures their right to privacy and protects their interests. Only by removing the Federal preemption language from this bill can we truly protect consumers.

Mr. Chairman, let me just say in my view it is an essential consumer protection amendment that should be adopted. We have heard a lot of argument, a lot of people have gotten up and said that Federal preemption exists in effect. Right now we have different laws. Right now the situation is not working well, and this bill is merely a floor, not a ceiling. Federal preemption is the single most critical issue we will debate today.

The preemption provisions in this bill reverse 21 years of Federal and State consumer protection laws in this area. It cuts the heart out of the credit reporting bill. In the two decades since the Fair Credit Reporting Act was enacted, quite frankly we have seen computers take over and we have seen the need for stronger laws. In my home State of New Jersey, the State assembly is currently considering a measure that would provide consumers stronger safeguards. This bill, for example, would require a free credit report annually upon request, it would set minimum damages for violations, it would require consumers' notification before adverse information is added to consumers' credit records.

These provisions are all stronger consumer protections than the current law or in the version of H.R. 3596 that is being debated. That is why the attorneys general of all 50 States are opposed to Federal preemption. Who knows better than the attorneys general what kinds of laws we should have on the books to stop, to prohibit wrongdoing?

The consumers in my State deserve a bill that ensures their right to privacy and protects their interests. Only by removing the Federal preemption language from this bill can we fully protect consumers.

Let me just sum up by saying this, that a "yes" vote retains current law, is supported by the National Governors' Association, National Conference of State Legislators, every State attorney general, and all major consumer and privacy groups. It is consistent with similar Federal consumer protection statutes, such as the Fair Credit Billing Act, the Fair Debt Collection Practices Act, Equal Credit Opportunity Act, and the Electronic Funds Transfer Act.

Vote "yes" and protect the privacy of your constituents. I strongly urge my colleagues to vote for this amendment to strike the federal preemption provisions from H.R. 3596.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. I thank the gentleman for yielding time, and I rise in opposition to the Gonzalez amendment.

Mr. Chairman, the Banking Committee has reported to the House a good bill. The bill is an essential reform of the credit-reporting and credit-granting businesses. The Fair Credit Reporting Act has served the Nation, but as the hearing record of the Subcommittee on Consumer Affairs and Coinage indicates, the act needs revision, something that has not been done since enactment 21 years ago.

The hearing record shows that in too many cases both the credit bureaus and the credit grantors have not done what reasonable people have expected, errors have not been corrected, corrected errors have replicated themselves, and people have been denied credit where it should not have been denied.

The bill, as reported by the Banking Committee, makes it easier for consumers to access and correct errors in their credit reports. Further, it increases consumer disclosure requirements and places greater responsibility on credit bureaus and credit grantors to be sure of the accuracy and privacy of a consumer's information. Finally, the bill imposes civil penalties on those who fail to comply with the provisions of the act. The bill achieves a balance that will allow both credit users and credit grantors an ability to timely access information that will result in appropriate credit decisions based on correct information on the consumer and the credit standards of the credit grantor. Mr. Chairman, many of these changes are long overdue.

A central point to be raised is the issue of preemption. This provision was fully considered during the markup of the Banking Committee. The bill reported to the House contains a preemption provision which will allow for a uniform standard to be used throughout the United States. I supported this in committee and I support it now. This bill sets national standards and these standards will enable credit reporters and grantors to more readily fix errors and grant credit. A similar national system was enacted in the 1988 Credit Card Disclosure Act. Further, no State currently has a more comprehensive credit reporting statute, and the bill allows State attorneys general the ability to bring an action in Federal court.

I know from my personal involvement that the bill is the result of cooperative efforts among all the parties concerned. I congratulate Chairman TORRES of the Consumer Affairs Subcommittee for his leadership to bring these complex and difficult issues to resolution. At the same time, I also congratulate those involved in the credit industry. The provisions of the bill will allow protection to consumers, will provide for the continued availability of credit to many people, will reduce the confusion that now exists over consumer rights, will provide those consumers who desire it an ability to opt out of unsolicited credit offers, and give individuals an ability to fix errors that occur over time. I urge my colleagues to give the bill, as reported by the Banking Committee, their favorable consideration.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in strong support of this amendment. It will allow States to do what they have always done—provide their residents with stronger consumer protections than those in the Federal law.

I would ask my colleagues to just think a minute about how your constituents want you to vote. Do you believe for a second that your constituents want you to rob them of greater protections against credit bureaus? Do you believe that the voters in Maryland and Vermont want you to wipe out their new laws that permit them to obtain free annual credit reports? Do you think that the people of New York or Maine or Massachusetts want you to gut their consumer protection laws, or that the people of Washington State or Tennessee or Florida want you to prohibit their legislatures from acting on stronger bills? Of course not. But, that is precisely the consequence of a vote against this amendment.

My colleagues, have you heard the voices of every attorney general from the States and the territories in this country, your Governors, your State legislators, the consumer activists, and most importantly, your constituents? If you have, you will know that the choice is clear—you cannot let this preemption provision stand.

Let me make this very clear for my colleagues: A vote against this amendment is a vote to kill the bill. As the author of this otherwise pro-consumer legislation, I cannot in good conscience move ahead with a bill that takes a giant step backward with this so-called Federal preemption provision. You cannot vote against this amendment and for the bill and be on the side of the consumer.

You have heard a lot of arguments about why we must prevent States from acting in the area of credit reform. Let me tell you why they are just plain wrong:

First, some claim that the Fair Credit Reporting Act that we are amending today already preempts State laws. In fact, it does preempt weaker State laws, not stronger State laws, as does the provision in the bill. As is the case in virtually every consumer protection bill that we've passed in the last 20 years, the Fair Credit Reporting Act sets the minimum protections that States are free to surpass. Except for acts that address very narrow areas such as mandatory disclosures or labeling, Federal consumer protection and privacy laws preempt only weaker State laws. The provision in the bill is a real departure from 20 years of precedent. The Gonzalez-Torres-Rinaldo amendment simply restores the status quo by preempting State laws with less protection for the consumer than the Federal law.

Second, you have heard that acts such as the truth-in-lending law preempt State laws. Again, the truth-in-lending law establishes only a floor of protection, except for a small portion of the law that addresses uniform disclosures for credit card solicitations. Otherwise, broad banking statutes such as the Electronic Funds Transfer Act, the Equal Credit Opportunity Act, the Fair Credit Billing Act, and the Fair Debt Collection Practices Act, all permit States to enact and enforce stronger consumer protections.

Third, you have heard that no State has a law that will provide a higher level of consumer protection than will this bill. In fact, a number of State laws provide stronger consumer protections than the pending Federal legislation. For instance, Maryland and Vermont require that credit bureaus provide residents with a free credit report annually. H.R. 3596 caps the cost of reports at $8. Insurers and landlords in California must notify consumers within 3 days that they requested a report. The bill before us requires no such notice. In Maine, the period for investigating disputed information is limited to 21 days, while H.R. 3596 limits reinvestigations to 30 business days. Additionally, States around the country are considering bills that are stronger than H.R. 3596. If the preemption provision remains in the bill, these State laws would be wiped out, and States would be prevented from acting on credit reform in the future.

Fourth, some argue that credit bureaus operate nationwide and need a uniform standard under which to operate. Although the 3 largest credit bureaus operate nationwide, over 1,200 credit bureaus operate locally in States throughout the country. The big three, Equifax, TRW, and Trans Union rely heavily on local bureaus and data collectors to gather information on consumers for their files.

Under current law, the multi-billion-dollar-credit industry thrives under both the Federal Credit Reporting Act and 20 different State laws. In fact, the industry has managed to function and make hefty profits, despite a law that preempts only weaker State laws.

Fifth, you have heard Members argue that the Constitution requires Congress to act in matters of interstate commerce. The commerce clause does authorize Congress to regulate matters of interstate commerce. But, nowhere does the Constitution require that the Federal Government prohibit States from acting simply because Congress has passed a law in a particular area of commerce. In fact, the Constitution specifically protects States rights to govern their residents.

Sixth, you have heard that the child support provision in the bill will be compromised if we do not preempt State laws. Well, I'll tell you what will be compromised—stronger State laws, like Maine's, that require their child support enforcement agencies to report delinquencies to credit bureaus. The bill before us today simply does not go that far. What a travesty if, in the name of beefing up child support payments, we wipe out laws that do just that. And that is the consequence of a "no" vote on Gonzalez-Torres-Rinaldo.

My colleagues, who will you answer to? The special interests who have hurt consumers through willful neglect, indifference, and abusive practices. Or the hard-working men and women who sent you here to protect their interests. Your vote will tell.

I urge you to vote yes on the Gonzalez-Torres-Rinaldo amendment.

□ 1620

Mr. WYLIE. Mr. Chairman, I yield whatever time I have remaining to the distinguished gentleman from Georgia [Mr. DARDEN].

The CHAIRMAN. The gentleman from Georgia [Mr. DARDEN] is recognized for 2 minutes.

Mr. DARDEN. Mr. Speaker, I rise in strong opposition to the Gonzalez-Torres-Rinaldo amendment.

I appreciate the gentleman from Ohio yielding me this time.

Mr. Chairman, I am not a member of the Banking Committee. I am here not only in behalf of myself, but on behalf of one of the most admired, respected, and beloved members of the Banking Committee, the gentleman from Georgia [Mr. BARNARD], who as my colleague from Georgia could not be with us here today. Friends of DOUG will be glad to know that he had open heart surgery just last Friday night, but through the miracle of modern day medicine he will be returning home tomorrow. I know all his friends join me in wishing him well. So as I speak for myself today, I also speak his words as well.

If DOUG were here today, he would first tell you that this amendment before us destroys the balance that presently exists in this legislation. H.R. 3596 is a comprehensive and much needed reform of our credit reporting laws and it provides extensive new protections for consumers while imposing substantial new duties on the credit reporting and granting industries. The Committee on Banking voted to make these protections and duties uniform, and I urge my colleagues to uphold the committee's bipartisan judgment.

Uniform reporting requirements reduce cost and complexity in the credit granting process, which ultimately benefits consumers in every State. Uniform credit reporting standards promote uniform credit reports, which reduce complexity for consumers, make errors less likely, and make the industry easier to police overall, whether by States or the Federal Government.

The argument that balancing substantial new regulatory burdens with uniformity is unprecedented puzzles me, especially in the area of consumer protection. Some examples of laws where Congress has completely preempted State law include: The Consumer Product Safety Act; the Fair Packaging and Labeling Act; the Food, Drug and Cosmetic Act; the Magnuson—Moss Warranty Act; the National Traffic and Motor Vehicle Safety Act; and the Fair Credit and Charge Card Disclosure Act of 1988, which is part of the same statute that H.R. 3596 amends.

A bill does not have to unnecessarily impair industry or interstate commerce in order to protect consumers, and I urge my colleagues to support the bill as reported, and vote down the amendment.

Mr. MFUME. Mr. Speaker, I rise in favor of the Gonzalez-Torres-Rinaldo amendment.

Mr. OWENS of Utah. Mr. Chairman, today I rise in reluctant opposition to the Torres-Gonzalez-Rinaldo amendment to the Consumer Reporting Reform Act of 1992.

I have traditionally supported States rights in matters of economic regulation; so, I did not come to this decision easily. Moreover, I have also been a longtime supporter of efforts to protect consumers from excesses of the marketplace, and I will hold my consumer protection record up to anyone.

By that same token, I have serious, serious concerns for the future of the financial industry and the impact of any added regulatory burden on our banks and financial services companies.

This bill, as reported from committee, struck an appropriate balance between those two concerns. It provides increased criminal penalties for obtaining credit reports under false pretenses; it gives State attorneys general explicit authority to enforce the Federal law; it allows consumers to obtain free copies of their own credit reports if adverse action is taken against them. And the list goes on.

I do not question the judgment of my good friend from California, Mr. TORRES, and I do not believe that his amendment should have been as controversial as it was presented in some corners. And I can fully appreciate the concerns of my good friend Paul Van Dam, the attorney general from my State of Utah. I simply came to the reluctant conclusion that the State preemption clause is a necessary measure to ensure uniformity within the industry, an industry in which the United States remains a world leader.

Should this law prove inadequate to protect consumers, I will have no regrets in strengthening it in the future. Perhaps, at that time, the issue of Federal preemption should be revisited. But for now, the committee-reported bill should receive our full support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 207, not voting 22, as follows:

[Roll No. 426]

AYES—203

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Blackwell
Boehlert
Bonior
Borski
Brooks
Brown
Bruce
Bryant
Campbell (CA)
Cardin
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Dorgan (ND)
Duncan
Durbin
Dwyer
Early
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gradison
Green
Guarini
Hall (OH)
Hall (TX)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
James
Jefferson
Johnson (CT)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Morella
Mrazek
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Petri
Pickle
Poshard
Price
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Roe
Ros-Lehtinen
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solarz
Solomon
Spratt
Staggers
Stark
Stokes
Studds
Swett
Synar
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Wheat
Wise
Wolpe
Wyden
Yates
Yatron

NOES—207

Allard
Allen
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehner
Boucher
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Carper
Carr
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Eckart
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fazio
Feighan
Fields
Franks (CT)
Frost
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Kanjorski
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Luken
Marlenee
Martinez
McCandless
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Nichols
Nussle
Oakar
Orton
Owens (UT)
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (MN)
Pickett
Porter
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Riggs
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (OR)
Smith (TX)
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swift
Tallon
Tanner
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Unsoeld
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whitten
Williams
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Ackerman
Anthony
Barnard
Bliley
Boxer
Bustamante
Campbell (CO)
Chandler
Donnelly
Downey
Dymally
Foglietta
Hayes (LA)
Holloway
Huckaby
Ireland
Jones
Kasich
Livingston
McCrery
Olin
Valentine

☐ 1652

The Clerk announced the following pair: On this vote:

Mr. Ackerman for, with Mr. Barnard against.

Ms. MOLINARI and Messrs. GRANDY, SENSENBRENNER, CRANE, SKEEN, VOLKMER, and LENT changed their vote from "aye" to "no."

Mr. SAVAGE and Mr. SHAW changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1650

Mr. TORRES. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. TORRES].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 177, not voting 27, as follows:

[Roll No. 427]

AYES—228

Abercrombie
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Brown
Bruce
Bryant
Byron
Cardin
Carper
Carr

Chapman
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Vento
Visclosky
Volkmer
Washington
Waters
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—177

Allard
Allen
Anderson
Archer
Armey
Baker
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehlert
Boehner
Broomfield
Browder
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Patterson
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Slattery
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Unsoeld
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—27

Ackerman
Anthony
Barnard
Bliley
Boxer
Bustamante
Campbell (CO)
Chandler
Clay
Donnelly
Downey
Foglietta
Gingrich
Glickman
Hall (OH)
Hayes (LA)
Holloway
Huckaby
Jones
Kasich
Livingston
Lowery (CA)
McCrery
Olin
Solarz
Valentine
Waxman

☐ 1725

Mr. LEWIS of California changed his vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MAZZOLI] having assumed the chair, Mr. FEIGHAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3596) to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the act, and to improve enforcement, and for other purposes, had come to no resolution thereon.

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## GENERAL LEAVE

Mr. MCCANDLESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on H.R. 3596, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## CONFERENCE REPORT ON H.R. 5517, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1992

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes:

### CONFERENCE REPORT (H. REPT. 102-906)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 8, 9, 12, and 13.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 11, 20, 21, 22, and 25, and agree to the same.

The committee of conference report in disagreement amendments numbered 4, 5, 7, 10, 14, 15, 16, 17, 18, 19, 23, 24, 26, 27, and 28.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
MARTIN OLAV SABO
(except for amendment 2),
LES AUCOIN,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
RALPH REGULA,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

BROCK ADAMS,
J. ROBERT KERREY,
ROBERT C. BYRD,
CHRISTOPHER S. BOND,
SLADE GORTON,
MARK O. HATFIELD,
(with the exception of death penalty and abortion),
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

### MRS. L.L. LEN

The conferees note the recent death of Mrs. L. L. Len, a friend of the Committees on Appropriations, the Fire Department and the Metropolitan Police Department. Mrs. Len provided a valuable community service in presenting testimony at committee hearings concerning issues of importance to the rank and file that sometimes escaped the attention of higher ranking officials. She was always very knowledgeable about the issues she discussed and her presentations were always clear and convincing. She was tenacious yet caring and gentle. Her counsel and humor will be missed.

During the joint hearings on the District's fiscal year 1993 budget, the Committees received testimony from Mrs. Len concerning the Fire Department's Dive/Rescue Teams and issues regarding the Emergency Ambulance Bureau. Regarding the Dive/Rescue Teams, the conferees are concerned there are not sufficient trained personnel available on each platoon to constitute a Dive/Rescue Team. In 1988, in response to a tragic helicopter crash within sight of water emergency response units, the Congress included additional funds to equip sufficient Dive/Rescue Teams to enhance their response capability. Four years later it appears that lessons of that fatal accident may have been forgotten. The conferees request that the Department inform the Committees not later than January 31, 1993, of the current status of Dive/Rescue Teams in the city, including the number of personnel assigned, number of dive and rescue responses on an average monthly basis, the status of training and certification of personnel, and other pertinent information related to the operation of those units.

Also, by the same date the conferees request information on the following suggestions which were made at the April 6, 1992, meeting of the Consumer Affairs Subcommittee of the Emergency Medical Services Advisory Committee by the community representative, Mrs. Len:

1. Arrangements should be made to give all Emergency Medical Services personnel bullet proof vests.

2. The Emergency Ambulance Bureau should have a separate line item budget for FY 1993.

3. Arrangements should be made to provide the ambulance drivers with spool seats to sit on to help with their back problems.

### BUDGET JUSTIFICATIONS

The conferees are pleased to note that during the fiscal year 1993 hearings before the House Committee on Appropriations the budget director stated that the District plans to automate the preparation of the budget documents and streamline the budget process. The budget documents have evolved over a number of years based on experience and need and are designed to reflect the relationship between the local administration's policy and the implementation of that policy as well as track the District's revenues and expenditures.

One of the witnesses at a joint hearing held by the House and Senate Committees on Appropriations presented testimony on a major District agency and stated that the amounts budgeted by that agency for nonpersonal services and for personal services bear little relation to the monies actually spent in these categories. In other words, year after year more is spent on personnel than is budgeted while less is spent on nonpersonel costs than is budgeted with one feeding the excess of the other.

The witness went on to say "This systematic, habitual and growing discrepancy makes the current budget something of fiction."

The conferees direct the District government, including the Board of Education and all independent agencies, to be forthright in preparing and presenting their budgets and to reflect vacant positions and show where funds are actually expended when preparing and revising their budgets. The budget document and presentations should be closer to reality.

District officials should refer to previous discussions concerning this subject in the conference report accompanying the Second Supplemental Appropriations Act for 1984 (House Report 98-977, page 44) and the District of Columbia Appropriations Act for 1985 (House Report 98-1088, pages 3 and 4).

The conferees direct District officials to consult with the House and Senate Committees on Appropriations prior to making any changes to the budget documents for the fiscal year 1994 budget.

### FUNDED, VACANT POSITIONS

The conferees continue to be concerned about the number of authorized and funded, but unfilled positions in the District government. A report submitted by the District government as of November 1991 revealed that there were 3,589 funded, authorized positions that were not filled. In addition, the Board of Education (public schools) had 688 funded, vacant positions as of September 30, 1991. Even if one assumed a minimum salary of $20,000 for each position, the savings that could be realized totals over $85 million.

The conferees request the District, including the Board of Education and all independent agencies and entities, to submit an updated report on funded, vacant positions as of September 30, 1992, to the House and Senate Committees on Appropriations no later than January 31, 1993.

### CAPITAL OUTLAY POSITIONS

The conferees are concerned about the increasing use of borrowed funds by the District government for personnel costs with no comparable increase in the construction program for which the funds are borrowed. To illustrate, in fiscal year 1987 the District's construction program totaled $437 million and 680 people were paid with borrowed funds. In fiscal year 1992, five years later, the construction program totals $364 million and 1,156 people are paid with borrowed funds. Over the five year period the number of people paid from the construction funds has increased by 476 people or 70 percent while the funding level for the program has decreased by $73 million or 16.7 percent. This comparison shows an inverse relationship between the number of people paid which is increasing and the dollars being borrowed for construction projects which is decreasing. Clearly it would seem that something is askew.

In other words, it appears that even though the program level has decreased over 16 percent, the number of people has increased by 70 percent. A surface observation might very well point to a productivity problem. An indepth objective analysis might indicate that other factors are involved, at least when compared with fiscal year 1987.

The following table reflects the comparison for fiscal years 1987 through 1992.

POSITIONS FUNDED FROM CAPITAL OUTLAY (BORROWED FUNDS)

| Fiscal year | Pos. | Amount | Increase over previous year | | Capital budget authority |
|---|---|---|---|---|---|
| | | | Pos. | Amount | |
| 1987 | 680 | $17,902,847 | | | $437,295,000 |
| 1988 | 787 | 21,082,912 | 107 | $3,180,065 | 296,724,000 |
| 1989 | 805 | 22,243,681 | 18 | 1,160,769 | 293,208,000 |
| 1990 | 876 | 27,046,920 | 71 | 4,803,239 | 216,237,000 |
| 1991 | 1,051 | 31,833,037 | 175 | 4,786,117 | 387,488,000 |
| 1992 | 1,156 | 34,672,058 | 105 | 2,839,021 | 364,143,946 |

Note.—Total increase in positions since 1987, +476 positions (+70 percent). Total reduction in capital budget authority, 1987–92, −$73,151,054 (−16 percent).

The conferees urge District officials to review their practice of placing employees on the capital payroll which is more expensive because borrowed funds must be repaid with interest over the designated period of years for which the funds are borrowed. Not only is the District paying the salary and benefits of the employee but in addition, the city is required to pay interest on the money that is borrowed to make those payments. The conferees hope that District officials are not shifting non-capital personnel from the operating budget to the capital budget simply to cover a shortfall in operating budget revenues or to provide more discretionary operating revenues.

The conferees request the District government to analyze and review its use of capital funds for personnel costs and to submit a report to the House and Senate Committees on Appropriations by February 28, 1993. The report should be objective and thorough and should include the standards and guidelines followed by District officials in assigning personnel to the capital payroll as well as a justification for the 70 percent increase in personnel since 1987.

### WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Effective October 1, 1992, the conferees expect the District of Columbia to provide quarterly operating subsidy payments to WMATA in accordance with current policies followed by WMATA and the Compact jurisdictions. The conferees also affirm the authority of WMATA and the Compact jurisdictions to jointly agree to modify the current schedule of quarterly prepayments. The conferees direct the District government to make, no later than September 30, 1993, a contribution to the WMATA Workers' Compensation reserve funds to restore any monies, including interest, used by WMATA from these funds to maintain operations.

### NATURAL GAS AND ALTERNATIVE FUEL VEHICLES

The conferees believe that opportunities exist to reduce auto emissions in the city by the use of natural gas vehicles (NGV's) and biodiesel ethanol fuel.

According to information available to the conferees, NGV's are in use in many municipal and private fleets including Scottsdale, AZ; north Miami, FL; Enumclaw, WA; the Harbor Creek, PA, School District; and Mountain Fuel Supply Co., Salt Lake City, UT.

Because these fuels burn cleaner than either gasoline or diesel fuel, there is considerable engine-maintenance cost savings including extended intervals between oil changes, less frequent tune-ups and fewer exhaust system repairs. In addition, replacement engine component parts are relatively inexpensive. Experience with a large natural gas school bus fleet in Texas has demonstrated a maintenance cost reduction of more than 50 percent. Finally, these fuels are safer to operate since they have a higher ignition point than either gasoline or diesel fuel. Consequently, the potential of fire or explosion is reduced.

Fuel costs will be significantly reduced, although exact savings depend on the structure of current fuel contracts. Natural gas vehicle transportation fuel costs, for example, from Washington Gas in the District of Columbia range from a low of 56 cents per equivalent gallon, without taxes, to 81 cents/gallon with taxes. The potential savings may be 25 cents per gallon or more.

Presently, there are three NGV refueling locations in the District: Capitol Hill, Haines Point and Anacostia. Within the next calendar year, at least three more sites are anticipated with more to be added as demand requires.

The conferees understand that a variety of dedicated NGV's are now becoming available that could be used by the District for its vehicle fleets, including, sedans, vans, wagons, pick-up trucks, school buses, and fork lifts. Recent reports in the Washington Post indicate that nearly half of the Metrobuses currently on the streets should be replaced within the next four years. The average age of Metrobuses is about 10 years, but some are 30 years old. The Federal Transit Administration and the transit industry recommend that buses be replaced after 12 years.

The conferees are aware of almost $3 million in oil overcharge funds available to the District of Columbia for energy-related project designation that have largely remained unexpended for more than three years. In light of the U.S. Department of Energy's efforts to see that these funds are utilized expeditiously, and in ways of best value to the recipients, the conferees urge the District to consider several specific projects, including:

(1) The purchase of new, dedicated natural gas and alternative fuel powered school buses and the purchase of natural gas and/or alternative fuel replacement engines for existing school buses;

(2) the purchase of new, natural gas and alternative fuel powered light- and medium-duty trucks and the purchase of natural gas and/or alternative fuel replacement engines for existing light- and medium-duty trucks; and

(3) discussions with the Washington Metropolitan Transit Authority about the possibility of purchasing new transit buses powered by natural gas and/or alternative fuels.

### CEDAR KNOLL JUVENILE DETENTION FACILITY

The conferees note the attention that the Cedar Knoll Youth Detention Facility has had in the past, the most recent example having been the congressional initiative in providing funds for enhancing physical security at the site in fiscal year 1990. Over 20 juveniles have escaped from the facility this year, and the facility has averaged three to five escapes a month over the past ten years. District officials have indicated that Cedar Knoll is obsolete and that ensuring adequate security for the surrounding community would be inordinately costly and inefficient given the court order to close the facility.

As a result of a consent decree signed by the District government in 1986, the facility was scheduled to close by December of 1987. The period from February of 1992 to June of 1993 approximates the same period of time between the date the consent decree was signed in 1986 and the date Cedar Knoll was originally scheduled to close. The conferees have included language in section 133 of the bill requiring that Cedar Knoll be closed before June 1, 1993, and expect the District of Columbia to comply with this provision. The conferees believe this deadline provides an adequate adjustment period during which the detainees at Cedar Knoll may be provided appropriate alternative placement.

If the District government is unable to meet the June 1, 1993, closing date and obtains a modification of the consent decree that ordered the December 1, 1987, closing of the Cedar Knoll Facility, the District government may apply to the Committees on Appropriations of the House of Representatives and the Senate for an extension of the date set forth in the statute.

### MUNICIPAL FISH WHARF

The conferees reiterate their strong interest in preserving the Municipal Fish Wharf as the oldest open-air fresh seafood retail market on the East Coast of the United States. The conferees have received testimony concerning a study undertaken to examine a redevelopment plan for the Wharf. The conferees request a report by January 1, 1993, with respect to any redevelopment plan proposed by the District government. The report should outline the physical features and cost of the proposed development plan, the metes and bounds of the Wharf real property along the Potomac River between 11th and 12th Streets, S.W., as established by the 62nd Congress in 1913, and should also outline the plans and time lines for (1) meeting environmental impact statement requirements, (2) seeking financing of the project, and (3) obtaining waivers necessitated by the involvement of the Army Corps of Engineers, the Coast Guard or other District of Columbia or Federal entities. This report should outline a realistic time line for concluding the project, including any Federal, District of Columbia, Redevelopment Land Agency, or other requirements for public comments or hearings.

## TITLE I

## FISCAL YEAR 1993 APPROPRIATIONS

### FEDERAL FUNDS

### FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

Amendment No. 1: Deletes language proposed by the Senate that would have delayed until October 1, 1993, the availability of $26,035,000 together with interest of $1,992,000 for the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds. By deleting the proposed language, the full appropriation of $52,070,000 requested in the President's budget will become available in fiscal year 1993 as proposed by the House.

### FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate that requires the District to submit a detailed plan for approval by the House and Senate Committees on Appropriations prior to the obligation of funds appropriated under this heading and inserts language proposed by the Senate which requires the Mayor to submit a detailed plan concurrently with making the funds appropriated under this heading available for obligation. The amendment also inserts language proposed by the Senate that prohibits the use of funds in this Act to implement or enforce D.C. Act 9-188, the District's Health Care Benefits Expansion Act of 1992, or any system of registration of unmarried cohabiting couples whether they are homosexual, lesbian, or heterosexual.

### PRESIDENTIAL INAUGURATION

Amendment No. 3: Appropriates $5,514,000 out of the general fund of the Treasury for payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities as proposed by the House instead of $5,514,000 from an account established in the United States Treasury to receive payments from the Presidential Inaugural Committee and other sources and transferred to the District of Columbia government as proposed by the Senate.

The inauguration of a new President has become a large undertaking that is financed jointly by the private Presidential Inaugural Committee (PIC), the Federal government and the District of Columbia government. Planning for the 1993 inaugural is well underway by Federal and local officials who will be joined by the President-elect's representatives after the November 1992 election.

According to the Constitution, the only requirement for the inauguration is the prescribed oath of office. The Inaugural Ball has grown from one taking place several weeks after the swearing in for the first inauguration to nine Balls in 1985. The traditional parade emerged in Madison's inaugural in 1809, and the Gala is even more recent, appearing for the first time in 1941.

As the size and scope of the event have increased, so has the burden on the governments, both Federal and District, and therefore on their taxpayers. The General Accounting Office has made several recommendations on the need for legislation clarifying the authority of Federal agencies and their support for the private Presidential Inaugural Committee.

The District government provides police protection, traffic and crowd control, fire protection and inspection, emergency ambulance service, medical services, health inspections, cleanup activities before and after the parade, construction of inaugural stands, securing of manholes and installing and removing poles and cable along the parade route, providing potable water and portable toilets along inaugural parade route, and operating the Mayor's Command Center.

It is the conferees' intention that the District government incur no unreimbursed expenses in connection with the 1993 Presidential inaugural. The conferees direct that should this appropriation be inadequate, the Mayor is to seek agreement on reimbursement with the Director of the Office of Management and Budget, as provided for in D.C. Code sec. 1-1132(a) for the identified costs of the District government's participation in the Presidential inaugural of 1993. The authority for the District of Columbia to receive such reimbursement is found in section 737(b) of Public Law 93-198, as codified in the D.C. Code at 1-1132, which states, in part:

"The United States shall reimburse the District for necessary expenses incurred by the District in connection with assemblages, marches, and other demonstrations in the District which relate primarily to the Federal government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section."

In addition, the conferees note that there is precedent for the advance payment of anticipated costs. In preparation for the 1985 Presidential inauguration, an advance payment was made to the Smithsonian Institution by the PIC for the use of the National Air and Space Museum for an inaugural ball and for the use of the parking facilities at the National Zoo.

### METROPOLITAN POLICE DEPARTMENT

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the matter stricken by said amendment, and on page 2 of the House engrossed bill, H.R. 5517, strike line 16 down to and including "That" in line 20 and on page 1 of the Senate engrossed amendments to the bill H.R. 5517, on line 6 strike all after "insert:"

down to and including "obligation." in line 10, and insert:

### *TRAUMA CARE FUND*

*For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes the heading and appropriation of $400,000 of which $250,000 was for police training and continuing education programs and $150,000 was for a summer youth program proposed by the House and stricken by the Senate and deletes the heading and paragraph appropriating $30,798,600 for a Federal contribution for Crime and Youth Initiatives as proposed by the House and the Senate. The conference action also inserts a heading and paragraph appropriating $5,561,600 to establish a Trauma Care Fund to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia. See amendment number 19 for a further discussion of the Trauma Care Fund.

The $400,000 was intended to strengthen the Metropolitan Police Department's efforts to upgrade the quality and caliber of police officers and to assist the department in its efforts to reduce crime by providing young people with some degree of respect and self-esteem through summer employment opportunities under the auspices of the Chief of Police. The President's budget for the District of Columbia government did not include a request for the $400,000 to support these programs.

The $30,798,600 for a Federal contribution for Crime and Youth Initiatives that is being deleted would have provided funds to support the Mayor's Crime and Youth Initiatives in an effort to reduce crime through more intensive and aggressive law enforcement and to provide District youth with a new start through various early intervention programs such as "A New Start: A War of Values to Save Our Children" which is designed by the Mayor to address the underlying causes of youth violence. The Metropolitan Police Department was expected to play a leading role in establishing the policies and programs that would have been funded with this appropriation.

### BOARD OF EDUCATION

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the matter stricken and inserted by said amendment, and on page 3 of the House engrossed bill, H.R. 5517, delete line 15.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $83,000 proposed by the House and stricken by the Senate and $1,379,000 proposed by the Senate and also deletes the paragraph heading.

The appropriation of $83,000 would have provided $43,000 for an adult literacy program and $40,000 for a program to teach self-discipline, motivation, and respect to children 6 to 11 years old in public schools as proposed by the House and deleted by the Senate. The appropriation of $1,379,000 proposed by the Senate would have provided $779,000 to equip additional learning labs in the public schools with a computer-based mathematics instructional system, $350,000 to expand a successful intensive dropout prevention program, $150,000 to expand a successful public schools program to train low-income parents from public housing to participate in their children's educational development and $100,000 to establish a bilingual component to the program.

The President did not request these funds in his budget for the District of Columbia government.

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Amendment No. 6: Deletes heading and appropriation of $1,140,000 proposed by the Senate for a Home Purchase Assistance Program. This appropriation would have been used to bring the sales price of 57 homes that are being developed under the "Nehemiah Housing" concept into the mortgage reach of families with income of less than $25,000.

The President did not request these funds in his budget for the District of Columbia government.

### DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 21 through and including line 25 on page 3 and lines 1 and 2 on page 4 of the House engrossed bill, H.R. 5517.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $140,000 proposed by the House and stricken by the Senate and $1,000,000 proposed by the Senate and deletes the heading and paragraph relative to a Federal contribution to the District of Columbia Institute for Mental Health.

This appropriation would have provided funds for low-cost professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia.

The President did not request this appropriation in his budget for the District of Columbia.

The conferees support the goals and programs of the District of Columbia Institute for Mental Health. The Institute is the larger provider of outpatient mental health services to the poor and underinsured individuals and families in the city. The Institute has been plagued by the same high costs of uncompensated care that are stretching the resources of already overburdened acute care hospitals. The District government provides no support for the Institute. Deletion of these funds does not represent a lack of commitment on the part of the conferees, but rather is the result of efforts to avoid a Presidential veto.

### GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER

Amendment No. 8: Deletes heading and appropriation of $50,000,000 over a three-year period for the construction and renovation of the George Washington University Medical Center proposed by the Senate. The Senate amendment would have appropriated $250,000 for fiscal year 1993, $24,875,000 for fiscal year 1994, and $24,875,000 for fiscal year 1995 as a Federal contribution for this project which is authorized under Public Law 101-590 (104 Stat. 2929).

### VERY SPECIAL ARTS

Amendment No. 9: Deletes heading and appropriation of $500,000 proposed by the Senate to provide partial funding for the second international festival involving more than 1,000 people with physical and mental disabilities from the 50 states and more than 55 countries who will travel to the Nation's Capital to share their accomplishments in the Arts.

The President did not request funds to support the Very Special Arts in his budget request for the District of Columbia government.

The conferees are unable to include funds this year to support the Very Special Arts International Festival to be held in Washington, DC, in June 1994, the twentieth anniversary of the Very Special Arts.

Very Special Arts was founded in 1974 by Jean Kennedy Smith as an educational affiliate of The John F. Kennedy Center for the Performing Arts to integrate opportunities for participation in dance, drama, music, creative writing, and visual arts activities for people from all over the world with disabilities. Deletion of this appropriation should not be interpreted as a lack of support on the part of the conferees, but rather a necessary action to avoid a Presidential veto.

### CHILDREN'S NATIONAL MEDICAL CENTER

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 3 through and including line 6 on page 4 of the House engrossed bill, H.R. 5517.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes appropriations of $140,000 proposed by the House and stricken by the Senate and $2,000,000 proposed by the Senate and deletes the heading and language relative to a Federal contribution to the Children's National Medical Center.

This appropriation would have provided funds to assist in the construction of a National Child Protection, Trauma, and Research Center which will focus on child and substance abuse prevention, trauma and emergency medical care, pediatric AIDS/HIV treatment, critical care in newborn as well as pediatric and adolescent patients, pediatric medical research and other related specialized programs. This project is a cost-shared public and private undertaking with $19,800,000 coming from the Federal government and $30,200,000 from private sources. To date $16,000,000 has been raised from the private sector.

Deletion of this appropriation should not be interpreted as a lack of support on the part of the conferees for the goals and objectives of the project, but rather should be viewed as a necessary action to avoid a Presidential veto.

### DISTRICT OF COLUMBIA FUNDS

#### GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 11: Deletes language proposed by the House and stricken by the Senate that would have required the District of Columbia Retirement Board to transfer not to exceed $400,000 to the general fund of the District of Columbia.

#### ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 12: Appropriates $102,888,000 as proposed by the House instead of $104,028,000 as proposed by the Senate. The reduction of $1,140,000 below the Senate allowance reflects the elimination of Federal funds proposed by the Senate under amendment number 6. This allowance would have provided $1,140,000 for a Home Purchase Assistance Program designed to bring the sales price of 57 homes being developed under the "Nehemiah Housing" concept into the mortgage reach of families with incomes of less than $25,000.

The Senate's proposed increase of $1,140,000 in this appropriation was dependent on the Federal contribution under amendment number 6 and is being deleted because the President did not include the funds in his budget request for the District of Columbia government.

The conferees are also aware that the project's sponsors are estimating that the project could require a total of $1,140,000 in Home Purchase Assistance Program (HPAP) in fiscal years 1993 and 1994 to bring the sales price of the homes that will be created into the mortgage reach of lower income families. This will ensure that working families earning annual incomes of less than $25,000 will have home ownership opportunities. The conferees believe that this project in the 14th Street corridor as well as projects such as this across the city should receive the highest priority in the allocation of HPAP funds.

Amendment No. 13: Restores language proposed by the House and stricken by the Senate concerning reference to the general fund of the District of Columbia.

*D.C. Housing Finance Agency.*—The conferees reiterate their concern expressed in House Report 102-638, pages 38 and 39, and Senate Report 102-333, pages 44 and 45, concerning the District government not requesting any appropriated funds to finance this agency whose mission is to increase the supply of funds available for residential mortgages and construction and rehabilitation loans and to reduce the cost of such financing.

The District government's budget for the Housing Finance Agency for fiscal year 1993 is based on nonappropriated and alternative financing sources which District officials have been trying to identify. The conferees note that for every dollar of District appropriations received by the agency, $4 in property, transfer and recordation taxes are generated and deposited into the District's general fund, and for every million dollars in District appropriations, the agency leverages $100 million in private investment capital. Nearly $300 million in single family mortgage rate bonds have been issued to-date providing 3,000 loans for District residents, and $244 million in rental housing bonds have been issued providing 4,136 housing units, including 2,400 for low-income tenants.

The conferees are pleased that District officials recognize the unique status of the agency relative to other State housing finance agencies since it is one of only two created after the 1980 congressional arbitrage ruling that restricted the use of bond proceeds and earnings on agency investments and, as a result, did not have the opportunity to earn any reserves for future operations. District officials have stated that sufficient funding will be provided for the agency's operations until the agency is able to become self-sufficient. However, the conferees note that the agency's estimate of funds required to operate at a level that will enable it to adequately address some of the District's housing needs is greater than the commitment of the District government. The conferees direct District officials to take whatever steps are necessary to resolve the issue of funding for this agency so that the agency's board and personnel can focus on their important mission without distractions related to administrative matters. The conferees will consider a reprogramming request to assist the District in this effort. The conferees view this belated funding effort as a temporary solution to the agency's long-term budget difficulties and note that the agency has proposed changes to D.C. Law 2-135, the District of Columbia Housing Finance Agency Act, that will alleviate the situation. The conferees request the District government to take whatever steps are necessary to resolve the issue of funding the Housing Finance Agency's operating expenses prior to the submission of the fiscal year 1994 District budget.

The conferees are cognizant of the recent lapses in the Housing Finance Agency's internal controls which may have resulted in inappropriate uses of agency funds. Those findings are now the subject of investigations by appropriate Federal and District authorities. The conferees expect District government and agency officials to take whatever steps are necessary to strengthen and improve those controls prior to the submission of the fiscal year 1994 budget so that future lapses do not occur.

#### PUBLIC SAFETY AND JUSTICE

#### (INCLUDING TRANSFER OF FUNDS)

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $945,551,000 together with $1,523,000 by transfer from personal services under the heading "Governmental Direction and Support" instead of $945,951,000 as proposed by the House.

*Metropolitan Police Department.*—The reduction of $400,000 below the House allowance reflects the elimination of the Federal appropriation under amendment No. 4 that would have been used for policy training and continuing education programs ($250,000) and for a summer youth program ($150,000) under the auspices of the Metropolitan Police Department.

The President did not request funds in his budget for the District of Columbia to finance these programs.

*Police and Fire Clinic.*—The conference action also provides $1,523,000 by transfer as proposed by the Senate to keep the clinic operational during fiscal year 1993 at the fiscal year 1992 revised operating level. These funds will supplement existing funds that were to be used for severance pay and contractual services and will provide a total of $3,087,000. Both the House and the Senate Committees on Appropriations did not approve the District's request to close the clinic. The conferees direct that no changes be made in the operation, funding, or staffing of the clinic until a plan is submitted and approved by the Mayor, the District Council, and the House and Senate Committees on Appropriations.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment insert: *: Provided further, That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefigthing Division or Emergency Ambulance Division to an unfunded or unauthorized position with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes*

, and

on page 7, after line 1 of the House engrossed bill, H.R. 5517, insert "(Including Transfer of Funds)" as a centerhead.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes language proposed by the House earmarking $299,000 for outside training and continuing education programs for the Metropolitan Police Department and $150,000 for a summer youth jobs program under the direction of the Chief of Police. These earmarkings are deleted because of the action taken in amendment number 4 eliminating the Federal appropriation of $400,000 which was not included in the President's budget request for the District of Columbia. This amendment also inserts language in the paragraph heading to indicate that the appropriation includes a transfer of District funds and inserts language that prohibits the use of funds in this Act to pay any full-duty employee of the District of Columbia Fire and Emergency Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or the Emergency Ambulance Division to an unfunded or unauthorized position with the exception that up to four employees may be detailed for not to exceed a total of 100 days to the Fire Department Training Academy solely for the purpose of teaching recruits as well as special training classes. This restriction does not apply to uniformed members of the department who are on limited or light duty as a result of a determination by the Police and Fire Clinic that the employee is unable to perform his or her regular fire fighting duties because of work-related injuries.

The conferees direct the Fire Chief to take whatever action is necessary to return all full-duty employees and other detailed personnel to his or her assigned and funded position and thereby eliminate the backfilling of those positions which results in unnecessary overtime costs. The conferees have taken this action because of the continuing high costs of overtime resulting from the backfilling of a fire fighter position at overtime rates because the fire fighter regularly assigned to the position is detailed to some other division. Overtime costs of the department are estimated at $7,088,000 in fiscal year 1992. This is a concern that has been expressed probably more than once in the past. The conferees request that the department's quarterly reports on fire fighter strength include a separate schedule on a monthly basis that shows the number of fire fighters detailed and related overtime costs under the division to which the fire fighters were detailed. The allocation of overtime costs should be charged to the division that received the fire fighter's services instead of to the Firefighting Division which would have had no need for the overtime had the fire fighter not been detailed.

The District's budget requested the elimination of 10 battalion chiefs and two deputy chiefs and a three platoon/seven battalion fire fighting system. The conference action reflects the elimination of five vacant battalion chief positions and the deputy fire chief for special projects assigned to staff services when the present incumbent leaves or is reassigned from that position and a four platoon/seven battalion system instead of the elimination of four vacant battalion chief positions and the deputy fire chief for special projects and a four platoon/seven battalion system as proposed by the House. The Senate in good faith proposed that no changes be made until a management audit that was underway was completed and the recommendations were forwarded to the Mayor. According to District officials, this was expected to occur during the late summer of 1992. The conferees have been informally advised that the management audit is being reviewed by District officials and does not address the issue of battalion or deputy chiefs or the number of platoons or battalions. The conferees direct that the additional vacant battalion chief position that is being eliminated be identified by the Fire Chief and come from one of the seven battalion chief positions assigned to staff services outside the Firefighting Division. The conference action provides the Firefighting Division with four deputy chiefs and 28 battalion chiefs to maintain a four platoon/seven battalion system instead of 22 battalion chiefs and three deputy chiefs which would have required additional overtime costs. The conference action regarding retaining the four platoon system instead of switching back to the three platoon system is taken without prejudice.

*Fire suppression liquid.*—The conferees understand that the Fire Department has purchased limited quantities of Pyrocap B-136, a nontoxic fire suppression liquid concentrate, for use on all class A, B, and D (metal) fires. According to testimony received by the Committees at a joint hearing, use of the concentrate in small percentages of six percent or less in available water retards burnback and eliminates excessive heat and toxic smoke. In addition, Fire Department officials testified that the product is carried on eight pumpers and the department is currently assessing and analyzing how to use Pyrocap operationally.

The conferees recommend that the department in cooperation with the manufacturer use the product in its training program and, if warranted, in a variety of fire ground situations. The conferees request a brief report by March 31, 1993, on the characteristics of this product and the department's experience in using the concentrate.

### PUBLIC EDUCATION SYSTEM

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$713,592,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $713,592,000 instead of $713,675,000 as proposed by the House and $714,971,000 as proposed by the Senate. The reduction of $83,000 below the House allowance reflects the action taken in amendment number 5 deleting the Federal appropriations of $43,000 for an adult literacy program and $40,000 for a program to teach self-discipline, motivation, and respect to children six to 11 years old in the public school system. The reduction of $1,379,000 below the Senate allowance also reflect the action taken in amendment number 5 deleting the Federal appropriations of $779,000 to equip additional learning labs in the public schools with a computer-based mathematics instructional system, $350,000 to expand a successful intensive dropout prevention program, $150,000 to expand a successful public schools program to train low-income parents from public housing to participate in their children's educational development, and $100,000 to establish a bilingual component to the program.

The President did not request these funds in his budget for the District of Columbia government.

Deletion of funds for the various programs should not be interpreted as a lack of support on the part of the conferees for any of the enumerated goals and objectives of the programs, but is necessary to avoid a Presidential veto.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$513,552,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allocates $513,552,000 for the public schools instead of $513,635,000 as proposed by the House and $514,931,000 as proposed by the Senate. The reductions of $83,000 below the House allowance and $1,379,000 below the Senate allowance are the result of action taken on the Federal appropriation at the direction of the President in amendment number 5. This action is reflected in amendment numbers 16 and 17.

Deletion of funds for the various programs should not be interpreted as a lack of support on the part of the conferees for any of the enumerated goals and objectives of the programs, but is necessary to avoid a Presidential veto.

*Options Program*—The conferees are aware of the difficulty that the Options Program at the National Learning Center has experienced with social workers provided by the D.C. Public Schools. According to the information available to the conferees, the social workers assigned from the public schools had a "work to rules" mentality which contrasted with the intense involvement of the rest of the staff. Because of these in harmonious attitudes, social workers have not been provided and school officials have told Options Program staff that the social workers would not be provided nor would additional funds be provided to hire replacements. The conferees intend that the Options Program, which is a successful intensive dropout prevention program, have every opportunity for success, and therefore, direct that the public schools make provisions for the required social workers, either by providing staff acceptable to Options administrators or by providing funds for the Options Program to hire the needed personnel. The conferees request a report on the status of this request on or before October 22, 1992.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert: *of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for the continued implementation of the urban model demonstration initiative in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000);*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts language earmarking $1,000,000 of the $513,552,000 allocation to the public schools for the Anacostia Project and not to exceed $600,000 for the Cooperative Employment Education Project instead of $43,000 for the Washington Literacy Council and $40,000 for the Joy of Discipline Program as proposed by the House and $779,000 for the Center for Change, $350,000 to expand the Options School, and $250,000 for the Parents as Teachers program as proposed by the Senate. The conference action provides for the administration and coordination of the Anacostia Project and the Cooperative Employment Education Project through the District of Columbia Public Schools Foundation with a designated program coordinator to monitor and coordinate the programs and provide the necessary semiannual reports and evaluations to the Board of Education and the House and Senate Committees on Appropriations.

The District of Columbia Public Schools Foundation was formed in 1985 to provide leadership in developing, securing and directing resources for educational and training projects on behalf of the public school system. The Foundation is governed by an 18-member board of independent business and community leaders.

In earmarking $1,000,000 for the Anacostia Project, the conference action is intended to provide:

Continued support of the Multiple Intelligence (MI) School at Patricia Roberts Harris with an extended site model at Fletcher-Johnson Educational Center in upper Southeast Washington;

Continued support for pilot programs to improve instructional programs at Ballou High School;

Continued support for Learning Logic urban demonstration sites at Patricia Roberts Harris Educational Center and Ballou High School and, if feasible, an additional site in Southeast Washington;

Continued support for staff development in improving the instructional delivery systems for schools in Southeast Washington;

Establishment of demonstration programs in additional Southeast schools and other prototype schools within the D.C. Public School system; and

A new initiative for a regional Community Learning and Information Network (CLIN).

The earmarking of not to exceed $600,000 for the Cooperative Employment Education Project targets out-of-school youth, public housing residents, ex-offenders and students interested in careers in the building industry.

### TRAUMA CARE FUND

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

*TRAUMA CARE FUND*

*For the purpose of establishing the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

, and

on page 16 of the House engrossed bill, H.R. 5517, after line 18 insert:

*PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS*

*The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included $5,561,600 to establish a Trauma Care Fund to partially reimburse Level I trauma centers in the District for their uncompensated trauma care, instead of $10,000,000 to be derived from a one-time transfer from the Water and Sewer Enterprise Fund. The House had no similar provision.

The cost of uncompensated care was $212 million in 1989. In 1990 that figure grew seven and one-half percent to $228 million. In May of 1991 the General Accounting Office reported that "Urban trauma care systems are threatened as many trauma centers have shut their doors to trauma patients. Providing trauma care is expensive and treatment costs usually exceed patient revenues in urban centers."

The District of Columbia Hospital Association released a study in October 1991 that put the cost of criminal violence to hospitals in the District at $20.4 million in 1989. Sixty-eight percent of the victims of violent crime were uninsured, and 55 percent of the costs were due to crimes involving a firearm.

Trauma care is the most expensive element of uncompensated care, even more so than emergency room care. It is also the element most closely related to criminal violence, an area that has held the conferees' attention and captured considerable resources in recent years. For instance, according to the study, trauma care is three times as expensive as the average hospital admission. Since eighty percent of patients eventually return to full-time work, it is also highly cost effective when taking into account lifetime work history. According to information available to the conferees, the average emergency room case cost of care for one year—not charges, but cost—will be approximately $300, whereas the average one-year cost of care for a trauma case is $32,039.

The Commissioner of Public Health took a three-month period and assessed the amount of care that was provided at the six Level I trauma care facilities and the degree to which it was reimbursed. The results were contained in "A Study of Uncompensated Trauma Care in the District of Columbia" (Commission on Public Health, June 1992). For the purposes of the survey, uncompensated care was defined as unpaid care provided to individuals who cannot pay for the care they receive within the context of a health care facility (excluding therefore any follow-up care required by the injuries). During that period, the Commissioner found that the hospitals lost approximately $5 million in uncompensated trauma care. In the event the 35 percent limitation results in any unallocated funds, the conferees direct that the balance be reallocated in the same proportion as the original allocation.

The amendment also inserts a new heading and paragraph just before the Capital Outlay heading authorizing the Mayor to reduce the District's fiscal year 1993 budget by $30,798,600 to reflect the reduction in the Federal payment from $655,653,000 to $624,854,400 which is based on the formula Federal payment authorized by Public Law 102–102. The District is required by section 442(a) of Public Law 93–198 to have a balanced budget and submitted its budget based on a Federal payment to the general fund of $655,653,000 which was consistent with their interpretation of the new formula authorization in Public Law 102–102, approved August 17, 1991. The Act sets the authorized level of the Federal payment at 24 percent of local revenues collected two years prior to the budget year as reviewed by the Comptroller General of the United States.

A subsequent review of the legislation by the Congress clarified the revenue base to which the 24 percent is applied and resulted in a Federal payment authorization and appropriation of $624,854,400 for fiscal year 1993. In addition to the Federal payment, the House and Senate bills included a Federal contribution of $30,798,600 for crime and youth initiatives which has been deleted because it was not included in the President's budget request for the District of Columbia government. As a result of deleting the $30,798,600 Federal contribution to the District, it is necessary to reduce the "District funds" part of the budget by the same amount.

FURLOUGH ADJUSTMENT/WITHIN-GRADE SALARY ADJUSTMENTS

The action by the Congress in approving the District government's requested furlough adjustment and within-grade salary adjustments was taken without prejudice to any party in any court proceedings, past, present or future.

The District government takes many actions with which individual members of Congress, and citizens of the District, may agree or disagree. And because of the unique, and sometimes awkward, role the Congress plays in District matters, often the Congress is called upon to ratify or to let pass various city actions. The conferees believe that this is such a matter and that it should be decided on its own merits by the local branches of government. It is the conferees' hope that matters of this type can be decided at the local level by the citizens and their government and not be viewed through the prism of congressional action or inaction.

CAPITAL OUTLAY

Amendment No. 20: appropriates $393,639,000 as proposed by the Senate instead of $333,639,000 as proposed by the House. The increase of $60,000,000 above the House allowance reflects the amount requested in a budget amendment transmitted subsequent to House action on H.R. 5517. The amendment was submitted in House Document 102–383 on September 9, 1992, and requests the District's additional capital contribution needed by the Washington Metropolitan Area Transit Authority (WMATA) to complete the construction of the remaining 13.5 miles of Metrorail. The conferees have also approved the reprogramming request of $20,000,000 included in House Document 102–383 "from the Metrorail project (SA1) to the FY 1993 Metrorail Construction project (SA4) that will be used for completing the remaining 13.5 miles." The District's justification further states that "the current balance of authority will be sufficient to cover the remaining expenditures for the project. This project will be completed in FY 1994; therefore, no additional authority is required." This $20,000,000 combined with the $60,000,000 in new capital authority in the budget amendment together with the $10,000,000 already included in the District's fiscal year 1993 capital program will provide a total of $90,000,000 in fiscal year 1993 to be used as the District's match toward the Federal construction authorization.

*Library Plaza.*—The conferees are aware of the proposed restoration of the Library Plaza on G Street, N.W., between 9th and 10th Streets, to allow for vehicular traffic. This proposal has been made because of criminal activity on the plaza and disruption to traffic flow. The conferees expect that the Department of Public Works will give careful consideration to this project and obtain a final cost estimate that can be used as a basis for a possible supplemental request in fiscal year 1993 or may be included in the fiscal year 1994 budget estimate when it is submitted to the Council of the District of Columbia.

Amendment No. 21: Allocates $13,779,000 of the capital outlay appropriation for project management as proposed by the Senate instead of $8,232,000 as proposed by the House.

Amendment No. 22: Allocates $12,749,000 of the capital outlay appropriation for design work as proposed by the Senate instead of a decrease of $2,734,000 as proposed by the House.

GENERAL PROVISIONS

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate will an amendment as follows:

In lieu of the matter proposed by said amendment insert:

***SEC. 137. (A). LEGAL DOMICILE.***

*The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (referred to as "the Act"), is amended by adding at the end thereof the following: "The Distirct of Columbia shall be the legal domicile of the corporation.".*

***(B). REGULATORY AUTHORITY.***

*(a) IN GENERAL.—Section 5 of the Act is amended to read as follows:*

*"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".*

*(b) REPEAL.—The Act is amended by striking section 7.*

***(C). 3. REIMBURSEMENT OF REGULATORY COSTS BY THE CORPORATION.***

*The Act (as amended by section 2 of this Act) is amended by inserting after section 6 the following new section:*

*"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market con-*

*duct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.".*

***(D). EFFECTIVE DATE.***

*The amendments made by this section shall take effect on the date of enactment of this Act and expire on September 30, 1993, or upon the enactment of specific authorizing legislation.*

, and

on page 33 line 12 of the House engrossed bill, H.R. 5517, delete "or any other".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes language proposed by the Senate which would have amended D.C. Code, sec. 6-2302, by deleting tear gas devices which includes "mace" from the definition of "Destructive device" effective January 1, 1993, thereby making it legal in the District of Columbia to purchase and carry such devices. Legislation has been introduced by the Chairman of the Council of the District of Columbia to legalize the purchase and possession of "mace" and similar compounds. According to the Council Chairman, a markup by the Council's committee of jurisdiction is scheduled for October 7, 1992, and he expects to transmit the legislation after public hearings and approval by the Council and Mayor to the Congress for congressional review by December 18, 1992.

*Blue Cross Blue Shield.*—The conferees have also included new section 137, which amends the Congressional Charter for Group Hospitalization and Medical Services, Inc. to establish the District of Columbia as the legal domicile for the corporation. It requires that the corporation be licensed in and regulated by the laws and regulations of the District of Columbia government.

*Embassy Parking Tickets.*—The conference agreement also deletes the words "or any other" from section 135 of the bill and thereby removes from the scope of the bill those foreign diplomatic and consular vehicles registered by the United States Department of State under the terms of the Vienna Convention.

The conferees direct the State Department and the District of Columbia government to work together to resolve long-standing difficulties related to the effective collection of legitimate fines for parking infractions committed in the District of Columbia by vehicles registered to foreign missions and to their fully accredited diplomatic and consular personnel.

The conferees, in recognition of the need for practical measures to bring about compliance with local law, including the payment of properly issued parking violations, direct the U.S. Department of State and the District of Columbia to reach agreement within 90 days from enactment of this Act on procedures to clarify the responsibilities of all concerned parties in a manner that will maximize the actual collection of such fines on the part of the District of Columbia government without interfering with treaty obligations of the United States or with other relevant statutory requirements.

The conferees further direct the U.S. Department of State and the District of Columbia to report to the House and Senate subcommittees on District of Columbia Appropriations the terms of the agreement and the timeline for the collection of all fines.

Amendment No. 24: Reported in true disagreement.

## TITLE II

## FISCAL YEAR 1992 SUPPLEMENTAL

### DISTRICT OF COLUMBIA FUNDS

### GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 25: Deletes language proposed by the House and stricken by the Senate that would have required the District of Columbia Retirement Fund to transfer not to exceed $400,000 to the general fund of the District of Columbia.

### PUBLIC SAFETY AND JUSTICE

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language redirecting $1,000,000 in the Metropolitan Police Department's budget from personal services to nonpersonal services for equipment purchases and contractual services and increasing the Police Chief's confidential fund by $200,000 (from $500,000 to $700,000) within existing funds.

The conferees note that a recent article in the press indicated that one of the Police Chief's regrets was a frustration over the Metropolitan Police Department's inability to get equipment it needed and to modernize with new technology. The report stated that many officers bring their own electric typewriters to work and scavenge for castoff computers.

### PUBLIC WORKS

*Washington Metropolitan Area Transit Authority.*—The Conferees agree that the rescission of $26,000,000 requested by the District government and recommended in the bill is due to a proposal by the District government to move the funding calendar for the operating subsidy to a pay-behind calendar which has not yet been agreed to by WMATA.

### CAPITAL OUTLAY

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language allocating part of the capital outlay appropriation for project management ($150,000) and design purposes ($285,000).

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language proposed by the Senate that deems the appropriations and language provisions in Title II to be available for the fiscal year ending September 30, 1992. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1992 supplemental request as approved in Title II of this Act.

### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 budget estimates, and the House and Senate bills for 1993 follow:

*Federal Funds*

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $699,850,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 688,084,000 |
| House bill, fiscal year 1993 | 714,000,000 |
| Senate bill, fiscal year 1993 | 687,957,000 |
| Conference agreement, fiscal year 1993 | 688,000,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | −11,850,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | −84,000 |
| House bill, fiscal year 1993 | −26,000,000 |
| Senate bill, fiscal year 1993 | +43,000 |

*DISTRICT OF COLUMBIA FUNDS*

| | |
|---|---|
| *New budget (obligational) authority, fiscal year 1992* | *3,895,772,000* |
| *Budget estimates of new (obligational) authority, fiscal year 1993* | *4,013,658,000* |
| *House bill, fiscal year 1993* | *3,954,141,000* |
| *Senate bill, fiscal year 1993* | *4,026,177,000* |
| *Conference agreement, fiscal year 1993* | *3,988,421,000* |
| *Conference agreement compared with:* | |
| *New budget (obligational) authority, fiscal year 1992* | *+92,649,000* |
| *Budget estimates of new (obligational) authority, fiscal year 1993* | *−25,237,000* |
| *House bill, fiscal year 1993* | *+34,280,000* |
| *Senate bill, fiscal year 1993* | *−37,756,000* |

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
MARTIN OLAV SABO,
(except for amendment 2),
LES AUCOIN,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
RALPH REGULA,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

BROCK ADAMS,
WYCHE FOWLER, Jr.,
ROBERT KERREY,
ROBERT C. BYRD,
CHRISTOPHER S. BOND,
SLADE GORTON,
MARK O. HATFIELD,
(with the exception of death penalty and abortion),
*Managers on the Part of the Senate.*

Mr. DIXON. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider the conference report and amendments in disagreement on H.R. 5517, and that the conference report, amendments in disagreement, and motions printed in the joint statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on H.R. 5517, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as read.

The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California[Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the conference report to H.R. 5517, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the revised conference agreement on H.R. 5517, the District of Columbia Appropriations Act for 1993, which I bring before the House this afternoon is identical to the conference agreement which was voted on earlier today, with two exceptions, the issue of the Domestic Partnership Act and jurisdiction over Blue Cross organizations here in the District.

The conferees met this afternoon and agreed to the Senate amendment which prohibits the implementation of the District of Columbia's Domestic Partnership Act. This limitation is now carried in this conference agreement and, while I, personally, believe this is an affront to home rule, I would ask that all Members vote for this modified conference agreement.

Second, the conferees agreed to give the District of Columbia superintendent of insurance jurisdiction over local Blue Cross organizations. This issue was only recently brought to our attention and is supported by the chairman of the authorizing committee, the gentleman from California [Mr. DELLUMS] and the ranking member.

I urge that Members support this revised agreement so that we may proceed with necessary funding for 1993 for the District of Columbia programs.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply rise to explain to my colleagues that the motion to instruct on the D.C. appropriation conference report that was approved earlier today has been complied with. The conference report now includes the requested prohibition on implementing the District's Health Benefit Extension Act. We also took the opportunity to address an issue relation to the Blue Cross-Blue Shield plan in D.C. because of the serious questions raised about the financial viability of the plan.

With these changes now approved by the conferees, I urge my colleagues to support this conference report and allow us to move this agreement forward.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, painful as the exercise that we went through this morning was for the District of Columbia, the fact is that the chairman, the gentleman from California [Mr. DIXON] and the ranking member, the gentleman from New Jersey [Mr. GALLO], have performed gallantly in trying to preserve a coherent appropriation bill which meets the needs of the District and incorporates the preferences of many Members.

□ 1730

I ask only that we let this be this time. It is certainly not what we desired. It is what we will accept. I ask that there be no further amendments to this bill and that we accept the conference report as it is.

Mr. DIXON. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman from California, indeed I commiserate with the gentleman from California. He has, during my time here, as Chair of this Appropriation Subcommittee, performed a very difficult job superbly. I am grateful to him for it.

While I am about to express my unhappiness with what the House did, it was certainly something that the gentleman from California tried to prevent.

Mr. Speaker, like many of the Members here, I pride myself on knowing the rules of this place, both the formal rules and the informal rules, and I play by them. That is very important because we are here to try to advance some conception of public policy that is important to us, we are here to defend the interests of our constituents, and it is, I think, your obligation to be as effective in doing that as possible.

On a very important issue that we discussed this morning, I and others did play by those rules. The issue was a question of domestic partnership. The rules, in this case informal rules, suggested that playing it low key, not cooperating with people who would try to take an issue and blow it out of proportion, not cooperate with people who would be seeking, this close to an election, to draw every bit of leverage they could out of an emotional issue; not cooperate with those in the electoral arena would be willing to engage in gross misrepresentation so that Members would be disadvantaged.

So I did not speak, others did not speak, but it did not work.

The House today voted by a majority that is not in fact as large as it appears—I know from Members who have talked with me that the number of people who voted for the recommittal motion today to kill the domestic partners bill was greater than those who wanted to. There are Members who I think would have voted, I know would have voted differently if it was close. But it was a margin of about 30 or so votes.

It is also clear to me that if we voted in a secret ballot, it might have gone different. But we do not vote in secret ballots, and we should not. This is an open forum, and we have no right to vote secretly.

What happened was this: We voted on this before. Members were frightened that if they voted the way they wanted to vote, some of the Members, they would be subject in the actual process to a degree of misrepresentation that could damage them. And I cannot disagree that that would be the case. But neither can I, Mr. Speaker, silently condone it any more. We pride ourselves also in this institution on being professionals, stressing that we do not take things personally, and most of the time we should not take things personally. But, Mr. Speaker, it is hard not to take personal things personally.

What the House did today was to vote largely, I think, in a critical mass because of electoral considerations in the short term, to inflict some pain on a lot of people for no public policy gain whatsoever. The question was whether this Government elected by the people of the District of Columbia should have been allowed some recognition of domestic partnership, particularly between people who are not legally allowed marriage.

People say, "Well, why don't people get married if they want those kind of things?" Well, because people of the same sex cannot get married. So, people of the same sex who are prepared to live together in a loving relationship, devote themselves to each other, commit to each other, the District of Columbia said, "Well, if you work for us, we are willing to recognize that." That is what the issue was. The District of Columbia voted, through its democratic processes, to recognize that if employees of that government chose to live together, they would get some recognition. It did not implicate any Federal money other than what goes to the District for its Federal payment, which is theirs to spend as they wish on other things. It did not change Federal law.

It was an effort by the District government to extend a recognition more symbolic than not, but important, of people who have chosen to commit themselves to each other. And a majority of this House, driven by electoral fears among some, by, I suppose, a genuine degree of virulent dislike of people by others, voted to reach into the District's area of jurisdiction and said, "You may not do that." And I must say, Mr. Speaker, to my colleagues, it is hard for me, and I am not even trying not to take personally that reach, that insistence on saying, "No, you and the District government, you may not show that compassion to people who work for you. Even if it does not involve Federal money or Federal policy, we will not allow you, the elected officials of the District, to take that fairly small step."

I have to ask why, Mr. Speaker? People have said they want to protect family values. How does it help families in this city of the District of Columbia cope with the problems that families face? How does it help people deal with the problems of raising children? Of adults sharing lives? Of meeting financial problems? Of dealing with crime in your neighborhood? How does it help to inflict pain on other people? How does it help these families for this House to tell the District of Columbia government, "No, if two people choose to share their lives and make commitments to each other and treat each other well, you may not recognize that. You may not treat them as anything other than total strangers with your own money, because we want to help families"? How does that help families? What families, dealing with their own pain, are helped by that act of today?

Mr. Speaker, I do not mean to prolong this debate right now, and I understand that this close to an election was a most difficult time in which to have this debate, particularly an election in which these issues are being raised. But I do have to ask as a matter of public policy what the House accomplished today?

Are families, husband, wife, and children elsewhere that face difficulties, are they better off? If so, will someone explain that to me?

If the District of Columbia wanted to say to people of the same sex trying very hard to share each other's lives and committing to each other and behaving in a loving way to each other, "We will recognize that," how does prohibiting the government of the District of Columbia from doing that aid families?

If you could show me a logical connection, Mr. Speaker, I might say, "Well, maybe I have to relook at this." But no one even came close to showing that. The notion that they are undermining families clearly has no basis. What we are talking about is some who acted out of their own dislike of other people. And individuals are entitled to like or dislike people as they wish. It does not seem to me fitting for this great Chamber of democracy to use its constitutional power to overrule the democratic decision of the District of Columbia to give some recognition to love that individuals within the District choose to show to each other.

□ 1740

It did not hurt anybody. It took none of their money outside of the District of Columbia. It impinged on none of their freedom. It interfered with none of their rights to be a family, but simply out of dislike we have people pushing this.

We have, sadly, other people joining in because of the promise of political advantage or, more understandably, but regrettably, the fear of political defeat.

We will, I hope, revisit the issue and given the votes that took place in both Houses, given the right of this government of the District of Columbia for funds, I do not ask anyone to interfere with further progress of this bill, but I woe to myself and others some discussion of what we did.

And we waited. We did it by the rules. It is doubly hard when you play by the rules to get kicked in the teeth.

Mr. DIXON. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

### AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to the order of the House of today, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 3, strike out lines 9 to 14.

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein with an amendment, as follows:

Delete the matter stricken by said amendment, and on page 2 of the House engrossed bill, H.R. 5517, strike line 16 down to and including "That" in line 20 and on page 1 of the Senate engrossed amendments to the bill H.R. 5517, on line 6 strike all after "insert:" down to and including "obligation." in line 10, and insert:

### TRAUMA CARE FUND

For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: *Provided*, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: *Provided further*, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: *Provided further*, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, strike out lines 16 to 20, and insert:

For a Federal contribution to the District of Columbia, $1,379,000, of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program.

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein with an amendment, as follows: "Delete the matter stricken and inserted by said amendment, and on page 3 of the House engrossed bill, H.R. 5517, delete line 15.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 4, line 2, strike out "$140,000" and insert: "$1,000,000".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 7, and concur therein with an amendment, as follows: "Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 21 through and including line 25 on page 3 and lines 1 and 2 on page 4 of the House engrossed bill, H.R. 5517.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 4, line 6, strike out "$140,000" and insert: "$2,000,000".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 10, and concur therein with an amendment, as follows: "Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 3 through and including line 6 on page 4 of the House engrossed bill, H.R. 5517.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 7, line 6, strike out "$945,951,000" and insert: "$945,551,000, together with $1,523,000 to be derived by transfer from the object classes providing personal services under the appropriation heading "Governmental Direction and Support"".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 8, line 10, strike out all after "500,000" down to and including "Police" in line 19.

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows:

In lieu of the matter stricken by said amendment insert ": *Provided further*, That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or Emergency Ambulance Division to an unfunded or unauthorized position with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes", and on page 7, after line 1 of the House engrossed bill, H.R. 5517, insert "(Including Transfer of Funds)" as a centerhead.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 11, line 11, strike out "$713,675,000" and insert "$714,971,000".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 16, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$713,592,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 11, line 12, strike out "$513,635,000" and insert: "$514,931,000".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 17, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$513,552,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 11, line 13, strike out all after "Columbia," down to and including "Program;" in line 15, and insert: "of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program;".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District Public Schools Foundation for the continued implementation in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000); ".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 15, after line 16, insert:

TRAUMA CARE FUND

To establish the Trauma Care Fund, $10,000,000, to be derived by a one time transfer from the Water and Sewer Enterprise Fund, to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year.

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 19, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

TRAUMA CARE FUND

For the purpose of establishing the Trauma Care Fund, $5,561,000, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation."

, and

On page 16 of the House engrossed bill, H.R. 5517, after line 18, insert:

"PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

"The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 34, after line 14, insert:

SEC. 137. (a) Section 2302 of title 6 of the District of Columbia Code is amended by—

(1) striking subparagraph (C) of paragraph (7); and

(2) redesignating subparagraphs (D) and (E) of paragraph (7) as subparagraphs (C) and (D), respectively.

(b) The amendments made by subsection (a) take effect on January 1, 1993.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 137. (A). Legal Domicile.

The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (referred to as "the Act"), is amended by adding at the end thereof the following: "The District of Columbia shall be the legal domicile of the corporation.".

(B). Regulatory authority.

(a) IN GENERAL.—Section 5 of the Act is amended to read as follows:

"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".

(b) REPEAL.—The Act is amended by striking section 7.

(C). Reimbursement of regulatory costs by the corporation.

The Act (as amended by section 2 of this Act) is amended by inserting after section 6 the following new section:

"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market conduct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.

(D) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and expire on September 30, 1993, or upon the enactment of specific authorizing legislation.

And on page 33, line 12 of the House engrossed bill, H.R. 5517, delete "or any other".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 34, after line 14, insert:

SEC. 138. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special or primary election to be held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, that this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia".

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 1118. Murder in the District of Columbia**

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO SEINTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards For Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time For Collateral Attack on Death Sentence.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) Technical Amendment.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

### MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Dixon moves that the House insist on its disagreement to the amendment of the Senate numbered 24.

### PREFERENTIAL MOTION OFFERED BY MR. GALLO

Mr. GALLO. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Gallo moves that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 138. Notwithstanding any other law, the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special, or primary election to be held within 90 days after the date of enactment of this Act, the following initiative:

### SHORT TITLE

Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

### SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole.

### LEGISLATIVE TEXT

The legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, that this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

"Section 801 of the Act entitled 'An Act to establish a code of law for the District of Columbia,' approved March 3, 1901 (D.C. Code 22-2404(a)), is amended—

"(1) by amending subsection (a) to read as follows:

'(a) Punishment of murder in the first degree shall be life imprisonment without the possibility of parole, or death.';

"(2) by striking subsection (b) and redesignating subsection (c) as subsection (b); and

"(3) by adding at the end the following new subsections:

'(c) Penalty.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

'(d) Mitigating Factors.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

'(1) Mental Capacity.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

'(2) Duress.—The defendant was under unusual and substantial duress.

'(3) Participation in offense minor.—The defendant is punishable as a principal (pursuant to section 908 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code 22-105)) in the offense, which was committed by another, but the defendant's participation was relatively minor.

‘(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

‘(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

‘(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

‘(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

‘(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in paragraph (6) of D.C. Law 1–85 (D.C. Code 6–2302(6))).

‘(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

‘(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

‘(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

‘(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

‘(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

‘(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

‘(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

‘(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

‘(A) while the public servant was engaged in the performance of his or her official duties;

‘(B) because of the performance of the public servant's official duties; or

‘(C) because of the public servant's status as a public servant.

‘(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

‘(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

‘(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to ‘the jury’ in this section, where applicable, shall be understood as referring to the judge.

‘(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

‘(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

‘(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

‘(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

‘(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment. Without the possibility of parole.

‘(m) REVIEW OF A SENTENCE OF DEATH.—

‘(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

‘(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

‘(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

'(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

'(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

'(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of the District of Columbia government, and no person providing services to the government under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participate in any execution" includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

'(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11-2601 et seq.), and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11-2601 et seq.) shall apply to appointments under this section.

'(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

'(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

'(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL, PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 23-110 of the District of Columbia Code in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

'(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 23-110 of the District of Columbia Code attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

'(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 23-110 of the District of Columbia Code. The stay shall run continuously following imposition of the sentence and shall expire if—

'(1) the defendant fails to file a motion under section 23-110 of the District of Columbia Code within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

'(2) upon completion of district court and court of appeals review under section 23-110 of the District of Columbia Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

'(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 23-110 of the District of Columbia Code.

'(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

'(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

'(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

'(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

'(x) COMMUTATION OF SENTENCE OF DEATH.—The Mayor shall have power to commute a sentence of death under this section to a sentence of life imprisonment, without parole.

'(y) DEFINITIONS.—For purposes of this section—

'(1) "State" includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States;

'(2) "offense", as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

'(3) "drug trafficking activity" means a felony punishable under D.C. Law 4-29 (D.C. Code 33-501 et seq.) or a pattern or series of acts involving one or more such felonies;

'(4) "robbery" means obtaining the property of another by force or threat of force;

'(5) "burglary" means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

'(6) "sexual abuse" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

'(7) "arson" means damaging or destroying a building or structure through the use of fire or explosives;

'(8) "kidnapping" means seizing, confining, or abducting a person, or transporting a person without his or her consent;

'(9) "pre-trial release", "probation", "parole", "supervised release", and "other post-conviction conditional release", as used in subsection (e)(6), means any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

'(10) "public servant" means an employee, agent, officer, or official of the District of Columbia, another State, or the United

States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of title 18, United States Code.'.".

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there object to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The chair recognizes the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion proposes that the House agree to the language offered in the other body by the Senator from Alabama [Mr. SHELBY].

This amendment offers the people of the District of Columbia an opportunity to have their voices heard on the question of the death penalty for first-degree murder.

It also addresses the question of parole for convicted murderers by proposing a mandatory life sentence in certain cases.

The year 1992 will see another record for the number of murders in the District of Columbia.

There have been 322 violent deaths in the Capital City of our Nation as of this week.

These unnecessary and painful deaths have touched all of our lives, either directly or indirectly.

As a result of this random and mindless violence, the people of the District have lost their sense of security—whether it be in their homes or on the streets—in all parts of the city.

But the people have lost something even more fundamental—they have lost their sense of justice.

All of you have to do is look around and see what is happening on the streets of this city to know that a process which gives first-degree murderers only 20 years doesn't work.

This amendment is not a mandate—it is not a case of Congress imposing its will on the people of the District.

This amendment gives the people of the District a voice in deciding these questions through a referendum on the ballot.

On July 30, the Senator from Alabama, in an emotional statement, read the roll of 248 individuals who were senselessly murdered in the District during the first 7 months of 1992.

Unfortunately, it has not ended there. Since July 30, 74 more people have been murdered in the District. That is a total 322 people who have lost their lives so far this year.

Today, I submit all of those names for the RECORD in order to emphasize the serious problem we face.

MURDER VICTIMS THIS YEAR:

1. Ricco Neal, age 14;
2. Charles Marshall, age 38;
3. Wavely Pegram, age 27;
4. Benjamin Lumpkins, age 26;
5. Jermaine Kornegay, age 19;
6. Winston Palmer, age 22;
7. Andre Kenny, age 26;
8. Kweyisi Amoasi-Mensa, age 42;
9. Phillip Garrett, age 27;
10. Michael Moore, age 18;
11. Tracey Dew, age 32;
12. Ronald Lewis, age 20;
13. Earnest Williams, age 32;
14. Louis Franklin, age 32;
15. Darius Moore, age 18;
16. Sharon Streeter, age 30;
17. Mohammad Hemmatipour, age 36;
18. Ivan Gibson, age 21;
19. Tom Barnes, age 25;
20. Norman Davis, age 30;
21. Norberto Carrion, age 33;
22. Anthony Jackson, age 25;
23. Carlos Carter, age 22;
24. Willie Dalton, age 38;
25. Columbus Beatty, Jr., age 39;
26. Gary Cooper, age 18;
27. Marcus Greenfield, age 25;
28. Roosevelt Robinson, age 20;
29. Donavan Duncan, age 24;
30. Joseph Young, age 16;
31. Christopher Pryor, age 25;
32. Ellis Payne, age 66;
33. Milton White, age 26;
34. Theodis Johnson, age 34;
35. Arthur Stanley, age 28;
36. John Cohen, age 65;
37. Darwin Jones, age 30;
38. Maggie Comfort, age 1;
39. Leon Martino, age 19;
40. Brian Cooper, age 26;
41. Dennis Burroughs, age 30;
42. Daniel Morrison, age 25;
43. Richard Tate, age 40;
44. Calvin Johnson, Jr., age 20;
45. Calvin Hargrove, age 24;
46. Norman Hawkins, age 43;
47. Stephen Gass, age 29;
48. James Wilson, age 26;
49. Antwuan Glaspie, age 19;
50. Terry Wilkins, age 29;
51. George Tolson, Jr., 31;
52. Eric Gant, age 34;
53. Manual Stribling, age 53;
54. Phillip McCoy, age 31;
55. George Hutchinson, age 17;
56. Anthony Reel, age 20;
57. Kenneth Mobley, age 20;
58. Janelle Tilley, age 16;
59. Dannie Rogers, age 20;
60. Phillip Lewis, age 20;
61. Shawn Young, age 24;
62. Willie Simpson, age 37;
63. Russell Johnson, age 25;
64. Dwayne Lathan, age 31;
65. Ivan Wilson, age 36;
66. Mark Muskelly, age 23;
67. Timothy Gorham, age 33;
68. Kevin Vaughns, age 17;
69. Morgan Perry, Sr., age 51;
70. Juanita Eaddy, age 28;
71. Antwyone Rogers, age 27;
72. Marc Locust, age 21;
73. Robert Wilson, age 17;
74. Darius Brown, age 4;
75. Darryl Estes, age 28;
76. Monriko Hudgins, age 20;
77. Rolland Hayden, age 22;
78. Clarence Gilchrist, age 19;
79. Bruce Willis, age 35;
80. Kevin Wilson, age 26;
81. Sharon Bryant, age 32;
82. Oscar Gomez, age 24;
83. Timothy Coleman, age 18;
84. Michael Thompson, age 27;
85. John Mosses, age 26;
86. Clarence Warren, age 39;
87. Harold Cooper, age 32;
88. Jerry Harvey, age 36;
89. Wanda Koonce, age 36;
90. Nathan Duckett, age 19;
91. Anthony Stewart, age 22;
92. Anthony Frieson, age 28;
93. Bernard Davis, age 24;
94. Kenyatta Geeter, age 21;
95. Hezekiah Vaughn, Jr., age 20;
96. Alayo Oriolowa, age 36;
97. Thomas Robinson, age 31;
98. John Cassell, age 36;
99. Marquette Holston, age 18;
100. Keith Simms, age 28;
101. James Halloman, Jr., age 25;
102. Trevor Smith, age 34;
103. Andre Thompson, age 16;
104. Christie Hoyle, 23 years of age;
105. Nathaniel Murray, 34 years of age;
106. Antonio Harrison, 20 years of age;
107. Darnell Fouch, 27 years of age;
108. David Roy Jr., 21 years of age;
109. Haywood Marable, 39 years of age;
110. John Doe, 20 years of age;
111. Veronica Callahan, 29 years of age;
112. Duane Smallwood, age unknown;
113. Emmett Varnum, age unknown;
114. Ronald Wilkerson, 30 years of age;
115. James Reed, 78 years of age;
116. William Franz, 33 years of age;
117. Barbara Farmer, 29 years of age;
118. Ryan Phoenix, 18 years of age;
119. Jessie Zellars, 36 years of age;
120. Ammie Dickens, 61 years of age;
121. Darren Holsey, 23 years of age;
122. Johnnie Anderson, 21 years of age;
123. Tyrone Britton, 20 years of age;
124. Johnny Abraham, 18 years of age;
125. Ahmed Miller, 26 years of age;
126. Joseph Davidson, 24 years of age;
127. Kevin Sayles, 22 years of age;
128. James Elliot, 47 years of age;
129. Richard Johnson, 29 years of age;
130. Anthony Lanzone, 25 years of age;
131. Charles Craig, 16 years of age;
132. John Doe, an infant;
133. George Seaborn, 64 years of age;
134. Everett Marshall, 30 years of age;
135. Michael Anderson, 28 years of age;
136. Naomi Hamlet, 73 years of age;
137. Robert Butler, 25 years of age;
138. Gregory Jackson, 24 years of age;
139. Charles McQueen, 27 years of age;
140. Dwayne Jones, 28 years of age;
141. Clyde Moten Jr., 19 years of age;
142. Jose Alverengar, 33 years of age;
143. Tyrone Cole, 27 years of age;
144. Keith Kellums, 34 years of age;
145. Rachee Boyd, 19 years of age;
146. Rodney Jackson, 32 years of age;
147. Ravon Gray, 21 years of age;
148. Coy Weeks, 24 years of age;
149. Christopher Harrison, 28 years of age;
150. John Doe, 20 years of age;
151. Kobie Smith, 21 years of age;
152. Donte Reed, 19 years of age;
153. Valencia Anderson, 26 years of age;
154. Mark Waller, 28 years of age;
155. Clinton Frye, 21 years of age;
156. Louis McLean, 27 years of age;
157. Octavia Pressley, 37 years of age;
158. George Kilbourn, 46 years of age;
159. Theodore Lee, 41 years of age;
160. Willie Evans, 23 years of age;
161. John Doe, infant;
162. Jane Doe, infant;
163. Willie Corley, 40 years of age;
164. Calvin Tyler, 20 years of age;
165. Milton Brown, 40 years of age;
166. Ronald Sutter, 33 years of age;
167. Dominic Powell, 21 years of age;

168. Anthony Bell, 26 years of age;
169. Chet Mathews, 21 years of age;
170. Vincent Willis, 21 years of age;
171. Earl Blakley, 40 years of age;
172. James Logan, 45 years of age;
173. Joseph Baltimore, only 16 years of age;
174. Kim Jones, 58 years of age;
175. Jeffry Mason, 37 years of age;
176. Anthony Williams, 20 years of age;
177. Robert Hill, 52 years of age;
178. Michael McLeish, 27 years of age;
179. Thomas Liddell, 28 years of age;
180. Lawrence McEachin, 48 years of age;
181. Calvin Jones, 30 years of age;
182. Dontray Bradley, 2 years old;
183. Eric Dorsey, 46 years old;
184. Franklin Carter, 40 years old;
185. Hugh Small, 19 years old;
186. Eric Mathis, 25 years of age;
187. John Jay, 22 years of age;
188. Terrance Wooten, 25 years of age;
189. Charles Hickerson, 19 years of age;
190. Nathaniel Shelton, 24 years of age;
191. Damian Chisley, 23 years of age;
192. Tezia Allen, age 1;
193. Thomas White, 22 years of age;
194. Carlos Jordan, 17 years of age;
195. Larry Howard, 17 years of age;
196. James Russell, 16 years of age;
197. Araminta Coates, 22 years of age;
198. Joseph Curtis, 25;
199. David Hamilton, 34, and the 200th victim, as I go through this list, as I go through thus far, this year, Carl Martin, 20 years of age;
201. Richard Scott, 17 years of age;
202. Ronald Williams, 20 years of age;
203. Driscoll Hamilton, 21 years of age;
204. Raymond Brown, Mr. President, 26 years of age;
205. Antonio Ben, 23 years of age;
206. Bailey Hayes, 37 years of age;
207. Nakya Scott, age 1;
208. Michael Clemons, 25 years of age;
209. Gregory Pope, 22 years of age;
210. Aaron Wilson, 28 years of age;
211. Patrick Buckmon, 37 years of age;
212. Benjamin Donker, 24 years of age;
213. Lisa Todd, 24 years of age;
214. Thomas West, 36 years of age;
215. Lenny Harris, 25 years of age;
216. Stevie Ellington, 20 years of age;
217. Earl Royal, 60 years of age;
218. Tyrone Cross, 32 years of age;
219. Robert Thompson, 21 years of age;
220. Gregory Taylor, the 220th murder victim in the District of Columbia this year, 36 years of age;
221. Freddie Abney, 45 years of age;
222. Raymond Bowlding, 21 years of age;
223. Willie Berry, 75 years of age;
224. Alan Smith, 45 years of age;
225. Don Johnson, 20 years of age;
226. Jose Cruz, 17 years of age;
227. Donald Davis, 18 years of age;
228. Ronnie Waters, 25 years of age;
229. David Brown, Mr. President, 43 years of age;
230. Kenneth Brown, 29 years of age when he was murdered;
231. Michel Matasangakis, 36 years of age;
232. Dwayne Drake, 16 years of age;
233. Terrance Adamson, 35 years of age;
234. Christopher Lewis, 22 years of age;
235. John Doe, 19 years of age;
236. Calbert Channer, 28 years of age;
237. Robert Perris, 25 years of age;
238. Kim Valentine, 38 years of age;
239. Monte Glen, 18 years of age; And the 240th victim, Mr. President, Calvin Kennedy, 20 years of age;
241. Jesus Garcia, 45 years of age;
242. James Bentley, 46 years of age;
243. Thomas Dozier, Jr., 23 years of age;
244. Samuel Wells, 43 years of age;
245. Marvin Goodman, 31 years of age;
246. William Mitchell, 47 years of age;
247. James Buchanan, 50 years of age;
248. Gary McLaurin, age 28;
249. Curtis Buffalo, age 42;
250. Andrew Bray, age 23;
251. James Johnson, age 26;
252. William McLean, age 19;
253. Crystal Johnson-Kinzer, age 22;
254. Anthony Morgan, age 40;
255. Kevin Lamont Hart, age 19;
256. Alain Colaco, age 15;
257. Mark Yarbough, age 28;
258. Eugene Jackson, age 45;
259. Jessie James Moore, age 14;
260. Freddy Hernandez, age 19;
261. Harry Gamble, age 17;
262. Arron Sullivan, age 19;
263. Bernard Thornton, age 18;
264. Charles Green, age 43;
265. Deon Applewhite, age 22;
266. Winifred Douglas, age 81;
267. Kenneth Coffey, age 25;
268. Jamal McCauley, age 19;
269. Marcus Smith, age 20;
270. Stanley Johnson, age 20;
271. William Douglas, age 25;
272. Lessie Robinson, age 58;
273. Matthew Majette, age 27;
274. Anthony Jackson, age 32;
275. Arthur Ward, age 47;
276. Rochelle Grant, age 31;
277. Jeffrey Marks, age 25;
278. Tracia Mitchell, age 1;
279. Rael Powell, age 26;
280. Carbiness Anderson, age 25;
281. Michael Lockard, age 22;
282. Damon Lassiter, age 16;
283. Donnell Briggs, age 32;
284. Andwele Jackson, age 16;
285. Olufemi Abiodun, age 38;
286. Marcus Blackmone, age 16;
287. Taraicka Rudd, age 1;
288. Benard Godinez age 50;
289. William Fields, age 22;
290. Willie Ceasar, age 20;
291. Curtis Edwards, age 31;
292. Charles Boulware, age 29;
293. Chris Jeffries, age 29;
294. Dana Dixon, age 27;
295. Robert Commodore, age 20;
296. Pierre Brooks, age 18;
297. Donnell Dixon, age 21;
298. Charles Boston, age 61;
299. Emanuel Lance, age 31;
300. Shannon Hines, age 24;
301. Gregory Fharr, age 40;
302. Louis Johnson, age 33;
303. Mark Allen Locke, age 25;
304. Darren Lofton, age 22;
305. Mitchell Diggs, age 22;
306. Norris Allen Rogers, age 36;
307. Richard Moore, age 3;
308. John Doe, age 1;
309. Arnold Webster, age 21;
310. Richard Lee Vail, age 17;
311. Richard Bracey, age 35;
312. Christopher Day, age 32;
313. Marty McLaughlin, age 17;
314. Abbey McClosky, age 22;
315. Robert Williams, age 36;
316. Coy Dontae Mason, age 20;
317. Cavanaugh Holmes, age 21;
318. Anthony Wells, age 24;
319. Wendell Davis, age 15;
320. Ronald Gathers, age 36;
321. Randolph Johnson, age 24;
322. Brian Lee Johnson, age 20.

Mr. GALLO. Mr. Speaker, on behalf of these victims and their families, and to help restore a sense of security and justice in our Nation's Capital, let us give District residents the ability to speak on the issue.

This motion will give the District a choice—

Leave it the way it is with just a 20-year sentence with parole for first-degree murder, or,

Allow the death penalty or life imprisonment without parole, which is the standard in 40 States.

I ask all of my colleagues in the House to approve this motion and give the citizens of the District the choice to speak out—for safer streets and for victims rights.

I urge a "yes" vote on my motion.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is very difficult for me to get up and oppose a motion by a gentleman who serves with me and whom I know has the best interests of the District of Columbia at heart; however, if you listen to what he says, as well-meaning as it may sound, it really does not hold up.

First of all, there is no correlation between the death penalty and a reduction in crime. If you look at the States that in fact have the death penalty, they have the same or similar crime statistics per capita as those States that do not impose the death penalty.

The gentleman from New Jersey [Mr. GALLO] says here today that this is not a mandate. This is definitely a mandate.

This amendment, if adopted, would say that within 90 days of the date of enactment of this act, a body of language fashioned by this Congress prescribing punishment for some conduct will be placed on the ballot. I can think of no clearer mandate than this language.

Now, it is true it does not mandate the death penalty, and Senator ADAMS modified the language offered by Senator SHELBY on the Senate floor, and that is the reason it is in this form.

□ 1750

But do not be deceived and believe that we are not mandating a vote by the District of Columbia. The District of Columbia is capable of putting a death penalty measure on the ballot if they so desire.

Mr. Speaker, earlier today I indicated that there is an initiative being circulated. That initiative will have the opportunity of public hearings to be refined, but, no, a Senator has now written a death penalty statute and says he wants the people of the District to vote on it within 90 days.

That, to me, is a mandate, and this is clearly, clearly, a violation of every home rule principle.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I rise to speak on the Senate amendment to

H.R. 5517, which provides to the citizens of the District of Columbia the opportunity to decide for themselves, directly, whether to institute capital punishment in cases of heinous and intentional killings.

As many in this body already know, earlier this year my friend, the gentleman from Virginia [Mr. BLILEY] introduced a comprehensive crime bill for the District of Columbia with an almost identical provision that would have allowed citizens of the Federal City an opportunity to vote on the death penalty. I believe that, if given the chance, D.C. voters will vote in favor of capital punishment.

There is little question that violent crime has reached epidemic proportions in the Nation's Capital. For the fourth year in a row, the Nation's Capital has also been the murder capital. Incredibly, the streets and sidewalks of the neighborhoods immediately adjacent to this Capitol dome have become the scene of brutal murders, rapes, and robberies. We, who are responsible for enacting the Nation's law, find ourselves awash in a sea of lawless violence that is literally just beyond these doors.

Under home rule, the frontline law enforcement responsibility is the local government of the District of Columbia. However, both the Home Rule Act and the Constitution of the United States vest ultimate responsibility for the Nation's Capital right here in Congress. In the final analysis, it is this body that is responsible for the Federal City.

Just as we have seen criminal violence spiral out of control, so too we have seen the ineptitude and ineffective response from the D.C. Council. Just this past summer, the council enacted legislation purporting to provide life imprisonment without parole for first degree murder. Yet, by the time the council finished its work, the proposal was watered down to the point where not a single murderer, no matter how heinous or brutal his crime, would be required to serve a life term without possibility of parole. Not one. In fact, the enactment is so weak, that it would not cover revenge killings of law enforcement officers, prosecutors, and judges unless some other aggravating factors are also present. If the D.C. Council is not willing to provide unequivocal protection to law enforcement officers, prosecutors, and judges, then what chance does the average citizen have? And if the District Government cannot ensure the streets immediately adjacent to this Capitol Building, can there be safety anywhere in this city?

I do not view capital punishment as an instant cure to the problem of heinous crime. But I do believe that it is both a necessary deterrent and a justified citizen response to particularly heinous crimes committed by hardened criminals.

According to a report published by the Bureau of Justice Statistics, almost 70 percent of the criminals sentenced to death in the United States in 1990 had prior felony convictions and over 40 percent committed the murder for which they received the death penalty while under criminal justice supervision, whether that be parole or probation.

These statistics, I say to my colleagues, suggest that by far the vast majority of criminals sentenced to death in the United States have had more than one chance to seek rehabilitation and to turn away from a life of crime. Instead, the inmates on death row by and large chose to continue in a life of crime that led to the brutal death of an innocent person and causing terrible grief to the victim's family. As we all know too well, that drama has been performed time and time again on the streets of our Nation's Capital.

Mr. Speaker, the Washington Times newspaper headline summarizes it all. This is from yesterday's paper:

> We fear for our lives, residents tell Kelly.

The people who fear for their lives should not be law-abiding citizens and visitors to this city. The people who should fear for their lives should be the murderers who intentionally and knowingly cause the death of another person.

Mr. Speaker, the Constitution vests in this body the duty to ensure that the streets of the Nation's Capital are safe and that its laws are sufficient to punish and to deter violent crime. The Shelby amendment exercises that duty by allowing the residents of the District the opportunity to make this momentous decision about whether capital punishment should be available for murders committed in this city. It is a specific bill. They will understand the specifics of it.

Mr. Speaker, I urge my colleagues to vote in favor of the Shelby amendment to empower the residents of the District of Columbia to decide for themselves this most important issue which affects their safety.

Mr. DIXON. Mr. Speaker, I yield 7 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise to offer on this floor, to voluntarily offer on this floor, what this amendment would impose by coercion.

I do want to say to the gentleman from Virginia [Mr. ALLEN] that it hardly lies in the mouth of anybody from Virginia to rise in this debate because half, almost half, of the homicides in the District are committed with guns that come from Virginia, which has the most open gun law on the east coast and directly feeds homicide in the District of Columbia and, I might add, all along the east coast.

Moreover, Mr. Speaker, let me make no apologies for the homicide in the District of Columbia. Unlike every Member, I am out in the streets of the District of Columbia every night and cannot be counted among those who are soft on crime. I concede that I do not know if I will get home every evening. The crime rate here, the homicide rate here, of course, is almost precisely like the homicide rate in a dozen cities, and yet, if one lives it, lives here, it is intolerable.

Mr. Speaker, I am going to be conducting a safety seminar shortly for staff and Members, probably at the beginning of the next session, so that we can take some steps, at least here on the Hill, to help avoid some of the terrible crimes we have seen recently. The young woman who was murdered I think might have been spared had she not been alone coming from Union Station.

This House, to its credit, passed a bill to allow the Capitol Police to patrol a greater area of Capitol Hill and thus struck a realistic blow against crime this very week. But what I ask my colleagues to hear is very important:

If you want a vote on the death penalty by the voters of the District of Columbia, I am here to guarantee that you are going to get it. I have but one request to make of you. Please let D.C. residents, who are close to putting the matter on the ballot, do it themselves. They have completed half of the steps necessary to get the matter on the ballot.

Let me be more clear. It is a group of Republicans in the District of Columbia who are proceeding to do this. They want to do it themselves. If it passes, I am sure they want to get the credit themselves. To a certainty, Mr. Speaker, it will go on the ballot because the Republican citizens who sought to get it on the ballot, and it would already have been on the ballot had they not made mistakes in procedure in trying to get it on the ballot, left off certain sections of their initiative which go to how the death penalty would be implemented.

□ 1800

So they had to come back and start all over again. Now they have expert counsel. They have proceeded through half the steps. To a certainty that the death penalty will go on the ballot in the District of Columbia.

If this body precipitously puts it on the ballot, there will be two unintended consequences. First of all, unless we are very lucky, it may cost the District of Columbia $300,000 extra to get it on the ballot, according to when the matter becomes law, because of the timing of printing of ballots under the law. At a time when this House and this subcommittee have had to cut or advise the cutting of the D.C. appropriation, surely it is gratuitous to impose $300,000 extra on us to do what we are in the process of doing ourselves.

The second unintended consequence is the extremely problematic language of the amendment. We are told that what we have is perfected language. But I am here to inform my colleagues that that perfecting language does not conform to the very detailed and technical provisions of the U.S. Supreme Court and the Constitution of the United States.

So what you are about will almost surely not do what you want to do. The steps that our procedures provide are like the steps in your own States. They take us through a process that allows us to catch precisely the kinds of mistakes that attend the present language of Mr. SHELBY's amendment. This is what happens when one acts in haste and gratuitously, when people are in the process of doing what you want them to do.

To a certainty I am not saying I hope it gets on the ballot. I am not saying if all goes well it will get on the ballot. I am saying to you as the Representative of the people of the District of Columbia, who has ascertained these matters and double-checked them with the board of elections, that we are close to putting the matter on the ballot, and I ask Members to respect our democratic electoral processes, that are doing what you desire us to do. And please, this time let us do what you want us to do ourselves.

Mr. GALLO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I know the gentlewoman from the District of Columbia [Ms. NORTON] and also the gentleman from California [Mr. DIXON] have strong feelings on this, but I do not think this is something we can wait for.

Tonight at 6 o'clock they are having a fundraiser on behalf of a woman, Abbey McClosky, who was killed in the District of Columbia. And you want to wait for another timeframe? You want to wait another year, have another 450 people murdered, and have those murderers under the same laws that are now effective in the District of Columbia? Twenty years? A 20-year penalty?

We read in the paper today of an individual being robbed of $15 in a gas station. He was shot once, didn't release the money, and was shot several times until he released the $15. That individual is going to face 20 years, if caught, and then still be eligible for parole?

We have waited. We have waited too long. I think that the 322 individuals that no longer will be able to vote on a referendum, nor vote on anything else because they are gone, they are murdered, for them we have waited too long.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], who has been very much involved in capital punishment debates.

Mr. DIXON. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 7½ minutes.

Mr. SENSENBRENNER. Mr. Speaker, this is not over a debate whether you are for or against the death penalty. We will reserve that to when the crime bill comes up later on this session. This is the debate on whether to empower the people of the District of Columbia by a vote on whether there should be a death penalty and life imprisonment without parole for first-degree murder committed within the boundaries of the District of Columbia.

My friend, the gentlewoman from the District of Columbia [Ms. NORTON], might be representing the bureaucrats and the city council, but she is denying the people the right to vote on this issue in a timely manner.

All kinds of red herrings have been thrown against this amendment that was adopted over in the other body.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, if I heard the gentleman correctly, the gentleman said that the gentlewoman from the District of Columbia [Ms. NORTON] is withholding the right of the people of the District to vote on this issue; that she may be representing the bureaucrats.

On what basis does the gentleman from Wisconsin [Mr. SENSENBRENNER] make any statement like that?

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, if I were not interrupted I would have been happy to explain on what basis I am making this statement. This amendment that was adopted in the other body provides for a referendum within 90 days after the enactment of this law, meaning the District of Columbia appropriations bill. The red herring was tossed against this amendment saying it would cost the District of Columbia $300,000 to conduct an election on this.

Well, there is an election on November 3 in the District of Columbia for Presidential electors and for a Representative in Congress. That initiative can be on the ballot then and the people of the District of Columbia can make their decision.

Mr. DIXON. Mr. Speaker, if the gentleman will yield further, my response to the gentleman from Wisconsin [Mr. SENSENBRENNER] is the gentlewoman from the District of Columbia [Ms. NORTON] is not on the Committee on Appropriations, has no vote on the conference report, has no vote on this floor, and has only made a statement here. That is all she has done. To say to the gentlewoman that she is holding this up is totally inaccurate. The gentlewoman does not even have a vote here on the floor, none in the conference committee, and none in the Committee on Appropriations.

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, I want to give the gentlewoman a vote. I want to give the gentlewoman a vote at the ballot box on the 3rd of November with all of the other voters of the District of Columbia on whether or not to adopt this as a part of District of Columbia law.

Under this amendment the voters of the District of Columbia will have the final say on whether this in fact shall become a part of the District of Columbia law. If they vote "yes", it will become a part of the District of Columbia law; if they vote "no," it will not.

What we are hearing on the other side of the aisle is an attempt to deny a prompt vote in the District of Columbia, an attempt to deny a prompt empowerment of the voters of the District of Columbia to decide this issue.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate this enthusiasm for empowering the voters of the District of Columbia. I wonder if the gentleman from Wisconsin [Mr. SENSENBRENNER] thinks how they would choose if given the option, whether they like this referendum or would like to have a vote in this body, and, if it is the latter, would the gentleman support that?

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, no, I do not support statehood for the District of Columbia.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will yield further, there could be a vote other than on statehood. I wonder whether the gentleman from Wisconsin [Mr. SENSENBRENNER] supports empowering the people of the District of Columbia to be represented in the House of Representatives with a vote?

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, they are very ably represented in the House of Representatives by a Delegate, and that is the way the people of territories of the United States throughout our history have been represented prior to their admission by the Congress of the United States and the President to statehood status.

Mr. Speaker, getting back to the subject at hand, we heard from the gentlewoman from the District of Columbia [Ms. NORTON], or perhaps someone else, that all the guns that were coming in to cause the murders in the District of Columbia came from Virginia.

The gentleman from Virginia [Mr. ALLEN] tells me that that is a violation of law. It is illegal for a District of Columbia resident to buy a gun in Virginia and to take it into the District of Columbia.

So the laws are already adequate on the books. The fact is that the people of the District of Columbia ought to be able to get at the crooks and to make sure that those who murder their fellow citizens in cold blood are locked up for life without parole or are given the ultimate penalty, and that will be determined by a jury that is drawn from the voters of the citizens of the District of Columbia.

□ 1810

Such arrogance we see to deny the people a vote on this important issue is mind-boggling to me. I think we ought to agree with the motion of the gentleman from New Jersey [Mr. GALLO] to recede and concur and to do what a liberal Democratic editor in my State, William Ebjue, the editor of the Madison Capital Times, quoted again and again, "Let the people have the truth and the freedom to discuss it and all will go well."

We are giving them the truth. We are giving them the freedom to discuss it. We are giving them the right to vote this November and all will go well.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise that the gentleman from California [Mr. DIXON] has 13 minutes remaining, and the gentleman from New Jersey [Mr. GALLO] has 14½ minutes remaining.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

I realize that this is a very emotional, philosophical and political issue. I doubt that any debate here will change anyone's vote tonight on this issue. But I do think we should be clear about what we are doing and the statements we are making.

I personally can think of no other arrogance than to try to develop a piece of legislation and demand that the District citizens vote on what "I think is appropriate." And that is the arrogance that is occurring here.

No matter what we say, we certainly cannot accuse the Delegate of the District for pushing this or holding this up. So as we discuss this nonemotionally, let us at least be fair and accurate as to what we say here on the floor during this debate.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman for yielding time to me.

I must say that one should smile when the Members on the other side in favor of this amendment of the gentleman from Alabama, Senator SHELBY, say they are doing the people of Washington, DC, a big favor by strong arming them into having a vote on November 3.

When I came here more than three decades ago, Washington had no government at all to speak of. Everything was run from the Committee on the District of Columbia here in Congress, and it was a disaster.

The people had no dignity, no way to improve their status. And year by year, we have given the city of Washington, DC, more home rule, more home rule. And that is the way it should be. These are people, 700,000 or 800,000 people that are entitled to run their own affairs. And it is arrogant and ill-advised for us to start all over again this micromanagement of the city of Washington, DC.

As the good chairman, the gentleman from California [Mr. DIXON] said, it is not going to do any good any way, and they know it on the other side.

There are 2,600 people on death row today, and the murder rate in this country has skyrocketed, especially over the last 12 years under the Presidencies of Mr. Reagan and Mr. Bush.

And last, Mr. Speaker, every death penalty must be done with great care. That is what the law requires. It must be done giving the person under a possible death sentence due process that is very good but also very expensive.

The latest study of the cost of the death penalty is $3 million.

Now, do we really want to add that to the cost of an overburdened government in Washington, DC, with the school districts that need more money, more help, by strong-arming? And that is what we are doing here.

We are not giving them a privilege. I think that it is laughable to say that we are being good to them by insisting that they vote on this issue.

They are going to do it themselves anyway, and that is the way it should be. This is a democracy. This is the way people ought to live.

But then we are going to encourage them to add $3 million to every person who is finally convicted of a capital crime, because that is what it is going to cost. So remember that also. And it is going to do no good.

I think that we certainly should support the chairman, incidentally, the wonderful chairman, the best we have ever had for this subcommittee, and send a signal to Washington, DC, for the good people down there, and there are fine people in Washington, DC, that we do trust them in this matter to handle their own affairs.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I agree with the gentleman from California [Mr. DIXON]. We ought to have accuracy in this debate, and I want to reiterate what the gentleman from Wisconsin [Mr. SENSENBRENNER] said.

And when we have some accuracy, let us not be blaming everyone else for the situation. The Mayor of the District says, blame the President, the U.S. attorney's office, Congress for "raping and pillaging this city by depriving it of funds." It is not a question of funds. That is not why this is going on.

Nor is it, I would say to the gentlewoman from the District of Columbia [Ms. NORTON], Virginia's fault. I do not think we ought to blame Virginians. It is absolutely illegal under Federal and State law for anybody from the District of Columbia to purchase a firearm in Virginia.

Second, the laws of the District of Columbia have virtually banned all firearms and have only seemed to disarm law-abiding citizens.

I hope that the Members of the House will concur with the Shelby amendment and let the people of the District of Columbia determine whether they want to use this deterrent to protect themselves.

Mr. DIXON. Mr. Speaker, I yield 4 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the chairman for yielding time to me.

It is always with a great deal of pleasure and pride that I come to the floor when the gentleman from California [Mr. DIXON] brings his bill to the floor, because many years ago my father served as chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations.

At that time the big push was for home rule. Mr. Speaker, we thought that is what was obtained for the District of Columbia, but sometimes it is hard to tell around here, when we try to impose our will on the District.

Mr. Speaker, I rise in opposition to the Shelby-Adams amendment to the District of Columbia Appropriations bill which would force a death penalty referendum on the District of Columbia.

There are serious problems in the District of Columbia, as there are in many cities around our country. Not surprisingly, the citizens of the District are as concerned about what is happening in their community as we are on Capitol Hill. They, along with the city council, and the Mayor have taken a number of positive steps to address the problem. For example, the D.C. City Council recently passed legislation to create a sentence of life without parole as a possible punishment for certain crimes. Other citizens are actively working with the police to form citizen patrols, and despite some very tragic incidents, there is some hope that overall these efforts will make a difference.

Some residents of the District have even proposed the death penalty as a possible solution, and that proposal is currently winding its way through the District of Columbia legislative process. Unlike the Shelby-Adams proposal, citizens in the District would have the opportunity to help shape the death penalty initiative on which they would vote.

The Shelby-Adams proposal takes important policy decisions away from people in the District of Columbia, such as whether people with mental retardation or juveniles should be executed. Most Americans oppose the death penalty for juveniles and people with mental retardation. However, if the Shelby-Adams amendment passes, the people of District of Columbia won't be allowed the chance to decide those important questions. In fact, the District of Columbia local initiative proposal would exclude juveniles and people with mental retardation.

Mr. Speaker, I personally believe that the death penalty is objectionable on moral and practical grounds. As members of a democratically elected body, it is incumbent upon us to respect home rule for the citizens of the District and allow them to determine when and how to deal with the death penalty. I urge my colleagues to grant the people of the District of Columbia the opportunity to make up their own minds on this important issue and to oppose this amendment.

□ 1820

I commend the chairman of the subcommittee for his hard work on this issue, and the Delegate from the District of Columbia [Ms. NORTON] on her hard work as a relentless advocate on behalf of the people of the District.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentlewoman from California.

Mr. ALLEN. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Virginia.

Mr. ALLEN. Mr. Speaker, I would ask the gentlewoman, she made a statement that, in effect, this statute that would be adopted, if approved by the people of the District of Columbia, would have people who have mental incapacity being executed.

In fact, this section, and I will read it, concerning mental incapacity gives the mitigating factor that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, that that is a factor; that if the person does not know the difference between right or wrong or is unable to conform his or her actions to the requirements of the law, that is a mitigating factor.

I do not think it is at all accurate to portray this law as saying that folks who have mental handicaps or incapacities are going to be executed under this statute.

Ms. PELOSI. Mr. Speaker, perhaps the gentleman misunderstood me. I agree with his characterization of the legislation.

Mr. DIXON. Mr. Speaker, I have one other speaker, and I reserve the right to close.

I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to repeat what I said before, because I think it is very important. This motion will give the District of Columbia a choice: Leave it the way it is, with just a 20-year sentence with parole for first-degree murder, or allow the death penalty or life imprisonment without parole, which is a standard in 40 States.

I am asking my colleagues in the House to approve this motion. I want to just reiterate, 322 murders. It is just not a statistic. Each one of those people are individuals, individuals with family, friends, that are no longer here.

I have been here almost 8 years. In the last 3 years I think we have had over 1,000 murders, and we are sitting with an antiquated situation as far as meting out the right justice for the crime.

I do not take exception to my colleague, the gentlewoman from the District of Columbia [Ms. NORTON]. I understand where she is coming from. I understand her rationale. The same with my chairman, but I do not think we can wait. We have been waiting. The longer we wait, this list is going to get larger and larger.

It is an emotional issue, I know, but I am asking my colleagues in the House to approve this motion and to give the citizens of the District of Columbia the choice to speak out for safer streets and for victims' rights.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me, and I want to indicate how much I appreciate the remarks of the chairman concerning my prior remarks. However, there has been no answer to the gravamen of those remarks.

I can excuse the gentleman from Wisconsin [Mr. SENSENBRENNER] for his remarks only by assuming he was not in the Chamber or not near a television set when I spoke, because he alleges that I am trying to keep the residents of the District of Columbia from voting on the death penalty, when in fact I submitted irrebuttable proof that I prefer the empowerment of District of Columbia residents to put the matter on the ballot, and that they are proceeding to do so at this very moment.

If the Members are for empowerment, then surely they would want to begin by allowing those they wish to empower to put the matter on the ballot, and they are doing so. I have represented to this body, to a certainty, that it will go on the ballot.

The ranking member says, "It is going to go on, but it is not going to go on fast enough." But for every time he would read off the murders, I wonder if he wants to read off murders in his own home State, because there are parts of his own home State which have just as many murders.

The fact is that this provision does not address homicide in the District of Columbia or anywhere else, because even the most ardent proponents of the death penalty concede that it does not have a deterrent effect on crime. If what the gentleman is looking for is to halt homicides in the District of Columbia, even the scholars on his side of this issue offer a different rationale, a different rationale for the death penalty, it is retribution, but it is certainly not stopping homicides, and it will not stop homicides here.

Eighteen of the top killing States in the United States have the death penalty. Why do they have so many homicides? So the gentleman will not do anything about the list, but that is not my point.

I concede to this body that the residents of the District of Columbia have the right to vote on the death penalty, and I concede and will not do anything to stand in their way. I have told this body that they are halfway through the steps. I have told this body that this process is led by Members of their own party, and that they should get the credit for it, and not Members of their party here in this Chamber who are not accountable to the residents of the District of Columbia. That is my point. That point has not been met.

We are told that somebody who commits murder will only get 20 years. The fact is that the D.C. Council has passed a law strengthening our homicide law that will now allow 20 years to life.

The gentleman says he cannot wait. He should be able to wait to allow democracy to takes its course, when I assure him that that is what is happening at this point.

I do not rise to argue the point of the death penalty itself. I do not rise to insert my views on that, because I respect the residents of the District of Columbia and their right to vote on that question. When that matter comes before them I will speak to them, not to this body, which has no right to determine this issue for us.

If the Members are sincere, if they want to empower the residents of the District of Columbia, hear me now: Allow them to do what to a certainty they are in the process of doing; allow the residents of the District of Columbia, members of the Republican Party who are now proceeding to do so and who are guaranteed to do so.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from New Jersey [Mr. GALLO] has 7½ minutes remaining, and the gentleman from California has 2 minutes remaining.

Mr. GALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from New Jersey [Mr. GALLO].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GALLO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 264, nays 129, not voting 39, as follows:

[Roll No. 428]

YEAS—264

Alexander
Allard
Allen
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boehner
Borski
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kanjorski
Kaptur
Kennelly
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Marlenee
Martin
Matsui
McCandless
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Murphy
Murtha
Myers
Neal (NC)
Nichols
Nussle
Oakar
Ortiz
Orton
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (FL)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—129

Anderson
Andrews (ME)
Andrews (NJ)
Atkins
AuCoin
Beilenson
Berman
Blackwell
Bonior
Boucher
Brown
Campbell (CA)
Cardin
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
DeFazio
Dellums
Dixon
Dorgan (ND)
Durbin
Eckart
Edwards (CA)
Engel
Espy
Evans
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gonzalez
Gradison
Green
Hatcher
Hayes (IL)
Hertel
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jefferson
Johnston
Jontz
Kennedy
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Leach
Levine (CA)
Lewis (GA)
Lowey (NY)
Luken
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Nagle
Natcher
Neal (MA)
Nowak
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Peterson (MN)
Rangel
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sikorski
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Solarz
Staggers
Stark
Studds
Swett
Swift
Synar
Torres
Towns
Traxler
Unsoeld
Vento
Visclosky
Waters
Waxman
Whitten
Wise
Wolpe
Wyden

NOT VOTING—39

Abercrombie
Ackerman
Anthony
Barnard
Bliley
Boxer
Bustamante
Campbell (CO)
Chandler
Clay
Donnelly
Downey
Dymally
Fascell
Fazio
Foglietta
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Jones
Kasich
Lehman (FL)
Lent
Livingston
Machtley
Manton
McCrery
McGrath
Schulze
Schumer
Solomon
Stokes
Thornton
Valentine
Washington
Wheat
Yates

□ 1851

Mr. MARTINEZ and Mr. KENNEDY changed their vote from "yea" to "nay."

Messrs. EWING, LEHMAN of California, GLICKMAN, and DOOLEY changed their vote from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 36, line 20, after "$22,242,000" insert ": *Provided further*, That of the funds remaining for the personal services of the Metropolitan Police Department, $1,000,000 shall be redirected to nonpersonal services of the Department for equipment purchases and contractual services: *Provided further*, That not to exceed $700,000 shall be available from this appropriation, and funds under this heading in Public Law 102-111 (105 Stat. 561) for the Chief of Police for the prevention and detection of crime".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 26, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 39, line 11, after "$1,000,000" insert ": *Provided further*, That $150,000 shall be available for project management and $285,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 41, after line 5m insert:

SEC. 202. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1992.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is a follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 28, and concur therein.

The SPEAKER pro termpore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

## GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on amendment No. 57 to the conference report on the bill, H.R. 5373.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentleman from Alabama?

There was no objection.

## CONFERENCE REPORT ON H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. BEVILL. Mr. Speaker, pursuant to the unanimous-consent agreement of Thursday, September 17, 1992, I call up amendment No. 57 to the conference report on the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

### PARLIAMENTARY INQUIRY

Mr. MYERS of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MYERS of Indiana. Did I understand the request was that this be considered by unanimous consent?

The SPEAKER pro tempore. It was a privileged motion, but it comes up under a unanimous consent earlier agreed to on a previous day, September 17; but it is a privileged motion.

Mr. MYERS of Indiana. A further inquiry: What does unanimous consent have to do with this issue, then?

The SPEAKER pro tempore. It was a reference to a unanimous-consent agreement of an earlier date to bring this up.

Mr. MYERS of Indiana. Very well.

The SPEAKER pro tempore. The Clerk will designate the amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 57, strike out lines 16 to 23 and insert:

SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No test of a nuclear weapon may be conducted before July 1, 1993.

(c) On and after July 1, 1993, a test of a nuclear weapon may be conducted—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated      ." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated      ." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless Russia conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

Mr. BEVILL. Mr. Speaker, I yield to the chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN] for the purpose of offering a motion.

### PARLIAMENTARY INQUIRY

Mr. KYL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KYL] will state it.

Mr. KYL. Mr. Speaker, I want to indicate opposition to this amendment and have the opportunity to speak to that. I want to do that at the appropriate time. It was unclear to me when that could happen, because of this confusion.

The SPEAKER pro tempore. The gentleman's right will be protected.

Mr. KYL. I thank the Chair.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN] for a motion.

### MOTION OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ASPIN moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated    ." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interest of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated    ." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

Mr. ASPIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I have, again, a parliamentary inquiry. This is strange new language, not the one that we considered a week ago today. How can this be introduced now by unanimous consent with that unanimous-consent agreement that we had 1 week ago, without unanimous consent?

The SPEAKER pro tempore. The Chair attempted to explain to the gentleman earlier: The unanimous-consent request of an earlier date last week was only to bring the Senate amendment No. 57 before the House. It did not dictate the substance of the motion.

Mr. MYERS of Indiana. That is not what the unanimous-consent request or the language says on amendment No. 57. This is not amendment No. 57. This is a substitute for 57.

The SPEAKER pro tempore. The order of September 17 was only to bring up the Senate amendment 57, not the substance of the motion to dispose of Senate amendment 57; just to bring the matter up. The substance is now being reported by the Clerk subject to the gentleman from Wisconsin's unanimous-consent request to dispense with reading.

Mr. MYERS of Indiana. I object, Mr. Speaker, this is not the language we considered last week.

The SPEAKER pro tempore. The Clerk will continue to read.

□ 1900

The Clerk concluded the reading of the motion.

The SPEAKER pro tempore (Mr. MAZZOLI). Before the Chair allocates the time, the Chair would ask the gentleman from Indiana [Mr. MYERS], is he opposed to the motion offered by the gentleman from Wisconsin?

Mr. MYERS of Indiana. I am, Mr. Speaker.

### PARLIAMENTARY INQUIRY

Mr. MYERS of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MYERS of Indiana. On September 17, Mr. Speaker, the gentleman from Alabama [Mr. BEVILL] offered a motion. Among other things, he said, "I ask unanimous consent that the Senate amendment No. 57 be passed over."

He later said, "And further, that that consideration of Senate amendment No. 57 be in order when subsequently called up by the manager."

Who is the manager, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] is the manager of the bill.

Mr. MYERS of Indiana. Who offered this motion, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Alabama yielded to the gentleman from Wisconsin to offer the motion, but the gentleman from Alabama controls the calling up of the Senate amendment.

The Chair would again ask the gentleman from Indiana, is the gentleman opposed to the motion?

Mr. MYERS of Indiana. Most assuredly, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] who yields the time to the gentleman from Wisconsin, will be recognized for 30 minutes, under the rule, and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, the gentleman from Indiana [Mr. MYERS] may proceed if he wishes.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a sad occasion for me. I have tried to be as nonpartisan in this body as possible.

A week ago tonight, we took up consideration of this conference report. Before that happened, there was a proposal made by our chairman that we bifurcate this, we separate Senate amendment No. 57 in order to expedite it, and I objected. That was between the two of us.

Then in further consultation, he promised me that this would not come up until we had resolved with the executive branch this difference, and it would not come up until we had a full understanding.

This morning I heard by rumor this was going to happen; yet to this moment I have not heard from my friend that this is happening.

Credibility is very important around this place, and I promised some of you on this side who were going to object that night to this bifurcation procedure, which I promise you will never happen again on this Appropriations Committee as long as I am here, it will never happen. I get taken once, but not twice.

I promised some of you who were going to object that night to bringing that up by unanimous consent that this would not happen. I had the word from my chairman that he would protect our right.

Well, that has not happened, I am sorry to say. At this moment, I still do not know, I heard it was going to come at 9 o'clock tomorrow morning.

I am going to leave shortly. My wife is in the hospital. I would like to get there before visitation hours.

I never considered whether it was convenient for me to bring it up tonight.

I really do not need the minority. I realize that, I realize my goal; but I have been a fair shooter around this place, and we have not been treated fairly tonight.

Now it is not brought up by the manager, but brought up by my friend, the gentleman from Wisconsin. I am not objecting to the gentleman's right to do that, of course not.

□ 1910

But I do object to the procedure being used here tonight very strongly. It is another indication of the majority just rolling over the minority, ignoring totally any thoughts that we might have, any rights we might have. I guess we do not have any, Mr. Speaker; it is obvious; or else we would not be on the floor right now.

Now at issue: On that same conference report 1 week ago tonight you, the majority by 203 to 157, rejected 10 university research projects because they had not been authorized by law. That was not the big issue. Many here said, "We agree with what you're trying to do," but they were not authorized, and the chairman of one of the committees brought the motion to the floor to strike those. By 203 to 157 he struck 10 of those universities, vitally needed research, because it was not authorized. Yet tonight I suspect the same people, and I have got a list of the names of them; I am going to check them, they are going to allow the Committee on Appropriations to authorize again. It is OK as long as it accomplishes what they want to do.

I say to my colleagues, "Is that what you're going to say tonight? Is there any principle left?

"And the issue of testing of nuclear weapons, the moratorium on that, you're going to have people having to handle those weapons when they don't know how safe they are, whether the radioactive material has deteriorated, whether electronics on board has deteriorated, because we're not going to have, for a year now, any safety testing.

"How can you justify this? Is it really that important to win the White House that you want to jeopardize our national security?"

Mr. Speaker, for me it is not worth that much, and so tonight I am very sorry that I must take the floor and say these things once again. The minority has been rolled over, ignored totally, regardless of any personal concerns.

Mr. Speaker, I yield back the balance of my time and leave the Chamber.

Mr. BEVILL. Mr. Speaker, I agree that we moved fast on this, and we have had, of course, some 400 individual items to deal with, and this is the one that is left, and we have been unable to do it, and I just want to say that I know a lot of Members want to get away from here and we are going to cut this short, as far as I am concerned.

So, Mr. Speaker, I say to my colleague, "If you'll finish over there on that side, then we'll wrap it up in a couple of minutes over here."

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from New Jersey [Mr. GALLO] is controlling time.

Mr. GALLO. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, the gentleman from Indiana [Mr. MYERS] certainly expressed the sentiment of many concerning the way that this matter has come up. The White House has been involved in negotiations with key leaders to try to come to some kind of an agreement. Those negotiations have apparently broken down, and what has happened is that, instead of amendment 57, which the gentleman from Indiana [Mr. MYERS] referred to earlier and which was going to be brought up and offered by the gentleman from Alabama [Mr. BEVILL], there has been a different amendment substituted. A much more stringent test ban amendment has been substituted for the amendment that would have been brought up last week. Mr. Speaker, that is one of our concerns here and what I would like to speak to here.

I just want all of my colleagues, Mr. Speaker, to know that Secretary Cheney, General Scowcroft, and Secretary Watkins have all written a letter relating to this issue dated July 10, in which they urge in the strongest terms that this kind of proposal be rejected. In addition to that, in a letter to the chairman of the Committee on Armed Services dated September 22, Admiral Watkins sent a special letter dealing specifically with this amendment, not No. 57 that was going to be offered, but with this so-called Hatfield amendment. He noted that among his responsibilities under the Atomic Energy Act is the responsibility to protect the public health and safety and identify and resolve nuclear safety problems connected with nuclear weapons, and I am quoting now from his letter:

> The Hatfield amendment would deny me the ability to fulfill these responsibilities. It is flawed because it assumes, for these extremely complex devices, that only three types of safety features are adequate to protect public health and safety and even would prohibit testing to verify the existence of other possible safety deficiencies or to confirm corrective actions.

He concludes his letter by saying:

> In the absence of a responsible testing program, as time progresses, the Secretary of Energy would not have the technical justification for assuring the President and the American people that the nuclear weapons stockpile remains safe and reliable.

Mr. Speaker, that is in essence the sense of the letter signed by General

Scowcroft, Secretary Cheney, and Admiral Watkins earlier, and I submit both of these letters in their entirety as this point in the RECORD.

The letters referred to are as follows:

THE WHITE HOUSE,
*Washington, DC, July 10, 1992.*

Hon. J. BENNETT JOHNSTON,
*Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to express our strong opposition to a legislatively-enacted nuclear test moratorium. The administration continues to believe that a modest nuclear testing program remains essential for continued confidence in our significantly reduced nuclear deterrent. Underground testing by the United States is now at its lowest level since the early 1950s, and we believe a testing moratorium would not be in our Nation's security interest.

A test moratorium is not needed to create an environment conducive to deep reductions in nuclear weapons. The opportunity for such reductions already exists and has been seized by the President. As a result of the START Treaty, the President's initiatives of September 1991 and January 1992, and the landmark agreement that Presidents Bush and Yeltsin have just reached, our deployed nuclear force will drop to less than one-third of the 1990 level.

Despite what some may claim, our nuclear testing does not hinder nuclear non-proliferation efforts. Recent accessions to the NPT underscore the vitality of the approach we have been taking in this regard. On the other hand, rogue nations such as Iraq, Iran, and North Korea will not stop their nuclear programs if the U.S. ceases testing. A credible U.S. nuclear deterrent, which requires the support of a modest nuclear testing program, promotes stability.

Our nuclear testing program is critical for the responsible management of our nuclear weapons, regardless of the size of the stockpile. Incorporating enhanced safety features into our smaller stockpile—a goal shared by both the administration and Congress—requires testing. Furthermore, in the absence of testing, confidence in the reliability of our deterrent inevitably would decline. Since 1970, five of eleven nuclear weapon designs have required nuclear testing to identify and resolve problems after deployment. The security implications of such a problem in an era of many fewer types and numbers of warheads would be proportionately greater. In addition, our remaining warheads will age and problems may well arise; responding to such problems will require testing. The Administration in the past two years has undertaken several in-depth reviews of U.S. national security and related testing requirements. Based on those reviews, and taking into account the dramatic changes in the international security environment, the President has decided to modify U.S. nuclear testing policy immediately, to impose limits on the number, purpose and yield of our tests. The purpose of all U.S. nuclear tests of our weapons will henceforth be for the safety and reliability of our deterrent forces. The United States will also limit the number and yield of our nuclear tests to the minimum necessary for those purposes. We do not anticipate, under currently foreseen circumstances, more than six tests per year over the next five years, or more than three tests per year in excess of 35 kilotons. Successful results from the Test Ban Readiness Program and a continually improving international security environment may make further reductions in these numbers possible.

A halt to testing would not eliminate any warheads, nor would it increase international security. However, it would erode our confidence in our smaller nuclear deterrent, prevent us from making desirable safety improvements, and severely restrict our ability to ensure that our nuclear deterrent meets our security needs. For these reasons, we urge you to leave the United States the ability to conduct the modest, effective and responsible nuclear testing program that the President has outlined.

BRENT SCOWCROFT.
DICK CHENEY.
JAMES D. WATKINS.

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SEPTEMBER 22, 1992.

Hon. LES ASPIN,
*Chairman, Committee on Armed Services, U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN. I am writing to you to express my profound concerns with the amendment offered by Mr. Hatfield and others to S. 3114, the Defense Authorization Bill for fiscal year 1993, which passed the Senate on September 18, 1992. I am also concerned about similar nuclear testing language contained in the conference report to the Fiscal Year 1993 Energy and Water Appropriations bill, H.R. 5373.

Our Nation has chosen to maintain a nuclear deterrent for national security and to ensure world stability. Our past experience has taught us that we must maintain a modest but effective nuclear testing program to ensure the safety and reliability of this deterrent. At this time, I know of no other means by which the United States can continue to assure the safety and reliability of nuclear weapons. While advances in three-dimensional computer modeling have increased our ability to understand and predict nuclear weapons performance, underground nuclear testing experience actually has demonstrated that computer modeling, by itself, is not sufficient to provide assurance of weapons safety and reliability.

That this should be true is not surprising. Nuclear weapons are among the most technically complex devices mankind has ever created. I am responsible, under the Atomic Energy Act and under directives from the President, to protect the public health and safety and to identify and resolve nuclear safety problems connected with nuclear weapons. The Hatfield amendment would deny me the ability to fulfill these responsibilities. It is flawed because it assumes, for these extremely complex devices, that only three types of safety features are adequate to protect public health and safety and even would prohibit testing to verify the existence of other possible safety deficiencies or to confirm corrective actions.

Moreover, the Directors of our Nuclear Weapons Laboratories, who are charged with the responsibility to certify the safety and reliability of each type of nuclear weapon in our stockpile, have advised me that the proposed legislation seriously constrains their ability to make such certifications should problems develop with stockpile weapons. As a further consequence, they point out that this legislation would prevent the Department from completing the congressionally mandated Test Ban Readiness Program to which we have been committed as a high priority.

The Administration has responsibly moved forward in these changing times and on July 10, 1992, established a new policy which limits the number and types of nuclear tests to be performed in any given year while at the same time providing for continued assurance of nuclear weapons safety and reliability. The recent action by the Senate would most unwisely restrict the ability of the Secretary of Energy to learn what improvements in nuclear weapons safety are required and to make the improvements that prove necessary. This could also inhibit my ability to make improvements in response to the recent Drell Report and the forthcoming Fail Safe and Risk Reduction study being undertaken by Ambassador Kirkpatrick.

Accordingly, were such legislation enacted into law, I do not see how it will be possible for me or my successors to carry out the responsibilities imposed by law on the Secretary of Energy to address safety and reliability problems which may develop in stockpile weapons, the resolution of which can be critically important to protect public health and safety. In the absence of a responsible testing program, as time progresses, the Secretary of Energy would not have the technical justification for assuring the President and the American people that the nuclear weapons stockpile remains safe and reliable.

Sincerely,

JAMES D. WATKINS,
*Admiral, U.S. Navy (Retired).*

A couple of points here:

The essence of this proposal rests upon the proposition that, if we do not test, then others around the world are not going to develop their nuclear weapons. Professor or Dr. David Kay, who was responsible for the last three United States investigations in Iraq, just spoke on Capitol Hill yesterday and confirmed the fact that there is absolutely no relationship between United States testing of nulcear weapons and whether Third World dictators, like Saddam Hussein and others who could be named, are going to develop their atomic weapons, their nuclear weapons, and in fact he warned that really the only things that stand between those dictators having nuclear weapons and not is the supply of the fissionable material necessary. They have the expertise, they have all of the other equipment, they have the wherewithal. The only thing they do not have is that equipment, and whether the United States tests or not is not going to stop a lot of these Third World dictators from building these kinds of weapons.

Who are we kidding here? We are trying to say we have the moral high ground and that somehow that will prevent the others from testing. Yes, in the civilized world that might have some impact, and that is why we are a signatory and the leader with respect to treaties that require examination of other countries' nuclear programs, the peaceful programs, and that we are a signatory to other treaties that monitor tests, and that is why we have our own regime to determine how we would comply with a comprehensive nuclear test ban moratorium.

But who are we kidding to believe that, if we simply stop testing, that the Saddam Husseins of the world will quit the development of nuclear weapons? It is a false assertion, and, if we believe that we can suggest to our constituents that we are protecting the American people somehow by this practice, I think we are wrong.

Moreover, Mr. Speaker, we are not protecting or worrying about the safety of the people who have to deal with these weapons, and according to the Drell Commission which spoke to this question of the safety of United States personnel, as well as anyone else in proximity to these weapons, we need to continue to test to develop additional means of safety, not just the three that are called for in this amendment.

Understand what this amendment says. The only kind of testing we could do is safety testing, and the only three elements of safety testing are three known technologies, two of which are 1970's technologies. We would be precluded from developing other technologies.

Mr. Speaker, there are other points to suggest the fallaciousness of this amendment. I do not want to monopolize all of the time, but let me just mention a couple of others.

In the first place, Mr. Speaker, this amendment would say that we have a moratorium, an absolute moratorium, for 9 months, until July 1993. What purpose is that going to serve? We would not allow any underground tests for systems survivability. What this means, Mr. Speaker, is all of the radio equipment, communications, radar, other kinds of things that must work. One of the kinds of tests that we perform is to put our equipment in the hole with the nuclear device, explode that device and see what effect the radiation has on the ability of our equipment to work, such as radio equipment, radar, and that kind of thing. We could not test for that anymore.

□ 1920

Mr. Speaker, another point about this amendment: Unlike the amendment that the gentleman from Alabama [Mr. BEVILL] was referring to as amendment 57 last week, under this amendment nuclear tests would be allowed after September 30, 1996, only if another country tests after that date.

In other words, our entire testing program would be totally in the hands of other countries. It would make the ability of the United States to understand how these weapons worked, to understand whether they are safe or not, totally dependent upon the actions of another state. That is unacceptable for the security of the United States.

Moreover, as was demonstrated by the Iraqis, for some countries to have at least a rudimentary nuclear weapon you do not necessarily have to test. Therefore, the Iraqis of the world could develop these weapons without testing, and yet we will have tied our hands to ensure the safety and reliability of our own weapons.

Mr. Speaker, finally, one of the other premises of this amendment is bogus, and that is that somehow we will save money. We will actually be required to expend more money without the ability to conduct these kinds of tests, because underground nuclear tests would have to be prepared at considerable financial cost without knowing precisely whether they could be conducted because of the lack of knowledge about what other countries may or may not do. To the extent that we have to try to do it in laboratories, the kind of computer simulations that are involved here are extraordinarily complex, are not that well understood, and are very expensive.

Mr. Speaker, in summary I would make my points as follows: First, this is not the amendment we were talking about earlier. It is a much more intrusive amendment. It is opposed by the President, by the Secretary of Defense and the Secretary of Energy, and by the National Security Adviser, General Scowcroft. It would not save money. It would subject us to the whims of what other countries do. I guess, most importantly, the last two points, it would not prohibit other countries from developing nuclear weapons. Whether we test or not is not going to have much of an impact on the people we really fear in this world. Finally, it will not enable us to ensure the safety of these weapons for the protection of the people of the United States of America.

Mr. Speaker, for all of those reasons I urge my colleagues to vote no on this amendment. There will be opportunities to take up other versions of this. Remember, the defense authorization bill has not come to us. That I suggest is the more appropriate place for consideration of this subject.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the motion by the managers on the part of the House for the conference on H.R. 5373 to concur in amendment No. 57 reported in technical disagreement. This amendment would provide for a 9-month moratorium on nuclear weapons testing for each of the next several fiscal years and a complete ban after 1996.

While it may be an improvement over the original House position of a complete moratorium for fiscal year 1993, the fact that it also would legislate changes in the out years is worrisome to me. I do not see the need to provide for continuing 9-month moratoria year after year.

Frankly, I am concerned that our Nation's security may be compromised by restricting our ability to test our nuclear warhead stockpile on a routine basis. The scientific community has safety concerns over stored nuclear weapons that as I understand it require periodic testing that this amendment may foreclose.

I wish to register serious concern and urge the House to reconsider the moratorium language at an appropriate time next year when the effects are better known.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. DICKINSON], the ranking member of the Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, I was not expecting to speak this evening because I had not expected the matter to come up at this time and in this way. But let me say I have listened to the statement of the gentleman from Arizona [Mr. KYL], and I would like to adopt his statement as my own, because I agree with him 100 percent.

Mr. Speaker, the leaders of our country who are responsible for this, and I am talking about the Secretary of Defense, the National Security Adviser, General Scowcroft, and the Secretary of Energy, Admiral Watkins, are all adamantly opposed to what is being done here this evening.

I will read in part what was pointed out in a letter to Chairman ASPIN from Admiral Watkins:

> That this should be true is not surprising. Nuclear weapons are among the most technically complex devices mankind has ever created. I am responsible, under the Atomic Energy Act and under directives from the President, to protect the public health and safety and to identify and resolve nuclear safety problems connected with nuclear weapons. The Hatfield amendment would deny me the ability to fulfill these responsibilities. It is flawed because it assumes, for these extremely complex devices, that only three types of safety features are adequate to protect the public.

Mr. Speaker, the letter goes on to point out why this is not in the best interest of the country.

Mr. Speaker, as has amply been pointed out, to prohibit us from testing for safety will certainly not prohibit any other Third World country from developing on their own. That is a fallacious theory.

So I think we are being shortsighted in the extreme. I think we are working against our own best interests.

Mr. GALLO. Mr. Speaker, may I inquire how much time we have remaining?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from New Jersey [Mr. GALLO] has 13 minutes remaining, and the gentleman from Alabama [Mr. BEVILL] has 29 minutes remaining.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what shocks me is just a few hours ago we were told that what was proposed to us was an entirely different moratorium provision. It has been changed in the last few hours. I was just given a copy of the changes that were made within the last hour and a half.

Mr. Speaker, in talking to proponents of the amendment, you ask why you have 5 months. Some people propose a 12-month moratorium or a 9-month moratorium.

Now, they have all these different proposals on how long the moratorium should be. Then at the end they come up and say well, after that moratorium period, whether it is 5 months, whether it is 9 months, whether it is a year, that testing can resume.

Then they put all sorts of provisions on the President to resume, even coming down to a comprehensive plan, how to obtain a mutually verifiable test ban with the Russian republics, coming up with a list of all of the stockpiles. Everything they can think to make sure that testing maybe does not resume.

But let us say we do have a 9-month moratorium, and at the end of that time we start with testing again for 15 tests. Or if some foreign power, whether it is China, Russia, India, whoever it may be, detonates a nuclear device during that period, then testing can resume at that point.

It is going to cost the American taxpayer billions of dollars in the next 9 months for the personnel that are going to be sitting at the Nevada test site waiting to resume testing. If you want to allow 15 tests to be resumed and completed, why not just say right now you are going to have 15 tests, and if anybody starts detonating bombs during that period of time, further tests can be given, rather than a 9-month moratorium, a 5-month moratorium, or a 12-month moratorium, and cost the taxpayers of this country billions of dollars for personnel that cannot be laid off because they are so critical to our national defense efforts in testing.

☐ 1930

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I do not understand the exercise we are going through here and how this fell apart. The distinguished gentleman from the other body, from Louisiana, Mr. JOHNSTON, and our own distinguished and highly regarded gentleman, the gentleman from Alabama [Mr. BEVILL], they came up with an emergency waiver for the President of the United States, for the Office of the President of the United States.

There is no such waiver in what we are discussing now.

Last Saturday I went up to visit General Dynamics Electric Boat Division, and I went down inside the U.S.S. *Nebraska*. The skipper of that submarine took me on a tour. He will be with that submarine, that boomer, a big nuclear submarine, a Trident boat, for 2 years before it sets sail and is commissioned and gets U.S.S. in front of its name, the *Nebraska*.

He will only spend a year at sea. We are asking these young men to serve on that submarine complement of about 154 of them, living around a nuclear reactor and the 24 MIRV D5 missiles. We must test the reliability, as the gentleman from Indiana [Mr. MYERS] said, of the radioactive nuclear material inside these weapons.

I do not understand, following the course of China, where some old Communist bulls do not start dying off, why we think with such confidence here that China is not going to go an independent course, developing itself as a major nuclear power.

Right now one Trident boat at sea telling the bad forces of the world "don't," that one boat is worth more than the power of China. But they intend to close that gap.

I do not understand why we want to waste time with a vote. I think we should get, as we have before, about 160 Republican votes. I am appealing to Democrats of conscience to join us and give a powerful message that the President will be veto-proof on this and stop playing political games.

Mr. GALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I will not take time because we all want to get out of here. We promised we would finish by 7:30.

I would just like to point out, we have debated this issue of a nuclear testing moratorium many, many times in the House, many, many times over many, many years.

The last time we did it was when the authorization bill was on the floor just last spring. And what we passed in this House was a moratorium, a year's moratorium.

What we have got coming out of conference is a little different than that. It is a 9-month moratorium, and then it is testing afterwards. But it is not a new topic, and it is not a new subject.

I will not go into all of the arguments in favor of it except to say in answer to my friend, the gentleman from Arizona, that we are not doing it with any naive hope that other people are going to follow our lead. We are doing it with the hope that we will get the cooperation of all of the countries of the world, nonnuclear and nuclear alike, to put the pressure on the rogue states, the terrorist states, and to not export nuclear technology to them. It is going to be a new, cooperative world.

Finally, last point, we have all of the safety valves that we need in this. Any time, as this legislation has said, if anybody else tests, all bets are off and we can test.

I thank the gentleman from Alabama for yielding time to me.

Mr. BEVILL. Mr. Speaker, I yield myself 30 seconds.

I will just say this, I know we need to get going. I urge the Members to pass this amendment.

Mr. MARKEY. Mr. Speaker, I rise in support of the Senate Mitchell-Hatfield-Exon moratorium on nuclear testing.

The Bush administration and the weapons labs are like that Japanese soldier who kept on fighting in the Philippine jungles for 20 years after World War II had ended because he had never gotten the order to lay down his weapons.

The cold war is over. The Iron Curtain has fallen. The Soviet Union has been dismantled. Russia has stopped testing. France has stopped testing. It's high time for the Bush administration to lay down its bombs and bring Dr. Strangelove in from the Nevada test site.

In the sixties, Edward Teller said we needed test explosions to develop "clean" nuclear weapons that produced no fallout. We wasted millions of taxpayer dollars and never succeeded.

In the eighties, Edward Teller said we needed test explosions to develop a desk-sized x-ray laser that could destroy the entire Soviet ICBM force. We wasted billions and the only ICBM it ever shot down was on a Pentagon viewgraph.

Over the years, we were told there couldn't be a test ban because the Soviets might cheat by testing in big holes, during earthquakes or behind the sun.

When the Soviets allowed seismic verification stations on their soil, we were told testing was needed for weapons reliability. Congress established a nuclear test ban readiness program to assure continued reliability without continued testing.

Now we hear that testing is necessary for nuclear safety. Isn't it ironic that many of the same people who never cared about nuclear safety when it came to protecting American citizens from accidents at nuclear power plants or protecting nuclear waste suddenly start sounding like a bunch of granola chomping tree-huggers when it comes to protecting the safety of American weapons?

A safe nuclear weapon is an oxymoron. If you really care about nuclear safety, you'll vote for the Senate language, which establishes a 9-month test moratorium and phases-out all testing by 1996.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Wisconsin [Mr. ASPIN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 151, not voting 57, as follows:

[Roll No. 429]

YEAS—224

Abercrombie
Alexander
Anderson
Andrews (ME)
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (MI)
Condit
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Dorgan (ND)
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fawell
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Rahall
Reed
Regula
Richardson
Ridge
Riggs
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sawyer
Scheuer
Schroeder
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Visclosky
Volkmer
Walsh
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yatron

NAYS—151

Allard
Allen
Andrews (NJ)
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Boehner
Brewster
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Erdreich
Ewing
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Herger
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Nichols
Oxley
Packard
Patterson
Paxon
Pickett
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Weldon
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—57

Ackerman
Annunzio
Anthony
Barnard
Bliley
Boxer
Broomfield
Bryant
Bustamante
Campbell (CO)
Chandler
Clay
Collins (IL)
Cooper
Dicks
Donnelly
Downey
Dymally
Edwards (OK)
Fascell
Fazio
Foglietta
Frank (MA)
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Jones
Kasich
Lehman (FL)
Livingston
Machtley
Manton
McCrery
McCurdy
Myers
Olin
Ortiz
Orton
Rangel
Rinaldo
Savage
Schulze
Schumer
Serrano
Skelton
Solomon
Swett
Tallon
Valentine
Washington
Waters
Waxman
Weber
Yates

☐ 1956

The Clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Orton against.

Mrs. ROUKEMA and Messrs. CALLAHAN, WILSON, and MOLLOHAN changed their vote from "yea" to "nay."

Mr. ESPY and Mr. ROTH changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 57, and concurred therein with an amendment.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. DOWNEY. Mr. Speaker, unfortunately, I was unable to be here to vote on several bills. However, had I been here, I would have voted "yes" on record vote 419; "no" on record vote 420; "yes" on record vote 421; "yes" on record vote 422; "no" on record vote 423; "yes" on record vote 424; "yes" on record vote 425; "yes" on record vote 426; "yes" on record vote 427; "no" on record vote 428; and "yes" on record vote 429.

## LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Madam Speaker, I take this time to go over the schedule for tonight and tomorrow.

There obviously will be no more votes tonight. The House will come in at 10 a.m. tomorrow. There will be limited 1 minutes.

We expect a vote on postponement of consideration of the family and medical leave veto until next Wednesday, and then the VA, HUD appropriation conference. And if Members would want an estimate of when all of this could be finished, my best estimate is 3:30 or 4 o'clock at the latest tomorrow afternoon.

☐ 1050

## RESTORING HONOR TO THE HOUSE AND TO THE PRESIDENTIAL CAMPAIGN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I understand I missed some excitement around here when we laid down some new rules. That is fine. Rules are necessary to keep decorum in the House. But remember, Mr. Speaker, it is going to take about 20 years or more to restore the honor of this body. This is about the worst session I have been in out of about seven. The only one that might be worse was the session that some Members censored for seducing minors, Pages. In most of our States, that would be called statutory rape.

In that same session, we had three people nailed for cocaine. one of them had an attendance rate of only 20 percent.

But this year, with checks bouncing around here like popcorn, kited, most of them, but some real bounced ones, and then the cocaine scandal again over at the House post office which may explode into a radioactive issue, we have a lot to do to regain our honor.

The gentleman from Connecticut [Mr. GEJDENSON] began his speech by saying it is about time for President Bush to tell the truth.

Well, it is about time for Bill Clinton to tell the truth. He is not a Rhodes Scholar. He was a candidate for a Rhodes scholarship. There is only one exam at Oxford. He never took his final test. He ditched his whole second year of attending classes. He slept in a sleeping bag, going from room to room. He put on white makeup for that guerrilla theater in Grosvenor Square in front of our Embassy. He carried crosses and dumped them on the steps of our Embassy. He went to Moscow, and nobody knows what he did in Moscow. And why doesn't he tell the truth about his tax raising in Arkansas? Here is an article that details some of the sordid details behind Clinton's lust for higher taxes and bigger government. Read it and weep, America.

Mr. Speaker, the Democrats and the mass media would have the American people believe that Bill Clinton is a moderate. But those of us on the Republican side of the aisle recognize his true colors—the colors of a taxer and a spender.

I submit for the record a recent editorial by John Robert Starr that appeared in the Arkansas Democrat Gazette. Starr retired this year as the newspaper's managing editor after having covered Bill Clinton and Arkansas politics for decades.

John Starr offers an insightful picture of Clinton's liberal economic policies. He writes that:

> Clinton not only signed the two largest tax increases in Arkansas history, the tax bills were written by him, introduced by his cronies in the Legislature and pushed to passage by him, sometimes only after considerable arm-twisting and deal-making.

Mr. Speaker, the liberals and the mass media don't want to admit it, but Bill Clinton is no moderate. And he hopes to do in Washington what he did in Little Rock—raise taxes. But there would be no need for arm twisting or deal making because the Democrat leadership of the House and Senate would gladly jump aboard the Clinton express train to higher taxes, more Federal spending, and bigger government.

Clinton's $154 billion tax plan would doom our economy and all working Americans. President Bush, on the other hand, wants to cut taxes and offer fiscal incentives for investment, education and job training. The choice for our Nation's future is obvious.

The facts keep coming out on an hourly basis.

LAUGHING AT THE "TRUTH SQUAD"

> HOUSTON.—I moseyed over to the first session of Betsey Wright's "Truth Squad" on Tuesday, mostly so I could ask Rod Brown a question.
>
> Brown is the Democratic national chairman, an I guess I should refer to the Truth Squad as his, because in Democratic Party circles, he outranks Wright, who is a mere deputy manager of Bill Clinton's presidential campaign.
>
> The Truth Squad, in case you haven't heard about it, is a team of Democratic officials who came to Houston, they say, to point out lies told by speakers at the Republican National Convention. The Republicans had a truth squad in New York during the Democrats' convention.
>
> I figured Brown would be talking about George Bush's "no new taxes" pledge of four years ago. I figured right. The Democrats apparently have adopted a strategy of trying to brand Bush as a tax and spender (pause for a laugh up the sleeve) and to present Clinton as a fiscal conservative who has held taxes down in Arkansas (long pause for a choking guffaw up the sleeve).
>
> The question that I wanted to ask Brown, the self-styled expert on taxes and spenders, was: Do you know how many times Bill Clinton promised not to raise taxes and then went ahead and did it?
>
> I arrived early for the Truth Squad's news conference in a cramped room at Pappadeaux's restaurant across Interstate 610 from the Astrodome and stationed myself on the front row, about three feet away from the speaker's stand.
>
> When the show started, Brown proudly displayed two new Clinton campaign commercials, one of which went right to the heart of what I wanted to ask him about
>
> The commercial states: "George Bush signed into law the second biggest tax increase in American History. Under Bill Clinton, Arkansas has the lowest tax burden in the country."
>
> When Brown quit talking, I took advantage of my position up front to pop him with the first question. He didn't blink. He said Betsey was there to answer questions about Arkansas.
>
> I didn't repeat the question when Betsey took the stand because I didn't want to bait my fellow Arkansan (and one of my favorite people) in front of the national news media. After the session, she recalled that Clinton had broken a no-tax pledge once. I remember twice, but the number doesn't matter. Once is enough to disqualify any attack by the Clinton campaign on Bush's no new taxes pledge as hypocrisy.
>
> The national media assembled for the Truth Squad session didn't pursue my question about how many times Clinton had broken a no-tax pledge. They seemed not at all interested in balancing their stories about the new commercial with the truth about Bill Clinton's tax and spend record. They were more concerned about whether the new commercials, being aired for the time being only in Houston and Washington, DC., were designed for voters or to impress the media.
>
> If the media ever bother to try to find out the whole truth about taxer and spender Bill Clinton, the commercial of which Ron Brown is so proud may backfire.
>
> Bush may have signed the second largest tax increase in the nation's history, but he did so at the insistence of Democratic members of Congress who demanded that a tax increase be combined with spending cuts in an attempt to reduce the deficit.
>
> Clinton not only signed the two largest tax increases in Arkansas history, the tax bills were written by him, introduced by his lackeys in the Legislature and pushed to passage by him, sometimes only after considerable arm-twisting and deal-making.
>
> I've rebuked the media for not finding out the truth about Clinton but I am sometimes compelled to wonder if the Bush campaign knows about his record.
>
> Responding to the aforementioned Clinton commercial, the Bush campaign said only that taxes in Arkansas were low because Arkansas citizens have been kept poor by Clinton.
>
> That's campaign rhetoric. Worse, it's a half-truth. Taxes in Arkansas are low because Arkansas is not a rich state, but it was poor for a long time before Clinton came along. He hasn't helped the state's economy nearly as much as he says he has, but to say that he has "kept" the state poor simply isn't true.

□ 2000

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5192, MAKING IMPROVEMENTS TO VETERANS HEALTH PROGRAMS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-907) on the resolution (H. Res. 578) providing for the consideration of the bill (H.R. 5192) to amend title 38, United States Code, to make improvements to veterans health programs, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, APPROPRIATIONS ACT, 1993 AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-908) on the resolution (H. Res. 579) waiving points of order against the conference report to accompany the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

## COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1993-1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures on the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1993 through 1997 and spending for fiscal year 1993. Spending levels for fiscal years 1994 through 1997 are not included because annual appropriations acts for those years have not been enacted.

This is the first report of the 102d Congress for fiscal year 1993. This report is based on the aggregate levels and committee allocations for fiscal years 1993 through 1997 as contained in House Report 102-529, the conference report to accompany House Concurrent Resolution 287.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
*Washington, DC, September 23, 1992.*
Hon. THOMAS S. FOLEY,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1993 through 1997 and spending estimates for fiscal year 1993, under H. Con. Res. 287, the Concurrent Resolution on the Budget for Fiscal Year 1993. Spending levels for fiscal years 1994 through 1997 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to H. Con. Res. 287 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102-529).

Sincerely,

LEON E. PANETTA,
*Chairman.*

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1993 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 287

### REFLECTING COMPLETED ACTION AS OF SEPTEMBER 17, 1992

[On-budget amounts, in millions of dollars]

| | Fiscal year 1993 | Fiscal years 1993–97 |
|---|---|---|
| Appropriate level: | | |
| Budget authority | 1,246,400 | 6,669,200 |
| Outlays | 1,238,700 | 6,472,700 |
| Revenues | 845,300 | 4,812,900 |
| Current level: | | |
| Budget authority | 760,252 | NA |
| Outlays | 952,366 | NA |
| Revenues | 848,739 | 4,805,558 |
| Current level over (+) under(−) appropriate level: | | |
| Budget authority | −486,148 | NA |
| Outlays | −286,334 | NA |
| Revenues | +3,439 | −7,342 |

Note.—NA—Not applicable because annual appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority that is not included in the current level estimate, and exceeds $486,148 million in budget authority for fiscal year 1993, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 287 to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1993, and exceeds $286,334 million in outlays for fiscal year 1993, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 287 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $3,439 million for fiscal year 1993, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 287. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1993 through 1997, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 287.

### DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1993

[In millions of dollars]

| | Revised 602(b) subdivisions | | Current level | | Difference | |
|---|---|---|---|---|---|---|
| | Budget authority | Outlays | Budget authority | Outlays | Budget authority | Outlays |
| Agriculture, rural development | 13,874 | 13,420 | 13,873 | 13,420 | −1 | 0 |
| Commerce, State, Judiciary | 22,704 | 21,772 | 50 | 5,502 | −22,654 | −16,270 |
| Defense | 255,761 | 267,076 | 0 | 97,619 | −255,761 | −169,457 |
| District of Columbia | 714 | 724 | 0 | 10 | −714 | −714 |
| Energy and water development | 21,836 | 21,309 | 0 | 9,023 | −21,836 | −12,286 |
| Foreign operations | 14,701 | 13,301 | 0 | 7,650 | −14,701 | −5,651 |
| Interior | 13,230 | 12,666 | 525 | 4,339 | −12,705 | −8,327 |
| Labor, Health and Human Services, and Education | 62,151 | 62,553 | 510 | 35,639 | −61,641 | −26,914 |
| Legislative | 2,343 | 2,392 | 0 | 322 | −2,343 | −2,070 |
| Military construction | 8,560 | 9,487 | 0 | 6,402 | −8,560 | −3,085 |
| Transportation | 12,781 | 33,375 | 0 | 21,963 | −12,781 | −11,412 |
| Treasury-Postal Service | 11,170 | 11,958 | 0 | 3,133 | −11,170 | −8,825 |
| VA-HUD-independent agencies | 66,303 | 65,307 | 850 | 37,826 | −65,453 | −27,481 |
| Grand total | 506,128 | 535,340 | 15,808 | 242,848 | −490,320 | −292,492 |

### DIRECT SPENDING LEGISLATION

[Fiscal years, in millions of dollars]

| | 1993 | | | 1993–97 | | |
|---|---|---|---|---|---|---|
| | Budget authority | Outlays | New entitlement authority | Budget authority | Outlays | New entitlement authority |
| House committee: | | | | | | |
| Agriculture: | | | | | | |
| Appropriate level | 0 | 0 | 0 | 13,656 | 12,806 | 15,190 |
| Current level | 1 | 1 | 0 | 5 | 5 | 0 |
| Difference | +1 | +1 | 0 | −13,651 | −12,801 | −15,190 |
| Armed Services: | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| Banking, Finance and Urban Affairs: | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | −26 | −26 | 0 | −24 | −24 | 0 |
| Difference | −26 | −26 | 0 | −24 | −24 | 0 |
| District of Columbia: | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| Education and Labor: | | | | | | |
| Appropriate level | 0 | 0 | 1,472 | 0 | 0 | 21,564 |
| Current level | −128 | −148 | 1,372 | −132 | −177 | 13,525 |
| Difference | −128 | −148 | −100 | −132 | −177 | −8,039 |

DIRECT SPENDING LEGISLATION—Continued

[Fiscal years, in millions of dollars]

| | 1993 | | | 1993-97 | | |
|---|---|---|---|---|---|---|
| | Budget authority | Outlays | New entitlement authority | Budget authority | Outlays | New entitlement authority |
| **Energy and Commerce:** | | | | | | |
| Appropriate level | 35 | 35 | 0 | 187 | 187 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | −35 | −35 | 0 | −187 | −187 | 0 |
| **Foreign Affairs:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Government Operations:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **House Administration:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Interior and Insular Affairs:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Judiciary:** | | | | | | |
| Appropriate level | 251 | 251 | 251 | 251 | 139 | 251 |
| Current level | 250 | 250 | 250 | 251 | 251 | 251 |
| Difference | −1 | −1 | −1 | 0 | +112 | 0 |
| **Merchant Marine and Fisheries:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Post Office and Civil Service:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Public Works and Transportation:** | | | | | | |
| Appropriate level | 2,000 | 22 | 0 | 10,596 | 22 | 0 |
| Current level | 0 | 28 | 0 | 0 | −44 | 0 |
| Difference | −2,000 | +6 | 0 | −10,596 | −66 | 0 |
| **Science, Space, and Technology:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Small Business:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| **Veterans' Affairs:** | | | | | | |
| Appropriate level | 0 | 0 | 339 | 0 | 0 | 6,566 |
| Current level | −1 | −1 | 0 | −1 | −1 | 0 |
| Difference | −1 | −1 | −339 | −1 | −1 | −6,566 |
| **Ways and Means:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 352 | 352 | 1,213 |
| Current level | 3,372 | 3,372 | 3,257 | 4,472 | 4,472 | 4,317 |
| Difference | +3,372 | +3,372 | +3,257 | +4,120 | +4,120 | +3,104 |
| **Permanent Select Committee on Intelligence:** | | | | | | |
| Appropriate level | 0 | 0 | 0 | 0 | 0 | 0 |
| Current level | 0 | 0 | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |

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U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, September 23, 1992.*

Hon. LEON E. PANETTA,
*Chairman, Committee on the Budget, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1993 in comparison with the appropriate levels for those items contained in the 1993 Concurrent Resolution on the Budget (H. Con. Res. 287). This report, my first for fiscal year 1993, is tabulated as of close of business September 17, 1992, and is summarized as follows:

[In millions dollars]

| | House current level | Budget resolution (H. Con. Res. 287) | Current level +/− resolution |
|---|---|---|---|
| Budget authority | 760,252 | 1,246,400 | −486,148 |
| Outlays | 952,366 | 1,238,700 | −286,334 |
| Revenues: | | | |
| 1993 | 848,739 | 845,300 | +3,439 |
| 1993-97 | 4,805,558 | 4,812,900 | −7,342 |

Sincerely,
ROBERT D. REISCHAUER,
*Director.*

### PARLIAMENTARIAN STATUS REPORT 102D CONG., 2 SESS., HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS SEPT. 17, 1992

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| ENACTED IN PREVIOUS SESSIONS | | | |
| Revenues | .......... | .......... | 844,708 |
| Permanents and other spending legislation | 758,335 | 733,493 | .......... |
| Appropriation legislation | .......... | 241,891 | .......... |
| Offsetting receipts | (187,433) | (187,433) | .......... |
| Total previously enacted | 570,902 | 787,951 | 844,708 |
| ENACTED THIS SESSION | | | |
| Appropriation legislation: | | | |
| 1992 Rescissions (Public Law 102–298) | .......... | (1,829) | .......... |
| Disaster assistance for Los Angeles and Chicago (Public Law 102–302) [1] | .......... | 44 | .......... |
| Agriculture (Public Law 102–341) | 60,170 | 40,228 | .......... |
| Other Spending legislation: | | | |
| Emergency unemployment compensation extension (Public Law 102–244) | 600 | 600 | 500 |
| White House commemorative coins (Public Law 102–281) | (26) | (26) | .......... |
| Extend certain expiring veterans' programs (Public Law 102–291) | ([1]) | ([1]) | .......... |
| Unemployment compensation (Public Law 102–318) | 3,372 | 3,372 | 3,526 |
| Transfer of certain naval vessels (Public Law 102–322) | .......... | .......... | 5 |
| Higher education amendments (Public Law 102–325) | (128) | (148) | .......... |
| Partial restoration of highway obligational authority (Public Law 102–334) | .......... | 28 | .......... |
| Pacific Yew Act (Public Law 102–335) | 1 | 1 | .......... |
| Discretionary estimating adjustment (H. Con. Res. 287) | .......... | (1,848) | .......... |
| Total enacted this session | 63,988 | 40,421 | 4,031 |
| ENTITLEMENTS AND MANDATORIES | | | |
| Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2] | 125,112 | 123,744 | .......... |
| PENDING SIGNATURE | | | |
| Civil Liberties Act amendments (H.R. 4551) | 250 | 250 | .......... |
| Total current level | 760,252 | 952,366 | 848,739 |
| Total budget resolution | 1,246,400 | 1,238,700 | 845,300 |
| Amount remaining: | | | |
| Over budget resolution | .......... | .......... | 3,439 |
| Under budget resolution | 486,148 | 286,334 | .......... |

[1] In accordance with section 251(a)(2)(D)(i) of the Budget Enforcement Act, the amount shown for Public Law 102–302 does not include $380,000,000 in outlays in emergency funding.

[2] Includes changes to the baseline estimate for the Food Stamp Program due to the following legislation: Technical Correction to the Food Stamp Act (Public Law 102–265); higher education amendments (Public Law 102–325); prevent annual food stamp price adjustment (Public Law 102–351).

Note.—Amounts in parentheses are negative.

## THE PRESIDENTIAL CANDIDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Madam Speaker, it is 5 o'clock in Los Angeles, 3 o'clock in the afternoon in the great State of Hawaii, and I am going to be operating under new rules in the House tonight proclaimed by our Speaker this morning, the gentleman from Washington [Mr. FOLEY], that henceforth Presidential candidates, and I guess that would apply to the whole range of small and independent party candidates across this country including the Libertarian candidate, Andre Marrou, and certainly to the Governor of Arkansas, Mr. Clinton, that they are going to be covered by the same rules of decorum as the House, that no Member can call any of the Presidential candidates a liar even when they boldly lie, and then I saw the gentleman from Connecticut [Mr. GEJDENSON] get up, a good friend, a good colleague from Connecticut, and he said it is time for President Bush to start telling the truth. Well, now, what are young people supposed to understand? How are they supposed to interpret that, Madam Speaker, that if the President is not telling the truth, what is he doing then, if the assumption is he is telling untruths?

So I got up during a 1 minute this morning and I said that it is time for the Governor of Arkansas, Bill Clinton, to start telling the truth. I guess there is more than one way to skin a pussycat.

Now, I want to tell my colleagues, and, Madam Speaker, the million American citizens who watch our 1 minutes at the beginning of the day and stay with us through our legislative proceedings no matter how many interested men and women are on the floor of this splendid hall and no matter how long the special orders go at night, there seems to be still an audience of a million people, C–SPAN tells me. That is why I like to point out, because the cameras are under the orders of the Speaker, a ruling created by two Speakers ago, never ruled on by this Chamber, by the 100th Congress, the 101st Congress, or the 102d Congress, the cameras are now roaming the Chamber showing that there are about 12 Members on the House floor. That is more than we sometimes have in the morning during 1 minutes.

That is done to embarrass people who are watching that they see some poor, hapless man or woman in the well here at the Democratic lectern or the Republican lectern speaking to a hall of winds.

We never know how many people are going to be in the gallery, but there are a million people out there listening. So I want to tell a million people why it is important to this Member that a flagrant draft dodger not be elected to the Presidency of the United States.

Whether he is telling the truth or not, the character issue, the problem of dissembling and the flat out not coming clean with the truth, trying to operate, Madam Speaker, under new rules here, that is all-important, too, and probably of primary, paramount importance, but let me tell you why it is important to this Congressman that a draft dodger not be elected President of the United States.

When I was a young boy in grade school, Sister Miriam Rita in the sixth grade thought I was talking in the class. I probably was. But it is easy to nail the redhead and say, "BOB DORNAN, go in the hall and do not come back until you have memorized every President of the United States." So after a period of time, I came back in, "Washington, Adams, Jefferson, Madison, Monroe, John Quincy Adams, Jackson, Van Buren, boom, boom, boom, up through Tippecanoe and Tyler, too, Abraham Lincoln, downhill all the way through the President when my dad was born, Benjamin Harrison, Grover Cleveland, he gets it back again, here comes McKinley, the great Teddy Roosevelt, Taft comes in, Teddy tries to come back, then we get Woodrow Wilson, then we get Harding," and his wife said to him, "Warren Harding, I have just given you the Presidency of the United States. What are you going to do with it?" Well, not much; God had other plans, and here comes Calvin Coolidge, and then Herbert Hoover, and then comes the Depression, and then comes a string of unbroken people with great military records, for example, Assistant Secretary of the Navy Franklin Delano Roosevelt, our Commander in Chief.

There is a beautiful statue to Roosevelt in that great black cape he used to wear right in Grosvenor Square in front of our Embassy, and in front of that statue of Roosevelt, a young student from Georgetown ditching his Rhodes scholarship classes at Oxford created a demonstration where they put skulls on top of poles, and inside these fake skulls, I hope they were fake skulls, in the eyes and in the mouths of the skull were pictures of Americans who gave their lives in Vietnam. Who knows, maybe one of those pictures, by sheer ironic, poetic justice and coincidence, was the picture of one of the young farm boys with a high-school diploma from the suburbs and farms of the rural area around Hot Springs who took Bill Clinton's place in the draft the year before, and young Clinton, 23 years of age, organized that demonstration, carried those skulls, and a lot of white crosses up and dumped them on the steps of the Embassy right in front of Franklin Delano Roosevelt's statue.

Who followed President Roosevelt, our Commander in Chief through three terms and a few 80-plus days of another term, during World War II? He was succeeded by Harry Truman, who right down here one floor down in room 128 in what the great Sam Rayburn, the Speaker, called the education room, not because they dealt with those issues but because he brought Members in there to get them smart, a staffer walked in and said, "Mr. President," to the Vice President, "Mr. President, the President is dead," and Harry Truman knew then that the burden of seeing the end of this war in Europe and in the Pacific theater against the warlords of Japan, that the burden was on his back.

The war ended in Europe on Harry Truman's birthday on May 8, and Harry Truman had seen combat in that very area of Europe as Harry Truman, captain, artillery, and my dad was Harry Dornan, captain of artillery, with three wound chevrons, now recalled again, Purple Hearts, two for poison gas and one for shrapnel.

Harry Truman was followed by the five-star general who had won that crusade in Europe and who asked that the "Our Father" be played over 5,000 ships' public address systems on the eve of the Normandy Invasion. Would that not be politically incorrect today to have a U.S. President ask that the "Our Father," the words of Jesus, the savior himself, be played to all of the invasion troops? They heard Eisenhower's words, "You are embarking on a great crusade for liberty."

He became the next President and served 8 years. That was not going to happen again until Ronald Reagan.

□ 2010

Then after the President came young John F. Kennedy, sworn in at 43 years of age. Only by assassination had Teddy Roosevelt ascended to that office at age 42. But elected President at 43 was John F. Kennedy, he said, "The torch has been passed to a new generation of Americans." He was a PT boat skipper, a rich kid, far richer than George Bush, but because he was an Irish-American, like me, he was never called a person of privilege, although his father was a multimillionaire. For an Irish kid to go to Harvard, for an Irish kid to volunteer to serve in the Navy, his older brother serving as a Navy pilot, who died over the English Channel on a secret mission to blow up German sub pens. No, the Irish did not have to take that privileged class crap about noblesse obligel. But George Bush heard about Pearl Harbor at his day school that Governor Clinton was criticizing this very day and went down and joined on his 18th birthday, motivated by one of Roosevelt's Republican Cabinet officers, Secretary of the Navy, who spoke at Bush's high school.

On his 18th birthday, before the year was out, he was the youngest Navy pilot on active duty. That record was later broken by a lot of other 18-year-olds later on in the war. Then he went off to fly torpedo bombers—but I am ahead of my story.

Because after Kennedy and his terrible assassination came Lyndon Johnson. And that same great Speaker, Sam Rayburn, for whom this room has been named, and the biggest office building over there, the Rayburn Building, Rayburn engineered a Navy commission for Lyndon Johnson. He said, "Lyndon, I want you to be my eyes and ears out there in the Pacific. You get a couple of other guys and you go and tour the South Pacific."

While he was there as a staff officer, Johnson did not have to fly on a combat mission, but he did. He climbed into the back seat of a B-26. One of his other staff officers got in another Marauder, and he died on that mission.

Madam Speaker, I wear a St. Christopher medal around my neck, welded to the back of a medal of Christ's face. This little St. Christopher was around the neck of the lead pilot in that formation, Walter Krell, lieutenant in the 22d Bomb Group. He was in the lead Marauder. They were attacked by Japanese Zeroes. Lyndon Johnson was in the Marauder on Lieutenant Krell's wing. And because the planes were strafed and attacked, Lyndon Johnson, a Congressman on temporary leave to the Navy, got a Distinguished Flying—excuse me, Silver Star. He could not get a DFC because he was not a pilot. But he got a Silver Star for being in the back of the airplane. Lyndon Johnson was so proud of that one combat mission, so proud of the fact that he did something he did not have to, that he never again was without that little emblem of the Silver Star in his lapel.

What came after Lyndon Johnson? Richard Nixon, another Navy lieutenant, who asked for combat in the Pacific but somebody has got to get the supplies there. He ended up a supply officer and hated it because he wanted a political career. But he volunteered for combat and served honorably in a combat theater.

When he resigned, he turned over the reins to LtSG Jerry Ford, who had spent 25 years in this House and was a minority leader when he was picked as Vice President. So Lieutenant Kennedy goes to a Lieutenant Johnson goes to Lieutenant Nixon goes to Lt. Jerry Ford.

And then comes another Navy lieutenant, a graduate of Annapolis, a submarine officer, a nuclear officer, Jimmy Carter, a Southern Governor who, like me, served in peacetime because he could not control the year of his birth.

And who came after Lt. Jimmy Carter? Capt. Ronald Reagan of the Cavalry, who transferred to the Army Air Corps. Clinton said Reagan had never served in the military and therefore he, Clinton, could be a good Commander in Chief. Clinton did not know anything about the Presidents. He does crossword puzzles. I admire people who have that concentration. He reads mystery novels. I do not have time to read mystery novels. I read history books and biographies, and I do not have time as a Congressman to work out crossword puzzles, with the rush of news that comes at every man and woman in this splendid hall and Chamber north of us, that of the U.S. Senate.

So I look at Ronald Reagan's background, and I say, "Now, wait a minute. Everybody knows Reagan was born February 6, 1911. We just celebrated his 81st birthday." So that is pretty easy arithmetic: 1911–41. He was 30 years old at Pearl Harbor. Within a few weeks he was 31 years old. When you are 31, you do not have to worry about whether you are married and have 2 children, about being called into active duty. That is the case with Dick Cheney, who was married, with children. Cheney was born in '41. So, in '61, he was 20. By the time we got to the Vietnam big time he was 24 years of age, going on 25, with a wife and 2 children. It is all your birth year that determines the window of opportunity when you will serve.

You do not have to have served to be the Commander in Chief, but if there is a window that opened up in your youth because of the fortune or misfortune of your birth and your country says, through that Uncle Sam poster, "I want you," then you must not let some other young man go in your place. This is not ancient Rome, where a corrupt civilization let people pay people to serve in the military. This is not the Civil War, where prominent people in the North paid—they did not do that in the South—paid to have somebody take your place and die at Gettysburg or Fredericksburg. This is the United States of America, where if you are of a certain age and you are young and before the draft call starts to get into young marrieds without children, you do not let someone else take your place.

So Ronald Reagan, at age 31, has to go, and they said, "Look, you are a movie star, you have talents as a communicator." Does anybody doubt that? Even in his young years, look at the great communicator who rose to be president of the Screen Actors Guild and represents his guild, the men and women in his profession.

They said, "You will make training films."

So at 31, 32, and 33, with 2 little kids under 10, Ronald Reagan made training films. It gave him a great respect for the young men 10 years younger who were dying 50 years ago tonight in the beaches and in the jungles of Guadalcanal. The Russian kids trying to turn back the Nazi onslaught at Stalingrad, kids dying in the desert against Rommel, although 50 years ago he had gone to Germany for health reasons and we began to head toward the next month's victory at El Alamain, where American supplies and M-3 Grant tanks gave the upper hand to Field Marshal Montgomery at El Alamain.

So that is Reagan's story. Who comes after President Reagan? His Vice President, another Navy lieutenant senior grade, with 58 combat missions under his belt.

No, when you start looking at Washington, Adams, Jefferson, Madison, Monroe, John Quincy Adams, Jackson, another general, Martin Van Buren, William Henry Harrison, another general, that is "Tippy Canoe and his Vice President, Tyler too." Then we get Polk, who was the Commander in Chief during the Mexican/American War. You come up to Lincoln, who, although he demeaned his Black Hawk—the captain in the Black Hawk Regiment said that they fought mosquitos more than they fought native Americans, and that is trying to be used to compare Clinton to Lincoln. For God's sake, this man being of the same caliber as the greatest President we ever had. When you come down through all our Presidents, I do not want to see the name of Clinton after the number 42.

I got a catalogue here in the mail just last night called Thornberry's. Now, here is a beautiful palladium-style frame with black ribbon on it and showing 41 Presidents of the United States through Navy lieutenant combat carrier attack pilot George Bush. We are going to hang a draft dodger onto this assemblage of American Commanders in Chief? I can hear Patrick Henry's words: "God forbid it."

I got a hold of his book today, $20, "The Life and Career of Bill Clinton: The Comeback Kid."

How I pray to Heaven the comeback kid is going to be Ronald Reagan 39 days from tomorrow.

Here is what it says on the back jacket. It shows Clinton meeting President Kennedy, June of 1963, at the end of Bill Clinton's junior year. It is the American Legion Boys Nation group in the Rose Garden. Here in the back is our freshman Congressman from the Republican side, JIM RAMSTAD. They had rooms across from one another at the University of Maryland. And after this night and for every breakfast, lunch, and dinner for the next few days, young high school graduating junior Bill Clinton told young JIM RAMSTAD, "I am going to be the President of the United States."

Well, why did he not live his life from there on in as though he were going to be a role model for America's young people across this country?

Here is what it says on the jacket: "As an individual American, Bill Clinton should follow the course he has set out for others. He must examine himself, his strengths, his faults, his weaknesses, and he must above all be honest about it." Be honest about it. "He must ask himself this question: Is he willing to expend his political capital to risk losing in order to be a true leader?" And this is a book written for him, this is a puff piece for the campaign.

□ 2020

He has got to ask himself about this catch-22 situation that he got himself into.

Now, to refresh your memory from the great Heller book "Catch-22", a young B-25 pilot, a Billy Mitchell pilot, Yossarian is the fictitious character's name in South Italy, he goes into the doctor and he says, "I don't want to fly anymore. I think I am crazy."

And the doctor says, "Well, why don't you want to fly?"

And he says, "Well, I think I will get killed."

And he says, "If you think you can get killed in combat, then you are not crazy. catch-22. Therefore, you have to go back into combat."

Now, here is Bill Clinton's catch-22. Why is he so uneasy discussing his draft dodging? Why could he not simply stand tall and say there are a lot of Members in Congress on both sides, there are other Governors who took advantage of Robert McNamara's dishonest, lousy, immoral statement that college kids are our future and they would not have to go. The playout of that was African-Americans went, Hispanic Americans went, sons of military families, sons of conservative families. My brothers and I were a double hit in that category at the end of the Korean War. Our birth dates mercifully saved us from harm's way in combat. If you are the son of an Army Lieutenant Colonel and a born and bred conservative, you serve your country. The exceptions to the rule prove the case.

The fifth category, of course, was big-time farm kids. I remember going to the town of Washington, Indiana, during the way, and here was an obelisk in the center of town. Anybody listening from Washington, Indiana, Mr. Speaker? They can check me out on this. There is a memorial in the center of town, "Killed in Action in Vietnam." Ten or eleven names, all farm kids.

In the town in which I grew up, now one of the wealthiest cities in America, Beverly Hills, nobody went. The last person we can talk about was Colonel Robin Olds, who was commanding the 8th Fighter Wing over Phnum Penh, who had gone to the Beverly Hills High School. Robin Olds was about it and he had gone through several wars before that.

Nobody was going from Beverly Hills. That was a city of privilege, of upper middle class and very wealthy families and the wealthy super rich, and all their kids could get out of it and go to college.

I went to Vietnam eight times as a correspondent and every time I would meet some heroic young guy that says, "I didn't want to be here. What the heck am I doing here? I was drafted."

I would say, "You could have said you were a homosexual, pulled out a few teeth, cut off a finger, like somebody did, or easier than that, you could have gone to Norway or Great Britain or Sweden, Canada right across the border, Mexico. You know you could have run away. Did you have any friends that did that?"

"Yes, I guess I did."

"Well, in a way, don't you have your honor? Don't you have the nobility that you are here?"

And he said, "Yes, but we are not being allowed to win this." That is the most common thing I heard in all the eight trips to Vietnam from 1965 to the summer of 1972 when we were pulling out was, "We are not being allowed to win this."

Yes, it was a gut-ripping war, and I do not criticize anybody who said at the end, particularly after Johnson had left and taken McNamara and Clark Clifford to fulfill the 8th year of McNamara's term as Defense Secretary; in other words, McNamara was in for seven years, quit on leap year day, the 29th of February, 1968, so he only would have to think about it every four years, I guess.

That was the bloodiest month of the war. The Tet Offensive started the 30th of January, and McNamara quit 30 days later. He left blood on the battlefields, although we won the battle of Tet. The media reported it otherwise, but we won big time. There were no more Vietcong after the end of February 1968. But McNamara left prisoners in Hanoi being tortured to death, some of them, and walked off the battlefield, and LBJ's reward to him to keep his mouth shut was to go to work at the World Bank for over $200,000 a year—and get these next two words—"tax free." And he hid out there, refusing to tell the media anything about Vietnam, and to this day he has only spoken about it once in Newsweek a few weeks ago. He praised Bill Clinton as being as honorable as those young men who took his place, those farm kids with a high school diploma that maybe went on to Vietnam or to Korea or Europe. There was no guarantee you were going to Vietnam if you were drafted.

So it is this history, this love of history that I have and this respect for Churchill and the Churchill principle that if you want to be the Commander in Chief, to put yourself in a position to ever order men, and now maybe women into combat, you must be willing to wear the uniform, even if it is a war you totally disagree with, as Churchill proved when he went off to the Boer War in South Africa and fought Dutch Afrikaners, which he thought was a mistake. He got captured. He escaped. He got on a train and then he went off to Afghanistan where he got shot at again.

Remember Churchill's line? "There is nothing that focuses your attention so much as being shot at and not hit."

And Churchill said, "You must do this if you want to command other men."

He had a dream, like Clinton, to be the Prime Minister, the head of his country. Like me, yes, like me. I dreamed about being the President after I sat at Roosevelt's desk when I was 8 years of age in 1941, but I always knew that if I was ever going to come to this House, even as a Congressman or a Senator, my standard was that I must do the most dangerous thing in the military. So I asked to be a jet fighter pilot and made it through, against incredible odds. Out of the 400 I started testing with, only three of us ever got our little silver wings; but God spared me being in harm's way, except as a journalist which was totally my call, because I was between wars.

So what is my debt? My debt is to my father, to my older brother in Korea, to all the people who served ahead of me and on the gap in-between wars. I asked to go back. By then I was down to flying seaplanes at March Air Force Base, got my orders under a program called "Operation Palace Guard" to go to Vietnam, and they canceled it. But I got a good efficiency report that I had volunteered to go to Vietnam.

I said, "OK, if I can't go over in uniform, I'm going over as a reporter."

In all those eight trips over there, I saw loving men, I saw black Americans and every other color and creed and ethnic background of America loving one another, getting along.

The second time I went to Vietnam, the first time was ferrying an airplane, the first time I went as a civilian reporter, I took out a kit, using my Reserve Air Force Commission, and went into a barracks for enlisted men right in downtown Saigon. I got a bunk next to this tall, handsome black American, who had a brand new Silver Star, sitting next to his bunk on a little box for a nightstand. I introduced myself. I wish to heavens I had memorized his name, something like Thompson.

I said, "sergeant, what did you get the Silver Star for?"

As with most heroes, you have to pull teeth to get them talking, and I got him talking. I remember his words like it was a year ago. I guess I am not cursed with a bad memory, like Bill Clinton.

He said, "You know something, I've got four kids in my unit."

I remember the State, Alabama, and I remember this colorful line.

He said, "you know, when Charlie starts cuttin' Bush, we start calling him Sir Charles."

This is May of 1966.

"We start calling him Sir Charles."

He said, "He is a good fighter, and when we are in combat, every one of us is some mother's son, and I love those white kids from Alabama as though they were my blood brothers."

I remember thinking 3 years after the great Martin Luther King March in which I participated in my Air Force uniform. Anybody questions that, come to my office, because I found color pictures of it in the Library of Congress of my sitting in the second row of that great Martin Luther King "I have a dream" speech.

I looked at this sergeant, and I thought, is this what is going to come out of this war, maybe finally a respect and a love of the races together?

There were about 11 percent blacks in Vietnam serving, and they took about 12 or 13 percent of the casualties.

I did see men in every trip I went back. The next year I went back with missing-in-action wives, none of them ever got back their young Air Force pilot heroes. I went back twice in 1970, took one trip with mothers of missing-in-action.

I went back in 1972 on my own. Each time I tried to scrounge a few combat missions with a Bolex camera, a Nikon, and a notepad. Every time I went back there I saw men and women, Army nurses that you could believe the way they were working in this triage with torn apart kids. Every time I went back I saw an effort where most of the young people there, and the old hands called the lifers, the old timers, felt it was a noble cause and they were fighting against Communist aggression.

I would come home, and the first day I was home I would turn on the television set and I would say to my wife, "Where is this war being fought that I am seeing on television, the dark side of the moon? Is this some battle on the planet Mars?

This is not the noble young men and women that I left over there who are being betrayed in this Chamber and in the U.S. Senate and by White House policy that they are not allowed to win.

The most galling thing in that war, and I meant to ask Margaret Thatcher about this, where she was in this period of time, was that Great Britain was sending freighters and ships, and so was France, covered with the blood of Americans and tombstones from two wars, my dad's and President Eisenhower's war to save those people.

French and British ships and a lot of other NATO nations were in Haiphong Harbor, and that is why we could not bomb Haiphong or mine it until Nixon finally, unfortunately as he admits, 3 years too late, took the necessary direct surgical military action with B-52's and mining that harbor on Harry Truman's birthday again, May 8 of 1972. We finally got serious in May and then with Linebacker-2 bombing, adding B-52's in December, we ended this longest war.

□ 2030

And in truth we actually won that war. I am listening to Ted Koppel, "Nightline" and a choice of the wrong guests, McGovern and everybody else. Nobody allowed to make the case that the war was winnable, and we actually had won it and then kissed it off at the peace table, around the oval table that had took them about 8 months of death and blood to come up with the shape of this cockamamie table in Paris as the hardcore Communist negotiators jockeyed for a better position.

I mention Great Britain so I can come back to this theme and talk about Bill Clinton in Great Britain. So, that is just a thumbnail sketch: my eight trips to Vietnam, my two trips to Hanoi since, this POW bracelet, my friend, David Hrdlicka, who is being discussed all this week in the United States, was a known POW, my wing man flying F-100s. Said George, "I was 23. I think Dave's a year older than I. Then I'm 24. We both had two children. We both had a third on the way. We both were 23, and I can assure you we did not consider ourselves boys. We were not boys. We were young men."

When Clinton said to Koppel last February, "I was a young boy of 23 when I wrote that letter to Colonel Holmes," I almost barfed. Even he had it replay in his head a few sentences later, said, "I was, you know, a young man, Koppel"—no, no; he said "young boy," and hence Rush Limbaugh in all 50 States is constantly calling him "Boy Clinton."

Well, in this book of Clinton's, who wants to be the 42d President of the United States—let me read from page 31. This is the case I made last night. I said tonight's special order would be part two. They are listening. Betsy Wright is listening down in Little Rock. They got C-Span on down there at national headquarters for the Presidential campaign. Yes, they are listening. Let me read page 31 from "The Life and Career of Bill Clinton, the Comeback Kid." The chapter is: "The Scholar Sees the World."

Let us talk about this Rhodes scholar thing. Here is Clinton:

"For a person like me who likes to organize every minute of the day"—you know, he has got to make time for those mystery novels and crossword puzzles—"I'm almost compulsively overactive."

There is that word "compulsively" again. In the letter to Colonel Holmes he said he ate compulsively till he dropped of exhaustion because he had so little self-respect dodging the draft. That letter is dated September 3 of 1969.

Compulsively eating while our prisoners are being compulsively starved, and 12 of them tortured to death, and a hundred of them murdered in the villages before they could get into the Hanoi prison camps.

He says, "I'm almost compulsively overactive. To have 2 years where you couldn't do that at Oxford was a great deal."

Well, he did not have 2 years there. He did not go to class the second year. He never even registered for a room.

Do my colleagues know what Rhodes scholars got? I called one of the Senators who is a Rhodes scholar. Five Senators are Rhodes scholars. We have got one in this House, the gentleman from Maryland [Mr. MCMILLEN], one of the great basketball players in the

Olympic team of 1972 in Munich. And here are the Rhodes scholars in the Senate:

RICHARD LUGAR, SARBANES of Maryland, BRADLEY of New Jersey, BOREN of Oklahoma, and LARRY PRESSLER spent 1 year there, but, unlike Clinton, LARRY went in the Army, became a lieutenant and went into combat in Vietnam. So, PRESSLER had 1 year as a Rhodes scholar candidate, and the other four got their Rhodes degree, their Oxford degree. Usually, a B.A., and then, after 7 years of just living, they would mail you your M.A. There was no graduation ceremony. It was all handled just by certificate. They did not take a single quiz or a test the whole 2 years they were there.

Now imagine that. Is this not a system of respect, typical British, mature respect, for students? It was a tutorial program. Everybody had a sponsor.

I am trying to find out now who was Clinton's tutorial sponsor and find out if he will be honest enough to say he never saw the guy in the second year.

They took eight tests, each 3 hours long. That is 24 hours of testing over a 3-day span. Clinton either flunked this or he never did it. That is at the end of the second year. So, they go 2 years without an exam or a quiz.

The word "quiz" to me has a new meaning because that is what all my friends in Hanoi in the prison system at the plantation in Sontay, and Alcatraz and all these rotten camps like that, the Hanoi Hilton—the torture sessions were called by our Americans "quizzes."

So then they take their 24 hours of tests. If they get an A, there is a British expression: "You take a first." That does not mean they finish first. They could have a whole class: each class is 32 Americans. They can have a whole class take a first, or they can have some guys with B's and C's, and I forget what one of the Senators told me the level was. I am not quoting the Senator; it is one of the five obviously. This Senator ended up in Pembrock College, P-e-m-b-r-o-c-k, Pembrock—no, p-r-o-c-k, Pembrock—prock—College. He came home to serve in the Navy as an officer, went over on the Queen Elizabeth I, came back on the Mauritania. Thirty-one of his thirty-two graduated at Oxford in his particular period in the 1950's. One had a nervous breakdown as he best remembers.

There was another program called BPHIL, Bachelor of Philosophy, or DPHIL, P-H-I-L, Doctor of Philosophy, which you could go on for a third year. Most people took what they called PPE, Politics, Philosophy and Economics. What a thrill to compete for this.

Did Bill Clinton eat up a slot that some other young man or woman would have given their right arm to get? And gone on to get their Oxford degree?

Now here is what they are paid: 700 pounds. A pound then—Clinton vintage time in this center—about 5 bucks. It is about $3,500 a year. I said, "How is that on the British economy?"

He said, "Generous, generous, very generous. We all had excess money."

So, Bill Clinton took down $3,500 the first year, and I have to assume he went to class, and then, when he came back, well, I do not know. They were having midnight vigils for him. He was crying. He was drafted twice in the spring of 1969. He came home here, working in the mobilization office, learned how to raise all these hellacious pro-Hanoi demonstrations, took all those skills back to London, and I believe he never went to class ever because he never registered at the school for a room.

So, did he take—this is one of my first questions to Mr. Clinton—Betsy Wright, you are the one that handles the bimbo eruptions, so you are the one that answers all these tough questions: "Did Bill Clinton take his $3,500 approximately his second year?"

In other words, to put it simply, did he take the money and not do the work?

Here are his words, page 31, "Scholar Sees the World," chapter in the life and career of Bill Clinton:

> Clinton was offered a scholarship to attend Yale Law School. He chose to matriculate there even though he could have had a third year on the Rhodes Scholarship. He hated to turn down that third year.

Oh, he was probably being offered a year to make up for the second year, but he wanted a law degree. Yeah, now that he dodged the draft four times, this is how he is going to spend 1971 and 1972, in Yale Law School while guys were still dying in Vietnam. Plus those three or four men that took his place.

Kelly said, "It was something for them to offer to pay for him to come to this school, but he still had outside jobs to supplement his income. But he's always had scholarships."

Now, if he had a scholarship, and they are paying him almost $4,000—in now dollars, by the way, you can multiply that by five. I mean that is incredible. He is getting somewhere between $18,000 and $21,000 a year and he had to get side jobs. I do not believe it.

Then it says, "Clinton looks back with mixed feelings about his decision to end his study at Oxford."

Quote Billy: "I accept the fact that I never got a degree from Oxford."

Do you hear that, George Bush? He is not an Oxford man, and, Mr. Speaker, please tell the President to stop calling him an Oxford man. Clinton thinks it is a slam anyway. It is like making him a privileged elitist. He was a candidate for an Oxford degree, and he bailed out.

He said, and this is not true what I am about to read, "My class had the highest percentage of Rhodes scholars that never earned a degree because you were right there in the middle of that Vietnam war buildup."

Neither of those statement are truthful.

Clinton said, "The threat of being drafted into service in Vietnam practically dictated a student's curriculum."

Baloney.

"We were over there changing courses three or four times because we knew that we would get a year, and then it would be done."

Well, did he go back a second time? And then never go to class?

□ 2040

"So ironically at the end of my first year is when President Nixon started to wind down the war, so there were only a couple of us who were actually drafted."

No, no. The Tet offensive was in the middle of his senior year at Georgetown. President Nixon got elected about 8 weeks after he got there. President Nixon began to wind down the war as soon as he became President.

Remember the title Vietnamization? This was not the high-water mark. There was no buildup going on at all.

Then you look and find out that his class graduated 80 percent of the people, which about a 10-year average before back to this Senator's period, when they graduated 31 out of 32, and it has been about that average ever since.

Who wants to sit through eight 3-hour exams at Oxford when you have been on the honor system for 2 years, and if you have not really put your nose to the grindstone and burned the midnight oil, as my dad used to say, you are really up against cramming for exams like that.

No, he is not a Rhodes scholar who attained his Oxford degree. And the media has been calling him a Rhodes scholar, and he has been running on that in Arkansas since 1974, when he came within 6,600 votes of almost beating one of our retiring Members now, a great Congressman with five distinguished flying crosses and seven air medals, JOHN PAUL HAMMERSCHMIDT, of the great State of Arkansas.

Now, here are just a series of questions. I would hope, Madam Speaker, that people all across America would use me as a repository of fair, straight questions to Bill Clinton.

One of my staffers who grew up in Little Rock, AR, a proud Arkansan—here is just a grouping of questions. I have not even put these in order of merit or whittled them down to two or three that people could remember. But I will just read these quickly.

At any time did you plan to fulfill your commitment to the ROTC program at the University of Arkansas? Ever? If you spent 2 hours in the living room of a Bataan death march survivor, a survivor of 3½ years of brutal captivity under the Japanese warlords, where 40 percent of our prisoners died or were murdered at will by the Japanese cutthroats that ran their concentration camps—by comparison, we only lost 1 percent of our prisoners in the Nazi Stalag camps for airmen and American ground prisoners.

Did you ever intend to go to the ROTC? Why didn't you tell Colonel Holmes that you were organizing demonstrations in a foreign country?

You know what Colonel Holmes' letter of September 7, 1992 said? That he kept that letter of Bill Clinton from 1969 to make sure that he would never be commissioned or even made a noncommissioned officer in any branch of service of the military. Because anybody who organized demonstrations in a foreign country was not fit to be a U.S. officer or NCO or petty officer. That is why he saved the letter in the files of the ROTC in Arkansas.

I feel like flying down there next week. But honestly, Madam Speaker, I cannot be the whole research effort for President George Bush. I cannot feel like I am out there all alone, week-end, week-out, going after this guy, with the media either ignoring me or acting like discussing somebody's record fairly and cleanly is somehow-or-other negative politics that is wrong.

Do you know what dirty politics is? A bunch of sleaze balls from either party sitting around a room and saying, let's make something up. Let's accuse this candidate of being a child molester and see how far we can get with that total lie. Or tearing your opponent's signs down. That is dirty politics at the street level. Or disrupting a meeting. And that happens in both parties.

I know one of my heroes in the Senate race in California told all of his followers, "Don't you ever go to BARBARA BOXER's rallies again and try to shout her down. She is entitled to her freedom of speech." That is dirty politics on the entry level.

I will tell you what dirty politics is, is a Senator's younger brother dropping through the skylight 3 years after Watergate and trying to steal things out of the opponent's campaign, and it cost that Senator his shot at Congress earlier in his life. That is dirty politics.

But discussing a person's record, their votes, if they are an incumbent, their dealings with the House Post Office, or seducing a page, or bouncing or kiting checks, that is record. There is nothing dirty about that.

It is negative because you are not talking about yourself, you are talking about your opponent, but that is positive.

You want to know something else? This Congressman told the late Lee Atwater to his face, "Don't use Willie Horton. It is a great crime issue, but because the man is a black, the liberal media will twist it and say you are trying to use," I did not know the expression "code words" then, they will say you are trying to use it for race.

I stood him bellied up against the stainless steel bar in there and told one of our fine leaders on this side, "Don't go with this guy Willie Horton with any independent expenditures. Find a white serial killer."

But this is perfect. He violated parole. He was paroled 10 times. He raped a woman over here in front of her fiance. It is too good a case.

I said, "Well, I am sorry. I would forego the whole thing before I would use a black man." I said, "You must find a white criminal."

Well, they went with it, but it wasn't to play a race card. It was because of what I am going to tell you right now, that 99.9 percent of the American media still does not know.

It is a simple question. Ask yourself—ask yourself, Madam Speaker—have everyone who is watching the proceedings tonight ask themselves this question: We all know about Willie Horton's rape over here in Maryland. That is where he is still in jail. The State of Maryland will not give him back to the Commonwealth of Massachusetts. They do not trust the State. They think that that State, even with a Republican Governor, might parole him again.

Here is the question to ask yourself: Why did Willie Horton go to prison in the first place? Ninety-nine percent of the people following these proceedings, Madam Speaker, are going to hear this out of this Californian's lips for the first time.

There was a young man named Joey Fortier. The paper that broke the story won the Pulitzer Prize. His sister became a hero, decorated in that State. She gathered 150,000 signatures because Governor Dukakis would not meet with the family members of her family or any other family where murderers were being paroled.

This young man, Joey Fortier, was 17 years of age. That is a minor. All alone at midnight. He was managing a Mobil station in one of the suburbs of Boston. He was shutting down the cash register at night and closing this Mobil station.

What an American dream. A high school kid, managing a station, balancing the books, and shutting down the station.

And here came Willie Horton, who Sam Donaldson calls "Mr. Horton," and asked him if he will ever find it in his heart to apologize to the President of the United States.

Sam, baby, that has got to be the dumbest, the most arrogant, the filthiest question ever asked in the whole history of American journalism, from Poor Richard's Almanac, right down to these phantasmagorical documentary specials. That any reporter would have the gall to ask a murderer can he find it in his heart to forgive President Bush, and then call him "Mr. Horton."

Here is what Horton did. He arrived at Joey Fortier's Mobil station with two other big guys. I don't know their background, I don't know their ethnicity, I don't know anything about them, but there were three of them. And they didn't have a gun, they had a machete. One of the other ones I think had a knife.

They told Joey Fortier to give them everything in the safe, and he did. Then they took him and mutilated him. They cut him up. They cut off his male organs, Mafia style. You know what happens involving your mouth. They dumped him upside down in a garbage can and left him to bleed to death.

That is why Willie Horton was given life imprisonment in the Commonwealth of Massachusetts. And to parole him is outrageous. And that is why the paper I think in Lawrence, MA, the Bugle, or something, won the Pulitzer Prize, and that is why his sister raised 150,000 signatures. And to my knowledge, to this day, ex-Governor Dukakis has refused to meet with the Fortier family members.

Now, that is why it was a compelling case to use as a crime issue, and that is the way most Americans accepted it, as a crime issue.

But we hear these moral retards in Hollywood constantly, and a lot of media big names, constantly saying that that was a race card that was being used. And it was used against my judgment and my advice, and that is why I am in a perfect position to say it was not a race issue. It was a bad judgment to use him and not look for a less worthy case of a less brutal killer who was paroled 10 times until he finally almost killed another couple, cut the man about 28 times and raped the woman multiple times in front of her fiance.

When they went on the road for the Bush campaign in 1988, believe me, that man and woman, who by then were married, they were talking about a crime issue. They did not care what color the assailant was who had terrorized them in their apartment over here in Maryland.

Now, here are some other questions from this young Arkansas staffer of mine.

At any time, Governor Clinton, did you plan to gain a degree from Oxford University, or was your acceptance of the Rhodes scholarship, denying someone else that slot, a plan just to leave the country, to get out of the country and avoid military service?

Did you even attend classes at Oxford in the fall and winter of 1969 or the spring of 1970, or did you just work full time at organizing anti-American protests and demonstrations?

Were you actually enrolled at Oxford during your second year? You have already said you did not even get a room. I learned that in the primary process when most Americans were not listening.

Why did you allow the Vietnam war to impact your course load at Oxford, which he talks about in this puff book.

Why did you allow yourself to be manipulated by Soviet communists when you traveled to Moscow in 1970? Manipulated by the KGB, no less.

Why do you think you received such grand and friendly treatment at a time when Soviet surface-to-air missiles and Soviet radar-directed AAA fire and Soviet-built Migs were tearing our young men out of the sky, and particularly having the Russian-North Vietnamese advantage because Bob McNamara, Robert "Strange" McNamara, our disgraceful Secretary of Defense, allowed the Mig bases to be sanctuaries for the communist forces during most of the time—all of the time that he was Secretary of Defense.

□ 2050

Have you ever tried to discover the fate of the three or four men from Hot Springs who took your place in the draft?

Notice he was not raised in Hope; he left Hope at about 3½ or 4 years of age. Hot Springs is more indicative of his background.

It says, "Were these men wounded? Killed?" As the gentleman from Pennsylvania, TOM RIDGE, a combat sergeant from Vietnam, one of my colleagues on my side of the aisle asked here in the well with great pathos, last week, were any of them suffering from delayed stress syndrome? Are they in a wheelchair? Is their name on the Vietnam Wall with the other 58,135 names and 1 POW, Charlie Shelton, who was in a cave with my best friend, Dave Hrdlicka, both of them escaped twice. Shelton reported from intelligence reports, now declassified, to have been wounded twice and he kept escaping. Whatever happened to Charlie Shelton?

After 25 years, his wife, my friend, Miriam, committed suicide. She knows the answers, broken, American Air Force wife. Where is Charlie Shelton, still a POW, the only one on the books? Where is Dave Hrdlicka, being discussed every day in that Senate series of investigations now.

Another question: Have you changed your mind about the justification for United States involvement in Vietnam in light of the vicious concentration camps, euphemistically called reeducation centers, where they beat people to death? How about the killing fields, Governor Clinton, in Cambodia, 2 million people slaughtered? Everybody who wore eye glasses, everybody who had a high school degree, everybody who had grade school training, everybody who could read was murdered. They beat students, 8, 9 years of age, beat people to death with clubs to save bullets. Or do you take the scene from the movie, "The killing Fields," at the end of Nixon's bombing, as what caused the people to go crazy under the Khmer Rouge and slaughter 2 million of their cousins? Did that change your mind? How about these boat people? Has Bill Clinton, as Governor or student or candidate against J.P. HAMMERSCHMIDT or 2-year attorney general, defeated gubernatorial candidate or head of the Renaissance Group meeting all these elitists down at Hilton Head, SC, or the Democratic Leadership Council, which really does have some legitimate moderates in it, which he is not, hard-core Governor liberal, have you wondered about the boat people? Six hundred and fifty thousand drown on the high seas.

My daughter left my 1980 campaign a month before it was over, because she said she just had a feeling I would win. She worked her tail off for me, as my finance director, and she went over to the camps in Thailand.

She worked at Araniapratet, Nakanphanom, I forget the third camp's name, and she brought me back these little plaques, liberty or death on the high seas. Ask Governor Clinton, Madam Speaker, what he thinks of that? Liberty or death on the high seas.

Or this one, particularly spiritual and poignant, God is with us on the ocean. Another one was, liberty or the hands of God. What about these boat people? What about the ones still suffering? What about the refugee camps in Hong Kong? What about the ones who wash up on tropical islands in the archipelago of Indonesia or the Malaysian islands wherethe islands look beautiful but there is no fresh water on the islands? And then they are not brought fresh water, and they die of dehydration on the beach. All of that is the fallout.

The Vietnam Communist warlords in Hanoi that you cheered for in Oslo, I just found that out today, and Stockholm, I just found that out today, in Moscow, which I found out yesterday and we are still working on finding out what you did on the so-called peace train, Governor, and when was that peace train?

The only shred of evidence I have today, if somebody has had a change of heart who was on that peace train. Please, I hope they make contact with me. Because Clinton said when he was in Moscow in the early 1970's, with all these demonstrators, they were running pictures of our Moon walk. He could not have been there in July of 1969, the 20th of July, because that was 4 days after Holmes was writing a letter for him. That was 2 days after Chappaquidick.

He was here organizing demonstrations in Washington, DC.

The next Moon walk was November 14 to 24, 1969, if my memory serves me correctly. The cameras went out on that. We have no recording of that. So the Russians could not have been running that one. I remember vividly thinking how lucky Armstrong and Buzz Aldrin were that they had pictures of this Columbus-like historical event and the two guys just a few months later, in November, no record, cameras busted.

Then Apollo 13, flown by my friend Tom Stafford, they really had bad luck but they called themselves "Lucky 13." They blew out the side of an engine. They took the fuel for the lunar excursion module and used that fuel to ricochet around the back of the Moon, a boomerang effect using the Moon's gravity, and came back to Earth without ever going down on the surface of the Moon. That was April of 1970.

The next launch was Apollo 14. They left here January 31 from Cape Canaveral, and they were back on the 9th of February. So I guess they walked on the Moon like February 3 or 4. That was 1971, though. Is that when Clinton was there?

Boy, the cold war was sure hot then. Our guys were just tearing up the air then, shooting down every Mig that ever came near them, and Nixon had released all these sick McNamara Mig sanctuaries. We were engaging them then.

Then Apollo 15 was July 26 through August 7, so they would have walked on the Moon around the last 2 days of July of 1971.

Apollo 16, I went down for that launch with my wife, and I have a photograph hanging in our den. She took a beautiful picture. That was our anniversary, 17th anniversary. April 16, my wife's birthday, 1972. So I know it is not that launch.

So when were you there? When they were running pictures of us walking on the Moon and the KGB, unbeknownst to you, no way am I indicating a conspiracy, the poor naive 23-year-old nerd would not have known a KGB agent from a Catholic nun.

Now, here is a book that I just got a hold of called "Peace Eyes" by a radical left-wing Jesuit. I am Jesuit-educated, so I can say that, S.J., Society of Jesus. And he, Richard McSorley, is selling out all of his Catholic brothers and sisters in Vietnam, many of whom were slaughtered.

I went to Easter Sunday Mass in Phompenh in the great beautiful cathedral in 1972. I was with three POW-MIA wives and two MIA mothers. Sitting next to me was a lovely mom of five kids. Her husband, Richard, had graduated from West Point. We both went up to communion. I came back; I saw her sobbing at the rail.

I said, you know, if it was not for Richard, they would tear this place down brick by brick and murder those priests.

Guess what? Three years later, they murdered those three priests and that entire cathedral, this gigantic cathedral is a dirt lot. There is not a brick there. They threw every brick, as they tore it to shreds and threw it in the Ton Li Sap.

That is a little something that old Dickie McSorley, Jesuit priest, did not understand.

Here is his book, "Peace Eyes."

Here is the foreword, the foreword of Father McSorley.

> When I got off the train in Oslo, Norway, I met Bill Clinton of Georgetown University. He asked if he could go with me visiting peace people.

That is what the KGB called them, too.

"We visited the Oslo Peace Institute."

Norway, who we helped to liberate in World War II, they were trading also with Hanoi through Haiphong Harbor.

"There we talked with conscientious objectors."

See, there was a certain honor to saying, I am a conscientious objector. Bill Clinton could not bring himself to say that because, remember in his letter to Colonel Holmes of December 3, 1969, he said, "I want to maintain my political viability, Colonel."

Remember he told our fellow colleague here, the gentleman from Minnesota [JIM RAMSTAD] in 1963, "I am going to be President of the United States someday."

So he could not be a conscientious objector, although he probably was a pro-Hanoi objector.

And by the way, if he was a conscientious objector, he cannot be President of the United States.

President Jimmy Carter, in his first few weeks, appointed as head of the Central Intelligence Agency one of John F. Kennedy's best and brightest, Ted Sorenson, who wrote the definitive book on President Kennedy called "Kennedy."

And when he went over to the Senate for his confirmation hearings, a Democrat Congressman, Democratic Congressman who was shot down and murdered by Russian fighter planes, knowing they were shooting down a gigantic 747 with the lights on. He knew it was a civilian air liner. Remember, we got all of this stuff now out of Yeltsin. They shot down the air liner and killed Congressman Lawrence Patton McDonald, and Lawrence Patton McDonald, all by himself, no help from his party, and I was a brand-new freshman then, I had been here about a week, I went over to watch this.

McDonald went over and testified to the Senate, how can a man be head of the CIA who might have to order men up some dangerous alley in some Communist country and put them in harm's way, where they would offer their life up.

□ 2100

There were more than 50 stars on the wall of the CIA headquarters in Langley in the foyer, 50 stars for people who died in CIA service. How about William Buckley, the CIA station chief in Beirut, tortured to death over more than a year's period? That was the main motivation for Army and then Air Force, Army Air Corps Capt. Ronald Reagan to try and do something about our hostages.

So back to Billy's adventures in Norway.

> "This is a great way to see a country," Clinton said as we were leading the peace group. I thought at the time that Clinton's words summarized what I wanted to say in this book, to see a country with a peace focus.

By the way, this book is published in 1978. Clinton was serving in his second year as attorney general. He would have been 32 years old, so obviously this priest, this left-wing priest, did not know Clinton was already elected to office in Arkansas.

Then we see other mentions of Bill Clinton in this book. How about describing the demonstrations that Clinton organized in Grosvenor Square in front of our Embassy? I have already mentioned that. Father McSorley describes the skulls on top of these poles, how they had actually 2 days, and in Clinton's letter to Colonel Holmes he said he organized demonstrations, he, Clinton, October 15 and November 15.

Actually, the priest in this book said the big first demonstration was about 500 Americans and Brits, and it was on the 15th, and then on the 16th they had a second demonstration which was a big prayer rally. How wonderful to pray for peace, but it did not work out too well in the killing fields of Cambodia, as the atheist Communists slaughtered, and still continue to kill in that part of the world.

I think I will put in about four or five pages. Here it is. "On November 15, 1969, I," McSorley, "participated in the British moratorium against the Vietnam war in front of the United States Embassy at Grosvenor Square in London."

Madam Speaker, did I not speculate in this well 1 week ago that Clinton had probably, I said, organized these demonstrations not at Oxford but down in London, in front of Grosvenor Square, because I had gone through there coming back from Biafra helping to be a loader on some flights flown secretly by American Air National Guard young pilots and air crews. I came back through London and I saw one of these disgusting demonstrations, filled with hatred for the United States of America, so I guessed right. Here it is, Grosvenor Square in London.

"Even the appearance of the Embassy stressed the overexaggerated nature of America's power." Oh, yes, that big eagle on top. "A gigantic spread eagle about 8 to 10 feet wide dominated the front of the building," and still does, Father. "Unlike other embassies where the flag flies from the roof, two flags fly inside the glassed-in front of the building." They are trying to protect them from being burned by men of God, like you; not.

"The building itself takes up the entire side of the square." Remember, I said Roosevelt's statue was in there, now a big statue of General Eisenhower, President and five-star General, and he is pictured in his Ike jacket and the uniform that he wore when they liberated Europe. That is right in front of the Embassy on the north edge of the Embassy, the northeast edge.

He says, "The building itself takes up the entire square;" the entire west side, actually, Father. "The total effect of the architecture and decor says to the passerby 'America is the biggest and greatest power on the globe,' but the effect and the scale are out of tune with the subtler and more gentle architecture which graces most of London." I guess he has not seen a lot of London buildings lately. "That day in November about 500 Britons and Americans were meeting," and I will finish this tomorrow when I do part three, Madam Speaker, and begin to read "From the Heart of a Man," the book of a real man who died while serving his country and fighting communism in 1966, 3 and 4 years before Clinton's demonstrations.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FAZIO (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of personal family emergency.

Mr. YATES (at the request of Mr. GEPHARDT), from 5:30 p.m. today, on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. KOLBE, for 60 minutes, each day on September 29, 30, October 1, 2, 3, and 4.

Mrs. BENTLEY, for 5 minutes, today in lieu of 60 minutes earlier approved.

Mr. DANNEMEYER, for 60 minutes, each day on October 1 and 2.

Mr. EDWARDS of Oklahoma, for 60 minutes, each day on September 29, October 1 and 4.

Mr. COBLE, for 60 minutes, each day on October 1 and 2.

Mr. MOORHEAD, for 60 minutes, on October 1.

Mr. THOMAS of California, for 60 minutes, on October 1.

(The following Members (at the request of Mr. ECKART) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BRUCE, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, on September 30.

Mr. ROSE, for 60 minutes, each day on October 1 and 2.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. UPTON) and to include extraneous matter:)

Mr. OXLEY.
Mr. BLAZ.
Mr. SOLOMON in two instances.
Mr. ZIMMER.
Mr. DAVIS.
Mrs. BENTLEY.
Mr. DUNCAN.
Mr. ROTH.
Mr. WALSH.
Mr. QUILLEN.

(The following Members (at the request of Mr. ECKART) and to include extraneous matter:)

Ms. DELAURO.
Mr. SIKORSKI.
Mr. REED.
Mr. PENNY.
Mr. KLECZKA.
Mr. DYMALLY.
Mr. BILBRAY.
Mr. JENKINS.
Mr. ROE in two instances.
Mr. MAZZOLI.
Mr. SMITH of Florida.
Mr. FOGLIETTA.
Mr. MANTON.
Mrs. SCHROEDER.
Mr. HOYER.
Mr. BRUCE.

## BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following title:

On August 12, 1992:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

On August 17, 1992:

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code;

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes;

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California;

H.R. 4312. An act to amend the Voting Rights Act of 1965 with respect to bilingual election requirements;

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202;

H.R. 5560. An act to extend for one year the National Commission on Time and Learning, and for other purposes;

H.R. 5623. An act to waive the period of congressional review for certain District of Columbia Acts;

H.R. 5688. An act to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes;

H.J. Res. 411. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week"; and

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

On August 24, 1992:

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties, and

H.R. 2607. An act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.

On August 31, 1992:

H.R. 3033. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes;

H.R. 4111. An act to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes; and

H.J. Res. 492. Designating September 1992 as "Childhood Cancer Month".

On September 16, 1992:

H.J. Res. 413. Joint resolution to designate September 13, 1992, as "Commodore John Barry Day."

On September 21, 1992:

H.R. 238. An act for the relief of Craig A. Klein;

H.R. 454. An act for the relief of Bruce C. Veit;

H.R. 478. An act for the relief of Norman R. Ricks;

H.R. 712. An act for the relief of Patricia A. McNamara;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference;

H.R. 4551. An act to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under that Act, and for other purposes; and

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

On September 22, 1992:

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

## ADJOURNMENT

Mr. DORNAN of California. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 4 minutes p.m.) the House adjourned until Friday, September 25, 1992, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4317. A letter from the Director, Test and Evaluation, Department of Defense, transmitting notification of one additional fiscal year 1992 test project, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

4318. A letter from the Chairman, Interagency Council on the Homeless, transmitting the 1991/1992 Annual Report of the Interagency Council on the Homeless, pursuant to Public Law 100-77, section 203(c)(2) (101 Stat. 487); Public Law 100-628 (102 Stat. 3228); to the Committee on Banking, Finance and Urban Affairs.

4319. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Fiscal Year 1991 Annual Report on Advisory Neighborhood Commission," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

4320. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that it has extended the time period for issuing a final decision in Docket No. 40664, Ametek, Inc. versus Panther Valley Railroad Corporation, et al., by 75 days to December 11, 1992, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

4321. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the termination of the designation as a danger pay location for all areas in Bosnia-Hercegovina, pursuant to 5 U.S.C. 5928; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YATES: Committee of Conference. Conference report on H.R. 5503 (Rept. 102-901). Ordered to be printed.

Mr. TRAXLER: Committee of Conference. Conference report on H.R. 5679 (Rept. 102-902). Ordered to be printed.

Mr. WHITTEN: Committee on Appropriations. Report on the Revised Subdivision of Budget Totals for fiscal year 1993 (Rept. 102-903). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4096. A bill to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia, and to authorize the Corporation Counsel for the

District of Columbia to conduct criminal prosecutions of certain juvenile defendants; with an amendment (Rept. 102-904). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1530. A bill to authorize the integration of employment, training, and related services provided by Indian tribal governments; with an amendment (Rept. 102-905). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee on Appropriations. Conference report on H.R. 5517 (Rept. 102-906). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 578. Resolution providing for the consideration of the bill (H.R. 5192) to amend title 38, United States Code, to make improvements to veterans health programs (Rept. 102-907). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 579. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, and against the consideration of such conference report (Rept. 102-908). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PANETTA (for himself, Mr. Dooley, and Mr. Lehman of California):

H.R. 6013. A bill to provide for the protection and continued vitality of the Sierra Nevada forests of California, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. VOLKMER:

H.R. 6014. A bill to designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest; to the Committee on Agriculture.

By Mr. ENGLISH:

H.R. 6015. A bill to amend the Watermelon Research and Promotion Act to extend such act to watermelons imported into the United States, apply such act to the entire United States, to authorize the revocation of the refund provision of such act, and modify the referendum procedures of such act; to the Committee on Agriculture.

By Mr. PORTER:

H.R. 6016. A bill to provide that the flag of the United States should be displayed at halfstaff on all Government buildings on Peace Officers Memorial Day, and for other purposes; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. Broomfield, and Mr. Yatron):

H.R. 6017. A bill to implement for the United States the U.N. Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. Broomfield, Mr. Feighan, Mr. Gilman, Mr. Ackerman, Mr. Johnston of Florida, Mr. Payne of New Jersey, Mr. Yatron, Mrs. Meyers of Kansas, and Mr. Goss):

H.R. 6018. A bill to amend the Foreign Assistance Act of 1961 with respect to international narcotics control programs and activities, and for other purposes; jointly, to the Committees on Foreign Affairs, Rules, and Banking, Finance and Urban Affairs.

By Mr. CAMPBELL of California:

H.R. 6019. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to provide for a sequestration of all budgetary accounts for fiscal year 1993 (except Social Security and interest on the debt) equal to 10 percent of the OMB baseline); to the Committee on Government Operations.

By Mr. BROOKS (for himself and Mr. Fish):

H.R. 6020. A bill to amend titles 11 and 28 of the United States Code, relating to bankruptcy; to the Committee on the Judiciary.

By Mr. JENKINS (for himself, Mr. Thomas of Georgia, Mr. Hatcher, Mr. Ray, Mr. Jones of Georgia, Mr. Lewis of Georgia, Mr. Gingrich, Mr. Darden, and Mr. Rowland):

H.R. 6021. A bill to designate the Department of Veterans Affairs Medical Center located in Augusta, GA, as the "Doug Barnard, Jr., Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. LAROCCO:

H.R. 6022. A bill to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of a consumer to pay overdue child support; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEWIS of Georgia (for himself, Mr. Panetta, Mr. Towns, Ms. Pelosi, and Mr. Frost):

H.R. 6023. A bill to amend title XVIII of the Social Security Act to provide for coverage of respite care services under part B of the Medicare Program; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. LIVINGSTON:

H.R. 6024. A bill to amend the Internal Revenue Code of 1986 to provide that the graduated corporate tax rates shall apply in determining the tax imposed on certain campaign committees; to the Committee on Ways and Means.

By Mr. NAGLE:

H.R. 6025. A bill to make improvements in the operation of the Generalized System of Preferences under title V of the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. PACKARD:

H.R. 6026. A bill to establish a demonstration program relating to privatization of airport ownership, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PETERSON of Minnesota:

H.R. 6027. A bill to provide for comprehensive health care and health care cost containment; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, Education and Labor, Armed Services, and Post Office and Civil Service.

By Mr. SHAW (for himself, Mr. Fascell, Mr. Horton, Mr. Guarini, Mr. Ireland, Mrs. Johnson of Connecticut, Ms. Ros-Lehtinen, Mr. Bennett, Mr. Lehman of Florida, Mr. Bacchus, Mr. James, Mr. McCollum, Mr. Bilirakis, Mr. Lewis of Florida, Mr. Young of Florida, Mr. Peterson of Florida, Mr. Goss, Mr. Stearns, Mr. Gibbons, Mr. Hutto, and Mr. Smith of Florida):

A bill to save Florida Bay; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Interior and Insular Affairs.

By Mr. SUNDQUIST:

H.R. 6029. A bill to amend title 10, United States Code, to restore the CHAMPUS eligibility of certain members and former members of the uniformed services, and their dependents, who are currently excluded from benefits under CHAMPUS because of their entitlement to hospital insurance benefits under Medicare; to the Committee on Armed Services.

By Mr. UPTON:

H.R. 6030. A bill to require the Secretary of the Treasury to revise certain regulations relating to holds-in-custody repurchase transactions in Government securities; to the Committee on Energy and Commerce.

By Mr. ZIMMER:

H.R. 6031. A bill to amend title 18, United States Code, to provide a penalty enhancement for the use of juveniles in Federal offenses; to the Committee on the Judiciary.

By Mr. WHITTEN:

H.J. Res. 553. Joint resolution making continuing appropriations for the fiscal year 1993, and for other purposes; to the Committee on Appropriations.

By Mr. DEFAZIO:

H.J. Res. 554. Joint resolution proposing an amendment to the Constitution of the United States to provide for a 6-year term for the President and Vice President, to provide for a 4-year term for Representatives, to limit the number of terms Senators and Representatives may serve, to provide for a 12-year term for Supreme Court Justices, and to limit the terms of heads of the executive departments and members of the Board of Governors of the Federal Reserve System; to the Committee on the Judiciary.

By Mr. STEARNS:

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress that the U.S. House of Representatives and Senate should pass health care reform initiatives which have received overwhelming bipartisan support, prior to the adjournment of the 102d Congress; jointly, to the Committees on Energy and Commerce and Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. HUTTO introduced a bill (H.R. 6032) for the relief of Harold David Strother, Jr.; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R 78: Mr. Kasich.

H.R. 643: Mr. Stearns.

H.R. 895: Mr. Allen.

H.R. 1270: Mr. Inhofe.

H.R. 1633: Mr. Pastor.

H.R. 2164: Mr. Sundquist, Mr. Gallegly, Mr. Bateman, Mr. Oxley, Mr. Upton, Mr. Pursell, Mr. Riggs, Mr. Beilenson, Mr. Lewis of Florida, Mr. Andrews of Texas, Mr. Kasich, Ms. Snowe, Mr. Archer, Mr. Lent, Mr. Hancock, Mr. Hansen, Mr. Donnelly, Mr. Barrett, Mr. Ortiz, Mr. Gallo, Mr.

HAYES of Louisiana, Mrs. BENTLEY, Mr. YOUNG of Florida, Mr. MOORHEAD, Mr. THOMAS of California, Mr. GRADISON, Mr. BROOMFIELD, Mr. STUMP, Mr. PICKETT, Mr. GUNDERSON, Mrs. MORELLA, Mr. ROEMER, Mr. COUGHLIN, Mr. DICKINSON, Mr. ALLEN, Ms. ROS-LEHTINEN, and Mr. LEWIS of California.

H.R. 2229: Mr. BRYANT.

H.R. 2230: Mr. MOLLOHAN and Mr. MCMILLEN of Maryland.

H.R. 2595: Mr. STEARNS.

H.R. 2695: Mr. DIXON, Mr. WALSH, and Mr. KYL.

H.R. 2880: Mr. WASHINGTON.

H.R. 3206: Mr. GILLMOR.

H.R. 3561: Mr. DORGAN of North Dakota and Mr. NUSSLE.

H.R. 3598: Mr. GINGRICH.

H.R. 3780: Mr. STEARNS.

H.R. 4159: Mr. DEFAZIO.

H.R. 4208: Mr. AUCOIN.

H.R. 4275: Mr. CARDIN.

H.R. 4432: Mr. MCHUGH.

H.R. 4490: Mr. SANDERS.

H.R. 4688: Mr. STOKES, Mr. SAVAGE, Mr. PERKINS, and Mr. SWIFT.

H.R. 4742: Ms. LONG.

H.R. 4980: Mr. WILLIAMS.

H.R. 5011: Mr. DARDEN.

H.R. 5153: Mr. FAWELL and Mr. GEREN of Texas.

H.R. 5173: Mr. AUCOIN.

H.R. 5216: Mr. BILBRAY, Mr. CALLAHAN, Mr. ERDREICH, and Mr. GEREN of Texas.

H.R. 5250: Mr. JOHNSON of South Dakota.

H.R. 5374: Mr. OLVER.

H.R. 5486: Mr. BREWSTER, Mr. LIVINGSTON, Mr. LANCASTER, Mr. DARDEN, Mr. HORTON, Mr. SKELTON, Mr. ERDREICH, and Mr. WALSH.

H.R. 5499: Mr. FAWELL.

H.R. 5539: Mr. GLICKMAN and Ms. SNOWE.

H.R. 5542: Mr. SENSENBRENNER.

H.R. 5570: Ms. DELAURO.

H.R. 5671: Mr. ARMEY and Mr. HANCOCK.

H.R. 5742: Mr. DORGAN of North Dakota, Mr. SARPALIUS, Mr. PENNEY, and Mr. JEFFERSON.

H.R. 5743: Mr. SHAYS.

H.R. 5783: Mr. HAYES of Illinois and Mr. FROST.

H.R. 5815: Mr. LIPINSKI, Mr. BEREUTER, Mr. ACKERMAN, Mr. PORTER, Mr. EVANS, Mrs. MORELLA, Mr. FRANK of Massachusetts, and Mr. MRAZEK.

H.R. 5828: Mr. BOEHLERT and Mr. PORTER.

H.R. 5872: Mr. DEFAZIO, Mr. MOAKLEY, Mrs. BYRON, Mr. SCHIFF, and Mr. SPENCE.

H.R. 5876: Ms. HORN, Mr. FROST, Mr. PENNY, Mr. PAXON, Mr. LAFALCE, Mr. ROE, Mr. RAHALL, Mr. DEFAZIO, Mr. CLEMENT, Ms. SLAUGHTER, Mr. HYDE, Mr. SANTORUM, Ms. KAPTUR, and Mr. LEVIN of Michigan.

H.R. 5958: Mr. OLVER.

H.R. 5977: Mr. HUGHES, Mr. BAKER, Mr. BROOMFIELD, Mr. KOLBE, Mr. NUSSLE, Mr. FIELDS, and Mr. COX of California.

H.R. 6000: Mr. JONES of Georgia.

H.R. 6004: Mr. POSHARD.

H.J. Res. 5: Ms. SNOWE.

H.J. Res. 380: Mr. ATKINS, Mr. MAVROULES, Mr. SARPALIUS, Mr. FEIGHAN, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Mr. GREEN of New York, Mr. BROOMFIELD, Mr. WOLPE, Mr. SCHUMER, Ms. WATERS, Mr. DWYER of New Jersey, Mr. DYMALLY, Mrs. UNSOELD, Mr. GILMAN, Mr. HATCHER, Mr. DUNCAN, and Mr. DAVIS.

H.J. Res. 399: Mr. SMITH of Texas, Mr. MFUME, Mr. RIGGS, Mr. BURTON of Indiana, Mr. RITTER, Mr. TAYLOR of North Carolina, Mr. DOOLITTLE, and Mr. KASICH.

H.J. Res. 458: Mr. KLUG, Mr. DONNELLY, Mr. BOEHLERT, Mr. DE LUGO, Mr. KANJORSKI, Mr. LEHMAN of California, Mr. STARK, and Mr. VALENTINE.

H.J. Res. 463: Mr. BENNETT, Mr. ARCHER, Mr. BILBRAY, Mr. FORD of Michigan, Mr. HAMMERSCHMIDT, and Ms. OAKAR.

H.J. Res. 484: Mr. BENNETT, Mr. PETERSON of Minnesota, Mr. DE LA GARZA, Mr. NAGLE, Ms. KAPTUR, Mr. BOEHLERT, Mr. JOHNSON of South Dakota, Mr. FEIGHAN, Mr. VISCLOSKY, Mr. MOODY, Mr. EVANS, Mr. RAHALL, Mr. BILBRAY, Mr. ASPIN, Mr. CARPER, Mr. DICKS, Mr. LEACH, Mr. SMITH of Florida, Mr. TAUZIN, Mr. GALLEGLY, Mr. HANSEN, Mr. DUNCAN, and Mr. GILMAN.

H.J. Res. 489: Mr. TRAXLER, Mr. DORGAN of North Dakota, Mr. WISE, Mr. CRAMER, Mr. DWYER of New Jersey, Mr. DE LA GARZA, Ms. KAPTUR, Mr. WAXMAN, Mr. HARRIS, Mr. BONIOR, Mr. MINETA, Mr. ACKERMAN, Mrs. LOWEY of New York, Mr. MANTON, Mr. ESPY, Mr. HAYES of Louisiana, Mr. TALLON, Mr. BUSTAMANTE, Mr. FROST, Mr. GEREN of Texas, Mr. CARR, Mr. BORSKI, Mr. LUKEN, Mr. MOAKLEY, Mr. HERTEL, and Mr. BILBRAY.

H.J. Res. 503: Mr. GILMAN.

H.J. Res. 523: Mr. GORDON, Mr. THOMAS of Georgia, Mr. WOLPE, Mr. WYLIE, Mr. YATRON, Mr. HUTTO, Mr. WISE, Mr. ARMEY, Mr. BAKER, Mr. RIDGE, Mrs. ROUKEMA, Mrs. BENTLEY, Mr. SHAYS, Mr. GONZALEZ, and Mr. BARTON of Texas.

H.J. Res. 530: Mr. LAFALCE, Mr. HAYES of Illinois, Mr. RHODES, Mr. DELLUMS, Mr. WASHINGTON, Mr. BROWN, Mr. WHITTEN, Mr. TAYLOR of Mississippi, Mr. LEHMAN of Florida, Mr. ROSE, Mr. MOLLOHAN, Mr. MCCRERY, Mr. MURTHA, Mr. PARKER, Mr. YOUNG of Alaska, Mr. DWYER of New Jersey, Mr. BERMAN, Mr. TRAXLER, Mr. AUCOIN, Mr. SMITH of Oregon, Mr. ENGEL, Mr. WOLPE, Mr. GALLEGLY, Mr. DEFAZIO, Mr. FASCELL, Mr. PORTER, Mr. MARTINEZ, Mr. HEFNER, Mr. KOPETSKI, Mr. SKELTON, Mr. LIPINSKI, Mr. STAGGERS, Mr. WISE, Mr. STARK, and Mr. MATSUI.

H.J. Res. 538: Mr. MFUME, Mr. BROWN, Mr. TALLON, Mr. SWIFT, Mr. AUCOIN, Mr. BILBRAY, Mr. CLEMENT, Mr. DICKS, Mr. FALEOMAVAEGA, Mr. FEIGHAN, Mr. FLAKE, Mr. FORD of Tennessee, Mr. GEREN of Texas, Mr. HEFNER, Mr. HOYER, Mr. KOSTMAYER, Mr. MORAN, and Mr. MURPHY.

H.J. Res. 540: Mr. ARCHER and Mr. HUTTO.

H.J. Res. 542: Mr. BROWDER, Ms. KAPTUR, Ms. DELAURO, Mrs. UNSOELD, Mr. HUGHES, Mr. LEWIS of Florida, Mr. FAZIO, Mr. SKEEN, Mr. HOYER, Mr. ABERCROMBIE, Mr. APPLEGATE, Mr. ARCHER, Mr. BREWSTER, Mr. DORNAN of California, Mr. DUNCAN, Mr. FISH, Mr. GILMAN, Mr. HUTTO, Ms. MOLINARI, Ms. WATERS, and Mr. TORRICELLI.

H.J. Res. 547: Mr. MCNULTY, Mr. LEVIN of Michigan, Mr. VANDER JAGT, Mr. LUKEN, Ms. NORTON, Mr. INHOFE, Mr. LANCASTER, Mr. SYNAR, Mr. YATRON, Mr. SANDERS, Mr. WASHINGTON, Mr. BENNETT, Mr. BATEMAN, Mr. PAXON, Mr. STAGGERS, Ms. LONG, Mr. COBLE, Mr. SOLOMON, Mr. HUTTO, Mr. IRELAND, Mr. MARKEY, Ms. MOLINARI, Mr. ROTH, Mr. DUNCAN, Mr. TRAXLER, Mr. SKEEN, Mrs. PATTERSON, Mrs. COLLINS of Illinois, Ms. SNOWE, Mr. PETERSON of Florida, Mr. ACKERMAN, Mr. ARCHER, Mr. ASPIN, Mr. BACCHUS, Mr. BAKER, Mrs. BENTLEY, Mr. BLILEY, Mr. BRYANT, Mr. BURTON of Indiana, Mr. CARDIN, Mr. DAVIS, Mr. DEFAZIO, Mr. GREEN of New York, Mr. GALLO, Mr. JENKINS, Mr. JOHNSON of South Dakota, Mr. KENNEDY, Mr. KOSTMAYER, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. OLVER, Mr. PICKLE, Mr. PORTER, Mr. RHODES, Mr. SAXTON, Mr. SMITH of Florida, Mr. SPENCE, Mr. SPRATT, Mr. STUDDS, Mr. TANNER, Mr. VALENTINE, Mrs. VUCANOVICH, Mr. YOUNG of Florida, and Mr. QUILLEN.

H.J. Res. 550: Mr. SHARP, Mr. MANTON, Mr. BLILEY, and Mr. DINGELL.

H. Con. Res. 92: Mr. CHAPMAN, Mr. BROOKS, Mr. LEHMAN of Florida, Mr. POSHARD, Mr. SHUSTER, Mr. WYDEN, Mr. THOMAS of Georgia, Mrs. COLLINS of Michigan, Mr. BLILEY, and Mr. SANTORUM.

H. Con. Res. 313: Mr. REED.

H. Con. Res. 344: Mr. MOODY, Mr. BORSKI, and Mr. ABERCROMBIE.

H. Con. Res. 358: Mr. HUGHES and Mr. HUBBARD.

# SENATE—*Thursday, September 24, 1992*

*(Legislative day of Wednesday, September 23, 1992)*

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. KOHL].

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, Rev. Merv Olson, pastor of the Gold Hill Lutheran Church in Butte, MT.

## PRAYER

The Reverend Merv Olson, pastor of the Gold Hill Lutheran Church in Butte, MT, offered the following prayer:

Let us pray:

Lord of the nations:

Help us to realize that the attitude with which we approach our work each day does have an effect on our results.

Give us grateful hearts for the freedoms that we enjoy but all too often take for granted, abuse, or neglect.

Help these leaders to remember that the decisions they make here are judged not only by voters but by You.

Guide us with courage and resolve.

Lord, give us the courage to change our minds when we are so guided and also the grace to listen.

Bless the families of all who work here.

Keep us from unkind words as well as from unkind silences.

Guide us to live with a sense that we are all role models for those who follow us in history.

And thank You, Lord, for Your grace and forgiveness that makes new beginnings possible in Christ's name. Amen.

## RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

## THE FAMILY AND MEDICAL LEAVE ACT—VETO

The ACTING PRESIDENT pro tempore. There will now be 1 hour for debate on the President's veto message on S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

Veto message to accompany S. 5, an act to grant family and medical leave under certain circumstances, and for other purposes.

The veto message is as follows:

*To the Senate of the United States:*

I am returning herewith without my approval S. 5, the "Family and Medical Leave Act of 1992." This bill would mandate that public and private employers with 50 or more employees provide their employees with leave under certain circumstances.

I want to strongly reiterate that I have always supported employer policies to give time off for a child's birth or adoption or for family illness and believe it is important that employers offer these benefits. I object, however, to the Federal Government mandating leave policies for America's employers and work force. S. 5 would do just that.

America faces its stiffest economic competition in history. If our Nation is to succeed in an increasingly complex and competitive global marketplace, we must have the flexibility in our workplaces to meet this challenge. We must ensure that Federal policies do not stifle the creation of new jobs or result in the elimination of existing jobs. The Administration is committed to policies that create and preserve jobs throughout the economy—serving the most fundamental need of working families.

My Administration is also strongly committed to policies that foster a complementary relationship between work and family and encourage the development of a strong employer-employee partnership. If these policies are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the workplace by employers and employees, and not in Washington, D.C., through Government mandates imposed by legislation such as S. 5.

Therefore, I have transmitted to the Congress legislation to establish an alternative flexible family leave plan that will encourage small- and medium-sized businesses to provide family leave for their employees.

My flexible family leave plan is based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all their employees. A refundable tax credit of 20 percent of compensation (for a credit of up to $100 a week—to a maximum total credit of $1,200) would be available for all businesses with fewer than 500 employees, for a period of family leave up to 12 weeks in length. Family leave would include the birth or adoption of a child or the care of a seriously ill child, parent, or spouse. It also would cover a serious health condition that prevents the employee from performing his or her job. This approach will cover almost all workplaces—smaller companies that S. 5 does not cover that are less likely to provide leave to their employees. My plan covers about 15 million more workers than would be eligible under S. 5 and 20 times the number of workplaces. Those not affected by my plan work for large businesses, which generally have established family leave policies.

I want to emphasize again that my bill will help where the concern is most acute—with small- and medium-sized businesses and the workers in those businesses. S. 5 misses these key workplaces by excluding businesses with fewer than 50 employees. We know that these hard-pressed small companies usually offer fewer benefits than large firms, that they generate most of our new jobs—in fact, they provide the majority of people with their first job—and that they are more likely to employ women and reentrants to the labor force. Under my proposal, many more of the millions of men and women employed by smaller businesses would be able to take advantage of family leave.

The tax credit approach to the family leave issue will provide the flexibility workers and employers need to enable them to establish the optimal package of benefits that meets their particular needs. This way the parties can decide which package of benefits is best suited to them. In addition, because a tax credit is not a mandate, it does not put struggling firms at an economic disadvantage in the global marketplace. It maintains the competitiveness of American business while providing the benefits American workers need. It provides positive incentives, not mandates with veiled costs that impede growth.

Both the House and Senate passed family leave legislation almost 1 year ago, but they have kept it in the filing cabinet until now. That is nearly an entire year with no action or any willingness to depart from a federally mandated approach, only an interest in politicizing the issue.

I have proposed a truly flexible family leave program. I am willing to work with the Congress to get it passed and signed into law immediately.

There appears to be a pattern here. Three years ago, my Administration had a fundamental disagreement with these same congressional committees on child care policy. It took the Democratic-controlled Congress more than a year to get the point—I would not buy a Government-controlled and mandated child care program. When they got serious, we rapidly hammered out flexible child care legislation patterned after my proposal, that allowed *individuals* to choose their benefits.

The same holds true for family leave. If the Congress is serious about encouraging family leave, I ask those Members of Congress who have joined me in the past in opposing Government mandates to work with me again. The Congress should pass a family leave bill quickly that provides positive incentives for family leave and is responsive to the needs of workers and employers.

GEORGE BUSH.

THE WHITE HOUSE, *September 22, 1992.*

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DODD. The 1 hour of time is to be equally divided between the opponents and proponents?

The ACTING PRESIDENT pro tempore. It is to be equally divided between the two leaders or their designees.

Mr. DODD. Mr. President, with one swipe of the veto pen on Thursday evening at approximately 8 p.m., the President denied a very basic standard of human decency to millions of working families throughout this country of ours. The President had a chance to make an old campaign promise the new law of the land, to break new ground, to replace the rhetoric of family values that we have heard so much of in the last number of months with real policy that values families, to provide working parents with the same job security that every industrialized nation in the world provides. In fact, Mr. President, I gather some 70 nations around the globe provide family and medical leave to their people.

But two nights ago the President said "no" to American families and, unfortunately, a "yes" to some of the special interest lobbies that inundate this city. He vetoed the Family and Medical Leave Act of 1992, the second time he has done this now in his 4 years as President.

Let me begin by stating what this bill is not: It is not a partisan battle. We are very proud of the fact that this legislation is strongly supported by Members of both sides of the aisle here in the Senate, and I am particularly grateful to my colleagues, Senator BOND, Senator PACKWOOD, Senator COATS, Senator CHAFEE, Senator COHEN, Senator D'AMATO, Senator DANFORTH, Senator DURENBERGER, Senator HATFIELD, Senator JEFFORDS, Senator MCCAIN, Senator MURKOWSKI, Senator ROTH, Senator SPECTER, and Senator STEVENS.

For those who may not be familiar with the party affiliations of all those Senators, every single Senator I have just mentioned is a member of the Republican Party.

Nearly three-quarters of the Senate, the last time this issue came before the Senate, supported this legislation. There are 37 House Republicans who also strongly support this legislation, including MARGE ROUKEMA of New Jersey, HENRY HYDE of Illinois, and many others.

So the effort to describe what is occurring here today as somehow a partisan contest to embarrass the President is not the truth at all. In fact, there has been a concerted effort over these past 7 years, when I first introduced this legislation in 1985, to build a strong bipartisan coalition around this idea of fundamental decency, to be able to guarantee people who are confronted with a tragic family situation or a joyous family situation, the arrival of a new infant through birth or adoption, or the tragic illness of a child or parent they are caring for or spouse, to just say during those times of crisis, we realize you should not have to make a choice between your job and your family; that we are prepared to tell you you can take a few weeks of leave in order to be with that family member during that crisis. You will not get paid during that period of time. We will maintain your health insurance, because we know how important that is; and that when you get through that crisis come on back to work. We will try to guarantee the same job you had, or at least an equivalent job, so you need not worry about your economic security while you are dealing with the security of your family, both of which are critically important today given the economic conditions in this country, where literally thousands, millions of people are losing their jobs. They are faced with family crises, putting additional pressure on those who are tenuously holding on to their jobs.

So we are saying, in terms of economic security and family security during a crisis, we are prepared to tell you, take care of that family problem and come back and be that employee that will do the job for your employer and for your own economic security.

We have been told recently by certain interests that this legislation is a mandate, that it is an outrageous thing mandating a benefit like this.

This is not a dental plan, Mr. President. It is not a vacation day we are talking about here. We are talking about a fundamental principle of human decency that recognizes the importance of families and the importance of job security.

We have heard the same argument in the past every time a proposal like this has been raised. When the issue of child labor laws were raised, the same arguments were made: Employers ought to be able to decide that issue for themselves.

The occupational safety and health standards, the same argument was raised: Provide a tax credit for the business, offer them tax credits so they will do the right thing. For the civil rights legislation, it was the same argument.

But minimum fair labor standards, every time one is raised they give the argument that the sky is falling. Well, of course, the facts tell us an entirely different story.

I would like to share with my colleagues briefly some of these statistics. There was a 1990 study commissioned by the President's own Small Business Administration that found that—and this is a quote from their report. This is not now a report done by our subcommittee or some partisan group in the country. This is the President's own appointees running this the Small Business Administration, when asked to make an assessment of the family and medical leave legislation said the following: "The net cost to employers of placing workers on leave is always"—always, Mr. President, not sometimes, not maybe, not occasionally, but always—"substantially smaller than the cost of terminating an employee." That is the Small Business Administration under President Bush's administration making that quote.

A 1992 update by the authors of this study found that 300,000 jobs had been lost and some $500 million in unnecessary hiring and training costs to business since the President vetoed the family and medical leave legislation in 1990.

My colleagues will recall that in 1990 this bill was sent to the President and he vetoed it. This study, done by Cornell University, the same group that did the study for the SBA, said that 300,000 jobs were lost as a result of not having a family and medical leave policy in place.

Much of the argument on the tax credits that we will hear about this morning indicates what a loss it is to business to have family and medical leave legislation. There is a study conducted by the very people that did the study for the SBA saying business lost $500 million as a result of losing those employees, hiring new people, and training people all over.

But it goes on further, Mr. President. Internal company studies: The Aetna Insurance Co. in my State reported in an internal study that they had saved $2 million annually as a result of incorporating family and medical leave legislation.

The irony of ironies is that recently the President was in New Jersey giving a speech about family values and about the family and medical leave legislation. He gave the speech in New Jersey at AT&T. New Jersey has had a family and medical leave law in place for several years and it has worked, according to all studies done there among business groups, extremely well.

But even more ironic, AT&T, where the President made the speech, has had a family and medical leave policy in place. And their study of the impact of the family and medical leave legislation on their bottom line is the following: We saved $15 million as a result of our family and medical leave policy.

Here the venue, the very site where the President is talking about the cost of this legislation on business, the very corporation has its own study which says we save $15 million as a result of the family and medical leave policy in place. In the State and at the company site, both locations of course have family and medical leave legislation.

Further, the study of four States commissioned by the Ford Foundation studied the States of Minnesota, Oregon, Rhode Island, and Wisconsin, four States that have family and medical leave legislation; all of them and several other States like New Jersey. They did a study of business employers in the States several years after the family and medical leave legislation was in place and asked them what has been the impact, what has been the burden. Ninety-one percent of the employers reported in that study that the leave laws were easy and inexpensive to implement. Those are the businesses that are living with the laws.

Now we are going to be told today about some future problems that some think they are apt to face.

Why not listen to the very businesses that are, in fact, experiencing the law, or that have imposed it or put it in place themselves? What they are saying about it? Why are we listening to people who have no experience with this whatsoever? Here we have 91 percent of the employers saying it is easy and inexpensive to implement.

So, Mr. President, I would hope that as we listen to the debate this morning and my colleagues would appreciate how important this issue is, let us just ask—and I will make this last point because I have colleagues here that want to be heard on this issue. I do not think anyone would doubt for one single second that—and God forbid anything does—in the President's family or to administration officials, if something happened to a child, a grandchild, a spouse, or one of their parents, what would that administration official do? What would anyone of us do? What have our colleagues done in the past when being confronted with a major family crisis? They scrapped their official schedules, they abandoned whatever meetings or appointments they had, and they went to be with their family.

How many times here have we known of colleagues of ours who have done that? And what has been our reaction when AL GORE, our colleague from Tennessee, spent time with his child who was almost killed in an automobile accident? What was our reaction when the distinguished Senator from Utah [Mr. GARN] donated a kidney to one of his daughters, missed a lot of votes and committee hearings for a number of weeks? What was our reaction then and on numerous other occasions?

Our reaction was, you did the right thing. You did the right thing. You went and spent time with your family. You missed your votes. You missed your committee hearings. You missed your appointments in the State, in the office. You did not lose your pay. You did not lose your job. And you came back and everyone said you did the right thing.

And I have no doubt, as I stand before you this morning, Mr. President, that if President Bush today were confronted with a similar fact situation, I know what he would do.

All we are saying with this legislation is, if it is good enough for a Member of the Senate, if it is good enough for a Member of the House, if it is good enough for a member of the administration, why is it such an outrageous idea for the average person in this country holding down a job, faced with a similar situation, that we cannot say to them: Be with your family, and we will do our best to hold on to your job—without paying you, by the way—during that period of time?

That is all this legislation says. This is not a radical idea. It is an idea that is rooted in the demographic changes that have occurred in this country.

Twenty-six percent of all children are being raised by single parent families today; 55 percent of all women are in the work force; 50 percent of women with children under the age of 1 are in the work force today.

Does anyone of us doubt for a second that these people are confronted with economic as well as family problems from time to time, two-income earners, sometimes holding three and four jobs to make ends meet. They are faced with family problems. A child gets sick; a parent they are caring for. There are a million women in this country today who are caring not only for their children but their parents under the same roof. Does anyone doubt for a single second that from time to time there may be a serious problem with parents you love or a child you care about and you have a job to do and yet we know since 1990, 300,000 people have lost their jobs in this country because what we are arguing for today is not in place.

That is why this is so important. We can argue all the various machinations and statistics and we will hear about tax credit ideas. That idea has been in place on child care. Only 1 percent of employers have taken advantage of the tax credit for child care; in 6 States, only 76 employers have taken advantage of the tax credit for child care. In fact, the President himself said it better, I think, than anyone else could have said when asked about a tax credit for child care. Let me just read what he said at the time the tax credit proposal was proposed for child care:

> Employers have a major role in helping parents find needed child care, but I do not support giveaways of taxpayer dollars to get business to recognize what it already knows: that it must provide assistance for more and better child care.

The tax credit idea which some are suggesting, which some 7 years after the fact, within about an hour of the time the veto message was sent, says employers are eligible only if they have fewer than 500 employees. That excludes 40 percent of all working women. Forty percent of all working women would be excluded under that proposal; more than 20 percent of the total work force.

It gives no protection for millions of employees who work for nonprofit entities, or who work here in Congress or for State or local governments. We are talking about making sure that Congress is covered by the same regulatory scheme that the private sector is. Here we are going to have a tax credit for the private sector yet not for employees of the Federal Government. Asking the Government to do what the private sector does is not included under that particular idea.

There are vague references to job protection and the like, but we will get to a broader discussion of the tax credit idea, I presume, during this debate this morning.

Mr. President, to come back to the central point here. The central point is this is an idea whose time has long since come. It is long overdue. My hope this morning is my colleagues will send a message to the President that we want this to be the law of the land. It is not a partisan battle. It never has been, despite the efforts of some to claim it to be such.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I have a great deal of respect and admiration for the distinguished Senator from Connecticut. He has worked long and hard for this bill. And if my vote were based on the level of his commitment to this legislation I would have to vote for it. I know his intentions are good and honorable. He and I worked very hard together, side by side, to put through the first real child care bill in the history of the Congress. And it is working. And it is working well throughout this country.

But I just do not believe this bill is good policy, despite its good intentions.

The Family and Medical Leave Act is packaged as a profamily, all-American piece of legislation. But once you strip away the fancy ribbons and brightly colored bows, what you have is an unprecedented, inflexible, Government-mandated employee benefit that will strangle both individual and employer flexibility in addressing workplace needs. It is a radical change in law despite a few minor adjustments.

First, Mr. President, we can argue all day about the cost estimates of this bill. But, the plain fact is that this proposal is not free. It is going to cost billions of dollars. The Small Business Administration estimates between $1.2 and $7.9 billion. We all know how the estimates back here work out in the end. They never work out lower, they are always higher.

And the plain fact is that Government mandates, no matter how well-intentioned, do not contribute to economic recovery and growth. Resources spent to comply with Federal mandates cannot be spent to create jobs.

These mandatory costs on business are not good for the economy as a whole. Employers must be free of the same kind of rigidities that have plagued the economies of many nations in Europe, which are undergoing some very difficult times.

Every new requirement we impose on business—particularly on small business—renders American industry less able to adapt to changing economic conditions and times. We become, naturally, less competitive.

Second, despite the impression some may have about the number of workers able to receive benefits under S. 5, this bill that is argued for so vociferously by the distinguished Senator from Connecticut, employees in 95 percent of U.S. businesses will receive no benefits at all.

In a weak attempt to limit the damage of its costly and burdensome mandate approach, S. 5 excludes businesses with under 50 employees. In other words, almost half of the U.S. working family members are not even eligible for these benefits despite the mandate.

Who are these excluded workers? Let me tell you who they are, Mr. President. A report that was transmitted to the Congress, titled "The State of the Small Business: A Report to the President," states clearly that "women * * * are more likely to be employed in small firms." It seems quite obvious to me that, if small businesses with 50 or fewer employees are exempt and if small businesses hire a disproportionate number of women, S. 5 has missed its mark. This legislation is not covering those individuals the bill's sponsors say it is supposed to help.

Furthermore, Mr. President, even with respect to those workers actually covered under S. 5, we need to examine whether this unprecedented Federal mandate will truly result in more choices and flexibility?

You see, the President does not believe that it will. He believes it is another one of those mandates that will force businesses to go out of business. And especially small businesses, those that are maybe slightly over 50 employees.

President Bush, in straightforward, unambiguous language, addressed this question in his veto message of June 29, 1990:

> We must also recognize that mandated benefits may limit the ability of some employers to provide other benefits of importance to their employees. Over the past few years, we have seen a dramatic increase in the number of employers who are offering child care assistance, pregnancy leave, parental leave, flexible scheduling, and cafeteria benefits. The number of innovative benefit plans will continue to grow as employers endeavor to attract and keep skilled workers. Mandated benefits raise the risk of stifling the development of such innovative benefit plans.

That is what the President said, and he is right.

The President closes:

> My Administration is strongly committed to policies that recognize that the relationship between work and family must be complementary, and not one that involves conflict. It these policies are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the workplaces by employers and employees, and not through Government mandates imposed by legislation such as (this).

Clearly, no one wants to help American families more than President Bush does. I do not think anybody does. Or more than I do. We all want to help American families meet the numerous challenges they face in balancing the demands of their work and personal lives.

In his recent veto message on this bill, the President reiterated that if family policies:

> * * * are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the workplace by employers and employees, and not in Washington, DC, through Government mandates imposed by legislation such as S. 5.

In fact, polling data indicate that 89 percent of working Americans clearly stated a preference to negotiate their benefits with employers, so that benefits could better reflect areas meeting their individual needs. Remarkably, less than one-third of the working Americans questioned thought that family leave benefits should be mandated by the Federal Government—less than one-third.

This particular chart shows the variety of benefits often compromise an employee's total compensation. For instance, this shows the benefits to private industry. All of these, the red, the green, the orange and the blue, and the orange again—all of these are negotiable benefits; every one of them.

These are the legally required ones; almost a third of all benefits are mandated upon business in general.

This is, of course, very, very important because there is only one pie. And there is only so much that an employer can do in these tough economic times to provide benefits for the employees.

In this case they are already mandated by the Federal Government, State government, and otherwise—mandated to provide about a third of all the benefits in mandated ways. These others are negotiated, benefits that people want, that they have negotiated for and that they would rather have the right to get.

So if we listen carefully, we would learn that what people really want is flexibility to choose, not mandates by us wonderful thinkers back here in Washington.

They are not interested in having Congress make these decisions for them. Regardless of the well-intentioned motivations of Members of the U.S. Congress, people are clearly telling us that they do not want the Congress to lock them into a one-size-fits-all policy. They want room to maneuver, room to negotiate, not locked into a one-size-fits-all policy.

When the Senate considered this bill last year, I offered an amendment that I believe provided greater flexibility for families. My amendment was not a mandate on an employer to hold a job open for 12 weeks or to pay unearned benefits. Likewise, it was not a mandate on employees to limit themselves to just 12 weeks leave. The Hatch amendment covered all businesses, large and small, not just some, but all businesses, large and small, and would have permitted employees to take as long as 6 years unpaid leave for the birth or adoption of a child or up to 2 years in the case of a serious illness of a family member.

My amendment would have given the leave-taking employee a preferred right of rehire to the same or equivalent job and would have returned all of the employee's accrued benefits, such as seniority and pension rights. That was fought against by some, and the reason it was is because even that had the aspects of another mandated obligation on business in keeping it open to save the seniority and pension rights and keep those intact even though they might take up to 6 years for parental leave and 2 years for illness.

My efforts were an attempt to address the great paradox of S. 5, the Family and Medical Leave Act. The bill we are debating today that the President has vetoed, and I think rightly so, purports to help families by mandating 12 weeks of unpaid leave. We can speculate, however, that this bill will actually help very few families. As I have already mentioned, it excludes a large segment of the work force.

First, even if those employees covered are limited to 12 weeks of unpaid leave, it is the position of many child development experts that 12 weeks is insufficient for parent-child bonding. It is also obvious that many serious illnesses do not confine themselves to 12 weeks.

I know the Senator from Connecticut would have preferred a longer period of mandated leave, but therein lies the problem, Mr. President. The Senator from Connecticut, along with other sponsors of this bill, realizes that there are costs to this bill. In order to afford this bill, the period of required leave had to be shortened or you could not afford it at all, and I question whether we can afford it anyway for the limited benefits that it really conveys—or mandates should be a better word. These tradeoffs have been made thus far on an individual employer or individual employee basis. But S. 5, Mr. President, is as bad as Congress trying to set up uniform wage rates or job descriptions. It is impossible, and we should not be doing it.

President Bush, as well as every legislator I have spoken with, supports family leave policies in the workplace. This fact is evidenced by legislation which the President has transmitted to Congress and which was found by the distinguished Senator from Idaho, and I think rightly so, and I compliment him for it.

The President is offering a family leave policy for almost all employees. He is offering a program that is flexible for both employees and employers, and he is offering a program that will benefit American families without jeopardizing American jobs.

President Bush's approach is a flexible family leave plan based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all of their employees. It provides a tax credit of 20 percent of compensation to businesses with fewer than 500 employees for a period of family leave up to 12 weeks. Those with more than 500 employees already have voluntary family and medical leave practices. Under 500 is where the problem is and even under 50, which is not covered here, and that means a high percentage of businesses will not be covered by this bill.

But the President's bill will cover them, and it will cover the women who really do need the help, which this bill will not. Notably, the President's approach will apply to smaller companies that S. 5 does not cover. The President's proposal covers about 15 million more workers than would be eligible under S. 5 and 20 times the number of workplaces—15 million more workers and 20 times the number of workplaces.

In conclusion, I simply reiterate that our differences with respect to this bill are not over motivation. The President has the same motivation as the distinguished Senator from Connecticut, and I certainly do, as a father of 6 and grandfather of 13. I think it is wonderful if we can have voluntary family and medical leave, but to mandate it is just another mandate taking away from the negotiable benefits that people prefer and putting them even more in this category of 32.9 percent of mandated benefits that we wonderful Members of Congress and other leaders of Government have imposed upon the American people.

So our differences are not over motivation—I think everybody agrees it is a wonderful thing—but only over approach. The President's proposal offers a framework that permits us to go forward and enact family leave legislation before Congress adjourns this year. If we are all serious about family leave legislation, we ought to sit down, resolve our differences, and move one step closer to helping America's families. We can and we should do it, and we ought to do it today. But this bill, again, leaves out a lot of families that could be helped. The President brings them in so they will be helped, and he does it in a flexible way that does not build on this mandated part of the total pie of benefit packages available to employees. It builds on these alternative negotiable benefit parts of the total pie, which is really the way America has gown and developed through the years in the best possible way.

Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PACKWOOD. Mr. President, will the Senator from Connecticut yield me 2 minutes?

Mr. DODD. Mr. President, I will be delighted to yield to a strong supporter and someone who has been a significant factor in the passage of this legislation, Senator PACKWOOD.

The ACTING PRESIDENT pro tempore. The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Mr. President, needless to say, I am disappointed the President has vetoed this bill, but we have a chance today to prove what we did when we passed it, and that is we mean it and we vote to override the veto.

This is not like we are starting down the road on some newfangled experiment. Eleven States and the District of Columbia already have family leave, and I am proud to say Oregon was one of the pioneers. We passed it in 1987. It has worked so well that a study by the Families and Work Institutes, commissioned by the Ford Foundation, reported in 1991 that 91 percent of the employers in Oregon say that family leave has caused them no problems with implementation.

So, Mr. President, I urge a vote to give the workers in all States the same guarantee of job security that families now have in Oregon. This is the fair thing to do. It is the right thing to do. It works, and employers who have had experience with it say that they can make it work very well.

I very much join the Senator from Connecticut and the Senator from Missouri and others and urge that we override the President's veto on this bill. I thank my friend from Connecticut.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Idaho [Mr. CRAIG] for 5 minutes.

Mr. CRAIG. Mr. President, I thank my colleague from Utah for yielding.

Let me start this morning in support of President Bush's veto of S. 5 by making it very clear to all of us here that this is not a partisan issue. Some have said in the last 24 hours that our President speaks about the family, but he will not do anything for the family. The timing of the release of this legislation, the passage of it, to go to the President for his signature or his veto after it laid idle for 10 months seems to draw the question that, in the final hours of this 102d Congress and in the latter days of a heated Presidential campaign, there was an attempt to skew this into a partisan issue.

Let me suggest this morning, Mr. President, that all of us, Democrat or Republican, are for some form of parental family leave. The question is, How do we get there? Do we allow the Federal Government to step forward with a mandate and say this is what you are going to do? Or do we create an environment in which it happens because of a voluntary effort on the part of the employee and the employer working together?

My colleague from Connecticut speaks of New Jersey. It was not a Federal mandate that caused a parental leave program in New Jersey.

We have just heard our colleague from Oregon speak of a program in Oregon. It was not a Federal mandate that created the program in Oregon. It was the ability of that State and its employees and its employers working together to craft a flexible program like the Senator from Utah has spoken to and that the American people have spoken so clearly to, that has resulted in those kinds of dynamics, to create those kinds of programs.

Yet S. 5 that our President vetoed would go in totally the opposite direction and in doing so, it misses the mark. Here is a graph that dramatically shows what a program that is loudly touted to be the absolute answer to this most difficult problem in the workplace addresses, S. 5, number of businesses, 300,000; the President's proposal, 6 million. Number of workers S. 5, vetoed, 33 million; the President's, 15 million more, or 48 million.

Yesterday I introduced a flexible tax credit approach for the President and for 15 other original cosponsors in this body, S. 3265, known now as the Family Leave Tax Credit Act. Here is the difference between the S. 5, and an incentive or a carrot, S. 3265, which will address millions more Americans, millions more workers, broaden the base of the perspective as it relates to small business where the growth of American employees are at this moment, recognizing that an employer with one to an employer of 500 can now get involved in a program of working with his or her employees to provide for a nondiscriminatory program that results in much, much greater benefits.

I think our President has spoken very clearly. He will not use the Federal mandate. He and many of us do not believe in that approach. But we do believe in creating a positive environment for the energy of the employee and the employer coming together to craft the individual program whether it is for a new birth, whether it is for an adopted child, whether it is for an elderly parent, whether it is for a spouse. That is the kind of program that I think this Senate wants to see created.

We have the responsibility, Mr. President, to craft an environment that allows that kind of synergism to go on in the workplace that would result in this kind of legislation. That is the kind of an amendment that I propose in the form of the legislation.

My colleague from Utah spoke about his amendment last year, that I supported this past year. Yet we know what happened. We know that as soon as my colleague from Connecticut had the votes to force the mandate, nothing else was going to happen in this body. There was no other good-faith effort to consider a balanced approach. Once you had the votes you were going to cram it through and put it on the President's desk. And that is just what happened.

But you are going to wait until the last minute so the rhetoric could raise up as a result of this being an election year and, or more importantly, that this was going to result in that this is a difference between the Republicans and Democrats.

Let me tell you, I think you know, Mr. President, this is not. The question is how do we get this? How we get this is exactly the approach that I have introduced in S. 3265 and it is the approach that my colleague from Utah spoke of.

In doing so, and in offering this approach as I said, we are talking about all businesses up to 500 employees. The AT&T's that our colleague from Connecticut spoke to have these programs already and, of course, they employ thousands upon thousands of people. They did it freely without a Federal mandate, through a negotiated relationship with their employees.

But in the smaller businesses where the majority of the employees are today, that is where the new legislation directs its energy. So from zero or from 1 to 500 employees, where we have 20 percent of total employees compensation up to $2,000 per month, this would yield $100 a week for 12 weeks in tax credit.

As I have mentioned it is a very broad based approach from adoption, birth, to the care of a spouse, to the care of an elderly parent, and it recognizes the coverage and the assurance of the maintenance of health care and pensions contributions, partial pay, and bills, or allows to be built components for a flexible benefit package to assure that those kinds of benefits are not lost during a period of that type of leave.

Those are the facts.

Mr. President, I urge my colleagues to support the veto of S. 5, the mandated family and medical leave bill, and to cosponsor and support a positive alternative introduced by myself and more than a dozen of our colleagues yesterday, S. 3265, the Family Leave Tax Credit Act. This is the bill recommended by the President to the Congress last week, which is similar to S. 841, a family leave tax incentive bill which I introduced more that 17 months ago.

I have prepared a brief side-by-side analysis comparing our legislation to the vetoes bill, and ask unanimous consent that this analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF DIFFERENT FAMILY LEAVE APPROACHES, SEPT. 24, 1992

| | Federally mandated Family Leave Act S. 5/H.R. 2 (Dodd-Clay) | Flexible Family Leave Tax Credit Act S. 3265/H.R. 6003 (Craig-Goodling) |
|---|---|---|
| Business workplaces covered. | Those with 50 or more employees (about 5 percent)[1]. | Those with 500 or fewer employees (99.8 percent).[2] |
| Employees in covered workplaces. | 40–50 percent[1] | 80.5 percent.[2] |
| Type of legislation | Federally mandated fringe benefit. | 20 percent refundable tax credit incentive. |
| Budget revenue impact. | NA[3] | $500,000,000 in fiscal year 1993; $2,700,000,000—5 yr.[4] |
| Cost imposed on employers. | $2.4 billion minimum[5] | NA—leave is based on employee-employer negotiation & encouraged by tax incentive. |
| Type of leave | Unpaid | Unpaid or paid. |
| | Birth, adoption, serious health condition of child, parent, or employee. | Same. |
| Health coverage continued. | Yes | Yes. |
| Job and benefits protected/reinstated. | Yes | Yes. |
| Enforcement | Secretary of Labor issues regulations; aggrieved employee obtains complaint and enforcement from Secretary or files civil action. | Secretary of Treasury issues regulations; credit is conditional on leave granted. |

[1] Source: Committee reports on S.5/H.R. 2.

[2] Source: Office of Management and Budget.

[3] In the committee reports on S.5/H.R. 2, the Congressional Budget Office estimated no revenue impact. Since the additional costs mandated will likely cause the loss of thousands of jobs and much taxable income, this conclusion is arguable.

[4] Source: Department of Treasury.

[5] Based on a combination of General Accounting Office and Small Business Administration methodologies. In 1991, SBA estimated that 12 weeks of mandated maternity leave alone would cost employers $1.2 to $7.9 billion a year. GAO's earlier report estimated this type leave would account for about half of the leave taken under the mandate bill.

Mr. CRAIG. Mr. President, I discussed my bill back then with colleagues, the business community, family advocates, and the administration. I did not offer my bill as an amendment when the Senate took up S. 5 just under a year ago because it was as obvious then as it is now that no alternative was going to be given serious consideration until after a veto was sustained.

The proof of that fact came in the treatment accorded the one major substitute that was offered at that time. Those of us who had a variety of ideas on alternatives to mandated benefits decided to support one of them and deferred to the distinguished ranking minority member of the Labor and Human Resources Committee, Senator HATCH. The gentleman from Utah had put much thought and effort into his bill, the preferred rehire alternative. I know he and his staff were working on it well before the beginning of the 102d Congress and that it was a very serious undertaking. But, when it came to the floor, arms were twisted, the special interest groups howled, and Senator HATCH's very good proposal was not given the consideration it deserved. It was obvious that the same fate would befall any other serious alternative, as well.

But now, we have in hand the vetoed S. 5. We all know this veto will be sustained—as it ought to be. We knew this 10 months ago, when both bodies had passed S. 5, and it is regrettable that it took 10 months for Congress to send the bill 16 blocks down Pennsylvania Avenue for what always was a certain outcome.

Now we have the opportunity to really consider all sides of this issue fully and seriously. If the supporters of S. 5 want a bill signed into law this year—possibly even this month—they can now come to the table with us who support family leave but oppose mandating benefits.

Our bill, S. 3265, offers the compromise approach of creating a new, refundable, 20-percent tax credit that would be a powerful incentive for employers to offer family and medical leave benefits.

I would like to insert in the RECORD at this point a description and factsheet on this legislation. Also, I would like to insert a statement of endorsement by CARE, the Concerned Alliance of Responsible Employers, which represents more than 1 million employers, nationwide. I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### FLEXIBLE PARENTAL LEAVE POLICY

President Bush has consistently supported employer policies to provide parental leave. But he has opposed mandates that require businesses to provide leave to employees. These mandates are a hidden tax on employers and employees that will cost the economy thousands of jobs.

However, the President supports tax credits for employers that will encourage flexible parental leave policies without stifling economic growth.

### PARENTAL LEAVE TAX CREDIT

The Administration supports refundable tax credits for businesses that establish nondiscriminatory parental leave policies. The credit would be available for:

All businesses with under 500 employees, so long as the benefit is provided to all employees on a nondiscriminatory basis;

For 20% of total employee compensation of up to $2,000 per month, for a period of up to 12 weeks;

For birth or adoption leave, or for the care of a seriously ill child, parent or spouse; and

The cost of the credit would be less than $500 million per year.

The advantages of this approach over parental leave mandates are:

It gives employers the flexibility to design a leave package that best fits their employees' needs. The $400/month or $100/week credit is designed to allow the employer to cover the benefits of an absent employee—whether those costs are for continued health coverage, pension or 401k contributions, partial pay, or any other component of a flexible benefits package that an employer may offer. It may also partially defray the cost of temporary replacement employees.

It provides incentives for most small and mid-sized employers, where the need is greatest and the costs are more burdensome, to develop responsible parental leave policies. The Democratic plan excludes companies with under 50 employees in a weak attempt to limit the economic damage to small and mid-sized businesses. The Republican plan would offer positive incentives to all employers—of any size—to provide parental leave.

Instead of mandating hidden payroll taxes on small and mid-sized businesses, it would provide direct economic incentives to encourage the adoption of the responsible parental leave policies that President Bush has long supported.

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## FAMILY LEAVE TAX CREDIT ACT OF 1992—FACTSHEET

### CURRENT LAW

No deduction or credit is available to an employer who provides employees with unpaid leave for childbirth, medical care of children or parents or other serious medical needs. Compensation paid to employees during leave for these purposes is deductible under general tax principles.

### REASONS FOR CHANGE

Care for family members with serious mental or physical health problems, including injuries and sickness necessitating hospital, hospice or substantial and continuous medical treatment, present substantial hardships on families. Families are further burdened by the requirements of childbirth and childcare. The increase in the number of two wage-earner families, as well as single parent families, has resulted in pressures to balance these family needs with employment requirements. This balancing has resulted in difficult decisions for both employers and employees.

Employers face significant costs related to extended employee absences. Extended absences could result in substantial lost production and lost business opportunities if the employee is not replaced. These costs are particularly high for small and medium-sized businesses. Economies of scale permit large firms to reduce these costs. Large businesses can train and maintain floating employees, temporarily shift employees to replace absentees or enter into regular arrangements with third parties for trained temporary employees. The costs of extended absences on small and medium size businesses may not be as readily reduced. For small and medium-sized businesses, it is often not economically reasonable to maintain floating employees, to shift employees from other duties or to retrain workers for only a temporary need. Accordingly, small and medium size businesses are more likely to experience severe economic consequences if they do not quickly replace absent workers.

Regardless of a business' ability to mitigate costs, all businesses must balance the legitimate family needs of their employees with the costs of extended absences. Since most businesses cannot economically tolerate unlimited employee absences, employers frequently must place limits on such absences. As a result of these limitations, employees can be placed in the situation of choosing between their employment and the serious medical or health needs of their families.

The proposal's tax incentives encourage small and medium-sized businesses to adopt flexible leave policies related to childbirth, adoption or serious family health problems. The tax incentives do not require that any particular form of flexible leave be adopted. Instead, the proposal allows employers and employees to arrive at a program based on their specific needs, while also providing an offset to the cost of extended employee absences.

### EXPLANATION OF PROVISION

The provision provides a 20% refundable tax credit to small or medium-sized employers that provide family leave to their employees. "Family leave" is in connection with the birth of a child; the placement of a child with the employee for adoption or foster care; caring for a child, parent or spouse with a serious physical or mental health condition; or a serious physical or mental health condition that prevents the employee from performing his or her job. All employers with fewer than 500 employees are eligible for the family leave tax credit.

The amount of the credit is 20% of the cash wages that the employer provided to the employee during the period of family leave, or would have been provided to the employee during that period had he or she not taken the leave. The cash wages that would have been provided is based on the average wages for the preceding calendar year (or absent a sufficient period of employment, the preceding four calendar quarters). The maximum amount of wages taken into account for this purpose is $100 for each business day. The maximum period of family leave for which the credit is available shall not exceed 60 business days (12 calendar weeks) in any 12-month period. This results in a maximum available family leave credit of $1,200 per employee per year.

The proceeds of the family leave credit may be used by an employer for any purpose. For example, the proceeds may be contributed to a pool of funds provided by the employer and other employees to defray employee leave costs, paid as partial wage supplements to employees on leave or used to purchase wage continuation insurance or other insurance to cover leave related costs or to provide leave related benefits.

The credit is only available with respect to employees (whether part-time or full-time) who satisfy certain length of service requirements. Under these requirements, the employees must have been employed by the employer for at least 12 months before beginning the family leave and must have performed at least 1,000 hours of service for the employer in the preceding 12 months. Moreover, the credit applies only for the portion of family leave during which the employer reasonably expects that the employee will return to work for the employer.

In order to qualify for the credit, employers must provide employment and benefits protection to employees on family leave. Health benefits must continue during the leave under the terms and conditions that would have applied had the employees remained at work. In addition, all family leave must be provided on a nondiscriminatory basis.

Mr. CRAIG. Mr. President, a tax credit incentive to provide family and medical leave—as opposed to mandating fringe benefits in Federal law—is the approach that is consistent with how we always have approached both employee benefits and tax policy.

Generally speaking, we pass laws that punish to deter bad behavior and enact incentives to encourage good behavior. That is the approach we are taking in introducing the Family Leave Tax Credit Act.

Sixty years ago, there were virtually no employer-provided employee benefits. Congress enacted tax incentives. Today, more than 85 percent of employers provide health insurance. Some 90 percent of employees in medium and large firms have disability leave with at least some income replacement. According to surveys of employee benefits by the U.S. Chamber of Commerce in recent years, 97–99 percent of employers voluntarily provide some type of paid benefits.

It is not fair or an accurate assessment of need, merely to identify how many employers provide the precise benefits provided for in S. 5. To a significant extent, when such benefits are not offered it is because other benefits were negotiated, instead. A Gallup poll from a couple of years ago found that parental leave was the most important benefit to only 1 percent of respondents.

Because employee benefits must be carved from a finite pie of resources the employer has available for compensation, mandating one set of benefits means that employee choice will be overridden and, in some cases, employees will wind up losing other benefits they would have preferred.

I ask unanimous consent to have printed in the RECORD at this point some additional information compiled by the CARE coalition, on what benefits employers already provide and what employees really want.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## TAX INCENTIVE FOR FAMILY AND MEDICAL LEAVE A POSITIVE APPROACH

WASHINGTON, DC, September 23, 1992.—The Concerned Alliance of Responsible Employers, a coalition representing over one million employers and individuals nationwide, commends President Bush's new initiative to provide tax incentives for family and medical leave policies.

The Alliance support the rights of employers and employees to decide the work and family benefits which are best suited to their individual and mutual needs, and opposes across-the-board mandates which neglect to take into consideration the individual circumstances of each employer and the particular needs of the individuals in his or her workforce. The President's proposal, which will allow employers to take a refundable tax credit for costs associated with an employee's absence due to the birth, adoption or care of an ill child, spouse or parent, as well as an employee's own illness, recognizes these needs and circumstances. Moreover, this proposal does not mandate that employers adopt a stringent federal benefit policy and permits the private sector to provide the most efficient response to the changing demands and requirements of today's workforce.

In response to the growing number of workers with family responsibilities, employers have instituted a variety of programs to assist workers to meet dual work-family demands. The President's proposal will assist companies to continue and expand these programs, while providing an incentive to those who need financial support to institute this kind of employee benefit.

The members of the Alliance encourage members of Congress to seriously consider this proposal, and look forward to working with them to that end.

STEERING COMMITTEE MEMBERS

American Association of Nurserymen.
American Bakers Association.
American Feed Industry Association.
American Furniture Manufacturers Association.
American Machine Tool Distributors Association.
American Wholesale Marketers Association.
Amway Corp.
Associated Builders and Contractors.
Associated General Contractors.
Citizens for a Sound Economy.
Electronic Industries Association.
Florists' Transworld Delivery.
International Dairy Foods Association.
International Mass Retail Association.
National Association of Chemical Distributors.
National Association of Home Builders.
National Association of Wholesaler-Distributors.
National Automobile Dealers Association.
National Council of Agricultural Employers.
National Federation of Independent Business.
National Fisheries Institute.
National Food Brokers.
National Grocers Association.
National Restaurant Association.
National Roofing Contractors Association.
Printing Industries of America.
Snack Food Association.
Society of American Florists.
Society for Human Resource Management.
United Fresh Fruit and Vegetable Association.
U.S. Business and Industrial Council.
U.S. Chamber of Commerce.
Wholeale Florists & Florist Suppliers of America.

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### The Case Against Mandates: American Employers Are Already Providing an Increased Array of Benefits to Employees

In 1989, employee benefit costs as a percentage of payroll was 37.6 percent, totalling $965 billion, up 8.2 percent from $892 billion in 1988 (US Chamber of Commerce).

Approximately 60 to 70 percent of firms that employ 16 or more workers offer job-guaranteed sick leave. Between 74 and 90 percent of all small to medium firms provide some type of leave to employees which can be used to meet family and medical needs (Small Business Administration).

A survey of 3,460 firms in the wholesale-distribution industry revealed that 65 percent of respondents offer either paid or unpaid leave specifically for the birth, adoption or care of an employee's ill child. Seventy-nine percent of companies with between 100 and 200 employees and eighty-one percent of those with more than 200 employees also offer such a benefit (National Association of Wholesaler-Distributors).

The Bureau of Labor Statistics reported that 90 percent of employees working for medium and large firms are covered by disability leave with some level of income replacement.

Seventy-two percent of respondents to CENSUS of Certified Employee Benefit Specialists said that in the absence of formal leave policies, employers informally accommodate workers who are ill or have seriously ill children.

In 1989, twenty-two percent of medium to large companies provided a child care benefit, including dependent care spending accounts (Hay/Huggins Benefits Report).

Seventy-three percent of respondents to a Lou Harris survey said that their employers already make adequate provisions for both regular and emergency needs of working parents. The vast majority of female respondents to this poll said that their supervisors are "very understanding" when a parent must stay home from work to care for an ill child.

The Roper Organization questioned women in 1989 what they thought would most increase their job satisfaction. Better maternity-paternity leave ranked ninth out of ten, well behind incentive or bonus programs, better health benefits and more rewarding tasks.

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### The Case Against Mandates: Public Opinion Polls Reveal That Mandated Family and Medical Leave Is Not a National Priority

An ABC News/Washington Post survey conducted in the Spring of 1989 revealed that only three percent of respondents considered making it easier for parents to take time off from work without pay after they've had a child, the most important problem facing the country today.

When asked by the Gallup Organization, only one percent of 1,000 respondents listed parental leave as their most valuable employee benefit. Twice as many respondents didn't even know what their most valuable benefit was!

Penn & Shoen conducted a survey in January 1991 for the Concerned Alliance of Responsible Employers. When asked to choose between the federal government mandating fringe benefits or leaving this decision up to employers and employees, eighty-nine percent of 1,000 respondents said they preferred that employee benefits be decided privately.

Mr. CRAIG. Mr. President, S. 5 represents one of the noble, but most misguided, impulses of legislators: The tendency to legislate by anecdote, to govern according to relatively isolated horrow stories, and to ignore the possibility that, in doing so, the baby can be thrown out with the bathwater.

In saying this, I do not argue that we should ignore each and every workplace that is without family leave benefits. The question is how best to expand the availability of such benefits. Experience shows us that tax incentives obviously have worked when Congress has wanted to expand the universe of available benefits.

The answer also turns on how we judge human nature. A balanced view is that the laws of human nature apply equally to employers and employees. Those of us who believe that individuals will be as good to others as they can be, believe in using the carrot rather than the club to foster good behavior.

I urge my colleagues, if you want to enact the fairest and most balanced bill, if you want a true compromise, if you want a family leave law this year, let's start by looking at our Family Leave Tax Credit Act. Now that sustaining the veto is almost behind us, let's sit down with the leadership from both sides of the aisle and the administration, and work out an effective, nonmandate, compromise.

Having said that, I strongly urge my colleagues to vote to support the President's veto and to become a cosponsor of S. 3265.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, last year during the consideration of mandated family leave legislation in the Senate, I stated the reasons why I opposed such legislation. I continue to oppose such legislation and rise in support of the recent veto by President Bush.

Over the past few years, the Congress has debated various proposals which would mandate employers to provide several weeks of family and medical leave for the birth or adoption of a child, or for the care of a sick family member. While family and medical leave is desirable and should be encouraged, a Federal mandate in this area—as this legislation would require—does not take into account the varying needs and circumstances of employers and employees.

One employee may want a family leave benefit, while another may prefer to choose a different one from among the wide range of benefits now being offered by many businesses. I am concerned that this legislation could hamper the ability of employees to freely choose benefits which best meet their individual needs.

President Bush has recently put forth the Family Leave Tax Credit Act, which I believe represents a better approach to family leave. Under his proposals, a tax credit would be available for businesses that provide their employees with 12 weeks of family leave. This imposes no mandate, and I reiterate my opposition to Federal mandates on family leave. Rather, the President's proposal fit in with their particular business and employees. It also provides much-needed flexibility.

It is important to note that the wide offerings of employee benefits in the late 1980's and early 1990's have resulted from the energy, vitality, and flexibility of the private sector. These offerings demonstrate the ability of American business to respond to a changing market and willingness to accommodate the needs of a diverse work force.

Businesses should continue to have the freedom to respond to the market, and not have mandates for benefits. From the very formative years of this Nation, the free market has played a vital role in the private sector and employer/employee relations. Let us continue to build on this freedom.

Recently, the September 17, 1992 edition of the Augusta Chronicle included an editorial outlining a $25 million private sector initiative to pool resources to help finance day care and elderly care in 44 cities. As the editorial notes, private sector initiatives such as this one, represent a far superior approach to family leave, than having Federal mandates. I ask unanimous consent that a copy of the editorial appear in the RECORD immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1).

Mr. THURMOND. Mr. President, in short, we do not need an additional Federal mandate such as S. 5 would impose. Accordingly, I intend to vote to sustain the Presidential veto of this bill.

EXHIBIT 1

[From the Augusta Chronicle, Sept. 17, 1992]

VETO "FAMILY LEAVE"

When President Bush vetoed the family leave bill two years ago he explained that companies which could afford such policies were already implementing them, and those that couldn't shouldn't be forced to by government. The resulting closures and job losses, he said, would hurt more families than it would help.

The President did, however, use his "bully-pulpit" to urge business and industry to ease their employees' family burdens whenever possible.

Last week a key segment of corporate America answered the call—and none too soon. The Democrat-controlled Congress had just passed a new leave-bill, designed to embarrass Bush on the "family values" issue.

The measure, very similar to the one he successfully vetoed in 1990, required high-paid workers—the only ones who can afford it—be allowed to take up to 12 weeks of unpaid leave to care for newborns or ailing parents.

This contrasts with the $25 million project announced by 11 of the nation's top companies and more than 100 small- and medium-sized businesses. They will pool their resources to help finance day care and elderly care in 44 cities.

The companies' sensitivity to the changing work force is far superior in scope to the legislation on the President's desk. He can cite their example as one which should be expanded or emulated throughout the private sector, as it becomes feasible. If the government interferes now, these innovative private initiatives will come to a screeching halt.

Mandates require conformity, not innovation. Besides, the government should stay clear of problems that are already being dealt with elsewhere.

Bush was right to veto family-leave the first time around, and given the progress under way, he'll be even more right to veto it the second time.

Mr. DODD. Mr. President, I yield 3 minutes to the distinguished Senator from Missouri.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Missouri for 3 minutes.

Mr. BOND. I thank my colleague from Connecticut. I believe for too long Government has ignored the importance of families and in some instances adopted policies more likely to break them up. That is why since I have been in this body, listening to the people of Missouri and working with my colleagues, I have successfully pushed for latchkey care for elementary schoolchildren of working parents, a family unification program to keep families together when they otherwise would be broken apart because of a lack of adequate housing, and right today we are working to get a parents-teachers bill through that will help parents become better participants in their child's education.

But while all these efforts are important, I believe the single most significant step that we can take to help all families in America is to try to reinstill individual and family responsibility.

And to do that, we as a society need to make family obligation something we encourage rather than discourage. That is why I believe we should enact the Family and Medical Leave Act over the President's veto. As a society, we should never force a parent to choose between a sick child and his or her job. We should never force a parent to choose between caring for an aged parent and a job, and we should never force a mother to leave her newborn baby in order to stay employed.

That is why I worked with the Senator from Connecticut to develop the compromise before us today, which I believe is reasonable. That is why I will continue to urge my colleagues to support this bill over the President's objection.

Over these past few years we have heard many people discussing the family, family values and how we must strengthen the family. As one who believes that for far too long Government has ignored the importance of families, or worse yet created policies more likely to break them up than keep them together, I welcome this discussion.

Many of the problems facing society today can be attributed to the weakening of the American family. Drugs, violence, crime, declining educational performance and poverty can be traced back to an empty childhood or a shattered family. There is a great need to strengthen the American family by reinforcing the bond and sense of responsibility between parents and children.

Of all the efforts and initiatives that I have been involved in since coming to the Senate, none have been more important to me than my efforts in the area of family preservation and children's issues.

Thus for the past several years, working with organizations in Missouri as well as other interested individuals I have been actively pushing a series of reforms and new policies designed for the sole purpose of keeping families together.

I believe that programs to help children and families are long-term investments by today's generation that will brighten the future of our Nation.

I believe that our solutions should be preventive rather than reactive. We must address the root causes of problems rather than simply applying Band-Aids to deep cuts.

America's children hold the key to our long-term prosperity. They will lead America in the years to come and affect the progress of our country. The motivation and the capacity to learn start from birth and need constant attention. Parental involvement in the education of their children is the single most important factor in ensuring long-term academic success for youngsters. Parents are their children's first and most influential teachers. As Governor, I established Missouri's Statewide Parents As Teachers Program, making Missouri the first in the Nation to offer a comprehensive parent education/early childhood program. It is designed to assist parents in fostering their children's language, cognitive and motor development skills, and to provide advice to parents on what to expect at each stage of a child's development. Because of the program's success, 35 other States have used the Missouri model to develop their own programs.

Recently I worked with the St. Louis Salvation Army to create a new, innovative housing and counseling center to address the needs of homeless families with children to get them out of the emergency shelters and into a program to rehabilitate their lives.

With Senator MIKULSKI I created the new family unification program and got it up and running. This will help keep kids out of foster care who would otherwise be split up because of housing deficiencies and reunite other families already split up because they lacked affordable housing. This is an extremely important program, and I am proud to be associated with it.

But while all these efforts are important I believe the single most important step we can take to help all families in America is to try to reinstill individual and family responsibility. And to do that, we as a society need to make family obligation something we encourage rather than discourage. That is why I believe we should enact the Family and Medical Leave Act over the President's veto.

As a society we should never force a parent to choose between a sick child and his or her job.

We should never force a parent to choose between caring for an aged parent and a job.

And we should never force a mother to leave her newborn days after its birth in order to stay employed.

That is why I developed the compromise before us today, which I believe is reasonable; that is why I will continue to urge my colleagues to support this bill over the President's objections.

Mr. President, some feel this issue is about mandates. I believe it is simply job protection at a time when it is needed most in a family. As a society we must begin to place a higher value on parenting and family obligation.

The workplace of the nineties cannot live by the rules of the 1950's. The fact is that more mothers of young children, even infants, work outside the home than ever before. In 1988, married women with young children comprised the majority of new entrants in to the labor force. More than half of women with young infants return to work outside the home within a year of their child's birth. And contrary to what some may have you believe, it is not necessarily out of choice—it simply takes two incomes to pay the bills.

To prove my point: We know that more than two-thirds of women in the work force today are either single parents or have husbands who earn less than $18,000 per year. The fact is a family of three or four cannot live comfortably on under $18,000 per year in most parts of this country. Surveys show us that many married couples would choose to have one person stay home full time if money were not an object, but it is.

So what happens when a family faces an emergency, an illness, or unexpected change to adopt, but both partners work? Well, they had better hope they have an understanding employer.

A 1990 Bureau of Labor Statistics found that only 37 percent of female employees have any type of maternity leave. And of the Fortune 1,500 companies, where one might expect the best coverage of workers, only half offered parental leave beyond the standard 6-week maternity as disability period.

Paternity leave is extremely scarce. Only 18 percent of fathers at medium and large firms are covered by unpaid paternity leave.

According to the chamber of commerce, 82 percent of employers provide no leave to care for sick children.

And if an employee is sick himself or herself, there is a good chance that he or she works for a company that does not even provide sick leave.

That is why this bill is vital. During that unforeseen family emergency, we want our Nation's parents to think about their family's well-being, and not worry about whether their job will be there when their youngster gets out of the hospital.

Mr. President, I have thought long and hard about these issues, and I believe the compromise developed with Senator DODD last year, which is what the President has rejected, is important, necessary, and should be signed into law.

We have made improvements to the bill in response to legitimate business concerns about the potential for abuse of leave. In addition, we have told the employee that he or she bears some responsibility in notifying employers of plans for leave, and must also provide documentation to ensure that the leave is necessary.

As a society we should never force a parent to choose between a sick child and his or her job.

We should never force a parent to choose between caring for an aged parent and a job.

We should never force a mother to leave her newborn days after its birth in order to stay employed.

And by all means, if we believe in strengthening the family, we should encourage a policy of family obligation when at all possible.

Mr. President, I urge my colleagues to enact this measure over the President's veto.

Mr. KENNEDY. Mr. President, last week, the Yandle family came to Washington to urge President Bush not to veto the Family and Medical Leave Act. Their story illustrates in a poignant and compelling way what is wrong with the current practice, in which employees who need time off from work to deal with family emergencies can be fired from their jobs.

The Yandles live in Georgia with their three children. In 1987, 11-year-old Dixie was diagnosed with cancer. Her leg was amputated 2 inches below the pelvis, and she began undergoing chemotherapy treatments.

Both her parents took time from their jobs to care for their daughter. Mrs. Yandle left her job after her manager accused her of lying about her daughter's cancer and her need for time off.

Mr. Yandle worked as a salesperson for a large Atlanta car dealership. While his daughter was in the hospital, he tried to balance his work and his family responsibilities. One evening, exhausted by the strain, he collapsed at his daughter's bedside and was hospitalized in intensive care for 3 days.

Mr. Yandle was fired from his job. Even though he had continued to perform as one of the top three salespeople, his employer decided that was not good enough.

It took Mr. Yandle more than a year to find another job, because his former employer was giving him negative references. Rather than explaining that Mr. Yandle's daughter had been fighting cancer, rather than letting prospective employers know that Mr. Yandle had continued to outperform most of his coworkers during that difficult time, the employer said only that Mr. Yandle had lost his job because he put his family first.

When he finally found another job, he was paid only 40 percent of what he had previously earned. The family exhausted their savings, and managed to hold onto their home only because their adult children moved back and shared common expenses.

The Yandles symbolize in human terms what this debate is all about. Last week, they came to Washington to put flesh and blood on this legislative debate. They urged President Bush to sign the Family and Medical Leave Act. But President Bush turned thumbs down on the Yandle family, thumbs down on millions of other working families, thumbs down on family leave.

This bill is no threat to small business and no threat to jobs. It exempts businesses with 50 employees or less—95 percent of all firms. The leave is unpaid, so there's no significant cost to business. It applies only to full time workers who have been on the job for at least 1 year.

It exempts key employees, requires doctors' certifications to prove the need for leave, and requires workers to repay health insurance premiums if they choose to leave their job for good. It requires employees to provide notice for foreseeable leaves, and to schedule treatments in a way that does not unduly disrupt business operations.

When a medical crisis strikes, when a new child is born or a family member is seriously ill, workers need leave. That is a fact. When the chips are down, President Bush sides with business and Congress sides with families.

All other industrialized nations provide reasonable, job-guaranteed leave as good social policy and good economic policy.

Studies demonstrate that family leave costs less than hiring and training replacement workers. In this day and age, no working parent should be forced to choose between the job they need and the child they love.

President Bush is attempting to hide his veto behind an ineffective, expensive, 11th-hour tax credit. Congress sees through this sham, and so does the public.

The President's proposal fails to provide the basic job guarantee that lies at the heart of the Family and Medical

Leave Act. While a tax credit might induce more companies to adopt family leave, it still keeps workers subject to the whims of their employers. It will do nothing to encourage companies with more than 500 employees to adopt a leave policy—yet 41 percent of all women work for businesses larger than that.

The administration's tax credit would also be available only where an employee takes a single, uninterrupted period of leave during the year. It excludes workers who need intermittent leave—such as 1 day a week for ongoing medical care. If two family emergencies hit in a year, the family is out of luck. This will place an especially heavy burden on disabled persons, who often need ongoing medical treatment.

Even if the employer does not pay the worker taking leave or hire a replacement, the tax credit is still available, based on the full amount the employee would have earned if no leave was taken. That is a ridiculous new direction in tax policy—giving tax breaks to businesses for money they do not even spend.

In addition, under the administration's proposal, there is no requirement for the employer to give workers back their old job or an equivalent position. A firm can comply with the Bush bill by giving employees any job when they return—even one with lower pay and less responsibility. Some incentive.

The President's proposal is an expensive, multibillion-dollar tax break for business. Leave it to this administration to turn a sensible family proposal into a tax break for business.

Between 1980 and 1992, the share of taxes paid by business have dropped by nearly one-third. After struggling through a decade of corporate tax breaks, the last thing working Americans need now is for the President to force them to pay for yet another giveaway for business.

In 1988, candidate George Bush said:

> I do not support giveaways of taxpayer dollars to get business to recognize what it already knows: that it must provide assistance for more and better child care.

What Mr. Bush said in 1988 about child care applies in 1992 to family leave.

If President Bush genuinely cared about the needs of working Americans, if he believed that his tax credit would respond to those needs, he would not have waited silently through 7 years of debate, 17 hearings, 11 markups, 6 major bipartisan compromises, and 1 previous veto fight before sending his alternative to Congress. He would not have stood on the sidelines, refusing to meet with family leave advocates and leading congressional sponsors, until the closing days of this Congress.

Working Americans have waited too long for this basic right. This bill responds in a fair and balanced way to their needs, and the veto should be overridden.

We know that Bill Clinton would sign it if he was now in the White House—and we know he will sign in January if our effort fails today. So family leave is coming soon—the sooner the better.

Mr. HATCH. I will yield 1 minute to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, as one Senator, I wish to compliment Senator HATCH for his statement, and compliment the President for vetoing a bill that is another mandate on business. I happen to agree with the goals enunciated by my friend, Senator DODD from Connecticut. I just disagree with the method. The method is saying: Business, you have to do this, and if you do not, you have to pay fines, and pay back wages, once, twice, three times, and then you have to pay attorney's fees and a lot of legal expenses—that is enormously expensive.

I hope my colleagues look at the enforcement section. We are telling business that you have to do it. We do not disagree with the concept of parental leave as an employer. I know the Presiding Officer is also an employer. Our company provides paid leave, paid maternity leave. We provide vacations, flexible time. If one is ill, we allow them to be off. We take care of our employees. We do not need the Federal Government coming in with this dictatorial stance. Wages and benefits should be negotiated between employer and employees, not dictated by the Federal Government. What may work in some States, or what may work in some areas, may not to be the case with a lot of private providers. So I urge my colleagues to allow employers and employees to negotiate and not dictate with a Federal heavyhanded mandate.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. GORE. Mr. President, I want to compliment the Senator from Connecticut, [Mr. DODD] for his outstanding leadership on this issue over a long period of time. He has educated us all about the ways to solve this very serious problem, and those who have worked with him are owed the gratitude of all of us here and the American people.

I also want to compliment the Republican Senators who have shown courage in supporting this legislation. Though there is sharp division on the other side of the aisle, there are a good number of Republican Senators who have recognized that partisanship ought to end when we have a matter as important as the family leave bill on the floor. Indeed, as the evidence has shown, overwhelmingly, this ends up saving money for the country and saving money for those businesses that implement this policy. The alternative with all due respect, is nothing more than a political fig leaf. We all understand that. In 1988, when the subject of tax credits to encourage family leave policies cam up, here is what George Bush said in Albuquerque, NM:

> Employers have a major role in helping parents find needed child care, but I do not support giveaways of taxpayer dollars to get business to recognize what it already knows.

Well, of course, when the political heat is felt in the White House, there is panic and a scrambling for some kind of alternative that can serve as a tiny fig leaf, but that is all this alternative is. You get a tax credit under their proposal. If you provide 1 day of leave for an employee that might need several weeks, 1 day would qualify for the tax credit they are talking about as an alternative. When it comes to family leave, President Bush is saying, read my lipservice to family values. He has vetoed this bill in an act which completely destroys all the impression that President Bush and Vice President QUAYLE attempted to create with the incessant rhetoric about family values.

Let me tell you a story that I learned personally when my wife and I were in Johns Hopkins Hospital during our son's need for medical treatment. A little boy next to our son's bed in the pediatric unit was named Brett Philpott. His father, Mitch Philpott lives in Marietta, GA. Before he lost his home, he used to live in a suburb of Atlanta with his wife and other children. Brett was diagnosed at birth with a rare condition which at first affected his eyesight and then led to constant seizures. The medical problems multiplied, and in order to receive specialty care, they came to Johns Hopkins.

We got to know Mitch Philpott and his family extremely well. For 30 days and nights in Johns Hopkins, we held hands with them, we talked with them, we prayed with them. We got to know them very well.

Mr. President, Mitch Philpott was fired from his job because he could not get 6 weeks of leave to stay with his son and family, while the operations were underway. His wife lost her job. She requested leave to be there during the 6 weeks prior to Christmas. The company told her you cannot have it. You will have to resign.

They lost their home. Tragically, as so frequently happens in cases like this, the stress had other impacts on the family.

I have kept in touch with Mitch Philpott over these past 3 years. He said just yesterday that what makes him happiest in life is to come home and to hold his son. But the financial burdens have created a nightmare for this family.

Anybody who wants to know why this law is needed, just come with me down to a children's hospital to a pediatric critical care ward and spend 1 day there talking to the families who are in the aisles and in the patient care rooms trying to figure out how they can pay their bills after their health insurance has been canceled and they have been fired from their jobs because they need time off.

This is not a partisan issue. The President is isolated on this issue.

I ask my colleagues to vote to override the veto of the family leave bill.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, the managers on both sides have indicated a number of Senators still wish to speak, and according to their request, I now ask unanimous consent that the debate be extended for 10 minutes, to be equally divided between the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I also be permitted to use my leader time to make a statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. HATCH. Mr. President, I will yield 2 minutes to the distinguished Senator from Iowa who has an alternative.

Mrs. KASSEBAUM. Mr. President, when this legislation came before us a year ago, it presented me with a difficult choice. No one denies the importance of allowing workers time off to cope with family emergencies or the birth of a new child.

I sympathize deeply with those forced into the difficult position of having to decide between their families and their jobs. Yet at the same time, I am troubled by the larger unforeseen and unintended consequences of Federal involvement of this kind.

To meet the needs of our changing work force, many businesses have already responded with comprehensive leave programs. Others have approached the problem on a case-by-case basis.

Unfortunately, not all employers have recognized the increasing demands on working parents, the commitment involved in caring for a newborn, or the pressures workers face when an illness strikes at home.

Does this mean that Congress must mandate a response? Should we require all employers with 50 or more workers to offer no less than 12 weeks of family and medical leave? I have wrestled with this issue for the last three Congresses, and each time I have reached the same conclusion: I cannot support Government-mandated leave.

Until now, Congress has wisely refrained from interfering with the bargaining relationship—the give-and-take between employer and employee—however uneven at times it may be. This has allowed maximum flexibility for wage and benefit packages to be shaped according to the size and fiscal constraints of businesses and the needs and desires of workers.

The great diversity of business needs in this country makes it very difficult for the Federal Government to devise a single plan that addresses the needs of all workers, without adversely affecting the ability of employers to meet those needs.

Consider also the cost. Estimates have varied from a low of $5.30 per employee per year, to a total cost of almost $8 billion annually. What this illustrates is that, in fact, we do not really know the true cost of this legislation. Even if the lowest estimate is accurate, clearly this cost will vary depending upon such factors as the size or geographic location of a business.

For example, a company of 51 employees located in rural western Kansas will have far greater difficulty in absorbing the costs associated with absent workers than, say, a company of 5,000 in Wichita or Kansas City. Yet, it is precisely these smaller companies that create the greatest number of new jobs and at this time can ill afford additional burdens.

When we talk about costs, we are not just talking about a company's bottom line. Mandating a new benefit will either result in diminishing current benefits for workers or reducing their current wages. The same dollar will be spent on workers, only the pie will be sliced along different lines.

We cannot avoid the fact that when we mandate a benefit, it will increase benefit costs, which in turn will have a direct impact on the labor market, either curbing wage increases, discouraging the hiring of new workers, or even accelerating layoffs in hard times.

Mr. President, while the ultimate effect may be minimal, I am deeply concerned about the cumulative impact of this and other legislation which add new costs and liabilities to every job. If we continue to create new burdens linked to employment, as this bill will do, businesses will come to view their employees as liabilities rather than as assets.

Sadly, this is already taking place. Like it or not, it is becoming standard practice for companies to reduce their staffs to the bare minimum necessary to remain profitable. "There is not an informed employer in America who wants to create an employment relationship," one expert stated recently to the Washington Post. "Nobody wants employees."

We need to start asking why this is happening. Many of my colleagues have come to the floor to decry rising levels of unemployment, while turning a blind eye when it comes to legislation like this which may well influence the decision of a company to hire new employees.

Small- and medium-sized businesses have always been the primary source of new jobs in our economy. Recently, however, this sector's job growth has dropped, at least in part due to the rising costs associated with hiring.

On top of payroll taxes and workers compensation, health care insurance is fast becoming an additional, de facto employment tax on companies. Until we face the health care crisis head on, adding new mandates will only further discourage the creation of new jobs.

Mr. President, the efforts of Senator Bond and others to fashion a workable bill underscore the difficulties inherent to this legislation. For every new requirement, an enforcement mechanism must be implemented, along with the attendant regulations and necessary paperwork, further adding to the regulatory burdens of small- and medium-sized businesses.

A colleague of ours, former Senator George McGovern, discovered first hand just what obstacles the small businessman must face. His small hotel and restaurant were driven into bankruptcy. His experience led him to conclude that:

> In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—for example, 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor-intensive vs. capital-intensive businesses, and local market economies.

It was his regret that he did not have this firsthand experience of the difficulties business people face every day when he served in public office. "That knowledge," he said, "would have made me a better U.S. Senator."

Mr. President, much has been said in this debate about family values. Leave to care for a family is good for business, and it certainly is good for a family. None of us would deny that. A number of employers already provide those benefits and more should. But I have never believed the Federal Government can legislate benefits to meet every need, particularly through mandates of this kind.

What we can do is create an atmosphere conducive to economic growth and the creation of new jobs. Health care reform will be an important step. But employers must also have the flexibility to offer a variety of benefits, tailored to meet the diverse needs of their workers. This might include provisions for child care, elder care, flexible work scheduling, job-sharing, or any number of programs designed to meet the unique needs of each workplace.

I am especially concerned that the growing trend toward more flexible benefit programs will be constrained if Congress mandates certain benefits, to the detriment of those employees who do not need or desire those benefits.

While I recognize the important need this bill seeks to address, I cannot support it. We cannot afford, at this juncture, the additional burdens—both in terms of cost and in the loss of flexibility—that this bill would mandate.

Mr. CRAIG. Mr. President, throughout the debate this morning, we have heard a statement echo here in the Chamber "it is a tax break for business. It is only a tax break for business."

Let me remind the Senate that this Senate and this Congress has provided in public law tax breaks for health insurance deductions, and that is for business and people, and employees, tax breaks for life insurance, that is people, targeted job tax credits, that is people, continuing education, that is people, and that is business, legal assistance, moving expenses, flexible spending accounts for dependent care, child care. Nobody said that was just for business.

It is good political rhetoric, but the facts are we do provide this as incentive and we have historically for people, because we recognize that if you create a positive environment, positive things happen out there in the workplace. That is what is accomplished by the President's bill and that is what we recognize. You can play the rhetorical game if you wish, but you better check your voting record, because you will find you provided tax breaks for business to create an environment for positive things to happen for the employee and the employer.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DODD. Mr. President, I yield 2 minutes to the distinguished Senator from Ohio [Mr. METZENBAUM].

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for 2 minutes.

Mr. METZENBAUM. Mr. President, I thank my colleague from Connecticut.

Mr. President, the President talks about family values, but as the Washington Post stated last week, he has shown a pathetic level of commitment to the needs of America's working families. President Bush vetoed this bill once before in 1990. Now he has vetoed it again. Workers should not be forced to choose between their job and their family, but that is just where George Bush has left them.

It is true the President sent up his own family leave proposal but that proposal would allow an employer to claim a tax credit of up to $1,200 per employee even if the employer had no expenses whatsoever related to the unpaid leave provided for employees, a great way to balance the budget, give away more money in tax credits to employers.

Plain and simple, that will mean employers would be free to profit from an employee's unpaid leave. The President's proposal does not just allow that result, it actually encourages it. The President's idea of helping America's working families is to let his corporate friends loot the Federal Treasury at the expense of the American taxpayers.

That is not leadership. It is nothing more than a cynical and transparent effort to hoodwink the American people. I see through it. My colleagues see through it. I believe the American people will see through it. And over 70 percent of the Americans support the bill the President vetoed. I urge my colleagues to override that veto.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. I am happy to see the distinguished Senator from Tennessee here [Mr. GORE], and I expected to see him here today, and I wish him well. I especially wish him that he might be able to spend a number of future years with us here in the Senate. On the other hand, he makes some good points on this, and so does Senator DODD.

But I think if the President would be listened to, he has a bill that can lead to a family leave bill being enacted this year. Not only would it be enacted but instead of only 300,000 businesses being covered which is what this bill does, you would have 6 million businesses covered and they would be the businesses where the people who need there are most likely to be working. Instead of having only 33.4 million workers covered, as this bill will do by mandating on the backs of American business these obligations, you would have 48.7 million people covered by the President's program.

Is this pure politics or a true effort to pass a family leave bill? The Democrats have held this bill for 10 months. They passed it 10 months ago in the House but they held it for 10 months until they actually conferenced S. 5 in August.

Although our friends on the other side clearly control the legislative agenda in both Houses of Congress, I think one has to question why all sudden in the last few days of this Congress it is brought up now rather than before.

Mr. President, I think it is important to look at these charts and realize that the approach of the President of the United States will work without the mandates.

One of the more interesting articles over the last week is by Charles Krauthammer, called "Family Leave Flimflam."

Mr. President, I ask unanimous consent that that article and an article by George Will called "Lessons From California" be printed in the RECORD.

The being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1992]

### FAMILY LEAVE FLIMFLAM

(By Charles Krauthammer)

In the old days when government wanted to do something nice for the people, it doled out the money. Health care for the poor? Government would pay for Medicaid. In the heyday of the Great Society, expansive social feeling coincided with explosive economic growth to produce government largess on a scale unseen before or since. The redutio ad absurdum of this approach was George McGovern's 1972 campaign promise of a $1,000 "demogrant" to every breathing American, a simple presentation of cash from a bountiful government to a grateful citizenry.

Then came Reagan, tax cuts and fantastic debt. Government is broke. Giveaways are not obsolete—Congress and the president have just granted 10.5 billion borrowed dollars to hurricane relief—but except for emergencies, government has grown wary of dipping into a treasury already $4 trillion in debt.

Yet the politician's determination to continue giving is unswerving. No money? No problem. Nowadays politicians give and make someone else pay.

A perfect example is the family-leave bill just passed by Congress. The bill would mandate that businesses with more than 50 employees provide up to 12 weeks per year of leave per employee (unpaid, but with health care benefits and a job guaranteed) for reasons of family or personal illness, birth or adoption.

Family leave is a good idea. It spares workers the cruel choice between a loved one and a job. A generous country should have family leave. And a generous country should pay for it. How? Not by adding yet another regulatory burden on American business already struggling to survive in a highly competitive global economy, but by socializing the cost. Have government pay for it. Indeed, among our competitors that do have family leave, the costs are heavily subsidized by the state.

The Bush administration in a late counterproposal offered tax subsidies to reimburse businesses that voluntarily offer family leave. Make it mandatory, and it's the right idea: Government mandates, government pays.

Politicians of both parties are constantly sounding off about America's growing lack of competitiveness. Yet they heap mandate upon uncompensated mandate on business, adding relentlessly to the cost of production, inevitably jeopardizing the capacity of American business to complete.

Take, for example, the "play-or-pay" health care plan proposed by Senate Democrats and endorsed by Clinton, Guess who pays. "Play-or-pay" says to small business: You either provide health insurance for your employees, or you pay the government an additional payroll tax estimated by the OMB at 7 percent to 9 percent (and we will provide the health insurance.)

Now, business already has a 6.2 percent payroll tax for social security and 1.5 percent for Medicare. Adding another 7 percent to 9 percent tax is only going to make it harder for American business to meet foreign competition.

Yet in the same spirit Clinton proposes another tax on business. His worker retraining proposal mandates that a business must either have its own retraining program or pay another payroll tax (1.5 percent) to finance a government training program. More play-or-pay.

Yes, we need worker retraining, particularly in a world of free trade with its inevitable social dislocations. But adding the cost to business is simply a way to kill the golden goose that generates economic growth.

Payroll taxes, which raise the cost of labor, are a particularly bad idea. They distort the employer's choice when deciding whether to hire a worker or buy a machine. Distorted economic choices in general make for inefficiency and slower economic growth. This distortion, moreover, biases the choice in a particular direction: against labor. And that has an even more baleful consequence: joblessness. The more expensive an employee is for a given amount of output, the less likely he is to be hired.

Do we want family leave, universal health insurance, worker retraining? Then let's all pay for it. Socialize the cost. First, because it is more honest. There is no free lunch. We are going to have to pay for these social goods one way or the other. Fobbing them off on business does not eliminate the cost. It only hides it.

Socializing the cost is also more rational. For example: We could, as Clinton proposes, charge all these goodies to American business. Alternatively, government could pay for them directly, financing them with, say, an energy tax or a national sales tax.

At least now we can make judgments. Doing it the first way means a decrease in international competitiveness and an increase in joblessness. Doing it the second way means a decrease in consumption spread through the general population. We can now choose our poisons.

In my view, equity argues for depressing everyone's standard of living somewhat rather than visiting extreme hardship on the unlucky jobless (while the rest of us carry on unscathed). There are, of course, other ways to weigh the tradeoffs. But the only way we will see the trade-offs at all and make rational choices between them is if the costs of these social benefits are acknowledged openly.

We have some distance to go in finishing the edifice of the welfare state. Unfortunately, it will cost. The only people it suits to hide the cost are the politicians. It allows them to say to the great "forgotten" middle class: I bring you new and wondrous things. And, by the way, for you: no new taxes.

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[From the Washington Post]

### LESSONS FROM CALIFORNIA

(By George F. Will)

LOS ANGELES—"Dear Governor Wilson: If no one likes you then no one will vote for you. The teachers are going to go on strike. You better shape up or bye-bye you're out of there."

California's continuing crisis is America's most portentous political story. Pete Wilson's gritty response to it is a stunning contrast to the evasions of the presidential candidates concerning the nation's comparable crisis. An introduction to California's crisis, and Wilson's response, is that "you better shape up" letter to him. It is from a third-grader.

Sacks of such letters have been produced in a propaganda exercise the Los Angeles teachers' union is pleased to call a "civics lesson." The union's leader says the students "feel cheated" by the state budget. Sure, they probably talk of little else.

The education lobby's sense of limitless entitlement is apparent in the shrill denunciations of the budget that closed a $10.7 billion gap without tax increases. It reduced the level of benefits—for the elderly, blind, disabled, poor, street repair, bridge maintenance and much else—but it maintains the per pupil spending level while accommodating this year's enrollment growth of more than 200,000—more students than are in New Hampshire's or Hawaii's schools.

Actually, total state spending, counting the dedicated revenues of the "special funds" (for highways etc,) will increase by $430 million. But the general fund has been cut as Wilson faces the fact that demography is destiny.

California's "dependency ratio"—the ration of population under 18 and over 64 to the working (18-64) group—is rising here while falling in the rest of the nation. Hence there is an ominously changing ratio of taxpayers to "tax receivers," defined as participants in the state's costliest programs, such as students, prisoners, welfare and medical beneficiaries. These programs take 91 percent of the general fund.

The number of tax receivers is growing faster than the number of taxpayers. Indeed, there recently has been a net migration from the state of high-earning (and highly taxed) people age 45 to 64.

During this decade, kindergarten through 12th grade enrollments may increase three times faster than the working age population. The taxpayers already are burdened. The corporate tax burden is the nation's fifth highest. The income tax—the nation's most steeply progressive—is the eighth highest. State and local sales taxes reach 8.5 percent in some counties. In 1991, Wilson cooperated—reluctantly—in enactment of the largest tax increase in the history of any state.

So what are public employees' unions and other advocates for tax receivers advocating? Proposition 167. It is on the November ballot and would increase taxes on businesses and affluent individuals.

Wilson's better idea, Proposition 165, would give governors power to make certain budget cuts when (as in 16 of the past 20 years) the budget is late. And it would cut all welfare payments by 10 percent, and cut by 15 percent benefits going to those who have been receiving benefits through Aid to Families with Dependent Children for more than six months.

California's welfare caseload, growing at a rate four times faster even than the state's burgeoning population, currently has average monthly payments ($663) about 83 percent higher than the national average ($361). When other non-cash benefits are added, a welfare recipient who today takes a job paying $1,200 a month can actually be $150 worse off than he would be on welfare.

In 1980 there were 6.9 taxpayers for every recipient of AFDC. If current trends continue, by the year 2000 the ratio will be 2.9 to one. To combat the trends, Proposition 165 would discourage "welfare shopping." About 36 percent of new welfare recipients come from the 10 states with the lowest benefits. Families moving to California would receive, for the first 12 months, welfare grants no larger than those paid in the state they came from.

California's welfare grants are, Wilson says, 3½ times those of Texas, double those of neighboring Arizona, double the average of the 10 most populous states. Even with the cuts made by the new "draconian" budget, California's grants are higher than those of all states, but Alaska, Hawaii and Vermont. If Proposition 165 is enacted, the grants will still be 60 percent larger than those of the 10 most populous states.

In the 1980s, California experienced an 83 percent increase in teenage pregnancies. Half the women now on welfare first became pregnant as teenagers. Proposition 165 aims to modify behavior. Teenage parents on welfare would get an additional $50 a month as long as they are progressing through high school but would lose $50—a $100 incentive—if they drop out.

And grants will not be increased for additional children born to mothers already on welfare. Wilson says this idea comes from a black legislator from Camden, N.J., who said it was just elemental fairness to working parents who are too hard-pressed to start or enlarge families. Furthermore, under Proposition 165, after six months on welfare the grant would be reduced for families with an adult able to work.

California's crisis is taking a terrible toll on many people, but it also is eliciting something simply not seen nowadays in Washington—hard choices about grim facts. Why? Because Wilson's back is to a useful wall: He is constitutionally required to balance the budget. And because Wilson understands the necessity of fighting arrogant lobbies that conscript elementary school pupils into political battles.

Mr. HATCH. Charles Krauthammer says this, and I think it is an interesting statement.

> Family leave is a good idea. It spares workers the cruel choice between a loved one and a job. A generous country should have family leave.

I think we all agree with that—

> And a generous country should pay for it. How? Not by adding yet another regulatory burden on American business—

Which we pointed out in this first chart here by expanding the mandated part of employee benefits and taking away from the negotiated part that employees have the flexibility to negotiate for themselves.

He says:

> How? Not by adding yet another regulatory burden on American business already struggling to survive in a highly competitive global economy, but by socializing the cost. Have government pay for it. Indeed, among our competitors that do have family leave, the costs are heavily subsidized by the state.

What he is saying is just be honest about it and have the Government do it.

He goes on to say:

> The Bush administration in a late counterproposal offered tax subsidies to reimburse businesses that voluntarily offer family leave. Make it mandatory, and it's the right idea: Government mandates, government pays.
>
> Policitians of both parties are constantly sounding off about America's growing lack of competitiveness. Yet they heap mandate upon uncompensated mandate on business, adding relentlessly to the cost of production, inevitably jeopardizing the capacity of American business to compete.

It is a wonderful article, and he calls it the way it should be called. The President said let us not mandate it on the backs of business, let us cover the wide variety of people, 6 million businesses compared to 100,000 or 48.7 million people compared to only 33.4 million under this bill, and let us do it in the best way we can without forcing people to choose among competing fringe benefit programs.

In another article by George Will that appeared in the Washington Post this morning—it is an excellent article—he basically makes the point that there is a cost to all of these mandates and that cost right now is sinking the economy. You add this cost on the backs of business and it just helps sink the economy more. It is a very, very interesting article about California and how it is sinking, because they have mandated benefits until they are getting blue in the face.

Let us not forget that 95 percent of all businesses are not covered by this bill; 95 percent, one-half of all American workers, are not covered by this bill. And in most cases they are the people who, if you really want family or medical leave, would be the ones you would want covered. The reason they have not is they know that the cost would sink small business even more than they are, especially the small businesses of 50 to 200 employees. And that is where the guts of this country really happens to be.

Mr. President, this is an important debate. Why it comes up with just a few days left in the Congress, I think we all have to make our own minds up as to that.

But there is no doubt in my mind that this is a big political game right now. Knowing that they cannot pass this bill, knowing that the veto will be sustained in the House and bringing it up, in spite of that, when the President has an alternative that would cover 6 million businesses versus 300,000, 48.7 million people versus 33.4 million—and these 48.7 million people are people who really deserve and need the coverage—and does it without a mandate, without shrinking the economy, without having us have some of the problems that some of these major States are having because they have been too generous in mandating on the backs of business that which should not be mandated.

That is what they are going to do here if this bill could possibly make it through, which it will not. The fact is, it will pass here in the Senate today but it will not pass through the House of Representatives.

Mr. President, I yield the floor.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DODD. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Four minutes and fifteen seconds remaining.

Mr. DODD. Mr. President, let me just briefly identify first of all to my distinguished colleague from Utah that Senator CRAIG, of Idaho, talked about the marvels of the tax credit idea. While this may be somewhat difficult for people to see, let me just take a minute just so people understand the fundamental distinctions.

First of all, this is rather transparent. This bill has been around for 7 years, and all of the sudden, less than 36 hours ago, we have parachuted in here a tax credit idea. In fact, the distinguished Senator from Idaho offered a tax credit idea a number of years ago and the administration would not support it at all.

So all of a sudden, rather than the 11th hour, virtually the 12th hour, all of the sudden, there is this great conversion on the way up to Capitol Hill; all of a sudden we are for family medical leave and we have a better idea.

So consider the timing, first of all, which I think is critical.

Second, consider the fact we never had any hearings on this. We had 17 hearings on this bill. There have been no hearings at all on the idea of a tax cut.

It adds to the deficit. I read the bill. It is $2.7 billion for what they are proposing and no identification of the offset of those revenues. I would just suggest to my colleagues, we will be hearing speeches about the deficit today. Adding $2.7 billion to the deficit without an offset is the height of irresponsibility at this particular hour.

Furthermore, my colleague from Utah just pointed out that this legislation that they are offering or will offer actually covers more workers. The fact of the matter is it does not at all. In fact, the study shows, under our legislation, 72 percent of the work force will be covered; 60 percent under their legislation.

Besides, you are not covered—one of the great complaints around here is we pass legislation and do not have it apply to the Federal Government or to the Congress. The tax credit would not cover the Federal Government, the Congress, nonprofit organizations; millions of people would be excluded from any kind of family and medical leave legislation because it would be exclusively based on a tax credit idea.

Jobs security for all eligible employees. Under ours, yes. Under the tax credit proposal offered by the President, it is up to the employer year to year to decide what options are available. Ours is a minimum of 12 weeks; they get 1 day.

The right to return to the same or equivalent job. Ours gives you that right; under the tax credit idea, no.

Intermittent leave. This is something I know the Senator from Utah cares about. Ours, you get intermittent chemotherapy or dialysis. We understand you do not take that altogether. You may need a day or a week to get that done. Our legislative allows that. This bill specifically prohibits intermittent leave.

So, Mr. President, with all due respect, I must say, that is not really something that is being offered, in my view, in seriousness at all. It would add to the deficit considerably. It does not cover the same number of workers.

Mr. President, let me conclude my own remarks on this. It has been 7 years that I have been involved in this effort. I offered this legislation 7 years ago. We worked very hard to improve this legislation. Senator BOND and Senator PACKWOOD have offered invaluable help. Senator COATS of Indiana has been tremendously helpful to put together a bipartisan bill.

I think the Senator from Tennessee said it well. This is really about human decency. This is saying whether or not you understand that today there are millions of people who are literally holding body and soul together in a difficult job market out there, faced with difficult family issues and problems, you ought not to force a family to make the choice between their job and their family.

Employment security and family security are critically important. In the absence of this legislation, you take millions of people and force them to make the cruel choice between keeping a job or keeping their family together.

If you do not believe me, just visit any children's hospital in this country, spend 5 minutes there and talk to the people who are struggling, middle-income people, lower income people, without the influence or without the position to be able to guarantee their jobs.

This bill says that, God forbid, you are in that situation, we understand it and we care. And that is all this veto override is about. I urge my colleagues to override this veto.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, has leader time been reserved?

The ACTING PRESIDENT pro tempore. Leader time has been reserved.

Mr. DOLE. Mr. President, I would like to take 3 minutes to summarize my more lengthy remarks which will follow. Then I know the Senate majority leader wants to wind up the debate.

Mr. President, I am going to urge my colleagues to sustain the President's veto. I am not certain we can do it in the Senate, but I think it will be done in the House.

The one word people need to remember in all this is the word "mandate." If you are a small businessman or a small businesswoman, do not worry about the tax credits or all the other things that came in at the last minute. Worry about the word "mandate." That is a tax on your business. Might as well say we are going to increase your taxes; whatever it takes; it is a mandate.

And the thing the people are concerned about in my State, a small State, yes, businessmen and businesswomen, are all these mandates coming from Washington. And yet here is another mandate that Congress wants to stick you with.

It is also worth noting that this legislation passed the Senate on October 2, 1991. We have had a year pass since that time and it is not until now, a few weeks before the election, that we are getting excited about this particular piece of legislation.

And keep in mind one or two things. We are not voting on whether family and medical leave is a good idea. We all support family leave. In fact, many corporations have much better plans than this and many more are going to adopt such plans.

If everybody was voting on the premise that we are all for family leave, obviously the President would sign the bill.

What we are really voting on, however, is the best way to bring socially desirable programs and benefits to the American people.

And there are some who will say the only way you can do that is to get the government involved; let the Government do it or mandate that the businessmen and women do it. Let somebody from Washington, DC, tell somebody in Winfield, KS, or some other medium-sized town anywhere in America, this will be your leave policy. One size fits all. Whether you are married with children, single, young, middle aged, older worker—one size fits all. The same old story that we have had for years and years from the other side of the aisle: The Government knows best. The Congress knows best.

So I am just suggesting this is a hidden tax; might as well be a direct tax on the employer. Benefits are going to come out of the employer's pocket. He is going to have to reduce it in some way, maybe by reducing some of the employees. Then you get lots of leave. I suggest we are going in the wrong direction.

The Senator from Idaho [Mr. CRAIG] has already introduced the Family Leave Tax Credit Act. He has been out front on this. I have some reservations about that, but I did cosponsor it on the assumption that we will pay for it. We cannot charge it to the deficit.

So I just suggest, Mr. President, let us have this vote. Let us let the other side see how much politics may be in it. Let us have the House sustain the veto. And then let us come back, maybe next year, with some rational program that does not mandate what employers must do in America, whether they be men or women.

So I urge my colleagues to help us sustain this veto. I think we may be a vote or two short.

But I urge my colleagues to take a look at the word "mandate." Look it up in the dictionary.

Call somebody out in your State before you vote and ask them what they think about mandates from Washington; not benefits, mandates from Washington. Then I think you will come in here and vote to sustain the President's veto.

Mr. President, I urge my colleagues to vote to sustain the President's veto of S. 5.

### S. 5: POLITICALLY MOTIVATED

It is unfortunate that the Democrat-controlled Congress continues to pursue its politics as usual agenda—even when the issues are as important as family and medical leave legislation.

It is worth noting that this legislation passed the Senate on October 2, 1991, with action in the House only a few weeks later. And yet in the year that has passed since that time, a conference—lasting a few minutes—was not held until August and the bill was not sent to the President until the height of the election season. If this legislation is not politically motivated, I do not know what is.

### SUPPORT FAMILY LEAVE PROGRAMS

Mr. President, before this vote occurs, it is very important to understand the issue before us.

We are not voting on whether family and medical leave is a good idea or whether we support family and medical leave programs. If that were the case, the President would not have vetoed this legislation and this bill would have been law a long time ago.

What we are really voting on is the best way to bring socially desirable programs and benefits to the American people.

### S. 5: GOVERNMENT MANDATE

My colleagues on the other side of the aisle like to mandate these benefits. They like Washington, DC reaching out into every community, every office, and every factory—telling the American people what is best for them. They believe that those of us in Congress always know best—that we know it all.

### S. 5: A HIDDEN TAX

The sponsors of S. 5 also like taxes for that is what this bill amounts to. Indeed, there is no difference between this bill and a new tax on employers which would fund family and medical leave benefits.

The bottom line in either case is that the money to fund these benefits comes out of employers' pockets whether it is a direct tax or an order from Washington to provide these benefits.

### THE ADMINISTRATION'S PROPOSAL

Mr. President, yesterday the distinguished Senator from Idaho [Mr. CRAIG] introduced the Family Leave Tax Credit Act of 1992 of behalf of the administration

I am pleased to be an original cosponsor of this important legislation which provides the basis for flexible leave programs that will reach more workers and more businesses.

A comparison between S. 5 and this legislation—which provides a refundable tax credit to help employers provide these important benefits to their employees—further exposes the many weaknesses of S. 5 and shows why the mandate approach will cause more harm than good.

### INCENTIVE VERSUS MANDATE

First, the administration's proposal provides an incentive for businesses to establish family and medical leave programs.

S. 5—which embraces the mandate approach with a vengeance—will stifle job creation, encourage job loss, and force a reallocation of employee benefits from negotiated benefits to Government-mandated benefits.

You can be sure that with the Government telling employers that they have to provide a new benefit without helping them do it—business will be forced to offset this new cost by providing less of something else.

### FLEXIBILITY VERSUS ONE-SIZE-FITS-ALL

Another important advantage of this legislation is that it provides flexibility in the establishment of such programs. S. 5 is a one-size-fits-all mandate. Everyone gets 12 weeks; everyone gets the continuation of existing health insurance benefits. That is it—no less, no more.

Under the approach contained in the President's plan, employers and employees can design the program that best meets their needs. The $1,200 credit could be used to cover any variety of benefits for the absent employee—such a continued health coverage, pension or 401K contributions, partial pay, or any other component of a flexible benefits package that an employer may offer.

### HELPS MORE BUSINESSES AND WORKERS

A third significant advantage of this legislation over S. 5 is that it helps more businesses and workers. I am informed by the Office of Management and Budget that S. 5 only reaches 300,000 businesses and about 33 million workers.

The administration's proposal reaches 6 million businesses or 20 times more workplaces than S. 5. In addition, it covers over 48 million workers or 15 million more than S. 5.

So if we are looking at which bill delivers the goods to more workers and their families, the President's proposal wins by a landslide.

It is also worth noting that as S. 5 carves out small and medium-sized businesses in a weak attempt to limit the acknowledged economic damage it would do, it ends up leaving out those very companies and their workers whose needs are the greatest and where costs are the most burdensome.

### AN ISSUE OR A BILL?

Mr. President, I think the question for my colleagues on the other side of the aisle is whether they want an issue or a bill.

To date, they have only wanted an issue and have worked hard to keep it alive and kicking for the election.

We all support family and medical leave. I have repeatedly expressed my commitment to such programs.

S. 5 is nothing more than an in kind tax on business—a clumsy, harmful, one-size-fits-all mandate.

The administration's proposal takes the positive approach of helping employers set these programs up for their workers. It provides the necessary incentives to do so and allows business and its work force to design a program that works for them based on individual choice—and not the choice of beltway insiders.

Mr. MITCHELL. Mr. President, every other industrialized country in the world has a national family leave policy. Most of them require paid leave. This bill requires only unpaid leave, and applies only to businesses with more than 50 employees. So let us understand the bill that we are actually voting on this morning: Unpaid leave applied only to businesses with 50 or more employees.

Seven years ago the first family leave legislation was introduced. Seven days ago, the President first proposed a family leave tax credit. That alone tells us the story.

And the record should be clear. Tax credits are not a guarantee of job protection which is the essence of a family leave policy. Nonprofit employees, like teachers, firefighters, police officers, will not be covered by a tax credit. Federal employees will not be covered by a tax credit.

No employees—none whatsoever, will have a guaranteed period of leave for family crisis under a tax credit. And even if a business chooses to use the credit and offers employees family leave, businesses would not be required to re-employ individuals at the same position or even at a comparable position.

In order for businesses to claim the tax credit for those individuals taking medical leave for health problems, that leave would have to be uninterrupted. That would exclude individuals with serious illnesses like cancer, where chemotherapy treatment may be for 2 weeks each month over a period of several months. Is an employee with cancer, receiving chemotherapy treatment, less deserving of leave than an employee recuperating from another, perhaps less serious, health problem that happens to involve uninterrupted leave? I do not think so. I do not believe any Senator thinks so. Yet that is what is involved in the tax credit proposal.

For a family facing a health crisis or the birth or adoption of a child, job security should not be optional. No one should be forced to choose between a job and a family.

Senators should be clear when they cast their votes this morning, there is only one meaningful family leave bill before us and that is the legislation on which we are about to vote. I urge my colleagues to vote to override the President's veto and support this legislation, which will strengthen and support American families.

Mr. SIMPSON. Mr. President, when the President vetoed S. 5, the family and medical leave mandate, he did so while expressing his strong support for profamily policies in the workplace. He was quite clear about that. It is not family and medical leave, per se, that our President objects to, it is the imposition of mandatory terms and conditions of employment by Federal legislative and bureaucratic fiat. And so President Bush has offered us a better way, a more likely way, to achieve that goal of flexible family leave.

The President's proposal is based on incentives rather than mandates. Any fool knows that you can catch more flies with honey. The family leave proposal that we are introducing today on behalf of the President recognizes that American business will be far more willing to adopt family-friendly workplace policies if we give them some good, honest, cold, hard incentives to do so. You can lead a horse to water, but you can't make him drink, but you can put salt on his tongue.

Mandating behavior by Federal decree is not what this economy needs right now. We face major challenges to get this economy moving and growing. Tossing mandated family leave onto American business had to be one of the most foolish things we could have done. It is time to put politics aside and stop lobbing bills down to George Bush that are designed to blow up under his feet. Don't forget that the House and Senate passed family leave legislation almost 1 year ago, but they have kept it tucked away in a filing cabinet until now.

The President's family leave proposal is a good one. It reaches 15 million more workers than the bill that was just vetoed. It would also reach 20 times the number of workplaces—people who would have been left out under the Democrat plan. We really can't overlook that. And that is possible because we are not attempting to force mandates down the throats of small enterprises that can't handle them, on the contrary, the President's family leave package is designed to help small businesses, by making it possible for them to offer the kinds of important family-related benefits that will enable them to attract the best employees.

So the President's plan accomplishes two major points. It reaches more people and it does it in a way that offers American business an opportunity to comply, to see the adoption of family friendly workplace policies as in the company's best interests. It will be more likely to stick that way—to become an accepted part of the culture of commerce, rather than another burr under the saddle.

The tax incentives do not require that any particular form of flexible leave be adopted. Instead, the proposal allows employers and employees to arrive at a program based on their specific needs. That is critical. It is that extra measure of salt.

So I urge my colleagues to do something fine for American business and for American families, and take up and pass the President's family and medical leave proposal.

Mr. JEFFORDS. Mr. President, all of us are guilty of spending a lot of time talking about family values. But we all know that what we say or do is of little importance in fighting crime or educating children compared to what happens on the front porch or in front of the fireplace. Families make the difference.

Fortunately, today anyway, our talk is cheap. The bill before us would provide a substantial amount of help to families for a very low cost. According to estimates by the General Accounting Office, the cost of this legislation is about a penny and a half per covered employee per year. Spread that cost over all employees, and the cost is probably a fraction of a penny.

The GAO's estimates have been criticized, and to be sure there are a lot of assumptions made in any such estimate. But the views of the GAO are buttressed by the real world experience of those States that have adopted similar legislation. My own State of Vermont has recently adopted maternity and then family leave, and employers, far more than are covered by this bill, have been able to comply with the law without the drastic consequences predicted by opponents of this legislation.

And while there is some doubt about the cost, there is no doubt about the benefits. Families in America are struggling to hold down jobs, raise children and care for parents at the same time. There are limits to what the Federal Government can do to help. But at the very least, we must give families the tools to cope.

Foremost among these tools is the ability to take unpaid time off to care for a new baby or a sick child, for an ill parent or spouse, without jeopardizing your job. I think we must guarantee such leave, while minimizing the impact upon businesses.

Over the 7 years or so that we have been working on this legislation, I think we have accomplished a fair balance between the needs of workers and those of employers. And if the results in the States are any guide, I think this bill will succeed.

I want to commend the many people who have worked on this legislation, notably Senators DODD and BOND, and their staffs as well. They have been open to suggestions for improvement but have never lost sight of the importance of this issue for the working people of America and their families. I urge the Senate to override the President's veto, and hope the House will do the same.

Mr. REID. Mr. President, I rise today to support the Family and Medical Leave Act.

I can think of no other group of Americans in greater need of protective legislation than working mothers.

In this campaign season, we hear so much about candidates being profamily. This legislation is profamily and will provide the job protection our families need in desperate times.

This bill provides 12 weeks of unpaid and I emphasize, unpaid leave per year for the birth of a child or a serious family illness.

If a working woman chooses to have a child, we should do all we can to ensure that the family is not strained by the prospect of her losing her job.

Our fathers, as well, should have the opportunity to spend the first few months of his baby's life without the fear of unemployment.

This bill contemplates the concerns business owners may have and addresses them adequately.

Ninety-five percent of businesses are exempt. Thirty days' notice is required. Medical certification can be requested. Part-time employees are not included.

We must recognize that we live in a society that cares about families and children. And we must recognize that to force these employees out of work, we are asking them to begin receiving public assistance. If they are not working, they are neither receiving a salary, nor any health coverage.

We then increase the number of people on welfare and on Medicaid.

Working mothers constitute a greater percentage of our work force every year. And single mothers are growing in numbers each year.

These single working moms are some of the hardest working people I know.

Some work multiple jobs, without any assistance from their absent spouse, so that they may better the lives of their children.

This bill, in a small way, will improve the lives of millions of children and ease some of the great burdens on our working parents—both mothers and fathers.

If this Congress commits itself to invest in families, by allowing parents the flexibility needed for handling serious medical emergencies and pregnancies, then America guarantees satisfied and more productive employees and stronger, healthier families.

I urge this body to override the veto of this important legislation. American families deserve our support.

Mr. ADAMS. Mr. President, I rise to express my strong and longstanding support for the Family and Medical Leave Act. I am proud to have been an original cosponsor of this legislation. Working families in my State of Washington and throughout the United States need this legislation. It is vital that we override the President's veto.

"Family values" has become a Republican campaign buzzword. This legislation is fundamental to working families across America. The President says he understands what it is like to have a seriously sick child. If he wants every American to be able to spend time with their sick children, he should sign this bill, not veto it.

We are at a critical point in this country. Ten million Americans need jobs, and many also need to care for their families. Work and family should not be opposing forces. They should not be mutually exclusive. It is time for American businesses to recognize that what is good for workers and families is also good for them and the economy.

This bill is very simple. It guarantees employment for someone who needs a short leave to care for a new child or ill family member, such as an aging parent, or to recover from his or her own serious illness. According to the GAO, the costs are de minimis: Only $5.30 per eligible employee per year. This is far less than the cost to employers of hiring or retraining workers.

As chairman of the Labor Committee's Subcommittee on Aging, I recognize how important this legislation is to older Americans. Two of my top priorities as chairman have been caregiving and intergenerational services. This legislation addresses both those priorities. The National Council on Aging estimates that more than 20 percent of the Nation's 100 million workers have some caretaking responsibility. Three out of four caregivers are women. The demands of caregiving make holding a job very difficult. As with caring for children, workers should not have to make a choice between working or caring for an ailing parent.

America lags far behind other industrialized nations on this issue. These countries are competitive and productive, and they support families. We cannot afford to fall further and further behind in the global marketplace. This legislation will help bolster America's competitiveness.

I urge all of my colleagues to override President Bush's veto of this legislation. No American family should be forced to choose between a paycheck and their own health or that of their children or parents. This legislation is about support for our families.

Mr. DURENBERGER. Mr. President, I rise in support of the family medical leave legislation that the Senate currently is considering. In my view, this bill is an idea whose time has come, and I support the measure wholeheartedly. Accordingly, I will vote to override the President's veto of this legislation.

Mr. President, the family leave bill, S. 5, provides up to 12 weeks of unpaid leave for a worker to care for a newborn child, or a sick parent, spouse, or child. During the leave period, the bill requires the employer to continue health care coverage, if provided by the employer, at no cost to the employee. In addition, the employer must grant an individual who returns from family leave their original job or an equivalent job.

This bill is necessary because our society is changing from what it was 25 years ago. At that time, we had primarily single income families. The father went to work, and the mother took care of the children. But in Minnesota our family structure has changed.

In Minnesota, we now have many families where, for economic or personal reasons, both the father and the mother work. In addition, in many instances, we have single parent families where the mother or father must work and care for the children. This leads to new pressures on the family. When a child, spouse, or parent becomes ill, a worker must take care of that sick family member while simultaneously worrying about his or her job.

Mr. President, in a caring society, individuals should not have to choose between caring for family members and their job. I do not want Minnesotans to be in that position. It just is not right.

I believe the family is the basic building block of our society. This bill will benefit American families more than it will harm American businesses. That's why I supported this family leave bill when we voted on it about 8 months ago, and I support it now. In these trying economic times, we must promote and support families. This bill starts us down that road.

There are some things that this bill does not do. This bill affords 12 weeks of unpaid leave. It requires an employee to obtain medical certification before taking the leave. Accordingly, the bill is intended to provide relief to families with long-term illnesses and other crisis situations. But many families need leave for a short period of time, when a child gets the flu. This bill does not address that situation.

I introduced legislation during this session that provides relief to families during short-term illnesses. I followed the model that my own State of Minnesota developed. Under my legislation, employers that already provide sick leave would be required to allow the employee to use at least 5 days of that leave to care for a sick child, parent, or spouse. This would provide much needed assistance to working parents when their children get sick.

In addition, some working parents want to take longer periods of time to bond with their newborn children. I support giving these parents up to 5 years of unpaid leave and then providing those parents with a preferential right of rehire to their old jobs. This would allow longer periods of time for parents to spend with their children.

I regret the fact that this bill has become a battleground. Unfortunately, we have failed to take advantage of numerous opportunities to come together across party lines to find a consensus solution to the needs of working families. The price of that failure is the undercurrent of political rancor which undermines this moment of real progress for American families. Hopefully, we can learn a lesson from that.

Mr. President, the family leave bill that we are voting on today does not do everything that I would have liked it to do. It does not address long-term bonding with children, and it does not address short-term needs of parents to care for their children who come down with a short-term illness. But the family leave bill is a significant start. It provides relief in crisis situations to working parents who need time off to be with their family members.

America needs this bill. I believe this bill provides a tangible way for us to support the family in difficult economic times. Accordingly, I support the bill and urge my colleagues to support it as well.

Mr. GRASSLEY. Mr. President, I rise today, to speak on an issue that all of us in this body agree is worthy of attention and that issue is family and medical leave. Families are constantly challenged by the often conflicting demands of work and family. No one should be forced to sacrifice one for the other. However, some families feel they have few choices to help them meet the challenges.

When my daughter Michele, her husband and family relocated to the Washington area, they lived with Barbara and me. I know first hand how they struggled to accommodate the demands placed upon them by their new employers and still be responsible to their children. For a year and a half, each morning, I took my grandchildren to childcare while my daughter took her husband to work. We all had to change our schedules during that year and a half, but we were lucky, we had one another to rely on.

Last fall, the Senate passed a piece of legislation that requires businesses with more than 50 employees to offer 12 weeks of leave following the birth of a child, an adoption, or to care for an ailing loved one. The intentions of this bill, S. 5, are worthy, but the bill is still flawed. I didn't support the bill then, and I don't support it today. To begin with, the bill doesn't even cover the majority of the American work force. In addition, it doesn't acknowledge the fact that many workers cannot afford to forgo 3 months' salary. And last, it fails to recognize that all families, as well as individuals, are different and that their needs vary. Who can best decide what families and individuals need? This bill is a straightforward Government mandate which does not take into account the different needs of our families and, therefore, doesn't allow for the flexibility to develop leave policies that best suit each individual.

The proponents of this bill often give the impression that all workers would be entitled to the leave benefit, if this bill is passed. They fail to say that the majority of the American work force will not be covered by this bill. This bill only requires businesses with more than 50 employees to offer the leave benefit. Businesses with less than 50 employees are exempt from the provisions of this bill. Sixty percent of the American work force is employed by these businesses. In Iowa, 40 percent of the population works for small businesses. Therefore, a majority of the current American work force would not be covered by this bill. What does this say about the majority of the work force? The two largest newspapers in my State, the Des Moines Register and the Cedar Rapids Gazette, in recent editorials, identified this critical flaw.

Furthermore, the leave provision of S. 5 is unpaid. Many workers simply could not forgo 3 months' salary in order to take advantage of the leave benefit. This benefit is for the well-off worker—it's a yuppie benefit. It does nothing to help the struggling family—the family that lives from paycheck to paycheck. These families would have a hard time accumulating enough savings to entitle them to 3 months off, let alone provide for a new family addition.

This bill hardly seems fair to the majority of the work force. Leave policies should accommodate the needs of each individual and place of employment. This is something that is best decided by the parties involved, not the bureaucrats in Washington.

So, how can we assist families as they cope with the demands of work and family. Each American family is different, has different needs and faces different challenges. Families need flexible leave policies that suit their needs. I do not believe that a strict mandate from the Government, which allows no room for flexibility, is the answer. Individuals should have the opportunity to work with their employers to develop a leave policy that best suits their needs.

Over the last few years, a number of my own employees took leave after the births of their children. Several employees wanted to stay home with their new children for an extended period of time, yet still be responsible to their jobs. I was willing to accommodate this desire by arranging for them to work part time from home. They were able to perform their duties by having a computer at home and access to a telephone. This arrangement worked for all of us. By working together, we developed a leave policy that best suited their families and job demands. The legislation before the Senate today would not have allowed this to happen. There is no room for accommodation and flexibility in this bill.

Furthermore, if the Government begins to legislate employment benefits, employers may be forced to eliminate, or reduce other benefits, such as flextime and child care, in order to pay for the mandatory ones. If it does, a dilemma is created. Is mandating one benefit at the expense of other benefits, perhaps more desirable ones, in the best interest of all the involved employees? This bill ignores the diversity of our work force. We must move in the direction of encouraging the adoption of leave benefits that are suited to the needs of each employee. One such approach is to offer tax credits to businesses that adopt leave policies.

I am an original cosponsor of a bill introduced by Senator CRAIG, the Family Leave Tax Credit Act of 1992. This bill addresses the flaws of S. 5. The bill includes small- and medium-sized companies—the very companies that employ the majority of the work force, but are excluded from S. 5. The bill provides an opportunity for an employee to work with their employer to tailor a leave policy that will meet their needs. And importantly, the bill provides an employer with resources to pay a wage supplement to employees on leave.

The bill creates a 20-percent refundable tax credit to employers that provide family leave benefits. This credit is available to companies with less than 500 employees. These small- and medium-sized companies employ 80 percent of Iowa's working population. The proceeds of the credit can be used to defray leave costs, to purchase additional insurance or to pay a partial wage supplement. So many new mothers and fathers would like to stay home with new children, or take time to care for an ailing loved one. Under the provisions of this bill, someone could take a period of leave, and still receive a partial salary. This partial salary could make a difference whether someone could afford to take time off or not. Under the provisions of S. 5, this option doesn't exist. These are the families that need help—not the wealthy families.

Families that work for small businesses, and struggle financially, are entitled to leave benefits and their employers need to be encouraged to offer such benefits. The bill vetoed by the President does not do either one of these things. However, Senator CRAIG's bill does. It helps small businesses offer family and medical leave benefits, and it provides an opportunity for families to have some financial assistance in order to take time off.

I understand the struggles facing Iowa families, and American families. Decisions concerning leave policies are best made between the employee and the employer. The intent of the legislation offered by Senator DODD, S. 5, is worthy, but it's flawed. The Des Moines Register recently wrote, "It's easy to see that a better solution than this family-leave bill is needed if the issue of balancing work and family needs is to be fairly addressed." I hope we can put aside the current partisan posturing, and find an agreeable solution that will really address the needs of our American work force.

Mr. CHAFEE. Mr. President, I support the Family and Medical Leave Act of 1992. This legislation would provide employees with 12 weeks of unpaid leave in the event that a worker must take time away from the work force to care for a newborn, a sick or adopted child, or an ailing parent. This bill is profamily, proworker, and prochildren. It is a good bill that deserves to be signed into law over the President's veto.

The family and medical leave bill responds to the changing needs of the American family and the American worker. Today, about two-thirds of all women with children work full time. One-quarter of all children live with a single parent. And in 9 out of 10 two-parent families, both parents work outside the home—usually out of economic necessity. For most Americans it takes two incomes just to make ends meet.

S. 5 would help employees balance job responsibilities with family obligations. No father should be forced to choose between caring for a sick child and his job. No mother should fear that she will be fired from her job—and lose her health insurance—because she needs to take a few unpaid weeks of leave to stay with her newborn or adopted child. Working men and women should not have to give up their job security to care for a failing elderly parent.

Mr. President, I am proud to have supported this legislation since its infancy. Back in the 100th Congress, I joined my friend from Connecticut, Senator DODD, as a principal cosponsor of the Parental and Medical Leave Act of 1988. Today's bill has evolved considerably over the years—adding elder care provisions, for example—but it still represents my strong belief that no worker should be forced to make that terrible choice between caring for a family member and keeping his or her job. As a society, we need laws to protect employees from having to make that awful choice.

Senator DODD should be congratulated for his efforts to work out a compromise agreement on the family and medical leave bill. Last October he worked diligently to forge a compromise with the distinguished junior Senator from Missouri—Senator BOND—that made two improvements in the Senate bill. First, it limited employee eligibility to those individuals who have worked 1,250 hours, or an average of 25 hours per week, over the previous 12 months. And second, it aimed to prevent abuses of the legislation by requiring employees to repay health insurance premiums paid during the leave if that employee does not return to work at the end of his or her absence from the work force.

These were sensible, common sense changes that have improved this bill considerably. The changes reflect the Senate's concern that this bill should help families without creating any unreasonable burdens on the Nation's small business community. This bill also recognizes the economic challenges conforming the Nation's small business community—as a result, businesses with fewer than 50 employees are exempt from the act.

The Family and Medical Leave Bill of 1992 is the product of years of debate, compromise, and revision. I believe that this bill represents a fair compromise, and is a sound measure that will make a real difference in the lives of working men and women. It is a strong bill that deserves to be signed into law.

Mr. SANFORD. Mr. President, recently, the mother of one of my staff members had a heart attack. She was taken to the hospital in critical condition. My staff member is an impressive fellow with his priorities in the right order, and he knew that it was important for him to be with his mother as she struggled to recover. He asked to take time off to be at the hospital, and we were glad to give him the leave. I wouldn't have had it otherwise. I'm very pleased to report that my staffer's mother is now recovering smoothly, and my staffer is back at work.

Sadly, far too many workers in this country run the risk of losing their jobs when they are faced with a situation like this one. They are told that if they take time off to care for a sick family member or a new baby, they need not bother to come back to work. I don't think that's fair; I don't think that's right. That's why I am pround to be a cosponsor of the Family and Medical Leave Act, a simple bill that would guarantee up to 12 weeks of unpaid leave for employees when a child is born or adopted or when there is a serious illness in the family. No one should be faced with the horrible dilemma of choosing between their jobs or their families.

Our society can no longer afford for wage-earning and care-giving to be incompatible activities. Americans families need both basic job security and support in times of family emergencies. Young children need and deserve secure care in their earliest months of life. This is what real family values are all about.

Passage of the Family and Medical Leave Act is not only a prochild, profamily step: this bill is also probusiness. Studies show that companies and States that offer family leave benefits find this to be a cost-effective policy, improving worker morale, lowering the absentee rate, and reducing employee turnover. The bill before the Senate today includes a small business exemption, requiring unpaid leave only at businesses with 50 or more employees. This provision will exempt 95 percent of all businesses but will still provide coverage for over 50 percent of the American work force. It's a reasonable approach.

The Family and Medical Leave Act is good policy for working Americans, for children, for the elderly. It makes good business sense. It is no wonder that 72 percent of the population supports the bill. Passing this legislation is one of the most important steps we can take toward strengthening American families. After all the rhetoric about family values from President Bush during this political season, I am truly sorry that he has chosen to veto this bill, passing up the opportunity to really do something to help American families, instead of just talking about them. I urge my colleagues here and in the House to vote to override this sad veto.

Mr. GORTON. Mr. President, this debate is not about whether employers should provide family and medical leave to their employees, but how to achieve the delicate balance between legitimate business concerns during a recession and providing job security and protection to working people and their families. It is reprehensible to me and to most Americans that a woman who chooses to start a family must risk her employment because her employer is not sympathetic to the need for maternity leave. In the United States in 1992, no woman should have to make such an unbearable choice. However, the family and medical leave legislation that the President vetoed 2 days ago is more complex; it concerns the ability of medium-sized business to afford additional federally mandated employee benefits in a recession.

Family and medical leave legislation must consider the delicate balance between employer and employee concerns if it is to be meaningful, lasting, and beneficial. For example, in my State of Washington the legislature has enacted a family leave law that responds to the needs of working women without burdening the economy. Specifically, businesses with more than 100 employees must provide up to 12 weeks of unpaid parental leave to care for a new or adopted child. I support this carefully crafted solution to meet the needs of the modern family and the challenges of struggling businesses.

The question facing me today—as a representative of the people of Washington State is this: Should I vote for a Federal mandate lowering that threshold from businesses of 100 employees to businesses of 50. Today, I am not ready to take this step. S. 5 would require businesses with as few as 50 employees to provide employees 12 weeks of unpaid leave for illness, the birth or adoption of a child, or to care for a sick child, spouse, or parent. Employers found in violation of the Act would be required to pay monetary damages equal to wages, salary, and employment benefits, as well as consequential damages and attorney fees. In addition, employers may be fined $100 per offense for not posting a notice summarizing employees' rights to file a charge against the employer for violating the law.

The difference between a 100-employee threshold and a 50-employee threshold is significant. According to the Washington State Department of Employment Security, in 1990, the total number of employers with 100 or more employees was 2,830. The combined employee payroll for these employers is $1,009,382. The total number of employers with 50 or more employees is 6,512. The combined employee payroll for these employers is $1,262,093. Lowering the threshold for family leave from 100 to 50 would mean an additional 3,682 employers or 130 percent expansion of the number of covered employers. The Washington State Legislature has debated this issue at length and has decided against lowering the exemption rate.

In today's economy this bill presents a Hobsons choice. Either vote against extending family leave, a policy which I support, or hurt the ability of small businesses between 50 and 100 to stay in business during this recession. In normal times I would be inclined to support the legislation before us. However, this bill ignores the fact that requiring benefits by midsized employers will add to the costs of labor enduring the very moment when these small businesses are running on the edge due to this recession. That cost could be as much as $7.9 billion according to the Small Business Administration. Increased labor costs mean fewer jobs. Since my top priority as U.S. Senator is to provide jobs and economic opportunities to the families and communities of Washington State, I won't now support this Federal mandate of family and medical leave.

Meanwhile, there is an alternative family and medical leave proposal that uses incentives rather than mandates, that awards rather than punishes those employers. Senator CRAIG from Idaho has introduced legislation which provides a 20-percent refundable tax credit to small- or medium-sized employers that provide family leave to their employees. All employers with fewer than 500 employees are eligible for the family leave tax credit.

The amount of the credit is 20 percent of the cash wages that the employer provided to the employee during the period of family leave, or would have been provided to the employee during that period had he or she not taken the leave. The maximum amount of wages taken into account for this purpose is $100 for each business day. The maximum period of family leave for which the credit is available would not exceed 12 weeks in any 12-month period. This results in a maximum available family leave credit of $1,200 per employee per year.

Perhaps the most significant difference between the Craig alternative and the legislation before us is the issue of how to pay for family and medical leave. The Dodd legislation pretends that requiring a midsized employer to provide 12 weeks of unpaid leave with full health benefits will cost the employer nothing. The Craig alternative acknowledges the reality of paying for employee benefits, particularly during a recession.

For the past year I have heard from many Washington State small business people. From Spokane to Seattle, and Bellingham to Kennewick, employers with more than 50 employees have urged me to recognize their contribution to our economy and not impose further unreasonable Government regulations—because jobs will be lost and businesses will fail. In our struggling economy, I cannot vote for another mandate on businesses that will further limit growth.

The ACTING PRESIDENT pro tempore. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding.

The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 68, nays 31, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—68

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Coats
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—31

Brown
Burns
Cochran
Craig
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Kassebaum
Kasten
Lott
Lugar
Mack
McConnell
Nickles
Pressler
Rudman
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Seymour

The PRESIDING OFFICER. On this vote the yeas are 68, the nays are 31. Two-thirds of the Senators voting, a quorum being present, having voted in the affirmative, the bill on reconsideration is passed, the objections of the President to the contrary notwithstanding.

Who seeks recognition?

Mr. WELLSTONE. Mr. President, the U.S. Senate has voted to override the President's veto of the Family Medical Leave Act. I believe it was 68 votes in favor.

It was, I think, a historic vote about a historic piece of legislation.

There are many, many different ways to talk about this issue. There are some who have said if the President of the United States wants to talk so much about family values and the Vice President wants to talk so much about family values, then why not have value families? That is one way that you can talk about it, and I suppose that makes for a good sound bite.

I would like to try and talk about this in a little bit more of a personal way which for me is probably the most sincere way that I can speak about it.

Mr. President, if one of my children, God forbid, was ill and I left the Senate and went back to the State of Minnesota and for 12 weeks stayed with a daughter or a son, I would miss votes. I would miss committee meetings, but when I came back after 12 weeks people here would say you did the right thing. I would not lose my job. I would not even lose any income.

The same thing would hold true for the President of the United States if someone in his family were faced with an illness and he took off from work for a few weeks, 6 weeks or up to 12 weeks.

So, Mr. President, what I want to argue on the floor of the Senate is that what applies to those of us in the Senate and applies to the President of the United States should apply to people all over Minnesota and to people all over the United States of America.

Both my parents had Parkinson's disease. When Sheila and I were in our early thirties, they moved out to Norfield, MN. We took care of them. I felt then and more strongly now that if as a parent, or parents your preschooler is ill, or after the birth of a child, or for us now trying to take care of our parents, if one of our parents is ill, you ought to be able to take some time off from work and not have to worry about losing your job.

Mr. President, the President's veto of the Family and Medical Leave Act was a profoundly mistaken veto. It is profoundly wrong. It is not good for him politically. But far more importantly, it is not good for people in the country.

I am very proud that the U.S. Senate today voted to override that veto. I hope the House of Representatives does the same thing. Either way, no matter what the outcome, family and medical leave is an idea whose time has come.

We ought to pass legislation which makes it the law of the United States of America that families will be protected in such a way that a parent can take off from work to take care of a loved one and not have to worry about losing his or her job.

I thank you very much, Mr. President, and I yield the remainder of my time.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TAX ENTERPRISE ZONES ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH].

### AMENDMENT NO. 3161

(Purpose: To amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3161.

Mr. SMITH. Mr. President, I do ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII of the committee amendment, add the following:

**SEC. . TAXPAYER DEBT BUY-DOWN ACT.**

(a) SHORT TITLE.—This section may be cited as the "Taxpayer Debt Buy-Down Act".

(b) DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—

(1) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT.

"Sec. 6097. Designation.

**"SEC. 6097. DESIGNATION.**

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(2) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

(c) PUBLIC DEBT REDUCTION TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (Relating to trust fund code) is amended by adding at the end the following section:

**"SEC. 9511. PUBLIC DEBT REDUCTION TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Public Debt Reduction Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(d) TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.—

(1) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

**"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.**

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session (other than the One Hundred Second Congress), and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress, as estimated by the Department of the Treasury on May 1 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257, except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters) and (2) the net deficit change that has resulted from direct spending legislation.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNT.—No order issued under this part may—

"(A) reduce benefits payable the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts;

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, Credit Union Share Insurance Fund; or

"Resolution Trust Corporation.".

(2) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a), by inserting before the item relating to August 10 the following:

"May 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(B) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(C) in subsection (d), by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(D) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Sequestration to reduce the public debt reports.—The final reports shall contain all of the information contained in the public debt taxation designation report required on May 1.".

(3) Effective date.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this subsection. The amendments made by this subsection shall cease to have any effect after the first fiscal year during which there is no public debt.

Mr. SMITH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

### AMENDMENT NO. 3162 TO AMENDMENT NO. 3161

Mr. SMITH. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. Smith] proposes an amendment 3162 to 3161.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 3, of the pending amendment, strike all after the word "taxpayer" and insert in lieu thereof the following:

**DEBT BUY-DOWN ACT.**

(a) Short Title.—This section may be cited as the "Taxpayer Debt Buy-Down Act".

(b) Designation of Amounts For Reduction of Public Debt.—

(1) In general.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR
REDUCTION OF PUBLIC DEBT.

"Sec. 6097. Designation.

**"SEC. 6097. DESIGNATION.**

"(a) In General.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) Manner and Time of Designation.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) Adjusted Income Tax Liability.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(2) Clerical amendment.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(e) Effective date.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

(e) Public Debt Reduction Trust Fund.—

(1) In general.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (Relating to trust fund code) is amended by adding at the end the following section:

**"SEC. 9511. PUBLIC DEBT REDUCTION TRUST FUND.**

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) Expenditures.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(2) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Public Debt Reduction Trust Fund."

(3) Effective date.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(d) Taxpayer-Generated Sequestration of Federal Spending To Reduce the Public Debt.—

(1) Sequestration to reduce the public debt.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

**"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.**

"(a) Sequestration.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session (other than the One Hundred Second Congress), and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress, as estimated by the Department of the Treasury on May 2 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257, except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters) and (2) the net deficit change that has resulted from direct spending legislation.

"(b) Applicability.—

"(1) In general.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) Exempt accounts.—No order issued under this part may—

"(A) reduce benefits payable the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, Credit Union Share Insurance Fund; or

"Resolution Trust Corporation.".

(2) Reports.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a), by inserting before the item relating to August 10 the following:

"May — Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(B) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(C) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Sequestration to reduce the public debt reports.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(D) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Sequestration to reduce the public debt reports.—The final reports shall contain all of the information contained in the public debt taxation designation report required on May 2.".

(3) Effective date.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this subsection. The amendments made by this subsection shall cease to have any effect after the first fiscal year during which there is no public debt.

Mr. SMITH. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DeConcini].

Mr. DECONCINI. Mr. President, the Senator from Arizona is interested in offering an amendment that I talked to the chairman about. I understand the Senator from New Hampshire is not going to stay here and debate this amendment at this time.

So I hope, that whatever we proceed to next, it would be considered to have my amendment brought up.

Mr. BENTSEN. Mr. President, I agree with the Senator on his amendment insofar as offering it in this sequence. If he is not prepared to stay here and debate that, we could have one intervening amendment during that process, and once that was disposed of, he would then be privileged to continue his amendment. I am certainly prepared to honor that.

Because of the number of amendments we have, there is no way we are going to finish this bill. We can overload it if people continue to offer their amendments. I know how strongly they feel about their individual amendments. But we have so many things in this piece of legislation that are important to all of us, to the American people, that I would urge restraint in that regard.

One of the other things of course that we are asking for is a limitation on the time of debate. I would like to ask the proponent of the legislation, Senator SMITH, if I could get his attention, for a limitation on time. Everyone has been quite good at that up to this point.

Mr. SMITH. I thank Senator BENTSEN for his courtesy in terms of trying to work out an arrangement. As he knows, I have a hearing right now that I am vice chairman of and I need to go back to. I appreciate his courtesy.

I am very willing to have a time limitation on the amendment. There have been three or four individuals on our side who have asked for time to speak. I indicated, I believe yesterday, that 1½ hours on our side would be sufficient.

I do not know what the Senator has in mind. That would be a 3-hour time limit.

Mr. BENTSEN. I say to my friend, I think the longest that we have had to do thus far is 2 hours overall. I hope that the Senator could agree to 2 hours on this amendment in total. We have so many of them. It would be helpful if he could.

Mr. SMITH. Without my 2½—I do not need that much time. But there are three or four members who have expressed an interest. I would be happy to have 2½, and would be more than happy to yield. As the Senator knows, some Members are very reluctant to give a time limit. I am happy to have 2½ hours.

Mr. BENTSEN. I agree with that. I checked with the manager of the minority. He is agreeable to it.

Mr. President, I ask unanimous consent that we approve a limitation on time of 2½ hours on the amendment offered, and that be equally divided with the time charged to the proponent of the legislation and to me as manager of the opposition.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI addressed the Chair.

Mr. BENTSEN. If I may, I have not yet yielded the floor. That would include both amendments and no others being offered in the second degree.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Does the Senator wish to object?

Mr. DECONCINI. I am not sure that I will object, but I would like to talk about it. I would like to ask the distinguished chairman if I may proceed after this unanimous consent on my amendment?

Mr. SMITH. I have no objection.

Mr. BENTSEN. Is the Senator ready to yield the floor for that purpose?

Mr. SMITH. Yes. I indicate that to the Senator from Arizona and would be happy to yield at this time.

Mr. BENTSEN. Mr. President, I would like very much to accommodate the Senator from Arizona. My understanding was he is prepared to agree to a time limit of no longer than 1 hour, equally divided?

Mr. DECONCINI. The chairman is correct.

Mr. BENTSEN. I ask unanimous consent that we have first- and second-degree amendments—no second-degree amendments, and that we have a limitation of time of 1 hour, to be equally divided, with half of that responsibility for utilization to the proponent of the amendment and the other half to the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Arkansas object?

Mr. BUMPERS. Mr. President, reserving the right to object, I have an amendment. I just heard the tail end of this. Was the Senator lining up a series of amendments with time agreements?

Mr. BENTSEN. Only on this amendment that is before us now or about to be before us, and we had already had an agreement on the other.

Mr. BUMPERS. Could the Senator tell us, are we going back and forth with these amendments? One on that side, one on this side?

Mr. BENTSEN. We are doing our utmost to do that. To the extent we can accommodate the alternating between the Republican and the Democratic side, we will do that.

Mr. BUMPERS. The only thing we are getting consent on agreement at this time is the amendment of the Senator from Arizona and nothing further than that?

Mr. BENTSEN. That is correct.

The PRESIDING OFFICER. Is there objection to the unanimous consent propounded by the Senator from Texas as modified?

Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the amendment proposed by the Senator from New Hampshire is temporarily set aside.

The Chair recognizes the Senator from Arizona to offer an amendment.

### AMENDMENT NO. 3163

(Purpose: To provide a credit against tax for employers who provide on-site day-care facilities for dependents of their employees, and for other purposes)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. DOMENICI, proposes an amendment numbered 3163.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES.**

(a) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 8205, is amended by adding at the end thereof the following new section:

**"SEC. 45A. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.**

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly chargeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer, "(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

| "If the recapture event occurs in: | The applicable recapture percentage is: |
|---|---|
| Years 1–3 | 100 |
| Year 4 | 85 |
| Year 5 | 70 |
| Year 6 | 55 |
| Year 7 | 40 |
| Year 8 | 25 |
| Years 9 and 10 | 10 |
| Years 11 and thereafter | 0. |

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by section 8205, is amended—

(A) by striking "plus" at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(10) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45A. Employer on-site day-care facility credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on and after the date of the enactment of this Act.

### SEC. . DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—To the extent that the amount of employee renumeration for any covered employee exceeds $1,000,000 for the taxable year, no deduction shall be allowed under this chapter for an amount equal to 25 percent of the amount of such excess.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

Mr. DECONCINI. Mr. President, I want to thank the distinguished chairman and the ranking member, Senator BENTSEN and Senator PACKWOOD, for permitting me to proceed at this time due to scheduling problems that I have with a conference in the Appropriations Committee starting this afternoon.

I realize, Mr. President, the magnitude of the bill before us, also the severity of the time restraints in trying to end this bill, get to conference, and hopefully pass a meaningful tax bill that will handle many of the things the President wants, including enterprise zones, and many of the extensions that are necessary for the normal course of business to continue. This is why I have entered into a time agreement, and hopefully we can dispose of this amendment in even a shorter period of time.

Mr. President, the Senate just overrode the President's veto on the family leave bill. Indeed, I am very pleased we did that. Of course, I think that demonstrates that this body is committed to family values to the extent that it can be, short of unanimous consent, with 68 Members agreeing that this indeed is a national policy and should be a national policy. This legislation does not put an excess burden on the business community because there is no mandated cost that has to be paid while employees are on family leave. The only mandate is that their job has to be there when they come back.

Mr. President, in the spirit of doing things for families, this amendment is being offered.

In 1990, the Congress passed the Child Care Development Block Grant Program, which helps low-income parents afford child care. It also increases the number of available child care slots, and seeks to improve the quality of child care throughout the Nation.

Mr. President, this is the first major step, from the Federal level, to do something about child care. It is a landmark act, but it provides no incentives for businesses to offer child care services to their employees.

The measure before us today encourages private sector involvement by offering employers a tax credit, a one-time only tax credit, to provide on-site or near-site child care for the employees of that business.

We are a country that has almost 6 million employers, 136,000 of which have 100 or more employees. Of that number, only about 5,600 employers provide some kind of child care support to their employees, mostly in the form of child care information and referrals. Only about 1,400 corporations fund on-site or near-site child care facilities for their employees.

The amendment that is before us would provide a one-time only—I impress that upon the body—a one-time tax credit of up to 50 percent, with a maximum limit of $150,000, for employers to provide on-site or near-site child care for the children of their employees. The credit could be used for expenses related to the acquisition, construction, rehabilitation, or expansion of an on-site or near-site child care center.

The U.S. Government would recapture the cost, on a reducing scale, if the facility does not operate for a period of at least 10 years as a child care center.

I have a chart here to demonstrate what the recapture would be in the event this amendment becomes law. If employers meet the full 10 years, they get the full $150,000, or 50 percent of the cost of the facility. If they do not, this chart demonstrates the rate of recapture. Employers have to go 3 years to get any of the credit. So a company must commit itself to providing child care for at least a 3-year period. After that, the credit is reduced accordingly should the facility stop operating as a child care center.

This amendment stipulates that at least 30 percent of the children enrolled must be dependents of the company's employees. The center must be open to the children of all employees, regardless of their income bracket; the facility must operate in compliance with the State laws and regulations of a licensed day care center; and in the case of multiple employers, the facility must be located on the premises of one of the employers and within a reasonable distance from the premises of the other employers.

Why do we need an employer-sponsored child care tax credit? Well, even with the enactment of the 1990 child care legislation, there is an urgent need in this country for more child care availability. Although we have no hard data on the number of child care slots available in the country today, a 1990 children's defense fund survey found that America's licensed child care centers have room for 3.8 million children.

Five times that number of children under 6 years of age have mothers who work. Currently, over 58 percent of America's mothers with children under 6 are in the work force. That number is projected to increase significantly in this decade, and so are the number of children who need child care.

Harry L. Freeman, executive vice president of the American Express Co., said this about employer-sponsored child care:

> American Express is involved because the child care problems in America have reached crisis proportions. Corporations cannot ignore their responsibility, not if they want to attract and retain productive employees, not if they want to do business in economically healthy communities.
>
> The private sector must operate as a partner with the public sector to see to it that the quality and supply of child care meet the growing needs of our Nation.

Here is one of the most successful corporations in America that decided to offer child care without a tax credit. Some may say, well, why put a tax credit in? Well, not all companies have really seen the light, as the American Express Co. has. I think a tax credit will turn on that light, will open that door and invite employers to look at what is good for themselves, for their employees, and certainly for the children.

U.S. businesses that offer child care services all agree with Mr. Freeman's statement that child care is good for America, good for their company, good for competition, and good for the children of this country. In a survey of 415 businesses, most of which offered on-site or near-site child care, the companies overwhelmingly reported that their child care services provided tangible, corporate payoffs.

This chart indicates how well employer-supported child care pays off. Sixty-five percent of the companies reported that child care had a positive effect on turnover; 53 percent reported it had a positive effect on absenteeism; 85 percent reported a positive impact on recruitment; 90 percent reported it had a positive effect on morale; 49 percent reported child care has a positive impact on productivity.

This translates into a cost savings for companies. In the most exhaustive cost-benefit study ever conducted on a corporate on-site child care center, Union Bank in Monterey Park, CA, reported an estimated savings of more than $4 for every $3 spent in the first year of its child care program.

Mr. President, budget constraints require that we find an offset for any amendment. The Joint Tax Committee estimates that my provision will cost $500 million over 6 years. Since the benefit cost to corporations, I believe it is crucial that we seek an offset from the corporate side of the tax equation. When I offered this amendment in March of this year, I sought to increase the minimum corporate tax by three-tenths of 1 percent.

Mr. President, you would have thought I had suggested the end of capitalism from the reaction I received, and it did not pass. This time, I am seeking an alternative solution to offset my provision.

The tax bill that passed earlier this year and was vetoed by the President, H.R. 4210, included a provision passed by both Houses to cap the deductibility of executive compensation in excess of $1 million, because this provision raises more revenue than needed for my amendment, I will alter that proposal slightly by simply allowing the deductibility of only 75 percent of executive compensation in excess of $1 million. Given the support of this provision by the body earlier this year, I hope that the amendment will be accepted, and I am prepared to go to a vote if the chairman and the ranking member feel otherwise.

Mr. President, I urge my colleagues to support this amendment. I hope the managers will accept it. It is a vote for wise business investment and a vote for investment in our children.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. I yield 7 minutes to myself.

The PRESIDING OFFICER. The Chair recognizes the Senator accordingly.

Mr. BENTSEN. Mr. President, I agree with my colleague from Arizona concerning the interest in child care and dependent care. That is why I have always supported a credit for that purpose and, also, an exclusion for employer-provided facilities in that regard.

What you are facing today is both parents are in the workplace more than ever before. Mom is a part of that work force. They are trying to make both ends meet to meet the mortgage payment, the grocery bills, the medical bills, with the mother trying to make that difference to keep them solvent.

But in supporting those things, already we are talking about $3 billion a year that we are spending in that regard.

What we are seeing in this part of the underlying amendment, apart from the amendment, is additional funds that are made available for working families; doing that with the simplification of the earned income tax credit, trying to get the funds down to some of the lower income people that are having the toughest time, where both parents are working, where you have 40 percent loss in discretionary time and that means less time for parenting and all attendant problems that result from that and all the more need for day care and day care help. What we put in this piece of legislation now helps those working families in that regard.

By contrast, the amendment by the distinguished Senator from Arizona is advocating something that is not targeted to middle-income or to lower income families who have the toughest problem in this regard. Instead, that subsidy would be available to any employee. In addition, I think a 50-percent tax credit is extremely generous in these times of outlandish budget deficits. I really have to question whether we can really afford a new, very generous subsidy which is not targeted to those who really need assistance. Therefore, at the proper time I will be moving to table this amendment.

I share my colleagues' concern about executive compensation, too often not correlated with performance in that particular corporation. Some of these pay levels are really quite extraordinary.

The problem of executive pay points to the larger issue. American corporations are too often managed by executives who are not directly accountable to shareholders and workers but to directors who they typically select themselves. And that lack of accountability makes American companies insular and less competitive internationally. So the committee has been deeply concerned about that.

Indeed, the March bill included a provision that restricted the deductibility of compensation over $1 million, and we continue to explore ways to try to address that kind of concern so the stockholders are better informed and have more influence on that type of decision. The Securities and Exchange Commission is reviewing that process, trying to make recommendations on it.

Mr. President, I am going to yield the floor and retain the remainder of my time. I have to appear before another committee. My distinguished friend, the Senator from Montana, will be managing this on our side.

The PRESIDING OFFICER. The Senator's time is reserved.

Who yields time?

The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, will the Senator yield me 5 minutes?

Mr. BENTSEN. I yield.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I join the chairman in opposition to this amendment for a variety of reasons, but as the chairman said last night, as we start down the road and load this down, if we are going to have any bill at all, we are going to have to turn down most of the amendments that come up in this particular amendment.

While I agree with the chairman on his question as to whether a tax credit of this generosity, untargeted, will achieve what we want for the amount of money that it will cost, I also have misgivings about an executive compensation cap because of the effect it has on high-technology, new startup companies, many of which, frankly, we have in Oregon.

Normally, when you think of wages or compensation, you think of a $1 or $2 or $3 million salary, but most new high-technology companies are venture capital companies where somebody is willing to leave Hewlett-Packard or Intel or some other company at age 35, 36, or 37 where they have a good job as an engineer or analyst and go off into a new company.

You do not start out with a high salary. Nobody does. What you do is take stock options and hope the companies make it. Most of them do not. For every one or two that make it, there are 10 or 12 that have the same opportunity at the start, but, for whatever reason, they do not make it. The people who took stock options received nothing other than a modest salary while working there.

For the one or two who do well, who come up with a product that fits the niche that the market wants at some stage, 3 or 5 or 7 or 11 years down the road, some of these officers exercise their stock option, and in that year they have a high compensation because they sold their stock.

But this is the very tool that the newest, brightest, and ablest American industries on the cutting edge of technology are using to attract people. They cannot afford to take an engineer away or a vice president away from an established company and pay them a high salary. They cannot pay them as much as they were making at the former company. But they can dangle in front of them an opportunity and a risk and say, "Come along, and if with your talent and knowledge you help make this go, there will be a reward at the end of the process." This amendment hits at that very situation, and for that reason I am going to join the chairman in opposition to it.

I understand the ire of the public that is caused by high compensations. But I do not want to throw the baby out with the bath water, and I do not want to deter these new startup companies who make it on 35- or 36-year-old engineers who may make no more than $30,000 or $40,000 a year when they start. They hope they will make a lot of money when they are 50 or 55, but most of them do not. A few of them do. This bill will deter the initiative that has been the key for most of the major startup new companies in America.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I yield myself 5 minutes.

What this amendment really does is set up a choice between helping rich people or helping children. This amendment says that the child care center must be open to the children of all employees, regardless of their income bracket. Today we subsidize companies, deduct multi-million-dollar salaries. We deduct a $5.9 million salary as a cost of business. Now we understand the importance of being able to deduct salaries and expenses of a legitimate business, but does this not get a little bit out of hand when a company can deduct a $5.8 million salary plus $9.9 million in stock grants from their income before they pay income tax.

We are doing something today to help children. We are saying Mr. Employer and Mr. CEO, you can only deduct 75 percent above the first million dollars of executive compensation. Take this example of $14.7 million in compensation—is it not a shame that these executives would only get a 75 percent deduction on their income tax? And where would that 25 percent go? That 25 percent would go to help families—it would go to provide child care on the premises for the very employees who work for these fine people.

I have nothing against those salaries. That is up to the companies to make that decision, and I am sure these executives are worth it and may be worth more. But what is the value of children in the workplace and the confidence that parents would have that their children are safe in a regulated, child care center which is meeting the State laws?

To do this, we are asking these top executives and their companies to forego a small amount of the deductibility of salaries over $1 million. Is that asking too much? Is that not targeted to working people? I think it is clear that it is. Just consider, increases in inflation of adjusted compensation between 1990 and 1991 for U.S. executives, was 21 percent. For the workers of America, it was 2 percent.

Are we asking too much that we cannot deduct all of $14.7 million of executive compensation? Or, in the case if ITT, that only 75 percent of $7.6 million, can be deducted? With the first million, executives get a full deduction and only 75 percent after the first million.

Look at this chart and those salaries. Those are hardworking people. I am sure they earn every dime, or, I suspect they earn every dime, every dollar, every million dollars they make. Can the company not give us something in the best interests of children?

Workers compensation as a percentage of executive compensation varies in many industrialized countries. Would you like to know what it is in the United States? It is only 4.9. That is the percentage of workers compensation to executive compensation. In Canada, it is 8.5. In Japan, it is 8.7. In France, it is 9.4. In Germany, it is 11.8. These countries do pretty well economically, as does the United States, but they do not pay their executives as much in comparison to what the workers get.

I am not saying they have to change that. I am only saying, let us give the employees a chance and their children a chance by modifying the amount of deductibility.

Mr. President, this is a vote on children. That is what it is. It is an easy vote in terms of what is right and what is good for this country.

I urge my colleagues to vote against the motion to table, if that is what happens to this amendment.

The PRESIDING OFFICER. The Senator's 5 minutes have expired. Who yields time?

Mr. BAUCUS. Mr. President, might I ask how much time remains on each side?

The PRESIDING OFFICER. The Senator from Montana controls 22 minutes and 24 seconds; the Senator from Arizona controls 12 minutes and 23 seconds.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

Mr. President, I appreciate the interest and the concerns of the Senator from Arizona. This is not the time for us to try to resolve the question of child care compensation or executive compensation.

This is the first time we have seen this amendment. This is a complicated issue.

I am quite convinced this next year that, frankly, Governor Clinton will be elected President. And I am sure the Senator from Arizona will be part of efforts in the next Congress to address American competitiveness, part of which is child care compensation, so child care is adequately provided for, in addition to executive compensation.

These are extraordinarily complicated issues. It does not make much sense for us here on the floor, in a case of first impression, to try to enact this amendment because it is so complicated.

In addition, we already provide $3 billion of Federal funds for this issue. That is the dependent care tax credit. An exclusion for employer-provided dependent care already is $3 billion a year. These are dollars that go to child care in our country. We are already providing for child care.

I do not think it makes sense to add another amendment which we know virtually nothing about. We do not know the consequences it will have, certainly not at this time.

For those reasons, I strongly urge the Senate to reject the amendment by the Senator from Arizona at this point.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I reserve whatever time I might have remaining.

The PRESIDING OFFICER. The time is reserved.

Who yields time?

If neither side yields time, time will be charged equally against both sides.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I again suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, the time will be charge equally.

The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I would like to ask the proponent of the amendment, the distinguished Senator from Arizona, does he require more time?

Mr. DeCONCINI. Mr. President, I will take 1 minute and then I will be glad to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the bottom line on this amendment is, do we continue to give corporations a full 100-percent deduction of top salaries? As indicated on this chart, one CEO, for example makes, $5.8 million, plus stocks, for a total of $15.7 million. Do we continue to give a 100-percent deduction on their income tax for those salaries, or do we adopt something to help our children? Contrary to what the distinguished chairman said, my amendment is targeted to all workers, and most employers have more low-income workers than they do high-income workers. To pay for this incentive, what do we do? We allow the deductibility of only 75 percent of executive compensation in excess of $1 million. Only 75 percent may be deducted.

The irony, Mr. President, is that this provision was in the last tax bill that we had. It was a good idea then. But we know what happens. These people have powerful lobbies and they say, oh, you are going to kill us. My goodness sakes, we are a high-technology industry; we will not be able to compete. Under my amendment, these companies can still deduct salaries up to $1 million. I do not know how many new high-technology industries pay salaries above that. But even if they pay salaries above $1 million, is not a 75-percent deduction reasonable? I think the answer is "yes."

The vote is, do you want to do something for children and pay for it by limiting not the salary but only the tax deduction above $1 million in compensation?

The vote should be clear. I hope my colleagues will vote against tabling the amendment.

If the Senator from Texas is prepared to yield back his time, I am prepared to go to a vote.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the amendment offered by the distinguished Senator from Arizona [Mr. DECONCINI] and I will vote to table his amendment.

Many companies are currently offering their employees on-site day care. Both the House and Senate provide such facilities and there is a very long waiting list to get in. In fact, as of today, 84 children are waiting to get in the Senate day care center and more than 100 are waiting in the House.

Why does the Congress and why do many companies provide such facilities? They do so because in the economy of the 1990's, women and men who need to work to make ends meet, also want to raise families. And day care is a fundamental need that these families have.

In the Senate we have learned the same thing that companies have learned. On-site day care improves employee morale and encourages employee loyalty. Every company in America should learn this lesson. More and more will be adding such facilities to maintain a highly skilled stable work force.

So I ask the question, Mr. President, why do we have to provide a tax subsidy—especially a 50-percent tax subsidy—to encourage companies to do something that is already in their self-interest?

Mr. President, in 1986 we made a fundamental decision about the role the Tax Code should play in economic decisionmaking. We decided that the Tax Code should play as minimal a role in economic decisionmaking as possible. We repealed the investment tax credit and told corporate America: If you buy a new computer, do so because it makes sense for your company; not because the Tax Code gives you a tax break. If you build a new plant, do so because the market justifies such an expansion; not because the Tax Code gives you a tax break.

The same holds true in this case. Companies will make the decision to add a day care center on-site if they want to maintain a stable, high-skilled work force. We do not need to again be cluttering the Tax Code with special tax breaks for everyone's favorite investment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DECONCINI. I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to lay on the table amendment No. 3163. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—50

Baucus
Bentsen
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Daschle
Dixon
Dodd
Dole
Durenberger
Ford
Garn
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Johnston
Kassebaum
Lieberman
Lott
Lugar
Mack
Mitchell
Moynihan
Packwood
Pryor
Reid
Roth
Rudman
Sanford
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—46

Adams
Akaka
Biden
Bingaman
Bond
Burdick, Jocelyn
Byrd
Conrad
Cranston
D'Amato
DeConcini
Domenici
Exon
Fowler
Glenn
Gorton
Grassley
Harkin
Hollings
Inouye
Jeffords
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
McConnell
Metzenbaum
Mikulski
Murkowski
Nickles
Nunn
Pell
Pressler
Riegle
Robb
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth

NOT VOTING—4

Gore
Rockefeller
Seymour
Wofford

So the motion to lay on the table the amendment (No. 3163) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending business is the Smith amendment on which there remains 2½ hours of debate, equally divided and controlled by the Senator from New Hampshire [Mr. SMITH] and the Senator from Texas, the manager of the bill, Mr. BENTSEN.

Who seeks recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, George Bernard Shaw once said, "A government which robs Peter to pay Paul could always depend on the support of Paul."

Mr. President, it seems to me that Paul is the only one who can really love this tax bill. Unfortunately, there are too many Petes in this bill and not enough Pauls. The inevitable result of Congress trying to be smarter than the markets is a tax bill which benefits narrow categories of taxpayers at the expense of everybody else.

This bill has been promoted as an urban aid bill, but for an urban aid bill, surprisingly little goes to the poor in our inner cities. I support the chairman's enterprise zone, and I agree that it is an idea that we should try, but it is important to remember that the primary beneficiaries of enterprise zone tax breaks are the holders of capital and the owners of businesses, not the zone residents. I commend the bill's income security spending package. The $3 billion which is spent on substance abuse, community works, and job training programs is only a drop in the bucket, and the urban spending amounts to $2.2 million per city and $58,000 per social program.

It is hard to look at this scaled-down response and call it an urban aid bill. To truly change the situation of those living in urban blight, we need to invest significant national resources in transportation, in crime prevention, in public infrastructure, in education, in job training, and human capital. But this is a $30 billion bill. Where is this money going? The largest expenditure in the bill is the IRA proposal, originally $7.7 billion, now $6.2 billion. But the primary beneficiaries of this proposal are wealthy taxpayers, the top five of American income earners. Yet, supporters of the bill note that this provision is paid for by permanently extending the Pease and Pep provisions, the limitations on itemized deductions, and personal exemptions. I question the wisdom of paying for tax breaks with revenues that are already in our current tax liability. These are not new revenues. We cannot let a tax expire, pass it again and call it new money.

This whole exercise with IRA's and Pease and Peps simply means that we are raising taxes on high-income taxpayers in order to shovel the money right back to high-income taxpayers with a new tax break; in other words, we are robbing Paul to pay Peter, or should I say, no, we are robbing Paul to pay Paul.

Real estate developers and brokers are big winners in this bill. They get $2.5 billion in passive loss relief. But it is important to realize what a narrow class of taxpayers we are really talking about. The passive loss relief goes only to developers who spend more than half their time dealing with real property trades or businesses, and we already provide a $25,000 passive loss exclusion for such taxpayers with gross incomes of less than $100,000. A number of other taxpayers will already get relief through new lax Treasury regulations under the passive loss provisions in law now.

So whoever is left—and there cannot be too many of them—they reap and divvy up $2.5 billion in this bill.

It does not end there.

The bill also provides section 108 relief to real estate investors. People who made bad bets on real estate deals in the 1980's are allowed to defer their income when debt secured by real property is written down.

Note that we already provide section 108 relief in the case of insolvency. That is already in the law. That means we are helping out limited partners in real estate deals who are still solvent. But the claim is made that these tax breaks are paid for in the bill.

The bill's supporters point to a provision that lengthens the depreciation period for real property. There is only one problem with that provision. Those footing the bill are not the same people as those who get the tax breaks. Lengthening the depreciation period for real property means that every business that holds commercial property in an active trade or business, gets hit. These are not the developers or brokers who will get passive loss relief. No. No. These are not the limited partners in real estate deals who will get the section 108 relief. No. No. This is corporate America.

The bill also provides $1.3 billion in alternative minimum tax relief to large corporations. But this is not broad corporate tax relief. It simply allows capital intensive producers to retain more of the tax benefit of accelerated depreciation.

Many segments of industry have been burdened with the AMT. I have to question why this group should be treated better than others.

Mr. President, the list of winners in this bill goes on and on and on, each group narrower than the last, each group reaping benefits at the expense of all of the rest of the taxpayers. It includes, for example, in addition to the section 108 winners, the passive loss winners, and the IRA winners, in addition to those winners in this bill are custom gunsmiths, cotton warehouses, restaurants, aircraft manufacturers, housing cooperatives, ferryboat owners.

Mr. President, there are some losers. Losers include security houses, relocated employees, and businesses paying estimated taxes.

When I look at this tax bill, I think of Walt Whitman, and I think what he once said could apply to this tax bill. He once said, "I am large. I contain multitudes."

And this tax bill contains a multitude of small provisions that benefit very narrow interests, raises taxes on others, and reduces the deficit zero.

Do you ever wonder about the deficit? Oh, the deficit, yes. We are raising $30 billion here. We could reduce the deficit $30 billion. But instead of doing that, we are giving a little bit to the section 108 winners, giving a little bit to the passive loss winners, giving a little bit to the IRA winners, custom gunsmiths, cotton warehouses, restaurants, aircraft manufacturers, housing cooperatives, ferry boat owners.

So we are sprinkling sugar over the horizon. Meanwhile, the national debt is still $4 trillion and the budget deficit is still $350 billion.

One of the reasons we are in such bad straits is we continue to pass new tax breaks without really paying for them fully. Yesterday, I talked about how within the 5-year window, narrowly construed maybe, we are OK. If you take an expiring tax provision and keep it going and say that is a new tax, under that logic you could sunset the tax in the fourth year of a 5-year agreement and then say you are not going to sunset it, continue it and under the budget agreement raise $700 billion. That is how we finance these in the 5-year period. In the outyear periods, we do not finance them at all. So you can have an explosion in the budget deficit.

At some point we are going to have to stop robbing Peter to pay Paul. At some point we are going to have to exercise some fiscal restraint and work on long-term solutions that will lead to more savings and investment. At some point we are going to have to stop dishing out tax breaks to this group and that group, and leave the rest of us paying higher taxes or the rest of us paying higher interest rates than we otherwise would have to pay because the deficit is that much bigger and the debt does not come down. It is a very simple proposition.

Mr. President, I hope that we will remember, when we look at this bill carefully under a microscope, the old saying, once again, of George Bernard Shaw: "A government which robs Peter to pay Paul can always depend on the support of Paul."

Unfortunately, there are a lot of Petes in this bill and not enough Pauls.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, in an effort to improve relations with Saddam Hussein, the administration ignored information about the dictator's moves to obtain nuclear weapons as it continued its massive aid program to Baghdad.

Even after invasion of Kuwait, the administration paid over one-half billion dollars to Middle Eastern banks that today appear to be financing sanctions busting activity benefiting Iraq.

### PREWAR: HELPING IRAQ'S EFFORTS TO OBTAIN NUCLEAR WEAPONS

Yesterday, Congressman SAM GEJDENSON released documents showing that the administration knew in 1990 of Iraq's efforts to obtain nuclear weapons.

But there is evidence they may have known this information nearly a year earlier.

There is virtually no dispute that machine parts and equipment made in America helped Iraq in its quest to develop nuclear weapons.

But what is in dispute is what high administration officials knew and why they failed to stop the export of this equipment to Iraq.

The answer is: Administration officials would have been tougher if not for the secret order—signed by the President a mere 10 months before Iraq invaded Kuwait—that directed the enormous power of the United States toward helping Baghdad.

According to the press, President Bush's secret National Security Directive 26, NSD 26, was the green light that threw caution and good judgment to the wind.

It was a fateful step that many believe led us down the slippery slope towards war and the death of American sons and daughters on foreign soil.

Today, I am placing in the RECORD a declassified document that shows how powerless lower-level administration officials felt because of the NSD. And the memo predates Mr. GEJDENSON'S material by 8 months.

What is incredible is that the memo's writer recommends the approval of export licenses for dual-use nuclear-related equipment—that is equipment that can be used for either nuclear or nonnuclear purposes—with the stipulation that Saddam Hussein promise not to use the equipment to build nuclear weapons.

Trusting Saddam Hussein to keep a promise not to divert this equipment to his nuclear program is like giving a pyromaniac gasoline and matches after he promises not to light a house on fire.

It does not take a rocket scientist, even back in November 1989, to know that Saddam Hussein was trying to develop a nuclear bomb and could not be trusted.

In fact, the Los Angeles Times reported on July 22, 1992, that the administration knew as early as September 1989 of Iraq's nuclear weapons program:

> The CIA warned Secretary of State James A. Baker III in a September 1989 top secret assessment that Iraq was developing a "nuclear weapons capability" and the agency identified the specific technology being sought by Baghdad, according to classified documents.

Later in the same story, the Times reports:

> Technology identified by the CIA [in the report to Baker] included high-speed cameras, oscilloscopes and sophisticated computers. Records show that the Administration allowed such technology to go to Iraq even after the warnings * * *.

If the report is true, then the administration was told one month before NSD 26 was signed and 2 months before the SNEC memo of Iraq's nuclear capability.

Because of the importance of this information, I am enclosing a copy of the Los Angeles Times article in the RECORD.

In fact, according to the June 1991 report "Licensing Mass Destruction; U.S. Exports to Iraq: 1985–1990" by the Wisconsin Project on Nuclear Arms Control:

> Front companies for every known nuclear, chemical and missile site in Iraq bought American computers with total American computer exports exceeding $96 million.

The administration, even though it knew of Iraq's desire to build nuclear weapons, turned a blind eye when Baghdad began collecting the equipment it needed to achieve its dream.

### TODAY: BREAKING THE EMBARGOES AGAINST IRAQ

It is already well established that the administration used taxpayer money to prop up Saddam Hussein.

But what I am here to tell you today is that even after invasion of Kuwait, the administration paid over one-half billion dollars to Middle Eastern banks that today appear to be financing sanctions busting activity benefiting Iraq.

Here is what we know.

At a time when Baghdad was financially devastated and strapped for cash, the administration guaranteed $5 billion in agricultural loans to prop up Saddam Hussein, helping him rebuild his war machine.

By getting these U.S.-backed loans, Hussein was able to spend his limited resources on items other than food—such as military weapons and machinery.

In fact, the State Department estimated that Hussein spent $10 to $20 billion in the 1980's on weapons of mass destruction.

By 1990, the United States was the only Nation guaranteeing medium-term loans to Baghdad because they feared that Iraq—heavily indebted after the end of the Iran-Iraq war—might default on the loans.

Default is just what Iraq did, when it refused to repay a substantial amount of money it owed to American and international banks.

Because the administration guaranteed the Iraqi debts, American taxpayers were left with a $1.9 billion bill.

Of that amount, American taxpayers paid nearly one-half billion dollars to cover Iraq's debt to the Gulf International Bank [GIB].

Until April 1992—after most of the United States payments had been made—the bank was owned by Iraq and six other Persian Gulf governments: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

U.S. payments came at a time when GIB was suffering from a substantial credit crunch, making it easier for it to resume lending. And information provided to the Senate Agriculture, Nutrition, and Forestry Committee by a private source suggests that loans by GIB money may be helping companies violate U.N. sanctions against Iraq. I am providing this information to the Office of Assets Control at their direct request.

The source—Kenneth Timmerman of Middle East Defense News—alleges that GIB financed the sanction-breaking activities of nine Jordan-based front companies currently working on behalf of Iraq.

Mr. Timmerman traveled to Jordan and personally interviewed officers of one of these companies—Computer and Communications Systems [CCS]. CCS officers told him that before the Persian Gulf war the company installed and serviced a large number of VAX and mini-VAX computers in Iraqi weapons plants. And a CCS director told Mr. Timmerman that CCS was engaged in active negotiations with U.S. companies to help them break into the Iraqi market once U.N. sanctions are lifted. According to Mr. Timmerman, CCS apparently helped Iraq procure spares and service computers that have been hidden from the U.N. Special Commission.

Mr. Timmerman also learned about a direct business contact between the Iraqi Government and GIB since the invasion of Kuwait. He believes that Iraq's Government-owned Rafidain Bank sent a telex to the Bahrain office of GIB just 3 days after the invasion of Kuwait. The telex reportedly instructed GIB to immediately convert all Iraqi deposits at the bank into Swiss francs and to remit the funds to the Central Bank of Jordan's account with the Zurich branch of the Union Bank of Switzerland.

If the information obtained by Mr. Timmerman is true, and if United States taxpayer payments to GIB helped the bank make the loans to the Jordanian-based companies, then it would appear that American money is helping to break the U.N. embargo against Iraq.

In addition, the administration should be aware of what appear to be additional sanctions violations. On November 20, 1991, the Reuters Library Report reported that GIB and the Arab Banking Corporation [ABC], a bank partially owned by Libya, were two of four banks that made a $30 million loan to the Arab Shipbuilding and Repair Yard to expand its operations in Bahrain. Owned by Iraq, Libya, Kuwait, and four other Gulf States, the Arab Shipbuilding and Repair Yard used the loan to purchase two floating docks from a firm in Florida at a cost of $29 million. These news accounts raise serious questions about whether GIB and ABC are complying with the U.N. sanctions against Iraq.

Yesterday, I sent a letter to R. Richard Newcomb, Director of the U.S. Treasury's Office of Foreign Assets Control, outlining the apparent sanctions violations of GIB and ABC. I am inserting both my letter to Mr. Newcomb and Mr. Timmerman's letter to the Senate Agriculture Committee staff into the CONGRESSIONAL RECORD.

If these reports are true, no further American money should be paid to GIB. Unfortunately, the administration has not verified what amounts, if any, are still owed to the bank.

Mr. President, because of administration policy, American taxpayers were forced to spend $1.9 billion for foreign aid to Saddam Hussein.

And—if Mr. Timmerman's reports are true—then American money may be permitting Middle Eastern banks to loan funds to sanctions busters assisting Iraq.

Mr. President, I ask unanimous consent that all of the material to which I have referred herein be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
*November 21, 1989.*

Memorandum To: OES/N– ——— S/NP– ——— T– ——— NEA/NGA– ———.
From: OES/NEC– ———.
Subject: SNEC Cases of Interest.

### BACKGROUND

The November 18 meeting of the SNEC and the November 20, briefing on Iraq's nuclear program and the activities of state enterprises provided a thorough presentation of available information and Intelligence Community views on these matters. However, we are still left with no clear indication of how to proceed on the majority of cases currently before the SNEC.

### POLICY

The problem is not that we lack a policy on Iraq; we have a policy. However, the policy has proven very hard to implement when considering proposed exports of dual-use commodities to ostensibly non-nuclear end users, particularly state enterprises.

SNEC policy for some years has been not to approve exports for Iraq's nuclear program except for very insignificant items for clearly benign purposes such nuclear medicine. However, at the same time, U.S. policy, as confirmed in NSD 26, has been to improve relations with Iraq, including trade, which means that exports of non-sensitive commodities to "clean" end users in Iraq should be encouraged. According to NEA/NGA, although U.S. policy precludes approval of Munitions Control licenses for Iraq, exports of dual use commodities for conventional military use may be approved.

Complicating factors in decision making include:

1. A presumption by the Intelligence Community and others that the Iraqi Government is interested in acquiring a nuclear explosive capability;
2. Evidence that Iraq is acquiring nuclear related equipment and materials without regard for immediate need;
3. The fact the state enterprises which are ordering substantial quantities of dual use equipment needed for post war reconstruction, such as, computers and machine tools, are involved in both military and civil projects;
4. Indications of at least some use of fronts for nuclear-related procurement.
5. The difficulty in successfully demarching other suppliers not to approve exports of dual use equipment to state enterprises and other ostensibly non-nuclear end users.

### RECOMMENDATIONS

Notwithstanding the foregoing, we are prepared to recommend the following actions on the below-listed currently pending dual use exports to Iraq. Proposed conditions are tailored to significance of export. Other agencies, particularly DOD, may not concur in the recommendations for approval, which would result in split decisions being reported to Commerce for resolution at a higher level.

——— for one 1 GHZ oscilloscope for Technical University Research Center, Iraq. Pending reply to State cable requesting end user info and DOC info on end use. Defer for reply to state telegram to Baghdad.

——— for three HP 9000 workstations to Nasser State Enterprise, Iraq. Deferred for CIA code word level briefing on Iraqi State enterprises and their connections with Iraqi nuclear program. Deny on foreign policy (not nuclear) grounds based on specific information linking this proposed export to a missile development project.

——— for one HP model 360 computer to Ministry of Industry and Military Industrialization, Iraq. End user is identified as of concern for missile and other military activities. End user directs all state enterprises. However, computer proposed for export is only a PC. Approve with license conditions of no nuclear use and no retransfer without prior consent & end user certificate on same points.

——— for two 3-axis turning machines to Saddam General Establishment. Approve subject to license conditions of no nuclear use and no retransfer without prior consent; end user certificate on same points and periodic reporting of status of equipment by exporter or exporter reps.

——— for one coordinate measuring system to Bader General Establishment, Iraq. Favorable end use check received from U.S. Embassy Baghdad. Approve subject to license conditions of no nuclear use and no retransfer without prior consent; end user certificate on same points and periodic reporting of status of equipment by exporter or exporter reps.

——— for one numerically controlled machine tool to Bader General Establishment, Iraq. Approve subject to license conditions of no nuclear use and no retransfer without prior consent; end user certificate on same points and periodic reporting of status of equipment by exporter or exporter reps.

——— application D015535 for re-export of one VAX 6320 and one MICROVAX II computers to Scientific Research Council, Iraq. Concerns have been raised because of possible nuclear-related procurement of items such as glove boxes. However this end user is responsible for universities and scientific institutions in Iraq, including such benign activities as astronomy. Moreover the computers proposed for export, though highly desirable VAX models, have rather low PDR ratings (300 for largest and 39 for the smaller system and workstations). Approve with license conditions of no nuclear end use and no retransfer without prior consent and end user certificate on same points.

——— for one CYBER 910B-400 series workstation to the Hutteen General Establishment, Iraq, for engineering applications. This is the low end of the CYBER mainframe line with a PDR of 318. Approve with license conditions of no nuclear use and no retransfer without prior consent & end user certificate on same points.

——— for two optical heads for cameras and timing lights to A.M. Daoud Research Center, Iraq, for work on projectile behavior and terminal ballistics. DOE review shows that speed of this equipment is appropriate for conventional artillery rounds but far too slow for nuclear applications. Approve with license conditions of no nuclear end use and no retransfer without prior consent and end user certificate on same points.

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[From the Los Angeles Times, July 22, 1992]

### BAKER WARNED ON TECHNOLOGY SALE TO IRAQ

(By Murray Waas and Douglas Frantz)

WASHINGTON.—The CIA warned Secretary of State James A. Baker III in a September, 1989, top-secret assessment that Iraq was developing a "nuclear weapons capability," and the agency identified the specific technology being sought by Baghdad, according to classified documents.

Nevertheless, a month later, Baker assured Iraq's foreign minister that the Bush Administration had no plans to tighten controls on technology exports to Iraq.

That November, Baker played a decisive role in approving an additional $1 billion in U.S. food aid for Baghdad—despite another warning that federal prosecutors were investigating allegations that Iraq may have used earlier aid to acquire nuclear-weapons technology.

The CIA analysis was one of numerous intelligence reports to Baker and other senior Bush Administration officials detailing the activities of Iraq's clandestine worldwide arms-procurement network, according to records obtained by The Times.

The newly disclosed documents demonstrate that the intelligence reports were transmitted to the highest levels of the Administration. Yet officials declined to impose restrictions or take other measures that might have slowed Iraq's efforts to develop a nuclear weapon.

The new documents also provide additional evidence of the extent of the Administration's knowledge of Iraq's arms procurement efforts in the years before the invasion of Kuwait.

State Department spokeswoman Margaret Tutwiler, traveling with Baker in the Middle East, declined to respond to questions about the CIA analysis.

"We are going to follow the same policy on this story as we have on the past ones, which is not to get into all the specifics or try to interpret documents that were made available," Tutwiler said. "Secretary Baker and others have talked about prewar policy. We've testifed on it; we've released documents publicly, and we've released them [documents] to the Congress."

Classified documents previously disclosed by The Times already have shown that the Administration was warned repeatedly, starting as early as 1985, by its own intelligence agencies that Iraq was developing nuclear, chemical and biological weapons, possibly with diverted U.S. technology.

Post-Persian Gulf War inspections by the United Nations have demonstrated that U.S. technology was used in Iraq's weapons programs. Allegations that U.S. food aid was diverted to buy weapons are still under federal investigation.

Paradoxically, at the start of the Gulf War, President Bush invoked Iraq's potential to develop and deploy nuclear weapons as one reason for launching the air war instead of continuing economic sanctions.

"We are determined to knock out Saddam Hussein's nuclear bomb potential," Bush told the nation in a televised address on Jan. 16, 1991.

Confronted with questions about prewar assistance to Iraq in recent weeks, the President has denied repeatedly and categorically that his Administration provided any help in Baghdad's drive to develop nuclear, chemical or biological weapons.

Classified records have shown that the Administration resisted efforts to curtail sales of sensitive technology to Iraq as late as May, 1990, two months before the invasion.

In the CIA assessment dated Sept. 3, 1989, Baker and other officials were informed that Iraq was developing a nuclear weapon to "counter perceived military threats from Israel and Iran." Iraq's front companies had "made extensive use of covert techniques in Western Europe" to obtain high-tech goods vital to its nuclear weapons program, the report said.

Technology identified by the CIA included high-speed cameras, oscilloscopes and sophisticated computers. Records show that the Administration allowed such technology to go to Iraq even after the warnings, continuing a policy begun as part of the Ronald Reagan Administration's attempt to influence Iraqi President Hussein.

On Oct. 6, 1989, Baker met with Iraqi Foreign Minister Tarik Aziz in Washington. Minutes of the meeting show that Baker stressed the Administration's desire for strong ties to Baghdad and said it opposed attempts by Congress to impose sanctions on Iraq.

"Regarding technology, the secretary admitted that the U.S. does have concerns about proliferation but they are worldwide concerns," the minutes said. "He suggested that we worked together on specific requests so the U.S. can understand Iraqi needs and objectives and Iraq can hear what concerns us."

At the meeting, Aziz raised concerns about alleged efforts by the United States to destabilize the Iraqi government. On Oct. 21, 1989, Baker sent a classified cable to Aziz in which he said that he has discussed the matter with Bush and that there was no such U.S. effort.

"Such an action would be completely contrary to the President's policy, which is to work to strengthen the relationship between the United States and Iraq whenever possible," according to a copy of the cable.

An examination of records of the interagency Administration group that reviews exports of technology with potential nuclear weapons uses found that substantial amounts of such goods were licensed for sale to Iraq.

Between 1985 and 1990, the Reagan and Bush administrations approved 410 licenses to Iraq for goods with potential nuclear applications, while disapproving 116, records show.

Congressional and federal investigators now say they have uncovered evidence that one element of Iraq's procurement network, a Cleveland machine-tool company called Matrix Churchill, obtained tens of millions of dollars in U.S. technology for Iraq's nuclear program.

Matrix Churchill was not shut down by the Customs Service until the month after Iraq's invasion of Kuwait despite intelligence reports dating back to the summer of 1989 that identified its British parent, also known as Matrix Churchill, as part of the worldwide procurement network.

Intelligence warnings also came as the Administration was considering new loan guarantees for Iraq.

"Baghdad has created a complex procurement network of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear and ballistic missiles program," said a Nov. 6, 1989, secret CIA report naming Matrix Churchill and numerous other fronts.

Two days later, the Administration approved the additional $1 billion in loan guarantees for Iraq from the Commodity Credit Corp. over objectives of four federal agencies worried about Iraq's credit-worthiness and the allegations of aid diversion.

The approval followed personal lobbying by Baker and top aides. Records show that, along with the September CIA report, Baker also had received another classified report about that time that raised suspicions about possible diversion of U.S. aid.

The report said federal prosecutors were investigating "allegations of widespread and blatant "irregularities' in the CCC program for Iraq." Among the allegations was possible "diversion and transshipment of commodities outside Iraq" for arms purchases.

Three of Baker's top aides were warned that investigators believed "that diverted funds were used to procure nuclear related equipment" and that Matrix Churchill was "involved in supplying military hardware to Iraq."

The warnings continued. Two weeks later, a State Department memo said intelligence information indicated that Iraq was pursuing "a nuclear explosive capability" with the assistance of Iraq's clandestine network.

Although the memo warned that some U.S., high technology was diverted for Iraq's nuclear program, it argued that Administration policy was to "improve relations with Iraq, including trade, which means * * * exports of dual-use commodities for conventional military use may be approved." The memo also charged that licensing policy was holding back exports to Iraq.

In mid-February of 1990, U.S. diplomats in nine foreign capitals were instructed to express concerns about Iran's and Iraq's nuclear programs. The diplomats were to urge the "host governments not to provide either Iran or Iraq with 'plutonium or highly enriched uranium'" to make a bomb and, more important, were "cautioned against the export of so-called 'dual-use' items to the nuclear programs of Iran or Iraq."

But contrary to the advice given U.S. allies, senior Bush Administration officials continued to press for relaxation of U.S. export licenses that might assist Iraq's nuclear program.

In March, 1990, John Kelly, then an assistant secretary of state who also had received the September, 1989, CIA warning, complained that the interagency licensing policy was still holding up export licenses to Iraq. "We have explicit presidential authority for expanding trade with Iraq," Kelly said.

In March 27, 1990, U.S. and British customs agents thwarted an effort by Iraq to obtain American-made triggers for nuclear weapons.

Within days, a State Department official warned in a classified memo that the incident was "another indication that Iraq may be seeking to develop a nuclear weapons option. Although this does not appear to be a danger in the near term because Iraq lacks facilities to produce weapons-grade nuclear materials * * * it is important to try and prevent Iraq from acquiring sensitive technologies at an early stage."

A senior State Department official was being dispatched to France, West Germany, Belgium and other countries to brief foreign leaders on "Iraq's nuclear program and procurement activities" and argue for "the need to control exports of sensitive nuclear and missile technology to Iraq," according to the memo.

But in May and June of 1990, according to classified documents, the National Security Council rejected proposals by the Commerce Department to tighten the export licensing of U.S. technology to Iraq.

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COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
*Washington, DC, September 23, 1992.*

Mr. R. RICHARD NEWCOMB,
*Director, Office of Foreign Assets Control, Department of Treasury, Washington, DC.*

DEAR MR. NEWCOMB: On March 30, 1992, I wrote to the Secretary of Agriculture questioning the payment of $360 million to the Gulf International Bank. I raised questions about this transfer of funds because my information indicated that the Gulf International Bank was partially owned by the Government of Iraq. The Secretary responded that the payments to the Gulf International Bank were proper because the bank was not controlled by the Government of Iraq. The Secretary further referred any other questions on this matter to your office.

Committee Counsel and other staff met with you and members of your staff on August 28, 1992, to discuss the Office of Foreign Assets Control's decision to authorize these payments. During the meeting, several issues were raised about the Gulf International Bank. You agreed to provide the Committee with the relevant documents that addressed these issues. These materials have not been supplied to the Committee. Therefore, I am providing you with my concerns about these issues.

My concerns are based on the fact that the Iraqi Sanctions Regulations bar the transfer of assets to Iraqi entities and the export of U.S. assets that have the effect of conferring a direct or indirect benefit to Iraq.

In the meeting you indicated that the USDA payments to the Gulf International Bank were proper because the Office of Foreign Assets Control had determined that the bank was not an Iraqi entity, in spite of Iraq's partial ownership of the bank. The only documents that we have received conferring that status on the Gulf International Bank cite only the Kuwaiti Assets Control Regulations (Executive Order 12723, 12725), not the Iraqi regulations.

The Iraqi Sanctions Regulations state in section 570.101 that they are separate from any other regulations:

"(a) This part is separate from, and independent of, the other parts of this chapter. * * * No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part."

Further, the license issued by the Office of Foreign Assets Control was issued under the Iraqi Sanctions Regulations, not the Kuwaiti Assets Control Regulations. From a legal point of view, therefore, the decision to "unblock" the Gulf International Bank for the purposes of the Kuwaiti regulations would not unblock an entity for the purpose of the Iraqi regulations.

From a policy point of view, it is also clear that the Kuwait Assets Control Regulations have very different objectives than the Iraqi Sanctions Regulations. The purpose of the Kuwaiti Assets Control Regulations was to ensure that while Iraq was illegally controlling Kuwaiti territory, it did not confiscate assets from Kuwaiti banks and similar institutions in the United States. The purpose of the Iraqi Sanctions Regulations was very different. As the President stated on August 3, 1990:

"The measures we are taking to block Iraqi assets will have the effect of expressing our outrage at Iraq's actions, and will prevent that government from drawing on monies and properties within U.S. control to support its campaign of military aggression against a neighboring state."

Thus, since the purpose of the Kuwaiti regulations was different from the Iraqi sanctions, "unblocking" for the purpose of the Kuwaiti regulations would not automatically "unblock" an entity under the Iraqi regulations.

At the meeting you further stated that the Office of Foreign Assets Control had determined that the Gulf International Bank was not a blocked Iraqi entity because Iraq did not have "a managing or controlling interest." The Iraq regulations, however, contain a third criteria for defining an "entity" as an "Iraqi Government entity." That criteria is whether the entity is "funded" by the Government of Iraq.

The Government of Iraq was one of the seven governments funding an equal share of the Gulf International Bank's capital when it was established. To ward off insolvency in 1989, the Government of Iraq funded a share of the $400 million in new capital for the Gulf International Bank. This increased the Government of Iraq's ownership to over 15%. In April 1991, the Government of Iraq's share was reduced to 10.45% when it did not contribute to the new capital increase for the Gulf International Bank. It retained that level of ownership until its interests were extinguished in April 1992. During this period the Gulf International Bank had received payments which ultimately reached a total of approximately $416 million from the United States Government. Because the Government of Iraq provided money to establish the Gulf International Bank, and to keep it solvent in face of acute liquidity problems, the regulatory requirement of "funded" appears to have been met. Therefore, the Gulf International Bank should be considered, "an entity of the Government of Iraq."

The significance of this level of ownership is clear from the fact that section 510 of the Iraqi Sanctions Regulations requires that applicants for a license must disclose Iraqi ownership interests greater than five (5%) to the Office of Foreign Assets Control. It is my understanding that this disclosure did not occur in this instance.

In addition to prohibiting the transfer of funds to an "Iraqi entity", Section 201 of the regulations also prohibit transactions involving property in which the Government of Iraq has an interest. The regulations define "interest" very broadly as "any interests of any nature whatsoever, direct or indirect."

In litigation, the Office of Foreign Assets Control has taken a very broad view of an "Iraqi interest." For instance, in the Centrifugal Casting Machine case, the Office of Foreign Assets Control argued in its appellant brief that the Government of Iraq had a property "interest" in the $2.7 million down payment made to a U.S. company under a contract for the delivery of machinery valued at $27 million. The Office of Foreign Assets Control argued in this case that these assets should be blocked "to preserve those interests for use by the United States as a foreign relations tool, as well as for rational and fair distribution to American claimants." The Office of Foreign Assets Control argued strongly that the Iraqi Sanctions Regulations apply to the property interest the Government of Iraq has in the $2.7 million down payment.

If a ten percent ($2.7 million) down payment is sufficient to create an Iraqi interest in a piece of U.S. equipment worth $27 million, then the Government of Iraq's interest of 10.45% ($44 million) is a fortiori sufficient to create an interest in the assets transferred to the Gulf International Bank. The foreign policy rationale for freezing $44 million is much stronger than the foreign policy rationale for freezing $2.7 million in assets. In both cases, the Government of Iraq has an interest, whether direct or indirect.

I must also note that, in addition to my concerns about how the Office of Foreign Assets Control has applied the Iraqi Sanctions Regulations, our research has also raised questions about the payments to the Arab Banking Corporation under the Libyan Sanctions Regulations and the manner in which they have been applied. For example, the Office of Foreign Assets Control on August 5, 1990, determined that the Arab Banking Corporation, based on its ownership and control, should be licensed for transactions under Executive Order 12723. Transactions were authorized with the proviso that no funds would be transferred to Iraq or Kuwait.

The Arab Banking Corporation has received more than $146 million from the United States Government because of Iraq's default on agricultural credit guarantees. The Government of Libya owns 26.78% of the Arab Banking Corporation, according to its annual report for 1991. Under current U.S. banking law, a company has control over a bank when it "owns or has power to vote 25% or more of the stock of the bank." (12 U.S.C.A. 1841(a)(2)). Therefore, under the Libyan Sanctions Regulations, the Arab Banking Corporation would be considered an entity of the Government of Libya because the Government of Libya's ownership "constitutes a majority or controlling interest."

Moreover, under the Libyan Sanctions Regulations, the transfer of interests in property of the Government of Libya in the U.S. to the Government of Libya is prohibited. This includes payments and transfers of any kind whatsoever, except into a blocked entity. Thus, it would appear that the payments to the Arab Banking Corporation were questionable under the Libyan Sanctions Regulations.

During the discussions of the legality of the Commodity Credit Corporation payments, you also directly requested that the Committee provide you with any information that it may have which indicates that banks receiving CCC payments had violated the Iraqi sanctions. Although we cannot confirm the veracity of this information, we are supplying it to you at your direct request. The Committee has obtained information about this issue from several sources, both public and private.

First, the Committee's research shows that federal authorities were concerned about "sanctions busting" activity by the Gulf International Bank and the Arab Banking Corporation at the time the sanctions were imposed. According to August 19, 1990, edition of The Washington Post:

"The Gulf International Bank is partly owned by the governments of Iraq and Kuwait, and that puts its financial activities under a cloud during the crisis. The Arab Banking Corporation is 25 percent owned by Kuwait and 25 percent by Libya, and that renders it suspect. Both institutions are being watched closely by U.S. and British banking officials, who reportedly are concerned they could be used for sanctions-busting. * * *"

Second, Mr. Abdullah Saudi, the president and chief executive of the Arab Banking Corporation, publicly stated the bank's intention was "to be the first to establish a strong banking relationship with Iraq if the political and economic situation stabilized," according to The Reuters Library Report on April 4, 1991. The article further quotes Mr. Saudi as saying that "Iraq is potentially very rich and very important—we would be more than delighted, once we see stability restored, to be there."

Third, there is at least one case on the public record where it appears that after the imposition of sanctions the Gulf International Bank and the Arab Banking Corporation provided financing for an entity owned in part by the Government of Iraq. According to the November 20, 1991, edition of The Reuters Library Report, the Arab Banking Corporation and the Gulf International Bank were two of four banks that made a $30 million loan to the Arab Shipbuilding and Repair Yard to expand its operations in Bahrain. The Arab Shipbuilding and Repair Yard is owned by the governments of Iraq, Libya, Kuwait and four other Gulf States. It used the loan to purchase two floating docks from a firm in Florida at a cost of $29 million. These news accounts raise serious questions about whether the Gulf International Bank and the Arab Banking Corporation are complying with the U.N. sanctions against Iraq.

Private sources have provided the Committee with several more pieces of information about alleged activity by the Gulf International Bank that may violate the Iraqi Sanctions Regulations. The attached letter from a source in Europe identifies nine Jordan-based front companies currently working in behalf of Iraq. The source alleges that the Gulf International Bank has financed the sanctions breaking activities of these companies. The source has travelled to Jordan and personally interviewed officers of one of these companies, Computer and Communications Systems, who indicated that the company had installed and serviced a large number of VAX and mini-VAX computers in Iraqi weapons plants. Furthermore, a director of this company revealed that his company was engaged in "active negotiations" with U.S. companies to help them break into the Iraqi market once U.S. sanctions are lifted. The source also has received information that this company allegedly has helped Iraq to procure spares and to service computers that have been hidden from the U.N. Special Commission.

The European source also has obtained information about a direct business contact between the Iraqi government and the Gulf International Bank since the invasion of Kuwait. According to the source, Iraq's government-owned Rafidain Bank sent a telex to the Bahrain office of the Gulf International Bank just three days after the invasion of Kuwait. The telex reportedly instructed the Gulf International Bank to immediately convert all Iraqi deposits at the Gulf International Bank into Swiss francs and to remit the funds to the Central Bank of Jordan's account with the Zurich branch of the Union Bank of Switzerland.

If any of these reports from private sources are confirmed, it would raise serious questions about the effectiveness of the Administration's sanctions program. I hope you will move quickly to address these concerns.

Sincerely,

PATRICK LEAHY,
*Chairman.*

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MEDNEWS,
MIDDLE EAST DEFENSE NEWS,
*Maisons-Lafitte, France, September 15, 1992.*

JAMES M. CUBIE,
*Chief Counsel, Majority Staff, Senate Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.*

DEAR JIM: (1) In response to questions from you and your staff, I have received the following list from a confidential source of Jordan-based front companies currently working on behalf of Iraq. These companies were specially identified as having allegedly received funds from the Gulf International Bank since April 1991 to fund sanctions-breaking activities: Mazhar Enlab & Partners Co,; Middle East Trading & Real Estate Co. Ltd.; Na'im al Nasser & Partners Trading Co.; Arab Eagle Trading Co. Ltd.; Doa'a Trading Establishment; Technical Equipment Establishment; Computer and Communications Systems [CCS]; Menas Mezikian Trading Establishment; W.R. Abdul-Hadi & Co.

(2) Earlier this year, before receiving this list, I was in Amman on a reporting trip tracking Iraqi front companies. Top on the list of suspects at that time was Computer and Communications Systems (CCS), a franchise outlet for Digital Equipment Corp. (DEC).

Interviews in Amman with a CCS director, Hashem Samara, and the company manager who ran their Baghdad office in the late 1980s, established that CCS had installed and serviced a large number of VAX and mini-VAX computers in Iraqi weapons plants.

Samara volunteered that CCS was engaged in "active negotiations" with Texas Instruments and with other U.S. companies to help them break into the Iraqi market once UN sanctions were lifted.

Samara co-owns CCS with a brother, Isam Fayez Samara, who is the majority shareholder of International Computer Systems, Ltd. (ICS), a British computer company which had signed contracts to deliver tens of million of dollars worth of VAX systems to Iraq before August 2, 1990.

Through ICS in Britain, and CCS in Jordan, Digital Equipment Corp. was Iraq's single largest supplier of workstations, minis, and mainframes with clear defense and defense manufacturing applications. My sources believed that both companies were still helping Iraq to procure spares and to service computers that have been hidden from the UN Special Commission.

(3) Two other companies on the list are familiar to me for sanctions-breaking activity, although I do not have first-hand knowledge to back this up.

(4) I have learned from confidential banking sources that the Rafidain bank in Baghdad sent a telex to the Bahrain office of the GIB on August 5, 1990, instructing them to immediately convert all Iraqi deposits as GIB into Swiss francs and to remit the funds to the Central Bank of Jordan's account with the Zurich branch of the Union Bank of Switzerland (UBS). A similar telex was sent the same day to the Bahrain subsidiary of UBAF, known as ALUBAF, which then held $75 million in short term Iraqi cash deposits. One of the ALUBAF's directors, Dr. Michel Marto, was also serving as Deputy Governor of the Central Bank of Jordan.

I hope this information will be of use to your investigation, and would be happy to answer any follow-up questions.

Sincerely yours,

KENNETH R. TIMMERMAN.

Mr. LEAHY. Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside and that it not be brought before the Senate again without the agreement of the two managers of the legislation.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, let us clarify one thing, because we are trying to help Senator SMITH out. At the moment, his amendment keeps coming back up. We are trying to lay it aside and go on to other business. I would not want him to think he can never bring it up, ever, without our consent. At some stage, if he wants to come back, and there is nothing doing, he can call it up.

Mr. BENTSEN. That is right.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that a member of my staff, Dr. Jim Merchant, be allowed the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I understand the floor situation right now is that there are no amendments pending?

The PRESIDING OFFICER. The committee substitute is the pending question.

Mr. HARKIN. I understand, but it is open for amendment right now, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, I am under the understanding that at 1:30, under a previous agreement, Senator BUMPERS is going to be recognized to offer his amendment, with a 1-hour time agreement; and I have an amendment, Mr. President, that I have been attempting to bring up on this bill, which deals with taxation.

It is. I have been off of it trying to reach some kind of time agreement. There seems to be a problem with that. In the meantime, I am going to just talk briefly about my amendment probably until 1:30 until the time when Senator BUMPERS—I guess under a previous arrangement—will be bringing up his amendment. I hope to be back shortly after his amendment is disposed of.

Mr. President, the amendment that I will be offering today I am sure most Senators are aware of, because they have gotten a lot of mail. The amendment I will be offering today, I hope sometime this afternoon, would basically reduce the tax deductibility for advertising for tobacco, a 100-percent deductibility to 80-percent deductibility. You may ask why 80 percent? It is 80 percent to bring it in line with what we did in the tax bill of 1986 when we reduced the tax deductibility of business expenses for meals and entertainment. For example, the deductibility for business meals, lunches, dinners, breakfasts, was never to 80 percent. Prior to 1986 if you were in business and you took a potential client or a client to lunch or to breakfast or to dinner, 100 percent of the cost of that meal was deductible as an ordinary and necessary business expense.

In 1986 the Congress restricted that and said that, yes, you can take a client to lunch or to dinner or breakfast but you can only deduct 80 percent of the meal, not 100 percent. So that has been in the law now for about 6 years.

It always seems incongruous to me that we have restricted that and yet we still allow 100-percent deductibility for advertising for tobacco. That is kind of odd.

So I thought what we might want to do is to restrict that, put it at the same level, if we are going to say for business meals and entertainment you can only deduct 80 percent of expenses, that perhaps tobacco ought to be able to deduct only 80 percent of its advertising.

Mr. President, I have been trying to bring this up since August. I know there is a great deal of resistance to this amendment—I am going to be talking about that—a great deal of resistance to this amendment. But I believe it is something legitimately we ought to discuss and vote on here.

I dare say that the vast majority of the American people do not know that their tax dollars are being used to subsidize advertising for tobacco. That is exactly what it is. It is quite a bit of money, I might add, approximately $1 billion a year.

So I think it is something that we ought to debate and I am hopeful we can get an up-or-down vote on this at some point this afternoon. I am willing to enter into a time agreement. I understand there are others on the other side of the aisle, however, who are not interested in a time agreement.

I want the record to show that this Senator is not holding up the tax bill. I am not trying to hold it up. I am not trying to stall it, or anything like that. How I vote on it I have not decided yet. It depends on what happens to the amendments. I do not want to stall it.

I want to offer what I consider to be a legitimate amendment dealing with tax policy of this country on how we want to give tax preferences and tax breaks like that. I am hopeful sometime this afternoon I will be able to lay the amendment down and have a reasonable debate on it.

Mr. FORD. Mr. President, will the Senator yield?

Mr. HARKIN. I am delighted to yield to my colleague from Kentucky.

Mr. FORD. We are trying to work out a time agreement and this Senator is working diligently to give the Senator a time agreement. But the Senator says he is not trying to hold up the bill. By the very nature of offering this amendment the Senator is holding up the bill.

The Senator talks about deduction of the meals. That is across the whole industry. Now he is singling out one industry just to reduce them and to me that is unconstitutional. So, if he wants to reduce the whole industry by 20 percent that is fine. Why does he not go ahead and do that? He just singled out one industry that is a legitimate and legal industry.

What the Senator is trying to do here now is single them out for a punitive tax law?

So I would say to my good friend we are ready—I am—to debate this issue. I understand we probably want to give the Senator less time than he wants, but we will see how that works out.

I promise the Senator we will have an opportunity to agree on a time agreement some time shortly. So I do not want the Senator to say that he is not holding up the bill. The very fact of offering the amendment causes the bill to be delayed.

Mr. HARKIN. Mr. President, that is just about the oddest kind of argument this Senator ever heard on this floor that somehow we cannot offer amendments to bills or it will hold up the bill. That is ridiculous.

Of course, why we bring bills on the floor is to express the will of the Members, and we offer amendments. Of course, bills have to come to the floor.

We had the spectacle here where we have been here an hour and 15 minutes, because we have a pending amendment and the author of the amendment would not come to the floor and time is not running against that amendment.

I would have been willing to start my amendment and lay my amendment down an hour ago. I will lay the amendment down now. I do not want to go against the will of the ranking member of the committee.

For the Senator to say we hold up the bill by offering an amendment, we offer amendments to try to improve a bill and change it, not to hold it up. I think that is a specious argument to say we are trying to hold it up. Talking about holding up bills, that is when Senators take undue amounts of time with a filibuster and the like, which is not what I am trying to do.

I would be willing to discuss the constitutionality of this amendment. I hope we will have a chance to talk about the constitutionality of this amendment, because I believe it is eminently constitutional, and there are constitutional lawyers on our side of the argument that say it is constitutional.

It is constitutional because there is a line of cases establishing a lower level of constitutional protection for commercial speech than for other types of speech. Commercial speech is speech that merely proposes a commercial transaction.

Because commercial speech is given a lower level of protection than other speeches, cases cited by authorities that made mailings to other offices and staff simply do not apply to this amendment.

The underlying point is, I tell my friend from Kentucky, that if the Congress has the power to make the product involved illegal, it has the lesser included power to prohibit the advertising of that product. Reducing the level of deductibility is even a smaller exercise of power which is just as constitutional.

So, again, if we have the power to completely ban it under the Constitution, we have the lesser included power to ban all advertising of that product.

Arguments which elevate advertising to the same level of constitutional protection as other speech are simply wrong and ignore the entire line of cases establishing the lower level of protection for commercial speech.

Mr. President, I will be including those at some point later.

Again, that is a red herring. Clearly this is constitutional. The real issue is 434,000 deaths this year due to smoking and tobacco use. That is the issue. And the issue is also: Are we going to allow these tobacco companies to continue to go after the kids of this country to hook them on tobacco subsidized by taxpayers.

Mr. President, what my amendment is, pure and simple, is a drug abuse amendment to reduce drug abuse in America. The No. 1 drug abuse in America is nicotine. It may be legal, but that does not mean our taxpayers have to condone it by using their tax dollars to subsidize the advertising.

Mr. President, it is time that we take this step to reduce the tax deductibility for advertising. It is simple. Put the same limit on it as we do on meals. But also what our amendment does I want to spell it out. We do not just reduce the tax deductibility. We say that the revenues generated from that will go back to the States to support advertising designed to reduce the use of tobacco products by our children, pregnant women, and minorities, all targets of the tobacco industry advertising campaign.

So this amendment has two aspects. One, reduce the deductibility of advertising for tobacco from 100 to 80 percent, and two, take the revenues generated from that and get it back down to the States where the State departments of health can use that money to buy advertising to reduce the use of tobacco among kids, pregnant women, and minorities.

So, the advertising people in America, those that advertise, should not be worried about this amendment at all, because they are still going to get advertising. The money is going to stay in the advertising pot, but it is just going to be put into advertising to reduce the use of tobacco.

Mr. President, I have some charts that I am going to show now and I am going to be showing them later, too. I think they are some pretty interesting ones that will kind of highlight this.

Mr. President, let me introduce you to a guy by the name of Old Joe Camel. I think it is time we take a look at Old Joe Camel. Here is Old Joe Camel. You may have seen him before. He is a smooth character, you see. Since 1986 he has been the mascot of Camel cigarettes advertising campaign.

As I stated, he is a smooth character. If you do not happen to recognize Old Joe, Mr. President, then I suggest you ask any 6-year-old who he is. He will recognize him. According to a recent study published in the Journal of the American Medical Association [AMA], more 6-year-olds can identify Old Joe Camel than adults. In fact, just as many 6-year-olds can identify Old Joe Camel as they can Mickey Mouse. Ninety-one percent of 6-year-old kids in America can identify Old Joe Camel.

What does that have to do with anything? Well, consider this—and I ask the Senator from Oregon, the distinguished ranking member of the committee, to consider this—in the 3 years following Old Joe's introduction to the American public, the illegal sale—the illegal sale—of Camel cigarettes to children under 18 years of age is estimated to have risen from $6 to $476 million a year. Again, from the Journal of the American Medical Association, December 11, 1991.

Forty-four States prohibit the sale of cigarettes to kids under 18. Yet, when they started with Old Joe Camel, in 3 years, it is estimated that the sale of Camel cigarettes to children under the age of 18 rose from $6 to $476 million a year. That is the illegal sale of Camel cigarettes. In fact, the proportion of smokers under 18 years of age who chose Camels has risen from 0.5 to 32.8 percent in 3 years.

So Old Joe Camel has made his mark. And, of course, you know, the thing that appeals to kids is when you look at Old Joe Camel, he is a smooth character and obviously he is a winner.

Here is the race track. He has the checkered flag. He is out in front. Of course, you know, he has a very smiling, very beautiful young woman next to him, and she is holding the trophy. And he has all the fans in the stands cheering.

So Old Joe, he is smooth. He is a winner. And, of course, he has beautiful women around him all the time. So it is no wonder that kids under age 18 who chose Camels went from 1 half of a percent to 32.8 percent in 3 years.

Again, here is the kicker, Mr. President. Old Joe Camel made this possible because it is subsidized by the American taxpayers. Because R.J. Reynolds can deduct the cost of their entire advertising campaigns, the taxpayers get stuck with the bill. Then we get stuck again with the bill for the subsequent health care costs.

I thought we were trying to help people stop smoking in America. This year, we are going to spend $114 million through the Public Health Service to help people stop smoking and reduce health care costs. Think of that. We will spend $114 million this year—your money, taxpayers' money—to reduce smoking.

At the same time, the tobacco industry is spending 30 times that amount, $4 billion in 1990, to encourage people to start smoking. And we are giving them a tax break? What kind of sheer, utter nonsense is this? They are spending $4 billion a year to advertise tobacco and we are spending $114 million a year to try to cut down smoking, and we give the tobacco companies a tax break to advertise. That has got to be sheer and utter nonsense.

So this amendment is a very small step. It just asks that we reduce the tax deduction from 100 to 80 percent. And it transfers that money to be used to fund a comprehensive and responsible advertising campaign in every State to help reduce smoking.

The case could not be clearer for this amendment. Although the tobacco industry still denies it, over 50,000 scientific studies have clearly demonstrated that smoking causes a host of illnesses and kills people.

Now to put this in perspective, I brought along another chart, which shows that every year, every single year, more Americans die from tobacco-related diseases than died in all of World War II.

Over here on the left is the annual smoking deaths, 434,000 every year. Here is all of the World War II, just slightly over 400,000. Down here, you can barely see it, is the annual heroin, morphine, and cocaine deaths. It is barely on the chart.

And yet we are spending billions of dollars in this country going after these, and we are subsidizing the sale of nicotine, a drug, in America. It may be legal, Mr. President, but in 44 States, it is illegal for kids under 18. And yet they get to advertise to kids all over America, and we subsidize them. More deaths per year from smoking than from all of World War II.

In the 1990's, in this decade alone, cigarettes will kill 4.5 million Americans. That is the equivalent of killing every man, woman, and child in the cities of Boston; Buffalo; Greensboro; Miami; Flint, MI; Cleveland, OH; Fargo, ND; Dallas, TX; Baton Rouge, LA; Austin, TX; Denver, CO; Salt Lake City, UT; Berkeley, CA; and Portland, OR, again all put together. In this decade alone, that many people will die from smoking-related causes.

What is more, smoking cost America $65 billion a year in lost productivity costs and health care costs. No wonder Health and Human Services Secretary Dr. Louis Sullivan says that cigarettes are the only product that—and I quote him—"when used as intended, kills." Secretary Sullivan, the only product that "when used as intended, kills."

Mr. President, do you think taxpayers want to be accessories to this? I ask anyone listening to my words, ask yourself, look into your own heart and your own conscience, do you want your tax dollars used to subsidize advertising for tobacco? Just answer it yourselves. I think the overwhelming response is going to be, no.

Mr. President, I said $4 billion a year they pay for advertising. Let me tell you, it is working. You have to hand it to the tobacco companies. They know what they are doing.

Only one other product is more heavily advertised in America, and you know what that is. The automobile. The automobile is the No. 1 advertised product in America. The second most advertised product in America is cigarettes.

Cigarette advertising themes remain remarkably consistent.

Mr. President, I will show these again later on, but I think it is time to take a tour through history.

Let us go back a few years and then bring it up to the present day and let us see how much has changed.

Here is an ad, back when I was a kid, for Lucky Strike. It says, "The shock of facing what your figure may become."

Of course, here is a shadow of a very fat person, and, of course, the picture of a young woman smiling, very slender, well proportioned.

"Avoid that future shadow by refraining from overindulgence, if you would maintain the modern figure of fashion."

So, "When tempted, reach for a Lucky instead."

So, if you want to maintain a nice, trim figure all you have to do is smoke Lucky Strikes. That is all you have to do. Of course this is 1930. I am sorry, that is before I was a kid. That is before I made my appearance on the scene. But there they were saying, if you want to stay slim, smoke a Lucky. That is one.

Here is another one. This is more like what I remember when I was a kid. This came out, I think, in 1953. This is a 1953 ad from the Saturday Evening Post. It is a doctor, of course. He has his uniform. I do not know if he is a doctor but he is portrayed as a doctor, white uniform, he has an eyepiece up on his head. It says:

> Do not remove the moisture proof packing from your package of Camels after you open it. The humdior pack is protection from dust and germs. In office and homes, even in the dry atmosphere of artificial heat, the humidor pack delivers fresh Camels and keeps them right until the last one has been smoked.

Here you have is someone portrayed as a Camel smoker saying all you have to do is keep the package closed and it will stay fresh, it is OK. You have a doctor telling you.

Just so we do not leave the women out here is a nurse smoking a cigarette. Again, it is healthful, it is OK. The nurses are doing it. "Smoke a fresh cigarette, smoke Camels."

Here is one, also, that came out about 1951. "Science discovered it, you can prove it. No unpleasant after taste." Here is someone looking through a microscope. He is holding a cigarette. What it said is, "Here is the biggest plus in cigarette history, Chesterfield is the only cigarette of all brands tested in which members of our taste panel found no unpleasant aftertaste." Of course it is scientific.

Mr. President, this ad came out right after the first study was released, it was the Oschner study, Dr. Alton Oschner in New Orleans, that first linked cigarette smoking to lung cancer. Right after that came out these ads came out, somebody looking through a microscope saying, "Science proved it, you can prove it," scientifically it is OK.

But here is the worst one of all, I thought. We all remember Johnny, the young small guy who used to always advertise, "Call for Philip Morris."

"An ounce of prevention is worth a pound of cure. Philip Morris are scientifically proved far less irritating to the nose and throat."

It says here, "When smokers change to Philip Morris, substantially every case of irritation of the nose and throat due to smoking either cleared up completely or definitely improved." This is from the findings of "a group of distinguished doctors."

So, again, preventive health care—smoke cigarettes. An ounce of prevention is worth a pound of cure. That is what people were led to believe for many, many years with tobacco advertising. That somehow you could stay young, you look healthy, you can be slim, scientific evidence, proof, an ounce of prevention is worth a pound of cure, it is less irritating.

Of course what they were getting at is if you had emphysema or cancer of the throat it would be less irritating to smoke Philip Morris cigarettes. Of course the new version of these ads are light cigarettes: less tar, less nicotine. There is no proof they are less harmful at all.

Again, they said it would keep you from gaining weight, make you look good and all that kind of stuff. Each one of these ads I just showed misrepresents cigarettes as a healthful product that makes the smoker seem glamorous and successful.

You might say those are the old days. The tobacco industry came up with some principles governing cigarette advertising and sampling. Let me read what the tobacco industry's own principles are.

"Cigarette advertising shall not suggest that smoking is essential to social prominence, distinction, success, or sexual attraction."

That is the cigarette advertising and sampling principles for the tobacco industry, "Cigarette advertising shall not suggest that smoking is essential to social prominence, distinction, success, or sexual attraction."

But one look at modern-day ads will tell you nothing has changed. it is exactly the message the tobacco industry is sending out today. Here we are. Here is old Joe Camel back again. He is a smooth character. he has smooth moves.

"Foolproof dating advice, smooth rule 25"—and there are all these things. The fourth thing is, "Always break the ice by offering her a Camel."

Of course you have this guy with a Camel cigarette and all these admiring young people around him.

Prominence? Wait a minute. Let me read it again. The tobacco industry's principle says, "Cigarette advertising shall not suggest that smoking is essential to social prominence of sexual attraction."

Foolproof dating advice? Smoke a Camel, offer her a Camel.

How about this one? How to impress someone at the beach? Smooth move 4. Here is this very masculine young man and he has a woman slung over his shoulder caveman style. There are a couple of admiring women behind him looking at him in sort of awe and wonder.

No. 4, "Always have plenty of Camels ready when the beach party begins."

Again, the tobacco industry's own principles they say they live by, "cigarette advertising shall not suggest sexual attraction."

What do you call that? That is exactly what it is.

Here, "When only a smooth move will do." Here is a young woman, obviously very healthy, very attractive; a very sexually suggestive pose on the beach and the young man approached her. Advertising for Camels.

It says that it shall not suggest that smoking shall be used for sexual attraction or social prominence.

There is another thing that bothers me about this advertising campaign. In 44 States the sale of cigarettes to someone under 18 is prohibited by law. In almost every one of these ads there is a coupon that you can clip out and send in for a free pack of Camels. Clip it out, send it in, free pack of Camels, any style.

Of course it says in fine print on the back, "Limit 1 coupon per customer and to smokers 21 years of age or older."

Mr. President, I ask you, how are they going to know if you are 21 years of age or older? Clip it out, send it in and they send you a pack of Camels. They will probably send you more than that; probably send you a whole box.

But that is the advertising campaign that is going on right now in clear, clear violation of their own principles of the tobacco industry. "Cigarette advertising shall not suggest that smoking is essentially to social prominence, success, or social attraction."

So much for that.

There is another one here I wanted to show. Here is another set of adds, different cigarettes, same kind of thing. These ads are being targeted to kids, young people. Here is the ad that bothers me, probably the most. You have to kind of look at it closely. I do not know if you can see it with the camera focus, but it is Newport Lights in People magazine. Definitely a picture of a pregnant women.

Do not let someone tell me she is not pregnant. All you have to do is look at here. She is pregnant. And what is the line beneath it? "Alive with pleasure." Do you understand the play on the words, with the pregnant women and she is obviously getting a present from this guy. Telling you, sort of subliminally, she is pregnant, she is smoking, she is alive with pleasure and she smokes Newport Lights.

When we know tobacco is one of the chief causes of low birth weight babies. And any doctor will tell you no women—no one ought to smoke, especially pregnant women, because it passes on to the child. yet a definite advertisement going to pregnant women.

More than 900,000 babies will be born this year to mothers who are smoking and the results are dramatic. Cigarette smoking during pregnancy accounts for 20 to 30 percent of low birth weight babies; 14 percent of preterm deliveries; 10 percent of all infant deaths.

The EPA now estimates that children's exposure to environmental tobacco smoke, much of it from mothers and fathers who smoke, results in up to 300,000 lower respiratory infections per year in kids, up to 15,000 hospitalizations per year, up to 1 million attacks of asthma, and 26,000 new cases of asthma every year in our kids.

But remember the old ads I showed you, about how, you know, if you reach for a Lucky you would stay slim? Now we have Virginia Slims, put it right in the name, Virginia Slims. "You have come a long way, baby." Yes, women, now you can get lung cancer, too, just like the men are getting and you can get emphysema and all the other illnesses, but here is a very slim, very trim—Virginia Slims. Wait a minute? What did that principle say?

"Cigarette advertising shall not suggest that smoking is essential to social prominence or distinction * * *." "How to be a sport without looking like a jock," Virginia Slims. And then, of course, "Light my Lucky," another very suggestive phrase used to advertise Lucky Strikes, like the old ones about "lighting my light."

Let me talk about social distinction and success. "Cigarette advertising shall not be used to suggest that smoking is essential to success or to social prominence * * *."

Now we have cigarette advertising directed toward African-Americans, all black: "You've got what it takes, the Salem spirit." Of course, they are happy, out having a great time. Here is Benson & Hedges. Social distinction, success, obviously two very successful African-Americans. He looks very successful. He has a tailor-made suit on and a diamond ring on. She obviously looks very successful. What are they doing? They are smoking cigarettes.

So, please, tobacco industry, tell me again about these wonderful principles you live by. It says, "Cigarette advertising shall not suggest smoking is essential to success, sexual attraction * * *."

Here is another one. This is Benson & Hedges. Here is a man. He has pajama bottoms on. She has pajama tops on, obviously nothing else. The words are: "He likes the bottoms" and "She likes the tops." She has his arm around him, again, very sexually suggestive. Benson & Hedges cigarettes.

So one more time, tobacco industry, tell me how well you are living up to your own principles. Tobacco advertising should not be used for sexual attraction, for social prominence, for success.

Here is another one, tobacco advertising trying to give you the message that if you smoke, you are strong, macho. This is the macho side about it. We all know about the Marlboro man. I am sorry I do not have the Marlboro man here. We all know about the Marlboro man. He is tough. I heard in my car driving to work a month or so ago that one of the Marlboro men just died of lung cancer. I think he was 51 years old. The guy on the horse; he is tough, he is tanned, and he has the cigarette in his mouth. You have seen the Marlboro cowboy. Age 51, died of lung cancer.

Here is Winston, "America's best." Here are a couple of mountain climbers, obviously very macho; you have to be tough to be a mountain climber. He is hanging over a cliff. The suggestion: Macho, tough, Winston is the cigarette for you.

Or if you want to kayak down a river with a hard hat here, looks very dangerous, "Performance counts. The thrill of real cigarette taste." What cigarette is this? Vantage, I guess.

Here is a surfboarder. He is taking all kinds of chances in the waves. "Reach for the exception." So, again, if you want to be successful, sports, macho, manly to young kids, smoke cigarettes; it does not hurt you. In fact, if you smoke, you probably can be a mountain climber, too.

That is the kind of advertising that we are trying to get at.

Again, Mr. President, remember, every ad I showed is paid for at taxpayers' expense. Again, there are those, Mr. President, who make the argument that I am trying to stifle free speech. Not true. If they want to advertise, they can advertise, just do not ask me to pay for it. Do not ask my wife to pay for it. Do not ask millions of Americans who work hard and pay their taxes and are trying to tell their kids not to smoke, trying to set a good example. Or millions of Americans who are fighting hard to cut down smoking in airlines, smoking in public places, trying to keep cigarettes and stuff out of schools. Let us give them a break. Let us say you do not have to have any more of your tax money go for all those ads.

Mr. President, the tobacco industry is increasingly targeting youth magazines, such as Rolling Stone and National Lampoon. Twenty percent of all high school students say they have been offered free samples of cigarettes—20 percent. And 50 percent of their friends have been offered free samples, friends who are not in high school have been offered free samples.

Mr. President, let me ask you, what is this the technique of? Someone offers you a free sample. It is free, go ahead and try it. We will get you hooked. That is the technique of the drug pusher in America. Kids who start on drugs do not go out and buy drugs, they are given a free sample, a little free marijuana, a little free cocaine. "Try it, you'll like it." Once they have you hooked, then you start paying for it.

That is what the tobacco industry is doing: Free samples galore all over America. Go into your shopping malls. Any Saturday in our larger cities, where is the largest concentration of young people? Go out to your shopping malls. I know, I have a teenage daughter. Go out to the shopping malls. They are all over. You cannot even walk, young kids all over the shopping mall. Actually, it is kind of a nice place for them to congregate, quite frankly. What do you see out there? You will see tobacco companies offering free samples. I cannot say this authoritatively, Mr. President, but I do not think they ask kids to show them their I.D. to show how old they are. I bet that never happens.

So get them hooked, give them a free sample. It is working. Let me show you how it is working with young kids. Tell me it is not working.

Ninety percent of all smokers began their smoking habit by the age of 20. Ninety percent by the age of 20. Twenty-five percent by the age of 12. That is sixth grade. Another 25 percent by eighth grade. Forty percent, age 15 to 20. Ninety percent of smokers in America start their habit before the age of 20.

I tell you, Mr. President, the tobacco industry's advertising is wonderful advertising because it works. It gets young people hooked; it gets them interested in smoking. Do you want to be macho, if you are a male? Do you want to have sexual attraction? Do you want to be successful? Smoke cigarettes, smoke this brand, that brand, or whatever brand they are advertising.

It is estimated that children and adolescents consume over 1 billion packs of cigarettes a year. Think of that. Children and adolescents consume 1 billion packs of cigarettes a year. This very day, 3,000 children will start smoking today—3,000. Our children, our kids pay $1.25 billion to the tobacco industry every year for their right to smoke; $1.25 billion for adolescents to buy these cigarettes.

Here is another interesting statistic. While 95 percent of high school smokers think they will quit—that is right, go to high schools, polls have been done, they ask the high school student, will you quit smoking? Oh, yes, I am going to quit. Eight years later, only 25 percent of them have been able to. And taxpayers are paying for this.

Again, that is why I say, Mr. President, there is no more addictive drug in America than nicotine; the most addictive drug in America is nicotine. Free samples, get them hooked; advertising to appeal to our young people to smoke, that smoking is healthy, keeps you slim, makes you sexually attractive to the opposite sex; that you are a winner and a smooth character. Do not forget old Joe Camel, he is a smooth character. So kids start smoking.

But we know how to stop it. We do know how to stop it: counteradvertising. Somebody said the best defense is a good offense.

Counteradvertising works, Mr. President. Between 1967 and 1970, an amazing thing happened. The fairness doctrine was applied by the FCC to require 1 free minute of counteradvertising for every 3 minutes of paid cigarette advertising by the broadcast media.

Again, Mr. President, the fairness doctrine was applied by the FCC that required 1 free minutes of counteradvertising for every 3 minutes of paid cigarette advertising on radio and television.

During that period of time, 3 years, cigarette consumption dropped by 9.5 percent, the greatest reduction nationally in smoking before or since.

So it worked. Let me show you. Here is an advertisement I think just might work. On the left they say, "I started smoking to look older. It worked."

Of course, here is the young woman on this side, looks very good, has the cigarette in her hand, and over here it shows the effects of smoking and aging and what it does to you.

This kind of advertising works. This is the kind of advertising that would be paid for by my amendment because we would not allow certain deductions for advertising and the money would go back to the State departments of public health to be used for this kind of advertising.

Here is another interesting—a good ad here put out by "Doctors Ought to Care."

"They'll really know you're smoking." He has a cigarette and his teeth are just about as yellow as a canary.

This kind of advertising has an effect, too. This is the kind of counteradvertising that we need to let young people know what is going to happen to them if, indeed, they do take up smoking.

If you want nice, yellow teeth, just smoke a cigarette.

If you are a young woman and you want to age prematurely, just start smoking cigarettes. This is all you have to do.

So this is what happened during those 3 years we had counteradvertising, and I will tell you, the FCC decision had all the foxes running for their holes. Lo and behold, the tobacco lobby and the tobacco industry decided to support a ban on all television and radio advertising on both sides of the fence because the counteradvertising was so effective in getting people to stop smoking.

The tobacco industry said OK, we will make you a deal. We will take all of our advertising off of radio and television if you take the counteradvertising off. But then they reset their sights and invented new ways to attract young smokers. And with the taxpayer subsidy, they made up for lost ground.

But we know that counteradvertising still works. California has the Nation's most aggressive advertising campaign, and in the past 2 years they have decreased statewide smoking rates by 14.6 percent and saved $744 million in the process.

So that is the direction in which we have to move. This amendment I am offering will allow every State to follow California's example by simply reducing the tobacco advertising deduction from 100 to 80 percent. Use of the savings for a counteradvertising campaign will save lives, increase productivity, reduce health care costs, all without spending a nickel more of taxpayers' money, and it will not take a dime away from the advertising industry because it puts advertising dollars right back in the form of responsible, comprehensive advertising to stop smoking.

Now, a case can be made that we should totally ban cigarette advertising. This has been advocated by many. This amendment does not do that. We are not proposing that.

A case could also be made for a total elimination of tax deductibility for tobacco advertising and promotion. We are not proposing to do that either. We are simply asking that we place the same limits on tax deductibility for cigarette advertising that we imposed on business meals in 1986 from 100 to 80 percent; use that savings to help people stop smoking.

Again, I find it ironic, incongruous, that we reduce the deductibility for meals, for eating a healthy meal, we reduce that, but we keep the deductibility up to 100 percent for advertising cigarettes. Now, go out and explain that to the average American. Good luck.

At a time when we are trying to hold down health care costs and reduce wasteful Government spending, here is a clear-cut example that will help us do all of these, hold down health care costs, increase productivity, reduce wasteful Government spending.

Some people say that we would never propose to do this to a normal product, that we are singling it out.

Mr. President, this is not a normal product. This is the only product that when used as intended kills people. And if we in Government are going to allow an arsonist to run loose, we better be equally dedicated to putting out the fire.

I know Senator BUMPERS is here to offer his amendment and he has a time agreement. I have not yet touched the issue of constitutionality. I hope that later today I will be able to do that because this amendment is eminently constitutional.

Mr. President, since I first said that I would be offering this amendment back in, I guess, July, all Senators have received a very slick mailing. It must have cost the opponents of our amendment a lot of money to send this out. It is very slick. It says, "Free speech. The Harkin amendment to H.R. 11 would put our most precious amendment on the block."

And then there is a letter in there to all of the Senators. It says, "Think first about the Harkin amendment." They say it is unconstitutional, it is bad tax policy, would set a dangerous precedent.

Because so much money was put into this, Mr. President, and sent out to every Senator's office, I feel compelled to answer this in a straightforward manner, that this amendment is constitutional, and it is tax policy that has basically been used before many times in our country.

So I will yield the floor now because I know agreement has been set. I want to respect that. I know Senator BUMPERS is ready to offer his amendment. I hope at some time this afternoon I will be able to offer this amendment. I am willing for a time agreement, but I do want enough time to answer the specious and, I want to say, outright false, false claims made in this very slick mailing that was mailed to every Senator's office about the Harkin amendment. It is full of falsehoods, and I want to respond to those on the Senate floor. And I will do so later on this afternoon.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I indicated when the Senate began consideration, or I should say when the Senate resumed consideration of this bill yesterday morning, it was my hope and intention the Senate would complete action on this bill this week and that we would remain in session until we did so. I expressed then the hope we could do that by late Friday so as to obviate the need for a Saturday session.

Although the managers have been diligent in attempting to move forward, the reality is that by recorded vote, since the Senate has been on this bill, only four amendments have been disposed of, only one today, even though we have now been on the bill for nearly 4 hours.

At one point I was advised that Senators in the aggregate had expressed an intention to offer an estimated 95 amendments. Even allowing for some puffery in that number, it is obvious that at the rate at which we are proceeding, it will be very difficult to finish this bill by Saturday night, let alone Friday night.

So I take this opportunity to encourage Senators to cooperate with the managers so that we can move forward. It is not unusual for the Senate to have very few votes during the day, and then when we get into the evening we end up having a lot of votes. And Senators ask repeatedly at 10 or 11 o'clock, what are we doing this evening? The answer is the Senators are unwilling to do it during the day. Their schedules conflict or they have other commitments and are simply unwilling to come to the floor until it suits their precise convenience. That means that the entire Senate must wait.

I have discussed with the distinguished Republican leader my intentions with respect to the schedule next week. I wanted to inform the full Senate of our intentions in that regard early next week, and get a reaction from the Republican leader as to what will occur as we attempt to proceed to other matters.

As we all know, the President has entered into an agreement for the reduction of nuclear arms known by its acronym as the START agreement, and the President has requested that we act on that measure this year and has stressed its importance. I agree with the President. I share his view of the importance of the agreement, and at the time it was reached commended him for it, and do so again today.

I think it is important that we act on that agreement. I indicated to Senator DOLE that I would like to proceed to it on Monday, a day on which there will be no recorded votes because of our observation of a religious holiday. But perhaps we might be in position to complete action on it with votes on Tuesday.

My reason for inquiring of the distinguished Republican leader earlier today, and now here on the floor, is that if there is going to be a filibuster on that measure, it would be helpful to know it in advance so that we could file the necessary cloture motion and set up a cloture vote on Tuesday so that we can then proceed to it rather than waiting and learning of that late Monday which would delay the filing of the cloture motion and the cloture vote.

So I would like at this time to inquire of the Republican leader or ask if he has any comments on this proposed schedule which I always invite, of course, and inquire as to his knowledge of the intention of his Republican colleagues with respect to the START agreement.

(Mr. FOWLER assumed the chair.)

Mr. DOLE. I thank the majority leader. I would say first of all, I support what he said initially with reference to the bill now pending. I have no doubt that the managers here are ready to prepare and go to work.

I think, if there are 110 amendments, I hope Members who have those amendments would come to the floor and agree on a very short time agreement. And if it can be disposed of in a voice vote we ought to have a voice vote. Otherwise, the majority leader is correct; we are looking at late Saturday night if we could even finish it by late Saturday night.

So I urge my colleagues—and I know there are a lot of conferences going on, committee hearings going on, all of our colleagues are involved in two or three different things. It is very difficult for the managers, and this is a very important bill. It is a bill we should pass. It should be signed by the President.

We have to go to conference yet, too. I underscore what the majority leader had to say. I want to support the managers in any way that I can. We have discussed START. It is not on the calendar. It was discussed in the leader's office before we put this group together. It is something the White House has requested, something the White House wants.

We have, I think, about three Members on this side, maybe more, who have some serious reservations about parts of that agreement. We are trying to determine now what if any amendments or reservations they might add to this START treaty so we can tell the majority leader. It is my understanding, if necessary, that could be debated also on Saturday of this week; the START Treaty.

Mr. MITCHELL. That is correct. Mr. President, if the desire of our colleagues is to have more time to debate on that, as soon as we complete action on this bill, or if we by good fortune finish this bill Friday night, we would be prepared to be in session on Saturday to permit a full discussion and debate on the START Treaty in addition to the full day set for Monday.

So given the importance of the measure, of Senators who have the opportunity to express his or her view on it, the one thing I would like to do is to try to complete action on it by Tuesday so that we can proceed to other matters. As I have indicated to the distinguished Republican leader, we are hopeful that our colleagues will permit us to proceed.

Obviously, any Senator has a perfect right and an appropriate right to offer amendments if he or she so chooses. We have no desire to foreclose that; merely wish if there are to be such amendments that they be offered, that they be debated, and that we then vote on them and then proceed to vote on the treaty.

Mr. DOLE. If the majority leader will yield just briefly, again, I would urge my colleagues. We are trying to stick to this schedule. The schedule has us leaving here hopefully on October 3, probably no later than October 5. If we start to slip, we slip on the tax bill, then we will have to slip on something else. There is still the foreign ops appropriations which will take some time. I am not certain about the legislative appropriations bill. There are a number of matters that we have not gotten to yet which the majority leader has mentioned to me.

So again, I believe I speak for everybody on this side. We want to stick to this schedule which means all of us in this last 7 or 8 days will have to cooperate, be on the floor, and try to support the managers of this bill.

Mr. MITCHELL. Mr. President, I thank my colleague. I thank the distinguished chairman and ranking member for their cooperation.

Mr. BENTSEN. Mr. President, the managers of this bill on the Democratic side and the Republican side have been here diligently. We have worked the phones. We have worked the staffs and we have worked the Members trying to get them to offer their 100 amendments.

There is no way that we can consider 100 amendments. I assure you of that now. I know to each and every one of you, that amendment is important.

Let me tell you what you put at stake. We are talking about low-income housing. We are talking about the boat industry that feels that it has been severely hurt by the tax on new boats. We are talking about the aircraft industry that has had to lay off thousands of employees and feels that part of that comes from the tax on new aircraft. We are talking about targeted jobs credits, the orphan drugs tax credit, we are talking about R&D. All of those are in, and they go down the tube if this system of ours does not work. That means that each of you must to some degree at least support me in what you are doing at the moment for the collective good of getting this major piece of legislation through.

They will come to me at 11 tonight, or 12 o'clock tonight, or 1 o'clock tomorrow morning, and say why are we doing this to ourselves. We are doing it because you will not come to the floor, and you will not get your amendments up, or that you insist that you have your amendments or all of your amendments, or you do not agree to a time limitation that is reasonable in trying to accomplish the objectives. Please, give us your cooperation and your participation.

Mr. President, I understand the distinguished Senator from Arkansas is prepared to offer his amendment.

I would like to ask if the Senator from Arkansas as I understand it would agree to 1 hour of debate on the amendment divided in the usual form between himself and the opposition to the amendment, the manager of the bill, and with no second-degree amendments permitted, then the time yielded back, and the Senate voting on or in relation to the pending amendment. Is that in general what the Senator is agreeable to?

Mr. BUMPERS. I am quite sure it is. I did not hear the last part of what was said.

Mr. BENTSEN. I have been handed by staff what I understand has been cleared either by the Senator from Arkansas or his staff.

Mr. BUMPERS. One hour time agreement equally divided. That is agreeable.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. If I may state it in its entirety: I ask unanimous consent that there be a 1-hour debate limitation on the amendment of the Senator from Arkansas equally divided in the usual form with no second-degree amendments permitted, and that when all time is yielded back, the Senate vote on or in relation to the pending amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

### AMENDMENT NO. 3164

(Purpose: Striking 120 percent estimated tax safe harbor and providing a permanent extension of limitation on use of preceding year's tax in computing estimated tax)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of myself, Senator CRANSTON, Senator KASTEN, and Senator KOHL, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. KASTEN, Mr. CRANSTON, Mr. Nickles, Mr. KOHL, and Mr. WOFFORD, proposes an amendment numbered 3164.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 972, beginning with line 17, strike all through page 973, line 13, and insert:

Clause (ii) of section 6654(d)(1(C) is amended by striking the last sentence.

Mr. BUMPERS. Mr. President, I am going to try to confine my remarks to 5 minutes because Senator CRANSTON and Senator KASTEN both wish to be heard, and I think they perhaps want to speak longer than I do.

This is a little bit complex, and I will try to unravel it so that the record will be clear on it. This vote is a litmus test for the small business people of this country. Make no mistake about that. You will shortly find a letter on your desk from the National Federation of Independent Business saying that this is as important to them as anything, just about, that has happened this year.

Mr. President, the amendment deals with trying to estimate what your income and tax liability is going to be for this year. Let me just go through the laws on estimated tax payments as they were, and as they are now.

The old law, prior to November 1991, applied to everybody, whether you made over $75,000 a year in adjusted gross income or under $75,000 a year. When you file your quarterly estimated tax return, you file an estimate for that quarter. If you filed an estimate saying that you would pay that year, in four payments, an amount equal to 100 percent of last year's tax liability or 90 percent of this year's tax liability, you were home free. The 100 percent rule was a safer harbor. If you underestimated that 90 percent or failed the 100 percent sale harbor you could be charged a penalty for under withholding. Everybody understood that, and that had been the law for some time.

In November 1991, we changed the law for people who make over $75,000 a year. We called those high-income people. That is not terribly high income in this day and time, but in November 1991, we said that all you people who make over $75,000 a year, all you hundreds of thousands of small business people, we want you to pay 90 percent of your tax liability for this year, the year you are in and we repeal the old 100 percent of last year's safe harbor. We said that all other taxpayers will remain the same under the old law and could use the safe harbor.

This created a problem. This created a problem for the people who make over $75,000 a year, because in order to estimate 90 percent of your current year's tax liability, you normally had to hire an accountant and that became a very difficult and expensive proposition. To try to figure out how much you are going to make this year and then pay 90 percent of it in estimated taxes is quite a chore. And bear in mind, this only applied to high-income taxpayers. They no longer had the right, under the 1991 law, to pay 100 percent of last year's tax and avoid the possibility of a penalty, though people who made under $75,000 a year did retain the right to use the 100 percent safe harbor.

The people in that so-called high-income category raised cain about the expense they were having to pay accountants to try to make sure that their estimates covered 90 percent of this year's tax liability. They were writing to me and to other Members of Congress and saying: For Pete's sake, fix this somehow or other. We do not mind paying 100 percent of last year's tax. We will even pay 110 or 115 percent of last year's tax liability, if you will just change the law and not make us have to compute this 90 percent figure. We just do not want to have to go through accountants and everything. We will pay 110 or 115 percent of what we paid last year if you will just change the law and give us a safe harbor.

So, all of a sudden, the Finance Committee said: We are going to one-up you. We are going to make this extra withholding applicable to everybody, whether you make $25,000 or $75 million a year. We are going to cover everybody, and the new rule is that you have to pay either 90 percent of this year's tax, which puts them right back in the same mode of having to go to the accountant, and pay all that expense, or, if you want to be sure you do not get tagged with a penalty, you pay 120 percent of last year's tax.

Mr. President, what that means is—and particularly when the country is in a recession—that if I made $100,000 in 1991 and I paid $30,000 in taxes this year, in filing my estimates for 1992 I must pay $36,000 in estimated taxes. But I may not make $50,000 this year. I made $100,000 last year, but I may not make $50,000 this year. But under this bill, I am obligated to file estimates and pay 120 percent of what I paid last year, which was $30,000. That means I am going to have to make estimated tax payments on $36,000 this year, even though I may have been making less than half what I made in income last year.

Mr. President, this is crazy. It is a form of extortion. It is a 20-percent interest-free loan to the Government of the United States at the expense, mostly, of the millions of shopkeepers and small business people and individuals in this country who make estimated taxes who simply cannot afford to do it. It does not apply to corporations. So do not talk about big business. We are talking about subchapter S corporations—not C corporations—and proprietors, and partnerships, and individuals.

Mr. President, my amendment is very simple. It just strikes that part of the law with the new 120-percent requirement and we go back to where we were in November 1991. In 1991, that says so far as people who make under $75,000 they can still use the 100-percent safe harbor. We say to the high-income taxpayers that you must continue to pay 90 percent of this year's tax liability. We don't solve their problem and do nothing to protect them. We just protect those who would lose the 100-percent safe harbor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. BUMPERS. I yield 10 minutes to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, I thank the Senator from Arkansas, the chairman of the Small Business Committee.

Let me say that, as the ranking member of the Small Business Committee, I am pleased to join my chairman on this issue. This is a key small business issue, one that should cut across, and does, with regard to the sponsorship of party lines. This is an issue that is important for small business men and women all across this country. Frankly, it is an issue that stands for, in my view, at least, some of the problems that we have been creating with overtaxing and overregulating small business owners across this country.

This is an issue not unlike the 10-percent withholding on interest and dividends. This is an issue not unlike section 89. This is an issue not unlike other issues which we have seen in which we pass something here in the Senate which looks like it might make some kind of sense if in fact people have been wildly underestimating their withholding.

Now all of a sudden we are forcing people to over withhold as a revenue raiser. We got ourselves dug into this trap, because we were looking for offsets, as I understand it, and the Finance Committee I am sure will respond later, but we were looking for offsets somehow in order to pay for extending unemployment compensation.

I have no problems with the extension of unemployment compensation. We did that and we have done it twice. But right now we have this crazy system whereby we are going to have a 120-percent requirement for quarterly estimating tax payments.

So, I am pleased to join with my chairman to strike the 120-percent requirement for quarterly estimated tax payments. This provision will place a tremendous burden on America's small businesses, small business men and women all across this country.

This provision basically has the effect of forcing small business owners to extend an interest free loan to the Government. They will be forced to pay the IRS more in estimated taxes than they actually owe and then file for a refund the following year when they file their tax return.

We should make one point absolutely clear: This is the section 89 type provision in this tax bill. It is like these other kinds of bills which we pass and then come back and say we never should have done it, it was done in the middle of the night, or whatever the conference committee put in, they needed revenue and all the other kinds of reasons we have heard.

Right now we are right here. We have the opportunity to knock this out now before it becomes law. Congress is going to have an awful lot of explaining to do when men and women next year try to come back and say why in the world are you forcing us, in effect, to overpay our taxes?

Basically, the way this provision would work is, because the quarterly estimated tax provisions are complicated, small businesses always have the option to pay in the current year precisely what it had in the prior year and, in effect, settle up at the end of the close of each year basically what was withheld at last year's level. Roughly speaking, they were faced with what we call in the language of IRS the 100-percent estimated tax safe harbor.

The tax bill today completely eliminates this so-called safe harbor. All small businesses are going now to be forced to pay 120 percent of prior year's tax or pay accountant's bills or tax penalties. Businesses in Wisconsin, for example, have been advised in order to keep right on tax payments they are going to have to take four, not one but four physical inventories each year.

This is the kind of thing going on out there, and it is crazy. The original purpose of the change proposed in the tax bill was for relief for taxpayers who have been adversely affected by the November 1991 change in the estimated tax rules. That change in 1991 required high income taxpayers to estimate their current year's income tax liability with what became an impossible degree of accuracy. The original purpose of the change proposed in the tax bill was to provide relief for those taxpayers who were adversely impacted by the November 1991 change in the estimated tax rules. The 1991 change required high income taxpayers to estimate their current year's income tax liability with an impossible degree of accuracy.

While H.R. 11 provides relief for those taxpayers adversely affected by the November 1991 changes, it does so by imposing the new 120-percent requirement on all small businesses. The reform should instead cover only those taxpayers subject to the November 1991 rules, not stretch it back to cover everyone. Senator BUMPERS and I therefore have urged the appropriate small business and accounting organizations to devise a substitute reform proposal.

The estimated tax provision in H.R. 11 will make life more difficult for small business owners. The changes proposed would require even the smallest businesses to either: hire accountants to try to accurately deposit 90 percent of what they owe on their anticipated income or seriously cut into their cash flow by paying 120 percent of last year's income. Small business owners will have to overpay the IRS just to ensure that they are not penalized.

Paying taxes is painful enough without taking away the safe harbor which allows small businesses to pay their taxes with certainty.

Every small business in America will instantly notice this change in the estimated tax rules. They will know it as soon as they file their next estimated tax payment. It will not apply until 1993, after the election, but it will turn up on the first estimate tax payment after that—due on April 15, 1993—just when taxpayers are angry about paying their 1992 taxes.

Mr. President, I have here letters from both the National Federation of Independent Business and the American Institute of CPA's supporting the Bumpers-Kasten amendment. I ask unanimous consent that these letters be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Finally, small business owners spend enough time filling out forms and paying taxes without this onerous new burden placed on them by H.R. 11. I ask my colleagues to suppport this amendment and spare small businesses all over this country another of the seemingly unending burdens that all of us continue to place upon small business men and women, small business owners across this country.

This ought to be repealed now before we dig ourselves into one more big mess that we will have to dig ourselves out from under in the future.

EXHIBIT 1

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
*Washington, DC, August 6, 1992.*

Hon. ROBERT W. KASTEN, Jr.,
*U.S. Senate, Washington, DC.*

DEAR BOB: Buried in H.R. 11 are 20 lines of proposed tax changes that will drive your small business constituents crazy. These changes will needlessly complicate their lives and eat into their cash flow.

Section 3002 of H.R. 11 changes the way most small business owners pay the taxes they owe the federal government. It will force them to either overpay their taxes or risk fines and penalties for under paying.

Small business owners must estimate how much they will earn in a year and make quarterly tax payments based on that estimate. Current law requires small business owners to pay according to one of two methods.

The first method requires business owners to pay taxes on 90% of what they expect to earn. If the business owner underestimates how much the business will earn and pays too little, penalties and interest will have to be paid.

Estimating future earnings is very difficult for small business owners, who usually are unable to accurately predict how much they will earn in the future. Business owners who choose to deposit under this first system usually hire accountants to help them accurately determine what they will owe.

The second method allows business owners to avoid having to project future earnings. Under this system, business owners just pay taxes on what they earned last year. The tax code allows small business owners to just assume that they will earn about as much this year as they did last year. As long as these business owners pay 100% of what they owed last year, they will not be subject to penalty, and they will be allowed to make up any shortfall at the end of the year.

Most small business owners do not use the first method because it is expensive to hire accountants to determine what the businesses' future profits will be. Most of them just use the second method and pay 100% of what they owed last year. It is easier and cheaper.

H.R. 11 changes this system and forces small business owners to either pay 90% of this year's expected earnings or 120% of last year's earnings. This change is nothing short of extortion. Small business owners are forced to either hire accountants to accurately gauge expected income or pay 20% more than they do currently.

According to a recent NFIB Foundation/VISA survey, "cash flow" is the third most important problem faced by small businesses today. Section 3002 will simply exacerbate this situation.

On behalf of the more than 550,000 members of the National Federation of Independent Business I urge you to support any attempt to strike section 3002 from H.R. 11. Any such vote will be a Key Small Business Vote for the 102nd Congress.

Sincerely,

JOHN J. MOTLEY III,
*Vice President,*
*Federal Governmental Relations.*

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AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS,
*Washington, DC, August 6, 1992.*

Hon. ROBERT KASTEN,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR KASTEN: On behalf of the American Institute of Certified Public Accountants, I would like to commend you and Senator Bumpers for your efforts at narrowing the focus of the individual estimated tax changes presently before the Senate in the urban development bill. We support your efforts to target the new estimated tax requirements in H.R. 11 primarily to the taxpayers who are subject to the November 1991 rules.

As approved by the Senate Finance Committee, the individual estimated tax provision of H.R. 11 would replace current law with a 120 percent of prior year's tax "safe harbor" for all individual taxpayers in 1993. This is an increase from the 115 percent "safe harbor" passed by the House on July 2. Moreover, unlike the House version, there is no elective feature to apply the new rules to 1992.

As you pointed out in the August 5 letter to your colleagues, this subject started last November when Congress enacted changes of great complexity to the "90 percent of current year" exception. The AICPA immediately recognized last November's changes as unworkable, making it impossible for many taxpayers to comply. As a result, we proposed various options to accelerate estimated tax payments which could be accomplished in a manner which retains the certainty and simplicity of previous law, among which was a percentage safe harbor recommendation that would apply only to taxpayers with adjusted gross incomes exceeding $75,000.

Unfortunately, we are now seeing a change in the purpose of the individual estimated tax "safe harbor" from certainty and simplicity to revenue raising. The tax-writing committees appear to have recognized the simplification approach as a potential significant revenue source to fund a comprehensive tax package. To illustrate, the House (115 percent) approach is scored as a $3.0 billion revenue raiser; the Senate (120 percent) approach would raise $3.9 billion during the 5-year window used for budget purposes.

The AICPA recognizes that the higher the percentage and the broader the application, the less acceptable this approach becomes. Thus, while we continue to support a safe harbor that contains a threshold in excess of 100 percent, we believe our membership and their clients, the taxpaying public, may well not choose such a safe harbor if the rate is as high as 120 percent. At that level, many more taxpayers will prefer to go through quarterly calculations of the likely current year's tax, thus defeating the original purpose of our proposals: simplification.

Again, we appreciate your efforts to correct the unworkable November rules and to protect the interests of the many small business owners who may be affected by the various proposals presently being considered. Please call us if we can be of further assistance.

Sincerely,

GERALD W. PADWE,
*Vice President—Taxation.*

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield myself 7 minutes.

Mr. President, I speak as a former small business owner and I understand some of the concerns. But let me set the record straight on some of the statements made here.

No small businessowner is mandated, obligated is the term that was used in this debate, to use this 120 percent. That is an option. When it comes to the estimate, the estimate to get your 90 percent payment, not some guess-off here, to try to base your judgment, you feel like you want a little cushion you can put a little cushion in. That is at your option.

If you miss, then you have an interest charge on the deficiency. That is what the charge is. If you have something unexpected come up in the next quarter or that quarter, that you had no information on that one, it came as a surprise, you can amend. There is no penalty for that.

But let me get to another point: This amendment, proposed by the distinguished Senators from Arkansas and Wisconsin, is going to give us a deficiency on this bill of $1.3 billion; $1.3 billion, because my friends do not like one of the pay-fors.

I understand that. Pay-fors are rarely popular. But you know this was offered by the administration, the 120 percent option, offered by the administration to pay for first-time homebuyers. I do not hear either one of these Senators ready to give that one because we think that is an initiative that is going to move this economy. And we have all sorts of other places in here that this $1.3 billion is helping to pay for, whether we are talking about increase in research and increase in productivity of this country and making our industry more competitive, or whether we are talking about low-income housing to try to see that we have housing for our people who are having hardships.

Mr. President, so we have numerous economic growth initiatives. Health insurance reform that would be endangered by this amendment. And I will certainly be making a point of order that it does bring about that kind of a loss.

I have heard arguments that the 90 percent rule is just too difficult to figure. First, note that that the requirement is for 90 percent; a cushion is provided to provide leeway for the estimation inherent in the rule. And remember it is not requiring that this be done for the full year. They are allowed to look at their information current as of 15 days before an estimated tax payment is due and then assume that is a pace at which they will earn the income through the year.

That is called the annualization method. And any surprising jumps in income later in the year do not matter—that is not information that is in the taxpayer's hands at the time of the estimated payment. And, if that is not enough, then they have the option to go ahead and choose the safe harbor. But no one mandates that on them.

That is a provision to add simplicity and certainty to taxpayers. And simplicity and certainty sometimes, as here, comes at a price, because that simplicity and certainty are worth something.

Mr. President, it is always easy to cut back on these revenue raises because they are generally not popular. But there is a price paid for these initiatives that we put into this legislation to get this economy moving again. And I think it is a serious mistake if we endanger those initiatives.

Therefore, I will be making that point of order. I reserve the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Would the chairman yield me 5 minutes?

Mr. BENTSEN. I am delighted to yield 5 minutes to the manager for the minority.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the Chair.

I am going to agree with the chairman on this. Let me explain what the situation is and why the rule we have, which was designed by the accountants for small business people and all other business people—they brought it to us—I think it is fair.

First, let us assume you are just an average citizen, you are Joe Camel and you did your work all year and you make $20,000 a year and your taxes are withheld. You are being withheld 100 percent.

If you are just an average citizen, you pay every week, or whenever your pay period is. So let us not talk about some people getting an unfair treatment.

If there is any unfair treatment at all, it is to the poor wage earner who has his money taken out every time he gets a paycheck. And we want everybody else to sort of roughly be equivalent to what we do to the average citizen when we take the money out as we go along.

So the old law, this is pre-1991, the old law said we will allow you to avoid a penalty. You are now an independent businessperson. You do not have withholding. You pay estimated taxes every quarter. You do not pay them every week, or every 2 weeks, or every month like the average wage earner does when it is withheld. You pay it every quarter and you have to estimate what your income is going to be.

Here is where the difficulty was. Some people said, well, it is hard to estimate. And everybody is required under the law—the average wage earner and everybody else—to pay at least 90 percent of their taxes as they go along anyway. That is the law. That is the old law, present law, this bill. Nothing has changed that you are supposed to pay 90 percent as you go along.

The difficulty came for some people in estimating what was going to be the 90 percent. If he made a lot of money one quarter and not a lot another quarter, they were not quite sure where they were.

So the old law said, OK, in order to avoid this confusion, Mr. and Mrs. Taxpayer, we will allow you this year to pay 100 percent of the taxes that you paid last year. And if you did that, there would be no subsequent penalty for underpaying your taxes.

So let us say you made $100,000 last year. And let us say that you paid $30,000 of it in taxes. Next year, you make a million dollars. If you pay the $30,000, under the old law, you do not have to pay any taxes on the million dollars until April 15, until the taxes come due. You are protected because you paid the $30,000.

Lots of people were using this as a float, and simply paid what they paid last year. Their income was going up tremendously and they went by for a year and paid very little taxes on what they were ultimately going to pay for that year.

So we said this 100-percent law, this 100-percent prepayment is not working. Last year we just got rid of it. We said, OK, if you are over $75,000 a year, we are going to treat you now just like the average taxpayer and you have to pay at least 90 percent of your taxes as you go along. We got rid of any prepayment. It is 90 percent.

Bear in mind, still most of these people pay quarterly. They do not have checks where they get wages.

Well, then we really got into a brouhaha. People complained they could not estimate their taxes.

So the CPA's came to us and they said, OK, let us go back to the so-called safe harbor. If we pay a certain amount, a certain amount of the taxes we paid last, there would be no penalty. And we came up with the 120 percent figure.

To use the example I made again: You made $100,000 last year, paid $30,000 in taxes. This year you make a million dollars. We say, all right, if you will pay 120 percent of $30,000—$36,000—there will be no penalty next year. Even though you may owe $200,000, $300,000, $400,000 on your million of income, there will be no penalty.

That is what this does. And it lets everybody be safe if they pay nothing more than what they paid last year, 120 percent of what they paid last year.

If you do not want to do that, you can just go along paying your 90 percent every quarter the way the basic law requires in any event and the same way—could I have 2 more minutes?

Mr. BENTSEN. I yield 2 more minutes to the Senator.

Mr. PACKWOOD. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized for 2 more minutes.

Mr. PACKWOOD. You can go along, pay your 90 percent just like the poor devil who is a wage earner does who makes 20,000 to 25,000 bucks a year, and the employer takes it out of his check every time the paycheck comes. They are not paying 95 percent. They are paying 100 percent, and in some cases they are overwithheld.

So this does give certainty. If you make over $75,000 a year, we will give you two choices. You can pay only your withholding, 90 percent—and that has been the law all along, that has not changed—or you pay 120 percent of what you made last year and there will not be any penalty at all.

Frankly, people do not pay 120 percent unless their incomes are going way up. Treasury has reviewed the returns, and 95 percent of the taxpayers who will pay the 120 percent have tax liabilities greater that then 120 percent of last year. So they are still going to live on the float and save some money and they will be saved from the penalty.

That is the fairness of it. I hope very much that when the point of order is raised by the chairman, the Senate would stand by the point of order, not only because of the fiscal implications but because what we have tried to do is fair.

I thank the Chair.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON].

Who yields time?

Mr. BUMPERS. How much time would the Senator from California like?

Mr. CRANSTON. About 6 minutes.

Mr. BUMPERS. I yield the Senator 6 minutes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I rise in support of the motion offered by Senator BUMPERS, Senator KASTEN, and myself to strike section 3002 of H.R. 11, which would present millions of taxpayers with the following dilemma: Either to automatically pay 120 percent of their previous year's tax in quarterly installments, even though their income may be declining, or base their quarterly payments on their estimate of what their tax actually will be for the year and pay a penalty they are more than 10 percent off the mark in underpayment.

It would be grossly unfair for the Government to force such a heads-I-win-tails-you-lose choice on millions of individuals whose incomes vary from year to year—farmers, ranchers, small businessmen, merchants, salesmen, retirees, and people in the entertainment industry among others.

Under section 3002, such taxpayers will be forced to decide between paying out 20 percent more taxes than they may in reality owe or hiring accountants to go over there estimated tax liability every 4 months in an attempt to make sure of their accuracy, when even an accountant may be unable to do so.

It is quite understandable that accountants thought his was a great change in the law. A lot more business for them would result.

Either way, the taxpayer loses—both in money and in fair play. The only one who gains is the U.S. Treasury which will pick up an estimated $1.3 billion over the next 5 years under this provision.

Granted, the Treasury needs the money. But so do the taxpayers. Why should they have to shoot dice with the Government for it?

Right now, under current law, the situation is outrageous enough. Taxpayers who file quarterly estimates have to outguess the future with at least 90 percent accuracy or be penalized.

And they can avoid any risk of penalty by paying on a basis of 100 percent of their previous year's tax. That is tough enough.

I ask this, Mr. President: Who knows for sure on April 15 or June 15 or even October 15 what their earnings will be by December 31?

If you start out expecting to earn less than in the previous year and pay less in your quarterly payments, but wind up earning more, you pay a heavy penalty for doing well economically. That is very unfair. It is unwise policy. It is ridiculous. That should be changed as soon as possible.

But, meanwhile, let us not make the situation even worse. There is no equitable reason to make life any tougher for the American taxpayer.

Mr. President, a viable tax system should be fair and aboveboard. It should not rely on trickery and overpayment for revenues. Only then, will taxpayers be willing participants in this or any system.

Unfortunately, section 3002 of H.R. 11, as it currently stands, is a long, far cry from fair for individuals and small businesses whose income may fluctuate and who pay their taxes on a quarterly estimated basis.

Section 3002 of H.R. 11 establishes a safe harbor of 120 percent for all taxpayers. This is not as innocuous as it sounds. Most taxpayers now have a safe harbor of 100 percent.

Let me explain what this means and how we got here.

Prior to 1991, a taxpayer could avoid penalties for underwithholding by either estimating income and quarterly tax liability with 90 percent accuracy or paying 100 percent of the previous year's tax liability.

As my colleagues may remember, however, in November 1991 we repealed the 100-percent safe harbor rule for certain high-income taxpayers. The effect of that action was to revoke the 100-percent safe harbor for some taxpayers altogether and require quarterly tax payments from these individuals under the 90-percent rule. These people, numbering 400,000, must go through the aggravating and difficult exercise every 3 months of calculating income and tax liability every single year.

Everyone else whose income fluctuates significantly must either expend the time and money for quarterly calculations, risk making a costly and penalty invoking error, or simply use the 100-percent safe harbor rule.

But section 3002 goes beyond even the absurdity of that, Mr. President. It requires that all taxpayers with fluctuating income either go through the quarterly exercise—the 90-percent test—of estimating or pay 120 percent of the previous year's liability.

This seemingly innocuous change raises two significant concerns for this Senator.

First, and perhaps most importantly, the 20-percent increase in the safe harbor rate is, in my estimation, an underhanded way of forcing individuals to lend money—interest free—to the Federal Government.

I say forced, Mr. President, because as I pointed out earlier, the alternative to paying 120 percent of the previous year's tax liability is to calculate income and liability with at least 90 percent accuracy every 120 days.

Second, section 3002, in making the subtle change of applying the 120-percent safe harbor to all taxpayers greatly increases revenues collected from countless individuals.

That explains how this section alone is estimated to raise $1.3 billion over 5 years.

That staggering sum is raised because this section requires that anyone with fluctuating income, regardless of how much they earn, must either calculate taxes quarterly or pay 120 percent of the previous year's liability.

Let me illustrate, Mr. President:

Say an individual works in a company that has profit sharing for its employees. By the way, that is how the majority of high technology companies attract talent in my home State of California.

Through the majority of the year an employee's taxes are withheld from his or her paycheck.

But what if in the last quarter, the employee is given a bonus? Well, under section 3002, that employee might be penalized for up to 10 percent of the amount paid if he or she fails to make an estimated payment in the correct amount under the 90-percent rule.

Are these the people we want to force henceforth to file quarterly statements or overpay their taxes?

This is fiscal smoke and mirrors at its best.

Have we grown so comfortable with being a debtor nation that we now embrace borrowing, interest free, from America's taxpayers?

Pay as you go? Tomfoolery. Mr. President, we are merely borrowing from year two to pay for what we want in year one.

Section 3002 allows the Federal Government to rely upon revenue from payments in advance of liability or, in the alternative, penalties paid by those who may have unwillingly miscalculated their tax liability.

If this becomes law, the Congress could truly be accused of getting taxpayers coming and going. At a time of record disillusionment with Government, Mr. President, I suggest that this is the very kind of thing we should avoid.

My vehement opposition to section 3002 should not be construed as an embrace of current law. I am afraid that because of budget constraints, the current law cannot be altered now, but I hope that in the next Congress tax policy can be turned back to the pre-1991 reality—when all taxpayers could pay what they owed and the 400,000 currently affected were not forced to file quarterly returns.

Meanwhile, I recommend that my colleagues join with Senators BUMPERS, KASTEN, and me in striking section 3002 of this bill.

The PRESIDING OFFICER. Who yields time? The Senator from Arkansas.

Mr. BUMPERS. Mr. President, might I inquire of the distinguished manager of the bill, the Senator from Texas, if he wants to yield back time? Or does he and the ranking Member wish to speak further on the amendment?

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. BUMPERS. How much time remains for the opponents.

The PRESIDING OFFICER. They have 19 minutes.

Mr. BUMPERS. I yield myself 5 minutes, Mr. President, or such time as I may use.

The PRESIDING OFFICER. If the Senator from Arkansas will suspend, I think the chairman will answer his question.

Mr. BENTSEN. Did the Senator from Arkansas have an inquiry of the manager of the bill?

Mr. BUMPERS. I was just asking, I think I have 12 minutes remaining and the time controlled by the Senator from Texas is 19 minutes. I wondered if he wanted to speak further on it or if he wanted to just try to wrap this up.

Mr. BENTSEN. I think we have some further points we would like to make.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

Mr. President, first of all I would like to add Senator NICKLES and Senator KOHL as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I want to try to summarize this so all my colleagues will understand precisely what the issue is here. Before the Finance Committee bill was passed out of committee and came to this floor, before that happened we told the high-income people of this country—and we classify those as people who make over $75,000 a year—you must pay 90 percent of the tax you are going to owe for this year, 1992. And if you underestimate that, you are going to pay a penalty.

In the past we had said if you do not want to go to an accountant every 3 months and have them recompute your income and recompute your estimated tax liability, if you do not want to go through all those accounting experiences and expenses, we will let you pay 100 percent of what you paid last year. That is called a safe harbor. If you pay 100 percent of what you paid last year, you are home free.

I am going to tell you something. If this amendment does not pass, the Members of this body are going to be looking for a safe harbor because we are going to be inundated with thousands of letters from the small business community of this country.

In November 1991, the Finance Committee said for high-income taxpayers in the future you have to estimate your tax on one basis only and that is 90 percent of what you make this year. You no longer can pay 100 percent of what you paid last year and be assured that you are safe from a penalty. The accounting fees, when they have to compute 90 percent of this year's tax—the accounting fees are astronomical.

Mr. President, I have a letter here from the American Association of Certified Public Accountants that said this is a terrible statement for high-income taxpayers. You ought to change this.

So the Finance Committee came along and they said not only do the wealthy people who make over $75,000 over a year have to come into compliance with this 90-percent test, we are going to change the rules to make them worse and we are going to make everybody comply, rich and poor, under $75,000 a year and over $75,000 a year with a new 120-percent test.

What did they say? In the future you have two options again. The first is the 90 percent option, which means you have to pay the accounting firm that does your taxes a big fee every 3 months to recompute your income and recompute your estimate. And if you do not want to do that—listen to this—if you do not want to do that, you send us estimated tax payments equal to 120 percent of what you paid last year. If you paid $50,000 last year, this year you send us $60,000. If you paid $50,000 in taxes last year, you send us $60,000 in four equal payments of $15,000 each and you are off the hook.

You have to compute, first of all, how much are my accounting fees going to cost me if I go the 90 percent route. If your accounting fees are going to be $10,000 you are probably no worse off of sending the Government this extortion they demand of an extra $10,000.

This is not just a 20-percent loan from the least among us to the U.S. Treasury, it is extortion. And it is not just a 20 percent loan. What if you paid $50,000 last year on a $150,000 income and this year you do not know what you are going to make but you know it is less than $150,000? And you do not know that until 6 months into the year when you have made that option. You are going to wind up paying a 40 percent premium, interest free to Uncle Sam.

That is what I call, on behalf of the committee—and I know both the chairman and the ranking member of that committee know I have the utmost respect for them—this is pure and simple a revenue raiser. That is all it is. It is raising $1.3 billion off the people who can least afford to pay it. It is what I call taking a bad situation and turning it into a disaster.

I yield the floor and reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield myself such time as I need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. You bet it is a revenue raiser. Of course it is a revenue raiser. I have stated that from the beginning. It is one the administration proposed, 120 percent. This had helped pay for an incentive for first time home buyers, trying to get this economy moving again. You cannot have those kinds of tax deductions or incentives unless you pay for them someplace.

I understand it is no fun to do the revenue side, the raising side of it. It is always fun to pass out those incentives, those tax cuts. But if you do not pay for them, then you are $1.3 billion short. And that endangers all these other things that we put in there in the way of initiatives, to try to get the economy moving again, whether we are talking about low income housing, or we are talking about research and development, or we are talking about first time home buyers, or we are talking about enterprise zones for the inner cities where you have high unemployment and poverty, or we are talking about an enterprise zone for a rural area where you have high poverty and unemployment. But they have to be paid for. We do not want to add to this deficit. We have gone that road long enough.

So, the responsible thing to do if you are going to have these initiatives is to pay for them. And when you talk about the people who are hurt the worst that they have to do 120 percent, that is 120 percent because they are making more money than they did the year before.

You are talking about 90 percent, and not trying to forecast it for a year but talking about quarter by quarter. And only on the information you have at that time. If you have something unexpected happen, you have the opportunity to amend your return without penalty for that one.

No. It is a fair proposal. It does give certainty to the taxpayer. It does require a somewhat larger payment, in the way of 120 percent, than it has in the past.

It is in the administration proposal and it does help us make this bill revenue neutral as we do these incentives, these initiatives. So at the proper time, I will be raising the point of order. I now yield to my colleague, the manager for the minority.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I want to emphasize once more the effect of this bill on those who pay the 120 percent. According to the Treasury, more than 95 percent of the individuals paying estimated taxes owe 120 percent or more of their last year's tax liability. Ninety-five percent of the people who choose to pay this 120 percent do it for a very specific reason: They would rather do that than pay 90 percent of their current liability because it is going to be a lot more than paying the 120 percent now and then paying a lot more a year later.

I am going to emphasize once more the way this works. You make $100,000. You paid $30,000 in taxes last year. You make $1 million this year and let us say your taxes are going to be $300,000. If you want to follow the 90 percent rule, you pay that $300,000 in equal installments through the year, $75,000 every quarter. But if instead of doing that you make a payment of 120 percent of what you paid last year, $36,000 instead of $30,000, then that is all you have to pay and there is no penalty. When you finally get around to April 15 of next year and pay your $300,000, there is no penalty for the underpayment of your taxes during that entire year and 95 percent of the people who pay the 120 percent pay it because it is going to save them revenue during the year, it is going to save them money, they are going to have the float. They know what they are doing and they know exactly why they pay the 120 percent: To save them money.

Once more, I want to compare this to the average wage earner making $15,000, $20,000, $30,000, $40,000 a year. From that poor devil, we withhold from his or her paycheck, every week, 2 weeks or month, however often they are paid and they are usually not paying 90 percent of their taxes, they are paying 100 percent or more of their taxes as they go along.

So this 120-percent so-called safe harbor was suggested to us by the accountants who do the tax returns of the people who use the safe harbor. This was not some goobledygook the tax committee dreamed up or some schemers in the bowels of this building to do in the little person, it was given to us by the accountants of the people who do the returns for the very people who use the safe harbor.

Should we expect the people—and this only affects those who make over $75,000 a year—should we expect to attempt to make an argument that is fair in essence for 95 percent of the taxpayers to underpay their taxes—underpay them—and to say to the average Joe or Jane in this country, you are going to pay 100 percent of your taxes every week, 2 weeks, 4 weeks, however you are paid. So this amendment is both fair and simple. And I will say it again, an awful lot of people will pay the 120 percent because they will know in paying the 120 percent ahead of time, they are saving themselves a whale of a lot of money during the year when they would otherwise be paying 90 percent of the entire tax liability that they are going to owe for that year, they are going to be paying for it as they are going along and that is going to be a lot more than the 120 percent.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I am willing, if the managers of the bill are willing, to yield back the remainder of my time and stack this vote for approximately 1 hour from now.

Mr. President, can I have the attention of the distinguished Senator from Texas?

Mr. PACKWOOD. Mr. President, could I ask the distinguished Senator, we are trying to aid the majority leader, and I think we have a unanimous-consent request. I would like to get a unanimous-consent agreement now for amendments. I want to get it now so we have something in order when we finish the vote on the Senator's amendment.

Mr. BUMPERS. Without the time being charged to us.

### UNANIMOUS-CONSENT AGREEMENT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that after final disposition of the Bumpers amendment, the following amendments shall be in order: One, McConnell on missing children and the parent locator, with 10 minutes equally divided in the usual manner; two, a second McConnell amendment on professional fees paid in takeovers, 30 minutes equally divided and; three, a Murkowski amendment on military separation payments eligibility for rollover to IRA's, and I am not suggesting a time limit on that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. And no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I thank the Senator from Arkansas.

Mr. BENTSEN. Mr. President, three of the Members have been called down to the White House for a meeting and will be back at 4 o'clock and they asked that we stack these votes on the Bumpers amendment until 4 o'clock, if that is agreeable.

Mr. BUMPERS. Mr. President, I have no objection to that. I am perfectly happy to vote at a time certain, say, 4 p.m. or thereabout.

Mr. DODD. Mr. President, I rise in support of the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

In my State of Connecticut, small businesses are literally dying on the vine, mainly because they continue to have trouble getting the credit they need to grow and expand. For the past 3 years, so many of us in Connecticut have been working to counteract this credit crunch, and finally, in recent months, we have begun to make some headway.

It is critical that small businesses recover. They are the engines of economic growth and job creation in Connecticut and across the country. But the prospects for recovery are dampened when we saddle small businesses with complicated reporting requirements or with requirements for overpayment of taxes.

Our tax collection system should strike a balance between rising revenues and permitting economic growth. The Bumpers amendment would restore that balance.

If the Bumpers amendment fails, small business owners will be left with an unfair dilemma. To keep out of the IRS's doghouse, they could spend hours calculating 90 percent of their tax liability for the current year. Or they could pay 120 percent of the previous year's tax liability, and risk using needed capital to give the Government an interest-free loan.

Under either alternative, economic growth is diminished. Business owners are forced to divert scarce resources away from running their businesses—for no good reason. That is unwise, and is exactly the wrong signal to send at a time when we should be promoting economic recovery and job creation.

I urge my colleagues to support the more balanced approach to tax collection embodied in the Bumpers amendment.

Mr. CHAFEE. Mr. President, when Congress revised the individual estimated tax payment safe harbor last November, I was concerned that we were adding a level of complexity to the law that was unnecessary. Prior to that time, the law contained two fairly simple methods for determining an individual's estimated tax payments. The first requires the taxpayer to pay 90 percent of the current year's income tax liability. But in many instances, taxpayers are unable to accurately estimate their current year's income until after the year has ended.

To remove this burden from small businesses, a second method allowed these taxes to be paid based on 100 percent of the tax liability for the prior year. However, a special rule was enacted last year, as part of the passage of extended unemployment benefits, which limits the availability of this safe harbor. Individuals whose income increases significantly over the prior year are no longer able to utilize this method.

Taxpayers and tax practitioners found that this new rule was overly complex. To simplify it, the bill proposes to allow all taxpayers to utilize the safe harbors that were available before last year. However, the proposal increases the prior year's tax safe harbor from 100 to 120 percent.

I am concerned that this increase will burden small businesses. I am sympathetic to their concerns that this proposal results in an interest-free loan to the Federal Government. However, I must reluctantly oppose Senator BUMPERS' amendment because it would adversely affect the deficit.

I hope that a compromise can be found in the near future that will minimize the impact of this proposal on small business men and women without increasing the deficit.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the votes ensuing on the Bumpers amendment, points of order, and anything attendant thereto be stacked at 4 p.m. this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

It is the Chair's understanding that the manager of the bill has yielded back all time on the Bumpers amendment.

Mr. BUMPERS. Mr. President, I want to make one statement, and then I am prepared to yield back the remainder of my time.

I just want to say to my colleagues that the Bumpers-Kasten-Cranston amendment only helps the people who make less than $75,000 a year. It does nothing for people who make over that because it repeals a sunset provision in the new 1991 law.

Mr. President, I am prepared to yield back the reminder of my time.

Mr. BENTSEN. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time on the Bumpers amendment has been yielded back.

Mr. BENTSEN. Mr. President, at this point, I raise the point of order that the pending amendment violates section 311 of the Congressional Budget Act of 1974.

Mr. BUMPERS. Mr. President, I move to waive the Budget Act for consideration of my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, it is my understanding under the agreement that these will be voted on at 4 o'clock.

Mr. BUMPERS. That is right.

The PRESIDING OFFICER. The Senator is correct. Let me make sure. This is the Chair's understanding of the unanimous-consent agreement.

Mr. PACKWOOD. Mr. President, I will move to vitiate that so the Chair will not have to understand it.

### UNANIMOUS-CONSENT AGREEMENT VITIATED

Mr. PACKWOOD. Mr. President, I ask unanimous consent to vitiate the unanimous-consent agreement which was just ordered for the two McConnell amendments and a Murkowski amendment. We operate on comity around here. There is one Senator who may want to object to Senator McCONNELL's time request.

Senator McConnell is still coming. As I understand it, he can offer his amendment when he gets here, so it will simply be without a time agreement. I simply ask that we vitiate the previous unanimous-consent order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair's understanding of the order now is that the vote on the budgetary waiver offered by the Senator from Arkansas will occur at 4 o'clock, and in the meantime since the unanimous-consent order was vitiated, the floor is available for amendments.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3167

(Purpose: To amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 3167.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1699, between lines 15 and 16, insert the following:

**SEC. 7135. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.**

(a) IN GENERAL.—Section 463 of the Social Security Act (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 of this title shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request for the purpose of locating any parent or child on behalf of the Office of Juvenile Justice and Delinquency Prevention for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) CONFORMING AMENDMENT.—Section 463(c) of such Act (42 U.S.C. 663(c)) is amended by striking ("a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

Mr. McCONNELL. Mr. President, I rise today to offer an amendment to the tax bill that will go a long way in helping to locate missing and abducted children. Specifically, my amendment authorizes officials at the Department of Justice to use the Federal Parent Locator Service at the Department of Health and Human Services to track and hopefully find children who have been abducted by noncustodial parents.

In 1975, Congress created the Federal Parent Locator Service, as a system that could be used to track absent parents in order to enforce child support obligations. This service has proven invaluable to many single mothers who have been abandoned by irresponsible fathers.

Realizing the potential of the Federal Parent Locator Service for tracking missing parents, in 1988 Congress gave the State Department access to the system for the purpose of tracking international child abductions in the United States. This action was in response to our Nation's commitment under The Hague Convention on Civil Aspects of International Child Abduction.

The amendment I am proposing today follows the same legislative precedent set in 1988, when Congress authorized the use of the Federal Parent Locator Service by the State Department. My amendment would lift the bureaucratic roadblocks that have prohibited the Department of Justice from working with the Department of Health and Human Services to use the Federal Parent Locator Service—on a very limited basis—to locate children who may have been abducted by a noncustodial parent.

In the past 10 years, 70 percent of all child abductions in the United States involved a noncustodial parent.

Most experts on child kidnapping agree that the ability to quickly locate noncustodial parents is crucial to solving the majority of missing children cases. And as we have learned the hard way, a few days can mean the difference between life and death in missing children cases.

Over the past year, I have met with officials from both the Department of Health and Human Services and the Department of Justice. Representatives from each of these departments have made it clear that neither group is opposed to my amendment. Apparently, what has impeded these two departments from working together on missing children is the language that was adopted by Congress during the establishment of the Federal Parent Locator Service in the 1970's.

At that, Congress expressed understandable concern over the confidentiality of the information handled by the Parent Locator Service. Such concerns included individual privacy rights and proper use of the information.

Since then, effective regulations have been issued that ensure careful use of the system and the protection of individual privacy rights. I have been assured that giving the Department of Justice access to the system will not endanger or weaken any of the existing restrictions and protections.

Further, the Congressional Budget Office has determined that my amendment will not cost the taxpayers any additional money. In other words, this is cost-effective legislation that has the potential to locate thousands of missing children throughout America.

This year, thousands upon thousands of children will be abducted by a noncustodial parent. My amendment will allow our law enforcement officials to move quickly in locating these noncustodial parents and the children before it is too late.

Mr. BENTSEN. Mr. President, I ask unanimous consent that when the Senator from Iowa [Mr. HARKINS] offers his tobacco amendment, there be 1 hour equally divided with no amendments in order prior to the motion to table.

Further, I ask unanimous consent that if the amendment is not tabled that the Senator from North Carolina [Mr. HELMS] be recognized to offer his second-degree amendment relating to the same subject; and, that amendment be debated for 30 minutes to be equally divided in the usual form.

Finally, I ask unanimous consent that after the disposition of the Helms amendment, the Senate proceed to vote on the Harkin amendment, as amended, if amended.

Mr. President, we have discussed this matter with the distinguished Senator from Iowa, and the Senator from North Carolina and the involved parties, and this states their agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I happened to be off the floor. If I could eyeball the unanimous-consent agreement.

Mr. BENTSEN. It is my understanding that the Senator looked at this and concurs. Does he desire that I restate it?

Mr. HARKIN. If it is the one I looked at, no.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask if the amendment I offered has been cleared.

Mr. BENTSEN. I say to the Senator from Kentucky that I have looked at this amendment. I consider it a very worthwhile purpose, in being able to promote parents being involved in such custody suits. From this side, I know of no objection. We are prepared to agree to it.

Mr. PACKWOOD. We found it a fine amendment and are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3167) was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have checked with the chairman, and I understand that the Senator from Kentucky has one more amendment; is that right?

Mr. McCONNELL. Yes.

Mr. PACKWOOD. I ask unanimous consent that when this McConnell amendment is disposed of, that Senator MURKOWSKI be recognized to offer an amendment after that; and that may occur before 4 o'clock. We are going to vote at 4 o'clock on the Bumpers amendment. If Senator McCONNELL finishes before then, we would ask Senator MURKOWSKI to be prepared to go then. If not, he can go after Senator McCONNELL'S amendment and after the vote.

Mr. HARKIN. Reserving the right to object, Mr. President, can I hear that unanimous-consent request again?

Mr. PACKWOOD. Senator McCONNELL has one more amendment that he is on now. Senator MURKOWSKI would like to go next. We are not asking for a unanimous consent on time or anything else, just that he be recognized next to offer an amendment, and if Senator McCONNELL finishes before 4 o'clock, Senator MURKOWSKI would start. At 4:00, we vote on the Bumpers amendment.

Mr. HARKIN. I am just wondering when I would be able to bring up my amendment, since we have a unanimous-consent agreement as to a time limit. I have been waiting around.

Mr. BENTSEN. I say to the Senator from Iowa that the managers would be delighted to have the Senator from Iowa immediately go following Senator MURKOWSKI'S amendment, which I do not anticipate will take much time.

Mr. HARKIN. There will be a 4 o'clock vote, so I will be interrupted by that.

Mr. PACKWOOD. Senator McCONNELL, Senator MURKOWSKI, and Senator HARKIN, and we will have a vote at 4 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I ask unanimous consent that the Senator from California [Mr. SEYMOUR] be added as a cosponsor to the amendment just agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3168

(Purpose: Providing that professional fees incurred in a taxfree corporate reorganization not be treated as a separate amortizable intangible)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 3168.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1336, between lines 11 and 12, insert:

"(9) Any fees for professional services, and any transaction costs, incurred by parties to a reorganization with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

Mr. McCONNELL. Mr. President, the amendment I offer is an amendment which will, I hope, remove at least one artificial incentive for corporate mergers, buyouts, and takeovers.

Such massive corporate transactions can disrupt the entire fabric of a company, resulting in layoffs, forced retirements, massive debts, and managerial chaos.

Yet there are times when mergers and buyouts are vitally necessary to preserve the life of a business. Sometimes they are actually the only way to stave off bankruptcy or severe financial hemorrhaging.

For these reasons, many economists believe that the Government should allow the wisdom of the market to prevail in these matters, and that we should not try to actively encourage or discourage these corporate transactions through the artificial steroids of tax incentives.

Earlier this year, the Supreme Court adopted this point of view in the tax case of Indopco versus Commissioner. The Court ruled that legal fees incurred in a corporate takeover could not be amortized or deducted for Federal income tax purposes.

In doing so, the Court removed at least one powerful incentive for takeovers: the ability of Wall Street takeover artists to write off the fees paid to Wall Street law firms. This decision, reached by a rarely unanimous Supreme Court, could not have been clearer.

Nevertheless, the bill before us today touches so heavily on the subject of deductible expenses in corporate takeovers that some clever tax attorney might argue that the bill effectively supersedes the Court's decision in this matter.

Therefore, I believe it is appropriate—even necessary—to recognize and reinforce the Supreme Court's unequivocal ruling in Indopco within this legislative context.

The amendment I am offering seeks to codify the Court's decision which prohibits corporations from deducting legal and other professional expenses which are directly incurred in corporate buyouts and takeovers.

To put it more simply, my amendment ensures that in any corporate buyout decision, the interests of Main Street will count at least as much as the interests of Wall Street

At the same time, my amendment does not seek to restrict corporate transactions that are driven by sound economic objectives. Clearly, if a corporate acquisition is likely to produce a stronger, healthier business, then the inability to amortize related professional expenses should not be a deterrence to the transaction.

Instead, what my amendment seeks to do is prevent the expensive and market-distorting tax subsidies which go to Wall Street takeover specialists and the firms that hire them. My amendment simply says that the Tax Code should not be used to promote—or prohibit—buyouts and takeovers and the reams of legal documents that these transactions produce.

That was the decision of the Supreme Court in the Indopco case, which argued that legal fees incurred in a corporate acquisition could not be considered "ordinary and necessary and incurred in carrying out any trade or business," as defined in section 162 of the Tax Code.

In the same decision, the Court held that such fees do not "create or enhance a separate and distinct additional asset," and therefore do not qualify for amortization under section 263.

Legal fees, in the high-stakes world of hostile takeovers and leveraged buyouts, are astronomical. For example, in the Kolhberg, Kravis & Roberts takeover of RJR Nabisco, the fees paid to Wall Street lawyers and other specialists were reported to be $1.2 billion.

Some experts estimate that lawyers on both sides of a corporate buyout take an average of 3 percent off the top of the total acquisition cost.

Between 1986 and 1991, approximately 90 billion dollars' worth of tax-free corporate acquisitions were performed each year. Using the 3-percent rule, Wall Street lawyers and other takeover professionals made about $2.5 billion for every single year in that half decade.

Without an amendment to codify the Supreme Court's ruling in Indopco, those billions of dollars in takeover fees could potentially be amortized over a 16-year period. According to the Joint Tax Committee, such a writeoff would cost the Federal Government—and indirectly the taxpayers—approximately $75 million over the next 5 years.

And that would only be the beginning.

Just think what kind of incentive we would be creating by allowing such a deduction: The more lawyers you have, the greater your tax deduction. This deduction would cost society in two ways: through the loss of tax revenue, and through the potential increase in litigation, spawned by this tax loophole.

Certainly, this is not the purpose of the underlying bill.

As I understand it, the urban aid bill is intended to revive economic growth and create jobs across the Nation. But, Mr. President, the tax amortization of takeover professional fees would create only one urban enterprise zone, perhaps the richest in the world, on the southern tip of Manhattan: Wall Street.

Now, I agree that we need to do everything we can to keep the economic recovery moving, and to help those who were hit hardest by the recent recession. Maybe we even need to help struggling Wall Street lawyers. Maybe the soles on their Gucci loafers are wearing thin.

Nevertheless, we should not try to help them by extending a special tax deduction that ultimately comes at the expense of the average taxpaying family.

Mr. President, I have often spoken of the lawyer's tax and its tremendous drag on the economy. The lawyers tax—which is the cumulative cost of litigation in our society—affects nearly every product, business, and consumer. American businesses are at a huge disadvantage in the world marketplace because of the added cost of litigation.

I have tried repeatedly to cut the lawyer's tax through legislation. My objective today, admittedly a more modest one, is to cut at least one lawyer's deduction.

Mr. President, it is my understanding that the managers have taken a look at this amendment and find it acceptable.

The PRESIDING OFFICER. Is there further debate?

The Senator from Texas.

Mr. BENTSEN. Mr. President, I am advised there are those who may be in opposition to the amendment who want to be heard, and with that in mind, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, it is my understanding a question was raised as to the effective date of this amendment. Were it to be adopted, it would apply prospectively—in other words, only to expenses that arise from future transactions—and not retroactively.

Mr. PACKWOOD. Mr. President, I thank the Senator from Kentucky. There was some question raised on that. That, I think, will alleviate that problem.

I think we can clear up one other question that would exist right now, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to the call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, as the Senator stated, you have the recent Supreme Court case ruling that professional fees incurred in the friendly takeovers must be capitalized and cannot be deducted. This amendment, as I understand it, will ensure that the amortization of intangible assets provision would not overrule that decision by allowing such expenses to be amortized over 16 years.

I think it is a sensible clarification. It certainly is not the intention of the legislation to alter the case law in that area.

With that in mind the manager of this side is prepared to accept the amendment.

Mr. PACKWOOD. We are prepared to accept the amendment.

The PRESIDING OFFICER. Hearing no further debate, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 3168) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

AMENDMENT NO. 3169

(Purpose: To amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Forces to the extent it does not exceed $25,000)

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I take this opportunity to propose and send to the desk for immediate consideration an amendment on behalf of myself and Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. STEVENS, proposes an amendment numbered 3169.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII of the Committee amendment, insert:

**SEC. . IRA ROLLOVERS OF MILITARY SEPARATION PAY.**

(a) IN GENERAL.—Section 402(c) (relating to rules applicable to rollovers) is amended by adding at the end the following new paragraph:

"(11) MILITARY SEPARATION PAY.—If—

"(A) an individual receives separation pay under section 1174 or 1174a of title 10, United States Code, and

"(B) such individual transfers any portion of such pay within 60 days after the receipt of such pay to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B),

then the portion of the pay so transferred (to the extent it does not exceed $25,000) shall be treated as a transfer from a qualified trust which meets the requirements of this subsection and which is a transfer of a distribution of amounts other than employee contributions."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to pay received after December 5, 1991.

(2) TRANSITION RULE.—In the case of any payment received after December 5, 1991, and before the date of the enactment of this Act, the 60-day transfer requirement of section 402(c)(11)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall be treated as met if the taxpayer transfers the payment to an eligible retirement plan within 1 year after such date of enactment.

Mr. MURKOWSKI. Mr. President, I rise to propose a very important amendment which I think deserves the bipartisan support of this body. It would help those men and women departing from the armed services under the Special Separation Benefit Program.

This amendment is similar to a bill that I introduced in June, S. 2904, entitled the Military Separation Retirement Benefits Act.

Because of military downsizing, the Department of Defense is offering an incentive, the special separation benefit, to encourage our service men and women to voluntarily depart the armed services. For many, of course, that is very difficult, because they had presumed to have a career in the military.

Thus far, 55,000 men and women have applied to leave under the Separation Benefit Program. This benefit is designed to compensate America's military men and women for surrendering the security and satisfaction of serving their country in the Armed Forces.

Specifically, the separation benefit is based on rank at the time of departure and the number of years served. That is the formula.

An example of that would be, a staff sergeant with 16 years of service would receive some $50,466 in separation benefits. That same staff sergeant would earn in the service approximately $24,000 a year. Thus, the benefit amount is significantly higher than the ordinary pay the service person has been receiving.

Well, Mr. President, the problem those departing service people have is an obvious one. The entire separation benefit is taxed in the year received as ordinary income to the service person. As I noted earlier, the amount of the separation benefit far outstrips what the service person has been making or, in all likelihood, will be making in an outside position in the immediate future.

So taxing the entire separation benefit as ordinary income is hardly fair to those who have sacrificed so much already, and are now sacrificing a military career and retirement benefits for the uncertainty of today's economic times.

Mr. President, there is a solution. This amendment allows those receiving the separation benefit to roll over up to $25,000 of the separation benefit into an eligible retirement account, such as an IRA, in the year received.

For those who have already left the service and received the separation benefit, they could roll over that amount into an IRA within a year of adoption of this law. Finally, if, in the future, service people are forced to leave the service, they, too would receive the rollover right.

Thus, the amendment allows the departing service person to avoid what I consider an unfair and disproportionate tax, and to plan, through personal savings, for a more secure future outside the military.

Further, Mr. President, I suggest that there is a substantial inducement for savings by this amendment. This amendment would encourage departing service men and women to save for their futures by offering them an incentive to save, something all too lacking in our society.

Before I conclude, I would like to note that this amendment has received substantial support, as a matter of fact, great support from the service organizations. We have specifically 25 organizations representing over 6 million currently serving men and women and veterans who have endorsed this amendment.

I ask unanimous consent that the list of organizations be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SERVICE ORGANIZATIONS WHICH HAVE ENDORSED MURKOWSKI MILITARY IRA ROLLOVER AMENDMENT

1. Air Force Association.
2. Air Force Sergeants Association.
3. Association of Military Surgeons of the United States.
4. Association of the United States Army.
5. Commissioned Officers Association of the United States Public Health Service.
6. Chief Warrant and Warrant Officers Association of the United States Coast Guard.
7. Enlisted Association of the National Guard of the United States.
8. Fleet Reserve Association.
9. Jewish War Veterans of the United States of America.
10. Marine Corps League.
11. Marine Corps Reserve Officers Association.
12. Military Chaplains Association of the United States of America.
13. National Association for Uniformed Services.
14. National Guard Association of the United States.
15. National Military Family Association.
16. Naval Enlisted Reserve Association.
17. Naval Reserve Association.
18. Navy League of the United States.
19. Non Commissioned Officers Association.
20. Reserve Officers Association.
21. The Retired Enlisted Association.
22. The Retired Officers Association.
23. United States Army Warrant Officers Association.
24. United States Coast Guard Chief Petty Officers Association.

Finally, Mr. President, I think that there is good reason for the broad public support for this amendment to benefit those in our military. These men and women have made a substantial sacrifice for this country. This amendment attempts to treat them fairly by not unduly taxing them for heeding the Nation's call now that they leave the service.

And, I might add these men and women are leaving the service now. And they are asking for our help now. I think this amendment is a small contribution to the Tax Code that could accommodate them.

It is my understanding that this amendment has been discussed on both sides and cleared, but I would withhold that assertion pending the comments of the floor managers.

I want to particularly thank the staff on both sides who worked so hard to accommodate this effort, including Mr. Brindle of my personal staff.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, in looking at the amendment as offered by the Senator from Alaska, as I understand it, what he is seeking to do is when you have someone who is discharged and you have severance pay, some of these individuals could have 10, 12 years of service and if you are talking about the vesting provisions of military pensions, it is 20 years. So these people are precluded from that, in effect.

I think there is equity in what he is proposing because, as I understand it, he is talking about a rollover in an IRA with a cap on it of $25,000.

Mr. MURKOWSKI. That is correct.

Mr. BENTSEN. I like the concept. I think it is equity and fairness.

I would like to be added as a cosponsor.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senator from Texas be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I must also tell you that I know of no objection from this side.

Mr. PACKWOOD. And there is no objection from this side.

Mr. BENTSEN. We are prepared to accept the amendment.

Mr. MURKOWSKI. I thank the chairman and my colleague from Oregon.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska [Mr. MURKOWSKI].

The amendment (No. 3169) was agreed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President I ask unanimous consent to add myself as cosponsor of the Murkowski amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my friend from Oregon.

Mr. PACKWOOD. I thank my friend from Alaska.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3164

The PRESIDING OFFICER (Ms. MIKULSKI). Under the previous order, the question is on agreeing to the motion of the Senator from Arkansas [Mr. BUMPERS] to waive section 311 of the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Present.

Mr. JOHNSTON (after having voted in the negative). On this vote I have a pair with the distinguished Senator from North Carolina [Mr. SANFORD]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BUMPERS. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

On this vote, the Senator from Louisiana [Mr. JOHNSTON] is paired with the Senator from North Carolina [Mr. SANFORD]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The yeas and nays resulted—yeas 57, nays 37, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—57

Akaka
Biden
Bingaman
Bond
Bradley
Brown
Bryan
Bumpers
Burns
Coats
Cohen
Conrad
Cranston
D'Amato
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Helms
Hollings
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Nickles
Nunn
Reid
Riegle
Robb
Roth
Sarbanes
Shelby
Smith
Specter
Wallop
Warner
Wellstone
Wofford

NAYS—37

Adams
Baucus
Bentsen
Breaux
Burdick, Jocelyn
Byrd
Chafee
Cochran
Craig
Danforth
Daschle
Dole
Domenici
Durenberger
Garn
Hatfield
Heflin
Inouye
Jeffords
Kennedy
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pressler
Pryor
Rockefeller
Rudman
Sasser
Simon
Simpson
Stevens
Symms
Thurmond
Wirth

ANSWERED "PRESENT"—1

DeConcini

Present and giving a live pair, as previously recorded—1

Johnston, against

NOT VOTING—4

Boren
Gore
Sanford
Seymour

The PRESIDING OFFICER. On this motion to waive the Budget Act on the Bumpers amendment, the yeas are 57, the nays are 37, and 1 responding present.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The adoption and enactment into law of the pending Bumpers amendment would cause revenues to be less than the appropriate level of total revenues set forth in the concurrent resolution on the budget by $300 million for the period of fiscal years 1993 through 1997, in violation of section 311(a) of the Congressional Budget Act of 1974.

Therefore, the point of order is sustained and the amendment falls.

Mr. PACKWOOD. Madam President, is the order now that we go to the Harkin amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I wonder if I might ask the Senator from Iowa, I believe the chairman and I have two unanimous consent requests for people to come after you, and we would like to get them if we could.

Mr. HARKIN. That is fine.

Mr. BENTSEN. Madam President, I ask unanimous consent that on the disposition of the Harkin amendment, that there be a time limitation for debate of 10 minutes on Senator WARNER's amendment equally divided in the usual form but no second-degree amendments, nor amendments to any language that may be stricken in order thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I ask unanimous consent that upon the disposition of the Warner amendment that there be a time limitation for debate of 30 minutes on Senator MCCAIN's amendment, equally divided in the usual form, with no second-degree amendments or amendments to any language that may be stricken in order thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3170

(Purpose: To amend the Internal Revenue Code of 1986 to limit deductions for advertising and promotional expenses for tobacco products, and to use the resulting revenues for advertising expenditures to persuade individuals not to use tobacco products)

Mr. HARKIN. Madam President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3170.

Mr. HARKIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1811, strike line 9 and insert the following: of the enactment of this Act.

**SEC. 8217. ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.**

(a) LIMITATION ON DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end thereof the following new section:

**"SEC. 280I. LIMITATION ON DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.**

"(a) IN GENERAL.—The amount allowable as a deduction under this chapter for expenses relating to advertising or promoting tobacco products shall not exceed 80 percent of the amount of such expenses which would (but for this paragraph) be allowable as a deduction under this chapter.

"(b) DEFINITIONS.—For purposes of this section—

"(1) TOBACCO PRODUCTS.—The term 'tobacco products' means cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product.

"(2) CIGARETTES, CIGARS, SMOKELESS TOBACCO, PIPE TOBACCO.—The terms 'cigar', 'cigarette' 'smokeless tobacco', and 'pipe tobacco' have the same meanings given to such terms by subsections (a), (b), (n), and (o) of section 5702, respectively."

(2) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Limitation on deduction for tobacco advertising and promotion expenses."

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

**"SEC. 9512. TRUST FUND TO REDUCE TOBACCO USE.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund to Reduce Tobacco Use' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section 280I as added by subsection (a) of section ___ of the Revenue Act of 1992, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary to distribute to each State based upon such State's population in relation to the population of all the States, as determined by using the most recent decennial census data.

"(2) USE OF DISTRIBUTIONS.—Each State, through its agency responsible for public health, may use its distribution to fund advertising programs designed to persuade individuals (especially children, pregnant women, and minorities) not to use tobacco products (as defined in section 280I(b)).

"(3) LIMITATION ON ADMINISTRATIVE COSTS.—Each State may use not more than 3 percent of the amount described in paragraph (2) for administrative expenses."

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Trust Fund to Reduce Tobacco Use."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

The PRESIDING OFFICER. Before the Senate begins debate, the Chair advises all Senators that the time for debate on the Harkin amendment is limited to 1 hour equally divided between the Senator from Iowa, the proponent of the amendment, Mr. HARKIN, and the Senator from Texas, Mr. BENTSEN.

The Senator from Iowa may proceed.

Mr. HARKIN. Madam President, I yield myself initially 5 minutes. If the Chair will advise when 5 minutes are up, I would appreciate that.

Madam President, this is a very simple and modest amendment. It places on tobacco advertising and promotion expenses the same modest limitation of tax deductibility that we imposed on business meals and entertainment in 1986.

It will also authorize—at the same level as the revenues generated by this change—funding to the States to support advertising designed to reduce the use of tobacco products by our children, pregnant women, and minorities—all targets of the tobacco industry's advertising campaign.

What this amendment does is say that all advertising for tobacco and tobacco products, you can only deduct 80 percent of that advertising as ordinary and necessary business expenses, the same as the limit we put on business meals in 1986. The revenue generated from that will be sent out to the States, to their local public health departments, to run advertising to reduce smoking, especially by minorities, by women, and by children. So, again, no advertising revenues will be lost. We will just have a different form of advertising.

Madam President, as I said earlier, the advertising targets kids in this country. That is what the tobacco advertising is all about.

I showed this picture of Old Joe Camel before, the camel, the guy here. He is a smooth character. You see he has lovely young women looking at him. He is a winner, of course. He has a trophy, fast cars in the winner's circle, and has all the crowd looking at him.

This all goes to kids. As a matter of fact, 91 percent of all the 6-year-olds in the country recognize Old Joe Camel, the same as they recognize Mickey Mouse.

And, Madam President, this advertising works. In 3 years the sales from Camel cigarettes to minors went from $6 million to $476 million. It works. The advertising is effective. Ninety percent of all smokers start smoking by the age of 20—25 percent by the age of 12; 25 percent by the age of 14; the rest by the age of 20. Ninety percent of all smoking begins before age 20. Advertising is geared to the young to get kids hooked on tobacco.

You know, Madam President, there is a code of ethics, or it is advertising standards, I have here, and I ask unanimous consent to print these advertising standards in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### TOBACCO INDUSTRY, CIGARETTE ADVERTISING CODE[1]

### STATEMENT OF PURPOSES

The purposes of this Code are to establish uniform standards for cigarette advertising and to provide means whereby compliance with this Code can be ascertained promptly and fairly and on a consistent basis.

### ARTICLE I.—DEFINITIONS

Section 1. "Advertising";

(a) Means all forms of advertising in, or primarily directed to, the United States, Puerto Rico, any territory or possession of the United States, or any military installation of the United States, including, but not limited to, radio, television and cinema commercials of all types, newspaper and magazine advertisements, billboards, posters and signs, subway and rail or bus car cards, automobile and truck decals, posters and signs, calendars, pamphlets, handbills, matchbook advertising, and point of sale display material of all types;

(b) Includes any written material or article or excerpt therefrom, not otherwise advertising, when used for promotional purposes;

(c) Includes labeling, namely, the display of written, printed, or graphic matter upon any portion of the package, carton, or other container in which cigarettes are packaged or shipped by the manufacturer; but

(d) Does not include the entertainment portion of any television or radio program.

Section 2. "Cigarette" means any roll of tobacco wrapped in paper or in any substance other than tobacco.

Section 3. "Representation" means any statement, reference, or claim, express or implied, direct or indirect, whether in oral, written, printed or graphic form, or in any combination of such forms.

### ARTICLE II.—THE CODE ADMINISTRATOR

Section 1. There shall be a Code Administrator who shall be a person of recognized independence, integrity and intellectual achievement to the end that decision by him shall command public confidence and respect. The Administrator shall have all of the powers and authority necessary and proper to enable him to discharge effectively the responsibilities entrusted to him by this Code.

Section 2. The Administrator shall have complete and final authority to determine whether cigarette advertising complies with the standards of this Code and to enforce this Code in all other respects.

Section 3. The Administrator shall appoint a staff adequate and competent to assist him in discharging his duties.

Section 4. Neither the Administrator nor any member of his staff shall be an officer, director, employee or stockholder of any manufacturer of tobacco products, nor shall any such person have any financial interest in the business of any such manufacturer.

Section 5. The Administrator is authorized to convene scientific advisory panels to enable him to carry out his duties. Persons selected for such panels shall be of independence, integrity and competence in their particular areas of scientific discipline. In selecting such persons, the Administrator may consult with appropriate governmental and private agencies such as the U.S. Department of Health, Education and Welfare; National Academy of Sciences; National Research Council; American Medical Association; Scientific Advisory Board of The Council for Tobacco Research—U.S.A.; medical and scientific societies; colleges and universities; and non-profit research institutes.

Section 6. The Administrator shall by regulation establish procedures for the administration and enforcement of this Code including, without limitation procedure for:

(a) The submission to him of proposed cigarette advertising which, together with any supporting data or documents, shall be kept confidential, except as otherwise provided in ARTICLE IV, Section 4, of this Code or as agreed to by the submitting party;

(b) The submission of protests by parties subject to this Code concerning any determination by him;

(c) Hearings in connection with all submissions and protests; and

(d) Reconsideration by him of any of his determinations.

### ARTICLE III.—ADVERTISING CLEARANCE

Section 1. No cigarette advertising shall be used unless such advertising shall first have been submitted to the Administrator and determined by him to be in compliance with the standards of this Code; provided that by regulation promulgated by the Administrator specified advertising may be excepted from the requirement of such submission but not from the requirement of compliance with the standards of this Code.

### ARTICLE IV.—ADVERTISING STANDARDS

Section 1. All cigarette advertising and promotional activities shall be subject to the following:

(a) Cigarette advertising shall not appear

(i) On television and radio programs, or in publications, directed primarily to persons under twenty-one years of age;

(ii) In spot announcements during any program break in, or during the program break immediately preceding or following, a television or radio program directed primarily to persons under twenty-one years of age;

(iii) In school, college, or university media (including athletic, theatrical and other programs);

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[1] Note:—Enforcement provisions eliminated in 1970.

(iv) In comic books, or comic supplements to newspaper.

(b) Sample cigarettes shall not be distributed to persons under twenty-one years of age.

(c) No sample cigarettes shall be distributed or promotional efforts conducted on school, college, or university campuses, or in their facilities, or in fraternity or sorority houses.

(d) Cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction.

(e) Natural persons depicted as smokers in cigarette advertising shall be at least twenty-five years of age and shall not be dressed or otherwise made to appear to be less than twenty-five years of age. Fictitious persons so depicted in the form of drawings, sketches or any other manner shall appear to be at least twenty-five years of age in dress and otherwise.

(f) Cigarette advertising may use attractive, healthy looking models, or illustrations or drawings of persons who appear to be attractive and healthy, provided that there is no suggestion that their attractive appearance or good health is due to cigarette smoking.

(g) No cigarette advertising shall contain a picture or an illustration of a person smoking in an exaggerated manner.

(h) Cigarette advertising shall not depict as a smoker any person well known as being, or having been, an athlete.

(i) Cigarette advertising shall not depict as a smoker any person participating in, or obviously having just participated in, physical activity requiring stamina or athletic conditioning beyond that of normal recreation.

(j) Testimonials from athletes or celebrities in the entertainment world, or testimonials from other persons who, in the judgment of the Administrator, would have special appeal to the persons under twenty-one years of age, shall not be used in cigarette advertising.

Section 2. No cigarette advertising which makes a representation with respect to health shall be used unless:

(a) The Administrator shall have determined that such representation is significant in terms of health and is based on adequate relevant and valid scientific data; and

(b) If the Administrator shall have determined it to be appropriate, a disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the Administrator; or

(c) The Administrator shall have determined that the representation with respect to health in such advertising is not material.

Section 3. The inclusion in cigarette advertising of reference to the presence or absence of a filter, or the description or depiction of a filter, shall not be deemed a representation with respect to health unless the advertising including such reference, description or depiction, shall be determined by the Administrator to constitute, through omission or inclusion, a representation with respect to health. If the Administrator shall have determined that such advertising constitutes a representation with respect to health, the provisions of Section 2 of this Article shall apply.

Section 4. No cigarette advertising shall be used which refers to the removal or the reduction of any ingredient in the mainstream smoke of a cigarette, except that it shall be permissible to make a representation as to the quantity of an ingredient present in the mainstream smoke or as to the removal in toto of an ingredient from the mainstream smoke, or as to the absence of an ingredient normally present in the mainstream smoke, if:

(a) The Administrator shall have determined that such representation is significant in terms of health and is based on adequate relevant and valid scientific data; or

(b) A disclaimer as to significance in terms of health shall be set forth in such advertising in substance and form satisfactory to the Administrator; or

(c) The Administrator shall have determined that a disclaimer is unnecessary for the reason that the representation in such advertising has no health implication or that such implication is not material; and

(d) The quantity of such ingredient is determined and expressed in accordance with uniform standards adopted by the Administrator for measuring the quantity of the ingredient present in the mainstream smoke, provided that, until such uniform standard is so adopted, the quantity of such ingredient may be determined and expressed in accordance with any recognized scientifically valid method disclosed to the Administrator without any requirement of confidential treatment.

Section 5. Any advertising determined by the Administrator to be in conformity with the Code may include the following legend: "This advertising (label) conforms to the standards of the Cigarette Advertising Code."

ARTICLE V.—PROCEDURES IN EVENT OF VIOLATION OF CODE

Section 1. Any person, firm or corporation subject to this Code, who violates any provision of this Code, shall, in the discretion of the Administrator with respect to each such violation, pay to the office of the Administrator as liquidated damages, and not as a penalty, a sum, not to exceed One Hundred Thousand Dollars ($100,000), as determined by the Administrator after consideration by him of all relevant facts. The Administrator shall establish regulations for the determination of such violation and for the assessment and payment of such damages. No sanction shall be imposed without affording a hearing to the alleged violator. Upon written request from the Administrator, an alleged violator of the Code shall promptly deliver to the Administrator any material and documents in its possession which are relevant and material to a determination by the Administrator as to whether the Code has been violated.

Section 2. Nothing herein contained shall be construed to give any person, firm or corporation, other than the Administrator, any cause of action.

Section 3. In the event of a violation of this Code, the Administrator in his discretion may make public the fact of such violation in such manner as he may deem appropriate.

Mr. HARKIN. Madam President, these are the standards set up by the tobacco industry itself, and it says that cigarette advertising shall not represent that cigarette smoking is essential to social prominence, distinction, success, or sexual attraction.

Here is Old Joe Cool again, a smooth character, foolproof dating device, small move 325, they advise to get a date and the last one always breaks the ice by offering her a Camel.

How to approach someone on the beach. Here is this very athletic looking young man. He has a woman slung over his shoulder like a cave man and a couple women in the background scantily clad looking in kind of awe at this man. And, of course, it says, "Always have plenty of Camels when the beach party begins."

Here is a young woman lying on a beach blanket in a very suggestive sexual position. The best thing to do is offer her a Camel.

By their own standards, they say there should not be advertising like that for social prominence and success and yet they go ahead and do it.

Sample cigarettes, they say, should not be distributed to persons under 21 years of age. Here are coupons that you cut out and send in for a free pack of Camels. They do not know whether you are 21 or not. They have no way of knowing that.

Madam President, $4 billion is spent by the tobacco industry every year in advertising—$4 billion a year. We spend $114 million a year to try to stop people from smoking.

Obviously it is working. Every year there are 434,000 deaths by smoking in this country. More than were killed in all of World War II are killed every year by smoking-related deaths in this country. Look down here. Here is AIDS. Here are the murders. Here are the annual heroin-, morphine-, and cocaine-related deaths, which are barely shown on this chart. Here is tobacco over here—434,000 a year.

Madam President, this is a modest amendment, and we know that counteradvertising works. So taking the money from this and getting it out to the States to counteradvertise works.

In California, they had a very successful counteradvertising campaign. They had a 14.6 reduction in 2 years in smoking in California. We know it works.

So this is a modest, good-government amendment. It does three things. It saves money, because it saves lives, a lot of lives. It is $65 billion a year we spend on health care costs related to smoking, $65 billion a year not to mention the 434,000 deaths.

So it is going to save money and save lives. It does not take a dime away from advertising. They will just get a different form of advertising. It makes it the same as business meals. If we can say as an ordinary and necessary business expense you can only deduct 80 percent for business meals, for eating food, certainly we can say the same thing for advertising of cigarettes.

So it is a very modest amendment. I feel it is an amendment that does the right thing. It sends the signal to the tobacco industry that we are not going to put up with advertising like this any longer with taxpayer subsidies. I am not saying they cannot advertise. If they want to advertise, they can advertise. I am not after their free speech.

What I am saying is no longer should the taxpayers of this country use their tax dollars to subsidize this kind of advertising.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 7 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I rise today in opposition to this amendment because I think it is unconstitutional.

The Senator's amendment, as I understand it, would partially disallow tax deductions for tobacco advertising and promotion expenses. In addition, the revenue raised from this disallowance would be used to fund antitobacco advertising. These provisions are clearly designed to restrict the commercial expression of the tobacco industry based on the content of the expression, while subsidizing the preferred speech of those who oppose the tobacco industry. This is a perfect example of content based discrimination.

In *Virginia State Board of Pharmacy* v. *Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976), the Supreme Court recognized commercial speech to be protected by the first amendment. Since that decision, the court has invalidated numerous restrictions on commercial speech. During its most recent term, the court confirmed its position that the Government should stay out of the business of deciding what is "good speech" and what is "bad speech."

In *R.A.V.* v. *City of St. Paul*, 60 USLW 4667, No. 90-7075, Slip Op. At 3 (June 22, 1992), the court said that a law is "facially unconstitutional if it prohibits otherwise permitted speech solely on the basis of the subjects the speech addresses." Madam President there are those who will say, "I agree we should protect free speech, but this is tobacco advertising and the messages they send out are bad." This is the precise reason we have a first amendment. There is no need to protect the speech that is favored.

A four-prong test was established by the court in *Central Hudson Gas & Electric Co.* v. *PSC*, 447 U.S. 557 (1980), and remains the framework used by the court to determine the constitutionality of Government regulation that intefers with commercial speech. The test considers whether the commercial speech in question involves a lawful product not advertised in a false or deceptive way; the nature of the Government's regulatory interest; whether the governmental interest is accomplished directly; and if the restraint is narrowly tailored.

The proposed amendment would, in my opinion, fail such a test. The sale of tobacco is generally a lawful activity. The amendment is not aimed at possible false or misleading advertising concerning tobacco, and an attempt to use the Tax Code to limit the advertising possibilities for all tobacco products is not narrowly tailored legislation.

Some will argue that the Supreme Court opened the door for this type of regulation in *Posadas* v. *Tourism Co. of Puerto Rico*, 478 U.S. 328 (1986). In Posadas, the Supreme Court upheld a statute which allowed the advertising of gambling only if it was directed at tourists, not residents of Puerto Rico. It must be noted that in this 5 to 4 decision the court did not seek to overturn the prior decisions on commercial speech, but on the contrary reaffirmed the principles of the Central Hudson and Virginia Pharmacy Board opinions.

Now, they narrowly directed and tailored the law in Puerto Rico. It was directed toward gambling. It was directed toward the residents of Puerto Rico and was not directed toward tourists. It was narrowly tailored. In this instance we have tobacco products generally.

I think they might have an argument—I think a weak argument, but they might have an argument—if this bill was tailored to prohibit the advertising of tobacco toward those that were under the age of 21 or some other classification pertaining to that, where the interest would be to stop smoking among young people. But this is a broad-sweeping bill in regards to all tobacco advertising.

There are those who will argue as well that this amendment is not truly restricting speech, but rather simply making tax policy. Such discriminatory taxation, although disguised, is a direct assault on the industry's first amendment rights. In *Speiser* v. *Randall*, 357 U.S. 513, 518 (1958), the court recognized that this type of disparate tax treatment may infringe first amendment rights. In its 1991 decision, *Simon & Schuster* v. *Members of the New York State Crime Victims Board*, 112 S.Ct. 501, 508, the court noted that when a government seeks to eliminate the tax deductibility of advertising of certain products, it seeks to impose "a financial burden on speakers because of the content of their speech."

If the Tax Code is used today to penalize companies that sell tobacco through a restriction on the information they can provide the public, then what industry will the Congress censor next session? I do not question the desire of the proponents of this amendment. In their opinion, they seek to help the health of their Nation. However, the area of regulating speech, through whatever means, is one in which we must walk very carefully. The right to free speech is one of the most cherished liberties the citizens of this Nation enjoy. Congress, in its efforts to protect its citizens, must not erode this freedom of expression.

Justice Hugo Black once said:

> My view is without deviation, without any ifs, buts, or whereases, that freedom of speech means that you shall not do something to people either for the views they have, or the views they express, or the words they speak or write.

Let us not do, through the Tax Code, something to restrict the voice of this industry. We may disagree with the voice, but it is commercial speech and they are entitled to it until we get to the point that it is completely outlawed. It is not outlawed at this time and in my judgment, this amendment would be a violation of the Constitution.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I yield myself 2 minutes to respond to the distinguished Senator from Alabama.

Madam President, I have a copy of a CRS report for Congress, "The Constitutionality of Banning Cigarette Advertising," dated February 8, 1990.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[CRS Report for Congress, Feb. 8, 1990]

### THE CONSTITUTIONALITY OF BANNING CIGARETTE ADVERTISING

(By Henry Cohen, Legislative Attorney, American Law Division)

#### SUMMARY

This report considers the constitutionality of totally banning cigarette advertising. The Federal Cigarette Labeling and Advertising Act currently makes it "unlawful to advertise cigarettes and little cigars on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission. Although the Supreme Court has upheld the constitutionality of this banning of cigarette advertising on radio and television, a prohibition that included the print media could be treated differently. Nevertheless, it appears likely that a total prohibition would be found to be constitutional.

The First Amendment to the United States Constitution provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press' . . ." The Supreme Court has held that the First Amendment, notwithstanding this broad language, is not absolute. Some speech, such as obscenity, it does not protect at all. Other speech, such as commercial speech, it "accords a lesser protection to . . . than to other constitutionally guaranteed expression."

In *Central Hudson Gas & Electric Corp.* v. *Public Service Commission of New York*, the Court set forth the test to be used to determine the constitutionality of governmental restrictions on commercial speech. For such a restriction to be constitutional, it must meet a four-prong test. This test asks initially (1) whether the commercial speech at issue is protected by the First Amendment (that is, whether it concerns a lawful activity and is not misleading) and (2) whether the asserted governmental interest in restricting it is substantial. "If both inquiries yield positive answers," then to be constitutional the restriction must (3) "directly advance[ ] the governmental interest asserted," and (4) be "not more extensive than is necessary to serve that interest."

Applying this test, as elaborated in more recent Supreme Court cases, to a total ban on cigarette advertising, this report concludes that such a ban would likely be upheld as constitutional.

This report considers the constitutionality of totally banning cigarette advertising.[1] The Federal Cigarette Labeling And Advertising Act[2] currently makes it "unlawful to advertise cigarettes and little cigars on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission."[3] Although the Supreme Court has upheld the constitutionality of this banning of cigarette advertising on radio and television,[4] a prohibition that included the print media could be treated differently. Nevertheless, it appears likely that a total prohibition would be found to be constitutional.

### COMMERCIAL SPEECH

The First Amendment to the United States Constitution provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press. . . ."[5] The Supreme Court has held that the First Amendment, notwithstanding this broad language, is not absolute. Some speech, such as obscenity, it does not protect at all.[6] Other speech, such as commercial speech, it "accords a lesser protection to . . . than to other constitutionally guaranteed expression."[7]

In 1942, the Supreme Court held "that the Constitution impose no. . . restraint on government as respects purely commercial advertising."[8] However, in 1975, the Court granted First Amendment protection to an advertisement that "did more than simply propose a commercial transaction. It contained factual material of clear 'public interest.'"[9] The next year, the Court held that even speech that does "no more than propose a commercial transaction" is entitled to some First Amendment protection.[10] Subsequent cases have spelled out the degree of First Amendment protection to be accorded to commercial speech.

In Central Hudson Gas & Electric Corp. v. Public Service Commission of New York,[11] the Court set forth the test to be used to determine the constitutionality of governmental restrictions on commercial speech. For such a restriction to be constitutional, it must meet a four-prong test. This test asks initially (1) whether the commercial speech at issue is protected by the First Amendment (that is, whether it concerns a lawful activity and is not misleading) and (2) whether the asserted governmental interest in restricting it is substantial. "If both inquiries yield positive answers," then to be constitutional the restriction must (3) "directly advance[ ] the governmental interest asserted," and (4) be "not more extensive than is necessary to serve that interest."[12]

In subsequent cases, the Supreme Court elaborated on the commercial speech doctrine set forth in Central Hudson. In Posadas de Puerto Rico Associates v. Tourism Company of Puerto Rico,[13] the Court upheld a Puerto Rico statute that, as interpreted by the Superior Court of Puerto Rico, prohibited the advertising of gambling parlors (which were legal) in Puerto Rico, unless the advertisements were addressed to tourists.[14] Applying the Central Hudson test, the Court first noted that the advertising at issue "concerns a lawful activity and is not misleading or fraudulent."[15] Applying the second prong of the test, the Court had "no difficulty in concluding that the Puerto Rico Legislature's interest in the health, safety, and welfare of its citizens constitutes a 'substantial' governmental interest."[16]

As for the third prong, the Court found reasonable the Puerto Rico legislature's view that restricting advertising would directly advance the governmental interest by reducing the demand for the product advertised. The Court also cited with approval a statement from an earlier case that the third prong of Central Hudson is satisfied where the legislative judgment is "not manifestly unreasonable."[17]

The Court then concluded: "We also think it clear beyond preadventure that the challenged statute and regulations satisfy the fourth and last step of the Central Hudson analysis, namely, whether the restrictions on commercial speech are no more extensive than necessary to serve the government's interest."[18]

Although the Court had said all that was necessary to uphold the statute under the Central Hudson test, it then added dicta that has become the most noted aspect of its opinion. The gambling casino that challenged the statute had argued that the restrictions on advertising for gambling were unconstitutional under two Supreme Court decisions that had struck down bans on advertisements for, respectively, contraceptives and abortion clinics.[19] The Court responded:

We think appellant's argument ignores a crucial distinction between the Carey and Bigelow decisions and the instant case. In Carey and Bigelow, the underlying conduct that was the subject of the advertising restrictions was constitutionally protected and could not have been prohibited by the State. Here, on the other hand, the Puerto Rico Legislature surely could have prohibited gambling by the residents of Puerto Rico altogether. In our view, the greater power to completely ban casino gambling necessarily includes the lesser power to ban advertising of casino gambling, and Carey and Bigelow are hence inapposite . . .

"It would surely be a strange constitutional doctrine which would concede to the legislature the authority to totally ban a product or activity, but to deny to the legislature the authority to forbid the stimulation of demand for the product or activity through advertising on behalf of those who would profit from such increased demand. Legislative regulation of products or activities deemed harmful, such as cigarettes, alcoholic beverages, and prostitution, has varied from outright prohibition on the one hand . . . to legalization of the product or activity with restrictions on stimulation of its demand on the other hand. . . . To rule out the latter, intermediate response would require more than we find in the First Amendment."[20]

Serious doubts may be raised as to the likelihood that this dictum will become law. It was expressed by the majority in a 5 to 4 opinion, with the four dissenters still on the Court but only three of the five members of the majority still on the Court.[21] Furthermore, this dictum seems inconsistent with prior Supreme Court decisions that have indicated that, under the Constitution, it is generally more permissible for a legislature to ban an activity than to ban speech. This is because, generally speaking, speech, and not activities, is protected by the First Amendment. One commentator has said:

"[A]ny suggestion that the power to prohibit an act must also carry with it the power to prohibit speech about it is clearly wrong. . . . [S]uch an argument stands our constitutional system on its head, by completely ignoring the value of free speech and autonomous choice in our society. Banning speech is much more dangerous than banning action. That's what the First Amendment is all about. When Virginia attempted to manipulate lawful consumer behavior by flatly banning advertisements for New York abortion clinics, the Supreme Court correctly ruled that Virginia lacked power to use censorship to manipulate lawful consumer choice. When New York attempted to manipulate lawful consumer behavior by flatly banning advertisements for electric heat, the Supreme Court correctly ruled that New York lacked the power to use information control to manipulate behavior."[22]

Even if one discounts the dicta in *Posadas*, it seems clear that the overall impact of the case was to make it easier for the government to regulate commercial advertising of legal products. The Court, as noted above, indicated that it would find the third prong of *Central Hudson* satisfied where the legislative judgment was "not manifestly unreasonable."[23] When the Court applied the fourth prong, holding that the advertising restriction was not more extensive than necessary, it left it "up to the legislature to decide" that "suppressing commercial speech that might encourage . . . gambling" would be more effective than "promulgating additional speech designed to *discourage* it."[24]

In *Board of Trustees of the State University of New York v. Fox*,[25] its most recent commercial speech decision, the Supreme Court made it still easier for the government to satisfy the fourth prong of the *Central Hudson* test. The State University of New York (SUNY) had promulgated regulations denying authorization "to private commercial enterprises to operate on State University campuses or in facilities furnished by the University," with exceptions for selling food, dry cleaning, and several other specific types of goods and services.[26] A company that did not come within any of these exceptions sought to hold a "Tupperware party" in a campus dormitory, and sued—together with students of the University—when it was prevented from doing so.

The Supreme Court quickly passed over the first three prongs of the *Central Hudson* test, finding no basis in them for striking down the SUNY regulations. The substantial governmental interests that the regulations sought to advance were "promoting an educational rather than commercial atmosphere on SUNY's campuses, promoting safety and security, preventing commercial exploitation of students, and preserving residential tranquility."[27]

As for the fourth prong—that a restriction on commercial speech not be more extensive than "necessary"—the Court held that it is not to be interpreted "strictly" to require the legislature to use the "least restrictive means" available to accomplish its purpose.[28] Instead, the Court held, legislation regulating commercial speech is to be upheld if there is a "'fit' between the legislature's ends and the means chosen to accomplish those ends,"—a fit that is not necessarily perfect, but reasonable; that represents not necessarily the single best disposition but one whose scope is "in proportion to the interest served"; that employs not necessarily the least restrictive means but, as we have put it in other contexts * * *, a means narrowly tailored to achieve the desired objective.[29]

The Court added that it rejected the contention that the test we have described is overly permissive. It is far different, of

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FOOTNOTES AT END OF ARTICLE

course, from the "rational basis" test used for Fourteenth Amendment equal potection analysis. There it suffices if the law could be thought to further a legitimate governmental goal, without reference to whether it does so at inordinate cost. Here we require the government goal to be substantial, and the cost to be carefully calculated. * * * By declining to impose, in addition, a least-restrictive-means requirement, we take account of the difficulty of establishing with precision the point at which restrictions become more extensive than their objective requires, and provide the legislative and executive branches needed leeway in a field (commercial speech) "traditionally subject to governmental regulation." Far from eroding the essential protections of the First Amendment, we think this disposition strengthens them. "To require a parity of constitutional protection for commercial and noncommercial speech alike could invite dilution, simply by a leveling process, of the force of the Amendment's guarantee with respect to the latter kind of speech."[30]

Thus, with respect to the fourth prong of the *Central Hudson* test, *Posadas* indicated that the government would be accorded significant deference in its determination that a restriction on commercial speech was not more extensive than necessary. *Fox* indicates that the word "necessary" is not to be taken literally, or, at least, in the Court's words, "is sometimes used more loosely" than a least-restrictive-means test would suggest.

### RADIO AND TELEVISION ADVERTISING

The broadcast media traditionally has had less First Amendment protection than other media. In *Red Lion Broadcasting Co.* v. *Federal Communications Commission*, the Supreme Court explained:

"Where there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish."[31]

In *Red Lion*, the Supreme Court upheld the constitutionality of the Federal Communication Commission's "fairness doctrine," which required broadcast media licensees to provide coverage of controversial issues of interest to the community and to provide a reasonable opportunity for the presentation of contrasting viewpoints on such issues.

Communication over cable television, unlike communication over ordinary television, has been held to be entitled to full First Amendment protection; for example, pornography on cable apparently cannot be banned except to the limited extent that it can be banned in the print media.[32] In *Wilkinson* v. *Jones*,[33] the Supreme Court affirmed without a written opinion a case in which the district court, in the course of striking down the Utah Cable Television Programming Decency Act, noted several differences between cable and broadcasting. For one, "[i]n the cable medium, the physical scarcity that justifies content regulation in broadcasting is not present."[34] For another, as a subscriber medium, "cable TV is not an intruder but an invitee whose invitation can be carefully circumscribed."[35]

Arguably, the fact that the physical scarcity rationale is inapplicable to cable makes it inapplicable to broadcasting also. This is because a person who because of the scarcity of broadcasting channels cannot start a broadcasting channel can start a cable channel. In *Federal Communications Commission* v. *League of Women Voters of California*, the Supreme Court wrote:

"The prevailing rationale for broadcast regulation based on spectrum scarcity has come under increasing criticism in recent years. Critics * * * charge that with the advent of cable and satellite television technology, communities now have access to such a wide variety of stations that the scarcity doctrine is obsolete. * * * We are not prepared, however, to reconsider our longstanding approach without some signal from Congress or the FCC that technological developments have advanced so far that some revision of the system of broadcast regulation may be required."[36]

In 1987, the FCC abolished the "fairness doctrine" on First Amendment grounds, noting that technological developments and advancements in the telecommunications marketplace have provided a basis for the Supreme Court to reconsider its holding in *Red Lion Broadcasting*. The FCC's decision was upheld by a federal appeals court, and the Supreme Court declined to review the case.[37] The court of appeals did not rule on constitutional grounds, but rather concluded "that the FCC's decision that the fairness doctrine no longer served the public interest was neither arbitrary, capricious nor an abuse of discretion, and [we] are convinced that it would have acted on that finding to terminate the doctrine even in the absence of its belief that the doctrine was no longer constitutional."[38]

As noted above, the Supreme Court, without a written opinion, in 1972 upheld the statute that prohibits cigarette advertisements on the broadcast media.[39] The lower court had found that "there exists a rational basis for placing a ban on cigarette advertisements on broadcast facilities while allowing such advertisements in print. * * * Congress knew of the close relationship between cigarette commercial broadcast on the electronic media and their potential influence on young people. * * *"[40]

This decision was made before commercial speech gained constitutional protection, and before the scarcity rationale for according lesser First Amendment protection to broadcast media arguably began to lose its force. Nevertheless, it has not been overturned. Of course, if cigarette advertising may be banned in the print media, despite its being entitled to full First Amendment protection, then it may be banned in broadcast media, albeit not for the reasons that sufficed in 1972.

### APPLICATION OF THE CENTRAL HUDSON TEST TO CIGARETTE ADVERTISEMENTS IN THE PRINT MEDIA

The *Central Hudson* test, to reiterate, asks initially (1) whether the commercial speech at issue is protected by the First Amendment (that is, whether it concerns a lawful activity and is not misleading) and (2) whether the asserted governmental interest in restricting it is substantial. "If both inquiries yield positive answers," then to be constitutional the restriction must (3) "directly advance[ ] the governmental interest asserted," and (4) be "not more extensive than is necessary to serve that interest."[41]

Applying the test to legislation that totally banned cigarette advertising, one would first assume that the sale of cigarettes whose advertising was banned was legal and was not misleading. (If it were otherwise, then advertising could be banned without regard to the *Central Hudson* test.) Next, one would ask whether the government had a substantial interest in the advertising prohibition. This question could be answered in the affirmative by citing the Supreme Court's finding in *Posadas* that the government's "interest in the health, safety, and welfare of its citizens constitutes a 'substantial' governmental interest."[42]

As for the third prong of the test—that the advertising prohibition must directly advance the governmental interest—as noted above, the Supreme Court in *Posadas* cited with approval a statement from an earlier case that it is satisfied where the legislative judgment is "not manifestly unreasonable."[43] In both *Central Hudson* and *Posadas*, the Court found it reasonable to believe that restricting advertising would reduce the demand for the product advertised in those cases.[44] There seems little chance that it would find differently in the case of cigarettes.

In addition, in *Posadas*, when the Court applied the third prong of the *Central Hudson*, it found that it did not matter "that the challenged advertising restrictions are under inclusive because other kinds of gambling such as horse racing, cockfighting, and the lottery may be advertised to residents of Puerto Rico. * * * [T]he legislature's interest * * * is not necessarily to reduce demand for all games of chance, but to reduce demand for casino gambling."[45] Therefore, it appears that if cigarette advertisements were banned, cigarette companies could not successfully argue that Congress had not banned advertisements for other dangerous products.

Finally, the fourth prong of the test—that the prohibition not be more extensive than necessary to serve the government's interest—would also seem unlikely to present a problem for the statute. Prior to *Fox*, a cigarette company challenging the prohibition might have succeeded—although it is by no means certain—by arguing that alternatives to a total ban, such as stronger health warnings or more anti-smoking advertisements, would be as effective in advancing the government's interest. After *Fox*, it seems very unlikely that a cigarette company could successfully argue that an advertising prohibition did not represent a reasonable "'fit' between the legislature's ends and the means chosen to accomplish those ends."[46]

In conclusion, it seems likely that a total ban on cigarette advertising would be upheld by the Supreme Court as constitutional.

HENRY COHEN,
*Legislative Attorney, American Law Division, February 8, 1990.*

### FOOTNOTES

[1] The report does not discuss specific legislative proposals. For information on pending bills, see "Cigarette Advertising Bans and Other Tobacco-Related Proposals," by Bruce Mulock (CRS Issue Brief 86105, continually updated).

[2] 15 U.S.C. §§1331-1341.

[3] 15 U.S.C. §1335. This statute also requires specified warning labels on all cigarette packages distributed in the United States and on all cigarette advertisements within the United States. The warnings must be rotated quarterly in accordance with Federal Trade Commission regulations. 15 U.S.C. §1333.

[4] Capital Broadcasting Co. v. Mitchell, 333 F. Supp. 582 (D.D.C. 1971), *aff'd without opinion*, 405 U.S. 1000 (1972).

[5] This restriction also applies to state and local governments. Gitlow v. New York, 268 U.S. 652 (1925).

[6] Miller v. California, 413 U.S. 15 (1973).

[7] Central Hudson Gas & Electric Corp. v. Public Service Commission of New York, 447 U.S. 557, 563 (1980).

[8] Valentine v. Chrestensen, 316 U.S. 52, 54 (1942).

[9] Bigelow v. Virginia, 421 U.S. 809, 822 (1975).

[10] Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, 425 U.S. 748, 762 (1976).

[11] Note 7, *supra*.

[12] *Id*. at 566.

[13] 478 U.S. 328 (1986).

[14] The statute on its face banned all advertising of gambling parlors in Puerto Rico but, in order to attract tourists, authorized it outside Puerto Rico. The Superior Court, in order to avoid declaring the statute unconstitutional, construed it to "allow, within the jurisdiction of Puerto Rico, advertising

by the casinos addressed to tourists, provided they do not invite the residents of Puerto Rico to visit the casino, even though said announcements may incidentally reach the hands of a resident." *Id.* at 335.

[15] Id. at 340-341.

[16] Id. at 341.

[17] Id. at 342, citing Metromedia, Inc. v. San Diego, 453 U.S. 490 (1981).

[18] Id. at 343.

[19] Carey v. Population Services International, 431 U.S. 678 (1977); Bigelow v. Virginia, 421 U.S. 809 (1975).

[20] 478 U.S. at 345-347.

[21] Justices Scalia and Kennedy have replaced Chief Justice Burger and Justice Powell. The four dissenters in Posadas, however, did not specifically dispute the majority's dicta. Rather, Justice Stevens, in an opinion joined by two of the other dissenters, wrote: "Whether a State may ban all advertising of an activity that it permits but could prohibit—such as gambling, prostitution, or the consumption of liquor—is an elegant question of constitutional law. It is not, however, appropriate to address that question in this case. . . ." Id. at 359.

[22] Testimony of Burt Neuborne, professor of law at the New York University, before the House Comm. on Energy and Commerce, Subcom. on Transportation, Tourism, and Hazardous Materials (April 3, 1987) at 84. The Supreme Court cases to which he alludes are, respectively, Bigelow v. Virginia, *supra*, and Central Hudson, *supra*.

[23] Note 17, *supra*.

[24] Id. at 344 (emphasis supplied by the Court).

[25] 109 S.Ct. 3028 (1989).

[26] Id. at 3030.

[27] Id. at 3032.

[28] Id.

[29] Id. at 3035 (citations omitted).

[30] Id. (citations omitted). (One might respond to the last point that it could justify any restriction at all on commercial speech.)

[31] 395 U.S. 367, 388 (1969).

[32] The First Amendment permits pornography to be banned in the print media only if it is "obscene," as defined in Miller v. California, 413 U.S. 15, 24 (1973).

[33] 611 F. Supp. 1099 (D. Utah 1985), *aff'd*, 800 F.2d 989 (10th Cir. 1986), *aff'd*, 107 S.Ct. 1559 (1987).

[34] 611 F. Supp. at 1112.

[35] Id. at 1113.

[36] 468 U.S. 364, 376 n.11 (1984).

[37] Syracuse Peace Council v. Federal Communications Commission, 867 F.2d 654 (D.C. Cir. 1989), *cert. denied*, 58 U.S.L.W. 3424 (U.S. Jan. 8, 1990).

[38] Id. at 669.

[39] Note 4, *supra*.

[40] 333 F. Supp. at 585-586.

[41] Note 12, *supra*.

[42] 478 U.S. at 341.

[43] Note 17, *supra*.

[44] 447 U.S. at 568; 478 U.S. at 342.

[45] 478 U.S. at 342.

[46] Note 29, *supra*.

Mr. HARKIN. Madam President, in their summary they point out that in Central Hudson Gas & Electric Corp. versus Public Service Commission of New York, the court set forth certain tests. And CRS said:

> Apply this test, as elaborated in more recent Supreme Court cases, to a total ban on cigarette advertising, this report concludes that such a ban would likely be upheld as constitutional.

Then, I have a Congressional Research Service report dated August 6, 1992. It says: "This memorandum is furnished in response to your inquiry," meaning my inquiry regarding cigarette advertising. They say that in an earlier report, they:

> * * * concluded that a total ban on cigarette advertising would likely be upheld by the Supreme Court as constitutional. This of course would include a regulation less than a total ban, such as the currently required warning labels or a limitation on the tax deductibility as a business expense of the cost of cigarette advertising.
>
> This conclusion was reached by applying the test prescribed by the Supreme Court for determining the constitutionality of a governmental regulation of commercial speech. Commercial speech is entitled to less protection under the First Amendment than most other forms of speech, and therefore the test for determining the constitutionality of a regulation of its is more lenient.
>
> No Supreme Court case decided since the date of the above CRS report provides any reason to alter our conclusion.

I ask unanimous consent that a copy of that memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
*Washington, DC, August 6, 1992.*

To: Hon. Tom Harkin. Attention: Phil Buchan.

From: American Law Division.

Subject: Constitutionality of Banning Cigarette Advertising.

This memorandum is furnished in response to your inquiry on the above subject. Our report, "The Constitutionality of Banning Cigarette Advertising" (CRS Report No. 90-82 A, Feb. 8, 1990), concluded that a total ban on cigarette advertising would likely be upheld by the Supreme Court as constitutional. This of course would include a regulation less than a total ban, such as the currently required warning labels or a limitation on the tax deductibility as a business expense of the cost of cigarette advertising.

This conclusion was reached by applying the test prescribed by the Supreme Court for determining the constitutionality of a governmental regulation of commercial speech.[1] Commercial speech is entitled to less protection under the First Amendment than most other forms of speech, and therefore the test for determining the constitutionality of a regulation of it is more lenient.

No Supreme Court case decided since the date of the above CRS report provides any reason to alter our conclusion. The "Son of Sam" case, for example, would have no relevance to the question of cigarette advertising because it did not involve commercial speech.[2] This case struck down a law that required that the profits of a criminal's writings about his crimes be held in escrow for the victims of his crimes. This type of writing is not commercial speech, because commercial speech is speech that "propose[s] a commercial transaction."[3] That books and films are published and sold for profit does not make them commercial speech; *i.e.*, it does not "prevent them from being a form of expression whose liberty is safeguarded [to the maximum extent] by the First Amendment."[4]

Likewise, the recent cross burning case would have no relevance because it did not involve commercial speech.[5] This case held that, although the government may proscribe fighting words, it may not make the further content discrimination of proscribing fighting words on the basis of hostility towards the underlying message expressed.

HENRY COHEN,
*Legislative Attorney.*

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[1] Central Hudson Gas & Electric Corp. v. Public Service Commission of New York, 447 U.S. 557 (1980), and subsequent cases.

[2] Simon & Shuster v. New York State Crime Victims Board, 116 L.Ed.2d 476 (1991).

[3] Board of Trustees of the State University of New York v. Fox, 492 U.S. 469, (1989).

[4] Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 501-502 (1952).

[5] R.A.V. v. City of St. Paul, No. 90-7675 (U.S. Sup. Ct. June 22, 1992).

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Last, Madam President, I have a letter dated September 18, 1992, from Laurence Tribe, Ralph S. Tyler, professor of constitutional law, Harvard University, perhaps one of the foremost, if not the foremost, constitutional authority in America. He said:

> Whatever I might personally think about the wisdom of this proposed amendment, or about its consistency with the First Amendment as I personally might construe it, it is my judgment as a constitutional scholar and as a student of the Supreme Court's First Amendment jurisprudence that the Court would almost certainly uphold the proposed amendment. Indeed, the standards used by the Supreme Court over the past twelve years to evaluate regulation and/or taxation of commercial speech leave little or no doubt that the Court would uphold the constitutionality even of a total ban on cigarette advertising.
>
> It is true that there have been a number of more recent cases, most notably *R.A.V. v. City of St. Paul*, 112 S. Ct. 2538 (1992), in which the Court has shown strong opposition to content-based regulation of speech, including entirely unprotected speech. But the proposed tax measure would bear no meaningful constitutional resemblance to cases of this sort. My conclusion is that, unless commercial speech were to be given considerably more First Amendment protection than it receives under current Supreme Court doctrine, the proposed amendment would pass constitutional muster.

Madam President, I ask unanimous consent the letter from Laurence Tribe be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HARVARD UNIVERSITY
LAW SCHOOL,
*Cambridge, MA, September 18, 1992.*

Hon. TOM HARKIN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HARKIN: I have analyzed your proposed amendment to H.R. 11, the Revenue Act of 1992, which would reduce the tax deductibility of cigarette and other tobacco product advertising and promotion from 100 percent to 80 percent and would use the funds generated from this change to support advertising designed to reduce the incidents of tobacco use, with a special emphasis on reducing use by children, pregnant women and minorities.

Whatever I might personally think about the wisdom of this proposed amendment, or about its consistency with the First Amendment as I personally might construe it, it is my judgment as a constitutional scholar and as a student of the Supreme Court's First Amendment jurisprudence that the Court would almost certainly uphold the proposed amendment. Indeed, the standards used by the Supreme Court over the past twelve years to evaluate regulation and/or taxation of commercial speech leave little or no doubt that the Court would uphold the constitutionality even of a total ban on cigarette advertising. See, e.g., *Posadas de Puerto Rico Assoc. v. Tourism Co. of Puerto Rico*, 478 U.S. 328, 346 (1986).

It is true that there have been a number of more recent cases, most notably *R.A.V. v. City of St. Paul*, 112 S. Ct. 2538 (1992), in which the Court has shown strong opposition to content-based regulation of speech, including entirely unprotected speech. But the proposed tax measure would bear no meaningful constitutional resemblance to cases of this sort. My conclusion is that, unless commercial speech were to be given considerably more First Amendment protection than it receives under current Supreme Court doctrine, the proposed amendment would pass constitutional muster.

Sincerely,

LAURENCE H. TRIBE.

Mr. HEFLIN. May I have 30 more seconds?

Mr. BENTSEN. I yield to the Senator from Alabama.

Mr. HEFLIN. Madam President, they quoted a letter from Laurence Tribe, pertaining to his prediction of constitutionality. I would simply like to point out that Laurence Tribe was wrong in his prediction on the question of the constitutionality of flag burning. In addition, since the Posadas case, which was a 5-4 decision, there have been two members of the court who have stepped down.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I yield 7 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. (Mr. DASCHLE). The Senator from Kentucky is recognized for 7 minutes.

Mr. McCONNELL. Mr. President, I rise in opposition to this amendment which seeks to limit the deductibility of the costs of advertising tobacco products. This is not the first time that Congress has considered similar restrictions on the deductibility of tobacco advertising. Those proposals have not been adopted and, similarly, this amendment should be rejected. It reflects unwise tax policy and impermissibly restricts our freedom of speech.

I have no doubts or illusions about what the proponents of this amendment are trying to accomplish here. Their hope is that limiting the deductibility of advertising expenses will curtail the advertisement of tobacco and eventually lead to that product's demise. Can we rationalize social engineering because of the product, while we ignore the real impact this amendment will have on the American people? What does this say to American consumers?

To me, it clearly says, "we want you to have less information." That is what advertising is—consumer information. Our first amendment guarantees a free market for ideas and knowledge, and I can discern no credible argument for withholding knowledge from consumers.

The Harkin-Bradley amendment goes against the core principles of our country. Americans do not and will not tolerate information rationing and restrictions by our government. The attempt to change and control our behavior by manipulating information and ideas is reminiscent of the Communist rule which many nations are abandoning.

You will hear arguments that tobacco product advertisements are misleading and I would agree. Most advertising is misleading and it is so by design. No one would advertise their product by saying that it is just an average hamburger. We use typical ground beef, run-of-the-mill tomatoes, and week-old buns. And we use the most average looking family in our ads to emphasize our slow, rude, and inconsistent service.

The brand of deodorant you use does not make you more confident and secure.

The breath mint you use does not assure attraction by the opposite sex.

And I have yet to meet anybody who has spent time with the Swedish bikini team because of the beer they drink.

Are we such slaves to the power of advertising?

Anti-smoking activists have placed an almost magical importance on advertising's effectiveness. They argue that cigarette companies advertise to recruit new consumers. However, the consumption of tobacco products has declined at a rate of 2 to 3 percent annually for more than a decade.

In marketing terms, tobacco is a mature product and advertising to increase total consumption is ineffective.

Marketing of the product focuses more on increasing brand loyalty and taking customers away from competitors. An October 1991, Wall Street Journal article reports that 71 percent of people who smoke are brand loyal. This means that 29 percent frequently switch their brand. All companies use advertising not only to get people to switch brands, but to make sure their present customers do not desert them and switch to other brands.

There is no empirical evidence from available studies which proves that advertising creates the desire to initiate smoking and maintain smoking habits. The facts are, people form their attitudes about smoking at an early age and it is well accepted that parents, other family members, and peers are the overriding factor in shaping an individual's attitude about tobacco products. The problem is not that children need to be told about smoking, but that parents and family members need to take responsibility and lead by example, something that advertising has no effect on at all.

Recently, the Quebec superior court struck down Canada's tobacco advertising ban, because they found evidence supporting the purported link between tobacco advertising bans and consumption to be "deficient, if not nonexistent." Once again, it is clear that the product is being attacked, not advertising.

It is no secret that I am a strong supporter of our Nation's tobacco farmers. My home State of Kentucky has a proud, 300-year heritage built on tobacco. Kentucky has nearly 150,000 farms which hold allotments to grow tobacco and we have 60,000 farmers who depend on the production of tobacco for all or part of their income. The crop contributes more than $5 billion to my State's economy and $40 billion nationwide.

This amendment is one more attempt in the effort to put tobacco farmers out of business. However, this specific amendment does more than threaten our tobacco farmers. It threatens the very principles our Nation was founded on: freedom of speech.

The amendment before us would do violence to the first amendment principles which the Supreme Court has long recognized in the case of advertising. This type of content-based regulation of speech, proposed here in the amendment before us, is something Congress should not endorse.

This amendment unabashedly targets a particular commercial product and subjects that product to unfavorable tax treatment. In the case of Speiser versus Randall the Supreme Court ruled that "speech can be effectively limited by the exercise of the taxing power." The reduction of the tax deduction would have the effect of "limiting the circulation of information to which the public is entitled," or put more simply, suppressing disfavored speech.

Today's proposal targets tobacco, but what's next? Perhaps next time we'll be considering limiting the tax deductibility of advertising expenses of fast foods, because some deem it bad policy to advertise foods high in fat content. What about gasoline? Will some suggest that we should limit the deductibility of gasoline advertising expenses in order to promote public transit?

The proponents are not even reserved about the underlying effects of their amendment. It is clear that the amendment is intended to stifle free speech, and restrict the free flow of information. The course upon which this amendment would set us is a dangerous and unchartered one, and I believe we must resist undertaking it.

Efforts to reduce the advertising of tobacco products will not solve the tobacco and related health issues. Limitations will merely change marketing strategies of legal products to qualified, informed consumers.

Extensive surveys indicate there is already an extremely high awareness of, and belief in, the reported health consequences of smoking. A 1985 Audits and Surveys Inc. study reported that 99 percent of individuals contacted "had heard that cigarette smoking is dangerous." There is absolutely no evidence to support the claim that there is a lack of information on smoking and health.

This amendment would take the net revenue generated, if any, and distribute it to every State. While the language of this amendment does not specifically spell out how these tax credits will be provided to the States, the

"Dear Colleague" letter which was sent, suggests funding 50 separate statewide antismoking campaigns. This means that States have the discretion to use the Federal Income Tax Code to distribute tax credits as they see fit. There does not appear to be any Federal criteria or uniformity in how this amendment would actually be carried out.

This amendment is an attempt to use the Tax Code as an instrument of social policy. This proposal constitutes an ill-advised attempt by Government to influence consumer choice by restricting the flow of truthful information about lawful products, through manipulation of the Tax Code, thus obstructing the intelligent exercise of consumer choice.

The desire to place content-based limits on speech is a most dangerous step to make for a nation which takes pride in its freedom.

Mr. President, I must respectfully disagree with the authors of this amendment who suggest this is a very modest proposal. This is a very serious threat to the first amendment of the Constitution. The amendment turns over Federal tax revenues to every State for their distribution. The amendment would reduce advertising revenues by millions of dollars resulting in lost jobs, and would have a ripple effect on the $40 billion which the tobacco industry contributes to the gross national product of this country. There are many problems which lurk in this proposal, and I strongly urge my colleagues to vote against the amendment.

I ask unanimous consent a number of letters and articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MEDIA COALITION, INC.,
*New York, NY, September 16, 1992.*

Hon. MITCH MCCONNELL,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: The members of The Media Coalition, who represent most of this country's book and magazine publishers, booksellers, magazine wholesalers and distributors, recording companies and video and recording retailers, have asked me to express their opposition to efforts to limit the deductibility of advertising. It is reported that you and Senator Harkin may seek such limits through amendments to H.R. 11. If enacted, these restrictions would establish a precedent that could be used to inhibit the distribution of a wide variety of books, magazines, recordings and motion pictures that are protected by the First Amendment.

It is reported that you may seek to limit the deductibility of advertising for books, magazines, recordings and movies with sexual content. Senator Harkin has reportedly proposed to raise money for anti-tobacco advertisements by decreasing the tax deductibility of tobacco promotions by 20 per cent. Both proposals would increase the cost of advertising the specified products. In the case of your reported amendment, the "products" are literary works and other materials that are constitutionally protected.

Limiting the deductibility of advertising would open a Pandora's Box. The United States contains a multitude of groups whose values are in conflict. It is one of the strengths of our system that these conflicts are reflected in our books, magazines, recording and movies: the purpose of the First Amendment is to provide an atmosphere of freedom in which conflicting ideas may be debated. If the Congress begins to limit the deductibility of advertising, groups will lobby in an effort to penalize the producers and distributors of products they dislike, including books and other works dealing with controversial subjects. Our conflicts would be resolved not through the clash of opinions but by the struggle to control a majority in Congress. The right of free speech would be seriously undermined.

Please reconsider the idea of decreasing the deductibility of advertising.

Sincerely yours,

CHRISTOPHER FINAN,
*Executive Director.*

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MAGAZINE PUBLISHERS OF AMERICA,
*Washington, DC, August 10, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: The Magazine Publishers of America, the principal association representing the consumer magazine industry, strongly urges you to oppose the Harkin amendment on tobacco advertising.

This amendment—which would reduce from 100 to 80% the allowable deduction for advertising costs for tobacco products as an ordinary business expense—is totally inconsistent with the doctrine of commercial speech carefully developed over the past two decades by the U.S. Supreme Court. Under that doctrine, commercial speech may be restricted only if the governmental stricture is narrowly tailored to achieve a legitimate and substantial public interest. Clearly, to reduce a generally available deduction for ordinary business expenses for the advertising of a lawful product cannot be viewed as narrowly tailored in any sense.

The precedent that such an amendment—which, in the view of the U.S. Supreme Court, would impose "a financial burden on speakers because of the content of their speech"—would set for other lawful products that others might view as harmful would be extremely unwise and imprudent. The decline in tobacco use over the past two decades demonstrates convincingly that the most effective course of action is to encourage more information, not less.

We urge you to oppose the Harkin amendment.

Sincerely,

GEORGE GROSS.

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ASSOCIATION OF
NATIONAL ADVERTISERS, INC.,
*Washington, DC, September 14, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR MCCONNELL: Enclosed is a letter from the eminent legal expert, Professor Burt Neuborne of New York University's School of Law, which systematically analyzes Senator Harkin's amendment to H.R. 11. The Harkin amendment limits the tax deductibility of tobacco advertising. Professor Neuborne concludes that the amendment is unconstitutional and that the underlying premises of the amendment are "inconsistent with generally accepted principles of tax policy."

Our Association, which represents national advertisers who collectively account for over 80 percent of all annual regional and national advertising expenditures in this country, believe the Harkin amendment would create severely damaging precedents threatening all of our Members. We therefore hope that you will carefully consider the important points contained in the enclosed letter before casting your vote on this critical matter. We strongly urge that you defeat this ill-considered proposal.

Sincerely,

DANIEL L. JAFFE.

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NEW YORK UNIVERSITY,
*New York, NY, September 14, 1992.*

Mr. DEWITT F. HELM, Jr.,
*President, Association of National Advertisers, Inc., New York, NY.*

DEAR DEWITT: You have asked my opinion of the legal merits of a proposed amendment to the Internal Revenue Code limiting the tax deductibility of advertising and promotion expenses for tobacco products and a linked provision establishing a tax credit for so-called "stop smoking promotion expenditures". As you know, I am a Professor of Law at New York University and served as National Legal Director of the American Civil Liberties Union from 1982–1986. Much of my career as an academic and a public interest lawyer has been spent in defending the First Amendment against well-intentioned efforts by the government to censor or manipulate protected speech.

In addition to the tax policy flaws of the proposed bill discussed below, I believe that the bill is an unconstitutional attempt to tax speech differentially on the basis of content. Under the bill, "bad speech", consisting of lawful advertisements for tobacco products is penalized, while "good speech", consisting of anti-smoking messages is favored. One can hardly imagine a clearer case of content-based discrimination.

Twice in the past Term, the Supreme Court reminded us that the First Amendment takes the government out of the business of discriminating between "bad speech" and "good speech". In *R.A.V.* v. *City of St. Paul*, 60 USLW 4667 (June 22, 1992), the Court struck down a law banning hate speech because it singled out certain offensive utterances for negative treatment because of its content. Similarly, in *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 112 S.Ct. 501 (1991), the Court struck down a law that treated book royalties earned by a convicted criminal worse than other types of property owned by the criminal. In both cases, the Court noted that government was attempting to treat speech differentially on the basis of content. In both cases, a well-intentioned legislative program was invalidated.

The Supreme Court's aversion to content based regulation of speech is nothing new. In case after case, the Court has invalidated efforts to impose differential tax consequences on speech on the basis of content. In *Minneapolis Star & Tribune Co.* v. *Minnesota Comm'r of Revenue*, 460 U.S. 575 (1983), for example, the Court invalidated an attempt to impose differential tax rules on large and small newspapers, holding that the tax differential permitted government to use the tax law to benefit "good speech" and to penalize "bad speech". Similarly, in *Arkansas Writers Project, Inc.* v. *Ragland*,, 481 U.S. 221 (1987), the Court struck down efforts to exempt certain magazines from taxes based on content. The Court stressed that the First Amendment forbids government from manipulating tax liability to benefit speech that it likes and penalize speech that it dislikes. See also *Grosjean* v. *American Press Co.*, 297 U.S. 333 (1936) (invalidating differential tax rates on newspapers).

Indeed, in *Leathers* v. *Medlock*, 111 S.Ct. 1438 (1991), the only Supreme Court case to uphold differential taxes on categories of speakers (cable operators and print media), the Court stressed that there was no possibility of manipulating tax liability on the basis of content, since each category of speaker carried essentially the same content. Justice O'Connor, writing for the Court in *Leathers*, summed up the law succinctly:

> *Regan* v. *Taxation with Representation* stands for the proposition that a tax scheme that discriminates among speakers does not implicate the First Amendment unless it discriminates on the basis of ideas. [O]n the record in *Regan*, there appeared [no] 'hostile or oppressive discrimination'. We explained that the case would be different if Congress were to discriminate invidiously in its subsidies in such a way as to aim at the suppression of dangerous ideas.

Unfortunately, the proposed bill is an example of precisely the conduct that Justice O'Connor condemned. It is an open effort to manipulate tax liability in an effort to discourage lawful speech with which the bill's sponsors disagree. Accordingly, I believe that it is unconstitutional.

The bill's constitutional flaws are magnified by the obvious link between the denial of deductions for tobacco advertisements and the grant of credits for anti-smoking speech. The bill is designed to be revenue neutral, with increased tax receipts from the tobacco companies to be offset by decreased tax payments by favored speakers. In effect, the bill uses the tax law to shift funds from tobacco companies to opponents in order to finance anti-smoking messages. As such, it is an unlawful attempt to force tobacco companies to fund speech with which they disagree. But the First Amendment forbids the government from forcing a speaker to use his property to subsidize speech with which he disagrees. E.g. *Pacific Gas & Electric Co.* v. *Public Utilities Comm'n*, 475 U.S. (1986); *Wooley* v. *Maynard*, 430 U.S. 705 (1977); *Elrod* v. *Burns*, 427 U.S. 347 (1976); *Abood* v. *Detroit Bd. of Education*, 431 U.S. 209 (1977); *Miami Herald Pub. Co.* v. *Tornillo*, 418 U.S. (1974).

In addition to its First Amendment flaws, I believe that the proposed legislation, while undoubtedly well-motivated, is an unwise effort to use the Internal Revenue Code as a means of regulating private behavior. At a time when the economy is in an extremely fragile state and the deficit is at crisis levels, it seems wrong to tinker with the tax code in an effort to regulate behavior. Especially in times of economic difficulty, national tax policy should be forged by revenue needs and economic analysis and not by a desire to influence private behavior. If, for example, Congress attempted to regulate abortion by denying doctors deductions for business expenses, I believe that the bill's sponsors would immediately agree that tax law is not the way to approach the problem. It is, I believe, equally wrong to attempt to regulate smoking by manipulating the income tax laws.

Moreover, the legislation appears to rest on an unsound tax premise. The bill's sponsors argue that it merely removes a subsidy from tobacco advertising. The legislation appears to assume that the federal government is morally entitled to tax any and all of the property of its citizens and that decisions not to tax something, either through the vehicle of a tax deduction, a tax credit or a tax exemption, are acts of discretionary legislative grace that are the equivalent of government subsidies. With respect, such a "statist" view of the tax system is inconsistent with its basic premises. Americans start, not with an assumption that everything potentially belongs to the tax collector (with decisions not to tax treated like discretionary subsidies), but with the opposite assumption that government must justify its decision to tax. A basic tenet of the tax system is that income taxes are to be imposed on net income, after expenses of production have been deducted. When government recognizes the deductibility of the expenses of producing income, it does not do the taxpayer a discretionary favor. Rather, exempting the costs of production from a tax on income merely respects the fact an income tax cannot be legitimately imposed on anything other than net economic gain. Thus, allowing taxpayers to deduct advertising expenses in calculating taxable income is not an act of legislative grace. It is an obligation inherent in our conception of limited government and equitable income taxation.

An income tax deduction, like the deduction for advertising, that merely reflects the true cost of producing taxable income is not the equivalent of a government subsidy. Unlike a true subsidy, the government never acquired a right to the property that it purports to be giving back to the taxpayer. If every tax deduction were equated with a subsidy regardless of its economic justification, the entire tax code would be plunged into endless contention. Every decision to allow a deduction would be viewed as both a government endorsement and a form of government aid. But tax deductions that mirror economic reality are neither. Unfortunately, the bill confuses the economic justification for a deduction with the political issue of whether the conduct involved is popular. It would, however, be a prescription for economic disaster and Big Brother government to attempt to build a tax code on popularity rather than economics.

Thus, I believe that the proposed bill violates the First Amendment and is inconsistent with generally accepted principles of tax policy.

Sincerely yours,

BURT NEUBORNE.

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ASSOCIATION OF NATIONAL ADVERTISERS, INC.,
*Washington, DC, September 23, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate, Washington, DC.*

DEAR SENATOR MCCONNELL: The Association of National Advertisers, Inc. recently received copies of a letter from Harvard University Law School Professor Laurence Tribe and the September 22, 1992 Memorandum from Henry Cohen, Legislative Attorney with the Congressional Research Service, regarding the Harkin amendment and the constitutionality of banning or restricting tobacco advertising.

Several points need to be made about Professor Tribe's letter. First, it is very interesting that he felt it necessary in the letter to underline that he was taking no position on "the wisdom of this proposed amendment, or about its consistency with the First Amendment as I personally might construe it . . ." Professor Tribe, however, was willing to predict that the Supreme Court, under Chief Justice Rehnquist, would uphold the proposal.

While Professor Tribe is a respected constitutional scholar, his batting record as a prognosticator of Supreme Court decisions on First Amendment cases has been far from perfect. For example, just last year his confident prediction of the Court's decision in the flag burning case turned out to be completely wrong.

With regard to the September 22, 1992 CRS Memorandum and the 1990 CRS Report, which conclude that the United States Supreme Court would uphold a ban or other restriction of tobacco advertising, both are based, in several respects, on a misreading of the Court's First Amendment cases.

First, the conclusion of the 1990 CRS Report is based largely on a review of *dictum* from the Court's decision in *Posades de Puerio Rico Associates v. Tourism Co. of Puerto Rico*, 478 U.S. 328 (1986). In fact, the CRS Report itself expresses serious doubt about whether this dictum represents the Court's view on First Amendment issues: "Serious doubts may be raised as to the likelihood that this dictum will become law. It was expressed by the majority in a 5 to 4 opinion, with the four dissenters still on the Court but only three of the five members of the majority still on the Court. Further, this dictum seems inconsistent with prior Supreme Court decisions that have indicated that, under the Constitution, it is generally more permissible for a legislature to ban an activity than to ban speech. This is because, generally speaking, speech, and not activities, is protected by the First Amendment." (page CRS-4).

It is important to note that in a series of commercial speech cases since *Posades* in 1986, the Supreme Court has never followed the *dictum* referred to in the CRS Report.

Second, the September 22nd Memorandum suggests that the two most recent First Amendment decisions of the Court have no relevance to the issue of banning or restricting tobacco advertising because they do not involve commercial speech. This is a simplistic and unpersuasive conclusion. It is true that neither of the cases, *Simon & Schuster, Inc. v. Members of the New York State Crime Victims Board*, 112 S.Ct. 501 (1991), or *R.A.V. v. City of St. Paul*, 60 USLW 4667 (June 22, 1992), directly involve commercial speech. However, in each case, the Court set forth a broad analysis of First Amendment policy which clearly offers lessons to the Congress as it considers proposals to ban or restrict commercial speech.

Indeed, the Court's analysis in *R.A.V.* specifically cited three commercial speech cases in support of its conclusion. While the *R.A.V.* case did not directly involve commercial speech, this certainly did not preclude the majority from discussing commercial speech issues in the context of its broad First Amendment analysis. In fact, the Court in *R.A.V.* specifically discussed when commercial speech could be differentially regulated, but significantly did not suggest that content-based distinctions would be permissible.

The Supreme Court has consistently recognized First Amendment protection for commercial speech since 1976. First Amendment cases thus are generally likely to have implications for commercial speech case law. It is simplistic to assert that First Amendment case law can be pigeonholed and separated into airtight commercial and noncommercial compartments.

In both of these cases, the Supreme Court held that the First Amendment takes the government out of the business of discriminating between "good speech" and "bad speech," based on its content. In *Simon &*

*Schuster*, the Court struck down a law that treated book royalties earned by a convicted criminal worse than other types of property owned by the criminal. In *R.A.V.*, the Court held that even the most offensive and reprehensible speech cannot be burdened on the basis of the viewpoint expressed. In both cases, the government was attempting to treat speech differently on the basis of its content, which is precisely what the Harkin amendment would do.

The Court's First Amendment decisions have created a rough hierarchy in the constitutional protection of speech. Core political speech has the highest level of protection; the Court has held since 1976 that commercial speech has somewhat less but still substantial First Amendment protection; obscenity and "fighting words" receive the least protection of all. In striking down the "hate speech" law in the *R.A.V.* case, the majority held: "Assuming, *arguendo*, that all of the expression reached by the ordinance is proscribable under the "fighting words" doctrine, we nonetheless conclude that the ordinance is facially unconstitutional in that it prohibits otherwise permitted speech solely on the basis of the subjects the speech addresses." (Emphasis added.)

If that form of speech that has the least First Amendment protection, "fighting words," cannot be restricted or banned on the basis of content, it would be a strange doctrine, indeed, to argue that commercial speech, which has more First Amendment protection, could be banned or restricted on the basis of content.

Finally, the September 22nd Memorandum completely ignores another serious First Amendment defect presented by the proposed Harkin amendment. That amendment would use the tax code to shift funds from tobacco companies to opponents in order to finance anti-smoking messages. In a series of cases, the Court has held that the First Amendment prohibits the government from forcing a speaker to use his property to subsidize speech with which he disagrees. See, for example, *Pacific Gas & Electric Co.* v. *Public Utilities Commission*, 475 U.S. 1 (1986). The CRS Study simply ignores these cases.

Contrary to the simplistic conclusion of the September 22nd Memorandum, we believe that the two most recent First Amendment cases have significant value for the consideration of Congress. Further, we believe that those cases and others demonstrate that the Supreme Court would not uphold a ban or restriction of tobacco advertising on First Amendment grounds. More importantly, as Sheldon Cohen, former I.R.S. Commissioner has pointed out, totally separate from the constitutional considerations, the Harkin amendment would create broad precedents that would severely undermine the tax code.

It is important to note that the Senate has never had the chance to fully examine these complex issues, since there have never been any hearings on the Harkin amendment.

With all best wishes.

Sincerely,

DANIEL L. JAFFE.

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SOFTWARE SYSTEMS INC.,
*Louisville, KY, September 10, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate Office Building,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: I understand that Senators Harkin and Bradley plan to offer an amendment to H.R. 11, The Revenue Act of 1992, to limit the business deduction for the cost of advertising tobacco products. This amendment represents a fundamental attack on all advertising and on the constitutional protection for commercial speech, yet the Senate Finance Committee has not held a hearing on this issue.

If the tax code can be used to penalize those companies that advertise and sell products we don't like, it can be used as a weapon against any form of controversial speech. If the proposal to limit the deductibility of advertising costs for tobacco products succeeds, what will be next?

A proposal to limit or deny the ordinary and necessary business deduction for advertising tobacco products singles out a specific form of speech and—because of its content—attempts to suppress it. The Supreme Court consistently has held that any government attempt to suppress protected expression because of its content is "so plainly illegitimate" as to render any law designed to achieve it automatically invalid. "*City of Los Angeles* v. *Taxpayers for Vincent*," 104 U.S. 2118, 2128 (1984).

The deduction of the cost to advertise any product is not a tax subsidy. The deduction is the same as the deduction for any other ordinary and necessary business expense. It constitutes no more of a subsidy for tobacco products than the deduction that any company, including tobacco companies, can take for the salaries of their employees, the cost of lighting and heating their buildings or the operation of their cars and trucks.

I strongly urge you to vote against any amendment to limit the deductibility of advertising expenditures for tobacco products or any other products. This debate is not over the use of tobacco products or the wisdom of federal tax policy. It is a fundamental debate over the freedom of commercial speech, and I hope you will vote to uphold this important constitutional right.

Best regards,

DORIS CONLEY.

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THE PROCTER & GAMBLE
MANUFACTURING CO.,
*Cincinnati, OH, September 8, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: Procter & Gamble urges you to vote against the amendment Senator Harkin is offering to H.R. 11. This amendment would limit income tax deductions for the costs incurred in advertising tobacco products. In principle, this amendment represents extremely bad tax policy since it could prevent a relatively small and narrowly defined group of taxpayers from deducting what are clearly ordinary and necessary legitimate business expenses which are directly related to the production of income which is subject to tax.

In addition, the proposed amendment clearly violates the first amendment rights of the affected taxpayers and raises other serious constitutional issues because of the proposed application of funds generated by denial of the tax deductions.

We take no position on whether Congress, in the exercise of its legitimate function, should impose conditions or restrictions on the use of certain products. In the past Congress has made selected advertising media unavailable to certain industries, but these limitations have been imposed directly, not through denial of income tax deductions for legitimate expenses. Any additional Congressional actions in this area should also be done directly without resort to the Tax Code.

For the reasons cited above, we strongly urge you to vote against the Harkin Amendment to H.R. 11. Thank you for your consideration of our views.

Sincerely,

MARVIN WOMACK.

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FRUIT OF THE LOOM,
*Bowling Green, KY, September 8, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senator, Russell Office Building,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: It has come to my attention that the United States Senate will soon resume consideration of the tax/urban aid bill. Senator Tom Harkin of Iowa is proposing an amendment that will limit the business deduction for the cost of advertising and promotion of tobacco products. I am writing this letter in hopes that you will help defeat the Harkin Amendment to HR-11.

Although this amendment would reduce the deductibility from 100% to 80%, and only applies to tobacco, it represents a fundamental attack on all advertising and on the constitutional protection for commercial speech. If the amendment is adopted, the tax code will become a vehicle by which Congress can punish any advertising that they do not feel is "politically correct" (defined as any product or service category that is out of favor with some special interest group).

Not only is there a threat to the Constitution inherit in the Harkin Amendment, it also threatens our economy. Advertising creates demand, which in turn creates jobs. It is a keystone to a free-market system. It is a legitimate business cost and an investment in growth for both large companies and small businesses alike. To penalize businesses, and thereby reduce job opportunities for Americans during these recessionary times, is bad tax policy and irresponsible.

Therefore, Senator, as a businessman and as a free-speaking citizen, I urge you to please help defeat this amendment. Your support will prevent erosion of our First Amendment rights while continuing to provide the general public with information that enables them to make educated choices about products and services they desire.

I thank you for your time and support.

Sincerely yours,

JOHN LACHIUSA,
*Marketing Manager, Activewear.*

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NATIONAL BEER WHOLESALERS
ASSOCIATION, INC.,
*September 11, 1992.*

Hon. MITCH MCCONNELL,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: Sen. Harkin has announced his intention to offer a floor amendment to H.R. 11, the Revenue Act of 1992, that would partially disallow the business expense deduction for advertising of tobacco products. Many of the same specious arguments used by Mr. Harkin against tobacco advertising have also been used against beer. For the following reasons, the amendment should be defeated:

It sets an unfortunate and dangerous precedent for using the tax code to discriminate against legal products. Next on the list might be beer and wine advertising, followed by oil and auto company ads, red meat, sugared cereals, eggs, disposable diapers and any other product that is deemed to be out of favor.

It incorrectly assumes that advertising causes increased consumption in mature product categories like tobacco and alcoholic beverages. Certainly, there is no empirical evidence that advertising causes people to drink.

It does not withstand 1st Amendment scrutiny. The amendment is targeted on specific product ads based solely on official disapproval of the content of the ads.

The Harkin amendment fails the test of reasonableness and constitutionality. The National Beer Wholesalers Association (NBWA), representing family businesses that distribute America's beverage, urges your opposition to the Harkin amendment.

Thank you for your consideration.

Sincerely,

RONALD A. SARASIN.

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AMERICAN CIVIL LIBERTIES UNION,
*Washington, September 23, 1992.*

DEAR SENATOR: The Senate will soon consider an amendment offered by Senator Harkin to H.R. 11, the Revenue Act of 1992, that would reduce the tax deductibility of business expenses associated with the advertising and promotion of tobacco products. The American Civil Liberties Union urges you to reject the amendment as an infringement of First Amendment rights because it targets a particular viewpoint on a legal product for unfavorable treatment.

Whatever one's speculation about how the current Supreme Court might rule on this statute, the ACLU believes that it violates the clear principle that the government should not favor one speaker over another, whether the speech is commercial or noncommercial, based on the government's opinion of the content of the speech.

The Supreme Court has repeatedly found that content-based distinctions violate the central tenets of the First Amendment. The Court has said that "above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Department* v. *Mosley*, 408 U.S. 92, 95 (1972). Restrictions on speech that are permitted under the Constitution, such as time, place, and manner restrictions, must also be "justified without reference to the content of the regulated speech." *Clark* v. *Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984). See also *City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U.S. 789, 804–05 (1984).

The principle of content neutrality is so great that the Court has recently held that even speech otherwise considered unprotected by the First Amendment, such as obscenity and fighting words, cannot be subjected to content discrimination that attempts to suppress the communication of particular ideas. *R.A.V.* v. *City of St. Paul*, 60 U.S.L.W. 4667, 4669 (June 23, 1992). While the level of protection accorded by the Supreme Court to commercial speech is less than noncommercial protected speech, it is substantially greater than the protection attached to "unprotected speech." To rule out the bar against content-discrimination entirely would be to accord commercial speech less protection than so-called unprotected speech. This is not what the Court has done.

As the Court wrote in *Leathers* v. *Medlock*, 111 S.Ct. 1438 (1991), "a tax scheme that discriminates among speakers does not implicate the First Amendment unless it discriminates on the basis of ideas." The proposed Harkin Amendment does precisely that.

In establishing the test for commercial speech, *Central Hudson Gas & Electric Corp.* v. *Public Service Commission*, 447 U.S. 557 (1980), the Court held commercial speech is entitled to First Amendment protection if it concerns lawful activity and is not misleading. In laying out the criteria for determining if a restriction was valid, the Court did not deal with viewpoint distinctions because the issue was not raised and the Court, in any case, invalidated the statute.

The assertion, made by the Congressional Research Service, that tobacco advertising could be banned altogether flies in the face of modern precedent. It relies on *Capital Broadcasting Co.* v. *Mitchell*, 333 F. Supp. 682 (D.D.C. 1971), aff'd without opinion, 406 U.S. 1060 (1972), relating to the ban on tobacco advertising over electronic media. However, whatever precedential value that decision may have, was impaired by the Court in *Virginia State Bd. of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976), the case that marked the beginning of the modern commercial speech doctrine. A complete ban on tobacco advertising would give the government an opportunity to censor a nonmisleading speech about a legal product, without leaving open alternative channels of communication. No where in modern First Amendment law or cases has the government ever been regarded as having such power. If this passed constitutional muster, legislatures could always avoid dealing directly with products they do not like by aiming their prohibitions, not at the products, but at the speech about the products. The First Amendment does not permit speech to be the vehicle for suppressing the product, particularly where the product itself is fully within the regulatory authority of the government.

Reliance on dicta, which is often little more than judicial speculation, in *Posadas De Puerto Rico Associates* v. *Tourism Company*, 478 U.S. 328 (1986) is misplaced. While the Court offered the off-hand remark that the power to bar a product or activity completely entails the lesser power as well to forbid commercial speech about the activity, this is clearly wrong as a legal proposition, and the Court has gone to great lengths to avoid supporting this theory. Two prominent recent examples are representative of these cases. In *Lakewood* v. *Plain Dealer Publishing Co.*, 486 U.S. 750 (1988), the power to ban all newsracks did not also include the lesser power to choose among the speakers whose newsracks that could be placed on city streetcorners. In *R.A.V.* v. *City of St. Paul*, 60 U.S.L.W. 4667 (June 23, 1992), the Court held that the power to ban all fighting words did not permit a city to ban only certain fighting words on the basis of offensiveness.

Finally, tax deductibility of business expenses cannot be regarded as the equivalent of a government subsidy, as the supporters of this amendment claim. If this were true, then the property tax exemptions afforded religious institutions would violate the separation of church and state by amounting to a government subsidy of religion. If tax deductibility were the equivalent of a government subsidy, other business expenses that are deductible relating to abortion services, for example, would also become a subject of great contention in the Congress. Instead, Congress should treat all business expenses the same, whether of favored or disfavored services and products, so long as they are legal.

We urge you to reject the Harkin amendment to H.R. 11 relating to the tax deductibility of promotional business expenses for tobacco products.

Sincerely,

MORTON H. HALPERIN,
ROBERT S. PECK,
Legislative Counsel.

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[From Food & Beverage Marketing, February 1992]

### A CAMEL WRONGED

(By Joel S. Dubow)

Poor Old Joe! First they complained about his nose, and now they are accusing him of pushing RJR's Camel cigarettes to children. The Coalition on Smoking and Health has asked the FTC to go camel hunting, calling the campaign "the most egregious example in recent history of tobacco advertising targeted at children."

I do not smoke, I oppose smoking, and I support the general goals of the American Cancer Society, the American Heart Association, and the American Lung Association—the members of the Coalition. On the other hand, I recognize others' rights to smoke as long as they do not exhale—at least in my presence, Furthermore, I am a strong believer in the First Amendment, even concerning cigarette advertising.

Now, as the coiner of Dubow's First Law of Marketing Research ("What you know depends on how you know it."), and as the discoverer of Twain's corollary ("It ain't what you don't know that worries me, it's what you know that ain't so."), let me tell you what I found upon close examination.

The AMA's output—the sum total of three articles in the association journal, the publicity on their behalf, and the Coalition's derivative petition—is the most egregious example of improperly conducted and interpreted, publicly funded research that I have ever seen. Two of the three studies are only slightly flawed, but the one entitled "RJR Nabisco's Cartoon Camel Promotes Cigarettes to Children" is truly terrible. The key "findings and implications" of this study are:

1. The Old Joe copy was more appealing to high school students than adults 21 and older; therefore RJR must be targeting the advertising at high school students.

2. High school students claimed higher exposure to, and demonstrated greater familiarity with the advertising than did adults; therefore, again, RJR must be targeting the advertising at high school students.

3. Since the Old Joe campaign began, Camel share among the "illegal children's cigarette market" has increased from 0.5% to 32.8%; therefore, the campaign is far more successful at marketing Camel cigarettes to children than adults.

What's wrong with these "findings and implications?" A lot! First, because RJR has stated its target audience as young adult (18–24) smokers, comparisons to all adults are inappropriate—yet the study's median adult age was 40, the oldest 87 (!) and the youngest 21 (not 18). My best guess is that the number of 18–24 year old adults in the study does not exceed 30, while the high schoolers number 1,060.

This improper comparison helps explain the first "finding." Of course an adult sample with a median age of 40 will deem a cartoon character as less "cool," less "interesting" and less "someone I would like to be friends with" than would a teenage sample (or adults 18–24).

The implication drawn from the second "finding" comes from naivete regarding advertising familiarity. Younger people recall nearly all advertising better than do older people. But the above flaws are nothing compared to those attendant to the third "finding." As a former advertising research manager who did deal with products targeted toward teens (soft drinks), I know the impossibility of impacting their behavior to the alleged extent. So I dug into things a bit. I read the original article carefully and noticed that (1) the "market share" data were not behavioral data, but statements of brand preference, and (2), worse still, they were gathered after the teenage respondents had been exposed to seven (count 'em, seven) Camel ads! This is truly the worst example of question order bias that I have ever seen; and it invalidates any comparison to baseline measures unless they used similar procedures.

Did they? To answer that question I searched out the "seven surveys completed prior to the kickoff of Camel's Old Joe cartoon character campaign early in 1988." I found that they were more traditional surveys conducted without commercial exposure. Of the five published studies, one was conducted in England and one in Australia. Two (one in 1977, one in 1982) used the representative American city of Bogalusa, Alabama. The fifth was conducted in Augusta, Georgia in (as near as I can tell) 1984 or 1985. The other two were unpublished, but a phone call led me to discover that they occurred in the late 1970's and early 1980's.

From this kind of research and logic came conclusions like: ". . . the illegal sale of Camel cigarettes to children under 18 . . . is estimated to have risen from $5 million per year prior . . . to $475 million per year now," and "Our study provides further evidence that tobacco advertising promotes and maintains nicotine addiction among children and adolescents. A total ban of tobacco advertising and promotion . . . can be based on sound scientific reasoning." This last despite an absence of any evidence indicating that "Old Joe" had increased the likelihood of high school students becoming smokers.

Let me close with my best guess about how RJR's "Smooth Character" campaign has actually worked. Its stated purpose is to induce people who already smoke, presumably younger, more switchable people, to switch to Camels. The premise of the campaign is to do so by dispelling the misperception that Camels are harsher than competitive brands.

My guess is that the campaign is working that way—inducing younger people who smoke to become more likely to smoke Camels. As a by-product, because targeting toward adults 18–24 will also produce a large media spillover to teenagers, I surmise that the campaign is also inducing high school students who decide to smoke, to smoke Camels. But I see no evidence that it is leading high schoolers to decide to smoke. I do not know whether the people at RJR planned it that way or just got lucky.

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[From Fortune magazine, April 25, 1988]

### THE HEALTH POLICE ARE BLOWING SMOKE

(By B. Bruce-Briggs)

The war against smoking is turning into a jihad against people who smoke. Smokers are being exiled from public and private places and are facing discrimination in employment. The reason, we are told, is that tobacco is deadly not only to users but also to innocents exposed to its noxious fumes.

The truth is that America is suffering an epidemic of politically motivated hypochondria. Not only the liberty of smokers is threatened. Three decades ago the U.S. Public Health Service had apparently defeated its statutory enemy, communicable diseases, and decided to preserve itself by policing our private health. Smoking was the first target—a trial run in social manipulation. Sniffing victory in this skirmish, the feds are now turning their weapons on drinking, eating, and sex.

But, you sputter, isn't the evidence conclusive that my smoke affects your health? Let me introduce you to the basics of scam science as generated for the feds. Smoking will be the example because it is the test case, but much of this mode of argumentation will be familiar to victims of the pollution, radiation, and toxic scams. All have their roots in the ambitions of the Public Health Service.

Note first the duplicitous use of words: Toxic means poisonous, but does not specify at what dose. Everything is toxic if ingested in sufficient quantity. This magazine is toxic—eat enough copies and you will get sick. Anyone who describes a substance as toxic without stating the dose level is engaging in flimflam; e.g., the Surgeon General informing us that cigarette smoke is "toxic."

Carcinogenic usually means that a group of rodents exposed to megadoses of a substance will have slightly higher cancer rates than a control group. Or it may mean merely that the unfortunate rodents had a few more tumors, or that slight genetic differences appeared in later generations. Too much oxygen, one scientist has determined, is carcinogenic. Anyone who says that something is carcinogenic without specifying the circumstances is a faker. And beware such labels as "linked," "associated with," "suspected," and "related"—these are pseudoscientific McCarthyscam.

Then there is the "no-threshold" scam: If megadoses kill rats, any dose, however tiny, must be assumed lethal to people, absent evidence to the contrary. A more elaborate version is the "linear no-threshold extrapolation." Take data purported to show adverse health at high dosages and draw a straight line to zero to invent ill effects of infinitesimal exposures.

This perversion of toxicology has a cozy symbiosis with "epidemiology." The curiously mislabeled study of health statistics, epidemiology was a benign academic backwater, infested by harmless drudges, until federal funding made it malignant. Most of the work is crude input-output analysis masquerading as precise statistical correlations, using data that are often appallingly inaccurate. The input is typically behavioral or environmental activity—smoking, for instance—established by survey questionnaires, which are notoriously unreliable. Output usually takes the form of death rates, as established by death certificates—documents quite unsuited for statistical research, since physicians often diagnose causes of death only roughly.

When no data exist, the health statisticians generate their own. A favored device is the "case control" method of comparing an affected group with a control group. The drawback here is that researchers have enormous latitude in picking control groups. Even studies using apparently similar groups can yield incredibly varied conclusions that cannot be replicated. For example, in studies cited by the Surgeon General using nonsmokers as control groups, putative lung cancer rates for smokers range from 20% to 3,500% higher.

Here's how the drill works: A toxie gets a government grant to terminate rats by all but drowning them in a suspect compound. He reports that whatzatapyrene is "carcinogenic." Because of the no-threshold principle, the feds can tell the public that "no safe dose level has been established." Next an epie gets a bigger grant to conduct a body count. He discovers that of 87,000 whatzat workers over 30 years, 46 succumbed to cancer. But the epie has calculated 22.7 "expected" deaths from the cancer in a comparable normal group, so the relative risk of whatzatapyrene exposure is 2.03. The feds tell the press that whatzateers are "twice as likely to get cancer."

Epidemiological results are conventionally reported as "risk ratios." For example, contract researchers for the FAA might calculate that people who live near airports have a risk ratio of death from falling aircraft engines of 7.5 to 1 compared with the normal population, meaning their risk is 7½ times higher, to hide the vital fact that falling engine fatalities are rather infrequent. Today all seriously untoward health events are rare. That's surely why the feds and their vendors are loath to inform us of the relevant risk data, which are the actual rates at which people suffer falling-engine trauma or contract lung cancer. Although the Public Health Service has been reticent about publicizing the fact, every study cited in support of the statement that "cigarette smoking causes cancer" reveals that a smoker is thoroughly unlikely to get cancer—only that he is statistically more likely to get it than a nonsmoker. No one can say precisely how much more likely. This is true of all supposed "carcinogens."

Perhaps this is why people continue to smoke despite the increasingly shrill scoldings they are subject to. So lately the feds have escalated the war. Their most ingenious weapon for converting private health into public health is the "determination" that secondhand smoke—or passive smoking, or in fed parlance, environmental tobacco smoke (ETS)—harms the public at large. In late 1986 two general surveys of the state of knowledge on ETS were published by the PHS and its contractors. Now follow closely and track scam science in action.

The heart of the health service report is a series of epidemiological studies comparing the lung cancer deaths of the spouses (mostly wives) of smokers with the spouses of nonsmokers, expressed as ratios, not rates. None of the studies took into account effects of common heredity, environment, and infection. Of the 13 studies, three showed that the smokers' wives had comparable or slightly better health—but these studies are worthless because they fail to meet conventional statistical standards. Eight more studies show that the smokers' wives are 3% to 103% more likely to get lung cancer—but these studies are also statistically suspect. That leaves a Greek case-control study and a Japanese study, both of which seem to show that having a smoking husband can be more dangerous than smoking. Both have been attacked in the medical press.

Yet the Surgeon General has announced that these 13 studies prove the evils of passive smoking.

The other survey of environmental tobacco smoke was conducted by the National Research Council of the National Academy of Sciences. The NRC used to be the premier sources for fairly accurate and disinterested evaluations of current science, but lately has become a prestige vendor of sci-prop. An NRC panel, engaged by the PHS and the Environmental Protection Agency, averaged a group of studies that include most of the ones cited above and came up with a risk ratio for spouses of smokers of 1.34 to 1 (1.32 to 1 for women). They then concluded that the probable risk was about 1.25 to 1, though in the executive summary the risk was boosted to 1.3 to 1.

It is worth noting that the largest study of smoking conducted to date, by the American Cancer Society in the 1960s, found that women who smoked one to nine cigarettes a day had a lung cancer risk ratio of 1.3 to 1 compared with nonsmokers. Passive smoking is not only bad for women, it seems; it is just as bad as active smoking.

Alcohol is next on the feds' hit list. A study has already "determined" that alcohol "causes" cancer, and learned scientists have taken the next step. In a catalogue of cancer risks posed by various substances, British researchers Richard Doll and Richard Peto estimate that alcohol is responsible for 3% of American cancer deaths. Wine has been discovered to contain carcinogens. The Public Health Service, among other groups, is urging warning labels for alcoholic beverages. Can we doubt that ingenious researchers will ultimately calculate the toxic effects of passive drinking—errant molecules of alcohol from highballs in the box seats statistically killing innocents in the bleachers?

The authorities also complain that we eat too much, and that we don't eat what they think we should. Our heart attacks are a public health problem. Doll and Peto suspect that 35% of cancer deaths are caused by diet, even more than by smoking. Other epidemiologists are calculating how much cancer is caused by burning food. Watch out, restaurant operators and bachelor cooks. The new guardians of the public virtue have even begun collecting information on sexual conduct—when women lose their virginity, the proportion who marry when pregnant—under the rubric of health data. One researcher avers that sperm may be carcinogenic.

What are the implications for business? The entrepreneurial reader may already be slobbering to get his snout into the pork barrel. The federal government, after all, funds about 85% of basic health research. Alas, the business is a classic cartel, administered by a narrow trust, with strictly controlled entry. The big winners include the disease lobbies and such institutions as the Harvard School of Public Health.

More to the point, no industry is immune to the ravages of scam science. The feds are now trying to ban tobacco advertising in its surviving forms. As the Surgeon General has said, "There is no safe cigarette." And no such thing as a safe automobile, or a safe food, or a safe airline flight, or a safe ski, or a safe cosmetic, or a safe condom. Nothing is safe as long as the authorities define private health as public health.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today in strong opposition to this amendment which would reduce the tax deductibility of tobacco advertising.

I do not smoke and do not advocate smoking. However, tobacco is a legal product and as long as it is legal, I will work to ensure that the industry is able to conduct business on an equal footing with other industries. This amendment would hamper the ability of the tobacco industry to do business. It is unfair to single out one industry and reduce this legitimate business deduction while allowing other industries full deductibility for the same expenses.

This amendment also raises serious first amendment concerns because it places restrictions on speech based solely on its content.

This amendment is simply an attempt to penalize the tobacco industry because some do not like the products they produce. I urge my colleagues to vote against this ill-advised amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BURNS. Mr. President, I stand today in strong opposition to the amendment to the Revenue Act of 1992, H.R. 110, partially disallowing tax deductions for tobacco product advertising and promotion expenses. Any net revenue generated by the amendment would be distributed to the States, for distribution by the States in the form of Federal income tax credits to certain taxpayers who produce antitobacco advertising materials, or who make space available for such advertising in lieu of accepting more profitable advertising.

The amendment should be rejected. The amendment rests on mistaken assumptions; would violate the first amendment; would impose severe administrative burdens on the Secretary, the States and taxpayers; and would establish a dangerous precedent. Similar proposals previously have been opposed on first amendment grounds by groups as diverse as the American Civil Liberties Union, the Washington Legal Foundation, and the Freedom to Advertise Coalition.

### FIRST AMENDMENT

The amendment would violate the first amendment because it would target tobacco product advertising and promotion uniquely and exclusively, based solely on official disapproval of its expressive content or communicative impact.

Just last December, the Supreme Court reaffirmed that "(a) statute is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech." *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 112 S.Ct. 501, 508 (1991). The Court stressed that "(t)he Government's power to impose content-based financial disincentives on speech * * * does not vary with the identity of the speaker." Id. at 509.

The Court has made clear the "speech" includes all forms of communication—from magazine advertising to product demonstrations. *See Board of Trustees* v. *Fox*, 109 S. Ct. 3028 (1989) ("Tupperware" parties). When the Government legislates with respect to an activity because of its expressive content or communicative impact, it is legislating with respect to "speech" for purposes of the first amendment. See, for example, *Texas* v. *Johnson*, 461 U.S. 397 (1989)—flag burning; *R.A.V.* v. *City of St. Paul*, 60 U.S.L.W. 4667, 4669, 4672 n.7 (U.S. June 22, 1992)—cross burning.

The Supreme Court has long recognized, moreover, that "speech can be effectively limited by the exercise of the taxing power" (*Speiser* v. *Randall*, 357 U.S. 513, 518 (1958)—just as it can be limited more direct types of regulation. The Court has not hesitated to invalidate taxes over the years because of their impact on Speech. See, for example *Grosjean* v. *American Press Co.*, 297 U.S. 233,250 (1936): *Minneapolis Star & Tribune Co.* v. *Minnesota Cmm'r of Revenue*, 460 U.S. 575,585 (1983).

Conversely, the Court has upheld the disallowance of certain Federal tax deductions precisely because Congress had not invidiously discriminated against disfavored speech. See *Cammarano* v. *United States*, 358 U.S. 498,513 (1959); *Regan* v. *Taxation with Representation*, 461 U.S. 540,548 (1983). As the Court states in Cammarano, "everyone in the community should stand on the same footing—with respect to first amendment activity—so far as the Treasury of the United States is concerned." Far from leaving all taxpayers "on the same footing," the amendment would (under sec. 45(a)) give a tax credit to taxpayers who produce antismoking advertising campaigns.

Tobacco advertising and promotion cannot be treated differently from other advertising and promotion under the Internal Revenue Code based solely on its expressive content or communicative impact. Because the proposed disallowance of the expense deduction would fall on tobacco product manufacturers based solely on the expressive content or communicative impact of their activity, it would be "repugnant to first amendment principles." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U.S. 221 (1987).

The amendment would violate the first amendment because it would force the tobacco product manufacturers, as a condition of advertising, to finance counteradvertising by third parties.

Under the proposed amendment, advertising tobacco products means financing antitobacco messages by third parties. The Supreme Court has long held, however, that Government has no such power to condition the right to speak. See *FCC* v. *League of Women Voters*, 468 U.S. 364 (1984); *Perry* v. *Sindermann*, 408 U.S. 593 (1972); *Speiser* v. *Randall*, 357 U.S. 513 (1958). In addition, a series of Supreme Court cases affirm that Government may not tell private parties what to say or force private parties to use their own property to facilitate the speech of others.

In *Pacific Gas & Electric Co.* v. *PUC*, 475 U.S. 1 (1986), the Court held that the California Public Utilities Commission could not require a utility to include in its monthly billing envelopes communications opposing the utility's views. In *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974), the Court struck down a Florida law requiring any newspaper that criticized a political candidate to print, free of cost to the candidate, any reply that the candidate might make to the newspapers charges. In *Wooley* v. *Maynard*, 430 U.S. 705 (1977), the Court held that the State of New Hampshire could not require a motorist to display a license plate bearing a message with which the motorist disagreed. See also *West Virginia State Bd. of Education* v. *Barnett*, 319 U.S. 624 (1943)—compulsory flag salute.

In Tornillo and PG&E, it was a private party's speech activity that triggered the statutory obligation to carry counterspeech. Under the proposed amendment, it likewise would be a private party's speech activity-tobacco product advertising and promotion-that would trigger an obligation to finance counter advertising. The proposed amendment would be invalid for the same reason. See also *Memphis Publishing Co.* v. *Leech*, 539 F. Supp. 405, 410 (W.D. Tenn. 1982)—Statute requiring newspapers to publish a warning of 30 percent of the size of their alcohol advertisements "improperly intrudes on editorial discretion by offering only a forced choice before foregoing copy or publishing that which would not otherwise be published."

Private parties have the right to be free from burdens on their own speech imposed in order to "enhance the relative voice" of others. PG&E, 475 U.S. at 14. "The idea that Government can restrict the speech of some elements of society to enhance the relative voice of others is wholly foreign to the first amendment." *Dun & Bradstreet, Inc.* v. *Greenmoss Builders, Inc.*, 472 U.S. 749, 773 n.4 (1985)—White, J., concurring. *Accord Citizens Against Rent Control* v. *City of Berkeley*, 454 U.S. 290, 295 (1981); *Buckley* v. *Valeo*, 424 U.S. 1, 49 (1976).

The amendment cannot be justified on the basis of the Government's power, in appropriate circumstances, "to require that a commercial messages include such additional information, warnings, and disclaimers as are necessary to prevent its being deceptive." *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.*, 425 U.S. 74, 771 n. 24 (1976). The amendment does not seek to cure any such supposed defect in cigarette advertising. It seeks to force tobacco products manufacturers to subsidize antismoking campaigns by third parties. Cigarette advertisements of course, already include health warnings by third parties. Cigarette Labeling and Advertising Act.

### MISTAKEN ASSUMPTIONS

The amendment mistakenly assumes that the advertising and promotion expense deduction is a taxpayer subsidy.

Our tax system is based on the premise that net income should be taxed, with deductions being permitted for costs reasonably incurred in producing that income. The deduction for advertising expenses-like deductions for other ordinary business expenses-simply implements the net income concept. It no more provides a subsidy for advertising than the deduction for payroll expenses provides a subsidy for hiring workers.

The amendment does not simply conform the treatment of tobacco product advertising and promotion expenses to that accorded business meals and entertainment under the 1986 tax bill.

The 1986 tax bill partially disallowed deduction for all business meals and entertainment expenses—not just those incurred by a particular industry, or those involving discussions of particular products or services. Further, the 1986 tax bill provides no precedent for treating advertising and promotion, which enjoy first amendment protection, less favorably than other income-generating business activity.

The amendment will not be budget-neutral if, as may be expected, it operates to curtail tobacco product advertising and promotion.

By making tobacco product advertising and promotion significantly more expensive, the amendment enviably would reduce the amount spent on such advertising and promotion. This would affect adversely the advertising industry and all advertising media, newspapers, magazines, outdoor companies, point-of-sale concerns, retail outlets, et cetera. The earnings of these sectors would decline correspondingly, and unemployment would increase. The result would be less Federal tax revenue and more demands on Federal, State unemployment and public assistance programs. This would offset any increase in revenue produced by the amendment.

The amendment incorrectly assumes that tobacco product advertising causes people to smoke.

As the President's Council of Economic Advisers has stated:

> There is little evidence that advertising results in additional smoking. As with many products, (cigarette) advertising mainly shifts consumers among brands.

Michael Pertschuck, the former Chairman of the Federal Trade Commission who now helps direct the antismoking lobby, stated nearly a decade ago that:

> No one really pretends that advertising is a major determinant of smoking in this country or any other.

In striking down Canada's tobacco advertising ban last summer, the Quebec Superior Court found the Government's evidence of a link between tobacco ad bans and consumption to be deficient, if not nonexistent.

The fact is that cigarette advertising and consumption are unrelated. The authors of a recent study published in the Journal of the Norwegian Medical Association report that the ban on tobacco advertising imposed in that country in 1975 has had no discernible effect on the incidence of smoking. The incidence of juvenile smoking in Finland is higher today than it was in 1978, when tobacco advertising in that country was banned. A four-country study by WHO researcher found no systematic differences between juvenile smoking in those countries where tobacco advertising is completely banned and those countries in which it is not.

If curtailing tobacco product advertising and promotion did result in reduced consumption, the decrease in revenues produced by declining sales would more than offset the increase in revenues produced by disallowing the expense deduction.

The amendment incorrectly assumes that the antitobacco message needs further amplification.

As one academic expert in communications has put in testimony to Congress, "the level of public awareness on smoking and health issues in virtually unprecedented in the history of our country." More Americans are aware of the allegations with respect to smoking and health than can identify George Washington or know when our Nation declared its independence. Nearly every American believes that smoking is harmful but only 1 of 3 Americans knows who delivered the Sermon on the Mount. The antismoking message receives more free media daily than almost any other issue. Antismoking messages, moreover, are taught to our Nation's children at every level in school. As long ago as 1979, the Surgeon General reported that, "by the time they reach seventh grade, the vast majority of children believe smoking is dangerous to one's health."

### ADMINISTRATIVE BURDENS

Whether a particular taxpayer receives the credit under the amendment—and how much of the credit the taxpayer receives—would depend on: First, the extent to which the partial disallowance had been projected by the Secretary of the Treasury to produce net revenue in the calendar year; second, how much of that net revenue has been allocated to the taxpayer's State under a formula provided in the amendment; and third, whether and to what extent the taxpayer has been selected by the State to share in the funds available for tax credits under a formula and timing mechanism to be established by the State. The taxpayers selected to receive tax credits presumably would be those who produce and carry antitobacco advertising materials as part of the State program.

The amendment would thus place a significant administrative burden both on Treasury, which must determine accurately the net revenue gain taking into account a host of relevant variables, and on each State government, which must apportion the Federal credits and notify taxpayers of their allowable portion. For example, Treasury would have to estimate not only what the aggregate tobacco product advertising and promotion expenditures would have been without the amendment in a particular year, but also what revenue losses will result from decreased advertising and promotion receipts in that year because of the amendment. These revenue losses will result from decreased spending by the tobacco product manufacturers and decreased earnings in the advertising industry and the media that carry tobacco product advertising.

Just as important, the amendment presumably would require taxpayers claiming the credit to file amended returns as Treasury refines its prior years estimate of the credit available, and the amount to which each State actually is entitled.

### DANGEROUS PRECEDENT

The proposed amendment is only the latest in a series of attempts to use tax code to penalize disfavored speech or use a tax on speech as an instrument of social policy. For example, bills have been introduced in previous Congresses to ban tax deductions for beverage alcohol advertising expenses, for arm-sale promotion expenses and for advertising expenses for persons who discriminate in their advertising practices on the basis of race, color, or ethnic background.

If the Federal Government may force tobacco products manufacturers to finance antismoking messages, it also may force oil companies and automobile or even disposable diaper manufacturers to finance environmentalist messages. It may require producers of meat, egg, or high salt foods or sugared cereals to finance diet-advice messages. It would be not only inconsistent with the first amendment but profoundly unwise as a matter of policy for the Federal Government to start down this dangerous road.

As Eugene Thomas, the former president of the American Bar Association, commented wryly: I don't mind the principle if you let me apply it to all the things I dislike. But if you want to apply it to all the things you dislike, then I'm worried. Interview, Advertising Age. February 23, 1987, page 80.

Mr. President, I think we are starting down a very dangerous road.

I ask unanimous consent that letters from folks who do not support this amendment—The National Legal Foundation, Think First, and the National Association of Broadcasters—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON LEGAL FOUNDATION,
*Washington, DC, August 5, 1992.*
Hon. WENDELL H. FORD,
*U.S. Senate, Washington, DC.*

DEAR SENATOR FORD: I am writing in response to your letter requesting the legal opinion of the Washington Legal Foundation on the constitutionality of proposals to eliminate the tax deductibility of advertising expenses on a product-specific basis. After careful review, we have concluded that such proposals are unconstitutional content-based restrictions in violation of the First Amendment.

The Supreme Court has held time and again that advertising is entitled to constitutional protection. As the Court has said, "[t]ruthful advertising related to lawful activities is entitled to the protections of the First Amendment." In re R.M.J., 455 U.S. 191, 203 (1982). And just a few weeks ago, the Court said that a law is "facially unconstitutional if it prohibits otherwise permitted speech solely on the basis of the subjects the speech addresses." *R.A.V.* v. *St. Paul*, No. 90-7075, slip op. at 3 (June 22, 1992). Clearly, proposals—which target the tax deductibility of advertising on a product-specific basis—would run afoul of this principle.

The fact that proposals attempt to achieve censorship indirectly, through manipulation of the tax system, is irrelevant under the First Amendment. The Supreme Court has long recognized that discriminatory taxation may impermissibly infringe First Amendment rights. *Speiser* v. *Randall*, 357 U.S. 513, 518 (1958). By eliminating the tax deductibility of advertising of certain products, the government seeks to impose "a financial burden on speakers because of the content of their speech." *Simon & Schuster* v. *Members of the New York State Crime Victims Board*, 112 S.Ct. 501, 508 (1991). Such proposals would be condemened by the Supreme Court because they would "single out income dervied from an expressive activity for a burden the [Government] places on no other income, and is directed only at works with a specified content." Id. at 508.

It may be argued that such proposals are justified because of some supposedly "unique" dangers. However, such an argument would be undercut because certain product advertising was singled out for disparate treatment at the same time that the Government continued to accept advertising for other "dangerous" products or activities. *Friends of the Earth* v. *FCC*, 449 F.2d 1164 (D.C. Cir. 1971) (holding that public health concerns raised by ads for cigarettes and for automobiles were indistinguishable).

Sincerely,
ALAN M. SLOBODIN,
*President and General Counsel,*
*Legal Studies Division.*

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THINK FIRST.

DEAR SENATOR: The undersigned organizations, representing a broad cross-section of American industry and literally thousands of companies across the United States, strongly urge you to oppose the Harkin amendment to H.R. 11, the Revenue Act of 1992. The Harkin amendment would limit the business deduction for the cost of advertising tobacco products.

We urge you to oppose the Harkin amendment for three reasons.

First, the Harkin amendment is unconstitutional. The First Amendment prohibits the government from singling out any form of speech and suppressing it because of its content. Yet that is exactly what the Harkin amendment would do. Enclosed are letters from the American Civil Liberties Union, the Washington Legal Foundation and the Freedom of Expression Foundation describing the constitutional defects with the Harkin amendment.

Second, the Harkin amendment is bad tax policy. The tax code currently permits deductions for all necessary costs of producing income, including advertising. Because it singles out a specific industry for onerous differential treatment, the Harkin amendment perverts the tax code. The amendment would also create an administrative and regulatory nightmare for Treasury and 50 state revenue departments.

Third, the Harkin amendment would set a dangerous precedent. If the tax code can be used to penalize those companies that advertise and sell products that some people don't like, it can be used as a weapon against any legal product or service. If the Harkin amendment becomes law, the tax code could become a vehicle for punishing any advertising which a shifting majority of Congress decides is not presently "politically correct." A fact sheet describing why the Harkin amendment is bad tax policy, bad public policy, and unconstitutional is enclosed.

For all of these reasons, we strongly urge you to oppose the Harkin amendment.

American Association of Advertising Agencies.
American Advertising Federation.
Association of National Advertisers, Inc.
Direct Marketing Association, Inc.
Magazine Publishers of America.
National Newspaper Association.
Outdoor Advertising Association of America.
Point of Purchase Advertising Institute.

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NATIONAL ASSOCIATION OF BROADCASTERS,
*Washington, DC, August 6, 1992.*
Hon. LLOYD BENTSEN,
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: We understand that Senator Harkin plans to offer an amendment to H.R. 11, the Revenue Act of 1992, which would limit the business deduction for the cost of advertising tobacco products. NAB is strongly opposed to this amendment.

NAB's membership has no direct stake in this fight. Beginning in 1971, the federal government banned advertising of cigarettes and other tobacco products on the electronic media. While the amendment clearly is designed to eliminate or reduce tobacco advertising, local radio and television stations and the networks will not lose advertising revenues as a result.

We fully share the concerns of the many advertising and media groups that oppose this amendment because it is contrary to the First Amendment, and is bad tax policy, as well. The unique danger for radio and television stations throughout the nation, however, is that this amendment would set a clear precedent by which the government will seek to single out other disfavored product categories for similar discrimination in the tax code.

We believe the First Amendment clearly forbids the government from singling out any form of speech and suppressing it because of its content. Yet that is precisely what the Harkin amendment would seek to do.

The amendment also makes little sense from a tax policy standpoint. Advertising costs are like every other deduction for ordinary and necessary business expenses, and should be treated as such. Advertising deductions are not some suspect form of tax "subsidy," which should be eliminated from the Code.

Broadcasters are especially concerned, however, by the precedent that will be established by this amendment. If Congress adopts this provision, you can be certain that it soon will be faced with similar proposals to deny deductibility for product categories like beer and wine, foods with "too much" sugar, cholesterol, or fat, or any other product that is out of favor with some special interest group.

NAB strongly opposes the Harkin amendment, and we ask you to vote against it. Congress should continue to permit full deductibility for advertising costs of all legal products.

Sincerely,

EDWARD O. FRITTS.

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### DISALLOWING TAX DEDUCTIONS FOR TOBACCO ADVERTISING VIOLATES THE FIRST AMENDMENT AND SETS A PRECEDENT FOR OTHER PRODUCTS

Senators Bradley and Harkin reportedly plan to propose an amendment to H.R. 11 (Revenue Act of 1992) disallowing tax deductions for tobacco product advertising and promotion expenses. Because the proposal would target tobacco product advertising and promotion uniquely and exclusively, based solely on official disapproval of its expressive content or communicative impact, the proposal would violate the First Amendment.

By eliminating the tax deductions for tobacco advertising, this amendment would effectively restrict speech on the basis of its content, thus violating the First Amendment. Just last December, the Supreme Court reaffirmed that "[a] statute is presumptively inconsistent with the First Amendment if it imposes a financial burden on speakers because of the content of their speech." *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 112 S.Ct. 501 (1991).

Disallowing the tax deduction for advertising of tobacco products would set a dangerous precedent. If we begin to use the tax code to penalize disapproved speech or to tax speech as an instrument of social policy, there is no logical stopping point. Proposals already have been introduced in previous sessions of Congress to disallow tax deductions for beverage alcohol advertising expenses and arms-sale promotion expenses, just to name two examples. What would stop Congress from deciding next year to remove the advertising exemption from wine or beer, red meat, sugared cereals or any other product that some segment of the population disapproves of?

Restricting information does not lead to better decisions, only controlled ones. This proposal's basic flaw is that it would effectively suppress truthful speech concerning lawful products based on the paternalistic belief that the government should control the flow of commercial information.

The advertising deduction cannot be rationalized as a "subsidy." The tax system is based on the premise that only net income should be taxed, with deduction permitted for costs reasonably incurred in producing that income. The deductions for advertising expenses simply implements the net income concept. If no more provides a "subsidy" for advertising than the deduction for payroll expenses provides a "subsidy" for hiring workers.

Any effort to limit commercial speech of a legal product, whether directly or indirectly, is a challenge to the First Amendment. For this reason, previous attempts to disallow tax deductions for tobacco advertising have been opposed by groups as diverse as the American Civil Liberties Union, the Washington Legal Foundation, the Freedom to Advertise Coalition, the Association of National Advertisers and the American Association of Advertising Agencies.

AUGUST 6, 1992.

Mr. BURNS. Mr. President, we are starting down a slippery slope. If there is something we do not like, then we take it off the advertising. It has first amendment implications, and it is bad for this country whenever we start going down the road with amendments of this type.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. How much time remains on our side?

The PRESIDING OFFICER. The Senator from Texas has 11 minutes remaining.

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, let us be clear about this amendment and what this amendment concerns. This amendment concerns money. This amendment concerns U.S. taxpayer dollars. This amendment concerns Federal spending to promote the consumption of tobacco; Federal spending to promote the consumption of tobacco which, if consumed, will shorten your life and increase your health care costs, increase health care costs for all of us, if you are poor or if you are elderly. And the public system incurs health care costs to take care of diseases that are caused by tobacco.

Let us make no mistake that this is about money. Every year by not collecting money that the Government is due if the provision was not in the Tax Code, every year about $1 billion goes to tobacco companies to subsidize their advertisement of tobacco products. As the distinguished Senator from Iowa has shown, these advertisements are primarily directed at the young to get them hooked on nicotine, an addictive substance, so that they will be consumers of the product for a lifetime, a lifetime that will be shorter because they have consumed the product that we subsidize through the Tax Code. That is what this amendment and debate is all about.

Free speech: This is not about free speech. This is about who the American public wants to have their tax dollars go to. There are two kinds of spending. One is to appropriate the money, giving this money to this group or that group, as we appropriate money—not much—in order to convince people not to smoke.

The other way that we spend money is by refraining to collect tax, through deductions, tax credits and exclusions if they do a certain activity, in this case, advertise tobacco. This is pure and simple an economic benefit that is conferred on a small segment of taxpayers. This economic benefit annually is worth $1 billion. This amendment does not attempt to eliminate that benefit. It only attempts to reduce it; to reduce it by $45 million in 1 year, then increasing to $120 million, $145 million, $170 million, finally to $200 million; Over 5 years, a $680 million reduction of a benefit that over that time is worth $5 billion.

This is a modest amendment. But at least we will finally have a vote in the U.S. Senate as to who wants to have taxpayer dollars go to tobacco companies so that they can advertise to the young to get them hooked on tobacco so they would be lifetime consumers, a shorter life but a good consumer. That is what this vote is about. It is about money.

Imagine how you might defend in a town meeting the question: Senator, why did you vote to give tobacco companies $1 billion? Or, Senator, why did you vote not to take away a small portion of that benefit? Did you vote not to take it away because you represent a State in which tobacco is grown? That is a position that I think I can understand and that any Senator who tries to represent his State can understand. It is quite understandable to me why Senators from States that produce tobacco would defend their State's industry, but in States where there is no tobacco grown, how will you defend this vote?

And there is now going to be a vote. How will you defend the vote not to take a little bit away from taxpayers' subsidized tobacco advertising? Will you assert that tobacco is good and that you would like to support it with the taxpayers' money? How could you assert that? That is an argument for a shorter life. Will you assert that you think it is good that high school students respond to the big camel ad and want to be like the camel in the ad? Would you defend the advertising targeted at certain communities? African-American communities? Latino communities? Poor, white communities? Will you defend the ads that are targeted to those communities? Will you defend the ads that are targeted to individuals to get them hooked on a lifetime of consumption of addictive nicotine? How can you defend that?

How can a U.S. Senator defend that in a town meeting in a nontobacco growing State? It seems to me it is going to be pretty difficult to defend. But in a few minutes, we are going to have a vote and that vote will list those who defended the tobacco industry and those who believe the American taxpayer deserves a break with less money being spent on tobacco advertising.

It is a pretty simple vote. It is about money.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. FORD. Mr. President, will the Senator yield me 5 minutes.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. FORD. I thank my friend. I thank the Chair.

Mr. President, I rise in opposition to the Harkin-Bradley amendment. This is just another attempt at a long list of efforts to penalize a legal product and put 96,000-plus farm families—and I underscore families—who depend upon tobacco for their livelihood in my State out of business.

But this effort goes too far. In their zeal to kill the tobacco industry and subsequently destroy the economy of my State by eliminating 135,000 jobs, 10 percent of the entire work force just in one State, the supporters of this amendment have had to resort to treading on the Constitution. In my opinion, it just will not fly.

The business deduction for tobacco advertising is hardly a taxpayer subsidy for this country. It is a legitimate business expense that the Code provides blindly to all advertising. It neither singles out a specific industry for the tax benefit nor does it deny the deduction to any industry.

The Tax Code no more subsidizes the tobacco industry than it subsidizes pornographers who may deduct allowable business expenses or physicians who perform abortions and deduct allowable expenses as part of their business practice, nor toxic waste producers who incur legitimate business expenses. The fact is tobacco is treated no better, no worse than any other industry under the Tax Code.

Comparing this amendment to the reduced deduction for meals is simply mischaracterization. When Congress reduced the deduction for business meals and entertainment in 1986, we did not reduce the meal deduction just for the automobile industry or the legal profession. It was cut across the board, for every taxpayer who takes this deduction. And there were good constitutional and just plain fairness reasons for doing it that way.

But that is not the case in this amendment. It unfairly singles out one industry and penalizes it under the Tax Code for producing a product that is legal.

You do not have to stretch your imagination too far to see exactly where this trend might go. Oh, we have seen a lot of the pictures today, but the next time it may be Frosty Flakes because it has sugar on it and it is bad for our children. What will they think of next? Your State, every State, all 50 States have tobacco distributors. There is a tax in every State. There is profit in every State. There are employees in every State. There are people who depend on this product throughout the country.

Now, you talk about being fair. You are singling out a health reason. I could go into a lot of health reasons here today and you would start deducting a lot of them. But fair is fair, fair across the board. So let us not single out one part of industry. You try to single out this industry for everything. The last time we had an argument it was going to pay for the drug program. The time before that it was something else—always out here pounding. Let us be fair. When you stop talking about the emotional issue of tobacco and apply the logic of this amendment to any other industry, it produces just such a ridiculous result.

So, Mr. President, let me say that I hope my colleagues will see this amendment for what it really is and what it could potentially become for other industries in this country: an attempt to punish a legal industry because the product they sell is unpopular with a particular group. And if this Senate can begin to pick and choose and start eliminating under the Tax Code, then we really have stretched the imagination of what I thought I was sent here to do. We are supposed to help the taxpayers. We are supposed to help the people. We are supposed to, above all, be fair. This amendment is not fair, not only to this industry but it is unfair to others that might follow behind it.

I yield the floor and the remainder of my time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time do the two sides have?

The PRESIDING OFFICER. The Senator from Texas has 6 minutes. The Senator from Iowa has 13.

Mr. BENTSEN. Thirteen minutes left to the Senator from Iowa.

I yield 3 minutes to the distinguished Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate the comments from the Senator from Kentucky. I come from a State that is not a tobacco State. In fact, large numbers of the population of my State do not believe in smoking. But the Senator from Kentucky is quite right. This is a constitutional issue. It reminds me that today Congresswoman LOWEY and I are hosting a reception in honor of those who have helped us move forward legislation to remember Thomas Payne who, after all, was the father of the first amendment of the Constitution, free speech. So what we are talking about is really imposing an unconstitutional, restrictive infringement of free speech on the rights of the tobacco industry in this country.

I oppose this amendment because it is an unconstitutional content restrictive infringement of the free speech rights of the tobacco industry. Tobacco sales are a legitimate business enterprise. The fervent desires of the industry's opponents are attempting to legislate this industry onto a black list.

This amendment would restrict the deductibility of tobacco advertising expenses. The deductibility of tobacco advertising and promotion expenses are proposed to be limited to 80 percent. This represents an unconstitutional effort to discriminate between forms of advertising based on the content of the advertisement. Tobacco company's commercial advertisements are protected under the constitution as is the rights of free speech guaranteed to antitobacco lobbying groups. In a free market, equal rights are given irrespective of political affiliation.

Ironically, many of the same advocates who are now seeking to impose a gag rule on an entire tobacco industry were among the first to rally around flag burning as a constitutionally protected form of free speech. The Supreme Court stated in the *Regan* v. *Time, Inc.* decision, "(r)egulations which permit the Government to discriminate on the basis of the content of the message cannot be tolerated under the first amendment."

Such discrimination would be legitimate only if tobacco products are not a legitimate business venture. In fact, tobacco advertising is a legal and normal business expense, and it should be treated as such.

This amendment should be defeated on the constitutional argument alone but aside from those arguments there are also economic arguments. This amendment would put people out of work. According to the Leadership Council on Advertising Issues, the tobacco industry has a 6.1-percent share in general interest magazines, a 5.2-percent share of special interest magazines, and 3.1-percent share in newspapers. If this amendment passes, it would affect the approximately 4,130 jobs in the magazine industry. In a time of economic recession putting more people out of work is irresponsible.

Mr. President, Dr. Joseph DiFranza criticizes the "Joe Camel" ads because they claim the tobacco industry targets children. Yet, Dr. DiFranza concedes that, "When kids are compared to adults under 30 it appears that the ads appeal more to people in their 20's than in their early teens."

Furthermore, according to the Department of Health and Human Services and the Surgeon General, fewer than 1 percent of all teens smoke Camel cigarettes. These facts expose the weak arguments given for carving a hole in the first amendment.

Mr. President, the American Civil Liberties Union has stated that:

> The differential treatment of a particular commercial enterprise, based solely on disapproval of its promotional message, violates the constitution, and the proposed amendment should be rejected.

When the American Civil Liberties Union and this Senator agree on the detrimental effects of a piece of legislation, there must be something desperately wrong with it.

Mr. President, this chamber is traveling down the slippery slope. What's next? Restricting the deductibility of advertising expenses for unhealthy products like fast cars, alcohol, doughnuts, and maybe even television. This amendment should not be adopted for the precedent it would set.

It is interesting to me that if in fact our well-intended colleagues are successful in doing this, they will do something for the tobacco companies they could never do legally behind closed doors. If for example my colleagues disallowed 100 percent of the duduction for advertising and these companies stopped advertising, what would happen to these major tobacco companies? Profits would go up like a rocket because they could cancel their massive advertising budgets. Then profits of papers and magazines would go down because they would not get tobacco advertising dollars. There would be a massive redistribution of the resources. This amendment would treat one product's advertising differently than the tax code treats the rest of our society's products.

I urge all my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas now retains 3 minutes, the Senator from Iowa, 13.

Mr. HARKIN. I yield myself 3 minutes.

Mr. President, responding to some of the arguments made here, first of all, about family farmers, I do not take a back seat to anyone here in support of family farmers, making sure they have a decent income.

The fact is what we are talking about is the reduction of an addictive drug. That is why I said earlier this amendment really is an antidrug-abuse amendment to try to cut down on drug abuse in America.

I daresay, if there are farmers in any State going to be hurt because of this—I rather doubt that they will be; the tobacco companies just have to absorb this in their own budgets—if they are, let us meet that obligation by providing the wherewithal for these farmers to plant alternative crops, to raise other things.

That has happened in my State over the years. It has happened in a lot of other States where farmers have had to change their one crop to another for various reasons. We ought to meet that responsibility. It would be a lot cheaper than what we are spending right now to take care of people every year that die, get sick, have lung cancer, emphysema, and everything else because of smoking.

We are spending $65 billion this year to take care of people who have smoking-related illnesses. It would be better to get these farmers off to something else, let them plant something else, let them do some other kind of entrepreneurial business, rather than growing this drug; nicotine.

Then we hear the argument made about taxes and profits, that there are a lot of companies out there selling cigarettes. They make a profit, they pay taxes. Is that really a legitimate reason to hook young people on an addictive drug simply because someone is going to make a profit and they are going to pay taxes on it? If you adhere to that argument, then let us legalize all drugs in America—let us legalize heroin, let us legalize cocaine, all of them, and tax them, and we will make money. Why do we not do that? I say, if any Senator buys that argument, let us just legalize all drugs. I do not think Senators want to do that. Of course not. That, again, is just a specious argument.

Again, I say, if you do not want to do that, the fact we are spending $65 billion a year in health care costs, that argument is against the offset on any taxes that are gained by the sale of tobacco.

Then the argument is made we might extend this to other industries. Maybe it will be sugar next or something like that next. The fact is, Mr. President, in the words of Dr. Louis Sullivan, head of the Department of Health and Human Services, as he said, tobacco is the only product which, "when used as intended, kills you." He said that in his own words. It is not true of sugar or anything else, only tobacco. That is why it is different, because it is an addictive drug. It kills people. So this does not have any resemblance to other industries whatsoever.

So, again, I wind up by saying this: You wonder why the tobacco industry advertises so much. Why do they target young people as we see in these ads? Because every year, Mr. President, 2 million smokers die or quit; every year 2 million people that smoke die or quit. They either die or they quit. So the tobacco industry has to have some new smokers. So they go after young people, because 2 million people die or quit every year. So they have to go after young people. That is what Joe Cool Camel is about. That is what these ads are about, showing young people having fun in the surf, young people dressed up nicely, young people having a good time, young people in very sexually suggestive poses. That is what it is all about. Hook these young people and get them started on smoking.

Our amendment does not seek to stop this. All it says is let us quit having the taxpayers subsidize it.

Mr. President, I reserve the remainder of my time. I yield 4 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 4 minutes.

Mr. BRADLEY. Mr. President, this will be a good vote. This is what is known as taking the baseline vote and then go back to the people; taking the baseline vote and then defending your vote before your constituents.

Do you want to give $1 billion a year of hard-earned taxpayer dollars to promote the consumption of tobacco, primarily among the young, primarily among the poor, primarily among the uneducated, primarily among minority groups, but also all Americans, to promote the consumption of tobacco, which will shorten your life and increase taxpayer health care costs even more down the road? When people get sick from a disease caused by tobacco, they go to the doctor and they send the bill to the Government. Who pays for that? The taxpayers do. When the Government subsidizes the advertising of tobacco to hook young people on it, who pays for that? The taxpayers do.

This is not an issue of free speech. This is an issue about who gets the money.

Mr. President, about 500,000 people die each year from diseases related to tobacco. Smoking causes more premature deaths than fire, alcohol, automobile accidents, homicide, and suicide combined. Yet, we seem to persist in wanting to get more people to smoke or use tobacco. This is one of these events that is pretty hard to explain.

When you go home to your constituents after this vote and you are asked, "Why did you vote to continue giving my tax, my dollars to one industry to hook my children on a drug that will shorten their lives?" What are you going to say? I do not think that any Senator has ever had to answer that question because there has never been a clear-cut vote. Now there is a clear-cut vote.

Mr. President, I think the distinguished Senator from Iowa has addressed the question of small farmers, the slippery slope arguments. You know: Once we do this, we are going to be denying deductions for this, that, the other thing. No. This is—well, let me take that back. I guess you could demonstrate that if a particular tax subsidy, a particular spending of taxpayer dollars promoted the death of 500,000 people a year, yes, I guess I would be back to say that is not a good idea. But for today, I am happy to make the argument that this subsidy is outrageous, that this subsidy has never been confronted in the U.S. Senate. It is going to be confronted today, and it will be confronted in State after State. The reason it will be is because it is an unwise use of taxpayer dollars. It is a subsidy to a narrow industry for a narrow purpose that benefits very few people to the health detriment of millions.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas now has 3 minutes, the Senator from Iowa has 5 minutes. Who yields time? Time is charged against both sides.

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. The Senator from Iowa has 5 minutes, the Senator from Texas has 3 minutes.

Mr. HARKIN. Mr. President, I yield myself 30 seconds to respond to a couple of comments that were made.

The Senator from New Jersey is right. You really have to ask yourself some basic questions. Are you for increasing health care, for increasing productivity? Are you for protecting our children, for reducing waste in Government spending? Then you ought to support this amendment and vote against the motion to table. Or, if you are for a $1 billion tax giveaway, if you are for hooking more kids on tobacco, if you are for losing more lives, you maybe want to vote to table this amendment.

Mr. President, that is what this thing is all about. It is about saving lives and saving money. It is about trying to do away with the kind of advertising that appeals to young people and to minorities, to the poor, to get them hooked on tobacco. That is what this amendment is all about.

Mr. BENTSEN. Mr. President, we are prepared to yield back the remainder of our time, if the Senator from Iowa is.

Mr. HARKIN. Mr. President, I yield a minute to the Senator from New Jersey.

Mr. BRADLEY. I thank the distinguished Senator. I think the amendment in question has two parts: One is to remove the subsidy, and the other is to use the money to get out the message in every State in this Union that tobacco use shortens your lives.

There is a double aspect of this amendment to, first, remove the taxpayer subsidy partially. There will be fewer taxpayer dollars going to tobacco companies. Second, it takes that money and it uses it in every State through communication programs that will try to convince people that smoking is dangerous for you health.

Mr. HARKIN. Mr. President, I will yield my time soon, but I have a personal letter from Mr. Thomas Graham here that I received in August, which I want to read, which I think kind of brings it all home. I do not know Thomas Graham from Ocean City, NJ. This letter is dated August 7, 1992, in his own handwriting:

> DEAR SIR: I read with interest that you are sponsoring a bill to limit tax deductions for cigarette advertising.
>
> Enclosed is what I feel is a glaring example of the lengths they go to. I received this almost a year ago and have been waiting for the proper use for it to show up. I feel your proposed bill is that use, so I am giving it to you.
>
> I smoked at least a pack a day of nonfiltered cigarettes for over 30 years, and in 1988 I had a heart attack, which my doctor blames on smoking. I have not smoked at all since the heart attack and didn't appreciate receiving this last year.
>
> Hopefully, you can use it to help pass your bill and perhaps save a life.
>
> Very truly yours,
>
> THOMAS GRAHAM.

This is what he received in the mail, what he sent me. It is a box that looks like an old shipper's trunk, a steamship trunk. It says Manila on it, "A present from the past." And you open up this very nice box. Look how great this looks. Look how they packaged five packages of Commander cigarettes that they sent to him after he had been smoking 30 years and had a heart attack. A little booklet says, "From a time when taste was everything." You open it up and there is a nice advertisement with "sharing Commander nonfilters with friends who smoke. If you know other smokers who might enjoy receiving this, mail this in, and we will send them a Commander sampler also."

Look at that. How much do you suppose that costs to send out to that one individual, who already had a heart attack?

What he is saying is, enough of this nonsense. That is what I say, too, Mr. President. Enough of this nonsense that taxpayers have to subsidize this.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Harkin amendment. Senator HARKIN and I have worked together to try to discourage tobacco use and protect people from deadly secondhand smoke. Just last week, the Senate approved an amendment that I offered to the Labor-HHS appropriations bill to protect children from secondhand smoke. We all know that tobacco is deadly both for those who use it and for those who are exposed to it.

Mr. President, the tax bill that is pending before us is designed to provide a variety of incentives to individuals and business to invest in our cities and to revitalize our economy. The Finance Committee has approved such provisions because these types of investments will have a positive effect on our economy. There are many other incentives in the Tax Code designed to encourage certain economic and social goals.

This amendment seeks to remove one incentive that, instead of encouraging something positive, encourages sickness and death. The Tax Code provides 100-percent deductibility for advertising of tobacco products which cause death for not only those who smoke but for those who breathe secondhand tobacco smoke.

Mr. President, our Tax Code is promoting consumption of tobacco products at the same time that the Secretary of Health and Human Services and the Surgeon General are telling us that smoking is hazardous to our health. This is outrageously hypocritical!

Mr. President, this is not a small loophole in the tax law that is rarely utilized. The tobacco industry is taking great advantage of this full deduction. In 1989, the tobacco industry spent $3.6 billion on advertising and promotion. This is almost a 100-percent increase in these expenditures since 1980, and this is adjusted for inflation.

The tobacco industry spent almost $2 billion in 1989 on promotional activities, couponing and retail value added. Promotional activities include amounts paid to retailers for shelf space, cooperative advertising and trade promotions to wholesalers. Couponing and retail value added activities include cents-off coupons, multiple pack promotions, and noncigarette items such as lighters.

In addition to these expenditures the tobacco industry spent $380 million on magazine advertising in 1989 which is a 7-percent increase over the previous year. The industry also spent $385 million for outdoor advertising, which is up 12 percent from 1988.

Mr. President, why is the tobacco industry increasing its advertising and promotional activities? The answer is because advertising can help sway people to take up this life-threatening habit. Because public awareness about the dangers of tobacco products is increasing, the industry has stepped up its efforts to encourage more and more people to begin smoking.

While I am extremely disturbed by increased tobacco advertising, I am outraged by the tobacco industry's subliminal effort to make smoking appear attractive to children. Nothing is more illustrative of this practice than the image of Joe Camel which is used to promote Camel cigarettes.

Mr. President, according to research published in the Journal of the American Medical Association [JAMA] last year, the image of Joe Camel is as recognizable to 6-year-old children as Mickey Mouse. Another study published in the same edition of JAMA concluded that while 94 percent of all high school students could identify Joe Camel, only 58 percent of those over the age of 21 knew the character.

While we can only speculate about the intentions of those who promote Camel cigarettes, it is clear what the effect is. The effect is that young people are responding to this cigarette advertising.

Even Secretary of Health and Human Services Sullivan condemned advertising which targets specific groups such as youth, women, and minorities. In October 1991, Secretary Sullivan stated that "Cartoon figures can't hide the truth: Smoking is the No. 1 preventable cause of death in America."

Is the Joe Camel campaign working? The JAMA studies show that Camel cigarettes are now smoked by 33 percent of smokers under the age of 18, compared with less than 1 percent before the Joe Camel advertising campaign began in 1988. This study shows that advertising campaigns geared to children pay off for the tobacco industry.

While the tobacco industry may have the right to run these ads, should the policy of the U.S. Government to fully subsidize the costs of such campaigns through tax deductions? I believe that we should not.

This amendment does not take away the entire deduction for tobacco advertising. This amendment only reduces the deduction from 100 percent to 80 percent, the same level of deductibility for business meals and entertainment. Given the fact that tobacco kills 434,000 people each year, I think this amendment is a rather modest one.

Now opponents of this amendment will argue that this amendment violates freedom of speech issue or curtails interstate commerce. I disagree. Promotion and consumption of tobacco products is a public health issue. As I stated previously, the Secretary of Health and Human Services has stated that tobacco smoking is the No. 1 preventable cause of death in America.

The cost of tobacco smoking on our health care system and our economy is tremendous. The costs of treating tobacco-related illnesses is $65 billion a year or $260 for every American. We simply cannot afford to subsidize the promotion of tobacco products that end up costing all of us in increased health expenditures and lost productivity.

Mr. President, every day 3,000 children begin smoking and more than 50 percent of all smokers are addicted by the age of 14. We need to reverse this tragic trend. We need to slow down the advertising machine of the tobacco industry that is enticing our children to smoke. The Harkin amendment is a first step in this direction. I urge my colleagues to support this amendment and remove some of the taxpayer subsidy of this deadly advertising and promotion game.

Mr. KOHL. Mr. President, I rise to reluctantly but firmly oppose the Harkin amendment. The reluctance springs from the fact that I do not necessarily oppose the ultimate goals of the amendment. But Mr. President, the method used to achieve those goals—as desirable as they may be—is simply unacceptable.

The approach of the amendment is to punish a particular form of speech. If adopted, the amendment would deny certain tax deductions to commercial speech simply because it deals with smoking. We will have sanctioned the use of the Tax Code to discourage not a form of behavior but a type of speech. In the past, Congress has sometimes imposed sin taxes on particular products. That is troubling enough; but this proposal doesn't impose a tax on the use of a product, it in essence imposes a tax on speech about a product. And frankly, Mr. President, I find that very troubling.

If we accept the concept that we can punish speech used to promote a given product, I don't believe there is any logical way we can oppose the extension of that concept to other products and other ideas. Does anyone doubt, for example, that Dan Quayle would like to sue the Tax Code to punish products advertised on "Murphy Brown." After all, those revenues generated by those advertisements helps pay for what he believes is a frontal attack on family values. The same logic could apply to certain cosmetics which benefit from animal testing which some groups oppose. And what about advertising which, in the view of some, insults women by using them simply as sex objects to sell a product. There is, I fear, no logical dividing line that can be drawn to prevent the unfair tax treatment being proposed in this amendment from also applying to other products and ideas which someone thinks are dangerous or undesirable.

Mr. President, I think the authors of this amendment have the best of intentions. But the approach they have used, this indirect tax on a form of speech, is simply not acceptable. In my view, this ought not be a vote about whether or not one supports smoking—it is a vote about whether or not one supports the constitutional protection which prevents Government from punishing certain forms of speech.

Mr. MACK. Mr. President, I must reluctantly oppose the amendment offered by the Senator from Iowa. As one who is actively involved in America's fight against cancer, I am keenly aware of the dangers associated with tobacco use. Studies indicate that cancer associated from tobacco use is the single most avoidable form of cancer. However, I am deeply committed to the principles of less government and more freedom. This amendment violates both principles.

Our Constitution guarantees the right to freedom of speech. This also means the Senate cannot single out one particular form of speech it deems inappropriate and attempt to suppress it due to its content. The Harkin amendment does exactly that. it targets one industry and subjects it to unfair treatment under the law. On several occasions, the Supreme Court has ruled that advertising is entitled to constitutional protection. Many legal scholars believe the courts would likely find this amendment unconstitutional.

I do not believe limiting the deductibility of advertising is the best way to achieve the goal of establishing antismoking campaigns. Furthermore, it is not sound tax policy to alter our Nation's Tax Code to penalize a single industry whenever society, or Congress, deems the activities of that industry to be harmful. The end result of this amendment would pose a financial burden on an advertiser because of the content of its advertisements.

I am also concerned that passage of this amendment would set a dangerous precedent for similar actions to limit the deductibility of advertisements for beer and wine, high-fat foods, or any product which is packaged in styrofoam. The Tax Code should not be used to punish a legal industry. It simply must not happen in America.

I have worked hard throughout my public life for less government and more freedom. I must hold to this belief even when rejecting it would benefit cause to which I am personally committee—cancer prevention. I must therefore oppose the Harkin amendment.

Mr. SANFORD. Mr. President, I rise today to once again voice my strongest opposition to the amendment by the Senator from Iowa to prohibit businesses from deducting certain expenses incurred in connection with advertising that promote tobacco products.

I have spoken to this issue before. When the Senator from Iowa spoke on this issue in August I came down to raise my concerns about this amendment. I want to recap just some of my concerns and then submit a document for the record.

This amendment before us today mistakenly assumes that the advertising and promotion expense deduction is a taxpayer subsidy. It is not. It is like any other deduction for ordinary business expenses. The Tax Code permits companies to deduct ordinary and necessary expenses incurred in its business. Advertising clearly fits within that meaning.

Mr. President, if the Government gets into the business of deciding that otherwise allowable business expenses are subject to a good-bad test, we are going to have some real problems around here. If we disapprove of a particular industry, should we indirectly harm it by requiring it to pay income taxes on something other than income? Are we going to try to solve drunk driving or alcohol abuse by going after advertising or other expenses of wineries, breweries, and their distributors? Should we limit the deductibility of labor costs in targeted industries we don't like? Obviously, this is not the approach we should take.

I do want to address directly the difference between this approach and the treatment of business meals and entertainment under the 1986 tax bill. The 1986 tax bill partially disallowed deductions for all business meals and entertainment expense, not just those incurred by a particular industry. Further more, the only reason that business meal deductions and country club dues and the like are not fully deductible is that everyone realizes that those expenses are not devoted fully to business pursuits. The employee derives some personal benefit from those amenities. Advertising is clearly different.

This amendment will certainly not be budget neutral as its proponents suggest. Instead, it will reduce the overall amount spent on advertising and promotion, which will result in less Federal tax revenue. These are some of my concerns with this amendment, but perhaps the most disturbing aspect of this amendment is it's outright attack on the first amendment. I feel strongly that, however well-intentioned, this amendment is hostile to the first amendment. Burt Neuborne, former legal director of the American Civil Liberties Union, said recently that "one can hardly imagine a clearer case of content-based discrimination."

Mr. President, this amendment offends the first amendment in three respects.

At the broadest level, the amendment is hostile to speech. It treats advertising and promotion, which are protected by the first amendment, less favorably than other income-generating business activity. It is literally a tax on speech, which the Supreme Court has condemned time and time again.

Worst still, the amendment discriminates against speech by particular speakers based on the content of their speech. It singles out the advertising and promotion of a particular industry for unfavorable treatment, solely because of official disapproval of the content of that expression. Just last December, however, the Supreme Court affirmed that a "statute is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech."

Finally, the amendment taxes the advertising of an industry to finance counter-advertising by its opponents. This offends the first amendment in two ways. First, it imposes a forbidden condition on speech. It says to tobacco companies: "If you advertise, the direct result will be that the Federal Government will finance your opposition." Second, it results in forced speech. It makes the tobacco companies pay for the speech of their adversaries. The Supreme Court repeatedly has held that government may not tell private parties what to say or make them use their own property to facilitate the speech of others.

The bottom line is this. The first amendment protects all speech, including commercial speech. If we believe that the antismoking message needs further amplification, and I am not convinced that it does, the first amendment requires us to find some other method for achieving that objective than the method proposed in this amendment.

Mr. President, the Senate must reject this amendment. I ask unanimous consent to include an impressive and concise letter as a part of the RECORD. I wish to submit a letter from Floyd Abrams of Cahill, Gordon & Reindel to Senator BENTSEN.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAHILL GORDON & REINDEL,
*New York, NY, September 17, 1992.*

Hon. LLOYD BENTSEN,
*Chairman, Finance Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR BENTSEN: I write on behalf of the American Advertising Federation ("AAF"), a national trade association representing virtually all elements of the advertising industry, to express grave concern as to the constitutionality of a proposed amendment to H.R. 11, The Revenue Act of 1992 (Urban Aid Bill), which I am informed is scheduled to be considered on the Senate floor next week.

The proposed amendment, as I understand it, would prohibit businesses from deducting certain expenses incurred in connection with advertising that promotes tobacco use; the resulting revenue would be used to subsidize "advertising programs designed to persuade individuals . . . not to use tobacco products." Proposed Section 45(b)(1). Because such a statute would simultaneously penalize speakers based on the views they express while it compels those very speakers to subsidize the expression of views with which they differ, the proposed amendment raises First Amendment concerns of the highest magnitude. It is for this reason that similar legislation has been opposed by groups as disparate as the American Civil Liberties Union, the Washington Legal Foundation, the Freedom to Advertise Coalition, the Association of National Advertisers and The Thomas Jefferson Center for the Protection of Free Expression. By this letter, the AAF reemphasizes its opposition to the proposed legislation.

As a national trade association representing companies that advertise consumer products, advertising agencies, magazine and newspaper publishers, and other members of the advertising industry, the AAF is concerned that the target of this bill is speech itself—commercial speech, to be sure, speech about tobacco, surely—but speech nonetheless. As such, it is inherently threatening to basic First Amendment principles. The content-based punishment of cigarette advertising constitutes one likely constitutional violation; the compelled subsidization by cigarette advertisers of those who oppose any smoking by anyone is another. Considered together or independently, both elements of the proposed amendment raise the most acute constitutional concerns.

While the proposed legislation relates only to tobacco advertising, it necessarily threatens the freedom of all advertisers and all who depend upon advertising for information. What Congress does today to one form of advertising it may do tomorrow to another. For it is undeniable that the reach of First Amendment protection for cigarette advertising is the same as for any other lawfully sold product. Just as First Amendment protection for the press applies to newspapers large and small, controversial as well as bland, irresponsible as well as responsible, the rules established by the First Amendment for commercial speech are—and must be—the same for all who claim its protection. And so it follows, inexorably and inevitably, that the First Amendment does not disappear or evaporate when cigarettes are at issue—unless, that is, it could do so for the advertising of any other product. The rules must be the same for all advertising. If they were not, we would not be talking about constitutional *law* and First Amendment *law* at all. It is for that reason, and for those discussed below, that the AAF is so troubled by the proposed amendment.

The proposed amendment singles out advertisers promoting the lawful sale of tobacco and penalizes them for the views they express. Under the current version of the Internal Revenue Code, expenses incurred in connection with advertising may be deducted from income—on the theory that only net income should be taxed. The proposed amendment makes cigarette advertising uniquely expensive by reducing the generally available deduction only for "expenses relating to advertising or promoting tobacco products." Proposed Section 280I(a). The amendment penalizes one viewpoint in favor of another: when tobacco companies promote use of their brands, they are penalized with reduced business expense deductions; when others seek to deter tobacco use, they are rewarded with subsidies equal to the very deductions the tobacco companies are prevented from taking.

This is nothing but a form of content-based censorship. It may be viewed by some as beneficent, but it is no less dangerous for the good faith of its sponsors. Indeed, as the Supreme Court reiterated last winter in striking down the New York "Son of Sam" law, "[i]f there is a bedrock principle underlying the first amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." *Simon & Schuster* v. *N.Y. Crime Victims Board*, 112 S. Ct. 501, 509 (1991). The statute at issue there—as here—did not actually ban speech; it imposed a financial burden on speech of which a legislature disapproved. The Supreme Court concluded that such a statute was "presumptively inconsistent with the first amendment" on the ground "that the Government's ability to impose content-based burdens on speech raises the specter that the Government may effectively drive certain ideas or viewpoints from the market." 112 S. Ct. at 508. So too here.

It is no answer for proponents of this amendment to point out that tobacco advertising is commercial speech. Of course it is. But from the first recognition of the need to provide protection to commercial speech by the Supreme Court some fifteen years ago today, the Court has "reject[ed] the paternalistic assumption" that consumers will be unable to evaluate truthful, nondeceptive advertising. *Peel* v. *Attorney Registration & Disciplinary Comm'n*, 496 U.S. 91, 105 (1990) (plurality opinion); *see also Linmark Associates* v. *Township of Willingboro*, 431 U.S. 85, 97 (1977). Such assumptions are prohibited because the First Amendment has already made the choice "between the dangers of suppressing information, and the dangers of its misuse if it is freely available." *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, 425 U.S. 748, 770, (1976). While commercial speech thus receives a "different degree of protection . . . to ensure that the flow of truthful legitimate commercial information is unimpaired," 425 U.S. at 772 n.24, a statute limiting that speech cannot be sustained if it is contrary to the principle, as most recently repeated by the United States Supreme Court, "that disclosure of truthful, relevant information is more likely to make a positive contribution to decision-making than a concealment of such information." *Peel, supra*, 110 S. Ct. at 2292. This proposed statute is directly at odds with that proposition.

Indeed, at its last Term, in striking down an ordinance punishing racist speech that by its very nature constituted so-called "fighting words" which inflicted injury or tended to incite an immediate breach of the peace, the Supreme Court stressed that even as to that much disfavored speech, government must respect the constitutional prohibition on content-based restrictions. *R.A.V*, v. *City of St. Paul, Minnesota*, 60 U.S.L.W. 4667, 4669–70 (1992); *see also New York* v. *Ferber*, 458 U.S. 747, 763 (1982). At the least, the relevant lesson of that case is that in the commercial speech context, government must respect the even stronger prohibition on viewpoint discrimination.

The fact that the proposed amendment subsidizes additional speech with the revenue it creates by penalizing tobacco advertising does not cure its constitutional deficiencies. To the contrary, it raises additional constitutional concerns. It does not follow from the unexceptionable proposition that more speech is better than less that as a condition of advertising, advertisers with a particular point of view can be compelled to subsidize the messages of those who denounce them. Such a statutory scheme offends core principles embodied in the First Amendment. As Thomas Jefferson put it, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." I. Brant, *James Madison: The Nationalist* 354 (1948); *see also Abood* v. *Detroit Board of Education*, 431 U.S. 209 (1977). Not surprisingly, the Supreme Court has invalidated state laws that impose much the same obligations as the proposed amendment. *See Pacific Gas & Elec. Co.* v. *Public Util. Comm'n*, 475 U.S. 1 (1986); *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974).

Finally, entirely aside from what predictions you may be offered about how the courts will treat the proposed amendment, it rests in the first instance with Congress to determine what level of First Amendment protection should be afforded to commercial speech. As Justice Holmes, writing for the Supreme Court, observed, "legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts." *Missouri, K. & T. Ry.* v. *May*, 194 U.S. 267, 270 (1904). Your former colleague Senator Sam Ervin put it even more forcefully: "Every Congressman is bound by his oath to support the Constitution, and to determine to the best of his ability whether proposed legislation is constitutional when he casts his vote in respect to it." P. Shuck, *The Judiciary Committee* 175 (1975).

Thus, even if you conclude that the proposed amendment might be held constitutional by a majority of the current Supreme Court, I submit that you should still not enact it. Congress has a duty to apply its own constitutional calculus and enact only that legislation which it finds consistent with its own view of the Constitution. If you believe, as I would respectfully urge upon you, that this proposed amendment is inconsistent with First Amendment principles, you should oppose the proposed amendment.

Respectfully,

FLOYD ABRAMS.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the amendment offered by the distinguished Senator from Iowa [Mr. HARKIN].

Mr. President, I want to go on record once again, as I have often in the past, as a strong opponent of cigarettes. Cigarette smoking is the leading preventable cause of death in the United States. It is directly responsible for more than 300,000 deaths each year, or more than one of every six deaths in our country.

As early as 1984, the Minnesota Coalition for a Smoke-Free Society 2000 reported that smoking caused 5,000 deaths a year, and cost at least $374 million in direct medical costs associated with tobacco-caused illnesses.

Because of the harmful nature of cigarette smoking, the Federal Government has restricted some forms of advertising. It has prohibited the advertisement of tobacco products on radio and television. The Supreme Court has upheld this restriction.

Many States and localities have also considered restrictions on the time, place and manner of cigarette advertising, particularly ads that appear to be aimed at children. I recognize, Mr. President, that the first amendment of the Constitution prevents absolute bans on advertising of legal products.

Despite my opposition to smoking, I do not think that the Tax Code is the appropriate place to impose economic sanctions. As long as the advertisements are legal, the expenses associated with them should also be deductible as legitimate business expenses.

The best way to eliminate smoking in America is to convince people, especially children, not to start smoking. It is a sad fact that the tobacco industry must recruit 4,000 to 5,000 new smokers each day to smoking in order to maintain constant levels of cigarette consumption. And I have always supported effective anitsmoking campaigns, including limitations on how these products are marketed and sold.

Mr. President, last year I joined the chairman of the Senate Labor and Human Resources Committee in introducing the Tobacco Product Education and Health Protection Act that contained many provisions to prevent young people from starting to smoke and to encourage them to stop smoking.

Thus, I think that we should be very aggressive in our efforts to limit or eliminate the scourge of smoking in our society. However, any advertising that remains permissible should be allowed the same business deductions as other products receive.

Mr. HARKIN. I yield the remainder of my time. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, may I ask the time situation?

The PRESIDING OFFICER. The Senator from Texas retains 3 minutes. The Senator from Iowa has yielded back his time.

Mr. HELMS. May I have some, if not all of the 3 minutes?

Mr. BENTSEN. Yes. I yield 3 minutes to the Senator from North Carolina.

Mr. HELMS. Mr. President, I oppose the amendment offered by the Senator from Iowa. This is just another in a series of cheap shots being taken at the tobacco farmers of this country. Beyond that, it is also a blatant violation of the first amendment.

By seeking to limit the deductibility of promotional costs associated with tobacco products, the amendment targets for unfavorable treatment a single, totally legal, commercial product. I recognize that the Senator from Iowa may have strong feelings about the use of tobacco. However, to imply that business deductions for costs associated with advertising and promotion are some kind of taxpayer-financed subsidy is just plain absurd—and I think my colleagues know it.

Mr. President, under the Harkin amendment, a business could deduct costs of promoting any product—except tobacco. Imposing a cost on promoting one product—tobacco—is a restraint of speech based on content. As Senator HEFLIN has made clear, this is something the Supreme Court recently addressed when it invalidated a New York law on the grounds that a "statute is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech." *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 60 USLW 4029, 4032 (1991).

In addition, the Supreme Court has determined, "the first amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others." *City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U.S. 789, 804 (1984).

Mr. President, the U.S. Congress should not tax business in the first place. But that aside, we should not start limiting deductions for advertising expenses just because a majority thinks that the legal activity being promoted is wrong. Before Senators start picking and choosing which legal products in this country are and are not politically correct—and thus deserving of equal treatment under the tax code—they might want to think about what activity in their State might be the politically correct crowd's next target.

Senators should pause and reflect on just how slippery a slope the pending amendment would put us on if it were to pass. Senators should contemplate the very real possibility that their State may be the one that suffers next.

Mr. President, I hope Senators will oppose this amendment regardless of their personal beliefs with respect to the use of tobacco. Whether one favors or opposes smoking is not the point. The point is that tobacco is a legal product.

When I first ran for the Senate in 1972, I pledged to the tobacco farmers of North Carolina that, if elected, I would do everything in my power to protect their livelihood and their right to grow a legal product. I will continue that commitment as long a I am a Member of the U.S. Senate.

Mr. President, I have several statements of opposition to the Harkin amendment, including letters from the Association of National Advertisers and the National Association of Broadcasters. I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF
NATIONAL ADVERTISERS, INC.,
*Washington, DC, September 14, 1992.*
Hon. JESSE HELMS,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR HELMS: Enclosed is a letter from the eminent legal expert, Professor Burt Neuborne of New York University's School of Law, which systematically analyzes Senator Harkin's amendment to H.R. 11. The Harkin amendment limits the tax deductibility of tobacco advertising. Professor Neuborne concludes that the amendment is unconstitutional and that the underlying premises of the amendment are "inconsistent with generally accepted principles of tax policy."

Our Association, which represents national advertisers who collectively account for over 80 percent of all annual regional and national advertising expenditures in this country, believe the Harkin amendment would create severely damaging precedents threatening all of our Members. We therefore hope that you will carefully consider the important points contained in the enclosed letter before casting your vote on this critical matter. We strongly urge that you defeat this ill-considered proposal.

Sincerely,

DANIEL L. JAFFE.

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NATIONAL ASSOCIATION OF
BROADCASTERS,
*Washington, DC, August 6, 1992.*
Hon. JESSE HELMS,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR HELMS: We understand that Senator Harkin plans to offer an amendment to H.R. 11, the Revenue Act of 1992, which would limit the business deduction for the cost of advertising tobacco products. NAB is strongly opposed to this amendment.

NAB's membership has no direct stake in this fight. Beginning in 1971, the federal government banned advertising of cigarettes and other tobacco products on the electronic media. While the amendment clearly is designed to eliminate or reduce tobacco advertising, local radio and television stations and the networks will not lose advertising revenues as a result.

We fully share the concerns of the many advertising and media groups that oppose this amendment because it is contrary to the First Amendment, and is bad tax policy, as well. The unique danger for radio and television stations throughout the nation, however, is that this amendment would set a clear precedent by which the government will seek to single out other disfavored product categories for similar discrimination in the tax code.

We believe the First Amendment clearly forbids the government from singling out any form of speech and suppressing it because of its content. Yet that is precisely what the Harkin amendment would seek to do.

The amendment also makes little sense from a tax policy standpoint. Advertising costs are like every other deduction for ordinary and necessary business expenses, and should be treated as such. Advertising deductions are not some suspect form of tax "subsidy," which should be eliminated from the Code.

Broadcasters are especially concerned, however, by the precedent that will be established by this amendment. If Congress adopts this provision, you can be certain that it soon will be faced with similar proposals to deny deductibility for product categories like beer and wine, foods with "too much" sugar, cholesterol, or fat, or any other product that is out of favor with some special interest group.

NAB strongly opposes the Harkin amendment, and we ask you to vote against it. Congress should continue to permit full deductibility for advertising costs of all legal products.

Sincerely,

EDDIE FRITTS.

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ADVERTISING TAX COALITION,
*Washington, DC, August 6, 1992.*
Hon. JESSE HELMS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HELMS: We understand that Senator Harkin plans to offer an amendment to H.R. 11, The Revenue Act of 1992, to limit the business deduction for the cost of advertising tobacco products. The undersigned organizations strongly oppose this amendment. This amendment represents a fundamental attack on all advertising and on the constitutional protection for commercial speech.

If the tax code can be used to penalize those companies that advertise and sell products we don't like, it can be used as a weapon against any form of controversial speech. This amendment would invite future retaliation through the tax code against any unpopular product or cause.

A proposal to limit or deny the ordinary and necessary business deduction for advertising tobacco products singles out a specific form of speech and—because of its content—attempts to suppress it. The Supreme Court consistently has held that any government attempt to suppress protected expression because of its content is "so plainly illegitimate" as to render any law designed to achieve it automatically invalid. *City of Los Angeles v. Taxpayers for Vincent*, 104 U.S. 2118, 2128 (1984).

The deduction of the cost to advertise any product is not a tax subsidy. This deduction is the same as the deduction for any other ordinary and necessary business expense. It constitutes no more of a subsidy for tobacco products or use than the deduction that any company, including tobacco companies, can take for the salaries of their employees, the cost of lighting and heating their buildings or the operation of their cars and trucks.

We strongly urge you to vote against any amendment to limit the deductibility of advertising expenditures for tobacco products or any other products. This debate is not over the use of tobacco products or the wisdom of federal tax policy. It is a fundamental debate over the freedom of commercial speech, and we hope you will vote to uphold this important constitutional right.

Sincerely,

American Association of Advertising Agencies.
American Advertising Federation.
Association of National Advertisers.
Direct Marketing Association.
Grocery Manufacturers Association.
Magazine Publishers of America.
National Newspaper Association.
Newspaper Association of America.

Mr. HELMS. I will make the following comments: I have made an unscientific check of Senators, and I think I have talked to 30 or 40 of them in the last 2 hours. I asked them point blank: Is the Harkin amendment constitutional? I am not a Supreme Court Justice and do not pretend to be one. But, Mr. President, there has not been one Senator to say that it is constitutional. Most of them laughed at the suggestion that it is constitutional. WENDELL FORD put his finger on what it would do to the tobacco farmers. I have the same situation in my State. Senator HEFLIN has already discussed and made clear that this is something that the Supreme Court recently addressed—this, being the Harkin amendment.

The Supreme Court invalidated a New York law on the grounds that a statute "is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech."

Mr. President, the point is this: Whether one favors or opposes smoking is not the point. Nobody in my family smokes. I used to, but I do not anymore. The point is that tobacco is a legal product, and I suggest that Mr. HARKIN consider trying to make it an illegal product, in which case Brazil and Argentina and China and all of the other countries that produce tobacco would rush in and probably kiss him on the cheek, while the tobacco farmers in Kentucky, North Carolina, South Carolina, Alabama, Georgia, and so forth, go bankrupt.

There are several letters here from legal experts who say that the Harkin amendment is not constitutional. I believe they are right. I do not presume to be a Supreme Court Justice like some in this Chamber, but I think that Senator HARKIN may be well-intentioned and may be sincere, but he is sincerely wrong, Mr. President.

I yield the remainder of my time.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. All time having expired, the question is on agreeing to the amendment.

Mr. FORD. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the

Senator from Tennessee [Mr. GORE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. SANFORD] would vote "yea."

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—56

Adams
Akaka
Bentsen
Bond
Breaux
Brown
Bryan
Burns
Byrd
Cochran
Conrad
Craig
Danforth
DeConcini
Dixon
Dodd
Dole
Durenberger
Ford
Fowler
Gorton
Graham
Gramm
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kohl
Levin
Lott
Mack
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Roth
Rudman
Sasser
Shelby
Simon
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NAYS—38

Baucus
Biden
Bingaman
Bradley
Bumpers
Burdick, Jocelyn
Chafee
Coats
Cohen
Cranston
D'Amato
Daschle
Domenici
Exon
Garn
Glenn
Grassley
Harkin
Hatch
Hatfield
Jeffords
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Lugar
McCain
Metzenbaum
Mitchell
Pell
Pryor
Sarbanes
Specter
Stevens
Wellstone
Wofford

NOT VOTING—6

Boren
Gore
Rockefeller
Sanford
Seymour
Wirth

So the motion to table the amendment (No. 3170) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia [Mr. WARNER] will be recognized.

The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the managers for accommodating the Senator from Virginia on an amendment which, so far as I know will be accepted.

AMENDMENT NO. 3171

(Purpose: To amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3171.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1751, between lines 7 and 8, insert the following new section:

**SEC. 8006. IMPROVED DISCLOSURE TO DONORS BY TAX-EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any organization described in section 501(c)(3) or 501(c)(4) and any separate segregated fund described in section 527(f)(3) maintained by such organization, which is subject to the requirements of subsection (a) shall—

"(A) advise each contributor of the availability of a disclosure statement described in paragraph (3), and

"(B) shall furnish such statement upon written request to—

"(i) such contributor, or

"(ii) any potential contributor, within 30 days of such request.

"(2) EXCEPTION.—Paragraph (1) shall not apply to—

"(A) any organization described in clause (ii) or (iii) of section 170(b)(1)(A), or

"(B) any organization the gross receipts of which in each taxable year are normally not more than $100,000.

"(3) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds $100,000.

"(4) PROCESSING FEES.—Any organization furnishing a disclosure statement under this subsection may require that a self-addressed, stamped envelope and a reasonable fee not to exceed $2 to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATMENT.—In the case of a failure to comply with the requirments of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements $50 for each day during which such failure continues."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

Mr. WARNER. Mr. President, this amendment requires that the 501(c)3 and 501(c)4 organizations do two steps: one, inform donors or potential donors that a disclosure statement of the charity's budget can be obtained upon their request; and two, increase the amount of financial information available publicly.

The time has come, Mr. President, for more sunlight to fall on the internal operations of certain charities, charities out soliciting dollars from our constituents every day. Had this bill been law several years ago, the tragic management abuses of the United Way case might not have occurred. I repeat, our bill has two primary goals: public disclosure of more information about charities, and easing of the procedures by which donors can get this information.

This bill was originally introduced as a free-standing measure on July 2, of this year. And from that time until now, I have worked with a number of individuals and organizations that have come to discuss this proposed legislation. Almost without exception their comments have been constructive and I was pleased to incorporate and make certain revisions in this amendment accordingly.

The spirit throughout this process has been one of cooperation, not resistance from the charities.

Current law requires the filing of a disclosure statement, the Federal 990 form, administered through the Internal Revenue Service. This statement now provides information about how much of a charity's revenues go to operating costs, including executive salaries, and what percentage of its donations go to the charitable cause for which the charity was established. Our bill adds a requirement to disclose all salaries over $100,000. This form is, technically, available to the public, but only if the individual either goes to view the statement at the organization's headquarters, or, writes the IRS and requests a copy. This bill would shift responsibility onto the charity to provide that statement, upon request; and require them to inform donors or potential donors, let them know of the availability of this disclosure statement and willingness to send it to the donors at their request.

Mr. President, the American people, as a whole, are good hearted, extremely generous, and enjoy giving of their time and hard-earned money to charitable causes. That is one of the great traditions that distinguishes America from other nations in the free world. No other nation, as best I can determine, even approaches us on the concept of voluntarism and charitable giving.

There is a presumption that charities are equally good hearted and handle their donations with frugality and care. Fortunately, the vast majority do. Giving is on the road to recovery following the widespread public outcry of dismay after the United Way problem. Confidence is being restored. But more detailed knowledge of how frugally a charity manages salaries and expenses and how much of the donor's money is left for the beneficiaries will help further strengthen people's confidence in tax-exempt giving.

The bill only focuses on the 501(c) 3 and 4 organizations due to the special tax-exempt status they enjoy. The bill exempts hospitals and educational institutions; as you may know, current law already exempts religious organizations.

Further, I have exempted organizations which gross under $100,000 per year because there are so many holding small charitable events and I do not wish at this time to place upon them these responsibilities.

Several inquiries have been received from organizations, how they are to go about notifying as required by this bill, the donors or potential donors. The bill leaves a great discretion to the organizations to decide for themselves how best to inform their potential donors or actual donors. We do not try and specify that in the bill.

We do not try to specify that in the bill. Organizations will have the flexibility to decide for themselves how their charity can best meet this requirement.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. Mr. President, I ask unanimous consent that I can proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. It appears that a simple way to notify donors would be to enclose a notification along with the usual acknowledgment of the gift, or they could inform potential donors as a part of the solicitation process. The organizations have reasonable flexibility, therefore, to choose the manner in which to notify the public.

Another area of concern may be over the section which permits—and I repeat, permits—the charitable organization to charge a $2 fee as well as to require a self-addressed, stamped envelope to help defray postage and handling and processing fees. I did this very carefully because a lot of charities are on such a tight budget, I did not wish to impose on them additional expenses. So this $2 will help defray, presumably, a large part. And also, Mr. President, regrettably there are certain persons who might begin to solicit the charity information time and time again when they do not have my real serious or genuine intention to participate in giving to that charity, and that modest fee could well serve as a deterrent. Again, it is optional. The charity may or may not decide to have the fee.

There is also, understandably, concern regarding the disclosure of large salaries. The bill, however, is not a policy statement or stance on how much is or is not proper to compensate top executives in tax-exempt organizations. Let the donors decide. That is the purpose of this amendment. I am simply saying that the public helps to pay those salaries, and it has the right to know the details about the large salaries and the expenses associated with the operations of that charity.

Mr. President, I urge my colleagues to support this amendment, and I shall not at this time indicate a desire to have a rollcall vote.

I yield the floor.

Mr. PACKWOOD. Mr. President, this side has checked the amendment. We find it very acceptable and appreciate the Senator's bringing it to our attention.

Mr. BENTSEN. Mr. President, I am advised that we have no objections on this side. I think it is a good amendment, and we are pleased to accept it.

Mr. WARNER. Mr. President, I very much appreciate the statements by the managers, particularly the statement that it is a good amendment, and I am hopeful that both managers will support it in conference. For that reason then, I simply urge adoption of the amendment by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3171) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider that vote, and I move to lay that motion on the table.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Ohio [Mr. METZENBAUM] be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Arizona is recognized.

AMENDMENT NO. 3172

(Purpose: To require a 60-vote supermajority in the Senate to pass any bill increasing taxes)

Mr. MCCAIN. Mr. President, I thank the Chair. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3172.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

**SEC. . TAX FAIRNESS AND ACCOUNTABILITY.**

(a) SUPERMAJORITY REQUIREMENT IN THE SENATE.—

In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974 STRIKING 60-VOTE REQUIREMENT FOR REVENUE REDUCTION.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a deduction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; Provided however, that a bill, resolution or amendment that reduces the tax for Social Security may only be considered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn."

The PRESIDING OFFICER. There are 30 minutes of debate on this amendment equally divided.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I thank the Chair. I appreciate the rapt attention of my colleagues.

Mr. President, I will not spend a long time on this amendment. Just myself and the Senator from Mississippi, I believe, will be discussing it. The hour is growing late. The distinguished chairman and ranking member have already had a long day and will probably have a long evening. We have debated and discussed this particular amendment before, Mr. President, so I will try to be relatively brief.

I understand—if I can get the attention of my friend from Oregon—this will be subject to a budget point of order.

Mr. PACKWOOD. That is correct.

Mr. MCCAIN. This amendment is simple. It requires a 60-vote supermajority for tax increases while requiring only a 51-vote simple majority for tax cuts. The firewall for Social Security remains. Finally, there is a 60-vote supermajority to repeal any provision of this amendment.

The final supermajority requirement would further protect the Social Security trust fund as well as provide for a stable and sound rule for making tax policy.

Mr. President, in my view, one of the greatest economic policy mistakes—with all due respect to the dedication and hard work of the architects of the 1990 budget summit agreement, was the 1990 budget summit agreement. As a result, the deficit has exploded from $220 billion in 1990 to $268 billion in 1991, and it is expected to balloon to $330 billion this year. Remember, the promises of the budget summit agreement were that we would have reduction in the deficit and an increase in economic growth. Tragically, we have experienced neither.

That budget summit agreement included provisions that make it easier for the Senate to raise taxes than it is to cut taxes. Is it any wonder the Senate spends so much time figuring out ways to raise taxes?

I think it is important that President Bush has admitted that breaking his "no new taxes" pledge was a mistake, and I think it is clear that we cannot tax our way to prosperity.

Tax policy should be based on the notion of limited Government, limited taxation, and free and open debate.

In a Money magazine's seventh survey of "Americans & Their Money," 80 percent of the American people were against paying taxes to lower the deficit. They know that tax increases do not reduce deficits, that only spending cuts can reduce the deficit.

I might point out, Mr. President, we have raised the American people's taxes 57 times in the last 30 years, and in only 1 of those 30 years did we balance the budget.

As we look at $4 trillion of debt, we find ourselves in the tragic situation where we have literally mortgaged the futures of America's children; a $19,000 debt for every man, woman, and child in America and there is no sign of abatement.

I would like to see by this amendment a change in the practices of this body so that it is harder to raise taxes than it is to cut taxes. That is why I would like to see my amendment adopted.

Mr. President, I do not think there is 1 American in 1,000 that knows of that provision in the 1990 budget summit agreement that only requires 51 votes in the Senate to raise their taxes and 60 votes to lower them. I would like to see it reversed. I think the majority of the American people would like to see it reversed. I am hopeful that sooner or later, we can get this onerous and frankly unfair provision of the 1990 budget summit agreement reversed.

Mr. President, I reserve the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield such time as the Senator from Mississippi may consume.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the Chair. I want to thank the distinguished Senator from Arizona for yielding me this time and for once again having the courage to stand up and offer this amendment.

I say "courage" because I know there is a lot of pressure to move this legislation along and to not force a vote on something like this. But I think it needs to be discussed. As Members of this body, we sometimes wonder why the people are disenchanted, why they are mad at incumbents, why they are outraged. Well, it is things just like this that outrage the voters in this country. When they find out some of the incredibly inexcusable—and that is the nicest word I can use—things that we do in this body, they get outraged, and they should.

Now, most people out across America do not realize how the present law works. But if you went out to the byways and the crossroads of America and you said, "Let me explain to you a little thing that we have to deal with regarding your taxes in Washington," then you explain to them that to cut their taxes you have to have a supermajority but to raise their taxes it only takes 50 votes, they say, "Excuse me. You must have that backward." They cannot believe it. And then they figure it out: "That is one reason why you guys keep raising my taxes, because it is easier to raise taxes than it is to cut taxes."

This is not the way it has always been. This is a recent change. It was the budget agreement of 1990 that haunts us all here today and has for 2 years and will forever, I guess. That law required a supermajority to cut taxes. I say it ought to be 50 votes in either case, or, if you are going to have a supermajority one way or the other, it should take a supermajority to raise taxes.

As a matter of fact, I do not know what the numbers are, but many of the State legislatures that I am familiar with, require a supermajority to raise taxes on the taxpayers in their respective States.

So No. 1, this is part of the reason we have such problems now, I think, in this country, not only with our economy, but, as a result of that, probably with our voters in this country. No. 2, this is a recent change; and, No. 3, this is something that most States do not allow. For all of those reasons, I support this amendment.

This bill has a lot of good features, but it also has some things which I do not quite understand where they came from. We are going to phase out deductions and exemptions. We have in this bill before us a proposal to significantly increase the percentage of tax withheld on bonuses. I think that when people discover that, a lot of people that depend on bonuses are going to be outraged. You say, "Well, the people who get bonuses are people in the upper income brackets." I happen to know for sure that is not the case. There are a lot of people that depend on that bonus, in fact, to make ends meet. They do not make enough with their regular income.

Current law taxes a significant percentage of scholarship income. Here, at a time when we are supposed to be encouraging excellence in education, we have in the law provisions that tax that part of the scholarship income which pays for room and board and travel to and from school.

I do not understand that. I do not think most American people would understand that. We are trying to encourage students to do well and seek scholarships, and then we tax it. There is some basic inconsistency in our policy there. I believe we should change the tax law to exclude this scholarship income from taxation.

So, to conclude, I support this pending amendment. I urge, tonight, that we change this mistake we made in 1990. I think it is good and honorable to admit a mistake. It was a mistake to require a supermajority to cut taxes, and only 50 votes to raise taxes.

I have supported this change before. I will always support it. One of these days the American people are going to make us do this. We should have 50 actually for each, or reverse this order.

I appreciate the tough job that the leaders on this committee have to do. They cannot make any of us happy, most of the time, and it is a thankless job. I have voted with them on most of the amendments during the past couple of days because I want to help them do the job. But, in my opinion, to raise taxes we should require a supermajority. To cut taxes, just 50.

So I endorse the amendment and I urge my colleagues to vote for it.

Mr. BENTSEN. I yield 5 minutes to myself.

Mr. President, we have had this amendment before us twice already. We had it September 24, 1991, and it was defeated by a majority of 62 to 37. We had it before us on March 13, 1992, and it was defeated by a vote of 50 to 37.

Superficially, I think this has some appeal. But if you look into it in some depth what we are talking about, if we want to close the tax loophole, it is going to take you 60 votes to do it. It is going to create a tax loophole. You can go with the simple majority.

I think what you are talking about in this kind of a situation is an amendment that really just unhinges the budget process and adds to the deficit runaways that we have seen in the past. We enacted a key reform back in 1990 by establishing the pay-as-you-go principle requiring new entitlements to be matched either by revenue increases or spending cuts.

This amendment, in trying to tip the balance against taxes, actually destroys that tough discipline we added to the budget process only 2 years ago.

As a result, this amendment would send the deficit into the stratosphere by removing the current requirement for a supermajority vote to increase the deficit. This is not deficit neutral; it is prodeficit. Note carefully that this amendment has a catchall notwithstanding clause that allows a simple majority to increase the deficit by opening tax loopholes or changing the tax base, as well as by reducing some existing taxes.

In other words, this amendment would require 60 votes to pay for expanding health care coverage, but only a majority to pass a Christmas tree full of special interest tax loopholes. Is that the way we want the system to work? I do not think so.

Maybe deficits do not matter to the sponsors of this amendment. Maybe they are not losing any sleep over the all-time record high deficits we're running. But fiscal discipline is important, now more than ever. That is why we enacted pay as you go in 1990, and why we have on the books longstanding points of order against deficit increases—points of order which can be waived only by a supermajority vote of the Senate.

As chairman of the Finance Committee, I am also concerned about stacking the deck against my committee's prerogatives and responsibilities. It is hard enough to fulfill the requirements for deficit neutral legislation. This amendment would say "loopholes are fine, but any offsetting revenues have to win 60 votes." Frankly, I am not sure how this McCain amendment would operate in practice, but it might even be construed to divide packages and allow points of order against revenue increases while leaving the reductions undisturbed.

I happen to support an extension of the R&D tax credit. So does the administration. This bill provides an extension of that tax credit. But the extension costs revenues. This amendment would let us pass that extension by majority vote, but then we would have to find 60 votes to offset those losses by alternative revenues. And if we failed to muster that supermajority, the credit would still be extended and the deficit would widen.

This proposal also poaches on another committee, the Budget Committee, by amending the Budget Act. I understand that the chairman of the Budget Committee may raise a point of order against this amendment on the grounds that it contains legislation within Budget Committee jurisdiction but has not been reported by that committee, section 306.

Mr. President, I withhold the balance of my time.

**Mr. SASSER.** Mr. President, will the chairman yield?

**Mr. BENTSEN.** Mr. President, I yield 5 minutes to the Senator from Tennessee.

**The PRESIDING OFFICER.** The Senator from Tennessee is recognized for 5 minutes.

**Mr. SASSER.** Mr. President, I thank the distinguished chairman of the Finance Committee for yielding to me.

Mr. President, what we see with this amendment is another ill conceived effort to carry on the disastrous fiscal policies that this country pursued during the early part of the 1980's. You will recall that in the early part of the 1980's, particularly with the enormous tax cuts of 1981, the rationale was that we are going to reduce revenues, then subsequently we are going to reduce spending, and also the reduction in revenues will put money in the taxpayers hands, and this will stimulate the economy to the extent of the revenue pie.

That was a disastrous concept. Why do I say disastrous? Because from 1981 forward the revenue policies, the fiscal policies raised the national debt from 1981 through 1989 by over 200 percent.

The tax cuts that were enacted in 1981 deprive the Federal Treasury, according to the Office of Management and Budget of the Reagan administration, between 1981 and 1989, of $1.8 trillion in revenues.

There seems to be a psychology abroad with some in this country that you can promise everything, that you can vote for all of the expansions, but somehow there should not be revenues to pay for it.

If this amendment should become law, we will be right back in the boat we were during 1981, in a situation where we cut taxes first—that is the easy part—and then we are going to follow that up later with the spending reductions that never came. There were not adequate spending reductions to make up for the loss of revenue. That is not an accident, because the American people were demanding the programs and the services that the Federal Government had afforded, and there was not the political will—and understandably so—to come and make the revenue cuts that might have been necessary.

In this particular situation, in the event the Federal Government should find itself in need of additional revenue, trying to overcome the supermajority hurdle would simply be almost impossible to do. During the budget negotiations 1990, there was recognition on the part of the administration and the leadership of Congress that in an effort to stop the hemorrhage of red ink, in an effort to try to bring our budget more into balance, both the President and the leadership of the Congress would support some very moderate revenue increases, along with some spending cuts.

Mr. President, if in that instance we had been able to make some spending cuts with a simple majority, and if it would have required a supermajority to make the very modest and moderate revenue increases that were attendant to that particular agreement, then the revenue increases simply would never have occurred, and we would have been stuck with additional or enlargement of the deficit itself.

So, Mr. President, this amendment is simply unwise public policy. From a public policy standpoint, it would simply be, I think, unwise and impractical for us to move in the direction of a supermajority, as opposed to a simple majority for creating revenues.

Mr. President, I yield the floor.

**Mr. BENTSEN.** How much time is remaining?

**The PRESIDING OFFICER.** Four minutes, forty seconds.

**Mr. BENTSEN.** I yield to the Senator from Oregon.

**Mr. PACKWOOD.** Mr. Speaker, I am going to oppose this amendment, although I understand the intentions of those who offer it. I can sympathize in some respects in this sense: There is no question but what has happened in this Nation over the last 40 years. Taxes have gone up, and spending has gone up. We have not narrowed the deficit.

Forty years ago, all of the governments in the United States—Federal, State, local, water districts, and what not—all collectively taxed about 20 percent of the gross national product. We spent about 22 percent of the gross national product. So we had a deficit, all of the governments added together. Forty years later, we are now taxing about 33 percent of the gross national product, and we are spending about 35 or 36 percent of it.

Taxes have gone up tremendously. Spending has gone up tremendously, and the deficit remains. One day, I would like to think that the issue we would debate in this country is not incremental spending or incremental taxing; but in 10, 20, 30 years from now, do we want to look like Denmark or Sweden and tax 45 or 50 percent of the gross national product, and spend 50 or 55 percent of it, still having deficits? Because that is the inexorable way we are heading with the policies we have been following, and I think we will continue to head that way until we get a balanced budget amendment that compels us to balance the budget, which I do support and have supported strongly.

I would be willing to support a change in the rules so we would either have simple majorities or supermajorities for both spending and taxes. But I find the approach of my good friend from Arizona wrong.

I am going to join very strongly with the chairman of the Budget Committee and the chairman of the Finance Committee in opposition to this. But I say that I sympathize with their senses and their feeling. The evidence in the past as to what happens whenever we get taxes is quite simple: We spend it. We spend it on new programs and on programs that Congress loves. We spend it on programs the President loves. We spend it on programs we collectively all love. But we spend it.

And at some stage we will stifle the economy of this country with that approach. So I welcome that debate again at an appropriate time. I wish this Congress would pass a constitutional amendment to balance the budget. We have had that battle, and we are not going to do that, and it is a sad day.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. SASSER). Who yields time?

The Senator from Arizona has 6 minutes.

Mr. McCAIN. Mr. President, I do not intend to take too much more time. The chairman mentioned that we have voted on this before, and I am reluctant to waste the time of this body, particularly this late in our session.

I point out that this is a new phenomenon. It is not normal, nor is it customary for this body to have a provision that requires 60 votes to lower taxes and 51 to raise them. It is only a result of the 1990 budget summit agreement.

I agree with my friend from Oregon, who said that every time we raise taxes, we only spend the money. I think that is clear; 57 times in the last 30 years, we have raised the American people's taxes, and each time we have not reduced the deficit. In fact, our debt has grown to $4 trillion, of which the enormity is hard even for financial experts to comprehend.

At the same time, I think we have to keep this issue before the American people, and this is a way that I can do that. That is why I agreed to such a short time agreement, because the issue has been debated. But I think that provision of the 1990 budget deal is bad. I think it is bad for the American people, and I think it has increased their tax burden under which they are barely surviving. I think that the amount of taxation that the American people are suffering under is the direct cause of the economic stagnation we have been experiencing.

I am prepared to yield the remainder of my time for the distinguished chairman to make a budget point of order.

Mr. HATCH. Mr. President, I rise today to join Senator McCAIN in urging our colleagues to support the tax fairness and accountability amendment.

Mr. President, today we are discussing a bill to provide relief to the urban areas of our country, stimulate our economy, and provide the taxpayers of this country some relief from a complex and burdensome Tax Code. Although this country is slowly recovering from the recession, our citizens still need our help.

During this period of need, the ability of this legislative body to do something to help is hampered by the Budget Enforcement Act of 1990, which requires 50 votes in the Senate to pass any revenue-cutting legislation. This requirement ties the hands of Congress in doing what needs to the done—pass legislation designed to spur the economy and provide relief to our citizens.

This problem is made worse by the static scoring system utilized in Congress today. This method of scoring often categorizes a bill as losing revenue when, in the real world, it would raise revenue through increased economic activity. For example, a commentary by Warren Brookes printed in the Washington Times on February 25, 1991, discusses the effects of the Wallop-DeLay growth package. This package was scored as a revenue loser, losing $32 billion by the year 1995. Thus, the bill would require 60 votes to pass in the Senate. The article shows that when using a dynamic approach to scoring, this proposal would actually increase revenues by $34 billion, add 1.633 million jobs, and contribute $228 billion to the GNP by the year 1995. We cannot ignore the relationship that tax legislation would have on our dynamic economy.

By reversing this bias from one that focuses on tax-raising provisions to one that emphasizes tax cuts, we are making it possible for the Senate to take an aggressive role in controlling the recession. Controlling the level of taxation is a prudent budgetary tool. Economic activity is increased under lower levels of taxation. This increases total revenue and will help us out of the recession. On the other side of the question, by making it more difficult to raise the level of taxes, we are utilizing a proven tool to combat recession.

Let us allow Congress to become a driving force in combating the recession by taking the first step toward controlling the spiraling budget deficit and the recession. Let us help all of the workers in America, both the employed and unemployed. I strongly urge my colleagues to support this amendment.

Mr. DURENBERGER. Mr. President, I want to take a few moments to speak in opposition to the amendment offered by my distinguished colleague from Arizona [Mr. McCAIN].

Mr. President, the Senator from Arizona is proposing that the Constitution be further amended to preclude raising revenues and taxes above the annual growth in national income unless such a revenue proposal garners the support of a supermajority, three-fifths of Senators and Representatives. On the other hand, all it would take is a simple majority of 51 Senators and 218 Members of the House to approve any tax cut.

Mr. President, at a time when the Federal budget deficit is $400 billion; when the national debt is $3.8 trillion and growing at the rate of more than $1 billion a day, I cannot understand the rationale for this amendment unless the Senator is intent on seeing the Federal deficit rise to $500 or $600 billion.

When we adopted the pay-as-you-go budget agreement, we established a rule providing that if a legislative proposal loses revenue, and thereby increases the deficit, the Senate must come up with sufficient offsetting revenue to pay for that proposal. If there is no offset, a revenue-losing legislative proposal can be enacted, but only if 60 Senators agree to waive the Budget Act. That is the discipline that prevents this body from further increasing the deficit.

What the pending amendment would do, is turn the budget agreement upside down. It would allow a simple majority of 51 Senators to pass legislation cutting taxes no matter the extent the budget deficit is increased. But it would require a supermajority of 60 votes to pass fiscally responsible legislation that might require a modest tax increase to pay for an emergency program and help reduce the deficit.

Mr. President, how did we get to this point today where our Nation is the largest debtor in the world? We got here because we spent the last decade expanding entitlement and domestic spending without having the will to pay for them with tax revenue. Every interest group that knocked on our door with their needs got something. And since we didn't have the will to say no to spending increases, the national debt has grown to $3.8 trillion, and interest on the debt has jumped more than 400 percent from $52.5 billion in 1980 to more than $215 billion this year.

Mr. President, it is the rare elected official who wants to go back home and tell his constituents that taxes have to be raised to pay for spending. All of us prefer to promise lower taxes. Yet that is precisely why we face this extraordinary national debt.

The proposal before us will make it far more difficult for the Senate to adopt fiscally responsible tax legislation, while significantly diminishing our ability to control the deficit. Is that the legacy we want to leave to our children. More debt, more tax cuts, fiscally irresponsibility.

Mr. President, this amendment fundamentally alters the rationale and logic of the budget agreement. If we vote this amendment, we are telling the American people that on our watch, we threw away any sense of fiscal discipline.

I urge my colleagues to oppose this amendment.

Mr. BENTSEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute, 23 seconds.

Mr. SASSER. Mr. President, I am prepared to make the point of order, if all time is yielded back.

Mr. McCAIN. Mr. President, I yield my time.

Mr. SASSER. Mr. President, I raise a point of order that the pending McCain amendment violates section 306 of the Congressional Budget Act of 1974.

Mr. McCAIN. Mr. President, I move to waive section 306 of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The question is on the motion to waive the Budget Act.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. DOLE. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. RUDMAN], the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], would vote "yea."

The PRESIDING OFFICER. (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 32, nays 60, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—32

Bond
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Dole
Garn
Gorton
Gramm
Grassley
Hatch
Hollings
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NOT VOTING—8

Boren
Gore
Helms
Rudman
Sanford
Seymour
Simpson
Wirth

The PRESIDING OFFICER. On this vote, the yeas are 32, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Chair further rules that the amendment contains provisions within the Budget Committee's jurisdiction and the bill was not reported or discharged from the Budget Committee and therefore violates section 306 of the Congressional Budget Act. The point of order is sustained and the amendment falls.

## SENATE COMMENDS VINCE DEL BALZO

Mr. MITCHELL. Mr. President, may I have order in the Senate, please?

Mr. President, for all Senators and for Americans who watch the proceedings in the Senate on television, the best known voice is that of the clerk who calls the roll during votes. Today, Vince del Balzo is retiring after 20 years of service in the Senate. In 1970, at the age of 17, Vince began work here in the Senate for Senator Mike Mansfield. In September 1977, he worked in the Secretary of the Senate's office. He then worked in the Executive Clerk's Office, and in 1980 he was appointed bill clerk.

Vince's family has a distinguished history of working on Capitol Hill. His mother was personal secretary for Senator Mansfield; his father worked in the House Journal Clerk's office.

Vince has just completed his work on his master's degree in social work and will soon begin working as a therapist with children in Maryland.

No Senator will be heard to say what we are all thinking, regarding his forthcoming work as a therapist with children. But we do wish him the very best of success in his new vocation and thank him for his years of dedicated service to the Senate.

Mr. DOLE. Mr. President, I want to join my friend, the majority leader, Senator MITCHELL, in expressing our thanks on this side of the aisle to Vince Del Balzo. He always gets it right—as far as I know, he always gets it right. But he has been courteous, patient. It takes a lot of that around this place.

So we wish him luck in his new endeavors. I know the children of Maryland are going to be beneficiaries of his wisdom and his hard work.

And I certainly, for every Member on this side of the aisle and for every Member in this body, want to congratulate you on a job well done.

Mr. MITCHELL. Mr. President, would our colleagues join me in a round of applause for Vince Del Balzo.

[Applause, Senators rising.]

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## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington is recognized.

### AMENDMENT NO. 3173

(Purpose: To amend the Internal Revenue Code of 1986 to deny the benefits of certain export subsidies in the case of exports of certain unprocessed timber, and to establish rural development programs for certain rural communities and small businesses that have been adversely affected by a declining timber supply and changes in the timber industry in the Pacific Northwest)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 3173.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The assistant legislative clerk continued reading the amendment.

Mr. ADAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ADAMS. Mr. President, parliamentary inquiry? I have a parliamentary inquiry of the Chair.

Is it in order, during the reading of the amendment, without it being dispensed with, for the floor leader and the opponent of the amendment to have a discussion?

The PRESIDING OFFICER. The regular order, as the Chair is advised by the Parliamentarian, is that the amendment is to be read because objection has been heard to the unanimous-consent request.

The clerk will read the amendment.

The assistant legislative clerk continued reading the amendment.

Mr. ADAMS. Mr. President, I ask permission to withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment.

Mr. ADAMS. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3173) was withdrawn.

The text of the amendment (No. 3173) is as follows:

At the end of title VIII, insert the following new sections:

**SEC. 8217. DENIAL OF CERTAIN EXPORT SUBSIDIES.**

(a) FOREIGN SALES CORPORATIONS.—Paragraph (2) of section 927(a) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding at the end thereof the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(b) DOMESTIC INTERNATIONAL SALES CORPORATIONS.—Paragraph (2) of section 993(c) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding after subparagraph (D) the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(c) TITLE-PASSAGE RULE.—Subsection (b) of section 865 (relating to source rules for personal property sales) is amended by adding at the end the following:

"Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' means any log, cant, or similar form of timber."

(d) ELIMINATION OF DEFERRAL.—Subsection (d) of section 954 is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN TIMBER PRODUCTS.—For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) the sale of any unprocessed timber referred to in section 865(b), or

"(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.

**SEC. 8218. RURAL DEVELOPMENT IN RURAL COMMUNITIES.**

(a) PURPOSES.—The purposes of this section are—

(1) to create an organizational structure to plan rural development programs for economic diversification, stability, and rural development for rural communities that have been adversely affected by a declining timber supply and changes in the timber industry in Oregon, Washington, and northern California; and

(2) to provide rural development programs for small businesses and microbusinesses adversely affected by changes in the timber industry.

(b) DEFINITIONS.—As used in this section:

(1) ADVERSELY AFFECTED.—The term "adversely affected", with respect to a community or a business situated near or adjacent to a Federal forest, means adversely economically affected by changes in the timber industry.

(2) AFFECTED STATE.—The term "affected State" means Oregon, Washington, or California.

(3) COMMISSION.—The term "Commission" means a Community Rural Development Commission established by subsection (d).

(4) COMMUNITY.—The term "community" means a rural community that—

(A) is adjacent to or near a Federal forest; and

(B) has been adversely affected.

(5) DISLOCATED WORKER.—The term "dislocated worker"—

(A) means an individual—

(i) who is employed, or who was employed, in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries that are dependent on timber from Federal forests in Oregon, Washington, or northern California;

(ii) who is experiencing dislocation from the individual's employing industry; and

(iii) who has exhausted unemployment benefits available under State law; and

(B) does not include an individual who is engaged in an occupation that is not directly related to the timber harvesting or wood products industries.

(6) DISLOCATION.—The term "dislocation" means a dislocated worker's total or partial loss of employment (including being compelled to accept a position with lesser pay or to work part-time) during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act because of an action that is taken pursuant to—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); or

(C) the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(7) EMPLOYMENT.—The term "employment" means the worker's period of employment in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries in Oregon, Washington, or northern California in each of the 3 base periods (as determined under State law) preceding the total or partial dislocation that constitutes—

(A) at least 39 weeks of employment (at 20 hours or more of employment per week); or

(B) not fewer than 1560 hours of employment, as determined under the unemployment laws of the worker's State of residence.

(8) FEDERAL FOREST.—The term "Federal forest" means land in Federal ownership that is managed—

(A) by the Forest Service and is located—

(i) within the exterior boundaries of a national forest in the State of Washington or the State of Oregon; or

(ii) in one of the following national forests (or portions of forests) in the State of California: Siskiyou, Rogue River, Klamath, Six Rivers, Shasta-Trinity, and Mendocino National Forests, or that portion of the Modoc National Forest inhabited by northern spotted owls; or

(B) by the Bureau of Land Management and is located in—

(i) the State of Washington;

(ii) the State of Oregon; or

(iii) the Ukiah District in the State of California.

(9) FUND.—The term "Fund" means the Community Rural Development Investment Fund established by subsection (c).

(10) STATE LAW.—The term "State law" means the unemployment compensation laws of the worker's State of residence.

(c) COMMUNITY RURAL DEVELOPMENT INVESTMENT FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Community Rural Development Investment Fund", consisting of such amounts as are transferred to the Fund under paragraph (2).

(2) TRANSFERS TO FUND.—For each of fiscal years 1993 through 1998, the Secretary of the Treasury shall transfer to the Fund by not later than the last day of the fiscal year an amount equal to 40 percent of the increase in Federal revenues for the fiscal year by reason of the amendments made by section 8217.

(3) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—On October 1, 1993, and each October 1 thereafter through October 1, 1998, and without further appropriation, the Secretary of the Treasury shall transfer from the Fund to each Commission the amount from the Fund that is determined to be payable to the Commission pursuant to subparagraph (B). The amount shall be used by the Commission in accordance with subparagraph (C).

(B) DETERMINATION OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of Agriculture shall determine the amounts payable to each Commission according to a pro rata distribution based on a formula determined by the Secretary in accordance with clause (ii).

(ii) FORMULA.—The formula shall take into consideration, on a historical basis, the number of dislocated workers in the State in proportion to the total number of jobs lost in each industry in which dislocated workers are employed.

(C) USE OF AMOUNTS.—

(i) IN GENERAL.—Subject to clause (ii), a Commission shall use amounts received pursuant to subparagraph (A) to achieve rural development by—

(I) making loans pursuant to subsection (e); and

(II) facilitating the operations of the Commission.

(ii) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission may be used for administrative expenses.

(4) TERMINATION.—The Fund shall terminate on October 1, 1998. After termination, any amounts remaining in the Fund shall be paid to the general fund of the Treasury.

(d) COMMUNITY RURAL DEVELOPMENT COMMISSIONS.—

(1) IN GENERAL.—There is established for each affected State a Community Rural Development Commission.

(2) MEMBERSHIP.—

(A) COMPOSITION.—Each Commission shall be composed of five members appointed by the Governor of the affected State.

(B) CHAIRPERSON.—

(i) IN GENERAL.—Each Commission shall elect a chairperson from among its members.

(ii) TERM.—The chairperson shall serve for a term of 1 year.

(C) VACANCIES.—A vacancy on a Commission shall be filled in the same manner in which the original appointment was made.

(D) COMPENSATION.—Members of a Commission shall serve without compensation.

(E) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for a Commission, members of a Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses pursuant to section 5703 of title 5, United States Code.

(3) DUTY.—In accordance with subsection (e), each Commission shall distribute loans and other assistance to communities from monies received from the Fund.

(4) MEETINGS.—

(A) IN GENERAL.—A Commission meeting shall be open to the public, unless the meeting concerns a personnel or budgetary matter.

(B) NOTICE.—A notice of a Commission meeting shall be published 30 days in advance in a newspaper of general circulation in the State.

(C) RULES OF PROCEDURE.—Each Commission shall adopt and make available to the public such internal rules of procedure as the Commission considers necessary.

(5) STAFF.—Each Commission may appoint, fix compensation for, and assign and delegate duties to an executive director and such other employees, and procure such temporary and intermittent services, as the

Commission considers necessary to carry out its duties.

(6) Assistance from other agencies.—

(A) In general.—Each Commission may use, with the consent of the agency, the services, equipment, personnel, and facilities of Federal, State, and other agencies with or without reimbursement.

(B) Technical assistance.—Upon the request of a Commission, a Federal agency may provide technical assistance on a nonreimbursable basis to the Commission to assist the Commission in carrying out its duties.

(C) Cooperation.—Subject to subparagraph (B), each Federal agency shall cooperate fully in making its services, equipment, personnel, and facilities available to each Commission.

(7) Report.—Not later than 90 days after the end of each fiscal year during which a Commission is in existence, the Commission shall submit in writing to Congress, the Secretary of Agriculture, the Secretary of the Interior, and the Governor of the State, a report that addresses—

(A) the activities of the Commission;

(B) the economic conditions and the employment situation of communities in the State;

(C) any recommendations that the Commission may have concerning the economic conditions; and

(D) any other rural development issues considered appropriate by the Commission.

(8) Termination.—Each Commission shall terminate on September 30, 1999.

(e) Community Rural Development Loans.—

(1) In general.—For the purposes described in paragraph (2), each Commission shall distribute monies received from the Fund in the form of loans to communities that are eligible in accordance with paragraph (3).

(2) Purposes.—To further the purposes of rural development, loans shall be provided to—

(A) assist eligible communities and businesses in achieving economic diversity; and

(B) carry out such other purposes as the Commission considers appropriate.

(3) Eligibility.—A community shall be eligible for a loan if the community—

(A) has associated with it employment in a wood products, log harvesting, or log hauling or transportation company that during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act has experienced a plant closure or reduction in its work force of at least 33 percent; and

(B) is approved for assistance by the Commission for the State.

(4) Revolving loan fund.—

(A) In general.—Each Commission shall establish a revolving loan fund from the monies made available to the Commission for the purpose of making low interest loans to businesses that—

(i) have been adversely affected; and

(ii) have 300 or fewer employees.

(B) Promotion of new businesses.—A Commission may set aside a portion of the funds made available to carry out this paragraph for loans to promote new businesses in communities.

(5) Eligibility for other assistance.—Nothing in this subsection is intended to affect the eligibility of communities for technical planning assistance and loans intended to achieve economic diversification and enhance local economies under the National Forest-Dependent Rural Communities Economic Diversification Act of 1990 (7 U.S.C. 6611 et seq.).

(f) Provision of Information to Commissions.—Prior to taking any action with respect to managing a Federal forest within an affected State that may have a substantial local or regional impact on employment in communities, the Secretary of Agriculture and the Secretary of the Interior shall inform the Commission for the State of the proposed action.

Mr. ADAMS. Mr. President, I now inquire of the Senator from Oregon, the reason I presented the amendment is so we might arrive at a time agreement. It is my understanding, and this is what I was prepared to have a discussion about, that the Senator would like to have it go over until tomorrow. If we would like to enter into a time agreement on this?

If we could do this at this point, I would be prepared to do so and we might move ahead with this bill. There is no attempt to try to press this through tonight but I have been standing here for hours and wanted to be sure. The matter has not been presented. Can we now, with the assistance of the floor manager and the Senator from Oregon, arrive at an agreement on hearing this, to have this amendment come up tomorrow and under a time agreement?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I have not seen this amendment before today. I think it may—I do not know—have very serious impacts on the biggest industry in my State. I do not know if it does or not. And I am not prepared, nor frankly is another Senator on our side, to enter into a time agreement. And if it is the insistence of the Senator that unless he gets a time agreement he goes ahead tonight, I would suggest he go ahead tonight then because I cannot without knowing what is in this agree to a time agreement.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. Adams] is recognized.

Mr. ADAMS. I know that the floor manager has a series of amendments, including the amendment of the Senator from Illinois, which he has agreed they have time limits and that they can proceed. I can only take the statement of the Senator from Oregon to be that he is blocking the amendment because we have agreed upon the fact we would go over until tomorrow and that we would be most willing to enter into a time agreement to try to move things along. We have been here a considerable period of time. This was presented to the Senator's office last night. So we know that he is aware of the content of it. So if the Senator would please explain to me why it is we cannot proceed.

Mr. PACKWOOD. I will be glad to explain. I have never seen this amendment. My staff has not had a chance to digest it. They have been working on Finance Committee amendments. If it came to our office last night, I did not see it. I have been on the floor all day today. The Senator has not talked to me once about asking for a time agreement or what this is, and I am not going to give the Senator a time agreement until I have had a chance to look at it and call people in Oregon. I could not analyze it while I am managing this side of the bill. So if the Senator wants to go ahead tonight, go right ahead. There will not be any votes tonight. Go ahead and call it up.

Mr. ADAMS. On those conditions, because of the request that I have previously received from the manager of the bill that he wants to proceed—I remember when the log export matter came up before; none of us was notified about it either. That is why we did the courtesy of notifying the Senator the night before. If it is the position of the Senator from Oregon that he is going to block all votes on this bill tonight, I am not going to offer this amendment tonight because that is not the way this Senator operates. I will offer this amendment tomorrow. We will try to obtain a time agreement. It was my understanding we would receive a time agreement tonight or I would not have offered the amendment. I am disappointed that we have not received one.

I will withdraw the fact that I do not understand why this is occurring other than the Senator does want to block it. That is why I said what I did. But I am willing to let the matter proceed because I know the manager of the bill and the Senator from Illinois wish to proceed and the Senator from—we had a previous time agreement with the Senator from Vermont, 2½ hours. So I am not trying to step in front of these people who have previously had time agreements, but I am trying to get this amendment up so it can be discussed.

We will have further discussions with the Senator, but I want him to understand that I do not understand why he is not willing to proceed with this as we did with log exports once before when he was requesting it and we all appeared, without a great deal of notice, argued the matter, and it was passed.

So I withdraw the amendment, I will say to the Senator from Texas, who is managing the bill, because I had understood we would be able to get a time agreement, but I will present it tomorrow.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. Bentsen] is recognized.

Mr. BENTSEN. I know I encouraged the Senator to withdraw the amendment. In all candor, I thought we would be able to work out a time agreement tonight. I apparently was in error. I apologize to the Senator for that. And I will work with the Senator and the Senator on the minority managing the bill to see if we can work out a time agreement again.

Mr. PACKWOOD. Mr. President, I do not want to leave any misimpressions. I have another objection on our side also. All I am saying is this may be a very significant amendment to the principal industry in Oregon. I do not know because I have not seen it. I have not had a chance to study it. My staff has not had chance to digest it. And I have not had an opportunity to talk to anybody in Oregon about it, and I am not likely to get them today. So if the Senator thinks he is going to bring this up tomorrow, with a half-hour or hour time agreement, with a 3-hour time difference and I have not been able to talk to anybody in Oregon, he is simply wrong. It may not be of consequence. I do not know if it is of consequence, but I have a feeling it is.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. I will state to the Senator the amendment is filed at the desk. I am sending to the Senator now a copy to make certain he will have it. We will request a time agreement tomorrow. I hope that can be achieved. If not, if the Senator intends to block it and prevent it from happening, that will happen tomorrow.

But I thank the Senator from Texas for his courtesy. I apologize to the Senator from Illinois because I know he is waiting to present his amendment. I had hoped we could get this time agreement. This amendment is spread on the record. Certainly I will see to it a letter is placed on everyone's desk tomorrow morning.

AMENDMENT NO. 3174

(Purpose: Striking deduction for goodwill)

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. CONRAD, proposes an amendment numbered 3174.

Mr. SIMON. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1329, lines 2 and 3, strike "GOODWILL AND CERTAIN OTHER" and insert "CERTAIN".

On page 1329, lines 8 and 9, strike "GOODWILL AND CERTAIN OTHER" and insert "CERTAIN".

On page 1329, line 15, strike "16-year period" and insert 14-year period".

On page 1330, lines 10 and 11, strike "subparagraph (D), (E), or (F)" and insert "subparagraph (B), (C), or (D)".

On page 1330, strike line 24.

On page 1331, strike line 1.

On page 1331, line 2, strike "(C)" and insert "(A)".

On page 1331, line 14, strike "any customer-based intangible" and insert "any customer list".

On page 1331, line 18, strike "(D)" and insert "(B)".

On page 1331, line 21, strike "(E)" and insert "(C)".

On page 1332, strike lines 3 and 4, and insert: "(D) any franchise.

On page 1332, strike lines 5 through 18, and insert:

"(2) CUSTOMER LIST.—The term 'customer list' includes any subscription list".

On page 1334, line 24, strike "16 years" and insert "14 years".

On page 1335, lines 9 and 10, strike "except as provided in subsection (d)(2)(B),".

On page 1338, line 1, strike "(d)(1)(E)" and insert "(d)(1)(C)".

On page 1338, line 8, strike ", trademark, or trade name".

On page 1338, line 10, strike "(d)(1)(D)" and insert "(d)(1)(B)".

On page 1340, lines 3 and 4, strike "which is described in subparagraph (A) or (B) of subsection (d)(1) (or".

On page 1340, line 7, strike the parenthesis after "section".

On page 1350, beginning with line 22, strike through page 1351, line 3, and insert:

(1) Paragraph (1) of section 1060(b) is amended by inserting "or section 197 intangibles" before the end period.

(2) Paragraph (1) of section 1060(d) is amended by inserting ", including section 197 intangibles" after "similar items".

On page 1351, in the matter between lines 7 and 8, strike "goodwill and certain other" and insert "certain".

On page 1351, in the matter following line 21, strike "goodwill and certain other" and insert "certain".

Mr. SIMON. Mr. President, I think we have an understanding, and I would like to propose with the concurrence of the chairman of the committee that we have a 2-hour time agreement, and we may get through before that time. A 2-hour time agreement and no secondary amendments be in order.

Mr. BENTSEN. That is in accord with my understanding. I would like to clear that with the manager of the minority.

Mr. DANFORTH. Yes, that is all right.

Mr. BENTSEN. And that no points of order are waived.

The PRESIDING OFFICER. Does the Chair understand that the request is for a 2-hour time agreement, no points of order waived, with no secondary amendments?

Mr. BENTSEN. No secondary amendments, with no points of order being waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. There will be a 2-hour time agreement controlled in the usual form.

Mr. SIMON. Mr. President, I will be brief in my opening remarks because Senator METZENBAUM wishes to speak on this and has another engagement that he has to get to very shortly.

First of all, I differ with my friend, the chairman of the committee, with reluctance because of my high regard for him. Senator BENTSEN just has made a tremendous contribution to this body, and let me add back in 1984 he served as chair of the Democratic Senatorial Campaign Committee, and he helped the Congressman from Illinois named PAUL SIMON to get elected to the Senate. So there is an added reluctance to my differing with him.

I offer this amendment in behalf of Senator KENT CONRAD and myself. What it does, very simply, is to eliminate goodwill as a deductible item which is in here for the first time since 1927. Who benefits from this? The only people who benefit are corporations that buy other corporations—the only beneficiaries from this. Who loses? The taxpayers lose. While immediately in the window here it is revenue neutral, long term the loss is $2 billion a year. And if we are going to balance the budget, someone will have to pay that $2 billion, and it is likely to be middle-income taxpayers.

The second loss—this is not just wasting money. The second loss is to the economy. We are encouraging mergers and acquisitions rather than encouraging investment in plant and production and research. It is just irrational to do that.

Finally, a great many people employed lose out. Every time we have these mergers, there are people who lose jobs. And workers who have entered into negotiations and have collective bargaining agreements, frankly, lost out because, under a quirk in our law, when one corporation buys another corporation, that second corporation, the acquiring corporation, does not have to live up to the collective bargaining agreement. So I think it is bad news all the way around.

I understand the pressures that our colleagues are under on this amendment from a lot of interests around the country. I hope we will stand up for the public interest.

Mr. President, at this time I yield to Senator METZENBAUM as much time as he may consume.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise to support the amendment of the Senator from Illinois. I want to say I am so angry about this provision in the bill. I believe that it is unbelievable. It is absolutely incredible that this matter is on the floor and in this bill. It is just hard to conceive why anybody would put this in the bill. It boggles the mind.

Since 1927, there has been anything like this since the Tax Code back there began having to do with taxing the corporations. How can you possibly justify just giving away over $2 billion a year to corporations who are not hurting? There is no special reason to do it. It is just because the U.S. Senate and the U.S. Congress is overly generous.

We are being misled about this amendment. Some will say it makes money. Do not kid yourself. It does not make a penny. It makes money by a specious kind of reasoning. There are cases pending out there where the IRS is attempting to collect where there have been deductions made with respect to the matter of goodwill, and this bill provides that they can settle those back claims for 75 cents on the dollar, and, therefore, it brings in more dollars now, and, therefore, they say it makes money. Come on. Who are you kidding? How stupid are we in the Senate and how stupid are the American people to believe that?

If there is a valid claim against corporations with respect to goodwill deductions, and then you settle it for 75 cents on the dollar and then claim you are making money, you are actually losing 25 cents on the dollar and you are losing the interest as well.

Mr. SIMON. Will my colleague yield?

Mr. METZENBAUM. Yes.

Mr. SIMON. I hesitate to disagree with my colleague, but the bill provides that they collect 25 cents on the dollar, not 75 cents on the dollar. My amendment, unfortunately, does not deal with that provision, but with another provision in this bill that is not good.

Mr METZENBAUM. I am extremely grateful to the Senator from Illinois for correcting me. I was advised within the last 10 minutes by the Joint Tax Committee represented on the floor that if you collect 75 cents——

Mr. SIMON. I will check again.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the Senator from Illinois is 100 percent correct. I have to say to these young gentlemen on the floor, they had advised me one way, or else I misunderstood. But the Government does not get 75 cents on the dollar; it gets 25 cents on the dollar—25 cents on the dollar. It was interesting to me, when we had a short discussion, that the ranking member or second ranking member, I believe, managing the bill at the moment had the same misunderstanding that I did as to whether it was 25 cents on the dollar or 75 cents.

What are we doing here? Are we not truly interested in a thing called balancing the budget? There is no business purpose of this kind. This is not a matter of helping American corporations. This is a matter of giving them a bonanza. We do not single out those that are in need. We do not say to those that are seeing to it that there is more employment in the country. We are just saying to all the wheelers and dealers, here it is. Here is a gift. We like you. The U.S. Congress is giving you the right to deduct goodwill.

Never before in the history of this country—we talk about responsibility. This provision is the most irresponsible provision in a tax bill that I have ever seen. There is not any logic or reason for it. And, again, I want to repeat, claiming that it picks up money is specious reasoning.

The proposal which the Senator from Illinois and I oppose, which would allow the amortization of goodwill for tax purposes, is absurd. That is an economic Trojan horse. It would promote uneconomic corporate takeovers, weakening the economy and companies' ability to compete, and it would retroactively give companies money to which they are not entitled.

Every day of the week, every week of the month, every month of the year, this Congress and the United States all talk about the problems of the Nation, the infrastructure, what we have to do for it, the underprivileged, how we cannot afford to extend Head Start Programs to a lower age than they presently are because we do not have the money. We complain about the fact that we do not have enough to pay Medicare or Medicaid—and it is a justifiable complaint. We know that we do not have enough to provide for so many of the things this Nation needs. And, last but not least, the deficit, the deficit of $3 trillion; we just permit it to go on and on and on.

Then we come out here on the tax bill and throw away—throw away—at least $2 billion a year. We ought to be ashamed of ourselves for even having to talk about this bill.

This amendment will not pass. It will not pass because almost everybody on the other side of the aisle will vote for it, and too many on this side of the aisle will vote for it, and the Finance Committee is for it.

I am a realist. The fact is that does not make it right. That ought to make us more ashamed of ourselves. Goodwill is a fiction created by a takeover economy. It masks enormous deficits and tangible net worth, some of which were created by the takeover craze of the last several years.

The value of intangibles, including goodwill increased from $45 billion in 1980 to $400 billion in 1989, mainly due to takeovers, and now we are going to let them write that off.

How can we possibly stand here and do this? How can anybody logically hold their head high and say we are going to permit corporations who do not need it, who have not asked for it, there has been no claim for it, have never heard of the idea before this year, come along and write off their goodwill?

The mergers and acquisition industry now wants to pass the cost of these intangibles as much as possible to the taxpayer. We only need to look at the history of the 1980's to know that this proposal is just not sound national policy. In the 1980's, takeover artists rationalized acquisitions by arguing how strong the balance sheet of the eventual company would be. We know now that these balance sheets were inflated with goodwill. That goodwill is the equivalent of the watered stock of the 1920's, and now we are going to take that goodwill and let the American taxpayer pay for it by permitting it to be written off.

The companies' cash flow collapsed in the twenties and their balance sheets were in trouble, and that is exactly what is going to happen under this if we permit this to go forward. Companies' market prices have moved down to realistic levels, but the goodwill intangible remains at its inflated high. So we are going to just let them get a deduction, just reach up in the sky and get a deduction.

Why do we not let the individual, the homeowner, the average taxpayer have a right to deduct the goodwill that he has because he has a good family relationship? Maybe that ought to be written off. It makes as much sense as permitting this to be written off.

The takeover artists now want to earn another fee by using their expertise one more time by foisting off on the taxpayer this question of tax of goodwill deduction.

Goodwill was the smoke and mirrors of the mergers and acquisition craze of the 1980's. Its only useful purpose was to rationalize the sale of overpriced securities to finance takeovers. For instance, the Philip Morris-Kraft and the Time-Warner mergers were sold because 80 to 90 percent of the purchase price was booked as goodwill, and now we are going to say you can start to write that off and deduct it from your taxes.

Allowing the amortization of goodwill would only serve to promote and extend a dangerous fiction, that something can be created from nothing. There is no free lunch. This proposal would have the taxpayer pick up the bill, the taxpayer who is already overburdened, and we do not provide any special relief for that taxpayer, and what we do is provide special relief for the largest corporations in this country.

Amortization of goodwill would extend the life of the perilous takeover industry, extend it even as we are struggling to recover from the last disaster it helped to create.

Amortization of goodwill would pass the costs of the takeover industry to the general taxpayer who wants no part in it, does not know what we are doing tonight, but should be concerned about what we are doing, because we are once again about to dig into his or her pocket for the benefit of corporations—and those special group corporations, just those who have goodwill on their books, and we are going to permit that to be written off. The taxpayer who wants nothing more than to protect his or her family from this kind of procedure has no protection. He or she is going to be stuck with the bill of our actions here this evening, if we permit this to go forward.

Amortization of goodwill will subsidize the takeover game and insulate its practitioners from responsibility for what they have done.

Amortization of goodwill will cost productive jobs. Fortune magazine's review of 41 of Fortune "deals of the year" between 1985 and 1990 showed that half of the companies are in poor or failing health, and some are in bankruptcy. The leveraged buyout of Safeway cost 7,000 employee jobs in Dallas and another 4,000 in Salt Lake City. And another 20,000 took substantial cuts in wages and benefits. Hooray for the takeover craze.

We cannot afford to jeopardize the financial security of millions more by enacting legislation that will promote the use of goodwill and its progeny, takeovers.

The provision in H.R. 11 allowing for the deduction of all intangibles is just another tax break for the wealthiest corporations and the wealthiest people in this country. It could cost the American taxpayer as much as $2 billion a year. If goodwill had been deductible when the Philip Morris-Kraft deal happened in 1989, nearly all of the $13 billion price tag could have been written off.

Those who benefit from the proposal will not be those most in need of a tax break—the poor and middle class Americans. No, the beneficiaries of this tax bonanza will be those employed in the paper industry of takeover artists, tax lawyers, and investment bankers. These people are paid enormous fees to take companies over, not to make companies produce useful products, not to make companies employ more people.

Amortization of goodwill makes takeovers more profitable. It does not make companies more productive. Amortization of goodwill promotes deals that destroy and ruin the livelihood of millions.

Repeating what I said before, I do not know of any more audacious matter in a tax bill since I have served in the U.S. Senate in the last 17 years. It is an absolute giveaway.

I commend the Senator from Illinois for his leadership in bringing this amendment to the floor. I am concerned that he will not have the votes to pass it, but that is by reason of the fact that almost everybody over there will vote against it, and too many on this side will vote against it.

But the reality is if the American taxpayer had the right to stand on this floor and vote, the American taxpayer, the average individual, would vote 100 to zero against this proposal. This is wrong. This is wrong. This is rapacious. This is the kind of thing that causes people to have disrespect for the Members of Congress.

There is not anything this does for the economy. All this does is put more millions, more billions in the hands and the pockets of those who need it least.

We should pass this amendment of the Senator from Illinois. I commend him for offering it. I hope we will do so. I am concerned that we will not.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. I yield 10 minutes to myself.

I have seen some gross misrepresentations of legislation in the past, but I think I have just heard the grossest misrepresentation yet when the Senator talks about a rapacious thing. If you want to talk about trying to take care of lawyers—and I understand the Senator's concern about lawyers—but if you are trying to take care of the lawyers and keep these cases going and this kind of litigation going and the costs to business high, and those costs being passed on to the consumers, then defeat this piece of legislation.

With his stated deep concern as to the budget deficits and what that would do, look at the votes to waive the budget this afternoon, time and time again. One of them would have added $1.3 billion to the deficit by the attempt to waive the budget requirements.

They talk about it just being for big business. This is virtually all businesses endorsing this. This is true for the small business community. I have letters from the National Federation of Independent Business supporting the legislation, opposing the Simon amendment. The same position is taken by the National Small Business United. The same by a cross-section of industries from the media to the airlines, from the bankers to the phone companies, from the retailers to the restaurant owners, insurance agents to the heating oil dealers, and these are not big business.

Further support for this measure comes from the American Bar Association and the American Institute of Certified Public Accountants.

The amortization of goodwill is permitted under the tax laws of most industrialized countries and usually over shorter periods than the 16 years we are talking about here. In Japan, in Korea, The Netherlands, Sweden, goodwill may be amortized over 5 years, not 16 years. That is what we are talking about here. Germany, over 15 years. Finland over 10 years. Canada, 7 percent per year on a declining balance basis. Other countries that permit the amortization of goodwill are Belgium and Colombia.

And this legislation has been praised in editorials across this country. Let me cite for you a few of them. Look at the Chicago Tribune, from Senator SIMON's home State; the Dallas Morning News in my State of Texas; the Augusta Chronicle in Georgia; the St. Louis Post-Dispatch in Missouri; the Boston Sunday-Herald in Boston; the Richmond Times-Dispatch, and the Norfolk Daily News in Virginia; the Mobile Press in Alabama, and the Journal of Commerce, and on it goes.

What we are talking about is simplification, and certainly that is what we are tying to do. We are trying to accomplish a resolution of controversies.

The issue of how the cost of intangible assets ought to be recovered has been the source of an extraordinary amount of dispute and litigation between the IRS and taxpayers over the years. One issue has been whether a particular intangible asset claimed by taxpayers is an asset that should be amortized, or in contrast, is goodwill, which may not be amortized. According to the GAO, two-thirds of the litigation in this area is over this question.

For example, are customer contracts an intangible asset, separate and distinct from the goodwill of the business? Another is the value of the intangible asset that may be amortized. If the customer contracts are separate from goodwill, has the taxpayer overvalued the customer contracts and undervalued goodwill?

These are the things we are trying to resolve, to save on the attorney's fees, to get down the costs to business.

Yet another issue is the proper life of the intangible asset that may be amortized.

Should the customer contract, if it is separate and distinct from goodwill, be amortized over 5 years, 8 years, 10 years?

All of these questions, multiplied by the hundreds of different intangible assets identified by taxpayers, have been the subject of litigation and disputes.

The IRS and taxpayers spend countless dollars on accountants, appraisers, and lawyers. Time of businessmen is devoted to depositions in testifying rather than running their operations. That is a terrible drain on a tax administrative system and on the productive resources of our economy. We just do not need that kind of waste.

The solution developed by Mr. ROSTENKOWSKI and the administration and provided in this bill is to end all disputes by lumping together all the intangible assets, and that includes goodwill, under one uniform amortization period, 16 years in the case of the Senate version we have before you. No more disputes over what is or is not goodwill. All intangible assets are treated the same. No more disputes over the allocation of value between amortizable intangible assets and nonamortizable goodwill. Both are treated the same so it will not matter. No more disputes over the proper life. It is set by statute at 16 years. End of discussion.

Sure, that is rough justice. Of course, it is not perfect justice, but there is a price worth paying for simplicity, for the settlement of controversies, and this legislation would accomplish those goals.

Senator SIMON'S amendment would restore all the complexity, the uncertainty for business planning, and guarantee the continuation of endless litigation. All the issues over what is goodwill and overvaluations would still remain.

Let me read you a quote from Treasury Assistant Secretary for Tax Policy, Fred Goldberg. He testified as follows at the Finance Committee hearing on this legislation on April 28 of this year:

> Having seen the tax system from a number of perspectives—as a practitioner, as chief counsel and Commissioner of the IRS, and now as Assistant Secretary for Tax Policy—I regard the legislation concerning intangibles as the most important simplification measure under consideration by the Congress. The current regime for taxing purchased intangibles;
>
> Results in substantial uncertainty and the unequal treatment of similarly situated taxpayers;
>
> Imposes needless transaction and administrative costs on taxpayers and the Government;
>
> Leads to frequent and expensive controversies between taxpayers and the IRS; and
>
> Deprives the Federal government of substantial tax revenues that are properly due and owing.
>
> No amount of after-the-fact enforcement and litigation can remedy the situation—legislation is essential if we are to eliminate this source of waste, inefficiency, and controversy.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 8 minutes of the time allotted to him.

Mr. BENTSEN. I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I would like to discuss this in a little more detail than I did in my brief opening remarks. Let me respond to my friend and colleague, Senator BENTSEN. I do not suggest that the present situation is a healthy one. I think that we do need legislative remedies, and just in a very small way my amendment does a little bit by saying you can depreciate customer list and subscription list.

I do not pretend my amendment solves this problem, but I do differ, and I differ strongly, with the Senator from Texas in saying let us just write off goodwill. And these other countries that he cited have not had the merger mania that we have, because they have other barriers to that kind of merger and acquisition.

In terms of the administration testifying for it, frankly that does not surprise me. The administration has frequently been spokespersons for the major corporations. And while it is true, as Senator BENTSEN said, small businesses can benefit, the major beneficiaries are the larger corporations.

The fundamental question that we face is what do we subsidize in this country? When it comes to Head Start, I think we ought to subsidize it. When it comes to some things that we need in terms of corporate investment, I think we ought to make some changes. When the 1986 tax bill was up, and I am pleased to say I voted against that, but you will find an exchange in the RECORD between Senator Russell Long and myself on the question of whether we should have an investment tax credit. I happen to favor that. An investment tax credit gives credit to corporations for investing in greater productivity. That I understand.

But why we should give tax credit subsidies to corporations just for gobbling each other up, that I do not understand.

What this amendment is going to do clearly is to foster a new round of merger mania in this country in addition to what it does in terms of losses of revenue.

The Joint Tax Committee letter to me says the revenue losses expressed in 1997 income levels would probably—this goes beyond the window right now covered by the bill—would probably be in excess of $2 billion per year.

My amendment does not cover the retroactive feature that Senator METZENBAUM is talking about. I agree with his criticism completely, but frankly I too decided not to take on the whole bite. There is some temporary income here as a result of getting 25 cents on a dollar. It is a pretty good deal for quite a few people. But this amendment changes the amortization period from 16 years to 14 years and says we are not going to shift from a position that this country has had since 1927.

Why should there be the difference? When a corporation buys another corporation and you have equipment, that equipment deteriorates, and so we say you can depreciate that on your tax bills. When they buy a building, that building depreciates. But if, for example, you buy General Electric, why does General Electric's goodwill deteriorate?

If for example, the distinguished Presiding Officer, Senator BRYAN, buys General Motors—and I am sure he has the wealth to do that—if he buys General Motors, he buys it on the assumption that it is going to retain its value, not that it is going to go downhill.

The very fine officers of Pepsi-Cola came into my office urging me not to propose this amendment. I happen to own a few shares in Pepsi-Cola and I said to them, but if someone buys Pepsi-Cola is that going to suddenly depreciate in value like equipment in a building? And they said, no, but we have invested all this advertising in creating the name and the goodwill. And I said that is exactly right. And then I asked him, did you write off the advertising? And of course they did.

This gives them or someone a chance to write things off twice, and that just does not make sense. It adds to the deficit. I have talked about that already.

What we ought to be doing—we have had discussion about balancing the budget. There is no sense in creating this long-term drain on the budget, a long-term drain that hurts the economy.

I happened to vote against the space station. The majority of my colleagues differed with me. But I have to say building a space station does not drain the economy, whatever, $40 billion, $100 billion, whatever it is going to cost. But when you subsidize mergers, you not only lose the $2 billion, you say to corporations we are going to give you a special reward not for buying plant and equipment, not for putting money into research; we are going to give you a special reward for one corporation gobbling up another corporation.

And that is all this does.

The letter from the Joint Tax Committee, among other things, says the new tax deductions accorded goodwill and going concern value in the current version of H.R. 11 cause a long-run revenue decrease. We have to recognize that reality.

The Congressional Research Service says, in a letter from Jane Gravelle:

> If we express these numbers in 1997 income levels (the final year of the budget horizon), the revenue cost would probably be in excess of $2 billion per year. It is possible that the loss could be smaller, but it is more likely that the loss would be even larger.

That is the reality. Two billion dollars a year in perpetuity that we lose.

We save, even in this short term—and people are interested in short-term savings on the deficit—we save $631 million under the Simon-Conrad amendment.

Now, what is wrong with the mergermania that we have had? Well, we have invested huge sums in things that are not productive. We have reduced the savings of the country.

When, for example, U.S. Steel, now USX, spent $6.5 million to buy Marathon Oil. And I voted for some special tax breaks for the steel industry because they needed to modernize. But when they did this, what did that do to modernize the steel plant of this country? Not one thing. How many new oil wells did it dig? Not one.

They borrowed $5.1 billion, and because of our tax laws they can write that off, the interest on that. And who pays for that? Well, all of us. And now under this proposal, they could also write off goodwill. It will encourage more and more of this kind of thing.

Let me quote from an article in Crain's Chicago Business. I will just read the first paragraph here.

> One by one, they disappeared: Names like Beatrice, Gould and Northwest Industries.
>
> Companies that were once the soul of corporate Chicago are fading from the memories of their one-time stockholders, the public and their peers. The take-over binge of the 1980s, bracketed by two recessions, has bulldozed the Chicago area's corporate landscape.
>
> Study of the region's largest public companies shows that half of the 224 firms that reported revenues in excess of $1 million in 1980 have vanished.

That is what is happening. And then listen to an article by Robert McIntyre in the Washington Post. The heading is, "Return to the Merger Maniacs." And the subhead is, "Why is the White House Pushing New Incentives for Acquisitions?"

Let me just read the last few sentences in this article.

> Does it really make sense to give Wall Street new incentives to bring back the merge mania of the 1980s? If the Bush administration wants to simplify the tax laws concerning goodwill, fine. But rather than allowing everything to be deductible, we should make clear that acquiring companies cannot write-off goodwill and similar items built up by the companies they gobble up.

(Mr. WOFFORD assumed the chair.)

Mr. SIMON. There is a group of corporations called Coalition on Intangibles that has been pushing this. It is very interesting. Since August 1991, these very companies have spent $40 billion on acquisitions. These companies are coming in here saying, "Won't you give us some gifts for what we are doing?" And a number of them are pending.

We have a choice, Mr. President, of helping the Coalition on Intangibles and all the big corporations they represent or the people of America. And I hope we vote on the side of the people of America.

Now, there are those who say, well, corporate mergers are gradually dying down.

First of all, as I shall make very clear in a few minutes, we are asking for a huge spurt in this if we pass this bill as it now stands without my amendment.

But listen to the New York Times, September 14, just about 10 days ago, in a story by Kenneth N. Gilpin. He says:

> After sputtering for almost two years, merger and acquisition activity suddenly picked up in the last two weeks and the traffic was heavy with well-known brand names.

I assume that the word has spread about what may happen.

What happened in terms of capital in this country, from 1980 to 1989, in terms of mergers. The grand total of capital spent not to increase productivity in this country, not on research, not to buy plant and equipment, not to do the things that create jobs, but just for one corporation to gobble up another corporation, the grand total spent on that from 1980 to 1989 is $1.336 trillion. And this bill says, let us do more of it. It really is not in the national interest.

Newsweek magazine, August 10, says:

> The current measure—if approved by the Senate as part of the urban-aid bill—would create for the first time a direct tax subsidy for companies participating in a buyout.

Newsweek quotes Representative JIM LEACH of Iowa as saying: "It's a ripoff for investment bankers."

Today, I talked to the CEO of one of the largest investment financial houses in the Nation—a firm that will benefit from this, incidentally—and he told me that, while he does not want to be quoted directly, he said, this just does not make sense.

The Financial Times of London said:

> An important tax bill pending in the U.S. Congress would permit depreciation on Intangibles, including goodwill for tax purposes. This would appear to eliminate a major U.S. tax barrier against takeovers.
>
> Just a short time ago, Congress had been carefully scrutinizing possible tax incentives for acquisitions such as deductions for interest expense—

And, incidentally, I favor reducing that and giving a little more credit for dividends—

> with an eye towards removing them.
>
> Now it is considering a proposal that appears to increase the tax attractiveness of acquisitions, especially those in which large premiums are paid.

The Financial World has this to say:

> Is mergermania about to rise from the near dead? It's very possible.

It talks about the House Ways and Means Committee proposing this. For the first time since 1927, it would allow goodwill resulting from acquisitions to be written off for tax purposes. "The proposed tax-reporting change is big stuff."

Let us not fool ourselves. It is big stuff.

Listen to Robert Kuttner, writing in Business Week magazine:

> The law, if enacted, would set off another merger boom.

This is not PAUL SIMON talking. This is in Business Week.

> The legislation is sheer economic waste.

Lester Thurow, distinguished economist, has written a book, "Head to Head," that was on the New York Times best seller list for a long time. Maybe it is still there, I am not sure.

In his book, on page 284, he says this:

> Financial takeovers are always justified on the grounds they will enhance productivity and competitiveness, but the promised leaner and meaner corporations do not seem to emerge. No one can know for sure how today's mergers will be performing 15 years from now, but we do know that the last conglomerate merger wave in the late 1960s and early 1970s did not lead to firms with superior performance. The whole process looked much like a random walk—some winners, some losers—on average, average.
>
> The short-run results of the current wave of financial activities are only too clear. Productivity growth is lower at the end of the decade that it was at the beginning of the decade. Firms ended up loaded with two much debt, having too few free funds to invest in new products, new processes, or research and development. With all of that debt they became more risk-averse—less willing to bet on new activities. In many cases, they simply could not bet on the future since the company had effectively already been bet.
>
> Firms become financially weaker and more vulnerable to collapse in recessions. The 1991 recession was the first big test of the merger wave of the 1980s. Would the firms that were affected by those activities be able to survive a downturn in revenue, given their needs to make huge interest payments? Until a recovery is well underway, we won't know the extent of the damage, but midway through the process, for too many the answer is already no. A 1991 list of the firms in bankruptcy that in the 1980s participated in the merger wars would go on for many pages.

And then economist David Calleo, in a book called, "The Bankrupting of America" says

> Takeover mania has saddled many American corporations with a heavy load of unproductive debt. Thus, alongside the mushrooming public debt is an equally debilitating private debt.

The Philadelphia Inquirer:

> (The proposed "goodwill" deduction for corporations) would prove a boon for Wall Street.

When we talk about goodwill, we frequently think of good will toward everyone. We think of Christmas. My friends, if we pass this and do not adopt our amendment, we have created Christmas in September for America's corporations that want to participate in this merger mania.

David Wittig, co-head of mergers and acquisitions at Salomon brothers, and I am quoting:

> If the deductibility of goodwill they are discussing goes through, it will spark some business.

Bob Chapman, vice president of Arbitrage, at County NatWest Securities:

> Amortization of goodwill would be a huge boon.

There is a memo from Goldman Sachs that says:

> The recent news around the bill reignited the takeover talk.

We should not fool ourselves about this. It will encourage takeovers through debt rather than equity, when, in fact, I believe it is clear that the national interest is that we do precisely the opposite.

I personally have introduced a bill that, just for discussion purposes, says only a corporation with income of more than $1 million can deduct 80 percent of its interest, but 50 percent of the dividends. It would encourage equity financing rather than debt financing. But this bill goes in precisely the opposite direction.

Mr. Dellinger, of NatWest Investment Banking Group analysis:

> If this bill passed today, the takeover values of companies that have goodwill would suddenly be greater.

The securities company of Donaldson, Lufkin & Jenrette—and, incidentally, I have to say in fairness to my opponents, they later, and I assume under pressure from various corporations, recanted this. But before they recanted, before they got that pressure, what did they have to say?

> The proposed tax legislation could spark a new takeover era. It would significantly reduce the financing costs for future acquisitions and, we believe, possibly set off a new binge of takeover activity.
>
> On July 2, 1992, the House of Representatives cleared a tax bill that would allow companies to write off the goodwill incurred during future acquisitions over 14 years. By contrast, the current provision allows no deduction at all. With most food companies already selling at three to four times their stated book values, the tax deductibility of goodwill obviously would be of immense benefit to acquiring companies.

The County NatWest that I mentioned before in my comments, has a quotation from Bob Chapman. I assume he is with the firm. He says:

> Because goodwill is a product of purchase accouting, the successful lobbying of this bill would probably dramatically increase the percentage of mergers consummated through cash consideration versus stock swaps.

I mentioned that before. Just in general, it would escalate the problems that we have.

In recent large deals, such as the Philip Morris, Kraft, and Time-Warner mergers, goodwill has accounted for 80 to 90 percent of the purchase price. So we are saying to firms that before have only been able to deduct 10 to 20 percent of the purchase price, we are going to let you walk away from the store. We are going to give you everything you want.

A member of the Coalition on Intangibles I referred to before has admitted the takeover implications of this proposal. According to an article published in the London Financial Times, partners in the firm of Mayer Brown & Platt, a distinguished Chicago firm, incidentally, state:

> Depreciation of intangibles, including goodwill, would appear to eliminate a major U.S. barrier to takeovers. Allowing amortization of goodwill would appear to increase the attractiveness of takeovers.

They also say:

> In situations where the major intangible is clearly goodwill, the bill could make the acquisition much more attractive.

I could go on. The GAO, which has a mixed report, says:

> A change that would allow recovery of the cost of all purchased intangible assets, including goodwill, would alter the treatment of goodwill for the first time since 1927—

And listen to this:

> and would create uncertainty about the future treatment of expenditures that create goodwill.

Such as advertising. That is my comment, not theirs—

> and similar assets. The 1927 regulations disallowing amortization of goodwill have influenced the treatment of intangible asset creation costs by taxpayers, IRS, and the courts.

GAO also says:

> A change from the current regulatory treatment of goodwill to the use of statutory cost recovery periods for all purchased intangible assets, including goodwill, would raise the issue of the proper tax treatment of costs that create intangible assets.

We think we are simplifying things. GAO says, hold on:

> The nonamortization status of goodwill in the 1927 regulations has influenced how taxpayers, IRS, and the courts have treated the cost of creating goodwill. These practices and judicial doctrines may be left in a state of uncertainty, if the basic rule is changed.

Again, I indicated that I do believe the law needs changing.

What I propose is not an answer to the problem. We do have a problem. But do not let us solve a problem by giving away the store. And that is what this amendment does.

Listen to the Consumer Federation of America:

> The Consumer Federation of America therefore strongly supports the Simon-Conrad amendment to strike goodwill. The amortization of goodwill, if allowed, would provide relief to a few merger maniacs while imposing grief on the American middle-class taxpayer consumer.

Mr. President, we ought to be acting in the public interest. I think the public interest is not served by creating more debt, by encouraging this merger mania, and finally by, in the process of doing that, causing a great many people to be laid off from their jobs. I hope we will do the sensible thing this evening and adopt my amendment and improve this tax bill.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 5 minutes to myself.

I would like to say to my good and highly respected friend from the State of Illinois how much I share his concern about takeovers, leveraged buyouts, the increase of debt in this country; how diligently I have researched and studied that problem to try to do things to discourage it.

I want to tell the Senator that when I started studying what was done on the House side by Ways and Means—and I was deeply concerned about the goodwill provision, because I had heard, too, that that was going to encourage takeovers, and that is the last thing I wanted to see. But the more I studied it, I became convinced otherwise, as I got into the dynamics of takeovers and obtained a better understanding of what motivates them.

In the first place, there can be some increase in value to some companies by this law. I accept that.

But the point is, you generally buy the stock of a company in a takeover. If you buy assets, the appreciation in that value is going to incur an immediate tax, and that tax almost always will be more than the tax benefit realized by the purchaser through the amortization of goodwill—almost always. So I became convinced otherwise.

Now, the Senator was citing Goldman, Sachs and others, and I have a whole list of those, too. I will not bore the Senate with them tonight. Except let me cite what Goldman, Sachs says when they are talking to one of their clients on a question of an acquisition, on the question of using goodwill, on the question of using the Rostenkowski bill as it passed the House. And this is what it says:

> However, it will not be helpful in cases of acquisitions of public companies since these are usually stock acquisitions. In such cases the old rules will apply unless the acquiring company elects section 338, writes up the asset value of the acquired company, pays the tax on the asset writeup up front and can then deduct the amortized sums.

But, you see, they meet themselves coming back and such an election is highly unlikely because it is not economical.

Mr. SIMON. Will my colleague yield, and I will be happy to have it charged to my time here?

Mr. BENTSEN. I would like to continue my point.

Mr. SIMON. Go ahead.

Mr. BENTSEN. I heard the Senator at length and I enjoyed it.

Mr. SIMON. I will respond later.

Mr. BENTSEN. Let me make some other points here:

To get the benefit of the legislation. Through a takeover, that seller has to pay the immediate and the full tax gain inherent on the target business assets. That includes any appreciation in goodwill. In return, that buyer would be permitted to amortize goodwill over 16 years. As an economic matter, the present value of the future stream of deductions is just not usually going to be worth the immediate prepayment of the tax on appreciation.

So it does not add up from a business standpoint. To put it another way, if the buyer and the seller structure an acquisition as an asset purchase in order to amortize goodwill, they will together be worse off than if they structured a stock purchase.

Now, that is going to be true on an initial sale or on a subsequent sale of pieces of the acquired company. It will always be true, assuming the seller is not stupid—and we are speaking here about very sophisticated transactions often involving billions of dollars—because the purchase price will reflect any tax benefits a buyer can expect. That is what they crank into that purchase price. The seller will just raise his price, and when the cost goes up, that usually discourages rather than encourages that kind of a transaction.

The fact is—and I have acquired companies in the past when I was in business, and I have sold companies in the past—there are other factors usually that are much more important than the possible amortization of goodwill, factors such as the cost and availability of capital; what kind of interest rate you are going to have to pay in that kind of an acquisition; are your returns going to be enough to take care of the interest plus an increase in profits to your shareholders; the target's liabilities, the target's union contracts.

The prospect of a capital gains tax is far more significant a factor in slowing acquisitions. So, frankly, this legislation would have little effect overall on acquisition activity. Even taking taxes in isolation, if there is a tax benefit to the buyer from the transaction that the seller is aware of, you can sure bet that price is going to reflect that. You are going to crank that into that price. The price will increase to capitalize that tax benefit.

The only way in which you can conclude that the price increase will not absorb the tax benefit is if you assume that seller is stupid. In the kind of multimillion-dollar transaction we are talking about, you can bet the sellers are going to know what they are doing from a tax standpoint.

I must say to my good colleague, I am puzzled by what seems to me to be a contradiction in part of his presentation. The Senator is concerned about takeovers and thus would deny any writeoff to customer-based intangible assets generally. But then he makes that exception for customer lists. Now, I am not sure why that is. I do not understand that.

Is the Senator not concerned about takeovers in the newspaper and magazine publishing industry or takeovers of heating oil businesses or insurance agencies or other businesses, the major assets of which might be a customer or subscription list? Why not? If this legislation promotes takeovers, and takeovers are detrimental, then why are takeovers in those industries somehow different? Indeed, the third circuit recently ruled that customer lists are indistinguishable from goodwill.

Now, the amendment would make other distinctions. For example, an intangible asset called work force in place would remain subject to a writeoff under the amendment, and the courts have generally considered this asset as indistinguishable from goodwill.

An example of this work force in place asset claimed by the taxpayers as a writeoff is the nonunion status of a company's labor force. Now, if the Senator is concerned about the effect of this legislation on workers, how does he draw this line?

Another example. How does he draw the line between franchises which he would allow to be deductible and trademarks and trade names on which he would deny deductions?

It is those kinds of tough, intractable questions that this legislation will try to do away with. We are having the auditors, the accountants, the lawyers in constant conflict, trying to resolve these differences.

I will tell you another thing we did. In the Finance Committee, we brought before us Japanese witnesses, German witnesses, talking to them about goodwill. They write it off in a shorter period of time than we are talking about in this legislation. And then we ask them the fact that you have that written off for goodwill, is that really encouraging takeovers in your country? They said they did not see it. They had no such negative effect from their interpretation.

So I started out just like the Senator from Illinois, concerned about writing off goodwill because I was afraid it was going to increase takeovers. But after study, after the witnesses, I finally came to the judgment that it did not, and that we would get so much more simplification, we would cut out so much more in auditing fees, auditors, accountants, and lawyers that American business could be more productive, more internationally competitive, and that the consumer could get his product cheaper.

Mr. President, I withhold the remainder of my time.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. I wonder if the chairman will yield me 10 minutes.

Mr. BENTSEN. Mr. President, I am delighted to yield 10 minutes to my distinguished colleague, the Senator from Missouri.

The PRESIDING OFFICER (Mr. EXON). The Senator from Missouri.

Mr. DANFORTH. Mr. President, first let me say that the provision in the bill that is the target of this amendment is the leading tax simplification provision in this legislation. We have heard so much about the complexity of the Tax Code, and the need for tax simplification. This provision which was the creation of the chairman of the Ways and Means Committee, Chairman ROSTENKOWSKI, and the chairman of the Finance Committee, Chairman BENTSEN, is the leading tax simplification provision in this bill.

The idea that it is some sort of nefarious plot to favor big business and takeover artists is frankly insulting to the chairmen of the two committees and to those people who have worked so hard on this tax simplification measure.

I would point out that the section in the bill that we are dealing with in connection with this amendment has been supported by, among other organizations, the American Bar Association, and the American Institute of Certified Public Accountants. It is supported by the Tax Foundation. It is supported by approximately 30 editorial pages that we found including, Mr. President, an editorial that appeared on September 15th in the St. Louis Post-Dispatch entitled "Tax Simplification Is Worth the Risk."

I ask unanimous consent that the editorial from the St. Louis Post-Dispatch be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Sept. 15, 1992]

### TAX SIMPLIFICATION IS WORTH THE RISK

The Senate will vote soon on a bill containing a major tax simplification initiative, which it should pass. The costly war between business and government over how to depreciate assets acquired when one company buys another must be resolved.

Current rules allow deduction of tangible assets such as buildings and machinery over a fixed number of years. But intangible assets—subscription lists, computer software, leases, covenants not-to-compete, or special technical expertise—can't generally be written off.

Whether or not they can be depreciated over time—the term is amortizable—depends on whether they are classified as something called good will, which is the unquantifiable value to a company of customer loyalty, market position or the nature of its products. It can't be amortized. Historically, most intangible assets have been classified as good will and have not been amortizable, either.

When the majority of corporate assets were tangible, this didn't make much difference. But as the service economy has grown—computer software companies are the best example—the value of intangibles has risen, and so have taxpayer claims that these assets aren't mere good will, but assets that should be amortized. This has led to a multitude of court cases, costing the IRS hundreds of millions.

As the value of intangibles rises, the litigation war will grow. The law should be clarified to end it. Both tax writing committees of Congress, the tax section of the American Bar Association and the American Institute of Certified Public Accountants agree. The Senate tax bill would establish a uniform 16-year amortizaation period for all intangible assets.

This isn't an unreasonable giveaway. Companies claiming shorter depreciation periods for intangibles would be forced to accept longer write-off periods and pay more taxes, balancing revenue lost from those who could elect a 16-year write-off period that the IRS might have challenged altogether.

But classifying all intangibles as amortizable would increase the tax advantages for business mergers. Although other tax breaks that fueled merger activity have been repealed and today's economy discourages them, they remain a risk in the future. Sen. Paul Simon, Democrat of Illinois, is so concerned about this possibility that he is proposing an amendment to kill tax simplification altogether. He doesn't believe its benefits are worth the risk.

A better approach would be to reject the Simon amendment and permit all intangibles to be written off—as America's principal competitors do. The next step would be to examine the tax code for any other incentives to mergers and repeal them. Congress must opt for tax simplification by amortizing intangibles, ending an expensive tax war.

Mr. DANFORTH. Mr. President, the reason I want the editorial from the Post-Dispatch put in the RECORD is not just that it is a hometown newspaper for me but the fact that the St. Louis Post-Dispatch is hardly a captive of big business or takeover artists. It is generally considered to be a very liberal editorial page. They have editorialized very strongly in favor of the provision in the bill. And they have editorialized against the amendment that is now offered by the Senator from Illinois.

It has been stated on the floor that at a time of budget problems in our country this is a costly provision. As a matter of fact, Mr. President, it is not. It has been scored by the Joint Committee on Taxation, and it is revenue neutral.

So is the amendment that has been offered by Senator SIMON. It is revenue neutral. This provision does not gain or lose revenue. What it gains is tax simplification. What it saves is lawyer's fees, accountant's fees, and appraiser's fees, and a tremendous amount of time, and a tremendous amount of diversion of resources in this country.

One of the things that I have learned in serving on the Senate Finance Committee is the number of brilliant people who are involved in our tax laws. At any markup of a tax bill, you sit there in the Finance Committee and you look over a room of brilliant people, employees of the Senate, employees of the Joint Committee on Taxation, staff members of Senators, lawyers—all of these people who are fixed on the exact makeup of our tax law, and then you add to that the army of people throughout the country who are fighting the various battles of how to define the tax law, and how to determine what falls in what category.

If there is a misallocation of resources in the United States, it pertains to the interpretation and the enforcement of tax laws. Tax law is complicated, and one of the great complications has to do with the valuation of intangible assets.

Here is the issue. There are various types of intangible assets. Trademarks, trade names, customer lists, knowhow, franchises, patents, and goodwill—all of these are intangible assets.

There are two problems with the current law. The first is that the current law is uncertain as to the useful life of these various intangible assets.

So there is a continuing problem of valuation. How much useful life do we assign to customer lists, to knowhow, to trademarks? What is the useful life? This is a matter that the Internal Revenue Service takes one side on, and the taxpayer takes the other side on, and they go round and round and round, and the lawyers run up the fees, and the accountants run up the fees, and the appraisers run up the fees.

Then there is a second problem in the current state of the law; that is, that all of these various intangible assets are depreciable save one. And the one exception is goodwill. So that the taxpayers, the businesses, follow a practice of trying to undervalue goodwill, $1 valuation if they can get away with it, and overvalue the other intangible assets which are depreciable.

So the two problems again are the lack of definite time, the lack of certainty for the various intangible assets; and second, the fact that there is an exception, goodwill, which is not depreciable, and therefore taxpayers try to get everything out of goodwill, and put it under one of these other categories.

It is chaos. It is chaos. Senator BENTSEN, Congressman ROSTENKOWSKI, and others, attempted to end the chaos and create certainty. So what they did is say we are going to treat all of these intangible assets equally, and we are going to give them all the same useful life; 16 years.

Why 16 years? Why not 15 years? Why not 14 years? Sixteen years, because 16 years was, as found by the Joint Committee on Taxation, the revenue neutral time period. That is what this amendment does. It is designed to create certainty.

It has been said that, well, this creates "takeover mania," and that was the expression that was used time and time again by Senator SIMON in describing the depreciation of goodwill—takeover mania. But that analysis is contradicted by the Treasury Department. Alan Wilensky, the Deputy Assistant Secretary, has written a letter which says that the administration opposes the Simon amendment. Treasury believes that the Simon amendment "would perpetuate the uncertainty and controversy the legislation was intended to resolve."

He further says that "the amendment would preserve the competitive advantage of foreign corporations, many of which amortize goodwill under their home country tax laws, in bidding for businesses with significant goodwill." And then Deputy Secretary Wilensky says:

> We do not believe the intangibles provision of H.R. 11 creates a new tax incentive for acquisitions. In fact, we think it likely that current law encourages acquisitions by aggressive taxpayers, allowing them to profit by overvaluing short-lived intangibles and undervaluing goodwill.

That is the conclusion of Treasury and the exact opposite of the conclusion of Senator SIMON. Treasury believes that the current situation encourages takeovers.

Chairman BENTSEN has pointed out very ably the fact that the so-called merger mania of the 1980's was stock acquisitions. Those were the leveraged buyouts. This provision has nothing to do with stock acquisitions. This has to do with the acquisition of assets. The acquisition of assets were not what were abused in the 1980's. In fact, acquisition of assets, after the 1986 Tax Code, are going to be much rarer than they ever were before because of the prospect of double taxation where assets are required.

Mr. President, this really is the issue of tax simplification. The current situation is unworkable, confusing, chaotic. Why would all of the businesses favor changing this? It is not just to get some tax advantage as was suggested. It is to get them out of the clutches of the lawyers. That is what is involved in the provision that has been designed by Senator BENTSEN.

I might say that, as the chairman has pointed out with his characteristic thoroughness, anticipating the argument that somehow the depreciation of goodwill might have some kind of an effect on acquisitions, he had a hearing on this subject, and we had witnesses—a witness from Germany and a witness from Japan—and the exact question was put to them: You depreciate goodwill. What effect does that have in your country on acquisitions? The answer given was "none at all."

I ask unanimous consent that the letter from Deputy Assistant Secretary Wilensky be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
*Washington, September 24, 1992.*

Hon. JOHN C. DANFORTH,
*U.S. Senate, Washington, DC.*

DEAR SENATOR DANFORTH: This letter responds to your recent letter concerning the provision of H.R. 11 relating to the amortization of intangibles. You asked for our views on the intangibles provision and Senator Simon's proposed amendment of that provision. You specifically asked what impact the Simon amendment would have on efforts to simplify the tax treatment of acquired intangible assets. In addition, you asked whether the intangibles provision contained in H.R. 11 would create a tax incentive for acquisitions.

Under current law, it is necessary to allocate purchase price between goodwill and other intangibles. This results in uncertainty, transaction and administrative costs and frequent and expensive controversies between taxpayers and the Internal Revenue Service. H.R. 11, as approved by the Senate Finance Committee, provides a uniform, 16-year amortization period for purchased goodwill and most other purchased intangible assets. This provision eliminates uncertainty and controversy by treating goodwill and other intangibles in the same manner.

Senator Simon's amendment would exclude goodwill from the class of intangibles eligible for amortization. Other purchased intangibles under this provision would be amortized over 14 years. We oppose this amendment. By retaining the distinction between goodwill and other intangibles, the amendment would perpetuate the uncertainty and controversy the legislation was intended to resolve. Thus, the amendment would add a new element of complexity to a tax simplification measure. In addition, the amendment would preserve the competitive advantage of foreign corporations, many of which amortize goodwill under their home country tax law, in bidding for businesses with significant goodwill.

We do not believe the intangibles provision of H.R. 11 creates a new tax incentive for acquisitions. In fact, we think it likely that current law encourages acquisitions by aggressive taxpayers, allowing them to profit by overvaluing short-lived intangibles and undervaluing goodwill. The intangibles provision of H.R. 11 would eliminate this incentive.

Please let me know if I can be of further assistance.

Sincerely,

ALAN J. WILENSKY,
*Deputy Assistant Secretary (Tax Policy).*

Mr. BENTSEN. Mr. President, I yield 5 minutes to the Senator from Minnesota.

Mr. DURENBERGER. I will take a few minutes, Mr. President, to share a recollection and an observation.

I have listed closely to this debate, and as my colleague from Missouri indicated, the debate did not begin here. It had been in the Finance Committee before that. There has been a great deal of concern expressed that if we permit the amortization of goodwill, we are going to encourage a new wave of takeovers and mergers that might even parallel the takeover mania of the 1980's.

I rise basically to question that argument, because, Mr. President, in August 1989 when we were at the height of the takeover mania, when the news of the day was a $20.3 billion offer to take RJR Nabisco private, a $13.5 billion deal for Kraft, or a $5.23 billion offer from Britain's Grand Metropolitan for Minnesota Pillsbury Co., the Finance Committee held a hearing on takeovers. At that hearing I stated the following:

> In nearly every hostile takeover and in all leveraged buyouts, the one certain result is that the surviving entity that emerges will be saddled with an extraordinary new debt burden.
>
> In 1982, corporate debt totaled less than $1 trillion. In 6 years, that debt burden had risen nearly 80 percent to $1.8 trillion. By one estimate, the interest payments on that debt can account for 20 percent of these firms' cash flow.

I went on to say, "In a healthy and robust economy such as we have enjoyed in the last 6 years," think back before 1989, "companies may not have a problem servicing that debt. But can these companies afford to continue to service this growing debt if economic growth slows?

Unlike dividend payments that can be suspended in tough economic times, interest on corporate debt must be paid, or else the company faces the prospects of bankruptcy." At that time, I also stated, "Instead of investing for the long term, instead of investing in modernized factories, instead of investing in new products and manufacturing processes, America's corporations and investors are engaging in a feeding frenzy of buying and selling corporations.

"Does it make any sense," I said, "that in 1986, American corporations spent more on mergers and acquisitions, $177 billion, than they spent on new plant and equipment, $141 billion?"

That is the end of the recollection.

But, Mr. President, all of that debt accrued and all of those mergers took place when goodwill was not amortizable. Three years later, after the bankruptcies at Macy's, Bloomingdale's, and a host of others, the 1980's takeover candidates were saddled by debt.

I believe American business has now learned a lesson. The lesson is that the good times do not go on forever. Too heavy a load of debt ultimately leads only one way: To bankruptcy.

Mr. President, I do not believe we are going to see a new wave of takeovers for quite some time. This is the 1990's, and corporate America is paying the price of the excesses of the 1980's. I say this: If there are going to be takeovers of American companies, the Tax Code should not favor foreign takeovers. What the amendment of the Senator from Illinois really is, is an amendment designed to give foreign investors an advantage in taking over American companies. I will repeat that. The Senator's amendment would give foreign investors an advantage against American companies that may enter into mergers.

Mr. President, British-based Grand Metropolitan has been an excellent citizen of Minnesota since its acquisition of Pillsbury. They have done much to restore the vitality of Burger King and its franchises and the Pillsbury Co. But why should a British company be allowed to amortize the goodwill of an American company that it acquires while an American company is denied that opportunity?

Belgian, Canadian, Colombian, Finnish, German, Japanese, Korean, Dutch, Swedish companies are all permitted to amortize goodwill. Why not American companies? Do we want to give Japanese companies, which are permitted to amortize goodwill over 5 years, a competitive advantage in a competition with an American company to buy American company?

So to me, Mr. President, the issue is very simple: If you want to give the Japanese, the Germans, and the British, the competitive advantage in any future bid to buy an American company, then vote for the Simon pro-foreign investment amendment. But if you want a more level playing field for American companies, you should oppose the Simon amendment because it discriminates against our companies.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I ask unanimous consent that an editorial from the Dallas Morning News entitled Tax Bill be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Sept. 15, 1992]

TAX BILL: SIMPLIFICATION IS THE KEY

Next week, the Senate is scheduled to take up a tax bill that has created a predictable share of the controversy. Not the least of which has been the debate over how to structure enterprise zones, which are intended to assist economically strapped areas.

But a proposal that is receiving near-universal support in the current tax bill is the depreciation of intangible assets. Now, before you decide accounting remedies are too much to consider before morning coffee, think again.

As the American economy moves from its manufacturing base to one that emphasizes service industries, the nation's tax code must follow along. In short, that's the aim of the current amendment to simplify depreciation of such intangible assets as a company's customer list.

The nation's tax laws have long been specific about depreciating tangible assets, such as a company's building. But amortizing intangibles like accounts receivables, data bases, broadcasting rights and, importantly, a company's good will are subject to dispute. The result has been what the General Accounting Office terms "one of the oldest controversies between taxpayers and the Internal Revenue Service."

In fact, the GAO says, the IRS has challenged about 70 percent of taxpayer claims about whether an asset had a useful life or was merely part of the company's good will. The result has been, in the GAO's estimation, "costly disagreements" and "inconsistent treatment."

To change this situation, and to move the American economy forward, the Senate's legislation will allow depreciation of purchased intangibles over a 16-year period. So if a company is purchased, the purchaser will be able to amortize customer lists as well as bricks and mortar.

These reforms may sound technical and perhaps irrelevant to daily life. But they are the stuff of which a more competitive United States will be comprised. Instead of wasting time and money over dubious and non-productive lawsuits, companies can be freed from restrictive and confusing laws.

The changes also would recognize the new service orientation of the American economy. That's a plus, and the reforms, which have moved through Sen. Lloyd Bentsen's Finance Committee, deserve support. They seek to simplify the tax code, as well as move the nation forward. Those aims are hardly inconsequential.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I yield myself as much time as I may consume.

My distinguished colleague, Senator BENTSEN, said he started off skeptical about this, and Mary Naylor and Sarah Smith, two fine staff people, will tell you I started off skeptical when this idea was first approached. And then I started reading, and the more I read, the more incredible this amendment became.

When my distinguished colleague from Texas says stocks will rise and they pay an income tax on that, when you recognize that in Philip Morris, or Kraft, for example, or Time-Warner, 80 to 90 percent was goodwill, there is just no way that an appreciation in stock is going to make up for that. In terms both of what Senator Bentsen and what Senator Danforth had to say about stock and about acquisition of stock, therefore, this is not a great big break and a great boon to these mergers and acquisitions. What happens is, you buy the stock of a company and then you sell off corporations which that parent corporation owns. You sell off these companies and then you get the goodwill. It also encourages debt financing, rather than equity financing.

Senator Bentsen says other factors are more important in acquisitions and mergers, rather than this tax break.

I agree with that. There is no question about that. But why give an added incentive to corporate mergers and takeovers? I just do not understand it.

Senator Bentsen says that I am inconsistent in suggesting certain intangibles can be written off. I have never suggested that we should not be able to write off any intangibles. I just do not want to give away the store.

The reality is, for example, Senator Danforth mentioned patience. Clearly, there is a time factor here on this intangible. That ought to be written off. And the Finance Committee, with all its ability and its able staff can do what we do with intangibles, and that is determine what is a sensible writeoff for those things.

A covenant not to compete, obviously, has value to a corporation. That ought to be written off. And as far as how you draw the line, let those who write our tax laws or the IRS determine through regulation where to draw the line. But do not just give up totally and say we are going to give you the biggest Christmas gift that you received yet in terms of corporate mergers.

My distinguished colleague from Missouri says it is revenue neutral—and I would like to have his attention here if I may, and he is listening to me, I am pleased to say—it is revenue neutral for this immediate period through 1997. But listen to what the Joint Tax Committee says:

> The new tax deductions accorded goodwill and going concern value in the current version of H.R. 11 cause a long-run revenue decrease * * *.

Listen to what the senior specialist in economic policy for the Congressional Research Service has to say:

> If we express these numbers in 1997 income levels, the final year of the budget horizon, the revenue cost would probably be in excess—

And I want to get the attention of the Senator from Missouri again here now. Let me just repeat this from CRS:

> If we express these numbers in 1997 income levels, the final year of the budget horizon, the revenue cost would probably be in excess of $2 billion per year. It is possible that the loss could be smaller, but it is more likely that the loss would be even larger.

He describes this as tax simplification. The GAO report suggests:

> If we permit the writing off of goodwill, then what goes into creating goodwill, such as advertising, we are going to have to take another look at that.

Senator Danforth quotes the St. Louis Post Dispatch. Even the Post Dispatch can be wrong once in a while. But I point out that this merger mania is not something that has not afflicted the newspaper business. If there are any reporters listening to us at this hour of the night, they know what has happened. In St. Louis, this has happened. The Pulitzer Co. has purchased a number of newspapers around the country. We have fewer and fewer owners of the newspapers of this country.

I do not regard that as a healthy trend. I happen to be a journalist by background, but this bill, as it is now written, is going to encourage that. And it does not surprise me that a lot of the newspapers who are involved in buying up other newspapers like this particular provision of the law.

When he says my amendment is also revenue neutral, in fact, even for this initial period, it creates $631 million in additional assets for the budget.

When Senator Danforth refers to me as talking about takeover mania, I was quoting financial house after financial house after financial house. Paul Simon does not write for Business Week magazine. I am not the author of those articles from the various enterprises.

And then, when he said why would all the businesses favor this and suggests it is because it would reduce litigation, obviously we ought to change the law, we ought to improve the law. We ought to reduce the litigation. But as to why all the businesses favor this, my guess from a study of this—and I have a number of hours on this—my guess is businesses favor this not because of the litigation factor, but because of the bonanza factor here.

And as far as foreign investors getting a break, as my colleagues from Minnesota suggested, they have special laws to discourage the very kind of merger mania that we face here.

The fundamental question again, Mr. President, is: What should we subsidize as a nation? I believe we should subsidize business along with subsidizing Head Start and things like this, but we ought to subsidize business through investment tax credits. We ought to say to Monsanto, for example, a good St. Louis corporation that Senator Danforth is familiar with, "When you do research, we are going to give you added breaks."

Those are the kind of breaks that we should give people. But if Monsanto or any other corporation wants to just gobble up another corporation, that should not receive a special tax break.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Illinois has 5 minutes and 17 seconds, and the opposition has 22 minutes and 57 seconds.

Who yields time?

Hearing no order, the Chair will rule that the time will be charged against both parties until someone seeks recognition on the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, first, the Joint Committee on Taxation will give Congress 5-year revenue estimates. The joint committee does not provide revenue estimates beyond 5 years. There are many times when I wish we could have factored in the long-term effects of changes in the tax law. Many times we have attempted to represent to Members of the Senate that a little revenue loss today would create revenue bonanzas in the future, and we were not allowed to avail ourselves of such arguments.

The way we deal with the budget is in specific 5-year timeframes.

As a matter of judgment by the Joint Committee on Taxation, this provision is revenue neutral. And, as a matter of fact, so is the amendment that is offered by the Senator from Illinois for this reason: The Senator from Illinois provides that goodwill shall not be deductible. Then he proceeds to spend whatever revenue he would pick up doing that by reducing the useful lives of the other intangible assets from 16 years, which is in the bill, to 14 years.

So this amendment is not one that is a great blessing for the taxpayers. It is one that proceeds to remove the deductibility for goodwill and then spend the revenue somewhere else. And in doing that, in providing for no depreciation for goodwill and shorter useful life for other intangible assets, the Senator from Illinois simply reconstitutes the existing problem in the Internal Revenue Code which has created the chaos as far as the taxpayers are concerned, and the bonanza as far as lawyers and accountants are concerned; namely, what the Senator from Illinois does is to provide added incentives for shifting the valuation of intangible assets from goodwill to something else. That is the same box we are in now.

So the net effect of the Senator's amendment is to gut the provision that is now in the bill. And, as I said earlier, the provision in the bill is the one major accomplishment with respect to tax simplification that is in the bill.

If Senators believe in tax simplification, they should vote against the amendment offered by the Senator from Illinois. If the Senators do not care about tax simplification, if Senators believe that people such as the St. Louis Post Dispatch editorial page and Senator BENTSEN and Mr. ROSTENKOWSKI and others are countenancing some sort of corporate shenanigans and ripoffs, then they should vote with the Senator from Illinois.

Mr. METZENBAUM. Will the Senator from Missouri yield for a question?

Mr. DANFORTH. I yield the floor.

I will be happy to entertain questions, if you want to use the time.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to inquire of the Senator from Missouri with respect to the tax bill without it being charged to either side for a period not to exceed 5 minutes.

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMON. Mr. President, I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Senator from Illinois.

Is it not a fact that the only way you can claim that this bill is revenue neutral, and it is admitted, is because it provides for settlement of cases that are pending at 25 cents on a dollar—and as the Senator from Missouri indicated before he thought it was 75 cents on a dollar and so did I, but it is 25 cents on the dollar—which means that although you cash in, the Government will be giving up 75 cents of each dollar when the settlement is made?

So it is one of those things where we get the cash today and therefore you think that you have made some headway, but the reality is that you have given up 75 cents of every dollar.

And these are claims filed not by individuals. These are claims that are pending by the IRS. And you are going to let people settle those for 25 cents on the dollar and then you have the audacity to claim that by getting those dollars in, this bill is revenue neutral.

I say that when the Joint Tax Committee gives us that kind of figures, it is specious reasoning on their part and they tell us only a part of the story and I do not accept it.

(Mr. WELLSTONE assumed the chair.)

Mr. DANFORTH. Mr. President, well my response—I have more time, so I will be happy to take this on my time.

Mr. METZENBAUM. I thank the Senator.

Mr. DANFORTH. Mr. President, the short answer to the Senator's question is, no. No, this settlement provision which is in the bill is not touched by this amendment.

So the point made by the Senator from Ohio is simply not correct.

What we are talking about here is the deductibility of goodwill, which has caused real chaos as far as lawyers and accountants and appraisers are concerned. And that provision is really not related at all to this 25 percent, 75 percent issue.

There is another provision in the bill which I think the Senator is referring to which is designed to settle many, many complicated cases that are now pending, settling on a basis that is mutually satisfactory to the Treasury and apparently to most taxpayers, by providing that taxpayers who are now claiming, say, $100 on a tax return as a deduction, in order to settle the dispute the taxpayer forfeits $25 of that claim. That is the settlement provision. That does create revenue. That produces revenue for the bill.

If that were taken out of the bill, we would have a big problem finding offsetting revenues, because this is a revenue producer.

But that is not the subject of the amendment that has been offered by the Senator from Illinois.

Mr. METZENBAUM. That is part of the basis on which you claim that this provision is revenue neutral.

Mr. DANFORTH. No, that is not correct.

Mr. METZENBAUM. How do you get it to be revenue neutral? Where do you get the pickup? How do you get the pickup when you permit goodwill to be written off under your proposal in the law?

Mr. DANFORTH. Because right now, as the Senator knows, there is no specific useful life for intangible assets.

Mr. METZENBAUM. We are just talking about goodwill.

Mr. DANFORTH. Therefore, what we did was to say to the Joint Committee on Taxation, you name the figure; name the number; pick the number of years.

What we want is not chaos. What we want is not confusion. What we want is not taxpayers arguing forever on what the useful life is.

We want a fixed useful life which, in the best judgment of the Joint Committee, is the revenue neutral number. The Joint Committee came up with this specific number 16 years.

Mr. METZENBAUM. That is the point that I am making. That is specious reasoning. Because by permitting the payout over 16 years, the deductibility for 16 years, that does not pick up any money at all. You only pick up the money by permitting the settlement of the cases at 25 cents on the dollar.

Today, there is nothing to argue about. You cannot deduct goodwill today. You cannot get zip, zero, anything. You cannot get anything deducted under the present law.

What this is doing is making it possible to take about $400 billion in goodwill and suddenly makes it deductible. It is as if you were saying to an average home owner that you can deduct the air you breathe and the environment in which you live. This goodwill is a nothing. It does not have to do with some claims having to do with lists or things of that kind that are arguably assets.

This is talking about nothing but air, plain good will. That is what is to be deducted under this.

Mr. DANFORTH. Mr. President, under current law, trade law, all intangible assets—trade names, customer lists, know-how, franchises, patents and others—all of those are deductible.

Mr. METZENBAUM. That is correct.

Mr. DANFORTH. Good will is not deductible.

Mr. METZENBAUM. That is correct.

Mr. DANFORTH. Intangible assets, all of them could be called air. What is happening now, Mr. President, if I could respond, what is happening now is first of all taxpayers are putting in whatever number they care to for the useful life of intangible assets. Second, they are attempting to shift the valuation of their intangible assets from goodwill to other intangible assets. It has caused a nightmare with respect to the administration of the tax laws. And what I am saying is without regard to this 25 percent issue—25 percent of the deduction issues—without regard to that, this provision in revenue neutral. That is what we asked the joint committee to come up with. That is why the joint committee came up with 16 years.

If we did not have this 25 percent settlement issue, this whole matter would be revenue neutral.

The allowing for taxpayers and the Treasury to settle these complex fact cases creates an influx of revenue to the Treasury to the tune of more than $2 billion. So that provision that the Senator has criticized raises revenue. Putting it all together we raise $2 billion. But that part of the issue that is being challenged by the Senator from Illinois is revenue neutral. It is revenue neutral in the bill and the amendment that the Senator from Illinois offers is also revenue neutral because he reduces the useful lives of the other intangibles.

Mr. METZENBAUM. I take strong issue with my colleague from Missouri at this point. Because I understand the distinction he is making between the settlement of the old cases. But the fact is that the Joint Tax Committee claims that the spelling out of procedures with respect to trademarks and registrations and various lists and that type of thing—that is not going to pick up that kind of money. And I just have to say to the Joint Tax Committee, I do not know where you could come up with that kind of figure.

I think we find ourselves here in this body being bewildered and baffled by the Joint Tax Committee that oftentimes comes up with figures where you say, "But it just does not stand to reason. How can you possibly pick up money when you are providing for additional tax deductions that do not exist today?"

That is what we are told in connection with this matter. There is going to be money picked up by providing tax deductions for goodwill generally. It does not exist today. And for the life of me I cannot understand and the American taxpayer cannot understand how you can possibly arrive at that kind of conclusion; that by providing additional tax deductions it is going to produce more dollars for the Treasury.

I am not seeking to produce more dollars. But I say this amendment is going to cost $2 billion a year if not more. I think that is the reason so many of the business organization are so strongly for it. They are certainly not seeking to increase their tax burden and I would not seek to increase their tax burden.

On the other hand, I would oppose——

Mr. DANFORTH. Mr. President, I have stated the analysis of the Joint Committee on Taxation. It is simply contrary to the analysis of the Senator from Ohio.

Mr. CHAFEE. Let us vote.

Senator CONRAD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Might I ask the Senator from Missouri, although I am on the other side of this issue, if I might have 4 minutes?

Mr. BENTSEN. How much time do we have left?

The PRESIDING OFFICER. The Senator has 10 minutes and 35 seconds.

Mr. BENTSEN. How much do the opponents of the amendment have?

The PRESIDING OFFICER. The opponents have 3 minutes and 21 seconds.

Mr. BENTSEN. You are asking for time in opposition?

Mr. CONRAD. My understanding was the Senator from Illinois only had 2 minutes.

Mr. BENTSEN. Good.

Mr. SIMON. Mr. President, I will yield 1 minute and 27 seconds of that 3 minutes to the Senator from North Dakota.

Mr. BENTSEN. Just because of my great affection for the Senator from North Dakota, I will yield him a minute and 30 seconds.

Mr. CONRAD. I thank both Senators.

Let me just say, as a former tax commissioner, as former chairman of the Multistate Tax Commissioners, in examining this issue I must conclude, this is lousy tax policy.

Let us try to simplify this very quickly.

If a company buys another company and the tangible assets of the company are $50 million but the sales price is $100 million, you have $50 million that might be attributed to other intangible assets or to goodwill.

Goodwill sometimes is called blue sky.

What this provision provides is that now, for the first time, we are going to allow the blue sky to, in effect, be depreciated.

Mr. President, it makes no sense. We allow amortization or depreciation because something has a limited life. It wears out. It loses value. That is not the case with respect to goodwill. There is no evidence that it wears out. There is no evidence there is limited lifetime.

So I say to my colleagues, let us not make this mistake.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. BENTSEN. I yield 5 minutes to myself. I say to my friend from North Dakota, he has not bought many companies and sold many companies. This idea is not going to add a great increase in takeovers, by this kind of approach. That was my concern when I first started looking at this, the fact you were going to amortize goodwill, because the last thing I want to see is a vast increase in takeovers and certainly going back to the LBO approach to this type of thing.

I have done everything I could from the Finance Committee side to discourage that.

So I looked at this and then I began to better understand it. First, most of these purchases are of stock. If you have any appreciation of the value of that stock—because of this kind of legislation, you might have some—I think it would be very marginal. But the fellow selling that company, he understands that, too, if it has a value. So he increases the price for it. And then if he sells the assets of that company he then pays the tax right up front. And, in the vast majority of those cases, what the other fellow finally gets in the way of a company and any amortization he gets, he is going to get less back in tax return. And all studies I was able to find were giving me that kind of a presentation, which I really had not thought of in the beginning.

That is what turned me around on this one and I decided it was well worth it to get the kind of simplification we need, the kind of certainty that we need; to cut out all these costs of lawyers, accountants, and auditors and the incredible amount of endless litigation.

I heard someone a while ago—I guess it was my good friend from Illinois—talking about how we ought to approach this through regulation. How many different types of assets were listed in that situation, as intangible assets? We had 159 in the General Accounting study of it. So that is what we are facing.

The other thing we did, we held a hearing in the Finance Committee and we had witnesses from Japan and we had them from Germany, trying to determine what had happened there. Because in those countries they amortize goodwill and they amortize it in a shorter period of time than we do.

So the incentive is all the more so, supposedly, if it works that way, to buy that kind of a company. And we said, did this increase takeovers? Did it become a major consideration in takeovers? And the witness said it did not. It did not do so.

Time and time again, the things that influence you buying a company are other factors. What kind of a labor force could you have. How educated is it. What is the demand for the product. What kind of research and development do they have, in bringing on new products. What does it cost in the way of money that is borrowed. What is the availability of capital for it? Those are the major motivating reasons when you are talking about buying another company, making an acquisition.

So I finally came to the conclusion that there is a much better benefit in trying to get companies more productive, our prices more competitive, and our costs less in operations, if we could simplify, simplify the intangibles. And I decided what they had done on the Ways and Means Committee was a major improvement in the laws of our country. That is why I finally endorsed it, went for it. We went a little longer on the depreciation period; we stretched it out to 16 years where they had done it for 14 years. I think overall it is good legislation. I think it will help make us more productive in the country and save us in a lot of other ways.

I urge defeat of the amendment.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BENTSEN. Yes.

Mr. CONRAD. Let me just preface it by saying so much of what the Senator says I agree with, that there is, no question, a very difficult problem with respect to the handling by the IRS of this question. And while I have not been involved in buying and selling many companies, I can tell the Senator I have been involved in the question of tax policy with the buying and selling of hundreds of companies.

I just ask if the Senator disagrees with the observation by Leo Herzel and William Schmalz, who are partners in a law firm supporting the goodwill provisions which are in this legislation, who wrote in the Financial Times on January 30, 1992: "An important tax bill pending in the U.S. Congress," referring to the one that was before the House, "would permit depreciation of intangibles, including goodwill, for tax purposes. This would appear to eliminate a major U.S. barrier against takeovers."

Mr. BENTSEN. Let me answer that.

Mr. CONRAD. I ask the Senator if he disagrees with that.

Mr. BENTSEN. I have a hunch the Senator is talking on my time, so let me use my time to answer that.

This is from Goldman, Sachs. It is one of the most sophisticated investment firms in the United States, if not the world. This is the way they advise a client in a takeover in that regard. They refer to the Rostenkowski bill on intangibles and goodwill: "However, it will not be helpful in cases of acquisitions of public companies since these are usually stock acquisitions. In such cases the old rules will apply unless the acquiring company elects section 338 and writes up the asset value of the acquired company, pays the asset on the writeup up front"—as I was saying earlier in this debate—"and can then deduct the amortized sums, but such an election is highly unlikely since it is not economical."

So overall the net result is I really do not see this encouraging takeovers, but an enormous payoff in simplification, certainly in the handling of intangibles and goodwill.

I urge defeat of the pending amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I shall be very brief because I only have 2 minutes remaining. I wish he were on the floor right now. But the Senator from Missouri was factually incorrect in every one of his statements in terms of what has happened. The Senator from Ohio is correct when he said how do they get income out of this? It is because you are giving the store away at 25 cents on the dollar on current litigation regardless of the merit of that litigation. That is how the income.

And then, when the Senator from Missouri says that my proposal is revenue neutral, the reality is, because we knock that out, it saves $631 million that we use to subsidize takeovers. That is what the Joint Tax Committee says.

When the Senator from Missouri says the Joint Tax Committee does not make projections beyond, they do not make specific projections, but the Joint Tax Committee says, and I have the letter from Harry Gutman here:

> The new tax deductions accorded goodwill and going concern value in the current version cause a long-run revenue decrease.

And the Congressional Research Service, their senior specialist in economic policy:

> "If we express these numbers in 1997 income levels, the final year of the budget horizon, the revenue cost would probably be in excess of $2 billion per year. It is possible that the loss could be smaller, but it is more likely that the loss would be even larger.

Mr. President, we have to decide what we want to subsidize in this country. I want to subsidize education. I want to subsidize corporations that put money into research, buy equipment that modernizes their plants. I do not want to subsidize corporations that use their resources just to gobble up other corporations, and that is what this bill does without my amendment.

Mr. BENTSEN. Mr. President, just 2 minutes to address that point.

First, let me repeat again what I had stated earlier in the debate, what the Treasury testified at the Finance Committee's hearings on this legislation in response to my question on this very point, and this is Treasury speaking: "What we attempted to do, working with Congress and the Joint Tax Committee in developing the original legislation, was to ensure that to pick a period, namely 14 years," in the House version, "that would be revenue-neutral over the long term. We have certain budget conventions that we use, but when you are making a change of this sort, you do not want to solve your problems in a 7-year window and then leave yourself with a mess in the outyears. So, in setting the 14-year period, we believe that that would be essentially revenue neutral over the long term."

And I would point out, as I said earlier, that the Senate version goes for a longer period of 16 years. That is further stretching the writeoff.

Mr. BOND. Mr. President, I oppose this amendment because it would leave the provision regarding the amortization of intangible assets meaningless. It would deprive all businesses in all segments of industry a chance for real and meaningful simplification of an extraordinarily complex area of tax law.

Mr. President, the Senators from Illinois and North Dakota have asserted that this provision would constitute "a major tax giveaway for corporations." There are two elements to this assertion: First, that it will result in a new merger boom; and second, that the provision will increase the deficit.

First, Mr. President, as far as a merger boom is concerned, this provision is not relevant to most of the acquisitions that have taken place since 1986 and will not be relevant to many future acquisitions. For the amortization of intangibles to be an issue, an acquisition must be treated as an asset acquisition for tax purposes, rather than a stock acquisition. Since 1986, most acquisitions have been of the stock of a company, rather than of its assets.

It is true that the provision would provide a writeoff for goodwill, which is not currently deductible. In return, however, other tangible assets would be written off over a substantially longer period than their useful lives would otherwise warrant. In other words, a balance is created by the bill. Taxpayers will not have an incentive to characterize goodwill as an intangible asset just to get a deduction, because all intangibles, goodwill, or other intangibles such as customer lists or covenants not to compete, would get the same 16-year writeoff.

In a number of the acquisitions that took place in the 1980's, the acquiring companies were able to write off the intangible assets they purchased in 5 or 6 years. Under this bill, all intangible assets would be written off over 16 years. The bill doubles, or more than doubles the normal writeoff period for a number of assets, yet the Senator from Illinois is saying the bill will encourage takeovers.

Second, regarding this provision's relationship to the deficit, the provision as it appears in the bill today was designed by the Joint Committee on Taxation to raise revenue. Not to be revenue neutral. Not to lose revenue. But to raise revenue.

Finally, Mr. President, the bill will simplify the tax law. Assistant Treasury Secretary Goldberg told the Senate Committee on Finance last April that the intangibles provision "is the litmus test of our commitment and ability to achieve broad-based simplification of substantive tax laws."

I agree with Mr. Goldberg; by providing a workable definition, from a tax perspective, of what is an amortizable intangible asset, the legislation will allow taxpayers to conduct their business with more certainty. The Senator from Illinois' assertion that "the IRS has spent the last 6 years in tax court" may be true, but it doesn't tell the whole story: the court battles have been waged not because taxpayers are being overly aggressive or abusive, but because no one knows what the law is.

Taxpayers and the IRS have been in both negotiations and litigation on this issue because it is an area of the tax law that is murky. I believe that this provision will resolve the murkiness, and provide much needed simplification in this area. Distinguishing goodwill from other intangible assets in a precise way is at the heart of the IRS-taxpayer controversies. Deleting goodwill from this provision will mean such controversies continue.

Mr. President, I oppose the amendment and urge all of my colleagues to vote against the Simon amendment.

Mr. DASCHLE. I intend to vote against the amendment offered by my colleague from Illinois, Senator SIMON. However, I would like to make a few comments about the concerns he has raised because I think he is right to raise them.

Like Senator SIMON, I have thought deeply about the potential impact of allowing goodwill to be amortized, both with regard to the wisdom of providing a new tax benefit for businesses and with regard to the possibility of encouraging future takeover activity.

As to the merits of allowing businesses to amortize goodwill, there are several points that should be considered. First, it is important to look at the intangibles provision as a whole. It is true that businesses in the United States have never been able to amortize goodwill up until now and that this bill would allow if for the first time. But, the bill also would require a host of other assets to be amortized over a longer period than they have in the past. This represents a cost to business, in some cases a substantial cost. Yet, businesses have told us that they are willing to accept this trade-off because the simplicity of the proposal will eliminate the extraordinary expense and uncertainty of litigating intangible asset issues.

Second, I am told that reducing litigation in this area will result in savings for the Internal Revenue Service on the order of billions of dollars a year. This is one of the most litigated issues in the Tax Court, and the resources freed up by the intangibles proposal in H.R. 11 could be allocated to pursuing tax abuses in other areas.

A third point to consider is that most of our leading competitors allow goodwill to be amortized. The distinguished chairman of the Finance Committee has discussed this fact and enumerated the many countries that allow similar treatment for goodwill. While their tax systems differ substantially from each other and from that of the United States, the existence of this tax benefit in other countries does provide some assurance that it is the right thing to do from a tax policy perspective.

Of perhaps greater concern to me has been the potential for increased takeover activity as a result of allowing goodwill to be amortized. One cannot help but question whether this will lead businesses to inflate the value of goodwill, just as the value of many businesses were inflated in the years prior to the stock market crash of 1987.

I am told that almost all of the takeover activity in the 1980's involved stock acquisitions and that the provisions of the tax bill before us apply only to asset acquisitions. Also, many other factors played a role in encouraging the takeovers of the past decade, most of which do not exist today. These facts are certainly encouraging.

The Congressional Research Service has studied the takeover issue. The CRS report concluded that there is little likelihood of a substantial increase in takeovers as a result of allowing goodwill to be amortized. I understand that the General Accounting Office, too, has studied this area of the tax law and, in fact, recommended a similar approach to that contained in the bill before us.

All of this is reassuring. Still, if we are going to move forward with this proposal to simplify the tax treatment of acquired intangible assets and allow goodwill to be amortized, I feel strongly that we must not lose sight of this concern about takeovers. It is critical that we monitor the situation after the provision becomes effective for increased takeover activity and other undesirable results.

A provision of the House version of this proposal calls for the Department of the Treasury to study the impact of the intangibles simplification provision on takeover activity and report its findings to Congress. I urge my colleagues who will serve on the conference committee on this bill to retain the Treasury study provisions in the final version of the bill.

Mr. BENTSEN. Mr. President, we are prepared to yield back the remainder of the time.

Mr. SIMON. I yield back the remainder of my time.

Mr. CHAFEE. If I might ask the chairman, would not innumerable hours of IRS agents' time be saved if the bill, as proposed, went through as opposed to the adoption of the amendment? Is this not one of the most contentious points in the IRS?

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. BENTSEN. My time has expired?

The PRESIDING OFFICER. That is correct.

Mr. BENTSEN. I guess I can nod yes.

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. Mr. President, I move to table.

Mr. SIMON. I ask for the yeas and nays.

Mr. BENTSEN. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from California [Mr. SEYMOUR] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 75, nays 19, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—75

Akaka
Baucus
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Bentsen
Biden
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kerrey
Kohl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Bond
Breaux
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Rudman
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—19

Adams
Bingaman
Bradley
Burdick, Jocelyn
Byrd
Conrad
Cranston
DeConcini
Graham
Jeffords
Kennedy
Kerry
Leahy
Levin
Metzenbaum
Riegle
Sarbanes
Simon
Wellstone

NOT VOTING—6

Boren
Gore
Helms
Sanford
Seymour
Wirth

So the motion to table the amendment (No. 3174) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 3176

(Purpose: to provide through an election process, Alaska Native Corporations standing to pursue all administrative and litigation rights with regard to Internal Revenue Service determinations concerning the sale of net operating losses pursuant to current law and to offset revenue losses associated with this amendment by increasing the interest rate on tax deficiencies for cases in which such an election has been made)

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for himself and Mr. MURKOWKSI, proposes an amendment numbered 3176.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the "Tax Simplification" title of this bill, add the following new section:

**SEC. . STANDING FOR CERTAIN TAXPAYERS WITH REGARD TO SALE OF NET OPERATING LOSSES.**

(a) Subsection (c) of section 5021 of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) is amended to read as follows:

"(c) SPECIAL ADMINISTRATIVE RULES.—

(1) INCOME INCLUDED IN NATIVE CORPORATION RETURN.—At the joint election of a Native Corporation and a corporation (referred to in this subsection (c) as the "buyer corporation") with which the Native Corporation entered into a transaction permitted under section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 (referred to in this subsection (c) as a "Native Corporation transaction"), income assigned, transferred or otherwise made available by the buyer corporation through the use of a corporation (referred to in this subsection (c) as the "profit subsidiary") by reason of such transaction for a period in which the profit subsidiary qualified as a member of the affiliated group of which the Native Corporation was the common parent shall be included in the taxable income of the Native Corporation affiliated group solely for purposes of section 6212 of the Internal Revenue Code.

"(A) ELECTION.—The election under this subsection (c) for the taxable year to which the election relates shall be made no later than 120 days after the date of enactment of this amendment. The election shall be made by filing with the district director for the Anchorage district office of the Internal Revenue Service a written statement signed by responsible officers of the Native Corporation and the electing buyer corporation that:

"(i) identifies the Native Corporation, the profit subsidiary, and the buyer corporation (and their taxpayer identification numbers) and states their agreement to make the election provided in this subsection (c);

"(ii) states the amount of income assigned, transferred or otherwise made available to the profit subsidiary for the taxable year by reason of the Native Corporation transaction;

"(iii) if profit subsidiaries related to a buyer corporation other than the electing buyer corporation were members of the affiliated group of which the Native Corporation was the common parent, describes the order and the amount of the losses and credits of the Native Corporation affiliated group that were used to offset the income of each profit subsidiary;

"(iv) states the agreement of the buyer corporation to consent under section 6501(c)(4) of the Internal Revenue Code to extend the periods of limitations for assessment and collection solely with respect to the income of the profit subsidiary for the affected taxable period(s) to a date not less than 180 days after the date the tax liability for the taxable year in which the Native Corporation transaction occurred is finally determined; and

"(v) the Native Corporation and the buyer corporation agree that the Service is authorized to make any refund of any overpayment that is determined to be due, jointly to the Native Corporation and the electing buyer corporation.

"If a Native Corporation has engaged in multiple Native Corporation transactions, such election shall be independently made by each buyer corporation on separate written statements. A buyer corporation that elects under this provision must so elect for all Native Corporation transactions with the particular Native Corporation with whom the election is made for which the statute of limitations for assessment is open.

"(B) TAXABLE RATE.—Notwithstanding section 11 of the Internal Revenue Code, any income of the profit subsidiary that is subject to the election provided in this subsection (c) shall be taxed at the rate that such income would have been taxed if it had been included in the return of the buyer corporation for the taxable year from which such income was assigned, transferred or otherwise made available. Solely for purposes of issuing a notice under section 6212 of the Internal Revenue Code to a Native Corporation for a Native Corporation transaction for which an election has been made under this subsection (c), the tax may be computed by applying the maximum corporate rate under section 11 of the Internal Revenue Code.

"(2) TREATMENT OF NATIVE CORPORATION AS COMMON PARENT AS SOLE AGENT.—The common parent of an affiliated group which includes a Native Corporation that elects under subsection (c)(1) shall be the sole agent for the profit subsidiary for purposes of the Native Corporation transaction for the period of affiliation.

"(3) COLLECTION OF TAX FROM BUYER CORPORATION.—For purposes of this subsection, the amount of any tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary shall be paid by and be collectable from the profit subsidiary and the buyer corporation for the taxable year for which income was assigned, transferred or otherwise made available by the buyer corporation in connection with the Native Corporation transaction.

"(4) PAYMENT OF TAX BY NATIVE CORPORATION.—If, after the election provided in subsection (c)(1) is made, the Native Corporation pays all or any part of the tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary, such payment shall be deemed to be a payment by the buyer corporation for the taxable year for which such income would otherwise have been included in the buyer corporation's return if the election provided in subsection (c)(1) was not made.

"(A) FILING OF REFUND CLAIM.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of sections 6402 and 6511 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary and shall be entitled to file a claim for refund as the taxpayer with respect to any taxes, interest, additions to tax, penalties or other amounts attributable to the income of the profit subsidiary.

"(B) FILING OF REFUND SUIT.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of section 7422 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary, and as the plaintiff for purposes of 28 U.S.C. section 1402, and shall be entitled to file and maintain a proceeding in court as the taxpayer for the recovery of such amounts.

"(C) REFUND OF OVERPAYMENT.—In the event that an overpayment is determined to be due, whether by final administrative or judicial decision, with respect to a Native Corporation transaction for which an election is made under subsection (c)(1), the Native Corporation shall be treated as the person who made the overpayment within the meaning of section 6402(a) of the Internal Revenue Code. Notwithstanding any law or rule of law, including the preceding sentence, any refund of such overpayment may be made jointly to the Native Corporation and to the electing buyer corporation, as agreed to under paragraph (A)(v) of subsection (c)(1).

"(5) PARTICIPATORY RIGHTS OF ELECTING BUYER CORPORATION.—Any buyer corporation that makes an election under subsection (c)(1) shall have the right to—

"(A) submit a written statement and participate with the Native Corporation in any administrative proceeding relating to any proposed adjustment regarding a Native Corporation transaction for which an election has been made; and

"(B) file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the Native Corporation involving a proposed adjustment regarding such a Native Corporation transaction.

"All written notices or other reports issued by the Secretary or his delegate with respect to such a Native Corporation transaction shall be issued to the Native Corporation, and it shall be the obligation of the Native Corporation to provide copies thereof to the electing buyer corporation.

"(6) FINAL DETERMINATION OF ISSUES.—All issues with respect to the Native Corporation transaction with respect to which an election is made under subsection (c)(1), including the applicability of any interest, addition to tax, penalty or other amount, shall be determined by administrative or judicial decision with respect to the consolidated return of the Native Corporation affiliated group.

"(A) Upon such determination, any income of the profit subsidiary that is not offset in the Native Corporation transaction shall be reported on the buyer corporation's return as if it were originally reported thereon and subject to all adjustments, including net operating loss or other carrybacks, to which such income would otherwise be subject.

"(7) NO EFFECT ON NONELECTING CORPORATIONS.—The absence of an election by a Native Corporation and a buyer corporation with respect to a Native Corporation transaction shall not restrict the authority of the Secretary of the Treasury or his delegate to settle or litigate with any nonelecting buyer corporation with respect to any issue relating to such a transaction.

"(A) RIGHTS OF NATIVE CORPORATION.—For any such Native Corporation transaction for which no election is made under subsection (c)(1), the Native Corporation shall have the right to submit a written statement and participate with the buyer corporation in any administrative proceeding relating to any proposed adjustment regarding such Native Corporation transaction; and to file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the non-electing buyer corporation involving a proposed adjustment regarding such Native Corporation transaction.

"(B) EXTENSION OF STATUTE OF LIMITATIONS.—Subparagraph (A) shall not apply if the Secretary of the Treasury or his delegate determines that an extension of the statute of limitations is necessary to permit the participation described in subparagraph (A) and the taxpayer and the Secretary or his delegate have not agreed to such extension.

"(C) FAILURES.—For purposes of the 1986 Code, any failure by the Secretary of the Treasury or his delegate to comply with the provision of this subsection shall not affect the validity of the determination of the Internal Revenue Service of any adjustment of tax liability of any non-electing buyer corporation.

"(8) EFFECTIVE DATE.—This provision shall be effective for all taxable years for which the statue of limitations for assessment with respect to an electing Native Corporation has not expired prior to the date of enactment of this Act.

"(A) EXTENSION OF STATUTE OF LIMITATIONS.—Any Native Corporation for which the statute of limitations for assessment will expire within 120 days after the date of enactment of this amendment shall have the right upon request to extend such statute of limitations pursuant to section 6501(c)(4) of the Internal Revenue Code to a date not less than 120 days after the date of enactment of this amendment."

(b) Section 5021 of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) is amended by adding, after subsection (e), new subsection (f) to read as follows:

"(f) INCREASE IN UNDERPAYMENT RATE.—For purposes of determining the amount of interest payable under section 6601 of the Internal Revenue Code on a tax underpayment attributable to a Native Corporation transaction for which an election has been made under subsection (c) hereof, paragraph (2) of section 6621(a) of the Internal Revenue Code shall be applied by substituting "3.50 percentage points" for "3 percentage points"."

Mr. STEVENS. Mr. President, the amendment I am proposing today provides Alaska Native corporations with the opportunity to go to court to contest any Internal Revenue Service determinations with regard to the sale of net operating losses. This amendment deals with standing only; it provides no new tax benefits of any kind. As the true party in interest in NOL litigation, this is a right which ought to be accorded to the Native corporations, but which the IRS is currently denying.

First, let me briefly give some background. In 1984, Alaska Native corporations, or ANC's as we call them, were granted an exception from the general restriction on sale of net operating losses. This was granted in recognition of the decline in value of the lands and assets transfered to the ANC's by the Alaska Native Claims Settlement Act.

Many of the lands and assets had declined in value because of a delay in transfer and only a small fraction of their original value could be realized upon development or sale. Moreover, the losses generated thereby could not be utilized by the ANC's because they did not have offsetting income. However, if the losses could be sold to profitable corporations, economic value from these conveyed lands and assets could be realized. Hence the genesis of the ANC net operating loss [NOL] provision.

In 1986, Congress made clear its intention that these sales go forward and not be frustrated by the IRS applying theories of law in contravention to the express statutory provisions. Thus, as stated in section 60 of the 1986 act, except as otherwise provided, "No provision of the Internal Revenue Code of 1986 (including sections 269 and 482) or principle of law shall apply to deny the benefit or use of losses incurred or credits earned. * * *"

In the 1988 tax law [TAMRA], the Native Corporation NOL exception was phased out under the terms of specified transitional rules.

The most recent stage of the NOL process has been an audit of the losses by the IRS, followed by: ANC agreement with any IRS-proposed adjustments; or litigation. Recently, however, the IRS has advanced a springback theory which is working to deny Native corporation standing in court to contest IRS determinations. Let me explain what has been happening.

In order to implement the NOL provisions, a subsidiary is formed to which the profits of the buyer corporation are transferred—and the buyer's money for purchase of the NOL's goes into escrow. Such profits are then consolidated with losses generated by the ANC's so that little or no tax remains to be paid. If the IRS makes an adjustment which reduces the amount of the losses, there will be an excess of income in the subsidiary corporation formed to receive the buyer's profits. This would normally result in an additional tax due in the ANC's consolidated return and thus give the ANC the standing to challenge the assessment, both administratively and judicially.

However, the IRS has determined that such income does not remain in the ANC's consolidated return but instead springs back to the buyer—along with standing to challenge the IRS' determination. For those ANC's that have an alternative minimum tax liability, standing can nevertheless be achieved, provided the IRS chosses to assert that deficiency. However, for those ANC's that do not, the tax deficiency has sprung back to the buyer—and along with it, the ability to challenge in court the IRS' revaluation of the ANC losses.

The IRS position here is in conflict with the explicit admonition in the 1986 act that the IRS not frustrate these transactions without good and substantial reason. Nevertheless, the IRS has developed this novel springback theory to prevent ANC's from attaining standing to litigate the losses which they claimed on their own returns.

Mr. President, the amendment I offer today has a single purpose: to grant ANC's, the true parties in interest, standing to litigate the NOL sales reported on their own returns. This is important because the buyer corporations are unfamilar with the details of the losses claimed by the ANC sellers. These losses are based on specific Alaskan transactions such as sales of timber, timber harvest rights, mining, and other natural resources. The buyer is usually a corporation from the lower 48 States which has depended upon the Native corporation, by contract, to be responsible for proving and defending these losses.

Most importantly, the real party at interest is the Native corporation because it has, in every case to my knowledge, contracted to indemnify the buyers for substantially all tax liability resulting from any losses incurred during the IRS audit.

Finally, the Native corporation is the party specifically designated by Congress to be the beneficiary under the NOL provision.

Mr. President, the amendment I have sent to the desk will correct the standing problem, and will also have the collateral advantage of simplifying and consolidating audits.

Specifically, my amendment provides an elective process under which the Native corporation and one or more of its buyers may jointly elect to provide standing to an ANC, when denied by the IRS under the springback theory. The amendment sets forth a detailed statement which must be filed and the limited time frame in which the election must be made. Upon election, the Native corporation is the clear party at interest and the sole agent for resolution of the dispute with the IRS, with the Native corporation defending the losses claimed on its return. This is what was originally intended, and this amendment will assure that this intent is fulfilled. At this point, I ask that a more detailed description of the amendment, as well as a section-by-section analysis be entered into the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as noted, this amendment is procedural in nature and makes no substantive change to the tax law. The technical aspects of the statutory language and the description of the amendment are based on extensive discussions with the Joint Tax Committee staff, and staff at the IRS and Treasury.

The Joint Committee has estimated that enactment of this amendment will result in a revenue loss to the Treasury of $15 million over 5 years. While I do not agree with the concept of associating revenue losses with a simple granting of standing, I fully understand that our budget process requires an offset to the joint committee's estimated loss.

I have, therefore, included in my amendment a provision that, in the event of an underpayment resulting from any case in which an election has been made, the applicable interest rate shall be calculated at the Federal short-term rate plus 3.5 percentage points, instead of the usual 3 points. This incremental increase in the interest rate on deficiency payments will raise more than the required $15 million.

I would ask the distinguished managers of this bill to accept this provision which guarantees Alaska Native Americans, through their congressionally created Native corporations, the fundamental right accorded all Americans—the ability to contest a tax determination made by the IRS with the full protection of the American judicial system.

Mr. President, this amendment that I propose provides Alaska Native corporations with the opportunity to go to court to contest any Internal Revenue Service determination with regard to the sale of net operating losses.

This amendment has a single purpose only, to grant these Native corporations, which are true parties in interest, standing to litigate the NOL sales reported on their own returns. We believe this is important because the buyer corporations are unfamiliar with the details of the losses claimed by the Alaska Native corporation sellers.

Mr. President, I have included in my amendment a provision that in the event of an underpayment resulting from any case in which an election has been made, the applicable interest rate shall be calculated at the Federal short-term rate plus 3½ percentage points instead of the usual 3 points. The incremental interest rate on deficiency payments will raise more than the required $15 million.

This is a very complicated statement. I congratulate my assistant Chuck Konigsberg for the amendment and the negotiation.

I thank the staff of the Finance Committee, both the majority and minority, for their patience with us. It is a very important amendment from the point of view of our Alaska Native corporations.

I urge my friend, the manager of the bill, to accept this amendment as being one that provides only standing and will pay for itself.

### EXHIBIT 1

### ALASKA NATIVE CORPORATION STANDING AMENDMENT

### DESCRIPTION OF AMENDMENT

SEPTEMBER 24, 1992.

### *Present Law*

Congress allowed Alaska Native Corporation ("ANCSA—Alaska Native Claims Settlement Act Corporations") to sell their net operating losses and other tax benefits ("NOLs") to unrelated profitable corporations ("Buyers") from 1984 to 1988. The Internal Revenue Service is now examining these transactions and has in some cases contested the amount of NOLs reported by the ANCSA Corporations. The Internal Revenue Service has taken the position that any excess assigned income "springs back" to the assigning corporation. As a result, the ANCSA Corporations would not have any regular income tax liability and therefore lack standing to defend the validity of their NOLs.

### DESCRIPTION OF PROPOSAL

The proposal would provide ANCSA Corporations standing to defend the validity of their NOLs under certain circumstances. This proposal is procedural in nature and not intended to change the amount of tax, addition to tax, interest (except for the additional interest generated by the election process), penalty or similar amount that may otherwise be due with respect to an NOL sale, including, but not limited to, any alternative minimum tax.

(1) All federal income tax issues concerning the amount and validity of tax benefits of an ANCSA Corporation that were sold to a Buyer in a transaction permitted under section 1804(e)(4) of the Tax Reform Act of 1986 ("NOL sale") would be resolved by the ANCSA Corporation and the Internal Revenue Service under procedural rules applicable to taxpayers generally. For example, the IRS would issue a statutory notice of deficiency to the ANCSA Corporation thereby giving the ANCSA Corporation standing to resolve the issues by settlement or litigation and the ability to pay any deficiency and file a claim for refund and litigate in its name in the appropriate judicial forum. All IRS notices regarding ANCSA Corporation transactions for which an election has been made would be issued only to the ANCSA Corporation, which would provide copies of such notices to all Buyers affected.

(2) An ANCSA Corporation must obtain the written consent of a Buyer with respect to a particular NOL sale in order to receive standing with respect to such sale. In the case of an ANCSA Corporation that has entered into multiple NOL sales, this election is to be made independently by each Buyer with respect to each ANCSA Corporation, but, if made, must be elected by a Buyer for all NOL sales with a particular ANCSA Corporation for which the statute of limitations for assessment is open. If the ANCSA Corporation has dealt with multiple Buyers or profit subsidiaries in the taxable year, it is intended that the Internal Revenue Service will respect the allocation, or ordering of an ANCSA Corporation's losses among several Buyer corporations in a single year. This election must include an agreement by the Buyer's to extend the statute of limitations for its own income tax return (solely with respect to any tax attributable to the subject NOL sale) for at least 180 days after the tax liability of the ANCSA Corporation is finally determined. Nothing in this provision compels the IRS to litigate with an electing Buyer. The provision merely allows electing corporations to proceed in the name of the ANCSA Corporation if there is a tax controversy with respect to the taxability of the income assigned by the electing Buyers. In other words, the IRS will issue a deficiency notice to the ANCSA Corporation for the taxes associated with the portion of the losses that wee sold to an electing Buyer; such tax deficiency will be determined by reference to each Buyer separately and, if such tax amount cannot be determined precisely, will be calculated by reference to the maximum tax rate generally applicable to the individual electing Buyer. The IRS may continue to deal with a non-electing Buyer as it would with any other taxpayer, including administrative settlement or litigation of any contested amounts.

(3) Any tax with respect to an NOL sale will be determined at the rate applicable to the Buyer for the taxable year of the Buyer in which the NOL sale occurred (as if the income assigned from the NOL sale had been reported by the Buyer or an affiliated group of corporations which includes the Buyer), and the Buyer shall be responsible for the payment of such tax. For purposes of issuing a notice of deficiency, or making an assessment with respect to a payment of tax and the filing of a refund claim, the IRS will use its best efforts, working with the ANCSA Corporation and the Buyer, to determine the tax using a Buyer's actual effective tax rate. Any payment made to the IRS by an ANCSA Corporation on behalf of a Buyer shall be deemed to be a payment of tax by the Buyer for the taxable year in question. However, the ANCSA Corporation shall be treated as the taxpayer of such amounts (and of any amounts paid by the Buyer) for purposes of filing a claim for refund and a refund suit. Any overpayment that may be made with respect to an ANCSA Corporation transaction for which an election has been made shall be made jointly the ANCSA and the electing Buyer as the persons who made the overpayment within the meaning of section 6401(a) of the Code; the IRS shall have no further payment obligation with respect to the electing Buyer for such overpayment. Nothing in this provision shall prohibit the Internal Revenue Service from using its authority under section 6402 of the Internal Revenue Code to offset against other liabilities of the ANCSA or the electing buyer the amount of any overpayment that arises as a result of this provision.

(4) A Buyer that elects under this provision shall have participatory rights in any administrative consideration of the tax consequences of an NOL sale (including the right to submit a written statement to the IRS regarding the proposed adjustment and to meet with the IRS at the same time as the ANCSA Corporation), and the right to file an amicus brief in any judicial proceeding commenced by the ANCSA Corporation with respect to such tax consequences. Any meetings with the IRS will be subject to the reasonable discretion of the IRS as to time, place, and manner and will be subject to the general standards of the IRS that are applicable to the time and place for interviewing a taxpayer. The foregoing administrative rights will not apply if the IRS determines that an extension of the statute of limitations is necessary to permit the exercise of such rights and the Buyer and the ANCSA Corporation do not agree to such extension. The same procedural rights are preserved for an ANCSA Corporation for those NOL sales for which no election is filed. Any failure by the IRS to grant the rights discussed above will not affect the validity of the determination by the IRS of any adjustment of tax liability.

(5) Any final determination related to the ANCSA Corporation's NOL sales, whether by administrative settlement or final judicial decision, including any amount of tax, addition to tax, interest, penalty or similar amount, will be binding upon the ANCSA Corporation, the Buyer, and the IRS.

(6) For any underpayment resulting from a case in which an election has been made under this provision, the interest rate applicable pursuant to Section 6621 of the Internal Revenue Code shall be calculated at the Federal Short-term rate plus 3.50 percentage points.

### EFFECTIVE DATE

This proposal would be effective for ANCSA Corporations whose statute of limitations for the period of assessment related to sales under section 1804(e)(4) of the Tax Reform Act of 1986 has not expired.

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### ALASKA NATIVE CORPORATION STANDING AMENDMENT

### SECTION-BY-SECTION ANALYSIS

The proposed legislation would amend Section 5021 of the Technical and Miscellaneous Revenue Act of 1988, which provides limited procedural rights to an Alaska Native Corporation ("Native Corporation") with respect to the tax audit and litigation of its sale of tax benefits ("NOL sale") to a subsidiary ("profit subsidiary") of an unrelated corporation ("Buyer") in a transaction allowed under section 1804(e)(4) of the Tax Reform Act of 1986 ("Native Corporation transaction"), by amending subsection (c) and adding a new subsection (f).

### *Subsection (c)(1)—Elective Nature of Provision*

Subsection (c)(1) allows a Native Corporation and one or more of its Buyers to elect to have the income of the profit subsidiary included on the consolidated tax return of the Native Corporation for purposes of the issuance of a statutory notice of deficiency by the Internal Revenue Service ("IRS"). This would allow the Native Corporation to contest the proposed tax deficiency in the United States Tax Court.

Subsection (c)(1)(A) sets forth the terms of the election. The election for the taxable year of the election must be made within 120 days after the date of enactment of the amendment. The election must be filed jointly by the Native Corporation and by the Buyer and the Anchorage IRS district director and must: (1) identify the parties with particularity; (2) state the amount of income assigned by the Buyer that is subject to the election; (3) if the Native Corporation dealt with multiple Buyers or profit subsidiaries in the taxable year, describe the order in which such Native Corporation transactions occurred (it is intended that the IRS will respect the allocation, or ordering, of a Native Corporation's losses among several buyer corporations in a single year); (4) state the agreement of the Buyer to extend its statute of limitations for assessment and collection solely with respect to the income of the profit subsidiary for the Native Corporation transaction in question; and (5) authorize the IRS to issue a check for any refund or overpayment jointly to the Native Corporation and the Buyer Corporation.

Subsection (c)(1)(A) also establishes that the election is available separately for each Buyer for each Native Corporation. Any Buyer that so elects must, however, elect for all Native Corporation transactions with the particular Native Corporation for all open taxable years.

Subsection (c)(1)(B) provides that any tax liability for the Native Corporation transaction will remain the same whether an election is made or not. Such tax liability will be calculated by reference to the tax return of the electing Buyer.

*Subsection (c)(2)—Treatment of Native Corporation Common Parent As Sole Agent*

Subsection (c)(2) provides that the common parent of the consolidated return of an electing Native Corporation will be treated under the consolidated return regulations as the sole agent of the profit subsidiary with respect to the Native Corporation transaction, except for purposes of collection.

*Subsection (c)(3)—Collection of Tax from Buyer Corporation*

Subsection (c)(3) provides that the Buyer and the profit subsidiary will be liable for any income tax attributable to the Native Corporation transaction as if no election had been made. This provision is necessary to ensure full collection of the tax by inclusion of any excess income in the Buyer's return.

*Subsection (c)(4)—Treatment of Native Corporation as the Taxpayer for Purposes of Filing a Refund Claim*

Subsection (c)(4) permits the Native Corporation to pay all or part of any tax that is assessed against the Buyer for a Native Corporation transaction for which an election has been made and to file a claim for refund as the taxpayer thereof. The Native Corporation is also treated as the taxpayer for purposes of filing a refund suit with respect to any taxes attributable to such Native Corporation transaction. The value for any refund suit would be determined by reference to the Native Corporation. The Native Corporation and the electing Buyer would be the joint recipients of any tax overpayment that is finally determined by the IRS or a court.

*Subsection (c)(5)—Procedural Rights of Electing Buyer*

Subsection (c)(5)—provides an electing Buyer with the same rights that the Native Corporation has under existing law. That is, the Buyer will have the right to submit a written statement to the IRS, to meet with the IRS at the same time as the Native Corporation, and to file an amicus brief in any litigation proceeding commenced by the Native Corporation. The IRS will send all notices to, and deal directly with, the Native Corporation, which will have the responsibility of forwarding such notices and other information to its affected buyers.

*Subsection (c)(6)—Finality of Decision*

Subsection (c)(6) establishes that any final determination of the amount of any taxes and other amounts due with respect to a Native Corporation transaction for which an election has been made, whether by administrative settlement or judicial decision, will be final and be binding upon all parties, i.e., the Native Corporation, the Buyer, the profit subsidiary, and the IRS. No further administrative or judicial action with respect to such amounts will be permitted.

*Subsection (c)(7)—Procedural Rights When No Election Is Made*

Subsection (c)(7) provides that, in the absence of an election, the IRS shall have full authority to settle or litigate with any nonelecting buyer corporation with respect to any issue relating to a Native Corporation transaction. Subsection (c)(7) also provides a Native Corporation with the same procedural rights as an electing Buyer in those situations where no election is filed. That is, the Native Corporation will have the right to submit a written statement to the IRS, to meet with the IRS at the same time as the non-electing Buyer and to file an amicus brief in any litigation proceeding commenced by the non-electing Buyer.

*Subsection (c)(8)—Effective Date*

Subsection (c)(8) provides that this elective provision will be available to all Native Corporations for which the statute of limitations for assessment has not yet expired. Those Native Corporations for which the statute of limitations expires within 120 days after the enactment of the provision will be given the right to extend such statute by agreement with the IRS in order to permit them to make the election.

*Subsection (f)—Special Interest Rate*

Subsection (f) is the funding mechanism for the election process set forth in amended subsection (c). It provides that, in the event of an underpayment resulting from any case in which an election has been made under subsection (c), the interest rate applicable pursuant to Section 6621 of the Internal Revenue Code shall be calculated at the Federal Short-term rate plus 3.50 percentage points.

Mr. BENTSEN. Mr. President, the majority has examined this piece of legislation and it takes care of a serious problem with the Alaska Native corporations and keeps this revenue neutral, which is no cost to our taxpayers.

I am pleased to support the amendment.

Mr. PACKWOOD. As usual the Senator from Alaska represents the best interests of his State. The amendment has good merit and I will accept it.

Mr. STEVENS. Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3176) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senators for their courtesy.

AMENDMENT NO. 3177

(Purpose: Relating to pension plan security requirements)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself and Mr. DURENBERGER, proposes an amendment numbered 3177.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of subtitle B of title IV of the Committee amendment, insert:

**SEC. . REQUIRED SECURITY FOR CERTAIN PLAN AMENDMENTS.**

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) INCREASE IN REQUIRED FUNDING PERCENTAGE.—

(A) IN GENERAL.—Clause (ii) of section 401(a)(29)(A) is amended by striking "60 percent" and inserting "90 percent".

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 401(a)(29) is amended by striking "60 percent" and inserting "90 percent".

(2) INCREASE IN REQUIRED AMOUNT OF SECURITY.—

(A) IN GENERAL.—Subparagraph (C) of section 401(a)(29) is amended to read as follows:

"(C) AMOUNT OF SECURITY.—The security shall be in excess of—

"(i) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 90 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, over

"(ii) $1,000,000.".

(B) CONFORMING AMENDMENT.—Subparagraph (E) of section 401(a)(29) is amended by striking ", except that" and all that follows and inserting a period.

(3) PROVISIONS MADE APPLICABLE TO MULTIEMPLOYER PLANS.—Clause (i) of section 401(a)(29)(A) is amended by striking "(other than a multiemployer plan)".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) INCREASE IN REQUIRED FUNDING PERCENTAGE.—

(A) IN GENERAL.—Paragraph (2) of section 307(a) of the Employee Retirement Income Security Act of 1974 is amended by striking "60 percent" and inserting "90 percent".

(B) CONFORMING AMENDMENT.—Subsection (d) of section 302 of such Act is amended by striking "60 percent" and inserting "90 percent".

(2) INCREASE IN AMOUNT OF REQUIRED SECURITY.—

(A) IN GENERAL.—Subsection (c) of section 307 of such Act is amended to read as follows:

"(c) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess (if any) of—

"(1) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 90 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, over

"(2) $1,000,000.".

(B) CONFORMING AMENDMENT.—Subsection (f) of section 307 of such Act is amended by striking ", except that" and all that follows and inserting a period.

(3) PROVISIONS MADE APPLICABLE TO MULTIEMPLOYER PLANS.—Paragraph (1) of section 307(a) of such Act is amended by striking "(other than a multiemployer plan)".

(4) CRIMINAL PENALTY MADE APPLICABLE.—Section 501 of such Act is amended by inserting "or of section 307" after "this subtitle".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted after 1993.

Mr. JEFFORDS. Mr. President, I know the hour is late and the subject which I am about to discuss will probably assist most Members who desire to do so to go to sleep. There is nothing more exciting than talking about pensions and pension plans.

On the other hand, when the time arrives when you want your pension, there is nothing more important.

What we are going to be talking about tonight is the risk that is apparent in our country that the availability to fund some of our most precious plans called "defined benefits plans" is again imperiled by the funding situation.

It is difficult to discuss these kinds of issues because of all the multitude of issues we face, this is not one which gets on the front pages. This is a particularly complex one and, thus, like banking regulations and other rules that govern ourselves, they unfortunately do not get the attention they should.

But as we learned all too well over the past few years, inattention can have a terrible price. That price will be hundreds of billions in the savings and loan industry, and some argue there will be a price to pay in the banking industry as well.

Fortunately, the private pension system is not nearly in the straits of the savings and loan industry. But, unfortunately, too many plans are poorly funded and pose a risk to the pension system.

On the positive side, pension assets are diversified and, for the most part, invested fairly conservatively compared to the high-flying S&L's of the 1980's.

But in some respects, there are troubling similarities. Some pension plans are terribly underfunded. We passed rules to toughen funding standards in 1987, but they are not working as well as we had hoped.

One illustration of this is found on this chart, which I have here, which shows what has happened to the top 50 underfunded plans.

As you can see, the top 50 underfunded plans have gone from a deficit, in terms of underfunding, from $13.5 billion in 1989 to $21.5 billion in 1991—that is more than a 50 percent increase than the year before.

A contributing factor may be the moral hazard of the pension system. To the lay person, moral hazard may sound like the temptations of sin. I suppose it is in a way, for all it amounts to is gambling with somebody else's money.

As we know, lifting deposit insurance to $100,000 contributed to some of our problems with the S&L's. For pensions, there really is no limit to the ultimate payout of the Federal Government except the life of the retiree.

It works this way. Suppose you are a company in trouble. Your employees have forgone wage increases for some time, and it is time to renew their contract. You do not have the cash for a wage increase, so why not promise greater pension benefits? Good idea. Very attractive. The outlay or minimum funding required is minimal, and if you go belly up the Government will pick up much of the tab. From both sides of the bargaining table, it is a good deal. It is such a good deal, one company is trying to do it while in bankruptcy.

But Uncle Sam, who may wind up paying the tab, does not have a seat at the bargaining table. And that tab is getting bigger and bigger every year.

The Pension Benefit Guaranty Corporation [PBGC] collects premiums on the 40 million workers in defined benefit pension plans. It pays out those premiums in the form of benefits to retirees whose companies have defaulted on their pension promise.

If you take a look at the second chart, you can see what I mean. PBGC's deficit more than doubled between 1989 and 1991, up to $2.3 billion.

But look at the future. The red line shows where we are going to be at the beginning of the next century. It is almost a straight up line of increasing deficit.

Under pessimistic assumptions, which, given PBGC's track record, probably should be our baseline, that deficit will grow sevenfold over the next decade, to nearly $18 billion.

This may not seem like much money to some, but it is real money for the defined benefit pension system and the workers who rely upon it for their retirement security.

Already, the number of plan sponsors has stagnated, and the headaches of those still in the system have multiplied. Over the 18 years of ERISA, the basic premium has climbed 19-fold, with the top premium going from a buck a head to $72 per participant. That is a huge increase.

What should we do? The administration, to its credit, has put forward a number of proposals to strengthen the system; strengthening the minimum funding standards, improving PBGC's position in bankruptcy and denying its guarantee to new benefits adopted by a troubled plan.

Along with Congressman PICKLE in the House and Senator DURENBERGER in this body, I have introduced a bill along the lines proposed by the administration. I hope we can adopt something like that bill in the next Congress, but I would be the first to admit that the bill requires some reflection and no doubt, improvement.

The amendment I am offering today is just the simplest part of that bill, the part that I hope everyone can agree on. For while we braced the floor of minimum funding standards in 1987, we failed to put a ceiling on promises. And that is where our problem lies today.

Quite simply, our amendment states that if your pension plan is underfunded, you cannot make things worse by promising new benefits and not funding them. Pretty sensible. Any new benefits must be backed by real assets rather than faint hopes.

This is a bit different than what was proposed by the administration. But I think it is better from a retiree's standpoint to know the Government stands behind his or her retirement security rather than assuming there is a guarantee where there is none.

This amendment will not solve the problems of the PBGC or the pension system, but it will help to contain them until we can do more.

And I hope, Mr. President, that next year we can do more, in the areas of minimum funding, bankruptcy, and in the problems faced by flat benefit plans.

But for right now, I hope my colleagues will join me in the modest step that Senator DURENBERGER and I have proposed. While the problems are complex, you need not be an actuary to know that a poorly funded plan should not be making new promises it cannot pay.

Mr. DURENBERGER. Mr. President, I am pleased to join my distinguished colleague from Vermont, Senator JEFFORDS in cosponsoring this amendment. By this amendment, we seek to control the Pension Benefit Guaranty Corporation's [PBGC] financial exposure.

If we are to secure the financial integrity of the PBGC, if we are not going to have a repeat of the S&L bailout, I encourage the Senate to act quickly to maintain the viability of PBGC, which is the ultimate guarantor of our private pension system.

Mr. President, first, I would like to extend my appreciation to Senator JEFFORDS for his leadership in the employee benefits field. He and his staff have worked tirelessly with the Department of Labor and the PBGC in order to assure the continued vitality of our private pension system. I know that he is working on pension portability and played a leadership role in the Betts legislation 2 years ago, and I congratulate him for his leadership.

Let me begin with some background on the problem that we face. America's retirement security system is built on three pillars: Social Security, individual savings, and private pensions.

Mr. President, 9 years ago, when the Social Security system was so close to insolvency that it was borrowing money from the Medicare trust funds, we had the bipartisan courage to shore up the trust funds and ensure that Social Security would be there for our children and grandchildren.

There is a lesson we should have learned from the S&L debacle that threatened the individual savings of millions of Americans. And that lesson is: When we first see a Government-guaranteed financial liability problem, we should act as fast as possible to shore up the system and not let it get out of hand.

Had we provided adequate financing to close down all of the bankrupt S&L's in 1986, the cost to the American taxpayer for S&L's would have been less than $50 billion. But the longer we waited, the more it cost. And we, as a country, are paying the price for that delay today and for many years to come.

Mr. President, the third pillar of our Nation's retirement security is based upon the private pension system. When working men and women retire after a life of service to one or more companies, they often receive a pension from their employer's defined benefit plan.

In the late 1960's, and early 1970's, this third pillar was in serious jeopardy. Employees who worked for 25 years were dismissed by their employers without receiving a single penny of their promised pension. After the failure of several well-known companies in Minnesota and elsewhere, including Studebaker Corp., Minneapolis Moline Corp., White Motor Freight, and others, Congress finally stepped in, in 1974, and established enforceable vesting and fiduciary responsibilities for company pension plans.

I would note that a man standing on the floor of the Senate this evening played a vital role in the adoption of the law regulating pension plans [ERISA], and that is the distinguished senior Senator from Texas, and chairman of the Finance Committee, Senator LLOYD BENTSEN who was a conferee on the bill.

To guarantee the promise of a pension, Congress concurrently created the Pension Benefit Guaranty Corporation [PBGC]. PBGC's purpose has been, and is, to provide financial security for plan participants if their company and their plans fail. The PBGC collects premiums from viable defined benefit plans and takes over and administers plans that terminate when employers go out of business. Thus, in a very real sense, all working men and women who are participants in defined benefit plans rely on PBGC to guarantee the future existence of their pension benefits.

Mr. President, the warning signals that the PBGC is in trouble are everywhere. The red warning light and buzzers are going off, and the U.S. Senate should be paying close attention. PBGC currently has a $2.5 billion deficit, which is up from $1 billion just 2 years ago; the Department of Labor expects this deficit to grow to $18 billion by 1997 if nothing is done.

The two largest losses in PBGC's history occurred just recently—Pan American World Airways terminated plan was underfunded by $900 million, and Eastern Airlines was underfunded by $700 million.

But what worries me the most is that the pension underfunding associated with readily identifiable troubled companies grew last year by an estimated $8 billion, to $13 billion. This constitutes an incredibly large potential liability for PBGC. and it threatens our entire private pension system.

Mr. President, the Jeffords-Durenberger amendment is an initial step that Congress can take to stem the further undermining of our private pension system. The problem is that under current law, companies may grant pension benefit increases, even though the pension plan is underfunded. And if the plan terminates in an underfunded state, PBGC is responsible for providing the benefits, including the benefit increases.

Let me repeat that. Employers may grant pension benefit increases without adequately funding the plan, and PBGC is responsible for the promised benefits.

Mr. President, as you know, America's corporate executives are very smart. They know about this rule, and I believe they have taken advantage of it to the detriment of the American people. Employers, especially in troubled industries, know that they cannot afford significant wage increases, and many have underfunded pension plans. So what do they do? They provide pension benefit increases without funding them. If the company turns itself around, it ends up paying the benefits; but if it goes out of business, the PBGC picks up the tab.

In my view, this amounts to nothing more than a risk-free loan from PBGC to ailing companies. Congress did not establish PBGC for this purpose, and I think it is just plain wrong.

The Jeffords-Durenberger amendment addresses this problem directly. The bill amends the Tax Code to require plans that grant benefit increases to provide security—it could be cash or a bond—if the plan is less than 90 percent funded. In other words, if employers have underfunded plans, and those plans are significantly underfunded, and the employers want to grant benefit increases, then they have to pay for them.

I do not think it is too much to ask employers to pay for the benefits that they promise their workers. If they cannot pay for the increased benefits, then they should be honest and let their workers know. The PBGC, as a Federal guarantee agency, should not be the dumping ground for irresponsible employer promises.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Texas.

Mr. BENTSEN. Mr. President, Senator JEFFORDS, the Senator from Vermont, has been a long-time leader, both in the House and now in the Senate, in the pension area. And, insofar as the portion of this bill dealing with pension simplification, he was of invaluable assistance to us. And our colleague Senator DURENBERGER was also of great assistance.

I have long been interested in this area. Back in 1974, I helped to create the PBGC. I can remember we had the actuarial assumptions and we asked what kind of a premium we are going to need. They said 50 cents. I said I looked at a lot of actuarial assumptions, so why do we not go for broke and make it $1. Now it is over $15. So I have long shared my colleague's concern for the strength of the PBGC and the safety of the benefits it protects. I want to continue to work toward that end.

We have some hearings scheduled on this tomorrow on September 25. And I intend to take the time to have those hearings in the Finance Committee, to do a thorough study, and probably address this issue in the new year.

My colleague has made some suggestions that I think deserve consideration, serious consideration. But they are not the only ones we have seen trying to bring about reform of the PBGC.

We need to ensure the security of pension benefits, to be certain that these pension benefits do not turn to debts. But, I think there is some danger in moving too quickly on these issues. For example, the President has also made some proposals. Some of them I would consider a giant step backwards, such as a reduction in the scope of the PBGC's guarantee. We could get ourselves back in the situation we looked at in 1974, when we saw Studebaker employees with 25 or 30 years of service ending up with little or no retirement benefits.

That is what the PBGC is all about, protecting those innocent workers from destitution in retirement. I know that is the objective of my friend from Vermont.

These are complex, controversial issues. I believe when we are dealing with the retirement security of millions of Americans that the safety, the stability of those retirement funds, has to be absolutely paramount.

I hope the Senator from Vermont would withdraw that amendment so we can consider it more fully in the subcommittee.

In addition to that, I hope he would participate and come to that hearing tomorrow and make his contributions.

Mr. JEFFORDS. Mr. President, if the Senator will yield, I understand he is agreeing to having a hearing on this and I understand it is on the 27th. I will certainly, in deference to the committee, in understanding the complexities of the issue, in a moment withdraw my amendment.

But I would like to state, I hope everyone will be aware how important it is that we finally place the PBGC and defined benefit plans in a position where the retirees can feel secure. Because as the chairman well knows, there is nothing better than a defined benefit plan if it is properly secured. It is the kind of plan that we have here in the Congress, and Government employees have, so they know their income is going to be certain in the sense of dollars and cents.

So I think it is incredibly important we all understand we must place the PBGC in a situation and our system in a situation where we can get an increase in the number of defined benefit plans instead of a steady decrease in them. Because that is the kind of security all Americans want.

As the chairman well knows, we only have about half of our people with any kind of a pension plan at all other than Social Security. So if we do not work all together to try to bring about a more secure pension plan system, with the extending life expectancies and all, we are just not going to have the kind of country we need.

I thank the chairman again for his assistance and will look forward to seeing him at the hearing.

With that, Mr. President, I withdraw my amendment.

The amendment (No. 3177) was withdrawn.

Mr. BENTSEN. I thank the distinguished Senator from Vermont and look forward to working with him.

Mr. President, I know of no other amendments to be offered tonight.

Mr. President, I understand we will be proceeding on the Smith amendment tomorrow morning at 9 o'clock. Discussion will be continued at that point insofar as that particular amendment.

Mr. BOREN. Mr. President, I am pleased to rise today with some of my colleagues to talk about the community works progress demonstration projects, section 7151 of the urban aid package.

The urban crisis in Los Angeles brought to national attention issues which have been ignored for too long. The statistics reveal the devastating toll of our inaction. Today, nearly one out of every three children born in the United States is expected to receive AFDC benefits before reaching the age of 18. Meanwhile, the number of families receiving AFDC benefits has gone up by 24 percent since 1989 to 4.6 million people. Yet benefits have been frozen or cut in over 40 States. Tragically, in this land that is historically viewed as full of opportunity, over 36 million people are living at or below the poverty level. The persistence of poverty in our inner cities and its consequences—from drug addiction to teenage pregnancy and welfare dependency—tear at the very fabric of our society.

If we can salvage only one lesson from the debris in Los Angeles, it must be this: We cannot afford to stand still. We cannot just do more of the same. It is time to stop playing politics and pointing fingers and start fixing problems. It is time to put into place policies that work instead of wasting time and throwing away money on those that do not.

If we are going to solve the urban crisis in this country, we need to work our way out of it—literally. In the 1930's America addressed an economic and social crisis with a straight-forward, action-oriented approach: the Works Progress Administration. As Senator WOFFORD has pointed out, what worked for FDR was work—not the dole, not welfare, but work.

During the 8 years the WPA was in existence in the late thirties and early forties it helped build this country's modern infrastructure and contributed to our cultural heritage. Over 8 million WPA workers built more than 650,000 miles of roads, highways and sidewalks; 125,000 public buildings including 39,000 schools; 124,000 bridges; 8,000 parks and 18,000 playgrounds. They wrote hundreds of books and created countless artistic works. They served over 1 billion meals to hungry school children and sewed over 382 million garments for the needy. All of this required an investment of about $90 billion in today's terms.

By comparison, what has our welfare system created in the last 8 years? Excluding Medicaid, in the last 8 years we have spent between $400 and $500 billion on what people commonly call welfare. If all public assistance programs and cash transfers, such as Medicaid, are included, the figure reaches over $900 billion. For these huge expenditures, we have managed to produce little more than subsistence-level payments to an increasingly hopeless and alienated segment of American society. By simply handing people checks, the system robs them of a sense of being a part of the communities where they live and it destroys any motivation to achieve. There is nothing worse for a person's sense of self-esteem than to have no reason to get out of bed in the morning and no useful work to perform.

We cannot afford to waste the talents of millions of Americans, most of whom want to give back something of value to the community. I will never forget talking to an elderly gentleman one day after a political speech in the Pecan Bowl in Okemah, OK, the home of Woody Guthrie. He came up to me and said, "Senator, you see that stadium wall over there?" I said, "Yes, sir." He said, "I built that myself. It was part of the WPA. You know, it's not out of line. There's not a crack in it to this good day." As I listened, I thought to myself "that man feels part of the community because of the job he was given." I bet that he has never even dropped a candy wrapper in that stadium. It is his.

Mr. President, I ask unanimous consent to insert into the RECORD at this point two letters I have received from constituents as examples of the overwhelming and positive response to this proposal. I also submit a copy of an interesting article on the hopelessness engendered by the current welfare system. In addition, I would like to add a letter of endorsement from President Carter and an editorial from the Los Angeles Times supporting the provision in H.R. 11.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 24, 1992.

Senator DAVID L. BOREN,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR BOREN: I commend you on your proposal to introduce legislature to revive programs such as WPA and CCC for getting people off government welfare.

In the early 1930's, during the Great Depression, I got to work on a WPA project driving a dump truck. At the time, there were no jobs; and, I was most thankful for this chance to earn money so I could (1) eat, and (2) so I could save to go to college.

During World War II, I was an American Red Cross Field Director serving at Military bases. After the war, I was recruited by the State of California to be a Boy's Group Supervisor in the newly formed California Youth Authority.

The purpose of the California Youth Authority was to take wards of the court between the ages of 18 to 25, and place them in special Forestry Camps. In addition to fighting forest fires, these young men built roads and telephone lines for the Forestry Department; planted tree seedlings in forestry nurseries, and performed other worthwhile jobs.

Again, Senator Boren, I want you to know I strongly support you on these types of programs. I do so because, from personal experience, they do work.

Yours truly,

——— ———.

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JANUARY 8, 1992.

DEAR SENATOR BOREN: I congratulate and applaud you on the changes you are making in the welfare system.

I am a long time recipient, and not proud to admit, if given the opportunity I would definitely like to earn my living the right way.

I became a dependent recipient, after a fatality in my immediate family, and could not cope mentally and socially for sometime.

I was terminated from my employment, and grasped on the welfare system.

Senator, I really needed counseling, was not given such option.

You are totally: right being on the system much longer than I should have, idleness did set in, and deprive of many opportunities.

The system down falls are many as follows:

1. Taking handouts you become insecure.
2. You lose confidence.
3. You lose interest.
4. You become withdrawn.
5. You become depressed.
6. Denial sets in.

As a recipient for many years off and on I can speak for many.

Rehabilitation for a week could give confidence and effort for needing employment.

I have the capability of holding employment; having been denied so much I lost confident in my abilities to strive for security.

I thank you for reading my letter and I feel hope for 1992.

The right to work changed in the early eighties needs looking into as well.

I look forward to working again.

Sincerely,

WILMA DRIVER.

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## Young Mothers Try to Avoid a Lifetime on Welfare

(By Erik Eckholm)

PHILADELPHIA—"Being on welfare is kind of like thinking you can't do anything," she was saying. "You see women who've been on it for years. It makes them lazy. All they do is stay home watching the soaps."

The harsh judgment came not from a conservative politician but from a 16-year-old unmarried mother of a 2-year-old girl, a school dropout, welfare recipient and prime candidate for years if not decades on the dole.

The desire of the young woman, Brunilda Pantoja, to avoid a life on welfare is shared by the 50 teen-age mothers who attend classes at the Lutheran Settlement House in North Philadelphia. On the front lines of the new national drive to break welfare dependence, these teen-agers are in a new kind of program that aims, above all, to prepare them for jobs and self-sufficiency.

They face some long odds.

### A DECADE ON WELFARE

Never-married women under 25 years old who have a child and go on welfare stay on it for an average of 10 years, studies show.

And so, with reducing chronic dependence a prime goal of recent Federal and state laws, teen-age mothers are receiving a new burst of attention. In the past, efforts to help them emphasized parenting skills and basic education, in the assumption that most would spend many years at home tending their children. Now, dozens of new programs around the country, including this small one that is supported by a mix of public and private money, also offer training for the world of work in the hope, still improved, that many more teen-age mothers can make decent livings on their own.

But the tumultuous life stories of the teen-agers here cast a sobering shadow over glib proposals to replace welfare with work, and to fight poverty with restored family values.

"These young people have so many interruptions," said Robin Ingram, coordinator of the Lutheran center's teen-age parent program. "Motherhood thrusts them into a world they aren't prepared for. And then they have more pregnancies, and so many family problems."

Most of the girls and their children still live with their mothers, who are often single and on welfare themselves. Some have lost parents, or the fathers of their babies, to drug addiction, jail or gunfire.

Simply by attending classes at the Lutheran center, which eases at least one problem by providing free day care, these young mothers show they may be more determined than most. Some were referred by social workers, others heard about the program from friends and some were referred by probation officers.

Their first hurdle is the high school equivalency certificate, a prerequisite of most job-training programs. Passing the test means only a few months' study for some. But it poses an insurmountable obstacle for others who may get discouraged and quit, or enter a training program that does not require the diploma for work at places like restaurants or hotels.

Most who get the diploma go on for vocational training or community college. But even that hardly insures the ultimate goal: work offering good enough wages and health benefits to justify giving up the security of welfare.

"You can do all you can to get the young women ready for the labor market, but on the other side, there may not be employers sitting back awaiting teen mothers," said Milton J. Little Jr., a vice president of the Manpower Development Research Corporation, a not-for-profit institute based in New York. The institute is coordinating a training experiment for teen-age mothers, called New Chance, at 16 sites around the country, including the Lutheran center in Philadelphia.

For many of the teen-agers, a caring and consistent environment is a welcome novelty. "It's not fun, but you like being here," said Frances Hutchins, 17, whose son is 10 months old. "If I weren't in this school, I'd be in the streets, getting into trouble." She said she enjoyed fixing hair and hoped to study cosmetology, training for work in a beauty shop.

### UNLIKE EXPECTATIONS

Many of the teen-agers had welcomed a baby as something that would be all their own. They got that, and more. "I was just thinking that everything was going to be fine, that everybody would help," said Lauren Higgins, 16, who has an 8-month-old girl. "It's not like that."

Lisa Scott, 15, whose daughter is 16 months old, said, "When I had my baby, it was like my life just stopped."

She said that she wanted to study to be a nurse's aide, or maybe a beautician. Ms. Scott, who lives with her mother, said she hoped to move into an apartment of her own in the next year or two. "I guess I'll be on welfare a year or so, while I get my life together and get a job," she said. "I want my daughter to go to a Catholic or a private school."

Around the country, studies show the main way that women get off welfare is marriage. These girls call that a laughable option.

"Marriage?" Ms. Scott said. "I think never."

"Guys think they own you," she said, adding that she had seen and received her share of physical abuse. "I don't want that for my daughter."

Ms. Pantoja, who hopes to attend a community college and then to do paralegal work, said: "I won't marry, not the kind of guys that live around my way. All they do is stand around on the corner. If you have a child, do you think they care?"

A second or third baby can derail the most determined student. "The men, or boys, just won't use birth control," said Carol Goertzel, director of women's projects at the Lutheran center. Many of the girls fear the pill and, uncomfortable with their own bodies despite their early sexual activity, find diaphragms repugnant, Ms. Goertzel said. Many of the fathers, she added, tell the girls not to get abortions.

Parenting lessons are popular. So is a class in arts and crafts. On a recent day, several girls were engrossed in decorating T-shirts with glitter.

### KIDS ON THE INSIDE

Asked what this had to do with job preparation, Ms. Ingram, the project coordinator, said: "Don't forget, they are really kids on the inside, but they don't have time to play. They need to do something for themselves and have fun."

While it is too soon to evaluate the success rate of the program, now in its third year, Ms. Goertzel pointed to the case of a girl who had shown up homeless, and had a crack-addicted mother, but over two and a half years fought her way through a course in computerized accounting to a job.

Ms. Goertzel said she worried that government agencies would give up on troubled teen-agers too quickly. "You can't expect people to turn their lives around in six months," she said. "You wouldn't expect your own child of 18 to achieve success in six months."

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## Recipients Critique Welfare's Crutch

(By Paul Taylor)

LOS ANGELES.—Who hates welfare the most? Here in Watts, the politicians have to stand in line behind the recipients.

"Welfare is a crutch," says Shirley Tyree, 38, who has three children by three different men and has received welfare nearly continuously since 1970. "You're never able to say, 'I did this on my own.'"

"The trouble with welfare is that it punishes you for trying," says Brenda Jackson, a welfare mother of three who lives at the Nickerson Gardens public housing project in Watts. "When you do get a job, your rent goes up and your [Aid to Families with Dependent Children] check goes down."

"Welfare doesn't let the father in the picture," says Vincent Woods, a resident manager at Nickerson. "If he has a job and wants to move in with the mother, she'll lose her apartment. So you have the men roaming from apartment to apartment, the women in charge of all the families, and the kids without any male role models."

These current and past welfare recipients were among a group of a dozen who sat in a circle of folding chairs at a recreation center in Watts and talked about what they saw as an erosion of values, work ethic, family structure and hope in their community.

They do not buy the White House line that failed welfare policies have anything to do with last week's riots, but some of their statements on the subject could well have been lifted from one of the speeches of President Bush.

But no matter how vocally they were prepared to bash welfare, this group was not ready to give it up. "If you cut back on welfare, all you'd get is more crime," said Jackson. "I mean, people got to eat."

Nobody would be safe, not even George Bush," said Woods.

Not all welfare recipients take such hard views; this was a small and unscientifically selected group, recruited by a staff aide to Kenneth Hahn, a liberal Democratic county supervisor who has represented the area for 40 years.

Most academic studies discount the degree to which welfare by itself causes the social ills often attributed to it. The researchers conclude: Unwed teenage girls do not have babies simply to get checks; poor fathers do not abandon their children simply because they know the taxpayers will not. Welfare, for most, is a short-term bridge over troubled times.

But from the halls of conservative think tanks to the streets of Watts, the suspicion recurs that welfare makes it too easy to make too many bad choices.

For example, it is a virtual article of faith in this country that people who own homes make better citizens because they have more of a stake in the system. That is the premise of a program that Housing and Urban Development Secretary Jack Kemp has been pushing for years to turn public housing tenants into owners.

"I would never want to own my apartment," said Nickerson resident Pamela Griffin. "I'd have to worry about maintenance, about plumbing. Around here, when your neighbor's toilet stops up, your toilet stops up."

"Yeah, and what about insurance?" asked a woman who identified herself only as Linda. "You'd have to pay for that."

To conservative critics of welfare, there is no better testimonial to its narcotic effects than to listen to a group of articulate, angry, passive, demoralized recipients denounce the dole with one breath but fret over life without it with the next.

One such critic is California Gov. Pete Wilson (R).

Unlike last week's White House broadside, which seemed to be aimed at all Great Society social spending programs, Wilson has zeroed in on Aid to Families with Dependent Children, the government's largest cash transfer program for the poor and the one most people mean when they use the term welfare.

When AFDC was created during the Great Depression, its target population was widows. Now it serves a record 4.7 million families in a nation where a record 27 percent of all children are born out of wedlock. In nearly all cases, AFDC goes to single mothers.

California has twice the number of AFDC recipients of any other state, and its welfare caseload has been growing at triple the rate of its population increase since the recession hit here in late 1988. Its benefit levels—$663 a month for a mother and two children—are the fourth-highest in the nation; more than three times bigger, for example, than Texas's $184 per month.

Late last year, Wilson unveiled a proposal to cut AFDC benefits by 10 percent across-the-board and another 15 percent in six-months for families with an able-bodied adult. It would also end the practice of increasing AFDC grants each time a mother had an additional child, offer financial incentives for teenage mothers to stay in school and allow recipients to keep more income from work without losing benefits.

The proposal, together with similar legislation already adopted in Wisconsin and New Jersey, is the closest thing to a new national strategy toward welfare.

In Watts, the skepticism toward these kinds of welfare changes extends to providers as well as recipients. "If the governor thinks his plan is going to be a deterrent to what unfortunately has become a normal way of life for so many people, I'm afraid he's going to be disappointed," said Mattie L. Gardette, director of the welfare office in Watts.

Her office has become such a busy, dangerous place in recent years that metal detectors have been set up at entrances and at least four security guards patrol the bustling waiting area, where up to 160 people were waiting to be seen at midday today.

Tyree's 22 years on welfare is an extreme case—the majority of recipients stay on AFDC for two years or less. But her life story does illustrate the trap of dependency.

She went on AFDC when she had her first child at age 16, and the following year dropped out of high school six months short of graduating. Over the years she has taken courses to be a manicurist and a switchboard operator, but has never been able to hold a job for more than brief stretches.

Meantime, she has had three children, one of whom had her own child when she was 14. "That broke my heart," Tyree said. "But she said she wanted a baby, and there was no way I could talk her out of it." Her daughter has been a welfare mother since 1986.

Tyree got off AFDC for good in 1989 when she sent her youngest child to live with his grandmother, in the hope that he would escape the influence of neighborhood gangs. But she then immediately applied for assistance from the county-run general relief program for adults, which pays $364 a month. To keep the money coming, she works a mandatory 10 hours a week in a senior citizen center.

Tyree said there were times over the years when she got so desperate she considered domestic work. "But then I decided, hey, I got too much education for that. "She now hopes to become a health technician.

Others in the group had the same kind of scorn for low-paying jobs. "McDonalds pays four dollars and fifty cents," said Jackson. "That's not even a living wage for a teenager."

"They ought to raise the minimum wage to $10 an hour," said Woods. "A man can't have any self-respect for less than that."

"And they ought to put jobs in the community," said a woman who identified herself only as Gayle. "That's why we've got so many problems around here. No decent jobs. No factories. No construction projects."

Actually, there is one major construction project going up a little more than a mile from the park where the group gathered, and crews from the community are building it.

"We figure we better get jobs putting it up, because I'm afraid we're going to be using it a lot when it's done," said Marcine Shaw, senior deputy to Hahn.

The project is a 1,000-bed jail.

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AUGUST 3, 1992.

Hon. DAVID L. BOREN,
*U.S. Senator, Russell Senate Office Building, Washington, DC.*

SENATOR DAVID BOREN: The purpose of this letter is to express my and The Atlanta Project's support for the Community Works Progress Act of 1992 and its provisions creating the Community Works Progress Program, the National Youth Community Corps, and the Civilian Community Corps. Each of these programs will be a useful and important component in the effort to fight unemployment, poverty and despair in economically disadvantaged areas, such as those neighborhoods targeted by The Atlanta Project.

The goals of the Community Works Progress Act compliment and will serve to further the principles of The Atlanta Project. I believe this legislation will help to create opportunity in economically disadvantaged communities, while increasing their fiscal well-being and raising the quality of life through projects which provide tangible community benefits.

We appreciate your leadership on moving this legislation through Congress. I am anxious to see this bill passed so that we may get on with the important work of improving our communities.

Sincerely,

JIMMY CARTER.

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### RECYCLING AN OLD AND GOOD IDEA

A public jobs program that would put welfare recipients to work is one of the gems in the federal tax bill that the Senate Finance Committee approved last week. The Community Works Project Administration (CWPA), modeled after Franklin D. Roosevelt's WPA, which put people in jobs during the Depression, is a promising approach to welfare reform.

The CWPA, proposed by Sen. David L. Boren (D-Okla.), would require able-bodied welfare recipients, except single mothers with very young children, to work or lose assistance. The government would become the employer of last resort.

The public jobs would be created by local and state governments or federal agencies that applied for federal grants managed by the U.S. Department of Labor. Those jobs could including cleaning up parks, delivering hot meals to senior citizens or other tasks that require minimal skills. Using the CWPA to replace government workers would be prohibited.

Welfare recipients would earn the minimum wage or their welfare payment plus 10%, whichever was higher. In addition to a few extra dollars a month, CWPA workers would also gain training, job experience and references that could help them get better-paying jobs.

Many states require welfare recipients to go to school or work, but neither federal nor state government alone can adequately fund job-oriented education and training programs.

California's workfare program, GAIN, is especially effective in smaller cities, suburbs and rural communities, but it has space for only a fraction of the state's welfare recipients. GAIN would be complemented by the CWPA because the federal project would provide training opportunities and jobs for people who otherwise could not compete in a tight job market.

The Senate Finance Committee has allocated $400 million for demonstration projects in three cities and two states. The projects are to run for four years, long enough to determine what would work without harming poor children. Los Angeles should be one of the test cities.

Welfare reform is high on the public agenda. A public jobs program belongs in the mix of remedies designed to cure welfare dependency.

Mr. BOREN. Mr. President, while I strongly support the JOBS Program, increased funding for existing job training programs is only one part of the solution. We must implement a change in thinking and a new comprehensive approach that incorporates what has worked in the past so that we can provide for the future.

The modern version of the WPA would provide work opportunities for those who are on welfare or unemployed. It will, in the words of Franklin Delano Roosevelt, "preserve not only the bodies of the unemployed from destitution, but also their self-respect, self-reliance and courage and determination."

This new Community WPA creates jobs for welfare recipients and the unemployed to help make them feel part of the community. Our plan puts them back to work as productive members of society. In short, it puts the actual work in workfare. All able-bodied welfare recipients, with the exception of women with small children and those who are enrolled in education and job training programs, would take a job with the new Community Works Project Administration [CWPA], if they cannot find a job elsewhere.

The demonstration program will be administered by the Secretary of Health and Human Services, in consultation with the Secretary of Labor. First, the Secretary will award grants to three urban areas that have actively encouraged community involvement. Two such cities suggest themselves immediately. Amidst the debris in Los Angeles, private initiatives such as Rebuild Los Angeles offer hope that residents will have a stake in their communities and a commitment to their success. And, of course, the leadership of former President Carter has engendered spirit, energy, and hope throughout the country, but especially in Atlanta through his work on the Atlanta project.

In addition, the Secretary will award grants to two States. Public and private leaders will test the CWPA model by funding different projects in urban and rural areas throughout the States. Local and State agencies, as well as private nonprofit organizations, could apply for grants from the Community WPA. The projects could include areas such as work on the country's infrastructure and the creation or maintenance of parks. Projects will also involve community work such as law enforcement assistance and delivering meals to elderly people.

These projects will provide individuals the opportunity to work in teams on meaningful community projects. It is our hope that these projects will enhance the skills of men and women through on-the-job learning as well as through more formal job enhancement activities, closely coordinated with existing State services or with community-based organizations. To assure that each individual will have time to seek other employment or to participate in alternative employment enhancement activities, no individuals will be allowed to participate more than 32 hours a week. In many cases for the first time, the CWPA will give people an actual job experience to list on the résumés that they are learning to write.

Many young men, who are falling through the cracks in the current system because they have never held a job, will be given the opportunity to contribute to their communities through the Community Job Opportunity Program contained in the Labor Committee's valuable addition to the bill. It is my hope that the CWPA and the Community Job Opportunity Program for discouraged workers will be closely coordinated in one or two cities to establish a working model for future full-scale CWPA projects.

Participants will work the number of hours equal to their benefit amount divided by the minimum wage for the duration of the project. In return, all participants will receive a bonus that will be roughly 10 percent higher than their current welfare or unemployment benefits. If participants worked more hours, they would receive the applicable minimum wage. The act encourages projects to pay participants with one check, including the benefits and bonus, to further establish the link between work and earnings. This program is not meant to be punitive, but rather to increase the opportunities for disadvantaged people while fostering the value of work in our society.

The CWPA is based on one commonsense principle: If you are able to work, you will have the opportunity to work. Society will fulfill its obligations to people who are down on their luck, but it has the right to ask those persons to help themselves in return.

So often it seems that our current system discourages an individual's initiative and encourages dependency. We have to reexamine the very basic assumptions of these programs and see if there are better solutions that encourage and reward initiative. We talk often in the Senate of empowerment, but I can tell you from my own experience and observation that nothing empowers people more than a job and the feeling of accomplishment that goes with it.

We have to reawaken the spirit of community in this country. That spirit has remained dormant too long. It is time to recycle an approach that worked well in the past and modify it to current conditions. Perhaps many of those out of the work force today lack the skills and training of those who went to work for the WPA in the Depression years. That difference means that we need to give Americans who are disadvantaged and disillusioned an incentive to become a productive part of society regardless of their skills. We should try to instill in all our citizens the ethic of hard work, reward them for providing service to their community, and give them accomplishments on which they can look back with pride.

More importantly, instead of the growing division between taxpayers and welfare recipients, it is time to make all Americans part of the same team. Too often we talk about problems instead of doing something about them. We need action—immediate and sustained action. America worked its way out of a crisis in the 1930's. If we get to work, we can do it again today.

FDR asked 50 years ago:

> What do people want more than anything else? In my mind, two things: Work and Security. They are spiritual values, the true goals toward which our efforts of reconstruction should lead.

I believe that the Community Works Progress Program can help restore people's dignity and help bring them back into the fold of their communities. I hope that one day soon, CWPA participants will be able to look at a newly refurbished house or a new park playground and say with justified pride, "I helped build it!"

Mr. SIMON. Mr. President, I want to express my support for the Community Works Progress Demonstration Program that has been included as section 7151 of H.R. 11. I believe this is a concept that is long overdue. In 1987, I wrote a book called "Let's Put America Back to Work." In the book, I suggested that we could learn a lot from the Works Progress Administration [WPA], and that it was time to revisit this idea. As I wrote then:

> The United States of America works, but it must be made to work better. A massive waste of humanity is taking place every day, and that waste is slowly but surely eroding our economic future.

The waste I was writing about is the waste of human capital that embodies itself in the growing number of unemployed, underemployed and discouraged people in this Nation. The greatest asset this Nation has is the productivity of its people. Yet too many of our people do not have the opportunity to be productive. According to the Bureau of Labor Statistics [BLS], as of last month, 9,700,000 people were listed as unemployed, and an estimated 1,125,000 more were listed as what the BLS calls discouraged workers. Discouraged workers are those people who do not have jobs, but who have become so frustrated that they have given up even looking. Still millions more Americans are stuck in part-time jobs, because they cannot find adequate full time employment.

When people do not have the opportunity to work, they give up hope. I believe that the great division in our society is not between black and white; not between Hispanic and Anglo; not even between rich and poor. It is between those who have hope and those who have given up. We have far too many people in our society who have given up, and we need to do something about it.

In Let's Put America Back to Work, I suggested that one way to address this problem would be to revisit the WPA concept with a Guaranteed Job

Opportunity Program [GJOP] to give all Americans who want to work a chance. I believe that we need to do what we can to encourage the creation of more private sector jobs; but, when private sector jobs are not there, we need to do better than say "stay at home, we will send you a check." This Congress I reintroduced legislation to set up GJOP. S. 666, the Guaranteed Job Opportunity Act was introduced in March of last year.

In March of this year, I was proud to join Senator BOREN in introducing S. 2373, the Community Works Progress Act of 1992. This bill incorporates the GJOP into a Community Works Progress Program, and establishes two youth programs based on the Civilian Conservation Corps. Senator BOREN has been a valuable ally. Indeed, largely through Senator BOREN's leadership, we were able to include a provision to test our proposal for a Community Works Progress Program in H.R. 11. In addition, I would be remiss if I did not also mention the valuable contributions of Senators REID, WOFFORD, DASCHLE, LEVIN, PRYOR, ROBB and, of course, the distinguished chairman of the Finance Committee, Senator BENTSEN. I am sure there are others who I have failed to mention, but I can assure you that I appreciate the work of all who have helped to move this concept further.

Section 7151 of H.R. 11 will create a Community Works Progress Demonstration Program to test this concept in three urban areas and two States, on a statewide basis; $400 million is set aside for this purpose over a 4-year period. This program will fund projects that serve a useful public purpose, and pay the participants 10 percent more than they receive in AFDC or unemployment benefits. Participants who are not receiving AFDC or unemployment compensation will receive the Federal minimum wage or the State minimum wage, whichever is higher. Higher compensation can be paid, if the Secretary approves. Like under the old WPA, the participants will work 4 days, and use the fifth day to look for permanent employment or improve their skills in job training programs. Participants will also be eligible for supplementary services like transportation or child care, where such services make it possible for those individuals to participate.

We have a choice between paying people for doing nothing and paying them for doing something. I believe it makes infinitely more sense to pay them for doing something, to let them be productive, to let them know they are contributing toward a better society. The projects the Community Works Progress Demonstration Program makes possible will enrich those who work on them, and our society will be enriched by the fruits of their labor.

Mr. DASCHLE. Mr. President, I was pleased to join Senator BOREN several months ago in cosponsoring S. 2373, the Community Works Progess Act. At that time, I spoke on the floor about an American welfare system that is failing too many Americans—both taxpayers and welfare recipients, and, most importantly, the children who are born into the cycle of poverty—and heralded the Community Works Progress Administration approach as a potential answer to this problem. Today, thanks to Chairman BENTSEN, Senator BOREN, and others, we have an opportunity to begin redressing this situation.

In my State, and across this country, there has been a ground swell of support for reform of our welfare system in a way that will put both our tax dollars and the unemployed to work. Many taxpayers feel that their hard earned dollars are supporting people who can but don't work. Meanwhile, many on welfare want to work but can't find a job, and therefore feel an increasing sense of frustration and alienation. The community works progress concept embodied in S. 2373 addresses this issue head on by putting able-bodied welfare recipients to work on community works projects.

Total Federal and State public assistance spending in 1990 was $210 billion. That is a tremendous outlay for helping the less fortunate in our society. But it only represents half the equation. We should also ask what is being done to help recipients in need of this assistance get back into the work force. The answer is clearly not enough.

Many have asked how America can continue to afford a welfare system that consumes ever increasing amounts of tax dollars that are not invested in the future of the country. Senator BOREN has looked to historical precedent for a partial answer to that question.

During the 8 years the Works Progress Administration [WPA] existed in the 1930's and 1940's, 8 million people were put to work building 39,000 schools, 8,000 parks, and more than 650,000 miles of highways and roads for an investment of only $90 billion in today's dollars. That is a stark contrast to the over $900 billion that has been spent over the past 8 years on public assistance, providing only subsistence level payments for food and shelter.

Many of the end products produced with the $90 billion WPA investment are still being used and enjoyed by taxpayers today. On the other hand, the $900 billion consumed on public assistance in the last 8 years has left nothing substantial that can be used by future generations.

The original WPA was truly an investment in America, while current public assistance programs are primarily consumption originated. The establishment of community works progress demonstration projects will mark a crucial initial step in revamping an inefficient welfare system that now too often does more to perpetuate reliance on public assistance than to provide the necessary means and incentives for moving those in need of assistance back into the work force. These projects borrow from a successful concept from our past and mold it to address a number of contemporary social and economic challenges.

Like the WPA program of the past, these demonstration projects will offer thousands of people from families receiving public assistance the opportunity to learn and to master marketable trades that eventually may help secure them jobs in the private sector. If, through this program, we can help people breakout from the vicious cycle of poverty and the reliance on public assistance, while at the same time investing in worthwhile and lasting public service projects, we will have better seved those who were formerly on public assistance and American taxpayers.

The Community Works Progress Program contained in H.R. 11 is a substantial investment in our communities, our infrastructure, and our people. It is my sincere hope this innovative reform will be enacted into law as soon as possible.

Mr. REID. Mr. President, since we introduced the Community Works Progress Act on March 19, the unemployment rate in this country has risen from 7.3 percent to 7.6 percent. This means that 500,000 more people are out of work now than were out of work 6 months ago. The total number of people out of work in this country is, according to the latest figures, 9.7 million.

We are spending billions on unemployment, and we are spending billions on welfare. In an 8 year period, fiscal years 1983 to 1990, the Federal Government alone spent almost $1 trillion on welfare programs. This does not include all the money States and localities have spent, and it does not bring the figure to present value. But $1 trillion is a conservative estimate of what we spent on welfare over that period.

And what do we have show for it? What we have to show is a continuing cycle of welfare and unemployment and discouragement.

In another 8-year period, 1935–43, a different kind of welfare program, the Works Progress Administration, spent $11 billion, which would be about $90 billion in today's money.

And what do we have to show for this welfare program? In Nevada alone, over 2,000 miles of roads were built or improved, 154 bridges were built, 60 schools were built or reconstructed, 39,000 feet of runway were built or improved, and many other projects were undertaken.

Today, we still cross bridges these workers made, attend their schools, ride on their roads, and use the public buildings they either built or decorated with murals.

As important as anything the WPA built, this agency boosted the morale of Americans by giving them a chance to avoid the humiliation of being on relief. Samuel Cohn, who was a WPA economics statistician, said;

> People talk about leaf-raking and say it was not very economic. It served a purpose. It made people feel more useful at a time when that was important.

It is still important today to feel useful. The current welfare system in America is demeaning. We make people take handouts. Nobody wants a handout. People want to live productive lives.

The old WPA gave work to about 8.5 million Americans. This is about 88 percent of the number of people currently unemployed in this country.

The old WPA gave work to some very famous Americans. For example: Woody Guthrie, Studs Terkel, Saul Bellow—a Nobel Prize winner in literature, Jackson Pollack, and a number of other writers, musicians, and artists.

Many talented writers contributed to the famous American Guide Series, which covered every State, and many regions and cities. Alfred Kazin said of this project that these writers "uncovered an America that nothing in the academic histories had ever prepared one for."

I recently borrowed from the Library of Congress the volume covering Nevada. It is a wonderful book, and I recommend other Senators take a look at the volumes for their own States.

Woody Guthrie, as I mentioned, was one of the artists employed by the WPA. Guthrie was employed by the Library of Congress through the WPA, and he wrote the following in one of his letters during that period to one of the librarians:

> The Library of Congress is good. It has helped me a lot by recording what I had to say and to copy all of my songs and file them away so the senators can not find them. Course they are always there in case they ever get a few snorts under their vest and want to sing. I think real folk stuff scares most of the boys around Washington. A folk song is what is wrong and how to fix it, or it could be who is hungry and where their mouth is, or who is out of work and where the job is, or who is broke and where the money is, or who is carrying a gun and where the peace is. That is folk lore and folks made it up because they seen that the politicians could not find nothing to fix or nobody to feed or give a job of work. I can sing all day and all night, sixty days and sixty nights, but of course I aint got enough wind to be in office.

Folks are crying out, Mr. President. We here in Washington need to listen to them, we need to take action, and we need to stop just blowing wind.

This bill does not just create make-work projects. According to a survey of 506 cities made by the U.S. Conference of Mayors, there are 7,252 public works projects ready to go which could create 418,415 jobs.

There is work to do, and there are people to do it. Let us put the two together.

### SMALL MARKET INSURANCE REFORM

Mr. KOHL. Mr. President, last evening the Senate adopted by voice vote a small market health insurance reform amendment offered by our colleague from Texas. The cost and availability of health care in America has reached crisis proportions, and it is time that we took action.

In Wisconsin, the average family will spend 136 percent more on health care today than they did only a decade ago. And if health care inflation continues to rise at its current rate, Wisconsin families can expect to pay 419 percent more by the year 2000 than they did in 1980. Just as important, more than 400,000 nonelderly Wisconsin residents had no health insurance in 1991.

This amendment will make several important changes to America's health care system. First, it will make the cost of health insurance fully deductible for the self-employed. This eliminates a long-term inequity in the Tax Code, and will make health insurance more affordable for those who work for themselves.

Second, it limits the practice of discriminating on the basis of preexisting conditions. Under this amendment, many workers should be able to switch jobs freely and without risk of losing their health insurance due to previous health problems. Reducing discriminatory practices will allow more small employers to provide access to affordable insurance.

This bipartisan proposal will also put some controls on annual premium increases, and promote access to managed care, which has been shown to hold down health care costs. It will expand Medicare coverage for preventive care. And thanks to the efforts of our colleague from New Mexico, Senator DOMENICI, increased access will be available for those with serious mental illnesses.

The Senate adopted the proposal because of a sincere desire to provide relief to some of the Americans who are being denied access to health care as a result of discriminatory pricing practices and spiraling costs.

Our work, however, must not stop here. As witnessed by the voice vote, incremental reform requires little political coverage, only a political instinct. Comprehensive health care reform will occur only when we have the courage to impose real controls on skyrocketing health care costs. It will occur only when we are prepared to take the tough steps necessary to avoid economic devastation and tougher steps down the road. Adoption of this amendment is a first step, but clearly is only a modest step toward addressing the critical problems of cost and access.

As we have seen, traditional competition hasn't lowered costs. We must put a lid on what we spend for health care, just like Germany and Canada and Japan do. Then, we must ensure universal health insurance coverage by helping all businesses to provide insurance to their workers. We must allow the uninsured affordable access to a publicly sponsored health plan. I do not believe at this time that it is necessary for government to take over the function of the private insurance industry to accomplish cost control and guaranteed access. We must be partners in this process—but we must somehow manage the competition in the health care sector or we will never get a handle on health care inflation.

I joined my colleagues in supporting the incremental small market reforms in this proposal because they represent a consensus and because they will provide some short-term relief to the uninsured. But I am eager to press forward for comprehensive reform and would hope that the action taken on this proposal would not impede that effort.

### THE BENTSEN MOTION TO TABLE THE DECONCINI CHILD CARE TAX CREDIT AMENDMENT (NO. 3163)

Mr. DODD. Mr. President, it is with regret that I oppose the amendment offered by my colleague from Arizona, Senator DECONCINI. The purpose of this amendment—to expand child services for working families—is a goal that he and I have often pursued together. In 1990 we worked together in enacting the child care and development block grant, landmark legislation that now provides funds to States to improve the affordability, availability, and quality of child care services. This block grant has provided great assistance to working families.

But the need for child care services still far exceeds the supply, and employers can play an even stronger role in meeting that critical need. A substantial tax credit for on-site child care would encourage greater employer involvement.

Unfortunately, the cost of this proposed child care tax credit is offset by a measure that I cannot support. The amendment would limit deductibility of executive compensation. It is not appropriate, in my view, for the Federal Government to become this directly involved in setting executive salaries.

I believe that the much more appropriate means for control over corporate executive compensation lies with corporate shareholders themselves. I have urged the Securities and Exchange Commission to increase the ability of shareholders to weigh in on such matters. As a result, they—the shareholders—are in a stronger position to influence executive compensation decisions.

As I said at the outset, I couldn't agree more with the goal of expanding child care services for working families. I couldn't agree more with encouraging family-friendly employment policies. I commend the efforts of my colleague from Arizona, but this is simply not the proper revenue offset for this new tax credit.

### ESTIMATED TAX PAYMENTS BY SMALL BUSINESS

Mr. BAUCUS. Mr. President, I would like to comment on the rollcall vote which has just occurred. I know that Montana's small businessmen and women feel that the estimated tax payment provision incorporated in this bill is just one more burden to bear in already difficult times. I agree with them. The current provision is flawed and I want to see that such a flaw is corrected.

Unfortunately the proponents of the amendment have failed to identify a revenue offset which keep the correction from adding to the budget deficit. And large budget deficits are a continuing danger to business, both large and small. It is for this reason that I have opposed this amendment.

I know that the chairman shares my concerns. I hope that we can work in conference to fix this problem for small business without increasing the budget deficit.

### BUMPERS AMENDMENT NO. 3164

Mr. SANFORD. Mr. President, I want to express my support for the amendment of the Senator from Arkansas.

We have spent this entire year talking about the need to help the small businessman. President Bush was in North Carolina yesterday laying out new proposals to help small businesses. He had something in his bag for everyone. By the time he got to the end of his handouts, he had spent $20 billion, and then he went on to bash Congress for not being responsible and for not balancing the budget that he prepared with a record deficit.

This tax legislation at least pretends to pay for its handouts. Unfortunately, the largest payment mechanism is speeding up tax payments. Because the budget window is only open for 5 years, there is a perceived benefit at the end of the 5 years. But that does not make it right. We should not spend money we don't really have.

This amendment addresses precisely that issue. It also goes to the heart of all small businesses: Cash flow. Businesses run on cash. Any business man or woman knows that. Most tax measures are supported or opposed by the business community based upon the impact on its cash flow. This bill goes straight into the pocketbook of small businesses, the same constituency that we are hoping can create new jobs our economy so badly needs. It tells small businesses and individual taxpayers: You must not only pay the current year's taxes, but you must also loan the Federal Government part of next year's tax bill. If this passes, taxpayers will have to make payments in the first quarter of 1993 for taxes they will owe in 1994 on returns they will file in 1995.

That's insane for two reasons. First, the Federal Government should not go begging with tin cup in hand to the small business community asking for a loan in anticipation of how well it will do next year. Second, it's not real money, so we shouldn't spend it. If the revenue window were to be extended for a few more months, to say, April 14, the day before the next estimated payment is due, the full amount of revenue would logically be lost. So, it's not real money. It's just a matter of requiring taxpayers to involuntarily make a loan to the Federal Government.

Finally, it's important to know that this amendment only applies to those who earn less than $75,000 per year. It does not apply to those who earn above $75,000. Those who have income in excess of $75,000 will be required to make their estimated payments at the higher level despite this amendment.

This provision will hurt small businesses more than any of the good things in this bill will help them. I thank the Senator from Arkansas for having the courage to face this issue. It will be subject to a vote on whether to waive the budget agreement.

The truth is, it doesn't affect the budget, even though we pretend it does and we spend the money. Let's be straight with the American people and recognize this ruse. I urge my colleagues to support this amendment.

### MORNING BUSINESS

Mr. BENTSEN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO IOWA STATE SENATOR DALE TIEDEN

Mr. GRASSLEY. Mr. President, today I rise to make special note of the retirement of an outstanding Iowa State senator, Dale Tieden. Senator Tieden is retiring after 28 years of distinguished service to the people of Iowa.

Senator Tieden began his career in public service in 1965, when at the age of 41, he was elected to the Iowa House of Representatives.

During his first term in the House, he successfully managed the adoption of his first bill, major legislation which established the Iowa Public Television Network. This remarkable accomplishment for a freshman legislator marked the beginning of a very productive career.

Senator Tieden was reelected to another three terms in the House, and in 1972 won his first of five consecutive elections to the Iowa Senate.

Senator Tieden has been known not only for his legislative accomplishments, but also his caring attitude toward the people with whom he has come into contact. The lives of many Iowans have been improved by the thoughtfulness and efforts of Senator Tieden. His compassion and concern for the young pages who serve tirelessly at often thankless tasks for the general assembly is also well known.

In addition to his legislative and public service endeavors, Senator Tieden has been very active in the community as a member of the United Church of Christ, the Masons, the Farm Bureau, the Izaak Walton League, the Rotary, the Sierra Club, the chamber of commerce, and the Heritage Foundation.

The people of Allamakee, Clayton, and Winneshiek Counties have been well-served by Senator Tieden, and are proud of his accomplishments and dedication. On behalf of these and other Iowans, I express our deepest gratitude and well wishes for the future.

## TRIBUTE TO KENNETH D. HENDERSON

Mr. FOWLER. Mr. President, today I would like to pay tribute to a person who has dedicated his entire working life to serving the American public. Mr. Kenneth D. Henderson, forest supervisor of the Chattahoochee-Oconee National Forest, died unexpectedly of a heart attack on August 27, 1992, in Gainesville, GA.

Mr. Henderson's distinguished public service career spanned more than 32 years with the Forest Service. While attending college at North Carolina State College of Agriculture and Engineering in Raleigh, Ken worked for the Forest Service every summer from 1956 to 1959. After obtaining a bachelor of science in forestry, he began his permanent career with the Forest Service in 1960 as a research forester at the Southeastern Forest Experiment Station in Asheville, NC. From there Ken progressed through various assignments throughout the South, including positions in Etowah, TN; Greenville, TN; Cleveland, TN; Atlanta, GA; Eustis Lake, FL; Pisgah Forest, NC; and Jackson, MS.

Ken left the southern region in 1980 to become forest supervisor of the Shawnee National Forest in Harrisburg, IL. After serving 8 years in that position, he returned to the South as forest supervisor of the Chattahoochee-Oconee Forest.

Mr. President, I had the pleasure of visiting with Ken Henderson on the day before his sudden and unexpected death. We took a brief canoe trip on the Ocmulgee River to assess the merits of preserving the land along the river for its esthetic, soil, and watershed values. I knew Ken to be a man dedicated to caring for the land and serving the public good. His dedication to the Forest Service had no limits, and he was clearly one of the Forest Service's most respected officials.

Over the years, Ken has been recognized by his colleagues and superiors for his outstanding performance and dedication to the Forest Service and his desire to promote a land conservation ethic. In 1985, Ken Henderson was the recipient of the prestigious Cyrus Mack Conservation Award by the Nature Conservancy.

Mr. President, community service was an integral part of Ken Henderson's life. He belonged to numerous organizations, including the Rotary Club and the Society of American Foresters. He served on the board of directors of the Georgia Forestry Association and the Northeastern Georgia Council of the Boy Scouts of America. He was a family man and a respected member of the community.

Ken is survived by his wife Roemelda, his daughter Tanya, his sons Todd and Tyler, and his parents, Clifford and Sarah Henderson of Spindale, NC.

Mr. President, Ken Henderson was an unselfish, giving person who will be missed by many including this U.S. Senator.

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,040,322,818,827.37, as of the close of business on Tuesday, September 22, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,729.73—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

## ADDITIONAL COSPONSOR—S. 3123

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be added as an original cosponsor to S. 3123, legislation that will bring much needed tax relief to Louisiana victims of Hurricane Andrew and other victims who have lost their homes or personal property in declared disasters. This legislation will complement the emergency supplemental appropriations bill passed last week by the House and Senate to ensure individuals receive the relief they so desperately need to rebuild their shattered lives.

In terms of damage to public and private property and to Louisiana's economy, Hurricane Andrew was the most devastating natural disaster in Louisiana's history. Estimated losses in my State alone exceed $1.4 billion. The emergency relief package sent to the President will be of enormous help to Louisiana and other States recovering from this and other disasters. However, it will not provide the much-needed tax relief for victims who have lost their homes or personal property as a result of recently declared natural disasters.

First, this measure extends the time to rebuild or purchase a principal residence from 2 to 4 years, thus allowing victims more time to reinvest their insurance proceeds without being penalized by capital gains calculations.

Second, this measure excludes from taxation insurance proceeds received for items lost in a disaster. Recognizing that insurance proceeds rarely if ever reimburse a taxpayer in full for this loss, this provision would minimize the record keeping involved in listing losses of all personal property and replacement cost of normal household personal property.

Third, this measure would allow insurance proceeds from personal property and real property to be joined together in one common fund. While under current law proceeds from personal property losses must be used to replace personal property, this provision allows the victim to allocate insurance proceeds to replace real and personal property as the victim deems necessary, without fear of incurring a taxable gain.

Mr. President, this bill will make three very simple revisions to the Tax Code that will assist disaster victims in replacing destroyed personal property. We can provide this relief with little cost while preserving the integrity of our Tax Code. I urge my colleagues join me in my support for this important disaster relief measure.

## TRIBUTE TO GARY MYRICK

Mr. HEFLIN. Mr. President, I rise today to extend my sincere condolences to the Goodwin Myrick family in the loss of his son Gary Myrick. Goodwin is the long-time president and chief executive officer of the Alabama Farmers Federation. On August 10, Gary, only 40 years old, died tragically at his home in Gadsden, AL, suburb of Southside.

Goodwin Myrick has served as president of the federation since the late seventies, and is also the chief executive officer of the ALFA companies located in Alabama: ALFA Insurance, ALFA Corp., and ALFA Services, Inc. After he took over leadership of the Alabama Farmer's Federation, the State's premier agricultural organization, Gary ran the family dairy. At the time of his death, he lived with his two adopted sons in the home once occupied by his grandparents.

Gary was a graduate of Southside High School and a member of Southside Baptist Church. After high school, he attended Gadsden State Community College and was secretary-treasurer of the Coosa Valley Dairy Herd Improvement Association. He was well respected in the community as a businessman and advocate for the concerns of the dairy farmer. This quiet community was understandably stunned by Gary's untimely, senseless, and tragic death.

Gary Myrick's sudden death at such a young age reminds us once again not only of the importance of making the most of the time we have here, but also of our disturbing lack of control over seemingly random events. I know Gary made the most of his time, wisely following his father's example.

Again, I extend my condolences to all the members of Gary's family in this tremendous loss.

## U.S. SECURITY ASSISTANCE IN THE POST-COLD-WAR ERA

Mr. CRANSTON. Mr. President, one of the projects in which I have been deeply involved of late has been the issue of what directions should our security assistance programs take in the post-cold-war era.

To that end, both I and my good friend and distinguished colleague from Vermont [Mr. LEAHY] have prodded the Pentagon into opening up the International Military and Education program [IMET] to civilians from other lands. This was done to help empower democrats from weak and emerging democracies in their effort to exert civilian control over their own military establishments, and to promote a healthier civil-military dialog.

I have also been very involved in the issues of the demilitarization of the fight against narcotics trafficking in the Andean region, the creation of a new civilian police force and the demilitarization of internal security in El Salvador, and the provision of law enforcement assistance to the emerging democracies of Eastern Europe and the former Soviet Union.

These efforts have been accompanied by a systemic search for information about what are current practices in the U.S. security assistance field, what purposes do they seek to address, and whether these programs are still appropriate in light of the sweeping changes taking place since the end of the cold war.

To that end, I together with my friends and colleagues, the distinguished Senator from Indiana [Mr. LUGAR], the distinguished Senator from New York [Mr. MOYNIHAN], the distinguished Senator from Washington [Mr. ADAMS], and the distinguished Senator from South Dakota [Mr. DASCHLE], asked the General Accounting Office to delve deeply into these issues.

Today, I am pleased to release the third in a series of GAO reports that have been prepared to address these vital issues. The first report, "Security Assistance: Shooting Incident in East Timor, Indonesia," released last February, helped clarify issues about U.S. assistance to that country in light of a military-led massacre. A second report, "Foreign Aid: Police Training and Assistance," was released to good effect in March. A third report, "Aid to El Salvador: Slow Progress in Developing a National Civilian Police," we released just yesterday.

The report we are releasing today, "Foreign Assistance: Promising Approach to Judicial Reform in Colombia," is an important contribution to the search for better, more relevant, and more democratically oriented security assistance programs.

Perhaps the two most important findings concern the importance of host country political will and the priority placed on administration of justice reform by the U.S. Embassy in that country.

I look forward to receiving the two outstanding reports on international security assistance issues promised to my office by the GAO, and ask unanimous consent that part of the report released today be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
*Washington, DC, September 24, 1992.*

Hon. ALAN CRANSTON,
Hon. RICHARD LUGAR,
Hon. DANIEL PATRICK MOYNIHAN,
Hon. BROCK ADAMS,
Hon. THOMAS A. DASCHLE,
*U.S. Senate:*

This is the second report in response to your request that we review U.S. assistance to improve the administration of justice worldwide.[1] This report focuses on U.S. efforts to assist Columbia in improving its judicial system. We have also issued reports to congressional committees addressing U.S. efforts to improve the judicial systems in El Salvador and Panama.[2] Specifically, this report describes (1) the approach employed by the United States to manage its judicial reform assistance to Colombia and (2) the program activities undertaken and planned by the host government and the United States in this reform effort.

### BACKGROUND

By the early 1980s, Colombia had recognized that its judicial system was largely ineffective in dealing with the high crime rate, and in 1984, the government declared Colombia to be under a state of siege due to high levels of narcotics and guerrilla violence. Between 1984 and 1989, approximately 31,000 deaths were attributed to drug trafficking violence alone. It is estimated that 350 judicial personnel have been murdered since 1980, including 50 judges, and a Colombian government survey shows that 25 percent of the judges reported that they or their families have been threatened. Additionally, military and guerrilla forces were allegedly murdering and torturing people without being brought to justice.

In 1986, the U.S. Agency for International Development (AID) began to provide small grants—$290,000 at first—to help improve the Colombian judicial system. Grant assistance had reached about $2.6 million by fiscal year 1990. The 1989 presidential campaign and 1990 election became the turning point for the Colombian government to begin to take actions against the pervasive lawlessness. Upon taking office in 1990, the new President announced that judicial reform was one of his highest priorities.

As a result, the Colombian government established a goal to enhance the autonomy and power of the judiciary, decongest the courts by making the court system more efficient, and modernize the criminal investigation process.

In 1990, to support the commitment of the new Colombian presidential administration, AID began developing a 6-year, $36-million program to improve the functioning and independence of the Colombian judicial system. This funding included $6.9 million for the U.S. Department of Justice's International Criminal and Investigate Assistance Program (ICITAP) project designed to improve judicial protection and the investigation and prosecution of serious crimes.

### RESULTS IN BRIEF

Although it is too early to determine if AID's judicial reform package will achieve its objectives, the U.S. approach to judicial reform in Colombia thus far appears to be working. AID has promoted its judicial reform efforts in Colombia as a model to be duplicated elsewhere. Three factors have set this project apart from similar projects in other countries: (1) small grants were given—in this case to a private foundation—to help build a reform consensus within the judiciary, the private sector, and the executive branch; (2) the United States required a concrete demonstration of Colombian government commitment before providing increased funding; and (3) the U.S. Embassy designated this effort as one of its top priorities and involved multiple government agencies.

Many of the Colombian government reforms and AID project activities are still being implemented, but they appear to be addressing the major systemic flaws in the Colombian judicial system. Thus far, Colombia has ratified a new constitution and is implementing new procedural codes. AID has developed a systemwide reform package to address each of the deficiencies in the judicial sector and to support Colombian reform measures. As of March 1992, AID had disbursed $6.5 million of its $35 million 6-year reform project.

Although reform activities are being implemented, AID had not established criteria nor set targets or benchmarks that would help it evaluate the Colombian government's progress in implementing judicial reforms and provide a basis for further disbursements. In commenting on this report, AID stated that it has now identified performance indicators and is further refining them. Once the indicators and outputs are finalized, AID will relate disbursements to tangible reform results.

### THE UNITED STATES USED A DIFFERENT MANAGEMENT APPROACH IN COLOMBIA

AID has used a different management approach than in other Latin American countries, such as El Salvador and Panama, to implement reforms in Colombia's judicial system. In contrast to other management approaches, AID used small projects managed by a private foundation, the Foundation for Higher Education (FES),[3] to spur interest in judicial reform within the Colombian government. AID financed projects to study the problems in the judicial system and, in the process, a consensus was built among representatives of FES. FES representatives became experts in Colombian judicial reform and, based on their commitment to change, the new Colombian President appointed a number of these representatives to serve in his administration. Thus, a bridge had been built to transition into a larger scale reform program. Host government, private foundation, and U.S. Embassy officials are confident about the expected improvements.

### SMALL PROJECTS USED TO BUILD CONSENSUS

In the mid 1980s, the Colombian government did not know what actions to take to correct its ineffective judicial system. In addition, according to AID, the possibility of receiving AID funds contributed to a jurisdictional dispute between the Justice ministry and judicial branch as to who should manage the funds. Furthermore, AID was concerned that bureaucratic infighting and a cumbersome bureaucracy would delay project goals, and Colombian officials were skeptical of foreign involvement in their country's internal affairs. Further compounding the problem, AID did not have appropriate systems and procedures in place to administer the program and interact with the Colombian government.

Because of these concerns, AID determined it would be inadvisable to begin a large-scale judicial reform project with the government at that time. Nonetheless, both AID and the Colombian government recognized that something needed to be done to improve Colombia's judicial system. AID, along with the U.S. Embassy, decided that the best approach would be to provide small grants to a private organization to begin building consensus among the judiciary, the executive branch, and the private sector that judicial reform was of paramount importance. FES was selected to accomplish this task, and from 1986 through 1990, AID provided it with a series of small grants. Under the guidance of an advisory committee composed of members of the executive and judicial branches of the government and FES, the foundation began its work in noncontroversial areas, such as providing codebooks to judges, developing baseline data on the operation of the judicial system, and developing judicial libraries.

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[1] Our first report was Foreign Aid: Police Training and Assistance, (GAO/NSIAD-92-118, Mar. 5, 1992).

[2] Foreign Aid: Efforts to Improve the Judicial System in El Salvador, (GAO/NSIAD-90-81, May 29, 1990) and Aid to Panama: Improving the Criminal Justice System, (GAO/NSIAD-92-147, May 12, 1992).

[3] FES was founded in Cali, Colombia, in 1964 as a nonprofit organization modeled after U.S. philanthropic organizations.

As FES completed these projects and built support for its advisers, it was able to expand its focus to include pilot projects. For example, in 1990, FES developed a project in Itagui, Colombia—a small city in the heart of the narcotics-trafficking country—to streamline court procedures and reduce the backlog of cases. By automating case management work load, sharing administrative resources among 13 judges, and designing more efficient office space, Itagui brought its caseload up-to-date within a year. The Minister of Justice is considering expanding this project nationwide.

According to AID and FES officials, their most visible success was the design of the Courts of Public Order. Because judges were subject to both threats and bribes, Colombia had been unable to convict narcotics-traffickers and guerrilla terrorists. Using AID funds, FES sent a group to study the actions Italy has taken to deal with organized crime and then designed a court system to address Colombia's needs. This new system consists of 92 judges who remain anonymous throughout the proceedings and are provided additional protection, such as police escorts and protection at undisclosed quarters away from their families, while investigating and hearing such cases. Since the system's inception in January 1991, these courts have convicted 70 percent of the approximately 800 individuals tried for drug and terrorism-related crimes, according to a Colombian government official. The conviction rate is only 12 percent in ordinary courts. While human rights organizations have expressed concern that the Courts of Public Order may infringe upon a defendant's due process rights, the U.S. Embassy believes adequate safeguards against such infringements have been incorporated into the process.

According to AID, FES, and Colombian government officials, the most significant impact of AID and FES' work has been the resulting commitment from key officials on the need to reform. For example, FES sponsored a work group in April through August 1990 supported by the Colombian President. The group, lead by the Justice Minister, designed the constitutional reforms, which the Assembly ultimately ratified. In contrast, a FES adviser characterized reform efforts in El Salvador as meaningless because reforms were imposed from outside without internal commitment from the host government. A Colombian government official cautioned, however, that consensus building takes time; it took 2 years in Columbia. The Colombian Attorney General stated that if AID had stopped funding the initial FES studies, Colombia might not have had the political will to go forward with the reform movement. Now he believes the impetus is too strong to stop or reverse the movement.

### U.S. ASSISTANCE PREDICATED ON COLOMBIAN GOVERNMENT COMMITMENT

By August 1990, after the new administration took office in Colombia, the political atmosphere was ripe for reform of the Colombian judicial system. The new Colombian government had pledged itself to judicial reform and had proposed a major overhaul of the judicial system. The U.S. Embassy believed Colombian government had a general consensus on what needed to be done, and it was at this time that AID began its long-term efforts. The U.S. and Colombian governments signed a 6-year, $36 million grant agreement on August 9, 1991.

The new judicial reform project differs from earlier, smaller projects in several ways. Not only is it larger, but the initial funding will be based on the Colombian government's demonstrated commitment to reform. Unlike the earlier AID projects, the U.S. government signed the project agreement with the Colombian government rather than with FES. While FES will continue to administer funds, such as procuring commodities in Colombia and managing some pilot programs, the government, rather than the private institution, will be responsible for the project's implementation.

AID released the first $1 million of project funds in October 1991. However, before releasing the next disbursement, the Department of State and AID wanted the government to have planned and begun implementing the project. To accomplish this, AID required the government to establish a multi-institutional executive committee to (1) manage the projects, (2) coordinate and plan all activities, (3) ensure that project objectives are met, and (4) provide the U.S. Embassy with an annual work plan. The executive committee was named on January 24, 1992; the first annual work plan was submitted to the Embassy on February 24, 1992, and AID disbursed $5.5 million on March 24, 1992.

ICITAP officials advised us that conditioning the $5.5 million disbursement on the establishment of an executive committee delayed the disbursement of $2.3 million that had been earmarked for their projects. This delayed ICITAP's schedule by about 6 months because it could not transfer a project manager to Colombia to plan future work. However, we could find no negative impact from this delay. Given that the Colombian government did not adopt implementing legislation until November 1991, AID stated that the executive committee could not have approved any of the proposed ICITAP projects and ICITAP could not have begun training earlier. Further, the focus of much of ICITAP's work will be in strengthening the office of the Prosecutor General, which has yet to begin operations. ICITAP could not identify any specific negative impact on its program, and it was able to use reprogrammed regional funds and bridge monies during this period to plan its activities.

Despite the minor delay in ICITAP activities, we believe that AID's decision was correct to seek concrete evidence of the Colombian government's commitment to judicial reform and to structure the project around reform efforts already initiated. This approach not only responds to the specific conditions in Colombia, but also avoids problems we found with judicial reform projects in other countries. For example, judicial reform projects in El Salvador, Honduras, and Panama have experienced implementation problems largely because the governments in these countries were unwilling or unable to provide a strong political or financial commitment. In each case, the United States gave funds before the host governments had demonstrated the willingness or capability to take the steps necessary to make the projects successful.

One shortcoming in AID's approach in Colombia, however, was that AID had not based further disbursements on actual progress resulting from the reforms. We believe that this is particularly important because, even though laws reforming the judicial system have been enacted, it is too soon to tell how effectively they will actually be implemented. The grant agreement between the U.S. government and the Colombian government requires Colombia to submit annual work plans to AID. These plans will form the primary basis on which project activities will be approved. Neither the grant agreement nor the project paper specify how the work plans will be evaluated nor what criteria will be used to approve future projects. The project paper does, however, require three external evaluations, but does not base further disbursements on the outcomes of these evaluations.

### PRIORITY MULTIAGENCY MANAGEMENT APPROACH

According to U.S. Embassy officials, counternarcotics is the number one priority and driving force behind all U.S. policy decisions regarding assistance to Colombia. Both the U.S. Congress and the Embassy have recognized the importance of judicial reform in achieving counternarcotics goals and therefore rank judicial reform as a top U.S. objective.

Given the importance of this endeavor, Embassy officials determined that the AID project alone could not achieve the desired improvements and that it should look to other U.S. assistance programs for whatever related training or commodity support they could supply. Further, officials believe that the State Department can provide the foreign policy perspective in its dealings with the host government. Other U.S. embassies, such as in Honduras and Costa Rica, have permitted AID's judicial reform activities to operate without the benefit of high-level embassy support and contributions from other U.S. agencies. In Colombia, however, reforming the judicial system is viewed as a U.S. multiagency effort.

U.S. efforts to design the Courts of Public Order is indicative of the success of this multiagency approach. Specifically, AID funded the design of the project; the State Department's Anti-Terrorism Assistance Program provided security training; the Department of Justice helped prepare court operation and case administration procedures; the Embassy's Narcotics Affairs Section purchased equipment out of counternarcotics funds; and ICITAP conducted security surveys and provided training for judges and protective details. These organizations, as well as the United States Information Agency, remain involved in promoting judicial reform in Colombia.

To coordinate these diverse activities, the Ambassador established an Administration of Justice Team within the Embassy that meets twice a month to review all recent activities and plans. Heads of any agency or State Department section that has an interest in, or an assistance program related to, judicial reform is included. For example, during our visit, the committee turned down one agency's request to initiate a training course because such training would have duplicated another program. Also, through this mechanism AID and ICITAP project managers have direct access to the Ambassador.

Embassy officials were generally pleased with now judicial reform activities were managed and credited the extensive coordination and control to the current Ambassador. They stated that one lesson they have learned from this experience is that unless judicial reform is a U.S. Embassy priority, it may not receive the management and political attention it needs to succeed. The experience in Colombia shows how a program can work when the ambassador brings together the different U.S. agencies and becomes personally involved in high-level policy dialogue with the host government. Officials we interviewed recognized that this type of coordination is dependent on the management style of the Ambassador and they expressed the hope that it can continue.

### APPROACH IN COLOMBIA DIFFERS FROM THE OTHER U.S. EFFORTS

AID's management approach—waiting to began a large project until the host government was committed to reform—appears to be an effective strategy to prevent the inefficient use of U.S. funds. The philosophy of U.S. officials in Colombia is quite simple: the host government rather than the U.S. government should lead reform efforts and the United States should stimulate rather than impose changes. According to a State Department official the most significant U.S. success was its ability to assist Colombia when Colombia was ready and willing to make necessary changes.

This approach contrasts with situations in other countries. In El Salvador, for example, the United States unilaterally identified the needs and then used a project to elicit host government support to make significant political improvements. We concluded in 1990, however, that after 6 years, and the commitment of $13.7 million in U.S. financial support, the El Salvadoran government still had not demonstrated the commitment to make the necessary changes, and the goals of U.S. assistance remained largely unmet. In Panama, the government was having difficulty making the financial commitment necessary for U.S. reform assistance to succeed, and AID officials in Honduras cited the lack of host government support as the major factor impeding reforms.

### COLOMBIAN AND U.S. REFORM ACTIVITIES ADDRESS MAJOR PROBLEMS

FES work showed that the Colombian judicial system was flawed in all aspects—systemic and institutional—and needed a major overhaul. To correct these flaws, the Colombian government determined it had to completely revise its constitution and procedural codes. AID's reform efforts were designed to support these changes.

Both the Colombian government and AID recognized the need to develop a comprehensive rather than piecemeal approach to judicial reform. Overall, Colombian and U.S. government officials determined that if all the participants in the justice system were not included in the reform efforts, improvements made in one area could create problems in another area.

### COLOMBIA ADDRESSES SYSTEMIC PROBLEMS

The Colombian government identified the three systemic problems in its judicial system:

1. The judiciary was not independent from the executive branch, so it could not deliver impartial justice.

2. The courts were extremely congested, so about 75 percent of all criminal cases remained untried. By 1991, the Colombian government estimated that 2 million cases had not been resolved.

3. The system lacked effective investigation and prosecution of criminal activities.

The government then established goals to correct these problems.

In July 1991, the Colombian Assembly ratified a new constitution that helped establish an independent judiciary, provided measures to decongest the courts, and promoted more modern and independent means to investigate and prosecute criminal acts. In November, it adopted legislation to implement these constitutional changes. AID, State, private sector, and Colombian officials agree that if these changes are implemented properly, they should dramatically improve Colombia's judicial system.

To enhance the autonomy of the courts, the constitution provides that the judicial branch will submit its budget to the executive branch and manage its own finances. To relieve court backlog, the constitution grants certain parties temporary authority to act as conciliators or arbitrators. Implementing legislation, for example, authorized the establishment of conciliation centers. These approaches are targeted at resolving family, labor, and civil disputes so that the courts can deal with serious crime.

Also, because the authors of the new constitution wanted to include assurances that agencies would not abuse their new authorities, they established or reaffirmed oversight agencies to oversee the conduct and management of public sector employees and funds. Further, the constitution specifically provided for the protection of human rights of citizens. A recent publication from Americas Watch, a leading human rights organization, praised the Colombian government's efforts and said that these efforts signal a willingness to reform.

According to Colombian government officials, the most important change in updating Colombia's antiquated judicial system was the establishment of the prosecutor's office to investigate and prosecute cases. Under the old system, judges, usually untrained in investigative techniques, performed the investigations and then judged a suspect's guilt or innocence. Under the new system, a trained investigator obtains and develops evidence, a prosecutor prepares a case against the accused, and a judge then determines guilt or innocence based on the evidence developed during the investigation and a presentation by the prosecution and the defense. The Courts of Public Order were the first to use this new approach.

### AID PROJECT SUPPORTS EACH INSTITUTIONAL CHANGE

AID's project is designed to complement the three goals of Colombia's judicial reform program. The first AID project component focuses on improving the organization and planning capabilities of the judicial sector. The second will focus on improving the investigation and prosecution of crimes as well as judicial protection and the investigation of corruption and human rights violations. The third will focus on improving the operation, administration, and independence of the courts. In this last area, AID will help the courts administer themselves, extend the pilot administrative improvement programs systemwide, and provide advisers and other assistance to the new conciliation and mediation centers.

According to AID and U.S. Embassy officials, the approach in Colombia, which supports all three goals of judicial reform, was based on the view that when diverse problems exist throughout a judicial system, targeting just one area could be counterproductive and wasteful. For example, improved investigations would result in more cases brought to trial. Unless there is a corresponding effort to deal with a court backlog, as occurred in Colombia, improving and reforming administration of justice in a country could be much less successful. AID, ICITAP, and Colombian officials stressed that the strength of the program to reform the Colombian judicial system was to address the entire judicial process.

By March 1992, AID had disbursed $6.5 million for activities to be conducted in the first year of the project. About $3.9 million was targeted for the new prosecutor's office; training and equipping investigators; the public ministry, which will oversee official conduct and human rights; judicial protection and related criminal investigation; and prosecution support. Of the $3.9 million, ICITAP received $2.6 million. An additional $770,000 will support operations of the courts and the conciliation centers, and about $1 million will fund AID and FES administrative costs, such as salaries and overhead expenses. Since funds were only recently disbursed, these activities are just beginning to be implemented.

### RECOMMENDATION

We agree with AID's philosophy that the United States should support host government measures and that the disbursement of project funds should be based on the Colombian government's demonstrated commitment. Therefore, to ensure maximum effectiveness and efficiency of U.S. funds, we recommend that the AID Administrator, in conjunction with the U.S. Ambassador in Bogota, establish criteria and set targets or benchmarks for measuring Colombian government progress in implementing its reform plans and base additional disbursements on assessments of the government's progress in meeting these goals.

### AGENCY COMMENTS AND OUR EVLUATION

The Departments of State and Justice and AID generally agreed with our report, and AID stated that it was in the process of implementing our recommendation. AID stated that specific outputs—and indicators to verify progress in achieving them—have been identified and are being refined, and that future disbursements and other aspects of project implementation will relate to tangible indications of progress resulting from reforms.

Although the Department of State generally agreed our report accurately described the judicial reform project in Columbia, it stated the report inaccurately suggested different philosophies motivated the Central American projects and the Colombian project. State said that the Colombian approach—to follow, not lead and to use a sectorwide approach managed by the Ambassador drawing on the full country team—reflects the general policy guidance for all administration of justice programs. State said it was much easier for U.S. assistance "to follow" in Colombia than in El Salvador or Honduras because the Colombians had already done extensive analysis of their justice system and had initiated action before the U.S. government became involved. State also said that, ironically, the Colombia project benefited from the relative unavailability of funds in the early years, whereas substantial funds were earmarked for Central American countries. It stated that earmarks often provided funds before host countries exhibited the political will to implement major judicial reforms.

Our report does not question whether the general policy guidance for the administration of justice programs was different for Colombia than for other countries. However, as State acknowledged, the implementation of the policy guidance in Colombia clearly differed from how the programs were implemented in Central America. This resulted in money being spent on judicial reform programs in countries such as El Salvador and Honduras before the governments had demonstrated a serious commitment to reform. Our reviews have shown that unless recipient governments are seriously committed to reform, U.S. government spending on these programs has been ineffective. The State Department's comment regarding the unavailability of funds of Colombia seems to imply that had more money been available, it may have been spent prematurely in Columbia and the programs could have run into the same problems as in the Central American countries.

AID commented that the impact of U.S. judicial reform assistance in El Salvador is measurable and cited as examples El Salvador's investigative unit, judicial training, amendments to the constitution strengthening the independence of the judicial branch, and the enactment of a law establishing a public defenders program. Our earlier report also identified these areas of improvement in El Salvador's judicial system; however, the report pointed out that progress was made much more difficult because the El Salvadoran government was unwilling or unable to provide a strong political or financial commitment. While El Salvador has taken initial steps to improve its judicial system in response to the January 16, 1992, peace accords ending the civil war in that country, AID officials in El Salvador stated that they see the earlier judicial reform project as largely unsuccessful because political will and consensus were never achieved.

### SCOPE AND METHODOLOGY

To obtain information on judicial reform efforts in Colombia, we reviewed legislative authority for providing this assistance, interviewed officials and reviewed records from AID and the Departments of State and Justice in Washington, DC, and reviewed reports from human rights and other organizations. We also visited Colombia where we met with U.S. Embassy, host government, and private sector officials. We also drew on our work performed in El Salvador, Costa Rica, Honduras, and Guatemala as part of our review of U.S. assistance to improve administration of justice worldwide. We conducted our review from January to August 1992 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of State, the Administrator of AID, the Attorney General, and appropriate congressional committees. We will also makes copies available to others upon request.

Please call me at (202) 275-5790 if you or your staff have any questions.

HAROLD J. JOHNSON,
*Director, Foreign Economic Assistance Issues.*

## TRIBUTE TO CONGRESSMAN TED WEISS

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a friend and colleague, Congressman Ted Weiss, who passed away last week. Ted left behind a legacy of accomplishment and a reputation of compassion and integrity. I had the great privilege of serving with Ted in the House, particularly on the Education and Labor Committee, as well as the congressional arts caucus, of which I am a cofounder and current vice chairman and he served as chairman.

The arts caucus was founded in 1981 by Congressman Fred Richmond and myself. Ted immediately joined and was one of its strongest advocates.

Ted's passion, conscience, and conviction could be seen in many areas, but certainly in his support of the arts. No one could speak with more authority to the importance of the arts and the need for Federal support. Ted's devotion to and understanding of this issue were unmatched.

Ted saw in his remarkable district—the west side of Manhattan, perhaps the cultural center of the world—the effects of government support of the arts, through programs for students at risk, the elderly, and those who, without public aid, would never experience the richness of the arts. On caucus cultural weekends to New York City, Ted established a warm rapport as easily with renown cultural leaders as with inner-city children who had just performed dance exercises.

In the face of unwarranted attacks on a Federal commitment to support for our national culture, Ted was undaunted. Ted had an ability to distill arguments, to get to the heart of the matter. In his support of freedom of expression and constitutionality, he was steadfast. He was an articulate defender of creativity, artistic freedom, and of the principles which make this Nation great.

Ted was a leader who inspired respect. Whether eloquently expressing the need for support for the arts in every community, or promoting human rights or AIDS awareness, Ted stood up for what he believed in because he believed it was right. For this, he earned the admiration and affection of everyone he touched.

This Congress truly feels the loss of Ted Weiss. But, perhaps our greatest tribute to him would be to honor the integrity and dedication which he embodied.

## VOTER REGISTRATION REFORM

Mr. FORD. Mr. President, earlier this week, the Senate failed to override President Bush's veto of S. 250, the National Voter Registration Act of 1992. I deeply regret that we were not able to enact this important piece of legislation. I believe that voter registration reform is long overdue.

There are many causes for low voter turnout. Not all of those causes can be corrected with legislation. But the easiest of these causes to remedy is the inability of eligible citizens to register and vote. Obviously, President Bush and his supporters in this Senate who voted to sustain his veto believe that voter registration reform cannot increase voter turnout. I would commend to their attention an article by Ruy A. Teixeira that appeared in the recent issue of the Brookings Review.

Entitled "Voter Turnout in America: Ten Myths," the author dispels 10 myths about low voter turnout with 10 realities. The 10th myth, according to the author, is that "there is nothing we can do to increase voter turnout, given the current sorry state of American politics." But the author explains in his reality that "there are quite a few things we could do to increase voter turnout, some of which are virtually certain to work."

Among those things that are certain to work, Mr. Teixeira says that "simply making it easier to vote, by reforming the personal registration system, would probably result in increased levels of voter turnout. * * * My estimate is an increase of about 8 percentage points, which translates into adding about 15 million voters to the electorate—a substantial expansion of citizen participation by any reasonable standard."

Mr. President, this is an excellent article. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

[From the Brookings Review, Fall 1992]

(By Ruy A. Teixeira)

### VOTER TURNOUT IN AMERICA: TEN MYTHS

After a small improvement in 1984, voter turnout in American presidential elections has resumed its steady decline. With the 3 percentage point reduction in the 1988 election, voter turnout has now dropped almost 13 points since 1960. That puts voter turnout at barely half (50.2 percent) of the voting-age population, below the 51.1 percent mark set by the 1948 Dewey-Truman election and the lowest level since 43.9 percent of age-eligible voters turned out in 1924. The sheer magnitude of nonvoting in contemporary America is staggering: more than 91 million Americans did not bother to participate in 1988. And if turnout remains as low in 1992 as it was in 1988, which seems likely, given widespread voter dissatisfaction, more than 94 million voting-age Americans will not participate this November.

This dismal situation has occasioned much comment and concern across the political spectrum. The concern is welcome, but it has also been accompanied by a great deal of misunderstanding about the causes and consequences of low voter turnout. Much of the misunderstanding resides in a series of myths about voter turnout that lack any real empirical foundation. Dispelling these myths is, I believe, essential to improving citizen participation levels.

Myth #1: Turnout is going down because the poor are dropping out of politics. According to this myth, declining turnout is primarily due to massive increases in nonvoting among the poor. As a result, the affluent, who continue to vote, dominate the political process while the poor are ignored.

Reality #1: Turnout is going down because all groups—the poor, the middle class and the rich—have become less likely to vote. Although it is true that turnout decline has been sharper among the poorer groups in society, turnout has been falling steadily among all income groups, including the most affluent. For example, if we divide the U.S. electorate into six equal-sized income groups ("sextiles"), we find that, although turnout declined 8 percentage points among the lowest sextile between 1972 and 1988, it also fell 5 points among the highest income group. Results are similar if we look at groups defined by education or occupation: declining turnout has, as it were, been a "team" effort, with all strata of society making a contribution.

Myth #2: Turnout is going down because people see no difference between the Democrats and Republicans. This myth locates the source of turnout decline in the supposedly self-evident fact that no one sees any real differences between the political parties anymore. And, naturally, since citizens now see no differences between the parties, they choose not to vote.

Reality #2: More people see important differences between the Democrats and Republicans than they did three decades ago. Survey data show that the proportion of the electorate that sees important differences between the Republicans and Democrats actually increased by 9 percentage points (from 50.3 percent to 59.6 percent) between 1960 and 1988. Now, it is certainly possible that people find it increasingly difficult to know what these differences mean, but the fact remains that they are more likely, not less likely, to see differences. It follows that the popular perception of whether the Republicans and Democrats differ has nothing to do with falling turnout levels (indeed, if anything, turnout should have gone up because of this factor).

Myth #3: Turnout is going down because people have become so cynical about politics. Nobody trusts the government anymore. Everybody believes it is controlled by special interests and wastes tax money. Guided by these sentiments, citizens do the appropriate thing: they refuse to vote ("it only encourages them").

Reality #3: Increasing cynicism about politics has little, or nothing, to do with declining turnout. This is not because cynicism about politics hasn't increased. It has, reflected in the ever-larger numbers of Americans who don't trust their government and do believe the government is controlled by special interests and wastes their tax money. The reason, rather, is that cynicism about politics characterizes all citizens and does little to distinguish voters from nonvoters. For example, statistical analyses show that, all else equal, someone who doesn't trust the government is no less likely to vote than someone who does trust the government. It therefore follows that trust in government can go down drastically (as it has) and still not depress turnout levels.

The attitudes that do lie behind declining turnout appear to have more to do with a general sense that the government is not responsive to ordinary citizens and a feeling that politics is not worth paying attention to, in even the most minimal fashion. It is thus indifference to politics that is keeping citizens away from the polling booths, rather than active hostility or lack of trust. The latter is simply the common currency of American public opinion; the former is the particular coin of the electoral dropout.

Myth #4: Nonvoters don't vote because they are satisfied with the way things are. Low turnout is nothing to worry about, since lack of participation simply reflects how happy people are. Why vote, when there's nothing to get upset about?

Reality #4: Levels of satisfaction have nothing to do with turnout. There is simply no evidence that how satisfied people are—with the system, with their personal finances, with their life in general—has anything to do with how likely they are to vote. Therefore, a plethora of happy people cannot explain why U.S. voter turnout is so low.

Conversely, there is no reason to believe that those who do currently vote are the "contented" ones, as John Kenneth Galbraith asserts without a shred of evidence in his recent book, "The Culture of Contentment." The reasons why people vote are many and complex, but how happy they are does not appear to be one of them.

Myth #5: Nonvoters don't vote because the policies they prefer aren't represented in contemporary politics. People are staying away from the polls because the two major parties aren't providing them with the policy choices they are interested in. Why vote, when the policies you believe in are not advocated by either the Democrats or the Republicans?

Reality #5: Voters and nonvoters differ very little in terms of their policy preferences. Looking across a wide range of issues—the economic role of government, defense, the environment, social issues like abortion—nonvoters' and voters' positions vary only modestly from one another. Specifically, nonvoters are slightly more liberal than voters on the economic role of government and slightly less liberal on defense, the environment and social issues. But the differences are nowhere very large and, in some cases, barely there at all.

It therefore follows that nonvoting cannot be attributed to nonvoters' thirst for alternative policy positions, since their views appear quite mainstream. It also follows that current levels of nonvoting have little immediate effect on the policies formulated by government, since the policy preferences of an augmented electorate, including all current nonvoters, would differ little from those of the current electorate. Thus, whatever the pernicious effects of low voter participation, biased public policies, at least in the short run, should not be numbered among them.

Myth #6: Republicans keep getting elected because of low turnout. Because nonvoters are drawn disproportionately from groups—the poor, those with low education, blue collar workers, minorities—that are traditional Democratic constituencies, Republican candidates must be benefiting considerably as increased nonvoting removes more and more reliable Democratic voters from the electorate.

Reality #6: The Republicans would have won anyway. Although low turnout has probably been of marginal assistance to some Republican candidates, there is little evidence that this assistance has made the difference between victory and defeat. The key for the Republicans, instead, has been the relatively high levels of support they have generated among the middle class, broadly defined. With such strong support among the bulk of the electorate, the Republicans would have won these elections anyway, regardless of how high or low the level of turnout.

The past two presidential elections, won, respectively, by Ronald Reagan and George Bush, provide a good example. If all the nonvoters had voted, would a Democrat be sitting in the White House today? Not according to data from the University of Michigan's National Election Studies. In both cases, the Republican candidate would still have won—except by a larger margin! Not only is it incorrect to assume that widespread nonvoting is putting Republicans in office, it is also incorrect to assume that the Republicans necessarily gain from low turnout (in certain elections, they might actually do better if more people showed up on election day).

Myth #7: Low black turnout has really been hurting the Democrats. Everyone knows that blacks heavily support the Democratic party. And everyone knows that blacks vote a lot less than whites. It therefore follows that low black turnout must be a critical factor in the Democrats' current problems.

Reality #7: The Democrats would have lost anyway. While levels of black support (generally 85 percent and over) have been important to Democratic candidates, levels of black turnout have not been much of a factor, positive or negative, in Democratic fortunes. Democratic losses, in particular, have almost always been attributable to weak support levels among the white middle class, rather than low black turnout.

Consider, for example, the 1988 defeat of Michael Dukakis by George Bush. If black turnout and white (non-Hispanic) turnout had been the same (black turnout was about 10 percent points lower). Dukakis would have gained about 1,442,000 votes. And if black turnout had somehow been 10 points higher than turnout among whites (that is, 20 points higher than it was in reality), the Democratic gain would have amounted to about 2,884,000 votes. But Dukakis lost the election by more than 7 million votes.

Nor do these results change if one focuses on state-by-state results in the Electoral College. If black turnout had been 20 points higher in every state that Bush won, only Maryland, Illinois, and Pennsylvania would have been added to the Democratic column. Thus, even under these circumstances—which represent unrealistically high levels of black mobilization—Dukakis still would have suffered a lopsided (367–171) loss in the Electoral College. Low black turnout has not been the Democrats' problem: lack of support among the rest of the electorate has been their Achilles' heel.

Myth #8: A lot of elections are decided by levels of voter turnout. One of the most common nuggets of political wisdom is the assertion, after a given election, that "so-and-so lost the election because of low levels of turnout [of group X]" or "so-and-so won the election because of high levels of turnout [of group Y]". These insights are believed to follow from observations (usually true) that the losing candidate was strongly supported by some group whose turnout was low or that the winning candidate was strongly supported by some group whose turnout was high.

Reality #8: Levels of turnout do not, as a rule, make much of a difference to election outcomes. The statement that "turnout was the key" is one of the most common observations of political pundits—and also one of the least likely to be true. The fact is that the intensity of support for different candidates among different groups in the electorate, especially large groups, is far more important than turnout in deciding election outcomes. Indeed, given the Republican and Democratic support levels of different groups (that is, what percentage of white middle class voters supported the Republicans? what percentage of black voters supported the Democrats?), even large increases or decreases in the turnout levels of these groups would be quite unlikely to change the outcome of a typical election.

The contest last year between David Duke and Edwin Edwards for Louisiana governor provides a vivid illustration of this principle. According to many , if not most, reports about the election, Edwards' victory could be attributed to a record high turnout among the black population (and it is true that black turnout was exceptionally high in this election). However, careful analysis of the election results reveals that, given Edwards' support levels among whites (45 percent) and blacks (96 percent), black turnout could have been as low as 16 percent and Edwards still would have won. In other words, he could have won the election with a record low black turnout, instead of a record high black turnout. This illustrates just how hard it is to change the outcome of an election by raising or lowering the level of turnout.

Myth #9: Registration reform would really help the Democrats. Registration reform would bring millions of Democratic-leaning nonvoters into the political process, proving a tremendous boon for the Democrats and a disaster for the Republicans. (The force of this myth is illustrated by the continuing partisan divisions on this issue in Congress and President Bush's veto of the most recent registration reform bill.)

Reality #9: Registration reform would have virtually no effect on the partisan leanings of the electorate. The political leanings of nonvoters and voters simply do not differ enough for the addition of even millions of nonvoters to make much of a partisan impact. In fact, analysis of survey data reveals that an electorate expanded through registration reform would probably contain only 0.2 percent more voters with Democratic sympathies—hardly enough to justify popping champagne corks down at Democratic headquarters or flying the flag at half-mast at Republican headquarters.

Myth #10: There is nothing we can do to increase voter turnout, given the current sorry state of American politics. Massive nonvoting is a natural response to contemporary American politics, a response we would be foolhardly to try to alter. If people don't want to vote, they won't vote and that's all there is to it.

Reality #10: There are quite a few things we could do to increase voter turnout, some of which are virtually certain to work. The fact of the matter is that most citizens' decisions not to vote are very lightly held and relatively easy to change. For example, simply making it easier to vote, by reforming the personal registration system, would probably result in increased levels of voter turnout. Exactly how much of an increase is not certain, but the weight of the evidence is so strong that we can be virtually certain that the increase would be substantial. My estimate is an increase of about 8 percentage points, which translates into adding about 15 million voters to the electorate—a substantial expansion of citizen participation by any reasonable standard.

It may also be possible to increase turnout by improving voter motivation. It is true that many citizens currently lack even the most elementary political motivation. But we are not talking about turning America's nonvoters into "political junkies" who follow every twist and turn of the campaign. Even a very low level of campaign involvement—perhaps just reading an article or two in the newspaper—or of knowledge about the candidates and issues or of faith the government is paying attention may be enough to turn a nonvoter into a voter. The key is breaking through the extraordinary detachment that many citizens have developed from the political process, so that they are connected, in even a minimal way, to the world of politics.

There are no sure remedies here, but a lot of plausible ones. They range from campaign finance reform to regulating television campaign commercials to issues-based media coverage of campaigns. The idea is to make the campaign process easier to get involved in, more informative, and less susceptible to political manipulation. We have good reasons to believe that if this goal can be accomplished, more citizens would step forward to participate. It does not take, after all, a great deal of motivation to vote, so even small gains in levels of voter involvement and understanding could pay large dividends on election day.

One might well ask: if myth number 10 is wrong and it's so easy to get more people to vote, why is so little being done to increase voter turnout? Part of the answer lies with the nine other myths. They cast such an aura of confusion around the issue and generate so much partisan haggling that increasing citizen participation has been quite difficult. I believe it's time to jettison these myths and bring tens of millions of Americans into the political process. We have little to lose and much to gain from such a move.

## CASH MANAGEMENT ACT AMENDMENTS OF 1992

Mr. SANFORD. Mr. President, I rise today in support of the Cash Management Act Amendments of 1992, a bill designed to delay implementation of the Cash Management Improvement Act of 1990 by almost 1 year. I commend my distinguished colleague from Tennessee, Senator SASSER, for his continued attention to this issue and am proud to have joined him in this effort as a cosponsor of this measure.

The 1990 act is intended to minimize the time between the transfer of Federal funds to States and the time those funds are actually used for Federal programs. Simply stated, it insures that each unit of Government loses as little interest opportunity as possible on the use of its own money. In our fury to reduce the deficit and balance our national budget, it is easy to understand the critical importance of wisely using taxpayers' dollars.

The process of formulating, circulating, and implementing regulations under the Cash Management Improvement Act [CMIA] has taken longer than expected. S. 2970 merely extends the date for final issuance of implementing regulations to July 1, 1993. The date for compliance would be extended to July 1, 1993, or the beginning of a State's 1994 fiscal year.

State officials, the National Governors' Association, the National Conference of State Legislatures, and the National Association of State Auditors, Comptrollers, and Treasurers have registered their support for CMIA and have said, in no uncertain terms, that additional time is needed to change their procedures in accordance with compliance rules. As it now stands, once the Department of Treasury issues final regulations, States will have less than 2 months to meet Treasury guidelines.

This noncontroversial measure is both fair and reasonable. I urge my colleagues to move toward its swift adoption.

## CHINESE STUDENT PROTECTION ACT

Mr. GORTON. Mr. President, last night the Senate passed the Gorton Chinese Student Protection Act which I introduced on June 4, 1991, 2 years after the bloody massacre at Tiananmen Square.

I would like to begin my remarks by first thanking Senators KENNEDY and SIMPSON for their assistance and support of this measure, and Congressman BARTON from Texas, and Congresswoman PELOSI of California, for their efforts in the House of Representatives. Without their efforts and particularly those of Michael Meyers with Senator KENNEDY and Curtis Hom, formally with my staff, this legislation would have only remained a dream for the thousands of Chinese nationals who will benefit from it. I would also like to request unanimous consent that the full text of S. 1216, the Gorton Chinese Student Protection Act be inserted into the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. Mr. President, Shen Tong is a young Chinese national who, for the past 3 years, has been a student at Boston University. He is slightly built, with a look of sharp intelligence etched on his features. He stands tall and straight, and moves quickly, with purpose.

It is easy to imagine Shen Tong as a young man facing down a tank in Tiananmen Square in June 1989. It is easy to imagine him, 1 year later, in Beijing, as a student breaking little bottles in defiance of Deng Xio Peng—whose name is a Chinese homophone for little bottles.

Though Shen Tong was in Beijing, and participated in the Democratic movement protests during the Tiananmen disaster, he was not the young man at the tank. And though he may have sympathized with those breaking bottles in Beijing, he was not with them; by that time—indeed, immediately after the Tiananmen massacre, at the wish of his dying father—he had left China and fled to the United States.

But Shen Tong, in spirit if not in body, was with the students in both cases, defying oppression, demanding freedom.

And because of those activities and sympathies, we know where Shen Tong is now, Mr. President. He is in detention in China. He left Boston several weeks ago to return to his home, responding to intimations by the Chinese Government that returning students would be treated fairly and without retribution for their parts in the protests of 1989. When Shen returned, he attempted to establish on office for his organization, the Democracy for China Fund. However, shortly before his first press conference, he was arrested. Shen Tong's terrifying experience has only increased the anxiety of those student dissidents currently residing in the United States.

Mr. President, last night Congress passed legislation which will address the fear and uncertainty that must grip those Chinese students remaining in the United States since the Tiananmen massacre. Unwilling either to return home to the type of faithless promises that met Shen Tong, and yet unable, legally, to go forward with their lives, schooling, or careers here in America, these young people have been in a 3-year limbo.

There is the young Chinese student who writes that he has been seeking employment here as an actuarial in the insurance industry, a position that requires only a B.S. in mathematics and passing an actuarial exam. This young man holds a B.S. in mathematics, an M.S. in statistics, an M.S. in operations research, has passed four actuarial exams, and has been unable to find even an entry level position in more than a year of searching. Why? Most American companies have policies that correctly give hiring priority to American citizens or permanent residents. There is no prioritization category for those with indeterminate status.

His story is validated by another recent graduate, this one from the Massachusetts Institute of Technology, who tells of the frustration of being unable to sign up for on-campus interviews with the vast majority of American companies who, again, require the minimum status of permanent resident for even preliminary consideration of employment.

A final story, Mr. President, is of a young husband and father who had been a mechanical engineering student at Virginia Tech. Because of his political activities when he was in China, he knows he cannot return there, and would not, at any rate, without a deep-rooted belief in the safety of his family. He knows that, without passage into law of this bill, after expiration of the President's Executive order he will be illegal in this country. Because of his fear of deportation to, and subsequent political persecution in China, this young potential engineer, with a family to support, left Virginia Tech and has taken a more anonymous job—as a delivery boy in Washington, DC.

Mr. President, if we doubt the sincerity of these people's fears and frustrations, be aware that I purposely did not identify any of them—at their request. They anxiously await the time when they may freely and publicly speak out for the cause of democracy in China without fear that in so doing, they might one day to be forced to return to that country before it is safe to do so. Permanent residency will provide the safety net to let them fight for their country of birth without fear of eventual retribution.

The Chinese Student Protection Act will give these people the opportunity to apply for permanent residency, the first step toward citizenship—and, indeed, we could count ourselves fortunate if these talented young people became Americans. But the legislation has a deeper purpose.

The Chinese Student Protection Act will increase the pressure on the Chinese Government to encourage the return of their best and brightest, and to keep their promises of safety and freedom—including intellectual freedom—for those who choose to return. Because for every Shen Tong who is imprisoned, there will be a Chinese student who chooses to remain in the United States. For every promise broken by the Chinese Government, our Government will extend the promise of democracy, a promise that the students know will not be broken.

China cannot withstand this kind of self-imposed purge of the most talented of its young generation. To draw them back, they must behave honorably, for we will have given the students an alternative—to become Americans, where their freedom is ensured, and where their ideals and love of democracy are welcomed as the foundation of our culture.

There is a riveting book—"Life and Death in Shanghai"—that details the horrors of the Chinese cultural revolution. It was written by Nien Cheng, a Chinese woman who was imprisoned by the Government for 6½ years as an enemy of the people. In her memories, she cautions us:

> What was right yesterday became wrong today, and vice versa. Thus the words and actions of a Communist Party official * * * were valid for a limited time only.

The Chinese Student Protection Act will help ensure that the words and actions of the Chinese Government are more than a feather in the wind, that they can be counted on. If time proves otherwise, China stands to lose an irrevocable resource. If China is to move into the 21st century with the rest of the world, they will need the assistance of these young people.

Mr. President, there will be a secondary, but equally important, consequence of the act if it does indeed cause the Chinese Government to welcome its young citizens home without reprisal, and it is this: Since that extraordinary year of 1989, when communism failed universally as a serious political experiment, the world's countries have begun to institute free market policies. The process has been wrenchingly slow and ponderous, for most of these governments have no free market tradition or history on which to draw. There citizenry simply do not know what capitalism looks like.

If China succeeds in convincing its students to return, they will provide a large and invaluable pool of citizens who know firsthand how a free market economy looks and operates. More important, these students will have firsthand knowledge of the tangible and intangible benefits that freedom provides. They will provide the structure, the impetus, and the moral for China as it begins its arduous climb into modern economic policies. With the help of their young American-educated citizens, their journey will prove less daunting than those of many other countries now embarked on the same path. Without those students, China will remain the greatest anachronism of the new world order, a massive, sleeping agrarian giant, isolated in a world that has passed it by. We will all be the poorer if that should happen.

Mr. President, the Chinese Student Protection Act is designed to assist China as it moves into the modern world by insisting that they treat their citizens with dignity and truth or risk losing them. We do not wish to steal away China's premier citizens without cause. But China should make no mistake: This country would be privileged and proud to have as citizens the likes of Shen Tong. Shen Tong is the living embodiment of our own ancestors who fought for our freedom two centuries ago. If it is easy to imagine him at Tiananmen Square, it is equally easy to imagine his spirit at Boston Harbor over 200 years ago, for he would have been there, Mr. President, hurling boxes of tea, the despised symbol of injustice, into the sea.

It may be too late for Shen Tong, for he is still in custody in China. His frantic mother has been unable to discover where he is being kept, or when—or if—he will be released.

I stated earlier that Shen Tong was not the young man standing down the tank in Tiananmen Square. Tragically, that was not just presumption on my part. That courageous young man, who inspired anyone who has ever nurtured the dream of freedom in his heart, was named Wang Wei Ling. He has not been seen since that day of infamy in June 1989. Mr. President, Wang Wei Ling is presumed dead by his compatriots. The same fate could await Shen Tong, and if it does, the Chinese Government should understand clearly that this country will harbor China's expatriates, and welcome them to their new country—America.

In the memory of Wang Wei Ling, and for the cause of Shen Tong, I congratulate and thank the Members of this body for their bi-partisan efforts, and urge the President to immediately sign the Chinese Student Protection Act into law.

EXHIBIT 1

S. 1216

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Chinese Student Protection Act of 1992".

**SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rule shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITIONS; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(E) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.

## DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on H.R. 5517 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1992.)

Mr. ADAMS. Mr. President, I am pleased to present the conference report on the fiscal year 1993 D.C. appropriations bill. This bill was produced by the longest, most difficult conference that I have ever experienced in 4 years as chairman of this subcommittee. It was difficult, not because we did not get along, Senator BOND Could not have been more helpful and our colleagues from the other body were as gracious and accommodating as ever. It was a difficult conference because of the decision we had to make. I know that every subcommittee of the Appropriations Committee has had to choose between very unpleasant and unappealing alternatives in order to produce a bill this year, and ours was certainly no exception. We were also faced with very painful decisions.

The bill we bring back from conference contains a total of $688 million in Federal funds and $4 billion in District of Columbia funds. That is within our allocation under the Budget Act and is $84,000 below the President's request. It is also below the fiscal year 1992 Federal funds appropriation to the District by nearly $12 million.

The agreement includes a requirement that a death penalty initiative be placed on the ballot this November to allow the citizens of the District of Columbia to decide whether or not they want a death penalty in the District. This provision is much the same as the one included by Senator SHELBY when the Senator passed the bill, except that it maintains the principle that homicide remain a local crime. The amendment added by the House would amend the D.C. Code to provide for a penalty of life imprisonment without parole or death for first degree murder.

Mr. President, I want to make clear my position on this issue. I am not opposed to the death penalty, I do not favor imposing the death penalty on the District of Columbia from Capitol Hill. The provision before us is not the way I would prefer for this matter to get on to the ballot. I would prefer that the District Council, or the citizens through the normal initiative process, decide this issue. But this process is preferable to having the Congress simply impose a death penalty without consideration by the citizens of the city.

The conference agreement includes a provision added by the Senator from Mississippi that would have prevented the District from implementing the District's Health Care Benefits Expansion Act. While I am personally opposed to this provision we have a vote in the Senate on the matter and with the vote earlier today in the House it is clear that a majority of both Houses favor this provision, so it is included.

Mr. President, the conference agreement does not include the amendment offered by Senator McConnell which would have legalized the purchase and use of Mace in the District after January 1, 1993. The conferees received a letter from Chairman JOHN WILSON in which he states that he has introduced legislation that would make Mace legal and is committed to its passage before yearend. On that basis we agreed to delete this provision and give the council an opportunity to act.

The most difficult part of what we did was to eliminate $30.8 million that was in both the House and Senate versions of the bill for the Mayor's crime and youth initiative. This cut was necessitated by the President's threatened veto, and OMB scoring of language in the Senate bill, which was contrary to the way CBO scored the same provision. The Office of Management and Budget also raised objections to provisions which were taken in order to accommodate the Mayor's highest priority program. All of these objections left us no choice but to cut these funds from the bill.

I was also disappointed that the conference was not able to include an additional $!,140,000 for the District's Home Purchase Assistance Program for a project in the Columbia Heights neighborhood. This project straddles the 14th Street corridor that was burned out during the 1968 riots and has remained a corridor of broken promises for too long. I drive in that neighborhood on my way home quite often. I think it is a tragedy that we have not moved to try to provide housing and to stabilize this neighborhood. The funds that the Senate recommended were intended to restore the essential unifying element of the neighborhood and its former economic character.

In September 1990 the Columbia Heights Neighborhood Strategic Planning Conference identified the needs of the community as:

First, affordable homeownership;

Second, a balance between rental and homeownership housing;

Third, an increase in neighborhood service and retail establishments; and

Fourth, elimination of vacant lots.

Eight nonprofit community development organizations submitted a proposal with the support of six other team members which have provided design, legal, financial, planning support and technical assistance.

The project calls for construction of 57 units of housing and 21,650 square feet of retail space on four sites. The total estimated development costs for all four sites is $6,400,000.

The Housing Assistance program funds are required in fiscal years 1993 and 1994 to make this dream a reality. This will insure that working families earning annual incomes of less than $25,000 will have homeownership opportunities. It is my intention that this project in the 14th Street corridor should receive the highest priority in the allocation of Housing Assistance funds, and I intend to work to see that this project comes to fruition without delay.

Mr. President, we also were unable to include $250,000 included by the Senate for the Parents as Teachers program in the D.C. Public Schools. We began this program last year at the urging of the Senator from Missouri. The program has been implemented in the Frederick Douglass and Stanton Dwellings Housing projects and has been very well received. In testimony received by the committee school officials stated that the program has been very successful in breaking down the sense of isolation that poor parents often experience, reducing the stress of parenting and make parenting more fun.

Mr. President, one of the few bright spots in our agreement is the establishment of the trauma care fund. The cost of uncompensated hospital care in the District exceeds $200 million annually, with uncompensated trauma care is the most expensive element of this problem. It is also the element that is most closely related to the crime and violence in the District. These funds will be provided to compensate for reimbursed costs and will be available to hospitals to help offset operating results or to meet important capital needs, as the hospital's governing bodies decide.

In a study, requested by your committee in last year's appropriations report, the Commission on Public Health analyzed the care provided at the six level I trauma care facilities and the degree to which the cost of the care given was reimbursed. The Commission found that during the period of the 3 months that they looked at these hospitals sustained losses of $5.4 million in trauma care.

In addition to the study by the city government, the D.C. Hospital Association has estimated that the cost of criminal violence to hospitals in the District is in excess of $20 million. The Hospital Association also estimates that 68 percent of victims of violent crime were uninsured, and 55 percent of the costs were due to crimes involving a firearm.

Mr. President, the trauma care fund is a logical next step to several steps the Congress has taken over the past 4 years. I take strong exception to those who say that the Congress is not doing enough to help the city fight crime.

In fiscal year 1990 we added $31.8 million in a drug emergency appropriation. Included in this appropriation were funds and authority to hire 1,000 new police to the Metropolitan Police Department in order to provide city officials with maximum flexibility to put more officers on the street to deal with the open air drug markets in the city.

It also included $2.6 million to provide for eight additional associate judges on the D.C. Superior Court to help them deal with the increasing caseload of drug arrests and other backlogged felony cases.

On the drug prevention side we included $2 million to begin a program to reach out to pregnant women who were pregnant and get them into treatment. We also included $1.8 million for the public schools to develop after school activities and to develop, what has become a very successful dropout prevention program, called the Options Program. At hearings this year we received testimony hat 80 percent of the kids going through the program are back in school and making passing grades. As a matter of fact the Senate included $350,000 in the 1993 bill to expand the size of this program this year, but had to give it up because of the President's threatened veto.

Mr. President, in fiscal year 1991 we included $26.7 million to continue those programs and included $14 million for the school system, $3 million for programs for border babies, children of substance abusers, a residential after care program for pregnant substance abusers after the baby comes, and to expand the city's outpatient care for drug addicts.

Finally, last year these programs continued within the District's budget without additional Federal funds and we attempted to establish a trauma care fund to address the effect that drugs, and the street violence that they spawn, are having on the financial condition, and the quality of care, at District hospitals.

In November 1991 the Mayor announced a crime and youth initiative with several components and both the House and Senate included $30.8 million in their respective bills to support this initiative, and asked the Mayor to report to us the specific programs for which the funds would be used. However, because of the need to bring this bill within the President's requested amounts we deleted these funds.

So, Mr. President, we have made some very difficult decisions from among some very unpleasant choices. It has not been easy. But for the collegiality of my colleagues it would have been unbearable.

Mr. President, I want to close with a few personal comments. This occasion marks the last time I will have the privilege of bringing a conference report on the D.C. appropriations bill to the floor of the Senate. My congressional career has been blessed with the ability to serve the State of Washington and to be involved in much of the recent history of the city of Washington. This task has been made the more rewarding by the help and support of the other members of the subcommittee Senators FOWLER and KERREY, on our side, have been helpful and supportive throughout this entire process. My junior colleague from the State and Washington, Senator GORTON, who is also a member of the subcommittee, was prompt and interested in our deliberations.

Mr. President, I owe a special note of thanks to my colleague from Missouri, our fine ranking member of the subcommittee, Senator BOND.

The State of Missouri and the District of Columbia share some significant history. In 1934 the people of Missouri sent a somewhat obscure 50-year-old former county official to the Senate. He was soon assigned to the Committee on Appropriations and to the Committee on the District of Columbia, which was a separate standing committee in those days. The Senator had little patience for interference in local government, having spent his entire political career in local government to that point. So it was that Senator Harry S. Truman resigned from the D.C. Committee saying that the District ought to have home rule.

The relationship between the Show Me State and the Nation's Capital continued when, some 40 years later another Senator from Missouri, our former colleague Tom Eagleton, chaired the Senate D.C. Committee and was instrumental in securing that self-government for the citizens of the District.

So it is with that rich history and close tie that Senator BOND has assumed his role in the subcommittee. He has demonstrated the same inclination for self-determination that his predecessors have—and I want him to know that I, the Mayor and the citizens of this city appreciate his even-handed, hands-off approach to the matters involved in this bill.

Mr. President, with that explanation of the conference agreement, I will yield the floor.

Mr. BOND. Mr. President, we have before us the conference report on H.R. 5517, the D.C. appropriations bill for fiscal year 1993. This agreement was reached Wednesday, September 23, and filed last night. The other body passed it earlier today.

As the senior Senator from Washington has pointed out, H.R. 5517 provides $624,854,400 for the Federal payment to the District and $52,070,000 in Federal contribution to the D.C. retirement funds.

In addition, the conferees recommend the appropriation of $5,645,600 as payment to the District's trauma I care facilities. In 1990, the uncompensated care here in the District totaled $228,000,000.

The General Accounting Office has reported that the cost of trauma care in our Nation's urban centers is threatening to close many of these centers due to runaway costs associated with uncompensated care. These funds will help D.C. trauma I hospitals stay open.

On this issue of the Federal payment, this is not a handout or gift. It is a payment in lieu of taxes to the District from the Federal Government. It is estimated that fully two-thirds of the local economy is beyond the city's taxing authority. So this payment represents nothing more than the Federal Government making good on paying its taxes to the local government.

I am pleased that the conferees have agreed on making the full, scheduled payment to the D.C. retirement fund. This contribution supports the D.C. police officers and firefighters', teachers' and judges' retirement funds. The annual contribution is deposited into trust funds that are invested to generate revenue for future payments to retirees.

Mr. President, the Federal payment, now set by authorizing action at 24 percent of local revenues, continues at a funding level that has increased dramatically since fiscal year 1990, the last year of Marion Barry's administration. In fact, in the 3 years that Sharon Pratt Kelly has been Mayor, the Federal payment to the District has increased 31.11 percent.

I make this point in light of comments attributed to the Mayor today in which she chided Congress for their low Federal payment. With crime and murder and thefts breaking record high numbers and schools, roads and basic services breaking record low numbers, I am convinced, contrary to the Mayor, that having more money does not necessarily make the District a better place to live.

In conclusion, I would like to thank Senator ADAMS for his hard work in crafting an excellent compromise.

And would like to say again how much I appreciate the leadership he has demonstrated throughout the years on behalf of the District of Columbia.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the amendments in disagreement be considered, agreed to en bloc, and that the motion to reconsider that action be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments in disagreement considered and agreed to en bloc are as follows:

*Resolved*, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.".

*Resolved*, That the House recede from its disagreement to the amendments of the Senate numbered 14, 26, 27, and 28 to the aforesaid bill, and concur therein.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter stricken by said amendment, and on page 2 of the House engrossed bill strike line 16 down to and including "That" in line 20, and on page 1 of the Senate engrossed amendments, on line 6 strike all after "inside:" down to and including "obligation." in line 10, and insert:

TRAUMA CARE FUND

*For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter stricken and inserted by said amendment, and on page 3 of the House engrossed bill, H.R. 5517, delete line 15.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 21 through and including line 25 on page 3 and lines 1 and 2 on page 4 of the House engrossed bill, H.R. 5517.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment, and delete line 3 through and including line 6 on page 4 of the House engrossed bill, H.R. 5517.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment insert:

*: Provided further, That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or Emergency Ambulance Division to an unfunded or unauthorized position with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes.*

, and.

on page 7, after line 1 of the House engrossed bill, H.R. 5517, insert "Including Transfer of Funds)" as a centerhead.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$713,592,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$513,552,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District of Colombia Public Schools Foundation for the continued implementation of the urban model demonstration initiative in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000);*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with the following amendments:

In lieu of the matter proposed by said amendment, insert:

### *TRAUMA CARE FUND*

*For the purpose of establishing the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: Provided further, That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.*

, and

on page 16 of the House engrossed bill, H.R. 5517, after line insert:

### *PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS*

*The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with the following amendments:

In lieu of the matter proposed by said amendment, insert:

***SEC. 137. (A). LEGAL DOMICILE.***

*The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (referred to as "the Act"), is amended by adding at the end thereof the following: "The District of Columbia shall be the legal domicile of the corporation.".*

***(B). REGULATORY AUTHORITY.***

*(a) IN GENERAL.—Section 5 of the Act is amended to read as follows:*

*"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".*

*(b) REPEAL.—The Act is amended by striking section 7.*

***(C). 3. REIMBURSEMENT OF REGULATORY COSTS BY THE CORPORATION.***

*The Act (as amended by section 2 of this Act) is amended by inserting after section 6 the following new section:*

*"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market conduct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.*

***(D). EFFECTIVE DATE.***

*The amendments made by this section shall take effect on the date of enactment of this Act and expire on September 30, 1993, or upon the enactment of specific authorizing legislation.*

, and

"on page 33 line 12 of the House engrossed bill, H.R. 5517, delete "or any other".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 138 Notwithstanding any other law, the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special, or primary election to be held within 90 days after the date of enactment of this Act, the following initiative:*

### SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

### SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole.

### LEGISLATIVE TEXT

The legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, that this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

"Section 801 of the Act entitled 'An Act to establish a code of law for the District of Columbia,' approved March 3, 1901 (D.C. Code 22-2404(a)), is amended—

"(1) by amending subsection (a) to read as follows:

'(a) Punishment of murder in the first degree shall be life imprisonment without the possibility of parole, or death.';

"(2) by striking subsection (b) and redesignating subsection (c) as subsection (b); and

"(3) by adding at the end the following new subsections:

'(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

'(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

'(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

'(2) DURESS.—The defendant was under unusual and substantial duress.

'(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 908 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code 22-105)) in the offense, which was committed by another, but the defendant's participation was relatively minor.

'(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

'(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

'(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnapping, or arson.

'(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

'(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in paragraph (6) of D.C. Law 1-85 (D.C. Code 6—2302(6))).

'(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

'(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

'(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

'(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

'(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

'(10) SUBSTANTIAL PLANNING AND PREMEDIATION.—The defendant committed the offense after substantial planning and premeditation.

'(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

'(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

'(A) while the public servant was engaged in the performance of his or her official duties;

'(B) because of the performance of the public servant's official duties; or

'(C) because of the public servant's status as a public servant.

'(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

'(f) Notice of Intent To Seek Death Penalty.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

'(g) Judge and Jury at Capital Sentencing Hearing.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

'(h) Proof of Mitigating and Aggravating Factors.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

'(i) Findings of Aggravating and Mitigating Factors.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

'(j) Finding Concerning a Sentence of Death.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors for that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

'(k) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of race, color, religion, national origin, or sex of the defendant or any victim.

'(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment without the possibility of parole.

'(m) Review of a Sentence of Death.—

'(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court appeals.

'(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influences of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

'(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

'(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

'(o) Special Bar to Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

'(p) Conscientious Objection to Participation in Execution.—No employee of the District of Columbia government, and no person providing services to the government under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participate in any execution" includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

'(q) Appointment of Counsel for Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11-2601 et seq.), and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, chapter 26 of title 11 of the District of Columbia Code (D.C. code 11-2601 et seq.) shall apply to appointments under this section.

'(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

'(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

'(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 23-110 of the District of Columbia Code in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

'(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 23-110 of the District of Columbia Code attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

'(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 23-110 of the District of Columbia Code. The stay shall run continuously following imposition of the sentence and shall expire if—

'(1) the defendant fails to file a motion under section 23-110 of the District of Columbia Code within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

(2) upon completion of district court and court of appeals review under section 23-110 of the District of Columbia Code, the Supreme court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 23-110 of the District of Columbia Code.

'(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

'(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

'(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

'(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

'(x) COMMUNTATION OF SENTENCE OF DEATH.—The Mayor shall have power to commute a sentence of death under this section to a sentence of life imprisonment, without parole.

'(y) "DEFINITIONS.—For purposes of this section—

1'(1) "State" includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States;

'(2) "offense", as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

'(3) "drug trafficking activity" means a felony punishable under D.C. Law 4-29 (D.C. Code 33-501 et seq.) or a pattern or series of acts involving one or more such felonies;

'(4) "robbery" means obtaining the property of another by force or threat of force;

'(5) "burglary" means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

'(6) "sexual abuse" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

*'(7) "arson" means damaging or destroying a building or structure through the use of fire or explosives;*

*'(8) "kidnapping" means seizing, confining, or abducting a person, or transporting a person without his or her consent;*

*'(9) "pre-trial release", "probation", "parole", "supervised release", and "other post conviction condition release", as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction of an offense under the law of the District of Columbia, another State, or the United States; and*

*'(10) "public servant" means any employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of title 18, United States Code.'.''.*

## MEASURE PLACED ON CALENDAR

Mr. BENTSEN. Mr. President, I ask unanimous consent that H.R. 5851, a bill to establish a commission on information technology and paperwork reduction just received from the House be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GARNISHMENT EQUALIZATION ACT

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 685, S. 316 the Garnishment Equalization Act, the committee's substitute be agreed to, and the bill as amended be deemed read three times, passed, and the motion to reconsider be laid on the table, and that any statements on this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 316), as amended, was deemed to have been read three times and passed, as follows:

S. 316

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Garnishment Equalization Act of 1992".

**SEC. 2. GARNISHMENT OF FEDERAL EMPLOYEES' PAY.**

(a) IN GENERAL.—Subchapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

**"§ 5520a. Garnishment of pay**

"(a) For purposes of this section, the term—

"(1) 'agency' means each agency of the Federal Government, including—

"(A) an Executive agency, except for the General Accounting Office;

"(B) the United States Postal Service and the Postal Rate Commission;

"(C) any agency of the judicial branch of the Government; and

"(D) any agency of the legislative branch of the Government, including the General Accounting Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;

"(2) 'employee' means an employee of an agency or member of the uniformed services as defined under section 2101(3);

"(3) 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment, that—

"(A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and

"(B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney's fees, interest, or court costs; and

"(4) 'pay' means—

"(A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay or otherwise; and

"(B) does not include awards for making suggestions.

"(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.

"(c)(1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—

"(A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or

"(B) the head of such agency, if no agent has been so designated.

"(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.

"(d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

"(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

"(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

"(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section.

"(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

"(2) A legal process to which an agency is subject under sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

"(i) The provisions of this section shall not modify or supersede the provisions of sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

"(j)(1) Regulations implementing the provisions of this section shall be promulgated—

"(A) by the President or his designee for each Executive agency, except—

"(i) with regard to members of the armed forces as defined under section 2101, the President or, at his discretion, the Secretary of Defense shall promulgate such regulations; and

"(ii) with regard to employees of the United States Post Service, the President or, at his discretion, the Postmaster General shall promulgate such regulations;

"(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

"(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

"(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.".

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of chapters for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5520 the following:

"5520a. Garnishment of pay.".

(2) Section 410(b) of title 39, United States Code, is amended—

(A) by redesignating the second paragraph (9) (relating to the Inspector General Act of 1978) as paragraph (10); and

(B) by adding at the end thereof the following new paragraph:

"(11) section 5520a of title 5.".

**SEC. 3. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

## AWARDS FOR FEDERAL EMPLOYEES

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 616, H.R. 2263, relating to certain programs under which awards may be made to Federal employees for superior accomplishments; that the bill be deemed read three times, passed; and the motion to reconsider laid on the table; and the title amendment agreed to; further, that any statements appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 2263) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or costs savings disclosures, and for other purposes, had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.**

(a) REPEAL OF LIMITATION.—Section 4514 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by striking ut the item relating to section 4514.

(c) AUTHORITY TO MAKE AWARDS.—Awards may be made under subchapter II of chapter 45 of title 5, United States Code, on and after the date of the enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was deemed read the third time and passed.

The title was amended so as to read: "An Act to amend chapter 45 of title 5, United States Code, to authorize awards for cost savings disclosures."

## NATIONAL TRIAD PROGRAM ACT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 693, S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; that any statements with respect to passage of this bill be inserted at the appropriate place in the RECORD; and that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2484) was deemed read the third time, and passed, as follows:

S. 2484

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Triad Program Act".

**SEC. 2 FINDINGS.**

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) currently, the elderly comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of our Nation's population;

(3) older Americans find themselves uniquely situated in our society, environmentally and physically;

(4) many elderly Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often con-

tribute to an older person's susceptibility to criminal victimization;

(6) our elders are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that elderly victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against the elderly are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of elder abuse and neglect, both in their homes and in institutional settings, many experts believe that this crime is substantially underreported and undetected;

(10) similarly, while some evidence suggests that the elderly may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against the elderly;

(12) these differences, in turn, can contribute to inconsistent approaches to the problem and inhibit a genuinely effective response;

(13) there are, however, a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of the elderly;

(14) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (LACP), and the American Association of Retired Persons (AARP), is one such effort;

(15) recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government seeks to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population; and

(16) our goal is to support a coordinated effort among law enforcement and social service agencies to stem the tide of transgenerational violence against the elderly and to support media and nonmedia strategies aimed at increasing both public understanding of the problem and the elderly persons skills in preventing crime against themselves and their property.

**SEC. 3. PURPOSE.**

The purpose of this Act is to address the problem of crime against the elderly in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in implementing specific programs of crime prevention, victim assistance, citizen involvement, and public education that offer a high probability of improving the coordinated effectiveness of law enforcement and social service efforts. The effects of local coalitions, such as the Triad model being piloted in a number of areas by National Sheriffs' Association, International Association of the Chiefs of Police, and American Association of Retired Persons, are of particular interest.

**SEC. 4. NATIONAL ASSESSMENT AND DISSEMINATION.**

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to as the "Director") shall conduct a national assessment of—

(1) the nature and extent of crimes against the elderly;

(2) the needs of law enforcement, health, and social service organizations in working to prevent, identify, investigate, and provide assistance to victims of those crimes; and

(3) promising strategies to respond effectively to those challenges.

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a range of sources in order to develop accurate information on the nature and extent of crimes against the elderly, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) the problem of the most vulnerable and hard-to-reach elderly who are in poor health, are living alone or without family nearby, or are living in high crime areas;

(3) the problem of elderly who are abused and neglected, sometimes in the home and sometimes in health care facilities, sometimes subjected to physical abuse and at other times to verbal aggression and neglect;

(4) the problem of fear of victimization, which inhibits the freedom of the elderly and can make them prisoners in their homes;

(5) the identification of strategies and techniques that have been shown to be effective, or appear to hold promise of being effective, in responding to the problems described in this subsection and in preventing, reducing, and ameliorating the impact of crime against the elderly;

(6) the analysis of the factors that enhance or inhibit development of a coordinated response by law enforcement, health care, and social service providers to crimes against the elderly and the treatment of elderly victims; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against the elderly, including the changes anticipated in the crimes themselves and appropriate responses as our society increasingly ages, and the identification and evaluation of effective and fiscally feasible approaches to prevent and reduce victimization of our Nation's elderly citizens.

(c) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs referred to in section 2 and 3, the Director shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

**SEC. 5. PILOT PROGRAMS.**

(a) AWARDS.—The Director may make awards to coalitions of local law enforcement agencies, victim service providers, and organizations representing the elderly for pilot programs and field tests of particularly promising strategies and models for forging partnerships for crime prevention and service provision based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) ELIGIBILITY.—Pilot programs funded under this section may include existing general service coalitions of law enforcement, victim service, and elder advocate organizations that wish to use additional funds to work at a particular problem in their community, such as fraud, burglary, or abuse and neglect, or to target a particular geographic area in need of intensive services.

**SEC. 6. EVALUATION AND DISSEMINATION AWARDS.**

In conjunction with the national assessment under section 4 and the pilot programs under section 5, the Director may make awards to—

(1) coalitions of national law enforcement, victim service, and elder advocate organizations, for the purposes of providing training and technical assistance in implementing pilot programs, including programs based on the concepts of the Triad;

(2) research organizations, for the purposes of—

(A) investigating the types of elder victimization shown by the national assessment to present particularly critical problems or to be emerging crimes about which little is known;

(B) evaluating the effectiveness of selected pilot programs; and

(C) conducting the research and development identified through the national assessment as being critical; and

(3) public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against the elderly and promoting ideas or programs to prevent them.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated $6,000,000 to carry out this Act, of which—

(1) up to $2,000,000 may be used to fund up to 20 pilot programs;

(2) up to $1,000,000 may be used to fund a national training and technical assistance effort;

(3) up to $1,000,000 may be used to develop public service announcements; and

(4) up to $2,000,000 may be used for the national assessment, the evaluation of pilot programs, and the carrying out of the research agenda.

Mr. JOHNSTON. Mr. President, it gives me particular pleasure to pass the National Triad Program Act in the Senate, because that bill happens to have been my bill and involves protection of the elderly through programs involving what we call the triad program between the local law enforcement agencies, the AARP, and the elderly, under which the elderly will have a closer liaison with law enforcement.

There are programs, for example, whereby the elderly will leave their name for a call in the morning; let us say at 9:30, they will get a call from the local sheriff or police, and if there is no answer, they will be called back in 15 minutes. If there is no answer at that time, law enforcement people will send someone out to check on them.

So, Mr. President, this bill will help the elderly in their relationship to law enforcement, will give them some assurance about their fear of being victims of crime, as the elderly are victimized by crime so often, and it will give them some freedom from fear, because fear with the elderly of crime is one of the most debilitating of all if you would call it a disease or a disability of the elderly.

So I am very pleased, Mr. President, that this bill was passed.

## HEAD START IMPROVEMENT ACT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5630, the Head Start Improvement Act, that the Senate proceed to its immediate consideration; the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5630) was deemed read a third time, and passed.

### HEAD START IMPROVEMENT ACT

Mr. KENNEDY. Mr. President, the Head Start Improvement Act is a necessary step to refine and improve the highly successful Head Start Program. This legislation makes several worthwhile improvements to Head Start. They will expand the program to more effectively serve low-income children and their families.

We know that the Head Start Program works. It allows disadvantaged children to start elementary school on a level playing field. This community-based, one-stop-shopping program has become a hallmark of effective Federal action.

Under current law, however, Head Start grantees may not purchase facilities. This bar causes unnecessary barriers in serving children in many communities across the country. It results in complicated redtape tying providers' hands, and unnecessary costs to the Federal Government.

For years, local programs have invested in renovating someone else's facility, only to be told by the owners—sometimes just 1 year later—that they must find new space. Countless schools have found that space originally allocated for Head Start classrooms was needed to accommodate their own expanding enrollments. Churches decide that renovated Head Start classrooms are needed for Sunday school classrooms or child care facilities.

In desperation, many Head Start Programs have turned to less than stable portable and mobile units, which they purchase as equipment. Some of these mobile units were among the buildings devastated by Hurricane Andrew in Florida last month. The Head Start Improvement Act removes this unwarranted prohibition and enables local Head Start programs to purchase facilities with the approval of the Secretary of Health and Human Services.

This legislation also addresses a major safety issue for Head Start children. It requires the Department of Health and Human Services to issue regulations for the purchase and safe operation of vehicles used by Head Start agencies. Currently, there are no Federal transportation guidelines for Head Start programs. Many children in both rural and urban communities are transported in a range of vehicles every day, and it is important to require HHS to establish minimum safety requirements.

All children deserve a safe and healthy start. Head Start has a remarkable record of ensuring that its children receive checkups and necessary treatments. Last year, 99 percent of Head Start participants received dental checkups, compared to only 5 percent of impoverished children not enrolled in such programs. This bill gives local Head Start programs the option of building on this exemplary record by permitting younger siblings of Head Start children to use the program's health services.

Family assistance has always been an integral component of Head Start's services; 55 percent of Head Start families are headed by a single parent and 65 percent have an income below $6,000 a year. This bill helps Head Start families by requiring local agencies to offer parents both literacy and parenting skills training.

In addition, the Head Start Improvement Act includes provisions which guarantee quality improvement funds to all local grantees this year. It provides greater discretion to the Secretary to waive the program's in-kind matching requirement, to ensure that communities facing difficult economic situations are not precluded from serving additional children. And it provides increased monitoring of new Head Start programs.

This legislation makes the Nation's premier child development program even more effective for children, families, and communities. It helps a good program become even better, and I urge the Senate to approve it.

Mr. COATS. Mr. President, I agree that it is very important to allow Head Start programs greater stability by enabling them to purchase buildings. I understand that many programs have been forced to move after investing in costly renovations or have children in mobile or portable units that could pose potential safety hazards. I support the Head Start Improvement Act which allows Head Start programs to purchase facilities—however, I want to make it absolutely clear that Head Start programs intending to purchase a facility must provide assurances to the Secretary that no funds will be diverted from Head Start's most important mission: Providing comprehensive children's services to a maximum number of our poorest children. It is my understanding that since program purchases will have to be approved by the Secretary that HHS will ensure that services to children remain the key priority. Is that the understanding of the Senator?

Mr. KENNEDY. I believe we are in complete agreement. This bill makes an important change by allowing Head Start programs to purchase facilities. This authority should prove quite cost effective because it will, as you mentioned, reduce the need for continuous and costly renovations. It is my hope that this will lead to increased program stability and enhanced community rootedness. However, in order for programs to purchase their buildings, this legislation requires the Secretary's approval. If this way, it allows the Secretary to guarantee that program funds will not be displaced by the purchase of a facility. Obviously, our first priority is serving children. I believe that programs will be best able to accomplish the goal of expanding enrollment, by offering the children the benefits of a stable and safe facility.

I thank the Senator from Indiana for his concern, his support for this legislation, and his long-term commitment to the Head Start Program.

## AUTHORIZING PRODUCTION OF SENATE DOCUMENTS

Mr. JOHNSTON. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on production of Senate documents and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 347) to authorize document production in *United States* v. *Charles H. Keating, Jr., et al.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the Department of Justice has requested that the Select Committee on Ethics produce copies of documents for use at trial in the case of United States of America versus Charles H. Keating, Jr., which is pending in the U.S. District Court for the Central District of California. In this criminal proceeding, Mr. Keating and his son are charged with racketeering, conspiracy, bank and securities fraud, misapplication of funds, and interstate transportation of stolen property, relating to the failure of Lincoln Savings and Loan Association. The Justice Department is requesting from the Ethics Committee copies of a number of documents that the committee subpoenaed from Mr. Keating in the course of the committee's own inquiry, which it completed last year.

Unlike other committees of the Senate, the Ethics Committee has standing authority, in certain circumstances, to provide law enforcement authorities with investigative records without obtaining, in individual cases, approval of the Senate. The basis for that standing authority is the committee's duty under section 2(a)(4) of Senate Resolution 338 of the 88th Congress to refer potential violations of law to the proper law enforcement authorities. The committee has correctly understood that authority to embrace, by fair implication, the corresponding authority from the Senate to provide to law enforcement authorities records which support, or should be considered in connection with, a referral.

When the Ethics Committee does not refer a matter to the Department of Justice, as it did not following the completion of its inquiry concerning Mr. Keating, then the committee may not use its authority under Senate Resolution 338 to provide documents to the Department of Justice. In the absence of a referral, the committee requires authorization under Senate Rule XI, in the same manner as other Senate committees, to produce records to the Department of Justice.

The committee has determined, in accord with Senate practice under rule XI, that production of the records would promote the interests of justice in a manner consistent with the privileges of the Senate, and has recommended the Senate's agreement to this resolution.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

So, the resolution (S. Res. 347) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 347

Whereas, in the case of United States v. Charles H. Keating, Jr., et al., No. Cr. 91-1021-MRP & 92-110 MRP, pending in the United States District Court for the Central District of California, the United States Attorney has requested that the Select Committee on Ethics produce documents that the Committee obtained by subpoena;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Select Committee on Ethics is authorized to produce documents in United States v. Charles H. Keating, Jr., et al., except concerning matters for which a privilege should be asserted.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORIZING PRODUCTION OF RECORDS

Mr. JOHNSTON. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization for the production of Senate records and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 348) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a law enforcement entity has requested access to documents obtained by the Permanent Subcommittee on Investigations during its investigation into allegations of corruption in professional boxing.

In keeping with the Senate's customary practice with regard to similar requests, this resolution would authorize the chairman and ranking minority member of the subcommittee to provide to this entity, and other law enforcement and regulatory entities that may make similar requests, subcommittee records of its investigation on allegations of corruption in professional boxing.

The PRESIDING OFFICER. Without objection, the resolution and preamble are agreed to.

So, the resolution (S. Res. 348) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 348

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation of allegations of corruption in professional boxing;

Whereas, a law enforcement entity has requested access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide, to law enforcement and regulatory entities requesting access, records of the Subcommittee's investigation of allegations of corruption in professional boxing.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 5373 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5373) making appropriations for energy and water development of the fiscal year ending September 30, 1993, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD, of September 24, 1992.)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the report be considered adopted and a motion to reconsider laid on the table, that the Senate concur en bloc in the amendments of the House to the Senate amendments numbered 2, 6, 7, 9, 17, 18, 19, 22, 27, 31, 35, 37, 39, 43, 44, 45, 46, 47, 57, and 58, and that a motion to reconsider that action be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the conference report was agreed to.

The Senate concurred en bloc in the amendments of the House to the Senate amendments numbered 2, 6, 7, 9, 17, 18, 19, 22, 27, 31, 35, 37, 39, 43, 44, 45, 46, 47, 57, and 58; as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;*

*Los Angeles River Watercourse Improvement, California, $300,000;*

*Rancho Palos Verdes, California, $400,000;*

*Miami River Sediments, Florida, $50,000;*

*Monroe County (Smathers Beach), Florida, $500,000;*

*Casino Beach, Illinois, $110,000;*

*Chicago Shoreline, Illinois, $600,000;*

*McCook and Thornton Reservoirs, Illinois, $3,500,000;*

*Lake George, Hobart, Indiana, $260,000;*

*Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;*

*Mississippi River, Vicinity of St. Louis, Missouri, $500,000;*

*Ste. Genevieve, Missouri, $750,000;*

*Passaic River Mainstem, New Jersey, $10,000,000; and*

*Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $2,800,000:*

*Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: Provided further, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: Provided further, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a study of a greenway corridor along the Ohio River in New Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101–101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101–514, and $250,000 of the funds appropriated under this heading in Public Law 102–104: Provided further, That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: Provided further, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: Provided further, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: Provided further, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: Provided further, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: Provided further, That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: Provided further, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: Provided further, That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: Provided further, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters, including preparation of the environmental assessment and design work associated with demolition of the building: Provided further, That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the feasibility phase of the study of the Devil's Lake Basin, North Dakota, and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hickory Lake, Tennessee: Provided further, That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii, project*

*Resolved,* That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows;

In lieu of the sum named in said amendment, insert: *$1,000,000*

*Resolved,* That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,230,503,000*

*Resolved,* That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*Kissimmee River, Florida, $8,000,000;*

*O'Hare Reservoir, Illinois, $3,000,000;*

*Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;*

*Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000;*

*Wallisville Lake, Texas, $500,000; and*

*LaConner, Washington, $870,000:*

*Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: Provided further, That using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities associated with the Yolo Basin Wetlands, Sacramento River, California, project shall be included as part of project costs for the purposes of cost-sharing authorized by law: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: Provided further, That using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05–86–C–0101 for the Walnut Creek, California, flood control project: Provided further, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: Provided further, That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers* *to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190: Provided further, That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction, using continuing contracts, of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cutthrough as authorized by Public Law 99–662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineers on or about July 26, 1989: Provided further, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost-shared as part of the overall project, not separately, in accordance with the cost-sharing provisions outlined in Public Law 89–298 and Public Law 102–104. Therefore, agreements executed prior to June 1, 1992, between the Federal Government and the local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost-sharing agreements or supplements: Provided further, That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: Provided further, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99–662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: Provided further, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for the Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: Provided further, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2 reaches, and the completion of construction on the Jersey City North 2 reach: Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the project for flood control, Molly Ann's Brook, New Jersey, in compliance with cost-sharing provided in section 1062 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240): Provided further, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: Provided further, That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington, project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): Provided further, That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: Provided further, That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: Provided further, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska, Bank Stabilization Project as authorized by Public Law 99–662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: Provided further, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska, Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: Provided further, That using funds made available in this Act or any previous appropriations Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000: Provided further, That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, actiong through the Chief of Engineers, is authorized and directed to excavate the St. George Harbor, Alaska, entrance to −20 MLLW in accordance with the cost-sharing provisions in Public Law 99–662*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*: Provided further, That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: Provided further, That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: Provided further, That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: Provided further, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreational improvements at the Skiatook Lake, Oklahoma, project: Provided further, That using $1,500,000*

*of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain at Federal expense the Passaic River flood warning system element of the Passaic River Mainstem Project, New Jersey, prior to construction of the project, and using $350,000 of the funds appropriated herein, the Secretary shall operate and maintain such element: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: Provided further, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and dredge an access channel and berthing area for the vessel NIAGARA at Erie Harbor, Pennsylvania, in an area known as the East Canal: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5–14, Kentucky, prior to transfer to such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5–14: Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of "475.5" named in said amendment, insert: *475.6*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 or any subsequent manual adopted without notice and public comment.*

*Furthermore, the Corps of Engineers will continue to use the Corps of Engineers 1987 Manual, as it has since August 17, 1991, until a final wetlands delineation manual is adopted.*

*None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

### *General Provisions*

#### *CORPS OF ENGINEERS—CIVIL*

*SEC. 101. Public Law 101–302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under the General Expenses appropriation title of Corps of Engineers—Civil.*

*SEC. 102. Any funds heretofore appropriated and made available in Public Law 99–88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100–71 for initiation of land acquisition activities as described in section 1114 of Public Law 99–662; and in Public Law 101–101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.*

*SEC. 103. The Secretary of the Army, acting through the Chief of Engineers, is directed to maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a non-Federal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negoitations. The settlement shall include provisions for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the non-Federal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.*

*SEC. 104. The requirements of section 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213), as pertains to the Moorefield and Petersburg, West Virginia, flood protection projects, are deemed satisfied, in consideration of the transfer of Grandview State Park by the State of West Virginia to the National Park Service for inclusion in the New River Gorge National River.*

*SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.*

*SEC. 106. In fiscal year 1993, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992.*

*Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*: Provided further, That pursuant to section 406(c)(2) of Public Law 101–628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona, for funding advanced by Prescott, Arizona, to the Bureau of Reclamation for hydrological studies required by section 406(c)(1) of Public Law 101–628: Provided further, That the prohibition against obligating funds for construction until after sixty days from the date the Secretary transmits a report to the Congress in Accordance with section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C 509) is waived for the Bitter Root Project, Como Dam, Montana, to allow for an earlier start of emergency repair work*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$8,000,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 460l–18) is amended by deleting the Proviso from the first sentence and by changing the colon after the word "purposes" to a period.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*$3,015,793,000 to remain available until expended, of which $94,800,000 shall be available only for making competitive, merit-review awards to academic research facilities, to the extent otherwise authorized by law.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,286,320,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

#### *NUCLEAR WASTE DISPOSAL FUND*

*For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: Provided, That of the amount herein appropriated, within available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: Provided further, That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of funds herein provided among the affected units of* *local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: Provided further, That none of the funds herein appropriated may be used for litigation expenses: Provided further, That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That of the amount appropriated herein, up to $3,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the Universities in Nevada, Reno, and Las Vegas, and the Desert Research Institute, and at least $750,000 to continue funding for the Mobile Sampling Platform developed and operated by the Environmental Research Center at the University of Nevada, Las Vegas. Funding to the universities will be administered by the DOE through a cooperative agreement.*

*In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of $4,523,249,000 named in said amendment, insert: *$4,568,749,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$34,028,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$4,831,547,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$2,584,301,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.*

*(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.*

*(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—*

*(1) only if—*

*(A) the President has submitted the annual report required under subsection (d);*

*(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and*

*(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and*

*(2) only if the test is conducted during the period covered by the report.*

*(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:*

*(A) A schedule for resumption of the Nuclear Testing Talks with Russia.*

*(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.*

*(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.*

*(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—*

*(i) will not be in the United States stockpile of active nuclear weapons;*

*(ii) will remain under the control of the Department of Defense; and*

*(iii) will not be transferred to the Department of Energy for dismantlement.*

*(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).*

*(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.*

*(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).*

*(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).*

*(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.*

*(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ." (the blank space being appropriately filled in).*

*(4) No report is required under this subsection after 1996.*

*(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:*

*(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.*

*(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.*

*(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—*

*(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and*

*(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in paragraph (B).*

*(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ." (the blank space being appropriately filled in).*

*(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).*

*(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.*

*(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.*

*(h) In this section, the term "modern safety feature" means any of the following features:*

*(1) An insensitive high explosive (IHE).*

*(2) Fire resistant pits (FRP).*

*(3) An enhanced detonation safety (ENDS) system.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in Title I shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.*

Mr. JOHNSTON. Mr. President, I am pleased to present the conference report on the fiscal year 1993 Energy and Water Development appropriation bill. This conference report on the bill, H.R. 5373 passed the House of Representatives by a vote of 245 yeas to 143 nays on September 17, 1992. The bill passed the Senate on August 3, 1992, by a voice vote, and passed the House of Representatives on June 17, by a vote of 365 to 51.

The conference on this bill was held on Tuesday, September 15, and the conference report was printed in the CONGRESSIONAL RECORD on Wednesday, September 16.

The conference agreement provides $22,005,643,000 in new budget obligational authority. This amount is $413,645,000 less than the budget estimates. It is $681,579,000 over the House-passed bill, and $197,000 over the Senate-passed bill.

Title I of the bill provides appropriations for the U.S. Army Corps of Engineers Civil Works Program. The conference agreement provides $3,667,133,000 in new budget authority which is $3,463,000 over the House bill and $34,603,000 over the Senate figure.

For title II, the bureau of Reclamation in the Department of the Interior, the conference agreement includes a total of $816,715,000, which is $9,110,000 below the House bill and $9,384,000 more than the Senate-passed bill.

A total of $17,158,759,000 is provided for title III for the Department of Energy programs, projects, and activities. Of this amount, $12,118,625,000 is for atomic energy defense activities, the same as the President's budget request.

Title IV provides appropriations for independent agencies and commissions and totals $363,036,000. Of this amount, $190 million is for the Appalachian Regional Commission, $21 million is for the Nuclear Regulatory Commission, $135 million for the Tennessee Valley Authority and $2,060,000 for the Nuclear Waste Technical Review Board.

Mr. President, on the amendments in disagreement, I will move that the Senate concur in the amendments of the House to the amendments of the Senate en bloc. If the Senate agrees to this action, then action on the Energy and Water appropriations bill for fiscal year 1993 will be complete and the bill will be cleared to be sent to the White House. The major issue involved in the amendments in disagreement concerns amendment No. 57. The House of Representatives has concurred in the amendment of the Senator from Oregon [Mr. HATFIELD] concerning testing of nuclear weapons. The amendment of the House is the same as the Senate approved last Friday in connection with the Armed Services Committee's authorizing legislation. It is clear that the Nuclear Testing Program as provided in that amendment is the will of the Senate and I will therefore propose that that language be approved as part of the Energy and Water appropriation bill.

I recommend to the Senate that this conference report be approved promptly so as to complete action on this appropriation bill and clear it for the President's consideration and approval.

Mr. President, I wish to express our appreciation and thanks to our House colleagues led by the chairman of the House subcommittee, the distinguished gentleman from Alabama [Mr. BEVILL], and the ranking minority member, the distinguished gentleman from Indiana [Mr. MYERS]. I also want to thank again my friend and able colleague from the State of Oregon [Mr. HATFIELD]. It is always a joy to work with him. Also, I want to express my appreciation to all of the Senate conferees who are members of our subcommittee also.

Mr. President, I wish to commend my distinguished ranking minority member, Senator HATFIELD, in the preparation and passage of the energy-water bill and adoption of the conference report.

First of all, it is a monumental accomplishment, particularly considering the fact that it includes the superconducting super collider, which I believe is the most important science project in the world today.

The Congress, the Senate, and the House, had the courage, in stringent budget times, to recognize the importance of science, to recognize that if this country is to move forward, especially in difficult times, that it must be on the wings of science, on the wings of technological proficiency more than anything else. And the Congress had the courage to face up to that.

Second, Mr. President, I would note that the distinguished Senator from Oregon [Mr. HATFIELD] has been for years the proponent of a nuclear test ban moratorium. It has been his purpose to seek international peace, first of all, and, second, to bring down the role of nuclear weapons. And to that end he has pointed out over and over again to the Senate that the testing of nuclear weapons is one of those things that has interfered with international peace. He particularly speaks well for himself in that respect.

We had some differences at the margin on what that moratorium should say. But over a period of time, that was presented to the Senate, and the Senate very strongly, with a very strong margin, concurred with the distinguished Senator from Oregon.

I think it is a signal victory for him. I think it is a strong statement of the Senate and of America for our desire to bring down the level of nuclear weapons in the world and control their proliferation, to control their testing.

The Senator from Oregon has been at the forefront of that and I think he really deserves to be congratulated. We send congratulations to Senators on very small victories sometimes. This is a major victory on his part and I think he deserves the accolades which I am sure the public at large will give him.

So I give him my own personal congratulations and particularly my thanks for helping get this bill through.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon [Mr. HATFIELD] is recognized.

Mr. HATFIELD. Mr. President, I appreciate very deeply the comments made by my chairman of this very important Subcommittee on Appropriations.

Senator JOHNSTON and I have been partners on this bill for many years now, both as a minority and as a majority person in the Senate, serving now as his ranking member.

I think his words also indicate a great deal about Senator JOHNSTON himself. I think that when an adversary to a point of view can stand and make outstanding remarks about another person, it indeed is not only a sign of being a very gracious person but a great statesman.

I might add that I think that Senator JOHNSTON and his great quest for safety testing really added a great deal to that amendment. He did not agree with certain parts of it, but it took his contribution, as that of Senator EXON from the authorizing committee, as that of the majority leader of the Senate, Senator MITCHELL.

One can fight for a cause, but if there is not sufficient bipartisan support in a body of this kind, it just can become a very futile exercise. So it was, indeed, a team effort.

I must say, Senator COHEN of the authorizing committee as well, and Senator NUNN, the chairman of the authorizing Committee on Armed Services, all contributed to the ultimate victory on this issue.

I thank it is very historic that the Congress of the United States now, for the fifth time, has made a very clear-cut statement about underground testing: Two rollcall votes in the House of Representatives, two rollcall votes in the U.S. Senate, and the voice vote tonight in now finalizing this issue.

I hope the President of the United States, who now plays the next significant role in the progress of this legislation, will carefully review not only the importance of this bill in general, but particularly what the Senator from Louisiana has pointed out about the super collider and the importance it has to future science, and will then put his pen to a signature, not on a veto, a signature to bring this final bill to law.

Mr. President, it has been, always, a pleasure to work with my chairman, Senator JOHNSTON. I always feel much more comfortable being in harness and on the same side of every issue. And there are very few issues that we are not on the same side, such as the super collider.

I have been less enthusiastic about that than I was about the underground testing. But nevertheless it was a pleasure to work with Senator JOHNSON on that issue, and many others. And again I emphasize, the difference that we had on this issue of underground testing was not in the ultimate goals to be achieved, of an international, comprehensive test ban treaty and a peaceful world. He shares those with as much enthusiasm as I do. It was methodology; it was procedure. How do we get from here to that point. And, as I say, I think he made a fine contribution even with those differences we may have had.

I think if one person helped put this really on track, it was when the Senator from Nebraska [Mr. EXON], as a subcommittee chairman of the Armed Services Committee, was able to put together, again, a broader perspective, a broader proposal than the one that was originally introduced within 54 Senators cosponsoring, by incorporating the safety factors and the safety tests and the restrictions on them for safety, and by adding the ultimate solution for world peace, which is a test ban treaty or all the nations to join.

He carried the prestige of the authorizing committee. He carried the prestige of the subcommittee chairman who deals with these highly sophisticated weapons systems. He has been out at the desert in Nevada. He has that intimate knowledge, hands-on knowledge.

Then, of course, the prestige of the majority leader of the Senate, Mr. MITCHELL, who, too, has had this great cause to carry, of world peace—devoted, dedicated as he is to those objectives of world peace.

I must say it has been a great experience. It has been a great pleasure as well as an honor to serve in that kind of a coalition with these colleagues and colleagues throughout the Senate on both sides of the aisle.

We had a good, solid Republican vote represented on our side. The majority party, of course, providing even more votes to make it a reality. It was bipartisan. And I think that really proves, again, we can resolve great issues and problems in this Senate through bipartisan effort. This is a historic night. We have all helped write the history of tonight and I hope the President joins in as a partner in this history-making event.

### MINIMUM DREDGE FLEET

Mr. HATFIELD. Mr. President, I wish to clarify a matter concerning the Corps of Engineers minimum dredge fleet, and the amount of dredge material to be made available to the private dredging companies for competitive bidding as provided in the conference report to the fiscal year 1993 Energy and Water Development appropriations bill, H.R. 5373. As the Chairman and I know, this issue was the subject of considerable discussion between our staffs prior to the conference, and was a subject of negotiation between us at the conference. I want to ensure that the corps understands what the conferees did.

At our conference, we agreed on a compromise amount of 7,500,000 cubic yards in new work to be made available for competitive bidding in fiscal year 1993. The final statutory language in section 106, included in amendment No. 22, however, uses the term "at least 7,500,000 cubic yards" in describing the compromise amount.

I am concerned that someone in the corps may try to argue that the 7,500,000 cubic yards is the floor and not the target. Someone in the corps might argue that we expect the corps to move up from that amount, not up to that amount.

As a result, I wish to ensure that the legislative history sends as clear a message as possible that the conferees agreed that the target was 7,500,000 cubic yards, and that the term "at least" does not imply a floor to be exceeded. Is this correct?

Mr. JOHNSTON. My colleague from Oregon is correct. We reached a good faith compromise allowing competitive bidding on an additional 7,500,000 cubic yards of hopper dredge work in fiscal year 1993. I join him in emphasizing to the corps that it is a target, not a floor. Of course, they may not be able to hit this precise amount exactly, and our language allows the corps to exceed it by some very small amount.

Mr. HATFIELD. I agree that we need to provide some leeway to the corps to execute their dredging contracts. I understand that calculation of the contracts for competitively bidding the contracts may require a small amount above 7,500,000 cubic yards.

We must stress, however, that Congress agreed to a target of 7,500,000 cubic yards. While I do not ascribe motives to anyone, I want to make it clear that the corps cannot first put out for competitive bid 7,400,000 cubic yards, and then put out for competitive bid another huge contract that results in far exceeding our target total of 7,500,000 cubic yards. While I agree that this is farfetched, it is better to clarify matters now.

Mr. JOHNSTON. I agree.

Mr. HATFIELD. I thank the distinguished Senator from Louisiana.

### SNAKE RIVER DRAWDOWN TEST—MARCH 1992

Mr. HATFIELD. As the chairman of the Energy and Water Development Subcommittee knows, there are several items in the conference report to H.R. 5373 which will be beneficial to our efforts in the Pacific Northwest to address many of the problems associated with the threatened and endangered salmon runs in the Columbia River Basin. In particular, one important provision included in amendment No. 9 provides $2,000,000 to compensate for public and private property damages resulting from the Corps of Engineers' March 1992 drawdown test at the Little Goose and Lower Granite projects on the Snake River. The provision authorizes and directs the Chief of Engineers "* * * to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities * * *" damaged by the drawdown. It is my understanding that the public and private ports and businesses on the Little Goose and Lower Granite projects requested that their facilities be monitored by the Army Corps of Engineers before, during, and after the March 1992 drawdown test. It is also my understanding that the corps encouraged the facility operators to expend private funds to monitor their facilities during and after the test, because they knew that the structural integrity of many of the structures was at risk and that damage might and, inevitably did, occur in several cases.

Would the chairman agree that the reference to "protection" in the statutory language as it relates to the drawdown includes this type of monitoring expense?

Mr. JOHNSTON. Yes, it is reasonable to consider that these types of monitoring activities constitute protection of the property and should be covered under the provisions of amendment No. 9.

Mr. HATFIELD. I thank the distinguished chairman of the subcommittee.

Mr. JOHNSTON. Mr. President, I see the distinguished Senator from Nebraska on the floor. I would also like to join in the accolades and commendations of him. Because as the Senator from Oregon correctly pointed out, he, as the subcommittee chairman with jurisdiction over this matter, was really the key to make it happen. I think the amendment would not have passed but for his strong support of the amendment of the Senator from Oregon and the Senator from Maine [Mr. MITCHELL].

Or should I say their support of Senator EXON's? Or their joint—triumvirate support of this amendment. I think he shares in the glory of this moment as well.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I am the only Member of the Senate not a member of the committee of jurisdiction who is here now. But I want to salute these two great leaders, whom I did not know personally when I was Governor of Nebraska. But I knew of BENNETT JOHNSTON from Louisiana, and I knew of MARK HATFIELD from the State of Oregon. It has been a great pleasure to serve with them, now my 14th year in the U.S. Senate.

There should be no question but what the water and energy bill that these two leaders fashioned has been one of the most difficult things to put together for a long, long time. I am somewhat like my friend and colleague from Oregon. I do not have the same enthusiasm for the superconducting super collider as do other Members of the Senate. Nevertheless we are learning here all the time that because of the collective wisdom of this body—regardless of the partisanship that enters in from time to time, as proven once again with this bill tonight—we are not in as much gridlock on many of the important issues of the day as some would want to believe.

Certainly, I think when we look back at this bill that is being passed tonight, because of the efforts of the Senator from Oregon and the Senator from Louisiana, we will see we are beginning, at least, to take a giant step, a stride, toward an energy policy in our country that has been seriously lacking for a long time.

I also want to thank them for all of their help with regard to the nuclear underground test ban controversy that has been with us for some time now.

As little as a half an hour ago, it appeared that, well, once again we were going to fail and not get this done. Once again, we were able to bring it back together. I hope all of the other parts of the bill that are encompassed in this large bill will be favorably looked on in the future, and those two are the ones who did the hard work to put it together. If some people think we live on perks back here, I wish they had the opportunity to see, as I have, the hard work, real hard work of these two fine leaders to make it possible to pass this bill tonight.

With that, I yield the floor.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. I just would like to add one postscript to what the Senators from Louisiana and Nebraska have stated tonight.

I think there is another factor and another very important partner in this achievement, and that is the people in a lot of organizations across this country. I will just name one because that one has a very intimate connection to the Senate of the United States, and that is Betty Bumpers and her Peace Links. There are many organizations—Council for a Livable World. It is dangerous to start naming them all, but the people out there who have organized a public opinion and public support deserve a grade deal of credit for this as well.

I thank the Chair.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, and a withdrawal which were referred to the appropriate committees.

(The nominations and a withdrawal received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 12:36 p.m., a message from the House of Representatives, announced that the House has passed the bill (S. 1623) to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of; it agrees to the conference asked by the Senate on the disagreeing votes on the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill, and Senate amendments, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, Mr. ECKART, Mr. SLATTERY, Mr. SIKORSKI, Mr. LENT, Mr. RITTER, and Mr. RINALDO.

As additional conferees from the Committee on Public Works and Transportation, for consideration of the House bill, and Senate amendments, and modifications committed to conference: Mr. ROE, Mr. NOWAK, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Armed Services, for consideration of Senate amendments numbered 1 through 4, and modifications committed to conference: Mr. ASPIN and Mr. RAY.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. ASPIN, Mr. BENNETT, Mr. MONTGOMERY, Mr. DELLUMS, Mrs. SCHROEDER, Mrs. BYRON, Mr. MAVROULES, Mr. HUTTO, Mr. SKELTON, Mr. MCCURDY, Mr. FOGLIETTA, Mr. HERTEL, Mrs. LLOYD, Mr. SISISKY, Mr. RAY, Mr. SPRATT, Mr. ORTIZ, Mr. DARDEN, Mr. PICKETT, Mr. LANCASTER, Mr. EVANS, Mr. BILBRAY, Mr. TANNER, Mr. MCNULTY, Mr. BROWDER, Mr. DICKINSON, Mr. SPENCE, Mr. STUMP, Mr. HOPKINS, Mr. DAVIS, Mr. HUNTER, Mr. MARTIN, Mr. KASICH, Mr. BATEMAN, Mr. BLAZ, Mr. IRELAND, Mr. HANSEN, Mr. WELDON, Mr. KYL, Mr. RAVENEL, and Mr. DORNAN of California.

As additional conferees from the Permanent Select Committee on Intelligence, for matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mrs. KENNELLY, Mr. GLICKMAN, and Mr. SHUSTER.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1071, and 4501–02 of the House bill, and sections 838, 1092, 1093, 1094, and 1094B of the Senate amendment, and modifications committed to conference: Mr. CARPER, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. KANJORSKI, Mr. RIDGE, Mr. PAXON, and Mr. HANCOCK.

As additional conferees from the Committee on Education and Labor, for consideration of sections 3161–62, 4301–13, 4321–25, 4401, 4404–05, and 4607 of the House bill, and sections 333, 344, 531, 532, 804, 814(e), 1060, 1065, 1082–85, 1099E, 1301–07, and 3151–53 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. KILDEE, Mr. WILLIAMS, Mr. PERKINS, Mr. GOODLING, Mr. GUNDERSON, and Mrs. ROUKEMA.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 321, 370, 1071, and 3161 of the House bill, and sections 313–17, 319–20, 824, 838, 1205, 2851–55, 2861, 3132, 3135, 3141, 3151–52, and 3201 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, Mr. SHARP, Mrs. COLLINS of Illinois, Mr. ECKART, Mr. LENT, Mr. RITTER, and Mr. MOORHEAD.

Provided, Mr. DANNEMEYER is appointed in lieu of Mr. MOORHEAD solely for consideration of sections 370 and 3161 of the House bill and section 3152 of the Senate amendment.

Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. MOORHEAD solely for consideration of section 1071 of the House bill and sections 824 and 838 of the Senate amendment.

Mr. SCHAEFER is appointed in lieu of Mr. MOORHEAD solely for consideration of sections 2851–55 of the Senate amendment.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 146, 175, 204, 233, 234, 241, 304, 324, 365–68, 1031, 1033, 1056, 1057, 1059–60, 1064–65, 1067, 1069–70, 1101–06, 3132, and 3141–45 of the House bill, and sections 112, 223, 304, 361–62, 828, 836, 908, 921–22, 1041, 1043, 1050, 1055, 1057, 1061, 1063, 1066–67, 1071–73, 1075–76, 1091, 1093, 1094A–1094F, 1101–32, 1201–12, and 1401–08 of the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. BERMAN, Mr. BROOMFIELD, Mr. GILMAN, and Mr. LAGOMARSINO.

Provided, that solely for consideration of section 1091 of the Senate amendment, Mr. GEJDENSON is appointed in lieu of Mr. FASCELL, and solely for consideration of sections 1201–12 of the Senate amendment, Mr. TORRICELLI is appointed in lieu of Mr. HAMILTON.

As additional conferees from the Committee on Government Operations, for consideration of sections 313, 374(f), 640, 814, 819, 821, 1002, and 2823 of the House bill, and sections 1003, 1048(f), and 2841 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS of Illinois, Mr. TOWNS, Mr. THORNTON, Mr. PETERSON of Minnesota, Mr. HORTON, Mr. KYL, and Mr. CLINGER.

As additional conferees from the Committee on the Judiciary, for consideration of section 374 (d) and (f), 531, 819, and 1060(a) of the House bill, and sections 1046, 1047, 1048 (d) and (f), and 3137 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. FRANK of Massachusetts, Mr. SYNAR, Mr. FISH, and Mr. GEKAS.

As additional conferees from the Committee on the Judiciary, for consideration of sections 838(e) and 1062 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. CONYERS, Mr. HYDE, and Mr. COBLE.

As additional conferees from the Committee on the Judiciary, for consideration of section 1068 of the House bill, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, Mr. BERMAN, Mr. MCCOLLUM, and Mr. SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of section 922 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. HUGHES, Mr. SENSENBRENNER, and Mr. SCHIFF.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 536, 1013, 1016(b), 1017, 1019, 1021, 2837, and 3501–04 of the House bill, and sections 612(b) 1021–23, 1045, 1053, 1206, 2837, 2851–55, 3103(e), and 3501 of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. HUBBARD, Mr. HUGHES, Mr. TAUZIN, Mr. LIPINSKI, Mr. YOUNG of Alaska, Mr. FIELDS, and Mr. LENT.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 531, 924(a), 1060(a), 1201–06, 1301, 4401, and 4601–06 of the House bill, and sections 341–48, 539, 809(b), 1044–45, 1058(a), 1074, that portion of section 1082 that adds a new section 195H to the National and Community Service Act of 1990, 1099D, and 1306 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Ms. OAKAR, Mr. SIKORSKI, Mr. ACKERMAN, Mr. KANJORSKI, Mr. GILMAN, Mr. HORTON, and Mr. MYERS of Indiana.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 4101–06 and 4501–02 of the House bill, and sections 313–17, 320, and 332 of the Senate amendment, and modifications committed to conference: Mr. ROE, Mr. MINETA, Mr. NOWAK, Mr. KOLTER, Mr. HAYES of Louisiana, Mr. HAMMERSCHMIDT, and Mr. SHUSTER.

Provided, that solely for consideration of sections 4101–06 and 4501–02 of the House bill, and section 332 of the Senate amendment, Mrs. BENTLEY is appointed; and solely for consideration of sections 313–17 and 320 of the Senate amendment, Mr. PETRI is appointed.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 241, 4105, 4201–03, and 4206 of the House bill, and sections 204, 801–06, 809, 810A, 837, 839, 1112, 3139, and 3141 of the Senate amendment, and modifications committed to conference: Mr. BROWN, Mr. VALENTINE, Mr. MINETA, Ms. HORN, Mr. BACCHUS, Mr. WALKER, Mr. LEWIS of Florida, and Mr. PACKARD.

As additional conferees from the Committee on Small Business, for consideration of section 4204 of the House bill, and sections 807, 811, 815, and 1032 of the Senate amendment, and modifications committed to conference: Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 641–42 and 4351–68 of the House bill, and sections 536, 538, 549, and 551 of the Senate amendment, and modifications committed to conference: Mr. PENNY, Mr. APPLEGATE, and Mr. SMITH of New Jersey.

As additional conferees from the Committee on Ways and Means, for consideration of section 4607 of the House bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. ARCHER, Mr. CRANE, and Mr. VANDER JAGT.

As additional conferees from the Committee on Ways and Means, for consideration of sections 1404–05 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. ARCHER, Mr. CRANE, and Mr. VANDER JAGT.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as conferees on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. WYLIE, Mrs. ROUKEMA, and Mr. BEREUTER.

As additional conferees from the Committee on Education and Labor, for consideration of sections 165 and 912 of the House bill and sections 946, 1011 (a) and (e), 1012 (h)–(j), 1021, and 1023 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. GAYDOS, and Mr. HENRY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1011(g), 1015, 1022, 1031, 1032, and 1056 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, Mr. WAXMAN, Mr. ECKART, Mr. SIKORSKI, Mr. LENT, Mr. DANNEMEYER, and Mr. RITTER.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1021 and 1023 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, and Mr. LENT.

At 1:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendment of the Senate numbered 9 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 5, 11, 12, 15, 19, 20, 47, 49, and 50, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

At 4:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1709) to amend the Farm Credit

Act of 1971 to enhance the financial safety and soundness of the Farm Credit System, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence: Mr. McCurdy, Mr. Wilson, Mrs. Kennelly, Mr. Glickman, Mr. Mavroules, Mr. Richardson, Mr. Solarz, Mr. Dicks, Mr. Dellums, Mr. Bonior, Mr. Sabo, Mr. Owens of Utah, Mr. Shuster, Mr. Combest, Mr. Bereuter, Mr. Dornan of California, Mr. Young of Florida, Mr. Martin, and Mr. Gekas.

From the Committee on Armed Services, for the consideration of Department of Defense tactical intelligence and related activities: Mr. Aspin, Mr. Skelton, and Mr. Dickinson.

The message further announced that the Speaker makes the following modification in the appointment of House conferees in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5006) entitled "An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes":

As a replacement conferee from the Committee on Government Operations, Mr. Synar is appointed in lieu of Mrs. Collins of Illinois.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Murtha, Mr. Dicks, Mr. Wilson of Texas, Mr. Hefner, Mr. AuCoin, Mr. Sabo, Mr. Dixon, Mr. Dwyer of New Jersey, Mr. Whitten, Mr. McDade, Mr. Young of Florida, Mr. Miller of Ohio, Mr. Livingston, and Mr. Lewis of California as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2890. An act to amend title XIX of the Social Security Act to establish limits on the prices of prescription drugs procured by the Department of Veterans Affairs or purchased by certain clinics and hospitals, and for other purposes;

H.R. 4014. An act to improve education in the United States by promoting excellence in research, development, and the dissemination of information;

H.R. 4841. An act granting the consent of Congress to the New Hampshire-Maine Interstate School Compact;

H.R. 5557. An act to amend the Magnuson Fishery Conservation and Management Act to provide for the restoration of New England stocks of groundfish, and for other purposes; and

H.R. 5952. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize prescription drug application, establishment, and product fees, and for other purposes.

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At 9:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 3, 4, 8, 10, 11, 21, 34, 36, and 48 to the bill, and agrees thereto; and that it recedes from its disagreement to the amendments of the Senate numbered 2, 6, 7, 9, 17, 18, 19, 22, 27, 31, 35, 37, 39, 43, 44, 45, 46, 47, 57, and 58, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 14, 26, 27, and 28 to the bill, and agrees thereto; and that it recedes from its disagreement to the amendments of the Senate numbered 4, 5, 7, 10, 15, 16, 17, 18, 19, 23, and 24 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5452. An act granting the consent of Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

## MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4841. An act granting the consent of the Congress to the New Hampshire-Maine Interstate School Compact; to the Committee on the Judiciary.

H.R. 5452. An act granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5851. An act to establish the Commission on Information Technology and Paperwork Reduction.

H.R. 5557. An act to amend the Magnuson Fishery Conservation and Management Act to provide for the restoration of New England stocks of groundfish, and for other purposes.

H.R. 5952. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize prescription drug application, establishment, and product fees, and for other purposes.

## ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. Byrd) announced that on today, September 24, 1992, he had signed the following enrolled bills previously signed by the Speaker of the House:

S. 1731. An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes; and

S. 3175. An act to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3937. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, notice of a proposal to obligate funds under the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of fiscal year 1992"; to the Committee on Armed Services.

EC-3938. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notice of a proposed use of funds under the fiscal year 1992 NASA Authorization Act; to the Committee on Commerce, Science and Transportation.

EC-3939. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, a draft of proposed legislation to clarify the responsibilities of electronic communication service (ECS) providers and private branch exchange (PBX) operators to assist the government to implement lawful court orders or authorizations to intercept wire and electronic communications; to the Committee on Commerce, Science and Transportation.

EC-3940. A communication from the Administrator of the United States Agency for International Development, transmitting, a draft of proposed legislation to amend the Foreign Service Act of 1980; to the Committee on Foreign Relations.

EC-3941. A communication from the Chairman of the Commission on Minority Business Development, transmitting, pursuant to law, a report entitled "Final Report of the U.S. Commission on Minority Business Development"; to the Committee on Small Business.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-474. A resolution adopted by the Catholic War Veterans of the United States relative to the Junior Reserve Officers Training Corps; to the Committee on Armed Services.

POM-475. A resolution adopted by the Catholic War Veterans of the United States opposing the acceptance of homosexuals in the United States military; to the Committee on Armed Services.

POM-476. A resolution adopted by the Catholic War Veterans of the United States favoring legislation to allow a military retiree to receive longevity retired pay concurrently with compensation from the Veterans Administration for a service-connected disability; to the Committee on Armed Services.

POM-477. A resolution adopted by the American Library Association favoring the reauthorization of the Corporation for public broadcasting; to the Committee on Commerce, Science, and Transportation.

POM-478. A resolution adopted by the Organization of American Historians relative to access to the historical records of the Department of Energy; to the Committee on Energy and Natural Resources.

POM-479. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY JOINT RESOLUTION NO. 69

"Whereas, The State Water Resources Control Board adopted the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan on April 11, 1991; and

"Whereas, The state board performed comprehensive technical analyses and conducted an extensive public review process prior to adoption of the plans; and

"Whereas, The plans address a wide range of water quality issues and represent a statewide approach to compliance with Section 303(c)(2)(B) of the Clean Water Act; and

"Whereas, According to its own regulations, the Environmental Protection Agency (EPA) had 90 days in which to notify the state that it was disapproving the plans; and

"Whereas, On November 5, 1991, EPA issued a national toxics rule imposing uniform national standards on states without an approved plan; and

"Whereas, EPA Region IX did not act on the California plans until 210 days had passed and did not issue its letter of partial disapproval until the day that EPA proposed its national toxics rule; and

"Whereas, Despite the comprehensive and sweeping impact of both the proposed federal rule and the Region IX action, EPA allowed only 30 days for public comment and refused to consider California's unique circumstances; and

"Whereas, The national toxics rule as proposed by EPA usurps state authority to establish site-specific standards, the effect of which will be to delay implementation of future standards more appropriate to California due to the length and complexity of the federal promulgation process; and

"Whereas, The practical attainability of the standards promulgated by EPA is dubious, yet the cost to Californians of implementing the criteria is enormous; and

"Whereas, The state plans recognized the unique aspects of certain water bodies, which are not naturally perennial and support aquatic habitat uses during the dry season as a result of the discharge of reclaimed water, by allowing six years to develop objectives based upon the site-specific characteristics of each water body; and

"Whereas, EPA proposes to disallow this time schedule and require immediate imposition of numeric objectives without regard to their appropriateness, attainability, or actual impact on water quality; and

"Whereas, EPA proposes to regulate reclaimed water used for landscape irrigation and groundwater recharge more stringently than drinking water, without regard to the need for the recycling of water in the state; and

"Whereas, California has followed a reasonable approach in developing standards protective of water quality, and EPA's justification for disapproval of those standards violates the spirit and letter of the Clean Water Act, which recognizes the primacy of states in water pollution control; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California requests the Environmental Protection Agency to recognize that the State of California needs, because of its unique circumstances, to encourage the production and use of reclaimed water, and further requests the Environmental Protection Agency to approve those portions of the California Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan relating to Category A water bodies (natural water bodies that support, or are planned to support within six years of plan adoption, aquatic habitat beneficial uses as a result of reclaimed water discharges); and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-480. A resolution adopted by the Catholic War Veterans of the United States opposing normalization of relations with Vietnam until a full accounting of Americans missing in action or prisoners of war in Southeast Asia is made; to the Committee on Foreign Relations.

POM-481. A petition from a citizen of Woodbury, Connecticut favoring a constitutional amendment relative to term limits for members of Congress; to the Committee on the Judiciary.

POM-482. A concurrent resolution adopted by the Legislature of the State of Missouri; to the Committee on the Judiciary.

"SENATE COMMITTEE SUBSTITUTE FOR SENATE CONCURRENT RESOLUTIONS NOS. 14, AND 16

"Whereas, the First Congress of the United States of America, at its first session, sitting in New York, New York, on September 25, 1789, in both Houses, by a Constitutional majority of two-thirds thereof, has proposed an amendment to the Constitution of the United States of America in the following words, to wit:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following [Article] be proposed to the Legislature of the several states, as [an Amendment] to the Constitution of the United States, * * * which [Article], was ratified by three-fourths of said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz;

"'[An article] in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several states, pursuant to the fifth Article of the original Constitution.

"'Article the second * * *. No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

"Whereas, article V of the United States Constitution allows the General Assembly of the State of Missouri to ratify this proposed amendment to the Constitution of the United States; and

"Whereas, the proposed amendment to the Constitution of the United States has already been ratified by the Legislatures of the following states in the years indicated, to wit: Maryland in 1789; North Carolina in 1789; South Carolina in 1790; Delaware in 1790; Vermont in 1791; Virginia in 1791; Ohio in 1873; Wyoming in 1978; Maine in 1983; Colorado in 1984; South Dakota in 1985; New Hampshire in 1985; Arizona in 1985; Tennessee in 1985; Oklahoma in 1985; New Mexico in 1986; Indiana in 1986; Utah in 1986; Arkansas in 1987; Montana in 1987; Connecticut in 1987; Wisconsin in 1987; Georgia in 1988; West Virginia in 1988; Louisiana in 1988; Iowa in 1989; Idaho in 1989; Nevada in 1989; Alaska in 1989; Oregon in 1989; Minnesota in 1989; Texas in 1989; Kansas in 1990; Florida in 1990; and North Dakota in 1991; and

"Whereas, Article V of the United States Constitution does not state a time limit on ratification of an amendment submitted by the Congress, and the First Congress specifically did not establish a deadline for the ratification of this particular proposed amendment; and

"Whereas, the United States Supreme Court has ruled in the case of Coleman v. Miller, 307 US 433 (1939), that a proposed amendment to the United States Constitution, submitted without any deadline, may be ratified by states at any time and Congress must then determine whether a reasonable amount of time has elapsed since its initial submission when—in the presence of certified ratifications from the requisite number of states—the time arrives for the promulgation of the adoption of the amendment; and

"Whereas, the General Assembly of the State of Missouri finds that the proposed amendment is still meaningful and needed as part of the United States Constitution and that the present political, social and economic conditions are the same as or are even more demanding today than they were when the proposed amendment was first submitted for its adoption: Now, therefore, be it

"*Resolved by the Missouri Senate, the House of Representatives concurring therein*, That the proposed amendment to the Constitution of the United States as aforequoted be and the same hereby is ratified by the Eighty-sixth General Assembly of the State of Missouri; and be it further

"*Resolved*, That the Secretary of the Missouri Senate be instructed to send a certified copy of this resolution to the Archivist of the United States, Washington, D.C.; the Vice President of the United States; the Speaker of the United States House of Representatives; and to each member of the United States Congress from Missouri with the request that it be printed in full in the Congressional Record."

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POM-483. A resolution adopted by the Catholic War Veterans of the United States favoring the adoption of S. 2372 relative to the compensation of certain veterans; to the Committee on Veterans' Affairs.

POM-484. A resolution adopted by the Catholic War Veterans of the United States favoring the adoption of legislation relative to veterans preference in hiring; to the Committee on Veterans' Affairs.

POM-485. A resolution adopted by the Catholic War Veterans of the United States favoring the designation of May of each year as "National CWV and CWVA Hospital Month; to the Committee on Veterans' Affairs.

POM-486. A resolution adopted by the Catholic War Veterans of the United States favoring the adoption of a VA cost-of-living allowance; to the Committee on Veterans' Affairs.

POM-487. A resolution adopted by the Catholic War Veterans of the United States favoring the adoption of legislation to provide a burial allowance; to the Committee on Veterans' Affairs.

POM-488. A resolution adopted by the Catholic War Veterans of the United States favoring the adequate funding for VA health care; to the Committee on Veterans' Affairs.

POM-489. A resolution adopted by the Catholic War Veterans of the United States relative to Secretary Derwinski's initiative regarding the taxability of certain veterans benefits; ordered to lie on the table.

POM-490. A resolution adopted by the Catholic War Veterans of the United States urging clergy to initiate programs focusing on the lives of the saints; ordered to lie on the table.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1993 (Rept. No. 102-421).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1297. A bill to amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that Act for construction, renovation, and maintenance of shoreside pumpout stations for marine sanitation devices (Rept. No. 102-422).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2041. A bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes (Rept. No. 102-423).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1096. A bill to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1592. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2109. A bill to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, Massachusetts, in the National Park System.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2141. A bill to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2181. A bill to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2321. A bill to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 2444. A bill to revise the boundaries of the George Washington Birthplace National Monument.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2502. A bill to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2859. A bill to direct the Secretary of the Interior to conduct a study of the historical and cultural resources in the vicinity of the city of Lynn, Massachusetts, and make recommendations on the appropriate role of the Federal Government in preserving and interpreting such historical and cultural resources.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 3011. A bill to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3457. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Delaware River in Pennsylvania and New Jersey as components of the national wild and scenic rivers system.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3638. A bill making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 3665. A bill to establish the Little River Canyon National Preserve in the State of Alabama.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 4276. A bill to amend the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 4999. A bill to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.

H.J.Res. 271. A joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1664. A bill to establish the Keweenaw National Historical Park, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1879. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1925. A bill to remove a restriction from a parcel of land owned by the City of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1990. A bill to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington.

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2045. A bill to authorize a study of the prehistoric Casas Grandes Culture in the State of New Mexico, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2244. A bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2353. A bill to provide for a land exchange with the city of Tacoma, Washington.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2397. A bill to expand the boundaries of Yucca House National Monument in Colorado, to authorize the acquisition of certain lands within the boundaries, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2544. A bill to establish in the Department of the Interior the Colonial New Mexico Preservation Commission, and for other purposes.

S. 2549. A bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2577. A bill to provide for the exchange of certain federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 2749. A bill to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2890. A bill to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes.

S. 3100. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 3134. A bill to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 3217. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Great Egg Harbor and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN:

S. 3267. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. WIRTH:

S. 3268. A bill to establish the Office of Law Enforcement in the United States Fish and Wildlife Service; to the Committee on Environment and Public Works.

By Mr. McCONNELL:

S. 3269. A bill to prohibit the export of American black bear viscera, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself, Mr. SASSER, Mr. COHEN, Mr. GRASSLEY, Mr. CONRAD, Mr. LEAHY, Mr. DURENBERGER, Mr. MITCHELL, Mr. HOLLINGS, Mr. BUMPERS, Mr. McCAIN, and Mr. SANFORD):

S. 3270. A bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the medicare program, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COATS:

S. Res. 346. Resolution to express the sense of the Senate regarding the capture on September 12, 1992, of the Peruvian communist and terrorist leader, Abimael Guzman, and for other purposes; to the Committee on Foreign Relations.

By Mr. JOHNSTON (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 347. Resolution to authorize document production in United States v. Charles H. Keating, Jr., et al.; considered and agreed to.

S. Res. 348. Resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 3267. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

### INDIAN EDUCATION ASSISTANCE

Mr. McCAIN. Mr. President, Public Law 100-696 authorized the exchange of federally owned property, known as the Indian School, located in downtown Phoenix for 108,000 acres of privately owned wetlands in Florida, and other vital considerations.

Upon the exchange of title to the lands, the receiver of the Indian School Property, the Baron Collier Co., is required by law to begin payment of a $34.9 million Indian Education Trust Fund. The fund is intended to compensate native Americans in Arizona for the closure of the school located on the property which had served native Americans for many years.

The implementing legislation requires the Department of the Interior to fully secure the trust fund payments. Recently, the Department of the Interior and Collier agreed to achieve that goal by delaying the transfer of title and the commencement of payments for up to 4 years. It appears that the parties will soon sign a binding agreement to proceed with the exchange, while allowing the delay in title transfer.

I had certainly hoped and anticipated that the Secretary and Collier would be able to secure the trust fund moneys in a manner which would provide for the timely exchange of lands and for trust fund payments to begin immediately. I have urged the Secretary to explore ways to consummate the exchange of title and ensure the commencement of secured payments to the trust fund as soon as legally possible.

Despite my reservations, the good news is that the agreement in principal, including a potential delay in title transfer, will enable the transaction to move forward, thereby preserving the benefits of the exchange for all parties, including native Americans.

But the good news is not good enough. I believe it is incumbent upon Congress and the Federal Government, as trustees, to do everything we can to ensure that the education account is fully funded without delay. Accordingly, today I'm introducing legislation to authorize the Congress to appropriate the full $34.9 million for Indian education purposes.

Under this legislation if Congress appropriates the full $34.9 million, Baron Collier Co. would be required to reimburse the Federal Treasury under the same terms, and utilizing the same security, as the company would otherwise be required to pay directly into the trust fund.

Should Congress appropriate only a portion of the $34.9 million, Collier would be required to pay the balance of the principal plus interest to the trust fund, and reimburse the Treasury for the amount appropriated by Congress plus interest.

Under this scenario, payments by Collier to the trust fund and the Treasury would be made under identical terms—those established by the Secretary of the Interior. The underlying premise is that if the trust fund payment agreement negotiated by the Secretary of the Interior is good enough for Arizona's native Americans, it's good enough for the United States.

Collier is provided no debt relief by this bill. It's our intent, and the effect of this bill, that the company be required to pay the same amount under this legislation as it would under the terms of existing law. Furthermore, the bill includes a provision requiring the InterTribal Council of Arizona and the Navajo Tribe to consent before any alternative form of payment authorized by this bill is implemented in lieu of the form established by the Secretary of the Interior under existing law. This will ensure that native Americans have the final say in the matter.

This legislation seeks to ensure that the native Americans are taken care of first. Well we should. The Federal Government has a trust responsibility to native Americans. Capitalizing the trust fund without delay will help us meet that responsibility by ensuring that Arizona's native Americans do not have to wait for the educational opportunities they need and deserve.

Mr. President, there is another vital element to the Indian School transaction. Under the law, parcels of the Phoenix Indian School property are to be transferred to the Department of Veterans Affairs and the State of Arizona for the construction of veterans' health care facilities, and to the city of Phoenix for parkland.

I am hopeful and encouraged that upon the execution of a binding agreement between the Department and Colliers to consummate the exchange, the Secretary will have the authority to grant special permits to the city of Phoenix, the State of Arizona, and the Department of Veterans Affairs for use of the parcels they are to receive under the law, until the official transfer of title. The Department of Defense appropriations bill includes language affirming the administration's authority to provide such permits. This will ensure that the city and our veterans are held harmless by any delay in the transfer of title.

It seems to me that at such time as the Secretary of the Interior and the city of Phoenix bind themselves to proceed with the exchange, the Secretary should have the authority to convey title to the parcels which the city, the Department of Veterans Affairs, and the State of Arizona are to receive. The bill I'm introducing would clarify the Secretary's authority to make such conveyances.

Consummation of the Indian School land exchange, even if the transfer of title to the exchanged lands is delayed, will provide many benefits. Passage of this bill will ensure that we put our very best foot forward on behalf of native Americans, veterans, and the citizens of Phoenix.

Mr. President, the land exchange and the trust fund agreement are very complex issues. I look forward to receiving input and comments on the legislation to ensure that our good intentions are appropriately fulfilled.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, it was ordered to be printed in the RECORD, as follows:

### S. 3267

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. INDIAN EDUCATION ASSISTANCE TRUST FUNDS

(a) ESTABLISHMENT.—

(1) ARIZONA FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Arizona InterTribal Education Assistance Trust Fund subject to the same conditions as described for the Arizona InterTribal Trust Fund in subsections (c) and (d) of section 405 of the Arizona-Idaho Conservation Act of 1988, P.L. 100-696 (hereinafter "the Act").

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(2) NAVAJO FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Navajo Education Assistance Trust Fund subject to the same conditions as described of the Navajo Trust Fund in subsections (c) and (d) of section 405 of the Act.

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(b) AUTHORIZAITON OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated an aggregate of $34,900,000 to the funds established in subsection (a) to be allocated in accordance with paragraph (2).

(2) ALLOCATION.—

(A) ARIZONA FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(1) in the same manner as sums are allocated to the Arizona InterTribal Trust Fund pursuant to section 405 of the Act.

(B) NAVAJO FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(2) in the same manner as sums are allocated to the Navajo Trust Fund pursuant to Section 405 of such Act.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—

(A) FULL APPROPRIATION.—Notwithstanding Title IV of such Act, if the full amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date on which the first annual payment is required to be made by Collier to the Arizona InterTribal Trust Fund and the Navajo Trust Fund under title IV of such Act, and the Trust Fund payment Agreement required under Section 403 of such Act, the Secretary of the Interior shall direct Collier to pay to the Secretary of the Treasury any amounts otherwise due and payable to the United States under the Trust Fund Payment Agreement, in lieu of and in full satisfaction of payment to the United States by Collier for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to title IV of such Act and such Trust Fund Payment Agreement.

(B) PARTIAL APPROPRIATION.—Notwithstanding title IV of such Act, if less than the amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date described in subparagraph (A), at such time as Collier is required to make any annual payment or payment of principal under the Trust Fund Payment Agreement described under subparagraph (A), the Secretary of the Interior shall direct Collier to pay, in full satisfaction and in lieu of such payment: (i) to the Secretary of the Treasury for deposit into the general fund of the Treasury, an amount which bears the same proportion to the total amount of such payment as the total of the sums appropriated pursuant to subsection (b) bear to $34.9 million, and (ii) to the Secretary of the Interior for deposit into the Arizona InterTribal Trust Fund and Navajo Trust Fund, in accordance with subsection 405 of the Act, the remainder of each such payment.

(2) DEFINITION.—As used in this subsection, the term "Collier" has the meaning provided under section 401(5) of such Act.

(d) TERMINATION.—

(1) IN GENERAL.—The funds established in subsection (a) shall terminate on the date of the first Collier payment described in subsection (c)(1)(A).

(2) TRANSFER OF REMAINING SUMS.—Upon termination under paragraph (1)—

(A) the Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(1) to the Arizona InterTribal Trust Fund established under section 405(a) of such Act; and

(B) the Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(2) to the Navajo Trust Fund established under section 405(a) of such Act.

(e) No funds appropriated under this Act shall be available to the InterTribal Council of Arizona (ITCA) and Navajo Tribe (as defined in Section 401 of the Act) or be deposited into the Interim Trust Funds established by section 1 of this Act unless the ITCA and Navajo Tribe provide written consent to the method of payment established in this Act in lieu of the method of payment provided in the Act and the Trust Fund Payment Agreement authorized by the Act.

### SEC. 2. TRANSFER OF TITLE TO INDIAN SCHOOL LANDS

(a) Notwithstanding the provisions of any other law, subject to the execution of a finding Trust Fund Payment Agreement as required by Section 403 of the Act, and notwithstanding the absence of the closing of the Land Exchange, the Secretary of the Interior is authorized to transfer to the Department of Veterans Affairs jurisdiction and control of the parcels of property described in Section 402 (f) and (g) of the Act. The Secretary of Veterans Affairs is authorized to accept such transfer of jurisdiction and to convey to the State of Arizona the parcel of property described in Section 402(g) of the Act under the conditions and for the purposes described therein. No transfer or conveyance of property or other action by the Secretary of the Interior prior to the conveyance to Collier of the Phoenix Exchange Property (as defined in Section 401 of the Act) shall be deemed to constitute a closing of the Land exchange under the Act.

(b) Notwithstanding the provisions of any other law, subject to the execution of a binding Trust Fund Payment Agreement as required by Section 403 of the Act, the Secretary of the Interior is authorized to convey to the City of Phoenix, Arizona, the parcel of property described in Section 402(e) of the Act under the conditions and for the purposes described therein. No transfer or conveyance of property or other action by the Secretary of the Interior prior to the conveyance to Collier of the Phoenix Exchange Property (as defined in Section 401 of the Act) shall be deemed to constitute a closing of the Land Exchange under the Act.

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By Mr. WIRTH:

S. 3268. A bill to establish the Office of Law Enforcement in the U.S. Fish and Wildlife Service; to the Committee on Environment and Public Works.

### UNITED STATES FISH AND WILDLIFE SERVICE LAW ENFORCEMENT CLARIFICATION AND ENHANCEMENT ACT

• Mr. WIRTH. Mr. President, today I am introducing legislation to improve the ability of the U.S. Fish and Wildlife Service to protect this Nation's wildlife resources. As wildlife habitat around the world shrinks, and human pressures on wildlife populations increase, poaching is becoming an evermore profitable venture. This situation is having dramatic effects on wildlife across the country.

Today, poaching is estimated to be a $2 billion industry worldwide, with profits large enough to attract organized crime. Poaching activities range from the illegal taking of black and brown bear for their gall bladders—prized in much of Asia—to the wholescale destruction of walrus and elephants for their ivory and the trapping of tropical birds, reptiles and other endangered species for the exotic pet trade in the United States and Europe.

Illegal hunting is one of the key reasons the populations of many waterfowl have decreased by more that 40 percent since the second world war. Other species—such as black bear—are not endangered, but poaching is such a serious problem that our wildlife managers cannot set accurate hunting seasons as they don't know what an acceptable harvest might be.

This situation must be addressed. My bill, the U.S. Fish and Wildlife Service Law Enforcement Clarification and Enhancement Act, would elevate the Law Enforcement Division of the USFWS to a directorate level, resulting in improved communication, coordination, consistency, and oversight of the law enforcement program. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3268

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Fish and Wildlife Service Law Enforcement Clarification and Enhancement Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The law enforcement responsibilities of the United States Fish and Wildlife Service have evolved far beyond the realm of ensuring compliance with hunting and fishing regulations. Increasing visitor utilization and urbanization of refuges bring with them associated problems of crime. The expansion of international treaties and attendant responsibilities have increased tremendously in recent years. The illegal trade in wildlife products is becoming increasingly well organized and commercial and is often associated with other criminal activities such as narcotics, money laundering, weapons dealing, and tax fraud.

(2) The concerns and needs of the United States Fish and Wildlife Service Law Enforcement Division are not adequately represented at the directorate level and the degree of agency support for law enforcement is at the discretion of the Director and, therefore, is inconsistent over time.

(3) Partly as a result of the lack of directorate level representation for law enforcement, the Law Enforcement Division is grossly understaffed and underfunded. Three decades of documentation clearly show that this is a chronic problem. The division is unable to adequately enforce the wildlife protection laws mandated by the Congress and as a result—

(A) wildlife populations are in danger;

(B) the legal and illegal trade in wildlife products is increasing; the percentage of shipments inspected is decreasing; and

(C) the percentage of shipments inspected that are in violation of wildlife protection laws is increasing.

(4) Although the law enforcement program of the United States Fish and Wildlife Service should not be any more important than other Service programs, law enforcement is fundamentally different than the other programs and would be better integrated into the overall mission of the Service if it operated at the directorate level.

(5) A directorate level status for the United States Fish and Wildlife Service Law Enforcement Division is necessary in order to improve communication, coordination, consistency, control, and oversight of law enforcement activities of the Fish and Wildlife Service.

**SEC. 3. LAW ENFORCEMENT FUNCTIONS OF UNITED STATES FISH AND WILDLIFE SERVICE.**

The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) is amended by adding at the end the following:

**"SEC. 15. DIVISION OF LAW ENFORCEMENT.**

"(a) ESTABLISHMENT.—The Division of Law Enforcement is hereby established in the office of the Director of the United States Fish and Wildlife Service.

"(b) ASSISTANT DIRECTOR FOR LAW ENFORCEMENT.—

"(1) IN GENERAL.—The Assistant Director for Law Enforcement shall be the head of the Division of Law Enforcement, and shall be appointed by the President from among individuals who have wildlife law enforcement experience.

"(2) CAREER RESERVED POSITION.—The Assistant Director for Law Enforcement shall be a career reserved position (in the Senior Executive Service) within the meaning of that term under section 3132(8) of title 5, United States Code.

"(3) LOCATION.—The office of the Assistant Director for Law Enforcement shall be located in the District of Columbia.

"(c) FUNCTIONS.—The Assistant Director for Law Enforcement shall administer the law enforcement functions of the United States Fish and Wildlife Service.".•

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By Mr. MCCONNELL:

S. 3269. A bill to prohibit the export of American black bear viscera, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

### BLACK BEAR PROTECTION ACT OF 1992

• Mr. MCCONNELL. Mr. President, I rise today to introduce legislation that protects one of our continent's most awe inspiring creatures, the black bear.

The American black bear's habitat is limited to the mountains of the United States and Canada, but it does not qualify for protection under the Endangered Species Act. Recent trends suggest that recovering bear populations may be seriously threatened if preventive measures are not taken soon.

Four hundred thousand blacks bears are estimated to inhabit North America. While 40,000 are legally harvested each year, some experts estimate that just as many are poached. What's even more disturbing is that the level of poaching is expected to increase in coming years.

In my home State of Kentucky, hunting black bears is prohibited. Bear sightings in my State have increased over the past few years, indicating a stable if not growing population. Although there is no reliable estimate of the number of black bears inhabiting my State, it is believed they are finally beginning to repopulate the mountainous habitats they were driven from many years ago.

Mr. President, while legal hunting of black bears is allowed in many States, evidence of the growth in bear poaching is cause for alarm that recovering bear populations may be imperiled.

According to the U.S. Fish and Wildlife Service, hundreds of bear carcasses are turning up in the United States and Canada, completely intact, except for missing gall bladders, paws, and claws. China, Korea, and other nations in the Far East attach medicinal qualities to the gall bladders of bears. They are believed to cure everything from hemorrhoids and jaundice to hepatitis and impotence. Some Asians take doses of powdered bear gall bladder much like Americans take daily vitamins.

Greed is driving the increased poaching of American black bears. Bear gall bladders, paws, and claws are valuable commodities fetching hundreds if not thousands of dollars. While bear populations in Asia have been devastated as a result, the demand for bear parts has grown along with the affluence of the Pacific rim. Asian nations are increasingly turning to the United States and Canada to meet their enormous demand for bear parts, posing a direct and serious threat to the North American bear population.

State and Federal officials are unable to determine the extent of the problem and are unable to combat it given current laws and resources. It is estimated that only 5 percent of poaching offenses are reported or detected.

Twenty-two States have prosecuted cases of bear poaching. Poaching rings have been uncovered in the Smoky Mountains and in the Berkshires. Undercover operations have netted dozens of poachers and hundreds of poached bears. A recent gangland style killing in New York was linked to the lucrative bear parts trade when a Korean-American was found murdered in his apartment, after bear gall bladders were taken from his freezer. In the Yukon, officials have even set up a poaching hotline to report illegal bear kills.

Restrictions on the illegal bear parts trade are essential in protecting the American black bear population. An important step was taken last March when the black bear was added to appendix II of the Convention on Trade in Endangered Species [CITES], but more protection is needed. Two of the largest importers of bear parts are not signatories to CITES, leaving a gaping loophole in international bear protection efforts.

This situation is not fair to the black bear, to law-abiding hunters, nor to wildlife enthusiasts throughout the United States. That is why I am introducing the Black Bear Protection Act today. My legislation would take away the financial incentive of the bear parts trade.

The Bear Protection Act of 1992 will assist Kentucky and other States in effectively managing legal hunting at sustainable harvest levels for black bears. It requires the Secretary of Commerce to adopt regulations to prohibit the export of black bears and bear parts from the United States. By giving the Secretary of Commerce direct authority to intercept bear parts at our national border, the Bear Protection Act will effectively and cheaply mitigate the formidable financial incentive to the potential poacher. My legislation would direct a study of the extent of bear poaching so that the most cost-effective enforcement mechanisms can be found. It would also authorize the U.S. Trade Representative to discuss bear conservation efforts when negotiating trade agreements with other countries.

This bill in no way affects legal hunting of black bears. In fact, if my own State wanted to change its current law to allow an open season for bears, my legislation would in no way preclude such a decision.

The Bear Protection Act is a preventive measure which seeks to close loopholes which arise from conflicting State laws. By prohibiting the trade in bear parts at our national border, State, and Federal wildlife officials will have less difficulty maintaining a healthy and sustainable black bear population. They may instead focus their limited resources on other wildlife conservation efforts. With this simple legislation, wildlife enthusiasts and sportsmen can rest assured that their grandchildren will share in our fascination with these mighty mountain dwellers.●

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By Mr. PRYOR (for himself, Mr. SASSER, Mr. COHEN, Mr. GRASSLEY, Mr. CONRAD, Mr. LEAHY, Mr. DURENBERGER, Mr. MITCHELL, Mr. HOLLINGS, Mr. BUMPERS, Mr. MCCAIN, and Mr. SANFORD):

S. 3270. A bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies and prosthetics and orthotics and prosthetic devices under the Medicare Program and for other purposes; to the Committee on Finance.

### DURABLE MEDICAL EQUIPMENT FRAUD AND ABUSE PREVENTION ACT OF 1992

Mr. PRYOR. Mr. President, I am pleased to join my colleagues, the chairman of the Budget Committee, Senator SASSER, and the ranking member of the Aging Committee, Senator COHEN, in introducing the Durable Medical Equipment Fraud and Abuse Prevention Act of 1992. This bill will deter the incidence of abusive practices by bad apple equipment suppliers by establishing more rational administrative and payment policy. We are joined today by Senators GRASSLEY, CONRAD, LEAHY, DURENBERGER, MITCHELL, HOLLINGS, BUMPERS, MCCAIN, SANFORD, and others.

Mr. President, for years Congress has heard about and learned of fraudulent, abusive, and extremely costly practices of the fly-by-night scam artists operating in the medical equipment industry. At a time when Congress is struggling to contain health care costs and find ways to improve access to health care, we are all looking for ways to curb such practices. The bill we are introducing today will save well over $100 million. This money could be used to reduce the ever growing budget deficit or perhaps to aid struggling rural hospitals.

Senators SASSER and COHEN have played important leadership roles on this issue and I am pleased to have worked with them on this greatly needed legislation. This bill draws largely from the provisions of S. 1736, the Medicare Durable Medical Equipment Payment Improvement Act of 1991, introduced by Senator SASSER, and S. 1988, the Quality in Medical Equipment and Supplies Act of 1991, introduced by Senator COHEN. I would like to take this opportunity to recognize their ongoing efforts and commitment to address the fraud and abuse within this segment of Medicare.

In the past year, at hearings held both by the Aging Committee and the Budget Committee, we have learned how procedures governing the administration of durable medical equipment payments are far too lax. With Medicare spending going through the roof, failure to address known scams and administrative problems is inexcusable. Although the great majority of supplies are honest, a small number of unscrupulous suppliers continue to gouge Medicare out of enormous amounts of money. Medical equipment suppliers in my home State of Arkansas have urged me to take quick action to prohibit those unscrupulous suppliers from continuing to bilk the system.

The bill we introduce today represents a good working relationship with the medical equipment and supplies industry. I am hopeful that this good relationship will continue. Also, I am appreciative of the cooperation and consultation we have received from the Health Care Financing Administration.

Mr. President, as with any legislation being introduced, this bill represents an attempt to develop what we believe represents a fair response to the varying recommendations of medical equipment suppliers, the Health Care Financing Administration and other experts. In this effort, our goal has always been to strike the appropriate balance between the need for prevention of fraudulent practices and the need for laws flexible enough to allow the honest suppliers to remain in business.

Many suppliers have raised concerns about the current law which prohibits medical equipment suppliers from submitting partially completed CMN's to physicians. As I understand the rationale, this provision was intended to eliminate situations where physicians certify or continue to certify items of questionable value. After consulting with many medical equipment suppliers, I recognize that this approach may be too broad. In response to feedback we have received, this bill contains an alternative, more targeted approach.

The administration has raised concerns about the current payment policy for nebulizers and aspirators. In fact, some suppliers have said that Medicare is paying too much for these supplies. Others have argued to maintain the current payment policy. The provision in the bill is an attempt to balance those concerns. As this legislation moves through the legislative process, I am committed to maintaining my efforts to craft a fair payment policy for these items. It is my hope that all interested parties will continue a constructive dialog on this issue. Above all, none of us wishes to threaten the delicate balance of this important legislation.

Mr. President, I urge the rest of our colleagues to join us as cosponsors and in ensuring that these proposals are enacted into law. I request unanimous consent that a summary and the text of the bill be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3270

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Durable Medical Equipment Fraud and Abuse Prevention Act of 1992".

**SEC. 2. DURABLE MEDICAL EQUIPMENT.**

(a) DEFINITION OF MEDICAL EQUIPMENT AND SUPPLIES.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"MEDICAL EQUIPMENT AND SUPPLIES

"(oo) The term 'medical equipment and supplies" means—

"(1) durable medical equipment (as defined in section 1861(n));

"(2) prosthetic devices (as described in section 1861(s)(8));

"(3) orthotics and prosthetics (as described in section 1861(s)(9));

"(4) home dialysis supplies and equipment (as described in section 1861(s)(2)(F));

"(5) surgical dressings and other devices (as described in section 1861(s)(5));

"(6) immunosuppressive drugs (as described in section 1861(s)(2)(J)); and

"(7) such other items as the Secretary may determine.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1993.

(b) DEVELOPMENT AND APPLICATION OF NATIONAL STANDARDS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR ISSUANCE AND RENEWAL OF SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) PAYMENT.—No payment may be made under this part after July 1, 1993, for items furnished by a supplier of medical equipment and supplies (as defined in section 1861(oo)) unless such supplier meets the national standards specified by the Secretary and possesses a valid supplier number.

"(2) REVISED STANDARDS.—

"(A) IN GENERAL.—The Secretary shall, by no later than January 1, 1995, in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers, revise the national standards for suppliers of medical equipment and supplies to include the requirements listed in subparagraph (B).

"(B) STANDARDS DESCRIBED.—The requirements listed in this subparagraph are that suppliers of medical equipment and supplies shall—

"(i) comply with all applicable State and Federal licensure and regulatory requirements;

"(ii) maintain a physical facility on an appropriate site;

"(iii) have proof of appropriate liability insurance; and

"(iv) meet such other requirements as the Secretary may specify.

"(C) APPLICABILITY OF REVISED STANDARDS.—Beginning after December 31, 1994, each supplier of medical equipment and supplies applying for a supplier number or renewing such supplier's supplier number shall meet the revised standards described in this paragraph.".

(c) CERTIFICATES OF MEDICAL NECESSITY.—

(1) IN GENERAL.—Section 1834 of such Act (42 U.S.C. 1395m), as amended by subsection (b), is amended—

(A) in subsection (a), by striking paragraph (16), and

(B) by adding at the end the following new subsection:

"(j) CERTIFICATES OF MEDICAL NECESSITY.—

"(1) STANDARDIZED CERTIFICATES.—Not later than July 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in paragraph (3)) for medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)). If a certificate of medical necessity is required by the Secretary, such standardized certificates shall—

"(A) be completed by each physician who prescribes such medical equipment and supplies for any beneficiary under this part, and

"(B) be transmitted to the supplier and then to the carrier processing the claim for payment for such medical equipment and supplies under this part.

"(2) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a supplier of medical equipment and supplies described in paragraph (1) may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity.

"(B) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Subparagraph (A) shall not apply with respect to a certificate of medical necessity to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this subparagraph, such certificate shall also contain the lesser of the supplier's charge or the fee schedule amount for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(C) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(3) DEFINITION.—For purposes of this subsection, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to certificates of medical necessity on or after January 1, 1993.

(d) COVERAGE AND REVIEW CRITERIA FOR CERTAIN MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 of such Act (42 U.S.C. 1395m), as amended by subsection (c), is amended by adding at the end the following new subsection:

"(k) COVERAGE AND REVIEW CRITERIA.—

"(1) DEVELOPMENT AND ESTABLISHMENT.—Not later than July 1, 1993, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)), individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies (as so defined) selected in accordance with the standards described in paragraph (2). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(2) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under paragraph (1) if the Secretary finds that—

"(A) the item is frequently purchased or rented by beneficiaries;

"(B) the item is frequently subject to a determination that such item is not medically necessary; or

"(C) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(3) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under paragraph (1) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than January 1, 1994, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under paragraph (1) on the utilization of items of medical equipment and supplies by individuals enrolled under this part.".

(e) PROHIBITION AGAINST MULTIPLE BILLING NUMBERS.—

(1) IN GENERAL.—Section 1834 of such Act (42 U.S.C. 1395m), as amended by subsection (d), is amended by adding at the end the following new subsection:

"(l) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies (as defined in section 1861(oo)) unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after July 1, 1993.

(f) DEFINITION OF INDUCEMENTS AS KICKBACKS CLARIFIED.—

(1) IN GENERAL.—Section 1128B(b)(3)(B) of such Act (42 U.S.C. 1320a–7b(b)(3)(B)) is

amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between a skilled nursing facility and a supplier of medical supplies and equipment (as defined in section 1861(oo) other than (4), (6), and (7)), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after January 1, 1993.

(g) LIMITATION ON BENEFICIARY LIABILITY.—

(1) IN GENERAL.—Section 1879 of such Act (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1861(oo))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

"(3) is excluded from participation under this title; or

"(4) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier on an unassigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services, unless the supplier informs the individual in advance that payment under this part will not be made for the item or services and the individual agrees to pay for the item or service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items or services furnished on or after July 1, 1993.

(h) TREATMENT OF NEBULIZERS AND ASPIRATORS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(3)(A) of such Act (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(2) PAYMENT FOR SUPPLIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(7)(A) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting "; and", and by inserting after clause (vi) the following new clause:

"(vii) In the case of supplies to be used in conjunction with a nebulizer or aspirator for which payment is made under this paragraph, payment shall be in accordance with paragraph (2) of this subsection.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1993.

(i) PAYMENT FOR OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, UROLOGICALS, SURGICAL SUPPLIES, AND OTHER MEDICAL SUPPLIES.—

(1) IN GENERAL.—Section 1834(h)(1) of such Act (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, urologicals, and surgical dressings shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2) (except that in the case of surgical dressings, the national limited payment amount shall be computed based on local payment amounts using average reasonable charges for the six-month period ending June 30, 1992, increased by the covered item update for 1993).".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply with respect to items furnished on or after January 1, 1993.

(B) SURGICAL SUPPLIES.—The amendment made by paragraph (1) with respect to surgical dressings shall apply to items supplied on or after July 1, 1993.

(j) STUDIES.—

(1) SUPPLIES AND SERVICES IN NURSING FACILITIES.—The Comptroller General of the United States shall conduct a study and report to the Congress no later than January 1, 1994, on the types, volume, and utilization of services and supplies furnished under contract or under arrangement with suppliers to individuals eligible for benefits under title XVIII of the Social Security Act residing in skilled nursing facilities and nursing facilities.

(2) DESCRIPTIONS RELATING TO CERTAIN CODES.—The Comptroller General of the United States shall conduct a study beginning no earlier than July 1, 1993, and report to the Congress no later than January 1, 1994, on—

(A) whether changes made by the Department of Health and Human Services to the descriptions relating to the codes for medical equipment and supplies (as defined in section 1861(oo) of the Social Security Act other than paragraphs (4), (6), and (7))—

(i) accurately reflect the items being furnished under such codes, and

(ii) are sufficiently explicit to distinguish between items of varying quality and price, and

(B) recommendations for additional changes that would improve the descriptions relating to the codes for such items.

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## DURABLE MEDICAL EQUIPMENT FRAUD AND ABUSE PREVENTION ACT OF 1992

### STANDARDS FOR OBTAINING PROVIDER NUMBERS

HCFA and carriers provide little scrutiny of suppliers when issuing supplier numbers. Under current policy, suppliers can easily have multiple provider numbers which allow them to overbill, double-bill or avoid oversight by "jumping" from one provider to another.

This bill requires the Secretary to establish more stringent uniform national standards for suppliers of durable medical equipment and prosthetics and orthotics.

### PROHIBITION AGAINST MULTIPLE BILLING NUMBERS

The bill prohibits the Secretary from issuing more than one billing number to any supplier, unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

### UNIFORM NATIONAL COVERAGE AND UTILIZATION REVIEW REQUIREMENTS

Carriers have a lot of discretion in determining utilization and coverage policy, resulting in wide variations in payment and coverage. For example, one carrier may pay for one box of ostomy kits per month per beneficiary, while another carrier may pay for an unlimited number.

HCFA is in the process of developing uniform coverage and utilization review policies for 100 items of its own choosing. This bill requires the Secretary, in consultation with representatives of DME suppliers, beneficiaries and medical specialty organizations, to develop and establish uniform national coverage and utilization review criteria for 200 items. The Secretary is required to annually review the items and determine whether items not on the list should be subject to uniform criteria. Also, the Secretary is required to report to Congress on the impact of these criteria on the utilization of items.

### CERTIFICATES OF MEDICAL NECESSITY

OBRA90 prohibited suppliers of DME from distributing completed or partially completed certificates of medical necessity (CMNs) to physicians or Medicare beneficiaries. Many suppliers (and some physicians) have complained that the forms are too long and time consuming for physicians and that this provision may decrease beneficiary access to DME.

This bill modifies this provision by permitting suppliers to complete information identifying the beneficiary, the supplier and provider, as well as a description of the item and a product code identifying the item. The physician would still be required to complete all information related to medical necessity.

Also, because there are no standardized medical necessity certificates, this bill requires the Secretary to develop one or more standardized certificates of medical necessity for DME and prosthetics and orthotics.

### MODIFICATION OF ANTI-KICKBACK LAW

Some financial arrangements between nursing homes and providers appear to circumvent Medicare anti-kickback statutes. For example, suppliers and other third party billers pay nursing homes for "employment" costs of paperwork and warehousing of equipment as an inducement for business. The bill strengthens the anti-kickback statute by clarifying the definition of inducements as kickbacks.

### LIMITATIONS ON BENEFICIARY LIABILITY

There are no limits on balance bill for DME, and there are no circumstances specified in current law under which beneficiaries are not liable for charges for DME furnished by suppliers on an unassigned basis. This bill stipulates circumstances (such as the supplier is excluded from Medicare participation of Medicare has denied payment for the item in advance) under which Medicare beneficiaries are not financially liable for DME or prosthetics and orthotics furnished by a supplier on an unassigned basis.

### TREATMENT OF NEBULIZERS AND ASPIRATORS

Nebulizers and aspirators are included in a fee schedule category entitled "items requiring frequent and substantial servicing." Items in this category can only be rented. The bill establishes a more rational payment policy for these items.

### TREATMENT OF CERTAIN SUPPLIES AS DME

Under present law, ostomy supplies, tracheostomy supplies, urologicals, and surgical dressings are included in the prosthetics and orthotics fee schedule, which is subject to regional payment limits. An inquiry by the Budget Committee found wide variation in the prices of these items and also found that these items were subject to abusive billing practices. This bill requires that these items be reimbursed under a national fee schedule similar to the DME fee schedule.

### GAO STUDIES

The bill requires a GAO study on services and supplies in nursing homes and on variations in quality of equipment.

Mr. COHEN. Mr. President, I am pleased to join with Senators PRYOR and SASSER in introducing this measure to protect the Medicare Program from abuse by unscrupulous medical equipment suppliers and to streamline administrative and payment policies for durable medical equipment. The bill we are introducing today, which was developed in consultation with the Health Care Financing Administration [HCFA], consolidates two bills that Senator SASSER and I introduced to combat fraud and abuse in the Medicare Durable Medical Equipment Program last year—S. 1988 and S. 1736. This legislation will save over $100 million over the next 5 years, and I thank Senator PRYOR for his leadership and assistance in drafting this consensus proposal.

While the overwhelming majority of the Nation's 160,000 medical equipment suppliers who do business with Medicare are dedicated and honest professionals, the rapid growth and sheer size of the program have greatly increased Medicare's vulnerability to fraud and abuse. The legislative reforms contained in the package we are introducing today are the result of over a year's worth of investigations and hearings conducted by both the Senate Special Committee on Aging and the Senate Budget Committee into the practices of unethical durable medical equipment dealers who have taken advantage of weaknesses in the system to bleed millions of dollars from the Medicare Program.

In April 1991, the minority staff of the Aging Committee completed a year-long investigation which revealed the shocking practices of fly-by-night telemarketing operations that made thousands of calls to unsuspecting Medicare beneficiaries urging them to accept what was described as "free medical equipment"—equipment that was rarely needed, generally of inferior quality, of little or no therapeutic value, and which even could prove dangerous. These telemarketers had learned to manipulate the Medicare system by shopping around for the States with the highest reimbursement rates and most generous coverage and utilization criteria.

This investigation and subsequent Aging Committee hearings revealed that it is far too easy for unethical medical equipment suppliers to gain access to the Medicare Program. Durable medical equipment providers are not required to be certified or licensed in order to do business with Medicare. In fact, they have not had to meet any kind of standards whatsoever.

Carrier oversight of suppliers has also been lax. Most carriers do not keep track of their suppliers, and their billing numbers are rarely canceled, even when the supplier has been excluded from the Medicare Program. Insufficient carrier oversight also enables suppliers to be issued multiple billing numbers, allowing them to double bill, overbill, or avoid being caught for fraudulent activities.

Largely as a result of congressional pressure, HCFA has taken some action to curb fraud and abuse in the Durable Medical Equipment [DME] Program. In June, HCFA issued final regulations reducing the number of Medicare carriers processing DME claims from 34 to 4, which should bring greater uniformity and consistency to coverage and payment decisions. In addition, the regulations will require all claims to be submitted to the carrier serving the area where the beneficiary resides and uses the item, thus eliminating the ability of suppliers to engage in carrier shopping. These two reforms were included in both S. 1736 and S. 1988, and I am pleased that HCFA has implemented them administratively.

While these new regulations are a step in the right direction, we believe that Medicare remains vulnerable to abuse, and that there is more that we can and should do to strengthen the program. The legislation we are introducing today will not only help to combat fraud and abuse, but it will also establish more rational payment and administrative policies for durable medical equipment.

Among other provisions, the bill revises and strengthens the national standards with which suppliers must comply in order to receive a supplier number. HCFA recently issued regulations requiring suppliers to disclose certain ownership information and to certify that they meet certain basic operational standards, such as repairing and maintaining rental items, answering questions and complaints, and accepting returns. This legislation would strengthen those standards by requiring that suppliers also comply with all applicable State and Federal licensure and regulatory requirements, maintain a physical facility on an appropriate site, and have proof of appropriate liability insurance.

The legislation also prohibits the Secretary of Health and Human Services from issuing more than one billing number to a supplier, unless more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

The bill also provides for more uniform national coverage and utilization review requirements. HCFA is currently in the process of developing uniform coverage and utilization criteria for 100 items of its own choosing. This legislation would require the Secretary, in consultation with representatives of DME suppliers, beneficiaries, and medical specialty organizations, to expand that list to 200 items which are either frequently purchased or rented or which are frequently subject to a determination that the item is not medically necessary. An item may also be included if the coverage or utilization criteria applied to that item is not consistent among carriers.

The Omnibus Budget Reconciliation Act of 1990 prohibited suppliers of DME from distributing completed or partially completed certificates of medical necessity [CMN's] to physicians or Medicare beneficiaries. Both suppliers and physicians have complained that physicians do not always have the product information necessary to complete the form, and that the forms are too long and time consuming for physicians to complete, which may decrease beneficiary access to needed equipment and supplies.

This legislation modifies the current prohibition by permitting suppliers to complete the administrative section of the form, that is, information identifying the beneficiary, supplier or provider; the description of the item to be provided; and a product code identifying the item. If the supplier does choose to complete this information, he or she must also include price information to ensure that the physician is aware of the cost of the item. The physician would still be required to complete all information related to medical necessity. Additionally, because there are no standardized forms to document medical necessity, the bill requires the Secretary to develop standardized certificates of medical necessity for DME, prosthetics and orthotics.

The legislation would also modify current antikickback law. Currently some financial arrangements between nursing homes and providers appear to circumvent Medicare antikickback statutes. For example, suppliers and other third party billers pay nursing homes for employment costs of paperwork and warehousing of equipment as an inducement for business. This bill strengthens the antikickback statute by clarifying the definition of inducement as kickbacks.

In addition, there currently are no balance billing limits applied to DME, and there are no circumstances specified in current law under which beneficiaries are not liable for charges for DME furnished by suppliers on an unassigned basis. This legislation stipulates circumstances—such as when the supplier has been excluded from the Medicare Program or when Medicare has denied payment for the item in advance—under which Medicare beneficiaries are not financially liable for DME or prosthetics and orthotics furnished by a supplier on an assigned basis.

The legislation also changes treatment of nebulizers and aspirators. Currently these items are included in a fee schedule category entitled "items requiring frequent and substantial servicing." Items in this category can only be rented, even if it may be more cost effective for the beneficiary to purchase them outright. This bill would give the Secretary of Health and Human Services the authority to remove nebulizers and aspirators from the "items requiring frequent and substantial servicing" category.

Finally, under present law, ostomy supplies, tracheostomy supplies, urologicals, surgical and other medical supplies are included in the prosthetics and orthotics fee schedule, which is subject to regional payment limits. An inquiry by the Budget Committee found wide variation in the prices of these items and also found that these items were subject to abusive billing practices. This legislation requires that these items be reimbursed under a national fee schedule similar to the DME fee schedule.

Mr. President, the reforms we are introducing today are critical if we are to ensure that scarce Medicare dollars are not wasted on overpriced or useless medical equipment. I also want to express my appreciation to Senators PRYOR and SASSER and their staffs for all of their work on this measure, and I urge my colleagues to support us in this effort.

Mr. SANFORD. Mr. President, I am pleased to be a cosponsor of the Durable Medical Equipment Fraud and Abuse Act of 1992, legislation which I cosponsored when it was first introduced in 1991, and which I still believe is needed today.

Last year, a combined investigation uncovered a frightening, multi-State pattern of fraud and abuse within Medicare's Durable Medical Equipment Program ranging from unbundling, or billing for each separate component of a piece of equipment, falsifying claims, and kickback schemes, to actually forging a physician's signature on certificates of medical necessity. These fraudulent activities are wasting millions of dollars of the taxpayers' money, and squandering resources that could and should be used for Medicare beneficiaries.

Most suppliers of durable medical equipment are hardworking businessowners who run honest, ethical, and upright companies. North Carolina has been relatively free of the abuses many other States have experienced. But all Medicare beneficiaries ultimately pay the price for the fraudulent and wasteful spending that has gone on in the past. These abuses of a well-intended program must stop.

Many individual suppliers, as well as the national organizations which represent them, have cooperated and contributed a great deal in the formulation of an appropriate strategy to combat waste and abuse in the Medicare Program, and they are to be congratulated for their efforts.

This legislation is a reasonable and rational solution to this problem which is supported by the honest members of the medical equipment and supplies industry. I believe that we owe it to both Medicare beneficiaries and current taxpayers to take whatever steps are necessary to eliminate waste and abuse in the Durable Medical Equipment Program. Medicare funds should be used as they were intended—to provide quality, cost-effective medical care for those who need it.

I commend my colleagues for introducing this legislation and I am pleased to be a cosponsor.

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## ADDITIONAL COSPONSORS

S. 532

At the request of Mr. BOREN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 532, a bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings.

S. 1139

At the request of Mr. NUNN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1139, a bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2667

At the request of Mr. HEFLIN, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2922

At the request of Mr. COHEN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2957

At the request of Mr. CHAFEE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2957, a bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote, and to defer some of the scheduled reductions in estate tax rates.

S. 3195

At the request of Mr. GLENN, the names of the Senator from Colorado [Mr. BROWN], the Senator from Oregon [Mr. HATFIELD], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

S. 3221

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 3221, a bill to deny most-favored-nation status to Serbia and Montenegro unless certain conditions are met.

S. 3257

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 3257, a bill to create a separate tariff classification for certain herbal liqueurs.

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Nevada [Mr. BRYAN], the Senator from Maryland [Mr. SARBANES], the Senator from New York [Mr. D'AMATO], the Senator from Montana [Mr.

BURNS], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

### SENATE JOINT RESOLUTION 327

At the request of Mr. BRYAN, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Arizona [Mr. DECONCINI], the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arizona [Mr. MCCAIN], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 327, a joint resolution to designate October 8, 1992, as "National Firefighters Day."

### SENATE JOINT RESOLUTION 329

At the request of Mr. PACKWOOD, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. NUNN], the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HEFLIN], the Senator from North Dakota [Mr. CONRAD], the Senator from Michigan [Mr. LEVIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alabama [Mr. SHELBY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Oklahoma [Mr. BOREN], the Senator from Washington [Mr. ADAMS], the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. GLENN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Illinois [Mr. SIMON], the Senator from New York [Mr. MOYNIHAN], the Senator from Nebraska [Mr. EXON], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. COATS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from California [Mr. SEYMOUR], and the Senator from North Dakota [Mrs. BURDICK] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate February 4, 1993 and February 3, 1994, as "National Women and Girls in Sports Day."

### SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

### SENATE JOINT RESOLUTION 336

At the request of Mr. AKAKA, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Indiana [Mr. LUGAR], the Senator from Illinois [Mr. SIMON], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 336, a joint resolution designating the week beginning November 8, 1992, as "Hire a Veteran Week."

### SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, GA.

## SENATE RESOLUTION 346—REGARDING THE CAPTURE OF ABIMAEL GUZMAN

Mr. COATS submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 346

Whereas Abimael Guzman is the leader of the Maoist communist, terrorist group known as Shining Path;

Whereas Shining Path declared war on the Government of Peru in 1980, and, since that time, has been responsible for tremendous economic devastation and terror and contributed to the death of more than 25,000 Peruvian men, women, and children;

Whereas nearly two-thirds of the world supply of cocaine is produced from coca leaf grown in Peru;

Whereas Shining Path promotes and profits from the consumption of illicit narcotics in the United States;

Whereas Shining Path provided armed protection for narcotics traffickers in the Upper Huallaga Valley of Peru;

Whereas Abimael Guzman was captured by the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police of the Government of Peru on September 12, 1992;

Whereas the capture of Abimael Guzman resulted from careful intelligence work carried out under hazardous conditions;

Whereas the capture of Abimael Guzman and several of his immediate subordinates represents an important victory for the Government of Peru in the fight of that government against terrorism and international narcotics trafficking;

Whereas the capture of Abimael Guzman is an important step in the fight against violent anti-democratic forces that have undermined constitutional government in Peru;

Whereas the United States Government has been concerned with the April 5, 1992, decision of President Fujimori of Peru to dissolve the Congress and judiciary of the Government of Peru and to rule by decree; and

Whereas the United States Government has encouraged President Fujimori to move expeditiously to restore constitutional democracy in Peru: Now, therefore, be it

*Resolved*, That the Senate hereby—

(1) Supports the Government of Peru in its determination to fight the violent, antidemocratic terrorist group known as Shining Path;

(2) Commends and congratulates the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police who conceived and executed the plan to capture Abimael Guzman, the leader of Shining Path, and several of his immediate subordinates;

(3) Encourages the people in all sectors of Peruvian society to commit themselves to the long-term process of overcoming the ravaging social effects of the activities of Shining Path and creating the necessary conditions for the maintenance of a viable constitutional democracy and viable economy in Peru;

(4) Encourages the Government of Peru to hold free and fair elections for a constituent assembly on November 22, 1992, under international supervision by the Organization of American States; and

(5) Encourages the Government of Peru to continue its efforts to fight terrorism and international narcotics trafficking and to establish the rule of law throughout Peru.

## SENATE RESOLUTION 347—AUTHORIZING THE PRODUCTION OF CERTAIN DOCUMENTS

Mr. JOHNSTON (for Mr. MITCHELL, for himself, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 347

Whereas, in the case of *United States* v. *Charles H. Keating, Jr., et al.*, No. Cr. 91-1021-MRP & 92-110-MRP, pending in the United States District Court for the Central District of California, the United States Attorney has requested that the Select Committee on Ethics produce documents that the Committee obtained by subpoena;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Select Committee on Ethics is authorized to produce documents in *United States* v. *Charles H. Keating, Jr., et al.*, except concerning matters for which a privilege should be asserted.

## SENATE RESOLUTION 348—AUTHORIZING THE PRODUCTION OF CERTAIN RECORDS

Mr. JOHNSTON (for Mr. MITCHELL, for himself, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 348

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation of allegations of corruption in professional boxing;

Whereas, a law enforcement entity has requested access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide, to law enforcement and regulatory entities requesting access, records of the Subcommittee's investigation of allegations of corruption in professional boxing.

## AMENDMENTS SUBMITTED

## TAX ENTERPRISE ZONES ACT

### SMITH (AND GRAMM) AMENDMENT NO. 3161

Mr. SMITH (for himself and Mr. GRAMM) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

At the end of title VIII of the committee amendment, add the following:

**SEC. . TAXPAYER DEBT BUY-DOWN ACT.**

(a) SHORT TITLE.—This section may be cited as the "Taxpayer Debt Buy-Down Act".

(b) DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—

(1) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT.

"Sec. 6097. Designation.

**"SEC. 6097. DESIGNATION.**

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(2) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

(c) PUBLIC DEBT REDUCTION TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (Relating to trust fund code) is amended by adding at the end the following section:

**"SEC. 9511. PUBLIC DEBT REDUCTION TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Public Debt Reduction Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(d) TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.—

(1) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

**"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.**

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session (other than the One Hundred Second Congress), and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress, as estimated by the Department of the Treasury on May 1 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257, except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters) and (2) the net deficit change that has resulted from direct spending legislation.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNT.—No order issued under this part may—

"(A) reduce benefits payable to the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts;

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or

"Resolution Trust Corporation.".

(2) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a), by inserting before the item relating to August 10 the following:

"May 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(B) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(C) in subsection (d), by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(D) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on May 1.".

(3) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this subsection. The amendments made by this subsection shall cease to have any effect after the first fiscal year during which there is no public debt.

### SMITH AMENDMENT NO. 3162

Mr. SMITH proposed an amendment to amendment No. 3161 proposed by him (and Mr. GRAMM) to the bill H.R. 11, supra; as follows:

Beginning on page 1, line 3, of the pending amendment, strike all after the word "TAXPAYER" and insert in lieu thereof the following:

**DEBT BUY-DOWN ACT.**

(a) SHORT TITLE.—This section may be cited as the "Taxpayer Debt Buy-Down Act".

(b) DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—

(1) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT.

"Sec. 6097. Designation.

**"SEC. 6097. DESIGNATION.**

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(2) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

(c) PUBLIC DEBT REDUCTION TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (Relating to trust fund code) is amended by adding at the end the following section:

**"SEC. 9511. PUBLIC DEBT REDUCTION TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Public Debt Reduction Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(d) TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.—

(1) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

**"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.**

"(a) SEQUESTRATION.—Nothwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session (other than the One Hundred Second Congress), and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress, as estimated by the Department of the Treasury on May 2 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257, except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters) and (2) the net deficit change that has resulted from direct spending legislation.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNTS.—No order issued under this part may—

"(A) reduce benefits payable to the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or

"Resolution Trust Corporation."

(2) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a), by inserting before the item relating to August 10 the following:

"May 2—Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue code of 1986.";

(B) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(C) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(D) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on May 2.".

(3) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this subsection. The amendments made by this subsection shall cease to have any effect after the first fiscal year during which there is no public debt.

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## DECONCINI (AND DOMENICI) AMENDMENT NO. 3163

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 11, supra; as follows:

At the end of title VIII, insert:

**SEC. . ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES.**

(a) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 8205, is amended by adding at the end thereof the following new section:

**"SEC. 45A. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.**

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly chargeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i), "(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

| **"If the recapture event occurs in:** | **The applicable recapture percentage is:** |
|---|---|
| Years 1–3 | 100 |
| Year 4 | 85 |
| Year 5 | 70 |
| Year 6 | 55 |
| Year 7 | 40 |
| Year 8 | 25 |
| Years 9 and 10 | 10 |
| Years 11 and thereafter | 0. |

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by section 8205, is amended—

(A) by striking "plus" at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(10) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45A. Employer on-site day-care facility credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on and after the date of the enactment of this Act.

**SEC. . DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.**

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—To the extent that the amount of employee remuneration for any covered employee exceeds $1,000,000 for the taxable year, no deduction shall be allowed under this chapter for an amount equal to 25 percent of the amount of such excess.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

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## BUMPERS (AND OTHERS) AMENDMENT NO. 3164

Mr. BUMPERS (for himself, Mr. KASTEN, Mr. CRANSTON, Mr. NICKLES, and Mr. KOHL) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 972, beginning with line 17, strike all through page 973, line 13, and insert:

Clause (ii) of section 6654(d)(1)(C) is amended by striking the last sentence.

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## PRESSLER AMENDMENT NO. 3165

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill H.R. 11, supra; as follows:

At the appropriate place, insert the following;

## TITLE —CAR THEFT PREVENTION AND DETERRENCE

### SEC. 01. SHORT TITLE.

This title may be cited as the "Car Theft Prevention and Deterrence Act".

### SEC. 02. PURPOSE.

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

## Subtitle A—Enhanced Penalties for Auto Theft

### SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), take a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

(b) SENSE OF CONGRESS.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, should work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

### SEC. 12. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

### SEC. 13. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

### SEC. 14. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property real or personal that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation.".

## Subtitle B—Targeted Law Enforcement

### SEC. 31. PURPOSE.

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistant Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

### SEC. 32. DEFINITIONS.

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section 34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

### SEC. 33. GRANT AUTHORIZATION.

The Director shall make grants to Anti Car Theft Committees that submit applications in compliance with the requirements of this chapter.

### SEC. 34. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) A statement that the applicant is or will be financed in part by a tax or fee on motor vehicles registered by the State or possessed or insured within the State, and that such tax or fee is not less than $1 per vehicle.

(3) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under the grant.

(4) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

### SEC. 35. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) GRANT AMOUNTS.—

(1) SINGLE APPLICANT.—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) MULTIPLE APPLICANTS.—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) LIMITATION.—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

### SEC. 36. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $10,000,000 for each of fiscal years 1993, 1994, and 1995.

## Subtitle C—Report Regarding State Motor Vehicle Titling Programs To Combat Motor Vehicle Thefts and Fraud

### SEC. 41. TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation and the Attorney General, acting jointly, shall, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) STUDY REQUIREMENTS.—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) CONSULTATION AND REVIEW.—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) CONTENTS.—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

Mr. PRESSLER. Mr. President, in Washington, DC, officials recorded four car-jackings at gunpoint during the month of May 1992 alone. In 1990, 1.6 million cars were stolen throughout the Nation. At an estimated cost of $8–$9 billion, auto theft is the No. 1 crime against personal property. Auto theft is a lucrative, professional business and a great expense to our constituents. This epidemic of crime is not geographically isolated—we are all affected.

The sophisticated alarms, steering-wheel locks, and homing devices installed by desperate auto owners as thefts rise are prompting auto thieves to devise new criminal strategies. Car-jacking has become a viable alternative for the professional car thief. Today's criminal can just point a weapon and take a car, without the hassle of breaking the windows or popping the ignition.

The alarming rise in car-jackings and auto theft has prompted me to introduce a portion of my bill, S. 2613, the Anti-Car Theft Act of 1992 as an amendment to H.R. 11. This amendment subjects car-jackers to Federal penalties. Additionally, the bill authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage which may affect the theft problem. My amendment does not include titles II, III, or IV of S. 2613 which refer to the labeling and marking of auto parts.

Mr. President, I ask unanimous consent that a copy of the amendment I intend to offer tomorrow, together with a letter to my colleagues and a fact sheet describing the amendment, be included in the RECORD immediately following my remarks. I urge all of my colleagues to join me in cosponsoring this important amendment.

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## McCAIN (AND INOUYE) AMENDMENT NO. 3166

(Ordered to lie on the table.)

Mr. McCAIN (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill H.R. 11, supra, as follows:

Strike section 1106 and all that follows through the end of title I, and insert the following:

### SEC. 1106. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this subtitle (other than the amendments made with respect to Indian reservation tax enterprise zones) shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR RULES.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this subtitle),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by subtitle B, and

(4) providing that State and local governments shall have at least 5 months after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

## Subtitle B—Study

### SEC. 1111. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(9), as added by subtitle A), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to conduct a study of the effectiveness of the incentives provided by subtitle A in achieving the purposes of such subtitle in tax enterprise zones.

(b) CONDUCT OF STUDY.—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) REPORTS.—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2000, a final report setting forth the findings as a result of such study.

(d) FUNDING.—There are authorized to be appropriated to carry out the study and reports described in this section, $500,000 for fiscal year 1993, and such sums as are necessary for each succeeding fiscal year.

## Subtitle C—Indian Employment and Investment

### SEC. 1121. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is

amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

| "In the case of qualified Indian reservation property which is: | The Indian reservation percentage is: |
|---|---|
| Reservation personal property ....... | 10 |
| New reservation construction property. | 15 |
| Reservation infrastructure investment. | 15. |

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

**SEC. 1122. INDIAN EMPLOYMENT CREDIT.**

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

**"SEC. 45. INDIAN EMPLOYMENT CREDIT.**

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

"(2) the credit limitation amount determined under subsection (e).

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after June 30, 1992.

**SEC. 1123. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.**

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

## McCONNELL AND SEYMOUR AMENDMENTS NOS. 3167 AND 3168

Mr. McCONNELL (for himself and Mr. SEYMOUR) proposed two amendments to the bill H.R. 11, supra, as follows:

AMENDMENT NO. 3167

On page 1699, between lines 15 and 16, insert the following:

**SEC. 7135. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.**

(a) IN GENERAL.—Section 463 of the Social Security Act (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 of this title shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request for the purpose of locating any parent or child on behalf of the Office of Juvenile Justice and Delinquency Prevention for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) CONFORMING AMENDMENT.—Section 463(c) of such Act (42 U.S.C. 663(c)) is amended by striking "(a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

AMENDMENT NO. 3168

On page 1336, between lines 11 and 12, insert:

"(9) Any fees for professional services, and any transaction costs, incurred by parties to a reorganization with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

## MURKOWSKI (AND OTHERS) AMENDMENT NO. 3169

Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. BUMPERS, Mr. BENTSEN, Mr. PACKWOOD, and Mr. COHEN) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII of the Committee amendment, insert:

**SEC. . IRA ROLLOVERS OF MILITARY SEPARATION PAY.**

(a) IN GENERAL.—Section 402(c) (relating to rules applicable to rollovers) is amended by adding at the end the following new paragraph:

"(11) MILITARY SEPARATION PAY.—If—

"(A) an individual receives separation pay under section 1174 or 1174a of title 10, United States Code, and

"(B) such individual transfers any portion of such pay within 60 days after the receipt of such pay to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B),

then the portion of the pay so transferred (to the extent it does not exceed $25,000) shall be treated as a transfer from a qualified trust which meets the requirements of this subsection and which is a transfer of a distribution of amounts other than employee contributions."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to pay received after December 5, 1991.

(2) TRANSITION RULE.—In the case of any payment received after December 5, 1991, and before the date of the enactment of this Act, the 60-day transfer requirement of section 402(c)(11)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall be treated as met if the taxpayers transfers the payment to an eligible retirement plan within 1 year after such date of enactment.

## HARKIN AMENDMENT NO. 3170

Mr. HARKIN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, strike line 9 and insert the following: of the enactment of this Act.

**SEC. 8217. ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.**

(a) LIMITATION ON DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end thereof the following new section:

**"SEC. 280I. LIMITATION ON DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.**

"(a) IN GENERAL.—The amount allowable as a deduction under this chapter for expenses relating to advertising or promoting tobacco products shall not exceed 80 percent of the amount of such expenses which would (but for this paragraph) be allowable as a deduction under this chapter.

"(b) DEFINITIONS.—For purposes of this section—

"(1) TOBACCO PRODUCTS.—The term 'tobacco products' means cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product.

"(2) CIGARETTES, CIGARS, SMOKELESS TOBACCO, PIPE TOBACCO.—The terms 'cigar', 'cigarette', 'smokeless tobacco', and 'pipe tobacco' have the same meanings given to such terms by subsections (a), (b), (n) of (o) of section 5702, respectively."

(2) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Limitation on deduction for tobacco advertising and promotion expenses."

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

**"SEC. 9512. TRUST FUND TO REDUCE TOBACCO USE.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund to Reduce Tobacco Use' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section 280I as added by subsection (a) of section ——of the Revenue Act of 1992, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary to distribute to each State based upon such State's population in relation to the population of all the States, as determined by using the most recent decennial census data.

"(2) USE OF DISTRIBUTIONS.—Each State, through its agency responsible for public health, may use its distribution to fund advertising programs designed to persuade individuals (especially children, pregnant women, and minorities) not to use tobacco products (as defined in section 280I(b)).

"(3) LIMITATION ON ADMINISTRATIVE COSTS.—Each State may use not more than 3 percent of the amount described in paragraph (2) for administrative expenses."

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Trust Fund to Reduce Tobacco Use."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply taxable years ending after December 31, 1992.

## WARNER (AND METZENBAUM) AMENDMENT NO. 3171

Mr. WARNER (for himself and Mr. METZENBAUM) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1751, between lines 7 and 8, insert the following new section:

**SEC. 8006. IMPROVED DISCLOSURE TO DONORS BY TAX-EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any organization described in section 501(c)(3) or 501(c)(4) and any separate segregated fund described in section 527(f)(3) maintained by such organization, which is subject to the requirements of subsection (a) shall—

"(A) advise each contributor of the availability of a disclosure statement described in paragraph (3), and

"(B) shall furnish such statement upon written request to—

"(i) such contributor, or

"(ii) any potential contributor, within 30 days of such request.

"(2) EXCEPTION.—Paragraph (1) shall not apply to—

"(A) any organization described in clause (ii) or (iii) of section 170(b)(1)(A) or

"(B) any organization the gross receipts of which in each taxable year are normally not more than $100,000.

"(3) Disclosure statement.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds $100,000.

"(4) Processing fees.—Any organization furnishing a disclosure statement under this subsection may require that a self-addressed, stamped envelope and a reasonable fee not to exceed $2 to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

(b) Penalty for Failure To Meet Requirements.—Paragraph (1) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) Disclosure statement.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements $50 for each day during which such failure continues."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1993.

## McCAIN AMENDMENT NO. 3172

Mr. McCAIN proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of the bill, add the following section:

**SEC. . TAX FAIRNESS AND ACCOUNTABILITY.**

(a) Supermajority Requirement in the Senate.—

In the Senate, any bill or amendment increasing the tax rate, the tax base, the amount of income subject to tax; or decreasing a deduction, exclusion, exemption, or credit; or any amendment of this provision shall be considered and approved only by an affirmative vote by three-fifths of the Members of the Senate, duly chosen and sworn.

(b) Amendment to the Congressional Budget Act of 1974 Striking 60-Vote Requirement for Revenue Reduction.—Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act or any other law, a bill, resolution, or amendment that reduces the tax rate, the tax base, the amount of income subject to tax; or increases a deduction, exclusion, or credit shall be considered and approved by a simple majority of the Senate; *Provided however*, That a bill, resolution or amendment that reduces the tax for Social Security may only be considered and approved by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn.

## ADAMS AMENDMENT NO. 3173

Mr. ADAMS proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert the following new sections:

**SEC. 8217. DENIAL OF CERTAIN EXPORT SUBSIDIES.**

(a) Foreign Sales Corporations.—Paragraph (2) of section 927(a) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding at the end thereof the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(b) Domestic International Sales Corporations.—Paragraph (2) of section 993(c) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding after subparagraph (D) the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(c) Title-Passage Rule.—Subsection (b) of section 865 (relating to source rules for personal property sales) is amended by adding at the end the following:

"Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' means any log, cant, or similar form of timber."

(d) Elimination of Deferral.—Subsection (d) of section 954 is amended by adding at the end the following new paragraph:

"(4) Special rule for certain timber products.—For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) the sale of any unprocessed timber referred to in section 865(b), or

"(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph."

(e) Effective Date.—The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.

**SEC. 8218. RURAL DEVELOPMENT IN RURAL COMMUNITIES.**

(a) Purposes.—The purposes of this section are—

(1) to create an organizational structure to plan rural development programs for economic diversification, stability, and rural development for rural communities that have been adversely affected by a declining timber supply and changes in the timber industry in Oregon, Washington, and northern California; and

(2) to provide rural development programs for small businesses and microbusinesses adversely affected by changes in the timber industry.

(b) Definitions.—As used in this section:

(1) Adversely affected.—The term "adversely affected", with respect to a community or a business situated near or adjacent to a Federal forest, means adversely economically affected by changes in the timber industry.

(2) Affected state.—The term "affected State" means Oregon, Washington, or California.

(3) Commission.—The term "Commission" means a Community Rural Development Commission established by subsection (d).

(4) Community.—The term "community" means a rural community that—

(A) is adjacent to or near a Federal forest; and

(B) has been adversely affected.

(5) Dislocated worker.—The term "dislocated worker"—

(A) means an individual—

(i) who is employed, or who was employed, in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries that are dependent on timber from Federal forests in Oregon, Washington, or northern California;

(ii) who is experiencing dislocation from the individual's employing industry; and

(iii) who has exhausted unemployment benefits available under State law; and

(B) does not include an individual who is engaged in an occupation that is not directly related to the timber harvesting or wood products industries.

(6) Dislocation.—The term "dislocation" means a dislocated worker's total or partial loss of employment (including being compelled to accept a position with lesser pay or to work part-time) during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act because of an action that is taken pursuant to—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); or

(C) the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(7) Employment.—The term "employment" means the worker's period of employment in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries in Oregon, Washington, or northern California in each of the 3 base periods (as determined under State law) preceding the total or partial dislocation that constitutes—

(A) at least 39 weeks of employment (at 20 hours or more of employment per week); or

(B) not fewer than 1560 hours of employment, as determined under the unemployment laws of the worker's State of residence.

(8) Federal forest.—The term "Federal forest" means land in Federal ownership that is managed—

(A) by the Forest Service and is located—

(i) within the exterior boundaries of a national forest in the State of Washington or the State of Oregon; or

(ii) in one of the following national forests (or portions of forests) in the State of California: Siskiyou, Rogue River, Klamath, Six Rivers, Shasta-Trinity, and Mendocino National Forests, or that portion of the Modoc National Forest inhabited by northern spotted owls; or

(B) by the Bureau of Land Management and is located in—

(i) the State of Washington;

(ii) the State of Oregon; or

(iii) the Ukiah District in the State of California.

(9) Fund.—The term "Fund" means the Community Rural Development Investment Fund established by subsection (c).

(10) State law.—The term "State law" means the unemployment compensation laws of the worker's State of residence.

(c) COMMUNITY RURAL DEVELOPMENT INVESTMENT FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Community Rural Development Investment Fund", consisting of such amounts as are transferred to the Fund under paragraph (2).

(2) TRANSFERS TO FUND.—For each of fiscal years 1993 through 1998, the Secretary of the Treasury shall transfer to the Fund by not later than the last day of the fiscal year an amount equal to 40 percent of the increase in Federal revenues for the fiscal year by reason of the amendments made by section 8217.

(3) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—On October 1, 1993, and each October 1 thereafter through October 1, 1998, and without further appropriation, the Secretary of the Treasury shall transfer from the Fund to each Commission the amount from the Fund that is determined to be payable to the Commission pursuant to subparagraph (B). The amount shall be used by the Commission in accordance with subparagraph (C).

(B) DETERMINATION OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of Agriculture shall determine the amounts payable to each Commission according to a pro rata distribution based on a formula determined by the Secretary in accordance with clause (ii).

(ii) FORMULA.—The formula shall take into consideration, on a historical basis, the number of dislocated workers in the State in proportion to the total number of jobs lost in each industry in which dislocated workers are employed.

(C) USE OF AMOUNTS.—

(i) IN GENERAL.—Subject to clause (ii), a Commission shall use amounts received pursuant to subparagraph (A) to achieve rural development by—

(I) making loans pursuant to subsection (e); and

(II) facilitating the operations of the Commission.

(ii) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission may be used for administrative expenses.

(4) TERMINATION.—The Fund shall terminate on October 1, 1998. After termination, any amounts remaining in the Fund shall be paid to the general fund of the Treasury.

(d) COMMUNITY RURAL DEVELOPMENT COMMISSIONS.—

(1) IN GENERAL.—There is established for each affected State a Community Rural Development Commission.

(2) MEMBERSHIP.—

(A) COMPOSITION.—Each Commission shall be composed of five members appointed by the Governor of the affected State.

(B) CHAIRPERSON.—

(i) IN GENERAL.—Each Commission shall elect a chairperson from among its members.

(ii) TERM.—The chairperson shall serve for a term of 1 year.

(C) VACANCIES.—A vacancy on a Commission shall be filled in the same manner in which the original appointment was made.

(D) COMPENSATION.—Members of a Commission shall serve without compensation.

(E) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for a Commission, members of a Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses pursuant to section 5703 of title 5, United States Code.

(3) DUTY.—In accordance with subsection (e), each Commission shall distribute loans and other assistance to communities from monies received from the Fund.

(4) MEETINGS.—

(A) IN GENERAL.—A Commission meeting shall be open to the public, unless the meeting concerns a personnel or budgetary matter.

(B) NOTICE.—A notice of a Commission meeting shall be published 30 days in advance in a newspaper of general circulation in the State.

(C) RULES OF PROCEDURE.—Each Commission shall adopt and make available to the public such internal rules of procedure as the Commission considers necessary.

(5) STAFF.—Each Commission may appoint, fix compensation for, and assign and delegate duties to an executive director and such other employees, and procure such temporary and intermittent services, as the Commission considers necessary to carry out its duties.

(6) ASSISTANCE FROM OTHER AGENCIES.—

(A) IN GENERAL.—Each Commission may use, with the consent of the agency, the services, equipment, personnel, and facilities of Federal, State, and other agencies with or without reimbursement.

(B) TECHNICAL ASSISTANCE.—Upon the request of a Commission, a Federal agency may provide technical assistance on a nonreimbursable basis to the Commission to assist the Commission in carrying out its duties.

(C) COOPERATION.—Subject to subparagraph (B), each Federal agency shall cooperate fully in making its services, equipment, personnel, and facilities available to each Commission.

(7) REPORT.—Not later than 90 days after the end of each fiscal year during which a Commission is in existence, the Commission shall submit in writing to Congress, the Secretary of Agriculture, the Secretary of the Interior, and the Governor of the State, a report that addresses—

(A) the activities of the Commission;

(B) the economic conditions and the employment situation of communities in the State;

(C) any recommendations that the Commission may have concerning the economic conditions; and

(D) any other rural development issues considered appropriate by the Commission.

(8) TERMINATION.—Each Commission shall terminate on September 30, 1999.

(e) COMMUNITY RURAL DEVELOPMENT LOANS.—

(1) IN GENERAL.—For the purposes described in paragraph (2), each Commission shall distribute monies received from the Fund in the form of loans to communities that are eligible in accordance with paragraph (3).

(2) PURPOSES.—To further the purposes of rural development, loans shall be provided to—

(A) assist eligible communities and businesses in achieving economic diversity; and

(B) carry out such other purposes as the Commission considers appropriate.

(3) ELIGIBILITY.—A community shall be eligible for a loan if the community—

(A) has associated with it employment in a wood products, log harvesting, or log hauling or transportation company that during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act has experienced a plant closure or reduction in its work force of at least 33 percent; and

(B) is approved for assistance by the Commission for the State.

(4) REVOLVING LOAN FUND.—

(A) IN GENERAL.—Each Commission shall establish a revolving loan fund from the monies made available to the Commission for the purpose of making low interest loans to businesses that—

(i) have been adversely affected; and

(ii) have 300 or fewer employees.

(B) PROMOTION OF NEW BUSINESSES.—A Commission may set aside a portion of the funds made available to carry out this paragraph for loans to promote new businesses in communities.

(5) ELIGIBILITY FOR OTHER ASSISTANCE.—Nothing in this subsection is intended to affect the eligibility of communities for technical planning assistance and loans intended to achieve economic diversification and enhance local economies under the National Forest-Dependent Rural Communities Economic Diversification Act of 1990 (7 U.S.C. 6611 et seq.).

(f) PROVISION OF INFORMATION TO COMMISSIONS.—Prior to taking any action with respect to managing a Federal forest within an affected State that may have a substantial local or regional impact on employment in communities, the Secretary of Agriculture and the Secretary of the Interior shall inform the Commission for the State of the proposed action.

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## SIMON (AND CONRAD) AMENDMENT NO. 3174

Mr. SIMON (for himself and Mr. CONRAD) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1329, lines 2 and 3, strike "GOODWILL AND CERTAIN OTHER" and insert "CERTAIN".

On page 1329, lines 8 and 9, strike "GOODWILL AND CERTAIN OTHER" and insert "CERTAIN".

On page 1329, line 15, strike "16-year period" and insert "14-year period".

On page 1330, lines 10 and 11, strike "subparagraph (D), (E), or (F)" and insert "subparagraph (B), (C), or (D)".

On page 1330, strike line 24.

On page 1331, strike line 1.

On page 1331, line 2, strike "(C)" and insert "(A)".

On page 1331, line 14, strike "any customer-based intangible" and insert "any customer list".

On page 1331, line 18, strike "(D)" and insert "(B)".

On page 1331, line 21, strike "(E)" and insert "(C)".

On page 1332, strike lines 3 and 4, and insert: "(D) any franchise.

On page 1332, strike lines 5 through 18, and insert:

"(2) CUSTOMER LIST.—The term 'customer list' includes any subscription list".

On page 1334, line 24, strike "16 years" and insert "14 years".

On page 1335, lines 9 and 10, strike "except as provided in subsection (d)(2)(B),".

On page 1338 line 1, strike "(d)(1)(E)" and insert "(d)(1)(C)".

On page 1338, line 8, strike ", trademark, or trade name".

On page 1338, line 10, strike "(d)(1)(D)" and insert "(d)(1)(B)".

On page 1340, lines 3 and 4, strike "which is described in subparagraph (A) or (B) of subsection (d)(1) (or".

On page 1340, line 7, strike the parenthesis after "section".

On page 1350, beginning with line 22, strike through page 1351, line 3, and insert:

(1) Paragraph (1) of section 1060(b) is amended by inserting "or section 197 intangibles" before the end period.

(2) Paragraph (1) of section 1060(d) is amended by inserting ", including section 197 intangibles" after "similar items".

On page 1351, in the matter between lines 7 and 8, strike "goodwill and certain other" and insert "certain".

On page 1351, in the matter following line 21, strike "goodwill and certain other" and insert "certain".

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## REVISION OF PAY AUTHORITIES FOR NURSES AND OTHER VETERANS ADMINISTRATION HEALTH CARE PROFESSIONALS

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### CRANSTON AMENDMENT NO. 3175

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 2575) to amend chapter 74 of title 38, United States Code, to revise certain pay authorities that apply to nurses and other health care professionals, and for other purposes, as follows:

On page —, below line —, add the following:

**SEC. 706. MEDICAL CARE COST RECOVERY.**

(a) RECOVERY OF CARE FURNISHED CHAMPVA BENEFICIARIES.—(1) Section 1729 is amended—

(A) by striking out "veteran" and "veteran's" each place they appear and inserting in lieu thereof "VA beneficiary" and VA beneficiary's", respectively;

(C) by striking out "veterans" in subsection (h)(1)(B) and inserting in lieu thereof "VA beneficiary"; and

(C) by adding at the end of subsection (i) the following new paragraph:

"(4) The term 'VA beneficiary' means a veteran or a person eligible for care under section 1713 of this title.".

(2) The amendments made by paragraph (1) shall apply with respect to care and services furnished under section 1713 of title 38, United States Code, after the date of the enactment of this Act.

(b) INCLUSION OF MEDICARE SUPPLEMENTAL INSURANCE IN CLASS OF THIRD-PARTY PAYORS.—(1) Subsection (i)(1)(A) of section 1729 is amended by inserting ", including a medicare supplemental insurance policy," after "arrangement".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) COST RECOVERY FROM ISSUERS OF MEDICARE SUPPLEMENTAL INSURANCE.—(1) Subsection (c) of section 1729 is amended by adding at the end the following new paragraph:

"(3)A) The Secretary shall collect or recover the cost of care or services furnished to VA beneficiaries under subsection (a)(1) from third party issuers of medicare supplemental insurance policies to such VA beneficiaries in accordance with the provisions of this paragraph.

"(B) The Secretary, in consultation with the Secretary of Health and Human Services, shall establish procedures for the treatment of claims of the Department for the recovery of the cost of care or services under this paragraph.

"(C) In establishing procedures under subparagraph (B), the Secretary shall provide for—

"(i) the review of such claims by an entity or entities jointly designated by the Secretary and the Secretary of Health and Human Services, for the purpose of determining the extent, if any, to which the cost of such care or services would be covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) if provided by a participating provider; and

"(ii) the transmittal to third party issuers of the results of such reviews and any additional information that may be necessary to determine the liability of such third party issuers for the cost of the care or services.

"(D) The results and information referred to in subparagraph (C)(ii) shall be transmitted to issuers of medicare supplemental insurance policies not later than the later of—

"(i) the expiration of the period provided for under title XVIII of such Act for the timely filing of claims; or

"(ii) the expiration of the period provided for in the medicare supplemental insurance policy for such filing.

"(E) The Secretary of Health and Human Services shall establish a fee for each claim reviewed by the entity or entities designated under subparagraph (C)(i) under the procedures established under that subparagraph. The amount of the fee (i) shall reflect the estimated cost of processing the claim for which the fee is collected, (ii) shall be paid to the entities designated under subparagraph (C)(i), and (iii) shall reduce the amount recovered by the Secretary of Veterans Affairs under this paragraph.".

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and apply to the recovery of costs for care and services furnished after that date.

• Mr. CRANSTON. Mr. President, I am today submitting an amendment that I intend to offer to S. 2575, the proposed Veterans Health Programs Improvement Act of 1992, when that measure comes before the Senate in the next few days. This amendment would prospectively provide VA with explicit authority to collect third-party reimbursement under Medicare supplemental insurance policies—known as Medigap policies.

Section 1729 of title 38, United States Code—which was enacted in April 1986 in the Consolidated Omnibus Budget Reconciliation Act of 1985 and amended in the Omnibus Budget Reconciliation Act of 1990 [OBRA 1990]—authorizes VA to collect from third-party payors, other than Medicare and Medicaid, the reasonable costs of care furnished by VA to eligible veterans for non-service connected conditions.

Mr. President, while a few Medigap carriers have paid VA for care furnished to veterans, others have disputed VA's billing under this authority. In practice, the Medigap policies do not cover care but rather the deductibles and copayments that Medicare imposes. The carriers argue, in part, that the authority does not apply to Medigap policies because these policies are supplementary to Medicare and, since Medicare is excluded from VA's collection efforts, these policies should also be excluded. Three federal district courts, in Alabama, Maryland, and Pennsylvania, have ruled in cases in which VA has pursued collections from Medigap carriers that current law does cover Medigap policies. The insurers are appealing those decisions. This amendment is not intended to have any effect on those or any other cases relating to claims for reimbursement for care furnished by VA before the date of enactment.

#### SUMMARY OF PROVISIONS

Mr. President, the proposed amendment would:

First, prospectively expressly include Medicare supplemental insurance carriers in the class of third-party payors from whom VA can collect reimbursement for care provided to beneficiaries of those policies.

Second, require the Secretary, in consultation with the Secretary of Health and Human Services, to establish procedures for the treatment of claims involving Medigap policies, including the review of such claims by an entity or entities jointly designated by the Secretaries of Veterans Affairs and Health and Human Services, to determine the extent to which the cost of such care or services would be covered under the Medicare Program if furnished by a Medicare-participating facility, thereby making it possible to ascertain the amount for which the insurers would be liable.

Third, provide for the collection of a fee for each VA claim reviewed that would reflect the estimated cost of processing the claim.

Fourth, provide that the provisions of this amendment would apply with respect to the recovery of costs for care and services furnished after the date of enactment.

Fifth, replace the term "veteran" with "VA beneficiary" throughout section 1729, relating to VA's Medical Care Cost Recovery program, so as to authorize VA to collect from third-party payors the costs of care furnished to any VA beneficiary, which would include a veteran's dependent furnished care in a VA facility under section 1713.

#### VA'S MEDICAL CARE COST RECOVERY PROGRAM

Mr. President, prior to the 1986 amendment that authorized VA to collect generally from third-party payors, VA had a rudimentary billing process which was used to collect for VA-provided care in relation to such categories as automobile no-fault insurance and workers' compensation. When the authority was expanded in 1986, OMB estimated collections of $250 million in fiscal year 1987. Actual collections that year were $24 million.

In an April 1990 GAO report—"VA Health Care: Better Procedures Needed to Maximize Collections From Health Insurers"—GAO estimated that VA was collecting only approximately one-third of the potential collectibles from insurers under its authority. GAO pointed out that, since all collections were required to be deposited in the

U.S. Treasury, there was no incentive for VA or individual medical centers to increase collections, especially since the costs of collection came out of medical centers' budgets.

To rectify what was actually a disincentive to VA collection efforts, section 8011 of OBRA 1990 established the Medical Care Recovery Fund to which collections under section 1729 of title 38 would be credited. Annually, after deducting the amount the Secretary determines is necessary to defray the costs of operating the collections program, the Secretary of VA is required to deposit the fund balance into the U.S. Treasury as miscellaneous receipts. According to an August 4, 1992, report, VA estimated that it will collect $400 million in fiscal year 1992.

### MEDIGAP COLLECTIONS

Mr. President, as I have indicated, the issue whether VA has the authority to bill Medigap carriers for care given by VA to veterans who are covered by Medigap policies has remained in dispute since 1986.

Part of the Medigap insurers' opposition to such coverage is based on their position that Medigap policies are organized differently than other health insurance policies. As their name suggests, Medicare supplemental insurance policies serve to cover the deductibles and copayments that Medicare beneficiaries are charged for Medicare-covered services—rather than generally cover the beneficiary's health-care costs as conventional health-insurance policies do.

As of September 1, 1992, Medigap policies must conform to 1 of 10 standardized plans, all of which must include a core benefit package including the daily copayments charged for lengths of stay over 60 days—$163 for the 61st through the 90th day in 1992; payments for Medicare's 60 lifetime reserve days—$326 per day in 1992; 100 percent of Medicare part A eligible expenses after all Medicare hospital benefits have been exhausted; the reasonable costs of the first three pints of blood per calendar year; and 20 percent of the coinsurance amount for part B services after the $100 annual deductible. Nine of the 10 standard Medigap policies include coverage of the part A inpatient hospital deductible, which for 1992 is $652 per Medicare benefit period. Other plans may include varying amounts of coverage for certain foreign travel emergencies, at-home recovery, skilled nursing facility coinsurance, preventive medical care, and prescription drugs.

Mr. President, the provision that I am submitting today would provide explicitly for VA recovery from Medigap carriers. To facilitate the resulting billing effort, the provision would direct VA to arrange for billing review according to Medicare standards through an entity or entities chosen jointly by the Secretaries of Veterans Affairs and Health and Human Services. These reviewing entities might well be intermediaries with HHS contracts for its reviews of Medicare claims.

A fee payable to the reviewing entity, perhaps the Medicare intermediaries with whom HHS contracts for its reviews of Medicare claims, based on the cost of the billing-review process, would be deducted from the amount of the claim paid by the Medigap insurer. This arrangement would allow an intermediary to interpret VA's bill, determine for what services Medicare would have reimbursed if the VA medical center had been a Medicare-participating provider, and submit that determination to the Medigap carrier. HCFA and the current Medicare intermediaries have the expertise and procedures to do such claim processing, but this provision would not mandate that the Secretaries choose them as the conduit for these bills.

Mr. President, I want to make one point clear: by submitting VA bills to a review that would determine what Medicare would have paid had these been Medicare claims, this provision would not place VA's medical care decisions under the jurisdiction of the Medicare program. VA is responsible for the quality of the care furnished in VA facilities. VA's standard for quality of care are comparable to those required by the Medicare program. But they are administered through different channels. The provision that I am proposing would not change that. The claims-review process would determine whether VA should be reimbursed and, if so, provide a basis for determining in what amounts. It would not have the responsibility or authority to direct or indicate what care VA should provide. I have consulted with insurers and VA regarding this approach—and all agree that it is a feasible and efficient one.

Mr. President, the mechanisms I have proposed would facilitate fair review of the claims of Medigap policy-covered veterans who receive care in VA facilities. I urge my colleagues to support this amendment.•

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## TAX ENTERPRISE ZONES ACT

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## STEVENS (AND MURKOWSKI) AMENDMENT NO. 3176

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the "Tax Simplification" title of this bill, add the following new section:

**SEC. . STANDING FOR CERTAIN TAXPAYERS WITH REGARD TO SALE OF NET OPERATING LOSSES.**

(a) Subsection (c) of section 5021 of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) is amended to read as follows:

"(c) SPECIAL ADMINISTRATIVE RULES.—

"(1) INCOME INCLUDED IN NATIVE CORPORATION RETURN.—At the joint election of a Native Corporation and a corporation (referred to in this subsection (c) as the "buyer corporation") with which the Native Corporation entered into a transaction permitted under section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 (referred to in this subsection (c) as a "Native Corporation transaction"), income assigned, transferred or otherwise made available by the buyer corporation through the use of a corporation (referred to in this subsection (c) as the "profit subsidiary") by reason of such transaction for a period in which the profit subsidiary qualified as a member of the affiliated group of which the Native Corporation was the common parent shall be included in the taxable income of the Native Corporation affiliated group solely for purposes of section 6212 of the Internal Revenue Code.

"(A) ELECTION.—The election under this subsection (c) for the taxable year to which the election relates shall be made no later than 120 days after the date of enactment of this amendment. The election shall be made by filing with the district director for the Anchorage district office of the Internal Revenue Service a written statement signed by responsible officers of the Native Corporation and the electing buyer corporation that:

"(i) identifies the Native Corporation, the profit subsidiary, and the buyer corporation (and their taxpayer identification numbers) and states their agreement to make the election provided in this subsection (c);

"(ii) states the amount of income assigned, transferred or otherwise made available to the profit subsidiary for the taxable year by reason of the Native Corporation transaction;

"(iii) if profit subsidiaries related to a buyer corporation other than the electing buyer corporation were members of the affiliated group of which the Native Corporation was the common parent, describes the order and the amount of the losses and credits of the Native Corporation affiliated group that were used to offset the income of each profit subsidiary;

"(iv) states the agreement of the buyer corporation to consent under section 6501(c)(4) of the Internal Revenue Code to extend the periods of limitations for assessment and collection solely with respect to the income of the profit subsidiary for the affected taxable period(s) to a date not less than 180 days after the date the tax liability for the taxable year in which the Native Corporation transaction occurred is finally determined; and

"(v) the Native Corporation and the buyer corporation agree that the Service is authorized to make any refund of any overpayment that is determined to be due, jointly to the Native Corporation and the electing buyer corporation.

If a Native Corporation has engaged in multiple Native Corporation transactions, such election shall be independently made by each buyer corporation on separate written statements. A buyer corporation that elects under this provision must so elect for all Native Corporation transactions with the particular Native Corporation with whom the election is made for which the statute of limitations for assessment is open.

"(B) TAXABLE RATE.—Notwithstanding section 11 of the Internal Revenue Code, any income of the profit subsidiary that is subject to the election provided in this subsection (c) shall be taxed at the rate that such income would have been taxed if it had been included in the return of the buyer corporation for the taxable year from which such income was assigned, transferred or otherwise made available. Solely for purposes of issuing a notice under section 6212 of the Internal Revenue Code to a Native Corporation for a Native Corporation transaction for which an election has been made under this subsection (c), the tax may be computed by applying the maximum corporate rate under section 11 of the Internal Revenue Code.

"(2) TREATMENT OF NATIVE CORPORATION AS COMMON PARENT AS SOLE AGENT.—The common parent of an affiliated group which includes a Native Corporation that elects under subsection (c)(1) shall be the sole agent for the profit subsidiary for purposes of the Native Corporation transaction for the period of affiliation.

"(3) COLLECTION OF TAX FROM BUYER CORPORATION.—For purposes of this subsection, the amount of any tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary shall be paid by and be collectable from the profit subsidiary and the buyer corporation for the taxable year for which income was assigned, transferred or otherwise made available by the buyer corporation in connection with the Native Corporation transaction.

"(4) PAYMENT OF TAX BY NATIVE CORPORATION.—If, after the election provided in subsection (c)(1) is made, the Native Corporation pays all or any part of the tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary, such payment shall be deemed to be a payment by the buyer corporation for the taxable year for which such income would otherwise have been included in the buyer corporation's return if the election provided in subsection (c)(1) was not made.

"(A) FILING OF REFUND CLAIM.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of sections 6402 and 6511 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary and shall be entitled to file a claim for refund as the taxpayer with respect to any taxes, interest, additions to tax, penalties or other amounts attributable to the income of the profit subsidiary.

"(B) FILING OF REFUND SUIT.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of section 7422 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary, and as the plaintiff for purposes of 28 U.S.C. section 1402, and shall be entitled to file and maintain a proceeding in court as the taxpayer for the recovery of such amounts.

"(C) REFUND OF OVERPAYMENT.—In the event that an overpayment is determined to be due, whether by final administrative or judicial decision, with respect to a Native Corporation transaction for which an election is made under subsection (c)(1), the Native Corporation shall be treated as the person who made the overpayment within the meaning of section 6402(a) of the Internal Revenue Code. Notwithstanding any law or rule of law, including the preceding sentence, any refund of such overpayment may be made jointly to the Native Corporation and to the electing buyer corporation, as agreed to under paragraph (A)(v) of subsection (c)(1).

"(5) PARTICIPATORY RIGHTS OF ELECTING BUYER CORPORATION.—Any buyer corporation that makes an election under subsection (c)(1) shall have the right to—

"(A) submit a written statement and participate with the Native Corporation in any administrative proceeding relating to any proposed adjustment regarding a Native Corporation transaction for which an election has been made; and

"(B) file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the Native Corporation involving a proposed adjustment regarding such a Native Corporation transaction.

All written notices or other reports issued by the Secretary or his delegate with respect to such a Native Corporation transaction shall be issued to the Native Corporation, and it shall be the obligation of the Native Corporation to provide copies thereof to the electing buyer corporation.

"(6) FINAL DETERMINATION OF ISSUES.—All issues with respect to the Native Corporation transaction with respect to which an election is made under subsection (c)(1), including the applicability of any interest, addition to tax, penalty or other amount, shall be determined by administrative or judicial decision with respect to the consolidated return of the Native Corporation affiliated group.

"(A) Upon such determination, any income of the profit subsidiary that is not offset in the Native Corporation transaction shall be reported on the buyer corporation's return as if it were originally reported thereon and subject to all adjustments, including net operating loss or other carrybacks, to which such income would otherwise be subject.

"(7) NO EFFECT ON NONELECTING CORPORATIONS.—The absence of an election by a Native Corporation and a buyer corporation with respect to a Native Corporation transaction shall not restrict the authority of the Secretary of the Treasury or his delegate to settle or litigate with any nonelecting buyer corporation with respect to any issue relating to such a transaction.

"(A) RIGHTS OF NATIVE CORPORATION.—For any such Native Corporation transaction for which no election is made under subsection (c)(1), the Native Corporation shall have the right to submit a written statement and participate with the buyer corporation in any administrative proceeding relating to any proposed adjustment regarding such Native Corporation transaction; and to file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the non-electing buyer corporation involving a proposed adjustment regarding such Native Corporation transaction.

"(B) EXTENSION OF STATUTE OF LIMITATIONS.—Subparagraph (A) shall not apply if the Secretary of the Treasury or his delegate determines that an extension of the statute of limitations is necessary to permit the participation described in subparagraph (A) and the taxpayer and the Secretary or his delegate have not agreed to such extension.

"(C) FAILURES.—For purposes of the 1986 Code, any failure by the Secretary of the Treasury or his delegate to comply with the provision of this subsection shall not affect the validity of the determination of the Internal Revenue Service of any adjustment of tax liability of any non-electing buyer corporation.

"(8) EFFECTIVE DATE.—This provision shall be effective for all taxable years for which the statue of limitations for assessment with respect to an electing Native Corporation has not expired prior to the date of enactment of this Act.

"(A) EXTENSION OF STATUTE OF LIMITATIONS.—Any Native Corporation for which the statute of limitations for assessment will expire within 120 days after the date of enactment of this amendment shall have the right upon request to extend such statute of limitations pursuant to section 6501(c)(4) of the Internal Revenue Code to a date not less than 120 days after the date of enactment of this amendment."

(b) Section 5021 of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100–647) is amended by adding, after subsection (e), new subsection (f) to read as follows:

"(f) INCREASE IN UNDERPAYMENT RATE.—For purposes of determining the amount of interest payable under section 6601 of the Internal Revenue Code on a tax underpayment attributable to a Native Corporation transaction for which an election has been made under subsection (c) hereof, paragraph (2) of section 6621(a) of the Internal Revenue Code shall be applied by substituting "3.50 percentage points" for "3 percentage points"."

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## JEFFORDS (AND DURENBERGER) AMENDMENT NO. 3177

Mr. JEFFORDS (for himself and Mr. DURENBERGER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of subtitle B of title IV of the Committee amendment, insert:

**SEC. . REQUIRED SECURITY FOR CERTAIN PLAN AMENDMENTS.**

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) INCREASE IN REQUIRED FUNDING PERCENTAGE.—

(A) IN GENERAL.—Clause (ii) of section 401(a)(29)(A) is amended by striking "60 percent" and inserting "90 percent".

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 401(a)(29) is amended by striking "60 percent" and inserting "90 percent".

(2) INCREASE IN REQUIRED AMOUNT OF SECURITY.—

(A) IN GENERAL.—Subparagraph (C) of section 401(a)(29) is amended to read as follows:

"(C) AMOUNT OF SECURITY.—The security shall be an amount equal to the excess of—

"(i) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 90 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, over

"(ii) $1,000,000.".

(B) CONFORMING AMENDMENT.—Subparagraph (E) of section 401(a)(29) is amended by striking ", except that" and all that follows and inserting a period.

(3) PROVISIONS MADE APPLICABLE TO MULTIEMPLOYER PLANS.—Clause (i) of section 401(a)(29)(A) is amended by striking "(other than a multiemployer plan)".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974—

(1) INCREASE IN REQUIRED FUNDING PERCENTAGE—

(A) IN GENERAL.—Paragraph (2) of section 307(a) of the Employee Retirement Income Security Act of 1974 is amended by striking "60 percent" and inserting "90 percent".

(B) CONFORMING AMENDMENT.—Subsection (d) of section 302 of such Act is amended by striking "60 percent" and inserting "90 percent".

(2) INCREASE IN AMOUNT OF REQUIRED SECURITY.—

(A) IN GENERAL.—Subsection (c) of section 307 of such Act is amended to read as follows:

"(c) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess (if any) of—

"(1) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 90 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, over

"(2) $1,000,000."

(B) CONFORMING AMENDMENT.—Subsection (f) of section 307 of such Act is amended by striking ", except that" and all that follows and inserting a period.

(3) PROVISIONS MADE APPLICABLE TO MULTIEMPLOYER PLANS.—Paragraph (1) of section 307(a) of such Act is amended by striking "(other than a multiemployer plan)".

(4) CRIMINAL PENALTY MADE APPLICABLE.—Section 501 of such Act is amended by inserting "or of section 307" after "this subtitle".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted after 1993.

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON THE JUDICIARY

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 24, 1992, at 9:30 a.m. to hold a hearing on the nomination of Timothy K. Lewis to be U.S. circuit judge for the third circuit, Ursula Ungaro to be U.S. district judge for the Southern District of Florida, John W. Sedwick to be U.S. district judge for the District of Alaska, John S. Unpingco to be U.S. district judge for the District of Guam, Kathryn Vratil to be U.S. district judge for the District of Kansas, Steven J. McAuliffe to be U.S. district judge for the District of New Hampshire, Paul J. Barbadoro to be U.S. district judge for the District of New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Thursday, September 24, 1992, at 10 a.m. to hold a hearing entitled "Consumer Fraud and the Elderly: Easy Prey"?

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 24, 1992, at 10 a.m. to hold a hearing on ambassadorial nominees. Nominees follow:

Mr. David J. Dunford, of Arizona, to be Ambassador to the Sultanate of Oman.

Mr. John Cameron Monjo, of Maryland, to be Ambassador to the Islamic Republic of Pakistan.

Mr. William Arthur Rugh, of Maryland, to be Ambassador to the United Arab Emirates.

Mr. John Frank Bookout, Jr., of Texas, to be Ambassador to the Kingdom of Saudi Arabia.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 24, 1992, at 2:15 p.m. to hold a hearing on arming the U.N. Security Council: The "Collective Security Participation Resolution"—Senate Joint Resolution 325.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON INVESTIGATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 24, 1992, to hold a hearing on oversight of the insurance industry: Blue Cross/Blue Shield-Maryland plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON POW/MIA

Mr. BENTSEN. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Thursday, September 24, 1992, at 9:30 a.m. in room 216 of the Hart Senate Office Building for hearings to examine the Paris Peace Accords: The negotiations and the aftermath.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, September 24, at 9:15 a.m. for a hearing on the subject: Reforming Postal Procurement and Contracting: Eagle Air Hub Example.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON SMALL BUSINESS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, September 24, 1992, at 2:30 p.m. The committee will hold a full committee markup of S. 2941, the Small Business Innovation Research Program Reauthorization Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

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### H.R. 3486—THE MARINE MAMMAL HEALTH AND STRANDING RESPONSE ACT

• Mr. LAUTENBERG. Mr. President, I rise today to support H.R. 3486, the Marine Mammal Health and Stranding Response Act. This bill would amend the Marine Mammal Protection Act of 1972, to establish a program for responding to unusual marine mammal mortality events and to provide guidance and quality control for marine mammal tissue banking and analysis. The effective coordination of stranding responses will help save marine mammal and standardized tissue sampling and analysis will help determine the cause of marine mammals strandings and possibly prevent them. This bill is the companion bill to S. 1898, which I introduced last year.

H.R. 3486 responds to the serious incidences of marine mammal strandings. In 1987 and 1988 we witnessed a die-off of bottlenose dolphins and strandings of these animals on the shores of my State of New Jersey and other east coast States. The sight of dead and sick marine mammals on our shores was heart wrenching. It made many wonder why these beautiful creatures died and if this mysterious affliction would threaten other marine life and even beachgoers. Studies of the marine mammal tissue from these stranded marine mammals showed high levels of toxic contaminants. These contaminants may have played a role in weakening the immune system of these marine mammals and made them susceptible to illness which led to their stranding. No conclusions could be drawn from these studies because we did not have an adequate baseline to compare contaminant levels found in the tissues of these stranded marine mammals.

H.R. 3486 will address this problem by establishing a marine mammal tissue bank. While always tragic, strandings and unusual mortality events can be used as learning tools to diagnose the health of the marine mammal populations. If the marine mammal is still alive or recently dead, tissues can be collected for analysis. Tissue analysis may lead to a diagnosis of the problems which lead to the marine mammal strandings. It is not enough, however, to just ensure tissues are collected. Since the start of the stranding networks, tissues have been collected. Individual participants, however, have used various methods of collection, preparation, storage and examination of these tissues. H.R. 3486 will require NOAA to issue recommended guidelines for collection, preparation and tissue analysis techniques. Thus data from one stranding event can be compared to data from another event, and all these can be referenced to standard samples taken from healthy marine mammals.

The 1987–88 Atlantic bottlenose dolphin die-off and the *Exxon Valdez* oil spill of 1989 showed that responses to unexpected events affecting marine mammals that cause at least partial die-offs of marine mammal populations have been uncoordinated. H.R. 3486 calls for a more effective response to unusual mortality events. It will accomplish this by having NOAA establish a scientific working group that will: First, determine when an unusual mortality event is occurring; second, determine the point at which an unusual mortality event is concluded; third, develop a contingency plan which allows for a coordinated response to an event; and fourth, identify individuals or organizations that can assist NOAA in a coordinated and effective response. Contingency plans will permit the coordination of efforts so as to most effectively use scarce resources, maximize the chances for identifying causes of unusual mortality events, and improve efforts to save the marine mammals once stranded.

I want to thank Senator HOLLINGS and the Commerce Committee for their efforts in considering this legislation.

Mr. President, I believe H.R. 3486 will strengthen efforts to protect the health of this Nation's magnificent marine mammals. This bill has received the support of the administration and the environmental community. I urge my colleagues to support H.R. 3486.•

## TRIBUTE TO DR. JONATHAN R. JAVORS

• Mr. COATS. Mr. President, there are few issues more important to the people of Indiana today than health reform. I would like to commend Dr. Jonathan R. Javors, D.O., a private orthopaedic surgeon from Schererville, IN, for contributing to this important debate with a reform proposal rooted in wellness and prevention.

Dr. Javors has published and distributed his health care proposal entitled, "Health Care * * * A New Beginning," to more than 2,000 national leaders, including President Bush and his Cabinet, Members of Congress, the Nation's 50 Governors, and Fortune 500 chief executive officers.

Reflecting his concern as a physician and the fact that skyrocketing health care costs are sapping our Nation's productivity and ability to compete in world markets, Dr. Javors has two objectives in mind in distributing his proposal. The first is to reorient the health care system toward wellness and prevention—specifically, proper fitness, nutrition, and stress control combined with testing and treatment to attack illness before it occurs. The second is to reform the present system by seeking significant savings by eliminating overtesting and overuse of services, changing tort laws to decrease defensive medicine, and other measures.

For example, he estimates that out of the current $800 billion spent on health care, over $300 billion could be saved and then reinvested to provide access to health care for Americans.

By his own words, Dr. Javors would rather help people stay healthy than treat problems after disease occurs. As medical director of the Centers for Health Excellence, Dr. Javors is promoting wellness with his patients and providing scholarships to deserving high school students in Lake County through his ongoing Sports Medicine Center Foundation.

For his initiative, courage, and commitment to changing the health care system by reorienting it toward wellness and prevention while personally demonstrating a wellness ethic in his practice and community, Dr. Javors is demonstrating the highest standards of excellence as a physician and an emerging leader in the health care reform movement. I speak for all the people of northwest Indiana when I say thanks for his valuable contribution.•

## TAILHOOK, THE RIGHTS OF WOMEN, AND THE HONOR OF THE NAVY

• Mr. McCAIN. Mr. President, nearly a year ago, on October 29, 1991, I was the first Member of this body to stand up on this floor, and demand a full investigation of the molestation and abuse of women at the 1991 Tailhook convention. At that point, all I knew was that something was terribly wrong. Incidents had occurred at the convention, which took place in Las Vegas on September 8, 1991, that harmed a number of women and threatened to dishonor the Navy.

At that time, I called for the Secretary of the Navy to commence an independent investigation to ensure the most complete and credible review. I stated that we must adopt a zero tolerance approach to harassment and sexual violence of any kind, and I called for suspension of the Navy's participation in the Tailhook reunion.

The months that have followed have often been grim. They have revealed that incidents did take place at Tailhook that could never have been condoned at any time in our military history. They have revealed deep flaws in the Navy's efforts to prevent such incidents, in the Navy's initial handling of the incident, and in the Navy's conduct of the investigation once it took place.

Hopefully, Mr. President, we have begun to put an end to all of these problems today. We are showing that we have corrected the weaknesses in the initial investigation of Tailhook, we are showing that we will not tolerate abuse or the cover up of abuse, and we are sending a very clear message that our policies relating to sexual harassment have very sharp and determined teeth.

I believe that Derek J. Vander Schaaf, the inspector general of the Department of Defense should be praised for his forthright investigation. He has uncovered a sad story, but one that needed to be told and one that everyone in the Navy should read. Justice must be done, and no one can condone a single failure to ensure that it is done.

I believe that Secretary O' Keefe deserves equal praise for acting quickly and decisively on the content of the inspector general's report. I regret that such steps have become necessary, but the Secretary is clearly committed to the right course of action, and I strongly support him in every respect.

I also believe that Admiral Kelso deserves praise for his strong and continuing effort to deal with this issue. He has shown consistent leadership in communicating the fact there is no place in today's Navy, or in any organization that claims to support the Navy, for a single man who feels that sexual harassment or abuse can be tolerated or is somehow a legitimate subject of ridicule.

It is my hope that we will put an end to this tragedy in December, when the investigations of the individual cases of abuse at Tailhook are complete. It is my hope that we will take every necessary action to ensure that every man in every service who crossed the line, either in participating in the abuses at Tailhook or in covering them up, receives whatever penalties apply.

It is also my firm belief that we will then be able to put Tailhook in perspective. That bad as the abuses at Tailhook were, they involved a small fraction of the thousands of men at Tailhook, and a small fraction of the Navy.

Mr. President, let me close with a personal message to all of those who served or have served in the Navy, and in the service to which my family has given three generations.

Every man on active duty and in the Reserves, and every retired naval officer and enlisted man, must accept and act upon Admiral Kelso's message that women are partners and equals. I am firmly in support of that policy, and I am committed to supporting it in every way I can.

Tailhook will never truly be over until you help end it. The U.S. Navy is an honorable profession. It has served our country and the cause of freedom on countless occasions. All Americans share a common pride in its achievements, and incidents like this can never again be allowed to stain its reputation.

We all must rededicate ourselves to ensuring that the honor of the Navy is firmly based on equal respect for all who serve. Women do not need to prove their right to that respect. They have already proved it time and again. It is we, as men, who need to prove that we recognize that right and are dedicated to showing that respect.●

## MINORITY SMALL BUSINESS AWARDEE

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Joseph C. Lu who has been selected to receive the Minority Small Business Association's Small Business Person of the Year Award.

Joseph C. Lu [JCL] Engineers is a professional corporation providing consulting engineering services. They are dedicated to providing practical and responsive services. The firm consists of consultants who serve as a source of information relating to engineering problems, approaches, and solutions. JCL covers an entire range of services including construction, cost and budget analysis, design, facility evaluation, planning, program development, and regulatory coordination and compliance.

Joseph C. Lu received his bachelors degree in civil engineering from the University of Taiwan and his masters degree in environmental engineering from the University of Missouri. Prior to organizing his own consulting firm, Mr. Lu was manager of the process division for a large consulting firm in upstate New York. There he planned and supervised the design of municipal and industrial waste treatment and water supply systems.

Mr. Lu has designed water supply treatment, storage, and distribution systems for both municipal and industrial users, and has conducted water supply evaluation and modification studies for major cities. He has also performed water resource planning studies and assisted in water resource planning studies and assisted in water district formations.

Mr. Lu has had extensive liaison experience between regulatory bodies and local governments during the planning and development of environmental related projects. In performing this critical function he has provided assistance in fiscal planning, applications for grants-in-aid, grant administration, and technical design required for approval by State and Federal environmental agencies.

Mr. Lu brings to his projects an unusually broad perspective. His varied cultural and professional experience has resulted in a unique ability to focus efforts toward mutual goals and to bring disparate viewpoints into accord. His technical expertise is balanced with his superior management skills which has led the Minority Small Business Association to bestow its most distinguished award upon him this month. Mr. President, I ask my colleagues to join me in applauding the superior efforts of Joseph C. Lu. I wish Mr. Lu warm congratulations and many more successes.●

## ORDERS FOR TOMORROW

Mr. BENTSEN. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. Friday, September 25; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately thereafter, the Chair announce that the Senate resume consideration of H.R. 11, the urban aid package; that once the bill is reported, Senator Smith be recognized to offer his amendment, which is to be considered under the parameters of a previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 9 A.M. TOMORROW

Mr. JOHNSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 11:08 p.m., recessed until Friday, September 25, 1992, at 9 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 24, 1992:

### THE JUDICIARY

GEORGE A. O'TOOLE, JR., OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE DAVID SUTHERLAND NELSON, RETIRED.

### COMMUNICATIONS SATELLITE CORPORATION

BARRY M. GOLDWATER, SR., OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF ANNUAL MEETING OF THE CORPORATION IN 1995. (REAPPOINTMENT)

### COMMISSION ON NATIONAL AND COMMUNITY SERVICE

RANDALL BROOKS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 4, 1994, VICE JOYCE M. BLACK.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be general*

LT. GEN. HENRY VICCELLIO, JR., [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

*To be lieutenant general*

LT. GEN. JAMES T. CALLAGHAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

LT. GEN. JOSEPH W. ASHY, [redacted] U.S. AIR FORCE.

## WITHDRAWAL

Executive message transmitted by the President to the Senate on September 24, 1992, withdrawing from further Senate consideration the following nomination:

### DEPARTMENT OF STATE

JOSEPH GERARD SULLIVAN, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA, WHICH WAS SENT TO THE SENATE ON FEBRUARY 27, 1992.

# EXTENSIONS OF REMARKS

## SENATE CONFIRMATION OF JOHN UNPINGCO

### HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. BLAZ. Mr. Speaker, today is a red letter day for the Territory of Guam as a result of the confirmation hearing held for attorney, John S. Unpingco, as judge for the District Court of Guam. To memorialize this momentous occasion, I am hereby submitting for inclusion into the CONGRESSIONAL RECORD the remarks that I had the privilege of presenting to the Senate Judiciary Committee in my introduction of John.

STATEMENT OF CONGRESSMAN BEN BLAZ

Mr. Chairman, Members of the Senate Judiciary Committee, I am Ben Blaz, the Congressional Delegate representing the U.S. Territory of Guam. On behalf of Joseph F. Ada, Governor of Guam, the Honorable Joe T. San Agustin, Speaker of the 21st Guam Legislature, members of the 21st Guam Legislature and the people of Guam, I want to thank you for holding this hearing to consider a son of Guam, John Sablan Unpingco, as Federal Judge of the U.S. District Court of Guam.

Mr. Chairman, I cannot resist the temptation to mention a remarkable coincidence at this hearing today. As a young Marine Lieutenant some 48 years ago, you were one of the liberators of Guam from enemy occupation during World War II. Today, you are serving as Chairman of this particular hearing to confirm Guam's nominee for U.S. District Court Judge. It is indeed remarkable that I can sit here before you today, as a fellow Marine and as a colleague in Congress, to participate with you on yet another momentous occasion for Guam. This turn of events is a magnificent commentary on the American form of democracy and a fitting tribute to ideals of the American people.

You have undoubtedly reviewed the Senate questionnaire that John has completed, which discloses in detail his qualifications: his legal education, which culminated in a Juris Doctorate from New York University and a Master of Laws from Georgetown University; his professional experience as a trial attorney and international law practitioner with the U.S. Armed Forces; and his membership in bar associations and court admissions which include Washington, D.C., California, Japan and Guam.

As proud as we are of John's professional and personal accomplishments, we are equally as proud that he is a native born son of Guam who holds all the requisite legal credentials. He is best qualified to balance our people's unique cultural sensitivities while upholding our American judicial principles of justice, fairness and impartiality.

While the U.S. District Court on Guam is considered a creation of the legislative branch and is thus an "Article I" Court, perhaps one day we can make it a full-fledged "Article III" Court. We could do this as part of Guam's other efforts to become a more equal partner under our American flag and to achieve a closer association within the American political family.

As you well know, Mr. Chairman, over the past few years we have managed to overcome some significant obstacles and have reached a commendable level of economic self-sufficiency. Similarly, we are working toward increased self-governance as we define and refine our relationship with our country as a non-State. Favorable consideration of John's appointment would be just, inspirational and reassuring to those of us who are on the periphery of the Republic.

In closing, let me reiterate my strong and unqualified support of John S. Unpingco to become our next District Court Judge. I know that he also has the bipartisan and unified backing of the Territory's entire community, including the Governor of Guam, the Guam Legislature, the Guam Bar Association, as well as Judge Clifford Wallace, the Chief Judge of the Ninth Circuit, and Judge Ted Goodwin, former Chief Judge and now a Senior Judge in the same Circuit.

Finally, Mr. Chairman, I want to thank you for chairing this hearing. We are deeply touched by the personal interest that you and your colleagues, most notably Senator Dan Inouye, have shown for the well-being of the Territory of Guam and its people. We will long remember your personal contribution to this very special day in Guam's history.

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## A CRA SUCCESS STORY: MILWAUKEE'S LINCOLN STATE BANK

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. KLECZKA. Mr. Speaker, Lincoln State Bank, an outstanding, community-oriented financial institution with deep roots in Milwaukee, has received an outstanding rating from Federal regulators for its compliance with the Community Reinvestment Act.

Few institutions nationwide can claim this distinction. Through its organization of a community development corporation, day-to-day involvement with local businesses and community groups, and leadership in such projects as the restoration of St. Josaphat Basilica, Lincoln State Bank has shown it is possible to make an impact while making a buck.

At this point, I would like to share with my colleagues an article from the September 19, 1992, Milwaukee Business Journal which describes the Lincoln State Bank story.

[From the Milwaukee Business Journal, Sept. 19, 1992]

CRA SUCCESS STORY: LINCOLN STATE BANK

(By Geoff Cooper)

Alberto Guzman wanted to open a Mexican restaurant on Milwaukee's south side, but he had no idea he'd have such a tough time getting the permits needed to operate.

"So we took his hand and went down to City Hall," said Hidle Dewulf, a consultant to Lincoln Neighborhood Redevelopment Corp. "Sometimes you've got to do that."

Lincoln Neighborhood Redevelopment, a community development corporation, a community development corporation, or CDC, is a subsidiary of Merchants & Manufacturers Bancorporation, parent of Lincoln State Bank, 2266 S. 13th St., Milwaukee. The 83-year-old bank has long been a chief financier of businesses and residents on Milwaukee's south side.

As the once predominantly Polish-American neighborhoods surrounding the bank became home to a growing Hispanic population, the bank adapted, tailoring its marketing to reach those who did not speak English.

That's just one reason the bank earlier this month earned an "outstanding" grade from federal regulators for compliance with the Community Reinvestment Act (CRA) of 1977.

Guzman is another reason. He opened Tiobeto's, at 565 W. Lincoln Ave., in June after leasing space in a building Lincoln Neighborhood Redevelopment bought last year. The entrepreneur hopes someday to buy the building, but the relationship between Guzman and the bank won't end there.

The bank, through its CDC, will examine Tiobeto's cash flow statements regularly. Already, the bank has aided Guzman immeasurably: Dewulf went to City Hall this spring with the prospective business owner and helped him get occupancy, liquor and operating permits.

"They're a model of how a bank can take the initiative and make a change in a neighborhood," said Leo Ries, director of housing and neighbornood development at the city of Milwaukee Department of City Development. "A lot of banks go out there and wait for an easy deal to come along. Not Lincoln."

NO EASY DEALS

Last week, Lincoln State Bank's CDC razed dilapidated garages behind two commercial buildings in the 500 block of West Lincoln Avenue. Now the CDC, using city and county grants, will turn the space into a parking lot for the businesses facing Lincoln Avenue.

Within 60 days the community development group expects to finalize an agreement to sell one of the buildings to an ophthalmologist who plans to gut the 1920s structure, restore it, and build an atrium that will link it with a neighboring apartment building.

The apartment building has four vacant units. Badly in need of rehabilitation, it will get it this fall. Earlier this week, the bank's CDC signed an agreement to provide building materials to Bay View High School students. The carpentry class students have until May 1993 to revamp the four apartments.

When John Bailey, a Lake Geneva business owner, went searching for a place to open a pottery shop this spring, he was heavily courted by Lincoln State Bank.

"They just dogged him," said Robert Trimmer, CDC's neighborhood development specialist.

In July, Bailey opened Lincoln Art Pottery at 636 W. Lincoln Ave. He bought the building using a loan from the Lincoln Fund, a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

$550,000 pool of money administered by Lincoln State Bank's CDC. The fund was created in 1989 when the bank, Lincoln Savings Bank S.A., Layton State Bank and Wisconsin Community Capital Corp., a Madison small-business investment company, agreed to plunk down the startup capital.

Lincoln State Bank since has entered an agreement to acquire Lincoln Savings.

So far, the Lincoln Fund has helped eight businesses get started on the south side, and it has helped three others expand.

Todd Moro's Club Cha-Cha Mexican restaurant, which opened in June, got a loan from the fund and now is leasing space at 1332 W. Lincoln Ave., a property owned by Lincoln Neighborhood Redevelopment.

Moro, president of the Blue Water Restaurant Group, which owns three restaurants in the metropolitan area, also moved the company's administrative offices from the backroom of its Mukwonago restaurant to 1311 W. Lincoln Ave. Shortly after his arrival on Milwaukee's south side, Moro told Lincoln State Bank Executives he'd make noise if the area's revitalization slows.

"I want to be an advocate of community pride and keeping the streets clean," Moro said.

CDC TAKES CONTROL

Moro intends to be an active member of the Lincoln Avenue Merchants Association (LAMA). Like the 13th Street and Oklahoma Avenue Advancement Association, LAMA was "ailing" until two years ago, Dewulf said. Lincoln State's CDC took control. It now coordinates the activities of both organizations and prepares regular newsletters for local businesses that are members of the two groups.

Last year, the bank created a third local business organization, the Layton Park Association.

The three groups are sending a clear message to local businesses: Clean up your act. Central to revitalization efforts is a beautification plan aimed at making it easier for businesses to improve tattered storefronts.

Lincoln Neighborhood Redevelopment has helped seven businesses get grants from the city's Facade Grant Program, which offers matching funds of up to $2,500 per application.

The CDC itself will receive a grant—$25,000 from the city—that it will disburse to local businesses that need face lifts. And the city has agreed to pay an architect to study turn-of-the-century buildings in the West Lincoln Avenue business corridor, suggest ways to rehabilitate them to their original state, and talk one-on-one with local business owners about how to improve the appearance of their shops, Dewulf said.

"A lot of the things we do don't call for money," said Michael Gapinski, executive director of the CDC. "Some things simply deal with the concept and value of a neighborhood."

Industry observers say this is the essence of a grass-roots community reinvestment effort. A bank must be willing to spend time and energy to improve the business climate of the area in which it does business.

"They're elevating the confidence of the neighborhood," Ries said. "They're an institution that's out to make a buck, make no mistake. And in the end, if they're successful, they will.

"But there's no other bank around that's actually talking about community organization and social support like they are."

One business owner jokes that Lincoln State Bank has become the neighborhood's "storefront police." If a storefront is empty, the bank posts a large sign in the window urging prospective tenants to call the CDC. If a storefront needs repair, bank officers pay a visit to the business's owner.

"All the owners seem to take pride in taking care of the area," said Ava Kuzminski, owner of Ava's Brides & Co., 3052 S. 13th St.

Kuzminski and her husband, Walter, opened their business in July. They bought the building last December and renovated it. They lease part of the building to Natural Food Shop, and they've found tenants for three of the four upstairs apartments.

All this was done with a loan from Lincoln State bank.

"Other banks weren't interested," Ava Kuzminski said. "Lincoln was the only one that wanted to deal."

GUSHING REGULATORS

Unlike other CRA exams made public in the past year, regulators gushed about the efforts of Lincoln State Bank. The Federal Deposit Insurance Corp., in a report made public this month, commended the bank for hiring a CRA officer. It talked positively about the bank's efforts through the CDC and it mentioned the Lincoln Fund.

The FDIC said there is no evidence the bank has discriminated on the basis of race, color or religion. The bank has not "redlined" any neighborhoods, and has actually tried to break through language barriers by advertising in Spanish-language publications and community shoppers.

The FDIC applauded the bank for buying a duplex from a city tax foreclosure and, with the help of utilities, repairing it. The South Ninth Street duplex was vacant for two years and was "unlivable," Gapinski said.

A single mother with three children now rents the duplex from a local real estate broker who bought the rehabilitated building from the bank.

The FDIC forgot to mention the $3.5 million restoration of the St. Josaphat Basilica. The crown jewel of the south side, the basilica is a source of pride. If its dome shines, so will the area's business sector. Or at least that's what Michael Murry thought.

A native south sider, Murry is president of Merchants & Manufacturers, parent of Lincoln State Bank. Fellow bank officers say it was Murry who approached the Federal Reserve Bank of Chicago about licensing the CDC in 1989. And it was Murry who gathered local business owners in 1987 to create a strategy for improving south side neighborhoods.

The effort was born partly out of community spirit, partly out of guilt.

"We were building branches in New Berlin and Muskego at the time and I wanted people to know we weren't abandoning the south side," Murry said.

It's been five years since the first meetings between Murry and business owners and the south side is looking better. Vacant storefronts along West Lincoln Avenue from South First Street to South 20th Street have fallen from 32 to 23. Businesses are coming to the area instead of leaving it.

And $2.2 million has been raised to restore the basilica. The bank hopes to raise another $1.3 million that will be placed in a trust fund for future repairs of the turn-of-the-century landmark.

Industry observers aren't surprised the bank received a mark of "outstanding" from the FDIC. Its success has been noted within the industry. Lincoln State Bank officers recently were asked by the Green Bay City Council to talk to 30 upstate bankers about community reinvestment.

"The impact in this community is so noticeable," Gapinski said. "I don't see why this can't be done in other neighborhoods."

## TRIBUTE TO HERBERT M. SORKIN THE CITY OF PASSAIC'S LONGEST SERVING COUNCILMAN

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. ROE. Mr. Speaker, on Wednesday, October 14, 1992, the friends of Herbert M. Sorkin will host a gala affair in his honor at the Meadowlands Hilton in Secaucus, NJ. This tribute will mark the occasion of his 22 years of service on the city of Passaic Council, the longest tenure of service in its history. His many friends and family will be on hand to honor and thank him for his worthy efforts on behalf of all the citizens of Passaic.

Herb has been serving as a councilman in Passaic since his election on July 1, 1971. He has always been recognized as a voice of reason and understanding as well as a positive voice for Passaic.

Herb was born in Passaic and is a graduate of Passaic High School. He enlisted in the U.S. Army Air Force and served as a ball turret gunner on B–24's in the 15th Air Force, based in Italy. Upon his return from overseas, he enrolled in Syracuse University, and graduated in June 1949.

Herb is married to the former Lenore Rinzler and they have three wonderful children: Karen, Laurie, and Kenneth. Karen is married to Gorden Braverman, Laurie is married to Lawrence Loeber, and Kenneth is married to Leslie Garrison. They have blessed Herb and Lenore with five grandchildren, Lindsay and Melanie Braverman, Jessica Loeber, and Gary and Andrew Sorkin.

Herb is active in many organizations, presently serving as vice commander of the Rosol—Dul American Legion Post #359, member of the Jewish War Veterans Post #47, member and past president of the B'nai B'rith Lodge #1609, member of the Knights of Pythias Lodge #155, member and board of director of the Young Israel of Passaic & Clifton, and a member of the Temple Emanuel of Passaic.

Mr. Speaker, the good people of Passaic, which lies in the heart of my Eighth Congressional District, truly appreciate the contributions that Herbert M. Sorkin has made to their community. Throughout his tenure, the citizens of Passaic have been assured of an outstanding public servant, tremendous leadership, astute judgment, and bedrock integrity.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of Herbert M. Sorkin, who has contributed so much to the quality of life of his fellow citizens. It gives me great pleasure in joining you to honor this great American for his august service to the city of Passaic.

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## THE GREENWICH JOURNAL AND SALEM PRESS CELEBRATE 150TH ANNIVERSARY

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. SOLOMON. Mr. Speaker, on October 13 of this year the Greenwich Journal and

Salem Press will celebrate its 150th anniversary.

It first appeared as a four-page broadsheet known as the Washington Journal in 1842. The newspaper has gone through several name changes since then. But its high level of journalistic excellence has remained intact.

In 1868, John Curtis was succeeded by Harry C. Page as owner. It seems, however, that Mr. Curtis was not very popular, and when he left he took several years of bound volumes with him. In the 1950's, some of the missing volumes were traced through a New York attorney, but attempts to recover them have been unsuccessful. Present Vice President Culver Tefft, however, is still hopeful these priceless records of local history will be recovered some day.

Page was succeeded by eight different publishers, all of whom left their mark. In 1876, Henry C. Morhouse bought the paper, renamed it the Greenwich Journal, and led the paper for 39 years. His son Harry took over for another 2 years.

In 1917, Grant J. Tefft, a ninth-generation Greenwich resident who worked under the elder Morhouse, took the reins and contributed a wit and style that is still remembered by readers 40 years after his death.

In 1920, Louis Barton sold the Salem Press to Tefft. The two papers were finally merged in 1969. During his tenure, Tefft also printed the Fort Edward Advertiser, the Schuylerville Standard, and the Schaghticoke Sun.

When Tefft died in 1948, Jane and Dick Tefft, his eldest children, became editors and managers of the Greenwich Journal. When his widow, Mazie Tefft died in 1960, her sister Clarissa Hughes and the younger generation of Teffts carried on the family tradition throughout the era of newer technology and changes in the newspaper business.

Dick Tefft died in 1980. His wife Sally succeeded him as owner and publisher. Their oldest son Culver had already come aboard to oversee both business and reporting ends of the business.

In 1990, the Journal moved to 35 Salem Street. Despite many moves and name changes, despite two fires and other problems the newspaper never missed a publication date.

It has always upheld the highest standards of community journalism. That is why, Mr. Speaker, I ask this House to rise in tribute to this great institution, the Journal-Press.

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## TRIBUTE TO LOUIS VERRETTE

### HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. DAVIS. Mr. Speaker, at a time when it is fashionable to decry the moral decline of our Nation, let me bring to your attention proof positive that America is alive and well. The story of Louis Verrette of Iron Mountain is one of integrity, initiative, and service. On the occasion of his 80th birthday, I am including in the RECORD the biography of a man who has given much more than he has taken:

LOUIS C. VERRETTE

Louis C. Verrette was born in Iron Mountain, Michigan, on January 11, 1913, the first of six children born to Edward J. and Perina Verrette.

Louis was educated in the Iron Mountain School system. During his high school years, he was a state finalist as a declarative speaker. He graduated from the Iron Mountain High School with honors in June 1930.

Louis Verrette enrolled at the Michigan College of Mines, located in Houghton, Michigan, in September 1930. He supported himself and paid for his education during his four years at Michigan Tech working as a janitor in the Chemical Engineering Building and by joining the Army Reserve Officers Training program.

Mr. Verrette graduated with a Bachelor of Science degree in Civil Engineering from the Michigan College of Mines in 1934 at the depths of the depression. He began working as a Civil Engineer in the St. Louis, Missouri, area on federally funded highway construction projects, returning to Iron Mountain in 1937, to accept a job with the Service and Supply Company. Louis Verrette continued working for the Service and Supply Company and Lakeshore, Inc. upon the merger of those two companies until the outbreak of World War II in December 1941.

In January 1942, Mr. Verrette became the first officer called to service from Dickinson County.

Louis Verrette spent four years in the Army Corps of Engineers stationed at the Corps Research and Development Center at Fort Belvoir, Virginia, near Washington, DC. He entered the service in 1941 as a Second Lieutenant and was discharged in February 1946 with the rank of Lieutenant Colonel.

Louis Verrette returned to Iron Mountain after World War II and purchased the Champion Gravel Company from Medio J. Bacco. Starting from scratch, and with very little money, Mr. Verrette developed a construction company, an electric supply business, a mining supply firm, and a ready-mix concrete supply company. All incorporated under Champion, Inc.

In the late forties and the 1950's, Mr. Verrette concentrated on securing Contracts throughout Upper Michigan, the upper part of Lower Michigan and Northern Wisconsin, doing a substantial amount of work at Kinross AFB, Wurtsmith AFB, K.I. Sawyer AFB, and other government facilities.

In the late fifties and throughout the sixties, as mining came back to Upper Michigan, Champion, Inc. did a major part of the construction for Cleveland Cliffs and The Hanna Mining Company.

The company continued to grow throughout the seventies and eighties along the lines established by Louis Verrette in 1947. The earnings from the company have always, to a large measure, been plowed back into the business increasing the strength of this Upper Peninsula construction service and supply company.

Mr. Verrette, at 80 years old, continues as Chairman of the Board of Champion, Inc. and plays an active role in the management of the company.

Louis Verrette was a charter member of the Upper Peninsula Contractors Association, a founder of the Michigan Associated General Contractors Association and has been active in many civic and professional organizations.

Louis Verrette served four years as a member of the Michigan Technological University Board of Control from 1961 to 1965. He served as Board Chairman in 1964. Mr. Verrette was instrumental in and worked hard to establish Lake Superior State College as a four year institution. As Chairman of the Michigan Technological University Board of Control, he signed the documents that separated the Sault Ste. Marie school from Michigan Technological University.

Mr. Verrette resides in Iron Mountain with his wife, Ruth, and the Verrettes have two grown children, William and Julie. They also have seven grandchildren.

Louis Verrette spent his entire life working to develop the Upper Peninsula as a good place to live and work. He is pleased to watch that which he started continue to grow. He looks forward to a bright future for the Upper Peninsula his family and the businesses in which he is involved.

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## TRIBUTE TO CHALMERS WYLIE AND CLARENCE MILLER

### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. GOODLING. Mr. Speaker, Ohio and the Nation are losing two very outstanding men from the U.S. House of Representatives. Between them, they have served their country and constituents in the most dedicated and conscientious manner for more than a half century.

For me, it has been pleasure and an honor to have served with CHALMERS WYLIE and CLARENCE MILLER as a colleague in the greatest legislative body in the world. My father served with these two gentlemen before I and he too had nothing but good words about these two Representatives from Ohio.

CHALMERS WYLIE has served his country admirably both in war and later as a public servant in Ohio and in the Congress of the United States. I have always looked to CHALMERS WYLIE for advice on banking and housing issues and I surely will miss his guidance in these areas. Likewise, CLARENCE MILLER has distinguished himself as a dedicated public servant both for Ohio and for the United States. I have looked to CLARENCE MILLER for help in appropriations matters, and he would always tell me if appropriations were over budget.

Above all, I will miss the association with these two outstanding gentlemen. I wish them the very best as they take on new challenges in the years to come.

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## TRIBUTE TO THE COORDINATORS OF OPERATION REBUILD

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. SOLOMON. Mr. Speaker, I'm so very proud of some individuals and groups in our 24th District in upstate New York for their response to the needs of victims of Hurricane Andrew.

I'd like to single out for special praise the Chatham Courier of Chatham and the Courier of East Greenbush, two newspapers in the district, and the Chatham Area Pastors' Association, coordinators of this worthwhile collection drive, known as Operation Rebuild.

Many other businesses and groups contributed generously, and I only hope I haven't left out any names.

The campaign got off to a great start with the donation of a tractor-trailer from Ryder Systems, Inc. The community response in general was so great that three tractor-trailers and a flat-bed were filled.

Tractors, trailers, and even drivers also were donated by Hildebrandt of Claverack, Mabey Moving of Rensselaer, and Rebouin from Hancock, MA. Trucking firms also donated $4,500 for fuel and tolls.

Hannaford Bros. of Schodack donated seven pallets of food. Blue Seal of Chatham a box of pet food. Matt Brewery of Utica donated 80 cases of soft drinks. Williams Lumber of Hudson filled a flat-bed with building materials. Greenport Roofing also donated roofing materials.

The Outlet Barn donated 1,600 pounds of clothing. The Nassau Resource Center donated sweaters. Agway of Kinderhook and Crellin, Inc. also contributed miscellaneous items.

A local gymnasium was filled with clothing, household goods, furniture, baby equipment, toiletries, and appliances in response to the call for help.

Many private individuals made generous donations.

We were pleased to assist Operation Rebuild by arranging licensing permits for the trucks through the States of North Carolina, South Carolina, Georgia, and finally Florida.

Mr. Speaker, as many as 50,000 families were made homeless by Hurricane Andrew. But America responded the way America always responds.

In time, the ravaged areas will be rebuilt and life will return to normal for all victims of this devastating hurricane. When that time comes, those who organized or participated in Operation Rebuild so generously will have every right to be proud of their response. It's precisely this spirit of voluntarism, helping neighbors in time of need, that has made America great.

Mr. Speaker, I ask you and other Members of this House to join me in a grateful salute to publisher Bob Lundquist, the various pastors of Chatham, and everyone else who helped make Operation Rebuild a success.

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## CAMPAIGNITIS

## HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. DUNCAN. Mr. Speaker, my very good friend, Dr. Fred Hurst, has written a column about a condition that is quite common around the Nation this time of year.

This "condition" is "campaignitis," and I thought my colleagues and other readers of the RECORD all over the country might enjoy reading this reprint from the Knoxville News-Sentinel.

[From the Knoxville News-Sentinel, Sept. 22, 1992]

### WIDESPREAD NATIONAL CONDITION LIKELY CURED BY EARLY NOVEMBER

(By Dr. Fred Hurst)

A "condition" exists in the United States today that is seasonal in occurrence, vastly widespread in scope and directly affects people over 18 years old while indirectly affecting those who are younger.

Neither of the sexes nor members of any race, religion, creed or culture are immune.

The symptoms afflict members from every socio-economic class but may vary in severity, intensity and individual response.

As weeks have passed, continued exposure of the public has rendered an epidemic situation. The effects of this "condition" can become disturbing and produce a variety of responses and symptoms.

The emotions are directly affected. They can range from fear to rage to love to hate. Excitement and anticipation are often experienced, but a more disturbing sense of hopelessness and disparity is also known to occur. Panic and anxiety can be followed by a downright depressed mood or gloomy outlook for some people.

A trememdous effort is required in treating these more telltale symptoms. Confusion and ambivalence are commonly apparent as the symptoms are prolonged with time.

The more serious threat to those with prolonged symptoms is loss of hope and a resulting lack of recovery. Faith to survive often has to be restored.

With this "condition," each person must participate in the mechanism of treatment to receive "the cure." To gain relief, everyone must become educated as to the facts of the individual's situation and needs.

To be informed of the issues and facts that are at play (and at work), one must be attentive to various events and a combination of factors that have found to be producing symptoms that prevail.

It must also be kept in mind that various symptomatic needs are constantly changing for each individual, so reassessment of the available treatment plans is necessary. Through the participation of each individual who qualifies, encouraging outcomes and results can be anticipated.

Like many other conditions, however, relief from the various symptoms of this condition will take time and may be painful, but it will be eventually evident in piecemeal fashion. Most will enjoy a satisfactory "recovery."

Since active participation by everyone with the condition is essential, no physician, nurse or other surrogate can provide a total prescription of cure. But through self-help, everyone can tailor, in his or her own mind, soul and by philosophical judgment, a personally affected treatment plan.

Only by individual participation in the political process, involvement of personal ideals, examination of the ills of society, influence of individual testimony and the vote for your chosen candidate of cure, will "CAMPAIGNITIS—1992" be surely and effectively treated.

The only CONTRA-indication at hand is the failure to DRAFT a personal prescription.

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## HELPING CONGRESS THINK LONG TERM

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 23, 1992, into the CONGRESSIONAL RECORD:

### HELPING CONGRESS THINK LONG TERM

Some years ago a careful observer of Congress advised me that the worst thing about Congress was that Members never had time to put their feet on their desks, look out the windows, and think about the long-range needs of the country. I have come to appreciate the wisdom of that comment.

The federal government too often simply does not think long-term. The national debt has quadrupled since 1981 to more than $4 trillion, placing an enormous future burden on our children. Federal programs that involve long-term investments—for infrastructure, research and development, and education—are dwarfed by federal spending for current consumption. Only limited attention is given to problems that have major future consequences, such as the fact that one-fourth of young American children today live in poverty. Congress can respond quickly to a crisis, for example, setting up several programs to promote alternative sources of energy after the oil shortages of the late 1970s, but the programs are cut once the crisis is forgotten. In contrast to the strategic, long-term planning of businesses, there is typically little systematic national discussion of what are the most important long-term challenges facing our nation.

Making such projections does not involve simply esoteric speculation and crystal-ball gazing. Many future challenges are predictable. For example, the aging of the baby-boomers will place an enormous strain on society as it tries to fund their retirement needs. The point is not that the Federal government could resolve all the long-term problems, but that we should at least gather together the best projections so we can begin to think about how to deal with the issues or at least not take policy steps today to make matters worse.

Current Steps: Since its inception, Congress has to some extent considered long-term policy. And in recent years it has taken steps to improve its efforts. Since 1974, the House has required its committees to identify and analyze emerging trends that have an impact on the nation and to think about appropriate policy responses. Senate committees are encouraged to engage in systematic foresight as well. Congressional committees hold hearings on topics ranging from fusion energy and biotechnology to demographic trends. An informal group of Members, the Congressional Clearing-house on the Future, attempts to focus attention on long-term concerns. Congress' Office of Technology Assessment is required to appraise the future implications of technology development, and other congressional support agencies, including the Congressional Research Service and the General Accounting Office, are authorized to undertake "anticipatory" research. Congress in recent years has required annual 5-year budget and economic forecasts.

Obstacles: Yet despite these requirements and resources, Congress' effort could be improved. Several factors tend to encourage a short-term outlook: First, a short-term focus is to some extent built into the congressional reelection cycle, as Members face the constant press of campaigning and fundraising. Second, there are a lot of immediate problems that need the attention of Congress, from unemployment and hurricane damage to turmoil abroad. Third, the persistent federal budget deficits take up a large amount of Congress' time and mean that only very limited funds are available for long-term responses to policy problems. Fourth, Congress works on a one-year budget cycle, and congressional committees typically must renew the programs under their jurisdiction every year, leaving little time for attention to longer-term concerns. Fifth, long-term issues, such as world technological change, are increasingly complex and do not fit neatly under a single committee's jurisdiction. Sixth, long-term issues by their very nature are much more uncertain—making the problems sound far-fetched or likely to simply go away. Seventh, presidents and congressional leaders have done little to indicate that long-term planning issues are a top priority. And, finally, Congress to some extent reflects the perspective of constituents—who in their contacts with Members typically press immediate needs rather than concerns about what will be happening 10–20 years down the road. Members find that there is often little political payoff from attention to longer-term issues.

What Congress Could Do: First, the current vague requirements for committee foresight activities should be strengthened to require specific reports. We could require the various standing committees to report on the major challenges they see on the horizon, or could place much of the responsibility on one single committee, such as the Joint Economic Committee, or on the bipartisan congressional leadership. It might also be helpful to require the President to report ever few years on the critical challenges facing the nation in future decades.

Second, Congress could shift from a one-year to a multi-year budget process. We should consider lengthening 5-year budget and economic forecasts to 10 years or more. That would make people pay more attention to future projections by connecting them to something that counts.

Third, individual Members could simply become more active in foresight efforts. That could involve holding more high-profile hearings on future issues; becoming better trained, along with their staff, in long-term analysis; issuing more long-range forecasts of the impact of legislation; and holding more Member conferences to engage in longer-term thinking.

Fourth, on a broader level Congress needs to attack deep-seated institutional roadblocks to longer-term thinking, particularly those that drain away Members' time. That means addressing the over-crowded congressional schedule and dealing with campaign finance reform. Most importantly, it means finally getting the federal budget deficit under control.

Finally, Congress needs to better inform constituents about the importance of long-term issues—explaining both the opportunities that lie ahead for them and their children as well as the major costs to our society from not recognizing future problems soon enough. Greater constituent interest will in turn make foresight activities more politically relevant for Members.

Sorting through such suggestions could be an important task of the new committee on congressional reform. Engaging in more long-term thinking is no cure-all for making government work better, but it is certainly a key component of good governance.

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## CELEBRATING THE 50TH ANNIVERSARY OF FAIRLEIGH DICKINSON UNIVERSITY WITH THE INSTALLATION OF FRANCIS J. MERTZ AS PRESIDENT

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. ROE. Mr. Speaker, I take great pleasure in rising today to pay special tribute to an exceptional institution of higher education in my State of New Jersey and to the man who will be installed as its fifth president. Francis J. Mertz will be installed in the office of president of Fairleigh Dickinson University on Wednesday, September 30, 1992, at the Commencement Green in Teaneck, NJ.

This prestigious university has built an outstanding reputation for excellence in the past 50 years. Providing a rich social experience in addition to a wide-ranging and rewarding opportunity for academic and personal growth, Fairleigh Dickinson has expanded rapidly since it was founded in 1942. Now New Jersey's largest private university with an enrollment of 12,000 students and 3 separate campuses, Fairleigh Dickinson has set an aggressive new agenda for its next 50 years and for the coming century.

To chart the course and lay the foundation for the years ahead, the university has selected an accomplished administrator and a man who has the rare talent of merging wants with necessities and turning dreams into realities. Francis J. Mertz will be installed as president of the university after holding the position on an interim basis since 1990. Mr. Mertz, faced with many difficult problems, performed in an exemplary manner, returning the university to solid financial footing, and reinvigorating the academic program with an eye toward the future.

Mr. Mertz has a distinguished list of accomplishments in academic administration. After graduating cum laude with a B.A. degree from St. Peter's College in 1958 and going on to achieve a J.D. degree from New York University in 1961, he returned to his alma mater of St. Peter's to become registrar. Over the ensuing 16 years, he built an impressive résumé of experience serving the college in a wide range of capacities with responsibilities ranging from finance to development of special projects.

Mr. Mertz left St. Peter's as executive vice president to become vice president and chief financial officer of New York Medical College in 1978. In 1981, he became the president of the Independent College Fund of New Jersey and the following year also assumed the role of president of the Association of Independent Colleges and Universities in New Jersey. He held these positions until 1990 when he journeyed to Fairleigh Dickinson. He is also chairman of the board of directors for the New Jersey Association of Colleges and Universities.

Mr. Speaker, I am proud to have this opportunity to share in this event and in Fairleigh Dickinson University's golden anniversary. Mr. Francis J. Mertz is an exceptional individual and uniquely capable of guiding this institution to an even brighter future. His wife Gail, his six children, Lynn, Christopher, Suzanne, David, Amy, and Jonathan can certainly take pride in the work he has done and his outstanding reputation.

Mr. Speaker, the State of New Jersey can boast of some of the finest educational opportunities in this country. It is institutions like Fairleigh Dickinson University and individuals like Francis Mertz which have helped to create a system of higher education second to none. It gives me great pleasure to join with you and all my colleagues here in the House of Representatives to honor this man and this institution for their contributions to the educational resources of our State and our Nation.

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## CONGRATULATIONS TO THE CHAMPIONS FROM MIDWAY

### HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. EDWARDS of Texas. Mr. Speaker, I am pleased to recognize three girls' teams of the Midway Softball League of Hewitt, TX, which I am privileged to represent. These teams have distinguished themselves by rising to the championship ranks of the 1992 Little League Softball season. For the second year in a row, a team from the Midway League was crowned the World Champion.

Last year's World Champion was the big league team, which won the Texas State Championship this year and placed third in the Southern Regional played in Norfolk, VA. Managed by Mr. Jackie Balch, the big league team has won the Texas State Championship 9 years in a row.

This year, the major league team, managed by Mr. Rick Brophy, advanced as the regional champs in Fort Myers, FL, to win the World Championship played in Kalamazoo, MI.

The senior league team, managed by Mr. Randy Miller, won the Texas State Championship this year and placed second in the Southern Regional played in Waco.

I extend my sincere appreciation and congratulations for the achievements of these young ladies today on the floor of the U.S. House of Representatives for their dedication to excellence and for their outstanding sportsmanship. It takes many extraordinary qualities to make true champions, all of which these young ladies have exhibited. To all the members of these three teams, their coaches and parents, I salute you. In closing, I urge my colleagues to join me today in recognizing the accomplishments of these outstanding, young central Texans as the champions they truly are.

## INTRODUCTION OF BANKRUPTCY AMENDMENTS OF 1992

### HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. BROOKS. Mr. Speaker, today I am introducing the Bankruptcy Amendments of 1992 to improve the administration of bankruptcy cases, as well as provide greater fairness for individuals, corporations, and governmental entities.

In recent years the Nation's bankruptcy system has experienced unprecedented shocks caused by persistent recessionary forces. Unfortunately, the 1980's legacy of runaway debt and rampant financial speculation has resulted in a massive increase in bankruptcy filings. The bankruptcy system, which was overhauled by Congress in 1978, has, by and large, held up well. However, recent experiences have pointed to a small number of problem areas, including slow and inefficient case administration and confusing and misguided judicial construction of the Bankruptcy Code. The Bankruptcy Amendments of 1992 would help mitigate these concerns in a number of ways.

Most significantly, the legislation would help streamline the often lengthy and costly bankruptcy process, by, among other things, specifically authorizing judicial status conferences in order to allow firmer court control over bankruptcy case time schedules, which unfortunately tend to slide back and back.

The bill would strengthen and clarify the bankruptcy rights of individual debtors, including homeowners. In addition, the legislation would revise the chapter 13 debt limitations, which deny many individual debtors the right to seek this important form of bankruptcy relief. This change should encourage many debtors to work out of their debts—rather than liquidate—by scheduling payments to creditors over a manageable time period.

In addition to offering relief to hard-pressed businesses with credit problems, the legislation also addresses the special needs of local governments as creditors in bankruptcy cases. Further, the bill will clarify some troubling ambiguities relative to the right of municipalities to file for bankruptcy which have been highlighted by the recent bankruptcy filing of Bridgeport, CT.

Finally, the legislation would also require the judicial conference to report to the Judiciary Committee within one year regarding alternative means of financing a procedure under which courts may waive bankruptcy filing fees for the truly impoverished. It is indeed ironic that the bankruptcy courts stand out among all other courts in failing to offer relief and compassion to such individuals.

The legislation I am introducing today is fully consistent with Congress' laudatory goals of the landmark 1978 Bankruptcy Code, which sought to balance the rights of hard-pressed honest debtors and their creditors. Fifteen years have passed since legislation, and the Bankruptcy Amendments of 1992 will provide a much needed update to the Bankruptcy Code.

I urge you to join with me in supporting this most important legislative effort at a time of continuing economic difficulties.

## DYING IN SERVICE OF OTHERS

### HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. JACOBS. Mr. Speaker, as Americans we believe that all people are created equal in the eyes of God. And in death it is said we are especially equal, all of us.

But not all people make equal contributions to the good of their society. Some stand out. Some are giants of civic conviction and commitment.

Four such people perished suddenly and horribly in Indianapolis this month. They were truly pillars in the community.

Frank E. McKinney, Jr., chairman of the board of directors of Banc One and son of Harry Truman's Democratic National chairman, Frank E. McKinney, Sr.; Robert V. Welch, president of R.V. Welch Investments, Inc. and executive director of the White River State Park Development Commission; Michael A. Carroll, vice president of Eli Lilly Endowment; and John Weliever, a former high official in the State government of Indiana together with their considerable talents, energy, and generosity were lost when two planes collided over Indianapolis and fell to earth in a fiery and fatal finish.

As Indianapolis mayor, Stephen Goldsmith, said, "The skills and talents of these wonderful people are irreplaceable. We citizens of Indianapolis will have to do our best doing without these gifts."

The following are editorials respectively from the Indianapolis Star and Indianapolis News.

[From the Indianapolis News, Sept. 12, 1992]

DYING IN SERVICE OF OTHERS

Frank McKinney Jr., Robert Welch, Michael Carroll and John Weliever died in the same way that they lived.

They were on a trip to build a better city when their airplane collided with another private plane over Greenwood.

The civic leaders were headed to Columbus, Ohio, to visit AmeriFlora '92, an urban park, in a search for ideas for the White River State Park.

"To this group, civic contributions were a way of life, and they made an enormous contribution to the city," said Mayor Stephen Goldsmith, who had been scheduled to be on the plane as well but decided not to make the trip.

These individuals each made significant contributions to the city and state, serving in government positions, in civic groups and in business.

McKinney was the retired president of Banc One Corp. and Bank One Indianapolis, having arranged the merger of the old American Fletcher National Bank with the Ohio-based Banc One. But McKinney was always much more than a banker in Indianapolis. Both in public, but more often behind the scenes, he was looking for ways to improve Indianapolis. "Frank spearheaded a lot of the positive developments in this town and was certainly one of this generation's outstanding leaders," said former Mayor William Hudnut.

Welch also was a banker and real estate developer. But he also wanted to give something more to Indianapolis. He lost a race for mayor in 1975 to the Republican who turned out to be a very formidable candidate, William Hudnut. But that disappointment never kept Welch from continuing to serve the city. He played key part in the construction of the Hoosier Dome, through his interest in bringing professional football to the city.

More recently he headed up a group looking for ways to help the Indianapolis Public Schools save money and operate more efficiently. Last year he accepted the challenging assignment of getting White River State Park off the ground and gave his life to that effort.

Carroll also served in both government and private business. He was deputy mayor under Mayors Richard Lugar and William Hudnut and later ran for Congress. Whatever his official position, Carroll was always finding ways to help improve the city.

"He was the man behind the vision," said economic development consultant Garry Petersen in reference to downtown improvements. In recent years he has made major contributions to the city as vice president of Lilly Endowment, with concentration on community grants and initiatives.

Weliever was an automobile dealer who, like the other men, was interested in more than just making a profit from business. He wanted to give something back to his city and state and wound up serving in the administration of Gov. Evan Bayh, first in the Department of Administration, then as director of the state lottery. He rebuilt confidence in the lottery after a sex harassment scandal led to the resignation of Jack Crawford and then went back to the auto business last year.

The city and state will miss these individuals who gave their lives in the midst of trying to build a better place to live for others. But their example of unselfish community service sets a standard for others to follow in the future.

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[From the Indianapolis Star, Sept. 14, 1992]

REQUIEM FOR CHIEFS

Indianapolis and Indiana are deeply saddened by the Friday midair crash that took the lives of six people, among them four outstanding civic leaders whose achievements are known throughout the nation.

The tremendous and sudden loss of this honor roll of blue-ribbon citizens is a shock that will be felt for a very long time.

It is still hard to believe that this single accident—a collision of two planes in midair over Franklin Township southeast of the city—could take such a toll of talent, dedication and capability.

Frank E. McKinney Jr., 53, was chairman of the board of directors of Banc One, Indiana Corp., and prime mover in the sale of American Fletcher National Bank to Banc One Corp. based in Columbus; which produced Banc One Indiana. He was a leader in Downtown revitalization and was an Olympic swimming gold medal winner.

Robert V. Welch, 64, was the owner of R.V. Welch Investments Inc., Democratic candidate for mayor in 1975 and executive director of the White River State Park Development Commission.

Michael A. Carroll, 51, was vice president of Lilly Endowment, former director of the city Department of Metropolitan Development and former Republican candidate for Congress.

John R. Weliever, 50, a Martinsville businessman, was a former director of the Hoosier Lottery.

Also killed were William Mullen, 68, Huntingburg, pilot of the twin-engine Mitsubishi MU-2 prop jet in which the civic leaders were passengers, and William Bennett, 55, of Greenwood, pilot of the other plane, a Piper Saratoga. The popular Mullen was a highly regarded veteran pilot and expert at flying the MU-2.

Originally, Mayor Stephen Goldsmith and former Lt. Gov. John M. Mutz were scheduled to make the flight, which was headed for Columbus, Ohio, but both decided not to go.

The men were, as Goldsmith said, men for whom "civic contributions were a way of life" and who "made an enormous contribution to the city."

They were also powerful, positive personalities who radiated optimism tempered by experience, supplied know-how and generated enthusiasm for performing the usually complex and sometimes thankless tasks that are necessary to the progress and prosperity, and to meet the many varied human needs of a large, thriving community.

Their contributions to business and industrial growth, civic revitalization, job creation, big league sports acquisition, recreation, health care, residential development, better education and cultural resources are phenomenal. In many fields, as movers, shakers and doers, these men were giants.

Former Mayor William H. Hudnut described them as "a whole generation of leadership." They will be honored through the years, but their deeds are their lasting memorial.

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## INTRODUCTION OF MEDICARE RESPITE CARE COVERAGE ACT OF 1992

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. LEWIS of Georgia. Mr. Speaker, I am introducing legislation to amend title 18 of the Social Security Act to provide for coverage of respite care services under part B of the Medicare program.

The current system of public financing for long-term care is heavily biased in favor of institutional care, even though nursing home care is often the last resort for grandparents and their families. Home care can be cheaper and more comfortable.

The Nursing Home Without Walls [NHWW] program in New York State, which has been operating since 1978, is designed to provide home care services to eligible Medicaid patients who would otherwise have to be placed in an institution. The program has shown that the cost of services for patients in NHWW has consistently been about half the cost of corresponding institutional care.

This legislation will provide relief to those who care for a disabled family member or friend. Medicare recipients who are cared for by unpaid family members or friends living with the recipient are eligible to receive up to two weeks of respite care from a home care agency or adult day care center.

Respite care is an effective means through which seniors can continue to receive home and community based care. This legislation will provide support and relief to those who are burdened with the task of providing care. Caregivers overwhelmingly state that time away from caregiving is the service they need most. Caregivers need help to continue providing the care their loved ones require.

The primary long-term caregivers in the United States are family members. The burden of care falls overwhelmingly on the shoulders of women. These caregivers provide a great deal of long-term care services to their elders with little or no support from public programs. These caregivers, a third of which are over the age of 65 themselves, do so at great expense—financially, physically, and emotionally.

The competing demands of employment and caregiving may result in real costs to caregivers, employers, and society. More than 1 in 10 of all caregivers report leaving his or her job to assume caregiver responsibilities. Many cut back on hours on the job, take time off without pay, and turn down job opportunities or promotions because of caregiving demands.

There is no question of the social benefits to be gained by reducing this burden. A society that cares for its seniors in home and community based settings is a richer society in many ways. We must provide sufficient resources to enable these care givers to remain productive, participating members of our society while guaranteeing a safe, secure environment for our loved ones.

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## ISTVAN CSURKA'S MANIFESTO

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. HOYER. Mr. Speaker, my colleague, Congressman TOM LANTOS initiated a discussion yesterday of the recent article published by Hungarian Member of Parliament Istvan Csurka. Unfortunately, while many Hungarians have rejected his remarks, Hungary's Prime Minister, Joszef Antall, and the leadership of the Hungarian Democratic Forum to which Mr. Csurka belongs have been less than forceful in their response.

This divisive article does a disservice to the strides Hungary has taken toward democracy since the collapse of communism in the region. His version of nationalism betrays and distorts the proud sense of patriotism so many Hungarians feel for their country.

More than that, Mr. Csurka's remarks offend the Hungarian community here in the United States, members of which have struggled tirelessly for years, if not decades, to free Hungary from the Communist yoke which was placed on it. They did so not to see Hungary go the divisive, chauvinistic route that Mr. Csurka seems to advocate, but to see Hungary go the route of democracy and tolerance. Csurka's Hungary is not their Hungary.

This is perhaps best expressed in a recent statement of more than a dozen representatives of the Hungarian community here in the United States. I commend their message to my colleagues here in the U.S. Congress, and in Hungary as well. I ask that their statement be included for the RECORD.

STATEMENT

We, the undersigned, reject the tenets of the ideology reflected in the recent writings of Mr. Istvan Csurka, a Member of Parliament, a Vice President and a leading ideologist of the Hungarian Democratic Forum (MDF), the principal party in Hungary's governing coalition.

Mr. Csurka's divisive, antidemocratic views, published in the weekly, Magyar Forum, contradict the basic principles for which the 1956 Hungarian Revolution was fought. His writings embody the authoritarian, totalitarian thinking that both supported forty years of Communist rule and led to the deaths of an overwhelming number of Hungarians during World War II. Any reawakening of ideologies based on a distortion of facts, intolerance, exclusion and prejudice may spell the doom of the hopes and desires of Hungary's long suffering citizens.

Over the past two years, Hungarians have acted with maturity and self-discipline in spite of the hardships associated with the political and economic transition from Communism to democracy and a free market system. This self-discipline has—rightfully—earned them the respect and admiration of democratic countries. We fervently hope that the ideology espoused by Mr. Csurka will not affect their composure.

The perception of Hungary by its friends should not be altered as a result of the publication of Mr. Csurka's ill conceived ideas. We are convinced that he and his followers represent only a small though vociferous segment of Hungarian society and that their views must be treated accordingly.

We believe that Hungary's favorable image in the world, its political and economic revival are not irreparably damaged by Mr. Csurka's isolated though potentially infectious ideology. Elimination of its harmful effects requires the prompt and unqualified rejection of his doctrines by all major political movements in Hungary.

September 21, 1992.

Andreas A. Abraham, M.D., George Washington University, Washington, DC.

Ferenc J. Czene, Chairman, Council of Hungarian Organizations in Southern California, Los Angeles, CA.

Tamas Gyorik de Salanky, Chairman, Foreign Relations Committee, Capital Virginia District Optimist International, Washington, DC.

Lajos Koncz, M.D., Executive Secretary, Harvard Circle, Boston, MA.

Karoly Balogh, M.D., President, Hungarian Society of Massachusetts, Boston, MA.

John Dolinsky, Vice President, World Federation of Hungarian Freedom Fighters, Los Angeles, CA.

Istvan B. Gereben, Former Executive Secretary, Coordinating Committee of Hungarian Organizations in North America, Rockville, MD.

Bela Liptak, President, Foundation to Protect the Hungarian Environment, Stamford, CT.

Ferenc Mozsi, Publisher, Editor, Chicago, IL.

Steven Polgar, Director, East European Language and Business Associates, Arlington, VA.

Dr. Kalman Rupp, Economist, North Potomac, MD.

Dr. Andras Pogany, Honorary President, Hungarian Freedom Fighters' Federation USA, South Orange, NJ.

Nicolae Puskas, Carpenter, McLean, VA.

Sandor Szabo, M.D., PhD., Executive Director, Worldwide Hungarian Medical Academy, Boston, MA.

List is incomplete.

Notes.—Titles and organizational associations are indicated for identificational purposes only.

## ST. IGNATIUS CHURCH CELEBRATES 200TH ANNIVERSARY

## HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize St. Ignatius Church in Hickory, MD, on the celebration of its 200th anniversary.

On Sunday, September 27, 1992, St. Ignatius will celebrate the bicentennial of its founding, and I look forward to joining the congregation on this momentous occasion. The bicentennial motto is: "Holy Celebration—St. Ignatius Church—200 Years of Service to the People of God." Indeed, for two centuries, St. Ignatius Church has attended to the needs of its congregation with the warmth and caring only the church can provide.

St. Ignatius Church has the distinction of being the oldest Roman Catholic church in continuous use in the Archdiocese of Baltimore. Construction of the original portion of the church was completed on September 27, 1792. It was not until after the American Revolution that Catholics were permitted by Maryland law to build places of worship. Without a doubt, St. Ignatius Church is rich in history and charm. In 1974, St. Ignatius was added to the National Register of Historic Places.

Nearly every aspect of St. Ignatius is full of history. The church cemetery is the place of interment for soldiers from every war beginning with the American Revolution, except Operation Desert Storm. In addition, the church's choir uses the loft that originally served as the slave gallery. Slaveowners who brought their slaves would send them to the slave gallery from where they could participate in the religious service.

St. Ignatius Church has withstood the test of time, and although the church's fate was not so certain, the parishioners rallied to preserve the church they hold so dear. In 1967, the structure was considered unsafe for occupancy. Unfortunately, upon inspection, structural engineers found the roof and exterior walls unsafe, and on Sunday, April 30, 1967, the doors to the church were locked after the 10 a.m. Mass.

It was made clear the parish was not being closed, although services were discontinued at St. Ignatius and parishioners attended other neighboring churches. However, a number of parishioners were not about to sit by while the future of the church they so dearly loved was about to become history. So, with the blessing of the Cardinal, a building committee was organized, and the restoration of St. Ignatius was kicked off.

Thanks to their hard work and dedication, in cooperation with archdiocesan officials, the structure was reengineered and strengthened and once again made safe. Moreover, this work was accomplished in time for the celebration of midnight Mass, Christmas Eve of 1969. In the years to follow, St. Ignatius has continued to be restored and beautified and additions made as the church continues to grow.

Today, St. Ignatius serves as a place of worship to approximately 1,800 families. Vibrant and spirit filled, the congregation of St. Ignatius rightfully is proud of its church. The bicentennial celebration is a proud and joyous occasion for the congregation and the surrounding community. A place of worship and a source of faith and guidance to approximately 1,800 families, St. Ignatius is an important and established part of the community. For the past 11 years, St. Ignatius has been led faithfully by Father Charles Lafferty. I cannot say enough about what a wonderful and caring individual Father Lafferty is. His concern and interest for St. Ignatius clearly is evident.

The health and vitality of the church is a great concern of mine as the church has a profound impact on the well-being of our country. Without the freedom of religion exemplified in the church, we indeed would be a lesser nation. As the proud author of House Joint Resolution 325, Religious Freedom Week, I take a special pride in the religious freedoms we enjoy in this country. Through their faith, charity, and reverence for God, the parishioners of St. Ignatius Church not only have made the community a better place in which to live, but have made this a better nation as well.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I congratulate Father Charles Lafferty and the members of St. Ignatius Church upon the 200th anniversary of its founding. May God bless St. Ignatius in the years to come.

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## LLOYD BRUCE, 1917–92

## HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. BRUCE. Mr. Speaker, 4 months ago today, on May 24, 1992, my father, Lloyd Bruce, passed away.

Dad was a good father and father-in-law, a good husband, a good grandfather, and a good friend.

The following eulogy was delivered by the Reverend Mark Myers of the First United Methodist Church, Olney, IL.

Dad's life was an inspiration to many. I wanted to share his accomplishments with you.

### EULOGY

### LLOYD BRUCE—1917–92

Lloyd Bruce had a good and kind heart. He moved families into Olney over many, many years. New families always were introduced to Olney by Lloyd's kindness and concern.

Moving can be traumatic, but by the time Lloyd loaded your furniture and started for Olney, the new arrivals had heard all the good about the town, the schools, the clinic, the hospital; he started the process of making Olney home.

When you got to Olney, nothing would fit in the new house, but he would work and work, suggest and suggest how to make things fit and helped every family turn a house into a home.

Lloyd loved kids. He knew how hard any move was, but to each one—young children and teenagers—he got to know their name, joked with them, told them about their new school and neighborhood, Hovey's, the outlook for boys and girls in the neighborhood.

With every load, Lloyd always made special arrangements for the kids, especially for the younger ones. He always loaded their bedrooms on last, their toys on last, so that when he got to the new house, he unloaded and set their rooms up first, so they felt comfortable first. He set up the swing set and got out the bikes for neighborhood exploring. He loved kids and wanted to make the change go as easily as it could.

He used his truck to make changes in people's lives. Many a young man worked during the summer for Lloyd—hard physical labor, learned about his good humor and spirit, and then was convinced by Lloyd to leave this job to go on to college. Many a college career was launched by Lloyd putting a young man on the heavy end of a deep freezer or piano.

Lloyd loved Olney. He worked to build the new Legion Home when he was Commander; worked for passage of the referendum for the new high school in 1952; joined Janie in getting the hospital built. He always was a community booster, and you seldom heard a critical word about Olney from him, but he always knew that things could be better.

With a humble background that began in Southern Illinois, Lloyd knew the meaning of hard work; of family sharing; of sacrifice and loss; of love and pride.

All of these qualities live on today even in Lloyd's death. They live on in two sons, who because of Lloyd and Janie's instruction, have made the Bruce name well-known in Illinois politics. Lloyd lives on in the legacy of two sons, their wives and four grandchidlren, who because of sacrifice and pride, because of love and sharing, are leaders in education, U.S. Attorneys, lobbyists, Member of Congress, college administrator, law school students, college students, and high school students.

Lloyd was none of these things, and yet he lives on, as he is a part of each of them, and each of us.

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## TRIBUTE TO WARREN W. WILENTZ, ESQ.

## HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. PALLONE. Mr. Speaker, on Friday, September 25, 1992, the Woodbridge, NJ, Metropolitan Chamber of Commerce will present its Citizen of the Year Award to Warren W. Wilentz, Esq. I can say without hesitation that Mr. Wilentz has clearly earned this prestigious award through a lifetime of achievement, hard work, and dedication to his community and his profession.

Warren Wilentz comes out of a distinguished and renown legal family. Indeed, the Wilentz family has been called the First Family of New Jersey Law. Mr. Wilentz's father, the late David T. Wilentz, the former New Jersey State attorney general, is known throughout the world as the prosecutor who successfully tried the Lindbergh baby kidnaping case during the 1930's. The senior Mr. Wilentz founded his law firm in 1919. From his sole proprietorship, the firm of Wilentz, Goldman & Spitzer has grown into a 127-lawyer firm with additional offices in Eatontown, NJ, and New York City, recognized as a leader in the fields of corporate, banking, commercial, and labor law, as well as personal injury, matrimonial, and casino law. David Wilentz groomed his two sons for legal careers, and they have both lived up to the high expectations of their illustrious father. Hon. Robert Wilentz serves as the chief justice of the New Jersey Supreme Court. And Warren Wilentz is the chairman of Wilentz, Goldman & Spitzer.

Growing up in Perth Amboy, NJ, the young Warren Wilentz was surrounded by the intensity of his father's most celebrated case, with such luminaries as Charles Lindbergh and former State Police Chief Norman Schwarzkopf, father of the gulf war hero, making regular visits to the Wilentz home. It was the strong influence of the senior Wilentz that led Warren into the legal profession. He graduated from Rutgers Law School in 1949, and was admitted to the New Jersey Bar and joined the family firm in the same year. His brother Robert Wilentz joined the firm 3 years later. At that time, the firm had six partners. While the firm has grown, the collegial atmosphere and the commitment to community service remain.

Warren Wilentz has served in the public sector with a distinction equal to that of his private work. He was a prosecuting attorney and county attorney for the County of Middlesex, NJ, and served as chairman of the Middlesex County Legal Services Corp. A past chairman of the Woodbridge Metropolitan Chamber of Commerce and a trustee of the Association of Criminal Defense Lawyers of New Jersey, he made an unsuccessful bid for the U.S. Senate in 1966.

Mr. Speaker, Warren Wilentz's credentials as a citizen, public servant, and professional are certainly befitting of the high standards of the First Family of New Jersey Law, and he has clearly earned the award to be presented to him by the Woodbridge Chamber of Commerce. It is a great privilege to share his accomplishments with the Members of this House in the pages of the CONGRESSIONAL RECORD.

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## TERM LIMITATION

### HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. DEFAZIO. Mr. Speaker, there's been a great deal of discussion on the topic of term limits recently. A number of States have already passed or will have initiatives on the ballot this fall to limit terms for Members of Congress. In my own home State of Oregon, voters will decide on a ballot measure to limit terms for Members of Congress and the State legislature.

Personally, I do not have particularly strong feelings on the subject of term limits for Members of Congress. However, I do object to congressional term limits on a State-by-State basis on practical and constitutional grounds. If term limits are enacted, they should be enacted by constitutional amendment and apply to all Members of Congress. And if term limits are enacted for Members of Congress, they should be applied to the other branches of Government as well.

Term limits for individual States would hurt small States like Oregon because the larger States would divvy up leadership and committee chair positions. Oregon has enjoyed a long history of exceptional representation and I do not want to see that tradition dismantled during my tenure in Congress. I will not support a proposal that limits the seniority and stature of Oregon's delegation while other States continue to take advantage of the seniority system.

Likewise, term limits for the Congress alone will not cure all that is wrong with our Government. If our goal truly is to restore credibility to Government, ensure accountability and move away from what's considered a permanent governing class, we ought to look at the entire Federal Government.

If we weaken the legislative body by limiting its expertise, experience and power, we will strengthen the arms of Government which currently compete with Congress. The unintended effect would be a shift in power—an isolation of power—in the President, Supreme Court and Federal Reserve.

In order to refocus the debate on term limits, I am introducing legislation which would amend the U.S. Constitution to limit, not only terms for Members of Congress, but service for other senior and high ranking Federal Government officials.

My legislation would limit Members of the U.S. House to three 4-year terms, limit members of the U.S. Senate to two 6-year terms, limit the President to one 6-year term, limit the Vice President to one 6-year term and prohibit the Vice President from serving as President or as a Cabinet member without an intervening Presidential election, limit members of the Federal Reserve to 7 years, limit members of the Supreme Court to 12 years, and limit Cabinet members to 6-year appointments and prohibit Cabinet members from serving as President or Vice President without an intervening Presidential election.

If limits are to be approved, then limits on all three branches, rather than only the legislative, would restore the balance of powers envisioned by our Nation's founders.

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## UNSUNG HEROES: THE SERVICE ACADEMY NOMINATING COMMITTEE

### HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. SMITH of Florida. Mr. Speaker, nominations to the service academies are one of the most important responsibilities incumbent upon a Member of Congress. The service academies do more than train future officers. They convey an ongoing sense of national duty. Moreover, they endow thousands of cadets with both the liberal and technical education necessary to be military leaders in a democracy.

Every year, each of us receives dozens, even hundreds of applications from young constituents seeking admission to West Point, Annapolis, the Air Force Academy, and the Merchant Marine Academy. These applicants represent the best of our young people. They are capable, motivated, and committed.

But appointments to the academies are limited. It is an awesome, difficult task to choose among applicants.

Like many of my colleagues, I rely upon a nominating committee to make recommendations for academy appointments. In the 16th District of Florida, the committee comprises 4 people, each with military experience. Committee members review each application, read all the letters of recommendation, and meet with each applicant.

The interviews are the most demanding part of the application process—for committee members as well as would-be officers. Members of the nominating committee must use their own expertise and military experience to arrive at a true evaluation of who is most suitable. The process requires dedication, judgment, and a considerable investment of time.

When all the interviews have been completed, a final meeting of the committee is held at which nominees are selected from the pool of applicants. It is on the basis of this list that I make my recommendations to the service academies.

Mr. Speaker, I would like to take this opportunity to express my gratitude to the members of the military academy nominating committee of the 16th Congressional District of Florida. They are Col. Phil Cohen, Prof. Charles MacDonald, Hon. Lawrence J. Korda, and Col. Robert Kerley.

By their dedication, these individuals have performed a remarkable service for their Nation and their fellow citizens. They have enabled the most deserving young people to partake of a topflight education. They have provided the country with superior candidates for officer training. They have set an example of the kind of citizen participation that undergirds our Republic.

I want to thank these gentlemen for their endeavors. The service academy applicants, the people of the 16th District, and the people of the United States have all benefited from the services you have provided.

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## ARCHDIOCESE OF LOUISVILLE DAY OF REFLECTION ON THE AFRICAN AMERICAN CATHOLIC FAMILY

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. MAZZOLI. Mr. Speaker, family values have been a topic of debate and discussion in recent weeks. Too much of it has come from the politicians and too little from the families and the people who, daily, live and work with family values.

From my perspective, real family values are loving, caring, patience, constancy, fidelity, sharing, cooperation, and respect. And, it is these virtues that will be the focus of a gathering in my district in Louisville, KY this weekend.

On Saturday, September 26, 1992, the Archdiocese of Louisville Office of African American Catholic Ministries will present a day of reflection on the African American Catholic family. The day of reflection is a followup to the Seventh National Black Catholic Congress held in July.

Mrs. M. Annette Turner, executive director of the office of African American Catholic Ministries, and her husband, Deacon James Turner, have organized a gathering that will allow participants to reflect on issues included on the agenda of this year's National Black Catholic Congress. The themes for the day will be: The internal structure of African American family life; the African American male; and, the effects of racism on the African American family.

Mr. Speaker, I believe initiatives like this, which will culminate in the preparation of a working agenda for the Archdiocese of Louisville, can serve as a model for communities across the country. They are proof positive that family values belong to the people, not the politicians.

## IN HONOR OF MAYOR RICHARD C. LEE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Ms. DELAURO. Mr. Speaker, tonight New Haven gathers to remember the tenure of Richard C. Lee, mayor for 16 years during the 1950's and 1960's. I would like to join in paying tribute to this exceptional public servant, whose achievements had an extraordinary impact on the city and on me.

I grew up in the "Lee years," which profoundly shaped both my views and New Haven and my attitude toward public life. Those were years of revival and hope, when government was sensitive to the needs of urban areas such as New Haven. Mayor Lee had the initiative to apply for Washington's support, and the resourcefulness to secure it. The entire community looked to his leadership as innovative programs like Head Start and Model Cities were launched; indeed, many of those projects would not have succeeded without his skilled direction.

But Dick Lee's lasting impact was not only on New Haven, but on the entire Nation. Millions of disadvantaged children, for example, have been able to start school ready to learn thanks to the innovative Head Start Program developed in New Haven. Today, this is one of the most successful and long-lasting Federal assistance programs still in existence, still improving the lives of children in Connecticut and across the country. Once featured on the cover of Life magazine, Dick Lee was the model mayor of a Model City—a pioneer of national significance.

Making urban renewal a primary objective, he set out to revive New Haven's neighborhoods, including my home, Wooster Square. My father, Ted DeLauro coordinated Dick Lee's initiatives there, and helped in the mayor's ambitious efforts to build schools, modernize industry, and rehabilitate housing. My father was proud to serve under Mayor Lee, and always appreciated his boss's heartfelt commitment to revitalizing the city he loved.

Both of my parents served New Haven during Dick Lee's tenure as mayor, while I was a student and young community organizer. He was an inspiration to all of us, and by the time I went to work for the city in the 1970's, the results of his efforts were evident all over town. Neighborhoods had been revitalized, businesses had grown, and families were better off. Richard C. Lee had forever enhanced our community.

As our community celebrates his years as mayor, I would like to congratulate Dick Lee, and to express my deep appreciation for all he has done. Across the Nation, he has a permanent place in the memories of all those who care about our Nation's cities.

Here at home, he has a place in the hearts of those of us whose lives he touched and enriched through his leadership and guidance. I offer him the heartfelt thanks, not only of New Haven, but of those of us, across the Nation, whom he has inspired.

## TRIBUTE TO DR. ROBERT C. WEAVER

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Ms. NORTON. Mr. Speaker, I am pleased to rise in tribute of Dr. Robert C. Weaver, a distinguished African-American whose remarkable 59-year career in public service is a testament to his outstanding character and fortitude. Dr. Weaver rose above the restraints of color to become our country's first African-American to serve in the highest ranks of State and Federal Government as a respected adviser to a Governor and three U.S. Presidents.

In the State of New York, Robert Weaver was appointed by Governor W. Averell Harriman as Rent Administrator, thus becoming America's first African-American to serve in a State cabinet. Nationally, Robert Weaver served in the "Black Cabinet" of Franklin D. Roosevelt. Later, Mr. Weaver was Administrator of the Housing and Home Finance Administration under President John F. Kennedy. His last cabinet position was that of Secretary of the Department of Housing and Urban Development during the Presidency of Lyndon B. Johnson.

Dr. Weaver's academic accomplishments are just as impressive as his illustrious career. A graduate of Harvard University with B.S., M.A., and Ph.D. degrees, he is the former president of Bernard M. Baruch College of the City University of New York. He holds numerous honorary degrees including those from Temple University, Howard University, Morehouse College, Amherst College, Boston College, Columbia University, and the Universities of Michigan, Pennsylvania, and southern Illinois.

Mr. Speaker, I invite you and my distinguished colleagues to join me as I salute my good friend, Dr. Robert C. Weaver, for his five decades of achievements and especially the dedicated service he has given so generously in support of our Nation.

## A SALUTE TO THE 77TH U.S. ARMY RESERVE COMMAND ON ITS 25TH ANNIVERSARY

### HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. MANTON. Mr. Speaker, on September 26, 1992, on Liberty Island in New York Harbor, the 77th U.S. Army Reserve Command [ARCOM] will celebrate its 25th anniversary in conjunction with the 77th Infantry Division's 7th anniversary of World War II. The anniversary celebration will include participation by the U.S. Military Academy Glee Club and Drill Team, a 50-State artillery salute, a wreath-laying ceremony, the President's Fife and Drum Corps, the U.S. Army Band, and the Herald Trumpeters. A flyover of vintage World War I and II planes is also scheduled.

Mr. Speaker, the 77th Division, National Army, was organized at Camp Upton, Yaphank, NY, on August 25, 1917. It called itself the Metropolitan Division because its personnel came almost entirely from New York City, a combination of about 23,000 soldiers who were Manhattan taxi drivers, Bronx tailors, Brooklyn factory hands, Wall Street executives, and professional men from the 5 boroughs.

Mr. Speaker, only 6 months after mobilization, the 77th left Camp Upton for Europe. The 77th attained its greatest fame in the Meuse-Argonne offensive. It was during this time that soldiers of the Lost Battalion, which consisted of elements of the 308th Infantry and the 306th Machine Gun Battalion, made their heroic stand. For 3 days the unit rebuffed German attacks. The Germans urged surrender, but Maj. Charles S. Whittlesey, commander of the unit, refused.

Carrier pigeons were used by the Allies to communicate positions of units and to relay messages to headquarters. The Lost Battalion had one pigeon left, Cher Ami. The unit attached a note with its location to Cher Ami's leg and the pigeon flew into the middle of the battle. Cher Ami made it to headquarters resulting in Allied troops rescuing the battalion. Two hundred and fifty-two men survived out of the 679 men in the battalion.

Mr. Speaker, during its 68 days in combat, the division fought in four campaigns—Baccarat, Oise-Aisne, Aisne-Marne, and Meuse-Argonne. The 77th was deactivated in May 1919 and reactivated for World War II in the spring of 1942. The 77th went to the Pacific for its first combat mission: Helping the marines liberate Guam. The 77th spent May and June 1945 on the front lines in Okinawa, often fighting hand-to-hand combat.

The 77th also fought on Ie Shima, whose capture was crucial to the Pacific war effort. After the Japanese surrender in August 1945, the division was assigned to the occupation of Hakodate, Hokkaido. On March 15, 1946, the 77th Division was deactivated in Japan.

Mr. Speaker, during its 5 operations in 3 campaigns, the 77th spent 200 days in actual combat and lost more than 2,000 soldiers. The 77th never fought in a losing campaign. During the postwar period, from 1947 to 1965, the 77th Infantry Division was one of the six combat divisions of the Army Reserve. The 77th Army Reserve Command was formed in December 1967 as a part of the reorganization of the command structure of the Army Reserve. Six units of the 77th ARCOM were called to active duty as a result of the Pueblo crisis in 1968. Five of these served in Vietnam and many unit members received decorations and awards for outstanding service.

Liberty patchers loaded thousands of tons of cargo onto ships. Their engineering construction knowledge was vital for building structures, roads, and pipelines. They ran enemy prisoner of war camps, provided care in medical clinics and hospitals, and maintained or transported soldiers, equipment, and repair parts around the battlefield. They provided military intelligence, directly supporting combat operations. It was the ultimate test of the Reserve system. Solders from the 77th returned home as citizens-heroes, and New York City threw open its arms in June 1991 to welcome them with a gala parade down Broadway's "Canyon of Heroes."

Mr. Speaker, I express my appreciation and gratitude toward the 77th U.S. Army Reserve Command and the 77th Infantry Division for their dedication and service to our country. I know my colleagues join me in saluting the 77th ARCOM and Infantry Division for their invaluable contribution to society.

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## A TRIBUTE TO EDWARD C. KEENAN

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Mr. Edward C. Keenan, this year's honoree at the UNICO Salute to Labor banquet, for his longtime service to the Plumbers Union Local 690 of Philadelphia, PA, as well as the entire city of Philadelphia.

Ed is a 28-year member of Plumbers Local 690. Beginning his apprenticeship in 1964, Ed earned his way to a position as the local's secretary treasurer and business manger. This year he celebrates his 10th year as business manager.

Along the way, Ed has accepted many challenges. Simply listing his current titles attests to his capabilities in successfully fulfilling a leadership role. These include president of the Philadelphia Building Trades, president of the Mechanical Trades Council, vice-president of the Pennsylvania State Pipe Trade and the Philadelphia AFL–CIO, president of the Storage Tank Advisory Committee, secretary of the Philadelphia Redevelopment Authority, and member of the Plumbers International Apprentice Commission, and the U.A. Training Trust Fund Committee.

The charitable side of Ed's personality is evident from the activities in which Local 690 participates: the Labor Classic for Cerebral Palsy, the Variety Club, Deborah Hospital, Boys Town of Italy, and Easter Seals. Under Ed's leadership, Local 690 has contributed a great deal to the Philadelphia community, and will continue to do so in the future.

On issues of concern to working men and women, Eddie Keenan is one of the most effective of a number of effective Philadelphia labor leaders. Most recently, Ed fought tirelessly in the effort to win extended unemployment benefits. The men and women of the Plumbers Union could not have chosen a better advocate than Eddie Keenan.

For 28 years, Ed has dedicated his life to the Plumbers Union Local 690 of Philadelphia, and to the entire Philadelphia community. For all his effort, I stand with his family, friends and coworkers in honoring Edward C. Keenan.

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## A RESOLUTION IN HONOR OF JOHANN HEINRICH VON THÜNEN AND ROLF-PETER BARTZ

### HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. QUILLEN. Mr. Speaker, I rise today to pay tribute to an international figure of great renown, Johann Heinrich von Thünen (1783–1850). Thünen was a 19th century German agriculturalist, social scientist, and humanist. Using his estate, Tellow, in Mecklenburg, Germany as a laboratory, Thünen published one of the first attempts to relate land values and land use to transportation costs and distance to urban markets. His book, "The Isolated State", first published in 1826, stands as a classic work in location theory. Thünen's approach was later used as a model by other scientists for explaining the location and distribution of many different types of phenomena. He is appreciated by professionals from a variety of disciplines, including the agricultural sciences, economics, geography, and urban and regional planning, among others.

In a later edition of his book he added a second part which was concerned with wage theory. His contributions along this line of consideration are recognized even today by some of the best thinkers in this area of economic thought. His formula for natural wage, which sometimes is called the frontier wage, was derived, in part, by using the American frontier as an example.

Tribute, however, should be paid to Thünen not only for his classic work and scientific endeavors, but also for his foresight and social concerns for humanity. Thünen's work in agriculture gave him an awareness of the relationship between man and nature. He attempted to use the resources of his estate in such a manner that they could be of continuous benefit to his and future generations. In this sense he was an early ecologist and conservationist.

His appreciation of economics and his logical reasoning abilities gave him the foresight to see the failings of socialist theory and governments in his home area and Eastern Europe even before they came into existence. He was a protagonist of the capitalistic system, for he said that one of his main mentors was Adam Smith, who formally laid down its tenets. Between the end of World War II and the early 1980's, the former Communist government of East Germany—the DDR—refused to recognize Thünen and his contributions because he fostered the economic thoughts of capitalism; he was a nonperson. Later, however, in the 1980's, the Government of the DDR did extend some credit to Thünen, saying that he was a "historical person who helped in the evolution of the class struggle." But they added that his ideas were of no value in the present context.

Thünen was a moral leader and believed in parliamentary procedure. He was an early champion of women's rights. He supported the failed revolution of 1848, and on a small knoll—called Helenlust, after his wife's name—behind his estate house he raised the black, red, and gold flag of the revolution, the present flag of the now and united and free Germany. He was to attend the "Professors Parliament" in Frankfurt in 1848, but he was unable to because of illness.

Thünen was deeply interested in the prosperity and well-being of the tenant farmers and laborers of his district and he worked to promote their welfare. Before he died he set up a profit-sharing system for the peasants of his estate, and they were able to appropriately benefit from their work efforts. His concerns along this line are especially poignant now given the recent events in Rostock, Germany which is located close to Tellow. Thünen's compassion and understanding serves as an example for Germans, Americans and others to be sympathetic to those who are less fortunate and seek refuge. It is of interest, as a side note, that during the final years of World War II, buildings constructed by Thünen served as shelters for hundreds of refugees fleeing from Eastern European countries.

I also wish to recognize and commend Rolf-Peter Bartz, the present director of the Thünen Museum at Tellow. As a high school teacher in a nearby town, Herr Bartz first read about Thünen in a dusty and seldom used library book in 1969. He visited the estate and found it in disrepair and in a shambles. With no financial support and/or encouragement from the government he refurbished the farmstead portion of the estate. He did this with volunteer student help and with some assistance from professors at the nearby University of Rostock, where Thünen received an honorary doctorate in 1830. Herr Bartz was able to restore portions of Tellow even under the Communist regime. His drive was, and is, reminiscent of the spirit that Thünen displayed 140 years earlier. For these efforts the international community of scholars, scientists and practitioners owe Herr Rolf-Peter Bartz a debt of gratitude.

Herr Bartz played a significant role in starting the Thünengesellschaft e.V of Mecklenburg, Germany and was instrumental in organizing the Thünen Society, North American Division with help from professors Jon Smith and Robert W. Peplies of East Tennessee State University. The Thünen Society, N.A. has the goal of encouraging the exchange of information between and among scientists and scholars from diverse disciplines for the advancement of the general welfare of humanity. These efforts are carried out through the promotion of interdisciplinary research and study in the same manner and in similar areas which Thünen advocated and encouraged earlier.

I am pleased to note that with support provided by the Embassy of the Federal Republic of Germany, the Goethe-Institute of Washington, DC and Atlanta, GA, Lufthansa German

Airlines and the school of continuing studies at East Tennessee State University, located in my district, the first annual meeting of the Thünen Society North American Division was held in Asheville, NC. I wish the society the best in the future and applaud their effort to promote interdisciplinary research for the betterment of humanity.

## RURAL CALIFORNIA HOUSING CORPORATION: 25 YEARS OF SERVICE

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. FAZIO. Mr. Speaker, I rise today to recognize the contributions and accomplishments of the Rural California Housing Corp. [RCHC] as it celebrates 25 years of dedication to providing quality, affordable housing for low- and moderate-income families in northern California.

Our rural poor population is growing. In some respects, the housing crisis in rural America is worse than it is in our cities—both in terms of affordability and actual physical conditions. According to the American Housing Survey, 20 percent of our rural poor are still deprived of their right to decent, affordable housing. Sixty-three percent of poor rural households pay more than 30 percent of their incomes for rent, and 25 percent pay more than 70 percent. Making the situation even worse are scarcer credit availability, fewer support systems, and more substandard housing than we have in our urban areas. American rural families have been especially hard hit in their struggle to come within reach of decent, affordable housing and to make ends meet.

For the past 25 years, RCHC has continued to work in our communities, constructing new housing and rehabilitating older homes for northern Californians in need of a decent place to live. The second largest self-help housing development corporation in the country, RCHC's self-help programs have put a roof over the heads of thousands of California families who needed a place to call home and were willing to help themselves.

RCHC has worked with countless California families, giving them the opportunity to live in decent housing, to develop a stake in their surroundings, and to play a role in the development of their community—a part of American life that has all but disappeared for many Californians. During these trying economic times, RCHC has responded with a proven, innovative, practical response to northern California's housing needs. I urge my colleagues on both sides of the aisle to join me in congratulating RCHC on this occasion, and in wishing them continued success in their efforts.

## TRIBUTE IN HONOR OF MARI GOLDMAN

### HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. DIXON. Mr. Speaker, I rise to pay special tribute to our dear friend, Mari Goldman, on the occasion of her retirement as Administrative Law Judge for the State of California. My colleagues, Representatives MERVYN DYMALLY and VIC FAZIO, join me in this special tribute to Mari. She is an individual who has led an extraordinary life which has embraced the passion and tumult of her times; a life which teaches us much about commitment to others.

Mari Goldman is a native of Bolton, England. In England, she studied to become a pharmacist and completed her apprenticeship at the famous Boots the Chemist drugstore. She came to the United States in 1948 and later became an American citizen. While residing in New York, she embraced her adopted country's national pastime, becoming an avid fan of the Brooklyn Dodgers. But once again opportunity beckoned her westward. So in 1958, the Brooklyn Dodgers decided to follow Mari to Los Angeles.

She worked at the phone company in Los Angeles, and it was during this time that she made the decision to put her personal opposition to racism to the test, and joined the civil rights movement. As an early member of the Congress of Racial Equality [CORE], Mari participated in the first demonstration and sit-in protesting housing discrimination in the Monterey Highlands development in Monterey Park. After CORE claimed victory in the Monterey Park protest, Mari went on to organize and participate in many others—not the least of which was a major sit-in at the State capitol in 1963, where she facilitated the participation of a young Paul Newman and Marlon Brando.

Mari has remained steadfast in her conviction that bigotry and discrimination must always be confronted. She was always there to lend a hand; always there to step into the breech; always there with a generous spirit.

It was while she was protesting segregated housing developments in the city of Torrance that she met Richard Thomson, her devoted companion of many years. Richard had been a veteran of the Freedom Rides in Louisiana, and in Mari he found a personal, as well as political soul mate.

In 1966, Mari Goldman went to Sacramento to work as a legislative assistant and office manager to then-State senator, MERVYN DYMALLY. It was here she decided she could make a difference in the field of law. So in the evenings, she went to law school. She graduated from Lincoln Law School in 1973, and passed the California State Bar on her first attempt.

Now, more of her time was devoted to the emerging women's movement. Using the skills she honed and the lessons she learned in the civil rights movement, Mari set out to empower women. She became one of the founders of the National Women's Political Caucus and the Sacramento Chapter of the National Organization for Women. When Mari became chief counsel for the State legislature's Joint Committee on Legal Equality, her efforts led to the passage of landmark legislation on credit discrimination against women.

Recognizing that laws and programs which affect the lives of women are only as good as their implementation, Mari accepted appointment in 1976 as assistant director of the State department of social services. Later she was to become deputy director for Community Care Licensing, which enforces standards for operating nursing homes and day care centers.

Since 1979, Mari Goldman has been an administrative law judge with the department of social services, resolving disputes between public service agencies and the public they serve. Earlier this year, her colleagues acknowledged her important contributions by naming her their Woman of the Year. Never one to rest on laurels, Mari has not let her professional accomplishments prevent her from engaging the important issues of today—particularly issues affecting women. Being aware of the need for women to become better informed about the political currents which impact their lives, she founded and published "Women's Alert," a monthly newsletter which focuses on State and local politics, and provides informative analysis of issues from the perspective of women. "Women's Alert" is now published by the California Polytechnic Institute in Pomona. Following her retirement, Mari will continue as executive editor.

After 35 years of working in Democratic Party politics on behalf of candidates and causes, Mari fulfilled a lifelong dream and attended her first Democratic National Convention. In summarizing her experience at the convention in "Women's Alert," she wrote:

> When we went to Washington in 1971 to found the National Women's Political Caucus, we swore to make a change. We wanted to elect more women, we were for equal rights and against poverty. We were against violence and for an end to racism. We vowed to elect women, Democrats and Republicans, to the Congress and to local offices * * *

She concluded by saying:

> When Hillary and Bill Clinton stood on that platform with these women nominees, it seemed that finally the year of the women may be here.

We submit that the progress our society has made in the last 30 years in advancing the cause of human and civil rights would not have been possible, but for the selfless dedication of individuals like Mari Goldman. Our Nation owes her, and those who worked beside her, a tremendous debt of gratitude.

Mr. Speaker, we know that the Members of this House join us in extending to Mari Goldman our best wishes on this occasion and recognizing that her greatest accomplishments still lay ahead.

## TRIBUTE TO DR. VARTAN GREGORIAN

### HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. REED. Mr. Speaker, I rise today to pay tribute to an outstanding Rhode Islander, Dr. Gregorian, president of Brown University, on the occasion of being honored with the International Institute of Rhode Island Outstanding Citizen Award of 1992.

Born to an Armenian family in Tabriz, Iran, Dr. Gregorian is a naturalized citizen who grew up speaking four languages. His academic studies took him to Beirut and California, where at Stanford University he received his B.A. and Ph.D. in history and in the humanities. Dr. Gregorian is fluent in seven languages.

Dr. Gregorian is known for his extraordinary talents and is credited with the revival of the New York Public Library. He is noted for his dedication to the multiculturalism programs and has undoubtedly helped to improve relations with the many diverse ethnic groups living in Rhode Island since his appointment as Brown University president in 1989.

Mr. Speaker, I ask my colleagues to join me in saluting Dr. Vartan Gregorian. His enthusiasm, commitment and outstanding contribution to Rhode Island has earned him the respect of our community and he is indeed an excellent choice for this most prestigious award. His distinguished service has benefited not only the Brown University community, but, the citizens of Rhode Island as well.

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## HONORING ST. MICHAEL'S CHURCH

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I will join this weekend with the parishioners of St. Michael's Roman Catholic Church in co-op city for a special celebration. The parish will honor the patronal feast of St. Michael the Archangel and also mark the first anniversary of the groundbreaking of its new church. Monsignor Henry J. Mansell, the chancellor of the archdiocese, will bless the cornerstone of the building, which is expected to open for Advent services.

It is appropriate at this time to thank and congratulate the pastor of St. Michael's Rev. William DiRaffaele, for the leadership and inspiration he has provided to his parishioners during this period of transition. Many other people have also prayed, worked, and contributed funds to make the new church a reality. Together, they have displayed the faith and community spirit that has made St. Michael's an integral part of the co-op city community since its establishment in 1969.

I am proud to represent such outstanding individuals, and with them I look forward to the opening of St. Michael's new church, which will serve as a beacon of faith in the co-op city community.

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## TRIBUTE TO HON. DOUG BARNARD, JR.

### HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. JENKINS. Mr. Speaker, my friend and distinguished colleague from the great State of Georgia, Mr. DOUG BARNARD, JR., is retiring after 16 years of dedicated service to the people of Georgia's 10th Congressional District. I have introduced this bill to recognize his years of service by changing the name of the Department of Veterans Affairs Medical Center located in Augusta, GA, to the Doug Barnard, Jr., Department of Veterans Affairs Medical Center. I firmly believe that Mr. BARNARD deserves this recognition for his service to veterans, as well as the people of the great State of Georgia and this country, during his distinguished career as a Member of the U.S. House of Representatives.

Mr. BARNARD was in the Army from 1943 to 1945. He served in the European theater during World War II. His service included both the 57th Finance Disbursing Section and the Infantry Pool.

Mr. BARNARD served on the Veterans' Affairs Committee from 1977 to 1979. As a member of the committee, he sponsored successful legislation to allow veterans' families to receive a cash allowance of Government-provided headstones to apply towards the purchase of a marker of their choice. Funding for this program was terminated in the budget agreement of 1990. He has introduced H.R. 1992 to restore this program. Mr. BARNARD was able to obtain $83 million in appropriations for the construction of the Department of Veterans Affairs Medical Center located in Augusta, GA. He also was able to secure funds for the needed renovations of the old facility.

Mr. BARNARD is a founding member of the Battle of Normandy Foundation, a private group raising moneys to erect a monument to commemorate the 50th anniversary of the Battle of Normandy, 1994, and a school where students may study the invasion. Other members include retired Adm. John Buckley, U.S. Representatives LES ASPIN, BOB MICHEL, and SAM GIBBONS, also U.S. Senators STROM THURMOND, ROBERT DOLE, and others.

Mr. BARNARD has received numerous awards for his military voting record. Included among these are seven National Security Leadership Awards from the American Security Council; 1990 Certificate of Appreciation from the WWII National Archives Commemorative Committee for supporting efforts to honor veterans and inform the general public as well as students about the significance and history of war; and recognition for outstanding assistance to the Georgia Department of Defense.

The entire Georgia delegation is supporting this worthwhile recognition. I urge my colleagues to support our effort to recognize Mr. BARNARD's distinguished service to the veterans of this country.

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## IN RECOGNITION OF MILTON RUBENSTEIN

### HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. WALSH. Mr. Speaker, I rise today to recognize the life and accomplishments of Mr. Milton J. Rubenstein. Mr. Rubenstein, the son of Russian immigrants, was born and raised in Syracuse, NY. He attended Nottingham High School and Syracuse University.

Mr. Rubenstein's life was dedicated to science. But more importantly, he was dedicated to helping young people understand science in their lives through hands-on experiments and demonstrations.

With this in mind, it is only fitting that when Syracuse's Discovery Center moves into its new home at the armory, that it will bear his name: The Milton J. Rubenstein Museum of Science and Technology.

The Discovery Center currently houses 45 interactive learning exhibits. The new Rubenstein Museum will house 200 interactive exhibits, allowing more adults and children to get their hands on science.

The Rubenstein family has contributed to the level of technology in Syracuse throughout the 20th century. Through their work at United Radio, Beepcall, and Cellular One Telephone, the Rubensteins have touched the lives of many in Central New York.

The Milton J. Rubenstein Museum of Science and Technology will stand as a testament to an individual and a family that has brought science into our homes.

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## INTRODUCTION OF PRIVATE RELIEF LEGISLATION

### HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. HUTTO. Mr. Speaker, I am introducing legislation on behalf of my constituent, Harold David Strother, Jr., of Pensacola, FL. Like the vast majority of children in our country, David Strother was administered the vaccines which prevent a number of tragic human diseases. In virtually all cases, these vaccines serve their purpose well and most children grow up taking them for granted. Unfortunately, there are some cases in which these vaccines, which are given with the best of intentions, have a tragically opposite effect.

David Strother and his family understand the opposite effect. David experienced a devastating reaction to the vaccines which has left him incapable of living a normal life, a life which most children also take for granted.

Congress recognized that the vaccines are not infallible and enacted the Vaccine Injury Compensation Act. The Strothers applied for assistance under the act and were initially approved. However, further reviews by the Department of Justice resulted in a denial of compensation. After exhausting the appeal process, David's parents were left in debt and with a child requiring care and attention 24 hours a day.

My legislation would simply take into consideration the findings that initially determined David Strother to be eligible under the act and require the Secretary of Health and Human Services to make the appropriate compensation. David Strother will never have the chance to live a normal life, but we can make it more comfortable.

# KEWAUNEE WINS NATIONAL NOAA AWARD PRAISES EXCELLENCE IN COASTAL MANAGEMENT

## HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. ROTH. Mr. Speaker, I rise today to commend a job well done in Kewaunee, WI. A restoration of the waterfront area which will attract more tourists and new business to this wonderful city on the shores of Lake Michigan.

Since 1980, the city of Kewaunee has worked with private organizations and public sector officials to coordinate and rebuild the waterfront. They have built a new bridge, constructed a new 112-slot marina, revamped the harbor and worked to revamp the shoreline, with plans for a new harborside park.

Because such an outstanding job was done, just last week the city of Kewaunee received the National Oceanic and Atmospheric Administration's [NOAA] first annual award for Excellence in Coastal and Marine Management. It is one of five communities in the entire Nation to receive such an honor.

The city clerks office of Kewaunee received this award for its significant contribution to managing coastal resources. The award cites the clerks offices' efforts, under the leadership of Jim Stadler, to revitalize Kewaunee's waterfront.

This is a sterling example of business, community, and environmental leaders working together to rebuild the waterfront and improve the community.

Congratulations to the community of Kewaunee for working together to further improve the already beautiful shoreline of Lake Michigan. It is a great effort that will long benefit both residents and visitors.

In winning the first NOAA national award for excellence, Kewaunee has set a high standard for other communities around the country to follow.

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# A CONGRESSIONAL TRIBUTE TO BILAL BAROODY

## HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to a man long overdue for recognition. Bilal Baroody was born in Lebanon on November 30, 1945, but lived most of his adult life in Kuwait. He is the son of the late Adel Baroody and Rajia Ghahdour, who is living at present in London. Bilal was educated in boarding schools in Great Britain, College des Freres and the fashionable Lycee Francais in Beirut, Lebanon. After completion of his secondary school in Kuwait, in 1961, he joined British Air University, in Perth, Scotland, as a pilot. He changed his career and joined their engineering school and graduated with honors and obtained an A and C license from the British Air Registration Board.

He started his distinguished business career as a young entrepreneur in the Middle East selling heavy duty equipment to the oil companies. He then joined Kuwait Airways Corporation in 1966 and was promoted to a planning engineer in 1968. He was then placed with the Boeing Co. in Seattle, WA as Kuwait Airlines local representative and was assigned the task of purchasing a 707 fleet.

He soon realized the future and tremendous profits to be made in the aviation market and founded a company—U.S. International—to trade aircraft and aircraft spares. His new found business was tremendously successful and before too many years, he had amassed enough money to retire. He was much too young to retire, he thought, but he retired anyway. He hopped around the world buying homes in different countries and living in them, having the fun one dreams of. After 5 years he had had enough of retirement. The fun was no longer fun. He needed to get back to work and money was not the reason.

Bilal settled down in one of several homes he has in Malibu and opened offices in Los Angeles for U.S. International Finance Corp. [USIFC]. With Bilal's energy and driving force, USIFC took off like a jet plane, booming with activity, representing international trade and finance operations for a worldwide client community from their offices in Los Angeles, London, Kuwait, Cairo, and the United Arab Emirates. USIFC interest lies in: Aircraft leasing and sales, aircraft tools and ground support equipment, environmental engineering and geologic services, bridges, roads, city planning and construction, fire fighting equipment and chemicals, heavy duty electrical power, hospital medical equipment and supplies, manufactured diesel engine spare parts, oil refinery, maintenance and upgrading, power plant installation, satellite communications, television cable system design and installation, television programming and productions service, and food. Bilal's latest addition is Certified Grocers of California, whose grocery sales exceed $4 million annually, whereby USIFC is the sole distributor in the Middle East, Africa, and some parts of Europe.

A joint venture with Dick Clark, who is one of the most recognizable names and faces in America, both behind the scenes and in front of the camera, produced a cable television operating company in one of the fastest growing areas in the United States. The company has constructed a state-of-the-art, 60 channel cable communications system in Kern County, CA.

Bilal and his company earned a reputation built on reliability, integrity, credibility, and confidentiality, supported by a highly skilled international staff selected with customer service as their priority.

Bilal is married to a beautiful brunette named Jacqueline, a native of Pacific Palisades, CA. From a prior marriage, Bilal has two beautiful daughters, presently full-time college students.

Bilal will never tell you about the orphanage in Spain, or the rehabilitation houses in England to which he contributes. He'll never tell you about the scholarships here and there which he underwrites. It has never mattered where Bilal is living, he always finds a good cause where he can be generous. Bilal has but a few plaques recognizing him for his countless good deeds, but that's his own doing. He is basically shy about his generosity and believes that giving should come from the heart without public thanks. He is the cofounder of the Los Angeles Modern Museum of Contemporary Art and an ardent supporter of the AIDS Project in Los Angeles. Bilal is very much overdue for the recognition he genuinely deserves for the good he has passed along to so many people, both in the United States and abroad.

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# IN HONOR OF MICHAEL J. ADANTI

## HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Ms. DELAURO. Mr. Speaker, on Sunday the Italian-American Historical Society of Greater New Haven will recognize Michael J. Adanti, president of Southern Connecticut State University, with a distinguished service award. Mike has richly earned this honor, and as a longtime friend and admirer, I would like to join in paying tribute to all he has done.

A graduate of Southern and a former cocaptain of its football team, Michael Adanti returned to his alma mater in 1967. In the quarter of a century since, he has served the university with great distinction, in a number of critical capacities. Building on his experience as a high school teacher and guidance counselor, Mike quickly proved to be a superb administrator. He excelled in each position and was appointed president in 1984. Under his wise and active direction, Southern Connecticut has solidified its role as a crucial educational resource for our region and our State.

An exceptional leader who thrives on responsibility, Mike has devoted his skills and time not only to Southern but to the wider community. During the 1970's, he was a successfull mayor of Ansonia, and the Democratic candidate for the House of Representatives in the Fifth Congressional District in 1976. From his volunteer efforts at the town level to his membership on bodies such as Yale-New Haven Hospital's board of directors, he has always been an invaluable, enthusiastic contributor to life in our area. His engaging personality and warm sense of humor are renowned, and he is always eager to help others—whether students, colleagues, or neighbors.

Michael J. Adanti is a genuine public servant, and an inspiration to everyone in Connecticut. While his achievements are a particular source of pride for Italian-Americans, he enriches life for us all. I congratulate him on his well-deserved award, and I wish him continued success in the future.

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# THE STILLWATER LEVEE/RIVER WALL PROJECT

## HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. SIKORSKI. Mr. Speaker, my office has been working closely with the Army Corps of

Engineers—St. Paul District Office—and the city of Stillwater to obtain technical assistance through section 14 of the 1946 Flood Control Act. Our goal is to stop the erosion of a retaining wall system in Stillwater, MN.

The Water Resources Development Act of 1992 (H.R. 5754) being considered in the House today, includes authorization of this project. The Stillwater levee/river wall project is worthy of Federal intervention because of its importance to the Wisconsin/Minnesota border area as well as its historical origins and historical surroundings.

The river wall, the lift bridge connecting Minnesota and Wisconsin, Lowell Park, and the busy commercial section of downtown Stillwater are all listed on the National Register of Historic Places. Erosion of the wall system threatens each of these historic markers.

The wall system and bridge hold up more than just history, more specifically, the Army Corps of Engineers concluded in a preliminary report that, "failure of the wall could lead to temporary loss of the only bridge across the St. Croix River between Hudson and Osceola, WI, a distance of 28 miles." Stillwater medical services provide primary health care for many Wisconsin residents who are dependent on the bridge for access into the Stillwater area.

I would like to emphasize that the Army Corps of Engineers reported, "failure of the wall system is not the result of inadequate maintenance by the city." Time and water have taken their toll on Stillwater's protective wall system and could lead to economic and historical damage at any time in the next 2 years. Action must be taken now on this retaining wall system, built 55 years ago as a WPA project.

The city of Stillwater is ready and willing to step forward and pay their fair share to rebuild this important and historic wall system. However, the damage is just too extensive for the people of Stillwater to take on this problem all by themselves. That is why the Water Resources Development Act authorizes an increase of the maximum Federal allotment from $500,000 to $2,000,000 under section 14 of the Flood Control Act of 1946.

One final point, I would like to thank the people who have worked so hard to bring the project this far, including: the folks in the city of Stillwater, the Army Corps of Engineers—St. Paul District Office—the chairman of the subcommittee, Mr. NOWAK, the ranking member, Mr. PETRI, the full committee chairman, Mr. ROE, and the ranking member of the full committee, Mr. HAMMERSCHMIDT.

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## TRIBUTE TO JACKIE AND BERTIE GAUGHAN

### HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. BILBRAY. Mr. Speaker, I rise today to honor the accomplishments of one of Las Vegas' leading businessmen and casino owners, John "Jackie" Gaughan and his wife Roberta, "Bertie". For over 40 years, the Gaughans and their family have made Las Vegas their home, but their enterprises have made Las Vegas a success.

While serving in the Air Force during the 1940's, Jackie became enchanted by the city in the desert and its growing gaming industry. He packed up his family and moved them from Omaha, NE, to Las Vegas where he began his career with an investment in the Flamingo Hotel. Over time, he moved his investments to the downtown area where he now owns many of the landmark hotels of Las Vegas. These include El Cortez, Western Hotel, Las Vegas Club, Gold Spike, Plaza Hotel, and the Showboat. In addition, he also owns the Showboat in Atlantic City.

His sons have also maintained what has become a family affair. His son Michael owns the Barbary Coast and brother Jackie works with his father at the Plaza. In addition, Bertie works side by side with him at the El Cortez, where she serves as his corporate secretary. The Gaughans have been happily married for 50 years and are the proud grandparents of seven grandchildren.

In addition to his outstanding business success, Jackie has taken the time to give back to the community by participating in the Boys Club of southern Nevada, serving on the board of trustees of the United Fund, on the board of the Pioneer Citizens Bank, past director of the Las Vegas Convention Authority, and as past president of the Las Vegas Greater Chamber of Commerce. He has also been elected as Man of the Year by the Friendly Sons of St. Patrick and the B'nai B'rith.

Through it all, Jackie Gaughan and his family have managed to give back to Las Vegas as they have reached the peaks of business success. As the Basque Festival honors this wonderful man, his wife, and their family, I ask that my fellow Members of Congress rise and help me honor Jackie and Bertie Gaughan and the integral part that they have been to Las Vegas for over 40 years.

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## TRIBUTE TO MYRON JACKSON

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. OXLEY. Mr. Speaker, I would like to bring to the attention of my colleagues the dedication and hard work of one of my constituents, Mr. Myron Jackson of Carey, OH. Mr. Jackson went above and beyond the call of duty to help the many victims of Hurricane Andrew.

Mr. Jackson took 4 days off of work and traveled to the Homestead and Florida City areas of Florida; two areas that were virtually wiped out by the hurricane. After learning of the magnitude of damage and of the thousands left homeless, Mr. Jackson decided to make the trip to Florida out of his care and concern for the many people who needed help. He obtained a 25-foot truck and with the help of his father, Curt, collected donations of food, toiletries, and medicine from individuals who saw the truck parked in a local store parking lot. The donations were sorted into packages containing food and supplies for a family of five. Mr. Jackson provided money for the fuel needed for the drive to Florida. He and his father obtained a pass to travel through the most stricken areas distributing their donations to families in need.

I commend Mr. Jackson and the many people who donated supplies for his cause. His spirit of voluntarism and service is an inspiration to us all, and I speak for the people of the fourth district when I say we're proud he's an Ohioan.

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## A BILL TO STRENGTHEN THE PENALTIES FOR EMPLOYING A JUVENILE IN THE COMMISSION OF A FEDERAL CRIME

### HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 24, 1992*

Mr. ZIMMER. Mr. Speaker, I rise today to introduce a new bill that will give prosecutors an important new weapon in the war against crime. Under the provisions of my bill, anyone who employs a juvenile in the commission of a Federal offense would be faced with twice the maximum penalty that normally accompanies the crime.

The language in my bill closely parallels a provision in the 1988 Drug Enforcement Act, but broadens the it to include all Federal crimes.

Criminals often employ children to do their dirty work because they know that the child will receive a light sentence at best. I am concerned that once these children are introduced to a life of crime they will continue to break the law. We need to stop this trend. One way is to go after the adults that are profiting from the juvenile's actions. My bill will do just that. The double penalty will cause a potential criminal to think twice before employing a juvenile to commit a Federal offense.

Mr. Speaker, I ask my colleagues to support this legislation.

# HOUSE OF REPRESENTATIVES—*Friday, September 25, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, to discern more clearly the meaning of the words that are spoken so we truly understand and appreciate their power. We admit that it is difficult to have the diligence and patience to discern the words we hear and the motivation that calls them forth. May we, O God, realize that our words are powerful instruments to help and to heal and be the noble marks of our humanity, or they can tear down and destroy. You have called us, O God, to be good stewards of the values of truth and respect, and we pray that we will so use Your gifts to us that we will be the people You would have us be, and do those good things that honor Your name and serve others with dignity and honor. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Colorado [Mrs. SCHROEDER] please come forward and lead the House in the Pledge of Allegiance.

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 5) "An act to grant employees family and temporary medical leave under certain circumstances, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2263. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 316. An act to authorize the garnishment of Federal employees' pay, and for other purposes;

S. 2484. An act to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; and

S. 3139. An act to improve the defense economic diversification, conversion, and stabilization activities of the Department of Defense; to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions; to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base, and for other purposes.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that after consultation with the minority, the Chair will recognize 10 Members on each side for 1-minute requests.

## AMERICAN JOBS MOVING TO OTHER PARTS OF THE WORLD

(Mr. BROWN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN. Mr. Speaker, there is no more important problem today facing the country than the health of the American economy and the need for jobs for Americans.

This is a matter which the House spoke to this week in passing an economic competitiveness bill which was intended to stimulate and improve the American economy.

I think it would come as a shock to Members of this body and most Americans to know that millions of dollars, hundreds of millions of dollars of American taxpayers' money is being spent not to create jobs but to remove jobs from the United States and to shift them to other parts of the world, including Central America and the Caribbean Basin.

I was shocked to determine the extent of this practice, Mr. Speaker. I began an investigation of this some time ago, which has resulted in the development of a great deal of information that I will make available to this body.

I rise here this morning to indicate that this matter has attracted the attention of the media and that this Sunday, CBS, on its "60 Minutes" program, will devote a considerable amount of time to revealing the extent to which American jobs are being shipped overseas with the help of American taxpayers' dollars.

I urge all the Members to watch this program.

## USAIR-BRITISH AIRWAYS DEAL

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, the British are coming, the British are coming. This time it is not our borders that are in danger, it is our airline industry.

On July 21, 1992, British Airways and USAir announced an agreement for British Airways to buy 25 percent of the voting stock of USAir and thereby acquire a less than 50 percent equity in USAir. This is a bad deal for the aviation industry in America. It is a bad deal for the following reasons:

First, it will allow British Airways virtually unlimited access to lucrative United States markets while at the same time it will preserve current agreements that restrict United States airlines from operating to United Kingdom markets.

Second, it will removed incentives for the British Government to negotiate with the United States for an open skies agreement.

Third, it will unfairly help one U.S. carrier at the expense of all others.

The United States Government has been trying to get an open skies agreement with the United Kingdom since 1944 when President Roosevelt proposed his plan for universal open skies. If this deal is approved without any concessions from the British Government,

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

then we can be assured that the United Kingdom and European market will remain closed to United States airlines.

The plain fact of the matter is foreign carriers cannot compete with U.S. airlines without the protection of restrictive bilateral treaties. For example, the cost of 1 passenger mile for a U.S. airline is 9.5 cents, the cost of 1 passenger mile on a foreign carrier is 14.5 cents. Ironically, the competitive U.S. market provides unique leverage for foreign carriers because U.S. airlines must compete for their interline passengers. For example, foreign carriers typically refuse to accept the industry-standard division of revenues collected on interline flights. Because U.S. carriers will compete to carry passengers from foreign carriers bound for destinations within the United States, foreign carriers are able to improve their percentage of interline revenue at the expense of U.S. carriers.

In most cases, we would applaud this type of transaction as an example of the free market determining the cost. However, in this case it is not that easy because relationships between foreign carriers and U.S. carriers are not wholly determined by the free market. Rather, they are determined by multilateral agreements. Unfortunately, this puts the United States industry at a disadvantage because history has shown that foreign countries, and in particular the United Kingdom, are far more aggressive in protecting their carrier's interests than is the United States Government during multilateral negotiations. For example one of the underlying rights that British Airways will enjoy under the pending deal are unlimited United States codesharing rights which is largely a concession made by United States negotiators in 1991. In real terms what this means is that even if United States carriers could make a similar investment in a British carrier, we do not have codesharing rights either within or beyond the United Kingdom and are thus unable to combine with an acquired carrier into an extensive on-line system as British Airways is doing with USAir.

Given that the United States domestic market is half of the world's aviation market, it is not surprising that the British want this deal. But what do we get out of the deal? Nothing, unless our Government uses this opportunity to take a more aggressive approach in negotiating agreements. The ability of the U.S. airline industry to compete in the world market will be further eroded. Secretary Card can make history by seizing this opportunity to finally level the playing field for United States carrier in the British market. Given the current state of the U.S. airline industry, we can ill afford to arbitrarily give away foreign markets which are currently the only markets producing a profit.

Mr. Speaker, the British are coming, the British are coming. Not by land and not by sea but by air and it is time we mount our defense. Reject the British Airway-USAir deal unless we get an open skies agreement with the British.

### FOR TULLY

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise with great sadness to inform my colleagues that a good friend of mine, and a good friend of the Democratic Party, Paul Tully, passed away yesterday.

Paul Tully was in politics for all the right reasons. Not for money, and not for power, but because he believed that politics was the vehicle for changing and lifting the lives of every American.

Nobody worked harder in the last 4 years to elect a Democratic President than Paul Tully. And I think this year, his work was about to pay off.

But even if it does not, it is hard to accept the fact that Paul will not be staying up all night on November 3, following the computers, listening for targeted precincts, shouting at the television, and waiting to see whether the voters—people Paul admired and studied so well—did what he expected them to do behind the drawn curtain of democracy.

Paul leaves behind two daughters. He leaves behind a generation of Democratic activists, friends, and colleagues at the Democratic National Committee, allies in Governor Clinton's campaign, partners from the civil rights and women's movements, respectful adversaries, and countless people who just enjoyed being around him.

There are a lot of people who say today, "I do politics because of Paul Tully." And now, for them—for all of us—there is a hole in our hearts. And as sorry as we are to know Paul is gone, we are grateful that he passed our way.

### SENIOR CITIZENS BENEFIT FROM INTERCENSAL DATA ADJUSTMENT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, earlier this week, a reauthorization of the Older Americans Act passed by voice vote, under suspension of the rules. One reason this legislation is popular is because its programs work. For the past 18 years, the Federal Administration on Aging has updated its census estimates every year. Although they are only estimates, it is this dedication to accuracy that enables the Administration on Aging to effectively reach the greatest number of senior citizens. I illustrate this point because until November 13, the Bureau of the Census is considering a decision to adjust intercensal data, a decision which will affect Federal funding levels for the next decade. If the data is adjusted, 4 million people not included in the official 1990 census will be acknowledged, and the statistics will be truly reflective of the actual population of the United States. Like the programs of the Administration on Aging, highway aid dollars, agriculture, and clean air grants would follow population trends.

Mr. Speaker, if accurate adjustments are good enough for older Americans, they can work for the rest of the country as well. A fair distribution of Federal funds is at stake.

### AGRICULTURE HAS SAVED AMERICAN TAXPAYERS MONEY

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I would like to inform my colleagues this morning that the mass media and some selected newspapers often incorrectly point the finger at agriculture for spending excesses which are not actually factual. I would like to inform my colleagues that the Committee on Agriculture, in fact, continues to meet its share of our commitment to balancing the budget and reducing the deficit. This week we passed a bill addressing the Farm Credit System that will save $67 million this year, $67 million.

Since I became chairman in 1981 until now, the Committee on Agriculture has crafted legislation that has saved over $50 billion. Over $50 billion have been saved for the American taxpayer by our Committee on Agriculture and the programs that we have enacted.

□ 1010

This is not sensational. It does not make the front pages. But people should know that the Agriculture Committee and Congress have saved them, the taxpayers, over $50 billion in the past 10 years.

### CANDIDATE CLINTON LOOKS BETTER AND BETTER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is something funny about the Iran-Contra case. Poindexter said, "The buck stops here," but Reagan knew nothing. Secretary Shultz said, "I was Secretary of State. Mr. Reagan knew nothing." Mr. Weinberger said, "I am indicted, and Mr. Reagan knew nothing." Mr. McFarland said, "I tried to kill myself, and Mr. Reagan knew nothing." Oliver North said, "The

Contras got the money, but Mr. Reagan knew nothing," Richard Secord said, "Forget the money, George Bush knows everything." And President Bush said, "When I was Vice President, I didn't know anything. I didn't do anything, I didn't even see anything."

I don't know if we can dispute that, folks, but President Bush has made character the major issue in his Presidential campaign. Bill Clinton is beginning to look better and better with each and every twist of the loop.

### BURLINGTON—A CAN DO MENTALITY

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, I rise today to share a community effort in the small town of Burlington, CO, population 2,941. In Colorado 63 counties are federally designated as medically underserved areas. Like much of rural America, Burlington is finding they cannot retain a general practitioner. Specialized care is out of the question. Because the closest medical center is 115 miles away, Burlington's citizens face a burden, but they are not giving up.

Burlington has devised a home-grown solution, a grow-your-own-doctors plan. This innovative community is sending two local students to med school with the stipulation they will practice locally a year for each year of education they receive. Burlington recognizes physicians are more likely to practice in a small community if they were raised in one. This also provides an opportunity for two local students to fulfill their dreams.

Burlington designed a formula for success. While every town may not be able to duplicate their idea, everyone, everywhere can benefit from this small town's can do mentality.

### THE MOST IMPORTANT CAMPAIGN DEBATE: WHO CARES ABOUT KIDS AND WHO IS JUST KIDDING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, while most campaign debates have been canceled this year, one was held between representatives from the two campaigns yesterday on probably one of the most important topics Americans should be concerned about, if they care at all about their future: children.

Over 30 organizations in 50 States sponsored a debate between the two campaigns on who is for kids and who is just kidding. They looked at the records and they looked at the platforms of both candidates, and went at it for over an hour and a half. There was absolutely no way the administration could explain how America has fallen to 22d in infant mortality rate, how only a third of the children are in Head Start that should be there, how many children are still not getting their shots, as high as 50 percent in parts of the country, and more children are in poverty than ever before.

Then we got to the education record. Then we got to the problems with higher education.

If the Members care about kids, I think the summation of the debate was very clear. We found out who is for kids and we found out who is just kidding.

### TIME FOR THE PRESIDENT TO FESS UP

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush says he will say anything to get reelected. He says he was not in on any of the Iran-Contra arms sales meetings. He said he was out of the loop. He says he knows absolutely nothing.

Now notes found in Caspar Weinberger's files say that he was, indeed, at those meetings and he knew everything. George Shultz and Caspar Weinberger both expressed disbelief that the President would say he was unaware because he was there, and now Richard Secord, who was part of the Reagan-Bush team, says that Bush in fact was in the loop and that he knew everything.

I think it is time for the President of the United States to fess up and tell the truth to the American people, but instead he shifts the focus and has the gall to go back 25 years and express a credibility gap on Bill Clinton.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McDERMOTT). The Chair would advise the gentleman that the gentleman should withdraw that last statement.

Mr. APPLEGATE. Why? * * *.

The SPEAKER pro tempore. The gentleman should withdraw that statement, under the Speaker's guidelines as announced yesterday.

Mr. APPLEGATE. I would ask the Speaker, is that a bad word?

The SPEAKER pro tempore. Without objection the gentleman withdraws his remarks.

Mr. APPLEGATE. I withdraw them.

### NSC STAFF MEMBER BRIEFED PRESIDENT ON IRAN-CONTRA ACTIONS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, President Bush steadfastly argues he was out of the loop on the Iran-Contra arms deal. Yesterday on the floor I read an article from the Washington Post which stated memos from Secretaries Weinberger and Schultz contradicting that statement.

I wonder, did anybody watch "Nightline" last night? On "Nightline" last night we had former NSC staff member for Israel, Howard Teicher, say that not only was the President not out of the loop, he fully briefed the President on all of these goings on.

Out of the loop? You bet.

### URGING SUPPORT FOR REINSTATEMENT OF CUSTOMS REGULATIONS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, recent changes in Customs regulations now require that nonstop charter flights from Canada to certain points within the United States be redirected to international airports for customs inspections.

This abrupt change in policy has left many localities reeling from the projected loss of tourism revenues putting the tourism industry in the middle of a battle between the Customs Service and Canada.

As chairman of the tourism caucus, I am asking my colleagues to join me in signing a letter to the Customs Commissioner asking that the previous policy be reinstated until hearings about this matter can be scheduled next year in the Ways and Means Committee.

### AN APPEAL TO THE PRESIDENT TO WITHHOLD VETO ON CABLE BILL

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, there are many of us in this Chamber who are shocked and appalled at the fact that the President still persists in his intentions to veto the cable bill.

A majority of this House, over two-thirds, Republicans and Democrats, a majority of the Senate, over two-thirds, Republicans and Democrats, have approved this proconsumer bill to create competition and better rates for American television viewers across this land.

Why would the President persist in this notion of vetoing, gridlocking this institution in trying to find a solution to problems for American television consumers?

We appeal to the administration to reconsider its position. Who have they promised this veto to? Not to the American public. End the gridlock. Let us sign the cable bill.

## FAMILY AND MEDICAL LEAVE ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102– )

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

*To the Senate of the United States:*

I am returning herewith without my approval S. 5, the "Family and Medical Leave Act of 1992." This bill would mandate that public and private employers with 50 or more employees provide their employees with leave under certain circumstances.

I want to strongly reiterate that I have always supported employer policies to give time off for a child's birth or adoption or for family illness and believe it is important that employers offer these benefits. I object, however, to the Federal Government mandating leave policies for America's employers and work force. S. 5 would do just that.

America faces its stiffest economic competition in history. If our Nation is to succeed in an increasingly complex and competitive global marketplace, we must have the flexibility in our workplaces to meet this challenge. We must ensure that Federal policies do not stifle the creation of new jobs or result in the elimination of existing jobs. The Administration is committed to policies that create and preserve jobs throughout the economy—serving the most fundamental need of working families.

My Administration is also strongly committed to policies that foster a complementary relationship between work and family and encourage the development of a strong employer-employee partnership. If these policies are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the workplace by employers and employees, and not in Washington, DC, through Government mandates imposed by legislation such as S. 5.

Therefore, I have transmitted to the Congress legislation to establish an alternative flexible family leave plan that will encourage small and medium-sized businesses to provide family leave for their employees.

My flexible family leave plan is based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all their employees. A refundable tax credit of 20 percent of compensation (for a credit of up to $100 a week—to a maximum total credit of $1,200) would be available for all businesses with fewer than 500 employees, for a period of family leave up to 12 weeks in length. Family leave would include the birth or adoption of a child or the care of a seriously ill child, parent, or spouse. It also would cover a serious health condition that prevents the employee from performing his or her job. This approach will cover almost all workplaces—smaller companies that S. 5 does not cover that are less likely to provide leave to their employees. My plan covers about 15 million more workers than would be eligible under S. 5 and 20 times the number of workplaces. Those not affected by my plan work for large businesses, which generally have established family leave policies.

I want to emphasize again that my bill will help where the concern is most acute—with small and medium-sized businesses and the workers in those businesses. S. 5 misses these key workplaces by excluding businesses with fewer than 50 employees. We know that these hard-pressed small companies usually offer fewer benefits than large firms, that they generate most of our new jobs—in fact, they provide the majority of people with their first job—and that they are more likely to employ women and reentrants to the labor force. Under my proposal, many more of the millions of men and women employed by smaller businesses would be able to take advantage of family leave.

The tax credit approach to the family leave issue will provide the flexibility workers and employers need to enable them to establish the optimal package of benefits that meets their particular needs. This way the parties can decide which package of benefits is best suited to them. In addition, because a tax credit is not a mandate, it does not put struggling firms at an economic disadvantage in the global marketplace. It maintains the competitiveness of American business while providing the benefits American workers need. It provides positive incentives, not mandates with veiled costs that impede growth.

Both the House and Senate passed family leave legislation almost 1 year ago, but they have kept it in the filing cabinet until now. That is nearly an entire year with no action or any willingness to depart from a federally mandated approach, only an interest in politicizing the issue.

I have proposed a truly flexible family leave program. I am willing to work with the Congress to get it passed and signed into law immediately.

There appears to be a pattern here. Three years ago, my Administration had a fundamental disagreement with these same congressional committees on child care policy. It took the Democratic-controlled Congress more than a year to get the point—I would not buy a Government-controlled and mandated child care program. When they got serious, we rapidly hammered out flexible child care legislation patterned after my proposal, that allowed individuals to choose their benefits.

The same holds true for family leave. If the Congress is serious about encouraging family leave, I ask those Members of Congress who have joined me in the past in opposing Government mandates to work with me again. The Congress should pass a family leave bill quickly that provides positive incentives for family leave and is responsive to the needs of workers and employers.

GEORGE BUSH.

THE WHITE HOUSE, *September 22, 1992.*

□ 1020

The SPEAKER pro tempore (Mr. MCDERMOTT). The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

Mr. GEPHARDT. Mr. Speaker, I move that further consideration of the veto message on the Senate bill, S. 5, be postponed until Wednesday, September 30, 1992.

Mr. Speaker, I ask unanimous consent that debate on this motion be limited to 5 minutes on each side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] will be recognized for 5 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I have asked for this delay or postponement in what would be the normal procedure for the simple reason that a number of Members who are on both sides of the issue and both sides of the aisle were unable to be here today and wanted to be here in order to debate this veto override question and wanted to put their views on the record, and obviously wanted to be present for the vote.

I was approached yesterday on the floor by Members from both sides of the aisle who made that request. For that simple reason we have asked that this be put over until Wednesday for the vote to be taken.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I just want to make a couple of comments.

First of all, we would be willing to postpone until Wednesday if we could then get agreement to bring up the President's family leave tax credit package if the veto is sustained. But what I fear is going to happen is that first we will be told we cannot vote on it today, and then when finally we sustain the veto on Wednesday, we will be told there is not really time to pass the President's Family Leave Tax Credit Act.

I would just make two sets of points. First, procedurally the Senate passed this bill on October 2 of last year. The House passed this bill on November 13 of last year. The Democratic leadership's commitment to family leave was so great that they deliberately did not even have a conference until August 5.

The conference then brought it in, and it was voted on in a way to maximize its political impact, but not to help families, and not to help people who need leave.

Second, I would make the point that this veto is going to be sustained, that the President has proposed a bill which has been introduced, H.R. 6003, and that bill has a number of cosponsors who also had earlier cosponsored the Democratic version of family leave. And that bill would in fact reach 20 times as many workplaces and cover 15 million more workers than does the mandated benefit that we are going to vote on the veto override attempt. We have an opportunity next week, if the Democratic leadership would allow us to, to pass a family leave tax credit bill which the President would sign, which as I said would cover 20 times as many workplaces because it covers all small businesses, and would actually cover 15 million more workers than the bill we will be voting on.

So I think our side would be very willing to go along with the postponement if the Democratic leadership could assure us that next Wednesday or Thursday we could get a scheduled vote on H.R. 6003. But if in fact we cannot get assurance to bring up the President's Family Leave Tax Credit Act, I think we feel compelled to vote against postponing this veto override attempt.

AMENDMENT TO MOTION OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I would first like to ask unanimous consent that the motion be amended to say "September 30" instead of "October 30," which I misstated when I made the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. GEPHARDT. Mr. Speaker, I would just say to the gentleman that I unfortunately cannot give the assurance that he seeks. I would simply say two things.

One, we have been working on this kind of legislation for a good long time, and there have been Republican Members on the other side who up until now have presented the idea of tax credits in this area. I think they were at times considered, but the first the administration really embraced the idea was just recently.

But putting that side, my concern is that in the time that is left I am still desirous of getting a tax bill that entertains the idea of urban enterprise zones. We still have not been able to get that through the other body, and I am going to do everything I can to see that urban enterprise zones are finally passed. I know the gentleman shares my view on that.

I do not know that we can even do that. I think it is unrealistic to think that we can get a bill on tax credits on family leave done in that short of a period of time.

□ 1030

So, unfortunately and reluctantly, I cannot give the gentleman the assurance that he seeks.

Mr. GOODLING. Mr. Speaker, I yield myself what time I may consume or what time is left, either one, just to say that here we go again. We indicated that this is such an important piece of legislation, but as the whip recited, the passage was in the Senate in October and in the House in November of last year, not this year. We did not get there yet.

And then we delay until August to even have a conference. Obviously, it is about as political as it can be. The amazing thing is that someone would have the nerve to come to the leadership and say, "Postpone this because I can't be there on Friday."

Mr. Speaker, we have known we were going to be here on Friday for a long, long time. I do not know whether that means you get a weekend and a couple of days to twist arms, but I would think that would be a dangerous thing to do because once you cast your vote, you would think you would have to cast consistently. So I do not know that would have any effect.

But I cannot imagine anyone postponing anything simply because a group of people say they could not be here today when we were told a long, long time ago that we were going to be here today and we were going to vote today. And they will miss other votes if they are not here.

So, again, I cannot believe that the legislation is as important as they say if we are going to continue to postpone. I hope that when we get the political business over, we will get down to a NANCY JOHNSON or a GRANDY, or a GOODLING, a PENNY, the bill that is presently before us, et cetera, et cetera, and come up with something that will really be a benefit to the workers, to all the workers who are out there in the work force.

Mr. Speaker, I yield back the balance of my time.

Mr. GEPHARDT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

I think it is important to point out that we have been trying to negotiate with the President ever since the bill passed the House and Senate. We have tried and tried and tried, because we did not want to make this a partisan issue.

I also would like to point out that Members who have had a tax credit introduced also voted for this legislation. They are not mutually exclusive.

One of the problems with the tax credit is trying to figure out how to fund it right now in these later hours. But we have tried, we have had the door open forever. We have done everything we could to negotiate, and here we suddenly come with this 11th-hour, unpaid-for tax credit. I assure people you can vote for both.

Hopefully, next year we can work out something like that, some kind of a tax credit. But in the interim, to put in a minimum floor of unpaid leave I think is absolutely essential. And I would hope there is not a person here who thinks that if we pass this we could not pass the tax credit later on that would be more expansive and cover more groups.

So I just think we can do both. I hope we can move and have it so everybody can have their voice heard on this on Wednesday. I do not think it is anyone's fault. We had no idea when the other body was going to take this up for a veto override. So I support the gentleman in his motion and hope everybody votes for it.

Mr. FORD of Michigan. Mr. Speaker, the Family and Medical Leave Act is of immense importance to America's families and to the hundreds of thousands who suffer disabling illnesses each year. Because of the religious holidays, we are heading into a long weekend and some Members may be necessarily absent today. The issue, however, is too important to have the vote on overriding the President's veto on a day when many Members may be away. Every Member's vote should be counted.

No one, whether proponent or opponent, should be denied the opportunity to cast this override vote. This is a matter of basic fairness to our colleagues.

For that reason we are moving to postpone the override until Wednesday next week. All Members will have sufficient notice to be present for that vote.

Mr. GEPHARDT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion, offered by the gentleman from Missouri [Mr. GEPHARDT], as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 139, not voting 54, as follows:

[Roll No. 430]

YEAS—239

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Byron
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—139

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morrison
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pickett
Porter
Pursell
Quillen
Regula
Rhodes
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—54

Anthony
Bacchus
Barnard
Bliley
Borski
Boxer
Bustamante
Campbell (CO)
Chandler
Chapman
Conyers
Crane
Dickinson
Donnelly
Dooley
Edwards (OK)
Fascell
Fazio
Foglietta
Gaydos
Guarini
Hansen
Hayes (LA)
Holloway
Horton
Huckaby
Johnson (SD)
Jones
Lehman (CA)
Lehman (FL)
Livingston
Manton
Martinez
McCrery
Morella
Nagle
Neal (NC)
Oakar
Orton
Parker
Perkins
Richardson
Ridge
Savage
Scheuer
Schulze
Smith (TX)
Stark
Vander Jagt
Waters
Waxman
Weldon
Yatron
Young (AK)

□ 1056

Mrs. COLLINS of Michigan changed her vote from "nay" to "yea."

So the motion, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## VACATING OF SPECIAL ORDER AND REINSTATEMENT OF SPECIAL ORDER

Mr. OBEY. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order tonight, and, in lieu thereof, be permitted to address the House for 5 minutes.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. McCathran, one of his secretaries.

## CONFERENCE REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 579 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 579

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report and amendments reported from conference in disagreement on the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement shall be considered as read.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 579 is the rule providing for the consideration of the conference report on H.R. 5679, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year 1993.

The rule waives all points of order against the conference report and against its consideration.

The rule also provides that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the conference committee to dispose of amendments in disagreement, shall be considered as read.

Mr. Speaker, fiscal year 1993 will begin next Thursday. By that time, the Congress and the President should have enacted all 13 appropriations bills. But the unfortunate reality is that today, 6 days before the start of the fiscal year, only one appropriations bill has been signed into law.

We have before us today the report from the conference committee on H.R.

5679, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and a host of other agencies. The conference agreement would appropriate $86.9 billion for some of the most important functions of the Government: veterans health, environmental protection, housing assistance, and scientific research.

I will not pretend that the conference report is noncontroversial. When the Appropriations Committee originally reported this bill, it stressed the very difficult choices it had to make stemming from a central problem: a lack of sufficient outlays to support the critical programs funded in the bill. That situation has not changed.

Each of us may not agree with all of the decisions made in this report. However, the committee has worked very hard to bring us a bill which cuts $3.647 billion in obligational authority from the levels requested by the President in his budget.

The Appropriations Committee has requested and the Rules Committee has recommended the waivers in this rule so that the House can consider the conference report as a whole and in its entirety. With less than a week remaining before the new fiscal year begins, it is appropriate to give the Appropriations Committee that opportunity.

The alternative to deliberation on the conference report as it now stands might very well be the inclusion of its nearly $87 billion of appropriations with billions of dollars from several other appropriations bills in a massive continuing resolution with but a single vote on the entire package.

I ask my colleagues to support the rule so that the House may proceed with this difficult, but crucial, decision.

□ 1100

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York [Ms. SLAUGHTER] has ably described the provisions of the rule. However, I would like to repeat them to some extent and say that this rule provides for consideration of the conference report on H.R. 5679, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for independent agencies for fiscal year 1993. The rule waives all points of order against the conference report and against its consideration.

A provision of the rule provides that the conference report, the amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement shall be considered as read.

Mr. Speaker, the conference report provides a total of $86.6 billion, which is $398 million below the President's budget request. This includes funding for important veterans and housing programs, as well as funding for the significant activities of various independent agencies, boards, commissions, corporations, and offices.

Some of the highlights of the conference report include funding for the space station, major construction for VA hospitals, and an increase in the FHA single-family mortgage insurance limit to $150,000.

Mr. Speaker, I support this rule. I think it is an excellent rule. The committee has done an excellent job, and I commend them. Let us look at how many agencies they cover. We know how important legislation is for the benefit of our veterans. We know how important legislation is for the benefit of our hospitals to take care of these veterans. We know how important housing is. We know how important all of the various programs that come from this committee are.

Therefore, Mr. Speaker, I think that, without any delay or hesitation, we should vote for this rule, and I ask the membership to do so.

Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. GREEN], the ranking member of the subcommittee.

Mr. GREEN of New York. Mr. Speaker, I rise in support of this rule.

Essentially what this rule is designed to accomplish is to permit this conference report to be considered as a package, and that is very important. What makes this conference report possible in its present form is the fact that we have two revenue enhancements in the conference report. One of those is an increase in the FHA mortgage limit, which produces us $44 million in additional budget authority and outlays, and the other is a change in the VA procedures for dealing with guaranteed mortgages when there is a default on the mortgage.

The effect of that is to increase the available budget authority and outlays by $405.7 million. Those are absolutely essential to make this conference report possible. Were it possible under the rule to pull those pieces away, the rest of the conference report would collapse, and we would have to start from scratch on the conference.

I think it is, therefore, quite appropriate that the Committee on Rules has recognized the need for the integrity of this conference report by providing the kind of rule that it has given us today.

Let me address an argument that I know some are planning to make in the course of debate on this rule, and that is the argument that somehow the enhancements represent a taking away from veterans in order to fund NASA. I do not think anyone who looks at this bill can come away with that conclusion. The fact of the matter is that the VA is by far the largest winner in this bill. Total spending for the VA increases by $1.9 billion, and of that over $1 billion is in the discretionary accounts, largely the VA medical accounts. That is far more than the dollar amount of the enhancement provided by the so-called VA no-bid provision.

In contrast, the total increase for NASA in this bill is $26,000. It is not the millions or billions that we usually talk about in this bill. NASA goes up by all of $26,000. There have been some very serious cuts in NASA funding. There was a $627 million cut, compared with the current fiscal year, in NASA salaries, a $71 million cut in the NASA space flight account, and a cancellation of the comet rendezvous asteroid fly-by mission, which, I am sorry to say, was necessary in order to hold NASA essentially to no gain.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, let me say this, and I will not interrupt the gentleman anymore. I think the gentleman should make it clear, though, that in the bill we sent over from the House to the Senate, on the space station, we had $1.7 billion for the space station and the Senate raised it to $2.1 billion.

Mr. GREEN of New York. Mr. Speaker, if I may reclaim my time, I do not think the gentleman is fair in just looking at the space station account.

□ 1110

When the House and Senate both voted to proceed with the space station, we decided to fund it at what we believed is the optimal level in order to economize on the construction of the space station. We cannot just look at the space station, which is, after all, only a portion and well under half, not even that, of the NASA accounts.

I emphasize, NASA has gone up only $26,000 over last year. So plainly, the enhancements are not going to NASA. NASA, in essence, has had a loss in terms of real dollars for its programs.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding to me.

With the no-bid formula, which the changes are, does that not have the potential of destroying the Home Loan Guarantee Program?

Mr. GREEN of New York. Mr. Speaker, reclaiming my time, I do not believe it will destroy the Home Loan Guarantee Program, I believe it will make it what it was always intended to be; that is, a guarantee of a portion of the mortgage, not the 100-percent guarantee that de facto it has been.

So I think this is entirely within the spirit of what the VA mortgage program was always intended to be.

In fact, it is my understanding there is no objection on the part of the many veterans groups to the enhancement. Their objection is simply because of their perception that the enhancement is not going to the VA programs.

I say to my colleagues that the numbers show that when the VA goes up more than any other agency in this bill, when the discretionary funding for the agency has gone up over $1 billion or 2½ times the VA enhancement, then plainly that is where the enhancement money is going.

Therefore, I urge my colleagues to support the rule.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding time to me.

Unfortunately, I am going to rise to oppose the rule. It is incredible to me, and it galls me to think that the veterans, once again, are going to have to bear the brunt of financing other programs.

Now, there is a $400 million shift of money, which is the focus of all of this, that is going to go from the veterans programs to the space station program. And that is $400 million more money than we passed out of the House of Representatives when that bill originally went past.

That puts the space station at $2.1 billion. I support the Space Station because I think it is good, and there is a lot of good benefits that can be derived from it. But not at the expense of the VA hospital beds, which are being shut down, not at the expense of the veterans who want to go out and borrow money to buy homes.

What about our American veterans? What about those who made these sacrifices so we could even have a Space Station that we can talk about today or even a Constitution of this country or anything else that we have? And what about their families and their widows and their orphans? There are 65 million people in this country that are dependent or could be dependent upon the Veterans' Administration. Let us send this back to the Committee on Rules and let the House and the Senate, the whole House and the Senate, make the decision as to where they want that $400 million to be prioritized.

Do not let it be rammed down our throats. Stand by the American veterans and their programs.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, today, we will consider the conference report on H.R. 5679, the VA-HUD appropriations bill for fiscal year 1993. While there are certainly some good and worthwhile parts of this bill, I find one part of it in particular very objectionable.

On April 29, I offered an amendment to the NASA authorization bill. This amendment struck $13.5 million in budget authority from the program called the search for extraterrestrial intelligence [SETI]. This amendment had overwhelming acceptance here in the House, and it was also accepted by the other body.

The House version of the VA-HUD appropriations bill reflected this loss of authority, also cutting out the $13.5 million for SETI.

However, it looks like the U.S. taxpayer is about to lose yet another round to NASA bureaucrats. The conference report for H.R. 5679 eliminates the funding for SETI alright, but it also funds a new program to the tune of $12 million.

This new program is called TOPS, or the toward other planetary systems survey. It is described in the conference report as being for ground based radio astronomy. But I think that everyone here knows exactly what TOPS is for. Naturally, it is to finance yet another year of a futile search for space aliens.

This is truly a program that will not die. Two years before I offered my amendment, my colleague, the gentleman from Rhode Island [Mr. MACHTLEY], put forth a similar amendment. SETI lived through that, and it appears that it will survive for another year at least.

I cannot believe that with a $4 trillion debt and a deficit of $400 billion for this year we could continue a wasteful and excessive project like this. It is completely ridiculous.

As I said when I originally offered my amendment to strike SETI, the Associated Press, in a report about this program, said that more than 50 searches for intelligent life in space have been conducted since 1960, with nothing found so far. The Associated Press described this program as a search for little green men in space.

To me, this kind of track record does not exactly justify a $100 million project.

As we all know, this country has very pressing health care, educational, and other needs that need to be addressed. I think that it is simply awful that this money is being squandered on such an unnecessary project.

Like most people, I am curious about scientific matters such as this. However, the money that will go to this project in fiscal year 1993 alone would pay a year's tuition for over 3,500 students at the University of Tennessee. I think that this would be a much better use of these funds.

If SETI's supporters are going through the trouble to rename this entire project, they must figure that the American people are beginning to catch on to this boondoggle. I just cannot remember what TOPS is supposed to stand for. Right now it must stand for taking ordinary people's savings. However, I think that it will end up standing for taxpayers outraged at paying for Spock.

This is a project the American people do not support. If we do not start handling our fiscal affairs of this Government in a more responsible manner, we are going to see some of the terrible things happen in this country that have happened in countries all around the world where countries have collapsed economically and the people have had to suffer.

We should not see that here. We need to cut out wasteful pork barrel boondoggle projects, such as this one.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield 4 minutes to the gentleman from Utah [Mr. OWENS].

□ 1120

Mr. OWENS of Utah. Mr. Speaker, I rise to report a theft in progress. This is no misdemeanor, Mr. Speaker, this is grand larceny.

Not even 2 months ago, the House voted 249 to 159 to terminate the advanced solid rocket motor [ASRM]. At that time, we prided ourselves in cutting one of the worst examples of pork barrel spending, for this new rocket motor was not needed, not wanted and a terrible idea, and virtually everyone in the administration, from President Bush on down, believed that.

But the intervening 8 weeks provided more than enough time for supporters of this new rocket motor to subvert the will of the House, and the will of the Senate. They have hatched a plot to use the conference committee to slip additional funds for the ASRM back into the bill and they have robbed veterans' housing programs to do it.

Every objective source recommends the termination of the ASRM. NASA itself did not request any funds for the program, its advisory council had made that recommendation.

A quick look at the facts shows the ASRM to be the taxpayer's worst nightmare. When originally conceived in 1988, the ASRM was to cost $1.2 billion. Today, NASA estimates that the ASRM will cost at least $3.7 billion—three times as much. CBO says we can save at least $2.2 billion by terminating it and NASA's own aerospace safety advisory panel recommends canceling it and putting the savings into space safety programs.

Loot at the lineup of ASRM opponents. Budget watchdog groups like Citizens Against Government Waste, Citizens for a Sound Economy, and the National Taxpayer's Union urge that the ASRM be killed. Environmental groups like Citizens for a Healthy Environment, Friends of the Earth, National Toxic Campaign Fund, and the Sierra Club Legal Defense Fund strongly oppose the ASRM. And scientific groups like the Association of American Scientists, the National Resource Council, and the Aerospace Safety Advisory Panel believe the ASRM to be a waste of money.

So why is it, Mr. Speaker, that the conference committee is determined to stuff ASRM down the Nation's throat against every credible, objective critic?

Let's tell the American people the truth. Congressional good taste being set aside here, let's admit that whether the ASRM will be built is being determined by where it will be built. Our respect and our gratitude for the gentleman from Mississippi, Chairman WHITTEN, must not lead us to build this useless, unnecessary $4 billion motor to provide jobs in his district.

This is a $4 billion spaced-out white elephant. Members should be embarrassed and disgusted that the good 'ole boy appropriations network of the House has organized to subvert, totally, the will of the majority of both Houses and of the Chief Executive. Those who say Congress is not working are right. This is the worst case of congressional arrogance I have seen in my 8 years of service in this body. It may be that voters are prepared to make real repairs.

What has changed since the House voted to terminate the ASRM?

Will the ASRM cost less? No.

In fact, it will cost at least $300 million more. In July, we thought ASRM would cost $3 billion, which represented a $1 billion cost overrun. Today, NASA documents show that the ASRM will cost $3.7 billion, or nearly twice the original estimate.

Will the ASRM meet its timetable? No.

In fact, the ASRM, which is already 2 years behind schedule, will be delayed an additional year. All told, the ASRM will be at least 3 years behind schedule.

Is the ASRM environmentally safe? No.

Testing the ASRM will be as dangerous as ever, and will violate the Clean Air Act. Pollution from the firing of the ASRM's 1.2 million pounds of fuel will contain toxic compounds which could produce acid rain, bringing with it aluminum particles known to increase the risk of neurological disorders, including Alzheimer's disease.

Does NASA want the ASRM? No.

NASA did not request funds for the ASRM, nor does NASA want to fund ASRM in fiscal year 1994. NASA's own aerospace safety advisory panel [ASAP] recommends terminating the ASRM and reallocating the money to upgrade shuttle safety.

Did President Bush request the ASRM in the fiscal year 1993 budget? No.

"The administration objects to continue(d) development of the ASRM," wrote President Bush.

In addition, in July, Vice President QUAYLE wrote:

> The bottom line is that the space program doesn't need ASRM. That is why President Bush did not request funds for the program in his fiscal year 1993 budget. And, that is why the administration is opposing congressional efforts to continue spending $500 million a year for this activity.

Mr. Speaker, the only changes in the ASRM since our vote to kill it July 29 is that it will cost the taxpayers an extra half-billion dollars.

Sadly, Mr. Speaker, the ASRM is to be funded on the backs of America's veterans. According to the Committee on Veterans' Affairs, the funding gimmicks used to find the money to fund ASRM, known as budget enhancers, will "destroy the VA Home Loan Program * * * completely alter and decimate it."

Is it really worth it? Is the end justifying the means? Is it OK to abuse our veterans in order to build the ASRM?

The House is being rolled, Mr. Speaker, by Members who have put their narrow self-interest above the interests of veterans, above the interest of taxpayers, above the national interest, above the policy decision of the Congress. The conference committee has willfully and intentionally thwarted the will of this body and of the U.S. Senate.

We voted on the ASRM, fair and square, and the House decided to terminate it. So did the other body. Now, we are presented with a conference report that blatantly, with chutzpa uncommon even for Washington, completely disregards the will of the Congress.

What does this say to those who believe in America's system of self Government?

How is it possible that a dozen Members of Congress can, unchallenged, foil a bipartisan majority of the House?

The answer is easy. Wait until the end of the session and get protection from the Rules Committee. This rule waives all points of order against the conference report. And we know the conference report needs to have a waiver because with the so-called budget enhancers it is in serious violation of the rules. Today we are faced with the opportunity to stick by what was perhaps the single clearest fiscally sound decision of the year, and give veterans their due, but the rule prohibits it.

This rule and these waivers would not be necessary if the conference report was within the established rules and the conferees had not committed this act of legislative thievery.

What the Members of the House and Members of the Senate taketh away, the conferees on the Appropriations Committee giveth back.

It is no wonder that the American people hold the Congress in disrepute. What has happened here is the essence of what is rotten with Congress. Last month, we, the many, made a decision to save billions of dollars in waste. This month, they, the few, have cast that decision aside. And in the process, the American taxpayer and American veterans are being deceived, and they are being robbed.

I urge my colleagues to defeat the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, the controversy over this rule and numerous other rules involving differences between the authorizing and Appropriations Committees points to the critical need to sort out these problems and reform ourselves.

Mr. Speaker, reform delayed is reform denied. The longer you delay appointing Democrats to the Joint Committee on Congressional Reform, the more you deny us and the American people a chance to end the gridlock by putting the people's House back in order.

Mr. Speaker, it has been 50 days—50 days—since the House and Senate on August 6 gave final approval to a resolution establishing a 28-member, bipartisan Joint Committee on the Organization of Congress.

Four days after the Joint Committee was authorized, our Republican leader sent you a letter announcing his six appointments to the Joint Committee.

I commend our leader on recognizing the urgency of getting this reform effort underway as soon as possible.

Unfortunately, the Joint Committee cannot begin to organize and function until the rest of the membership has been appointed. While it is true that the authorizing resolution prevents the committee from conducting any business prior to November 15, the legislative history in both Houses makes clear that this does not prevent the Joint Committee from organizing prior to that date.

I strongly urge you, Mr. Speaker, to appoint the House Democratic members to the Joint Committee today so that it can get organized before this Congress adjourns.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only I yield 5 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I want to first say to the gentleman from Michigan, our distinguished chairman, how very much we all appreciate his work on the Appropriations Committee and for the last few years as the chairman of the VA, HUD, and Independent Agencies Subcommittee. Chairman TRAXLER has fought to keep up funding levels during tough budgetary times for our country's veterans, for our housing programs, to protect our environment, and for countless other programs that fall under this subcommittee's jurisdiction. He will be missed by this body for his leadership, his kindness, and his quick wit. And, he will be missed by our country for this dedication to our veterans, to affordable housing, to the environment, and for our space program.

I commend the chairman of the subcommittee, the gentleman from Michigan, and Mr. GREEN for their leadership in bringing this conference agreement to the floor which is $100 million less in discretionary spending than the administration's request and falls within the budget caps. Having received only a 5-percent increase for fiscal year 1993, we are barely keeping up with inflation over last year's discretionary spending. Mr. Speaker, we are all well aware of the tough choices the Appropriations Committee has had to make; I believe that the VA, HUD, and Independent Agencies Appropriations Subcommittee, because of the diverse interests we serve, has to make some of the hardest decisions with respect to our Nation's priorities.

Mr. Speaker, this bill suffered from a severe lack of outlays. The conferees were only allotted an increase of $300 million in outlays for all programs. The $960 million increase in outlays the President requested in the VA medical care account alone over fiscal year 1992 would more than gobble up that small sum. However, despite the few ready dollars available, the conference committee dedicated highest precedence to veterans programs. The VA discretionary budget received an increase of 6.9 percent over the fiscal year 1992 level, with the VA medical care garnering the highest increase in the entire bill of 8 percent. Comparatively, Mr. Speaker, in the area of HUD housing, the conference committee has provided only a 3-percent increase above the fiscal year 1992 level to yield a total of $23.8 billion for HUD in fiscal year 1993. In the area of environmental protection, the conference committee provided $6.9 billion, a 3.7-percent increase over fiscal year 1992 appropriated levels. NASA, an agency which has requested and received high percentage increases of funding over the past few years, received no increase this year. NASA has been appropriated $14.3 billion in fiscal year 1993—the same amount as provided in fiscal year 1992.

I would like to point out, more specifically, the programs we have in the bill for veterans. To Chairman TRAXLER's credit, we have been able to fund VA medical care higher than the President's request, $1.13 billion more than fiscal year 1992, and 8.4-percent higher than the fiscal year 1992 level to keep pace with the skyrocketing inflation rate of health care. Furthermore, this bill provides for the continuation of all of the veterans programs, though the increase for VA medical care necessitated holding some programs to fiscal year 1992 levels or the President's request. Also included in the conference agreement are funds for post-traumatic stress disorder [PTSD] research, housing for the homeless chronically mentally ill veterans, and support services for our veterans who are disabled because of their service for this Nation. Mr. Speaker, this bill includes funding for treatment and counseling of women veterans who have been the victims of sexual assault or harassment. In addition, the conference agreement includes funding for a new education loan repayment program for nurses and other allied health professionals. These programs and countless others work to ensure that our Nation provides the basic care that we owe the veterans who answered the call to arms in protection of freedom and liberty.

The Nation's housing problems are by no means solved. At least a million renters are in crowded, dilapidated, or otherwise problematic housing, including 5 million who have worst case needs according to HUD. More than 2 million low-income homeowners are strapped into paying inordinately high percentages of their income for housing. And over 600,000 people—by conservative estimates—are without shelter at all.

Thus, America merits an increase in housing funding. As mentioned, the conference agreement includes $23.8 billion for housing. Though this level still languishes far short of the funding levels HUD enjoyed in the fiesta 1970's when total HUD funding pushed $35 billion, it is one more sure step to recovery from the sharp drops in HUD funding in the 1980's.

This year's bill is full of highlights, but I will mention just two. First, the conference committee showcased its commitment to urban problems by appropriating a full $4 billion for the Community Development Block Grant [CDBG] Program. The CDBG Program is arguably the conference committee's best tool for transforming cities, since the program boasts nationwide distribution and allows the city's experts themselves to divvy up the funds among a vast array of eligible activities from housing to economic development. Second, the conference committee has provided over $25 million to fund the Family Self-Sufficiency Program as well as $25 million to fund family investment centers. These initiatives together will break the cycle of dependence on Federal subsidy by helping public housing residents access job and educational opportunities near home. By funding these programs, the conference committee has clearly demonstrated its commitment to saving Federal dollars and—more importantly—our citizens' personal independence.

In the area of environmental protection, the conference committee was able to provide $2.4 billion for the State revolving funds/construction grants program for the construction of wastewater treatment facilities. Our wastewater treatment needs are great—and are particularly severe in the older communities in the Midwest and the Northeast. The infrastructure of America needs help and we must maintain and, in fact, increase our funding to provide for the safety and health of our citizens. My own district has been a victim of the combined sewer overflow problem and has struggled to adequately address this problem through limited funding. A 1988 EPA survey estimated that the 8 Great Lakes States would need to invest another $27 billion by the year 2008 for municipal wastewater treatment improvements; these States must complete more than 700 projects to ensure that municipalities meet at least secondary treatment standards.

The conference agreement provides $50 million for nonpoint source pollution grants—a $24 million increase over the administration's request. The administration has never funded this grant program at an adequate level and the conference committee has always responded with the funding needed to address this ever growing problem.

I urge the House to pass this conference report which answers the very important needs of our veterans as well as providing housing for the vast needs of our population and protecting our environmental resources. There are ever-increasing demands on the VA, HUD and Independent Agencies Appropriations Subcommittee, and as the decade unfolds, they will be even greater. In my view, our priorities must be America's veterans, our housing programs, and environmental and science investment. I will continue to fight for adequate resources to take care of these needs.

Mr. Speaker, I include for the RECORD the following chart:

VA BUDGET: DIFFERENCE BETWEEN FISCAL YEAR 1992 ENACTED LEVEL AND FISCAL YEAR 1993 CONFERENCE LEVEL FOR SELECTED PROGRAMS

| | 1992 | 1993 | Difference | Percent difference |
|---|---|---|---|---|
| Total discretionary (billions) .... | $15.62 | $16.70 | $1.08 | 6.9 |
| Readjustment benefits (millions) .... | 635.40 | 814.01 | 178.6 | +28.1 |
| Medical care (billions) .... | 13.51 | 14.64 | 1.13 | +8.4 |
| Major construction (millions) .... | 414.25 | 492.67 | 78.42 | +18.9 |
| National Cemetery System (millions) .... | 67.05 | 70.67 | 3.62 | +5.4 |

Mr. Speaker, I urge adoption of the rule.

□ 1130

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank my good friend from Tennessee [Mr. QUILLEN] for yielding the time.

I just would like to say to my good friend and cochairman of the auto caucus, the gentleman from Michigan [Mr. TRAXLER], we are going to miss you around here. You have done an outstanding job over the years; although, on this one, we have a little bit of a problem. My good friend, Ms. KAPTUR, just spoke and said what a great job the Appropriations Committee did. Let us just talk about this for a minute.

Amendment No. 83. That Senate amendment earmarked $126,275,000 for special projects. In conference you kind of increased a little bit from $125 million to $260 million. Did Members get that, $260 million?

There is no pork in this bill, just one, two, three, four, five, six pages single-spaced, of pork-barrel projects, and the American people wonder what we are doing up here. Much of this stuff was put in in conference and was not in either House, increased by $135 million, pork-barrel projects to take care of our buddies here on the floor.

Let me just give a few examples of some of the pork. Here is $2 million to restore the Toledo Farmers Market and to rehabilitate the nearly abandoned Portside Market Place, which is a commercial failure, $2 million for that. From the American taxpayers you are taking $2 million to restore the Toledo Farmers Market. Do you want to do that?

Here is $250,000 for Mr. Clinton, I guess, the Arkansas Enterprise Group, to create a wood production modernization and market development fund; $1.3 million for continued assistance to two sugar cane mills in Hawaii, $2.5 million to Philadelphia to establish the Institute for Advancement of Mathematics and Science Teaching. Why are they not doing that out of their own local funds instead of charging the people of California, Indiana, and New York for that?

Here is $1.5 million to the Enterprise Development Inc., of Columbia, SC for a video conferencing and training facility. What? Can you believe that? And $5.9 million to the Bay County Building Authority in Bay County, MI, for a conference center, a conference center, and for other municipal purposes.

Why are they not taking care of that with local tax dollars instead of our tax dollars around the Nation?

Here is $1.36 million for renovation of the Point Stadium, whatever that is, in Johnstown, PA; $1.5 million to establish a Center for Pacific Rim Studies at the University of San Francisco; $3.2 million for continued renovation of an abandoned building into an economic development and training facility in Elkins, WV, for the ever-popular chairman of the Senate Appropriations Committee, the gentleman from West Virginia. Let's hear it for him.

Let me just say, Mr. Speaker, this is beyond joking, it is beyond funny. We are headed toward a $13.5 trillion national debt that is going to cause irreparable damage to our economy because we will not control our appetite for spending. And in the process what have we done? We have cut the veterans of America by $400 million.

The bottom line is, I say to my good friend from Michigan, Mr. TRAXLER, and to others on the Appropriations Committee, we have to prioritize spending. We have to go through the authorization process. Last week the gentleman from California [Mr. BROWN] defeated a rule because we were going around the authorization process and loading pork after pork after pork into the appropriation bills.

We are tired of it in this body. The people of America are tired of it, and we have to get control of spending, or else our kids are not going to have the quality of life we have had.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in opposition to the rule because of not having the Chafee, Baucus, and Durenberger amendments, without which it derails the public waste disposal programs in many of the Western States.

I am disheartened that the Rules Committee elected to delete the Chafee, Baucus, and Durenberger amendment to the House VA-HUD-Independent Agencies appropriations bill H.R. 5679 in this conference report. Although I am aware of the procedural rationale behind this objection to include this amendment to this bill for jurisdictional reasons, at this moment in time there appears to be no other plausible mechanism to address this urgent problem before the sunset provision is activated. This legislative action which would have removed the sunset provision from the existing mixture and derived from rule and prohibits the promulgation of revisions to the mixture and derived from rules until October 1, 1993.

I worry that the price our citizens, industry and the environment will pay for the ill effects of this proposed EPA rule will be too great. The proposed rule is primarily being supported by the Office of Management and Budget and by the Council on Competitiveness. Without the Chafee amendment in place and passed by Congress, we have as of yet failed to stop this aggressive effort by the Bush administration to promote regulations that will derail the hazardous waste program presently operating in many of our States. The Chafee amendment would simply have allowed additional comment time for States to react to the proposed rules for the hazardous waste identification rule. The State of Nevada is strongly opposed to the proposed regulations.

This proposed HWIR rule will allow for the disposal of hazardous waste in landfills designed for the disposal of nonhazardous municipal waste. Nevada is fortunate as we have adopted regulations that are more stringent than the Federal program, but this is not the case with all States. In particular, there are a number of Western States which would become dumping grounds for many wastes currently regulated as hazardous. This problem is exacerbated in the arid west because the HWIR rule proposes to allow low precipitation and depth to ground water to substitute for more stringent and more expensive landfill requirements. This proposed rule constitutes a breakdown in this Nation's existing hazardous waste program and it poses the possibility that under continued pressure from the Bush administration the EPA could apply enormous pressure to those States that are required to adopt the HWIR in an attempt to maintain national consistency and provide the free flow of waste.

The EPA's proposed rule will change and violate the present hazardous waste identification rule [HWIR]. The preservation of the HWIR is important if we are to continue to offer industry incentives to maximize rather than minimize waste in order to achieve concentration based levels and reduce the burden of expensive testing, compliance and enforcement procedures as well as minimize the threats to human health and the environment prior to the disposal of waste. The development of the land disposal restrictions which the majority of State waste management programs depend on the HWIR as it is presently written. This proposed rule will mean not only the loss of continuity in our hazardous waste programs, but it also means the disruption of the regulations that guarantee that a State's present waste management program and the regulations set by the State will be honored.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I have been chairman of the Home Loan Program for 4 years. We have gotten down the average losses to $40,000, and I can tell you that no bid will destroy the program. That is the simple fact. Lenders will not participate, they will not take the risk. And the irony is the $40 million shaft in savings does not go to the veterans, and the other cuts we passed in the House that we are cutting today are $40 million less for major construction, $40 million less for minor construction, $9 million less for a parking garage fund, which if you are in the Pittsburgh area you know that those veterans are not going to be able to go to the hospital because they cannot find a place to park. Prosthetic research is down $10 million.

There has been talk about a total increased amount of money, but that does not really address the question of veterans and are they being treated fairly. They are not, and in fact it has not kept pace with that amount of money.

My staff did research on the total spending of what this committee has done and the growth in VA spending is less than half of the overall subcommittee rate of spending.

Mr. Speaker, I include that graph as a part of the RECORD.

Contrary to what you are being told today, the conference agreement is not a great victory for veterans. The conference agreement has over $1 billion more than the House approved. However, $40 million, or less than 4 percent is going into programs that serve veterans. Even though the Department of Veterans Affairs is 40 percent of the VA–HUD independent agencies appropriations.

What is in the conference agreement is more than $40 million less for major construction, $40 million less for minor construction at Pittsburgh VA facilities and nearly $9 million less for the parking garage revolving fund. What that means is renovations, clinic additions, new health care facilities, and parking facilities will be delayed. Prosthetic research, an area that VA has been a worldwide leader in helping veterans regain their lives and livelihood, is being cut by $10 million.

In addition, there is a major change, a substantial legislating on an appropriation's bill being done today. This bad change has been considered by the Veterans' Affairs Committee on numerous times. Your House Veterans' Affairs Committee has rejected this change in the no-bid formula on numerous occasions. It is bad for the program and we should reject it being backdoored at the end of this session of Congress.

While some have known that I am not the greatest fan of this Appropriations Subcommittee's actions over the past few years, I have been a strong supporter of its chairman and ranking minority member, Mr. TRAXLER and Mr. GREEN. Both have warned us that there simply is not enough money in the subcommittee to fund the ever expansive NASA and in particular the space station project.

Several months ago I asked my staff to do an analysis of veterans spending based on information in the President's budget documents. In that report which I ask to be included in my remarks is a finding that the growth in VA spending has been less than half of the overall subcommittee's rate of spending, 39 percent versus 17.6 percent, and more importantly the increase in spending for NASA has been 87.5 percent versus 17.6 percent for veterans programs.

ANALYSIS OF OUTLAYS OF THE HUD—VA—INDEPENDENT AGENCIES

[Dollar amounts in billions]

| | Amounts | Percent |
|---|---|---|
| Overall subcommittee: | | |
| In fiscal year 1986 | 52,945 | |
| In fiscal year 1991 total outlays | 73,612 | |
| Increase and percentage | 20,667 | 39 |
| Department of Veterans: | | |
| Fiscal year 1986 | 26,536 | |
| Fiscal year 1991 | 31,214 | |
| Increase and percentage | 4,678 | 17.6 |
| HUD: | | |
| Fiscal year 1986 | 14,139 | |
| Fiscal year 1991 | 22,751 | |
| Increase and percentage | 8,612 | 60.6 |
| NASA: | | |
| Fiscal year 1986 | 7,403 | |
| Fiscal year 1991 | 13,878 | |
| Increase and percentage | 6,475 | 87.5 |
| EPA: | | |
| Fiscal year 1986 | 4,867 | |
| Fiscal year 1991 | 5,769 | |
| Increase and percentage | 902 | 18.5 |

Note. Information obtained from the historical tables, "The Budget for Fiscal Year 1993," all figures in billions.

Those who are attempting to tell you that veterans have been treated fairly are either uninformed or want to misinform the membership about how veterans are being treated.

I am proud to stand with SONNY MONTGOMERY and others willing to take the heat and call for the defeat of the rule. It is a bad conference report and at this time we should defeat the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. STUMP] the ranking member of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, as ranking minority member of the Veterans' Affairs Committee, I rise in opposition to the conference agreement.

There is an issue of $405 million. This conference agreement includes a provision that would take $405 million in savings found in the VA Loan Guaranty Program and apply it to nonveterans programs.

You have heard the argument that using veterans' savings is the right thing to do because it pays for much needed NASA projects, science projects, and other projects championed by Members of this body. They are telling you that using this provision does not take money out of the pockets of veterans. They will tell you that veterans will not lose their homes and the program will not become insolvent.

Mr. Speaker, they may be right on these assertions, but miss the point entirely. No, veterans won't lose their homes because the lenders will no longer lend them the money to buy them in the first place. No, the Home Loan Program will not die of insolvency, because it will die, instead, of lack of interest on the part of the lenders. Lender participation is the base of the program. Enacting this provision will erode the base of the Home Loan Program.

We have also heard that the veterans groups support this provision. They have stated their support only if the money goes back into veterans programs. Clearly, it does not.

The bottom line is that the savings, if any, belong to those who require VA medical services. It is neither fair, nor right, to spend it on nonveterans programs.

Mr. Speaker, this is just another example of why the veterans need a separate appropriation committee of their own, and the gentleman from New York [Mr. SOLOMON], and I have introduced such a bill. We need to pass it.

I urge defeat of this conference report and the rule.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

□ 1140

Mr. BROWN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I have a very strong interest in this rule and in the appropriations bill that will be considered under the rule.

I recognize the problems that have been raised by a number of the speakers here. We have a situation which, shall we say, is still somewhat flawed and corrective action needs to be taken. Our distinguished friend from the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has pointed out the need for the House to act in order to clarify the rules as they pertain to authorizing and appropriations committees. I join with him thoroughly on that point.

In fact, I have urged on the Speaker the appointment of the House Democratic Members to the reform commission, and I hope that that can be done fairly quickly.

Consideration of this rule has given me considerable pain because it does not solve all of the problems that I would like to see solved. On the other hand I think it illustrates the vital importance of the role that the Committee on Rules plays. They faced a situation in which there were serious conflicts which they needed to make judicious decisions on, and they made those decisions. I think the result, while not perfect, gives us a procedure under which we can resolve most of the problems that have been mentioned in connection with this bill.

So I, in a statement before the Committee on Rules yesterday, indicated my support for the rule, and I rise here this morning again to reiterate my very strong support for this rule as it provides an orderly method for the consideration of one of the most important appropriations bills of the year.

Now, do I think that this is a perfect appropriations bill? By no means. I do not think any of the members of the Committee on Appropriations subcommittee feel that it is perfect. I think most of you recognize when this bill left the House it had cut deeply into the science programs that I am concerned with, including the space station, NASA in general, NSF, and a number of other things.

There was not enough money to fund all of these programs at the level that I would have liked. My heart bleeds at the thought there are veterans who are in need of assistance which could be provided in this bill and yet the funding is not enough. Yet nevertheless in this bill, the other programs besides the veterans programs have taken serious cuts. They are in fact as low as or lower than last year's budget and far below, $1 billion below, the President's request. So what the committee has done is to attempt to spread the pain and suffering, and I think they did this in a judicious way.

I rise in support of the rule.

As chairman of the Committee on Science, Space, and Technology, I am particularly interested in those programs in the bill which are authorized by our committee, including the National Aeronautics and Space Administration [NASA], the National Science Foundation [NSF], the Office of Science and Technology Policy [OSTP], and the research and development programs of the Environmental Protection Agency [EPA].

At the outset, I want to commend the extraordinary actions taken by the conferees to balance the competing priorities in this bill. There is no question that this bill requires additional funding to address all these priorities, and the conferees have acted judiciously in meeting these needs to the extent possible.

At the same time, I would like to take this opportunity to express my concerns about the way in which the appropriations process continues to impinge upon the functions of the authorizing committees of the House. In H.R. 5679, the Senate is up to its old tricks once again. Through legislative language, report language, and location-specific earmarks, the Senate has succeeded again in bypassing the authorizing committees of the House. These are matters on which a number of chairmen of House authorizing committees have proposed reforms of the rules of the House; at the end of this statement, I have attached a copy of the proposals for reforming the appropriations process that I sent to the Democratic caucus earlier this month.

With respect to some of the programs of interest to the Science Committee, the conferees have done an excellent job of allocating resources in an environment of extreme fiscal austerity. In particular, I would commend the conferees for maintaining NASA's programs at fiscal year 1992 levels. The conferees have also faithfully reflected House views on the space station, as expressed in two separate floor votes on the project earlier this year.

Despite this fine work, however, I am very concerned about the disturbing trend in recent appropriations bills and reports toward proliferation of unauthorized, location-specific earmarks for academic research and facilities. This practice of academic pork barreling has exacerbated an already fierce competition for scarce research funding. These earmarks are justifiable neither by geographic inequities nor by an unfair and undemocratic "old boys" network. They are in fact nothing more than a reflection of the power of a few well-placed members of the Appropriations Committee. Earmarks not only destroy fair competition in scientific awards; they also reflect poorly on the integrity of the appropriations process and on the institution of the House.

Last week, the House spoke loudly on this issue when it rejected nearly $100 million in academic earmarks that appeared de novo in an appropriations conference report. Neither the House nor the Senate bill contained funding for these projects, and of course they were not authorized. The conference report on that bill, which did not receive a rule, was available only a few hours before it was considered on the floor. Last second, unauthorized, unscrutinized pork barreling—these are exactly the sort of shenanigans that lead to public mistrust of the Congress. We have the same problem in this bill, in spades. As I said on the floor last week, we in the 102d Congress need to begin to reform this process, or we will find the 120 to 150 new Members of the House doing it for us next year.

I have also included at the end of this statement a recent report by the Congressional Research Service describing the overall dimensions of the problem. This study points out the serious need to implement procedural reforms that will restore some balance to this process.

As an illustration of the earmarking problem, I have included at the end of my statement a selected list of the immediately recognizable unauthorized earmarks in H.R. 5679 for some of the projects within the jurisdiction of the Committee on Science, Space, and Technology. A particularly flagrant example is amendment No. 244, an unprecedented earmark of $2 million added to the $4 million budget of OSTP, an agency which does not have granting authority. However, the conference agreement goes on in amendment No. 245 to provide authority to the agency to enter into grants and cooperative agreements, which is clearly legislating in an appropriations bill. Later today, I will move to strike these new authorities.

Although the conferees have exercised little restraint with respect to earmarks for academic research and facilities, it would be nearly impossible for the House to reverse the action of the conferees, since the earmarks by and large appear in report language. There was, in the bill that passed the Senate, a provision inserted by Senator JEFFORDS which would restrict earmarking of EPA facilities in future years. But his provision, not surprisingly, was dropped in conference.

The appropriations reform proposals that I discussed earlier deal extensively with the problem of legislating in appropriations bills. Although there are numerous examples of this problem in H.R. 5679, in fairness it should be stated that many legislative provisions—some of the worst offenses—were dropped by the conferees in response to concerns expressed by authorizing committees. I appreciate the cooperation of Chairman TRAXLER and the House conferees in dropping these provisions.

A far more significant problem is that of report language, or statement of manager's language, which is intended to legislate. A particularly egregious example involves report language relative to the National Science Foundation. The Senate report language micromanages a number of activities of the agency, but also attempts to move the mission of the agency in a fundamentally new direction. While delaying some of the mandates of the Senate report language, the conference report appears to endorse the Senate report provisions that modify the basic functions and mission of the NSF. The mission of the NSF was established in its 1950 Organic Act and has been changed a number of times over the years after due deliberation by the authorizing committees and by the House and Senate. Fundamental changes in the missions of an agency as technical and as critical as the NSF should not be made through report language. Yet the rules preclude us from effectively legislating in ways which would override the effects of this report language. Later today, I will be engaging the chairman of the subcommittee in a colloquy to emphasize the fact that NSF's mission can not be changed willy-nilly by casual report language.

In summary, despite our efforts to protect the prerogatives of authorizing committees by involving the House rules prohibiting unauthorized appropriations and legislation in appropriations bills, the plain reality is that these rules are toothless. The Senate can add such provisions at will, with the acquiescence of their House colleagues, and the resulting conference report can be completely protected by a rule waiving all points of order against it.

Under this rule, we have no way to force a vote on many of these provisions in violation of House rules. We cannot amend the conference report. We have no way to undo report language which purports to legislate and earmark unauthorized, location-specific projects. The only choice we are given is to accept or reject the conference report as a whole, up or down. I don't want to defeat this conference report and I don't think that most Members want to do that.

In the Rules Committee yesterday, I therefore requested that the rule make in order, by me or my designee, a motion to recommit which would contain instructions to the House conferees to go back to conference only on two specific provisions. The first instruction would have directed the House conferees to recede and concur in Senate amendment No. 240 providing for competitive selection of EPA research centers. The second instruction would have directed the House conferees to recede and concur in Senate amendment No. 279, relating to NSF research and related activities, with an amendment that would include a sense of the Congress that the functions of the National Science Foundation shall not be modified other than by amendment of the National Science Foundation Act of 1950.

I was aware that this was an unusual request. I made it only because, as I have indicated, we simply had no other options. I do not wish to bring down the entire conference report, but I cannot accept the fact that the Science Committee has no power to protect its prerogatives to authorize and legislate.

And although we have not been successful today in striking a number of provisions containing unauthorized, unexamined programs, we will continue later this year and in the next Congress to seek reforms which protect the taxpayer from these kinds of abuses.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
*Washington, DC, September 14, 1992.*

Hon. STENY H. HOYER,
*Chairman, Democratic Caucus, House of Representatives, Washington, DC.*

Hon. LOUISE M. SLAUGHTER,
*Chairwoman, Committee on Organization, Study, and Review, Democratic Caucus, House of Representatives, Washington, DC.*

DEAR STENY AND LOUISE: Thank you for your letter soliciting proposals for changes to the Rules of the House and of the Democratic Caucus. I am enclosing an attachment with proposals in two areas: the appropriations process and committee procedures.

Most of my concerns relate to the practice of legislating in appropriations bills, particularly in those cases when the House accepts Senate legislative provisions in appropriations bills. In discussions with both the Speaker and the Appropriations Committee Chairman, I have stated that these practices essentially nullify the authorization process and permit the Senate to legislate in appropriations bills in direct contravention of House Rules.

For the Science Committee this situation is especially troubling. The Appropriations Committee is not an exclusive assignment in the Senate, and we often have difficulty persuading those Members of the Senate with overlapping Committee assignments to focus on authorizing legislation. Often, these Members prefer to legislate in appropriations bills, which by their nature and by the rules of both Houses, are more protected from debate, amendment, and perfection than are corresponding authorizing bills. It is because of these imperfections in the process that, despite our best efforts, we have been unable to pass a Department of Energy authorization bill since 1981. Another casualty of this flawed process is the annual NASA authorization bill, which in recent years has routinely been enacted well after the corresponding Appropriations bill. This situation has eroded the effectiveness of all authorizing committees.

In the attached paper, I have proposed four modifications to the appropriations process which are intended to balance the need for timely consideration of these bills with the need to protect the authorizing process. The first two changes (consideration of Rule XXI waivers by the relevant authorizing committee and appointment of authorizing conferees on certain provisions inserted by the Senate) have been considered by the Caucus in the past and rejected because of concerns that they could delay timely action on appropriations bills. I believe, however, that these concerns could be met by appropriate time limitations. I hope that the Committee would recommend these two changes for consideration by the Caucus later this year, in addition to the thoughtful proposal that Mr. Dingell made on June 4 to deal with the same problems.

The final two proposed modifications are, to my knowledge, new suggestions for correcting problems with overreaching language in appropriations reports and with earmarking of research funds in appropriations bills. Again, I would hope that the Committee would recommend their consideration by the Caucus.

It is my understanding that the Caucus is not considering committee jurisdictional changes in its review. Therefore, although the time has clearly come for serious reform of House jurisdiction (including the appropriations and budget processes), I will wait until later this year to submit a formal proposal on these matters to the Joint Committee on the Organization of the Congress. I will share my suggestions with both of you then.

I greatly appreciate your willingness to consider these suggestions as part of your ongoing efforts to improve the efficiency and effectiveness of the operations of the House.

Sincerely,

GEORGE E. BROWN, Jr.,
*Chairman.*

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## PROPOSALS FOR CHANGES TO THE RULES OF THE HOUSE

(By George E. Brown, Jr.)

### I. OPTIONS TO IMPROVE THE APPROPRIATIONS PROCESS

#### *A. Background*

The practice of legislating in general appropriations bills has become increasingly common and has had the effect of nullifying much of the expertise and experience of the authorizing Committees in the House. The problem is exacerbated by the Rules of the Senate, which permit Members to serve on both authorizing committees and the Appropriations Committee. Key Members in the Senate often prefer to legislate in appropriation bills, which by their nature and by the rules of both Houses, are more protected from debate and amendment than are corresponding authorizing bills. The best way for the House to deal with these jurisdictional peculiarities in the Senate would be to adopt Rules which more effectively limit the legislative reach of the Appropriations process.

There is of course an existing provision (Rule XXI) designed specifically to prevent legislation in appropriations bills. But, given the frequency in recent years with which appropriations bills have been protected by waivers, Rule XXI has become more honored in the breach than in the observance. Even when unprotected bill provisions are struck in the House because of Rule XXI violations, these same provisions are frequently included in the Senate bill and re-surface in the House as amendments in technical disagreement. In short, Rules XX and XXI have become increasingly ineffective in guarding the prerogatives of the authorizing committees against intended or unintended jurisdictional encroachments by the Committee on Appropriations.

#### *B. Proposed rules changes*

There have been many proposals in recent years for restoring the intended balance between the authorization and appropriations processes. Given the complexity of the legislative process underlying appropriations bills, there is no simple or obvious solution to the problem; it will likely be necessary to implement several of the following rules changes to rectify the situation:

(1) Stipulate that a point of order regarding legislation in an appropriations bill may not be waived by the Rules Committee if the authorizing committee disapproves the waiver.

A practical first step in minimizing legislation in appropriations bills would be to provide the authorizing committee with an opportunity to disapprove any Rule XXI waivers which would protect legislative provisions in appropriations bills. The Speaker could establish appropriate time limitations for the committee to review and disapprove a proposed waiver.

(2) Appoint members of authorizing committees as conferees when Senate-passed versions of appropriations bills contain legislative provisions.

As noted earlier, many legislative provisions in appropriations bills are rejected in the House on points of order, but re-appear in the Senate bill and are re-considered in the House as amendments in technical disagreement. In this year's Appropriations cycle, for example, the Science Committee objected to five separate legislative provisions in House bills. These provisions were all struck without debate, but all five of them were re-inserted verbatim in Senate appropriations bills at a later date. When these conference reports are considered in the House later this month, it will be possible to reject these provisions by a majority vote. But in practice, it would be difficult and extremely time-consuming to attempt to do so.

A far better method to prevent the Senate from circumventing the legislative process would be to give the Speaker the discretion to appoint conferees from authorizing committees on these matters. Although the Rules should give the Speaker flexibility in determining ratios of conferees, it would be appropriate as a general matter that the number of conferees from authorizing Committees should equal or exceed the number of conferees from the Appropriations Committee.

As noted above, in light of the fact that many members of the Senate serve on both authorizing committees and the Appropriations Committee, this procedural change would impose a certain bi-cameral symmetry on the process.

(3) Adopt Rules limiting the reach and impact of appropriations report language.

Appropriations report language often has the effect of law, and agencies ignore it their own peril. Nevertheless, the Rules make it extremely difficult to amend an appropriations bill in such a way as to neutralize the effects of appropriations report language. For example, amendments which would limit expenditure of funds for certain projects specified in report language are only in order after consideration of a privileged motion to rise and report the bill.

I would recommend that the Rules be amended to allow, although not necessarily to require, Rule XXI waivers for amendments specifically aimed at reversing the effect of Appropriations report language. As is the practice today for any Floor amendment which requires a Rule XXI waiver, the Chairman of the authorizing committee should be given preferential consideration on waivers for these "report-reversing" amendments.

(4) Prohibit unauthorized location-specific earmarks in appropriations bills or reports.

One of the most disturbing trends in recent Appropriations bills and reports has been the proliferation of unauthorized location-specific earmarks for academic research, which have increased 200 percent in the past two years alone. This practice of "academic pork-barreling" has further exacerbated an already fierce competition for scarce research funding. Most earmarked research projects have received no Congressional review, nor have they been authorized; in many cases, these projects arise newborn in conference reports. Contrary to the claims of those who practice academic earmarking, these awards are justifiable neither by geographic inequities nor by an unfair and undemocratic "old boys" network; they are in fact nothing more than a reflection of the power of a few well-placed Members of the Appropriations Committee.

I believe that we could protect the scientific peer-review process (and reflect on the integrity of the appropriations process and on the institution as a whole) if our Rules made it more difficult to include unauthorized, location-specific research earmarks in appropriations bills. I would specifically recommend that the Rules be changed to provide that a point of order will be sustained against any provision which designates a particular institution as a recipient of research funds.

### II. OPTIONS TO IMPROVE COMMITTEE PROCEDURES

#### *Committee quorum rule*

Clause 2(l)(2)(A) of Rule XI requires that "no measure or recommendation shall be reported from any committee unless a majority of the committee was actually present". The Science Committee was recently advised by the Parliamentarian's office that a bill reported by a majority of the Committee on a recorded rollcall vote would be subject to a point of order for lack of a quorum, unless the Chairman of the Committee was prepared to state on the Floor that a majority of Committee Members had been physically present in the room at the same time during the rollcall vote. The effect of this ruling would be to prohibit the use of a "rolling quorum" in reporting legislation from committees.

Given that a rolling quorum is routinely used in the House, it makes little sense to impose a higher standard upon Committee proceedings. I would recommend that clause 2(l) be changed to indicate that a recorded majority vote is dispositive on the issue of a quorum. To prevent potential abuses of the rolling quorum, the Rule could further indicate that a point of order for lack of a quorum could still be raised on the floor against a bill reported by a recorded majority vote, but only if the same point of order has been previously raised at the Committee. These concerns, and the rationale for the proposed Rules change, are spelled out in greater detail in a letter (which is attached) that I sent to the Speaker on September 14.

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## Trends in the Distribution of Apparent Academic Earmarks in the Federal Governments Fiscal Year 1990–92 Appropriations Bills

### SUMMARY

For the 1980–1992 fiscal years, approximately $2.5 billion were earmarked for research and research-related academic facilities for some 234 universities and colleges. Forty-eight percent of all earmarked dollars were appropriated in FY 1991 and FY 1992.

Nearly a third (29.8%) of all earmarked dollars went to five States, while half (50.5%) of the dollars went to ten States.

The top ten State recipients of Federal research and development (R&D) funds from all sources in FY 1990 obtained nearly a third (32.2%) of earmarked dollars during the period FY 1980–92.

Nearly a third (29.0%) of all earmarked dollars were distributed to ten institutions, while more than half (54.4%) of all earmarked dollars went to twenty institutions.

The top 50 academic institutional recipients of Federal R&D funds from all sources in FY 1990 received 26.2 percent of the earmarked funds during FY 1980–92; schools ranked 51 through 100 received 25.8 percent of earmarked funds; and the other 48 percent of earmarked funds went to institutions not ranked among the top 100 recipients of Federal R&D funds.

Of the nine NSF geographical regions, the region that received the largest amount of Federal R&D funding in FY 1990 also received the largest amount of earmarked dollars during FY 1980–92. Two of the three regions that received the smallest amounts and percentages of Federal R&D funding to academic institutions in FY 1990 also received the smallest amounts and percentages of earmarked dollars over the period FY 1980–92. The third region receiving the smallest amount and percentage of Federal academic R&D funding received a much larger amount and percentage of earmarked dollars.

Since receiving earmarks valued at $1 million or more, ten States improved their ranks as recipients of Federal research funds, sixteen States experienced a drop in rank, and thirteen States experienced no change in rank. For the remaining eleven States, there was no basis for comparison.

Of the thirty-seven academic institutions that have received $20 million or more in earmarks during FY 1980–92, nine have improved their Federal research rank since the first year these earmarks totaled $1 million or more, eight have experienced a drop in their ranking, one institution experienced no change, and the remaining nineteen institutions do not provide a basis for comparison.

NOTE.—This report was prepared by James D. Savage under contract with the Congressional Research Service, with contract supervision by Genevieve J. Knezo, Specialist in Science and Technology Policy, Science Policy Research Division.

### ANALYSIS

During the thirteen fiscal years, FY 1980–92, approximately $2.5 billion in Federal funds were earmarked for research and research related facilities at 234 universities and colleges. As table 1, "Apparent FY 1980–92 Academic Earmarks, by Fiscal Year," (Page 15) indicates, most of these funds were appropriated during the last several fiscal years; nearly half of these earmarked dollars were appropriated in FY 1991 and FY 1992. Earmarking has grown despite opposition by various higher education associations—such as the Association of American Universities, some individual universities and colleges, the Administration, and by some Members of Congress, and in spite of the constraints imposed on Federal discretionary spending.

The incentives to earmark include: deteriorating academic research facilities; ambitious faculty, university and college presidents, and boards of trustees; professional lobbyists who actively recruit academic institutions as clients; in-house academic lobbyists seeking to demonstrate their usefulness; the effects of the recession and a weak recovery on State budget allocations for higher education; the Administration's and Congress's opposition to funding large new facilities programs; the divisions within the academic community over funding facilities at the expense of research; the unwillingness of the higher education associations to discipline their member institutions that seek earmarks, by, for example, excluding these institutions from association membership; the ongoing issue of the fairness and adequacy of peer/merit review; the belief that basic science and technology are tied to local economic development; and the argument offered by some Members of Congress that it is their prerogative to assist academic institutions within their districts and states. These and other forces are likely to result in the continuation and growth of academic earmarking, as suggested by the trends in table 1.

#### *Identifying earmark totals*

This report estimates the dollar value of earmarks for research and research related facilities during FY 1980–92 at approximately $2.5 billion. This report cautions that this figure and the institutions identified here represent the great majority, but not necessarily all, of the FY 1980–92 earmarks. Most of the earmark data used in this report was identified by using Appropriations Committee reports and conference reports, and, in the instances where earmarks were not identified clearly, by consulting with Federal agency or Appropriations Committee staff members. Lists of earmarks have also been compiled by Colleen Cordes and the Chronicle of Higher Education, for the period FY 1988–92. (See, for example, Colleen Cordes and Jack Goodman, "Congress Earmarked a Record $684 Million for Non-Competitive Projects on Campuses," Chronicle of Higher Education, April 15, 1992). Although there may be some differences in the counting of earmarks for individual fiscal years, during the period FY 1988–92 the Chronicle identified a total of $1.961 billion for all academic earmarks, while this report identified $1.957 billion just for academic research and development (R&D) and R&D facilities. This difference is primarily due to the fact that the researchers compile different lists because some earmarks cannot be identified easily in congressional reports and bills. Also, definitions of earmarks vary. Nevertheless, a total figure of approximately $2.5 billion in academic earmarks for the FY 1980–92 period appears to be a reasonable estimate.

#### *The geographical and institutional distribution of earmarks*

The distribution of earmarked funds is important, in part, because it is related to the issue of equity, and to the development of capabilities to compete for peer/merit reviewed funds. This distribution is examined here by State, institution, and NSF geographical region.

As shown in table 2, "Apparent FY 1980–92 Academic Earmarks, Ranked by State," (Page 10) nearly a third of earmarked funds went to institutions in five States, while half of the earmarked dollars went to ten States. The top ten State recipients of Federal academic R&D funds in FY 1990, received 57 percent of all Federal academic R&D funds in FY 1990 and 32.2 percent of all earmarked dollars over the thirteen year period. Three of the top ten States benefitting from earmarking, Massachusetts, Pennsylvania, and New York, received 18 percent of all earmarked dollars. They are also ranked among the top ten State recipients of all Federal academic R&D funds, receiving 22 percent in FY 1990.

Of the top ten State recipients of earmarked funds during FY 1980–92, two, West Virginia and Alaska, ranked in the bottom ten in terms of Federal research and development R&D support to universities and colleges in FY 1990. The other five States in the top ten earmark recipients included Oregon, ranked 27th; Louisiana, ranked 30th; Florida, ranked 14th; Iowa, ranked 26th; and Mississippi, ranked 37th. With the exception of Florida, which ranked 14th in terms of receiving Federal research support to academic institutions in FY 1990, the other six top ten State recipients of earmarked funds were ranked in the bottom half of all State recipients of academic R&D funds in FY 1990. In FY 1990 they received 4 percent of all Federal academic R&D funds; they received 27 percent of all research related earmarked funds during the period FY 1980 through FY 1992.

One interpretation of this distribution is that earmarked funds tend to be concentrated among a few States. Earmarking has resulted in 32.2 percent of these funds being sent to the top ten States that receive Federal academic R&D funds, which received 57 percent of all Federal academic R&D funds. In addition, the issue of equity is raised by the concentration of earmarked dollars, where ten States received 50.2 percent of earmarked dollars and the other 40 States received the remaining 49.8 percent.

Another interpretation of table 2 is that to assume that even States that received a few million dollars do benefit from these earmarked funds to support their academic research efforts.

Table 3, "Apparent FY 1980–92 Academic Earmarks, Ranked by University or College," (Page 12) suggests a similar concentration of earmarked funds when examining specific institutions. The top ten institutions receiving earmarks received nearly a third (29 percent) of all earmarked dollars, while the top thirty institutions received more than half (54.4 percent) of all earmarked dollars. The remaining 204 institutions that received earmarked funds received the other 45.6 percent of earmarked dollars.

At the same time, earmarking provides support to a number of schools that have received relatively limited Federal research and facility funds. Of the various institutions listed in table 3, 70 percent are unrepresented among NSF's ranking of the top 100 recipients of Federal research funds. Typically, universities and colleges ranked in the top 100, and more exclusively the top 50, in terms of Federal R&D support are considered the "top" R&D schools in the Nation. In FY 1990, the top 50 schools received 64 percent of all Federal R&D funds for universities and colleges. These top 50 schools also received 26.2 percent of earmarked dollars during the period FY 1980–92. Those academic institutions ranked 51 through 100 received 21 percent of Federal FY 1990 R&D academic funds, and 25.8 percent of FY 1980–92 earmarked dollars. Those institutions ranked below the top 100 received 15 percent of Federal FY 1990 R&D funds, and 48 percent of all FY 1980–92 earmarked dollars. Thus, 52 percent of all earmarked funds were distributed to schools in the top 100, with schools ranked below the top 100 receiving the other 48 percent.

Table 4, "Apparent FY 1980–92 Academic Earmarks, By NSF Geographical Region," (Page 18) indicates the distribution of earmarks by NSF region and compares each region's share of total earmarked dollars to its share of FY 1990 Federal research funds. The data here show that four of the nine regions, the Pacific, South Atlantic, Middle Atlantic, and West North Central, received 57.9 percent of all earmarked dollars. Of these regions, the Pacific received the largest amount of both earmarked and total Federal funds, where the latter presumably are mostly merit reviewed, Federal research awards. At the same time, the region that received the smallest percentage and dollar amounts of Federal research awards in FY 1990, the East South Central, was ranked eighth among the nine regions in terms of earmarked dollars received during FY 1980–92. The region that received the second smallest amount of Federal academic research dollars in FY 1990, West North Central, ranked eighth in dollar amount and percentage, but moved up to fourth in terms of dollars and percentage of earmarked funds received.

Therefore, this section suggests that the benefits of earmarking are not distributed equally among all States, institutions, and regions. Over the past thirteen fiscal years, earmarked funds tended to be concentrated in their distribution, although many "emerging" institutions, States, and regions did benefit from some share of earmarked dollars.

### *Peer/merit review competitiveness and earmarking*

Advocates of academic earmarking have often argued that earmarking is a remedy for perceived biases of the peer/merit review system, and that earmarking enables "emerging" institutions to receive the Federal support required to assist them, be competitive with "established" research institutions. Opponents of earmarking often argue that earmarked funds are wasted, or that they do not support the same high quality of science that is funded through the peer/merit review system.

Of all the questions and issues related to academic earmarking, that of the quality of the science funded through earmarking may be the most difficult to address. Opponents of earmarking claim that earmarking lacks the accountability and evaluation that is associated with peer/merit review. Assessments of earmarked projects are often anecdotal rather than systematic; it is always possible to identify both successful and failed projects.

This report attempts to provide some objective, but necessarily inferential, assessment of the effect of earmarking on an institution's ability to compete for funds in a peer/merit review process, by comparing a State and institution's Federal receipt of R&D funds rank before and after receiving significant earmarked funds. This ability to compete is an indirect measure of the quality of the research effort generated through earmarking.

Table 5, "Change in Federal Research Rank Among States Receiving Academic Earmarks," (Page 21) identifies the total amount of FY 1980–92 earmarked dollars received by each State, the first fiscal year in which those funds totaled $1 million or more, the State's Federal research rank that year, that rank for FY 1990, and the change in rank. A plus sign and a number indicates the positions of rank gained. A minus sign and a number indicates the positions of rank lost. A zero indicates no change in rank. A blank space indicates there is no basis for comparison because the first year in which a State received $1 million or more in earmarks is FY 1990 or afterwards. (The lower a State's ranking, the more funding it receives. Thus, California, ranked number 1, receives the largest amount of Federal academic R&D funding.)

Table 5 indicates that since receiving earmarks valued at $1 million or more, ten States improved their rankings as recipients of Federal research funds, sixteen States experienced a drop in rank, and thirteen States experienced no change in rank. For the remaining eleven States, there was no basis for comparison.

Table 6, "Change in Federal Research Rank Among Institutions Receiving $20 Million or More in Earmarks," (Page 23) attempts to measure the effect of earmarking on institutional rankings. The figure of $20 million is used as a threshold, based on the assumption that over a possible thirteen year time span, an institution that had received that amount of additional funding might be able to improve its competitive standing in some objective fashion, such as the receipt of competitive Federal research funds.

Table 6 identifies all institutions that have received $20 million or more in earmarks during FY 1980–92, the dollar amount of those earmarks, the year of the first earmark totaling $1 million or more, the institution's Federal research rank that year, its rank in FY 1990, and the change in rank. Of the thirty-seven institutions that have received $20 million or more in earmarks, nine have improved their ranking, eight have experienced a drop in their ranking, one institution experienced no change, and the remaining nineteen institutions are unranked and, therefore, do not allow for comparison in this manner.

These two tables suggest that it is difficult to discern effects of earmarking on improving a State's or institution's ability to compete for peer/merit reviewed awards. States that have received tens of millions of dollars in earmarks may have experienced an actual drop in their Federal R&D funding rank. Only four states, New Hampshire, Utah, Arizona, and Wisconsin, have gained more than one position in rank since receiving their first $1 million in earmarks. Four states, Oregon, Kansas, Oklahoma, and Kentucky, have lost more than one position in rank since receiving their first $1 million in earmarks. Most changes in State ranking are very marginal. A similar pattern emerges when examining the 37 institutions that received $20 million or more in earmarks during FY 1980–92. Since receiving their first $1 million in earmarks, five of these institutions, Iowa State University, Oregon Health Science University, Tufts University, the University of Alabama, and Indiana University, have gained five or more positions in rank. Five institutions, Louisiana State University, Oregon State University, Boston University, the University of Florida, and the University of Illinois have lost five or more positions in rank. Further analysis of how these ten institutions used their earmarked funds could help contribute to understanding the effects of earmarking on enhancing an institution's competitive capability.

Clearly, many factors influence the research capability of a State or institution, and the use of the Federal research ranking is only an inferential measure of the recipient's resulting ability to compete for Federal research funds. Nevertheless, the very mixed abilities of States and institutions to improve their rankings while receiving large amounts of earmarked funding suggest that earmarking alone may not be a very effective means for enhancing institutional research capabilities.

### *Origins of earmarks*

Table 7, "Apparent FY 1980–92 Academic Earmarks, by Appropriations Subcommittee," (Page 25) indicates that 69.3 percent of the congressional earmarks made during FY 1980–92 were associated with three House and Senate appropriations subcommittees, Energy and Water, Agriculture, and Defense.

This distribution may partially explain why the receipt of funds does not appear to change measurably a State's or an institution's subsequent Federal research funding rank. Although the House and Senate Energy and Water Appropriations Subcommittees appropriated 26.5 percent of all earmarked dollars, research funding by the Department of Energy amounts to 6 percent of Federal R&D funds obligated to universities and colleges in FY 1990. Although the House and Senate Agriculture Appropriations Subcommittees appropriated 25.2 percent of all earmarked dollars, research funding by the Department of Agriculture amounts to 3.8 percent of Federal R&D funds obligated to universities and colleges in FY 1990. At the same time, while the House and Senate Labor-Health and Human Services-Education Appropriations Subcommittees appropriated 4 percent of all earmarked dollars, research funding by the Department of Health and Human Services amounts to 52.9 percent of Federal R&D funds obligated to universities and colleges. In other words, the type of research and facilities that are generated by earmarked dollars may not necessarily translate into the kind of science that is likely to be competitively funded by the Federal Government in large amounts, or that may enhance the general competitive capability of an institution.

### CONCLUSION

Appropriations earmarked during the period FY 1980–92 were not distributed equally to all geographic regions, States, and academic institutions. Some regions, States, and institutions received what appears to be a disproportionate share of funds.

This analysis of the FY 1980–92 academic earmarks indicates that the majority of funds went to a minority of States and institutions, and that earmarking produced mixed effects in creating broad geographical equity of funding. The distribution of earmarks favored those regions receiving the largest amounts of Federal research funds rather than those receiving the least. Ten States received 50.5 percent of all earmarked dollars. Six of these ten States, however, ranked 25th or lower as recipients of Federal academic research funds in FY 1990. They received 4 percent of Federal academic R&D dollars, but they also received 27 percent of earmarked funds during FY 1980–92.

Ten institutions received 29.0 percent of all earmarked dollars, while thirty institutions received 54.4 percent of all earmarked dollars. Schools ranked among the top 50 recipients of Federal R&D funds in FY 1990 received 64 percent of these Federal funds, and 26.2 percent of earmarked funds. Schools ranked 51 through 100 received 21 percent of Federal FY 1990 R&D academic funds, and 25.8 percent of FY 1980-92 earmarked dollars. Those institutions ranked below the top 100 received 15 percent of Federal FY 1990 academic R&D funds, and 48 percent of FY 1980-92 earmarked dollars. Eighty-three percent of the institutions that received earmarks were not ranked among the top 50 recipients of Federal R&D funds in FY 1990; 70 percent were not among the top 100 recipients.

Earmarking produces a mixed result in improving the Federal R&D funding rank of States and institutions. Since receiving $1 million in earmarks, ten States improved their Federal research ranking, sixteen States experienced a decline in ranking, and thirteen States experienced no change in ranking. Since receiving $1 million in earmarks, among those institutions having received a total of $20 million or more in earmarks and where change in ranking can be measured, nine institutions have improved their ranking, eight institutions have experienced a decline in ranking, and one experienced no change in ranking.

TABLE 1.—APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, BY FISCAL YEAR

| | Amount | Number |
|---|---:|---:|
| Year: | | |
| 1980 | 10,740,000 | 7 |
| 1981 | 0 | 0 |
| 1982 | 9,370,999 | 9 |
| 1983 | 77,400,000 | 13 |
| 1984 | 39,320,000 | 6 |
| 1985 | 104,085,000 | 39 |
| 1986 | 110,885,000 | 38 |
| 1987 | 163,305,000 | 48 |
| 1988 | 232,392,000 | 72 |
| 1989 | 299,026,200 | 208 |
| 1990 | 247,976,333 | 252 |
| 1991 | 470,279,499 | 279 |
| 1992 | 707,989,000 | 499 |
| Total | 2,472,769,031 | 1,470 |

Sources of data: Data are compiled from lists of earmarks generated from a variety of sources, including the Congressional Research Service (for example, "Appropriations Enacted for Specific Colleges and Universities by the 96th Through the 100th Congress," Report 89–82 EPW, Feb. 6, 1989), the "Chronicle of Higher Education" (for example, "Congress Earmarked a Record $684, for Non-Competitive Projects on Campuses," Apr. 15, 1992), James D. Savage (for example, "Saints and Cardinals in Appropriations Committees and the Fight Against Distributive Politics," "Legislative Studies Quarterly," August 1991), and James D. Savage, "The Distribution of Apparent Academic Earmarks in the Federal Government's fiscal year 1992 Appropriations Bills," July 1992.

TABLE 2.—APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, RANKED BY STATE

| Earmark rank | Amount | Percent of funds (cumulative) | Fiscal year 1990 Federal research rank |
|---|---:|---:|---:|
| 1. Massachusetts | 183,581,000 | ........ | 3 |
| 2. Oregon | 148,529,133 | ........ | 27 |
| 3. Pennsylvania | 141,352,000 | ........ | 5 |
| 4. Louisiana | 135,844,000 | ........ | 30 |
| 5. New York | 127,831,333 | 29.8 | 2 |
| 6. Florida | 121,850,000 | ........ | 14 |
| 7. Iowa | 114,805,800 | ........ | 26 |
| 8. West Virginia | 106,567,000 | ........ | 45 |
| 9. Alaska | 91,153,000 | ........ | 41 |
| 10. Mississippi | 78,177,500 | 50.5 | 37 |
| 11. North Dakota | 74,351,333 | ........ | 44 |
| 12. Illinois | 72,738,000 | ........ | 7 |
| 13. Alabama | 71,333,000 | ........ | 23 |
| 14. Michigan | 70,594,333 | ........ | 9 |
| 15. Hawaii | 69,852,000 | 65.0 | 33 |
| 16. California | 69,439,833 | ........ | 1 |
| 17. South Carolina | 64,240,000 | ........ | 35 |
| 18. Texas | 51,214,500 | ........ | 6 |
| 19. Indiana | 49,114,800 | ........ | 21 |
| 20. New Jersey | 42,607,000 | 76.1 | 20 |
| 21. Kansas | 41,787,400 | ........ | 34 |
| 22. Washington | 38,849,300 | ........ | 11 |
| 23. New Hampshire | 37,098,000 | ........ | 31 |
| 24. Maryland | 34,437,000 | ........ | 4 |
| 25. Utah | 33,635,600 | 83.7 | 24 |
| 26. Oklahoma | 30,360,500 | ........ | 38 |
| 27. Arizona | 28,975,000 | ........ | 25 |
| 28. Nevada | 28,212,000 | ........ | 43 |
| 29. Nebraska | 27,706,300 | ........ | 40 |
| 30. Georgia | 26,231,000 | 89.5 | 15 |
| 31. Arkansas | 24,959,200 | ........ | 42 |
| 32. Ohio | 24,921,500 | ........ | 10 |
| 33. D.C. | 24,420,000 | ........ | 28 |
| 34. Wisconsin | 23,150,000 | ........ | 12 |
| 35. New Mexico | 21,440,000 | 94.3 | 29 |
| 36. Kentucky | 20,583,000 | ........ | 36 |
| 37. North Carolina | 20,368,000 | ........ | 8 |
| 38. Minnesota | 19,064,000 | ........ | 19 |
| 39. Idaho | 16,471,633 | ........ | 48 |
| 40. Missouri | 15,950,000 | 98.0 | 16 |
| 41. Tennessee | 7,810,000 | ........ | 22 |
| 42. Rhode Island | 7,809,000 | ........ | 32 |
| 43. Connecticut | 6,254,000 | ........ | 13 |
| 44. Wyoming | 6,000,000 | ........ | 50 |
| 45. South Dakota | 5,852,333 | 99.4 | 51 |
| 46. Virginia | 4,807,000 | ........ | 18 |
| 47. Montana | 3,905,700 | ........ | 47 |
| 48. Vermont | 3,304,000 | ........ | 39 |
| 49. Maine | 2,577,000 | ........ | 49 |
| 50. Colorado | 655,000 | 100.0 | 17 |
| Total | 2,472,769,031 | ........ | ........ |

Note.—No earmarks were identified for Delaware (ranked at 46). States receiving federal research awards ranked 1 through 10 received 32.2 percent of earmarked funds; states ranked 11 through 20 received 12.1 percent of earmarked funds; 21 through 30 received 25.7 percent; 31 through 40 received 15.4 percent; and 41 through 51 received 14.6 percent. The District of Columbia (D.C.) is included in federal rankings at number 28. The Federal research rank for each State is based on a measurement of total Federal R&D funds received by universities and colleges in that State. Thus, it includes earmarked funds. No rankings are available that do not include earmarks.

Source of Federal Rankings: "Selected Data on Federal Support to Universities and Colleges: Fiscal year 1990, National Science Foundation Report 92–310, p. 6.

TABLE 3.—APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, RANKED BY UNIVERSITY OR COLLEGE

| Earmark rank | Amount | Percent of funds (cumulative) | Fiscal year 1990 Federal research rank |
|---|---:|---:|---:|
| 1. Iowa St U | 91,563,300 | ........ | 89 |
| 2. U Alaska | 91,153,000 | ........ | ........ |
| 3. Oregon Health Sci | 84,900,000 | ........ | 95 |
| 4. Louisiana St U | 70,994,000 | ........ | 71 |
| 5. U West Virginia | 70,967,000 | ........ | ........ |
| 6. U Hawaii | 69,852,000 | ........ | 73 |
| 7. U Rochester (NY) | 65,300,000 | ........ | 24 |
| 8. Florida St U | 58,677,500 | ........ | 92 |
| 9. U Alabma | 57,000,000 | ........ | 32 |
| 10. Boston U (MA) | 56,500,000 | 29.0 | 47 |
| 11. Tufts U (MA) | 46,008,000 | ........ | 75 |
| 12. U North Dakota | 43,368,000 | ........ | ........ |
| 13. Michigan St U | 42,735,333 | ........ | 48 |
| 14. U Illinois | 39,241,000 | ........ | 26 |
| 15. U South Carolina | 36,750,000 | ........ | ........ |
| 16. U Oregon | 35,200,000 | ........ | ........ |
| 17. Indiana U | 34,924,800 | ........ | 44 |
| 18. U Florida | 34,290,500 | ........ | 49 |
| 19. North Dakota St U | 30,743,333 | ........ | ........ |
| 20. Loma Linda U (CA) | 29,500,000 | 44.1 | ........ |
| 21. Wheeling Jesuit C (WVA) | 29,200,000 | ........ | ........ |
| 22. Northwestern U (IL) | 27,058,000 | ........ | 45 |
| 23. U Maryland | 26,587,000 | ........ | 41 |
| 24. U Nebraska | 25,706,300 | ........ | ........ |
| 25. Kansas St U | 25,099,000 | ........ | ........ |
| 26. U Mississippi | 24,968,000 | ........ | ........ |
| 27. Lehigh U (PA) | 24,125,000 | ........ | ........ |
| 28. U Southern Mississippi | 24,150,000 | ........ | ........ |
| 29. Mississippi St U | 23,938,500 | ........ | ........ |
| 30. Washington St U | 23,618,700 | 54.4 | ........ |
| 31. Oregon St U | 22,879,133 | ........ | 63 |
| 32. U Miami (FL) | 22,242,000 | ........ | 42 |
| 33. U Arkansas | 22,117,200 | ........ | ........ |
| 34. U Utah | 22,050,000 | ........ | 40 |
| 35. Boston C (MA) | 21,500,000 | ........ | ........ |
| 36. Tulane U (LA) | 20,750,000 | ........ | 100 |
| 37. Carnegie-Mellon U (PA) | 20,000,000 | ........ | 56 |
| 38. Northeastern U (MA) | 19,500,000 | ........ | ........ |
| 39. Pennsylvania St U | 19,092,000 | ........ | 16 |
| 40. U New Hampshire | 19,025,000 | 62.8 | ........ |
| 41. Rochester Inst Tech (NY) | 19,002,000 | ........ | ........ |
| 42. South Carolina Med U | 18,800,000 | ........ | ........ |
| 43. Rutgers U (NJ) | 18,632,000 | ........ | 62 |
| 44. U Wisconsin | 17,150,000 | ........ | 9 |
| 45. U Idaho | 16,471,633 | ........ | ........ |
| 46. U New Mexico | 16,440,000 | ........ | ........ |
| 47. U Minnesota | 16,309,000 | ........ | 15 |
| 48. Oklahoma St U | 15,910,500 | ........ | ........ |
| 49. Texas A&M | 15,312,500 | ........ | 58 |
| 50. Dartmouth U (NH) | 15,028,000 | 69.6 | 83 |
| 51. Arizona St U | 14,400,000 | ........ | ........ |
| 52. Drake U (IO) | 14,200,000 | ........ | ........ |
| 52. Catholic U (DC) | 14,200,000 | ........ | ........ |
| 53. U Kentucky | 13,483,000 | ........ | 87 |
| 54. Drexel U (PA) | 13,425,000 | ........ | ........ |
| 55. U Pittsburgh (PA) | 12,800,000 | ........ | 22 |
| 56. U New Orleans (LA) | 12,700,000 | ........ | ........ |
| 57. U Oklahoma | 12,450,000 | ........ | ........ |
| 58. Clark Atlanta U (GA) | 12,000,000 | ........ | ........ |
| 59. U Nevada, Las Vegas | 11,784,000 | ........ | ........ |
| 60. Utah St U | 11,585,600 | 75.4 | 52 |
| 61. U Washington | 11,480,600 | ........ | 4 |
| 62. U Pennsylvania | 11,425,000 | ........ | 13 |
| 63. Monterery Inst (CA) | 10,300,000 | ........ | ........ |
| 64. New York U (NY) | 10,100,000 | ........ | 31 |
| 65. Purdue U (IND) | 10,014,000 | ........ | 43 |
| 66. Louisiana Tech | 10,000,000 | ........ | ........ |
| 66. Bridgewater St C (MA) | 10,000,000 | ........ | ........ |
| 66. U Missouri, St Louis | 10,000,000 | ........ | ........ |
| 66. Case Western U (OH) | 10,000,000 | ........ | 34 |
| 66. U Scranton (PA) | 10,000,000 | ........ | ........ |
| 66. Marywood C (PA) | 10,000,000 | ........ | ........ |
| 67. U Georgia | 9,925,000 | ........ | 74 |
| 68. U North Carolina | 9,800,000 | ........ | 25 |
| 69. U California, Davis | 9,585,333 | ........ | 37 |
| 70. Brandeis U (MA) | 9,000,000 | ........ | ........ |
| 70. Columbia U (NY) | 9,000,000 | 81.9 | 10 |
| 71. U Michigan | 8,999,000 | ........ | 6 |
| 72. Ohio St U | 8,956,500 | ........ | 29 |
| 73. Xavier U (LA) | 8,750,000 | ........ | ........ |
| 74. Georgetown U (DC) | 8,720,000 | ........ | 90 |
| 75. U Arizona | 8,575,000 | ........ | 28 |
| 76. St U New York | 8,500,000 | ........ | ........ |
| 77. U Nevada | 8,350,000 | ........ | ........ |
| 78. U Nevada, Reno | 8,078,000 | ........ | ........ |
| 79. Saginaw Valley St (MI) | 8,060,000 | ........ | ........ |
| 80. U Texas, Austin | 7,938,000 | 85.4 | 27 |
| 81. U Massachusetts | 7,848,000 | ........ | 39 |
| 82. Wake Forest (NC) | 7,568,000 | ........ | 88 |
| 83. U Med & Dentistry (NJ) | 7,500,000 | ........ | 77 |
| 84. U Texas, El Paso | 7,152,000 | ........ | ........ |
| 85. Somerset C C (KY) | 7,000,000 | ........ | ........ |
| 86. Michigan Tech U | 6,750,000 | ........ | ........ |
| 87. U California, Riverside. | 6,574,500 | ........ | ........ |
| 88. Baylor U (TX) | 6,550,000 | ........ | 33 |
| 89. Loyola C (MD) | 6,500,000 | ........ | ........ |
| 90. Harvard U (MA) | 6,500,000 | 88.2 | 11 |
| 91. Auburn U (AL) | 6,495,000 | ........ | ........ |
| 92. Polytechnic U (NY) | 6,460,000 | ........ | ........ |
| 93. U Cal, Santa Barbara | 6,060,000 | ........ | 69 |
| 92. St. Norbert C (WI) | 6,000,000 | ........ | ........ |
| 92. U Wyoming | 6,000,000 | ........ | ........ |
| 92. N Arizona St | 6,000,000 | ........ | ........ |
| 92. Stevens Inst Tech (NJ) | 6,000,000 | ........ | ........ |
| 93. South Dakota St U | 5,852,333 | ........ | ........ |
| 94. Temple U (PA) | 5,700,000 | ........ | 94 |
| 95. U Missouri | 5,561,000 | ........ | 96 |
| 96. Oregon Grad Cntr | 5,550,000 | ........ | ........ |
| 97. U Toledo (OH) | 5,515,000 | ........ | ........ |
| 98. Seton Hall (NJ) | 5,500,000 | ........ | ........ |
| 99. Wichita St (KS) | 5,314,000 | ........ | ........ |
| 100. Tuskegee U (AL) | 5,200,000 | 91.7 | ........ |
| 101. Cornell U (NY) | 5,194,333 | ........ | 12 |
| 102. U Central Florida | 5,000,000 | ........ | ........ |
| 102. Brown U (RI) | 5,000,000 | ........ | 80 |
| 102. New Mexico St | 5,000,000 | ........ | 60 |
| 102. U Northern Iowa | 5,000,000 | ........ | ........ |
| 102. Pittsburgh St U (PA) | 5,000,000 | ........ | ........ |
| 103. Texas Tech U | 4,500,000 | ........ | ........ |
| 103. Vorhees C (SC) | 4,500,000 | ........ | ........ |
| 104. Clemson U (SC) | 4,190,000 | ........ | ........ |
| 105. Southern Illinois U | 4,100,000 | ........ | ........ |
| 106. Fort Hays St (KS) | 4,000,000 | ........ | ........ |
| 106. Loyola U (LA) | 4,000,000 | ........ | ........ |
| 106. Loyola Marymount (CA) | 4,000,000 | ........ | ........ |
| 106. NE Louisiana St | 4,000,000 | ........ | ........ |
| 106. Pittsburgh St (KS) | 4,000,000 | ........ | ........ |
| 107. Georgia Inst Tech | 3,806,000 | ........ | 50 |
| 108. U Connecticut | 3,754,000 | ........ | 65 |
| 109. Montana St U | 3,680,700 | ........ | ........ |
| 110. U Iowa | 3,642,500 | 95.0 | 30 |
| 111. Southern U (LA) | 3,400,000 | ........ | ........ |
| 112. U Kansas | 3,374,400 | ........ | 93 |
| 113. St Joseph C (PA) | 3,310,000 | ........ | ........ |
| 114. Fairmont St C (WVA) | 3,300,000 | ........ | ........ |
| 115. Mississippi Valley St | 3,293,000 | ........ | ........ |
| 116. Marshall C (WVA) | 3,100,000 | ........ | ........ |
| 117. Daniel Webster C (NH) | 3,000,000 | ........ | ........ |
| 117. Fisk C (TN) | 3,000,000 | ........ | ........ |
| 117. Dowling C (NY) | 3,000,000 | ........ | ........ |
| 118. U Vermont | 2,904,000 | ........ | ........ |
| 119. North Carolina St | 2,900,000 | ........ | 66 |
| 120. U Rhode Island | 2,809,000 | 96.4 | ........ |
| 121. Massachusetts Inst Tech | 2,725,000 | ........ | 3 |
| 122. U Maine | 2,577,000 | ........ | ........ |

## TABLE 3.—APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, RANKED BY UNIVERSITY OR COLLEGE—Continued

| Earmark rank | Amount | Percent of funds (cumulative) | Fiscal year 1990 Federal research rank |
|---|---|---|---|
| 123. St Francis C (PA) | 2,500,000 | | |
| 123. U Bridgeport (CT) | 2,500,000 | | |
| 123. Lane C (TN) | 2,500,000 | | |
| 123. Sam Houston St (TX) | 2,500,000 | | |
| 123. Stephen Austin St (TX) | 2,500,000 | | |
| 123. Lamar U (TX) | 2,500,000 | | |
| 123. Gonzaga U (WA) | 2,500,000 | | |
| 124. Virginia Polytechnic | 2,477,000 | | 82 |
| 125. Indiana St U | 2,380,000 | | |
| 126. Monmouth C (NJ) | 2,300,000 | | |
| 127. Cal St U Northridge (CA) | 2,050,000 | | |
| 128. New Jersey Inst Tech | 2,000,000 | | |
| 128. Minnesota St Bd Tech | 2,000,000 | | |
| 128. Illinois Inst Tech | 2,000,000 | | |
| 128. Creighton U (NE) | 2,000,000 | | |
| 128. E Central U (OK) | 2,000,000 | | |
| 128. Thomas Jefferson U (PA) | 2,000,000 | | 99 |
| 129. U Notre Dame (IND) | 1,796,000 | | |
| 130. Sparks St Tech C (AL) | 1,600,000 | 98.5 | |
| 131. George Mason U (VA) | 1,500,000 | | |
| 131. SE Massachusetts U | 1,500,000 | | |
| 131. Smith C (MA) | 1,500,000 | | |
| 132. Johns Hopkins U (MD) | 1,350,000 | | 1 |
| 133. W Michigan U | 1,300,000 | | |
| 133. Jackson St U (MS) | 1,300,000 | | |
| 134. Seattle C C (WA) | 1,250,000 | | |
| 134. Delgado C (LA) | 1,250,000 | | |
| 135. U Tennessee | 1,062,000 | | 61 |
| 136. George Washington (DC) | 1,000,000 | | 98 |
| 136. Northwood Inst (MA) | 1,000,000 | | |
| 136. Seton Hall C (PA) | 1,000,000 | | |
| 136. E Michigan U | 1,000,000 | | |
| 136. U Detroit (MI) | 1,000,000 | | |
| 137. U Texas, Southwest | 950,000 | | 54 |
| 138. Arkansas Tech | 850,000 | | |
| 139. U Florida, Alachua | 840,000 | | |
| 140. VA/MD Vet (VA) | 830,000 | 99.3 | |
| 141. Rensselar Polytech (NY) | 800,000 | | |
| 142. Arkansas St | 775,000 | | |
| 143. Delta C (MI) | 750,000 | | |
| 144. St Vincent C (PA) | 547,000 | | |
| 145. Alcorn St (MS) | 528,000 | | |
| 146. Howard U (DC) | 500,000 | | |
| 146. Texas Southern U | 500,000 | | |
| 146. Bishop St C C (AL) | 500,000 | | |
| 146. U St Thomas (MN) | 500,000 | | |
| 146. Florida A&M | 500,000 | | |
| 146. Meharry Med C (TN) | 500,000 | | |
| 146. U Arkansas, Little Rock | 500,000 | | |
| 146. Moorehouse C (GA) | 500,000 | | |
| 146. Drew Med C (CA) | 500,000 | | |
| 146. Colorado Sch Mines | 500,000 | | |
| 147. Tennessee St U | 498,000 | | |
| 148. San Diego St U (CA) | 400,000 | | |
| 148. Vermont St C | 400,000 | | |
| 148. Mansfield C (PA) | 400,000 | | |
| 148. Indian Hills C C (IO) | 400,000 | | |
| 149. Farleigh Dickinson (NJ) | 375,000 | | |
| 150. Central Arkansas St C | 350,000 | | |
| 150. Cal St U Los Angeles (CA) | 350,000 | 99.8 | |
| 151. Gadsen St C C (AL) | 300,000 | | |
| 151. Kingborough C C (NY) | 300,000 | | |
| 151. Marine Sci Consort (NJ) | 300,000 | | |
| 151. Bethune-Cookman C (FL) | 300,000 | | |
| 151. NE Texas C C | 300,000 | | |
| 152. SW St U (MN) | 255,000 | | |
| 153. Med C Ohio | 250,000 | | |
| 153. Middle Tennessee St | 250,000 | | |
| 154. Minot St U (ND) | 240,000 | | |
| 155. Alabama A&M | 238,000 | | |
| 156. U Montana | 225,000 | | |
| 156. Prairie View A&M (TX) | 225,000 | | |
| 157. U Arkansas, Monticello | 200,000 | | |
| 157. U Akron (OH) | 200,000 | | |
| 157. Illinois St U | 200,000 | | |
| 158. Tarleton C (TX) | 187,000 | | |
| 159. New York Med C (NY) | 175,000 | | |
| 160. U Arkansas, Pine Bluff | 167,000 | | |
| 161. Colorado St U | 155,000 | | 72 |
| 162. Lincoln U (MO) | 145,000 | | |
| 163. Washington U (MO) | 139,000 | | 19 |
| 163. U Chicago (IL) | 139,000 | | 23 |
| 164. NW Missouri St U | 105,000 | | |
| 165. Owensboro C C (KY) | 100,000 | | |
| 165. Texas A&I | 100,000 | | |
| 165. Duke U (NC) | 100,000 | | 21 |
| 166. Cal St U Fresno (CA) | 75,000 | | |
| 167. U California, Berkeley | 45,000 | | 17 |
| 167. Hampshire C (NH) | 45,000 | 100.0 | |
| Total | 2,472,769,031 | | |

Note.—Institutional rankings are based on NSF's ranking of federal obligations for research and development to the top 100 institutions receiving support.

Source: "Selected Data on Federal Support to Universities and Colleges: Fiscal Year 1990," NSF Report 92–310, pp. 7–8.

## TABLE 4.—APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, BY NSF GEOGRAPHICAL REGION

| Region | Amount | Percent of earmarked funds | Region's percent of fiscal year 1990 Federal research funds |
|---|---|---|---|
| New England: | | | |
| Connecticut | 6,254,000 | | |
| Maine | 2,577,000 | | |
| Massachusetts | 183,581,000 | | |
| New Hampshire | 37,098,000 | | |
| Rhode Island | 7,809,000 | | |
| Vermont | 3,304,000 | | |
| Subtotal | 240,623,000 | 9.7 | 10.8 |
| Middle Atlantic: | | | |
| New Jersey | 42,607,000 | | |
| New York | 127,831,333 | | |
| Pennsylvania | 141,352,000 | | |
| Subtotal | 311,790,333 | 12.6 | 16.9 |
| East North Central: | | | |
| Illinois | 72,738,000 | | |
| Indiana | 49,114,800 | | |
| Michigan | 70,594,333 | | |
| Ohio | 24,921,500 | | |
| Wisconsin | 23,150,000 | | |
| Subtotal | 240,518,633 | 9.7 | 13.4 |
| West North Central: | | | |
| Iowa | 114,805,800 | | |
| Kansas | 41,787,400 | | |
| Minnesota | 19,064,000 | | |
| Missouri | 15,950,000 | | |
| Nebraska | 27,706,300 | | |
| North Dakota | 74,351,333 | | |
| South Dakota | 5,852,333 | | |
| Subtotal | 299,517,166 | | |
| South Atlantic: | | | |
| Delaware | 0 | | |
| District of Columbia | 24,420,000 | | |
| Florida | 121,850,000 | | |
| Georgia | 26,231,000 | | |
| Maryland | 34,437,000 | | |
| North Carolina | 20,368,000 | | |
| South Carolina | 64,240,000 | | |
| Virginia | 4,807,000 | | |
| West Virginia | 106,567,000 | | |
| Subtotal | 402,920,000 | 16.3 | 17.5 |
| East South Central: | | | |
| Alabama | 71,333,000 | | |
| Kentucky | 20,583,000 | | |
| Mississippi | 78,177,500 | | |
| Tennessee | 7,810,000 | | |
| Subtotal | 177,903,500 | 7.2 | 3.7 |
| West South Central: | | | |
| Arkansas | 24,959,200 | | |
| Louisiana | 135,844,000 | | |
| Oklahoma | 30,360,500 | | |
| Texas | 51,214,500 | | |
| Subtotal | 242,378,200 | 9.8 | 6.6 |
| Mountain: | | | |
| Arizona | 28,975,000 | | |
| Colorado | 655,000 | | |
| Idaho | 16,471,633 | | |
| Montana | 3,905,700 | | |
| Nevada | 28,212,000 | | |
| New Mexico | 21,440,000 | | |
| Utah | 33,635,600 | | |
| Wyoming | 6,000,000 | | |
| Subtotal | 139,294,933 | 5.7 | 5.9 |
| Pacific: | | | |
| Alaska | 91,153,000 | | |
| California | 69,439,833 | | |
| Hawaii | 69,852,000 | | |
| Oregon | 148,529,133 | | |
| Washington | 38,849,300 | | |
| Subtotal | 417,823,266 | 16.9 | 19.1 |
| Total | 2,472,769,031 | 100.0 | [1]99.7 |

[1] Remaining funds go to the "outlying areas," such as Puerto Rico.

## TABLE 5.—CHANGE IN FEDERAL RESEARCH RANK AMONG STATES RECEIVING ACADEMIC EARMARKS

| Cumulative fiscal years 1980–92 earmark rank | Amount | Year of first $1 million earmark | Federal research rank that year | Fiscal year 1990 Federal research rank | |
|---|---|---|---|---|---|
| | | | | Rank | Change |
| 1. Massachusetts | $183,581,000 | 1980 | 3 | 3 | 0 |
| 2. Oregon | 148,529,133 | 1983 | 24 | 27 | −3 |
| 3. Pennsylvania | 141,352,000 | 1980 | 6 | 5 | +1 |
| 4. Louisiana | 135,844,000 | 1985 | 31 | 30 | 1 |
| 5. New York | 127,831,333 | 1982 | 2 | 2 | 0 |
| 6. Florida | 121,850,000 | 1985 | 15 | 15 | +1 |
| 7. Iowa | 114,805,800 | 1985 | 27 | 26 | +1 |
| 8. West Virginia | 106,567,000 | 1983 | 44 | 45 | −1 |
| 9. Alaska | 91,153,000 | 1990 | | 41 | |
| 10. Mississippi | 78,177,500 | 1985 | 38 | 37 | +1 |
| 11. North Dakota | 74,351,333 | 1985 | 43 | 44 | −1 |
| 12. Illinois | 72,738,000 | 1982 | 7 | 7 | 0 |
| 13. Alabama | 71,333,000 | 1986 | 24 | 23 | +1 |
| 14. Michigan | 70,594,333 | 1986 | 9 | 9 | 0 |
| 15. Hawaii | 69,852,000 | 1988 | 32 | 33 | −1 |
| 16. California | 69,439,833 | 1985 | 1 | 1 | 0 |
| 17. South Carolina | 64,240,000 | 1987 | 34 | 35 | −1 |
| 18. Texas | 51,214,500 | 1980 | 5 | 6 | −1 |
| 19. Indiana | 49,114,800 | 1985 | 21 | 21 | 0 |
| 20. New Jersey | 42,607,000 | 1991 | | 20 | |
| 21. Kansas | 41,787,400 | 1986 | 32 | 34 | −2 |
| 22. Washington | 38,849,300 | 1985 | 11 | 11 | 0 |
| 23. New Hampshire | 37,098,000 | 1983 | 36 | 31 | +5 |

TABLE 5.—CHANGE IN FEDERAL RESEARCH RANK AMONG STATES RECEIVING ACADEMIC EARMARKS—Continued

| Cumulative fiscal years 1980–92 earmark rank | Amount | Year of first $1 million earmark | Federal research rank that year | Fiscal year 1990 Federal research rank | |
|---|---|---|---|---|---|
| | | | | Rank | Change |
| 24. Maryland | 34,437,000 | 1989 | 4 | 4 | 0 |
| 25. Utah | 33,635,600 | 1988 | 26 | 24 | +2 |
| 26. Oklahoma | 30,360,500 | 1983 | 35 | 38 | −3 |
| 27. Arizona | 28,975,000 | 1988 | 27 | 25 | +2 |
| 28. Nevada | 28,212,000 | 1986 | 42 | 43 | −1 |
| 29. Nebraska | 27,706,300 | 1989 | 39 | 40 | −1 |
| 30. Georgia | 26,231,000 | 1990 | | 15 | |
| 31. Arkansas | 24,959,200 | 1989 | 41 | 42 | −1 |
| 32. Ohio | 24,921,500 | 1980 | 9 | 10 | −1 |
| 33. D.C. | 24,420,000 | 1984 | 28 | 28 | 0 |
| 34. Wisconsin | 23,150,000 | 1985 | 14 | 12 | +2 |
| 35. New Mexico | 21,440,000 | 1985 | 29 | 29 | 0 |
| 36. Kentucky | 20,583,000 | 1989 | 34 | 36 | −2 |
| 37. North Carolina | 20,368,000 | 1985 | 8 | 8 | 0 |
| 38. Minnesota | 19,064,000 | 1992 | | 19 | |
| 39. Idaho | 16,471,633 | 1989 | 47 | 48 | −1 |
| 40. Missouri | 15,950,000 | 1990 | | 16 | |
| 41. Tennessee | 7,810,000 | 1990 | | 22 | |
| 42. Rhode Island | 7,809,000 | 1986 | 31 | 32 | −1 |
| 43. Connecticut | 6,254,000 | 1988 | 13 | 13 | 0 |
| 44. Wyoming | 6,000,000 | 1989 | 49 | 50 | −1 |
| 45. South Dakota | 5,852,333 | 1990 | | 51 | |
| 46. Virginia | 4,807,000 | 1992 | | 18 | |
| 47. Montana | 3,905,700 | 1991 | | 47 | |
| 48. Vermont | 3,304,000 | 1989 | 39 | 39 | 0 |
| 49. Maine | 2,577,000 | 1992 | | 49 | |
| 50. Colorado | 655,000 | | | 17 | |
| Total | 2,472,769,031 | | | | |

Note.—No earmarks were identified for Delaware (ranked at 46 for fiscal year 1990). A plus sign and a number indicates the positions of rank gained. A minus sign and a number indicates the positions of rank lost. A zero indicates no change in rank. A blank space indicates there is no basis for comparison. The Federal research rank for each State is based on a measurement of total Federal R&D funds received by universities and colleges in that State. Thus, it includes earmarked funds. No rankings are available that do not include earmarks.

Source of Federal Rankings: "Selected Data on Federal Support to Universities and Colleges: Fiscal Year 1990," National Science Foundation Report 92–310, p. 6. "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions: Fiscal Year 1987," National Science Foundation Report 88–330, p. 14.

TABLE 6.—CHANGE IN FEDERAL RESEARCH RANK AMONG INSTITUTIONS RECEIVING $20 MILLION OR MORE IN EARMARKS

| Cumulative fiscal year 1980–92 earmark rank | Amount | Year of first $1 million earmark | Federal research rank that year | Fiscal year 1990 federal research rank | |
|---|---|---|---|---|---|
| | | | | Rank | Change |
| 1. Iowa St U | $91,563,300 | 1987 | | 89 | + |
| 2. U Alaska | 91,153,000 | 1990 | | | |
| 3. Oregon Health Sci | 84,900,000 | 1983 | | 95 | + |
| 4. Louisiana St U | 70,994,000 | 1988 | 60 | 71 | −11 |
| 5. U West Virginia | 70,967,000 | 1983 | | | |
| 6. U Hawaii | 69,852,000 | 1988 | 70 | 73 | −3 |
| 7. U Rochester (NY) | 65,300,000 | 1983 | 24 | 24 | 0 |
| 8. Florida St U | 58,677,000 | 1985 | 88 | 92 | −4 |
| 9. U Alabama | 57,000,000 | 1986 | 43 | 32 | −9 |
| 10. Boston U (MA) | 56,500,000 | 1984 | 42 | 47 | −5 |
| 11. Tufts U (MA) | 46,008,000 | 1980 | 100 | 75 | +25 |
| 12. U North Dakota | 43,368,000 | 1986 | | | |
| 13. Michigan St U | 42,735,333 | 1988 | 49 | 48 | +1 |
| 14. U Illinois | 39,241,000 | 1986 | 17 | 26 | −9 |
| 15. U South Carolina | 36,750,000 | 1987 | | | |
| 16. U Oregon | 35,200,000 | 1987 | | | |
| 17. Indiana U | 34,924,800 | 1986 | 49 | 44 | +5 |
| 18. U Florida | 34,290,500 | 1988 | 42 | 49 | −5 |
| 19. North Dakota St U | 30,743,333 | 1985 | | | |
| 20. Loma Linda U (CA) | 29,500,000 | 1988 | | | |
| 21. Wheeling J C (WVA) | 29,200,000 | 1989 | | | |
| 22. Northwestern (IL) | 27,058,000 | 1986 | 47 | 45 | +2 |
| 23. U Maryland | 26,587,000 | 1990 | | 41 | |
| 24. U Nebraska | 25,706,300 | 1990 | | | |
| 25. Kansas St U | 25,099,000 | 1987 | | | |
| 26. U Mississippi | 24,968,000 | 1988 | | | |
| 27. Lehigh U (PA) | 24,125,000 | 1991 | | | |
| 28. U. S. Mississippi | 24,150,000 | 1988 | | | |
| 29. Mississippi St U | 23,938,000 | 1985 | | | |
| 30. Washington St U | 23,618,700 | 1986 | 97 | | N |
| 31. Oregon St U | 22,879,133 | 1983 | 50 | 63 | −13 |
| 32. U Miami (FL) | 22,242,000 | 1990 | | 42 | |
| 33. U Arkansas | 22,117,200 | 1989 | | | |
| 34. U Utah | 22,050,000 | 1988 | 41 | 40 | +1 |
| 35. Boston C (MA) | 21,500,000 | 1983 | | | |
| 36. Tuland U (LA) | 20,750,000 | 1986 | | 100 | + |
| 37. Carnegie-Mellon (PA) | 20,000,000 | 1990 | | 56 | |

Note.—A plus sign and a number indicates the positions of rank gained. A minus sign and a number indicates the positions of rank lost. A plus or minus sign without a number indicates a gaining or losing a position on the top 100 list by a previously unranked or ranked institution.

TABLE 7. APPARENT FISCAL YEAR 1980–92 ACADEMIC EARMARKS, BY APPROPRIATIONS SUBCOMMITTEE

| | Earmarks | Amounts | Energy and water | | Agriculture | | Defense | | VA–HUD | | Commerce | | Interior | | Treasury-Postal | | Labor HHS-Ed | | Transportation | | Foreign Operations | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Earmarks | Amount | Earmarks | Amount | Earmarks | Amount | Earmarks | Amount | Earmarks | Amount | Earmarks | Amounts | Earmarks | Amount | Earmarks | Amount | Earmarks | Amount | Earmarks | Amount |
| Fiscal year: | | | | | | | | | | | | | | | | | | | | | | |
| 1980 | 7 | 10,740,000 | | | 5 | 4,240,000 | | | | | | | | | | | 2 | 6,500,000 | | | | |
| 1981 | 0 | 0 | | | | | | | | | | | | | | | | | | | | |
| 1982 | 9 | 9,370,999 | 1 | 1,052,000 | 7 | 7,318,999 | 1 | 1,000,000 | | | | | 1 | 1,000,000 | | | | | | | | |
| 1983 | 13 | 77,400,000 | 1 | 6,100,000 | 3 | 11,550,000 | | | | | | | 4 | 26,100,000 | | | 5 | 33,650,000 | | | | |
| 1984 | 6 | 39,320,000 | 2 | 10,000,000 | 1 | 1,000,000 | 1 | 820,000 | | | | | | | | | 1 | 19,000,000 | 1 | 8,500,000 | | |
| 1985 | 39 | 104,085,000 | 9 | 29,550,000 | 16 | 39,015,000 | | | 1 | 8,000,000 | 1 | 4,000,000 | 7 | 17,670,000 | | | 4 | 5,550,000 | 1 | 300,000 | | |
| 1986 | 38 | 110,885,000 | 5 | 35,300,000 | 16 | 15,516,000 | 8 | 34,750,000 | | | | | 6 | 16,519,000 | | | 3 | 8,800,000 | | | | |
| 1987 | 48 | 163,305,000 | 9 | 58,700,000 | 27 | 57,205,000 | | | | | 5 | 31,000,000 | 5 | 12,500,000 | | | 2 | 3,900,000 | | | | |
| 1988 | 72 | 232,392,000 | 28 | 128,290,000 | 28 | 49,302,000 | 2 | 28,500,000 | 1 | 1,700,000 | 3 | 5,750,000 | 6 | 6,300,000 | 1 | 4,000,000 | | | 3 | 8,550,000 | | |
| 1989 | 208 | 299,026,200 | 14 | 96,500,000 | 150 | 82,589,200 | 6 | 43,500,000 | 3 | 3,235,000 | 17 | 18,427,000 | 6 | 9,925,000 | 9 | 38,550,000 | 1 | 4,500,000 | 1 | 900,000 | 1 | 900,000 |
| 1990 | 252 | 247,976,333 | 18 | 38,171,000 | 182 | 100,028,333 | 6 | 29,300,000 | 10 | 17,730,000 | 11 | 12,245,000 | 8 | 9,100,000 | 11 | 31,052,000 | 3 | 1,350,000 | 3 | 9,000,000 | | |
| 1991 | 279 | 470,279,499 | 30 | 116,075,000 | 173 | 109,328,499 | 20 | 129,700,000 | 15 | 17,945,000 | 8 | 15,800,000 | 6 | 6,900,000 | 17 | 45,975,000 | 5 | 13,500,000 | 4 | 5,056,000 | 1 | 10,000,000 |
| 1992 | 499 | 707,989,000 | 44 | 134,900,000 | 271 | 146,368,000 | 36 | 169,200,000 | 67 | 151,016,000 | 33 | 60,413,000 | 26 | 16,664,000 | | | 2 | 2,300,000 | 20 | 27,128,000 | | |
| Total | 1,470 | 2,472,769,031 | 161 | 654,638,000 | 879 | 623,461,031 | 79 | 435,770,000 | 97 | 199,626,000 | 78 | 147,635,000 | 75 | 122,678,000 | 38 | 119,577,000 | 28 | 99,050,000 | 33 | 59,434,000 | 2 | 10,900,000 |
| Percent | | 100 | | 26.5 | | 25.2 | | 17.6 | | 8.1 | | 6 | | 5 | | 4.8 | | 4 | | 2.4 | | 0.4 |

*Appropriations earmarks in the fiscal year 1993, VA-HUD-Independent Agencies conference report*

| NASA projects: | Amount |
|---|---|
| | Amount |
| Center for Life Support | $1,000,000 |
| Georgia Research Alliance | 500,000 |
| University of Nebraska | 400,000 |
| MIDnet (Lincoln, NE) | 200,000 |
| National Technology Transfer Center | 4,400,000 |
| ADAnet | 2,100,000 |
| Nebraska Department of Education | 400,000 |
| Classroom of the Future | 2,800,000 |
| Oregon Computer Network | 4,500,000 |
| Oregon State University | 500,000 |
| University of Utah | 10,000,000 |
| Kansas Cosmodrome | 2,000,000 |
| CEISIN Facility | 42,000,000 |
| Delta College | 8,000,000 |
| Selected EPA projects: | |
| Adirondack Destruction Assessment Program | 500,000 |
| Center for Environmental Management | 3,200,000 |
| American Water Works Assn. Research Found | 575,000 |
| Southwest Environmental Research Center | 2,000,000 |
| Zebra Mussel Research | 250,000 |
| Center for Excellence in Polymer Research and Environmental Study | 1,200,000 |
| Airshed Model (Illinois-Missouri border) | 200,000 |
| Great Lakes National Program Office (Duluth, MN, and Grosse Ile, MI) | 750,000 |
| Sulfonated Plastics and Tires | 150,000 |
| Naragansett Laboratory (Boston) | 400,000 |
| Great Lakes Research (Int'l Joint Commission) | 125,000 |
| Water Environment Research Foundation | 700,000 |
| Energy and Environmental Research Center (University of North Dakota) | 1,600,000 |
| Iowa Waste Reduction Center | 700,000 |
| Urban Waste Management Research (Univ. of New Orleans) | 700,000 |
| National UV Monitoring Center (Univ. of Georgia) | 700,000 |
| Pollution Prevention R&D (Univ. of Connecticut) | 1,450,000 |
| Center for Analysis of Environmental Change (Columbia & Snake Rivers Ecosystems) | 250,000 |
| South Coast Air Quality Management District | 600,000 |
| National Rural Water Association | 3,300,000 |
| PM-10 Air Study in Central Valley, CA | 1,400,000 |
| Florida Keys National Marine Sanctuary | 500,000 |
| National High Altitude Center | 350,000 |
| Hudson River Highlands documentary | 210,000 |
| Tar-Pamlico River Basin | 350,000 |
| Buffalo River contaminated sediments cleanup | 800,000 |
| McKenzie River Basin wetlands study | 600,000 |
| Calumet Lake groundwater study | 200,000 |
| Hayward Marsh wetlands restoration | 750,000 |
| Florida Keys wastewater treatment project | 500,000 |
| Center for Ecology and Research Training | 1,956,000 |
| Canaan Valley, WV | 250,000 |
| | Amount |
| EPA Nat'l. Training Center (WVU) | 1,000,000 |
| Small Flows Clearinghouse (WVU) | 1,000,000 |
| Rio Grande impact monitoring station | 350,000 |
| Lake Champlain continued pollution prevention | 2,250,000 |
| Lake Onondaga restoration | 1,750,000 |
| Strawbridge Lake, Lake Musconetcong, and Alcyon Lake, etc. for water quality activity | 550,000 |
| St. Croix River Int'l. Waterway Commission | 100,000 |
| Eastern OK/western AR water quality monitoring | 350,000 |
| West Maui algal bloom crisis | 400,000 |
| Decker Lake, West Valley City, UT | 1,000,000 |
| Black Hawk Lake, Wall Lake, IA | 400,000 |
| New Jersey Institute of Technology | 2,000,000 |
| Grand River Basin pollution program | 400,000 |
| Consortium for Int'l. Earth Science Information Network | 4,000,000 |
| Center for Ecology and Research Training | 85,000,000 |
| Columbia University | 10,000,000 |
| Christopher Columbus Center | 12,500,000 |
| Maine Quaternary Studies Institute | 1,000,000 |
| Intermountain Regional Network | 5,000,000 |
| Research Triangle Park | 5,500,000 |
| Central Regional Laboratory and the Analytical Chemistry and Microbiology Laboratory | 3,200,000 |
| Center for Ecology Research & Training (Bay City, MI) | 85,000,000 |
| Office of Science and Technology Policy: CEISIN activities | 2,000,000 |

### ATTACHMENT IV

I am extremely concerned about the conference agreement's cut of $15 million from NASA's $25 million request for the Landsat program. Landsat 7 is being pursued as a joint NASA-Department of Defense program. This cooperative effort has been working extremely well. The Department of Defense is on the verge of signing the contract for Landsat 7, yet this cut is jeopardizing the entire program. The conferees say that this action was taken "without prejudice," but a cut of this magnitude clearly does prejudice the program. In light of how much money the conferees found for unauthorized programs that have not even been considered by the House, it is particularly galling that such a worthwhile program as Landsat has been slashed. I urge the conferees to work with NASA to identify appropriate funds for a reprogramming request and to approve such a request at the time of the operating plan.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentlewoman from New York for yielding this time to me.

Mr. Speaker, in the 26 years that I have been in the Congress, this is the first time that I have ever spoken on a rule, for or against. The reason I am doing it today, I rise in strong opposition to this rule and ask that the resolution be defeated. The rule needs to be sent back to the committee and a new rule made in order that the House be allowed to vote on the section that takes $400 million from VA housing and gives it to the space station, which is really authorization in an appropriations bill.

In the House bill, when it left here there was $1.7 billion for the space station. When it got to the Senate, and then in the conference, the Senate added $400 million and the space station is now $2.1 billion. This funding had to come from the veterans housing. This is clearly, as I said, authorization in an appropriations bill.

The change of the formula on veterans housing is also in this conference report, and, in my opinion, it eliminates the veterans housing program. You veterans are not going to be able to get any veterans housing loans any more, I think.

Now, Mr. TRAXLER in his bill said several weeks ago, he warned us that if you vote for the space station, it would drain other domestic programs. That is what is happening today to our veterans. We have no argument against Mr. BOB TRAXLER, Mr. GREEN, or others; they have been supporters of veterans programs over the years. The Senate has done this to us.

The argument by the Committee on Appropriations, however, that the VA is getting all the money is a lot of bunk. If the President had not asked for an additional $1 billion to run our veterans hospitals, which are 171 in number, and 234 outpatient clinics, we might have to close, if the President had not given us this money, we might have to close more wards and even close some VA hospitals.

Every day you come up to me and say, "Something is wrong with my VA hospital, they are not getting enough money." The increased spending in this bill of $650 million has been added, this is for an inflation factor, this is a COLA for compensation and a pension for veterans. It is really not an add on.

Now, Mr. Speaker, it has been said on Capitol Hill that the powerful lobbyists are labor, National Guard, environmentalists, consumers, and, yes, veterans groups. I am here to tell you the most powerful lobbying group is now NASA. The other groups I mentioned, they are really just minor league to what the NASA lobby can do.

In closing, my colleagues, the NASA train is leaving the station, the fireman is putting more jet fuel in the engine, the engineer is blowing the whistle. So the NASA train is leaving the station and leaving it fast. So you old veterans had better get off the track because you are going to get flat run over today.

Vote against this resolution.

Mr. QUILLEN. Mr. Speaker, I urge a "yes" vote on this rule. We want to get out of here next week, and if not before. Whatever our opinions are on certain provisions of the measure, the rule deserves our support. I am sure the debate on the floor of the House will resolve many of the problems.

Mr. Speaker, I urge the membership to vote for the rule because it is a good rule, it is a good bill, and it provides great aid to our veterans, HUD, and various independent agencies.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. I thank the gentleman for yielding.

Mr. Speaker, here we go again. You know, the Congress giveth, and the Congress taketh away. I have been told this VA/HUD conference report contains a provision that would save the Government $412 million.

Now you would think that was a good thing; right? Well, not so. As we just heard from a previous speaker, the gentleman from Mississippi [Mr. MONTGOMERY], we found out what this is for. Once again, Congress is trying to take away from one group, not to reduce the deficit, not to provide savings, but to increase spending somewhere else. Unfortunately, this time it is at the expense of our veterans.

Congress is suggesting that we alter the VA home loan guarantee program, which is estimated to save the Government $412 million over a 5-year period. However, this is not being done as some offset to other veterans programs or even, for that matter, to reduce the deficit. This money will be used so that some Members can say to their constituents, "Look what I brought home to your district for you."

Well, in this case, it happens to be a solid-rocket program for the chairman of the Committee on Appropriations. Congress is once again trying to buy your vote with your money, but this time our veterans are the ones footing the bill.

Every time we have this option, Mr. Speaker, where we are held hostage in the name of the rhetoric on the floor that we have to support our veterans, we discover in the fine print that there is in fact other pork-barrel projects for other people.

□ 1150

Money is tight this year. There is no doubt about it, but it is bad enough that we are not able to fund some of these bills at the level we would like, but we do not have to take this money from one group in order to bring home the bacon so that some people can get reelected. I do not think it is fair, and I reject this unfair provision.

Mr. Speaker, I believe we should reject the rule. I believe we should stop the practice of buying people's votes with your money, the taxpayers' dollars, and I believe we have to start being honest with people back home that appropriations that hold hostage in that matter provisions that are important to groups like veterans so that we can basically get money for our constituents so that we can tell them what kind of a good job we are doing is not a practice that the taxpayers approve of.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5½ minutes to the gentleman from Michigan [Mr. TRAXLER], the retiring chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations.

Mr. TRAXLER. Mr. Speaker, I would like to express my appreciation to the gentlewoman from New York, a member of the Rules Committee, for yielding me this time. I would also like to express my gratitude to the Rules Committee for what I consider a fine rule for the orderly consideration of the conference report.

I would like next to express my appreciation to all the legislative chairmen with whom I have had a very fine relationship over the years as chairman of this subcommittee. They have been good friends. We have had some disagreements, but those were on the highest level, philosophical in nature and not in any way personal. For that I am very appreciative.

I would also especially like to single out a dear friend and colleague for whom I have the highest respect, the gentleman who chairs the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY].

You know, the fact that we have a disagreement over the interpretation of parts of this bill in no way diminishes or depreciates the special affection and esteem in which I hold him as one of the leading advocates for veterans in this Nation. Just because we have a minor "is the glass half full or is the glass half empty" kind of discussion here today, I would not want anyone to think that when I leave here that the warmth and the depth of my appreciation of him as a person, the way he has conducted himself over the years as one of the outstanding Members of this body, and the way in which he has supported veterans' program is in any way diminished.

I think you should know this is the only time in many years that we have been associated together that we have had any kind of disagreement, and it is on a philosophical issue. It is how you see it and does not have anything to do with anything other than that.

Let me try to put the conference report into perspective for you. The toughest job that we faced in this conference with the Senate was how to hit the outlay target. You know, Mr. Speaker, that is not an easy one. It gets more difficult every year because, in fact, this Congress and the President have set up very stringent rules and targets that have to be met by the Congress over these 5 years in which the budget agreement is in effect. That was a very difficult year. I do not think next year will be any easier for you. I will be watching all of you on C-SPAN, and I wish you well in that regard.

Let me make it very clear that in my judgment veterans are not disadvantaged in this conference report. I want to explain to you why. We could spend a lot of time describing the so-called no-bid enhancer that is contained in this bill in the amount of $405 million in outlays and in budget authority.

Now, that is very critical. As anyone on the Budget Committee or on the authorizing committees understands, $405 million in outlays is lots and lots of money, even though we are dealing with billions of dollars in the total budget.

This conference report, I think includes about $606 billion in discretionary budget authority.

Still, $405 million in outlays is a lot of money.

Now, where did that $405 million go? It went everywhere across the bill.

The President in his recommendations to us included this in his budget. He has done so for a couple years. For the first time, we have accepted it.

The other three enhancers the President recommended were rejected. The Senate had them in their bill. We carefully reviewed them. The gentleman from Mississippi [Mr. MONTGOMERY] expressed his opposition to them, and rightfully so. We dropped them in the conference because we thought they adversely affected veterans very specifically and directly. So we dropped those other three so-called enhancers.

We did retain the so-called no-bid, because in our judgment it does not affect veterans. It is an issue that affects the relationship between the Federal Treasury and the lending institutions, who pays what. It does not involve veterans. It involves the issue of foreclosed veterans' mortgages. Once they are foreclosed who pays what?

We have resolved that in favor of the U.S. Treasury here.

On the question of whether this will adversely impact on prospective borrowers in the VA mortgage home loan guarantee program in the future, I will read from the veterans' Independent Budget. They do one every year, and it is a very, very fine proposal. They testify about it. The gentleman from Mississippi [Mr. MONTGOMERY] has hearings on it, and they do a wonderful job.

I want to quote from the veterans' alternative budget. On page 59 of this year's Independent Budget, which is put together by the Veterans' Service Organizations, they state on page 59:

> In this regard, the Veterans' Service Organizations again observe that the proposal to include resale losses in net value in the formula for determining whether VA will acquire foreclosed properties (the no-bid formula) would not result in the cataclysm that some people predict. It would deter lenders from making bad or marginal loans; however, this hardly should result in a mass lender exodus from the program.

You know, Mr. Speaker, the veterans do quite well in this bill. They have an 8-percent increase in VA medical care. Please measure that against what happened to NASA. I did oppose the space station, as you all know; but in fairness to NASA, let me say, they are at level funding. They do not get any more money this year than they got last year. So please do not think this money went to NASA. That is not the case. It went everywhere in this bill, including to veterans.

This House has to be proud of its record on funding veterans' programs, led by the gentleman from Mississippi [Mr. MONTGOMERY], of course; but that is a significant point. Over the years we have dramatically increased veterans' medical care above what the President recommended.

In this year's budget, the President recommended a decent figure in his recommendation to us. Not enough by any person's standards, but better than in the past. We have met his standard and slightly increased it.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just have one question.

The gentleman said this did not go to NASA. I presume the gentleman means the space station as well.

As I understand it, it was $1.7 billion when it left the House and it goes to $2.1 billion.

Where did that extra $400 million come from?

Mr. TRAXLER. From the large pot, the entire pot.

Mr. BURTON of Indiana. From the large pot, and not the VA loan and other programs?

Mr. TRAXLER. No.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I urge a yes vote on the rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 186, not voting 44, as follows:

[Roll No. 431]

YEAS—202

Abercrombie
Ackerman
Alexander
Anderson
Andrews (TX)
Annunzio
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Barton
Beilenson
Berman
Bevill
Boehlert
Bonior
Borski
Boucher
Brooks
Broomfield
Brown
Bryant
Camp
Cardin
Carper
Carr
Chapman
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Coughlin
Cramer
Davis
de la Garza
DeLay
Derrick
Dicks
Dingell
Downey
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Henry
Hertel
Hochbrueckner
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (TX)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kolter
Kopetski
LaFalce
Lantos
Laughlin
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murtha
Myers
Natcher
Neal (NC)
Nowak
Oberstar
Olin
Ortiz
Owens (NY)
Packard
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Poshard
Price
Pursell
Quillen
Reed
Riggs
Rinaldo
Roe
Rohrabacher
Rose
Rostenkowski
Roybal
Sabo
Sawyer
Saxton
Scheuer
Schumer
Serrano
Sharp
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Solomon
Stokes
Studds
Sundquist
Swift
Tanner
Tauzin
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Waters
Waxman
Wheat
Whitten
Wilson
Wise
Wolpe
Wylie
Yates

NAYS—186

Allard
Allen
Andrews (ME)
Andrews (NJ)
Applegate
Armey
Ballenger
Barrett
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Blackwell
Bliley
Boehner
Brewster
Browder
Bruce
Bunning
Burton
Byron
Callahan
Campbell (CA)
Clement
Clinger
Coble
Combest
Condit
Conyers
Costello
Cox (CA)
Cox (IL)
Coyne
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
Dellums
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (OK)
Emerson
English
Erdreich
Evans
Ewing
Fields
Franks (CT)
Gallegly
Gilman
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Hefner
Herger
Hoagland
Hobson
Hopkins
Horn
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Jenkins
Johnson (SD)
Jones
Jontz
Kasich
Kildee
Kleczka
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
LaRocco
Leach
Lipinski
Long
Marlenee
McCandless
McCollum
McCurdy
McGrath
McHugh
Meyers
Molinari
Montgomery
Moorhead
Morrison
Murphy
Nagle
Neal (MA)
Nichols
Nussle
Obey
Olver
Owens (UT)
Oxley
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Rowland
Sanders
Sangmeister
Santorum
Sarpalius
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Sisisky
Slattery
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Swett
Synar
Tallon
Taylor (MS)
Thomas (CA)
Unsoeld
Vucanovich
Washington
Weber
Williams
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—44

Anthony
Barnard
Boxer
Bustamante
Campbell (CO)
Chandler
Clay
Crane
Dickinson
Dixon
Donnelly
Dooley
Dymally
Fascell
Fawell
Fazio
Foglietta
Gaydos
Hansen
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Lehman (CA)
Lehman (FL)
Lewis (FL)
Livingston
Martinez
McCrery
McEwen
Oakar
Orton
Perkins
Rangel
Richardson
Russo
Savage
Schulze
Smith (TX)
Solarz
Stark
Weldon
Yatron

☐ 1224

The Clerk announced the following pairs:

On this vote:

Mr. Fazio for with Mr. Lewis of Florida against.

Mr. Hayes of Louisiana for with Mr. Orton against.

Ms. MOLINARI, Mrs. ROUKEMA, Ms. SNOWE, Mrs. BENTLEY, and Messrs. BLACKWELL, TALLON, JOHNSON of South Dakota, SARPALIUS, RAHALL, MOORHEAD, SLATTERY, SPRATT, McHUGH, DORGAN of North Dakota, and SMITH of New Jersey changed their vote from "yea" to "nay."

Messrs. ROHRABACHER, VANDER JAGT, MILLER of Washington, LAUGHLIN, TOWNS, DWYER, and EDWARDS of Texas, and Ms. WATERS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TRAXLER. Mr. Speaker, pursuant to House Resolution 579, I call up the conference report on the bill (H.R.

5679) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to House Resolution 579, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, September 24, 1992, at page 27372.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 30 minutes, and the gentleman form New York [Mr. GREEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 5679, as well as the Senate amendments reported in disagreement, and that I may include tables, charts, and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in connection with the report, we have had considerable debate on the issues during the course of debate on the rule. Therefore, I will submit my statement for the RECORD, and when other Members are recognized, I will answer questions as they may occur.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, we bring before the House today the 1993 conference report on the VA-HUD-independent agencies appropriations bill. This will be the last conference report that I bring before you—and, my friends, it was definitely the toughest.

But, Mr. Speaker, I'm proud to say we have met every test—every test imposed on this bill.

We are under our domestic discretionary outlay target of $64,954,000,000.

We are under our budget authority target of $65,800,000,000.

And, Mr. Speaker, we have met the President's test. We are under his total request for the 1993 VA-HUD bill by more than $25,000,000.

But the toughest job we faced was to hit that outlay target. And, my fellow colleagues, we could not have done that without using one of the President's outlay savings proposals—and that was the so-called VA no-bid provision.

But let me make very clear up front that this provision does not damage the veteran.

We could stand here all day and philosophically discuss where the $405,700,000 of no-bid outlays ended up in this bill. I can make a very strong case that it benefited everyone—that all agencies and programs benefited because—but for that $405,700,000—every other program in this bill would have to be cut.

But, Mr. Speaker, when you look at the bottom line—when you look at what programs are higher in 1993 than they were in 1992—VA is the clear winner.

Almost 80 percent of all first year outlays expended in the VA-HUD bill are devoted to veterans and NASA programs.

And how did those two agencies fare relative to last year? Here are the facts:

VA total discretionary programs are up by almost $1.1 billion—or 7 percent above 1992.

NASA, on the other hand, is funded at the same level as last year—in other words, no increase—including no increase for inflation.

The Veterans medical care program, on the other hand, has a $1,130,000,000 increase above 1992. And it deserves that kind of an increase because health care costs, as we all know, continue to escalate.

But anyone who tells you that because we have used this $405,700,000 VA outlay enhancer—we put that money into NASA—is dead wrong.

The fact is the money was put everywhere—and most of it was allocated to the VA medical care program.

This subcommittee has nothing to be ashamed about when it comes to veterans programs.

This subcommittee has been in the forefront of insuring that we maintain our employment—our doctors and nurses—in the VA hospitals in the face of budget requests that would have cut more than 15,000 positions from the VA hospital system over the past 10 years.

Mr. Speaker, we stopped that from happening—year after year.

And I want everyone here to know that in past years—we had to use so-called outlay enhancers in NASA and in housing in order to provide those money for the VA medical care system.

I didn't hear anybody complaining about the fact we used HUD and NASA budget authority and outlay enhancers.

The bottom line is there simply is not enough money to go around. There is not enough money to get the job done the way we'd like to.

NASA is going to have to sacrifice some programs at a flat growth rate over the next few years.

But our first priority in this bill has been the VA medical care program—and that is reflected by the numbers we bring before you today.

Mr. Speaker, I would like to more fully set forth for the record the intent of the conferees in including $42 million for the construction, equipping, and integration of the Earth and human science data facility for Consortium for International Earth Science Information Network on Ojibway Island in Saginaw, MI. While this facility is in my district and has importance to me for this reason, the facility has important and urgent national purposes.

The Congress is not alone in observing that it is a wise investment for the Nation to try to more broadly utilize its science data purchased with the billions of dollars of Federal investment. A half dozen or more of the Nation's science advisory bodies have urged the Congress to address this important mission area. The global change phenomena make this mission area not only prudent but essential.

NASA is to be commended for its leadership in developing the Earth observing system [EOS] and the accompanying EOS data and information system [EOSDIS]. Using space to understand the Earth helps us to address and survive the threat of global environmental change. To its credit, NASA recognized this and proposed a space mission that will provide full use of space-derived data and information for scientists and policymakers. The Congress is fully funding the requests for EOS and EOSDIS because of the significance of these programs.

The CIESIN facility will fill an important role in EOSDIS and the global change community by being the instrument to permit the integration of Earth and human sciences. This will further the goals of science, deliver the results more quickly to policymakers and will encourage worldwide consensus on global change.

The CIESIN facility has a role in fostering interdisciplinary research and permitting diverse communication between data sets accessible by different computer languages and in different computer formats. CIESIN will be a one-stop shop to identify the location of accessible data across agencies of the Federal Government and across international borders. In this mission component, CIESIN will be a directory leading to existing data and information centers.

The CIESIN facility will be an instrument in organizing the world community in global change research and information dissemination. It has a role to play in educating the public on global change. It is a role urgently pointed to by policy analysts and others studying global change. In furtherance of this mission area, CIESIN has accepted a role in supporting the U.S. Global Change Research Information Office established by the Global Change Act of 1990. This Office has responsibilities in disseminating global change information to the international community.

As a data center to encourage consensus on global change, it is appropriate that the CIESIN facility should be a national demonstration of how to plan and design a building that minimizes environmental impact, and a model of our ability to construct facilities for sustainable development. While this is not a congressional mandate, it is a role appropriately being planned by CIESIN.

CIESIN's accent on global change makes it an appropriate vehicle to demonstrate building techniques that minimize global change effects. I know our colleagues will fully support the complete documentation of this design and construction process to serve as a model of environmental sensitivity and responsible planning.

The CIESIN facility can be one of the means used to enable data and information access and use across the science community, the U.S. Government, State and local governments, and other nations. It should not be the only mechanism for doing this, but it is urgently needed to allow others to reap the benefits of science data for U.S. Government purposes beyond narrow agency mission assignments. Global change is one such important national purpose, and the CIESIN facility serves this mission.

Mr. Speaker, I urge the adoption of this conference report because it is a fair, equitable, and reasonable approach to the problems we faced.

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| TITLE I | | | | | | |
| DEPARTMENT OF VETERANS AFFAIRS | | | | | | |
| Veterans Benefits Administration | | | | | | |
| Compensation and pensions | 15,841,620,000 | 16,494,239,000 | 16,494,239,000 | 16,494,239,000 | 16,494,239,000 | +652,619,000 |
| Readjustment benefits | 635,400,000 | 729,000,000 | 729,000,000 | 814,010,000 | 814,010,000 | +178,610,000 |
| Veterans insurance and indemnities | 25,740,000 | 22,730,000 | 22,730,000 | 22,730,000 | 22,730,000 | -3,010,000 |
| Guaranty and indemnity program account (indefinite) | 549,338,000 | 565,655,000 | 565,655,000 | 565,655,000 | 565,655,000 | +16,317,000 |
| Administrative expenses | 39,689,000 | 43,030,000 | 40,524,000 | 42,500,000 | 40,524,000 | +835,000 |
| Loan guaranty program account (indefinite) | 93,560,000 | 82,315,000 | 82,315,000 | 82,315,000 | 82,315,000 | -11,245,000 |
| Administrative expenses | 85,870,000 | 93,866,000 | 87,869,000 | 89,870,000 | 87,869,000 | +1,999,000 |
| Direct loan program account (indefinite) | 11,000 | 8,000 | 8,000 | 8,000 | 8,000 | -3,000 |
| (Limitation on direct loans) | (1,000,000) | (1,000,000) | (1,000,000) | (1,000,000) | (1,000,000) | |
| Administrative expenses | 1,368,000 | 1,469,000 | 1,393,000 | 1,469,000 | 1,393,000 | +25,000 |
| (Loan level) | (180,000) | (147,000) | (147,000) | (147,000) | (147,000) | (-33,000) |
| Education loan fund program account | 8,000 | 1,000 | 1,000 | 1,000 | 1,000 | -7,000 |
| (Limitation on direct loans) | (21,000) | (11,000) | (11,000) | (11,000) | (11,000) | (-10,000) |
| Administrative expenses | 307,000 | 305,000 | 305,000 | 305,000 | 305,000 | -2,000 |
| Vocational rehabilitation loans program account | 105,000 | 51,000 | 51,000 | 51,000 | 51,000 | -54,000 |
| (Limitation on direct loans) | (1,688,000) | (1,760,000) | (1,760,000) | (1,760,000) | (1,760,000) | (+72,000) |
| Administrative expenses | 936,000 | 1,040,000 | 962,000 | 1,040,000 | 962,000 | +26,000 |
| Native American Veteran Housing Loan Program | | | | 4,500,000 | 4,500,000 | +4,500,000 |
| (Limitation on direct loans) | | | | (58,400,000) | (58,400,000) | (+58,400,000) |
| Administrative expenses | | | | 500,000 | 500,000 | +500,000 |
| Total | 17,273,952,000 | 18,033,709,000 | 18,025,052,000 | 18,119,193,000 | 18,115,062,000 | +841,110,000 |
| Veterans Health Administration | | | | | | |
| Medical care | 13,512,920,000 | 14,631,920,000 | 14,631,920,000 | 14,668,920,000 | 14,642,723,000 | +1,129,803,000 |
| Medical equipment | 90,000,000 | | | | | -90,000,000 |
| (Transfer to Medical admin and misc operating exp) | -3,000,000 | | | -2,000,000 | | +3,000,000 |
| (By transfer from Defense Cooperation Account) | (10,000,000) | | | | | (-10,000,000) |
| Medical and prosthetic research | 227,000,000 | 242,000,000 | 242,000,000 | 232,000,000 | 232,000,000 | +5,000,000 |
| Health professional scholarship program | 10,113,000 | 10,113,000 | 10,113,000 | 10,113,000 | 10,113,000 | |
| Health Professionals Education loan Repayment program | | | | 5,000,000 | 5,000,000 | +5,000,000 |
| Medical administration and miscellaneous operating expenses | 40,479,000 | 48,000,000 | 42,359,000 | 44,000,000 | 71,954,000 | +31,475,000 |
| (By transfer from Medical care) | 3,000,000 | | | 2,000,000 | | -3,000,000 |
| Grants to the Republic of the Philippines | 500,000 | 500,000 | 500,000 | 500,000 | 500,000 | |
| Transitional housing loan program: | | | | | | |
| Loan program account (by transfer) | | (7,000) | (4,000) | (7,000) | (7,000) | (+7,000) |
| Administrative expenses (by transfer) | | (50,000) | (25,000) | (50,000) | (50,000) | (+50,000) |
| (Limitation on direct loans) | | (70,000) | (35,000) | (70,000) | (70,000) | (+70,000) |
| Total | 13,881,012,000 | 14,932,533,000 | 14,926,892,000 | 14,960,533,000 | 14,962,290,000 | +1,081,278,000 |
| Departmental Administration | | | | | | |
| General operating expenses | 796,000,000 | 821,765,000 | 808,882,000 | 826,765,000 | 811,919,000 | +15,919,000 |
| National Cemetery System | 67,045,000 | 70,441,000 | 67,894,000 | 73,441,000 | 70,668,000 | +3,623,000 |
| Desert Shield/Desert Storm incremental costs | (14,100,000) | | | | | (-14,100,000) |
| Office of Inspector General | 29,959,000 | 33,000,000 | 30,719,000 | 31,646,000 | 31,182,000 | +1,223,000 |
| Construction, major projects | 414,250,000 | 382,274,000 | 533,974,000 | 213,274,000 | 492,674,000 | +78,424,000 |
| Construction, minor projects | 190,701,000 | 220,000,000 | 190,701,000 | 190,701,000 | 149,525,000 | -41,176,000 |
| (Limitation on administrative expenses) | (41,176,000) | (46,176,000) | (41,176,000) | (43,676,000) | | (-41,176,000) |
| Parking garage revolving fund | 19,200,000 | 1,317,000 | 9,917,000 | 1,317,000 | 1,317,000 | -17,883,000 |
| Grants for construction of State extended care facilities | 85,000,000 | 40,000,000 | 40,000,000 | 80,000,000 | 40,000,000 | -45,000,000 |
| Grants for the construction of State veterans cemeteries | 5,104,000 | 7,800,000 | 5,104,000 | 5,104,000 | 5,104,000 | |
| Total | 1,607,259,000 | 1,576,597,000 | 1,687,191,000 | 1,422,248,000 | 1,602,389,000 | -4,870,000 |
| Total, title I, Department of Veterans Affairs | 32,762,223,000 | 34,542,839,000 | 34,639,135,000 | 34,501,974,000 | 34,679,741,000 | +1,917,518,000 |
| (Limitation on direct loans) | (2,889,000) | (2,988,000) | (2,953,000) | (61,388,000) | (61,388,000) | (+58,499,000) |
| (Limitation on administrative expenses) | (41,176,000) | (46,176,000) | (41,176,000) | (43,676,000) | | (-41,176,000) |
| Consisting of: | | | | | | |
| Mandatory | (17,145,669,000) | (17,893,947,000) | (17,893,947,000) | (17,978,957,000) | (17,978,957,000) | (+833,288,000) |
| Discretionary | (15,616,554,000) | (16,648,892,000) | (16,745,188,000) | (16,523,017,000) | (16,700,784,000) | (+1,084,230,000) |
| TITLE II | | | | | | |
| DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT | | | | | | |
| Housing Programs | | | | | | |
| Homeownership and opportunity for people everywhere grants (HOPE grants) | 136,000,000 | 1,010,246,000 | 361,000,000 | 786,000,000 | 661,000,000 | +525,000,000 |
| (By transfer) | (225,000,000) | | | (79,000,000) | | (-225,000,000) |
| HOME investment partnerships program | 1,500,000,000 | 700,000,000 | 600,000,000 | 1,500,000,000 | 1,000,000,000 | -500,000,000 |

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| Annual contributions for assisted housing | 8,070,201,000 | 7,901,829,810 | 10,000,000,000 | 3,581,000,000 | 8,936,731,000 | +866,530,000 |
| Public housing bond refinancing | | | -10,000,000 | -10,000,000 | -10,000,000 | -10,000,000 |
| Transfer from flexible subsidy and Nehemiah fund | | 42,934,000 | 42,934,000 | 18,934,000 | 42,934,000 | +42,934,000 |
| Rescission of assisted housing deobligations (budget authority, indefinite) | -167,000,000 | -8,000,000 | -8,000,000 | -8,000,000 | -8,000,000 | +159,000,000 |
| Rescission of unobligated balances | -667,000,000 | | | | | +667,000,000 |
| Total, annual contributions (net) | 7,236,201,000 | 7,936,763,810 | 10,024,934,000 | 3,581,934,000 | 8,961,665,000 | +1,725,464,000 |
| Section 8 subsidy contract amendments | | | | 981,200,000 | | |
| Assistance for the renewal of expiring section 8 subsidy contracts | 7,355,128,000 | 6,411,632,000 | 6,346,135,000 | 6,346,135,000 | 6,076,135,000 | -1,278,993,000 |
| Advance appropriation for next fiscal year | 850,000,000 | 421,000,000 | 450,000,000 | 450,000,000 | 720,000,000 | -130,000,000 |
| Rental housing assistance: | | | | | | |
| Rescission of budget authority, indefinite | -52,641,000 | -42,000,000 | -42,000,000 | -42,000,000 | -42,000,000 | +10,641,000 |
| (Limitation on annual contract authority, indefinite) | (-2,393,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (+393,000) |
| Rescission of prepayment recaptures | | -283,000,000 | -283,000,000 | -283,000,000 | -283,000,000 | -283,000,000 |
| Rent supplement program: | | | | | | |
| Rescission of budget authority, indefinite | -53,856,000 | | | | | +53,856,000 |
| (Limitation on annual contract authority, indefinite) | (-2,448,000) | | | | | (+2,448,000) |
| Congregate services | 17,700,000 | | 7,500,000 | 27,000,000 | 21,000,000 | +3,300,000 |
| Modernization of Low-income housing projects | | | | 3,350,000,000 | | |
| Payments for operation of low-income housing projects | 2,450,000,000 | 2,282,436,000 | 2,282,436,000 | 2,450,000,000 | 2,282,436,000 | -167,564,000 |
| Housing counseling assistance | 6,025,000 | 3,515,000 | 6,025,000 | 3,515,000 | 6,025,000 | |
| Flexible subsidy fund | 50,000,000 | -87,617,000 | | | | -50,000,000 |
| (Transfer to annual contributions) | | -24,000,000 | -24,000,000 | | -24,000,000 | -24,000,000 |
| Nehemiah housing opportunity fund (transfer to annual contributions) | | -18,934,000 | -18,934,000 | -18,934,000 | -18,934,000 | -18,934,000 |
| Restore grants | | 312,400,000 | | | | |
| Restore loan program account | | 50,000,000 | | | | |
| Federal Housing Administration: | | | | | | |
| FHA - Mutual mortgage insurance program account: | | | | | | |
| (Limitation on guaranteed loans) | (60,000,000,000) | (57,146,000,000) | (57,146,000,000) | (57,146,000,000) | (57,146,000,000) | (-2,854,000,000) |
| Administrative expenses | 255,645,000 | 261,148,000 | 257,021,000 | 255,645,000 | 255,645,000 | |
| Offsetting receipts | -255,645,000 | -261,148,000 | -261,148,000 | -261,148,000 | -261,148,000 | -5,503,000 |
| FHA - General and special risk program account: | | | | | | |
| (Limitation on guaranteed loans) | (8,651,901,000) | (9,038,980,000) | (9,038,980,000) | (8,667,980,000) | (8,864,230,000) | (+212,329,000) |
| Administrative expenses | 189,000,000 | 187,000,000 | 187,000,000 | 176,000,000 | 187,000,000 | -2,000,000 |
| Program costs | 54,911,000 | 205,823,000 | 205,823,000 | 126,823,000 | 126,823,000 | +71,912,000 |
| Offsetting receipts | | -22,171,000 | -22,171,000 | -22,171,000 | -22,171,000 | -22,171,000 |
| Raise FHA mortgage limitation | | | -44,000,000 | -44,000,000 | -44,000,000 | -44,000,000 |
| Eliminate 57% closing cost limitation | | | 1,000,000 | | 1,000,000 | +1,000,000 |
| Multi-Family Demonstration (Program costs) | | | | 41,500,000 | | |
| (Limitation on guaranteed loans) | | | | (196,250,000) | | |
| Administrative expenses | | | | 11,000,000 | | |
| Total, Federal Housing Administration | 243,911,000 | 370,652,000 | 323,525,000 | 283,649,000 | 243,149,000 | -762,000 |
| Drug elimination grants for low-income housing | 165,000,000 | 165,000,000 | 165,000,000 | 175,000,000 | 175,000,000 | +10,000,000 |
| Government National Mortgage Association | | | | | | |
| Guarantees of mortgage-backed securities loan guarantee program account: | | | | | | |
| (Limitation on guaranteed loans) | (74,769,293,000) | (77,700,000,000) | (77,700,000,000) | (77,700,000,000) | (77,700,000,000) | (+2,930,707,000) |
| Administrative expenses | 6,595,000 | 6,936,000 | 6,680,000 | 6,936,000 | 6,936,000 | +341,000 |
| Offsetting receipts | -279,700,000 | -322,500,000 | -322,500,000 | -322,500,000 | -322,500,000 | -42,800,000 |
| Total, Housing Programs (net) | 19,630,363,000 | 18,892,529,810 | 19,882,801,000 | 19,274,935,000 | 19,462,912,000 | -167,451,000 |
| Homeless Assistance | | | | | | |
| Emergency shelter grants program | 73,164,000 | 17,450,000 | 17,450,000 | 67,450,000 | 50,000,000 | -23,164,000 |
| Transitional and supportive housing demonstration program | 150,000,000 | 203,926,000 | 150,000,000 | 150,000,000 | 150,000,000 | |
| Supplemental assistance for facilities to assist the homeless | 11,263,000 | | | | | -11,263,000 |
| Section 8 moderate rehabilitation, single room occupancy | 105,000,000 | | 103,926,000 | 105,000,000 | 105,000,000 | |
| Shelter plus care: Section 8 moderate rehabilitation, single room occupancy | 73,333,000 | | | | | -73,333,000 |
| Shelter plus care: Section 202 rental assistance | 37,200,000 | | | | | -37,200,000 |
| Shelter plus care | | 265,902,000 | 265,902,000 | 266,550,000 | 266,550,000 | +266,550,000 |
| Safe havens | | 50,000,000 | | | | |
| Total | 449,960,000 | 537,278,000 | 537,278,000 | 589,000,000 | 571,550,000 | +121,590,000 |
| Community Planning and Development | | | | | | |
| Community development grants | 3,400,000,000 | 2,900,000,000 | 4,000,000,000 | 4,100,000,000 | 4,000,000,000 | +600,000,000 |
| (Limitation on guaranteed loans) | (140,000,000) | | (300,000,000) | (2,000,000,000) | (300,000,000) | (+160,000,000) |
| Policy Development and Research | | | | | | |
| Research and technology | 25,000,000 | 35,150,000 | 25,000,000 | 25,000,000 | 25,000,000 | |

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| Fair Housing and Equal Opportunity | | | | | | |
| Fair housing activities | 13,000,000 | 12,350,000 | 13,350,000 | 21,000,000 | 15,000,000 | +2,000,000 |
| Management and Administration | | | | | | |
| Salaries and expenses (multiple accounts) | 438,203,000 | 489,864,000 | 432,057,000 | 471,509,000 | 452,567,000 | +14,364,000 |
| (By transfer, limitation on FHA corporate funds) | (435,000,000) | (438,000,000) | (433,966,000) | (432,497,000) | (432,497,000) | (-2,503,000) |
| (By transfer, GNMA) | | (6,936,000) | (6,680,000) | (6,936,000) | (6,936,000) | (+6,936,000) |
| Office of Inspector General | 35,020,000 | 37,812,000 | 35,718,000 | 36,400,000 | 36,012,000 | +992,000 |
| (By transfer, limitation on FHA corporate funds) | (9,645,000) | (10,148,000) | (10,055,000) | (10,148,000) | (10,148,000) | (+503,000) |
| Administrative provisions | | | 2,064,000 | | 3,579,000 | +3,579,000 |
| Total, title II, Dept of Housing and Urban Development (net) | 23,991,546,000 | 22,904,983,810 | 24,928,268,000 | 24,517,844,000 | 24,566,620,000 | +575,074,000 |
| Appropriations, fiscal year 1993 | (24,082,043,000) | (22,816,983,810) | (24,811,268,000) | (24,400,844,000) | (24,179,620,000) | (+97,577,000) |
| Advance appropriations for next year | (850,000,000) | (421,000,000) | (450,000,000) | (450,000,000) | (720,000,000) | (-130,000,000) |
| Rescissions | (-940,497,000) | (-333,000,000) | (-333,000,000) | (-333,000,000) | (-333,000,000) | (+607,497,000) |
| (By transfer) | (225,000,000) | | | (79,000,000) | | (-225,000,000) |
| (Limitation on annual contract authority, indefinite) | (-4,841,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (+2,841,000) |
| (Limitation on guaranteed loans) | (143,561,194,000) | (143,884,980,000) | (144,184,980,000) | (145,710,230,000) | (144,010,230,000) | (+449,036,000) |
| (Limitation on corporate funds to be expended) | (444,645,000) | (455,084,000) | (450,701,000) | (449,581,000) | (449,581,000) | (+4,936,000) |
| Consisting of: | | | | | | |
| FY 1993 advance from P.L. 102-139 | | 850,000,000 | 850,000,000 | 850,000,000 | 850,000,000 | +850,000,000 |
| Appropriations, FY 1993 from H.R. 5679 | 23,141,546,000 | 22,483,983,810 | 24,478,268,000 | 24,067,844,000 | 23,846,620,000 | +705,074,000 |
| Total, title II, fiscal year 1993 | 23,141,546,000 | 23,333,983,810 | 25,328,268,000 | 24,917,844,000 | 24,696,620,000 | +1,555,074,000 |
| TITLE III | | | | | | |
| INDEPENDENT AGENCIES | | | | | | |
| American Battle Monuments Commission | | | | | | |
| Salaries and expenses | 18,440,000 | 18,318,000 | 19,318,000 | 19,318,000 | 19,318,000 | +878,000 |
| Chemical Safety and Hazard Investigation Board | | | | | | |
| Salaries and expenses | | 5,000,000 | 2,500,000 | | | |
| Commission on National and Community Service | | | | | | |
| Salaries and expenses | 2,000,000 | 2,000,000 | 2,000,000 | 3,000,000 | 2,500,000 | +500,000 |
| Program activities | 73,000,000 | 73,000,000 | 35,000,000 | 100,000,000 | 73,000,000 | |
| Total | 75,000,000 | 75,000,000 | 37,000,000 | 103,000,000 | 75,500,000 | +500,000 |
| Consumer Product Safety Commission | | | | | | |
| Salaries and expenses | 40,200,000 | 42,100,000 | 42,100,000 | 48,400,000 | 48,400,000 | +8,200,000 |
| Court of Veterans Appeals | | | | | | |
| Salaries and expenses | 9,133,000 | 8,630,000 | 8,630,000 | 8,330,000 | 8,480,000 | -653,000 |
| Department of Defense - Civil | | | | | | |
| Cemeterial Expenses, Army | | | | | | |
| Salaries and expenses | 12,587,000 | 13,033,000 | 13,033,000 | 13,033,000 | 13,033,000 | +446,000 |
| Environmental Protection Agency | | | | | | |
| Research and development | 323,000,000 | 338,500,000 | 338,500,000 | 323,000,000 | 323,000,000 | |
| Rescission | -2,100,000 | | | | | +2,100,000 |
| Abatement, control, and compliance | 1,133,625,000 | 1,091,860,000 | 1,331,055,000 | 1,116,860,000 | 1,318,965,000 | +185,340,000 |
| Rescission | -5,800,000 | | | | | +5,800,000 |
| Abatement, control, and compliance loan account | | | 30,225,000 | 30,225,000 | 30,225,000 | +30,225,000 |
| (Limitation on direct loans) | | | (70,500,000) | (70,500,000) | (70,500,000) | (+70,500,000) |
| Administrative expenses | | | 1,000,000 | 2,000,000 | 1,500,000 | +1,500,000 |
| Program and research operations | 1,040,500,000 | 1,157,064,000 | 848,214,000 | 1,063,000,000 | 823,607,000 | -216,893,000 |
| Office of Inspector General | 41,200,000 | 45,358,000 | 42,240,000 | 43,358,000 | 42,799,000 | +1,599,000 |
| Buildings and facilities | 39,300,000 | 42,100,000 | 134,300,000 | 38,000,000 | 134,300,000 | +95,000,000 |
| Oil spill response | | 23,340,000 | 18,434,000 | 23,340,000 | 20,000,000 | +20,000,000 |
| Hazardous substance superfund | 1,616,228,000 | 1,750,000,000 | 1,416,228,000 | 1,616,228,000 | 1,573,528,000 | -42,700,000 |
| Rescission | -16,100,000 | | | | | +16,100,000 |
| (Limitation on administrative expenses) | (240,000,000) | (271,700,000) | (264,000,000) | (256,000,000) | (260,000,000) | (+20,000,000) |
| Leaking underground storage tank trust fund | 75,000,000 | 75,000,000 | 75,000,000 | 75,000,000 | 75,000,000 | |
| (Limitation on administrative expenses) | (6,400,000) | | (7,400,000) | (7,000,000) | (7,200,000) | (+800,000) |
| State revolving funds / construction grants | 2,400,000,000 | 2,500,000,000 | 2,400,000,000 | 2,650,000,000 | 2,550,000,000 | +150,000,000 |
| Total | 6,644,853,000 | 7,023,222,000 | 6,635,196,000 | 6,981,011,000 | 6,892,924,000 | +248,071,000 |

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| Executive Office of the President | | | | | | |
| Council on Environmental Quality and Office of Environmental Quality | 2,560,000 | 2,763,000 | 2,560,000 | 2,560,000 | 2,560,000 | .................... |
| National Space Council | 1,491,000 | 1,598,000 | .................... | 1,591,000 | 1,591,000 | +100,000 |
| Office of Science and Technology Policy | 6,010,000 | 4,446,000 | 4,446,000 | 4,000,000 | 6,225,000 | +215,000 |
| The Points of Light Foundation | 5,000,000 | 10,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | .................... |
| Total | 15,061,000 | 18,807,000 | 12,006,000 | 13,151,000 | 15,376,000 | +315,000 |
| Federal Emergency Management Agency | | | | | | |
| Disaster relief | 184,459,000 | 292,000,000 | 292,000,000 | 292,000,000 | 292,000,000 | +107,541,000 |
| Emergency funding | 1,100,000,000 | 200,000,000 | .................... | 200,000,000 | .................... | -1,100,000,000 |
| Disaster assistance direct loan program account | 541,000 | 95,000 | 95,000 | 95,000 | 95,000 | -446,000 |
| (Limitation on direct loans) | (6,000,000) | (8,000,000) | (40,000,000) | (40,000,000) | (40,000,000) | (+34,000,000) |
| Salaries and expenses (domestic) | 88,995,000 | 95,486,000 | 90,618,000 | 91,486,000 | 90,618,000 | +1,623,000 |
| Defense function (050) | 74,118,000 | 75,791,000 | 65,791,000 | 68,791,000 | 69,791,000 | -4,327,000 |
| Total | 163,113,000 | 171,277,000 | 156,409,000 | 160,277,000 | 160,409,000 | -2,704,000 |
| Office of Inspector General | 5,144,000 | 5,948,000 | 2,974,000 | 3,000,000 | 3,000,000 | -2,144,000 |
| Emergency management planning and assistance (domestic) | 52,694,000 | 41,373,000 | 41,373,000 | 45,373,000 | 43,373,000 | -9,321,000 |
| Defense function (050) | 233,133,000 | 217,670,000 | 214,170,000 | 212,370,000 | 209,870,000 | -23,263,000 |
| (By transfer from Customs Service) | (2,500,000) | .................... | .................... | .................... | .................... | (-2,500,000) |
| Total | 285,827,000 | 259,043,000 | 255,543,000 | 257,743,000 | 253,243,000 | -32,584,000 |
| Emergency food and shelter program | 134,000,000 | 100,000,000 | 109,000,000 | 134,000,000 | 129,000,000 | -5,000,000 |
| Administrative provision REP savings | .................... | -10,477,000 | -10,477,000 | -10,477,000 | -10,477,000 | -10,477,000 |
| Total, Federal Emergency Management Agency | 1,873,084,000 | 1,017,886,000 | 805,544,000 | 1,036,638,000 | 827,270,000 | -1,045,814,000 |
| General Services Administration | | | | | | |
| Consumer Information Center | 1,944,000 | 2,026,000 | 2,026,000 | 2,026,000 | 2,026,000 | +82,000 |
| (Limitation on administrative expenses) | (2,285,000) | (2,367,000) | (2,367,000) | (2,367,000) | (2,367,000) | (+82,000) |
| Department of Health and Human Services | | | | | | |
| Office of Consumer Affairs | 2,103,000 | 2,159,000 | 2,159,000 | 2,159,000 | 2,159,000 | +56,000 |
| Interagency Council on the Homeless | | | | | | |
| Salaries and expenses | 1,083,000 | 1,300,000 | 1,300,000 | .................... | 900,000 | -183,000 |
| National Aeronautics and Space Administration | | | | | | |
| Research and development | 6,413,800,000 | 7,731,400,000 | 6,670,650,000 | 7,117,100,000 | 7,089,300,000 | +675,500,000 |
| Rescission | -4,050,000 | .................... | .................... | -14,300,000 | -14,300,000 | -10,250,000 |
| Space flight, control and data communications | 5,157,075,000 | 5,266,500,000 | 4,961,500,000 | 5,086,000,000 | 5,086,000,000 | -71,075,000 |
| Portion applied to debt reduction | -32,675,000 | .................... | .................... | .................... | .................... | +32,675,000 |
| Total | 5,124,400,000 | 5,266,500,000 | 4,961,500,000 | 5,086,000,000 | 5,086,000,000 | -38,400,000 |
| Construction of facilities | 525,000,000 | 319,200,000 | 525,000,000 | 319,200,000 | 525,000,000 | .................... |
| Research and program management | 2,242,300,000 | 1,660,027,000 | 1,600,027,000 | 1,630,000,000 | 1,615,014,000 | -627,286,000 |
| Office of Inspector General | 14,600,000 | 15,900,000 | 14,925,000 | 15,200,000 | 15,062,000 | +462,000 |
| NASA fees | .................... | .................... | -1,000,000 | .................... | .................... | .................... |
| Total, National Aeronautics and Space Administration | 14,316,050,000 | 14,993,027,000 | 13,771,102,000 | 14,153,200,000 | 14,316,076,000 | +26,000 |
| National Credit Union Administration | | | | | | |
| Central liquidity facility: | | | | | | |
| (Limitation on direct loans) | (600,000,000) | (600,000,000) | (600,000,000) | (600,000,000) | (600,000,000) | .................... |
| (Limitation on administrative expenses, corporate funds) | (964,000) | (964,000) | (964,000) | (964,000) | (964,000) | .................... |
| National Commission on American Indian, Alaska Native, and Native Hawaiian Housing | | | | | | |
| Salaries and expenses | 500,000 | .................... | .................... | 500,000 | 500,000 | .................... |
| National Commission on Financial Institution Reform, Recovery, and Enforcement | | | | | | |
| Salaries and expenses | 1,000,000 | .................... | .................... | .................... | .................... | -1,000,000 |
| National Commission on Severely Distressed Public Housing | | | | | | |
| Salaries and expenses | 250,000 | .................... | .................... | .................... | .................... | -250,000 |

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| National Science Foundation | | | | | | |
| Research and related activities | 1,879,000,000 | 2,211,500,000 | 1,879,000,000 | 1,859,000,000 | 1,859,000,000 | -20,000,000 |
| Rescission | -7,000,000 | .......... | .......... | .......... | .......... | +7,000,000 |
| Academic research facilities and instrumentation | 33,000,000 | 33,000,000 | 33,000,000 | 50,000,000 | 50,000,000 | +17,000,000 |
| United States Antarctic research activities | 78,000,000 | 163,000,000 | 163,000,000 | 143,000,000 | 158,000,000 | +80,000,000 |
| United States Antarctic logistical support activities | 10,000,000 | .......... | .......... | .......... | .......... | -10,000,000 |
| Defense function (050) | .......... | .......... | 63,360,000 | .......... | 63,360,000 | +63,360,000 |
| Education and human resources activities | 465,000,000 | 479,500,000 | 465,000,000 | 510,000,000 | 487,500,000 | +22,500,000 |
| Defense conversion enginering re-training activities (050) | .......... | .......... | .......... | 55,000,000 | .......... | .......... |
| Critical technologies institute | .......... | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 | +1,000,000 |
| Salaries and expenses | 109,000,000 | 135,000,000 | 115,500,000 | 111,000,000 | 111,000,000 | +2,000,000 |
| Office of Inspector General | 3,500,000 | 4,000,000 | 3,625,000 | 3,750,000 | 3,688,000 | +188,000 |
| Total (net) | 2,570,500,000 | 3,027,000,000 | 2,723,485,000 | 2,732,750,000 | 2,733,548,000 | +163,048,000 |
| Neighborhood Reinvestment Corporation | | | | | | |
| Payment to the Neighborhood Reinvestment Corporation | 31,900,000 | 27,976,000 | 29,476,000 | 27,976,000 | 27,976,000 | -3,924,000 |
| Selective Service System | | | | | | |
| Salaries and expenses | 27,480,000 | 28,616,000 | 28,616,000 | 28,616,000 | 28,616,000 | +1,136,000 |
| Total, title III, Independent agencines (net) | 25,641,168,000 | 26,304,100,000 | 24,133,491,000 | 25,170,108,000 | 25,012,102,000 | -629,066,000 |
| Appropriations | (25,676,218,000) | (26,304,100,000) | (24,133,491,000) | (25,184,408,000) | (25,026,402,000) | (-649,816,000) |
| Rescissions | (-35,050,000) | .......... | .......... | (-14,300,000) | (-14,300,000) | (+20,750,000) |
| (Limitation on administrative expenses) | (248,685,000) | (274,067,000) | (273,767,000) | (265,367,000) | (269,567,000) | (+20,882,000) |
| (Limitation on direct loans) | (606,000,000) | (608,000,000) | (710,500,000) | (710,500,000) | (710,500,000) | (+104,500,000) |
| (Limitation on corporate funds to be expended) | (964,000) | (964,000) | (964,000) | (964,000) | (964,000) | .......... |

## H.R. 5679 - Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, 1993

| | FY 1992 Enacted | FY 1993 Estimate | House | Senate | Conference | Conference compared with enacted |
|---|---|---|---|---|---|---|
| TITLE IV | | | | | | |
| CORPORATIONS | | | | | | |
| Federal Deposit Insurance Corporation: | | | | | | |
| FSLIC Resolution Fund | 15,867,000,000 | 6,772,000,000 | 2,622,000,000 | 2,622,000,000 | 2,622,000,000 | -13,245,000,000 |
| Portion applied to liquidation of authority to borrow | -15,867,000,000 | | | | | +15,867,000,000 |
| Low-income housing | | | 10,000,000 | | 5,000,000 | +5,000,000 |
| Bank enterprise | | | 1,000,000 | | 1,000,000 | +1,000,000 |
| Total | | 6,772,000,000 | 2,633,000,000 | 2,622,000,000 | 2,628,000,000 | +2,628,000,000 |
| Resolution Trust Corporation: Office of Inspector General | 30,328,000 | 43,054,000 | 33,510,000 | 37,328,000 | 33,510,000 | +3,182,000 |
| Total, title IV, Corporations | 30,328,000 | 6,815,054,000 | 2,666,510,000 | 2,659,328,000 | 2,661,510,000 | +2,631,182,000 |
| Total, titles I - IV (net) | 82,425,265,000 | 90,566,976,810 | 86,367,404,000 | 86,849,254,000 | 86,919,973,000 | +4,494,708,000 |
| GENERAL PROVISIONS | | | | | | |
| General reduction (1%): | | | | | | |
| Defense (050) | | | -3,720,000 | | | |
| Domestic | | | -492,852,000 | | | |
| Total, General provisions | | | -496,572,000 | | | |
| Grand total (net) | 82,425,265,000 | 90,566,976,810 | 85,870,832,000 | 86,849,254,000 | 86,919,973,000 | +4,494,708,000 |
| Appropriations, fiscal year 1993 | (82,550,812,000) | (90,478,976,810) | (85,753,832,000) | (86,746,554,000) | (86,547,273,000) | (+3,996,461,000) |
| Advance appropriations for next year | (850,000,000) | (421,000,000) | (450,000,000) | (450,000,000) | (720,000,000) | (-130,000,000) |
| Rescissions | (-975,547,000) | (-333,000,000) | (-333,000,000) | (-347,300,000) | (-347,300,000) | (+628,247,000) |
| (By transfer) | (237,500,000) | (57,000) | (29,000) | (79,057,000) | (57,000) | (-237,443,000) |
| (Limitation on administrative expenses) | (289,861,000) | (320,243,000) | (314,943,000) | (309,043,000) | (269,567,000) | (-20,294,000) |
| (Limitation on annual contract authority, indefinite) | (-4,841,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (-2,000,000) | (+2,841,000) |
| (Limitation on direct loans) | (608,889,000) | (610,988,000) | (713,453,000) | (771,888,000) | (771,888,000) | (+162,999,000) |
| (Limitation on guaranteed loans) | (143,561,194,000) | (143,884,980,000) | (144,184,980,000) | (145,710,230,000) | (144,010,230,000) | (+449,036,000) |
| (Limitation on corporate funds to be expended) | (445,609,000) | (456,048,000) | (451,665,000) | (450,545,000) | (450,545,000) | (+4,936,000) |

Mr. GREEN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the distinguished chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, the gentleman from Michigan [Mr. TRAXLER] has indicated, we did have extended discussion on the content of the bill during the debate on the rule, so I too shall not try to lay out the bill in toto.

Mr. Speaker, I urge passage of the bill. It is not everything I should have liked to have seen. As many know, I was not a supporter of the space station, but the House and Senate decided otherwise. We have funded the space station at the Senate level because we agree that if we are going to have a space station, we ought to build it at the most economical rate possible. I think the lower House rate would in the long haul have cost money rather than saved money.

Mr. Speaker, there are other things I am not happy with in this bill, such as the necessity to terminate CRAF, the Comet Rendezvous Asteroid Fly-by Program. I wish we could have found some more money for the FEMA Homeless Program.

There are other areas where I should have liked to have done better, particularly the NSF research and related activities account.

But when all is said and done, I think we have put forward a bill which is the best that we could do under the circumstances. It is one which does provide for such increases as $1,130,000,000 for medical care for veterans. We have a significant increase in the Community Development Block Grant Program, which I hope will help our cities at a time of urban crisis.

So I urge my colleagues to move speedily to adopt the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I rise in support of the conference report on the bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

This is an important bill. It provides funds for our veterans, support for our housing programs and important science programs, including the National Aeronautics and Space Administration and the National Science Foundation.

I am particularly pleased that my fellow conferees agreed to provide a total of $360 million for the advanced solid rocket motor program. The advanced solid rocket motor program was developed after the *Challenger* tragedy in 1986 on the recommendation of the Presidential Commission on the space shuttle *Challenger* Accident and NASA. That recommendation was made in order to improve shuttle safety and reliability, to increase shuttle payload by 12,000 pounds—30 percent—and to replace asbestos materials. The reasons were valid in 1986 and they are valid today.

Mr. Speaker, this is a good conference agreement and I urge its adoption.

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I greatly appreciate the support of the gentleman from Michigan [Mr. TRAXLER] in the conference for agreeing to language offered in the Senate version of this bill to provide authority and funding for the Administrator of EPA to hire as Federal employees the former employees of ASCI, a contractor to EPA which had been doing important scientific work on toxics and their removal from toxic hot spots throughout the Great Lakes.

The contractor ran into problems because of the way in which the contract was awarded. But the scientific work accomplished by the contract scientists at the Environmental Research laboratory in Duluth was of the highest quality and received acclaim from their scientific colleagues doing similar work throughout the United States, and was not ever in question.

□ 1230

This was a case in which the Government got better than the product it contracted for but the contracting was at fault. If I could have, I would have reinstated the contract and the scientists under other terms, but the Administrator of EPA said it would take more than a year to do so. So in order to preserve the science, to keep the scientists at work on the projects they have initiated, and, incidentally to retain the economic impact of these contract scientists in Duluth, Administrator Reilly has agreed to a process under which the scientists still there in Duluth can continue the work that they are doing, as Federal Government scientists. At a future date, the contracting process can be fixed, the contract readvertised, leaving the contracting option still available to EPA, which I think is a good option.

I do want to commend my colleague and the gentleman from New York [Mr. GREEN] for his support on the Republican side for a process that is fair. It will keep the science, keep making progress on toxics, keep open the contracting option but allow, in the interview, the Government to do the work that it must do to protect the water quality of the Great Lakes.

Mr. GREEN of New York. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN], the former ranking minority member of this subcommittee.

Mr. COUGHLIN. Mr. Speaker, I want to take just this opportunity to congratulate both the distinguished chairman of the subcommittee and the distinguished ranking minority member for a job well done in bringing this conference report to the floor.

Having served on the Subcommittee on VA, HUD and Independent Agencies for almost 20 years and having been the former ranking member of it, I know the untiring effort that the subcommittee undertakes on behalf of our Nation's veterans, on behalf of moderate- and low-income housing residents, cities, scientists, and citizens.

I want to say particularly to the chairman and my dear friend, the gentleman from Michigan [Mr. TRAXLER], that it is indeed hard for me to accept that this will be the last appropriations bill he will be managing on the floor or conference report he will be managing on the floor.

He is a distinguished American who has left his imprint on this country, on history, and we wish him well as he moves on.

No one could have been fairer. No one could have been better to work with—I say that as a member of the opposite party—than he has been.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, the gentleman has served on this subcommittee, to my recollection, a number of years before I became a member. I think it has been almost 20 years that the gentleman has served with great distinction on the Subcommittee on VA, HUD and Independent Agencies.

He has brought great credit not only to himself, but to his district and to his State, through the manner by which he has conducted himself over these years.

He has always cast issues at the highest level. He has brought reason and, I think, a high degree of gentlemanliness to his approach to the questions confronting that subcommittee. I truly am going to miss him, and I want him to know that he will always be in my heart and mind.

Mr. COUGHLIN. Mr. Speaker, I look forward to continued association. This may be the last time working together on a particular appropriations bill. But I am sure it is not going to be the last time that we will work together. I look forward to working with him in the future, as well as the distinguished ranking minority member.

To Mr. GREEN, my ranking chairman, I wish him well as he continues the awesome responsibility of steering future HUD/VA appropriations bills through the legislative process on behalf of the minority. These gentlemen in my opinion epitomize the ideal of bipartisan cooperation in the Congress. I will miss their comradeship and counsel.

My fellow colleagues, the conference report presented today warrants the House's support. In this most difficult of budgetary years, and struggling with an exceedingly tight budget allocation, the bill rises above such difficulties and achieves several laudable accomplishments.

For example, the conference report includes $14,962,290,000 for veterans medical care. This represents an increase of more than $1 billion over the fiscal year 1992 level. All in all, the Department of Veterans Affairs received $34.7 billion, $1.9 billion over last year's level. No one can question that this is a significant increase. In fact, in the case of veterans' medical care, the funding hike the conference committee proposes far outstrips many other individual programmatic increases in domestic discretionary spending for fiscal year 1993.

The conference report also includes a funding boost for EPA. The $6.8 billion we propose for EPA will guarantee the agency's continued ability to preserve our Nation's environmental protection accomplishments and to improve upon that solid record.

The conference committee also maintains a strong Federal commitment to housing programs. Assisted housing programs have been maintained, community development activities enhanced, and housing ownership opportunities continued under the conference agreement.

The committee of conference was able to accomplish all of this and still come in $3.6 billion below the administration's request.

Not withstanding my support for the conference report, I do wish to caution members about the NASA portion of the legislation. While retaining the higher space station *Freedom* funding level proposed in the Senate, other vital initiatives did not fare as well. The fact that NASA will receive $677 million less than that recommended by the President is a major setback for our Nation's space program. NASA appropriations level does not even keep pace with inflation, representing zero growth from last year's appropriations. This situation poses dire consequences.

The conferees acknowledge this fact and insert some cautionary language from which I quote. In the NASA portion of the report it states:Q02

> * * * Unprecedented constraints have already been imposed on future year budgetary resource allocations, and such constraints are only expected to grow more severe. The conferees are very disturbed that even conservative projections of funding needs of previously authorized and initiated [NASA] missions substantially exceed any reasonable expectation of available budgetary levels.

Our space program is, in my opinion, at a critical crossroads and I fervently urge my House colleagues to address NASA's budgetary needs and provide the necessary funds for it to maintain and advance our Nation's space leadership role.

In conclusion, I want to thank my House and Senate subcommittee colleagues. It has been an honor to serve with you for these many years and I strongly urge my colleagues to vote in favor of the conference report.

Mr. TRAXLER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I thank the gentleman for yielding time to me. I basically have requested the time in order to engage in a colloquy with the gentleman, but before I do that, I would like to add my own comments and compliments to the gentleman for the work that he has done in bringing this bill to the floor.

As I have sometimes told him before, I never thought I would be so grateful that he did not cut more into NASA than the bill does. I am grateful that we are able to maintain at least the level that we had last year in NASA, and, as far as our committee is concerned, we will try to have the organization work more efficiently and utilize those funds more efficiently.

Mr. Speaker, I wish to engage the distinguished chairman of the Appropriation Subcommittee, Mr. TRAXLER, in a colloquy regarding direction to the National Science Foundation which is included in the Senate report accompanying H.R. 5679 and in the conference report now before the House.

Unlike the corresponding House report, the Senate report contains an unprecedented amount of specific programmatic direction to NSF, including an apparent modification of the Foundation's basic charter. I am pleased that the conference report does not endorse the micromanagement provisions in the Senate report, but I am disappointed that it appears to reinforce the Senate report language regarding modification of the basic NSF mission.

While some guidance may be appropriate in certain circumstances, when carried to extremes it is counterproductive to the effective management of an agency and intrudes on the functions of the authorizing committees.

I would like to ask the subcommittee chairman if he agrees that program guidance provided to an agency in report language is just that—guidance—and does not constitute a binding requirement. And more specifically, I would like the gentleman's affirmation that no report language affecting NSF's mission may supersede the statutory requirements of the NSF Act of 1950, which defines NSF's mission.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I would say to the gentleman from California that I agree that, while conference report language may provide specific direction to an agency, it certainly cannot be used to amend a statutory requirement of an authorization law.

Mr. BROWN. Mr. Speaker, I thank the gentleman from Michigan. I also note that the Senate report and the conference report provide for set-asides within research and related activities at NSF for two specific projects: $5 million for an institute focusing on research to support agile manufacturing and $2 million to establish a test-bed computer network for nonacademic users. I would ask the gentleman from Michigan if it is his understanding that these, and all other research activities supported by NSF, are to be awarded on the basis of merit review in a competitive process, consistent with the usual award process at NSF.

Mr. TRAXLER. Mr. Speaker, if the gentleman will continue to yield, it is my understanding that awards by NSF for research projects identified in appropriations reports will result from a competitive merit review process in accordance with the usual proposal review and award procedures used by NSF.

Mr. BROWN. Mr. Speaker, I again would like to thank the gentleman and tell him that this kind of assurance goes a long way toward assuaging some of my fears about the impact of the appropriations process.

Mr. GREEN of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member would like to thank the distinguished gentleman from Michigan [Mr. TRAXLER], the chairman of the conference on VA-HUD and independent agencies, the distinguished gentleman from New York [Mr. GREEN], who serves as ranking member of the House VA-HUD-Independent Agency Subcommittee, the gentlewoman from Maryland [Ms. MIKULSKI], and the gentleman from Utah [Mr. GARN], who serve as the chair and ranking minority member of the Senate VA-HUD-Independent Agencies Subcommittee, and the other distinguished Members involved in crafting this conference report for their efforts on behalf of the many native peoples in our country who lack affordable housing.

Mr. Speaker, as the first of two items today, I want to begin by noting that the distinguished gentleman from Michigan [Mr. TRAXLER] and the distinguished gentleman from New York [Mr. GREEN] as chairman and ranking minority member and other members of the House Subcommittee on VA-HUD and Independent Agencies have been consistently responsive and supportive to the needs of this Nation's native peoples.

According to the U.S. Census Bureau, almost 24 percent of all Indians living in Indian communities or reservations lack adequate shelter. In contrast, the national average of homelessness is estimated at 6.4 percent. Indians have nearly four times the amount of homelessness of the general population. Many houses on Indian reservations lack running water or indoor plumbing of any kind.

The inclusion in this measure of $257.3 million for Indian housing new construction will certainly move toward alleviating this housing shortage.

The funds appropriated here for Indian housing new construction will build approximately 2,800 new units for Indian families. New construction is necessary. There is a relatively small amount of rehab stock or vacant habitable housing available in Indian country. This Member applauds the chairman and members of the conference for recognizing the dire need for new construction and for their efforts to provide that construction.

As a second major point, Mr. Speaker, this Member would also like to express support for the inclusion of provisions regarding implementation of the Safe Drinking Water Act which was included in the Senate version of the VA, HUD, and independent agencies appropriations bill. That amendment, introduced by Senator CHAFEE of Rhode Island, was an important step toward offering relief for small communities in their efforts to comply with the Safe Drinking Water Act's requirements.

Now I understand there has been a compromise on this subject so that the House is receding from its disagreement to the amendment of the Senate and concurs therein with an amendment. That amendment is said to contain three important provisions. First, it calls for the EPA to report recommendations to Congress within 9 months from enactment regarding the implementation of this act by water systems—with special emphasis on the impacts of implementations on small communities. Second, it would require the EPA to conduct a study related to the implementations of regulations on the relative risks associated with various pathways of exposure to radon and the relative costs of controlling exposure to radon from each pathway. The study would specifically be required to focus on the relative costs experienced by small communities as a result of the regulations, and it provides for an extension of the deadline contained in the judicially imposed consent decree for formulation of the radon standard to a date not later than October 1, 1993.

Third, the EPA administrator of a primary State may modify monitoring requirements for organic chemicals, pesticides, PCB's, or unregulated contaminants promulgated in January 1991, known as the phase II rule, for any drinking water systems serving a population of less than 3,300 persons to exempt such systems from additional quarterly monitoring for a specific contaminant or contaminants prior to October 1, 1993, if monitoring for any one quarter after enactment and before October 1, 1993, fails to detect the presence of such contaminant or contaminant in the water supplied by the drinking water system.

Mr. Speaker, this very appropriate and necessary compromise, although not as comprehensive as I would have preferred, is the best hope for offering relief to small communities and other small water system operators to ensure that they can continue to provide safe drinking water without unreasonable costs and burdens. This Member supports the adoption of this important provision and thanks the committee members and staff for their concern and effort.

□ 1240

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I rise today in support of the VA-HUD and independent agencies appropriations. I realize that there are many things in the bill that some of us have not agreed with, and yet there are some good things in it that we do agree with.

First of all, I would like to thank the chairman of the subcommittee for allowing me the opportunity to put forth the Banking Enterprise Program, realizing that, in a time when we are looking at budget cuts, to put a new program in has been very difficult. Yet he has worked with us so we might get this program off the ground, and hopefully in this demonstration year we will be able to show that it is possible to solve some of the problems relative to redlining.

We have worked very diligently to try to assure that somehow we get investments into communities where housing is not as qualitative as it ought to be, and I think the chairman of the subcommittee has worked with us in understanding the myriad of problems that are faced by potential homeowners when redlining takes place and greenlining does not.

I also would like to commend the subcommittee for putting $1.1 million more into the program for veterans' medical benefits and additional moneys for the CDBG Program, which has been one of the most forceful and positive of programs. It has allowed us to be able to rehabilitate and stabilize communities that otherwise could not be.

Lastly, for the section 202 program which has brought much dignity to many senior citizens who would otherwise be living in dilapidated housing and conditions, and which, in the latter years of their lives, they should not experience because they have made a significant contribution to America through their years of work and their years of labor, and it is only appropriate that we provide for them the best living arrangements possible.

Therefore, I rise in support of the legislation. Hopefully all of the Members of the House will join together to make sure that these elements which we now pass today will become operative for the lives of all American citizens.

Mr. GREEN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I should like to commend my colleague, the gentleman from New York [Mr. FLAKE] for his leadership on that banking initiative of his, and his diligent work on it. I share his hopes that it will be an important breakthrough.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise in support of this bill, to use it as an opportunity to express my appreciation to the chairman of this subcommittee, certainly one of the most decent and the most effective Members of this House of Representatives.

I appreciate his support of an amendment that I felt was very important to be included in this bill that the House passed in its version, but that the House had to yield to the Senate's insistence that it be dropped, not for reasons of the public interest, but simply because of the wealth and influence of some of the people who will be directly affected by this amendment.

The amendment that I refer to is one that said that no Federal permits may be issued and no Federal funds may be spent until an environmental impact statement is conducted by the EPA on the Jack Kent Cooke Stadium at Potomac Yards in Alexandria.

There are five different Federal agencies involved in this project. This is one of the most polluted sites on the east coast. It is right next to National Airport. It has a major Federal influence. The Federal Government must be held accountable for Federal funds and permits that must be issued.

Yet, because we lost this amendment, because Mr. Cooke was able to persuade the Senate to drop it, the stadium, if it is approved by the State, will be built before any environmental analysis will be provided to the public.

The EIS would have required full public input and full public disclosure of all of the facts obtained on an objective basis. If it was a private landowner they would have had to do it, but because the State owns it, they do not.

For a quarter of a mile one can walk on this site and every foot you will hear a squish because there is 7 feet thick of diesel fuel on top of the land. It has a millions times the acceptable

EPA levels for arsenic, 440 times the PCB acceptable level, and yet there will not be an environmental analysis conducted.

I would say to the Members that it is wrong that we were not able to intervene on this. The reasons that the Senate insisted that the amendment be dropped were wrong. They were not in the public interest. I deeply regret that it is not included, but I appreciate the chairman's strong support of it.

If we do not succeed at the State level in killing this project that has no redeeming economic benefit for the Commonwealth of Virginia or this Nation, then we will try again next year to do the right thing and to act in the public interest.

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I rise for the purpose of engaging in a colloquy regarding the study of metals recovery which is associated with the extension of the comment period for the Resource Conservation and Recovery Act's mixture and derived from rule.

Mr. Speaker, I would ask, is it the intent of the committee that the study of metals recovery should encompass only the recovery of metals from listed hazardous wastes, as regulated under the mixture and derived from rules addressed by the accompanying provision which extends the comment period for those rules? The reason I ask is to make certain that EPA does not waste resources and effort by including within the study the recycling of metals which are not regulated as hazardous wastes at all and are not impacted by the comment period extension.

Mr. TRAXLER. Would the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from Michigan.

Mr. TRAXLER. The gentleman has made an excellent point. The study and the comment period extension are linked and it was the intent of the committee to obtain a study of only those metals recovery operations that process listed hazardous wastes.

Mr. BOUCHER. I thank the distinguished subcommittee chairman.

Mr. TRAXLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, I rise in very strong support of this conference report, and I would like especially to praise the work and the leadership of our distinguished chairman, the gentleman from Michigan [Mr. TRAXLER]. He has done a wonderful job in the face of some very difficult budgetary constraints.

This conference report includes an important increase in funding for veterans' programs. It continues our important housing programs in this country. It provides for the scientific research that America so badly needs, and it provides especially, and importantly to me and my district, for a balanced space program, including full funding for space station *Freedom*.

I would like to say that I appreciate the friendship, the hard work, and the leadership of the chairman, and I would urge my colleagues to support this conference report.

□ 1250

Mr. TRAXLER. Mr. Speaker, I yield 1½ minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I want to just call my colleagues' attention to the fact that in this bill we increase funding for the solid rocket motor that we zeroed out in the House. We also increase funding for the space station over and above the House's level, but then we zero out funding, and in all honesty it was zeroed out in the original House bill, but all funding is zeroed for the national aerospace plane.

This is a project that has no particular benefit in my district at all. But it was on the books to try to develop a new generation of high-speed aircraft, the next generation. We are basically in America and in the world operating with the same technology in aviation as we did after the Second World War. There has not been a quantum leap, so NASA and the Department of Defense started on this new program, this aerospace plane, hypersonic travel, going from, say, New York to Tokyo in 2 or 3 hours, both for commercial as well as freight and military use. Nothing. Zero for the kind of long-term technology that America so desperately needs to lead the world in aviation. There are no funds in this bill. No funds in the Senate bill—zeroed out.

Other priorities were given. I hope those priorities are more important than this one, because I can tell Members for my children and grandchildren who want jobs, jobs in the largest export industry in America, aerospace, aeronautics, we have zeroed out that program. Maybe a few dollars will be spent in the defense budget for it. But I would tell Members that for the people in this country who want work other than in service jobs, we have dealt a very serious blow to the manufacturing industry.

I hope this decision can be changed next year.

Mr. TRAXLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I already spoke against the rule, and note with genuine regret that we were nine switched votes away from defeating the rule, which would have forced the conference to give us a more responsive bill.

There is much in this conference report which is good, and it will be with great difficulty that I vote against it. This time I speak more in sorrow than in anger, which is the reverse of the way I felt during the earlier debate.

But I would like to explain to Members that 2 months ago we voted in this House on the advanced solid rocket motor [ASRM] and, fair and square, the House decided to terminate it by a margin of 90 votes. So, interestingly enough, did the Senate, the Senate acquiescing in what this body did.

Now we are presented with a conference report that blatantly, with chutzpah, completely disregards the will of the Congress.

I revere the U.S. Constitution. I believe that it was divinely inspired. To protect against authoritarian government, the Constitution set up a body of two representative Houses to debate all and to formulate public policy, to make the tough decisions, to decide how America responds to its needs, what programs it pushes, which ones it kills. Both Houses made the policy decision that ASRM was wasteful and a bad project which should die an early death.

Now the Appropriations Committee, totally derogating the decision to kill ASRM, has come back with this conference report and contrary to the clear policy decisions made by both Houses, restored the money, $165 million more than either House supported. That is contrary to our rules; it represents a Congress whose procedures have run amuck, where a few committee members can override a clear decision of both the House and Senate.

More important, it totally breaches the constitutional premise that the majority shall decide policy issues. Gone is government by the majority, replaced by government by a few powerful individuals.

At times, Congress merits the cynicism and the criticism which is leveled at it. Our rules are broken, the will of the Congress has been replaced by the closed door decision of the few. If we don't change our ways, Mr. Speaker, the American people will do it for us.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. OWENS of Utah. I have the greatest respect for the chairman of the subcommittee, and I am delighted to yield.

Mr. TRAXLER. Mr. Speaker, let me say that while the gentleman and I are on opposite sides of the ASRM issue, I want the gentleman to know that in my judgment he has conducted himself in the finest and highest traditions of this body. He has been most eloquent, and, I might say, persistent, in his opposition to ASRM. He has raised some valid points in some areas of the issue. He has always framed the issue in the highest intellectual context, and he does great pride to his district, and to his State. For those reasons I commend the gentleman, even though we are on opposite sides.

Mr. OWENS of Utah. I thank the chairman, and I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding me the time.

Let me just say as a followup to what our friend from Utah has said, the project that he points to is a matter of concern to me and to others. We have an opportunity in this Chamber later this month to vote on a change in the way we vote on rescissions, to give us the opportunity to vote up or down on a project like that, to give the President the right to suggest to us that funding for that project, or other similar projects be rescinded, and we would have a chance to vote, you and I individually. And if a project of that nature could not muster at least a 50-percent vote, it would be pulled out of the appropriation bill. And I appreciate the gentleman's support of our efforts to change the way to provide really a statutory line-item veto for a 2-year period, and I hope we will have a chance here to vote on that change.

Let me mention two other things. Over 40 years ago a VA hospital was built in Wilmington, DE, to provide for the health care needs of Delaware veterans, and veterans from southeast Pennsylvania, southern New Jersey, and the Eastern Shore of Maryland. It was built at a time that when people were sick in our country we put them in beds, and we kept them in hospitals until they were well. Things have changed a lot in the last 40 years. We do not want to put people in hospitals. We want to keep them out of hospitals, treat them on an outpatient basis wherever that is possible.

The hospital that was built in Wilmington, DE, 40-some years ago was designed to treat 5,000 outpatients per year. This year they will treat on an outpatient basis close to 80,000 veterans. Clearly a change is needed in that hospital. We need an outpatient clinic, and thanks to the gentleman from Michigan [Mr. TRAXLER] and his subcommittee, we are going to have that clinic. And I just want to take a moment to say thank you from all of us in Delaware, for the Delaware veterans for the support that you have extended to us in this instance.

I think there is a lesson that some of our colleagues might gain from our experience in Delaware. What we have done is scale back the magnitude of the project by one-third in order to garner the support of the administration, to say that this is what we really need, to build this project to meet our absolute needs, and the administration has supported it, and the Veterans' Administration has made it a priority.

I want to say one other thing if I can very quickly, and that is with respect to family self-sufficiency. This legislation also provides funds to build training centers, particularly in housing projects, for people who need training to be qualified to get jobs, and to go out and support their families. This legislation provides service coordinators to ensure that education training, job training, drug and alcohol abuse training and day care, child care, are available in the centers, in the housing developments where people need them. And I salute the chairman and his subcommittee for these efforts.

Mr. GREEN of New York. Mr. Speaker, I understand that there are no further requests for time on the other side, and I have no further requests for time. But I do not want to let the debate on this conference report go by without noticing the grievous effects on our subcommittee that retirements and primaries have had. On my side of the aisle, we are losing the former ranking minority member of the subcommittee, who subsequently went on to be the ranking minority member on the Transportation Appropriation Subcommittee, but continued to devote an enormous amount of time to the work of our subcommittee, the gentleman from Pennsylvania [Mr. COUGHLIN]. Also the gentleman from California [Mr. LOWERY], who brought to us a great deal of expertise on Mexican border environmental problems, and on the aerospace industry. On the other side of the aisle, the gentleman from Massachusetts [Mr. ATKINS], who really was a vital contributor to our subcommittee, and who very quickly learned all of the programs and participated actively. And finally our distinguished chairman, who has piloted our ship these last several years. Even as the waters grew choppier, he has steered us through, and I think we all, not just the members of the subcommittee, but the members of the full committee, of the House, and all of the people of the United States owe him a great debt of thanks. And while it is not too usual to note the departure of Members of the other body, the fact that Senator GARN, who served both as chairman and as ranking minority member of our counterpart subcommittee, is leaving is something that I think we ought to note.

□ 1300

Certainly our U.S. space program has had no greater friend than Senator GARN and those of us who are remaining here will miss all of our departing colleagues.

Mr. PURSELL. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Michigan.

Mr. PURSELL. I thank the gentleman for yielding.

Mr. Speaker, I want to take a few minutes on behalf of the Michigan delegation to again congratulate a great chairman, a former colleague of mine in the State legislature, BOB TRAXLER, who has been a real asset to Michigan and to this Nation, for his great leadership on the Committee on Appropriations.

As a colleague, we are going to sorely miss him. I wish him the very best in his personal career and in his golden years, he and his wife. We wish you the very best, BOB.

Mr. GREEN of New York. Mr. Speaker, I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, before I yield back the balance of my time, I would like to express my appreciation to Mr. GREEN for the wonderful relationship we have had over the years on this subcommittee. He has been a leader and a champion on many of the issues before us and has always conducted himself in the finest manner.

I would like also to express my appreciation to the gentleman from Ohio [Mr. STOKES], the ranking majority member on the committee, a personal friend, whom I hope will be the chairman of the subcommittee next year.

I must also say that I will miss very much Mr. MOLLOHAN, Mr. COUGHLIN, a 21-year veteran, Mr. CHAPMAN, Mr. LOWERY, Mr. ATKINS, Mr. MCDADE, of course, and Ms. KAPTUR, and Mr. WHITTEN, chairman of the full committee.

Mr. Speaker, I could not close without saying something about the very fine staff work that makes this bill possible: Dick Malow, the committee clerk, Paul Thomson, Michelle Burkett, and Robin Lamott. I must also say that on the full committee staff, Fred Mohrman, Dennis Kedzior, John Mikel, and Greg Dahlberg have done a superb job in supporting the subcommittee staff.

With those kind thoughts toward all of the persons involved in putting together this conference report and the original bill, I now move the previous question.

The previous question was ordered.

Mr. VENTO. Mr. Speaker, I rise in reluctant opposition to this conference report on the VA–HUD and independent agencies appropriations bill. Although I am pleased about some of the specific modifications achieved in conference concerning the bill, including the repeal of the 57 percent limitation on financing of closing costs for FHA mortgage insurance and the somewhat increased funds for emergency homeless programs, I have major concerns with some provisions in the conference agreement.

Specifically, I am opposed, not only to the billions of dollars in ongoing funding for the space station, but to the $400 million additional increase in the level from House-passed measure, that brings the funding up to $2.1 billion in this next fiscal year alone. Each budget bite that the space station takes is another bite out of housing; out of our environmental programs; out of our veterans programs—if not now, then in the future.

I am also opposed to the $260 million earmarking of special purpose grants as outlined in the report. I question the use of these earmarks, now, when programs like the McKinney homeless assistance programs are facing reductions. I recognize that these earmarks were initiated by the Senate this year, but that is not a reason to expand them in conference nor for me to support 215 earmarks for projects that may or may not have merit. Are these all authorized projects? From where did this funding come?

This is not an easy vote for me. These programs, especially the housing programs, are programs I strongly support. I am pleased with $4 billion for CDBG. I am encouraged by the funds to implement the preservation/prepayment programs for continued affordable housing and to fund the AIDS Housing Program. As I stated earlier, the provisions on FHA and McKinney homeless program funding are steps in the right direction. Nonetheless, I cannot, in the end, support this bill which does not do enough to change priorities and meet the real human needs so apparent today through proven authorized programs. These programs lack the funds to achieve their objectives now and this conference committee report shortfall does not offer a solution for 1993 and beyond.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 5679, the fiscal year 1993 conference report on appropriations for the Veterans' Affairs Department [VA], Housing and Urban Development Department [HUD] and independent agencies.

This is the bill that funds the Environmental Protection Agency [EPA], the National Aeronautics and Space Administration [NASA], the National Science Foundation [NSF], the Federal Emergency Management Agency [FEMA], the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC]—in addition to the Departments of Veterans Affairs and Housing and Urban Development. Millions of Americans benefit from the variety of services and programs that H.R. 5679 supports.

H.R. 5679 provides the funding for medical care and treatment for eligible veterans and their families; 26½ million veterans, along with 42 million family members of living veterans and 1.5 million survivors of deceased veterans, receive benefits from the VA. Over 70 million people—28 percent of our population—are potential recipients of VA benefits. In addition to funding benefits and pensions, however, the bill will enable the VA to initiate a new health professional education loan repayment program for nurses and other allied health professionals.

Through its support of HUD, H.R. 5679 also funds our Federal housing programs. These programs include urban revitalization; matching grants to help public housing tenants and other low-matching grants to help public housing tenants and other low-income families buy Federal owned housing; and grants for cities for the major reconstruction or replacement of severely distressed or obsolete public housing projects.

The HOME Investment Partnership Program, a HUD initiative, supports grants to States and local governments to assist in the development of local strategies for expanding the supply of affordable housing; to build, rehabilitate, and acquire affordable housing; and to provide rental assistance. HUD also sustains assisted housing programs for low income families, including drug elimination grants and housing counseling assistance.

H.R. 5679 also manages to fund programs for the homeless, including matching grants to assist State and local governments in providing housing assistance to homeless individuals who are seriously mentally ill, have chronic problems with alcohol or drugs, or have acquired AIDS or related diseases.

This year, H.R. 5679 provides a substantial increase in support for the community development block grants [CDBG] which give States and local governments flexible funds and the freedom to determine for themselves how best to address their housing and community development needs. In Woodland, CA, CDBG funds have been used to rehabilitate homes for low income property owners, a number of whom are elderly individuals on fixed incomes. Woodland has also applied CDBG money toward food for the homeless and elderly and toward child care. In Rio Linda, we use CDBG funds for street improvements, like street lights; to support our community centers; and to extend water lines. This year, specifically, H.R. 5679 will help fund an initiative in Rio Linda and North Highlands that will provide job training and startup business assistance to our low-income residents.

H.R. 5679 makes some much-needed changes in the Federal Housing Administration [FHA] loan program. First, it increases the limit for single family homes to 95 percent of an area's median sales price, with a national limit set at 75 percent of Fannie Mae and Freddie Mac conforming loan limits. This means that the current FHA loan limit would increase from $124,875 to $151,725 nationally, and to anywhere between $135,000 and $140,000 in Sacramento and surrounding areas. This is important to homebuyers in high cost areas like California, where the median home sales price often exceeds the FHA maximum loan amount.

There is also a provision that eliminates the FHA's 57-percent limit on the amount of closing costs that may be financed in an FHA loan. These two changes mean that more American families will have access to the financing that they need in order to purchase their own homes.

H.R. 5679 funds the Elderly Housing Program, which provides for the construction, rehabilitation and acquisition of units of housing for the elderly, as well as for rental assitance. H.R. 5679 will support the Margaret McDowell Senior Center project, which converts an old motel in downtown West Sacramento, CA, into a senior center and 90 senior housing units.

By funding the Environmental Protection Agency [EPA], H.R. 5679 supports pollution abatement, control and compliance programs; wastewater treatment grants; source pollution programs; and secondary sewage treatment facilities. The EPA's responsibilities also include oil spill prevention and response and removal of hazardous asbestos from school buildings. In Dixon, CA, H.R. 5679 will support our efforts to expand the Dixon sewer plant to bring the sewage treatment facility into compliance with State mandates. This will help reduce housing costs for both low and moderate-income families.

Mr. Speaker, I would also like to thank the chairman of the subcommittee, Mr. TRAXLER, as well as Chairman WAXMAN and Chairman DINGELL, for their efforts in working with us to begin to address the risks of radon in drinking water in an open and creative way. This bill directs the EPA to conduct a multimedia study of the various pathways of radon, and it grants the administrator additional time, if he determines that it is needed, to issue the final regulations on radon in drinking water. This is consistent with the recommendations of EPA's own science advisory board and, again, I appreciate the chairman's assistance in dealing with this important matter.

H.R. 5679 also supports FEMA's disaster relief activities—emergency management planning and assistance, the emergency food and shelter program, and a new study of the capacities of our Federal, State, and local governments to respond promptly and effectively to major natural disasters here in the United States. It also sustains the research and related activities and scientific education efforts of the NSF, including assisting colleges and universities in modernizing their research facilities.

H.R. 5679 is a bill that balances our priorities in funding for a variety of agencies and programs that meet the needs of American families, veterans, students, and workers. Chairman TRAXLER and the committee have done an outstanding job of constructing a bill that will sustain basic American needs. H.R. 5679 supports our communities, our schools, many of our basic benefits programs and our housing needs.

I would therefore like to take this opportunity to commend my colleague for his contribution, not only during these trying economic times this year, but throughout his career here in the House. Mr. Chairman, your dedication, sensitivity and efforts will be sorely missed.

Mr. LEWIS of Florida. Mr. Speaker, I rise in very reluctant opposition to H.R. 5679, the conference report for 1993 VA-HUD-IA appropriations bill.

The major reason I must oppose this bill is funding. We have a $300 billion deficit, but this bill is $4.5 billion over last year's bill. This is unacceptable.

There are also specific reasons. Funding levels for NASP, weed and seed, and ASRM are also misguided.

However, the bill is not completely without merit.

The conference report provides funds for worthy Veterans' Administration programs which I have and will continue to support. Unfortunately, spending for necessary health care, benefits, and veterans services for those men and women who fought to maintain our country's security, has been incorporated into an excessive spending bill which jeopardizes that same security.

The conference report also allocates money for two beneficial housing programs. The HOPE and HOME programs are finally emphasized as positive steps to solve our Nation's urban housing problems. I am happy to see these two programs that I have long supported gain the respect they deserve from this House, but I still must regretfully withhold my vote in light of this bill's expense.

Mr. GOSS. Mr. Speaker, once again, we find that our efforts to pass a fair appropriations bill have been overwhelmed by the process which governs this body. Behind closed doors, the conference committee has decided to disregard the will of the House and the Senate, and craft their own version of this legislation. Even though the House adopted an amendment cutting all but $100 million for the Advanced Solid Rocket Motor Program, and the Senate voted to cut the program as well, the conferees funded the program at $360 million, at the expense of the Veterans Home Loan Program. This is but one example of the divergence from the stated will of the Congress. I voted for the original bill because of the vital programs, and then waited for the results of this conference, hopeful that the Departments of Veterans Affairs, Housing and Urban Development and the Independent agencies of FEMA, EPA, and NASA would have the means to adequately meet their goals. I am told this is not the case—the process has been mishandled to the degree that now we're not sure what is in the bill. I am willing to compromise in order to reach our shared goals, but I believe we cannot tolerate a raid on the Veterans Home Loan Program to fill the coffers of wasteful pork projects we already voted to cut. This legislation and the process fly in the face of fairness and democracy and I do oppose it.

Mr. REED. Mr. Speaker, I rise in reluctant support of the VA, HUD, and Independent agencies appropriations conference report for fiscal year 1993.

I plan to vote for the conference report on H.R. 5679 for the simple reason that I do not believe our housing programs, veterans health care system, or the Environmental Protection Agency should face a loss in funding or the chaos of a continuing resolution.

During my first session as a Member of Congress, I have joined many of my colleagues in opposing the space station and I have joined a majority in the House in opposition to the Advanced Solid Motor Rocket Program.

Unfortunately, this conference report does not reflect the view of many Members that funding for the space station and the ASRM should be reduced or eliminated. Instead, this conference report increases funding for the space station by $400 million and funds the ASRM even though the House voted to end the program.

I realize that the chairman and ranking member agree with me on the need to fund housing and veterans programs rather than the space station, and I recognize that due to its very nature a conference committee entails compromise. However, I would have preferred a bill which recognized the desire of a large minority in the House to terminate the space station.

In addition, I am disturbed that in the rush to agree to the President's spending demands, the Veterans Home Loan Program has been drastically revised. Hopefully, we will have an opportunity to reverse this decision today.

Mr. Speaker, I will support this conference report, but I do so reluctantly.

Mr. LOWERY of California. Mr. Speaker, I rise in support of the conference report on H.R. 5679, the VA-HUD appropriations bill for fiscal year 1993.

In addition, I want to commend Chairman BOB TRAXLER and Congressman BILL GREEN, the ranking minority member, for their management of this legislation and for the fair treatment given to all Members interested in the programs covered by this bill. While we do not agree on every issue or program in this legislation, Chairman TRAXLER gave Members an opportunity to express their views on the bill.

As a member of the subcommittee, I participated in the formulation of this bill. As my colleagues know, this process was extremely difficult. The budget limits for fiscal year 1993 presented Chairman TRAXLER and the members of the subcommittee with very difficult decisions for the many important agencies funded by this appropriations bill.

This was especially true for NASA which is funded below the President's request and only barely above last year's level.

Because of these budget constraints, the chairman reaffirmed his view that we should terminate funding for space station *Freedom*. However, he agreed to follow the will of a majority of members of the subcommittee and retain $1.7 billion for the program. The full House voted to continue the space station program and Chairman TRAXLER and BILL GREEN accepted that decision graciously and then sought to formulate the fairest bill possible in conference with the Senate. I believe they accomplished that goal. While this bill is not perfect, it does increase funding for veteran's programs, and allocates generous funding for most housing programs. While, I would prefer to have provided additional funding for Secretary Kemp's HOPE Program for home ownership, housing programs are strongly supported in this bill.

The conference agreement does provide virtually full funding for space station *Freedom* in fiscal year 1993. This will enable the station program to make real progress over the next year. I believe the station is the key to reaching the next level in manned-space exploration. It will move us beyond the fine achievements of the space shuttle program and toward more discoveries in our efforts to explore and better understand our universe and man's place in it.

I share the chairman's concern that funding for NASA programs will be even more difficult over the next few years. We must strike a workable balance between the manned program and important space science research. I believe Administrator Goldin will guide NASA in a responsible fashion and prioritize its programs in a cost-effective manner.

In addition, I want to thank Chairman TRAXLER for his cooperation with my efforts to provide funding for a number of important environmental programs for the people of San Diego and the Nation.

The conference report will provide $32.5 million to continue development of an international sewage treatment facility on the United States-Mexico border between San Diego and Tijuana. When completed, this facility will end the flow of thousands of gallons of raw sewage now flowing from Tijuana that threaten the health of American citizens and the environment on the southern California coast. The bill before the House today will also provide funds for five coastal cities to upgrade their water and sewage treatment facilities. H.R. 5679 provides $340 million to enable New York, Boston, Seattle, Los Angeles, and San Diego to improve their sewage treatment standards as required by the Clean Water Act.

The President requested these funds and the committee has cooperated in the effort to improve the water quality and sewage treatment in our cities.

Mr. Speaker, while I may not agree with every program or spending priority in the conference report, this legislation represents a solid, good-faith effort to forge a compromise that will provide funding for veterans, housing, environmental, and science programs. The bill is below the President's request. It funds critical veterans' health programs and the President's top space exploration priority, space station *Freedom*.

This bill is not perfect, but given our current spending limitations and the many contrasting priorities represented in the bill, the conference report is a solid, workable compromise.

I support passage of this legislation and urge its approval by the House.

Mr. PENNY. Mr. Speaker, I rise in opposition to the conference report on the VA-HUD-Independent Agencies appropriations bill for fiscal 1993. I do so reluctantly because this bill contains funding for programs that I very much support—programs for America's veterans and for those who need housing assistance.

However, I cannot vote for a bill that is $1 billion over the house-passed version of the legislation. After 10 years in this body, I fail to understand how appropriations bills continue to grow after they leave this House and regularly come back bulging from conference. It is apparent that we are remarkably slow learners and just don't associate growth in the Deficit with what we add on after both the House and the Senate have made their independent judgments on appropriations.

I continue to oppose inclusion in this bill, as well, of funding for space station *Freedom*. This Edsel of the space program was granted funding by the House of $1.7 billion and has now come back to us at the $2.1 billion level.

Where did this additional $400 million to build the station come from? It is no coincidence that the conference report includes provisions that recalculate the Department of Veterans Affairs no-bid formula under the Home Loan Guaranty Program. Because the recalculation would discourage lenders from participating in the Home Loan Program, it would penalize the thousands of men and women now being discharged from the military by limiting their access to an important readjustment benefit—a VA home loan. The revenue gained by enacting this provision is approximately $406 million—clearly an unfair tradeoff.

For all these reasons, I cannot support the conference report on VA-HUD-Independent Agencies appropriations for fiscal year 1993.

Mr. HUGHES. Mr. Speaker, it is with mixed feelings that I rise in opposition to the conference report on H.R. 5679, the Veterans Affairs, Housing and Urban Development, and independent agencies appropriations for 1993.

I strongly support a good portion of this bill, particularly as it pertains to veteran programs and the Department of Housing and Urban Development.

The $1.1 billion increase in VA health programs over this current year's funding—a provision I strongly endorse—demonstrates our continued commitment to provide medical care for those who fought our Nation's battles. Even in these times of strained Federal budgets, we cannot forsake those who answered the call to serve and sacrificed so much.

I also applaud the efforts by the Appropriations Committee and strongly support funding included in the HUD's Special Purpose Grants Program which will provide much needed renovation for three senior citizen centers in my district. Because of this funding over 2,000 seniors served by these centers will continue to receive vital services which enable them to live independently and with dignity in their communities.

Appropriations dedicated to important community revitalization projects in two communities in my district—Hammonton and Penns Grove—are also included in this bill. These funds will permit community improvements which will contribute to increased employment opportunities and economic growth in the area.

However my friends, this appropriations bill has come back to us today $1 billion more than the previously passed House version of the legislation. And I am outraged that $400 million were taken from important veteran programs for NASA projects including the Advanced Solid Rocket Motor Program, for which no funds were requested and NASA has said it does not need.

The funding for NASA, and particularly the space station can only be described as excessive. If we are serious about alleviating the budget problems that plague us, Congress must begin to curb its insatiable appetite for some big ticket items. Terminating funding for space station *Freedom* would make an excellent beginning.

The scientific benefits the space station will yield are limited at best. The economic benefits are even less promising. Numerous prominent and respected scientists have stated that the space station is unnecessary and unworkable, and the cost to the taxpayer is astronomical. In the meantime, I fear that smaller science will suffer a lack of needed funding for as long as we fund this program.

My colleagues, if money were no object, perhaps we would be able to justify the space station, but that is simply not the case.

In light of our country's most immediate pressing problems—an economic recession, joblessness, homelessness, and a broken health care system—I simply cannot justify supporting the space station funding in this bill.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in reluctant opposition to the conference report on VA–HUD-Independent Agencies appropriations for fiscal year 1993.

The bill funds several essential programs including veterans compensation and medical care, Indian housing, scientific research, environmental protection, and aid for the homeless. These worthy programs generally deserve our support.

In addition, the bill includes funding for some new initiatives including environmental research, veterans hospital improvements, and direct housing loans for Indian veterans. These programs will address needs in my State and throughout the Nation.

At the same time, I cannot support a bill that adds $1 billion to the House-passed funding level. Deficits of $400 billion occur precisely because we keep adding a billion here and a billion there to nearly every conference report that moves through the Congress.

More particularly, I oppose the conference report because it adds $400 million to the House level of $1.7 billion for the space station *Freedom* program. I am concerned that the extra $400 million was obtained by a questionable recalculation of costs in the Veterans Affairs Home Loan Guarantee Program. I question the method because its effect is to limit the access of veterans to an important readjustment benefit: a VA home loan. I don't believe that it is fair to sacrifice this worthwhile benefit for veterans in order to spend even more on a dubious space program.

In conclusion, I regret that I am compelled to oppose this conference report. It simply spends too much money and too much for the wrong things. –

### MOTION TO RECOMMIT OFFERED BY MR. MCDADE

Mr. MCDADE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The Clerk will report the motion.

The Clerk read as follows:

Mr. MCDADE moves to recommit the conference report on H.R. 5679 to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered .

The vote was taken by electronic device, and there were—yeas 286, nays 97, not voting 49, as follows:

[Roll No. 432]

YEAS—286

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Byron
Camp
Cardin
Carper
Carr
Chapman
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Downey
Durbin
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Feighan
Fields
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hefner
Hertel
Hobson
Hochbrueckner
Houghton
Hoyer
Hutto
Hyde
Inhofe
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Oberstar
Olin
Olver
Ortiz
Owens (NY)
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schumer
Serrano
Sharp
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Waxman
Weber
Whitten
Williams
Wilson
Wise
Wolf
Wylie
Yates
Young (AK)
Young (FL)

NAYS—97

Allard
Allen
Andrews (ME)
Applegate
Archer
Armey
Barrett
Barton
Beilenson
Bennett
Boehner
Burton
Callahan
Campbell (CA)
Clinger
Combest
Condit
Cox (CA)
Dannemeyer
DeFazio
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Fawell
Goss
Grandy
Hancock
Hefley
Henry
Herger
Hoagland
Hopkins
Horn
Hubbard
Hughes
Hunter
Jacobs
James
Johnson (TX)
Johnston
Jones
Jontz
Kleczka
Klug
Kyl
LaRocco
Leach
Lipinski
McCurdy
McDade
McGrath
Miller (CA)
Moody
Moorhead
Murphy
Nagle
Nichols
Nussle
Obey
Owens (UT)
Oxley
Packard
Pallone
Panetta
Payne (VA)
Pease
Penny
Peterson (MN)
Petri
Ramstad
Ray
Roberts

Rohrabacher
Roth
Sangmeister
Santorum
Schaefer
Schroeder
Sensenbrenner
Shuster
Sikorski
Slattery
Staggers
Stearns
Stump
Swett
Thomas (WY)
Vento
Walker
Washington
Wheat
Wyden
Zeliff
Zimmer

NOT VOTING—49

Anthony
Barnard
Boxer
Brooks
Bustamante
Campbell (CO)
Chandler
Clay
Crane
Donnelly
Dooley
Dwyer
Dymally
Ewing
Fascell
Fazio
Foglietta
Ford (TN)
Gaydos
Hansen
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Kennedy
Lehman (CA)
Lehman (FL)
Lewis (FL)
Livingston
Luken
Martinez
McCrery
McEwen
McMillan (NC)
Nowak
Oakar
Orton
Perkins
Richardson
Russo
Savage
Schulze
Smith (TX)
Stark
Weldon
Wolpe
Yatron

☐ 1325

The Clerk announced the following pairs:

On this vote.

Mr. Fazio for, with Mr. Lewis of Florida against.

Mr. Wolpe for, with Mr. Orton against.

Messrs. BILIRAKIS, BEREUTER, LENT, PAXON, HASTERT, and GILCHREST changed their vote from "nay" to "yea."

Mrs. SCHROEDER and Messrs. PAYNE of Virginia, MILLER of California, THOMAS of Wyoming, JONES of Georgia, PACKARD, JAMES, WHEAT, and SLATTERY changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### AMENDMENTS IN DISAGREEMENTS

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to House Resolution 579, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 5, 7, 9, 10, 15, 27, 28, 29, 36, 40, 41, 42, 47, 48, 49, 51, 64, 78, 79, 87, 88, 89, 90, 91, 96, 98, 107, 113, 120, 127, 131, 139, 151, 156, 159, 160, 161, 163, 164, 170, 171, 178, 180, 182, 190, 191, 194, 196, 197, 200, 218, 219, 220, 221, 222, 227, 230, 231, 232, 233, 235, 236, 237, 241, 242, 243, 244, 246, 247, 249, 252, 254, 256, 259, 260, 266, 267, 269, 272, 277, 278, 280, 281, 282, 287, and 303 be considered en bloc and printed in the RECORD, and that the motions to dispose of said amendments as printed in the joint statement of managers be considered as read and that the motions not be subject to a division of the question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ROHRABACHER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I wish to have some kind of assurance that amendment 267 will not be part of this unanimous-consent request.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I will amend my request to include amendment 267, to have it removed from my request.

Mr. ROHRABACHER. And also amendment 245?

The SPEAKER pro tempore. Amendment No. 245 is already excluded.

(The text of unanimous-consent request, as modified, is as follows:)

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that Senate amendment numbered 1, 5, 7, 9, 10, 15, 27, 28, 29, 36, 40, 41, 42, 47, 48, 49, 51, 64, 78, 79, 87, 88, 89, 90, 91, 96, 98, 107, 113, 120, 127, 131, 139, 151, 156, 159, 160, 161, 163, 164, 170, 171, 178, 180, 182, 190, 191, 194, 196, 197, 200, 218, 219, 220, 221, 222, 227, 230, 231, 232, 233, 235, 236, 237, 241, 242, 243, 244, 246, 247, 249, 252, 254, 256, 259, 260, 266, 269, 272, 277, 278, 280, 281, 282, 287, and 303 be considered en bloc, and printed in the RECORD, and that the motions to dispose of said amendments as printed in the joint statement of managers be considered as read and that the motions not be subject to a division of the question.

Mr. ROHRABACHER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. With that modification, is there objection to the request of the gentleman from Michigan?

There was no objection.

(The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:)

Senate amendment No. 1: Page 3, line 2, strike out "transferred" and insert "reimbursed".

Senate amendment No. 5: Page 4, line 22, strike out "to" and insert "which may".

Senate amendment No. 7: Page 6, line 2, strike out "to" and insert "which may".

Senate amendment No. 9: Page 6, line 15, strike out "to" and insert "which may".

Senate amendment No. 10: Page 6, after line 17, insert:

### NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by Native American Veterans' Home Loan Equity Act of 1992 (S. 2528, 102d Congress, as reported by the Senate Committee on Veterans' Affairs), $4,500,000, to remain available until expended: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $58,400,000.

In addition, for administrative expenses to carry out the direct loan program, $500,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

Senate amendment No. 15: Page 7, line 21, after "That" insert "after September 30, 1992,".

Senate amendment No. 27: Page 8, after line 13, insert:

### HEALTH PROFESSIONAL EDUCATION LOAN PAYMENT PROGRAM

For payment of outstanding tuition loans to Department of Veterans Affairs health care professional employees (excluding physicians and dentists) who agree to remain in service for one year or more, $5,000,000, to remain available until September 30, 1994: *Provided*, That the Secretary, in order to recruit and retain such employees, may make such payments, not to exceed $3,000 during any calendar year, or $12,000 in total, to any such employee who has an outstanding tuition loan from an educational institution approved by the Secretary that has led to a degree in the health care occupation in which such individual is employed: *Provided further*, That no payment shall be made in advance: *Provided further*, That regulations shall be promulgated by the Secretary to implement this program.

Senate amendment No. 28: Page 8, line 19, strike out "$42,359,000" and insert "$44,000,000".

Senate amendment No. 29: Page 8, line 19, after "reimbursements" insert ": *Provided*, That of the funds made available under this heading, $25,000,000 may be available for transfer to the Medical and Prosthetic Research Appropriation for the Career Development Program".

Senate amendment No. 36: Page 10, line 24, after "project," insert "services of claims analysts,".

Senate amendment No. 40: Page 12, line 16, after "project," insert "services of claims analysts,".

Senate amendment No. 41: Page 13, line 1, strike out "$41,176,000" and insert "$43,676,000".

Senate amendment No. 42: Page 13, line 10, after "causes" insert ": *Provided further*, That $1,000,000 of previously appropriated funds for the construction of a pedestrian bridge to connect the John L. McClellan Veterans Affairs Medical Center with the University of Arkansas for Medical Sciences Clinical Building shall be awarded within 90 days of enactment of this Act to a responsive and qualified construction bid offeror: *Provided further*, That the Secretary of Veterans Affairs shall transmit to the Committees on Appropriations of the House and Senate a report providing a full and detailed explanation should an award not be made within the 90-day period and which sets forth a revised schedule to proceed with this project; said report shall be transmitted not less than 30 days following the expiration of the 90-day period".

Senate amendment No. 47: Page 16, after line 23 insert:

For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437aaa et seq.), $175,000,000; for the HOPE for Homeownership of Multifamily Units Program as authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $130,000,000; for the HOPE for Homeownership of Single Family Homes Program as authorized under subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act, $125,000,000; for the HOPE for Elderly Independence demonstration program as authorized under section 803(k) of the Cranston-Gonzales National Affordable Housing Act, $60,000,000; and for the HOPE for Youth Program as set forth in section 403 of S. 3031 as reported to the Senate,

$25,000,000: *Provided*, That of the amounts provided for the HOPE for Homeownership of Multifamily Units Program, $10,000,000 shall be available for assistance to mutual housing associations, to the extent that such association submit approvable grant applications under such program: *Provided further*, That all amounts provided under this head shall be available until expended: *Provided further*, That of the funds made available under this paragraph, $79,000,000 shall be derived by transfer from amounts made available for nonincremental use under the heading "Annual contributions for assisted housing" in prior fiscal years which remain unreserved at the end of fiscal year 1992, following the application of such funds as provided in the paragraph under said hearing in this Act.".

Senate amendment No. 48: Page 16, after line 23 insert:

Furthermore, $350,000,000 shall be for grants to carry out an urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects, to be administered by local public housing agencies: *Provided*, That such funding shall be made available to up to 15 cities selected from either the 40 most populous United States cities or, from any city whose housing authority was considered to have been on the Department's troubled housing authorities list as of March 31, 1992: *Provided further*, That no more than $50,000,000 shall be provided to each participating municipality: *Provided further*, That no more than 500 units shall be funded for each participating city and such units shall be located in up to 3 separately defined areas containing the community's most severely distressed projects, including family highrise projects: *Provided further*, That at least 80 per centum of the funding provided to each participating public housing agency shall be used for the capital costs of major reconstruction, rehabilitation and other physical improvements, for the capital costs of replacement units and for certificates under section 8(b) used for replacement and for management improvements for the reconstructed project and for planning and technical assistance purposes and not more than 20 per centum shall be used for community service programs (as defined by the Commission on National and Community Service) and for supportive services, including, but not limited to, literacy training, job training, day care, youth activities, administrative expenses, and the permissive and mandatory services authorized under the Gateway Program established in the Family Support Centers demonstration program, provided for in 42 U.S.C. 11485e–f: *Provided further*, That each participating city shall make contributions for supportive services in an amount equal to 15 per centum of the funding provided for supportive services pursuant to the immediately preceding proviso: *Provided further*, That all such contributions from participating jurisdictions for supportive services shall be derived from non-Federal sources: *Provided further*, That each participating community shall submit a plan for program implementation which is consistent with the local comprehensive housing affordability strategy prepared pursuant to section 105 of the Cranston—Gonzalez National Affordable Housing Act and which has the approval of the local governing body: *Provided further*, That each plan shall include a community services component, but no funds are to be disbursed pursuant to this paragraph until such community services program has been approved by the Commission on National and Community Service: *Provided further*, That funds made available pursuant to this paragraph may be used in conjunction with, but not in lieu of, funding provided under the head "Modernization of Low-Income Housing Projects" for the modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); for construction or major reconstruction of obsolete public housing, other than for Indian families; for the replacement of public housing units pursuant to section 18 of the Act; and for the HOPE for Public and Indian Housing Homeownership program as authorized under title III of the Act: *Provided further*, That notwithstanding the provisions of section 18(b)(3) of the Act, units demolished, disposed of or otherwise eliminated under this demonstration may be replaced as follows: one-third by certificates under section 8(b) and the balance by any combination of conventional public housing and units acquired or otherwise provided for homeownership under section 5(h) of the Act, housing made available through housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as those established pursuant to sections 603–607 of the Housing and Community Development Act of 1987 (Public Law 100–242), or under the HOPE II or III programs, as established under sections 421 and 441 of the Cranston—Gonzalez National Affordable Housing Act; persons displaced by the reconstruction activities provided for herein shall be eligible for these replacement units: *Provided further*, That, in order to be eligible for funding under this paragraph, applications for funding must be received within 180 days from the date the Notice of Funds Availability is published in the Federal Register: *Provided further*, That the Secretary of the Department of Housing and Urban Development shall issue a notice of funds availability within 90 days of enactment of this paragraph: *Provided further*, That the Secretary shall determine which cities have been selected to participate in the program within 90 days of the timely receipt of the last eligible application: *Provided further*, That housing authorities, in submitting their application for funds under this paragraph, shall identify all severely distressed public housing developments, using the criteria set forth by the National Commission on Severely Distressed Public Housing: *Provided further*, That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law: *Provided further*, That the authority in the immediately preceding proviso shall not apply to any legislation that excludes or otherwise limits self-sufficiency or community service activities set forth in this paragraph, or authorize reallocation of amounts available for obligation which are included in this paragraph: *Provided further*, That any troubled housing authority that applies for funds under this paragraph, shall not be eligible if the Secretary certifies to the Congress that they are not making substantial progress to eliminate their troubled status in accordance with section 6(j) of the Housing Act of 1937, as amended: *Provided further*, That in the event that communities applying for funding under this paragraph also request funding under any other HOPE program authorized under title III or title IV of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall process such applications concurrently and in an expeditious manner: *Provided further*, That, in the event that any application received from the cities initially selected to participate in the program is determined to be unacceptable, the Secretary shall select another city from the 40 most populous United States cities to receive funding under this paragraph: *Provided further*, That, in the event that communities selected to receive funding do not proceed in a manner consistent with the plan approved for that community, the Secretary may withdraw any unobligated balances of funding made available pursuant to this paragraph and distribute such funds to other eligible communities.

Senate amendment No. 49: Page 16, after line 23, insert:

Of the amount made available under this head in Public Law 102–139 for the HOPE for Homeownership of Multifamily Units Program as authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $3,000,000 shall be made available for a cooperative agreement between the Secretary of Housing and Urban Development and the National Center for Tenant Ownership in affiliation with the Harrison Institute at the Georgetown University Law Center, for the provision of technical assistance to potential recipients and recipients of grants under that program.

Senate amendment No. 51: Page 16, strike out all after line 24 over to and including "pended" in line 3 on page 17.

Senate amendment No. 64: Page 20, line 13, strike out all after "disabilities" down to and including "Authorities" in line 22.

Senate amendment No. 78: Page 22, line 14, after "strategies;" insert "$50,000,000 for assistance to families with children to move out of areas with high concentrations of persons living in poverty;".

Senate amendment No. 79: Page 23, strike out all after line 9 down to and including "project" in line 12 and insert "and not rescinded or remitted to the Treasury shall be used by State housing finance agencies of local governments or local housing agencies with projects".

Senate amendment No. 87: Page 24, line 23, strike out "$1,315,488,000" and insert "$1,298,308,000".

Senate amendment No. 88: Page 25, line 1, after "and" insert "for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended".

Senate amendment No. 89: Page 25, line 1, after "and" insert ": *Provided further*, That any unreserved balances provided under this head in prior years for such purposes shall be merged with amounts provided herein".

Senate amendment No. 90: Page 25, line 1, after "and" insert ": *Provided further*, That $15,438,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959, as amended".

Senate amendment No. 91: Page 25, line 1, after "and" insert:

Of the $4,144,234,000 total under this head, $221,347,000 shall be

Senate amendment No. 96: Page 26, after line 3, insert:

For those projects in the State of Maine, the owners of which have converted their section 23 leased housing contracts (former section 23 of the Act, as amended by section 103(a), Housing and Urban Development Act of 1965, Public Law 89–117, 79 Stat. 451, 455) to section 8, the subsidy provided under the head "Assistance for the Renewal of Expiring Section 8 Subsidy Contracts" in Public Law 102–139 shall be for a five-year extension as if the projects were under the section 8 new construction program, except that section 8(c)(2)(C) shall not apply.

Senate amendment No. 98: Page 27, after line 3, insert:

For contracts with payments to public housing agencies and non-profit corporations for congregate services programs, $27,000,000, to remain available until expended, of which up to $10,800,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for such programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625).

Senate amendment No. 107: Page 29 line 11, strike out "$183,652,000" and insert "146,152,000".

Senate amendment No. 113: Page 30, line 16, after "Neighborhoods" insert ": *Provided further*, That $10,000,000 of the foregoing amount shall be made available for grants for federally assisted, low-income housing".

Senate amendment No. 120: Page 32, after line 5 insert:

The unexpended balances of the "Shelter Plus Care: Section 8 Moderate Rehabilitation, Single Room Occupancy" and "Shelter Plus Care: Section 202 Rental Assistance" programs, available from the appropriations enacted in Public Law 102-139, shall be added to and merged with the amount available under this heading

Senate amendment No. 127: Page 33, line 16, strike out all after "exceed" down to and including "principal" in line 17 and insert "$2,000,000,000 of contingent liability for loan principal: *Provided*, That $1,700,000,000 of said amount shall become available only upon enactment into law of authorizing legislation".

Senate amendment No. 131: Page 34, line 9, after "studies" insert "(2) $1,000,000 shall be for a study by the National Academy of Public Administration on HUD staffing and human resource management and requirements".

Senate amendment No. 139: Page 35, line 13, after "expenses" insert ": *Provided further*, That of the total amount, $1,000,000 and 20 staff years shall be for the Office of Lead Based Abatement and Poisoning Prevention, which shall be located within the Office of the Secretary".

Senate amendment No. 151: Page 39, strike out lines 14 to 24

Senate amendment No. 156: Page 41, strike out all after line 23 over to and including line 10 on page 42.

Senate amendment No. 159: Page 47, after line 19, insert:

Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102-107.

Senate amendment No. 160: Page 47, after line 19, insert:

Notwithstanding section 571(b) of the National Affordable Housing Act of 1990, the Department shall revise its fiscal year 1992 notice of fund availability for public housing development/major reconstruction of obsolete projects (Federal Register, June 18, 1992, 27330 et seq.) so that there contains no limitation on the amount of these funds available for public housing replacement activities.

Senate amendment No. 161: Page 47, after line 19, insert:

The fair market rentals for the Salt Lake City—Ogden, Utah, metropolitan statistical area that took effect as of October 1, 1991 (56 Fed. Reg. 49024, 49072, September 26, 1991) shall remain in effect until October 1, 1993, notwithstanding the requirements of section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f) or any publication in the Federal Register in implementation of such section.

Senate amendment No. 163: Page 47, after line 19, insert:

With respect to two projects of the United Cerebral Palsy of New Jersey, Inc., which are located in Newark and Teaneck, New Jersey, and are to be assisted under section 811 (project numbers 031-EH244/NJ39-T881-001 and 031-EH231), the Secretary of Housing and Urban Development shall extend the fund reservations for a reasonable period sufficient to permit final closing to take place and shall increase the reservation of project rental assistance to an amount sufficient to cover the reasonable operating expenses of these projects.

Senate amendment No. 164: Page 47, after line 19, insert:

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc., in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, shall be

Senate amendment No. 170: Page 50, line 11, strike out all after "vided," down to and including "mission" in line 14 and insert "That funds shall not be available for the personnel compensation and benefits of more than three Commissioners of the Consumer Product Safety Commission".

Senate amendment No. 171: Page 50, line 14, after "mission" insert ": *Provided further*, That of the funds provided under this heading, $6,300,000 shall be for the relocation of the headquarters staff of the Commission and shall be available until expended".

Senate amendment No. 178: Page 52, line 21, after "6949)" insert ": *Provided further*, That from funds appropriated under this heading, but contingent upon authorization for such grants being enacted into law, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs".

Senate amendment No. 180: Page 53, strike out lines 8 to 19.

Senate amendment No. 182: Page 53, line 24, after "amended," insert "and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project,".

Senate amendment No. 190: Page 54, line 15, after "University" insert ": *Provided further*, That notwithstanding any other provision of law, the Environmental Protection Agency is authorized to plan, design, and acquire land to establish a consolidated laboratory facility to replace and house the Central Regional Laboratory, Annapolis, Maryland, and the Analytical Chemistry and Microbiology Laboratory, Beltsville, Maryland, including the authority to accept, by permit or no-cost transfer from Federal entities, or by donation from State and local entities, available real property".

Senate amendment No. 191: Page 54, line 15, after "University" insert ": *Provided further*, That $1,000,000 of the amount provided herein shall be for a grant to the University of Maine for the construction of the Maine Quaternary Studies Institute".

Senate amendment No. 194: Page 55, line 1, after "9611)," insert "and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project;".

Senate amendment No. 196: Page 55, line 1, after "$1,416,228,000," insert "consisting of $1,366,228,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101-508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101-508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $201,120,000 during fiscal year 1992, with all of such funds,".

Senate amendment No. 197: Page 55, strike out all after line 1 down to and including "$201,120,000" in line 4.

Senate amendment No. 200: Page 56, line 1, after "1986," insert "and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project,".

Senate amendment No. 218: Page 58, line 13, after "Georgia;" insert "$50,000,000 shall be for grants to the State of Texas, which is to be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State, including $2,000,000 for planning and design;".

Senate amendment No. 219: Page 58, line 13, after "Georgia;" insert "$10,000,000 shall be for a grant to the State of New Mexico for the purpose of improving wastewater treatment in colonias in that State;".

Senate amendment No. 220: Page 58, line 13, after "Georgia;" insert "and $10,000,000 shall be for a grant to the State of Arizona for an interceptor/collection system in the city of Avondale, Arizona;".

Senate amendment No. 221: Page 59, line 5 before "sections" insert "the limitations contained in".

Senate amendment No. 222: Page 59, line 7, after "grants" insert ": *Provided*, That of the funds appropriated for the State Revolving Fund under title VI of the Federal Water Pollution Control Act, as amended, up to one-half of one percent may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities for fiscal year 1993 and thereafter".

Senate amendment No. 227: Page 60, strike out all after line 14 over to and including line 2 on page 61.

Senate amendment No. 230: Page 62, strike out lines 11 to 18.

Senate amendment No. 231: Page 62, after the line below line 18, insert:

The Administrator of the Environmental Protection Agency shall, hereafter, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Senate amendment No. 232: Page 62, after the line below line 18, insert:

During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 56 workyears of the Immediate Office of the Administrator, (2) 45 workyears for the Office of Congressional and Legislative Affairs; (3) 78 workyears for the Office of Communications, Education, and Public Affairs; (4) 192 workyears for the Office of General Counsel; (5) 1,477 workyears for the Office of Administration and Resources Management; and (6) 263 workyears for the Office of Policy, Planning, and Evaluation.

Senate amendment No. 233: Page 62, strike out all after the line below line 18 over to and including line 3 on page 63.

Senate amendment No. 235: Page 63, after line 3, insert:

### MARINE SCIENCE CENTER

The United States of America, acting through the Environmental Protection Agency, will donate its library facility located on the Marine Science Center, Oregon State University, Newport, Oregon to the University. Notwithstanding any other provision of law, within 60 days after the effective date of this legislation and without any further action by either party or future liability on the part of the Government, EPA will quitclaim the foresaid library together with the underlying land and related real and personal property to the University. No other portion of Government property is to be included in this donation.

Senate amendment No. 236: Page 63, after line 3, insert:

### POLLUTION PREVENTION ACT IMPLEMENTATION

Notwithstanding the Paperwork Reduction Act of 1980 or any requirements thereunder the Environmental Protection Agency Toxic Chemical Release Inventory Form R and instructions, revised 1991 version issued May 19, 1992, and related requirements (OMB No. 2070–0093), shall be effective for reporting under section 6607 of the Pollution Prevention Act of 1990 (Public Law 101–508) and section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499) until such time as revisions are promulgated pursuant to law.

Senate amendment No. 237: Page 63, after line 3, insert:

### EXTENDING COMMENT PERIOD FOR REVISIONS TO CERTAIN HAZARDOUS WASTE RULES

Funds appropriated or transferred to EPA may be used to develop revisions to 40 CFR 261.3, as reissued on March 3, 1992, published at 57 Fed. Reg. 7628 et seq. EPA shall promulgate revisions to paragraphs (a)(2)(iv) and (c)(2)(i) of 40 CFR 261.3, as reissued on March 3, 1992, by October 1, 1994, but any revisions to such paragraphs shall not be promulgated or become effective prior to October 1, 1993. Notwithstanding paragraph (e) of 40 CFR 261.3, as reissued on March 3, 1992, paragraphs (a)(2)(iv) and (c)(2)(i) of such regulations shall not be terminated or withdrawn until revisions are promulgated and become effective in accordance with the preceding sentence. The deadline of October 1, 1994 shall be enforceable under section 7002 of the Solid Waste Disposal Act.

### PROVIDING FOR A STUDY OF METALS RECOVERY

Funds appropriated or transferred to the Environmental Protection Agency shall be used in part to conduct a study on the effect of existing regulations on efforts to recover metals from the Nation's wastes, how such metals recovery can be best encouraged, and how the materials should be regulated in order to protect human health and the environment and to effectuate the resource conservation and recovery goals of the Resource Conservation and Recovery Act. In doing so, EPA shall consult with the Secretary of Commerce, the Secretary of the Interior, the metals recovery industry, and other interested parties.

The Administrator shall complete the study not later than April 28, 1993. Upon completion of the study, the Administrator shall prepare a summary of the findings of the study and any recommendations resulting from such study, to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives.

Senate amendment No. 241: Page 63, after line 3, insert:

### SOLID WASTE DISPOSAL ACT

No funds appropriated to the Environmental Protection Agency for fiscal year 1993 may be expended for the promulgation, implementation, or enforcement of any regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) concerning process wastewater from phosphoric acid production and phosphogypsum from phosphoric acid production. The preceding sentence shall not apply to the regulation of those wastes under sections 3007, 3013, and 7003 of that Act (42 U.S.C. 6927, 6934, and 6973, respectively).

Senate amendment No. 242: Page 63, line 15, after "$2,560,000" insert ": *Provided*, That the Council on Environmental Quality and Office of Environmental Quality shall reimburse other agencies for not less than three-fourths of the personnel compensation costs of individuals detailed to it".

Senate amendment No. 243: Page 63, after line 15, insert:

### NATIONAL SPACE COUNCIL

### SALARIES AND EXPENSES

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,591,000, of which not to exceed $1,000 may by for official reception and representation expenses: *Provided*, That the National Space Council shall reimburse other agencies for not less than three-fourths of the personnel compensation costs of individuals detailed to it.

Senate amendment No. 244: Page 63, line 24, strike out "$4,446,000" and insert "$4,000,000".

Senate amendment No. 246: Page 64, line 17, after "expended." insert "in addition, for emergency disaster relief, $200,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Budget Enforcement Act, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).".

Senate amendment No. 247: Page 65, line 10, strike out "$156,409,000" and insert "$160,277,000".

Senate amendment No. 249: Page 66, line 3, strike out "$255,543,000" and insert "$257,743,000".

Senate amendment No. 252: Page 68, line 12, strike out "During" and insert "By the end of".

Senate amendment No. 254: Page 68, line 19, strike out all after "exceed:" down to and including "Counsel," in line 20.

Senate amendment No. 256: Page 68, after line 25, insert:

Notwithstanding any other law, nonsupervisory employees of the Federal Emergency Management Agency may not be excluded from coverage under chapter 71 of title 5, and such employees shall be eligible to participate in collective bargaining under such chapter.

Senate amendment No. 259: Page 68, after line 25, insert:

Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Technological Hazards, and all funds and staff years provided to it by this Act, shall be transferred from the State and Local Programs and Support Directorate to the United States Fire Administration within 90 days of the enactment of this Act.

Senate amendment No. 260: Page 68, after line 25, insert:

Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the National Preparedness Directorate shall be disestablished within 90 days of the enactment of this Act, and all funds, staff years, and responsibilities provided to it by this Act, shall be transferred to, and merged with, the State and Local Programs and Support Directorate within the Federal Emergency Management Agency.

Senate amendment No. 266: Page 71, line 11, after "(RCO)" insert ": *Provided*, That $2,100,000,000 shall be made available for implementing the restructured Space Station Freedom program without substantive deviation from the on-orbit assembly sequence outlined by NASA in March 1990, endorsed by the National Space Council, and confirmed by the Committees on Appropriations in House Report 102–226

Senate amendment No. 269: Page 71, after line 11, insert:

Of the amounts made available under this heading in Public Law 102–139, $14,300,000 for the Climsat mission are rescinded.

Senate amendment No. 272: Page 72, line 14, after "design" insert ": *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities

Senate amendment No. 277: Page 73, after line 22, insert:

The Mission Simulator and Training Facility, Building No. 5, of the National Aeronautics and Space Administration located at the Johnson Space Center in Houston, Texas, is hereinafter named and designated the Jake Garn Facility

Senate amendment No. 278: Page 73, after line 22, insert:

### NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

### SALARIES AND EXPENSES

For necessary expenses of the National Commission on American Indian, Alaska Native, and native Hawaiian Housing, in carrying out their functions under title VI of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, 103 Stat. 1987, 2052) $500,000, to remain available until expended.

Senate amendment No. 280: Page 74, line 19, after "appropriation" insert ": *Provided further*, That notwithstanding section 104 of the National Science Foundation Authorization Act of 1988 (Public Law 100-570), no funds appropriated to the National Science Foundation under this Act may be transferred among appropriations accounts".

Senate amendment No. 281: Page 74, line 19, after "appropriation" insert ": *Provided further*, That to the extend that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally

Senate amendment No. 282: Page 74, line 19, after "appropriation" insert ": *Provided further*, That, no funds in this Act or any other Act shall be used to lease or purchase an arctic research vessel built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: *Provided further*, That in determining the cost of such a vessel, such cost shall be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further*, That the vessel contracted for pursuant to the foregoing shall be of United States registry

Senate amendment No. 287: Page 76, line 18, after "1994" insert ": *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally".

Senate amendment No. 303: Page 92, after line 6, insert:

**SEC. 519. SAFE DRINKING WATER ACT IMPLEMENTATION.**

(a) SAFE DRINKING WATER ACT REPORT.—The Administrator of the Environmental Protection Agency shall report to the Congress within nine months of the date of enactment of this section recommendations concerning the reauthorization of the Safe Drinking Water Act. Such report shall address—

(1) the adverse health effects associated with contaminants in drinking water and the public health and other benefits that may be realized by removing such contaminants;

(2) the process for identifying contaminants in drinking water and selecting contaminants for control;

(3) schedules for the development of regulations and compliance with drinking water standards;

(4) the financial and technical capacity of drinking water systems to implement monitoring requirements associated with regulated and unregulated contaminants and options to facilitate implementation of such requirements, with special emphasis on small communities;

(5) the financial and technical capacity of drinking water systems to install treatment facilities needed to assure compliance with drinking water standards and options to facilitate compliance with such standards, with special emphasis on small communities;

(6) the financial and technical capacity of States to implement the drinking water program, including options for increasing funding of State programs; and

(7) innovative and alternative methods to increase the financial and technical capacity of drinking water systems and the States to assure effective implementation of such Act.

(b) MORATORIUM AND REPORT ON RADIONUCLIDES IN DRINKING WATER.—(1) The Administrator of the Environmental Protection Agency shall conduct a multi-media risk assessment of radon considering: (A) the relative risk of adverse human health effects associated with various pathways of exposure to radon; (B) the relative costs of controlling or mitigating exposure to radon from each pathway; and (C) the relative costs for radon control or mitigation experienced by households and communities, including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. The Science Advisory Board shall review the Agency's study and submit a recommendation to the Administrator on its findings. The Administrator shall report the Administrator's findings and the Science Advisory Board recommendation to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce.

(2) Notwithstanding any existing court order or agreement, not later than December 31, 1993, the Administrator shall (A) publish the Administrator's study and risk assessment and the Science Advisory Board recommendation (as described in paragraph (1)) in the Federal Register, and (B) issue final regulations under the Safe Drinking Water Act concerning radionuclides in drinking water.

(c) SMALL SYSTEM MONITORING COST REDUCTION.—With respect to monitoring requirements for organic chemicals, pesticides, PCBs, or unregulated contaminants promulgated in January 1991 (known as the Phase II rule), the Administrator or a primacy State may modify such requirements to provide that any drinking water system serving a population of less than 3,300 persons shall not be required to conduct additional quarterly monitoring for a specific contaminant or contaminants prior to October 1, 1993, if monitoring for any one quarter conducted after the date of enactment of this subsection and prior to October 1, 1993 for any such contaminant or contaminants fails to detect the presence of such contaminant or contaminants in the water supplied by the drinking water system.

### MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House recede from its disagreements to the amendments of the Senate Numbered 1, 5, 7, 9, 10, 15, 27, 28, 29, 36, 40, 41, 42, 47, 48, 49, 51, 64, 78, 79, 87, 88, 89, 90, 91, 96, 98, 107, 113, 120, 127, 131, 139, 151, 156, 159, 160, 161, 163, 164, 170, 171, 178, 180, 182, 190, 191, 194, 196, 197, 200, 218, 219, 220, 221, 222, 227, 230, 231, 232, 233, 235, 236, 237, 241, 242, 243, 244, 246, 247, 249, 252, 254, 256, 259, 260, 266, 269, 272, 277, 278, 280, 281, 282, 287, and 303, and concur therein with the amendments as printed in the joint statement of the managers.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Clerk will designate the next amendment in disagreement.

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that amendments numbered 189 and 192 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement numbered 189 and 192.

The texts of the amendments are as follows:

Senate amendment No. 189: Page 54, line 15, after "University" insert "That $12,500,000 shall be available as a grant to the Christopher Columbus Center Development, Inc. for planning, design and construction of the Christopher Columbus Center of Marine Research and Exploration in Batlimore, Maryland".

Senate amendment No. 192: Page 54, line 15, after "University" insert ": *Provided further*, That $5,000,000 of the amount provided herein shall be for a grant to the University of Utah for the design, construction, and equipping of an intermountain regional network and scientific computation center".

### MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendments of the Senate numbered 189 and 192, and concur therein.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON. Mr. Speaker, I object to these two amendments.

The SPEAKER pro tempore. Objection is heard.

The gentleman from Indiana [Mr. BURTON] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. TRAXLER] will be recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, everybody wants to go home and get back to their districts, and I understand that, so this debate is going to be rather brief.

I have talked about the issue of porkbarrel spending a lot over the past several years. This bill when it left the

House was $1.049 billion less than it is now. We have added over $1 billion in additional spending to this bill. Much of that spending we cannot get to because it is not in technical disagreement and we waived all points of order with the rule, so we cannot do much about it.

Mr. Speaker, I do want Members to know that there are page after page after page of pork-barrel projects. There are seven or eight pages of single-spaced projects that we cannot get at, totaling $260 million.

Mr. Speaker, there are a few amendments that are in technical disagreement. That means they were not in either the House or Senate bill. They were put in in the darkness of night without any consideration by the authorization committees. These pieces of legislation, these projects, need to be cut out. Two of these are amendments numbered 189 and 192.

Amendment No. 189 gives $12.5 million, get this, $12.5 million for the Christopher Columbus Center of Marine Research and Exploration in Baltimore, MD. It was added in the Senate. It was not in the House bill. It was not requested by the EPA, it was not authorized, and it is not a Federal facility.

Mr. Speaker, that means that taxpayers from other parts of the country should not be paying for this. This should be handled by the local taxpayers in Baltimore. It is pork for the chairman of the VA, HUD Appropriations Subcommittee in the other body. I just say to my colleagues that this is something we ought to cut out.

Mr. Speaker, we have a terrible problem facing us. I always use these charts because I think not only my colleagues but everybody in the country ought to see this.

The national debt was $1 trillion 10 years ago. It is over $4 trillion now. The Federal Reserve Board, and this is not coming out of my head, the Federal Reserve Board projects that the deficit will be $13.5 trillion in the next 6½ years. If that happens, the interest on the national debt will be $1.2 trillion, and that is more than all of the tax revenues coming into the Treasury.

What that means is the Federal Reserve Board will have to make a very tough decision: Do they print money to pay off the debt, or do they default on the debt? Every country in history has chosen to print money to pay off the debt.

If they print $13.5 trillion because we will not control our appetite for spending, that means that the people on fixed incomes, the Social Security recipients, the welfare recipients, the people on fixed incomes will be the hardest hit, because they will get their Government checks but they will not buy anything. If bread costs $40 or $50 a loaf and milk costs $40 or $50 a gallon, you can imagine what a hardship that will place on these people.

So we need to cap entitlements at no more than 2 or 3 percent growth per year. They have been growing much more than that. We need to get rid of the pork-barrel spending that is taking place in this body.

Mr. Chairman, I say to my colleagues that the $5 million grant that is in amendment No. 192 is a grant for Utah. It is for the design and construction of an intermountain regional network and scientific computation center at the University of Utah. That $5 million grant was added in the Senate. It was not requested, it was not authorized. It is not a Federal facility.

The Christopher Columbus $12.5 million boondoggle was added in the Senate. It was not requested by the EPA, not authorized, and is not a Federal facility.

Mr. Speaker, both of these are pork-barrel projects. I say to my colleagues it is time to start prioritizing. It is time to do the job for the people of this country, and not waste money. Otherwise we are going to face an economic debacle unparalleled in American history, and probably in the history of the world.

So I say to my colleagues, vote for my motion to cut this out and you will be taking a small step in the right direction.

Mr. Speaker, with that, I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to address the two projects that the gentleman from Indiana [Mr. BURTON] has raised here. There were three, but the third belonged to a very charming person, a lady in the gentleman's own party, so he took that one out. I concur that he should take it out. He should not have had it in the first place. He should not have had these two, incidentally.

The gentleman from Indiana [Mr. BURTON] is a watchdog, and I commend him for that. I have got some watchdog busts that we get. I used to get them myself. I have a few spares, and I will send them over to the gentleman. He has earned them. He certainly has, let me tell you.

Mr. Speaker, let us talk for a moment about the Christopher Columbus Center. I will not take much time, because we need to be out of here at an appropriate hour.

This is the third and final installment on this project. It has merit and is of great importance both to Members of this body, to the State of Maryland, as well as to the Senators in the other body. So I would say that in view of the fact that it is a 3-year program, and this is the third year, I would hope that Members would not stop the program, this final installment, and leave it unfinished.

Mr. Speaker, I would also say that the Utah matter which the gentleman from Indiana [Mr. BURTON] has addressed is a program of keen importance and very vital significance to that State and deserves our support. It came in on the Senate side. I know that the departing Senator over there, a very fine gentleman whom we all have worked with over the years and who people on both sides of the aisle like and admire, has made an eloquent plea on behalf of the reasonableness and the worthiness of this effort. I think the University of Utah deserves this consideration, that they will use the money wisely to establish the regional network, and that it will be an excellent service to the people of that area.

□ 1340

Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I want to thank the chairman for yielding time to me, and I support his position on this particular motion.

I just wanted to take this moment to pay respects to the gentleman, because he will be leaving this body in a very few days. I personally have enjoyed working with the gentleman from Michigan. Speaking as a lifelong resident and native of the city of Louisville, I think his work in behalf of housing programs, the HOME Program, the HOPE Program, his work in behalf of things like the EPA programs, Superfund, waste water treatment, all of which are important to urban areas, along with the other major independent Agencies that the gentleman's bill funds, has been very edifying over these years.

His departure is a loss to this body, and I just wanted to wish him well and thank him for all of the help he has done for all the cities of America, including my own.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank my colleague for yielding time to me.

Let me just rise in support of the chairman's position in regard to the Christopher Columbus Center of Marine Research and Exploration.

The gentleman from Indiana made a couple points, I think need to be corrected for the RECORD. That is, this project has been funded. It has been funded for 3 years in a row. This is the next installment of the Federal part of the partnership to the total cost of the program.

The gentleman from Indiana is indicating, because it is not a Federal facility, we should not be funding it. I hope the gentleman is not suggesting that the Federal Government should be doing all of the research in this area, that we should not be using private facilities.

This is a partnership. The State of Maryland, the local governments, have put forward money, the private sector had put forward money. The real center in this facility will be a centerpiece for research in marine biotechnology.

Mr. Speaker, if we are looking for one area where this Nation must be more competitive, it is in this area. The competition is not in the United States. The competition is in Japan for this type of research.

We have located in Baltimore perhaps the top person in the country, if not the world, in Rita Caldwell doing this work.

It would be tragic if the Federal Government at this stage withdrew from the partnership that we started 3 years ago.

I urge the House to support the chairman's position.

Mr. TRAXLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank my chairman for yielding time to me. I, too, lament his going.

Let me say that I understand the gentleman's concern. The gentleman's concern is placed correctly in terms of concern about the budget deficit.

This project, which, as the chairman points out, is in its third year of being funded by the Congress of the United States, is a critical project for the United States and for our research effort.

My good friend, the gentleman from Maryland [Mr. CARDIN], has pointed out that this is a center on Marine Biotechnology. The city of Baltimore, Governor Schaefer, the entire Maryland delegation have sought Federal participation for this project.

Let me say that the Japanese, the gentleman from Maryland [Mr. CARDIN] mentioned, are our principal competitors in terms of biotechnology. They have committed the Federal presence there $500 million, four times what this Nation is spending toward marine biotechnology.

Why? Because they believe it is a cutting edge issue. In fact, to not move ahead on this project would put us at an international competitive disadvantage.

I want to remind the Members, when we funded the space station, that was one of the arguments.

I would urge the Members of this House to do as they have done two previous times and move this critical project forward for American competitiveness in the international, global marketplace. This project is one of the finest that we have in this country, and my good friend, the chairman of the Committee on Science, Space, and Technology, and this is a very important point, I would hope the Members would listen, in fact, the House did authorize this project. The House did authorize this project.

Now, it is true that the authorization bill did not make its way through the Senate. But this is not a project which the House has found wanting. In fact, the House has decided that it was worthy of and ought to be authorized and has previously funded on two occasions.

Mr. Speaker, I would urge the Members of this House to oppose the gentleman's motion to cut this project from the bill. It would be a major competitive mistake for this Nation.

Mr. TRAXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I thank the gentleman and would like to echo what my colleagues from Maryland, the points that they made regarding this particular project.

I am opposing the motion of the gentleman from Indiana. We have had an authorization passed in this body with regards to that project. The Christopher Columbus Center has been funded for 3 years as an ongoing project. It is essential for the Nation's scientific future interests that we move forward in the area of marine biotechnology.

The Japanese and many other nations in the world are advancing in this area at a far faster rate with further governmental support than we are. So I think it is essential that we continue to fund this project.

Last, but not least, I think very, very important is that this is really a partnership between the State and local and Federal Government. The State of Maryland, the local governments have put up in the neighborhood of about $150 million over the course of this project.

So I urge rejection of the motion of the gentleman from Indiana and support of this project.

Mr. TRAXLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 208, nays 168, not voting 56, as follows:

[Roll No. 433]

YEAS—208

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Beilenson
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Byron
Cardin
Carper
Carr
Chapman
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Eckart
Edwards (CA)
Engel
Espy
Evans
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Jefferson
Johnson (CT)
Johnson (SD)
Jones
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Oberstar
Olver
Ortiz
Owens (NY)
Oxley
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Price
Pursell
Quillen
Rahall
Rangel
Reed
Riggs
Rinaldo
Roe
Rose
Rostenkowski
Roybal
Sabo
Sangmeister
Sawyer
Scheuer
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Staggers
Stokes
Studds
Swift
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Visclosky
Vucanovich
Walsh
Waters
Waxman
Wheat
Whitten
Wilson
Wise
Wolf
Yates
Young (AK)

NAYS—168

Allard
Allen
Andrews (TX)
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bennett
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bruce
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Fields
Fish
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Hamilton
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Johnston
Kasich
Klug
Kolbe
Kyl
Lagomarsino
LaRocco
Laughlin

Leach
Machtley
Marlenee
Martin
McCandless
McCollum
McCurdy
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison
Myers
Neal (NC)
Nichols
Nussle
Packard
Parker
Patterson
Paxon
Pease
Penny
Petri
Pickle
Porter
Poshard
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skelton
Slattery
Smith (OR)
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Valentine
Vander Jagt
Vento
Volkmer
Walker
Weber
Williams
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—56

Alexander
Anthony
Barnard
Boxer
Bustamante
Campbell (CO)
Chandler
Clay
Coughlin
Crane
Donnelly
Dooley
Dwyer
Dymally
Early
Ewing
Fascell
Fawell
Fazio
Foglietta
Gaydos
Gephardt
Hansen
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Kennedy
Lehman (CA)
Lehman (FL)
Lewis (FL)
Livingston
Luken
Martinez
McCrery
McEwen
Nowak
Oakar
Obey
Olin
Orton
Owens (UT)
Perkins
Richardson
Russo
Savage
Schulze
Smith (TX)
Stark
Thomas (WY)
Washington
Weldon
Wolpe
Wyden
Yatron

☐ 1406

The Clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Lewis of Florida against.

Mrs. ROUKEMA and Mr. VALENTINE changed their vote from "yea" to "nay."

Messrs. MILLER of California, GALLO, GILCHREST, and LIGHTFOOT changed their vote from"nay" to "yea."

So the House receded from its disagreement to the amendments of the Senate numbered 189 and 192 and concurred therein.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MODIFICATION TO EN BLOC MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that on my first en bloc motion offered earlier today, the motion be modified with respect to Senate amendment No. 197 to conform to the technical amendment pending at the desk. I have cleared this with the gentleman from New York [Mr. GREEN].

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to Senate amendment No. 197: "* * * such sums as may be necessary shall be available, from within available funds, for a cooperative agreement * * *"

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The modification is agreed to.

The text of the motion, as modified, is as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 197, and concur therein with an amendment, as follows:

Restore the matter stricken, amended to read as follows:

"*Provided*, That notwithstanding any other provision of law, such sums as may be necessary shall be available, from within available funds, for a cooperative agreement to demonstrate the use of the latest gas-phase thermo-chemical technology for the remediation of a municipal landfill located on a river island".

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 245: Page 63, line 24, after "$4,446,000" insert: ": *Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than three-fourths of the personnel compensation costs of individuals detailed to it*".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 245, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: *Provided further*, That the Office of Science and Technology Policy may award grants and enter into cooperative agreements with qualified recipients to further science, technology development, education, and other purposes."

Mr. WALKER. Mr. Speaker, I am opposed to the motion and I ask for 20 minutes of the time to be allocated in opposition.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GREEN] opposed to the motion?

Mr. GREEN of New York. I am not, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes, the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

☐ 1410

Mr. WALKER. I yield myself such time as I may consume.

Mr. Speaker, amendment No. 245, which is in technical disagreement, contains new language stating that the Office of Science and Technology Policy may award grants and enter into cooperative agreements with qualified recipients to further science technology development, education, and other purposes.

OSTP, the Office of Science and Technology Policy, has never before had the authority to make grant and contract awards. So this language that was put into this conference report at the last minute in a closed-door session makes a fundamental change in OSTP's organic act.

Now, there can be no more egregious assault on the prerogatives of the authorizing committees in this House than this kind of thing, because what you are doing is fundamentally changing the nature of an office that was designed to provide policy guidance to the President of the United States.

Now, what you are going to say is that that office within the White House is now going to become a grantsman agency.

So now OSTP does not have any personnel to do this kind of work. It was not set up to serve as a dispenser of grant money; there is no structure in place to carry out this kind of an assignment, and yet the appropriators have decided on the spur of the moment to take away authorization authority and make up a brandnew pork purveyor in the Federal Government. This language is nothing more than a ploy to provide OSTP with a single grant, $2 million that is going to go to the Consortium for International Earth Science and Information Network in Michigan. That is all this was done to do. But it carries with it far more important problems. I am sure that the consortium is going to get their $2 million as a result of what happened here. But next year you can bet that OSTP will be an agency that will be loaded up with a lot more programs. As I say, this becomes another pork purveyor. If the language passes, OSTP can be loaded up with all kinds of earmarked grants when it comes through in next year's bill. I find that appalling.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Michigan?

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Speaker, I know the gentleman always wants to be accurate, and I applaud him for that. I would just say the language is 1-year language; it does not involve next year.

Mr. WALKER. Sure, all these things are always 1-year language, I would say to the gentleman. You know, it is a little difficult to ever get anything stopped once it starts. Once we have figured out another place where pork can be provided, you can bet that somebody will figure out next year another way in an appropriations committee, and then what will we have ruled here? Well, this is a precedent: "The precedent was in last year's bill. This is nothing new. Don't worry about it."

Mr. TRAXLER. I can make this commitment to the gentleman with my entire being: I will not offer this language next year.

Mr. WALKER. Well, I want to thank the gentleman. So I would hope that when it goes through next year and so on, that he will not be among us, and I regret that because the gentleman has been a distinguished Member of this body, but I hope that he would not be in the gallery waving as the money goes flowing through in this section next year.

But I would say that this is a serious, a serious matter because it is in fact exactly the kind of thing that harms the entire authorization process. When the authorization process is broken down, when we do not have the opportunity to designate how these programs look and what they should do, then I think it is a very bad situation.

So here is a precedent we can stop before it starts.

All my amendment does is it strikes out the implementation language here. It does nothing about the $2 million. It simply does not set the precedent of having OSTP become another pork purveyor in the Federal Government. I think that would be a sad kind of thing to do.

With that, I reserve the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members, the CIESIN Program is authorized in the House bill at $33 million out of NASA, and I am grateful to the authorizers for that mark. In conversations with a wide variety of interested parties who always concern themselves, rightfully, with the NASA budget, it was determined that it would be most appropriate if the funding for CIESIN was spread among several different funding sources. CIESIN, which is a part of EOSDIS, is a nonprofit, higher education agency that has University of Santa Barbara, New York Polytech, and two universities in Michigan that will be dealing with various Federal agencies as part of their mission. It would be helpful to relieve a very constrained NASA budget by looking for other agencies in which to fund CIESIN.

With that in mind, it was believed that an appropriate place for funding would be in the office of the Science Adviser. We moved in that direction and placed $2 million in the Science Adviser's office.

The Science Adviser told me that he was pleased with this—although there may have been a statement to somebody else that he was not. I am not sure where the Science Adviser is, but I can tell you that he told me he was pleased with this and there would be some language necessary to effectuate the conferees' desires.

I would say to you it is part of EOSDIS, part of that vital and essential program, and I hope that you will support the conferees' efforts.

Mr. GREEN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard references in the course of the debate on this bill to things being done in the dark of night or behind closed doors. Let me just assure the House that this conference was held in midafternoon and there was no portion of the conference that was closed.

As to this particular item, I think it is appropriate that the Office of Science and Technology Policy at the White House have a role in the CIESIN enterprise. CIESIN is designed to see how the vast mass of data that is going to be pouring in from the EOS program can be used by both the science community and the nontechnical community at large around the world, and to see that there is access to this enormous amount of data.

So I think it is appropriate that the Science Adviser have a role in shaping that policy. I can certainly understand why he said to the distinguished chairman of our subcommittee what he did and told him exactly the language to use to accomplish that.

So I hope that the Members of the House will support what has been done here and concur in the chairman's motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). Are there further requests for time?

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

First of all, I think it is an interesting bit of dialog, and I appreciate the gentleman bringing it out, that the Science Adviser to the President sent up the language and so on and that he is partially responsible for this end run around the authorizors. It seems to me that the next time the Science Adviser comes before our committee, the Science Adviser may find himself in big trouble, and with good cause. And the Science Adviser had better get on the phone to me very quickly and explain to me why it is that he engaged in this kind of activity, which is essentially telling the authorizors that they are not important to him and to his office.

I think the President had better take a very close look at who his Science Adviser is who does not have any respect for the processes of the Congress at this time.

□ 1420

So I find that very fascinating. The Science Adviser has no business designating himself to go into the pork business, and if the Science Adviser wants to become one of the pokers here in Washington, then I would suggest he had better talk to some of the people who are in charge of his operation as well. So I have some real concerns about that.

Second, I would simply say to the gentleman that my understanding, I believe I am correct on this of his CIESIN Program being authorized is that it was a part of the title II functions under the NASA bill that passed the house. Title II was predicated on certain other things happening before title II programs could be funded. All those conditions were not met, so under the provisions of that NASA bill, the CIESIN Program would not be authorized as it passed the House. So it is not clear that this is an authorized program. It was a second tier program and is not authorized at this moment.

With that, Mr. Speaker, I would say finally that my concern is that this is not a proper procedure. It does ignore the authorization process. It seems to me that authorizers in the House should be very concerned about this particular action.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 267: Page 71 line 11, after "(RCO)" inser: "*Provided further*, That $391,000,000 shall be made available for the development of the Earth Observing System (EOS) and EOS Data Information System (EOSDIS)".

MOTION OFFERED BY MR. TRAXLER

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 267, and concur therein.

Mr. ROHRABACHER. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to Senate amendment No. 267?

The House receded from its disagreement to Senate amendment No. 267.

PREFERENTIAL MOTION OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ROHRABACHER of California moves to concur in Senate amendment number 267 with the following amendment: In the matter proposed to be inserted, strike "$391,000,000" and insert "$371,000,000".

The SPEAKER pro tempore. Is the gentleman from California [Mr. ROHRABACHER opposed to the Traxler motion?

Mr. ROHRABACHER. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GREEN] opposed to the Traxler motion?

Mr. GREEN. No, I am not, Mr. Speaker.

The SPEAKER pro tempore. The time will be allocated three ways: The gentleman from Michigan [Mr. TRAXLER will be recognized for 20 minutes; the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes; and the gentleman from California [Mr. ROHRABACHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Chairman, my amendment reduces the amount specifically earmarked in the Senate amendment for the Earth Observation System by $20 million, from $391 million to $371 million.

My intent in offering this amendment is that the entire $20 million come from the CIESIN Program and that of the $20 million which is freed up in the research and development line item by the reduction of this earmark be used for the National Aerospace Plane Program.

Mr. Speaker, let me recall the history of how we got to this point. When we considered the House version of this program on July 29, the bill included provisions that zeroed out a vital research program, and that is to develop the National Aerospace Plane and give the money to a project which is in the district of the subcommittee chairman, the gentleman from Michigan [Mr. TRAXLER].

That day, our colleague, the chairman, and a man I might say who is a champion of technology and progress on the other side of the aisle, the gentleman from Oklahoma [Mr. McCURDY] offered an amendment to reverse this misallocation of priorities and to restore $30 million to the National Aerospace Plane Program. His amendment passed by a vote of 270 to 201; but then within hours, as many of my colleagues painfully remember, perhaps still feeling the twist in their arms, the chairman was able to reverse the result and defeat the McCurdy amendment on a separate vote in the full house.

Even though the gentleman from Michigan will not be returning next year, apparently he loomed as a threat over many of the projects that were of concern individually to many of the Members, at least enough to induce some of the Members to change their votes.

To help my colleagues remember that sad day, I would like to quote from the statement of the gentleman from Oklahoma [Mr. McCURDY] when he learned that his victory for the National Aerospace Plane and the Aerospace industry was about to be reversed. I have the CONGRESSIONAL RECORD here.

The gentleman from Oklahoma [Mr. McCURDY] stated:

> I thought I would take this opportunity to explain exactly what has happened. It is becoming readily apparent as Members have come to me and said that they are probably going to have to switch their votes because of concerns about projects in their districts and the like.

Then he says later:

> I understand the risk that individuals take on votes such as this; but my colleagues, it is wrong, it is wrong, and we wonder why this body is held in such disrepute.

Mr. Speaker, we now have a chance to partially reverse the effects of that very questionable episode in congressional history. While we cannot restore the entire $30 million for the National Aerospace Plane, we can still restore two-thirds of that amount, $20 million, and keep the national aerospace plane, a vital research program for the future of the aerospace industry, the only manufacturing industry that makes a profit in exporting in the United States today, that we can keep it as a joint Defense Department/NASA program today.

Mr. Speaker, I urge my colleagues to stick with their convictions this time and do the right thing and support my amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAXLER. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, what the gentleman seeks to do is to address an issue that was raised in a different way in the course of the House deliberations on the bill. That effort was not successful. What he seeks to do here, he is not going to achieve. He wants to reach into this account and through some parliamentary device, allege that if you cut this $20 million, you cut it out of CIESIN. CIESIN in the statement of the managers, is $20 million in a separate item.

What the gentleman would do, in my opinion, is cut the EOS and EOSDIS program by $20 million.

Let me say to my colleagues, in my assessment there is no better program, and I am sure there may be one or two of you who would disagree with this. But the vast majority of the Members of this House support EOS, the Earth Observation System, and EOSDIS, the Data Information System.

It would seem to me that if you believe in wanting to understand more about the planet Earth, that you do not want to be cutting this program. It is a vital and an important one. It is properly authorized. It has a proper appropriation.

Mr. Speaker, I would recommend that we support the committee in this effort.

I understand the gentleman's concerns. Perhaps in some other way and in some other place they will be addressed, but I have no prejudice against what the gentleman ultimately would like to do.

Mr. GREEN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, whatever the intentions of the gentleman from California, he cannot achieve them with what he has offered us. There is simply no way that what he has done is going to give one penny to NASP. That may be good or it may be bad, but it is the truth. It is the reality.

What he will do is cut a very important part of the EOS program. There is no point in our spending billions of dollars to generate all the data that is involved in EOS unless we can use it.

We have always known that is going to be a big part, an expensive part of the EOS program, if the EOS program is going to do what Congress wants it to do.

So Mr. Speaker, I would urge my colleagues to reject this effort. It will not get one penny for NASP. It cannot get one penny for NASP.

Mr. Speaker, I urge instead that we support the conference report.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER] so he can explain to us how our destiny is in our hands, and yes, the votes count on the floor of the House of Representatives.

□ 1430

Mr. WALKER. Mr. Speaker, it is interesting how the arguments switched from one amendment to another. A couple of minutes ago we heard about the CIESIN program that was being authorized. What we did not hear about was where it was authorized. CIESIN was authorized insofar as it appears in our bill under the EOS program. So when the gentleman takes this money out, he is in fact acting in precisely the area of the authorization bill where CIESIN appears.

It is also interesting that we authorized the EOS program at $371 million. The gentleman seeks to reduce the appropriation from $391 million to $371 million, which gets us to the authorization figure.

What we have once again is the appropriators running wild. We have them appropriating amounts well above authorizations. We have them totally emasculating some programs in order to put pork in other areas.

What the gentleman from California [Mr. ROHRABACHER] is attempting to do is say, "Fine, you totally zeroed out the NASP program, something that is very important to us. I understand in my amendment I can't get here, but at least I can reserve $20 million for this very valuable program rather than have you overspend the authorized figure by $20 million." That is what he is doing. He is lowering the spending level by $20 million to get it within the authorization, and he is doing it in precisely the area where the authorizing committee put CIESIN.

I think this is an entirely responsible amendment, and if in fact it frees up some money that could ultimately help us preserve the NASP program, I think that would be a very useful thing to do. The National Aerospace Program is the technology driver for this country for the future. This committee has totally zeroed it out. This committee has said "zilch" for one of the main technology driving programs we have in this country, and the gentleman from California is simply trying to get us some money that might be used if the committee saw fit to solve the problem of providing no money for NASP anywhere, and he is doing so in a way which totally meets with the authorizing committee's priorities.

Mr. Speaker, I would suggest that the gentleman from California deserves the support of the House.

Mr. GREEN of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the Traxler motion and in opposition to the preferential motion offered by my colleague, the gentleman from California [Mr. ROHRABACHER] to transfer money from the CIESIN project to other programs within NASA.

CIESIN is an important informational link to gather essential environmental data which is so critical to the future of not only our Nation but the entire world. We are facing serious environmental challenges in the years ahead, and CIESIN will be that important network that links scientists with information around the world to help meet the challenges of the future with regard to our environment.

Mr. Speaker, we need this priority. It has been established by the House. I urge my colleagues to oppose the preferential motion.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, let us note the choice we are making today. Yes; it would be very nice if we had an Earth-observing system, and I hope that the satellites and the Earth-observing system will be able to observe all of the unemployed aerospace workers throughout the United States who will not have jobs two decades from now because we have taken from them the technological edge they need to compete with other people who will produce aerospace products in different parts of the world.

Hypersonics is the aerospace technology of tomorrow. Will we compete tomorrow? Will there be aerospace workers employed tomorrow? Perhaps some of us would rather have a Federal building in our own congressional districts rather than have aerospace people employed because perhaps these people will not be Congressmen a decade from now.

I think what is important is for us to chart a course so that we can have some prosperity in the United States and so our people can live in peace, and hypersonic technology is absolutely vital to the peace and prosperity of America in the years ahead.

What we would be doing by this vote and what we did by arm-twisting in the Hallways late at night last month was to eliminate the future of the aerospace industry, and we will do that today if we let this stand.

Yes; we can talk all we want about the environment, and we can use pleasant phrases, and, yes, I think trying to protect the environment is a very noble cause. But doing it at the expense of one industry, the one manufacturing industry that makes money exporting goods from the United States of America is absolutely absurd.

Mr. Speaker, we have already received many benefits from the National Aerospace Plane Program. In materials and in propulsion systems, this has been a technology generator. For us now to zero it out is a crime and a tragedy against American manufacturing.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the appropriate vote here in support of the conference report and the expeditious passage of the conference report is no.

Mr. LEWIS of Florida. Mr. Speaker, I rise in strong support of the preferential motion by the gentleman from California [Mr. ROHRABACHER], which will remove $20 million from the CIESEN pork program, and place it in the National Aerospace Plane [NASP] Program.

Last year, despite defense cutbacks, the United States had a $30 billion trade surplus in aerospace, the largest of any industry. This trade surplus resulted in total economic output of $70 billion and well over 1 million jobs, and is a direct result in investment in aerospace and aviation research in decades past.

NASP is absolutely crucial to maintaining our leadership in this vital area. It has already led to important breakthroughs in materials, propulsion, aerodynamics, and computer fluid dynamics, to mention but a few.

These would not have occurred without NASP, and the likelihood of future breakthroughs will be severely limited if this program is canceled. There is no doubt technology for a single stage to orbit an air-breathing vehicle is within reach.

This is evidenced by the fact that the Japanese, French, British, Germans, and former Soviet Union all have programs. In fact, the Russians recently successfully tested a hypersonic scramjet engine, which is the same type being planned for NASP.

Although the Russian effort brings the exciting possibility of the United States having the opportunity to buy this technology from the Russians, it also raises the disturbing scenario of another nation, such as Japan, acquiring this technology, and overtaking a suddenly dormant United States technological effort.

Many of us have supported this program for a significant amount of time, and strongly believe cancellation would deal a severe blow to America's competitiveness, and cause the loss of hundreds of thousands of jobs.

This view is backed up by scientists and engineers across the country—even those not involved in the project. In contrast, CIESEN is unrequested, over its authorization, and supported by virtually no one who will not benefit by the Federal funds in this special earmark.

I congratulate Mr. ROHRABACHER for his hard work on behalf of NASP, and I urge my colleagues to support this amendment.

Mr. TRAXLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). Without objection, the previous question is ordered on the preferential motion.

There was no objection.

The SPEAKER pro tempore. The question is on the preferential motion of the gentleman from California [Mr. ROHRABACHER] to concur in Senate amendment No. 267 with an amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 87, nays 279, not voting 66, as follows:

[Roll No. 434]

YEAS—87

Allard
Allen
Archer
Armey
Bacchus
Baker
Ballenger
Barton
Bennett
Bentley
Bereuter
Bilirakis
Boehner
Brown
Bunning
Burton
Campbell (CA)
Clinger
Coble
Combest
Cox (CA)
Cunningham

Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
English
Fawell
Fields
Gallegly
Gekas
Geren
Gingrich
Glickman
Goodling
Goss
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hefley
Herger

Hobson
Hubbard
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Kyl
Lagomarsino
Marlenee
McCandless
McCollum
Meyers
Moorhead
Packard
Paxon
Petri
Ravenel
Ray
Ridge

Ritter
Rohrabacher
Ros-Lehtinen
Santorum
Schiff
Sisisky
Smith (OR)

Solomon
Spence
Stenholm
Stump
Taylor (MS)
Thomas (CA)
Torricelli

Valentine
Vucanovich
Walker
Weber
Weldon
Zeliff
Zimmer

NAYS—279

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bateman
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Byron
Callahan
Camp
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Feighan
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Gradison

Grandy
Green
Guarini
Gunderson
Hamilton
Harris
Hastert
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Hopkins
Horn
Houghton
Hoyer
Hughes
Jacobs
Jenkins
Johnson (SD)
Jones
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle

Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Rhodes
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (GA)
Thornton

Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt

Vento
Visclosky
Volkmer
Waxman
Wheat
Whitten
Williams

Wilson
Wise
Wolf
Wylie
Yates
Young (AK)
Young (FL)

NOT VOTING—66

Ackerman
Alexander
Anthony
Barnard
Barrett
Boxer
Bustamante
Campbell (CO)
Chandler
Clay
Coleman (MO)
Coughlin
Crane
Donnelly
Dooley
Dwyer
Dymally
Ewing
Fascell
Fazio
Foglietta
Ford (TN)

Gaydos
Hansen
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Hunter
Ireland
Jefferson
Johnston
Kennedy
Kolter
Lehman (CA)
Lehman (FL)
Lewis (FL)
Lipinski
Livingston
Luken
Martinez
McCrery
McEwen

McHugh
Murphy
Murtha
Nowak
Oakar
Olin
Orton
Richardson
Roth
Russo
Savage
Schulze
Shaw
Smith (TX)
Stark
Thomas (WY)
Walsh
Washington
Waters
Wolpe
Wyden
Yatron

☐ 1456

Messrs. LEACH, GILMAN, and RINALDO, and Mrs. COLLINS of Michigan changed their vote from "yea" to "nay."

Messrs. DORNAN of California, VALENTINE, and ENGLISH changed their vote from "nay" to "yea."

So the amendment to the Senate amendment numbered 267 was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 268: Page 71, line 11, after "(RCO)" insert ": *Provided further*, That NASA shall take no future action to restructure these critical elements of the Mission to Planet Earth in any manner which would reduce the estimated total budget authority for development, exclusive of construction of facilities, tracking operations, and launch services, through fiscal year 2000 below $8,000,000,000".

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. TRAXLER moves that the House recede from its disagreement to the amendment of the Senate numbered 268, and concur therein.

Mr. BROWN. Mr. Speaker, I rise in opposition to the motion, and I ask for the requisite amount of time in opposition.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GREEN] opposed to the motion?

Mr. GREEN of New York. Mr. Speaker, I am not.

The SPEAKER pro tempore. Is the gentleman from Michigan [Mr. TRAXLER] opposed to the motion?

Mr. TRAXLER. Mr. Speaker, I am not.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. TRAXLER] will be recognized for 20 minutes, the gentleman from California [Mr. BROWN] will be recognized for 20 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all of us are aware of the desire of the Members to leave as quickly as possible. I know that the gentlemen from Michigan and New York share my views that we should terminate this as quickly as possible.

May I say to all the Members that I have been trying to illustrate to the Members now for some time the need for some changes in the process by which appropriation bills are considered insofar as they involve authorizing language or funding for projects that have not been authorized.

The debate this afternoon has been illustrative in that it has taken up several items which represent the problems here, and may I say on both of the two previous votes, I agreed with those who were seeking to change the appropriations language.

☐ 1500

As I was just explaining, while I differed with the Committee on Appropriations on the last two, I did not think they reached the point of egregiousness to which I would choose to devote a great deal of my time. This amendment that I am now addressing in my opinion is the most egregious violation of the privileges of the House, the rules of the House, the prerogatives of the Members of authorizing committees and the Members in general of any item in this bill.

Let me tell the Members very quickly what it is. On the other side, in the Senate, the distinguished gentlewoman from Maryland, the chairman of the Appropriations Subcommittee, inserted this language, or caused to be inserted this language, with regard to the EOS program:

> Provided further that NASA shall take no future action to restructure these critical elements of the Mission to Planet Earth in any manner which would reduce the estimated total budget authority for development, exclusive of construction of facilities, tracking operations, and launch services through fiscal year 2000 below $8 billion.

In order words, the Appropriations Subcommittee on the other side set a floor which could not be gone below of $8 billion over the next 8 years for a program which has $391 million in it, I think, this year.

The EOS program is a wonderful program. This is the program which, from space platforms, determines the conditions of global warming, the problems that are developing on Earth. I think it probably has at least 90 percent support in this House, and we all want to support it.

A good part of that program is executed in the State of Maryland, and the gentlewoman from Maryland is, of course, concerned that the spending be at the maximum amount that would be beneficial, both to the program and to the State of Maryland. This is not unusual, and I am not in any way condemning her zeal to protect this program.

What I am saying is this is legislation on an appropriation bill. It projects for 8 years a level of spending which is completely impossible to estimate at this time. It precludes those of us on the authorizing committees from continuing to urge on NASA that they do this program in the cheapest possible way, that they accomplish the goals of EOS, but in a fashion which will save money.

We have already, in the authorizing committee, encouraged NASA, and the Administrator in cooperating, to restructure this program in such a fashion that it would save hundreds of millions of dollars. The language in this bill that I am seeking to oppose precludes us from continuing to do that, and commits us to $1 billion a year, at least, over the next 8 years.

This is egregious. It could represent an additional expenditure that could run to hundreds of millions of dollars. It is not within the jurisdiction of the Committee on Appropriations under any circumstances. I ask that this amendment be defeated.

Mr. GREEN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly appreciate the problem of the gentleman from California [Mr. Brown], who chairs the Committee on Science, Space, and Technology. I would only ask that he appreciate the problem that we on the Committee on Appropriations face in this situation. His committee is usually among the most diligent in the House in bringing forth his legislation in timely fashion to the floor of the House. He is, indeed, usually on the floor of the House before our appropriation bill comes along. We thank the gentleman for that.

We face the problem, however, that the other body does not follow his good example. I am told that in the other body his bill, his authorizing bill, is out of committee, but it has not yet been on the floor for consideration. We are under a mandate to get this bill done and to the President by the end of the month, before the start of the fiscal year.

Thus, we face a situation where the gentleman has not been able to go to conference, but the Senate, instead, turns to our conference as a place where it can deal with these issues. As the gentleman knows, this has happened time and again. There is not a lot that we on the appropriations side of things can do about this.

In fact, in many years, as the gentleman knows, the Senate never completes work on the bill that his committee produces, so we are left in a situation where, if we are going to conclude a conference with the Senate, get the conference reports back here in a timely fashion and get them on to the President, we have to negotiate with the Senate on whatever it is it chooses to negotiate with us. Then, obviously, we go to the Committee on Rules and try to get the help that we got from the Committee on Rules, and that we got from the House in its vote on the rule earlier in the day.

So while I understand these sensibilities of the gentleman who chairs the Committee on Science, Space, and Technology, and they are very legitimate concerns that he brings to us, I hope that he will understand our problem as we go to conference with the Senate, which chooses to address these issues in the appropriation bill where there is no final piece of legislation to guide the conference, and where, therefore, we are forced to negotiate with the Senate and try to produce a package that can pass both Houses and be signed by the President.

For that reason, recognizing what the concerns of the gentleman from California [Mr. Brown] were, I would hope that the House would, nonetheless, support the motion of the distinguished chairman of the Appropriations Subcommittee so we can complete work on this bill, so we will not be forced to a continuing resolution on this bill, and so that we can get this bill to the White House.

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I concur with both gentlemen. It is a situation where we cannot win. There is a no-win here.

Let me say that the gentleman communicated to me, before we went to conference, his deep concerns about some of the Senate language that was contained in their bill. We worked mightily to accommodate the gentleman's concerns. He will remember that there were several items that the Senate yielded on.

The language that he complains about represents heels dug in on the part of the Senate because of very strong feeling regarding EOS. I know the gentleman shares that area of concern. The gentleman is a friend and a supporter of EOS, and as he knows, the current estimate for that program is, I believe, $11 billion, but this is a floor of $8 billion.

I would say that in the interests of comity, they backed away from considerable language in other areas, and feel very strong on this. I do not want to return to conference, however desirable that might be from the gentleman's standpoint. I would like to complete this bill in time for the new fiscal year. I do not want us going into a short-term CR or any CR.

I would also say that the gentleman has an avenue open to him that he is aware of. In his authorizing legislation he has the opportunity to change those numbers or do anything he wants to do. That is the gentleman's prerogative.

I think in the interests of moving this bill along, I would ask the membership to vote aye to get the bill signed before the new fiscal year begins.

Mr. BROWN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, may I just very, very briefly respond to my good friends from New York and Michigan. They are correct in what they have stated. The Senate has not acted on our authorization bill for NASA and other programs. The reasons are very simple. The chairman of the authorizing committee on the Senate also sits on the appropriation committee, as was the case in the matter that I brought up last Thursday involving the energy and water bill. The chairman of the authorizing committee sits on, and in fact chairs, the Appropriations Subcommittee on Energy and Water.

Neither of these gentlemen cares whether we have an authorizing bill or not. In effect, they are saying to us in the House, "We do not care what you authorize. We will not pass an authorizing bill. We will authorize on the appropriation bill."

This is intolerable. We need to send a message that this is intolerable. That message will be sent with this amendment going down, and I am asking for a "no" vote on this amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, just briefly, I want to congratulate the gentleman for his amendment. When we start having a process where we set funding that has to be spent, kind of regardless of what the circumstances are, I think we do the worst possible thing in terms of fighting debt and deficit. It is the reason why authorizing committees are in place, to try to stop that kind of thing from taking place.

This bill literally says that on this particular program we have to spend $8 billion for the program, regardless of whether or not that amendment is needed.

□ 1510

That is just not the way we ought to be funding programs in an appropriation bill or in an authorization bill, and I thank the gentleman for his amendment.

Mr. BROWN. The gentleman from Michigan [Mr. TRAXLER] says we do have a recourse; we can pass an authorization bill next year which would eliminate this. And I have just explained why that would not make any difference. They would not take it up in the Senate.

I urge a "no" vote on the gentleman from Michigan's motion.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding. Just let me say that this is more a sense of the Congress than it is a mandatory expenditure because this is subject to an annual appropriation. The gentleman will have an opportunity to pass on whatever numbers are put in this appropriations bill in future years. The gentleman will have plenty of say here. I just want to get this conference report over. This is the last vote. Vote yes, and let's all go home.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this language says, "not less than $8 billion through fiscal year 2000" can be spent. That really is a mandate.

Mr. BROWN. I ask for a "no" vote.

Mr. GREEN of New York. Mr. Speaker, I yield myself 1 minute very briefly to respond to the gentleman from Pennsylvania. No appropriation bill can bind us beyond that year. We are perfectly free next year to vote nothing for EOS despite this language. The gentleman knows it, I know it, the whole House knows it. Let us not force this bill into a continuing resolution. Vote yes.

Mr. Speaker, I yield back the balance of my time.

Mr. BROWN. Mr. Speaker, I yield back the balance of my time.

Mr. TRAXLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER] that the House recede from its disagreement to the amendment of the Senate numbered 268 and concur therein.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GREEN of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 144, nays 200, not voting 88, as follows:

[Roll No. 435]

YEAS—144

Abercrombie
Andrews (NJ)
Annunzio
Applegate
Atkins
AuCoin
Bateman
Bevill
Bonior
Borski
Boucher
Brooks
Broomfield
Byron
Camp
Cardin
Carper
Carr
Chapman
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
Davis
DeLauro
DeLay
Dicks
Dingell
Dixon
Downey
Durbin
Early
Eckart
Espy
Evans
Fish
Flake
Ford (MI)
Frank (MA)
Frost
Gallegly
Gallo
Gephardt
Gibbons
Gilman
Gonzalez
Green
Guarini
Hall (OH)
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Johnson (SD)
Kanjorski
Kaptur
Kennelly
Kildee
Kopetski
Lagomarsino
Lancaster
Laughlin
Lent
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lloyd
Lowery (CA)
Lowey (NY)
Manton
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McMillen (MD)
McNulty
Mfume
Moakley
Mollohan
Moran
Mrazek
Myers
Natcher
Oberstar
Obey
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Porter
Price
Pursell
Quillen
Rahall
Rangel
Reed
Regula
Riggs
Rose
Rostenkowski
Roybal
Sabo
Sangmeister
Savage
Sawyer
Schumer
Serrano
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Snowe
Solarz
Stokes
Studds
Swift
Taylor (NC)
Thomas (GA)
Towns
Traxler
Unsoeld
Upton
Visclosky
Volkmer
Waters
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Yates

NAYS—200

Allard
Allen
Anderson
Andrews (TX)
Archer
Armey
Aspin
Bacchus
Baker
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehner
Brewster
Browder
Brown
Bruce
Bryant
Bunning
Callahan
Campbell (CA)
Clement
Coble
Combest
Condit
Cooper
Costello
Cox (CA)
Cramer
Cunningham
Dannemeyer
Darden
de la Garza
Dellums
Derrick
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Fawell
Feighan
Fields
Franks (CT)
Gekas
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Horn
Houghton
Hubbard
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (TX)
Jontz
Kasich
Kleczka
Klug
Kolbe
Kostmayer
Kyl
Lantos
LaRocco
Leach
Levin (MI)
Long
Machtley
Markey
Martin
McCandless
McCollum
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison
Nagle
Neal (NC)
Nichols
Nussle
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Pease
Penny
Petri
Pickett
Pickle
Poshard
Ramstad
Ravenel
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Sisisky
Slattery
Smith (NJ)
Smith (OR)
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thornton
Torres
Torricelli
Traficant
Vander Jagt
Vento
Vucanovich
Walker
Washington
Waxman
Weldon
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—88

Ackerman
Alexander
Andrews (ME)
Anthony
Ballenger
Barnard
Barrett
Barton
Boehlert
Boxer
Burton
Bustamante
Campbell (CO)
Chandler
Clay
Coleman (MO)
Coughlin
Crane
DeFazio
Dickinson
Donnelly
Dooley
Dwyer
Dymally
Edwards (OK)
Ewing
Fascell
Fazio
Foglietta
Ford (TN)
Gaydos
Gejdenson
Geren
Hansen
Hatcher
Hayes (LA)
Hefner
Holloway
Hopkins
Horton
Huckaby
Hyde
Ireland
Johnson (CT)
Johnston
Jones
Kennedy
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Lewis (FL)
Lipinski
Livingston
Luken
Marlenee
Martinez
McCrery
McCurdy
McEwen
McHugh
Murphy
Murtha
Neal (MA)
Nowak
Oakar
Olin
Orton
Peterson (MN)
Richardson
Roe
Roth
Roukema
Rowland
Russo
Schulze
Sharp
Shaw
Smith (FL)
Smith (TX)
Stark
Thomas (WY)
Valentine
Walsh
Wolpe
Wyden
Wylie
Yatron

☐ 1533

The clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Rowland against.

Mr. FAWELL and Mr. DORGAN of North Dakota changed their vote from "yea" to "nay."

Mr. WILSON, Mrs. BYRON, Mrs. KENNELLY, Mr. CARR, and Mr. OBEY changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Clerk will report the motion.

The Clerk read as follows:

Mr. TRAXLER moves that the House insist on its disagreement to the amendment of the Senate numbered 268.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

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## REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF HOUSE JOINT RESOLUTION 436

Mr. GUARINI. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina [Mr. MCMILLAN], be removed as a cosponsor of House Joint Resolution 436, entitled "National Baseball Day."

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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## APPRECIATION TO THE STAFF FOR WORK ON CONFERENCE REPORT ON H.R. 5679

(Mr. TRAXLER asked and was given permission to address the House for 1 minute.)

Mr. TRAXLER. Mr. Speaker, in the course of the deliberations on the conference report on the bill, H.R. 5679, I neglected to extend my appreciation to a couple of staff members.

I want to extend a gracious thanks to Jeff Lawrence, Bill Gilmartin, Bill Warfield, and Jim Kulakowski, all wonderful, dedicated staff people.

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## PERMISSION TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 28, 1992, TO FILE CONFERENCE REPORT ON S. 2532, FREEDOM SUPPORT ACT

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that the managers have until midnight, Monday, September 28, 1992, to file a conference report on the Senate bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

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## ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE ACT OF 1992

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 9, strike out lines 1 to 3 and insert:

(1) to the extent practicable, consistent with the purposes set forth in section 4(c) for which the refuge will be established after the certification required under section 2(b)(2); and

Page 9, strike out all after line 5 over to and including line 5 on page 10 and insert:

(f) EXISTING LAW.—The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), and the Bald Eagle Protection Act (16 U.S.C. 668 et seq.) shall apply to all actions at the Arsenal.

(g) RESPONSE ACTIONS.—(1) The future establishment of the refuge shall not restrict or lessen in any way any response action or degree of cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other applicable provisions of law, or any response action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out by or under the authority of the Secretary of the Army at the Arsenal and surrounding areas, including (but not limited to)—

(A) the substance or performance of the remedial investigation and feasibility study or the endangerment assessments;

(B) the contents and conclusions of the remedial investigation and feasibility study or the endangerment assessment reports; or

(C) the selection and implementation of response action and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) for the Arsenal and surrounding areas.

(2) All response action and action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out at the arsenal shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants that, at a minimum, is sufficient to fully meet the purposes set forth in section 4(c) for which the refuge will be established and to permit access to all real property comprising the refuge by refuge personnel, wildlife researchers, and visitors.

Page 11, line 15, after "passerines," insert: "and"

Page 11, line 16, strike out all after "birds" down to and including "endangered" in line 17.

Page 11, after line 17, insert:

(2) To conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing.

Page 11, line 18, strike out "(2)" and insert: "(3)".

Page 11, line 22, strike out "(3)" and insert: "(4)".

Page 11, line 24, strike out "(4)" and insert: "(5)".

Page 12, line 1, strike out "(5)" and insert: "(6)".

Page 12, line 5, strike out "(6)" and insert: "(7)".

Page 12, line 7, strike out "(7)" and insert: "(8)".

Page 12, strike out all after line 19 over to and including line 23 on page 13.

Mrs. SCHROEDER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentlewoman from Colorado?

Mr. MARTIN. Reserving the right to object, Mr. Speaker, I do so to give the gentlewoman from Colorado an opportunity to explain the amendments, and I yield to the gentlewomen from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 1435 and urge our colleagues to agree to the Senate amendments.

H.R. 1435, the Rocky Mountain Arsenal National Wildlife Refuge Act, is a bill that would create a national wildlife refuge at the Rocky Mountain Arsenal, a former Army chemical weapons factory, in Adams County, CO. The Senate amendments are very similar to the bill that passed the House on July 7.

The Senate amendments made additional clarifications to the House-passed bill. The Senate amendments clarify that the response actions at the arsenal, at a minimum, should meet the purposes set forth in the bill, and should permit access to all parts of the refuge for visitors, as well as refuge personnel and wildlife researchers.

The Senate amendments also make clear that the Endangered Species Act, Migratory Bird Act, and the Bald Eagle Protection Act apply to all actions on the arsenal. By changing the House-passed bill, the Senate amendments take no position on whether these laws are legally applicable or relevant and appropriate [ARAR] under the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA].

Throughout the entire legislative process on this bill, we have attempted to ensure that nothing in the bill will adversely affect remediation required by CERCLA. To determine the degree of remediation necessary to protect human health and the environment, section 121(d) of CERCLA requires the President to select standards, requirements, criteria, and limitations that are legally applicable to the hazardous substances, pollutants, or contaminants concerned or are relevant and appropriate under the circumstances of the release. The Environmental Protection Agency has issued a considerable amount of guidance on selection of ARAR's. This bill does not attempt to address the question whether these laws are ARAR's; this determination is properly made through the processes set forth in CERCLA, the national contingency plan, and EPA guidance.

I want to thank the gentleman from Massachusetts, the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment and new chairman of the committee, Mr. STUDDS, for his support and his great assistance in moving this bill through the Merchant Marine Committee. His staff has been a pleasure to work with.

I also want to thank the chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL], for working with both committees to resolve concerns in the bill relating to environmental restoration. I know of the interest of the Energy and Commerce in this matter and Chairman DINGELL and his staff has been very helpful in addressing these concerns.

I also want to thank the interested parties in Colorado who worked with us in creating and refining the wildlife refuge concept. My colleague from Colorado, [Mr. ALLARD] gave great assistance by brokering the first compromise on the issue. His bill, H.R. 2883, was an important step in bringing together all of the parties in Colorado in agreeing to transform the arsenal into a wildlife refuge.

I also want to thank the Department of the Army, the Department of the Interior, the Fish and Wildlife Service, and the Environmental Protection Agency for working with us to create a strong and workable bill. We have worked with the Army for many years on the arsenal issue and I especially want to recognize the Deputy Assistant Secretary of the Army, Lewis D. Walker, and his fine staff who have worked with me on Rocky Mountain Arsenal for many years.

Mr. Speaker, I urge our colleagues to agree to the Senate amendments and send the bill to the President for his signature.

Mr. DINGELL. Mr. Speaker, as we consider this legislation to add Rocky Mountain Arsenal to the Wildlife Refuge System, it is important to note that we could not have reached this point without the hard work, persistence, and able advocacy of the gentlewoman from Colorado [Mrs. SCHROEDER]. She is to be congratulated for her efforts.

I have long been a proponent of the Wildlife Refuge System. As the author of the Wildlife Refuge System Administration Act, my goal was to create a vital and flexible system for wildlife management that would help conserve, and possibly halt the eradication of, a number of vital wildlife species, their habitats, and ecosystems. That refuge system has worked well over the years and has accommodated and adapted to a wide spectrum of uses. My primary goal for the bill before us has been to maintain the integrity of the refuge system by ensuring that as much of the arsenal as possible will become part of the refuge and that it will be fully cleaned up to levels what will allow refuge personnel, wildlife researchers, visitors, and wildlife to have routine and undiminished access to essentially all parts of the arsenal.

This goal is at the heart of several provisions in the bill. For example, this is the first time that Congress has determined the ultimate land use of a Superfund site. Because this land use determination precedes completion of the normal remedy selection process used for all Superfund sites, sections 3(c) and 3(g) were added to the bill to ensure that a complete and thorough cleanup will occur at the arsenal before it becomes part of the refuge system. This means that the normal Superfund remedial investigation and feasibility study process are to be unaffected by designation of RMA as a future refuge. Consequently, the Army assured the House committees that the remedial investigation will use a $10^{-6}$ risk level as the point of departure for its evaluation of what areas of the arsenal require remediation and that the cleanup will be equivalent to or more stringent than the industrial worker scenario contemplated by the Federal facility agreement for the site. This level of evaluation and cleanup should result in a site at which institutional controls, such as fencing off areas or requiring use of personal protective equipment, are not needed to meet the bill's goal of a refuge which will provide maximum fish and wildlife oriented public uses.

Additionally, consistent with the refuge system goal of preserving and enhancing wildlife species and ecosystems, section 3(f) was designed to make clear that three key wildlife protection statutes—the Endangered Species Act, the Bald Eagle Protection Act, and the Migratory Bird Treaty Act—apply to all response actions at the arsenal. These three acts are expected to be used by the Army to set standards and requirements for the cleanup.

I would also like to clarify why language in the bill originally passed by the House pertaining to ARAR's has been deleted. Simply because it was not necessary. The Endangered Species Act, the Bald Eagle Protection Act, and the Migratory Bird Treaty Act are clearly Federal environmental laws which are legally applicable or relevant and appropriate to the response action at Rocky Mountain Arsenal. Thus, they are ARAR's pursuant to section 121(d) of CERCLA. By unequivocally stating that these three acts. shall apply to all actions at the arsenal, H.R. 4135 makes them legally applicable to all response action for hazardous substances and pollutants and contaminants at RMA.

Although I generally do not believe that Superfund sites make good wildlife refuges, the staffs and Members of both the House and the Senate have worked hard to develop a bill that will hopefully result in a good addition to the refuge system when a thorough cleanup in complete.

Mr. MARTIN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in cautious support of the legislation and wish to congratulate its sponsors, my colleagues from Colorado, Mrs. SCHROEDER and Mr. ALLARD. They have invested an enormous amount of time and energy into this bipartisan effort and have come up with a bill enjoying support from the entire delegation.

Rocky Mountain Arsenal, despite its environmental problems, contains a rich abundance of wildlife. Over 100 endangered bald eagles use the area as their winter home. I know my own staff takes advantage of the excellent fishing at the arsenal. It is truly a wildlife refuge and is uniquely suited for the action we are taking today.

That having been said, I remain concerned that the refuge designation called for by this legislation not interfere with the integrity of the Superfund cleanup process currently under way at the arsenal. Our foremost priority must continue to be providing the people of Colorado the highest level of protection as technically feasible. I have been assured by the bill's sponsors that nothing in the legislation is intended to lessen in any way the cleanup obligations called for by the relevant Federal facilities compliance agreement.

While this may appear to be little more than a technical issue, it has serious implications for other contaminated Federal facilities across the Nation. That is why I have worked closely with the sponsors of the legislation, as well as members and staff of the Energy and Commerce Committee and the State of Colorado to craft language which I believe ensures the maximum public use of the arsenal as is compatible with wildlife. The bill is much improved as a result of these efforts.

Mr. Speaker, the designation of Rocky Mountain Arsenal as a wildlife refuge is not a sham. It is meant to make the best out of an unfortunate situation and not to reduce the level of liability of those responsible for the contamination. While I therefore do not object to the legislation going forward, I do fear we are treading on dangerous ground, which may be mischievously construed by some as undercutting the cleanup standards put forth by Superfund. I hope these fears are unfounded.

Mr. MARTIN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Colorado [Mr. ALLARD].

□ 1540

Mr. ALLARD. Mr. Speaker, I, too, would like to thank the entire delegation for their work and support of taking the Rocky Mountain Arsenal and making it a wildlife refuge. It is my understanding it will be the largest metropolitan wildlife refuge in the world. There is some concern about the cleanup language in this particular piece of legislation, but it is not the intent of any of the sponsors to try in any way to alter any of the cleanup efforts.

Mr. Speaker, I think this is a very commendable project. It is something that I know there has been a lot of work on at the local level, and we have had a lot of roundtable discussions to pull in local individuals from local interests, all those parties, the Army, the Shell Oil Co., which have all been part of these discussions, and I am convinced we have come up with a very workable compromise, something that everybody can be proud of.

I think when we get all finished, we are going to have a tremendous facility. We are going to have a facility that will provide for research and also a tremendous amount of recreation next to a metropolitan area.

Mr. MARTIN. Mr. Speaker, I support the request of the gentlewoman from Colorado [Mrs. SCHROEDER] and, accordingly, withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the original request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 553, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-911) on the resolution (H. Res. 580) providing for consideration of the joint resolution (H.J. Res. 553) making continuing appropriations for the fiscal year 1993, and for other purposes, which was referred to the House Calender and ordered to be printed.

## LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL].

Obviously votes are finished for today.

On Monday, September 28, the House will meet in pro forma session at noon. There will be no legislative business, no votes. That, of course, is the Jewish holiday of Rosh Hashanah.

Tuesday, September 29, the House will meet at noon to take under consideration 54 bills on suspension. I will spare the body and the distinguished minority leader the reading of all of those, but the list is obviously available. The votes on those will be postponed until Wednesday, September 30, if there are votes needed.

On Wednesday, September 30, the House will meet at 9 a.m. On Thursday, Friday, Saturday, and Sunday, the House will meet at 10 a.m., and there may be adjustments asked for during that period. Obviously we will be in the end period of this session in Congress, and we will be talking with the minority about meeting times and other matters in advance.

We will have on Wednesday the continuing resolution on which the rule was just announced. We will have the Interior appropriation conference report. We will have the MFN vote on Romania. We will have the neighborhood schools conference report and the family medical leave override vote, and then we will go to suspension votes that may be ordered from the day before.

On Thursday we will try to move to the Transportation appropriation conference, the Treasury-Post Office appropriation conference, and the Commerce, Justice, State appropriation conference; and then on Wednesday, Thursday, Friday, and Saturday there are a number of other conference reports and pieces of legislation which are mentioned in our tentative announcement of schedule which Members have in front of them and can consult.

Mr. MICHEL. The gentleman did mention a continuing resolution coming up on Wednesday; is that correct? It is not on the printed program.

Mr. GEPHARDT. That is correct.

Mr. MICHEL. And then will we be considering the October Surprise funding resolution at any time? I do not see it anyplace.

Mr. GEPHARDT. It may be possible. We have not had the request made at this point.

Mr. MICHEL. Are there any other bills that are not on this schedule other than appropriations bills that we ought to be expecting?

Mr. GEPHARDT. If I could refer the gentleman to the bills listed, under MFN status for Romania, the Veterans Health Care Amendments of 1992, the Black Lung Benefits Restoration Act, the Anti-Car Theft Act, the Mining Exploration Development Act, and the Federal Property and Administrative Services Authorization Act.

Mr. MICHEL. OK.

Mr. GEPHARDT. There may be some requests that are not here. We will obviously let the minority know of those as soon as we get the request and let you know that we would like to try to put them on the schedule.

Mr. MICHEL. It is my understanding that our office has been in touch with the majority leader's office relative to what we put in practice last year in order to expedite the business of the House relative to unanimous-consent requests in which our request is that we be given at least 2 hours' notice prior to consideration of any unanimous-consent request or we are going to be constrained to object, and the individual on our side of the aisle in the Cloakroom that ought to be contacted is Mr. Jay Pierson whose number is 57350, or Miss Karen Buttaro in our leadership office, 50600, and the reason, of course, for having made that kind of request is simply because, as we get to the closing days of any session, why sometimes all hell breaks loose, and the unanimous-consent requests come fast and furious to the degree that to best serve the interests of the Members; that is, on both sides of the aisle, we must keep everybody advised of exactly what is going on. We made this kind of request, and, frankly, I think it works out quite well.

Mr. GEPHARDT. I thank the gentleman. We will do everything in our power to give that kind of notice, as we did last time. There obviously may be a time when we are short on that, but we will talk to our colleagues about it, and we will not let that happen consciously.

Mr. MICHEL. When either the Speaker, or the distinguished majority leader, and I are on the floor, and we are aware that sometimes it is at the last moment, but then it is assumed that it is in agreement at the leadership level to expedite the business of the House. That surely will be acceptable. What we are talking about here primarily are those that sometimes come right off the wall with no advance notice to either side, and that sometimes gets us in deep trouble, and we would like to avoid that if we can.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, it is my understanding that the distinguished minority leader has met with the Speaker on the subject I am about to raise, but I have some concerns as to where we stand as a House on this matter.

The authority to implement the House reform runs out today. As of today, Mr. Speaker, the House has no more authority to transfer the functions out of these various offices into the House Administrator office, and for all intents and purposes House reform passed in April died today.

Now it is my understanding that there is some intention to work on this next week, and I assume that the work is to try to find an appropriate Administrator, but at this point it seems to me we are going to have to pass new legislation in order to implement the House reform since the bill that we enacted in April is no longer in effect as of today.

I did not hear that announced as a part of the schedule. I am wondering if there are some plans to bring up such legislation and if there is some intention of having someone in that particular job by the end of next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri for whatever response he may care to make to that inquiry.

Mr. GEPHARDT. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] is correct that we had hoped to be able to come to a decision on this today. We did not meet today, and I know the gentleman from Pennsylvania has also been involved in these discussions, along with others, and we have, I think on all sides, in good faith been trying our best to come to a conclusion. Unfortunately we are not at that point this afternoon, but we are going to make great efforts next week to try to meet with prospective candidates to continue an intensive discussion with the minority leader and others on the minority side to try to find someone that could be agreed to by consensus.

□ 1550

When all of that has been exhausted, then we will see where we are and what might have to be done at that point.

My hope, and I know that of the minority leader, and I think it is the Speaker's hope, is that we can resolve this next week. We are going to make every effort to do that.

I do not believe that it is impossible under the state of law or the rules that have been passed that if we could arrive at someone next week, we could not go ahead and make that appointment next week.

The gentleman is obviously right, that if we fail in that for some reason, then we have to consider what has to be done.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, my concern is that your authority to do the transfers necessary ran out today. My question is, does the gentleman intend to bring legislation to the floor to renew that authority and is there going to be an effort to bring the reform bill back to see to it that the new Administrator, should he be hired, actually has the authority to implement the reforms?

Mr. GEPHARDT. If the gentleman will yield further, I cannot fully answer at this point, because my hope still is that we are able to come to an agreement and go ahead and make the appointment. If for some reason that does not happen, we then have to figure out what the proper next step is.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, I am not evidently making myself very clear. Even if you arrive at an Administrator, even if there is a consensus on an Administrator, and I certainly hope that is the case, I would like to see us get to that point, as of today your authority to transfer the functions into that office ran out.

My question is, is a separate piece of legislation going to be brought to the floor next week to allow that person, whoever it may be, to have the authority to move forward on the reforms?

Mr. GEPHARDT. If the gentleman will yield, my understanding is that we do not have to pass a piece of legislation to get a continuance today. The present officers can continue their duties and that we can then make a decision next week on whether or not we have to pass a piece of legislation to be able to make this appointment. We will obviously consult with the minority about the legal need to do that.

Mr. WALKER. But the gentleman does agree with me, if the gentleman will yield, that the legislation passed in April died today.

Mr. GEPHARDT. Mr. Speaker, I cannot say to the gentleman that I remember all of the words in that legislation. I do agree that what we passed had a date for appointment on it, and we extended it, and that the date of extension is today. I agree with that.

I do not know all of the legal ramifications of not making that appointment on today. We will examine that with the gentleman and others.

Mr. MICHEL. Mr. Speaker, reclaiming my time, I might make the observation that I would prefer maybe that the gentleman from Pennsylvania [Mr. WALKER] would not have characterized it as reform dying as of this day. The part of the reform that we are talking about here specifically is the appointment of a House Administrator, of a financial officer, who would in turn hopefully implement the kind of reforms we would like.

Mr. WALKER. Mr. Speaker, if the leader will yield further, the problem is as I understand the legislation it is more than the date for the appointment. The fact is the way the legislation was structured is the transfers of the authority of the various offices into the Administrator's office was also tied to that deadline, so therefore when we do not meet the deadline, we in fact no longer have the authorities. It seems to me those authorities are also going to have to be renewed at the time that you come up with an individual. That is my concern.

Mr. MICHEL. Mr. Speaker, as the majority leader indicates, if that is the case, and I am surely intending to be here next week to ply my efforts to resolving this very meddlesome problem, because we have to have agreement between both sides, and we want to be absolutely sure of whomever we determine ought to be that Administrator that it is certainly a person of competence neither side would be sorry about or embarrassed about at some future date.

So I fully understand the import of the gentleman's questions, because we have, unfortunately, not met one target date after another here, and it legitimately raises the question for the gentleman from Pennsylvania [Mr. WALKER], who has been very active in this whole process to get this thing resolved amicably. We will have to definitely take that very positive approach to it next week and come to grips with it, certainly before this House adjourns sine die.

## ADJOURNMENT TO MONDAY, SEPTEMBER 28, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Missouri?

There was no objection.

## HOUR OF MEETING ON WEDNESDAY, SEPTEMBER 30, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, September 29, 1992, it adjourn to meet at 9 a.m. on Wednesday, September 30, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## CONTINUATION OF EMERGENCY REGARDING EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

On September 30, 1990, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*), I issued Executive Order No. 12730, declaring a national emergency and continuing the system of export regulation, including antiboycott provisions, under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on each anniversary of its declaration unless I publish in the *Federal Register* and transmit to the Congress notice of its continuation.

I am hereby advising the Congress that I have extended the national emergency declared in Executive Order No. 12730. Attached is a copy of the notice of extension.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

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## REPORT ON ACTIONS UNDER INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

1. On September 30, 1990, in Executive Order No. 12730, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701, et seq.) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, et seq.), and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768, et seq. (1991)), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. I issued Executive Order No. 12730 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act (NEA) (50 U.S.C. 1601, et seq.), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from April 1, 1992, to September 30, 1992, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer and enforce the system of export controls, including antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the Department has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since my last report to the Congress, there have been several significant developments in the area of export controls:

—As the nations of Central Europe and the former Soviet Union continue their progress towards democracy and market economies, United States Government experts have been working with officials of Albania, Bulgaria, the Czech and Slovak Federal Republic, Hungary, Poland, Romania, the Baltic States, and many republics of the former Soviet Union to implement and strengthen their export control systems, including pre-license inspections and post-shipment verifications. These developments will facilitate enhanced trade in high technology items and other commodities in the region, while helping to prevent unauthorized shipments or uses of such items. At the same time, we have been engaged in activities with the Central and Eastern European countries to assist in the prevention of proliferation of weapons of mass destruction and corresponding technology. A significant result of these activities was the removal of Hungary from the list of proscribed destinations to the list of free world destinations on May 1, 1992, thereby liberalizing export controls with respect to Hungary and easing the burden on exporters dealing with Hungary. This action should facilitate a significant increase in exports and reexports to Hungary. (57 F.R. 19805, May 8, 1992.)

—Working diligently with our Coordinating Committee (COCOM) partners to streamline multilateral national security controls, we are pleased to report the following important developments:

—Elimination of nearly all individual license requirements for exports to COCOM and cooperating countries, enabling exporters to ship items without prior agency approval. (57 F.R. 18819, May 1, 1992.)

—Elimination of most U.S. reexport authorizations for U.S.-origin goods going from COCOM and cooperating countries to most third countries, except when destined to a country or region of proliferation concern. (57 F.R. 18817, May 1, 1992.)

—Liberalized licensing requirements on exports to Hong Kong and New Zealand, following their designation as COCOM cooperating destinations. (57 F.R. 19334, May 5, 1992.)

—At the June 1992 High-Level Meeting in Paris, in response to a proposal from former Secretary of State James Baker, our COCOM allies agreed to establish a new "COCOM Cooperation Forum" (CCF) to include the 17 members of COCOM, the newly independent states of the former Soviet Union (NIS), and most recently other Central and Eastern European nations. The CCF hopes to engage these nations in further establishing controls for sensitive goods and technologies, and to provide an impetus for wider access by those countries to controlled items. The first High-Level Meeting of the CCF is scheduled for late November of this year.

—Also at the June High-Level Meeting, the COCOM partners agreed to significantly liberalize export controls on telecommunications exports to the NIS, which should facilitate rapid and reliable telecommunications between the NIS and the West, as well as modern, cost-effective domestic telecommunications systems.

—The Department of Commerce also recently revised the regulations governing the Distribution License procedure, thereby allowing expanded use of this special license and eliminating many current prior-approval requirements. The Distribution License, which permits multiple exports of controlled items to approved consignees in eligible countries without prior review of individual transactions, is used by approximately 125 of the largest exporters to export computers and other items to many countries. (57 F.R. 18815, May 1, 1992.)

—In my last report, I noted that the Department of Commerce issued a conforming regulation to bring the Commerce Control List (CCL) into line with special country- and commodity-based controls. In this action, the transfer from the State Department to the Commerce Department of licensing jurisdiction over certain civil aircraft inertial navigation equipment was implemented. (57 F.R. 4553, February 6, 1992.) This transfer of items formerly included in the State Department's U.S. Munitions List (USML) to the CCL is ongoing. The majority of overlaps between the USML and the CCL were eliminated in the April 25, 1992, amendment to the USML. (57 F.R. 15227.) In the future, certain commercial telecommunications satellites, imaging technologies, and navigational technologies will be removed from the USML and added to the CCL.

—We are continuing our efforts to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction and missile delivery systems. As such, we have been working with our major trading partners to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of nuclear, chemical, and biological weapons and missile systems.

—At the June 1992 meeting of the 22-nation Australia Group (AG), a consortium of nations that seeks to prevent the proliferation of chemical and biological weapons (CBW), the delegates agreed to establish a refined common control list for exports of dual-use biological equipment and to increase from 50 to 54 the number of precursor chemicals subject to control. The Commerce Department is in the process of publishing rules reflecting the changes to conform the U.S. list to the AG list.

—The United States has also been a key participant in the ongoing Chemical Weapons Convention (CWC) negotiations in Geneva, Switzerland. On September 3 the Conference on Disarmament, which is the drafting body for the CWC, forwarded to the United Nations General Assembly, a draft CWC, which includes a prohibition on the design, development, production, or use of chemical weapons, as well as destruction of chemical weapons production facilities and stockpiles. The United States strongly supports these provisions.

—In April, the 27-nation Nuclear Suppliers Group (NSG), in which the United States participates, formally established a multilateral regime to control nuclear-related dual-use items similar to the nuclear-referral list currently administered by the Department of Commerce. The Department is working to publish a rule to conform the U.S. list with the NSG list.

—At the June-July plenary session in Oslo, the Missile Technology Control Regime (MTCR) members welcomed Greece, Ireland, Portugal, and Switzerland to their ranks, bringing the total membership to 22 nations. The MTCR members also agreed to amend the Guidelines and Equipment and Technology Annex to ensure adequate control of delivery systems for *all* types of weapons of mass destruction—including chemical and biological weapons, as well as nuclear weapons. The MTCR partners expect to have the revised Guidelines in effect by the end of October 1992.

—The Commerce Department has also participated in implementation of missile technology sanctions imposed by the Department of State under Title XVII of the National Defense Authorization Act for FY 1991 (Public Law 101-510). Sanctions, which include denial of export licenses, have been imposed on the following foreign entities: ARMSCOR (South Africa), Changgwang Credit Corporation (North Korea), China Great Wall Industry Corporation (PRC), China Precision Machinery Import-Export Corporation (PRC), Glavkosmos (Russia), Indian Space Research Organization (ISRO—India), Lyongaksan Machineries and Equipment Export Corporation (North Korea), Ministry of Defense (Syria), Ministry of Defense and Armed Forces Logistics (Iran), Space and Upper Atmosphere Research Commission (SUPARCO—Pakistan), and Syrian Scientific Research Center a/k/a Centre d'Etudes et Recherches Scientifique (Syria). The sanctions imposed in June 1991 on the two Chinese entities were recently waived.

—In the area of supercomputers we have established a supercomputer safeguard regime with Japan, and we are negotiating with our European trading partners to expand this regime. Under the provisions published in May, exports of supercomputers to Canada do not require a license, exports to Japan may be made under General License GCT, and both Distribution Licenses and individual validated licenses are available for exports to many Western European destinations with only minimum safeguards. Supercomputer exports involve sensitive national security and foreign policy interests, such as cryptology, strategic defense, and submarine warfare; the multilateral safeguard regime is therefore intended to establish uniform and effective international policies and procedures to protect supercomputers from unauthorized end-uses and end-users, without unnecessarily burdening U.S. exporters. (57 F.R. 20963, May 18, 1992.)

—At the beginning of the year, I announced the lifting of the U.S. embargo against Cambodia in response to the United Nations-directed comprehensive political settlement of the decades-long Cambodian conflict. In April the Commerce Department issued a rule removing Cambodia from the list of embargoed countries and revising licensing policies and procedures affecting Cambodia and Laos to allow these countries to receive general license treatment for exports and reexports of many items. (57 F.R. 11576, April 6, 1992.)

—More recently, the Department issued a rule permitting commercial exports of humanitarian goods—including food, building materials, and health and educational items to Vietnam, under a new general license. This liberalization in export control policy is consistent with the step-by-step process for normalizing relations with Vietnam, and should further reduce paperwork and expand trade to benefit America's exporters. (57 F.R. 31658, July 17, 1992.)

—Finally, our enforcement efforts are proceeding apace as we continue to enforce export controls vigorously. The export control provisions of the Export Administration Regulations are enforced jointly by the Commerce Department's Office of Export Enforcement and the U.S. Customs Service. Both of these agencies investigate allegations and, where appropriate, refer them for criminal prosecution by the Justice Department. Additionally, the Commerce Department has continued its practices of imposing significant administrative sanctions for violations, including civil penalties and denial of export privileges.

—Commerce's Office of Export Enforcement (OEE) has continued its vital preventive programs such as pre-license checks and post-shipment verifications, export license review, and on-site verification visits by teams of enforcement officers in many countries. The OEE has also continued its outreach to the business community to assist exporters with their compliance programs and to solicit their help in OEE's enforcement effort. The OEE has initiated its well-received Business Executive Enforcement Team (BEET) to enhance interaction between the regulators and the regulated.

—The OEE has also initiated a new program—the Strategic and Nonproliferation Enforcement Program (SNEP)—which targets critical enforcement resources on exports to countries of concern in the Middle East and elsewhere.

—In one of many successful enforcement efforts, following his plea of guilty to several counts of an indictment charging him with violating U.S. export control laws, Don Danesh, an Iranian national doing business in the United States, was sentenced to serve 12 months in jail and placed on supervised probation for an additional 36 months. Danesh's associate, Ray Amiri, also an Iranian national doing business in the United States, is expected to be sentenced in the near future following his guilty plea. In developments related to the criminal case, on May 29, 1992, the Acting Assistant Secretary for Export Enforcement renewed an order temporarily denying the export privileges of Amiri, his company, and Danesh. (57 F.R. 24242, June 8, 1992.)

—In the last 6 months, the Department has continued to enforce the antiboycott law vigorously. The Office of Antiboycott Compliance (OAC) is fully staffed with 30 full-time employees, and OAC has doubled the level of civil penalties it seeks to impose within the statutory $10,000 per violation maximum. The total dollar amount of civil penalties imposed so far in fiscal year 1992 approaches $2 million, the second largest amount in the history of the program.

—During this 6-month reporting period, significant civil penalties were assessed against several companies in antiboycott compliance cases. Among them, by Order of May 19, 1992, L.A. Gear, Inc., was assessed a civil penalty of $404,000 to settle allegations that the company complied with boycott requests from a customer in Kuwait and that it failed to report its receipt of boycott requests. On August 12, 1992, the Bank of Baroda, one of India's largest banks, was assessed a civil penalty of $502,000 to settle allegations that it implemented letters of credit containing prohibited boycott conditions and that it failed to report its receipt of boycott requests. After reviewing data related to the financial condition of the bank, the Department agreed to suspend payment of $227,000 of the $502,000 civil penalty.

5. The expenses incurred by the Federal Government in the 6-month period from April 1, 1992, to September 30, 1992, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are anticipated to be $19,186 million, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

6. The unrestricted access of foreign parties to U.S. goods, technology, and technical data, and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, continue to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I shall continue to exercise the powers at my disposal to retain the export control system, including the antiboycott provisions, and will continue to report periodically to the Congress.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5373) "An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 6, 7, 9, 17, 18, 19, 22, 27, 31, 35, 37, 39, 43, 44, 45, 46, 47, 57, and 58, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.".

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 4, 5, 7, 10, 15, 16, 17, 18, 19, 23, and 24, to the above-entitled bill.

□ 1600

## IN RECOGNITION OF REPRESENTATIVES MILLER AND WYLIE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, I want to take this opportunity to recognize two of our Ohio colleagues, Representative CLARENCE MILLER and Representative CHALMERS WYLIE, who are leaving the House at the conclusion of the 102d Congress.

Both of these fine individuals have represented the Buckeye State and our Nation with integrity and competence over the last 26 years. CLARENCE was elected to the House in 1966 following a successful career as an electrical engineer and the mayor of Lancaster, OH. As a fellow member of the House Appropriations Committee, I know how hard CLARENCE has worked to ensure sensible Government spending principles and discourage wasteful Government spending. He has addressed problems with our Nation's energy sources and been a strong advocate of a new national energy policy. His leadership and detail will be sorely missed.

CHALMERS has been an outstanding Representative for the citizens of Columbus since 1966, when he came to the House from the Ohio State Legislature and government. CHALMERS was a decorated soldier during World War II, and has continued to fight for the American consumer with his dedicated service as the ranking Republican member of the House Banking, Finance, and Urban Affairs Committee. He has been instrumental in helping to resolve problems relating to savings and loans costs and housing issues. His strong support of our Nation's veterans is well-known. CHALMERS has been an excellent and capable legislator.

I know I join my colleagues in saluting these fine men, thanking them for their exemplary service, and wishing them all the best in the future.

## BRASS FACTORY IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, on November 5, 1990, the President signed into law the Iraq Sanctions Act of 1990 which required him to conduct a study and report to the Congress on "sale, export, and third-party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq." In September 1991 that report was sent to the Congress.

September 1991 was several months after the cessation of the hot shooting phase of that war. So many of my colleagues, and I am sure my fellow Americans, had believed that that war was over with. What I said was that it was just beginning, as the continuing instability and dangerous situation, not only in that area but now over into the Balkans and connected with the developments that happened as a result of the so-called gulf war, would be unpredictable and only the Lord will know where it will end. It is not seen that way, nevertheless.

But outside of our shores and in other countries, that is the perspective that has been written about, in Europe and Asia and in Latin America.

As I say, in September of 1991, the report that was mandated by the study that the President signed in 1990, before the war, was given to the Congress, but like almost all of this administration's declarations about United States policies toward Saddam Hussein, the report is misleading, I am sorry to say.

The President's report claims:

> * * * United States suppliers did not contribute directly to Iraq's conventional or nonconventional weapons capability.

Last July the President made similar and likewise inaccurate statements. The Banking Committee's BNL investigation has shown that in fact numerous U.S. companies sold equipment to various Iraqi weapons programs, conventional and nonconventional. One U.S. firm among these is a firm called Servaas Inc. in Indianapolis, IN.

This firm supplied Iraq with a $40 million BNL, that is the Atlanta agency bank of the Italian Banca Nazionale del Lavoro, owned by the Italian Government and headquartered in Rome, it supplied $40 million through BNL financing for this brass factory.

Documents obtained from the Iraqi front company, Matrix-Churchill Corp., indicated that the Iraqis planned to use the brass produced at this factory to double the production of brass discs used to make artillery shells and gun cartridges. Other brass from the plant was scheduled for use in military applications such as making components for artillery fuses. The plant was also scheduled to produce brass for commercial uses for the Iraq market, and if possible, for export to other Middle East countries and Asia as well.

When Iraq invaded Kuwait in August 1990, all the equipment for the brass factory had been shipped, but due to construction delays, the factory was not yet operational.

In testimony before the Banking Committee on April 1991, Mr. Servaas of Servaas Co. of Indianapolis, incorrectly said the brass scheduled to be produced at his factory, was solely for commercial uses. Documents obtained from Matrix-Churchill indicate most of the brass was scheduled for military use.

Brass, as you know, is an alloy composed of copper and zinc. Various combinations of these metals produces brasses with different melting properties. For example, a mixture of 70 percent copper and 30 percent zinc produces a malleable type of brass called cartridge brass or 70/30 brass.

A March 31, 1989 memo to Matrix-Churchill's Sam Naman, the gentleman that I referred to here in the prior special order this last Monday, from Iraq and who, in effect, had been the Iraqi agent sent to handle the Matrix-Churchill business in Ohio after the Iraqis obtained a proprietary right of the corporation.

This is what is troubling, because I think that when it is fully established and all the facts are brought out of a huge movement of money today that the BNL will turn out to be sort of a Boy Scout troop Code of Honor compared to what is still going on by way of the investment and acquisition indirectly of American assets in factories, in industrial activities and in banks, for that matter, financial institutions.

Of course, banks and financial institutions, I have been speaking out on that since the 1970's. And particularly after the fall of the Continental-Illinois Bank out of Chicago, in which the immediate cause of the failure of that bank was the removal of, unbelievably, $8.3 billion of mostly Japanese, German and other European countries' deposits. That was the immediate cause.

The underlying cause is a little bit more complicated, but one which should have been clear notice to the Committee on Banking, Finance and Urban Affairs then, as I tried to no avail to do so, and, therefore, to the Congress and the people that we were headed for a very, very turbulent period in our financial environs in our country.

So that this Sam Naman, in a memo that we obtained from Matrix—Churchill, indicates that 80 percent of the 70/30 cartridge brass is used in four major markets: automobile radiator cores, electrical components, coins and army ordnance.

It is common knowledge that brass is a critical military raw material.

The Al Shaheed Factory at Ameria-Falluja contained Iraq's sole brass production and fabrication facility. The brass facilities at Al Shaheed were originally constructed by an Austrian firm starting in 1984. The original Austrian built facility produced all different types of brass.

□ 1610

The Servaas brass factory was located in close proximity to the existing Austrian facility.

The Al Shaheed factory was part of an Iraqi military complex. Besides brass, Al Shaheed produced other metals of all kinds of military production.

Some of its production was for civilian use, but Al Shaheed was under the control of an Iraqi military entity called the State Armament and Administration Directorate or SAAD. SAAD ran numerous military production complexes throughout Iraq. In 1989 the SAAD name was later renamed the AL FAO Organization, but its function remained the same.

A book by the Simon Wiesenthal Center's Kenneth Timmerman called The BNL Blunder states that Al Shaheed factory was:

> * * * Part of a huge weapons facility protected by numerous antiaircraft guns and earth shields at either end to protect it from skip bombing.

In a recent interview with a committee investigator, a former Servaas employee verified that the Al Shaheed complex was heavily guarded.

An intelligence report entitled, "Iraq's Growing Arsenal: Programs and Facilities" dated July 1990 states that Al Shaheed was a major conventional weapons facility. Another report of a later date also states that Al Shaheed was engaged in munitions production.

Iraq's military industrialization program called for a major expansion of ammunition production. Mr. Steven Bryen, a former high ranking official at Department of Defense (DOD), who was responsible for export licensing at DOD in the middle part of the 1980's wrote April 15, 1991 to Mr. Servaas raising the following point about Iraq's ammunition production plans:

> Iraq was completing a huge ammunition facility at Taji * * * It was this very large capacity to make ammunition that was of concern to the U.S. * * *.

Now, Mr. Bryen was one of the witnesses we had in the initial hearings that we had in this committee just about 2 years ago, and which, of course, had no kind of reportage or press coverage all these months until this last year, this year.

A February 1990 intelligence report states:

> Al Shaheed is responsible for an industrial sector obviously critical for military production * * *.

Given Iraq's ambitious drive to produce its own complete array of shells and cartridges expanding brass production at Al Shaheed was a necessity. Iraq picked Servaas as the means to expand production at Al Shaheed.

On November 21, 1988, BNL issued Servass, Inc., a letter of credit for $40,602,000. The letter of credit states that the money will be used for a "Copper scrap refining machine, tools, parts and technical documents" for the account of the Al Shaheed factory, Baghdad, Iraq. What the letter of credit does not state is that Al Shaheed factory complex is run by the Iraqi military and that much of the brass produced at the factory was intended for making artillery shells and gun cartridges for the Iraqi military.

Servass, Inc., was the owner of a brass mill in Indianapolis called Bridgeport Brass. It was through this firm that Servaas first made contact with Iraq. Records obtained by the committee indicate that Matrix-Churchill approached Bridgeport Brass in early 1988 looking for the submission of offers to build a brass refining plant at Al Shaheed. Bridgeport was interested in building the plant and it submitted a rough offer of $115 million to build a greenfield plant in Iraq.

As negotiations progressed, Bridgeport sent two of its employees to Al Shaheed to meet the Iraqis and to get a better understanding of their needs. A May 11, 1988 Servaas memo states that Iraq had about 70,000 tons of spent shell casings from the Iran-Iraq war worth several hundred million dollars.

In testimony before the Banking Committee on April 9, 1991, Mr. Servaas stated:

> We were informed that the shell casings had either been made in the Soviet Union or had been made in Iraq to Soviet specifications and that they contained silicon.

The shells containing silicon were based on a technology used exclusively by the Soviet Union and other Eastern bloc nations. Western nations used 70/30 brass to make artillery shells and gun cartridges.

Iraq's goal was twofold. First Iraq wanted to recycle the spent silicon shells to make new Soviet-style artillery shells. The Austrian factory at Al Shaheed was already engaged in this activity, but Iraq wanted to expand production. Second, Iraq wanted to remove the silicon from some of the spent shells in order to produce 70/30 brass.

Naturally some or most of the 70/30 brass was scheduled for use in munitions applications. A July 31, 1988, memo to Mr. Servaas from the planning department of Al Shaheed states that the 70/30 brass is to be used for the production of light caliber cartridges. The memo goes on to say that brass rods produced at the Servaas factory are "for military purposes such as—artillery—fuse parts."

The May 11, 1988, Servaas memo I mentioned earlier clearly shows the assertion that Al Shaheed was both military and commercial and that Servaas employees were aware of this fact. The memo states:

> We were led to believe that this was a shell manufacturing plant, however, it turned out to be a complete casting facility, sheet mill, rod mill, tube mill, of very modern design with the latest state of the art.

A July 11, 1988, Matrix-Churchill memo to Servaas indicates that the 70/30 brass was to be cut into 155mm and 210mm diameters—this just happens to be the size of the Gerald Bull designed self-propelled howitzers being produced in Iraq by Carlos Cardoen under a contract granted by the South African firm ARMSCOR.

As we go into the future, Lord willing, it is our hope that we will bring out in more detail the doings of Carlos Cardoen.

The original proposal for the brass plant submitted by Servaas on June 28, 1988, did not mention the silicon removal process. The original proposal was for Servaas to build a plant that would double the disc producing capability of existing plant and utilize available shell casings to produce brass that contained silicon.

☐ 1620

After a July 16, 1988, meeting in Pittsburgh with Safa Al Habobi and Sam Naman, Servaas revised his proposal on July 25 to contain the transfer of silicon removal technology to Iraq in order to convert the shells into 70/30 brass.

After further negotiations, the contract for the plant was eventually signed in September 1988 by Mr. Servaas and Al Shaheed. The contract states:

> Plant Objective: Means that the * * * site shall be able to; (a) use customer's available scrap of approximately 70,000 tons of shell cases to produce slabs which shall be used as incoming materials for the further production of accepted silicon brass discs in the existing facility of Al-Shaheed factory; (b) remove the silicon from the silicon brass scrap to a zero percentage to produce ingots to be used * * * to produce 70/30 brass slabs which shall be used as incoming materials for the further production of accepted brass 70/30 sheets in the existing facility of Al-Shaheed factory.

Plant objective (a) indicates that the Servaas factory will produce brass containing silicon. The only use for brass with silicon is to make Soviet-style artillery shells. Mr. Servaas' own experts verified that fact. On April 9, 1991, Servaas told the Banking Committee:

> It was obvious to our experts that brass scrap containing silicon could not be utilized in the production of commercial brass production * * *"

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON AND PROVIDING FOR CORRECTIONS IN ENROLLMENT OF H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. DERRICK, from the Committee on Rules, submitted a privilege report (Rept. No. 102-915) on the resolution (H. Res. 581) waiving points of order against the conference report to accompany, and providing for corrections in the enrollment of, the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. GONZALEZ. Plant objective (b) indicates that the Servaas factory would change the spent shells into 70/30 brass. As the July 31, 1988 memo I introduced earlier showed, Al Shaheed was going to use this 70/30 brass to make ammunition.

In testimony before the Banking Committee Mr. Servaas refused to admit that the production of the brass factory was intended for military use. On April 9, 1991 Servaas misled the committee when he stated:

> It was explained to us that Iraq was looking to a long-term project of utilizing this substantial amount of scrap, estimated to be worth several hundred million, for the purpose of supplementing its oil revenues through the sale of commercial products in the peacetime economy that was anticipated following the termination of the war with Iran.

But on August 8, 1992 Mr. Servaas, in talking about the brass factory project, told the Indianapolis Star:

> Probably the only thing they are doing is melting the brass down. But if they do, they can't do anything with it except make more shells. But if they are getting ready for another artillery war, they just might want to melt the old shells down and make shells, but that is all they can do.

There is no doubt that the 70/30 brass scheduled to be produced by the Servaas factory could have been used for commercial purposes; 70/30 brass is a prime grade used in numerous commercial applications. Some memo's obtained from the files of Matrix-Churchill indicate that Iraq wanted to use some of the 70/30 brass produced by the Servaas factory to sell in the Middle East or wherever else it could be sold to generate hard currency. Mr. Servaas even offered to sell the Iraqi brass through distributors used by his Bridgeport Brass factory in Indianapolis. But the fact remains that the 70/30 brass and other brass produced at the plant shows that the factory's production was primarily intended for military use.

### ADMINISTRATION KNEW ABOUT SERVAAS PROJECT

With information gathered during the BNL raid in August 1989, the Defense Intelligence Agency called on Mr. Servaas in the fall of 1989. Shortly thereafter, Mr. Servaas and his son Paul, who also worked on the brass factory, attended the meeting with officials from the FBI, Treasury Department, DIA, and CIA. Mr. Servaas stated that he briefed the agents and gave them all the information they asked for on the brass factory.

The CIA and other parts of the administration clearly knew that the Al Shaheed factory was a munitions facility, yet they did not stop the Servaas contract from being completed. They even met with Mr. Servaas after the invasion of Kuwait to get more information on the factory.

The administration also allowed Mr. Servaas to collect about $16 million in frozen Iraqi assets in order to complete payments under the contract with BNL. When Iraq invaded Kuwait, Servaas was still owed $16 million for work related to the brass factory. He recently stated that he eventually was paid in full for the factory. The Treasury Department's Office of Foreign Assets Control [OFAC] approved the release of the remaining funds to pay for the factory.

Mr. Servaas also received approval from the U.S. Government to ship the equipment and technology needed to build the brass plant in Iraq. In testimony before the committee he stated:

> We carefully investigated and assured ourselves that all of the services and products we provided were well within the existing U.S. export restrictions and rules.

On July 29, 1988 Servaas offered to sell Bridgeport Brass to Safa Al Habobi, one of the heads of Iraq's procurement network in Europe and the United States and his "client" for $36 million.

Mr. Servaas also established a foreign company in order to avoid potential sanctions against Iraq.

The President issued his sanctions edict, and why would Mr. Servaas then establish a front company other than for the avowed purpose of circumventing the sanctions?

The foreign firm, called Izane, was registered in the Isle of Man. We have known in banking that the Isle of Man was one of the original offshore hideaways for all of these corporations and banking activities that wanted to hide their true financial condition. And then of course later we have had jillions of offshore facilities all the way from the Bahamas to the Indian Ocean, and that is part of this huge trillion-dollar operation that I am telling you about that makes our whole financial structure teetering and tottering, vulnerable, and a great amount of it in the illicit laundering of drug money.

□ 1630

And no corporation ever gets what they call a brass-plate location in these areas of offshore islands or over in Luxembourg except as in BCCI, to hide, to hide the insidiousness or the lack of integrity of their activities and their capitalization structure. It is going on, and I say worse than anything we happened to have tripped upon like BCCI and BNL.

But who cares? You know, by golly, the idea is to win in November, "Do not rock the boat," like in 1988. My gosh, we tried mightily to warn about what the cost was going to be of what eventually became the S&L bailout, and nobody, the Congress, the committee, the administration and, of course, why, our recipients of so much of the taxpayers' benefits, the S&L's, and now the banking industry, why, they are the biggest reliefers we have ever in the history of the world, not just this country, and, oh, but power and wealth never yields, never has, never will, except as Frederick Douglass said, on demand, and there ain't no demand.

So it will follow its inexorable, almost Greek tragedy-like outcome and fate, but at the expense and the sacrifice of our defenseless citizens and constituents, the most helpless to be able to do anything, but trusting in us, their elected, duly elected agents and representatives, to at least give them the knowledge to formulate their judgments as free citizens, which we no longer are.

As I said last Monday and last week and since the 1960's, as a matter of fact, we are not citizens anymore. We are subjects, like the subjects of the Crown of England, and Great Britain, and Spain, and France. We used to be, and that is what they called, during the Revolution, Citizen Tom Paine, Citizen Tom Jefferson, but not any longer. We are now back as subjects. Presidents, instead of kings, make wars nowadays.

So when a free people become corrupted, there are no worse slaves than a corrupted free person. These are just glimmerings. They may sound like some minor horror story to some. That is what has agitated me for almost 30 years I have been a Member.

What has agitated me is that the very, very heritage and institutions and freedom that our predecessors enabled to hand down and for us to be beneficiaries of would have been so traduced, and I swore as a recipient of these benefits, for no person such as I in any other country would have had the privileges of being elected by his peer citizens to represent them first on the local legislative body, then in the State legislative body, and now for about 31 years on the national legislative body. That never would have been possible had it not been for constitutional, institutional life that I swore a blood oath that I would do nothing to diminish one iota for those who will follow me.

But I am sure that my colleagues and many others have the same motives, the same ideals, the same desires, and I do not want to claim exclusiveness.

But I do want to point out that those who find puzzlement and eccentricity are those who have not bothered to read what it is I have actually done through deed and fact as well as word in the 39 years and 4 months and 24 days that I have had the honor to serve as a freely elected and duly elected representative and public official with a public trust of the highest order. That is what frightens me that little by little and relentlessly and inexorably we have lost our moorings.

In fact, we even had a boast by those who had been in power, some time ago, not too long ago on a national level, scoffing constitutional restrictions, and even wrote a publication saying, "What is the Constitution between friends?"

Well, our history of man is replete with examples. Where is Ninevah? Where is the pomp, where is the glory of Rome, and in between other nations? It is not an egregious error not to profit from experience, not to read even our own history? I think so.

These examples I am giving would have been thought impossible just 30–35 years ago, but now it is a different era, and I am afraid a most dangerous one for the preservation of the basic mold and framework of institutional life as we have been privileged to inherit.

Well, Mr. Servaas offered the Bridgeport operations to Safa Al Habobi, and he gave a price of $36 million. He also, likewise, established this foreign front, mostly to evade the force and effect of the President's decree on the seizure of assets or the freezing of assets.

So that under this scheme, Servaas sold the brass factory contract to Izane, that is, he went through the motions of selling the Bridgeport operation, an Indianapolis corporation, to this front in the Isle of Man.

Thus, the contract for the brass factory was between the Isle of Man firm, Izane, and an Iraq entity, Al Shaheed. Contracts between two such foreign firms are not subject to economic sanctions imposed by the U.S. Congress.

A June 1, 1990, letter from Servaas explaining the Izane relationship to Matrix-Churchill states, and I quote:

> Izane has the responsibility to direct the performance of the contract outside the U.S. due to the risk of sanctions by the U.S. Government at some future date.

The Banking Committee's investigation of BNL shows that much of the $2.155 billion in loans provided to the Ministry of Industry and Military Industrialization, known otherwise by the acronym of MIMI, were utilized to purchase military useful technology from the United States and Europe.

BNL funds were used to purchase equipment for the Condor II ballistic missile, the Scud missile modifications, the short-range Ababel rocket, the 210mm and the 155mm howitzer, Gerald Bull's supercannon, which was really a very fiendishly designed operation, and my colleagues may or may not remember, or might not remember reading that Mr. Bull was done away with. He was assassinated in Belgium, and there are all kinds of claims as to who did it.

But there is no question it was those that knew that he was in a position in Iraq for the use of something that could be used that would really give a tremendous invincibility, almost, to Iraq.

Gerald Bull's supercannon, sophisticated night vision equipment, and an artillery fuze factory to name a few of the known uses of BNL funds.

Contrary to President Bush's assertions that no United States firms contributed directly to Iraq's military capability, many of the firms supplying military technology to Iraq, like Servaas Inc., were based in the United States. In previous reports I identified about a dozen United States firms that sold equipment to Iraq's Condor II ballistic missile, again, contrary to the President's assertions. But you don't have to rely solely on my word alone to prove that United States firms helped to arm Iraq.

In addition to the Banking Committee's inquiry, investigations conducted by the U.N. Special Commission and the International Atomic Energy Agency have identified dozens of U.S. firms that contributed directly to Iraq's military capability.

In fact, investigations by agencies within the President's own administration, including the Department of Defense, the Commerce Department, and the U.S. Customs Service, have concluded that United States firms contributed directly to Iraq's conventional and nonconventional weapons programs.

Several Bush administration officials in a position to know the truth have testified before Congress about the

United States role in enhancing Iraq's military capability. For example there is an April 18, 1991 hearing by the Subcommittee on Oversight of the Ways and Means Committee, chaired by my fellow Texan J.J. PICKLE.

The hearing examined the administration and enforcement of U.S. export control laws with the main focus being the United States experience with Iraq. One of the Department of Defense experts on proliferation stated at various times during the hearing:

> * * * A number of military useful technologies and pieces of U.S. equipment made their way into Iraqi hands.
>
> There's no question that there were U.S. exports in support of military systems.
>
> I don't think we exported weapons. What clearly is the case * * * is that U.S. technology did make its way to programs that had important military applications.

Steve Bryen, a former top DOD proliferation expert, testified at the same hearing. Regarding the U.S. role in arming Iraq, Dr. Bryen stated:

> During this time and still today Commerce is classifying millions if not billions of dollars of sensitive goods as general destination (G-DEST)—telling American companies that export licenses are not needed to ship to Iraq, even to clearly identified military endusers. In this way a great deal of the infrastructure Saddam Hussein needed to support his military build-up came from the U.S.

On April 8, 1991, Dennis Kloske, the former Under Secretary for the Department of Commerce's Bureau of Export Administration, testified that:

> By 1990 U.S. exports of dual-use equipment to Iraq were subject to review for reasons of national security, nuclear nonproliferation, missile technology, chemical and biological weapons, human rights and regional stability. Under these circumstances, the Commerce Department still approved license applications destined for the Iraqi government agencies, military and research activities.

The most concrete proof that it was official Bush administration policy to arm Iraq is contained in a State Department memo dated November 21, 1989. The memo states:

> * * * Although U.S. precludes approval of Munitions Control licenses for Iraq, exports of dual use commodities for conventional military use may be approved.

The President is clearly, whether willingly or unwillingly misleading the Congress and the American public about the U.S. role in arming Iraq. But it is clear that the policy was to tolerate Iraq's military buildup effort. BNL was critical to that operation, as the Servaas example shows. The administration tolerated the effort long after the BNL raid, and followed its policy of supporting Saddam Hussein right up to the start of the gulf war. Only then, when the fat was in the fire, did the Administration reverse course. Since then, of course, they have tried to hide the facts and evade responsibility for their folly, and intimidate the likes of myself and others with awesome charges of violations of national security. It is sad, in fact tragic, because history cannot be rewritten now. As I have said on repeated occasions, everything that I have provided to my colleagues, as I will today with the documentation I have appended in these memos and things I have referred to, there was not one at any time that had not been revealed or published in some manner, shape, or form, not in the United States, unfortunately, but almost every other country, whether it was in Europe or even in the Middle East or, for that matter, Asia.

It is tragic, as I have said, about this tremendous era of security; we have spent more money on new weapons and whatnot and we are more insecure than ever before.

□ 1650

It is the same thing with secrecy. I brought out last week that this administration is restricting, that is, it is classifying 7,117,007 documents a year, which amounts to more than 19,000 a day.

The recent announcement that the North American so-called free trade agreement, and I want to alert my colleagues, the real name of it is free trade and finance, and there are a lot of hookers in that baby that have to do with the most intimate exposure of our financial institutions again; but in the so-called free trade agreement, it was securitized. It was classified. Members could not see it until just about 10 days ago they declassified it.

Now, that is absolutely abhorrent. Distinguished colleagues of mine who sit on the Armed Services Committee tell me that if they want to inquire as to the cost of the B-2, they cannot find out because that information is classified.

Here is the Congress that under the Constitution must raise and provide for armies and appropriate therefore have an administration say, "Sorry, we can't tell you the cost of this."

Oh, way back, I began, I believe it was not so long ago that many of the Members probably are so young they do not remember, in the sixties and particularly the early seventies I began to see the folly that we were beginning to tax the American people tremendous sums for defense; but a defense of Europe that was a Europe of 1948 where Russia would come overland somewhere. We had 650,000 troops at the time just in Germany.

Now, how many did the British have, and where did they have them? Well, they never had even 10,000, but they had them over in the Saar, the steel- and coal-producing area. That is the way the competition to their industries could be controlled.

Where were the French? Well, the French were over in their traditional economic Alsace-Lorraine near the Saar.

The British were in the Ruhr where you have the steel producers.

And Patsy, Uncle Sam, or as they called us even after World War I, Uncle Sap, had 650,000 troops who were the main mass—to do what? To forestall a possible, maybe even imminent invasion across the Czech border and across the mainland—to do what?

I would get up and I would say, I would ask the Appropriations chairman, who was a very fine Texas colleague, Mr. Mahon, and he would get angry with me.

I would say, "How much of this is for the defense of Europe?"

"Well, what do you want to know?"

But always there was somebody like the chairman of the subcommittee, the gentleman from Florida, Mr. Sikes, who would get up and say, well, if the gentleman will yield, and I would say, "Look, I have looked over this and I have come to the conclusion that about 50 percent of this is for what I would say is the defense of Europe."

But what Europe? The 1948 Europe. This is 20 years later and more. The world has changed.

Then I would take a special order after that. Mr. Sikes would say, "Well, yes."

And I would say, "All I want to know is, am I in the ballpark range?"

And he would say yes, and I would say, "Well, that is all I want."

Well, unfortunately, our country has had to pay a price for what I call the cold war culture, which has led us to completely misjudge what has happened even in the former Soviet Union.

I have not seen a real assessment, or in what the Germans have called the Outer German, or Mittel Europa, or East Europe. It is tragic, because for ignorance, we always must pay a price.

Mr. Speaker, I include the following material, which has been alluded to in my special order:

SERVAAS, INC.,
*June 1, 1990.*

To: Sam Naman.
From: Clarence Ormsby.

Attached is the write-up we discussed on the phone today:

Izane was activated on behalf of a third-party beneficiary to buy the contract between SerVaas, Inc. and the Al-Shaheed Factory which provides for the purchase of certain equipment and the provision of services for a new refining brass plant in Iraq.

Izane has the responsibility to direct the performance of this contract outside of the United States of America due to risk of sanctions by the U.S. Government at some future date. Izane is a Proprietary Trust situated in the Isle of Man and is entitled to profits made by the sub-contractor. No profits of the trust accrue to SerVaas, Inc. SerVaas, Inc. is being paid a purchase price in installments for the sale of the contract. The beneficiary shall insure against delays and events that would impede the completion of the contract.

As fiduciary agent for the Al-Shaheed Factory, SerVaas, Inc. has agreed to work closely with Izane and to constantly monitor the contract until its completion. SerVaas, Inc. was obligated to sell the contract to meet the requirements of its covenant-not-to-compete with Olin Metals which purchased

Bridgeport Brass from them; however, at this juncture SerVass, Inc. has paid Olin $175,000 to be released from the covenant in order to insure that it can perform its duties as fiduciary.

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JUNE 7, 1989.

Mr. SAM NAMAN,
*Matrix-Churchill Corp., Solon, OH.*

DEAR SAM: This will confirm our conversation of June 7, regarding the payment schedule:

| Payment No. | Date | Amount | Explanation |
|---|---|---|---|
| 1 | | $70,000 | At time of signing of agreement on the sale of the contract with Izane estimated to be in ten days to two weeks. |
| 2 | July 31, 1989 | 130,000 | |
| 3 | Oct. 31, 1989 | 100,000 | |
| 4 | Dec. 31, 1989 | 200,000 | |
| 5 | Mar. 31, 1990 | 300,000 | |
| 6 | | 200,000 | Completion of Certificate of Commissioning and Taking Over Certificate for complete contract. |
| 7 | | 1,030,000 | Final Acceptance Certificate. |
| Total: | | 2,030,100 | |

These payments shall be made to you by Izane Engineering, Ltd. (London Bank) to your London office.

Best Regards,

CLARENCE C. ORMSBY,
*Vice President.*

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MATRIX-CHURCHILL CORP.

[Memo]

To: Mr. Sam Naman.
From: Mr. Gordon Cooper.
Date: January 10, 1989.
Subject: Commissions—XYZ and Bridgeport Brass.

I have to estimate our year end financial results. Currently we have two commission contracts secured by L/C's:

(1) XYZ: $14,072,625.00 Contract Value; $1,400,000.00 Commission to MCC of which 80% is committed to Al-Arabi. The 20% MCC portion is $280,000.00

(2) Bridgeport Brass: $42,000,000.00 Contract Value; $2,100,000.00 Commission to MCC of which 80% is committed to Al-Arabi. The 20% MCC portion is $420,000.00.

Total Commissions to MCC: $700,000.00.

For MCC consolidated operations to show a profit we need at least $410,000.00 of this $700,000.00 by March 31, 1989. For the Procurement dept. to operate in profit I estimate we need $436,000.00 of the $700,000.00.

Could you please advise me prior to our next weekly meeting of where we stand on this.

Sincerely,

GORDON COOPER,
*Vice President.*

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MATRIX-CHURCHILL CORP.,
*Cleveland, OH April 14, 1989.*

To: Dr. Safa.
Subject: Bridgeport Brass.

In reference to my telecon with Dr. Servass, the project value has increased from $40,602,000 to $41,136,000 due to changed in billit casting molds, cranes system changes, changes in metal preparation department, supplying main equipment in laboratory.

Servass has received down payment against bank guarantee for the sum of $4,060,200.

Bridgeport Brass proposed the following payment to Matrix-Churchill:

| Payment No. and Date: | *Amount* |
|---|---|
| | *Amount* |
| 1—July 1989 | $200,000 |
| | *Amount* |
| 2—Dec. 1989 | 300,000 |
| 3—March 1990 | 300,000 |
| 4—July 1990 | 200,000 |
| 5—July 1991 | 1,030,100 |

I think we should be paid now $100,000 and in July 1989 $100,000 in order to help our cash flow for Matrix-Churchill.

Although Dr. Servass mentioned they have received the down payment of 4 million but they have spent until now 7 million on project and have ordered 92% of equipment with down payments up to 30%.

STEP TWO OF THE PROJECT

After speaking to Dr. Servass and his meetings with Bank DeLavoro, he has the following solution to finance the project:

Servass Inc. have started to conduct a market survey and study for locating markets to sell brass product in the Middle East and abroad and are determining which products are in demand most, what sizes etc. This feasibility study will be completed shortly and Servass will have all necessary information to market Iraqi brass products at highest world prices.

In order to finance this project the Ministry of Industry makes arrangements with DeLavoro and Servass to propose a portion of scrap to be refined as collateral in the form of a certificate of conveyance to third party in order to have working capital. Eventually the product manufactured and sold will pay back for the working capital.

Dr. Safa, would you please give your opinion regarding this matter. Awaiting to hear from you.

Best Regards,

S. NAMAN.

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To: Bridgeport Brass.
Attn: Dr. Servaas.
Our Ref: U043.
Subject: Brass Project.

DEAR DR. SERVAAS: In reference to our telecon of the 12th of April regarding payment schedule to MCC and financing step two of the Iraqi project, please note that after may discussions with Dr. Safa, please find the following amendment:

(A). Payment Schedule to MCC is as follows:

| Payment No. and date: | *Amount* |
|---|---|
| | *Amount* |
| 1—10 days from receipt of this letter | $70,000 |
| 2—July 1989 | 130,000 |
| 3—Oct. 1989 | 100,000 |
| 4—Dec. 1989 | 200,000 |
| 5—March 1990 | 300,000 |
| 6—July 1990 | 200,000 |
| 7—July 1991 | 1,030,000 |

The above payment has been constructed according to our discussions and letter of agreement on pro-rata basis.

(B). Dr. Servaas, your idea of financing step two of the project by obtaining working capital from the bank using the scrap brassis a feasible and very encouraging project. However, we need a proposal from Servaas Inc. with this idea in order for us to present something in writing from you.

We also look forward to you completing the Market Survey for the Brass Product and sending us your result and recommendations.

I would be pleased to hear from you as soon as possible regarding this matter. I might have a source who is interested in lining up some funds for working capital for this project. Finally, I would like to discuss this opportunity with you and thank you for your efforts and interest.

Best Regards,

SAM NAMAN.

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*March 31, 1989.*

To: Sam.
Subject: Brass—Flat Rolled Sheet.

Alloy made of 70% copper and 30% zinc and very malleable.

80% of brass flat rolled product is consumed by four major markets:

(1). Automotive (radiators).
(2). Electrical Components.
(3). Army Ordianance (shell casing).
(4). Coins.

Other smaller uses would include such items as tubing, household goods, hardware locksets.

Regards,

BRUCE.

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BANCA NAZIONALE DEL LAVORO,
*Atlanta, GA, November 21, 1988.*

Issuing Bank's Credit No. 88/3/3712.
Our Advice No. 11755.

Beneficiary: Servaas Incorporated, 1000 Waterway Boulevard, Indianapolis, Indiana 46202.

Instructions Received From: Central Bank of Iraq, New Bank Street, Baghdad, Iraq.

For Account Of: Al Shaheed Factory, Baghdad, Iraq.

GENTLEMAN: We are pleased to advise you that the above mentioned correspondent has issued their Irrevocable Letter of Credit in your favor for account as shown above for a sum not exceeding Forty Million Six Hundred Two Thousand Dollars United States Currency ($40,602,000.00 USC) available by your draft(s) drawn at sight on The Central Bank of Iraq.

The amount of this letter of credit covers 100% of the invoice value of:

Copper Scrap refining machines, tools, parts and technical documents C & F Baghdad.

A. 10% of the credit value is payable as advanced payment. However, payment will only be made upon our receipt of tested telex from The Central Bank of Iraq stating that bank guarantee issued by Rafidain Bank has been issued and approved by the buyers.

B. Up to 50% of the credit value is payable as against your draft(s) as described above accompanied by:

1. Your signed commercial invoice in original and 7 copies in the name of the above mentioned accountee stating the merchandise description, quantity, price value, gross and net weight, freight charges, shipping marks, country of origin, country of manufacturer, trade discount (if any) and certifying its correctness and that the goods are of U.S.A. origin. Original must be attested by Iraqi Consulate (see * below for attestation and legalization).

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*May 11, 1988.*

To: C. Ormsby.
From: R. Euser.
Subject: Visit to SAAD, Baghdad, Iraq.

This report mainly covers the technical details, since Mr. Robert Davies will be covering the legal and commercial details in his report.

Summary: It appears that our previously submitted proposals were to establish our knowledge as well as answer the need for additional production capacity.

The main problem is utilizing scrap metal available as well as improving production volume.

They requested a new proposal to accomplish this and we are in the process of preparing it.

MEETING 4-25-88 (SAAD GENERAL ESTABLISHMENT)

Mr. Adnan Fawzi did not want to discuss the commercial and financial aspects of the proposal. He was only interested in technical details.

(1) How did we arrive at the casting requirements for circles? I told him that this was a combination of casting yield (95%), Sheet Mill yield (85%, heavy gauge) and blanking yield (60%), for a total overall yield of 48% reduced to 45% for our calculations. He fully agreed with this to arrive at casting requirements. This apparently broke the ice and from that period forward they accepted the rest of our proposal.

I gave them a lay-out drawing that was forwarded to them by Sam Naman in Cleveland.

After the above, the real problem they have was brought up. They have available approximately 60,000–70,000 metric tons of cartridge cases and scrap copper wire cable (10,000–15,000 tons) and do not know what to do with it. They wanted to know how they could utilize this in their process.

The cartridge cases contain .45–.75% SI, 74–77% CU, remainder ZN with total impurities of .15% max. They would like to use this material for the following:

### SI BRASS DISCS

I told them that would be no problem with slight zinc additions and proper preparation of the shells.

(2) High Conductivity Copper Strip—Told them that it would not be possible to use SI brass shell cases for this product.

(3) Profiles 95% CU, 5% NI—Told them that it would not be possible to use SI brass shell cases for this product.

(4) Profiles (70–71.5% CU, remainder ZN) (70–72.5% CU, remainder ZN)—Told them that SI brass shell cases could possible be used with zinc additions depending on allowable SI level in this product.

(5) Copper Tubing—Told them that it would not be possible to use SI brass shell cases for this product.

The copper cable, after proper preparation, removal of insulation and iron could possible be used in some of their products after receiving analysis of the copper scrap from these cables.

In general they need a fully integrated scrap preparation system and to make this successful for their desired products, considerable process engineering work needs to be performed. I also indicated to them that substantial amounts of virgin metals would be required with the available scrap to produce a quality product.

### MEETING 4–26–88 (SAAD GENERAL ESTABLISHMENT)

In the morning we discussed general details:

(1) Building design, construction and installation of foundations will be done by SAAD Est. We need to furnish all requirements.

(2) All utilities (water, gas, electrical power, and compressed air) will be furnished by SAAD Est. up to connection of the equipment. We need to furnish all requirements.

(3) Transportation of equipment to plant site is our responsibility. Insurance will be handled by SAAD Est., i.e. we pay freight, they buy insurance.

(4) All cooling requirements (outside temperature range 0°–55°C, 32°–131°F) will be furnished by SAAD Est. We need to furnish requirements.

(5) Lodging and transportation for equipment installation labor and supervision is described in Mr. Robert Davies report.

(6) They will bring their top people to the U.S.A. for maintenance training at vendor sites.

Mr. Robert Davies was given a sample contract for his review and I was given detail information on alloy composition.

After this meeting we left for the plant, located west of Fallujah, approximately 65 miles from Baghdad in the desert. We met with Chief Engineer F.B. Yacoub who is also Factory Director.

We were led to believe that this was a shell manufacturing plant, however, it turned out to be a complete casting facility, Sheet Mill, Rod Mill, Tube Mill, of very modern design (3 years old) with the latest state of the art. The only part missing was a metal room.

The Casting Shop was equipped with two (2) each 500kw channel type melting furnaces and one (1) each 500kw coreless type melting furnace, as well as two (2) each gas fired starter furnaces. Each of the induction furnaces feed metal to a 200 kw holding furnace (3 each), D.C. Casters (3 each). Two furnaces were used to cast bars (26⅜" x 5.7" x 10' long) one at a time with a production rate of 2 bars/hr. for both lines. The other furnace with DC caster was used for billets (8.268", 7.086" and 6.102" x 10' long), 2 each per pour.

The casting and associated sawing equipment with automated handling equipment was provided by Wellman in England under license from Loma-Mann.

The Sheet Mill consisted of cake heater (33,000 lbs./hr.), reversing Hot Mill (2 Hi), slab cooling facility, Slab Mill with edge milling, single stand cold reversing mill (4 Hi) to run slab to slab or slab to coil, feed conveyor to produce circles from slabs on two (2) each hydraulic punch presses, shear to cut webbing and automatic unloading and stacking of circles.

They also have narrow (13" wide) reversing Cluster Mill capable of producing strip to minimum gauge of .004" brass and .0025" copper.

All annealing furnaces were supplied by Wellman except Ebner bell type bright anneal. They have 2 each excellent slitters (.080"–250") and (.0025"–.080") as well as cut to length and leveler line for flat strip.

It is quite obvious that the rolling capacity far exceeds the casting capacity. We feel that by adding casting capacity we can increase the disc capacity at least 2 times present capacity and possibly 3 times with our process engineering help. All rolling and slitting equipment was manufactured by Andritz, Austria.

The Rod and Tube Mills consist of a modern, automatic 2500 Extrusion Press equipped with Junker induction heaters (2 each) capable of heating billets 8.268", 7.086" and 6.102" x 23⅝" long. The press was made in England by Loewy-Robertson.

Coils (1 coiler) and straight lengths on automatic runout table can be produced on this press as well as small tube (1¾" OD x .150"–200" wall). A number of draw benches (6) were available as well as associated pointing, sawing, annealing (bright) and pickling equipment. One (1) eddy current testing line was also used as well as a vapor degreaser.

All melting, heat treating (annealing), bar heating, billet heating was done electrically and gas was only used in the two gas fired starter furnaces for the casting shop.

The complete plant was air conditioned by 4 each enormous units and elaborate duct system in the roof of the building.

Housekeeping and maintenance appeared to be excellent. They work 2 shifts, 12 hrs. each, 6 days/week or a total of 72 hrs/wk./shift/man.

The general impression is that they have excellent, modern equipment.

### MEETING 4–27–88 (SAAD EST.)

On 4–28–88 we returned to Amsterdam and I discussed freight handling on 4–29–88 with Mr. J. Gaanderse, Director of Copex IGS B.V. in Rotterdam. His company, who has U.S. representatives has been in business of overseas shipments for 60 years and has recently handled a shipment of a complete paper mill to India and was very familiar with the logistics of shipments into Iraq.

I returned on 5–1–88 to Indianapolis.

ROKUS EUSER,
*Plant Engineer.*

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## CONFERENCE REPORT ON S. 2, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KILDEE submitted the following conference report and statement on the Senate bill (S. 2), to promote the achievement of national education goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards, and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement:

### CONFERENCE REPORT (H. REPT. 102–916)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2), to promote the achievement of national education goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

#### *SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Neighborhood Schools Improvement Act".*

*(b) TABLE OF CONTENTS.—The table of contents is as follows:*

*Sec. 1. Short title and table of contents.*
*Sec. 2. Findings and purposes.*

*TITLE I—NATIONAL EDUCATION GOALS*

*Sec. 101. Purpose.*
*Sec. 102. School readiness.*
*Sec. 103. School completion.*
*Sec. 104. Student achievement.*
*Sec. 105. Mathematics and science.*
*Sec. 106. Family literacy and lifelong learning.*
*Sec. 107. Safe, disciplined, and drug-free schools.*

*TITLE II—COMPREHENSIVE RESTRUCTURING*

*Sec. 201. Comprehensive restructuring.*

*TITLE III—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT*

*Sec. 301. National assessment of educational progress.*
*Sec. 302. Responsibility of States to furnish information concerning uses of Federal funds.*

*TITLE IV—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT*

*Sec. 401. Assessment of educational progress activities.*

Sec. 402. National Occupational Information Coordinating Committee.

TITLE V—AMENDMENT TO THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

Sec. 501. Eisenhower national programs.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Values in school study.
Sec. 602. Parents as teachers review.
Sec. 603. Buy American.
Sec. 604. Assessment study.
Sec. 605. Report and authorization extensions.
Sec. 606. Definitions.

### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) to achieve the National Education Goals each State must develop and implement widely shared, comprehensive strategies to support the revitalization of all public elementary and secondary schools;

(2) educational improvement will require statewide reform strategies and an unshakable long-term commitment by State policymakers;

(3) educational improvement will require adequate commitment and investment from the Federal Government;

(4) educational reform will require that teachers and school leaders play the central role in designing and implementing changes at the school level and they must have access to high-quality training and professional development to maximize that role and increase their effectiveness;

(5) ultimately, meaningful educational reform will not be achieved without coordinated changes at the local educational agency and school level;

(6) innovative and successful reform initiatives which are underway in schools throughout the Nation are not being replicated in sufficient number by schools where identical practices would further the National Education Goals;

(7) teachers, principals, parents and members of the local community can, in collaboration with the local educational agency, design effective education reform strategies to achieve the National Education Goals and be strongly committed to such plans if these individuals have access to the resources to implement such plans;

(8) schools receiving resources under this Act to implement a reform plan should be required to show improved academic achievement and progress towards the achievement of the National Education Goals;

(9) the Federal Government can best encourage efforts to achieve the National Education Goals by making resources available to States for the development of coherent and coordinated education reform plans and to assist local educational agencies and neighborhood public schools in implementing education reform efforts; and

(10) the Federal Government can also encourage reform by establishing an independent, nonpartisan mechanism to measure progress toward the achievement of the National Education Goals.

(b) PURPOSE.—It is the purpose of this Act to provide resources to assist States, local educational agencies, and neighborhood public schools in the design and implementation of education reform strategies to improve student achievement and achieve the National Education Goals.

## TITLE I—NATIONAL EDUCATION GOALS

### SEC. 101. PURPOSE.

It is the purpose of this title to establish a plan of action for the initial steps that the Federal Government must take in order to assist teachers, school leaders, parents, State and local governments, and businesses in the joint effort of achieving the National Education Goals as outlined in this title.

### SEC. 102. SCHOOL READINESS.

(a) FINDINGS.—The Congress finds that the Federal Government should expand its commitment to school readiness to ensure that all children are ready and able to begin school.

(b) POLICY.—It is the goal of the United States that, by the year 2000, all children in America will start school ready to learn. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take steps—

(1) to provide Head Start services to every eligible child who needs such services;

(2) to provide sufficient funding for the special supplemental food program for women, infants, and children so that all potentially eligible women, infants, and children have access to the services provided by the program;

(3) to assure that all women have access to affordable, high quality prenatal care and that all infants and children have access to affordable, high quality comprehensive and preventive health care, by providing sufficient funding for programs, including the Maternal and Child Health Services Block Grant, the Community and Migrant Health Center Grant Program, Medicaid, and the Childhood Immunization Grant Program;

(4) to expand funding for the Even Start and Follow Through Acts to allow programs to reach all parts of the United States and to allow each State to fund a sufficient number of programs throughout the State so that approaches are available for local educational agencies, the State educational agency, and other organizations to adopt and implement;

(5) to provide sufficient funding to assist States in providing a free appropriate public education to preschool children with disabilities and early intervention services to infants and toddlers with disabilities and their families pursuant to the Individuals with Disabilities Education Act; and

(6) to assure that every child participating in early childhood education is taught by a well-qualified teacher.

### SEC. 103. SCHOOL COMPLETION.

(a) FINDINGS.—The Congress finds that in order for the Nation to improve its economic competitiveness, each individual in the United States must be educated to his or her greatest potential and must be encouraged to finish secondary school.

(b) POLICY.—It is the goal of the United States that, by the year 2000, the high school graduation rate will increase to at least 90 percent. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take consistent steps—

(1) to expand funding for secondary school dropout prevention and reentry programs and basic skills programs to allow programs to reach all parts of the United States and to allow each State to fund a sufficient number of programs throughout the State so that approaches are available for local educational agencies, the State educational agency, and other organizations to adopt and implement; and

(2) to collect uniform, reliable data from the States with respect to school completion rates.

### SEC. 104. STUDENT ACHIEVEMENT.

(a) FINDINGS.—The Congress finds that American students are falling behind students in other industrialized nations on tests measuring abilities in all academic subject areas.

(b) POLICY.—It is the goal of the United States that, by the year 2000, American students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, productive employment, and independent living in our modern economy. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take steps—

(1) to provide appropriate educational assistance for all disadvantaged children in the United States by fully funding chapter 1 of title I of the Elementary and Secondary Education Act of 1965 in order to provide for the participation of all eligible children under such chapter;

(2) to fulfill the commitment made by the United States in 1975 to provide 40 percent of the costs of educating children with disabilities;

(3) to promote efforts that encourage all students to be involved in activities that promote and demonstrate good citizenship, community service, and personal responsibility; and

(4) to encourage highly qualified individuals to become teachers and to remain in the teaching profession.

### SEC. 105. MATHEMATICS AND SCIENCE.

(a) FINDINGS.—The Congress finds that—

(1) most students in the United States are behind students from other industrialized nations on tests measuring achievement in mathematics and science;

(2) the Federal Government has a significant role in promoting the study of mathematics and science in elementary and secondary schools by providing financial assistance to local educational agencies to improve the general quality of programs for the study of mathematics and science through authorized mathematics and science education programs; and

(3) the Federal Government has indirectly assisted in the postsecondary study of mathematics and science by providing future scientists, mathematicians, and engineers with financial assistance to attend postsecondary institutions, but more incentives are needed to attract high-achieving students into these areas of study.

(b) POLICY.—It is the goal of the United States that, by the year 2000, United States students will be first in the world in mathematics and science achievement. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take steps—

(1) to expand funding for the Excellence in Mathematics, Science, and Engineering Act of 1990 to increase the number of individuals, particularly women and minorities, in graduate and undergraduate programs in mathematics, science, and engineering;

(2) to expand funding for the Dwight D. Eisenhower Mathematics and Science Education Act so that all elementary teachers and all secondary teachers of mathematics and science will have an opportunity for updating and improving their mathematics and science education skills;

(3) to award scholarships to high-achieving students to pursue the study of mathematics, science, and related subjects at postsecondary institutions; and

(4) to encourage highly qualified individuals to become and to remain mathematics and science teachers in elementary and secondary schools.

### SEC. 106. FAMILY LITERACY AND LIFELONG LEARNING.

(a) FINDINGS.—The Congress finds that—

(1) nearly 30,000,000 adults in the United States are lacking literacy skills which limits their ability to read, write, or speak in English or to compute or solve problems effectively; and

(2) the Federal Government has a responsibility to assist State and local governments in pro-

*viding literacy services to those individuals in need of such services so that they may be full participants in society.*

*(b) POLICY.—It is the goal of the United States that, by the year 2000, every American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take steps—*

*(1) to provide increased funding for the Adult Education Act so that all eligible individuals who seek such services under such Act will receive such services; and*

*(2) to expand Federal assistance for literacy programs in order to assist State and local governments, public libraries, organizations and volunteers in providing all individuals lacking literacy skills the opportunity to acquire skills needed to function in society.*

### *SEC. 107. SAFE, DISCIPLINED, AND DRUG-FREE SCHOOLS.*

*(a) FINDINGS.—The Congress finds that—*

*(1) use of illicit drugs and alcohol continues to be a major problem that threatens the safety of the children of the Nation and impedes their ability to succeed in school and in their lives; and*

*(2) more Federal efforts are urgently needed in the areas of drug and alcohol abuse education and prevention.*

*(b) POLICY.—It is the goal of the United States that, by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning. As part of the joint effort of Federal, State, and local governments, organizations, institutions and individuals in achieving this goal, the Federal Government will take steps—*

*(1) to ensure that all students receive drug abuse prevention education and counseling services; and*

*(2) to provide increased funding for the Drug-Free Schools and Communities Act of 1986.*

## *TITLE II—COMPREHENSIVE RESTRUCTURING*

### *SEC. 201. COMPREHENSIVE RESTRUCTURING.*

*(a) AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—*

*(1) by redesignating sections 8001 through 8005 as 10001 through 10005; and*

*(2) by inserting after title VII the following:*

## *"TITLE VIII—COMPREHENSIVE RESTRUCTURING*

### *"PART A—NATIONAL EDUCATION GOALS PANEL AND NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL*

### *"Subpart 1—National Education Goals Panel*

### *"SEC. 8101. SHORT TITLE.*

*"This subpart may be cited as the 'National Education Standards and Assessments Act of 1992'.*

### *"SEC. 8102. FINDINGS AND PURPOSES.*

*"(a) FINDINGS.—The Congress finds that—*

*"(1) the social well-being, economic stability, and national security of the United States depend on a strong educational system that provides all citizens with the skills necessary to become active members of a productive work force;*

*"(2) despite the many reforms of the educational system that have been implemented since the National Council on Excellence in Education declared our Nation 'at risk' in 1983, the United States remains at risk for educational underachievement;*

*"(3) the educational achievement of United States students as a group falls below students from many other countries, particularly in mathematics and the sciences;*

*"(4) although State and local governments bear the primary responsibility for elementary and secondary education, rapidly increasing international competitiveness requires that the United States increase efforts to make education a national priority;*

*"(5) the Federal Government has played a vital, leading role in funding important educational programs and research activities and should continue to play that role;*

*"(6) accurate and reliable mechanisms must be available to assess and monitor educational progress;*

*"(7) the mechanisms to assess and monitor educational progress, and the national information infrastructure needed to support the mechanisms, do not exist or must be strengthened;*

*"(8) there should be established an independent, bipartisan panel, building on existing efforts to measure progress toward achievement of the National Education Goals;*

*"(9) the Nation should also move forward to set national education standards to help students and schools;*

*"(10) the quality of educational assessments in the United States is in need of reform and our Nation needs to invest in additional research and development related to educational assessments, including the development of authentic assessments and model assessments;*

*"(11) the primary purpose of developing standards is to inform instruction and improve learning;*

*"(12) establishing voluntary national standards is an important, complex, and sensitive task and any coordinating structure for this purpose must be bipartisan, engage government at all levels, and involve the many constituencies that have an established interest in improving education;*

*"(13) much work in the area of developing standards and in improving assessments has already begun and the national effort should benefit from and not attempt to duplicate any good work being done by existing Federal and non-Federal entities;*

*"(14) in accordance with the recommendations of the National Education Standards and Assessments Council, a coordinating structure needs to be put into place to ensure that this work is being done;*

*"(15) this coordinating structure should maintain the Nation's tradition of State and local authority over education and therefore be a part of a cooperative national effort; and*

*"(16) there should be established a national coordinating body to ensure the establishment of national education standards.*

*"(b) PURPOSES.—The purposes of this subpart are—*

*"(1) to establish the National Education Goals Panel;*

*"(2) to advance the establishment of voluntary national education content standards and to raise the academic performance of students and schools throughout the Nation;*

*"(3) to provide funds for the development of voluntary national school delivery standards and for further research and development on assessment to measure the progress of the Nation in meeting national education goals and standards; and*

*"(4) to report on the progress toward achievement of the National Education Goals.*

### *"SEC. 8103. NATIONAL EDUCATION GOALS PANEL.*

*"(a) ESTABLISHMENT.—There is established a National Education Goals Panel (hereafter in this subpart referred to as the 'Panel').*

*"(b) COMPOSITION.—*

*"(1) IN GENERAL.—The Panel shall be composed of 18 members (hereafter in this subpart referred to as 'members'), including—*

*"(A) two members appointed by the President;*

*"(B) eight members who are Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with each appointing representatives of their respective political party, in consultation with each other and in accordance with paragraph (2);*

*"(C) four Members of Congress appointed as follows:*

*"(i) one member appointed by the majority leader of the Senate from among the Members of the Senate;*

*"(ii) one member appointed by the minority leader of the Senate from among the Members of the Senate;*

*"(iii) one member appointed by the Speaker of the House of Representatives from among the Members of the House of Representatives; and*

*"(iv) one member appointed by the minority leader of the House of Representatives from among the Members of the House of Representatives; and*

*"(D) four members of State legislatures appointed by the President of the National Conference of State Legislatures, of which not more than two of whom may be of the same political party as the President of the United States.*

*"(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:*

*"(i) If the Chairperson of the National Governors' Association is from the same political party as the President, then the Chairperson shall appoint 3 persons pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.*

*"(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, then the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.*

*"(B) The members serving on such panel on the date of enactment of the Neighborhood Schools and Improvement Act shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.*

*"(c) TERMS.—The terms of service of members shall be as follows:*

*"(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.*

*"(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a 2-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms.*

*"(3) MEMBERS OF LEGISLATURES.—Members appointed under subparagraphs (C) and (D) of paragraph (1) shall serve a term of 2 years.*

*"(d) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of the Neighborhood Schools Improvement Act.*

*"(e) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.*

*"(f) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.*

*"(g) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.*

“(h) Chairperson Selection.—The Panel shall select a chairperson from among members described in subsection (b)(1)(B).

**“SEC. 8104. FUNCTIONS.**

“(a) Functions.—The Panel shall accomplish the following:

“(1) Interactive Process.—Establish an interactive process for the development of voluntary national content standards and voluntary national school delivery standards which, to the greatest extent feasible, reflect the comments and recommendations of educators and other knowledgeable individuals across the Nation.

“(2) Recommendations.—Make recommendations to the Secretary regarding the selection of groups and organizations for the award of grants to develop voluntary national content standards, voluntary national school delivery standards, and criteria for the model assessments described in section 2012(g) of the Dwight D. Eisenhower Mathematics and Science Education Act.

“(3) Certification.—Upon recommendation of the National Education Standards and Assessments Council established under section 8201 (hereafter in this subpart referred to as the ‘Council’), certify the voluntary national content standards and the voluntary national school delivery standards established pursuant to this subpart.

“(4) Evaluation.—Propose the indicators to be used to measure the National Education Goals and report progress in achieving such goals, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report card to the Nation under section 8105.

“(5) Measurement.—Select interim and final measures and appropriate indicators in each goal area.

“(6) Data.—Assure, through requirements for State reports, that data on student achievement is reported in the context of other relevant information about student, school, and system performance.

“(7) Report Card.—Issue an annual report card that—

“(A) reports on the Federal actions taken to fulfill responsibilities to education;

“(B) identifies gaps in existing educational data;

“(C) recommends improvements in the methods and procedures for assessments; and

“(D) proposes changes in national and international measurement systems.

“(8) Appointment.—Make appointments of members to the Council.

“(b) Performance of Functions.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

“(c) Data Collection.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to assess appropriately progress toward meeting the National Education Goals.

**“SEC. 8105. ANNUAL REPORT CARD.**

“(a) In General.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a national report card, that shall include the following:

“(1) Analysis.—An analysis of the progress of the United States toward achieving the National Education Goals.

“(2) Comments and Recommendations.—The comments and recommendations of—

“(A) Federal and State policymakers;

“(B) experts on teaching and child development;

“(C) experts on measurement;

“(D) experts on curriculum;

“(E) experts on educational administration; and

“(F) representatives of business.

“(3) Identification and Improvement.—Based on the findings of the Panel and an analysis of the views and comments of all interested parties, the Panel may identify continuing gaps in existing educational data.

“(4) Assessment Recommendations.—Recommendations for improvement in the methods and procedures of assessing educational attainment.

“(b) Continuation.—The Panel shall continue to issue a national report card on an annual basis for the duration of the existence of the Panel.

“(c) Format.—National report cards shall be presented in a form that is understandable to parents and the general public.

“(d) Limitation.—National report cards may not include data using the achievement goals established under section 406(i)(6)(A)(ii) of the General Education Provisions Act unless such goals have been reviewed and approved by the Commissioner of the National Center for Education Statistics.

**“SEC. 8106. POWERS OF THE PANEL.**

“(a) Hearings.—

“(1) In General.—The Panel shall, for the purpose of carrying out this subpart, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

“(2) Public Hearings.—In carrying out this subpart, the Panel shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the functions of the Panel described in section 8104(a).

“(b) Information.—The Panel may secure directly from any department or agency of the United States, information necessary to enable the Panel to carry out this subpart. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

“(c) Postal Services.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

“(d) Administrative and Supportive Services.—The Secretary shall provide to the Panel, on a reimbursable basis, administrative and supportive services as the Panel may request.

**“SEC. 8107. ADMINISTRATIVE PROVISIONS.**

“(a) Meetings.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

“(b) Quorum.—A majority of the members shall constitute a quorum for the transaction of business.

“(c) Voting.—No individual may vote or exercise any of the powers of a member by proxy.

“(d) Federal Advisory Committee Act.—Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections of such Act that shall apply with respect to the Panel and the Council.

**“SEC. 8108. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.**

“(a) Director.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

“(b) Appointment and Pay of Employees.—

“(1) Employee Allocation.—(A) The Chairperson of the Panel may appoint not more than four employees to serve as staff to the Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(B) The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

“(2) Additional Employees.—The Chairperson of the Panel may appoint additional employees to serve as staff of the Panel consistent with the provisions of title 5, United States Code.

“(c) Experts and Consultants.—The Panel may procure temporary and intermittent services of experts and consultants under section 3019(b) of title 5, United States Code.

“(d) Staff of Federal Agencies.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this subpart.

**“SEC. 8109. AUTHORITY FOR GRANT.**

“The Secretary shall make grants to provide for the following:

“(1) Operation.—The operation and activities of the Panel.

“(2) Voluntary National Content Standards Development.—The development of voluntary national content standards in addition to those developed independently or under grant or contract from the Department of Education or other Federal agencies.

“(3) Voluntary National School Delivery Standards Development.—The development of voluntary national school delivery standards which—

“(A) assure that every child shall have the opportunity to learn regardless of gender, race, economic condition, limited-English proficiency, or disability;

“(B) describe the capacities of States, local educational agencies, and schools that are necessary to ensure that all students have an opportunity to achieve the voluntary national content standards; and

“(C) provide valuable information regarding the conditions of schools and instructional programs in relation to student performance.

**“SEC. 8110. VOLUNTARY NATIONAL CONTENT STANDARDS.**

“(a) Certification of Voluntary National Content Standards.—

“(1) In General.—Upon recommendation of the Council, the Panel is authorized to certify voluntary national content standards and shall announce in advance the procedures to be used in the certification process. The Panel is authorized to certify only each set of standards in their entirety, and shall not approve or deny proposed standards in part or amend such standards in any way.

“(2) Process Review.—The Panel shall review the voluntary national content standards recommended by the Council.

“(b) Additional Grants for Voluntary National Content Standards.—

“(1) In General.—The Secretary is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, organizations with expertise in relevant academic areas, or a combination of such agencies or organizations to develop additional voluntary national content standards.

“(2) Process.—The Secretary, in consultation with the Panel and the Council, shall establish the process by which such voluntary national content standards shall be developed. Such process shall provide for several consecutive drafts of standards which incorporate the comments and recommendations of educators and *other knowledgeable individuals across the Nation.*

*"(c) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report certifying voluntary national content standards not later than December 31, 1994.*

### "SEC. 8111. VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS.

*"(a) DEVELOPMENT OF VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS.—The Panel shall establish the process by which voluntary national school delivery standards shall be developed. Such process shall provide for several consecutive drafts of such standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.*

*"(b) GRANTS FOR VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS.—*

*"(1) SELECTION.—The Panel, after considering the recommendation of the Council, shall make a recommendation to the Secretary regarding the selection of a consortium of individuals and organizations to receive grants to develop voluntary national school delivery standards. To the extent possible, each such consortium shall include the participation of—*

*"(A) Governors (except Governors serving on the Panel);*

*"(B) chief State school officers;*

*"(C) teachers (especially teachers involved in the development of voluntary national content standards);*

*"(D) principals;*

*"(E) superintendents;*

*"(F) State and local school board members;*

*"(G) parents;*

*"(H) State legislators (except State legislators serving on the Panel);*

*"(I) representatives of businesses;*

*"(J) representatives of regional accrediting associations;*

*"(K) representatives of federally funded entities referred to in clauses (i) and (ii) of section 405(d)(4)(A) of the General Education Provisions Act; and*

*"(L) civil rights groups and organizations (including those associated with the rights of individuals with disabilities).*

*"(2) TIME AND CONDITIONS.—In making a recommendation to the Secretary, the Panel shall propose a time period and other conditions for such grant that shall ensure that the process established under subsection (a) may be followed.*

*"(c) VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS RATIFICATION.—After developing such voluntary national school delivery standards, the consortium shall convene a meeting to review and determine that such standards meet the following requirements:*

*"(1) STATE ADOPTION.—The voluntary national school delivery standards are sufficiently generic to be adopted for use in any State without unduly restricting State and local prerogatives regarding the instructional methods to be employed.*

*"(2) FAIR OPPORTUNITY.—The voluntary national school delivery standards are likely, if properly implemented, to ensure that each student in a school has a fair opportunity to achieve the knowledge and skills set out in the voluntary national content standards.*

*"(d) VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS CERTIFICATION.—*

*"(1) PROCESS CONFORMANCE.—After ratification of a set of voluntary national school delivery standards under subsection (c), the Panel shall review the process by which such standards were developed and consult with the Council to determine and certify that such standards are of high quality and that such standards conform with the process established under subsection (a).*

*"(2) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report containing such certified voluntary national school delivery standards not later than December 31, 1994.*

### "SEC. 8112. GENERAL PROVISIONS RELATING TO STANDARDS.

*"(a) CONTINUED REVIEW.—The Panel shall periodically (not more than once every 3 years) review all standards developed pursuant to this subpart to determine whether such standards continue to reflect the best evidence available regarding what children should know.*

*"(b) NO INFLUENCE.—Nothing in this subpart shall be construed to permit the Secretary to prescribe or influence the content of particular standards.*

### "SEC. 8113. ASSESSMENT.

*"While taking into consideration the existing research on assessment that the Office of Educational Research and Improvement is addressing, the Panel shall make recommendations to the Secretary regarding such research on authentic assessment and model assessments under the Dwight D. Eisenhower Mathematics and Science Education Act which such Office shall undertake.*

### "SEC. 8114. EVALUATION AND REPORTS.

*"(a) EVALUATION.—The Secretary, through the National Academy of Sciences, shall conduct an evaluation and issue reports that include the following:*

*"(1) EVALUATION REPORT.—An evaluation of the effectiveness of—*

*"(A) voluntary national school delivery standards described in section 8111(a);*

*"(B) research on authentic assessment conducted by the Office of Educational Research and Improvement; and*

*"(C) the model assessments for voluntary national content standards for mathematics and any science standards that may be developed.*

*"(2) RECOMMENDATIONS.—Recommendations regarding the need for additional criteria to determine the validity, reliability, and fairness of assessments.*

*"(3) CRITERIA.—Criteria for evaluating—*

*"(A) whether assessments are substantially aligned to the voluntary national content standards; and*

*"(B) the sufficiency of evidence regarding the technical quality of an assessment in relation to its intended use.*

*"(b) REPORTS.—*

*"(1) INTERIM REPORT.—The National Academy of Sciences shall submit to the Congress, the Secretary, and the public an interim report regarding the material described in subsection (a) not later than December 31, 1993.*

*"(2) FINAL REPORT.—The National Academy of Sciences shall submit to the Congress, the Secretary, and the public a final report regarding the material described in subsection (a) not later than December 31, 1994.*

### "SEC. 8115. DEFINITIONS.

*"For purposes of this subpart—*

*"(1) the term 'authentic assessment' means assessment tasks in which students are given the opportunity to provide self-constructed responses rather than selecting answers from a set of predetermined choices, including written, oral, or performed responses;*

*"(2) the term 'content standards' means a description, in a particular subject area, of the knowledge and skills children should acquire; and*

*"(3) the term 'school delivery standards' means the criteria for, and means of assessing, the resources, practices, and conditions necessary at each level of the education system (schools, school districts, and States) to provide all students with an opportunity to learn the material in both the voluntary national content standards (and the work force readiness standards), such as—*

*"(A) the quality and availability of the curriculum, instructional materials and technologies, and facilities;*

*"(B) the ability of teachers to provide quality instruction;*

*"(C) the availability of the best knowledge about teaching, learning, and learners to teachers and administrators;*

*"(D) the relationship of assessments to curricula; and*

*"(E) the presence of policies and practices that support desired student learning, including achievement of the voluntary national content standards by all students.*

### "SEC. 8116. AUTHORIZATION OF APPROPRIATIONS.

*"(a) AUTHORIZATION FOR PANEL.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1993 through 1996 to carry out section 8103.*

*"(b) AUTHORIZATION FOR VOLUNTARY NATIONAL CONTENT STANDARDS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1996 to carry out section 8110(b).*

*"(c) AUTHORIZATION FOR VOLUNTARY NATIONAL SCHOOL DELIVERY STANDARDS.—There are authorized to be appropriated a total of $5,000,000 for the fiscal years 1993 and 1994 to carry out section 8111.*

*"(d) AUTHORIZATION FOR EVALUATIONS AND REPORTS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1993 and 1994, which shall be made available to the National Academy of Sciences to carry out section 8114.*

### "Subpart 2—National Education Standards and Assessments Council

### "SEC. 8201. NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL.

*"(a) ESTABLISHMENT.—There is established a National Education Standards and Assessments Council (hereafter in this subpart referred to as the 'Council').*

*"(b) APPOINTMENT AND COMPOSITION.—*

*"(1) APPOINTMENT.—The Council shall be composed of 15 members (hereafter in this subpart referred to as 'members') appointed by the National Education Goals Panel described in section 8103 (hereafter in this subpart referred to as the 'Panel').*

*"(2) COMPOSITION.—The Council shall be composed as follows:*

*"(A) One-third of the Council shall be educators, including elementary and secondary school educators.*

*"(B) One-third of the Council shall be members of the general public (such as public officials and representatives of businesses, foundations, and advocacy communities).*

*"(C) One-third of the members of the Council shall be individuals with expertise in educational assessment, content standards, and curriculum design.*

*"(c) QUALIFICATIONS.—*

*"(1) IN GENERAL.—Members shall be appointed to the Council on the basis of widely recognized experience in, knowledge of, commitment to, and a demonstrated record of service to education and to achieving educational excellence at the Federal, State or local level.*

*"(2) NOMINATIONS.—Members under this subsection shall be appointed from among qualified individuals nominated by the public.*

*"(d) TERMS.—*

*"(1) IN GENERAL.—The members shall be appointed for three-year terms, with no member serving more than 2 consecutive terms.*

*"(2) INITIAL SELECTION.—The Panel shall establish initial terms for individuals of 2, 3, or 4 years in order to establish a rotation in which one-third of the members are selected each year.*

*"(3) SPECIAL PROVISION.—No member of the Panel may concurrently serve as a member of the Council.*

*"(4) Date of Appointment.—The initial members shall be appointed, by the Panel, not later than 120 days after the date of enactment of the Neighborhood Schools Improvement Act.*

*"(5) Retention.—In order to retain an appointment to the Council, a member must attend at least two-thirds of the scheduled meetings of the Council in any given year.*

*"(6) Officer Selection.—The members appointed under subsection (b)(2) shall select officers of the Council from among the members of the Council. The officers of the Council shall serve for 1-year terms.*

*"(7) Vacancies.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.*

*"(8) Travel.—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.*

*"(9) Initiation.—The Council shall begin to carry out the duties of the Council under this subpart when all 15 members have been appointed.*

### "SEC. 8202. FUNCTIONS OF THE COUNCIL.

*"(a) Functions.—The Council shall—*

*"(1) be an advisory body to the Panel;*

*"(2) develop criteria for reviewing voluntary national content standards as world class;*

*"(3)(A) develop criteria for the development of different types of model assessments tied to the voluntary national content standards in mathematics and science in accordance with section 2012(g) of the Dwight D. Eisenhower Mathematics and Science Education Act;*

*"(B) make recommendations to the Secretary regarding the awarding of grants under section 2012(g)(1) of such Act;*

*"(4) make recommendations to the panel regarding the selection of groups and organizations for grants to develop voluntary national content standards, voluntary national school delivery standards, and model assessments of the voluntary national content standards for mathematics and science described in paragraph (3); and*

*"(5) review, and make recommendations to the Panel regarding, voluntary national content standards to determine if such standards—*

*"(A) are sufficiently general to be adopted by any State;*

*"(B) reflect the best evidence available regarding the knowledge and skills that students should acquire in the academic subject area of such standards; and*

*"(C) are sufficiently challenging to ensure that American students receive instruction at world-class levels.*

*"(b) Performance of Functions.—In carrying out its responsibilities, the Council shall work with Federal and non-Federal agencies and organizations which are conducting research, studies, or demonstration projects to determine world-class education standards.*

*"(c) Data Collection.—The Council shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to carry out its functions.*

### "SEC. 8203. ANNUAL REPORTS.

*"Not later than 1 year after the date the Council concludes its first meeting of members and in each succeeding year, the Council shall prepare and submit a report to the President, the appropriate committees of Congress, and the Governor of each State, regarding its work.*

### "SEC. 8204. POWERS OF THE COUNCIL.

*"(a) Hearings.—*

*"(1) In General.—The Council shall, for the purpose of carrying out this subpart, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.*

*"(2) Conduct.—In carrying out this subpart, the Council shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public on the establishment of national education standards and assessments.*

*"(b) Information.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this subpart. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish such information to the Council to the extent permitted by law.*

*"(c) Postal Services.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.*

*"(d) Administrative and Supportive Services.—The Secretary shall provide to the Council, on a reimbursable basis, administrative and supportive services as the Council may request.*

### "SEC. 8205. ADMINISTRATIVE PROVISIONS.

*"(a) Meetings.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council or a majority of its members.*

*"(b) Quorum.—A majority of the members shall constitute a quorum for the transaction of business.*

*"(c) Voting.—The Council shall take all action of the Council by a two-thirds majority vote of the total membership of the Council, assuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.*

### "SEC. 8206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

*"(a) Director.—The Chairperson of the Council shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.*

*"(b) Appointment and Pay of Employees.—*

*"(1) Employee Allocation.—(A) The Chairperson of the Council may appoint not more than four employees to serve as staff to the Council without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.*

*"(B) The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.*

*"(2) Additional Employees.—The Chairperson of the Council may appoint additional employees to serve as staff of the Council consistent with the provisions of title 5, United States Code.*

*"(c) Experts and Consultants.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.*

*"(d) Staff of Federal Agencies.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist the Council in its duties under this part.*

### "SEC. 8207. AUTHORIZATION OF APPROPRIATIONS.

*"There are authorized to be appropriated to the Council $2,000,000 for each of the fiscal years 1993 through 1996 to carry out this subpart.*

## "PART B—NEIGHBORHOOD SCHOOLS IMPROVEMENT

### "SEC. 8301. SHORT TITLE.

*"This part may be cited as the 'Neighborhood Schools Improvement Program Act'.*

### "SEC. 8302. CONGRESSIONAL FINDINGS.

*"The Congress finds that—*

*"(1) all students can learn and must realize their potential if the United States is to prosper;*

*"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;*

*"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;*

*"(4) strategies must be developed by States and communities to support the revitalization of all local public schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement while recognizing the diverse cultural and language backgrounds and learning abilities of students;*

*"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;*

*"(6) principals and teachers at local public schools must be involved in school-wide reform strategies that reflect the needs of their individual schools;*

*"(7) States, local educational agencies and local public schools, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;*

*"(8) increasing the funding for existing Federal education programs at levels that will enable such programs to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and*

*"(9) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.*

### "SEC. 8303. STATEMENT OF PURPOSE.

*"It is the purpose of this part to—*

*"(1) raise the quality of education and achievement of all students by supporting a 10-year broad-based public effort involving increased community, parental, and business collaboration to promote coherent and coordinated improvements in the public schools and systems of education throughout the Nation at the State and local levels without jeopardizing funding for existing Federal education programs; and*

*"(2) meet the National Education Goals.*

### "SEC. 8304. PROGRAM AUTHORIZED.

*"(a) Authority.—The Secretary is authorized, in accordance with the provisions of this part, to make grants from allotments under section 8305 to State educational agencies to enable States and local educational agencies to pay the Federal share of reforming and improving the quality of education in neighborhood public schools throughout the Nation. Such grants shall be used to implement reforms and plans to improve the education system at the State and local levels.*

*"(b) Matching Requirement.—*

*"(1) In General.—The Federal share under this part may not exceed—*

*"(A) 100 percent of the total cost of a program for the first 3 fiscal years for which a State receives funds under this part;*

*"(B) 90 percent of such cost in such fourth year;*

*"(C) 80 percent of such cost in such fifth year; and*

*"(D) 70 percent of such cost in such sixth and any succeeding such year.*

*"(2) NON-FEDERAL SHARE.—(A) The non-Federal share of the cost of a program assisted under this part shall be paid by the State from funds raised at the State level and may include contributions from the private sector.*

*"(B) The non-Federal share of the cost of a program assisted under this part may be in cash or in kind fairly evaluated.*

*"(3) LIMITATION.—The requirements of this subsection shall not apply to the Virgin Islands or the outlying areas.*

*"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.*

**"SEC. 8305. ALLOTMENT OF FUNDS.**

*"(a) ALLOTMENT.—*

*"(1) RESERVATION.—In addition to the funds the Secretary may reserve under section 8312(a), the Secretary shall reserve 1 percent of the amount appropriated pursuant to the authority of section 8317 in each fiscal year to award grants to the outlying areas and to the Secretary of the Interior for the Bureau of Indian Affairs schools using whatever mechanism the Secretary determines shall best meet the purposes of this part.*

*"(2) ALLOTMENT.—From the amount appropriated pursuant to the authority of section 8317 in each fiscal year and not reserved pursuant to paragraph (1) or section 8312(a), the Secretary shall allot to each State educational agency in the 50 States, the District of Columbia and the Commonwealth of Puerto Rico having an application approved under section 8306 an amount which bears the same relation to—*

*"(A) 50 percent of such funds as the amount such State educational agency received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the amount received by all State educational agencies under such chapter in such fiscal year; and*

*"(B) 50 percent of such funds as the amount such State educational agency received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the amount received by all State educational agencies under such chapter in such fiscal year.*

*"(b) STATE USE OF ALLOTMENT.—*

*"(1) INITIAL YEAR.—In the initial year for which a State educational agency receives an allotment under this part, such allotment funds—*

*"(A) shall be used to develop a State Neighborhood Schools Improvement Plan as required under section 8307; and*

*"(B) may be used to make subgrants for the purpose of developing local plans in accordance with section 8308.*

*"(2) SECOND AND SUCCEEDING YEARS.—In the second and succeeding years for which a State educational agency receives an allotment under this part—*

*"(A) not more than 20 percent of the total cost of a State's program assisted under this part (including matching funds) in each such year may be used—*

*"(i) to implement the State plan developed pursuant to section 8307, including State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessments;*

*"(ii) for technical assistance; and*

*"(iii) for other innovative school reform activities that are consistent with such State's plan and subject to peer review; and*

*"(B) not less than 80 percent of the total cost of a State's program assisted under this part (including matching funds) in each such year shall be used by the State educational agency to award subgrants, on a competitive basis, of sufficient size and duration, to local educational agencies to enable each such local educational agency to develop and carry out planned activities in accordance with the local educational agency's application described in section 8309.*

*"(3) SUBGRANTS.—(A) In awarding subgrants in accordance with this part each State educational agency receiving assistance under this part in a fiscal year shall award not less than 50 percent of such subgrant funds in such fiscal year to local educational agencies in the State which have a greater percentage or number of disadvantaged children than the statewide average such percentage or number for all local educational agencies in the State, except that State educational agency may waive the requirements of this subparagraph if such State educational agency does not receive a sufficient number of applications from local educational agencies in a State to enable such State educational agency to carry out this subparagraph (provided that such State educational agency making such a waiver shall award a subgrant in accordance with subparagraph (B)).*

*"(B) In carrying out subparagraph (A), the State educational agency shall award a subgrant (from funds described in subparagraph (A)) in each fiscal year to the local educational agency in the State with the greatest number of disadvantaged children.*

*"(4) DEFINITION.—For the purpose of paragraph (2) the term 'disadvantaged children' means children eligible to be counted under chapter 1 of title I.*

*"(c) ADMINISTRATIVE EXPENSE.—A State educational agency shall not use more than 5 percent of the allotment received under this section for administrative expenses.*

**"SEC. 8306. STATE APPLICATIONS.**

*"(a) IN GENERAL.—If a State desires to receive an allotment under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.*

*"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—*

*"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 8307;*

*"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process of establishing goals, refining such goals in the future, and participating in the development of all other components of the State plan;*

*"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media (and other accessible formats) and provide notice to each local educational agency—*

*"(A) that the State has made application for funds under this part;*

*"(B) of the purposes for which the funds will be used; and*

*"(C) that the State is developing a plan in accordance with section 8307;*

*"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;*

*"(5) describe actions taken and resources identified or committed to meet the requirements of this part;*

*"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and*

*"(7) provide an assurance that the State will carry out the provisions of section 8307.*

*"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or such amendment meets the requirements of this section and is of sufficient quality to meet the objectives of this part. The Secretary shall not finally disapprove an application or an amendment to such application except after providing reasonable notice, technical assistance, and an opportunity for a hearing.*

*"(d) REAPPLICATION.—*

*"(1) IN GENERAL.—A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—*

*"(A) has met all of the State's reporting requirements under this part; and*

*"(B) demonstrates that the State has made reasonable progress in carrying out its State plan.*

*"(2) REAPPLICATION APPROVAL.—The Secretary shall not finally disapprove a reapplication or any amendment to such reapplication except after giving reasonable notice, technical assistance, and an opportunity for a hearing.*

**"SEC. 8307. DEVELOPMENT AND APPROVAL OF STATE PLAN.**

*"(a) ESTABLISHMENT OF PANEL.—Each State educational agency receiving an allotment under this part shall establish a panel to develop a statewide reform plan in cooperation with the State educational agency. Such panel shall consist of—*

*"(1) the chief executive of the State (or designee);*

*"(2) the presiding officers and the minority leaders of the State legislature (or designees);*

*"(3) the chief State school officer;*

*"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008(b)(1) of the Dwight D. Eisenhower Mathematics and Science Education Act (or designee);*

*"(5) except in the case of a State with a single local educational agency, an individual nominated by representatives of local educational agencies that comprise between 5 to 10 percent of the local educational agencies in the State with the lowest average per pupil expenditures;*

*"(6) an individual representing the State board of education; and*

*"(7) except in the case of a State with a single local educational agency, an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.*

*"(b) ADDITIONAL MEMBERS.—*

*"(1) IN GENERAL.—The first meeting of such panel shall be convened by the chief State school officer. At such meeting, the panel members designated and nominated in subsection (a) shall select additional panel members, such as—*

*"(A) classroom teachers;*

*"(B) superintendents;*

*"(C) principals;*

*"(D) local school boards;*

*"(E) parents;*

*"(F) parents of children with disabilities;*

*"(G) businesses;*

*"(H) community-based organizations; and*

*"(I) students.*

*"(2) MEMBERSHIP.—The membership of the panel shall—*

*"(A) be geographically representative of all areas of the State;*

*"(B) reflect the racial and ethnic diversity of the population of the State; and*

*"(C) not exceed 13 in number.*

*"(3) MEETINGS.—Following the selection of additional members, the chief State school officer shall convene a meeting of the full panel to establish procedures regarding the operation of subsequent meetings, including the designation of a panel Chairperson, consistent with applicable State law.*

*"(c) DEVELOPMENT OF STATE PLAN.—*

*"(1) IN GENERAL.—The panel shall develop the State plan cooperatively with the chief State school officer and the State educational agency. The development procedures shall include initial consultations among the chief State school officer, the State educational agency and the panel on the framework and components of the plan. Following such consultations, the chief State school officer shall prepare an initial State plan. The panel shall then develop a proposed final State plan and transmit the proposed final State plan to the State educational agency for approval. Such plan shall—*

*"(A) establish State goals to maximize achievement for all children in conjunction with the National Educational Goals;*

*"(B) establish curricular frameworks and identify instructional materials in specific subject matter areas that incorporate the goals established under subparagraph (A);*

*"(C) provide for the adoption of school delivery standards;*

*"(D) provide for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;*

*"(E) describe plans to improve the professional development of teachers and school leaders;*

*"(F) describe methods of coordinating health, rehabilitation, and social services with education through State interagency cooperation and agreements;*

*"(G) describe the steps the State educational agency shall take to provide remedial assistance to students, schools, and local educational agencies that are identified through the assessment system under subparagraph (D) as having a need for such assistance; and*

*"(H) provide for the development of a strategy to use and integrate educational technology in schools throughout the State for instructional purposes and the training of parents, teachers, and administrators.*

*"(2) REQUIREMENTS.—In developing the plan, the panel, in cooperation with the State educational agency, shall ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited-English proficiency).*

*"(3) PUBLIC COMMENT.—*

*"(A) Following the development of the plan, the panel, in cooperation with the State educational agency, shall seek public comment by—*

*"(i) publishing the plan with a comment period of at least 60 days; or*

*"(ii) notifying the public (including individuals with limited English proficiency) through electronic and print media (and other accessible formats) and by conducting regional hearings.*

*"(B) After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.*

*"(4) SUBMISSION.—(A) The panel shall submit the plan to the State educational agency in order to enable such agency to—*

*"(i) approve the plan with or without modification;*

*"(ii) disapprove the plan; or*

*"(iii) return the plan to the panel for further development.*

*"(B) If a State has, pursuant to a State law or regulation enacted or promulgated not later than July 1, 1992, adopted a State school reform plan which provides for systemic reform that is comparable to the provisions of this section, then the Secretary, upon application by the State educational agency for a waiver (including a description of the reasoning for the waiver) may waive the requirements of this section.*

*"(5) INCLUSION OF PANEL COMMENTS.—Each State educational agency submitting a plan under this section shall attach a copy of the panel's comments to such plan.*

*"(6) APPROVAL.—(A) The Secretary shall approve a State's plan if such plan meets the requirements of this section.*

*"(B) The Secretary shall not finally disapprove a State's plan or any amendment to such plan except after giving reasonable notice and an opportunity for a hearing.*

*"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this part. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 8311(a).*

*"(e) DESCRIPTION OF GRANT ADMINISTRATION.—A plan developed under this section shall describe the measures to be undertaken by the State to administer the allotment provided to the State educational agency under this part. Such plan shall include—*

*"(1) a description of the procedures that shall be used to inform local educational agencies and schools about the program assisted under this part, and of the availability of technical assistance, where necessary;*

*"(2) a description of the measures to be undertaken to monitor and evaluate the activities and results at schools receiving funds under this part;*

*"(3) a description of the measures to be undertaken to implement a competitive process using peer review to award subgrants under this part in accordance with section 8309;*

*"(4) an assurance that funds received under this part shall be used to supplement and not supplant other Federal, State, and local funds available to local educational agencies and the schools;*

*"(5) an assurance that funding under this part shall terminate if the State educational agency determines that a local educational agency is not successfully implementing the activities and services described in the application submitted pursuant to section 8306(b); and*

*"(6) a description of the appeals process available for local educational agencies whose funding under this part has been terminated pursuant to paragraph (5).*

### "SEC. 8308. DEVELOPMENT AND APPROVAL OF LOCAL SCHOOL REFORM PLANS.

*"(a) LOCAL COMMITTEE.—*

*"(1) IN GENERAL.—A local educational agency which desires to receive a subgrant under this section shall establish a committee comprised of—*

*"(A) the chief elected officer of the unit of general purpose local government with boundaries which are most closely aligned with the geographic boundaries of the local educational agency (or a designee);*

*"(B) the superintendent of the local educational agency;*

*"(C) a representative nominated by the local school board;*

*"(D) a representative nominated by a local teacher association; and*

*"(E) a representative nominated by an association with business members that have an interest in educational improvement.*

*"(2) FIRST MEETING.—(A) The first meeting of such committee shall be convened by the superintendent to enable the committee members designated and selected in accordance with paragraph (1) to select additional members, such as—*

*"(i) parents of students in public elementary and secondary schools, such as parents of—*

*"(I) students with a disability;*

*"(II) students who are low-income; and*

*"(III) students who are limited-English proficient;*

*"(ii) members of the general public with a strong interest in public education;*

*"(iii) principals;*

*"(iv) teachers;*

*"(v) curriculum, testing, or evaluation supervisors; and*

*"(vi) a representative of a local institution of higher education.*

*"(B) The total number of committee members may not exceed 15 and shall be racially and ethnically diverse to the extent possible.*

*"(3) CONVENING OF MEETINGS.—Following the selection of the additional members, the superintendent shall convene a meeting of the full committee to establish procedures regarding the operation of subsequent meetings, including the designation of a committee chairperson, consistent with applicable State and local law.*

*"(4) OPEN MEETINGS.—Each meeting of such committee shall be open to the public and accessible to individuals with disabilities.*

*"(5) LOCAL PLAN DEVELOPMENT.—The committee shall develop the local plan described in subsection (b).*

*"(6) SPECIAL RULE.—If a local educational agency has, pursuant to a State law or regulation enacted or promulgated not later than July 1, 1992, adopted a local school reform plan which is comparable to the provisions of this section, then the State educational agency shall waive the requirements of this section.*

*"(b) LOCAL PLAN REQUIREMENTS.—*

*"(1) IN GENERAL.—The local plan shall—*

*"(A) incorporate school restructuring concepts submitted by individual schools or consortia thereof pursuant to section 8309;*

*"(B) propose local educational agency-wide reform which includes—*

*"(i) the setting of local goals;*

*"(ii) a process to ensure that curricular and instructional materials, and assessments and other indicators of student performance, reflect State goals, State curricular frameworks and local goals;*

*"(iii) professional and staff development; and*

*"(iv) a review of the administrative and staffing structure of the local educational agency and individual schools within such agency; and*

*"(C) provide special attention to the needs of minority and female students, including instructional programs and activities that—*

*"(i) reflect cultural awareness and multicultural diversity;*

*"(ii) encourage alternative learning styles;*

*"(iii) encourage such students in elementary and secondary schools to aspire to enter higher education programs;*

*"(iv) encourage increased participation in mathematics and sciences; and*

*"(v) promote gender equity in classrooms and curricula.*

*"(c) CONSIDERATION OF PLAN BY THE LOCAL EDUCATIONAL AGENCY.—*

*"(1) SUBMISSION.—The committee shall submit the local plan to the local educational agency for approval.*

*"(2) PUBLIC MEETINGS.—*

*"(A) The local educational agency, with proper public notice, shall conduct public meetings to review and discuss all aspects of the plan.*

*"(B) After the meetings required under subparagraph (A), the local educational agency,*

*with proper notice, shall convene a public meeting to consider the local plan and shall—*

*"(i) approve the plan with or without modification;*

*"(ii) disapprove the plan; or*

*"(iii) return the plan to the committee for further development.*

*"(3) INCLUSION OF WRITTEN COMMENTS.—A local educational agency which approves a local plan shall include in the application submitted under section 8309(e) the written comments of the local committee regarding such plan prior to submitting such plan to the State for consideration for a subgrant.*

*"(d) REVISIONS.—Revisions of the local plan shall be consistent with the provisions of this section.*

*"(e) REVIEW OF LOCAL PLAN.—The committee and the local educational agency shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives funding under this part.*

**"SEC. 8309. LOCAL SCHOOL REQUIREMENTS AND LOCAL APPLICATION.**

*"(a) DISTRIBUTION REQUIREMENT.—Each local educational agency desiring a subgrant under this part shall distribute the approved local plan described in section 8308 to each school served by such local educational agency.*

*"(b) NOTIFICATION.—Each local educational agency desiring a subgrant under this part shall notify all schools served by such agency of such agency's intention to apply for a grant under this part. Such notification shall include a request for proposals in accordance with subsection (c).*

*"(c) SCHOOL RESTRUCTURING PROPOSAL.—A school or consortium thereof which receives funds under this part shall use such funds for an initiative, consistent with the State and local plans, to implement comprehensive, schoolwide changes in the structure of such school or consortium in order to help the school or consortia improve academic achievement. Such funds shall be used for any initiatives which will result in comprehensive schoolwide change, consistent with the State and local plans, such as—*

*"(1) early childhood education;*

*"(2) school-based management initiatives;*

*"(3) professional and staff development;*

*"(4) parent education and involvement programs;*

*"(5) expanded use of technology, including the use of technology for staff development;*

*"(6) alternative programs for school dropouts; and*

*"(7) class size reduction programs.*

*"(d) COMPETITIVE AWARD BASIS.—Each local educational agency desiring a subgrant under this part shall select restructuring proposals for funding under this part on a competitive basis.*

*"(e) LOCAL APPLICATION.—Each local educational agency desiring a subgrant from the State educational agency shall submit an application to such State educational agency at such time, in such manner, and accompanied by such information as such State educational agency may reasonably require. Each such application, at a minimum, shall—*

*"(1) include a copy of the local plan approved by the local educational agency;*

*"(2) include a copy of the restructuring proposals from local schools, or consortia thereof, that the local educational agency will fund if such local educational agency receives a subgrant under this part;*

*"(3) provide for the availability of curricular frameworks, curricular materials, and professional development in a nondiscriminatory manner;*

*"(4) describe the support the local educational agency will provide to ensure the success of the individual school restructuring proposal;*

*"(5) contain assurances that the local educational agency with an approved plan—*

*"(A) will use not less than 85 percent of the funds such agency receives under this part in the first fiscal year such agency receives such funds to carry out restructuring activities in the school buildings of schools selected to receive assistance in accordance with this part; and*

*"(B) will use not less than 90 percent of such funds in the second and succeeding years such agency receives such assistance for such activities;*

*"(6) provide that the school building administrator or responsible school level fiscal agent will have control over the restructuring funds as part of the school budget;*

*"(7) describe the steps the local educational agency shall take to ensure that successful practices, supported by assistance provided to schools under this part, shall be disseminated to other schools in the local educational agency;*

*"(8) include an assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the local plan in meeting State and local goals and in raising the achievement of all students while closing the gap between high and low achieving students, which evaluation shall use multiple measures; and*

*"(9) contain an assurance that the local educational agency will not use more than 5 percent of the funds such agency receives under this part for administrative expenses.*

*"(f) REVIEW OF LOCAL PLAN.—*

*"(1) IN GENERAL.—The local committee established pursuant to section 8308(a), the local educational agency and participating schools shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives a subgrant under this part.*

*"(2) REPORT.—The local committee established pursuant to section 8308(a) shall annually submit a written progress report to the local educational agency, the State panel established under section 8307(a), and the State educational agency. The local educational agency may submit a separate report to such panel or the State educational agency, including comments on the report submitted by the local committee.*

*"(g) CONTINUING ELIGIBILITY.—In order to continue to receive funds under this part each school or consortia thereof receiving funds under this part shall demonstrate—*

*"(1) reasonable progress relevant to the preceding year in the implementation of its school restructuring proposal; and*

*"(2) improved student performance using multiple measures of achievement in the fourth, fifth, and if appropriate, succeeding years of the program assisted under this part.*

*"(h) PLANNING SUBGRANTS.—Notwithstanding any other provision of law, a local educational agency that has not developed and approved a local plan may submit an application for a subgrant to the State educational agency for funds to develop the local educational agency's local plan in accordance with section 8309. The State educational agency shall award such subgrants on a competitive basis. The State educational agency may use funds described in subparagraph (A) or (B) of section 8305(b)(2) (including matching funds) to award such subgrants.*

**"SEC. 8310. AVAILABILITY OF INFORMATION AND TRAINING.**

*"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—*

*"(1) a State educational agency or local educational agency which uses funds under this part to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials, and assessments available to private schools; and*

*"(2) a State educational agency or local educational agency which uses funds under this part for teacher and administrator training shall provide in its plan for the training of teachers and administrators in private schools located in the geographical area served by such agency.*

*"(b) WAIVER.—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this part, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.*

**"SEC. 8311. ANNUAL PROGRESS REPORTS; TECHNICAL ASSISTANCE.**

*"(a) ANNUAL REPORT.—A State which receives funds under this part shall annually report to the Secretary—*

*"(1) regarding such State's progress in meeting its goals and plan;*

*"(2) describing proposed activities for the succeeding year;*

*"(3) describing Federal regulations which may impede reform activities under this part as described in local plans approved by the State; and*

*"(4) describing indicators of achievement for students attending schools assisted under this part.*

*"(b) DATA.—Each local educational agency serving a school that receives a grant under this part shall annually collect and submit to the State educational agency data on the project assisted under this part based on the statistical indicators and other criteria described in the application submitted by the school. Such data shall include multiple measures and may take into consideration the mobility of students in the schools served under this part or other special factors.*

*"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, either directly by grant or by contract, to the States to assist the States in complying with the requirements of this section.*

**"SEC. 8312. EVALUATION AND DISSEMINATION.**

*"(a) EVALUATION.—The Secretary shall evaluate a representative sample of such State and local reform efforts over the course of the 10-year authorization in order to assess the effectiveness of such plans and activities in improving the educational performance of all children. Such evaluations shall specifically examine the effects of such activities on disadvantaged students. The Secretary may reserve up to ¾ of 1 percent of the amount appropriated for this part to carry out this section provided that ½ of 1 percent of such appropriation shall be reserved for technical assistance under section 8311(c) and for subsection (b) of this section.*

*"(b) CONTRACT FOR STATISTICAL, LEGAL, AND POLICY ANALYSIS.—*

*"(1) IN GENERAL.—The Secretary shall provide, through a contract with the National Academy of Sciences, for the preparation of a statistical, legal, and policy analysis of school finance and related data reported by the States under section 406(g)(1) of the General Education Provisions Act. Such analysis shall—*

*"(A) address disparities in educational expenditures and the reasons for such disparities*

*among local educational agencies in each State and among States across the Nation; and*

*“(B) describe the degree to which the data reported by States under such section was useful in its preparation of such analysis.*

*“(2) ADDITIONAL CONTENTS.—(A) The National Academy of Sciences shall include in this analysis—*

*“(i) a description of the barriers to school finance equalization and their rationale, plus the effects of school finance equalization on tax burdens;*

*“(ii) an examination of the fiscal capacity of States and local educational agencies to provide high quality education to all students;*

*“(iii) an examination of the fiscal effort States and local educational agencies are making to provide high quality education to all students;*

*(iv) an examination of the trends in State school finance legislation and judicial actions; and*

*“(v) an examination of the impact of Federal, State, and local programs and policies on equalizing access to educational opportunity.*

*“(B) In addition, the Academy shall consider and analyze alternatives to finance equalization as means to provide equal educational opportunities for all pupils. Such alternatives should include possible uses of various educational technologies, their cost effectiveness, and their effects on educational quality and equity.*

***“SEC. 8313. REPORTS.***

*“(a) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—*

*“(1) a description of the progress that States receiving funds under this part have made in developing and implementing their plans;*

*“(2) information from State and local reports regarding requirements in Federal laws or regulations which have been identified by States and local educational agencies as impeding the system-wide reform of schools under this part; and*

*“(3) summaries of all data collected from and reports filed by schools, local educational agencies and State educational agencies pursuant to the requirements of this part.*

***“SEC. 8314. NATIVE AMERICAN PROVISIONS.***

*“(a) NATIVE AMERICAN AGREEMENTS.—*

*“(1) IN GENERAL.—The funds allotted to the Secretary of the Interior under section 8305(a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this part. The agreement shall contain an assurance that—*

*“(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;*

*“(B) a plan as required in section 8307 shall be developed by such panel; and*

*“(C) the provisions and activities required under section 8307 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term ‘local educational agencies’ shall be interpreted to mean ‘schools funded by the Bureau of Indian Affairs’.*

*“(2) PANEL.—To carry out the provisions of this part, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—*

*“(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);*

*“(B) the Chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);*

*“(C) the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate; and*

*“(D) a representative nominated by each of the following:*

*“(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;*

*“(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);*

*“(iii) school administrators of Bureau-operated schools;*

*“(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;*

*“(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;*

*“(vi) the organization representing the majority of Bureau-funded contract or grants schools serving students on the Navajo reservation;*

*“(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and*

*“(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.*

*“(3) ADDITIONAL MEMBERS.—In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory Council on Indian Education, established under the Indian Education Act of 1972, shall not be included as an organization for consideration under this provision.*

*“(b) BIA ANALYSIS.—*

*“(1) IN GENERAL.—(A) The Assistant Secretary of the Interior for Indian Affairs shall reserve, from the allotment described in section 8305(a)(1), an amount not to exceed $500,000 to provide, through the National Academy of Sciences, for an analysis of the costs associated with meeting the academic standards of the Bureau of Indian Affairs by each school funded by such Bureau.*

*“(B) The results of such analysis shall be reported, in aggregate and school specific form, to the chairpersons of the Committee on Education and Labor of the House and the Select Committee on Indian Affairs of the Senate and to the Assistant Secretary of the Interior for Indian Affairs not later than 6 months following the date of enactment of the Neighborhood Schools and Improvement Act.*

*“(2) CONTENT.—Such analysis shall evaluate the cost of providing a program in each school funded by the Bureau of Indian Affairs during the academic year July 1, 1993, through June 30, 1994, and shall be based on—*

*“(A) the standards—*

*“(i) published by such Bureau in the Federal Register and in effect for Bureau operated schools on July 1, 1992, or*

*“(ii) incorporated within grant or contract agreements in effect on such date for tribally controlled schools funded by such Bureau through the Student Equalization program under section 1126 of Public Law 95–561;*

*“(B) the best projections of student counts and demographics, as independently determined by such Academy; and*

*“(C) the pay and benefit schedules and other personnel requirements for each such Bureau funded school, in effect on July 1, 1992.*

***“SEC. 8315. GENERAL PROVISIONS.***

*“Nothing in this part shall—*

*“(1) supersede State law;*

*“(2) be construed to authorize any department, agency, officer, or employee of the Federal Government to—*

*“(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or*

*“(B) prescribe the use of particular standards, assessments, or instructional materials;*

*“(3) be construed to limit the rights or responsibilities of any person under any Federal law;*

*“(4) be construed to prohibit a local educational agency from receiving contributions from private organizations or individuals for the purpose of supporting the development or implementation of its local reform plan; or*

*“(5) be construed to authorize the use of any funds under this part (except as provided in section 8310) to directly or indirectly benefit any school other than a public school.*

***“SEC. 8316. DEFINITIONS.***

*“For purposes of this part:*

*“(1) The term ‘assessment system’ means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and expected outcomes.*

*“(2) The term ‘curricular framework’ means a description, in a particular subject area, of the knowledge and skills children should acquire.*

*“(3) The term ‘outlying area’ means the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the Compact of Free Association is ratified).*

***“SEC. 8317. AUTHORIZATION OF APPROPRIATIONS.***

*“There are authorized to be appropriated $800,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 2001.*

### *“PART C—FLEXIBILITY DEMONSTRATION PROGRAM*

***“SEC. 8401. SHORT TITLE.***

*“This part may be cited as the ‘Flexibility for Educational Effectiveness Act of 1992’.*

***“SEC. 8402. FINDINGS AND PURPOSES.***

*“(a) FINDINGS.—The Congress finds that—*

*“(1) historically, Federal education programs have addressed the Nation's most pressing educational problems by providing categorical assistance with various requirements relating to the use of funds;*

*“(2) while the approach described in paragraph (1) has proven generally successful, some program requirements may inadvertently impede educational achievement;*

*“(3) schools face increasingly diverse populations of disadvantaged students due to the influx of many immigrant children, the growth in poverty among children, and changes in the family structure;*

*“(4) schools are asked not only to educate such increasingly diverse student populations, but to meet disadvantaged students' needs for social, health, and nutritional services;*

*“(5) in an era when educational change and reform must prevail, it is more important than ever to provide programs that—*

*“(A) result in improved educational outcomes for disadvantaged students;*

*“(B) promote the coordination of education and related services that benefit children and their families;*

*“(C) respond flexibly to the needs of a diverse student population;*

*“(D) stop the proliferation of unnecessary Federal, State, and local regulation; and*

*“(E) place less emphasis on reviewing procedures and more emphasis on achieving program results.*

*“(b) PURPOSE.—It is the purpose of this part to establish a national demonstration program which—*

"(1) promotes educational reform that leads to improved educational outcomes for disadvantaged students;

"(2) holds accountable the schools and other recipients of Federal funds for achieving specific educational improvement goals in exchange for increased flexibility in the use of their resources; and

"(3) enables school and program administrators, teachers, parents, local agencies, and community groups to work together to develop effective education programs that lead to improved achievement and meet the needs of disadvantaged students.

**"SEC. 8403. PROGRAM AUTHORIZED.**

"(a) STATES.—

"(1) WAIVERS AUTHORIZED.—Except as provided in subsection (e) and section 8409, the Secretary is authorized to waive statutory or regulatory requirements in accordance with the provisions of this part for not more than 10 States which have implemented comprehensive regulatory reform plans involving not more than 20 local educational agencies and 75 schools in each such State in order to enable such States to conduct demonstration projects to find more flexible ways to provide education and other services to disadvantaged students.

"(2) LIMITATION.—The Secretary shall only waive statutory or regulatory requirements if the Secretary determines that such requirements may impede the ability of a school or other service provider to—

"(A) provide education and other services to disadvantaged students; or

"(B) meet the special needs of such students and other individuals in the most effective manner possible.

"(b) OTHER FEDERAL AGENCIES.—

"(1) WAIVERS.—The head of any other Federal agency who has entered into an agreement with the Secretary pursuant to paragraph (2) is similarly authorized to waive only regulatory requirements applicable to an elementary, secondary, or youth vocational training program administered by such agency if the agency head and the Secretary agree that such a waiver would provide more flexible ways to provide education and other services to disadvantaged students.

"(2) AGREEMENT.—For the purpose of considering requests for waivers under this part regarding requirements related to programs administered by other Federal agencies, the Secretary shall enter into written agreements with the heads of such agencies which describe the process to be used to consider such requests.

"(c) STATE AND LOCAL EDUCATIONAL AGENCY APPLICATION TRANSMITTAL.—The Secretary or the head of any other Federal agency shall only waive the statutory or regulatory requirements in accordance with the provisions of this part after receiving applications from a State educational agency in accordance with subsections (a) and (b) of section 8408.

"(d) APPROVAL OF PROJECTS.—

"(1) IN GENERAL.—The Secretary shall approve applications from States which have implemented, or will implement prior to applying to the Secretary under section 8408, comprehensive regulatory reform demonstration projects under this section that the Secretary determines show substantial promise of achieving the purposes of this section, after considering—

"(A) the comprehensiveness of the project, including the types of students, schools, programs, and activities to be included;

"(B) the extent to which the provisions for which waivers are sought impede educational improvement;

"(C) the State and local requirements that will be waived for the project;

"(D) the significance and feasibility of the proposed project's goals for each participating school or site; and

"(E) the quality of the plan for ensuring accountability for the proposed plan's activities and goals.

"(2) CONSULTATION.—The Secretary shall consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. Each such agency head shall notify the Secretary of any waivers granted by such agency head as part of such project.

"(3) DISTRIBUTION OF PROJECTS.—The Secretary shall ensure that, to the extent feasible, projects assisted under this section are geographically distributed, and equitably distributed among urban, suburban, and rural areas, as well as large and small schools.

"(e) TERRITORIES.—

"(1) IN GENERAL.—Notwithstanding the definition of 'State' contained in section 1471(22), the Secretary is authorized to consider an application from each of the territories of the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the Compact of Free Association is ratified) and to waive certain requirements in not more than four schools for each of such territories.

"(2) SPECIAL RULE.—The requirements of subsection (a)(1) regarding the number of States and schools that may be approved for waivers shall not include the entities described in paragraph (1).

**"SEC. 8404. FEDERAL WAIVERS OF GENERAL REQUIREMENTS.**

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the uses of funds for programs serving disadvantaged students to allow funds to be combined to better serve disadvantaged students in the regular classroom.

"(1) PRESCHOOL PROGRAMS.—In the case of preschool programs serving disadvantaged students, such programs shall include chapter 1 and may include—

"(A) the Head Start Act (only for requirements related to age, family income, length of day, and restrictions on reimbursement);

"(B) the Even Start Act; and

"(C) the Child Care Quality Improvement Act.

"(2) ELEMENTARY SCHOOL.—In the case of programs serving disadvantaged students at the elementary school level, such programs shall include chapter 1 and may include—

"(A) chapter 2 of title I of this Act;

"(B) the Jacob K. Javits Gifted and Talented Students Education Act of 1988;

"(C) the Drug Free Schools and Communities Act of 1986;

"(D) the Head Start Transition Project Act;

"(E) the Follow Through Act;

"(F) the Emergency Immigrant Education Act of 1984; and

"(G) the Dwight D. Eisenhower Mathematics and Science Education Act.

"(3) SECONDARY SCHOOL.—In the case of programs serving disadvantaged students at the secondary school level, such programs shall include chapter 1 and may include—

"(A) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(B) the Job Training Partnership Act;

"(C) chapter 2 of title I of this Act;

"(D) the Drug Free Schools and Communities Act of 1986;

"(E) the Emergency Immigrant Education Act of 1984; and

"(F) the Dwight D. Eisenhower Mathematics and Science Education Act.

**"SEC. 8405. FEDERAL WAIVERS OF REQUIREMENTS FOR SOCIAL, HEALTH, AND NUTRITION PROGRAMS.**

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of programs designed to improve the social, health, and nutritional condition of disadvantaged children. Requests may include waivers for—

"(1) the Nutrition Education and Training Program under the Child Nutrition Act of 1966;

"(2) Programs for Improvement of Comprehensive School Health Education under the Secretary's Fund for Innovation described in section 4605 of this Act;

"(3) the Alcohol and Drug Abuse Education Act; and

"(4) the Drug Free Schools and Communities Act of 1986.

**"SEC. 8406. FEDERAL WAIVERS OF REQUIREMENTS FOR NATIONAL SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.**

"The State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of the school lunch and school breakfast programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 in order to promote more efficient operation of such programs.

**"SEC. 8407. ELIGIBILITY.**

"(a) STATE ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a State educational agency shall have, or make a concerted attempt to develop, coordinated service agreements with other agencies of the State that administer social services, health, mental health, and substance abuse prevention and treatment programs. Such agreements shall include descriptions of the manner in which such services for disadvantaged students are coordinated at the State level.

"(b) LOCAL ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a local educational agency shall—

"(1) develop an application in accordance with section 8408; and

"(2) have, or make a concerted attempt to develop, coordinated service agreements with other local agencies and organizations to better coordinate the provision of education, social services, health, mental health, and substance abuse prevention and treatment programs to disadvantaged students. Such services shall be available at a location convenient for such students and their families.

**"SEC. 8408. APPLICATIONS.**

"(a) GENERAL LOCAL REQUIREMENTS.—

"(1) GENERAL RULE.—A local educational agency that desires to participate in a demonstration project that waives certain State and Federal requirements to improve the delivery of services to disadvantaged children shall submit an application to the State educational agency for approval. The State educational agency shall transmit such approved applications to the Secretary.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) identify each school that desires waivers of Federal and State requirements and describe how such requirements impede improved educational outcomes;

"(B) specifically identify each Federal and State statutory and regulatory requirement to be waived, the purpose of the waiver, and how the waiver will facilitate the achievement of the purpose of the program for which the waiver is requested;

"(C) describe how program funds shall be combined with chapter 1 funds, other than nutrition funds, to provide more effective services in the regular classroom for disadvantaged students;

"(D) describe how the combining of funds shall—

"(i) allow each school that desires a waiver to provide services to disadvantaged students with a more comprehensive, less fragmented approach;

"(ii) allow each school that desires a waiver to better meet the educational needs of disadvantaged students; and

"(iii) allow each school that desires a waiver to allocate resources more effectively;

"(E) describe the State and local requirements that will be waived, the purpose of such waivers, and, if such requirements will not have been waived before the project begins, when those waivers will be obtained and take effect;

"(F) describe the specific educational improvement goals for each school that desires a waiver, including—

"(i) goals to substantially improve the performance of disadvantaged students on indicators of student progress that are tied to State and national education goals and which reflect public input;

"(ii) goals that reflect the broad purposes of each program for which the waiver is sought; and

"(iii) an explanation of how the local educational agency shall evaluate the progress of each school that desires a waiver in meeting its educational improvement goals;

"(G) describe the population of disadvantaged students at each school that desires a waiver, the academic and other needs of such students, and how the needs of such students shall be addressed by the demonstration project;

"(H) describe how school administrators, teachers, staff, and parents shall be involved in the planning, development, and implementation of the goals for each school that desires a waiver; and

"(I) contain an assurance that the local educational agency shall report annually to the State educational agency on the progress of each participating school in meeting the goals described in the application.

"(3) LOCAL REQUIREMENTS FOR OTHER PROGRAMS.—

"(A) LOCAL REQUEST FOR SOCIAL, HEALTH, AND NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of statutory or regulatory requirements to improve the social, health, and nutritional services to disadvantaged students shall submit an application to the State educational agency that—

"(i) includes a description of the impediments to providing effective social, health, and nutritional services to disadvantaged children;

"(ii) identifies the Federal and State statutory or regulatory requirements to be waived;

"(iii) describes the service goals to be achieved; and

"(iv) assures that the local educational agency shall report annually to the State educational agency on the progress of the school in meeting the goals described in the application.

"(B) LOCAL REQUEST OF SCHOOL AND CHILD NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of regulatory requirements relating to the operation of school lunch and school breakfast programs shall submit an application to the State educational agency that—

"(i) includes a description of the impediments to the efficient operation and administration of the school lunch or school breakfast program;

"(ii) identifies the Federal statutory requirements to be waived;

"(iii) describes the management goals to be achieved, such as fewer hours spent on or fewer personnel dedicated to the administration of such programs; and

"(iv) assures that the local educational agency shall report annually to the State educational agency on the progress of a school in meeting the goals described in the application.

"(C) SINGLE APPLICATION.—The Secretary shall encourage local educational agencies to submit a single application for waivers under sections 8404, 8405, and 8406.

"(b) GENERAL STATE REQUIREMENTS.—A State educational agency that desires to request waivers of statutory requirements or regulations shall submit an application to the Secretary that includes the following:

"(1) SCHOOL SELECTION.—The names of the local educational agencies and the schools in such State selected to participate in a demonstration project.

"(2) REQUIREMENT WAIVERS.—For each local educational agency described in paragraph (1), the identification of the statutory or regulatory requirements that are requested to be waived and the goals that the local educational agency intends to achieve.

"(3) STATE ACTION.—A description of the action that the State has undertaken to remove State statutory or regulatory barriers identified in the applications of the local educational agencies.

"(4) PROGRAM COMBINATION.—A description of the extent to which the State has combined State programs for educating disadvantaged students and State social, health, mental health, and substance abuse programs with similar Federal programs, including the administration of such programs.

"(5) MONITORING PROCESS.—An assurance that the State educational agency shall monitor the progress of the schools in meeting the goals outlined in the application and that such agency shall report annually on such progress to the Secretary.

"(6) APPROPRIATE APPROVAL.—If a local educational agency has requested a waiver of a Federal or State statutory or regulatory requirement that is not within the jurisdiction of the State educational agency, the written approval of the appropriate State official responsible for such requirement.

"(c) PRIORITIES.—

"(1) LOCAL PRIORITY.—The State educational agency shall give priority consideration to the selection of local educational agencies with schools serving large numbers or percentages of students eligible to receive a free or reduced price meal, and schools that are—

"(A) participating in schoolwide projects under chapter 1;

"(B) recipients of multiple Federal educational programs serving disadvantaged students; and

"(C) combining Federal and State social, health, mental health, and substance abuse services with Federal and State education programs affected by this part.

"(2) STATE PRIORITY.—The Secretary shall give priority consideration to an application of a State that—

"(A) demonstrates that actions have been taken to waive State statutory or regulatory requirements in programs similar to the Federal programs for which the waivers are sought; and

"(B) demonstrates (and provides evidence of authority) that the State has or intends to coordinate and combine the administration of similar Federal and State education programs affected by this part and also to coordinate such programs with social, health, mental health, and substance abuse programs.

### "SEC. 8409. RESTRICTIONS ON WAIVERS.

"(a) IN GENERAL.—

"(1) PARTICIPATION REQUIREMENT.—A local educational agency may request waivers only for those programs in which such agency participates.

"(2) CONSTRUCTION.—Nothing in this part shall be construed:

"(A) CIVIL RIGHTS AND DISCRIMINATION.—To authorize any changes in, substitutions for, or lessening of, the mandates and protections of Federal laws and regulations regarding civil rights (under title VI of the Civil Rights Act of 1964), discrimination (under title IX of the Education Amendments of 1972, or section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, title II of the Americans with Disabilities Act of 1990, or the Individuals with Disabilities Education Act), and safety, and the procedural safeguards contained in such provisions.

"(B) USAGE OF FUNDS.—To affect regulations and prohibitions concerning the diversion of Federal funds for private use.

"(C) GENERAL REQUIREMENTS.—To absolve any State, local educational agency or school from—

"(i) maintenance of effort or comparability of services requirements under any program;

"(ii) requirements that Federal funds supplement, not supplant non-Federal funds;

"(iii) requirements to provide for the equitable participation of private school students;

"(iv) requirements under sections 438 and 439 of the General Education Provisions Act; or

"(v) requirements relating to parental participation.

"(D) FUND DISTRIBUTION.—(i) To alter the distribution of funds to schools within the local educational agency.

"(ii) To change the way funds are utilized within schools for programs not included in the waiver.

"(b) RESTRICTIONS OF SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.—Nothing in this part shall be construed:

"(1) DISCLOSURE OF INFORMATION.—To lessen the mandates regarding the prohibition on the disclosure of information regarding students receiving free or reduced price meals.

"(2) PRICE LIMITATION.—To allow eligible schools to charge more than the statutory price limit for a reduced price meal.

"(3) MEAL COSTS.—To lessen the mandates regarding the requirements for serving free or reduced price meals to eligible students.

"(4) REIMBURSEMENT.—To allow schools to receive a reimbursement at an amount greater than the number or proportion of students eligible for free, reduced price, or paid meals.

"(5) PROHIBITION.—To lessen the requirements regarding the prohibition on operating a profit-producing program.

"(6) SALE.—To lessen the requirements regarding the sale of competitive foods.

"(7) NUTRITION.—To lessen the mandates regarding the nutritional content of the meals served.

"(c) SPECIAL RULE.—Any reporting requirements required by programs affected by sections 8404, 8405, and 8406 shall be waived and considered satisfied by the reporting requirements in this part.

### "SEC. 8410. TERMINATION OF WAIVER AUTHORITY.

"(a) EARLY TERMINATION.—A waiver granted under this part shall be terminated when the following occurs:

"(1) PROGRESS.—A recipient of a waiver has not demonstrated adequate progress toward meeting the goals outlined in the application of the local educational agency.

"(2) VIOLATION.—When a State or school has been found in violation of any restriction on the waiver authority.

"(b) FINAL TERMINATION.—The authority of the Secretary to grant waivers shall expire on September 30, 1997.

"(c) DECLINE PARTICIPATION.—A school, at any time, may decline to participate in a project assisted under this part.

### "SEC. 8411. REPORTING REQUIREMENTS.

"(a) REPORTS AND EVALUATIONS.—

"(1) PROJECT REPORTS.—Each State educational agency that is selected for a demonstration project under this part shall submit, not later than 90 days after the end of each year of the project, an annual report to the Secretary that—

*"(A) summarizes the principal activities of the project;*

*"(B) contains school-by-school and other data, as described in the project plan, that show the extent to which the project is meeting its overall goals, including its goals for improving the performance of disadvantaged students, with respect to student performance in basic and advanced skills, and is meeting the goals for each school or other site;*

*"(C) describes the impact of the project on disadvantaged children in schools, if any, that are not participating in the demonstration; and*

*"(D) describes the effectiveness of efforts to coordinate programs and services for children and their families, as appropriate, including specific steps taken to—*

*"(i) expand or restrict eligibility for services or programs; and*

*"(ii) integrate services from other systems (such as mental health, nutrition, social services, and substance abuse prevention and treatment).*

*"(b) SECRETARIAL REQUIREMENT.—The Secretary shall report annually to the Committee on Education and Labor in the House of Representatives and the Committee on Labor and Human Resources of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the progress in each of the schools participating in a demonstration project in meeting the goals in the application of the local educational agency.*

### *"SEC. 8412. EVALUATION.*

*"(a) NATIONAL ACADEMY OF EDUCATION.—The Secretary shall contract with the National Academy of Education to conduct an evaluation of the demonstration projects under this part to determine the following:*

*"(1) STATE REPORTING REQUIREMENTS.—The accuracy of the information required under section 8411.*

*"(2) ACHIEVEMENT AND EFFICIENCY.—The effectiveness of raising educational achievement levels of disadvantaged students and improving the general efficiency of program operations at each school participating in a demonstration project.*

*"(3) COORDINATED SERVICE AGREEMENTS.—The effectiveness of the coordinated service agreements at the State and local levels in the delivery of comprehensive services to disadvantaged children.*

*"(b) SUBMISSION DEADLINE.—Such evaluation shall be submitted by the National Academy of Education to the Committee on Education and Labor of the House of Representatives, the Committee on Labor and Human Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than January 1, 1999.*

### *"SEC. 8413. DEFINITIONS.*

*"For purposes of this part:*

*"(1) The term 'chapter 1' means chapter 1 of title I of this Act.*

*"(2) The terms 'disadvantaged children' and 'disadvantaged students' mean children, ages 3 to 17 years, who are eligible for services under chapter 1, the Head Start Act, the National School Lunch Act, the Follow Through Act, or the Emergency Immigrant Education Act.*

### *"SEC. 8414. BUDGET NEUTRALITY.*

*"The authority provided by this part shall not be exercised in a manner that, for any fiscal year, increases total obligations or outlays of discretionary appropriations for programs subject to such authority, or that increases total obligations or outlays of funding for all direct-spending programs subject to such authority over those that would have occurred absent such authority.*

### *"SEC. 8415. AUTHORIZATION OF APPROPRIATIONS.*

*"There are authorized to be appropriated $1,000,000 for fiscal year 1997, which shall remain available until expended, to carry out section 8412.".*

*(b) EFFECTIVE DATE REGARDING GOALS PANEL ATTENDANCE.—The provisions of section 8103(e) of the Elementary and Secondary Education Act of 1965 (as added by subsection (a)(2)) shall take effect on January 1, 1993.*

## *TITLE III—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT*

### *SEC. 301. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.*

*(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e–1) is amended—*

*(1) in paragraph (1) of subsection (f), by striking "and 1993" and inserting "1993, and 1994";*

*(2) in subsection (g), by amending paragraph (1) to read as follows:*

*"(1)(A) In addition to its other responsibilities, the Center shall collect and report uniform data from the States and, through the States, each individual local educational agency, on the financing of elementary and secondary education. These data shall be collected on a biennial basis, with the first report due by September 30, 1994. This data collection shall be coordinated with any other State and local educational agency level surveys of population or education finance, such as those conducted by the Bureau of the Census. Such data shall include, to the extent possible—*

*"(i) sources of revenues, identified by the level of government and types in the case of taxes;*

*"(ii) a uniform categorization of expenditures per pupil, including total current expenditures, core instructional expenditures, administrative expenditures, and other operations and maintenance expenditures;*

*"(iii) revenues per pupil for selected Federal programs including chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965, the Child Nutrition Act of 1966, the Individuals with Disabilities Education Act, the Drug-Free Schools and Communities Act of 1986, the Dwight D. Eisenhower Mathematics and Science Education Act, Public Laws 81–815 and 81–874 (Impact Aid), the Bilingual Education Act, the Head Start Act, the Indian Education Act, and other Federal programs;*

*"(iv) pupil enrollment, including average daily attendance and average daily membership;*

*"(v) demographic information regarding the local educational agency from the most recent decennial census, mapped to local educational agencies;*

*"(vi) the nature and responsibilities of each local educational agency, including grades served, whether the local educational agency directly provides regular elementary and secondary education services or is limited to special service areas (such as vocational education, education of the disabled, etc.), and whether the local educational agency directly operates schools; and*

*"(vii) for each State, a description of the State's school finance programs, including their purpose, eligibility criteria, restrictions on local uses of funds, formulas, revenue sources, and aggregate funding level.*

*"(B) Each State receiving funds under the Elementary and Secondary Education Act of 1965 shall cooperate with the Center in the collection of data under this paragraph.*

*"(C) The Center shall attempt to develop, from a nationally representative sample of the Nation's local educational agencies, the following information:*

*"(i) An experimental measure of local educational agency wealth.*

*"(ii) An experimental measure of local educational agency fiscal capacity.*

*"(iii) An experimental measure estimating the costs of providing elementary and secondary education services.*

*"(iv) An experimental measure of the age and condition of facilities."; and*

*(3) in subparagraph (C) of subsection (i)(2)—*

*(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;*

*(B) by inserting after clause (ii) the following:*

*"(iii) The National Assessment shall—*

*"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades and a trial reading assessment for the 4th grade, in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;*

*"(II) develop a trial mathematics assessment for the 12th grade, a trial reading assessment for the 8th and 12th grades, and a trial science assessment for the 4th, 8th, and 12th grades, to be administered in 1994 in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data; and*

*"(III) include in each such sample assessment referred to in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and*

*(C) in clause (vi) (as redesignated by subparagraph (A) of this paragraph)—*

*(i) in the first sentence, by striking "and the fairness and accuracy of the data they produce" and inserting ", the fairness and accuracy of the data they produce, and important issues affecting the quality and integrity of the National Assessment"; and*

*(ii) by striking "paragraph (C)(i) and (ii)" and inserting "clauses (i), (ii), and (iii)".*

*(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".*

*(c) ADDITIONAL REPORT.—The Secretary shall provide for the organization that conducts the independent evaluation required by section 406(i)(2)(C)(vi) of the General Education Provisions Act to study and report to the Congress on—*

*(1) the process whereby achievement goals are set pursuant to section 406(i)(6) of such Act; and*

*(2) the ability of the National Assessment of Educational Progress to maintain valid data with respect to trends in student performance.*

### *SEC. 302. RESPONSIBILITY OF STATES TO FURNISH INFORMATION CONCERNING USES OF FEDERAL FUNDS.*

*Section 406A of the General Education Provisions Act (20 U.S.C. 1232f) is amended to read as follows:*

### *"RESPONSIBILITY OF STATES TO FURNISH INFORMATION*

*"SEC. 406A. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—*

*"(1) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and*

*"(2) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.*

*"(b) Each report submitted as required by subsection (a) shall—*

*"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;*

*"(2) analyze the information included in the report by local educational agency and by program;*

*"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned and specify which appropriation Act or Acts made such funds available;*

*"(4) separately account for any funds carried over from a preceding fiscal year by any State or local educational agency; and*

*"(5) be made readily available by the State to local educational agencies and institutions within the State and to the public.*

*"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.*

*"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available to any individual who requests it.*

*"(e) The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leader of the Senate regarding the costs and feasibility of making the information described in subsection (a) available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.*

*"(f) On or before August 15th of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—*

*"(1) an analysis of the content and data quality of such reports;*

*"(2) a compilation of statistical data derived from such reports; and*

*"(3) information obtained by the Secretary with respect to—*

*"(A) direct grants made to local educational agencies by the Federal Government; and*

*"(B) contracts entered into between such agencies and the Federal Government.".*

## *TITLE IV—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT*

### *SEC. 401. ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.*

*Section 421(h) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2421(h)) is amended—*

*(1) by inserting "(1)" after "(h)"; and*

*(2) by inserting at the end the following:*

*"(2)(A) Notwithstanding any provision of section 406 of the General Education Provisions Act, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—*

*"(i) result in the identification of characteristics or performance of individual students or schools;*

*"(ii) result in the ranking or comparing of schools or local educational agencies;*

*"(iii) be used to evaluate the performance of teachers, principals, or other local educators for the purpose of dispensing rewards or punishments; or*

*"(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.*

*"(B) Not later than 60 days after making an authorization under subsection (a), the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, a report which contains—*

*"(i) a copy of the request for such authorization;*

*"(ii) a copy of the written determination under subsection (a); and*

*"(iii) a description of the details and duration of such authorization.*

*"(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment of Educational Progress. The results of such evaluations shall be promptly reported to the committees specified in subparagraph (B).".*

### *SEC. 402. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.*

*Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—*

*(1) in paragraph (2) of subsection (a), by inserting ", including postsecondary employment and training programs," after "training programs";*

*(2) in subsection (b)—*

*(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;*

*(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education" after "coordinating council,"; and*

*(C) in paragraph (1) (as redesignated in subparagraph (A))—*

*(i) by striking "Act and of" and inserting "Act, of"; and*

*(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act";*

*(3) by redesignating subsection (d) as subsection (e); and*

*(4) by inserting after subsection (c) the following new subsection:*

*"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, and licensing rates, each State board for higher education shall develop a data collection system whose results can be integrated into the occupational information system developed under this section.".*

## *TITLE V—AMENDMENT TO THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT*

### *SEC. 501. EISENHOWER NATIONAL PROGRAMS.*

*Section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2992) is amended by adding at the end the following:*

*"(g) MODEL ASSESSMENTS FOR MATHEMATICS AND SCIENCE STANDARDS.—*

*"(1) GRANTS.—The Secretary, with funds appropriated to carry out this section and in consultation with the National Education Goals Panel and the National Education Standards and Assessments Council established under title VIII of the Elementary and Secondary Education Act of 1965, is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, organizations with expertise in assessments, or a combination of such agencies or organizations, to support the development of model assessments tied to mathematics standards and to any science standards that may be developed. Such grants shall be consistent with the criteria developed by the National Education Standards and Assessments Council.*

*"(2) NATIONAL STANDARDS AND ASSESSMENTS COUNCIL.—The National Standards and Assessments Council shall develop criteria for the development of different types of model assessments tied to the voluntary national content standards in mathematics and science, including—*

*"(A) prescribing the intended uses of the model assessments;*

*"(B) ensuring that the model assessments are valid, reliable, and fair, without racial or gender bias, for their intended uses; and*

*"(C) ensuring that the model assessments are consistent with the national voluntary content standards in mathematics and science.".*

## *TITLE VI—MISCELLANEOUS PROVISIONS*

### *SEC. 601. VALUES IN SCHOOL STUDY.*

*(a) COMMISSION ESTABLISHED.—The Secretary of Education may establish a commission to analyze possible ways to teach values in elementary and secondary schools. Such commission may—*

*(1) examine the issues associated with the teaching of values in elementary and secondary schools and to stimulate research in ethics and values;*

*(2) recommend ways to promote the teaching of values in American schools, including encouraging the offering of independent courses on values, and the integration of values into existing courses;*

*(3) explore, assess, and stimulate a variety of approaches to teaching values; and*

*(4) identify those basic civic and character values that are essential to preparation as productive members of society.*

*(b) REPORT.—The commission shall prepare and submit to the appropriate committees of the Congress a report on the items described in subsection (a) not later than 18 months after the first meeting of the commission.*

### *SEC. 602. PARENTS AS TEACHERS REVIEW.*

*(a) REVIEW.—*

*(1) IN GENERAL.—The Secretary of Education shall provide for the conduct of an independent review of evaluations completed before the date of enactment of this Act of the program known as "Parents As Teachers" to analyze the impact and effectiveness of the program in States and local communities that have implemented the program. Such review, at a minimum, shall determine whether such program—*

*(A) increases parents' knowledge of and confidence in child-rearing activities such as teaching and nurturing their children;*

*(B) strengthens the partnership between parents and schools; and*

*(C) enhances the developmental progress of participating children.*

*(2) APPLICABILITY.—The review described in paragraph (1) shall also ascertain whether such program is a desirable model for Federal policy.*

*(b) SUBMISSION.—The review described in subsection (a) shall be submitted to the appropriate committees of the Congress not later than 6 months after the date of enactment of this Act.*

### *SEC. 603. BUY AMERICAN.*

*(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) or any form of student assistance or other Federal assistance under this Act, in expanding that assistance, should purchase American-made equipment and products.*

*(b) NOTICE.—The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress stated in subsection (a).*

### *SEC. 604. ASSESSMENT STUDY.*

*The Director of the Office of Technology Assessment shall conduct a study that evaluates—*

*(1) the appropriate and inappropriate uses of a system of educational assessment;*

*(2) the protections that need to be included in a system of educational assessment to ensure*

*that students are not treated unfairly and results of scores are not misused;*

*(3) the cost of developing and implementing a system of educational assessment to measure progress in meeting the education goals and standards;*

*(4) how a system of educational assessment can measure student achievement when State and local governments make curricular decisions; and*

*(5) the amount of time necessary to develop and implement a fair, reasonable, and valid system of educational assessment.*

### *SEC. 605. REPORT AND AUTHORIZATION EXTENSIONS.*

*Section 102 of Public Law 102–62 is amended—*

*(1) in subsection (d) by striking "2" and inserting "3"; and*

*(2) in subsection (h)—*

*(A) by striking "1991" and all that follows through "and 1993"; and*

*(B) by inserting "1992 through 1995".*

### *SEC. 606. DEFINITIONS.*

*For the purpose of this title—*

*(1) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965; and*

*(2) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965.*

And the House agree to the same.

WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
THOMAS C. SAWYER,
NITA M. LOWEY,
JOLENE UNSOELD,
PATSY T. MINK,
WILLIAM J. JEFFERSON,
JACK REED,
JOHN W. OLVER,
ED PASTOR,
*Managers on the Part of the House.*

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 2 to promote comprehensive education reform submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### TABLE OF CONTENTS

Table of Contents: The Senate bill, but not the House amendment, provides a table of contents for the legislation. The House recedes.

### FINDINGS AND PURPOSE

Findings and Purpose: The Senate bill, but not the House amendment, provides a series of findings and a purpose for the entire bill.

The Houses recedes with an amendment making minor wording changes.

### TITLE I—NATIONAL EDUCATION GOALS

National Education Goals: The Senate bill, but not the House amendment, identifies 6 National Education Goals for the year 2000, including findings and specific steps the federal Government will take to achieve each Goal, as part of a joint effort involving federal, state, and local governments, organizations, institutions, and individuals.

The Houses recedes with an amendment making minor revisions.

### TITLE II—COMPREHENSIVE RESTRUCTURING NATIONAL EDUCATION STANDARDS

### SHORT TITLE

1. Short Title: This part of the Senate bill is called "National Academic Report Card Act of 1991. The corresponding part of the House amendment is called "National Education Standards and Assessment Act of 1992.

The Senate recedes.

### TECHNICAL PROVISION

2. Technical Provision: The Senate bill authorized free-standing legislation. The House amendment makes its comparable provision an amendment to the Elementary and Second Education Act of 1965.

The Senate recedes.

### FINDINGS

3. Findings: The Senate bill and House amendment identify several findings, some of which are the same. The Senate bill, but not the House amendment, includes findings relative to a voluntary system of assessments, establishment of a National Education Goals Panel, and a national body to ensure the establishment of a voluntary system of educational standards and assessments.

The Houses recedes with an amendment combining the findings of the Senate bill and House amendment, deleting references to assessment, and making other minor wording changes.

### FINDINGS

4. Purposes: The purposes of the Senate bill focus on measuring and reporting progress toward the National Education Goals, and on establishing world-class education standards and a voluntary system of assessments. The House purposes focus on establishing voluntary national education content standards raising academic performance throughout the Nation, supporting voluntary national school delivery standards, and supporting research on assessments to measure progress toward national education goals and standards.

The Senate recedes with an amendment combining the purposes.

### NATIONAL EDUCATION GOALS PANEL

5. National Education Goals Panel: The Senate bill establishes the Panel in the U.S. Department of Education; the House amendment does not.

The Senate recedes.

### PANEL MEMBERSHIP

6. Panel Membership: The House amendment, but not the Senate bill, includes four members of state legislatures (not more than two from the President's party) as members of the Panel.

The Senate recedes with an amendment limiting the term of state legislators (as well as other members of the Panel) to two years and providing that the appointment of House members to the Goals Panel be made by the Speaker of the House (instead of the Majority Leader). The conferees wish to make it clear that "Governors", "Members of Congress", and "Members of Legislatures" refer only to those currently holding office.

### APPOINTMENT

7. Appointment Provision: The Senate bill and House amendment have nearly identical language concerning special appointment rules.

The House recedes.

### ATTENDANCE REQUIREMENT

8. Attendance: The Senate bill, but not House amendment, requires a Panel member to attend at least 2/3rds of the Panel's scheduled meetings annually in order to remain a member.

The House recedes with an amendment making this provision effective January 1, 1993.

### AUTHORIZATION OF APPROPRIATIONS

9. Authorization of Appropriations: The Senate bill authorizes $2 million annually for the Panel for fiscal years 1992 through 1994, and such sums as may be necessary for each succeeding fiscal year. The House amendment authorizes $2 million annually for the Panel for fiscal year 1993 through fiscal year 1996.

The Senate recedes.

### PANEL FUNCTIONS

10. Panel Functions: The Senate bill and House amendment identify various functions for the Panel. Senate bill contains more extensive provisions related to measuring and reporting progress toward the National Education Goals and what kinds of standards are to be certified. Additionally, the Senate bill, but not the House amendment, provides that the Panel shall appoint members of the National Education Standards and Assessments Council. The House amendment contains more extensive provisions related to the establishment, ratification, and certification of voluntary national content standards; it also, unlike the Senate bill, authorizes the development, ratification, and certification of voluntary national school delivery standards, and places a restriction on the reporting of data from the National Assessment of Educational Progress using the achievement goals developed by the National Assessment Governing Board.

The Senate recedes with an amendment, providng that the report card make recommendations regarding the methods and procedures of assessing educational attainment, and that the Panel appoints the members of the National Education Standards and Assessment Council (NESAC).

### SPECIAL RULE

11. Special Rule: The Senate bill provides a special rule in the event that the Panel denies a certification of standards approved by NESAC. There is no comparable House provision.

The House recedes with an amendment providing that the Panel can neither deny certification of a part of a set of standards, not can it amend a set of standards.

### GIFT AUTHORITY

12. Gift Authority: The Senate bill, but not the House amendment, has a provision permitting the Panel to accept gifts.

The Senate recedes.

### OPEN MEETINGS

13. Open meetings: The House amendment, but not the Senate bill, provides that sections 10 and 11 of the Federal Advisory Committee Act apply to the Panel and the technical review committee.

The Senate recedes.

### APPOINTMENT OF EMPLOYEES

14. Appointment of Employees: The Senate bill authorizes the chairperson to appoint staff as considered appropriate without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The House amendment limits the chairperson to appointing only the diretor and 4 employees to serve as staff without regard to the provisions of title 5, and requires that any additional staff be appointed in accordance with title 5.

The Senate recedes.

### AUTHORIZATION OF APPROPRIATIONS

15. Authorization of Appropriations: The House amendment, unlike the Senate bill, authorizes appropriations for four years for the development of national content standards and for two years for national school delivery standards.

The Senate recedes.

### AUTHORITY FOR GRANTS OR CONTRACTS

16. Authority for Grants or Contracts: The House amendment authorizes the Secretary of Education to provide grants for operation of the Panel, and development of content standards and school delivery standards; Senate bill does not.

The Senate recedes with an amendment rewording the language on school delivery standards.

### STANDARDS PROCESS

17. Standards Process: House amendment requires the Panel to establish a process for the development of content standards, and recommend to the Secretary the groups and organizations to be funded for the development of these standards. Each developing organization is to ratify that its set of content standards reflects the knowledge and skills students should acquire in the particular academic subject area and that the standards are challenging enough to ensure world-class levels of instruction. The Panel, in consultation with the technical review committee, is to certify that those standards are developed in conformance with the development process established by the Panel. Senate bill has no comparable provisions.

The Senate recedes with an amendment that the Panel is to base its recommendations regarding groups to be funded on the recommendations of the National Education Standards and Assessment Council, and deleting other provisions dealing with grant denials and the time and condition of grants.

### NATIONAL CONTENT STANDARDS

18. National Content Standards: The House amendment, but not the Senate bill, requires (i) the Panel to establish a process for the development of content standards, (ii) the Panel to make recommendations to the Secretary regarding the groups and organizations to be funded, (iii) ratification of the standards by the developing groups and organizations, and (iv) certification of the standards by the Panel.

The Senate recedes with an amendment providing for the certification of national content standards by the Panel (based upon the recommendation of the National Education Standards and Assessment Council) and stipulates that the Panel must approve or deny each set of standards in its entirety and may not amend a set of standards in any way. The conference agreement authorizes the Secretary to make grants to develop additional content standards. In this regard and in view of the growing importance of U.S. involvement in the world economy and the increasing need for foreign language competencies, the conferees urge that the Secretary to promptly provide for the development foreign language standards.

### NATIONAL SCHOOL DELIVERY STANDARDS

19. National School Delivery Standards: The House amendment requires the Panel to establish a process for the development of voluntary school delivery standards, and recommend to the Secretary a consortium of individuals and organizations to receive funding. The consortium is to ratify that the standards are sufficiently generic not to restrict unduly state and local prerogatives regarding instructional methods, and that the standards would ensure each student a fair opportunity of achieving the knowledge and skills in the content standards. The Panel, in consultation with NESAC, is to certify the standards. The Senate bill has no comparable provisions.

The Senate recedes with an amendment making minor wording changes. The conferees wish to clarify that the language of the agreement is intended to authorize the Secretary, at his discretion, to make more than grant for the development of school delivery standards by a consortium or consortia.

### CONTINUED REVIEW

20. Continued Review: The House amendment, but not the Senate bill, requires Panel to review periodically the content standards.

The Senate recedes with an amendment providing that school delivery standards also must be periodically reviewed.

### SECRETARIAL INFLUENCE

21. Secretarial Influence: The House amendment states that none of its provisions are to be interpreted to permit the Secretary to prescribe or influence the content of particular standards. The Senate bill has no comparable provisions.

The Senate recedes.

### ASSESSMENT RESEARCH

22. Assessment Research: The House amendment requires the Panel to make recommendations to the Secretary on research that the Office for Educational Research and Improvement should undertake on authentic assessment. The Senate bill has no comparable provisions.

The Senate recedes with an amendment that directly the Panel also to make recommendations on model assessments.

### EVALUATION

23. Evaluation: The House amendment requires the Secretary, through the National Academy of Sciences, to evaluate and issue reports including the following: (1) effectiveness of the school delivery standards, OERI's research on authentic assessment, and model assessment for mathematics and science content standards: (2) recommendations for additional criteria to determine validity, reliability, and fairness of assessments; and (3) the criteria needed to evaluate whether assessments are aligned to content standards and to evaluate the evidence needed concerning technical quality of assessments relative to intended uses. An interim report is to be issued no later than December 31, 1993 with a final report to be issued not later than December 31, 1994. House amendment authorizes $2 million for FL 1993 and FL 1994 for FRY activities. Senate bill has no comparable provisions.

The Senate recedes with an amendment that the assessment evaluation also include the impact of the model assessments on disabled students and students with limited English proficiency.

### DEFINITIONS

24. Definitions: The House amendment defines content standards and school delivery standards. The Senate bill has no comparable provisions.

The Senate recedes with an amendment modifying the definition of school delivery standards.

### NESAC

25. National Education Standards and Assessment Council: The Senate bill establishes, within the U.S. Department of Education, a National Education Standards and Assessments Council composed of 21 members—7 public officials, 7 educators, and 7 members of the general public. House amendment requires the National Education Goals Panel to establish a technical review committee of 16 members—8 educators, including persons with standards and assessment expertise, and 8 members of the public including individuals representing parents, business, civil rights advocates, child advocates, and state and local public officials.

The House recedes with an amendment making the membership of NESAC ⅓ educators, ⅓ members of the general public, and ⅓ individuals with expertise in educational assessment, content standards, and curriculum design, reducing the membership to 15, and deleting provisions relating to the operation of the Council.

### COUNCIL FUNCTIONS

26. Council Functions: Under the Senate bill, NESAC would (i) serve as a coordinating body to ensure establishment of national education standards and a voluntary system of assessments, and would establish technical guidelines and criteria related to assessments. Under the House amendment, the technical review committee would have narrower but more specific functions, primarily in the area of standards.

The House recedes with an amendment altering several of the Council's functions (especially relative to assessment) and adding more specific responsibilities relative to the national content standards, national school delivery standards, and model assessments.

### COUNCIL POWERS, ADMINISTRATION, AND STAFFING

27. Council Powers, Administration, and Staffing: The Senate bill, but not the House amendment, contains provisions governing the powers, administration, and staffing of the Council.

The House recedes with an amendment specifying how many employees of the Council may be hired and paid without regard to Title 5 of the U.S. Code.

### AUTHORIZATION OF APPROPRIATIONS

28. Authorization of Appropriations: The Senate bill, but not the House amendment, authorizes appropriations of $2 million for fiscal years 1992 through 1994 and such sums as may be necessary for each succeeding fiscal year.

The House recedes with an amendment authorizing appropriation for fiscal years 1993 through 1996.

### NEIGHBORHOOD SCHOOLS IMPROVEMENT—TECHNICAL PROVISION

1. Technical Provision: The Senate bill and the House amendment both authorize a

Neighborhood Schools Improvement Act. However, the Senate proposal is a free-standing title of the bill, whereas the House proposal is new Part B of Title VIII of ESEA.

The Senate recedes.

### PURPOSES

2. Purposes: The Senate bill states that the purpose of this program is to provide multi-year support for comprehensive educational improvement to (1) meet the National Education Goals, (2) improve students' educational achievement, and (3) increase community, parental, and business collaboration with schools. The House amendment specifies that the program supports a 10 year effort to promote coherent and coordinated educational changes at state and local levels without jeopardizing current federal programs' funding.

The House recedes with an amendment combining the purposes.

### FINDINGS

3. Findings: The House amendment, but not Senate bill, provides list of Congressional findings.

The Senate recedes with an amendment adding an additional finding.

### ALLOTMENT OF FUNDS

4. Allotment of Funds: The Senate bill reserves 1 percent of the appropriation for the Pacific outlaying area and for the Secretary of the Interior for Bureau of Indian Affairs schools. The House amendment reserves ½ of 1 percent, up to $2 million annually, of the appropriation for the benefit of Indian students enrolled in Department of the Interior Indian schools. The House amendment treats the Pacific outlaying area as states under applicable definitions in the Elementary and Secondary Education Act.

The Senate bill allocates to each state educational agency 50 percent of the remainder of the annual appropriation based on the SEA's share of Chapter 1 (compensatory education, Title I, ESEA) in the preceding fiscal year, and 50 percent based on the SEA's share of Chapter 2 (education block grant, Title I, ESEA) funding in the preceding fiscal year. The House amendment allocates the remainder of the annual appropriation to states with approved applications based on the basic grant allocation formula under Chapter 1. The Senate bill, but not the House amendment, provides a state minimum grant of not less than ¼th of 1 percent of the annual appropriation.

The House recedes with an amendment striking the additional small state minimum and making a technical revision.

### PROGRAM AUTHORIZATION

5. Program Authorization: The House amendment, but not the Senate bill, contains a separate section providing general program authority for uses of program funds.

The Senate recedes with an amendment adding a reference to neighborhood public schools.

### STATE/LOCAL FUNDING DISTRIBUTION

6. State/Local Funding Distribution: Under the Senate bill, initial year funding is to be used for planning and other activities, to the extent funds are not used for planning. In the second year, the state may retain 10 percent for evaluation, administration, and other activities, and seek waivers to retain an additional 10 percent for various activities including funding for new kinds of public schools, and an additional 15 percent for funding of New American Schools. The remainder of funds are for local school districts. The House amendment provides that initial year funding be used for planning with the option that some funds may be distributed for local planning. In the second and succeeding years, at least 75 percent of the total cost of a state program (federal funding and matching funds) must be distributed by the SEA to LEAs. House amendment at Section 8111(d) (see comment 84) provides for administrative reservation.

The Senate recedes with an amendment providing that, in the first year, all funding goes to the state for the development of the state-wide systemic reform plan and providing states with the option of passing funds through to the local education agencies (LEAs). In the second and subsequent years, the state reserves up to 20 percent for implementation of the state systemic reform plan and innovative activities, including technical assistance to LEAs, with a 5 percent cap on administration. In the second and subsequent years that an SEA receives funding, not less than 80 percent of the funds go to the LEAs for the development and implementation of district wide reform plans. If the LEA has an approved plan, it passes through 85 percent of its subgrant to individual schools for the implementation of reform activities, including local school restructuring projects. LEAs use the remaining 15 percent to continue implementing the local systemic reform plan. In the third and following years, 90 percent of the funds received by an LEA must be passed through to the local schools.

The conference agreement does not include the Senate bill provisions authorizing states to secure waivers from the Secretary for the purpose of using an additional 10 percent of its allotment for activities such as public school choice and New American Schools, as well as an additional 15 percent for New American Schools only.

### STATE USES OF FUNDS

7. State Uses of Funds: Under the Senate bill, initial year funding not used for planning may be used by SEAs for training and professional development activities or teachers and school leaders, and for public school choice initiatives. In second and succeeding years of funding, up to 10 percent may be used for evaluation, administration, technical assistance, and review of local applications. Allowable uses of funds under the 10 percent waiver authority include: training and professional development, public school choice initiatives, establishment of different kinds of new public schools, grants to business and education partnerships for operation of model secondary schools or programs in science, math, or technology education, and other activities to improve student achievement. Allowable activity under the 15 percent waiver is establishment of New American Schools. Under the House amendment, state-level uses of funds include development implementation of the state plan, activities of the state-level panel established to develop the plan, subgrants to LEAs, technical assistance to LEAs, and evaluation, reporting, and data collection.

The conference agreement provides that states may use their funds to implement the system reform plan, innovative activities, and technical assistance to LEAs.

### PROHIBITION

8. Prohibition: The Senate bill requires that any new public schools established under this title be nonsectarian in specified activities and not be affiliated with a sectarian school or institution, and applies the same language specifically to the different kinds of new public schools established under the initial waiver described above. There is no comparable House provision.

The House recedes with an amendment providing that nothing in this part may be construed to authorize funds under this part to directly or indirectly benefit any school other than a public school (with the exception of private school access to information and training).

### APPLICATIONS

9. Applications: The Senate bill requires that initial year application describe how the SEA will establish a Neighborhood Schools Improvement Advisory Council. Application in the second year must include the plan developed by the Advisory Council.

The House amendment provides that SEAs submit applications to cover a 5 year period, that the application shall contain specific assurances and information, and that the Secretary may not finally disapprove an application or amendment unless the SEA is provided reasonable notice, technical assistance, and an opportunity for a hearing. The House amendment also authorizes assistance to states for second 5-year period if the state has met all reporting requirements and demonstrates reasonable progress in carrying out its plan.

The Senate recedes.

### STATE PANEL

10. State Panel: The Senate bill requires each funded SEA to establish a Neighborhood School Improvement Advisory Council to act as an advisory group for developing a state comprehensive, systemic plan to improve education, to review that plan, and to advise on criteria to evaluation applications for Neighborhood Schools Improvement Grants. The House amendment requires each state program to establish a panel to develop a statewide reform plan.

The Senate recedes with an amendment retaining the House appointment process for panel members, but reducing the number of members to 17.

### STATE PLAN

11. State Plan: The House amendment and the Senate bill require the development of state plans, but contain a number of differing provisions.

The Senate recedes with an amendment providing for a modified and shortened list of state plan requirements which focus primarily on the five key elements of systemic reform. The state plan would provide for a competitive process for awarding funds to LEAs that includes a peer review process for LEA applications. The plan should provide (i) that the LEA with the greatest number of disadvantaged children in the state shall receive a grant, (ii) that 50 percent of the funds go to LEAs with the largest numbers or percentages of disadvantaged children as defined by the state average percentage of Chapter 1 children (except that states may waive this requirement in cases where there are an insufficient number of LEA applicants), and (iii) ensure geographic distribution of subgrants within the state. Subgrants to LEAs are awarded based on the recommendations of the peer review and should be of sufficient size and duration to enable LEAs and schools to carry out their planned activities. The conferees intend that successful LEA applications should enjoy broad public support within their communities.

Under the conference agreement, states must in their plans describe methods of coordinating health, rehabilitation, and social services with education through state interagency cooperation and agreements. The conferees wish to emphasize that this requirement is not intended to support projects or activities which provide family planning or reproductive health services. Such services, with appropriate safeguards and limitations, are funded through various federal and state health programs and should not be duplicated with funding available under this part.

In order to provide for more effective use of educational technologies, such as live interactive distance learning and networking of educational technology systems beyond the individual school or district, the plan requires a strategy to upgrade the effective use of technology for activities such as enhanced classroom instruction, ongoing inservice training of teachers and administrators, and outreach to parents and the broader community to improve educational outcomes for all students.

### WAIVERS OF STATE REQUIREMENTS

12. Waivers of State Requirements: The Senate bill contains a waiver of requirements concerning establishment of council and content of the plan in states with established comprehensive, statewide education improvement plans. The House amendment, on the other hand, provides that any state that has, by law, already established a reform panel substantially meeting the requirements of this part or has already accomplished any of the delineated reform activities, may obtain a waiver of the panel or plan requirements.

The Senate recedes.

### REVIEW OF STATE PLANS

13. Review of State Plans: The Senate bill requires the Secretary, through peer review process, to review state plans. No plan can be disapproved because it lacks one or more specific reform strategy. Secretary has to submit reasons for disapproval in writing to appropriate SEA. The House amendment requires the Secretary to approve a state plan if it meets the requirements of the section and provides evidence that state has resources to implement it. The Secretary cannot finally disapprove a plan or amendment to it without reasonable notice, technical assistance, and opportunity for a hearing.

The Senate recedes.

### GRANTS TO LOCAL SCHOOLS

14. Grants to Local Schools: The Senate bill, but not the House amendment, has a separate provision which requires SEAs receiving allotment under this title to award grants to local schools. The Senate bill, requires schools desiring grants to prepare applications and submit them to their LEAs. LEAs are to review and comment on school applications and submit them to SEA. In submitting comments, LEAs must provide certain assurances and information on LEA activities. SEAs awarding grants under this title must report specified information to the Secretary, including the names and addresses of funded schools and the activities they will undertake. The House amendment, but not the Senate bill, authorizes SEAs to make subgrants to LEAs for development of local plans. An LEA desiring funds must form a committee with the specific membership delineated by the legislation. The Committee is to develop a local improvement plan. The House amendment describes the process for developing that plan, the required contents of the plan, and the process for approving plans.

The Senate recedes with an amendment providing that LEAs seeking subgrants must establish a streamlined local committee to develop the district wide systemic reform plan through an interactive process which included individual schools in the process of the plans development. When the plan is sent to the state for funding it must include the restructuring plans which will be funded. The local school restructuring plans must be developed at the school building level and must show how the school proposes to restructure consistent with the state and local plan. Any school or consortia of schools in the LEA can submit a restructuring proposal and the proposals in the plan are to be selected by the LEA through a competitive process. The plan should provide that subgrants to schools be of sufficient size and duration to enable schools to carry out their planned activities. It should provide that the school building administrator or responsible fiscal agent has control over the restructuring funds as part of the school budget, describe the support the LEA will provide to ensure the success of the school plan, and that continued funding of local schools is contingent on increases in achievement as indicated by multiple measures.

With regard to the development of local reform plans, the conferees wish to clarify that school districts on federal Indian reservations serving substantial Indian student populations may take into consideration tribal education codes and standards.

### COSTS OF STANDARDS IN BIA SCHOOLS

15. Costs of Standards in BIA Schools: The House amendment, but not the Senate bill, provides for reservation of funds for a National Academy of Sciences analysis of costs of having BIA schools meet BIA academic standards.

The Senate recedes.

### MATCHING REQUIREMENT

16. Matching Requirement: The House amendment, but not the Senate bill, requires states to match federal allocations. Federal funds may cover 100 percent of the total cost in initial year, dropping in stages to 33 percent by 5th and any succeeding fiscal year.

The Senate recedes with an amendment providing that federal funds may cover 100 percent of the costs in each of the first 3 years, 90 percent of the cost in the fourth year, 80 percent of the cost in the fifth year, and 70 percent of the cost in all succeeding years.

### MAINTENANCE OF EFFORT

17. Maintenance of Effort: The House amendment, but not the Senate bill, has a maintenance of effort requirement.

The Senate recedes with an amendment adding a non-supplanting provision from its bill.

### INDIAN AGREEMENTS

18. Indian Agreements: The House amendment, but not the Senate bill, delineates development of reform plan for BIA schools.

The Senate recedes.

### INFORMATION AND TRAINING

19. Information and Training: The House amendment, but not the Senate bill, provides for information and teacher training services to be made available to private schools and teachers.

The Senate recedes.

### EVALUATION

20. Evaluation: The House amendment contains more extensive evaluation and reporting provisions, especially at the state and federal levels, and requires the Secretary to contract with the National Academy of Sciences for the evaluation of the school finance data reported by the states. Proposals have different requirements concerning evaluation of programs under this part. The Senate bill requires LEAs serving schools funded under this part to provide data on these schools to SEAs, which will then evaluate supported activities.

The Senate recedes with an amendment expanding the annual report to include a description of indicators of achievement for students attending schools funded under this part, striking the biennial report on school revenues, and directing LEAs, that receive funds under this part to provide certain data to the states.

It is the intent of the conferees that the analysis by the National Academy of Sciences include: (i) the cost of different ways of providing educational services; (ii) the impact of socioeconomic status, student/teacher ratios and their effect on achievement; (iii) governmental expenditure at all levels for public education in the U.S. and in other major foreign industrial nations; (iv) the impact of population sparsity and density factors on educational needs and costs; (v) the revenue sources available to each LEA such as property taxes, sales taxes, personal income taxes, and lotteries; (vi) information on differences in the costs of providing elementary and secondary education by state and by local educational agencies; and (vii) the capacity of state school finance systems to provide the resources necessary to achieve the National Education Goals. The factors which NAS should take into account include: (i) the variables associated with communities willingness to raise education revenues; (ii) different teaching compensation policies; (iii) the impact of school equalization policies on school districts with higher than average expenditures per pupil and the impact on districts with lower than average expenditures.

### DEFINITIONS

21. Definitions: House amendment, but not Senate bill, defines "assessment system," "curricular framework," and "Pacific outlying area."

The senate recedes with an amendment adding a definition of "authentic assessment", "elementary school", "public school", and "secondary school".

### REPORTS

22. Reports: Senate bill requires SEAs to submit to the Secretary information on successful Neighborhood Schools. Biennially, the Secretary is to provide Congress with summaries of all data and reports provided by schools, LEAs, and SEAs. The House amendment requires the Secretary to provide an annual report to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources describing state progress in implementing state plans, information from state and local reports on federal laws or regulations impeding systemic reform, and a list by state of average per pupil expenditures.

The Senate recedes with an amendment narrowing the amount of data to be collected, deleting the development of model school finance programs, and other minor changes.

### AUTHORIZATION OF APPROPRIATIONS

23. Authorization of Appropriations: Senate bill authorizes, for Title II, $850 million for fiscal year 1992 and such sums as may be necessary for fiscal year 1993 through fiscal year 2001. The House amendment authorizes, for Part B, $800 million for fiscal year 1992 and such sums as may be necessary for fiscal year 1993 through fiscal year 2001.

The Senate recedes with an amendment striking extraneous language.

### FLEXIBILITY DEMONSTRATION PROGRAM—SHORT TITLE

1. Short Title: The House amendment entitles this part as the "Flexibility for Edu-

cational Effectiveness Act of 1992." Senate bill has no comparable title.

The Senate recedes.

### FINDINGS

2. Findings: The Senate bill and the House amendment contain largely similar findings.

The House recedes with an amendment combining the findings.

### LAW AMENDED

3. Law Amended: The Senate bill places regulatory flexibility program in the General Education Provisions Act. The House amendment includes its program in new Title VIII of ESEA.

The Senate recedes.

### COMMITTEE ON SERVICES TO CHILDREN

4. Committee on Services to Children: The House amendment establishes a Committee on Services to Children to consider state applications requesting waiver of various federal requirements. The Senate bill provides that waivers shall be granted by the Secretary of Education or the heads of other federal agencies.

The House recedes with an amendment directing the Secretary to make written agreements with the heads of other agencies regarding the consideration of requests for waivers of requirements of other non-Education Department programs.

### NUMBER OF DEMONSTRATIONS

5. Number of Demonstrations: The Senate bill authorizes demonstrations in LEAs while the demonstrations in the House amendment are to take place in schools. The Senate bill authorizes demonstrations for not more than 6 states involving not more than 50 LEAs in each state. House amendment authorizes demonstrations for not more than 15 states involving not more than 20 schools in each state.

The House recedes with an amendment providing for waivers in not more than 10 states, and not more than 20 LEAs and 75 schools in each state.

### DESIGNATED PROGRAMS FOR WAIVERS

6. Designated Programs for Waivers: The Senate bill authorizes Secretary to waive any statutory or regulatory requirement (with certain exceptions) in designated programs. The House amendment authorizes waivers for a broader range of programs, coordinated and consolidated with Chapter 1, and organizes them into categories.

The Senate recedes with an amendment striking the Comprehensive Child Development Centers Act of 1988 and the School Dropout Demonstration Assistance Act from the list of designated programs and adding the Dwight D. Eisenhower Mathematics and Science Education Act.

The conferees wish to clarify that the recently published Department of Education regulations regarding the incidental participation of non-Chapter 1 eligible children in Chapter 1 programs would also apply to projects authorized by this part.

### PROJECT PERIOD

7. Project Period: The Senate bill, but not the House amendment limits waiver demonstration projects to not more than 3 years with possible 2-year extensions.

The Senate recedes.

### WAIVER TERMINATION

8. Waiver Termination: Both the Senate bill and the House amendment provide for termination of a waiver demonstration project if it is not making reasonable progress toward its goals. The Senate bill authorizes other federal agency heads who have granted waivers to extend or terminate those waivers, but provides Secretary with exclusive authority to extend or terminate the demonstration project. The House amendment includes language to require termination when a state or school violates restrictions on waiver authority, to terminate authority of the Committee to grant waivers on September 30, 1997, and to stipulate that a school may, at any time, decline to participate.

The Senate recedes with an amendment providing that decisions to terminate waivers are made by the Secretary of Education.

### TERRITORIES

9. Territories: The House amendment, but not the Senate bill, authorizes Secretary to waive requirements for not more than 4 schools each in the Virgin Islands, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands. These schools are to be in addition to the limits placed on the number that can be waived in the states.

The Senate recedes.

### COORDINATED SERVICES AGREEMENTS

10. Coordinated Services Agreements: The House amendment, but not the Senate bill, requires SEA to engage in effort to develop coordinated services agreements with other agencies within its state to serve disadvantaged students.

The Senate recedes.

### LOCAL ELIGIBILITY

11. Local Eligibility: The Senate bill requires any demonstration project involving local schools to include participation of an LEA and at least 2 schools, and, to the extent possible, involve each grade and academic program in a participating school. The House amendment requires that, to be eligible to participate, an LEA has to have developed an application with a local reform committee (under Neighborhood School part) and have made a concerted effort to develop coordinated services agreements with other local agencies to serve disadvantaged students.

The Senate recedes with an amendment striking reference to the local reform committee.

### LOCAL APPLICATIONS

12. Local Applications: The Senate bill and the House amendment contain similar local application requirements, except that the House amendment, unlike the Senate bill, has special provisions related to waivers of requirements for social, health and nutrition programs and for school lunch and child nutrition programs.

Senate recedes with an amendment combining requirements from the two bills, requiring that the LEA identify the regulatory as well as statutory requirements to be waived, and providing that the LEA will submit its application to the SEA for approval and that the SEA will transit all approved local applications to the Secretary.

### APPROVAL BY THE SECRETARY

13. Approval by the Secretary: The Senate bill, but not the House amendment, delineates a process for Secretary's approval of waiver applications.

The House recedes with an amendment making conforming changes to the numbers of states that may participate and striking the requirement that the Governors' comments on the applications be considered by the Secretary.

### DISTRIBUTION OF PROJECTS

14. Distribution of Projects: The Senate bill, but not the House amendment, provides for geographical distribution of projects; and equitable distribution among urban, suburban, and rural areas and by size of school.

The House recedes.

### ALLOCATION OF FEDERAL FUNDS

15. Allocation of Federal Funds: Senate bill, but not House amendment, requires that current statutory and regulatory provisions governing the allocation of funds to LEAs under federal programs supporting waiver projects continue to apply, with specified exception.

The Senate recedes.

### RESTRICTIONS ON WAIVERS

16. Restrictions on Waivers: The Senate bill and the House amendment federal have similar lists of requirements which cannot, under any circumstances, be waived, except that: only the Senate bill specifically prohibits waiving of requirements under Title II of Americans With Disabilities Act, and Individuals With Disabilities Act; and only the House amendment specifically prohibits waiving of the Age Discrimination Act of 1975, regulations addressing diversion of federal funds for private use, supplement-not-supplant requirements, and requirements concerning parental participation.

The Senate recedes with an amendment adding Title II of ADA and IDEA.

### FUND DISTRIBUTION

17. Fund Distribution: The House amendment, but not the Senate bill, provides specific prohibition against affecting distribution or utilization of funds in programs not involved in the waiver project.

The Senate recedes.

### CONSTRUCTION, RENOVATION, AND REPAIR

18. Construction, Renovation, and Repair: The House amendment, but not the Senate bill, provides that the flexibility program does not permit funds for services and activities to be used for construction, renovation, or repair of buildings.

The Senate recedes.

### SCHOOL LUNCH RESTRICTIONS

19. School Lunch Restrictions: The House amendment, but not the Senate bill, specifically prohibits certain activities under the School Lunch and Child Nutrition Acts.

The Senate recedes.

### SPECIAL RULE ON REPORTING

20. Special Rule on Reporting: The House amendment, but not the Senate bill, provides that reporting requirements under waived programs are satisfied by reporting requirements for waiver demonstration projects.

The Senate recedes.

### GENERAL STATE REQUIREMENTS

21. General State Requirements: House amendment, but not Senate bill, describes content of application to be submitted by the SEA to the Committee on Services to Children. The House amendment also requires SEA to give priority to selection of specified kinds of schools serving disadvantaged students. Further, the Committee is to give priority consideration to state applications demonstrating state waiver activity and coordination of state health, mental health, and substance abuse programs with education.

The Senate recedes with an amendment making minor and conforming changes.

### STATE REPORTING REQUIREMENTS

22. Reporting Requirements: The Senate bill and the House amendment contain similar reporting requirements, except that under the Senate bill, each project reports to the Secretary, whereas under the House amendment, the SEA reports to the Committee on Services to Children.

The House recedes with an amendment providing that SEAs will report annually to the Secretary of Education on the progress of each participating school, includes some information required by the House amendment, and specifies that project information should focus on improved performance of disadvantaged students.

### REPORT TO CONGRESS

23. Report to Congress: The Senate bill requires the Secretary to report every two years to Congress. The House amendment requires an annual report from the Committee on Services to Children to the House Committee on Education and Labor, Senate Committee on Labor and Human Resources, and Senate Committee on Agriculture, Nutrition, and Forestry.

Senate recedes with an amendment substituting the Secretary of Education for the Committee on Services to Children.

### EVALUATION

24. Evaluation: The Senate bill and the House amendment require evaluation of the projects aided under these programs. The Senate bill requires the Secretary to provide an independent evaluation to the Congress. The House amendment requires Secretary to contract with National Academy of Education to evaluate funded projects and to submit the evaluation to the House Committee on Education and Labor, the Senate Committee on Labor and Human Resources, and the Senate Committee on Agriculture, Nutrition, and Forestry by January 1, 1999.

The Senate recedes.

### DEFINITIONS

25. Definitions: Both the Senate bill and the House amendment define "disadvantaged students". However, the House amendment also includes definitions of "chapter 1" and "secondary school."

The Senate recedes with an amendment striking references to several laws from the definition of "disadvantaged students".

### BUDGET NEUTRALITY

26. Budget Neutrality: Senate bill, but not House amendment, provides that flexibility program is to be implemented in a manner that is budgetarily neutral.

The House recedes.

### SUNSET PROVISION

27. Sunset Provision: Senate bill, but not House amendment, limits effective life of the flexibility program to 6-year period beginning upon enactment of the bill.

The Senate recedes.

### AUTHORIZATION OF APPROPRIATIONS

28. Authorization Appropriations: House amendment, but not Senate bill authorizes $1 million for fiscal year 1997 for National Academy of Education evaluation.

The Senate recedes.

### WORKFORCE SKILLS

29. Workforce Skills: House amendment, but not Senate bill, includes a new Title IX in ESEA authorizing a National Board on Workforce Skills.

The House recedes.

## TITLE III—DISTANCE LEARNING

Distance Learning: The Senate bill, but not the House amendment, authorizes a study of distance learning.

The Senate recedes.

## TITLE IV—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

### AUTHORIZATION OF APPROPRIATIONS

1. Authorization of Appropriations: The House amendment, but not Senate bill, extends the authorization of appropriations through 1994 for the National Center for Education Statistics.

The Senate recedes.

### TRIAL STATE ASSESSMENTS

2. Trial State Assessments: Both the Senate bill and the House amendment extend the authorization of the trial state assessments under the National Assessment of Education Progress to 1994.

The House recedes.

### VALUATION

3. Evaluation: The House amendment, but not the Senate bill, amends GEPA to require an independent evaluation of trial NAEP assessments and the process used by the National Assessment Governing Board to establish achievement goals.

The Senate recedes.

### INFORMATION

4. Information: The House amendment, but not Senate bill, amends the current GEPA requirement concerning SEA reports on uses of federal education assistance programs administered through SEAs. House amendment, among other changes, makes the reporting requirement biennial, expands the cope of the programs to be reported on, requires the data to be made available via telecommunications network to Congress and other interested parties, and delineates in more detail the content of the Secretary's reports to Congress.

The Senate recedes with an amendment that directs the Secretary to consult with Congressional leadership about the feasibility of providing information on a telecommunications network.

## TITLE V—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

### ASSESSMENT ACTIVITIES

1. Assistance Activities: The House amendment, but not Senate bill, amends the Carl D. Perkins Vocational and Applied Technology Education Act to authorize SEAs to use NAEP test items and data to evaluate vocational education programs under certain conditions.

The Senate recedes.

### NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

2. NOIC Committee: The House amendment, but not Senate bill, amends Perkins Vocational and Applied Technology Education Act to require state boards of higher education to provide information on graduate and job placement rates, and to require the National Occupational Information Coordinating Committee to incorporate information on postsecondary training programs.

The Senate recedes.

## TITLE VI—AMENDMENT TO THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

### MODEL ASSESSMENTS

Model Assessments: The House amendment, unlike the Senate bill, amends the Dwight D. Eisenhower Mathematics and Science Education Act to authorize the Secretary to make grants to support development of model assessments tied to the national standards in mathematics.

The Senate recedes with a amendment (i) authorizing the development of model assessments in science also, if standards are developed and certified by the National Education Goals Panel, (ii) providing that the grants to develop model assessments be made consistent with the criteria developed by the National Education Standards and Assessment Council (NESAC); and (iii) directs NESAC to develop criteria for the development of different types of model assessments.

## TITLE VII—MISCELLANEOUS PROVISIONS

### VALUES IN SCHOOLS

1. Values in Schools Study: The House amendment, but not Senate bill, establishes Civic and Character Values-In-Schools Act of 1992 and amends Secretary's Fund for Innovation in Education to include an Ethics and Values Demonstration Program.

The Senate recedes with a amendment giving the Secretary the authority to establish a Commission to analyze possible ways to teach values in schools.

### PARENTS AS TEACHERS

2. Parents as Teachers: The House amendment, but not Senate bill, amends Title IV of ESEA, to include a new Parents as Teachers: The Family Involvement in Education Act of 1992.

The Senate recedes with a amendment requiring the Secretary to conduct a review of evaluations of the "Parents as Teachers" program.

### BUY AMERICAN

3. Buy American: The House amendment, but not Senate bill, has a sense of the Congress statement concerning purchase of American-made equipment and products relative to federal assistance under this Act.

The Senate recedes.

### DEFINITIONS

4. Definitions: Senate bill, but not the House amendment, defines various terms for the entire bill.

The House recedes.

### SCHOOLWIDE PROJECTS

5. Schoolwide Projects: The House amendment, but not Senate bill, amends ESEA to provide that Chapter 1 schoolwide projects have to meet only the general Chapter 1 maintenance of effort provision, rather than the more strict one currently applied to schoolwide projects.

The House recedes.

### TIME AND LEARNING COMMISSION

6. Time and Learning Commission: The House amendment, but not Senate bill, amends the Education Councils Act of 1991 to extend the period of time in which the National Education Commission on Time and Learning has to submit its final report and to extend the authorization period for funding.

The Senate recedes.

### PEACE CORPS

7. Peace Corps: Senate bill, but not the House amendment, includes a sense of the Senate statement concerning Peace Corps activities related to republics of the former Union of Soviet Socialist Republics.

The Senate recedes.

### FREEDOM OF SPEECH

8. Freedom of Speech: Senate bill, but not the House amendment, includes statement of sense of Congress concerning freedom of speech on higher education campuses.

The Senate recedes.

### TECHNICAL AMENDMENT

9. Technical Amendment: Senate bill, but not the House amendment, amends fiscal year 1992 Labor-HHS-ED Appropriations Act to provide that funds reserved for educational excellence be available for "any education reform program" not just AMERICA 2000 activities.

The Senate recedes.

### GAO REPORT

10. GAO Report: Senate bill, but not the House amendment, requires Comptroller

General of U.S. to submit report to Chairman and ranking minority member of Senate Committee on Labor and Human Resources on the effects that tax abatements for business have on education funding.

The Senate recedes.

WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
THOMAS C. SAWYER,
NITA M. LOWEY,
JOLENE UNSOELD,
PATSY T. MINK,
WILLIAM J. JEFFERSON,
JACK REED,
JOHN W. OLVER,
ED PASTOR,
*Managers on the Part of the House.*

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
*Managers on the Part of the Senate.*

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## THE HEART OF A MAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, when I concluded my special order last night, for the third night in a row I did not get to the book I hold in my hands that I believe is one of the most poignant books to come out of the Vietnam experience. It is entitled "The Heart of a Man."

It says by Lt. Frank Elkins, but he was long gone, died in combat in aerial action over North Vietnam. As the telegram to his widow and new bride says, he was avoiding enemy SAM action, that is Russian equipment being fired at him with Russian advisers on site.

To read the exact words:

> I deeply regret to confirm on behalf of the United States Navy that your husband, Lieutenant Frank Callahan Elkins, Serial No., USN, is missing in action. This occurred on 13 October, 1966, while on a combat mission over North Vietnam. It is believed your husband was maneuvering his aircraft to avoid hostile fire when radio contact was lost. An explosion was observed, but it could not be determined whether this was hostile fire exploding or your husband's aircraft. No parachute or visual signals were observed. No emergency radio signals were received.

Now, this book is a compilation of extensive, beautiful, sensitive, long, heart-rending letters that he sent home to his wife during his combat cruise as an attack A-4 pilot off the carrier *Oriskany* in the summer and fall of 1966.

One of his roommates, one of his flying colleagues, who was designated by Lieutenant Elkins to be his censor sent all these dairies in totality to the wife.

Let me explain, Mr. Speaker, what a censor is. Each naval officer, and speaking to our colleague and war hero, SAM JOHNSON of Texas who was a prisoner for almost 7 years, the Air Force did not require this, nor did the Army helicopter pilots who flew over enemy territory. This was a Navy policy where on ship you would pick some friend or bunkmate, usually of your own rank, to go over all your personal effects, take out anything that might be super-heartbreaking or embarrassing to the family, and also to censor out a slip of any military information that was not to go home.

The fellow officer that Frank Elkins chose decided that this was so moving, so beautiful, that he told Mrs. Elkins, her name is Marilyn, that he was taking a career risk and sending her the entire diaries over this period of combat.

The censor, and I will read an excerpt from him next week, died a week later, burned to death in his cockpit on the deck of the *Oriskany* when a fire from a dropped bomb and exploding rocket killed 30 aviators and about a dozen enlisted men, one of three terrible fires on our carriers in the Sea of China off Vietnam, and none of it due to enemy action.

When the wife got the letters and the diaries, she put it all together and published it in 1973.

I have read I think over 20 books of returned POW's in 1973, 1974, 1975, and 1976. This was the one that haunted me the most, because obviously all the other books were by returned POW's. This was a man's voice literally from the grave.

□ 1700

Well, his remains came home a year and a half ago, in 1990, and almost 2 years now, and his wife wrote a new prologue to the book and reissued the book just this year, and I think it is very apropos because Governor Clinton has referred to himself at age 23 as a boy, a confused boy, and that here is the story of a real man. Here is his last letter to his wife from Yankee Station. That was the arbitrary orbiting point off the North Vietnamese coast that our carrier assault missions were launched into North Vietnam against Haiphong harbor, Hanoi, Vinh, and all the other targets in North Vietnam. Dixie Station of course was the one down south where many of his other letters to his wife and diary entries were recorded, and he said to his wife in his last letter:

"My Darling Marilyn, I don't really have time to write a decent letter."

Now let me tell you, Mr. Speaker, and tell the 1,108,000 Americans who are probably listening tonight—that is an average from last week of those who listened to C-SPAN. One million Americans, one out of every 250.

Let me read the jacket about Frank Callahan Elkins who is a native of Bladensboro, NC, where he was the high school star quarterback and valedictorian. He earned his bachelor of arts in English from the University of North Carolina at Chapel Hill and entered the U.S. Navy and flight training in 1961. That makes me feel old. That is 6 years after I got my wings in the Air Force. That was my last year of flying. After my active duty years, that was my last year of flying in the Guard and fighters. I then went to sea planes in the Reserves for another 5 years.

But Frank married Marilyn Roberson in January 1966, the same year he died. After the crash of his Air Force Skyhawk over Vietnam on October 13, 1966, he was listed as MIA until 1979, when our Government, against my advice at some of the hearings, declared all these people presumptive finding of death, and of course I said his remains came home, were identified and interred in 1990. He was awarded seven Air Medals and the Distinguished Flying Cross.

His wife, Marilyn Roberson Elkins, holds a Ph.D., Dr. Elkins, in English, same as her beloved husband of less than a year, from the University of North Carolina at Chapel Hill, also where she was a finalist for the 1990-1991 undergraduates student teaching award. In the fall of 1992, she will begin an assistant professorship in the English department at California State University, Los Angeles.

I look forward to meeting her. I may have met her during those hellacious years when we were trying to get the State Department, CIA, and the Defense Department to make sure we had an accurate accounting of all of our men lost, particularly those from Laos, and look, Mr. Speaker, how that is unfolding in the Senate all this week. She, Marilyn, is a native of Pikesville, TN.

So, here is Frank's last letter to Marilyn:

> My Darling Marilyn, I really don't have time to write a decent letter, but I just received your letters, and I wanted to write you a note, or, better, and I love you and am thankful for your note. I do and I am.
>
> I'm sitting here in the room eating di dunk because I don't feel like getting dressed and then back into flight gear. That's because Robert McNamara, Secretary of Defense, General Wheeler, Chief of Staff of the Army, and a bunch of other admirals and Army generals, and captains and colonels, are all on board, for the night, the *Oriskany*.

So, he spent his last night alive with the man that I have said in the well over and over is the most disgraceful public servant in the history of this century, Robert Strange McNamara.

> The ship's captain came over the intercom today and said, "Now we're going to show them a normal day's operation," and now the aviators' chow line is closed. I missed the big action this morning. Down to the south Darrow was hitting a truck park and was using his bomb computer. The computer fouled up, threw a bomb in the boonies and got all sorts of gigantic secondary explo-

sions. So now everyone keeps bombing that area and kept getting fires and explosions. It was probably a stockpile area for the DMZ forces, all of course in violation by the Communists in North Vietnam of the demilitarized zone. The next three launches were diverted into that area and got all kinds of results. Really a big day. I missed it all. My hop was traded with Joe so that he could escort the VIPs tonight, and I got a tanker hop which aborted. I didn't care. I'd rather give up that hop than do the escort duty.

He does not want to be with McNamara, and find out why in the book.

Another bit of excitement occurred today when a number of motorized craft resembling PT boats were approaching the *Oriskany's* steaming area from the north. We all figured that maybe we would get some anti-service action, but they turned out to be Chinese motorized fishing trawlers. The U.S.S. Constellation found them first and was all set to sink them when pictures revealed the single gun mount on the bow was really a crane. Another AD-1 pilot; that's the propeller attack plane that tried to help down pilots; was down in the woods today. One a day, meaning we're losing a man a day.

I read and read again the things you said about the autumn, and it sounded so good I couldn't stop thinking about it. You can't know how much I wish I were there. Won't be long. Even so, it seems so long. Tick tick. It seems like a million years since I saw you last.

I'm looking forward to our cross-country trip to California. Maybe we can borrow sleeping bags and camp out a couple of nights. I love you so much, I don't think we'd need one, but sleeping bag, or even use the other end—or even use other one if we had to.

Well, brief time for my flight. Taking Chip out again tonight to the Coke machine on the carrier. All my love, Darling, and thank you again for your lovely thoughts in those two letters today.

I love you, Frank.

While Robert Strange McNamara was still on the *Oriskany* the next day fighting with the skipper of the *Oriskany* over the pathetic targets that President Johnson was allowing those wonderful men to hit, that next day, October 13, Frank Elkins disappeared and may have been killed in action, may have been killed on the ground, coming down in his parachute on the ground, beaten to death, tortured on the way to Hanoi, died in prison, tortured by Cubans monitored by Soviet advisers. We do not know what happen to him. Maybe he died after most of our men were supposed to be home, but this Naval pilot's Vietnam diary called "The Heart of a Man" tells me something, and I think I am going to start to say this a lot on the House floor depending on what happens November 3.

I believe, I, ROBERT KENNETH DORNAN, a U.S. Air Force, peacetime fighter pilot, I believe that the man that probably would have been the President of the United States at the end of this century, a hero, true hero, probably was killed in Vietnam. I believe that the best men of that generation in the 1960's that would be maturing to the age level to compete for the highest office in the land probably went into a conflict that they felt was noble at its base, to do for South Vietnam what we did for South Korea, and what we did for France, Great Britain, Norway, what we did trying to help the Soviet Union under the world's greatest killer, Joseph Stalin. Killed more people than Adolf Hitler, Stalin did. I believe that that man was killed in a war that he felt was politically manipulated by the best and the brightest, by politicians who did not understand that there was a way to bring that war to a conclusion with an honorable end, at least to match the stalemate in Korea. These were the men that were skillful enough, even as young lieutenants, even as ensigns, to know that you had to mine Haiphong harbor where we had allied ships from NATO helping the enemy, British ships, French ships, Greek ships, and we are putting America's kids on the line, getting them killed in combat training accidents in Europe. Thousands have been killed in Europe trying to keep Europe free from the Soviet armor attack. And while we are doing that to help them, Europe, whereby just a flip of a coin one young soldier goes to Germany along the eastern frontier with communism, and the other goes to Vietnam and dies. That young American could have been killed by logistical equipment, shipped to Vietnam by England and France, the same countries we are trying to help in Europe. Incredible.

I truly believe that, if Frank Elkins would be running for the Presidency this year, I truly believe that the McNamara/Lyndon Johnson and even the Nixon delays to do what Nixon knew was right, to use our B-52's against the Communist enemy heartland and to mine Haiphong harbor, which did not happen until May 8, 1972, 6 years after this man died, almost 6 years, I believe that our policies killed off the best human beings of that generation in Vietnam.

And whatever happened to the lost generation, my generation, of men like the gentleman from New York [Mr. RANGEL] who have combat experience in Vietnam in a war they probably did not agree with either, but they felt like Churchill, that if you are going to serve your country, you do not ever let somebody else take your place and go in harm's way.

Now because of what I said here last night, I understand that one of the best of all the weekend talk shows, and it probably has the best television current affairs producers, asked for the Gennifer Flowers tapes.

☐ 1710

They just asked me to fax over to them pages from the CONGRESSIONAL RECORD of yesterday where I had inserted all of the infamous Gennifer Flowers excerpts of her taped conversations with Governor Clinton just in the last 3 years. They are probably going to discuss it this weekend.

Well, Mr. Speaker, I would ask that they read every word of these Gennifer Flowers tapes, because there is not a Congress man or woman in this Chamber, and about 150 of us read these transcripts yesterday in the CONGRESSIONAL RECORD, there is not a single human being in this Chamber on either side of the aisle of any political ideology, whether out there working for Governor Clinton or not, who gainsays or contradicts these tapes.

Everybody reads these tapes, and they know one thing for sure: They were sexually intimate and involved together.

Now, here is what broke from my special order last night on one of the wire services across this country, and one called "Hotline." It is bipartisan.

It is three stories here. One is White House, about Clinton-Gore bus trip. The next one, the Jesse Jackson story. It says Reverend Jackson acknowledged, quote-quote, that there wasn't enthusiasm among minorities, youth, and urban residents for the Gore-Clinton ticket.

Then comes this story. I will read it verbatim, Mr. Speaker, Because what I talked about was—I asked the question, was Bill Clinton, the boy, to use his quote, on a peace train to Moscow with a lot of radical students who were not just antiwar. They were not antiwar. They were prowar with a victory for Hanoi. Was he with that group.

And here is what it says.

Peace train? Representative ROBERT K. DORNAN, Republican, 38th District, California, asks when Bill Clinton visited the Soviet Union while studying at Oxford, was he on the—

And then they quote me—

the so-called peace train from Paris to Moscow filled with radical students who were enamored with communism, the Soviet Union, and Ho Chi Minh?

DORAN said he was "not charging any conspiracy," but "suggested it was inappropriate for students to visit a country that was arming the North Vietnamese."

Clinton's spokesperson, Didi Myers, said Clinton—Didi Myers said that Bill Clinton went to Moscow alone as a tourist and financed his own trip.

Mr. Speaker, I just hope up here the fourth estate, what the great Irish-English Member of Parliament, great Parliamentarian, whose years of life pretty much paralleled Thomas Jefferson's, the great Edmund Burke, who said the fourth estate was the most powerful of it all, I hope they are paying attention, Mr. Speaker.

Alone, boy Clinton—his own description to Ted Koppel on "Nightline" in February—a 23-year-old boy alone goes to Moscow, and that he financed it himself. A quote from Didi Myers from Little Rock, the national headquarters of Clinton-Gore. "He was traveling on a winter break like a lot of other students * * * to suggest a hidden agenda is an outrageous and ridiculous smear tactic."

Knight Ridder carried this across the country.

Now, am I engaging in a smear tactic? Is this an outrageous question? Because I did not charge him with anything. Well, I do not think so.

Work with me here, Mr. Speaker. Follow me along on this. I hope the million-plus people watching Chamber's proceedings tonight work with me here. Follow me along here.

Here is my question to a man who would be commander of my U.S. Air Force, a man who would command the Semper Fidelis, the forces of the U.S. Marine Corps. A man who would command all those Navy air carrier pilots out there making night recoveries on those carriers as we speak, all those people still in the gulf, all those people still in Europe. They have been defending Europe for 48 years since the Normandy invasion. The man who would be commander of my dad's branch of the service, the U.S. Army. The man who would command the Semper Paratus, always prepared, U.S. Coast Guard, under our Department of Transportation. The men and women now who will go into the eye of a hurricane or go into 25-foot waves to save people's lives. He wants to be their Commander in Chief.

I ask him this question. A simple one tonight, just one. Let us see if the national media will pick this up, the dominant media culture.

What weeks were you in Moscow, Governor Clinton, is the way, Mr. Speaker, I would frame my question if I were to meet him tonight. What weeks were you in Moscow? Because I have a suspicion that it was January 1970.

Now, last night I said that he was in Oslo, because I had lent this book entitled "Peace Eyes" to someone, and I only had xeroxes of the first few pages.

It is by a Jesuit priest, I think he has since left the priesthood, Father Richard McSorley. He is still saying Mass every morning, reading his office out of his breviary. Let me know. But he surely was a Marxist priest in 1969.

And in 1978 when he wrote this book, and did not even know that his former friend Bill Clinton of Georgetown, as he calls him, Georgetown University, had become the attorney general in the State of Arkansas. At the age of 28 Bill Clinton lost a congressional seat against JOHN PAUL HAMMERSCHMIDT, who is still with us, a classmate of George Bush's, Mr. HAMMERSCHMIDT was, from 1966, and he is retiring this year, 26 years of great service. Yesterday I gave him an extra Distinguished Flying Cross. JOHN P. HAMMERSCHMIDT only has four DFC's. Isn't that a ridiculous use of the word "only"? And six air medals.

Clinton was elected attorney general 2 years later in 1978 at 30 years of age. So when this book came out in 1978, "Peace Eyes," he did not know what had happened to his friend Bill Clinton in the so-called peace movement in Europe.

So I had the foreword and I read it yesterday. And I read this. "When I," Father Richard McSorley, Society of Jeses—I am Jesuit educated for over 7 years so I can rap the Jesuits who stray off the reservation of freedom and justice—"When I got off the train in Oslo, Norway, I met Bill Clinton of Georgetown University. He asked me if he could go with me visiting peace people. We visited the Oslo Peace Institute, talked with conscientious objectors, peace groups, university students, and," as I began to research the book, "with American deserters." Military men in uniform who deserted the battlefield. They left their buddies to face the enemy alone and ended up in beautiful Sweden, Norway, and I have to assume Denmark and Finland—well, Finland, that is pretty close to the Soviet Union.

So when going through here today carefully, I was able to establish the dates of when Bill Clinton was in Norway. We got that nailed down now. December, 1969.

First of all, in the infamous, disgusting, deceitful, duplicitous letter to Col. Eugene Holmes dated December 3, 1969, by young boy Clinton, he refers to how proud he is that he organized demonstrations, the assumption is that Oxford, against the war, on October 15 and November 16.

Now, he wrote this letter only 18 days after a demonstration he organized November 16, and there was one November 15.

There are people over in London and Paris and maybe even Moscow right this minute looking for the hardcore results of those demonstrations and trying to find people with the big white crosses, the skulls on sticks, and everything that is described in this book and some others.

Here is Father McSorley talking about his trip around England, meeting with deserters here—well, actually the deserters had to go on to Scandinavia—just meeting with students.

He talks about the December 15 demonstration. Then he talks about the next day, November 16, how there was a prayer demonstration. He talked about how Bill Clinton took these big white crosses up. Here is the exact quote.

> The next day I joined with about 500 people for the interdenominational prayer service. Most of them were young and many of them were Americans. As I was waiting for the ceremony to begin, Bill Clinton of Georgetown, then studying as a Rhodes scholar at Oxford, came up and welcomed me. He was one of the organizers, and he asked me to open the service with a prayer.

□ 1720

This is exactly 17 days before he draws his 311 in the draft lottery. The next day he applies to Yale and on the 3d of December he writes that rotten, sleazy letter to Colonel Homes saying, "I euchred you pretty good, and I have been complusively eating here until I drop from exhaustion because I have so little self-respect for myself, but by the way, I am organizing these demonstrations."

He was one of the organizers, and then he skips forward and says, "I was glad to see a Georgetown student," this is young Baptist Bill Clinton studying at the Jesuit institution Georgetown, "leading the religious service for peace. After the service, Bill introduced me to some of his friends." One of them was probably Frank, who committed suicide 2 years later.

"With them we paraded over to the American Embassy carrying white crosses made of wood about 1 foot high. There we left the crosses as an indication of our desire to end the agony of Vietnam." All this, 3 years after Frank Elkins, who gave his life under Robert McNamara, this disgracefully flawed leader, McNamara, who did not know why he was squandering the lives of these future leaders of America. So being against the war and being angry at the war, that is all right.

At this time I felt like I was being squeezed in a vise between the corrupt policies running the war in this city during the Johnson years and the no relief from Mr. Nixon when he became President, conceding that the country was torn apart.

I thought Mr. President Nixon would, the secret plan he had would immediately mine Haiphong and use surgical military strength that, by his own admission, he should have done. Because I saw with my own eyes him tell Walter Cronkite in a final, in an interview after his disgrace and resignation that, "Walter, the biggest mistake I made in my whole Presidency was not to mine Haiphong Harbor and use strategic bombing against Hanoi in my first few months instead of waiting over 3 years."

How many died in those 3 years? PBS had it wrong the other night. They had George Reedy, on saying that in 1968, when LBJ was resigning, there were about 20,000 men dead. What does that indicate? That the other 38,000 died under Nixon? Wrong, Mr. Reedy. About 38,000 to 40,000 died under LBJ, and 18,000 to 25,000 under Nixon. I will have those exact figures next week. The Pentagon is working on it for me.

So now Father McSorley, after these demonstrations, takes off from Victoria Station to Newhaven, a little port south of Dover. He then goes over to Dieppe, France. Then travels around France for a whole chapter. Then he goes up to Sweden to meet with over 100 deserters, and then he heads to Norway. Well, who has cut him off at the pass at Norway? Chapter 4, Norway, Denmark, Germany, and Switzerland.

"A familiar face greeted me in the station at Oslow, Bill Clinton."

By now, it is December, probably mid-December, I want to refresh your memory, help me here, Mr. Speaker, work along with me.

December 1, draws his lottery 311, which Secretary of Defense Mel Laird said was coming, when he cut out completely the December draft call, spread it out over 3 months, told everybody, you are probably home free.

Bill Clinton beats a path back to Oxford, does not even register for a room, does not attend any classes, so Father McSorley is wrong. He is not studying at Oxford. He is taking the money, in now dollars about $20 to $25,000 a year, and has no intention of taking his exams.

He is now a full-time organizer for demonstrations against his country in a foreign country.

And most of the people, if not him, I ask him, were you one of these, most of these people were pro-war, pro-Hanoi, and some of them pro-hardcore Communists.

So here, while Father goes to France, Bill Clinton goes up to Oslo and he meets Father McSorley at the train station. And he says again, "Bill Clinton."

Now, this is the part he used in the foreword.

"He had been on the same train. When he learned I was going to visit the Institute of Peace Research at Oslo, he asked if I would come along. I was delighted. We were shown around by the assistant director. It is housed in a lovely old reconditioned mansion of Victorian design." This is in Norway.

"Its program is designed to promote peace through research."

Peace through strength was what I did most of my years here in the House. It worked. The Soviet Union collapsed. Communism collapsed, and the mother heartland of this equal in its evil power to nazism, it collapsed because of peace through strength, through the policies of Ronald Reagan, and the gutsy confrontational policies of Lech Walesa and the intense, focused prayers and intense confrontation of Pope John Paul II. It did not end through their kind of research. It ended through R&D here in this country with the great men and women in our defense industries.

McSorley says, "Its program is designed to promote peace through strength. We met three conscientious objectors working there. They objected to Norway's role in NATO." They never prevailed in that over all these years. Norway is still a key NATO ally, flying F-16 *Falcons* built in Texas.

This was a new reason that we had not heard of before, the objection to Norway's role in NATO.

By the way, I explained yesterday the catch-22 problem here, right out of Joseph Heller's novel, "Catch-22," that if Bill Clinton had courageously been a conscientious objector, he knew he could never run for high political office in California. He knew that he probably could never get elected in a southern conservative State.

To show you how rough that State was, today is the anniversary of the 1975, and I am flying F-100's at George Air Force Base, of the Governor of Arkansas, one of the predecessors of Governor Clinton, calling out the State troopers to block nine beautiful little black children from attending school in Arkansas. That is how conservative that State was, when I was on, using "conservative" as a pejorative negative word. I do not call it conservative. I call it ugly and evil.

But that is how tough that State was. It motivated me to go to Alabama and Mississippi and register voters. It motivated me to go to Philadelphia as a conservative Lincoln Republican after Cheney and Goodman and Schwerner were beaten with chains and murdered down there. It caused me to march with Martin Luther King on August 28, 1963. This Republican conservative is very proud of his civil rights record.

So this is a tough State, Arkansas.

And what did this McGovern worker in 1972, this peace worker, till we find other questions answered, Bill Clinton, what was he doing in 1969 with these conscientious objectors? Thinking about a career in Arkansas? Sure was, because 6 years before, he told the gentleman from Minnesota [Mr. RAMSTAD], when they were both living at the University of Maryland, the dorms in the American Legion, get the irony there, the American Legion Boys Nation Program, he told the gentleman from Minnesota [Mr. RAMSTAD] at lunch, dinner, and breakfast that he was going to be President of the United States. And one of those days they met John F. Kennedy in the Rose Garden. That was June 1962, 6 years before that.

What that old catch-22 was in Bill Clinton's mind. Stand tall, be principled, say you are a conscientious objector, and you will never get elected in Arkansas. Maybe he should have moved to Hollywood, where he had got a lot of new friends.

So there is the Norway trip nailed down.

I have still got a lot more to read in McSorely's book. I probably will not find any more references to Bill Clinton, but when did he go to Moscow, that Christmas of 1969-70, because we cannot nail that date down? Maybe Betsy Wright, campaign guru, maybe George Stephanopoulos will tell us, maybe AL GORE, the distinguished Senator from the other body will tell me.

But here is that article I showed from the front page of the Arkansas Gazette. Now it is the Arkansas Democrat-Gazette. They swallowed another paper in the last 3 years, Little Rock, Monday, June 12, 1989.

And here is a 23-year-old, there is that age again, 23-year-old man, a Russian intern journalist, Anton Safronov. Here he is writing a story at 23 years of age about Bill Clinton. This young journalist still is only 26. I wonder where he is today, because he praises Gorbachev, praises Marxism, condemned Stalinism in this article about Clinton, but then glorifies Clinton in this great interview he had with him.

He says, Clinton would have been 43 during this interview.

> Clinton's Moscow visit, it came out in our interview, 1989 interview, that Bill Clinton spent a week in Moscow in the early 1970's, when he was a student living in Europe.

□ 1730

Doesn't that nail it down, the spring of 1968? Excuse me, that is when he graduated, in June. Does that nail it down to the fall and winter of 1968 and spring of 1969 when he rebuffed two draft notices?

How did he get over to Oxford in the first place when there were no more student deferments for graduate work? By getting some friends, a rich uncle who owned several Buick dealerships, to say that he was going to take a Navy ROTC officer's commission. Why, they created a slot for him. Mr. Clinton said he never heard of the slot. His uncle' lawyer said:

> Baloney, of course Billy knew about the slot. That slot got him off to England in the fall of 1968.

He was a student in the fall of 1968. That winter-spring of 1969, he came back here to Washington, involved himself in all these demonstrations around the District of Columbia, organized, worked with the mobilization office in town, and probably he only went back to Arkansas for a couple of weekends to stroke people about the draft, because now he is really hot. He is out of college by one year, has 1 year of Oxford under his belt, where I assume he studied.

Maybe he didn't study, then, because there are no exams. There are no room checks. Imagine this, every student in America listening, Mr. Speaker. A person can check into Oxford and their only tests are 2 years away. They can take the money, the $22,000 a year, roughly, and never do a lick of work, never show up at class. And if they show up for their exams, because they are geniuses, and pass them, they are then Rhodes Scholars with an Oxford degree.

Seven years later, no matter what they do, as long a they don't turn out to be drunk or serial killers, they will mail them a master's degree from Oxford.

I have spoken to three of our Rhodes scholars, one in this Chamber and two in the Senate, today, to find out what is required if you take the money. So I am just assuming, to be generous, that he went to class in the fall of 1968, and in the spring of 1969, when he had this midnight vigil of candles and they all cried and he cried, that he had gotten his draft notice. That is 1969.

Now it is summer and he is back here in 1969, and he goes through the whole phoney thing with the Army ROTC at the University of Arkansas, and then he heads back there. He is in Oslo, we finally got him pinpointed now, in December 1969.

When is this Moscow trip? I want to read this again, Clinton's Moscow visit.

"It came out that Bill Clinton spent a week in Moscow in the early seventies when he was a student living in Europe." Bill Clinton just 3 years ago: "Relations between our two countries were pretty good then;" not. "It was a time of détente;" not. "And the American Moon landing had just been shown on Soviet television."

I tried to analyze that last night. *Apollo 11* was 4 days after Colonel Holmes was calling the draft board under the request of the chief of staff of Senator William Fullbright of Arkansas, powerful chairman of the Senate Foreign Relations Committee. Remember, the 16th of July, to give a timeframe of reference, July 16 memo, inside the New York Times last Saturday: "Holmes will call me," "me," the chief of staff of Fullbright, "and then he will take care of calling the draft board."

They were getting Holmes and Lt. Col. Clint Jones, his deputy commander of the ROTC Army unit in Arkansas, to do their dirty work for them and lean on the draft board. It is out of embarrassment that this Bataan death march hero stayed silent for 23 years until a letter that has been ignored by the media of September 7 of this month that says "This man does not have the patriotism or the integrity to be the commander in chief." Those are Colonel Holmes' own words, September 7, 1992.

He says that "There had just been a Moon walk," so it cannot be July 1969. He is in Washington demonstrating, and July 16 he is demonstrating here. Two days later is Chappaquiddick, and 2 days after that we landed on the Moon. That gives a timeframe reference.

The next landing was, the closest we ever had Moon landings, was in November, an all-Navy crew. I just had been to lunch the other day with Commander Bean, who was the commander of that trip, and their film went out.

Remember, I said that yesterday, they had no film? I confirm that today. He says, "They are running film in Russia of a Moon landing." If the Russians decided that they could no longer block out these historical events, because they blocked out in Moscow some friendly times, the landing on the Moon of Navy combat pilot from Korea Neil Armstrong, who strafed and napalmed all up and down Korea to save half of it for freedom, and everybody was praising him while they were damning his fellow officers, like Frank Elkins, dropping bags of feces off the San Francisco Golden Gate Bridge onto the decks of carriers with the survivors of his crews coming home in 1966, Frank's crews.

The other man shot down three MIG's in Korea, my friend Buzz Aldrin, that was the first one. Now comes the second one in November 1969.

If the Russians blocked out Neil Armstrong and Buzz Aldrin's Moon walk, they did have film of that. It was available, so maybe they decided to show the film of *Apollo 11*, during November 1969, of *Apollo 12*. Was Bill Clinton in Moscow before he met up with the Marxist priest in Oslo a month later, or did Bill go over in January 1970? My suspicion is he went over in January 1970, and he has the timeframes mixed, and the Russians were finally showing some Moon walking film. Remember this month, January 1970. He calls it the early seventies.

So he talks about detente, the American Moon landing, then he says, "just shown on Soviet television." Listen to this: "It was a very friendly time, a good atmosphere," the Governor says 3 years ago, he recalls. "It was fascinating, and I would like to go back."

Friendly time and good atmosphere? Let us analyze that, Mr. Speaker, I was in Moscow in January 1970. I had four wives with me, wives of missing-in-action heroes, 10 times the man of young boy Clinton, then: Connie Hessle; men like Frank Elkins; Roosevelt Hessle, of African descent, big, tall, handsome guy, head of academics at the fighter gunnery school at Nellis Air Force Base, and finally he got tired of training pilots and he demanded to go over there in combat. He had already served in combat in Korea. He did not have to go.

Roosevelt Hessle went, and disappeared, I think, in November 1966. His great wife and my friend, Connie Hessle, was with me in Moscow. Then there was Pat Hardy. Pat Hardy was so in love with her husband Jack that she told me,

> I will never ever marry again, because I will never find anybody as handsome and as intelligent. He had dropped out of the Air Force Academy to marry me, carried 30 units at Stanford, and caught up and graduated with his own Air Force Academy class so he could go through pilot training with the men he had served with at the Air Force Academy in Colorado.

She said, "I will never find a guy like Jack again," and she never has remarried. Her two daughters are big, grown-up, beautiful women. They probably have made Pat a grandma by now.

Then there was a real tiger, the wife of Art Mearns. I went to Art Mearns' funeral over here in Arlington. His wife, also Patricia, Pat Mearns, asked me, gave me the honor to read "High Flight" at his funeral when his hero's remains, an F-105 pilot flying out of so-called secret bases in Thailand, trying to save South Vietnam from communism, Art Mearns, an instructor in F-105's, shot down on Veterans Day, 1966, less than a month after Frank Elkins, and I get to read "Oh, I slipped the surly bonds of earth," and it concludes, "reached out and touched the face of God."

We used to end our television shows with that beautiful pilot's poem, prayer, "High Flight." That was written by an American, a 19-year-old man 4 years younger than Clinton when he was in Moscow, and still a man who died in Spitfire training in England before we were in the war, putting his citizenship in jeopardy to fly against Hitler with Great Britain, with some of those men at Oxford like Clinton's friends, who had said they would never fight for king or country, and turned around and ended up fighting bravely, and some of them dying, that signed that infamous little document in the early 1930's when Chamberlain was stroking Herr Hitler.

That poem by Frank McGee, "High Flight," makes me think of why I am wearing this tie today. This is the regimental tie of the Royal Air Force. I have worn it every day for a week doing these special orders, because when I see this tie and put it on, and I notice Clinton was wearing it the other night, and he does not even know what it is, I think about Churchill's great words to the 1,400 or so fighter pilots in Great Britain when they were standing alone against Hitler and Mussolini, and yes, Japan, which had taken over Indochina from France without a fight.

I think of the RAF expression, "the height of the Battle of Britain." Winston Churchill said, "Never, never in the course of human conflict have so many owed so much to so few."

The few were still flying off the carriers and in the Army Cobra helicopters and those greasy, dirty gunships called Hogs, and that beautiful little Huey in Vietnam, and they were flying for the Air Force and the Navy, racking up hundreds of missions without being allowed to go for the strategic heart of the Communist enemy that still torments the 22 million people in North Korea and the 66 million people still suffering in Vietnam.

□ 1740

What would have some of the mottos of these so-called peace workers been then? "I regret that I have but one country to run from," as I said the other night, or paraphrasing Churchill, "Never in the course of human conflict have so many deserted so few," to go to the enemy heartland and undermine their brothers and cousins and others from college who were doing their duty, or accepting their draft, and slugging it out in the jungles of Southeast Asia. I never met a pilot whose heart was not with the men on the ground.

I remember one of the hero F-105 pilots, Swede Larson. Thank God he came home. He is a living testament to this. He says why do I fly South? He got shot down to the day, I said this to a smart aleck reporter who demeaned it in one of the news magazines, he said why do I fly North day after day? To try and interdict the supplies on the Ho Chi Minh Trail coming down and killing these teenage draftees just a few days later in the jungles of South Vietnam. And he was shot down that day, Swede Larson.

So it is important what Bill Clinton did in 1970.

And let me tell you the story about three people, this Congressman, BOB DORNAN, those four wives that I was with and Ross Perot. I want to come back and talk about the wife I left out because she ended up, Carole, as the first president of the League of Families of Americans Missing in Action in Vietnam. I mention the others, Patty Mearns, and Patty Hardy, and Connie Hessle, Roosevelt Hessle's widow. They are all widows of these heroes, and I will come back to Carole Hanson, and her husband was the first bracelet that I ever had, because her hubby was shot down the day that my mom died, June 3, 1967.

Ross Perot in January 1970—and Mr. Speaker, I hope somebody from Ross Perot is listening and will tell him—I met Ross Perot when he was 39 years of age, and he was in that month's issue of Time magazine, right before Christmas, and it said he was a billionaire, 39, peacetime-trained at Annapolis, a surface warfare officer, like me because of his birth, I am born in 1933, and I guess Ross was born in 1931, and you cannot pick the year of your birth, and he graduated from Annapolis the last year of the Korean war. Had the war gone on, he would have been in combat off the freezing waters in Korea. And he felt what I always felt was a healthy guilt, and just by quirk of his birth he was making $1 bilion in Texas, and his classmates were dying off North Vietnam or being imprisoned and tortured.

So he rented, leased, two 707's, and flew them to Los Angeles where he loaded them with medical supplies, and with food. This is December 1969 when Billie Boy Clinton is in Oslo, Norway undermining our fighting men. He loads these planes with food. I was called down by a friend, and helped load the fuel, and I know he will not remember this, but I begged him to take me with him. I was just about to start on a television show that I stayed with for 7 years and that helped bring me to Congress. And I said, "Take me with you."

"No, no, I can't."

He had a few key Texas guys with him, and off they went.

I raised $10,000, big money in those days, a little bit more than Bill Clinton was making as a Rhodes scholar, not studying. I raised $10,000 and I took these four wives who I met with that month of December 1969, and we left on the 30th of that month for a trip around the world. We met with the Pope in Rome. We were joined up with three Navy wives of MIA's, and they never got their men back either. We have always speculated, were those wives punished because they traveled around the world.

We arrived without an audience with the Pope, and is that not unheard of, that within 24 hours here I am with Pope Paul VI, me and eight wives, and I knew this was a special trip. Now do you know what Pope Paul VI said? He said this is an unusual journey. You are traveling into an enemy country at war with yours, not to ask that your husbands be released, but just to be given the mercy of the truth, are they alive or dead. Are they prisoners or not.

None of those wives ever got their man back. I look at that color picture sometimes, with me, the Holy Father, and eight fantastic American wives, and I think was one of those to be the President of the United States in 1996, or maybe even in 1992, or would one of those men be the man to take on George Bush in the primaries instead of Pat Buchanan, and then come back on the reservation at the convention. We will never know.

But we left from there to Romania with no visa. And we found out when we got there that Romania had, under the dictator Ceausescu, to deceive the West had opened up the country without visas just a few weeks before, and we stayed in Romania. And we went to the embassies. We went to the Russian Embassy, we went to the North Vietnamese Embassy and they would not let us in. We begged mercy everywhere. All we wanted was to know hey, were these men alive or dead, the war goes on and we are not asking for any special treatment, just are they alive or dead, and the agony, the psychological torture of the missing-in-action for the people in this country, and it still goes on. Listen to what went on in the Senate this week.

We went from there to Egypt, an interesting place to be in January 1970. It was the start of the war of attrition. Russian fighter pilots were flying against Israel, and one day one great Israeli shot down five Russian pilots, all speaking Russian on the intercom, and here they are coming in in parachutes, Russian pilots flying in the war of attrition in 1970 in Egypt. And we think that Russian pilots flew in Vietnam.

What did Clinton say? "It was a friendly time. It was a good atmosphere, very friendly. It was fascinating. I would love to go back." And here is another quote. "I loved riding the trains in Russia and the black bread too." Oh boy, Clinton liked the black bread, did he, while the Russian pilots were training North Vietnam fighter pilots in MIG's, and Robert Strange McNamara and Nixon were saying we were hitting some of these MIG bases, and one that LBJ used to dangerously mispronounce, Phouc Yen, and you can imagine how he would mispronounce it, we were hitting those bases finally. But the Russians were still running their entire antiaircraft program where they had the gun-runner 2 years later in July 1972 called "Jane Fonda," sitting in the plane with her hands clasped together so femininely, and her eyes turned skyward, and her head cocked to the center, and she gives the victory sign and says, "Oh, suppose an American plane came over; would I know how to shoot it down?"

An interesting day that was. She has since apologized for that. I am still waiting for Clinton's apology.

So January 1970 was interesting, and Ross Perot got on those airplanes in December right after Christmas. And in January 1970 he was sitting there with his planes in Laos. I think only one got there. And we saw them 4 weeks later with the four POW wives. And he waited patiently to be allowed to fly medicine and vitamins into Hanoi for our POW's. Several died in captivity that year, and a few others disappeared. They probably died of being beaten to death, like Mac Cobeil. He was beaten to death by the Cubans right in front of the men. I remember I had Norland Daughtry in my office, and he was reliving how they were smashing Cobeil's head into the ground, over and over, and screaming at him in Cuban accented American, "You —— this, and you —— that," and hitting his head, and his eyes were glazed over. He was already catatonic from the beating, with four other Americans standing there, not knowing whether they were going to get the same, watching, aware that an American was being beaten to death.

Around that period of time Clinton was in Moscow, and Daughtry had tears starting to roll down his face, and I started to cry with him as he went back in time to the prison cell in the Hanoi Hilton, and he said, "I can't believe we couldn't help a fellow American."

He never came home, and his remains were returned. He also had, I believe, a burial in Arlington Cemetery.

So there is Ross Perot, Mr. Speaker, and I hope Ross does not try to do something to help this draft dodger, Clinton. He remembers his history and where he was in January 1970, but for Clinton I am going to find out, and I bet my bottom dollar that that is when Clinton went to Moscow, January 1970. Any time that year is disgraceful. What student with his Oxford money on his own, as a tourist in the dead of winter goes to Moscow?

Let me tell you what happened to those four wives, Connie Hessle, Patty Hardy, and Pat Mearns, and Carole Hanson. Carole Hanson's husband was a Marine, H-46 pilot on a rescue mission to pick up an Army Green Beret team on the 3d of June, 1967—the day my mom died—and he did rescue the team. And then they got shot down. One Green Beret sergeant went one direction, and he is home today. I hope he is listening, Mr. Speaker. He got away. The remains of one of the corporals who was knocked unconscious, he was unconscious and he turned up and he came home. But the pilot and the copilot; the copilot was injured, and Steve Hanson was briefly knocked out. They came to, and they were helping organize the men. They went in a different direction, never to be heard from again. Steve's remains never came home from June 3, 1967.

Carole had met with him in Hawaii, just as Marilyn Elkins had for a second honeymoon a few months before. He had only a few weeks to go, and Steve never came home. Carole was terrific on that trip, and with Indira Gandhi. I have a photograph of Carole alone in the road in Vientiane, Laos.

□ 1750

Just think, Ross Perot's mercy planes are down the road at the field at Din Chon, and here is Carole talking to a Russian, and I can say his name now for the first time in my life, Valentin. Valentin had his heart touched when he said, "What do you want in these ladies?" And I said, "Let me tell you something, Valentin, you have been fighting with the Chinese on the border, and some of your men have been captured. You do not know what has happened to them. If your wife turned up in the United States and met with me and these wives and said, 'I don't want my husband returned. I just want to know if Valentin is alive or dead.'" I said, "Can't you find out that piece of mercy? Don't we share the same heritage of Western civilization? Wasn't your country a Christian nation again?" I think I said it, maybe, again someday, and I remember telling the Poles in the Polish Embassy in Vientiane, Laos, that very thing.

He told me, he said, whispered to us, "Meet me later," and he gave us a road and an intersection. We met, and Carole Hanson walked down the road with Valentin, and I have this picture in black and white that I kind of took covertly, because I knew he would resent it, and I have never shown it to anybody to this day, and here is this Russian diplomat, chargé, No. 2 in command of the Embassy, sitting there talking to Carole Hanson. He said, "I will do my best when I get back to Moscow to find out if I can get you the mercy you seek."

Carole Hanson was terrific.

Years after her husband was declared dead, she met another hero POW who came home to a divorced wife, and no disrespect for the wife, 9 years, 8 years, 7 years, a lot of time, lot of time, a lot of pressure, and Carole's son, 5 years of age then, and I remember I took him up in the Goodyear blimp when we got back and filmed a little piece for my television show, "The Robert K. Dornan Show." His name was Todd. I have got the film of that flight on the Goodyear blimp with little 5-year-old Todd.

Today he is a Navy officer flying F-18's somewhere out there in the fleet.

Carole married a hero POW named Hickerson. I get a Christmas card from them all the time.

Mr. Speaker, I hope the Hickersons are listening.

It was quite a trip in 1970, quite a trip.

Now, what are we doing in Indochina? By the way, I saw Indira Gandhi in India, passed through some other countries. I do not remember whether we went to Bangladesh or Burma unless I check my diary, but we ended up in Cambodia, Laos, Vietnam. These brave wives went to hospitals, shook hands with wounded men, met with the Ambassador in Saigon, met with the commander of all military operations then, Creighton Abrams. I went back with other wives and with mothers like Nancy Perisho in March 1970, later in 1970, back in 1971, all over Laos, up to Luang Prabang in 1971.

No, Mr. Speaker, I am telling you, it was not very friendly. It was fascinating, all right, but it was not a good atmosphere, and it was not very friendly, and I repeat what I said last night. Mr. Clinton's whole trip to Moscow then was manipulated by the KGB.

I said we were in Moscow. That is not accurate. We were arrested in the airport for no visas. And Connie and Pat and Pattie and Carol and I were locked up under arrest in an old deserted hotel. It was 26 degrees below zero, might have been 36, but I do not want to make it any worse that it was, but 26 degrees was so bad that three of the ladies got sick. One of them, I thought, had pneumonia. I had to bring this old gruel soup over from the airport in Sheremetevo over to this stinking little freezing cold hotel. We were not treated in a friendly way, wives of heroes.

But Bill Clinton says it was friendly. He was there, Bill Clinton? On whose money? And what week and what month? And the Russians are flying against Israel and flying against our guys and training these guys to shoot down our men, and all the SAM missiles were Russian, every bullet killing every kid that week, probably 100 to 200 kids died that week, all killed with Russian armor, Russian bullets, Russian Mig's, Russian-built bases. And he finds it very friendly?

I do not think this man has the moral authority to be President of the United States. I am going to stay on his case, and I will close with this prediction, Mr. Speaker: Here is a coin of the 18th Cav that Pat Buchanan forgot to mention is about 20 or 25 percent black. I went out in the field with them 2 days after Buchanan went out, and I wish I could rewrite Pat's speech for him, because I know it did not come out the way he meant it to. There motto is Swift and Deadly, First Squadron, 18th Cav, 40th Division, California Guard, Swift and Deadly. In Latin that is Velox et Mortifer, Swift and Deadly. That is the way I am looking at this Clinton mission of mine now, swift and deadly.

I am going to find out the truth here if it takes every minute before this election, and I predict that by next week, with Perot back in the race and more revelations about what he did in Moscow that we are going to send a Sidewinder right into, symbolically, of course, into the Clinton-Gore bus, and I hope my friend Al Gore survives, because he went to Vietnam as a reporter with an engineering unit, I think with Stars and Stripes, got a quick 6-month tour, but still 6 months in hell.

I think Mr. Clinton is not going to President of the United States. He does not have the moral authority, as I keep saying, to tell the Army Band or the Marines' Own, President's Own, to strike up the Star Spangled Banner. He sure as blazes does not have the moral authority to tell anybody to go in harm's way anywhere around this dangerous world.

Thank you, Mr. Speaker, and God bless those wives and every wife who lost their hero in Vietnam.

Mr. Speaker, I am inserting at this point in the Record an article I have written, "Why the Draft Issue is Important."

### Why the Draft Issue Is Important

(By U.S. Congressman Robert K. Dornan)

It has been called a "non-issue" and a "distraction," but Bill Clinton's draft dodging is an important issue. Consider.

In his infamous letter from Oxford, Clinton explains how he had come "to (loathe) the military."

This reveals a woeful lack of understanding of our system. Our military did not make policy in Vietnam, our politicians did. Never was a war so controlled by civilian authority. Every Tuesday, Lyndon Johnson held a lunch at which targets and bombweights were determined. He bragged that the military couldn't "bomb an outhouse" without his okay. The military repeatedly advised that victory would require a much larger commitment, but was routinely ignored. Clinton's hatred was therefore misplaced.

More recently, before the VFW Clinton stated that "(U.S.) policy in Vietnam was wrong" and "I still believe that." Given what has transpired in Southeast Asia since America's withdrawal—the Killing Fields, re-education camps, the boat people, etc.—that Clinton doesn't see Vietnam as a "noble cause" is appalling. It is said that hindsight is 20/20. In Clinton's case it is myopic and nearly blind.

In a nutshell, the most important lesson of Vietnam is that the wrong side won. Yet Clinton can't even admit to something that is so morally and historically obvious. Instead, he prefers to remain mired in the antiwar rhetoric of the London demonstrations he helped organize and lead.

Through his conniving, Clinton also sought to put himself above the system he now seeks to lead, betraying an attitude that the rules established in a democratic society don't apply to him. His excuse? The nation wasn't threatened by communism in Vietnam.

But a democratic nation doesn't sacrifice its young men unless it believes its national interests are threatened. And in fact U.S. Vietnam policy enjoyed widespread support among all age groups until after the 1968 election, by which time the decision to withdraw had been made. (Throughout, the Vietnam War was more popular than the Korean War.)

It was only when he was out of harm's way that Clinton submitted to the draft, and only then for a selfish reason, to "maintain (his) political viability."

But where Clinton acted selfishly, George Bush acted selflessly, volunteering to serve his country and going on to become a war hero.

Democracies occasionally do wrong things, abortion being a perfect example. But unless we want to descend into anarchy we must rely on our imperfect virtue and abide by our imperfect system, which Churchill called the "worst form of government except for all those other forms."

No group better exemplified that spirit than U.S. military leaders, whose advice was disregarded but who still faithfully followed the orders of their civilian leaders.

Even those draft dodgers who fled to Canada fully expecting that they would never return home were more honorable than Clinton, whose hatred of U.S. policy overcame his professed love of democracy.

So when Clinton asks the American people to sacrifice just remember what happened when the American people asked Clinton to sacrifice.

Clinton's shameless use of his family connections to get Senator William Fulbright to help young Bill beat the system also smacks of elitism. It is perhaps the ultimate irony that it was Fulbright who steered the Gulf of Tonkin resolution—which was the legislative impetus for the war's escalation—through the Senate.

And what about the three other men who didn't have the political clout Clinton did and who served in his place? Did they die in some Vietnamese jungle fighting for freedom while Clinton demonstrated in London?

And what does it say about Clinton when he defends his actions by saying he was just a "boy" at the time? A 23-year old is not a boy, but a man. When I was that age, I was married with two children and flying fighter aircraft in the Air Force. And how many "boys" do you know who think in terms of "political viability?"

The draft issue raises other questions as well. Would Clinton lead the U.S. into some reckless military adventure just to prove his machismo? Could a man who has professed loathing for the military ever really trust it? Or would he follow the examples of Kennedy and Johnson in Vietnam, both of whom went it alone with disastrous results? Could he ever command the respect of his troops? Ever? Has Clinton told the truth?

Some argue that all of this is ancient history. However, Clinton has never renounced any of his actions or opinions at that time. It is time people started asking pertinent questions about Bill Clinton's draft dodging. When they discover the answers, I am sure they will reach the same conclusion I have: Clinton has lost the moral authority to send men into combat and has disqualified himself for the highest office in our land.

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SEPTEMBER 7, 1992.

Memorandum for Record.

Subject: Bill Clinton and the University of Arkansas ROTC Program.

There have been many unanswered questions as to the circumstances surrounding Bill Clinton's involvement with the ROTC department at the University of Arkansas. Prior to this time I have not felt the necessity for discussing the details. The reason I have not done so before is that my poor physical health (a consequence of participation in the Bataan Death March and the subsequent 3½ years internment in Japanese POW camps) has precluded me from getting into what I felt was unnecessary involvement. However, present polls show that there is the imminent danger to our country of a draft dodger becoming the Commander-in-Chief of the Armed Forces of the United States. While it is true, as Mr. Clinton has stated, that there were many others who avoided serving their country in the Vietnam war, they are not aspiring to be the President of the United States.

The tremendous implications of the possibility of his becoming Commander-in-Chief of the United States Armed Forces compels me now to comment on the facts concerning Mr. Clinton's evasion of the draft.

This account would not have been imperative had Bill Clinton been completely honest with the American public concerning this matter. But as Mr. Clinton replied on a news conference this evening (September 5, 1992) after being asked another particular about his dodging the draft, "Almost everyone concerned with these incidents are dead. I have no more comments to make". Since I may be the only person living who can give a first hand account of what actually transpired, I am obligated by my love for my country and my sense of duty to devulge what actually happened and make it a matter of record.

Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. We engaged in an extensive, approximately two (2) hour interview. At no time during this long conversation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewed enough to realize that had I been aware of his activities, he would not have been accepted into the ROTC program as a potential officer in the United States Army.

The next day I began to receive phone calls regarding Bill Clinton's draft status. I was informed by the draft board that it was of interest to Senator Fulbright's office that Bill Clinton, a Rhodes Scholar, should be admitted to the ROTC program. I received several such calls. The general message conveyed by the draft board to me was that Senator Fulbright's office was putting pressure on them and that they needed my help. I then made the necessary arrangements to enroll Mr. Clinton into the ROTC program at the University of Arkansas.

I was not "saving" him from serving his country, as he erroneously thanked me for in his letter from England (dated December 3, 1969). I was making it possible for a Rhodes Scholar to serve in the military as an officer.

In retrospect I see that Mr. Clinton had no intention of following through with his agreement to join the Army ROTC program at the University of Arkansas or to attend the University of Arkansas Law School. I had explained to him the necessity of enrolling at the University of Arkansas as a student in order to be eligible to take the ROTC program at the University. He never enrolled at the University of Arkansas, but instead enrolled at Yale after attending Oxford. I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work the draft board to delay his induction and get a new draft classification.

The December 3rd letter written to me by Mr. Clinton, and subsequently taken from the files by Lt. Col. Clint Jones, my executive officer, was placed into the ROTC files so that a record would be available in case the applicant should again petition to enter into the ROTC program. The information in that letter alone would have restricted Bill Clinton from ever qualifying to be an officer in the United States Military. Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service. These actions cause me to question both his patriotism and his integrity.

When I consider the caliber, the bravery, and the patriotism of the fine young soldiers whose deaths I have witnessed, and others whose funerals I have attended * * * when I reflect on not only the willingness but eagerness that so many of them displayed in their earnest desire to defend and serve their country, it is untenable and incomprehensible to me that a man who was not merely unwilling to serve his country, but actually protested against its military, should ever be in the position of Commander-in-Chief of our Armed Forces.

I write this declaration not only for the living and future generations, but for those who fought and died for our country. If space and time permitted I would include the names of the ones I knew and fought with, and along with them I would mention my brother Bob, who was killed during World War II and is buried in Cambridge, England (at the age of 23, about the age Bill Clinton was when he was over in England protesting the war).

I have agonized over whether or not to submit this statement to the American people. But, I realize that even though I served my country by being in the military for over 32 years, and having gone through the ordeal of months of combat under the worst of conditions followed by years of imprisonment by the Japanese, it is not enough. I'm writing these comments to let everyone know that I love my country more than I do my own personal security and well-being. I will go to my grave loving these United States of America and the liberty for which so many men have fought and died.

Because of my poor physical condition this will be my final statement. I will make no further comments to any of the media regarding this issue.

EUGENE J. HOLMES,
*Colonel, U.S.A., Ret.*

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TEXT OF BILL CLINTON'S LETTER TO ROTC COLONEL

The text of the letter Bill Clinton wrote to Col. Eugene Holmes, director of the ROTC program at the University of Arkansas, on Dec. 3, 1969:

I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968. For a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection for those opposed to participation in a particular war, not simply to "participation in war in any form."

From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation.

The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war, I am in great sympathy with those who are not willing to fight, kill and maybe die for their country (i.e. the particular policy of a particular government) right or wrong. Two of my friends at oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (the society may be corrupt, but that is not the same thing, and if that is true, we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to begin putting what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent, I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also,I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them then.

At the time, after we had made our agreement and you had sent my 1-D deferment to my draft board, the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on Sept. 12 I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help in a case where he really couldn't and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible.

I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the Army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes Scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

## MODIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 4106, COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Pursuant to the authority granted on September 23, 1992, without objection, the Chair announces the following modification in the appointment of conferees on the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.

As an additional conferee from the Committee on Armed Services, for consideration of Senate amendments numbered 1 through 4, and modifications committed to conference: Mr. SAXTON.

There was no objection.

The SPEAKER. The Clerk will notify the Senate of the change in conferees.

## LEAVE OF ABSENCEQ01

By unanimous consent, leave of absence was granted to:

Mr. ORTON (at the request of Mr. GEPHARDT), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of North Carolina, for 60 minutes, each day on September 30, October 1, and 2.

Mr. RIGGS, for 60 minutes, each day on September 30, October 1, 2, 3, and 4.

Mr. MOORHEAD, for 60 minutes, each day on September 30, October 1 and 2.

Mr. DORNAN of California, for 60 minutes, today.

Mr. CALLAHAN, for 60 minutes, on October 1.

Mr. KOLBE, for 60 minutes, on September 30, October 1, 2, 3, and 4.

Mr. CALLAHAN, for 60 minutes, on October 2.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. DUNCAN.
Mr. DORNAN of California.
Mr. BROOMFIELD.
Mr. GREEN of New York.
Mr. BATEMAN.
Mr. PORTER.
Mr. GALLO.
Mr. COX of California.
Mr. LAGOMARSINO in three instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. FOGLIETTA.
Mr. NATCHER in three instances.
Mr. LONG.
Mr. SLATTERY.
Mr. MARTINEZ.
Mr. HOCHBRUECKNER.
Mr. MAZZOLI.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2484. An act to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; to the Committee on the Judiciary.

## ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2194. An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities;

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes;

H.R. 3654. An act to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes;

H.R. 5126. An act to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes;

H.R. 5373. An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5517. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1993, and for other purposes.

## SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a Joint Resolution of the Senate of the following titles:

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes;

S. 1766. An act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes; and

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State Hawaii to the Hawaiian Homes Commission Act, 1920.

## ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, September 28, 1992, at 12 noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4322. A communication from the President of the United States transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

4323. A letter from the Secretary of Commerce, transmitting the 11th report on activities of the Department of the Interior and the Department of Commerce with respect to the Emergency Striped Bass Research Study, pursuant to 16 U.S.C. 757g(b); to the Committee on Merchant Marine and Fisheries.

4324. A letter from the Secretary of Energy, transmitting a report entitled "Self-Scrubbing Coal: An Integrated Approach to Clean Air," proposed by Custom Coals International; jointly, to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

4325. A letter from the Secretary of Energy, transmitting a report entitled "Demonstration of Pulse Combustion in an Application for Steam Gasification of Coal," proposed by ThermoChem, Inc.; jointly, to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

## REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4718. A bill to provide for the admission of the State of New Columbia into the Union (Rept. 102-909). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5555. A bill to provide for increased preinspection at foreign airports, to make permanent the visa waiver pilot program, and to provide for expedited airport immigration processing; with an amendment (Rept. 102-910). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 580. Resolution providing for consideration of the joint resolution (H.J. Res. 553) making continuing appropriations for the fiscal year 1993, and for other purposes (Rept. 102-911). Referred to the House Calendar.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 3703. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes (Rept. 102-912, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5822. A bill to designate the U.S. Court of Appeals building located at 125 South Grand Avenue in Pasadena, CA, as the "Richard H. Chambers United States Court of Appeals Building" (Rept. 102-913). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5831. A bill to designate the Federal building located at 312 South Main Street in Victoria, TX, as the "Martin Luther King Jr. Federal Building"; with amendments (Rept. 102-914). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 581. Resolution waiving points of order against the conference report to accompany, and providing for corrections in the enrollment of, the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102-915). Referred to the House Calendar.

Mr. KILDEE: Committee of Conference. Conference report on S. 2 (Rept. 102-916). Ordered to be printed.

Mr. ROE: Committee on Public Works and Transportation. H.R. 4281. A bill to designate the U.S. Federal building and U.S. courthouse to be located at Fifth and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Building"; with amendments (Rept. 102-917). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN (for himself, Mr. KOSTMAYER, Mr. KILDEE, Mr. DORGAN of North Dakota, Mr. RAHALL, Mr. JOHNSON of South Dakota, Mr. OWENS of Utah, Mr. WISE, Mr. HAMILTON, and Mrs. LLOYD):

H.R. 6033. A bill to amend the Solid Waste Disposal Act to authorize States to restrict out-of-State municipal waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FASCELL:

H.R. 6034. A bill to amend the Foreign Relations Authorization Act, fiscal years 1992 and 1993, with respect to membership of congressional members of the Commission on Security and Cooperation in Europe on the U.S. Delegation to the Parliamentary Assembly of the Conference on Security and Cooperation in Europe; to the Committee on Foreign Affairs.

By Mr. HAMILTON (for himself and Mr. BEREUTER):

H.R. 6035. A bill to establish the Mike Mansfield Fellowship Program for intensive training in the Japanese language, Government, politics, and economy; to the Committee on Foreign Affairs.

By Mr. BARNARD (for himself and Mr. NEAL of North Carolina):

H.R. 6036. A bill to require the Secretary of the Treasury to issue a portion of the public debt in the form of obligations indexed for inflation; to the Committee on Ways and Means.

By Mr. BOUCHER (for himself and Mr. WELDON):

H.R. 6037. A bill to establish a program of grants to States for arson research, prevention, and control, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. LEVINE of California:

H.R. 6038. A bill to amend title 35, United States Code, to permit separate patent extensions for each product under a patent which is subject to full regulatory review and approval; to the Committee on the Judiciary.

By Mr. LEWIS of Florida (for himself, Mr. BROWN, Mr. IRELAND, Mr. GLICKMAN, Mr. JOHNSTON of Florida, Mr. BACCHUS, and Mr. LEHMAN of Florida):

H.R. 6039. A bill to establish a wind engineering research program within the National Institute of Standards and Technology; to the Committee on Science, Space, and Technology.

By Mr. MILLER of Washington (for himself, Mr. WYDEN, Mr. McDERMOTT, Mr. MORRISON, Mr. DICKS, Mr. SWIFT, Mrs. UNSOELD, and Mr. CHANDLER,):

H.R. 6040. A bill to authorize U.S. participation in the Cascadia Corridor Commission; to the Committee on Foreign Affairs.

By Mr. SANDERS (for himself, Mr. HAYES of Illinois, and Mr. OWENS of New York):

H.R. 6041. A bill to amend the National Labor Relations Act, to establish the National Public Employment Relations Commission, and to amend title I of the Employment Retirement Income Security Act of 1974 to provide for joint trusteeship of single-employer pension plans; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 6042. A bill to provide for improved instruction in mathematics and science education; to the Committee on Education and Labor.

By Mr. THOMAS of California:

H.R. 6043. A bill to provide for improved consultation between the Secretary of Agriculture and the U.S. Trade Representative regarding the prohibition or regulation of the importation of fruits and vegetables into the United States; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. TORRICELLI:

H.R. 6044. A bill to promote the export of U.S. environmental technology, to promote biological diversity, conservation and cooperation in the Western Hemisphere, and for other purposes; to the Committee on Foreign Affairs.

By Mr. TRAFICANT:

H.R. 6045. A bill to amend the Internal Revenue Code of 1986 to allow physicians a deduction for medical services provided to individuals who have no health plan coverage; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 6046. A bill to make technical corrections in certain public laws; to the Committee on Interior and Insular Affairs.

By Mr. KYL:

H. Con. Res. 363. Concurrent resolution concerning the sale of F-15 aircraft to Saudi Arabia; to the Committee on Foreign Affairs.

By Mr. OWENS of Utah:

H. Con. Res. 364. Concurrent resolution congratulating the Government and people of Oman on the forthcoming 160th anniversary of the signing by the United States and Oman of a treaty of amity and commerce, a harbinger to a long and mutually beneficial bilateral relationship; to the Committee on Foreign Affairs.

## ADDITIONAL SPONSORS Q01

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mrs. COLLINS of Michigan.

H.R. 2164: Mr. MARTIN, Mr. SPENCE, and Mr. KOSTMAYER.

H.R. 2248: Mr. WILSON.

H.R. 2385: Mr. BOEHLERT, Mr. HOCHBRUECKNER, Ms. SLAUGHTER, and Mr. MANTON.

H.R. 3703: Ms. OAKAR, Mr. FAZIO, Mr. HAYES of Illinois, Mr. DYMALLY, Mr. McDERMOTT, Ms. LONG, and Mr. LEVIN of Michigan.

H.R. 3975: Mr. SOLARZ.

H.R. 4211: Mr. ATKINS and Mr. STEARNS.

H.R. 4949: Mr. PEASE.

H.R. 5208: Mr. COX of Illinois.

H.R. 5250: Mr. ANNUNZIO and Mr. UPTON.

H.R. 5263: Mr. SPENCE.

H.R. 5374: Mr. HUBBARD, Mr. LEWIS of California, Mr. TAYLOR of Mississippi, Mr. HALL of Texas, Mr. SARPALIUS, Mr. SCHAEFER, Mr. QUILLEN, Mr. COBLE, Mr. CONDIT, Mr. SKEEN, Mr. FLAKE, Mr. SUNDQUIST, Mr. McCANDLESS, Mr. ENGLISH, and Mr. GEKAS.

H.R. 5596: Mr. GALLEGLY.

H.R. 5733: Mrs. MEYERS of Kansas.

H.R. 5743: Mr. JOHNSON of South Dakota.

H.R. 5768: Mr. EMERSON and Mr. ALLEN.

H.R. 5772: Mr. SOLOMON, Mrs. VUCANOVICH, Mr. ROBERTS, Mr. THOMAS of Wyoming, Mr. DE LA GARZA, Mr. BREWSTER, Mr. EWING, and Mr. WALSH.

H.R. 5777: Mr. HAYES of Illinois.

H.R. 5820: Mr. OWENS of New York, Mr. FOGLIETTA, Mr. DONNELLY, Mr. FROST, Mr. McNULTY, and Mrs. LOWEY of New York.

H.R. 5832: Mr. HAYES of Illinois.

H.R. 5862: Mr. TOWNS, Mr. HOYER, Mr. McGRATH, and Mr. ROE.

H.R. 5927: Mr. SCHIFF, Mr. SPENCE, and Mr. SOLOMON.

H.R. 5936: Mr. KLUG and Mr. SHAYS.

H.R. 5947: Mr. McNULTY, Mr. ROBERTS, Mr. BURTON of Indiana, Mr. LEWIS of Florida, Mr. HANCOCK, and Mr. GORDON. .

H.R. 5960: Mr. OXLEY, Mr. SMITH of New Jersey, Mr. GUARINI, Mr. HORTON, Mr. LIPINSKI, Mr. PAXON, and Mr. FRANKS of Connecticut.

H.R. 6003: Mr. IRELAND, Mr. ROGERS, Mr. BLILEY, Mr. SCHAEFER, Mr. CHANDLER, and Mr. DOOLITTLE.

H.R. 6004: Mr. SHUSTER, Mr. CLINGER, Mr. APPLEGATE, Mr. PACKARD, Mrs. BENTLEY, Mr. BALLENGER, Mr. EMERSON, Mr. DUNCAN, Mr. HANCOCK, Mr. INHOFE, Mr. TAYLOR of North Carolina, Mr. GILLMOR, Mr. HOBSON, Ms. MOLINARI, Mr. EWING, Mr. ZELIFF, Mr. SANGMEISTER, Mr. THOMAS of Wyoming, Mr. NEAL of North Carolina, and Mr. PAYNE of Virginia.

H.J. Res. 400: Mr. BREWSTER, Mr. BROWDER, Mr. DE LUGO, Mr. DONNELLY, Mr. DOOLITTLE, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. FALEOMAVAEGA, Mr. HEFNER, Mr. HOUGHTON, Mr. JEFFERSON, Mr. JONES of Georgia, Mr. MARKEY, Mr. OWENS of New York, Mr. PARKER, Mr. RIGGS, Mr. SAWYER, Mr. SUNDQUIST, Mr. TAUZIN, Mr. ABERCROMBIE, Mr. WOLPE, Mr. TANNER, Mr. DORNAN of California, Mr. SOLOMON, Mr. HUBBARD, Mr. HOAGLAND, Mr. CARDIN, Mr. COYNE, Mr. WYLIE, Mr. SHAYS, Mr. BEVILL, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. ROEMER, Mr. McCOLLUM, Mr. McHUGH, Mr. KASICH, Mr. JACOBS, Ms. LONG, Mr. LEACH, Mr. KOPETSKI, Ms. SLAUGHTER, Mr. JONTZ, Mr. KLECZKA, Mr. SLATTERY, Mr. PURSELL, Mr. REGULA, Mr. HUNTER, Mr. BROWN, Mr. BURTON of Indiana, Mr. ROSE, Mr. CARPER, Mr. WHITTEN, Mr. LANTOS, Mr. WELDON, Mr. AuCOIN, Mr. CONYERS, Mr. ASPIN, Mr. McDERMOTT, Mr. DYMALLY, Mr. WASHINGTON, Mr. GINGRICH, Mr. LEHMAN of Florida, Mr. RHODES, Mr. SPENCE, Mr. STAGGERS, Mr. VOLKMER, Mr. ANDREWS of New Jersey, Mr. NAGLE, Mr. SARPALIUS, Mr. GILCHREST, Mr. HYDE, Mr. TALLON, Mr. LANCASTER, Mr. DINGELL, Mr. HAMMERSCHMIDT, Mr. SABO, Mr. NATCHER, Mr. VANDER JAGT, Mr. MOORHEAD, Mr. MRAZEK, Mr. VALENTINE, Mr. CARR, Mr. SKEEN, Mr. GEREN of Texas, Mr. SWETT, Mr. COLEMAN of Texas, Mr. SMITH of New Jersey, Mr. EVANS, Mr. SPRATT, and Mr. ANTHONY.

H.J. Res. 455: Mr. HOBSON, Mr. MINETA, and Mr. KOSTMAYER.

H.J. Res. 479: Mr. TANNER, Mr. RHODES, Mr. OLVER, Mr. OLIN, Mr. SMITH of Oregon, Mr. DeFAZIO, Mr. DUNCAN, Mr. KLUG, and Mrs. MEYERS of Kansas.

H.J. Res. 495: Mr. MINETA and Mr. ANDREWS of Maine.

H.J. Res. 542: Mr. HAMILTON, Mr. JONES of Georgia, Mr. KILDEE, Mr. LANCASTER, Mr. LEACH, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. LIVINGSTON, Mrs. LOWEY of New York, Mr. McCOLLUM, Mr. McCRERY, Mr. McDERMOTT, Mr. McNULTY, Mr. MANTON, Mr. MARTINEZ, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of Ohio, Mr. MOORHEAD, Mr. MURPHY, Mr. NAGLE, Mr. OBERSTAR, Mr. OWENS of New York, Mrs. PATTERSON, Mr. ROWLAND, Mr. SANDERS, Mr. SERRANO, Mr. STAGGERS, Mr. TAUZIN, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WYDEN, Mr. WYLIE, Mr. YATRON, Mr. YOUNG of Alaska, Mr. ENGEL, Mr. RAHALL, Mr. GINGRICH, Mr. COLORADO, Mr. CONYERS, Mr. BRYANT, Mr. TRAXLER, Mr. VALENTINE, Mr. WALSH, Mr. WAXMAN, Mr. CALLAHAN, Mr. CAMPBELL of Colorado, Mr. EMERSON, Mr. GRANDY, Mr. HOUGHTON, Mr. LANTOS, Mr. LEVINE of California, Mr. MATSUI, Mr. MAZZOLI, Mr. MOAKLEY, Mr. PASTOR, Mr. RANGEL, Mr. ROBERTS, Mr. TAYLOR of Mississippi, Mr. UPTON, Mrs. VUCANOVICH, Mr. ATKINS, Mr. AuCOIN, Mr. BENNETT, Mrs. BENTLEY, Mr. BLILEY, Mr. BORSKI, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CAMP, Mr. CRANE, Mr. DARDEN, Mr. DeFAZIO, Mr. DONNELLY, Mr. DOOLEY, Mr. DURBIN, Mr. FORD of Michigan, Mr. GAYDOS, Mr. GEREN of Texas, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. ANDERSON, Mr. BOUCHER, Mr. COOPER, Mr. CRAMER, Mr. DANNEMEYER, Mr. DELLUMS, Mr. DICKINSON, Mr. DINGELL, Mr. DIXON, Mr. DOOLITTLE, Mr. DYMALLY, Mr. EDWARDS of Texas, Mr. EDWARDS of California, Mr. FEIGHAN, Mr. FRANK of Massachusetts, Mr. HANSEN, Mr. HAYES of Louisiana, Mr. HOAGLAND, Mr. HUNTER, Mr. HYDE, Mr. JEFFERSON, Mr. POSHARD, Mr. RAVENEL, Mr. RIGGS, Mr. RINALDO, Mr. RITTER, Mr. SABO, Mr. SAVAGE, Mr. SAWYER, Mr. SHARP, Mr. SHAW, Mr. SLATTERY, Ms. SLAUGHTER, Mr. SMITH of Texas, Mr. SMITH of Florida, Mr. SYNAR, Mr. THOMAS of Georgia, Mr. GILLMOR, Mr. ANNUNZIO, Mr. PERKINS, Mr. KLECZKA, Mr. CLEMENT, Mr. TRAFICANT, Mrs. BOXER, Mr. JONTZ, Mr. YOUNG of Florida, Mr. LIGHTFOOT, Mr. INHOFE, Mr. MACHTLEY, and Mr. GALLEGLY.

H.J. Res. 549: Mr. MACHTLEY, Mr. KOSTMAYER, Mr. LENT, Mr. LEHMAN of Florida, Mr. PALLONE, Mr. ACKERMAN, Mr. LaFALCE, Mr. BEILENSON, Mr. CARDIN, Mr. WAXMAN, Mrs. BOXER, Mr. SABO, Mr. CAMPBELL of California, Mr. EVANS, Mr. ZIMMER, and Mr. TORRICELLI.

H.J. Res. 551: Mr. MCCOLLUM, Mr. RINALDO, Mr. HANSEN, Mr. LAGOMARSINO, Mr. JOHNSTON of Florida, Mr. HUGHES, Mr. LANTOS, Mr. HARRIS, Mr. MURTHA, Mr. DICKS, Mr. ATKINS, Mr. TALLON, Mr. ALEXANDER, Mr. MOORHEAD, Mr. CRAMER, Mr. DELLUMS, Mr. BROWN, Ms. HORN, Mr. KLECZKA, Mr. CARPER, Mr. BOEHLERT, Mr. ENGEL, and Mr. LANCASTER.

H.J. Res. 552: Mr. MRAZEK, Ms. PELOSI, Mrs. UNSOELD, Mr. ROSE, Mr. APPLEGATE, Mr. STOKES, Mr. MCNULTY, Mr. MORAN, and Mr. HEFNER.

H. Con. Res. 324: Mr. MILLER of Ohio.

H. Con. Res. 344: Mr. SERRANO.

H. Con. Res. 362: Mr. KYL, Mr. GOSS, and Mr. THOMAS of Wyoming.

H. Res. 515: Mr. MCHUGH.

H. Res. 557: Mr. BEREUTER.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 436: Mr. MCMILLAN of North Carolina.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 553

By Mr. SOLOMON:

—On page 9, after line 9, add the following:

### TITLE II—LINE ITEM VETO RESCISSION AUTHORITY FOR FISCAL YEAR 1993

**SECTION 201. SHORT TITLE.**

This Title may be cited as the "The Legislative Line Item Veto Act of 1992".

**SEC. 202. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.**

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority for fiscal year 1993 which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

(B) such rescission will not impair any essential Government functions;

(C) such rescission will not harm the national interest; and

(D) such rescission will directly contribute to the purpose of this Act of limiting discretionary spending in fiscal year 1993; and

(2) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations act for fiscal year 1993 or a joint resolution making continuing appropriations providing such budget authority for fiscal year 1993.

The President shall submit a separate rescission message for each appropriations bill under this paragraph.

**SEC. 203. RESCISSION EFFECTIVE UNLESS DISAPPROVED.**

(a) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless during the period described in subsection (b), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of 20 calendar days of session during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

(3) if the President vetoes the rescission disapproval bill during the period provided in paragraph (2), an additional 5 calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

**SEC. 204. DEFINITIONS.**

For purposes of this Act—

(a) the term "rescission disapproval bill" means a bill or joint resolution which only disapproves a rescission of discretionary budget authority for fiscal year 1993, in whole, rescinded in a special message transmitted by the President under this Act; and

(b) the term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

**SEC. 205. CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.**

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

(5) all factions, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) REFERRAL OF RESCISSION DISAPPROVAL BILLS.—Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(d) CONSIDERATION IN THE SENATE.—

(1) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to 1 hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of the, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

(e) POINTS OF ORDER.—

(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission budget authority transmitted by the President under this Act.

(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

H.R. 5096

By Mrs. VUCANOVICH:

—545. Add the following subsection to section 3:

(c) EXCEPTION FOR MEDICAL TECHNOLOGY SERVICES.—

(1) Subsection (a) shall not prohibit a Bell operating company from providing information services relating to medical technology, the monitoring of health or medical conditions, or the provision of medical care in any rural area having a population of less than 25,000 persons.

(2) Subsection (a) shall not prohibit the interexchange transmission or delivery of the information services described in paragraph (1).

EXPLANATION

This amendment excepts from the bill's restrictions information services related to health care for residents of rural areas.

# SENATE—*Friday, September 25, 1992*

*(Legislative day of Wednesday, September 23, 1992)*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Our Father in heaven, we pray for the large Senate family this morning. Thou knowest each one in the total context of his/her life. Thou knowest the one who is ill; the one who is discouraged; the one who is fearful; the one who is frustrated; the one who bears a burden which cannot be shared with another. Touch the life of each member of our Senate family and grant that this weekend will be one of encouragement and renewal and strength. We pray, dear God, for the families of our family who so often are hostage to the Senate schedule. In grace, remember these families and grant that this weekend will be one of reconciliation, healing, and hope.

We pray for broken families, for poor families, for homeless families, for lonely families, for those who have lost loved ones, who have lost jobs, who have lost hope. Help them to realize that Thou art a God who knows when a sparrow falls, for whom each of us is of infinite value, and who loves us with an everlasting love.

Touch each life with some evidence of Your love and mercy and forgiveness and renewal. And help all of us to realize that, even when we come to God as a last resort, He is there, ready in mercy, to meet our needs.

We ask this in the name of our Lord who loves us. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 25, 1992.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leader time is reserved.

## TAX ENTERPRISE ZONES ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 11, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

Pending;

Smith amendment No. 3161, to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

Smith amendment No. 3162 ( to amendment No. 3161), in the nature of a substitute.

### AMENDMENT NO. 3162 TO AMENDMENT NO. 3161

The ACTING PRESIDENT pro tempore. Under the previous order, the pending question is on amendment No. 3162, which was offered to amendment No. 3161, with the time for debate on the two amendments to be limited to a total of 2½ hours equally divided and controlled in the usual form.

Mr. SMITH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, thank you.

Mr. President, I rise today to offer an amendment which is at the desk, and ask unanimous consent to add Senator NICKLES, of Oklahoma, as a cosponsor of the pending amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SMITH. Mr. President, thank you.

Mr. President, I would like to start the debate this morning by giving a brief explanation to my colleagues as to exactly what this amendment would do. This amendment is going to amend the IRS Code to allow the taxpayers of the United States of America the opportunity to voluntarily designate up to 10 percent of their income tax liability for the purpose of deficit reduction. When the budget is balanced, then moneys, when designated, would apply to debt reduction. So what we have here is a voluntary proposal. It is not an additional tax. It is much like the Presidential checkoff where one would check off on his or her tax return this little check that says that I want, whatever, 1, 2, 5, up to 10 percent, totally voluntary on the taxpayer's part, and say that this money should go to buy down, pay off the deficit, retire the deficit, and then work to pay off the debt. All the moneys that the taxpayers designate in this procedure would be placed in a national debt reduction fund established in the Department of Treasury.

One of the fascinating things that I found out in my research was that we had no line item in the budget to retire the national debt, which may be one of the reasons why we are not making much of an effort to retire it.

On May 1 of each year, the Treasury Department would be required to provide Congress with an estimate of the total amount designated by the taxpayers. The taxpayer would designate these taxes on April 15, and by May 1 of each year the Treasury Department would be required to buy time with an estimate of that total amount which would be designated by the taxpayers.

Congress would then have from May until the end of the session to find alternative spending cuts in discretionary spending on entitlements. If Congress, in conjunction with the President, failed to enact the spending reductions which the taxpayers had indicated they wanted to meet the amount designated by the taxpayers, an across-the-board sequester of all Government accounts, except Social Security, deposit insurance, and net interest—Social Security because we would not want to and because of the trust fund, and the deposit insurance and net interest because we cannot impact that—would occur at the end of the session.

So we have an across-the-board sequester only if the Congress refuses to take action to make priorities in terms of where these reductions should come.

If Congress and the President enacted only half of the necessary cuts, the sequester would ensure the other half. If they enacted a third, the sequester would ensure the other two-thirds. If they enacted all, there would be no sequester. All spending cuts would be permanent. The cuts would permanently reduce the spending baseline. So

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

we do not have the baseline expanding each year as is the situation now.

Although nothing in this amendment, Mr. President, would prohibit Congress from increasing taxes on their own, which they have a propensity to do, tax increases could not be used to substitute for the spending cuts designated by the taxpayers. So, if the taxpayers designate $15 billion in spending cuts and the Congress raised $15 billion in taxes, the spending cuts would still have to be made, and Congress would have to answer to those taxpayers as to why they chose to raise taxes when the taxpayers asked them to cut spending.

Mr. President, on July 1, the Senate voted to kill the balanced budget amendment, unfortunately. It is an amendment many of us have fought for, tried to get passed through this body, tried to get on the President's desk for signature for years. We have not been able to do it. But since the time when that amendment was defeated, the words "deficit reduction" have scarcely been uttered in this Chamber. We have to reduce the deficit before we can reduce the debt. We have to get a balanced budget before we can begin to pay down the debt.

It is almost as if we said, "OK, we had our debate on the balanced budget amendment, we all expressed our concern about the deficit, let us just move on to other things." Unfortunately, that is what we do. We talk about it, we move on to something else, we talk about that, but we really do not take any strong definitive action to reduce the national debt or to balance the budget.

I do not want to move on to other things. There are other things that are important. I do not mean to imply they are not. But I want to stay focused on the No. 1 problem in this country, the national debt and the deficits that add to that national debt year after year after year.

I have looked at the Senate calendar, and there is not one order that I consider to be more important than deficit reduction on the calendar as I see it before we leave here next week. In fact, nearly every item on the calendar, every item, nearly every item on the calendar would result in an increase in Federal spending as opposed to a decrease in Federal spending.

So what we are going to concentrate on for the next week-and-a-half is to add more deficit, bigger deficits, bigger burdens to the taxpayers of America instead of decreasing it.

So the focus is in the wrong place. This is a simple matter. It is the taxpayers themselves who can indicate that they want this debt retired and they can work around a Congress that chooses to ignore the will of the people, a large majority of whom are saying over and over again: Balance the budget, reduce the debt. And the Congress chooses to ignore it.

It is time to ask ourselves what exactly are we doing, what are we doing to ourselves and to our children? The Federal Government has been on a 10-year spending spree, and frankly there is no end in sight. It is like the Energizer Rabbit, Mr. President, we just keep going and going and spending and spending.

It might be a good idea to use the Energizer Rabbit in a commercial for the Government. We probably would be somewhat reluctant to buy the time, I am afraid, Mr. President. It would not make us all look too good, but there is no end in sight and we have that little Energizer battery right in this Congress and we just keep right on spending. And the American people, frankly, are tired of it, but do not seem to be tired enough to do something about it at election day. Maybe they will this time.

Our national debt is currently $3.9 trillion and the clock is ticking. We will add several million more to it by the end of the debate of my amendment today, if you can believe that.

The Federal Government could cancel every single spending program in existence, agriculture, weapons, Social Security, and thousands of other programs, cancel them all, every one of them, and what would happen, and apply every tax dollar to the national debt for the next 3 years and we would still fall short of paying off the national credit card.

That is what it is. It is a national credit card. We all know what a credit card is, and you all know you have a limit on your credit card. Every taxpayer does, every Member of this body does on his own credit card. But when it comes to the Government credit card there is no limit on it. When we run out of money, we borrow some more; run out of money again, borrow some more. We laid out a budget but did not pay any attention to it. Borrow some more.

This year it will be over $300 billion spent more than the taxpayers of American have given us to spend, like the Energizer Rabbit going and going and spending and spending.

Congress is not getting the job done. Instead we are going through the same old tired motions that placed each of my children and yours, every American, every single American man, woman, and child from the babies born as we speak to the elderly citizens of America, every one of them, $15,000 plus in debt; that is the share of the national debt that each one of us owes, because of the fiscal irresponsibility of this Congress.

The Office of Management and Budget estimates that the Federal Government will spend more than the $1.5 trillion in the upcoming fiscal year, more than the $1.5 trillion and the breakdown is not very complicated. It is very easy to figure out. Mandatory entitlement spending will consume about $688 billion, deposit insurance, a line item, we could do little to change unless you want to not guarantee the deposits of all the people including senior citizens in this country, that will cost us about $75 billion. Net interest on the debt, net interest on the debt which rises, Mr. President, as we continue to increase the debt, the net interest on that debt, another item which is difficult to reduce, will total approximately $214 billion in fiscal year 1993.

Think of your favorite program, I do not care what it is, in the budget of the United States today and think what you could do with that program with half of that $214 billion that we throw away on interest, because we continue this horrendous debt spiral. Defense spending, continuing the list, will cost about $290 billion, and that is going down, but that is the cost this year. We will spend $20.6 billion on international affairs. And last but no means least we will spend about $225 billion in the domestic discretionary category.

Total spending, $1.51 trillion. Total revenue, what the taxpayers of America give us to spend, $1.165 trillion. Total deficit, $349.9 billion—let us round it off to $350 billion. Total spending $1.5 trillion, total revenue $1.1 trillion, total deficit $350 billion, total disaster for the future generations of the United States of America. When do we stop? Mr. President, when do we stop?

How high does it have to go? How far does it have to go? What is the limit? We now spend about 16 cents of every dollar on interest on the national debt, $214 billion right now this year. Where does it stop? Do you want to let it go to 30, 35, 90 percent?

It is going to keep going until we stop the spiral and until we cut spending, until we reduce the deficit, balance the budget, and bring the debt down.

When the debt goes down, the interest goes down, and I will show those figures, and they are very dramatic, very shortly.

Mr. President, I believe we need to act in every area. We need to cut our office accounts. We need to cut funding in the executive branch. We need to attack the mandatory spending problem. We need to limit discretion spending, domestic, international and defense. All of it. There should not be any exemptions.

It can be done. It is going to be tough. It is going to be difficult, yes, but it can be done. And it must be done, because if it is not done our children and their children are going to pay, and they are going to pay big time.

One of the things that I have said in the schools that I talk to in my State of New Hampshire, and I talk to a lot of schoolchildren, and I tell them you ought to be mad at your parents, you ought to be mad at your leaders, including Members of Congress and the Senate and the President, and everybody else that has anything to do with this matter. You ought to be angry. And you ought to express it, because we are making you pay, we are putting you in debt, we are asking you to take more burden, more financial burden in a selfish act, a selfish act on our part as adults to do this to our children.

Think of it: Do you want to leave your assets—that is your home, your property, whatever assets you may have to your children, or do you want to leave them to your debt? When you leave your will, you will your belongings to your children. Do you want to leave them the mortgages on those belongings, the finances you owe on those belongings, or would you like to leave them belongings? We are leaving the debt. We are leaving them the mortgage on those belongings.

Every year the Congressional Budget Office issues a report outlining various options for reducing Federal spending. The first report in 1981 included a number of proposals that a decade later still have not been enacted by Congress.

Here are some of the suggestions, Mr. President: Repeal the 1931 Davis-Bacon Act, for example, which would save a lot of money. Forced wages, higher wages, when, in fact, many people would love to work for a lot less than those mandatory wages. Reduce funding for Amtrak. Why should a taxpayer who makes $15,000 a year or $20,000, pay for a ride on a train to work for somebody making $100,000 a year? Does that makes sense that we are doing that? That is what we are doing.

Farm deficiency payment, farm subsidies, billions of dollars a year.

There is always somebody in this body and always some interest group out there to say: Do not cut this, and do not cut that. In my office, I get a lot of people coming in and out every day, and I do not have too many people coming in saying: I do not mind if you cut my program.

The doctors come in and say: We take care of the health of America, do not do anything to cut us. The farmers come in and say: We feed America, do not cut us. The defense guys say: We defend America, do not do anything to cut us. Social Security folks say: Do not cut us, we are the senior citizens.

But we are not going to cut Social Security in this amendment. We are not going to cut Social Security, because that is a trust fund and it should be guaranteed.

The General Accounting Office has also made a number of proposals to reduce spending and streamline the Federal Government, which has been ignored. Eliminate wool and mohair subsidies. Yes, we have that. Overhaul the Farmers Home Administration, and privatize the Government Printing Office. Talk about environmental concerns. How many trees get cut down because of the documents we print around this place, two-thirds of which we do not need and nobody reads?

Those are the GAO and CBO recommendations, Mr. President. They have been ignored. Nobody pays any attention to them. Nobody cares. We just get up here and talk about debt reduction and talk about deficit reduction, and do not do anything about it—just talk about it. Congress created those organizations to help us do our job. We ought to listen once in a while. We are ignoring their recommendations. Instead of reducing spending, we continue to waste money, flat out, on items that have no national significance, no national significance whatsoever, and we spend the money anyway.

The House Interior appropriations bill, for the upcoming fiscal year, for example—listen to this now—included $370,000 for the national kick off to the Smokey the Bear 50th anniversary celebration; $370,000 of hard-earned taxpayer dollars are going to be spent for the national kick off of the Smokey the Bear 50th anniversary celebration.

If you think that is the only example, you are dead wrong, because there are thousands just as outrageous as that. I will give you one more. The agricultural appropriations measure included $5.5 million for apple quality research.

Mr. President, it goes on and on. There is waste in the executive branch as well. We are not trying to single out just the waste that Congress exercises. There is $346,000 to operate the Department of Treasury fitness facility; $346,000 to operate the Department of Treasury's fitness facility. I suppose there is probably a fitness facility in the Department of Labor and maybe one down at the Department of Commerce. I do not know. After all, we ought to have a fitness facility at $350,000 a pop. It goes on and on and on.

Taxpayers, constituents write in here, and they outline these things and alert us to them, and we continue to fund them year after year after year. And then we hear people say that we have to tighten our belts. When some person who is unemployed in Manchester, NH, calls me and I have to tell him that we are spending hard-earned taxpayer dollars on that kind of nonsense, it is pretty tough to have to respond to, Mr. President.

Let me talk about the key ingredient to this amendment; and that ingredient is empowerment. The people that pay these taxes, the people that fill out these 1040's, honest, hardworking, American men and women, on April 15, who pay their taxes and have a tough time doing it, most of them, but are honest, they pay those taxes. These are the people now who are going to have the power. These are the people, if this amendment passes, who can say: Congress, you are not doing it, and I am sick of it. I am going to give you my tax dollars, but I am going to tell you that you have to put 10 percent of it, or whatever I designate up to 10 percent of it, to reduce the deficit and the debt of the United States of America. I am going to mandate you to do it. If I cannot defeat those of you who will not do it, then I am going to mandate that you do it with this tax checkoff. It is empowerment; it is democracy at its grassroots, at its best.

I might just say that if you oppose this amendment, you are saying to the American people, to the taxpayers of America: I do not care what you think. I really do not care what you think, because I do not want you to tell me to reduce the debt.

It is interesting when you look at the figures, Mr. President, to look at some of the States. I see, for example, the Presiding Officer from Connecticut. There are $10 billion in taxes paid to the Federal Treasury from the citizens of Connecticut, Federal tax dollars. So Connecticut sends $10 billion to the U.S. Treasury. If this amendment passes, those taxpayers could designate $1 billion of that $10 billion to go directly into debtor deficit first, and eventually debt retirement.

I think they would like to do that. The Senator from Texas is on the floor and the Senator from Texas might be interested in knowing, if I can find the figures—I do not have Texas on here. It is a lot, I can tell you that. It is a huge number. I thought I had Texas. I apologize.

Illinois, for example, has $25 billion in taxes; Florida has $25 billion; California has $53 billion. And I do have Texas, Mr. President, $29.9 billion in Federal taxes are paid, nearly $30 billion, paid to the U.S. Treasury.

So if this amendment would pass, the constituents of the Senator from Texas could designate that $3 billion would be directly paid to debt retirement, or deficit first and then debt.

And then my citizens of New Hampshire, my constituents—we are a little State and do not get into the big numbers, but the citizens of New Hampshire send $2.3 billion to the U.S. Treasury in Federal taxes every year. They would like, I believe, to have $230 million used to pay down the debt and the deficit. So it is empowerment.

I have heard critics out there and one of those is not the President of the United States. George Bush supports this amendment, and he is very strong in favor of it. As a matter of fact, he talked about it in his acceptance speech, because he believes in the empowerment of the taxpayers. He believes that the American people ought to have a right to pay this debt down when Congress refuses to do it.

It is not a gimmick. Some people out there have said that it is a gimmick. A lot of the critics have said that it is a gimmick. I say to those people, if you think it is gimmick, you can simply choose not to participate. If you think it is a gimmick, do not use the checkoff. It is voluntary. You can simply choose not to participate in the plan when April 15 comes around. If you are right, and it is a gimmick, and you can convince the taxpayers that you are correct, all 100 million of them, that file their returns, can choose not to participate in the scenario.

What have we lost, Mr. President? We passed the amendment; the people say I want it, and millions of them check it off and billions of dollars begin to bring this debt and this deficit down. Then it is working. If they do not do it and they say I am not going to do that and they do not check it off, then there is not a thing lost. If one taxpayer chooses to send $100 in and he is the only one, or she, then we have paid $100 off of the deficit which is a lot more than we are doing now. So we have not lost anything.

We are giving the American people a chance to buy down the debt of the United States of America. Give them a chance, Mr. President. That is all this body has to do is give them a chance to do it. We have not lost a thing.

But what scares the opponents of this amendment is that the plan will work. That is what scares them. Not that it will not work, but that it will work, and that when this checkoff comes and they set up that trust fund to pay down that debt, that means that Congress is going to have to take a matching amount of dollars and reduce spending. That is what the real concern is here. That is what the concern is.

My guess is that then many Americans will decide to participate and Congress and the President will then get their marching orders from the people. We can either listen to the people or ignore them. It is that simple. The President of the United States and some of us who are sponsoring this amendment are saying: Let us not ignore the will of the people.

I might add that it should be mentioned that Congressman BOB WALKER of Pennsylvania, on the House side, has introduced legislation on the House side, and has worked very hard in cooperating with me in terms of getting the message out about what this amendment is.

This amendment would not require taxpayers to increase their taxes. I want to make that very plain. It does not require anything. It does not increase your taxes. It is not an add-on on your 1040. You go down to the bottom line on your 1040. If you owe $5,000 in taxes, you can designate up to $500 toward the debt, or it could be $100, or $10. It is your call. You do not add it on. It just comes out of the taxes you are paying. It is not an addition.

The amendment does not exclude those receiving a refund from the Federal Government, not at all, because it uses income tax liability as the basis for the contribution—income tax liability.

Many Senators are aware that President Bush has endorsed this, as I have already indicated. Unfortunately, his opponent has not chosen to do that. And he thinks that the plan is not a good idea.

So I would say to Mr. Clinton at this point, why not let the American people decide whether the plan will work? Let the American people decide. Endorse the plan, Mr. Clinton, as the President has, and let the American people make the decision. There is nothing wrong with that. Let the American people make a few more decisions around here. We might be able to reduce the debt and the deficit a little bit further.

Now, what is the impact of that proposal? CBO, hardly noted for their conservative bent, has estimated if taxpayers fully utilized the checkoff, the resulting cuts in Federal spending could balance the national budget in 5 years.

Now, I want to emphasize that is if the 10-percent checkoff maximum is used by the 100-plus million taxpayers in the country, the taxpayers of this country could balance the Federal budget in 5 years. And if it continued on the same spiral, somewhere in the vicinity of 2005 or 2006, maybe a couple years beyond that, we can retire the national debt. That is how dramatic this proposal is. And the taxpayers can do it. Congress does not have the courage to do it, but the taxpayers can do it, and it is their dollars that we are spending.

The numbers are dramatic. In 1994, if this were to pass, in fiscal 1994, $48 billion would come off of the deficit. That would save $2 billion in interest alone, just interest. Just interest, $2 billion in interest the first year. That is a lot of money where I went to school, and where I come from, it is a lot of money.

It goes on. You go through 1994, 1995, 1996, and 1997, you go all the way up to $232 billion. And look at the billions in interest that you save: $7 billion in 1995 in interest alone; 1996, $16 billion; 1997, $31 billion. Total deficit reduction, $263 billion in the next 4 or 5 years. The numbers are incredible.

Is this a tough decision Congress has to make? You bet. But here is the point about this plan. The people are telling us to make the decisions. They are saying, "It's my money. I am giving it to you to spend, and here is what I am telling you to do with it. I want the budget balanced. I want the debt reduced. I do not want my kids to pay for this anymore. I want you to do something about it."

And we have the opportunity to let them do it. And all I am asking, Mr. President, in asking for support for this amendment, is to let the American people, let the American people choose whether or not they want to do this. That is all we will do if this amendment passes, I repeat. It just gives them the voluntary option, the option.

It is important to remember that the cuts that we are talking about are from the current CBO baseline. The baseline includes inflation and the natural growth of entitlements. And this proposal, if it was utilized by the taxpayers, would put Federal spending on a permanently lower pace.

Boy, that would be nice, a permanently lower pace to reduce spending.

Under the best of circumstance—the best—it could balance the budget in 5 years. I emphasize "best."

I do not expect every taxpayer to check off the form. But it might get contagious, Mr. President. We might begin to like it when we see all this money going down to retire the deficit and then we see the budget balanced. We might get excited about that. I can see this sweeping across the country in a way that would just catch on like a wildfire sweeping across the Western prairie; people talking about it at their jobs, at the workplaces, at their homes, at the family dinner table, saying, "You know what? We got $50 billion off the deficit last year. If we continue to do this, we might get the budget balanced in 5 years." And then seeing $25 billion, $50 billion, $60 billion coming off the debt, and people begin to say, "Hey, you know what? The national debt is being reduced. It is not going up. Can you believe that? And we are doing it."

I can see it catching on, Mr. President. I am excited about it. I really am.

Under the best of circumstances, this budget could be balanced in 5 years—I emphasize "best." To eliminate the national debt, we could do it, as I said, by the year 2005 if we took the maximum. If we do not take the maximum, it takes a little longer. It is your call; the call of the taxpayers. We can do it together.

But even if only half—only half—of the American taxpayers, about 50 million people, decide to participate, it would force the Congress to address the deficit problem on an annual basis, something that we do not currently do.

Mr. President, this proposal is controversial. I grant that. I know that some Senators feel that across-the-board cuts are unfair, and the fact is sometimes they are, and the fact is also that you do not have to have across-the-board cuts. We do not have to have a sequester. The only reason we will get a sequester is if Congress does not have the guts to step up to the plate and make the budget cuts in the low priority stuff that ought not to be in the budget in the first place. And I gave you some examples in my previous remarks. So if Congress acts responsibly, there will be no sequester.

This proposal is Gramm-Rudman, only it is Gramm-Rudman being engineered by the taxpayers, not by the

Congress. The taxpayers will determine how much debt and deficit we reduce and when and how long it will take. The taxpayers will do it.

Now, some might say, we elected a Congress to do that. We did, but they are not doing it. And they have not been doing it for the past 30 years.

Other Senators will scream—and you will hear it, I am sure. I do not see many of my colleagues on the floor right now, which might be a comment in and of itself. You will hear it. It will be coming up: "You are going to cut WIC. You are going to put women with children out on the streets. You are going to cut fuel assistance. You are going to cut Medicare." And you will hear program after program being thrown up. "The Senator from New Hampshire is going to put people out of work and throw people out on the street, not going to help poor people."

I have been in Congress long enough to know that when you disagree with an amendment or a bill, you paint a horrifying picture of despair. You talk about the child not receiving the vaccine shot, or the preschooler shut out of Head Start. You are going to hear it all, all of it.

But let me ask another question. What is going to happen when the United States of America continues this spiral, continues this increase of debt, continues to allow interest to eat up more and more and more and more of those dollars that are needed for these other programs and we do not have any money for Head Start, we do not have any money for defense, we do not have any money for the environment because we are paying it all to somebody for interest?

It has to happen. It is going to happen if we continue. All you have to do is look and study the figures. It does not take a rocket scientist to figure that out. If you continue to add debt, you continue to pay interest, and as long as you continue to pay interest, that interest is going to increase because you are going to be paying interest on interest. The interest on $2 billion in interest at about 7 percent that we borrow today is a huge amount of money. You can do the math.

The fact is the taxpayers would be designating spending reductions. It is not the Senator from New Hampshire that is designating the spending reductions. It is the taxpayers of America who are doing it. Some of us, including the Senator from New Hampshire, would designate some reductions if we could get enough votes around here to do it, but we cannot.

So, you, the taxpayers, can do it. Every Member of this body supports various programs throughout the Federal Government. I am not any exception to that. We all do. Some of us like some programs better than others. But we have to start thinking about the future. We have to stop thinking about the next election and start thinking about the next generation and the generation after that.

Senator RUDMAN, my colleague who is leaving this body, and Paul Tsongas, a former Member of this body, have addressed this in a bipartisan way and they are right. They are absolutely right.

We are not getting interest-free loans. We pay roughly $80 million of interest on every $1 billion we borrow. That is $80 million we could be spending on health care or education or infrastructure; $80 million on every billion we borrowed. We borrowed $350 billion this fiscal year over what we had from the taxpayers—$80 million in interest on each one of those billions.

How many children could be vaccinated against polio in the inner cities with that $80 million? How many hungry people could we feed? How many houses could we build for that, for people who are homeless? How much help could we give the people in Florida for that? That is interest money, thrown out the window because this Congress refuses—absolutely steadfastly refuses to address the debt.

Interest payments now consume roughly 14 or 15 percent of the Federal budget. In 1992 we paid $200 billion in interest payments on our debt. In the year 2002 that number will be $300 billion. Where are we going to stop? Four hundred billion dollars? Eight hundred billion dollars? Twenty percent of the budget? Ninety percent of the budget, as I said earlier? Under current policy the CBO estimates that the public debt will be more than $6 trillion by the year 2002.

Mr. President, $6 trillion by the year 2002, if we continue on the current spending track that we are on. That is larger than the size of our current economy in its entirety—$6 trillion.

Where would we be if the taxpayers get their way and have the opportunity to exercise this checkoff that I talk about? By the year 2002, instead of a $6 trillion national debt we would have about a $2.2 trillion national debt. So instead of having $6 trillion we have $2.2 trillion. We still have a debt but we have come a long way, baby, as they say in the commercial. And we have. And we the taxpayers would have done it under this amendment, and very shortly after that, because in that last year under this current trend, in that last year, 2002, we would have a $513 billion surplus—a $513 billion surplus in the year 2002 we could apply to the national debt. That is a half a trillion dollars. We can take a half trillion off it in one whack.

So by the year 2000 we take another half a trillion off and in another 3 or 4 years the budget is balanced and then we can throw away this amendment and rip it up. And we can say thank you to the taxpayers of America for making this Congress exercise fiscal responsibility for a change and maybe we could have something to look forward to for our children. And they will have something to look forward to for their children.

That $6 trillion debt will destroy jobs. Make no mistake about it. If you are out there talking about jobs in some campaign someplace, that debt is going to destroy jobs. If you want to save jobs you are not going to save jobs by saying you are going to put $150 billion into some jobs program run by a bunch of bureaucrats in Washington as some of us, some people want to do who are running for various political offices. That is not the way to do it.

The way to do it is to move this economy, to infuse in this economy sound economic policies, including this type of proposal which reduces the debt.

A $6 trillion debt is also going to drive interest rates right through the roof. It is going to cripple our national economy. And the truth is we cannot afford to address this problem.

We are all going to disagree on how to reduce the debt and the deficit. But we ought to agree the time is now to do it. I do not mind debating with my colleagues on how to do that. Some of us will have programs that we will want more than others. Some will want to cut more off of one program than someone else. Fine. No problem. That is democracy at work. We will do it right here in front of all the American people. But the problem is we are not doing it at all. We are not exercising any priorities at all. We are continuing to borrow money. We are continuing to borrow, continuing to spend.

This amendment is simple, Mr. President. There is nothing complicated about it. Do Senators want to include the American people in the process? Do they want to include the American people in the process of debt reduction? Or do they want to exclude the American people from the process of debt reduction, because that is the issue. That is the issue right there, pure and simple. Do you want to include the American people? Do you want to let the American people exercise their checkoff and bring this debt down? Or do you want to exclude them? Do you want to let them do it or do you want to stop it? And that is the issue.

There will probably be a motion. I want to make it very clear because I anticipate it coming, there will be a motion to make a point of order and there will be a motion to table it or waive it, whatever the parliamentary procedure turns out to be.

I want to emphasize, when that happens, if there is a motion to table it or waive it or whatever they do, that is a motion to kill it. If you vote for it, you are voting to kill it and you are voting against this proposal.

Let me make this clear. If you vote against this amendment you are saying to the taxpayers of America, the ones who pay our salaries, that you should not be able to apply your tax dollars to reduce the deficit and the national debt. That is what you are saying.

You pay us our salaries, you send us here, you are nice enough to elect us. But, sorry, I do not want you to have anything to do with debt reduction. Because we would prefer to increase the debt and to go back home and tell you all the good things we are doing for you by increasing that debt, instead of telling you the truth—which is we cannot continue on this upward spiral of debt.

I think the American people deserve a chance, a chance to show they are willing to make the sacrifices necessary to tackle this problem. That is all I am asking in this amendment. Give the American people a chance.

The President has. The President is giving the American people a chance. He has asked me to present this amendment and he has asked the Congress to support this amendment so we can give the American people a chance.

There has been a lot of criticism about the President on the economy—a lot of it, and a lot of it unfair. This is a proposal that deals with taxpayer empowerment, taxpayer empowerment. It is a chance for the President and the American people and the Congress to join hands together and balance this budget and to make the tough decisions together to balance this budget. If they were easy, it would not be a problem. They are not easy and we all know it. So, instead of ducking them let us face it. Let us tackle this problem. If Congress cannot make the decisions I am confident the American people will, and I urge my colleagues to support this amendment.

I might ask before I yield, Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER (Mr. KERREY). The Senator from New Hampshire has 29 minutes and 40 seconds.

Mr. SMITH. At this time, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time is there on this side?

The PRESIDING OFFICER. The whole 75 minutes allocated per the agreement.

Mr. BYRD. Senator BENTSEN has designated me to control the time during his absence from the floor, which will be temporary. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened with great interest to the excellent speech that has been made by the distinguished Senator from New Hampshire. And I have been impressed by his enthusiasm for his amendment.

He has talked of this as an idea that will catch fire across America and that the people of America will be talking about it at the dinner tables and the breakfast tables; they will be calling each other on the phone; they will be leaning across the benches and the lathes in the workshops saying, "Hey, have you heard about this? We are really doing something." The able Senator has talked as an inspired man. He is really enthusiastic about his amendment. I can understand why. He really does not understand his own amendment. That is his problem. That is the side of the amendment I want to address, in part.

This is a Circean amendment, C-i-r-c-e-a-n; a Circean amendment. The Odyssey by Homer is a story of adventure, a story that has been told and retold for 3,000 years. Odysseus, following the Trojan war, was many years in reaching his home of Ithaca, in the course of which, Odysseus and his companions came to the Island of the Winds. And on the island was Circe, the beautiful enchantress. We are told that Eurylochos and others among Odysseus' companions went to the House of Circe. Eurylochos chose not to enter the House, while his companions listened to the beautiful voice of Circe inviting them into the House. All around the House there were lions and wolves with the minds of men, men who had been lured into the home of the enchantress and given a poisonous drug and changed into animals by Circe.

The companions of Eurylochos went in. Circe prepared some posset, gave them some cheese, milk, honey, and wine, and when they had swallowed it, she tapped them on the heads and took them out to the pigsty. They had bristles, and they were swine in shape, but they retained the minds of men.

Eurylochos did not go in because he suspected a trick. He went back to the boat and told Odysseus. Odysseus then went to the home of Circe, but before he reached the home of Circe, he was met by Hermes, the messenger of the gods, who warned him of what would happen and who plucked from the Earth an herb, a magic herb that would protect Odysseus from the occult powers of the enchantress Circe.

Therein lies the story which can be applied to this amendment, and that is why I have referred to it as the Circean amendment, because it has all the attributes of the story. In reality, it is a potion that will taste like honey, but it is a trick. And there is no magic herb, in this instance, to guard against its bewitching powers.

Now let us talk about the attractiveness of it and its poisonous aspects and why it indeed is a trick. This amendment sounds like a silver bullet, but it is really a poison pill. Let us take a look at what the amendment does.

As the distinguished Senator from New Hampshire has so carefully, articulately explained, the amendment would allow every individual taxpayer to indicate on his tax return that a portion of his tax liability, up to 10 percent, could be used to reduce the public debt, and would be so used if he so indicated that as his wish. As a result, 10 percent of his taxes would be placed in a public debt reduction trust fund.

Now, this is the silver bullet. It sounds good, looks great, feels great, makes people want to talk at their breakfast table, want to lean across their lathes and say, "Hey, hey, hey, do you know what is going on in this country?" And the Senator himself is enthusiastic. It is a silver bullet, sounds great. What taxpayer would not want to reduce the national debt? What taxpayer would not want that?

Now, for the poison pill. The Senator did not say much about this one. That is why I would not accuse the Senator of a trick. I would not accuse the Senator of a trick. I would not accuse the Senator of knowingly misleading the American people. I do not believe he would do that. That is why I say I do not think he knows what his amendment does. I do not think he understands the full implications of his amendment. He says President Bush supports this amendment. Well, now, it is a gimmick. President Bush probably understands that it is a gimmick. I do not believe the Senator understands it. President Bush may understand it and probably does.

Now, for the poison pill. In order to reduce the public debt by the amount checked off by individual taxpayers, massive spending cuts would be mandated. The Senator from New Hampshire may say, "good." These cuts would be across the board, except for specifically exempted items mentioned in the amendment.

The Senator from New Hampshire will say, well, it does not have to be across the board, we do not have to have a sequester. All we need is a Congress that has the guts, the guts to face up to the problem. Congress, by making these cuts, can avoid a sequester.

Yes, Mr. President, Congress and the President working together by making these same cuts can avoid the sequester. Let us talk about these cuts.

Under the amendment, these spending cuts would be accomplished through a sequester. So, in addition to the sequesters already in place under the Budget Enforcement Act, we would have a new sequester each year in order to offset and place into the Public Debt Reduction Trust Fund the amounts checked off by taxpayers.

This new sequester would apply to all Government spending except:

First, Social Security;

Second, interest on the debt; and

Third, deposit insurance.

No other exceptions would be allowed. None.

The Congressional Budget Office has estimated that if all individual taxpayers checked off the full 10 percent allowed, the amount placed in the fund would be $48 billion in the first year.

In order to offset the revenues placed in the Public Debt Trust Fund, outlay cuts in nonexempt accounts of the same amount would be required.

In fiscal year 1994, the Congressional Budget Office estimates that total outlays would be $1.5 trillion. Of that amount, $947 billion would be subject to sequester. Therefore, a sequester of $48 billion would cause an across-the-board outlay cut of 5.1 percent.

Here is the trick. Since the amendment makes all cuts permanent, if taxpayers continued to check off the full 10 percent of their tax liability each year, the overall percentage reduction in nonexempt accounts would quickly rise to considerable proportions. In fact, if that occurred, according to the Congressional Budget Office, in fiscal year 2002, nonexempt outlays would total $1.499 trillion, from which this amendment would sequester $722 billion, or 48.2 percent.

Five percent, slightly over 5 percent outlay cut the first year, but, in the year 2002, 48.2 percent of the outlays would be cut. In that same year, CBO estimates the national debt held by the public would be $2.298 trillion.

Now, the distinguished Senator from New Hampshire has said that by the year 2005 or 2006 or 2007, or he said a year or 2 perhaps later, the entire debt would be retired. Hallelujah. By the year 2009, CBO also estimates that the entire debt would be retired.

Now, why wouldn't this thrill the Senator from New Hampshire? Why wouldn't this make the Senator from New Hampshire enthusiastic? By the year 2009. I may live to see that. Let us see now. Seventy-five. That is about 17 years away, is it not? By the time I am 92 we can retire the national debt. That is the silver bullet. Come and get it. Line up, folks. Here it is. All you have to do is make a little check mark on your form 1040. Think of it. The entire debt would be eliminated by the year 2009. I am so enthusiastic about this I am almost ready to break this microphone cord and rush over, greet the Senator, shake his hand and say, "Sign me up."

It sounds like one of those advertisements where the bank says we will give you a free checking account—free.

You call up and say, "I want to get that. I want that free checking account."

They will say, "But, you have to maintain $5,000 on deposit. And you cannot write over 6 checks a month." So you had better read the fine print.

You see a little bottle of medicine which says take one of these pills and it is guaranteed you will have no headache tomorrow morning. But the fine print tells you that you will have massive hemorrhaging. So what we need is truth in advertising applied to this amendment.

What the distinguished Senator does not tell us is not only will the national debt be wiped out by the year 2009, but so will the National Government, lock, stock, and barrel. Gone.

The CBO estimates that because this amendment states that each year's sequester shall be permanent—this is the fine print—and each year's sequester will stack on top of sequesters for all subsequent years, there will eventually be no spending left if all individual taxpayers check off the maximum amount every year.

There will be no spending left. In fact, the Congressional Budget Office has estimated that by the year 2009, all programs, projects, and activities subject to this sequester would be eliminated, all—except Social Security, payment of interest, and deposit insurance.

Mr. President, let me point out what that means. In that year 2009, there would be no Army, no Navy, and no Air Force. There would be no law enforcement; all Federal prisoners would have to be freed. There would be no Federal Government. Some people may think that would be a good thing. The Federal judiciary—the Supreme Court, appellate courts, district courts—would all be forced to shut down lock, stock, and barrel. There would be no Congress.

I know some of my friends over on the Republican side and perhaps down at the Oval Office would say that would be a good thing, no Congress.

But Franklin D. Roosevelt said, "If we were to eliminate the Congress we would automatically cease to be a Republic." There would be no Congress, but there would also be no White House. The lights would be off at the White House. There would not be any money to pay people, and there would be no funds to pay the electric bill. The fifteen executive departments, and myriad independent agencies of the Federal Government would cease to exist. This amendment would take us back to where we were prior to the First Continental Congress; no Federal Government.

As I stated earlier, these spending cuts would occur on every Federal program other than Social Security, interest on the debt, and deposit insurance.

In other words, among the programs to be cut until they are totally eliminated are the following: Defense, including military programs, veterans compensation, veterans pensions. What about those veterans who have put that check on the 1040 form believing in the magic of this amendment but not knowing about the fine print? They check off 10 percent of the tax they would have to pay but they are not being told about the fine print. This is not truth in advertising.

There would be no money for veterans compensation, pensions. Medical care, gone. Medicaid, gone. The war on crime—our entire court system, the FBI, Federal prisons, drug enforcement; food stamps; infrastructure; air traffic control; mine safety and health; education—Head Start, Pell grants, student loans; economic development; child nutrition; agriculture—farm programs, including meat inspection; highways; child immunization; environmental and nuclear waste cleanup; Federal housing; and immigration controls for our borders.

And we would have to turn off the lights of the Capitol. There would not be any security around here. The British could come into the Capitol—or any other country could do so—and unless there were a storm as happened in 1814, the Capitol might be burned to the ground; there would be no lights, no security personnel; nobody to fight the fires.

I am somewhat surprised that the authors of this amendment would subject Federal spending to a sequester of this magnitude.

For example, take defense. The chart beside me indicates the composition of the 1993 CBO January baseline outlays, in billions of dollars. Net interest, $212.6 billion. The distinguished Senator from New Hampshire has pointed to the fact that the interest is eating us alive, and continues to grow. I agree with him on that. I agree with him that we need to do something about it. But I do not agree that this is the way to do it.

Medicare, on the chart accounts for 5.8 percent; Social Security, 20 percent; deposit insurance, 4.4 percent; mandatory and entitlements, 15.4 percent; defense, $314.9 billion, 20.9 percent; domestic discretionary, $223.6 billion, 14.9 percent. The two items, domestic discretionary, and defense international are the only two items over which the appropriations committees may exercise any control. The two of them added together come to 35.8 percent of the total budget.

So many of my friends on the other side of the aisle are repeatedly pointing their hands at the Congress, blaming the Congress for the deficits. This chart beside me shows that over a period of 47 years, 1945 through 1991, the totals of the regular annual, supplemental, and deficiency appropriation acts of Congress are under the Presidents' budget requests in their totality during that period by $188,769,229,364. The total budget requests by all the Presidents in those years, 1945 through 1991, amounted to $11,710,201,833,552.

Congress, in all of its appropriations—all of them, the whole thing—appropriated $11,521,432,604,188, or, $188,769,229,364 less than all of the President's have requested during those years.

Going back to the other chart, let us again talk about defense for a moment.

Here we are. This is the segment of the entire outlay budget chart that is designated for defense.

Congress and the President have already made substantial cuts in defense spending. They are entirely appropriate cuts in light of the changing world circumstances, but ultimately the cuts required by the sequester we are talking about, that would result from this amendment, would eliminate our national defense by the year 2009.

If all taxpayers did the checkoff under this amendment, the total debt would be eliminated, would be retired as the distinguished Senator from New Hampshire correctly points out by the year 2009. But what he does not point out is, that the entire Federal Government of the United States, not only here in Washington but throughout the United States—every office of the Federal Government, every activity of the Federal Government, every operation of the Federal Government, every Federal project, every Federal program—would also be eliminated except Social Security, interest on the debt—and, of course, interest on the debt would, by that time, purportedly be eliminated—and deposit insurance. Everything else would be gone.

Now I am confident that the Senator from New Hampshire does not intend those consequences. I do not believe he intends those consequences. That is why I say I do not think he knows what is in his own amendment.

Mr. President, it is quite possible that this amendment would constitute an unconstitutional taking of property without due process. It would make permanent reductions in existing statutes which mandate benefits for veterans' pensions, civilian and military retirement payments, Medicare, Medicaid, and a host of other statutorily mandated entitlements.

The distinguished Senator has quite mercifully said to the old folks of this country: This amendment will not hurt you. We are not going to cut your payments. We are exempting Social Security. So you will not awaken in the morning and have a headache.

But again, let us read the fine print. Let us read the fine print. I want to address this to my compatriots across this great land, across the prairies, across the Rockies, the Allegheniès, from the Canadian border to the Gulf, from the Atlantic to the Pacific; let me address my compatriots, my fellow senior citizens. The junior Senator from New Hampshire says he will be exempt from the pain: Social Security will not be hurt under his amendment.

But domestic discretionary is going to be completely eliminated by the year 2009. Where do the administrative expenses for delivering the Social Security checks come from? Who pays for mailing out the Social Security checks? Domestic discretionary pays for it. Domestic discretionary, which is going to be eliminated. Social Security will not be hurt, the Senator says, but you just will not receive your checks. Why? Because there will not be anybody left in the Social Security Administration to send out your checks. So the authors of the amendment are saying to the old folks around the country, you can just rest easy. This amendment exempts Social Security. Hallelujah, great, that makes me feel good. I am a senior citizen. It will not hurt me. But the trick is, there will not be anybody there in the Social Security Administration to send the checks out, because this amendment will eliminate the administrative expenses; there will not be any money to pay the administrative personnel of the Social Security Administration. The reason is that the administrative costs in the Social Security Program are funded from domestic discretionary appropriations, which under this amendment are subject to the sequesters that would be piled on top of one another, year after year after year, each sequester being permanent. I say to my friends on the Appropriations Committee, who are expected to know something about baseline, and I think every Senator does on that committee, this is fine print that is potent. This is the bitter pill. This is the magic potion that will eliminate the Federal Government.

So, by the year 2009, there would be no means for processing Social Security checks. Furthermore, eventually as these sequesters compound themselves, you reach the point where there are not enough outlays left to meet the contractual obligations of the Federal Government.

Senators should understand that a vote for this amendment would mean permanent cuts—permanent cuts—in all of these programs every year; no exceptions allowed, except for the three I have outlined. No provisions made for emergencies such as future "Hurricane Andrews or Inikis," or "Typhoon Omars," or earthquakes, or other natural catastrophes, or recessions, or depressions, or wars, such as the Persian Gulf war.

So they would say to the people of Florida, and to the people of Hawaii, and to the people of Louisiana: Here is $10 billion. You have had a terrible catastrophe, an act of God. Here we are helping you with the right hand, but what the right hand giveth, the left hand will take away under this amendment. There will not be any National Guard to help you. There will not be any National Guard after the year 2009 to help the people who are flood stricken, or stricken with tornadoes, typhoons, cyclones, or earthquakes. There will not be any National Guard, because this amendment will have eliminated the funding.

All this money will be gone, because these sequesters, piling on top of one another year after year, will eventually wipe out the Federal Government.

This is a meat-ax approach to deficit reduction. This effort is just another attempt to devise a procedural way to reduce our budget deficits—to avoid using the human intellect to make rational decisions based on sound analysis and instead devise a magic process that will automatically solve our budgetary problems. By this amendment, we are going to put everything on automatic pilot. Just put a little check mark on the 1040 income tax form, we are told, just a little check mark, and the debt will be completely retired by the year 2009. Do not bother with the fine print. You will learn about that later. This amendment represents a desire to avoid responsibility—to escape making the tough decisions, and to shift our responsibilities as elected representatives to the American taxpayer.

This amendment is especially odious, because it misleads the American taxpayer. The whole concept behind this kind of easy, slick approach to governing is disturbing. Cutting the deficit without harming our Nation's future is a job for committed, responsible leaders who do not shrink from the task, even though it is not popular.

In the 1950's, we had toys for our children called "erector sets" with which they could build almost anything. "Erector-set solutions" to serious problems have been tried time and time again, and they have met with only limited success. This is another brain-dead, easy fix that eviscerates our future by making it a slave to a process.

Let us not further add to the Frankenstein that is called the budget process. It is already made up of too many parts stitched together too much, too often, and at random.

As long as we continue to put vain hope in these slick, no-pain fixes, there will be little real progress in reducing the budget deficits. Only genuine leadership will make a difference. Only courage from both ends of Pennsylvania Avenue will turn the tide. And the President will need to do more than just say we will give the taxpayers the option of checking a little mark on their 1040's, indicating thereby that 10 percent of their income tax is to go into a trust fund to reduce the budget. Easy solution. The Circean solution.

But do not read the fine print. I do not fault the Senator from New Hampshire. He thinks he is doing a great thing, and I agree with him that we need to act, and we need to act together. It is going to take courage and intellect but we ought to take action up front and lay the whole plan right out on the table. Let the American people know about the pain.

It is going to require some increased revenues. The President says he wants to cut taxes. With that kind of a national debt—$4 trillion now and heading for $6 trillion in a couple years, or three, talking about tax cuts? That is unrealistic.

There has to be some pain. There have to be some cuts in spending, too. But the American people ought to be told specifically what those cuts are going to be, where they are going to be applied. Are they going to be in defense? Are they going to be in domestic discretionary items? Are they going to be in the mandatory items? Is there a need to have increased revenue? If so, who and what will be taxed? Should there be an increased tax on gasoline? European countries pay far, far higher taxes on gasoline than the American people pay. Is that what we are going to have to consider?

The President of the United States has to show leadership. He has to sit down with the Congress and say, "This is what we are going to have to do and we are going to have to do it together, so that you do not clobber me and I do not clobber you," and we all go out and tell the American people where the pain is, where it is going to be applied. There is no magic solution. We owe that, as the distinguished Senator from New Hampshire says, to our children.

Mr. President, this amendment is not leadership, and it should be summarily put to death.

How much time do I have remaining?

The PRESIDING OFFICER. Thirty-three minutes and 24 seconds.

Mr. BYRD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I yield myself 2 minutes.

In response to the distinguished Senator from West Virginia, I might say, regarding the term "brain dead," there would be a number of people, I think, throughout America who might take the position that brain dead is allowing the national debt to move to $6 trillion, which the Senator just admitted is where we go in the next few years if we continue along this path.

I take issue with that. I might also say that I warned my colleagues that this would be the approach that we would take, that we would mention all of these programs that are going to be cut and eliminated. The Senator knows full well we are not going to eliminate the National Guard or eliminate defense or any of that kind of nonsense or close prisons and put prisoners out on the street. Of course, this is the tactic that must be used, because we have to scare people.

I might just say that the truth of the matter is that if, in fact, what the Senator says is correct and the chart that he shows there is accurate, then the taxpayers of America will have the opportunity to say that by not checking off the box on the tax return. You see, it is not the Senator from New Hampshire or the Senator from West Virginia or the Senator from any other State or the Senate that is forcing this upon anyone. This is the taxpayers. And God forbid that we could have the taxpayers make some decisions since they just pay the bills.

I might also say that in the State of West Virginia there are approximately $2.1 billion in taxes paid to the Federal Government every year in income tax. Now, if those taxpayers, good hearted working men and women, were to put that little check in the box, every one of them, that would mean $200 million that would be paid would go toward the national debt.

I think those folks in West Virginia who work very hard ought to have the option, they ought to have that option. They may not all do it, they may none of them do it, but they ought to have the option.

I think maybe we ought to give a little more credit to the folks that send us here and not be so pompous in our attitude about what is right and what is wrong and that ought to be done and what ought not to be done. We are not doing it, and the options are far worse.

Mr. President, at this time I yield back the remainder of the time I just yielded myself and yield 6 minutes to the distinguished Senator from Mississippi.

Mr. BYRD. Mr. President, if the Senator will yield just momentarily, may I say that the $6 trillion that I referred to a moment ago as being the national debt by 1997 are the figures that are in the President's budget. This is what he proposed. Page 91, part 5, Budget of the United States Government, Fiscal Year 1993, signed up front—signed up front—"Sincerely yours, George Bush." In his budget, he states, in effect: I project this is what we are going to have if you follow my budget; we are going to have a debt of $5,917,713,000,000 by 1997. He does not propose to balance the budget.

The people of West Virginia do pay their taxes, as the Senator from New Hampshire has stated. But they will really be shortchanged, and so will the people of New Hampshire, if we completely wipe out domestic indiscretionary and defense and all the other nonexempt items by adopting the Senator's amendment.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMITH. I assume those remarks are taken from the Senator's time.

The PRESIDING OFFICER. The Senator is correct.

Mr. SMITH. I yield 6 minutes to the Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from New Hampshire for yielding me this time, because I would like to congratulate him for the work he has done in this area and for his remarks this morning.

I do not think this is a time to begin questioning the motives or the Senators' views on either side about this subject. I think this is an issue that needs to be discussed.

The President mentioned this legislation, which had been already introduced, as I understand it, in the Senate and in the House, before this summer. It was pending, and it was mentioned in the President's acceptance speech at the Republican Convention. There has been some media discussion of this subject, but very little. In my hometown, the newspaper took a look into it and endorsed it editorially, but, generally speaking, there has not even been a lot of discussion about it. So I think this is the right time and the right issue for us to take some time and talk about it.

Certainly, it is important that we hear from the chairman of the Appropriations Committee as to how this might work, what the problems might be, but let us talk about it, let us think about it. I think the American people would like us to at least discuss an idea that we perhaps could use to reduce the national debt and the annual deficit.

Mr. President, we have a little problem here, just a little problem. It has been bad for years, but it has been growing, I admit, much more in recent years. According to the midsession review, the national debt is roughly $4 trillion already. That is a lot of money in anybody's calculus. The deficit this year will be roughly, as I understand, $333.5 billion, give or take $2 or $3 billion, I guess. That is a serious problem. We cannot ignore it. We have to do something about it.

Congress cannot or will not deal with this problem. I am a member of the Budget Committee, and I know what goes into these budgets each year. It is not very pretty. We try, we struggle to find some ways to save on spending, but we are not very successful. We have not done the job.

We have seen that the regular budget process cannot reduce deficits. We have seen that Presidents of both parties really do not confront the issue adequately. So we resorted to budget summits. We tried to get the President to come in and, through his people, work with the Senate and the House Republicans and Democrats.

And I participated in those budget summits three times when I was in the House of Representatives, the so-called Gang of 17. We had one, I think, maybe in 1987, and another one in 1990. Again, we tried vainly, but we just could not bring ourselves to really address the question of how to reduce the deficit and how to reduce the national debt. I think in each case we failed. We tried, but it is so tough. Nobody wants to cut this or cut that and everybody has his little piece he wants to protect.

I remember in the eighties Republicans were saying, "do not cut defense," and Democrats were saying, "do not cut entitlement programs," and what happened was we did not cut anything. That is why we got in big debt.

Here we are now in the waning hours of the 102d Congress going blithely on our way to wrap up quickly, to get our appropriations done, to deal with this, what was an urban aid, bill now a tax bill. I am not quite sure what it is or what it is going to be.

I am not being critical of anybody that is involved. They have a job to do. The appropriators cannot help it because the authorizers do not do their job. They have to do this to get the Government running.

We have to figure out how we are going to spend the money. That is the point. The whole process is geared to how we do more for the people. Every problem, any problem you have in America, come to Washington, the Government will solve it. If you have a problem, we will mandate a solution, we will regulate a solution. We will spend you out of your problems. That is the way it works.

I am not blaming anybody. We are all guilty. We all work together to help each other. The process is just not geared to deal with this problem.

Now we also have a problem with our constituents. Let us admit it to the American people that are listening here today. You are part of the problem. When we go home to Nebraska or West Virginia or New Hampshire or Mississippi, people say: Oh, this debt is terrible. This deficit is terrible. We want a balanced budget. We want a constitutional amendment for a balanced budget. We want a line-item veto. Cut spending. But, by the way, can you help us with some highway funds? Will you help us with a little NASA project? How about a little more veterans housing? How about a little more housing? How about a few more parks? How about another military base? Save my armory. The list is endless.

We cannot have it both ways. You just cannot have it both ways. You cannot reduce the deficit and balance the budget, if you are telling us at the same time to bring the bacon home; bring it on home.

My attitude is, I think we ought to all vote to try to control spending and then fight over what is left. I want more than my share. I admit it. I do not think that is inconsistent.

But, it is not just the Senate or the House. The American people are in this with us. You are of two minds. You tell us to do the job, and then you tell us, but do not, do not cut my spending.

You tell me to go to the chairman of the committee and ask him to help me: Mr. Chairman, just include a little old project, just a million here, $500,000; could you go with $34 million here?

We all do it. And thank goodness we get cooperation. Tears well up in my eyes when I am able to get a little money for these projects. I am thankful.

Now we have to face reality. I have been pleased that outgoing Senator RUDMAN and the Presidential contender Tsongas are saying we have to lead or leave.

Well, I note that they were both here. Good men, great men. They tried. It is hard.

You know why it is hard? Because the constituents tell us one thing on one hand and another thing on the other.

Now I think the majority of the American people really want something done. They want people to stand up in their face and say to their constituents, I love you, but this is out of hand.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. LOTT. I ask for another 3 minutes?

Mr. SMITH. I yield the Senator from Mississippi another 3 minutes.

Mr. LOTT. We are just going to have to deal with this problem. That is why we have this phenomenon called Ross Perot. He does not specify how he wants to deal with the problem, but he says I am going to do something about it.

If he came to Washington, what fun it would be. He would meet Godzilla. That is us. We would be standing there saying, sure, the people have to help us but we have to lead.

But we also need to put the burden right back on them, and that is what this does. This 1040 checkoff is an opportunity for us to say, .OK, here is your opportunity. We cannot do it. We will not do it. You will not let us do it. Let us see if you can do it. Government at its best. Let us get the people involved.

Some say, oh, this is a harebrained gimmick. I imagine when we started having referendums at the State level, they called the referendum a gimmick. I still believe the government closest to the people is the best government. Let us get them involved, let them be involved, let them pay the price for their action.

I want to clear up a couple of things that maybe are misleading here. This does not say automatically it is a sequester all across the board, although I think sequester is a pretty good idea. At least you can say to everybody, hey, this is fair across the board. Except for three things, Social Security, deposit insurance, and net interest, we would have a sequester.

But Congress does not like that. They do not like the meat ax. They would rather do it with the scalpel, a little here, a little there.

Under this proposal, Congress would have from May until the end of the session to find alternative spending cuts in discretionary or entitlements.

Now, discretionary spending is not the major problem around here. The fact is, we could not deal with entitlements. We had a proposal earlier this year, or late last year; 28 votes, that is all we got. It is pathetic. This is an idea I think whose time has come.

Let us put it in the peoples' hands. They do not have to check off a nickel. They do not have to, but they can make up their own minds.

Look at what is involved here. Forget the President as one of the proposers or supporters of this idea. Do not worry about Ross Perot. Let us look at the substance.

This is a novel, innovative, good idea that is worth a try. If it does not work, we can change it. If it does not work, the taxpayers do not have to check off one nickel.

The amendment would amend the Tax Code to allow the taxpayers the opportunity to designate up to 10 percent of their income tax liability for the purpose of deficit reduction. If they are serious, let them do something about it. When the budget is balanced, the money would go to debt reduction.

All moneys designated would be placed in a debt reduction fund established in the Department of Treasury. On May 1 of each year, the Treasury Department would be required to provide Congress with an estimate of the total amount designated by the taxpayers.

Congress would have from May until the end of the session to make our decision, which is our job anyway, where the cuts would come from. If we did not do it, there would be a sequester. And if Congress got part of it but not all, the rest would come from a sequester.

Mr. President, this is a good idea. Let us try it. Let us give the people a chance. Are they serious? Let us see if they will do something about it.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 10 minutes to the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank the distinguished chairman for yielding time to me this morning.

Mr. President, I rise in opposition to the pending amendment. The pending amendment is just one of the latest in a long series of Rube Goldberg mechanical solutions to the deficit problem. This Rube Goldberg mechanical solution is really out of order for a mature democracy to be considering.

This type of Rube Goldberg mechanism might seem appropriate in the Parliament of Russia—I do not mean to demean our Russian friends, but they are just starting down the road to democracy—but we in this legislative Chamber have over two centuries of history and precedent behind us. We know how to manage, in an orderly fashion, the fiscal affairs of the largest Government in the world, if we will simply rise to our responsibilities.

We do not need some sort of ill-conceived, poorly thought out, flawed contraption to try to persuade us how we ought to deal with the problem of the deficit.

No, this is simply another means by which some of our colleagues can go to the Rotary Club back home, beat their chests and claim they are doing something about the deficit, when in reality they are doing nothing of the sort.

Just in the past 2 or 3 weeks, Mr. President, we have had a whole series of efforts made by a number of Senators, including myself, to try to reduce the budget deficit, to try to cut spending, and allocate those spending cuts to deficit reduction. And I daresay that the proponents of this amendment, who speak so bravely for it today, voted for not one of those efforts to reduce spending and cut the deficit.

Let us just look at some of the items that have come before this body within the last 3 weeks—terminate the space station. The distinguished Senator from Arkansas and myself stood on this floor almost all day, trying to persuade our colleagues to not fund this science luxury that the country could not afford. We told our colleagues, if you will simply terminate this space station, over the next 5 years you will save $10.5 billion that can be allocated toward deficit reduction. We were defeated in that effort and the proponents of this amendment voted against terminating the space station. They voted against cutting spending over the next 5 years by $10.5 billion.

Then we tried to make a modest reduction in funding for the strategic defense initiative. It was funded in the bill at $4.3 billion for this fiscal year 1993. And we cited statements from Dr. Chu, the Assistant Secretary of research and development in the Department of Defense, who said we simply cannot spend the money that fast. And we cited a former Chairman of the Joint Chiefs of Staff who stated that the maximum necessary for funding the SDI this year was $2 billion.

So, in an effort to be reasonable we offered a cut in SDI. We were defeated. And, if we had been successful we would have saved $5 billion—$5 billion reduction in spending to be applied to the deficit over the next 5 years. The proponents of this amendment this morning voted against reducing that spending and voted against reducing the deficit.

So then we said, look, according to published accounts we are spending $30 billion a year on the intelligence agencies of this country and the Director of the Central Intelligence Agency has told us in a letter that 55 percent of his resources were allocated to gathering intelligence on the old Soviet Union. So in view of the fact that the Soviet Union no longer exists, it is not a threat. We are now sending economic aid to the Soviet Union. Our President is sending his personal physician to Russia to counsel and consult on the physical condition of the President of Russia's mother. Now that we are doing this, let us just make a very modest reduction in this publicly reported intelligence budget of $30 billion. This is particularly relevant in view of the fact that the Director of the Central Intelligence Agency tells us that 55 percent of his resources, as late as 1990, was devoted to gathering intelligence on the Soviet Union.

So we tried to cut it by $1 billion. We have been defeated on efforts to make substantial savings on the space station, and strategic defense initiative, let us see if our colleagues will at least go along to saving $1 billion. We calculated that by reducing the intelligence budget by $1 billion for fiscal year 1993, over 5 years we would save $5.3 billion.

And it goes on and on. An amendment to reduce funding for the B-2 bomber offered earlier this week would have saved $6.7 billion over the next 5 years. The proponents of this amendment voted against it.

Are they going to tell the Members of the Rotary Club that, when they go back home? Oh, yes, we have a proposal here to reduce the deficit. It is some sort of mechanical approach and we are for that. We cannot support any concrete efforts to reduce spending and reduce the deficit.

Mr. BYRD. Will the Senator yield?

Mr. SASSER. I am pleased to yield to the distinguished chairman of the Appropriations Committee.

Mr. BYRD. The Senator is making a fine speech. Would they also mention to the Rotary Club their vote on the rescission, the budget rescission authority, committee substitute amendment on May 6, 1992? The President sent up rescission requests amounting to $7.9 billion. Congress upped him. Congress rescinded $8.2 billion. But the same Senators who have spoken for this amendment thus far on the other side voted against rescinding $8.2 billion. In other words voted against cutting $8.2 billion in rescission authority.

Mr. SASSER. I thank the distinguished chairman for bringing that to our colleagues' attention. Here we had an opportunity to save $8,275,000,000. Even the President had indicated that we should rescind. And he sent up a rescission request, as the distinguished chairman says, of over $7 billion, if memory serves correctly.

Mr. BYRD. It was $7.9 billion.

Mr. SASSER. And the proponents of this amendment rejected it.

So just in the last 3 weeks, when you add up the savings that could have been made——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. SASSER. Will the distinguished chairman yield me an additional 5 minutes?

Mr. BYRD. I yield an additional 5 minutes to the Senator.

Mr. SASSER. When you add up the savings that could have been made, Mr. President, $30 billion could have been saved over the next 5 years, just on votes that came before this body within the last 2 weeks. And that does not include the $8,275,000,000 that the distinguished chairman of the Appropriations Committee alluded to a moment ago.

Let us see how this amendment works. It proposes a new sequester mechanism that is supposed to get the job done. It is a new mechanism for across-the-board cuts to slash programs by an amount determined by a checkoff on tax forms.

How would this added deficit reduction relate to the existing budget process? When in the budget process could the President of the United States, while preparing his budget, and the Congress, expect to determine how much deficit reduction the checkoff required? When would you determine that during the course of the year? And how would the reduction in program funding work in entitlement accounts?

In entitlement accounts, citizens of this country are entitled to certain benefits and payments by action of law—by action of law. Many like to refer to entitlements accounts and leave the impression that they are just food stamps or aid to dependent children. They are not just that.

Entitlement accounts include Medicare. How much are you going to cut Medicare? And when are you going to know how much you are supposed to cut? Civil service retirements is an entitlement. Military retirements is an entitlement. What are you going to tell the veterans who served this country with distinction? When are you going to tell them how much their entitlement to military retirement is going to be cut? Veterans pensions are entitlements. When do you tell the veterans about the cut? Or what about the railroad retirees? That is an entitlement. Or the farmers' agricultural programs? Those are entitlements. What about the poorest and most helpless among us? The supplementary security income for the blind and disabled? When are you going to tell them how much their entitlement is going to be cut? Under this plan before us we cannot even do any planning to figure how much they will be cut.

And how about guaranteed student loans? That is an entitlement. When are we going to tell the students so they can plan ahead for their next year in school?

These and other questions deserve greater attention in the normal legislative process. Before we jump off into another mechanistic approach, we need to examine the consequences and have hearings and have committee debate about it. The pending amendment would require across-the-board cuts in all accounts, Social Security, net interest and deposit insurance; all the other accounts not exempt from sequestration would be cut.

So, as I said earlier, it would call for cuts in benefits to disabled veterans; to Medicare benefits for the elderly; food stamp benefits for the poor. And bear in mind that under the economic policies that have been pursued for the last 10 or 12 years, 1 in 10 of our fellow countrymen now are recipients of food stamps in this country; 1 in 10.

This amendment does not even exempt the traditional salaries or the claims in judgment accounts. Do the proponents of this amendment understand that the Constitution specified that judicial salaries shall not be cut?

Mr. President, how much time do we have remaining?

Mr. BYRD. Nor may the President's salary be cut.

How much time does the Senator want?

Mr. SASSER. An additional 2 minutes.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. SASSER. Mr. President, what about the claims in judgment accounts? As the Senators know, that is the account that pays off judgments that courts have rendered against the U.S. Government. What is the Government going to do about these judgments? If a citizen gets a judgment against the United States, are we simply going to say, well, sorry, cannot pay, the checkoff says we cannot?

Is the Government of the United States going to disregard an order of the court of the United States? Is that the kind of anarchy that we wish? That is what would flow if this amendment were enacted into law.

The administration has consistently opposed the tax checkoffs in past appearances in testimony before the Congress.

Now we get into an election year. The administration looks around for a gimmick, campaign ploy, to garner attention. What sense does it make to allow budget policy to be made on tax forms? Sure, it sounds like there is basic democracy in that until you think about it. We are a nation that prides itself on the principle of one person-one vote. The Supreme Court has ruled on that. But a tax checkoff gives a person the power to decide budget policy in proportion to the amount of taxes paid. It would give a millionaire 30 times more voting rights over national budget policy than the family with a median income.

Mr. President, do we want that? I do not think so, and I do not think the American people want that.

I will simply say that based on the experience we have had with mechanical devices to control the deficit, we simply can, I think, expect no practical benefit from the pending amendment.

Mr. President, at the appropriate time, I shall make a budget point of order against the pending amendment.

To conclude, Mr. President, in vote after vote this year, the Senate has had opportunities to cut spending: on the strategic defense initiative, on the superconducting super collider, on the space station, on the B-2 bomber, and on the intelligence budget.

Mr. President, I ask unanimous consent to print in the RECORD a chart entitled "Deficit Savings From Recent Votes to Cut Spending."

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

DEFICIT SAVINGS FROM RECENT VOTES TO CUT SPENDING

[In millions of dollars]

| | 1993 | 1994 | 1995 | 1996 | 1997 | 5-yr |
|---|---|---|---|---|---|---|
| Terminate the Space Station: | | | | | | |
| Budget authority | 1,338 | 2,150 | 2,250 | 2,300 | 2,400 | 10,438 |
| Outlays | 669 | 1,850 | 2,200 | 2,250 | 2,350 | 9,319 |
| Terminate the Supercollider: | | | | | | |
| Budget authority | 516 | 520 | 530 | 550 | 570 | 2,686 |
| Outlays | 206 | 410 | 520 | 540 | 550 | 2,226 |
| Reduce SDI: | | | | | | |
| Budget authority | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 5,000 |
| Outlays | 510 | 900 | 970 | 990 | 990 | 4,360 |
| Reduce funding for the B-2: | | | | | | |
| Budget authority | 1,350 | 1,350 | 1,350 | 1,350 | 1,350 | 6,750 |
| Outlays | 60 | 390 | 890 | 1,130 | 1,250 | 3,720 |
| Reduce Intelligence spending: | | | | | | |
| Budget authority | 1,000 | 1,000 | 1,100 | 1,100 | 1,100 | 5,300 |
| Outlays | 800 | 1,000 | 1,000 | 1,100 | 1,100 | 5,000 |
| Total savings: | | | | | | |
| Budget authority | 5,204 | 6,020 | 6,230 | 6,300 | 6,420 | 30,174 |
| Outlays | 2,245 | 4,550 | 5,580 | 6,010 | 6,240 | 24,625 |

Mr. SASSER. Mr. President, it is ironic, indeed, that the same people who cry the loudest for mechanical devices to control the Government's spending seem to be the least likely to vote to cut these Government programs.

Mr. President, the pending amendment affects the process by which Congress annually establishes the appropriate levels of budget authority, outlays, deficits, and public debt. Under the standing order on the referral of budget process legislation of August 4, 1977, this is matter within the jurisdiction of the Committee on the Budget. As the pending bill has not been reported by, or discharged from, the Budget Committee, the pending amendment violates section 306 of the Congressional Budget Act of 1974. As Senators know, it takes the affirmative vote of 60 Senators to waive a point of order brought under section 306.

At the appropriate point, Mr. President, I shall raise a point of order against the pending amendment, and I urge Senators to vote against waiving the Budget Act.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). Who yields time?

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 16 minutes.

Mr. SMITH. How much does the other side have?

The PRESIDING OFFICER. Fourteen minutes.

Mr. SMITH. I yield 6 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 6 minutes.

Mr. GRAMM. Mr. President, I thank our dear colleague from New Hampshire for yielding.

In the midst of all this talk about how the world is going to come to an end and Government is going to come to an end if we let the working men and women in America exercise some power over how their money is spent, I think it is important that we go back and look at the proposal of the Senator from New Hampshire.

His proposal is very simple. It says: Let every working family that pays taxes to support the Government have the right to designate on their tax return up to 10 percent of their taxes to go to reduce the debt burden on their children, their grandchildren and on future generations.

It then sets up a procedure to reduce spending relative to what we would have spent by a corresponding amount so that the deficit does not go up.

As I listened to our colleague from Tennessee, this obviously sounds to him like a revolutionary idea. I think it is a powerful idea. I think it is a good idea when you consider that the Congress this year has killed the line-item veto, the balanced budget amendment to the Constitution, and done nothing but add to the public debt. Does it not make sense to give the taxpayer some empowerment, to allow the taxpayer to designate that only 10 percent of their money go to reduce debt on their children? I think it does.

But, Mr. President, what is missing in this debate is we already have a checkoff. We already have the ability on our tax return to check money off and to designate what its use will be. I hear this breast-pounding about letting budget policy be made on the Tax Code. But yet today on the tax form filled out by every American who works and pays taxes, we have a checkoff. But guess who we check the money off for? Guess where we let the money go?

Let me read a statement from one of the proponents of this checkoff, which is now the law of the land, and I will shorten it a little but basically make the point. This is on October 20, 1966 in the House of Representatives:

> Is it wrong to create a circumstance wherein every voter in the United States, if he wants to, can of his own volition make available funds to go into a fund which will be divided between the two major political parties?

In 1966, these leaders were arguing what is wrong with letting people designate that tax money go to us? What is wrong with letting people designate money go to the political parties? And, in fact, it became the law of the land.

Americans do not generally check it off. They do not, generally, even though it does not cost them anything, they do not want us to have it. Wise and prudent citizens I would say they are.

Now the debate is about whether or not people should have the same right to designate their money go to reduce the deficit and the debt on their children that they have as a right to see that money goes to political parties.

Mr. President, this is a reasonable proposal. This is good policy, and I can tell you exactly what we would find: the American people would take this checkoff.

Last year, the citizens of Texas sent almost $30 billion of income tax money to the Federal Government. I have no doubt that the vast majority of the people of Texas would take the checkoff and they would designate that $3 billion go to debt reduction.

This is a very important proposal, and I think we have an opportunity to see who wants to let the taxpayer have more power to direct the use of their money. We will see who is willing to say no to letting the taxpayer provide money to reduce the debt but who wants to continue to allow the taxpayer to designate money to go to the political parties.

So I think we have a clear choice. I think that the Senator from New Hampshire has proposed a very good amendment. The President proposed this amendment in his acceptance speech. We are going to get an opportunity to vote on it today. I am for it. I have no doubt that if the American people could choose, I believe that 90 percent of the taxpayers of this country would vote for it. I think it is prudent policy.

How can it be wisdom to let people designate tax money go to political parties and yet folly to allow them to designate tax money to go to reduce the debt on their children and grandchildren? I think that is the fundamental question.

If this amendment fails, I will offer an amendment to repeal the checkoff to give funds to political parties. I hope this amendment is adopted. It is a very important amendment, and I think the American people will be looking to see how we vote.

I am proud the people of my State will see that I am for the empowerment of the working men and women of this country to have more say over how their money is spent. The people who do the work and pay the taxes and pull the wagon in this country have too little say. The people who ride in the wagon have too large a say. We are trying to change this with this amendment. I urge my colleagues to vote for it.

I yield back the remainder of my time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH. Mr. President, how much time do I have?

The PRESIDING OFFICER. Nine minutes and thirty seconds are remaining.

Mr. SMITH. I yield 5 minutes to the Senator from Idaho.

Mr. SYMMS. Four minutes will be fine.

Mr. SMITH. Four minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 4 minutes.

Mr. SYMMS. I thank my good friend from New Hampshire for yielding. I also thank him for offering this amendment, which would give the people in this country more power. After all, this country is founded on the basic principle that people grant the Government certain powers. That is the fundamental difference between the United States of America and those countries that the government grant certain rights to the people.

I think it has been very clear in the last 40-year period that that basic, fundamental policy based on the individual people and private ownership of property has fundamentally been more successful than any other way of Government. This amendment speaks right to that issue.

Mr. President, I rise in support of the Smith amendment. This amendment would allow taxpayers to check off up to 10 percent of their income tax liability for deficit reduction. I support this measure because it allows the taxpayer the option of assigning a portion of their tax liability to reduce the Federal deficit.

It is time to deal with deficit reduction in a responsible and fair manner. This amendment would direct the Treasury Department to provide Congress with an estimate of taxpayer participation in the program. If spending targets were not met by Congress and the administration, an across-the-board sequester would be triggered of all Government accounts except Social Security, deposit insurance, and net interest.

It is the time to enlist taxpayers support and participation in reducing the huge Federal debt. With the national debt at $3.9 trillion, this proposal will give taxpayers the power of the pen to reduce the deficit. The Office of Management and Budget projects that the deficit for the upcoming fiscal year at $349.9 billion. This $349.9 billion is money that our Government is spending that it does not have. This cannot go on. The Smith proposal will reduce the Federal deficit and return the confidence of people in government.

The most important aspect of this proposal is the freedom it allows the participants. Taxpayers have a free choice to participate or not. The decision of deficit reduction is left to the taxpayer where it should be.

Mr. President, by allowing taxpayers to allocate up to 10 percent of their tax dollars to deficit reduction this amendment empowers taxpayers to take an active role in the budget process. Balancing the budget will require active participation from every taxpayer in the Nation. It is clear that we here in the Congress have been unable to make the tough decisions that are necessary in order to balance the budget. If allowing taxpayers to check off a box on their tax return will help bring some fiscal restraint to this body then by all means let's do it.

President Bush has endorsed this proposal. It has been estimated by the Congressional Budget Office that the budget would be balanced in 5 years if the taxpayers choose to make debt reduction an important choice.

Mr. President, this proposal is a step in the right direction to reduce the deficit and return confidence to the taxpayer in their respective elected officials. I fully support the Smith amendment and urge its adoption.

Mr. President, in my State, $1.3 billion is paid in income taxes, so if all

Idahoans chose to check off their tax return, they would pay $130 million each year on deficit reduction, and that would be $130 million that Idahoans would not pay to support different Government activities.

Now, my dear friend from Tennessee, with whom I have been on the Budget Committee these past 12 years, Mr. President, is calling this amendment a Rube Goldberg amendment; it is flawed; it is ill conceived.

I think if you went out and talked to the American people, what they would call Rube Goldberg is the fact that we here in this Congress have run up a $4 trillion debt—$4 trillion—so that now the interest on the debt, plus the entitlement programs, make up 65 percent of the Federal budget. If we allow that to continue, we will have more problems.

I also point out to my colleague from Tennessee, Mr. President, when he makes the case that somehow Republicans have not voted to cut the defense spending of the country by reducing the intelligence budget more than it had already been reduced by the Intelligence Committee and other issues, I have not seen his plan where he wanted to take these cuts and not spend the money on other programs. From what I remember, it was the Budget Committee chairman who was pushing a $52 billion spending package last year that broke down the firewalls, opposed a $400 million cut in public broadcasting, has always wanted to take the money from the defense or basic research issues, such as the space station, and transfer it into other programs. I think it is time we deal with this deficit in a responsible and fair manner.

Mr. SASSER. Will the Senator yield at that point?

Mr. SYMMS. Just one moment. I want to make my point.

Mr. President, this amendment is a test vote. If you love government, you are going to vote with my good friend, the chairman of the Budget Committee. If you want less government and more freedom for people, you are going to vote with the Senator from New Hamsphire.

I think my time has expired.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, will the distinguished chairman yield about 30 seconds?

Mr. BENTSEN. I will be delighted to yield 1 minute to the Senator from Tennessee, the chairman of the Budget Committee.

Mr. SASSER. Mr. President, my friend from Idaho indicated a moment ago that a number of the spending cuts that had been proposed by myself and others dealing with the military budget, the B-2 bomber, strategic defense initiative, that those funds would be allocated to be spent somewhere else. That is not the case, I say to my friend from Idaho. Those funds were to be allocated to deficit reduction. We did not——

Mr. SYMMS. Did the Senator not try to tear down the firewalls?

Mr. SASSER. Just a moment. I did not interrupt the Senator when he was speaking, and I hope the Senator will show me the same courtesy I showed him.

But we also sought to reduce funding for the superconducting super collider. Those funds would have gone to deficit reduction, as well as the space station, which was I think the largest item on the whole list. So there was a whole host of items that covered both military spending and domestic spending, and they would have gone to reduce the deficit.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 4 minutes to the distinguished chairman of the Appropriations Committee.

Mr. BYRD. I have been greatly impressed by this sudden explosion of feeling on the other side of the aisle for giving power to the people, giving working people in this country power to make decisions for themselves.

I am an old working man. I used to be a welder in the shipyards. I used to be a meatcutter, a butcher in a coal mining community store. So if I were given this opportunity while welding in the shipyard or cutting meat in the company store, giving me the power to make these decisions, of course I would like to make that checkoff on that form 1040.

But what about the situation if I were to lose my job, if I no longer can weld on those Victory ships and Liberty ships up there on the cold waters in Baltimore? Suppose I am thrown out of my job in the butcher shop. Under this amendment, after the year 2009, I would not get unemployment compensation benefits, because of this amendment. I would be using my "power of the people" to cut my throat. That is the kind of power we would be giving to the workingman out there—the power to cut his own throat without knowing it. That is the kind of power we would be giving the people of this country.

Yes, it is fine to give them the opportunity to check on their 1040 that they want 10 percent of their income tax to go into a trust fund to pay off the national debt, but this amendment does far more than just that.

The distinguished Senator from Texas, Mr. GRAMM, tried to equate that kind of checkoff with the campaign checkoff. The campaign checkoff did not have the fine print that this amendment carries with it, which says to the working people or any income taxpayer out there, when he exercises his power of the people and makes the checkoff, he is automatically making cuts in programs that operate this country, programs that are for his benefit and for his children's benefit.

Now, why do I say that?

One only needs to read the amendment, section 253(a) titled "Sequestration to Reduce the Public Debt." In that section, the moneys to offset the cost to the Treasury of the 10-percent checkoff have to come through sequestration unless the Congress, working with the President, makes the cuts.

Congress working with the President can make those cuts. But on page 5, under paragraph E, it says: "All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent." There is no language in the campaign checkoff law to that effect. But that is the slick language in this amendment. The slick language, "all obligational authority reduced"—whether it is reduced by the Congress, working with the President, or by the sequestration—"All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent."

So we have a $48 billion cut in outlays in 1994 if all individual taxpayers checked off the maximum 10 percent allowed by the amendment. The next year, that cut will recur, plus an additional cut of whatever amount taxpayers check off for that year, and the third year, these foregoing cuts in outlays will recur plus an additional cut of whatever amount taxpayers check off for the third year. This compounding of outlay cuts, where each year's cut in outlays is repeated annually in all ensuing years, continues throughout the life of this amendment—which is intended to remain in effect until the entire national debt is retired. Unfortunately, the amendment would bring about the demise of the Federal Government at or about the same time that the national debt is retired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I yield an additional minute.

Mr. BYRD. The reduction in nonexempt spending is permanent, and that eats into the baseline every year. So if this amendment passes and becomes law, Senators will hear from their constituents, those constituents who have been given "people power."

When the sequester takes effect, the letters will pour in. We will hear from the veterans, the seniors, educators, the handicapped. They will all want to know: Senator, why did you cut my benefits? We can all point out that we Senators did not cut their benefits. We can say to our constituents, you cut them when you made the checkoff on your 1040 form. Somehow, I do not think our constituents will bless us after the impact of this amendment becomes clear to them.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH] is recognized.

Mr. SMITH. I yield myself the remainder of the time on this side.

Mr. President, there would only be a sequester if Congress and the President failed to act. The proponents of this amendment understand that and the pain of the sequester would be indeed very deep, but the truth of the matter is Congress needs to exercise priorities which they have not done.

It is a lot better to cut the $2.5 million on the Arkansas catfish farm than it is to cut veterans' benefits. The truth of the matter is we are not doing that. We are still funding the catfish farm. That is the problem. That is what needs to be changed and the taxpayers again, Mr. President, are going to tell us whether they want us to do that or not.

This amendment does not cut a nickel. This amendment gives the taxpayers the right for the simple checkoff to say yes or no as to whether they want us to reduce the national debt. That is what it does. If they do not want us to reduce it, they will not check it off, and there will not be any damage done whatsoever as far as being in line with what the opposition has said.

So that is the key. It is interesting to note that the opposition is coming from those in this body who have been the biggest spenders year after year after year, and the biggest contributors to this national debt which has now gotten up to the nearly $4 trillion.

I am not making this decision. The Senator from New Hampshire is not making any decision on this matter. The taxpayers of America are making that decision.

There will be a point of order raised on my amendment again in an attempt to muddy it up some so those opponents can go home and say: Well, I did not vote against this amendment; it was a parliamentary thing that I voted against.

But the truth of the matter is, I want my colleagues to understand it, that if you support the point of order raised you are opposed to your constituents, the taxpayers in your State from having this option, because I intend to oppose and to oppose the point of order, and to move to waive.

That will be the vote. That will be the defining vote. I want my colleagues to understand that.

Mr. President, you can vote to allow the American people to become involved or you can vote to not let them become involved. That is the issue here. I want the American people to become involved in helping to reduce their Nation's debt. Do you not want them to have any say whatsoever? Because that is what you are saying, if you vote no.

You can vote to exclude very clearly. Support the point of order and you will exclude the people in your State who want to check off a simple checkoff of the amount of dollars that they pay in taxes, their tax dues, their tax liability, a small portion of it, whatever they designate up to 10 percent, to reduce the national debt. In poll after poll after poll all across this country, people say they want the debt reduced. They want the deficit reduced. They want the budget balanced. They want a balanced budget amount. They want a line-item veto. We are not doing it. We are not responding.

So now the way to be sure that we do not respond is not to let them have to say. That is the issue here. That is the issue.

Senator GRAMM of Texas mentioned a few moments ago that we have a checkoff for campaign financing for Presidential elections in both parties. We do not mind giving the voters the right to do that. But we do not want to have them have the right to reduce the deficit and the national debt if you oppose this amendment.

This is a good amendment. Mr. President, it is supported by the President of the United States. It is supported by the overwhelming majority of the American people. And I think we ought to support it here on the floor of the U.S. Senate.

I yield the remainder of my time that I have remaining, Mr. President.

Mr. BENTSEN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Ten minutes three seconds remaining.

Mr. BENTSEN. Mr. President, first let me congratulate the chairman of the Appropriations Committee for his very detailed, comprehensive, and interesting presentation about this subject. My friend, the chairman of the Budget Committee, is working exhaustively trying to see that we get this deficit down, and has dedicated his efforts to that effort.

I hear all of these comments about how they might want to cut spending. I hear my friend from New Hampshire talking about it. Yet I watched him yesterday voting to waive the Budget Act, just waive the Budget Act, which would add to the deficit by $1.3 billion. Yes, there is pressure by interest groups. I understand that. But we were hired to stand up to those interest groups and to exercise that responsibility.

I listened to the President blame the Congress for adding to this deficit. Let me tell you that time and time again the President in his budget has asked for more money than this Congress would appropriate. We have appropriated billions of dollars less than the President has asked for.

An interesting point is that the last President to submit a balanced budget to the Congress was a Democrat, incidentally, a President from Texas, Lyndon Johnson.

This Administration has all of the sudden changed its position. They were totally against checkoffs just a few months ago. A Treasury representative testified before the Ways and Means Committee as follows and I quote:

> We have consistently opposed proposals that would add voluntary checkoffs on the tax return regardless of how meritorious the beneficiary. For example, we have opposed checkoffs for such worthwhile causes as a fund for the reduction of the public debt. These types of well intended and seemingly innocent proposals create complexity, confusion, and administrative burdens.

That is the administration talking. That representative is speaking for the President of the United States.

My friend, the President of the United States is not leading in the polls. He is not creating public opinion and public support for these issues. His compass is a windsock. The latest I read indicate that he is changing his position once again. It was just a few days ago he was talking about cutting the salaries of Federal employees. He could do it, and he would do it.

This morning I read in the paper, that he has changed his mind. Now, he says, it is the responsibility of the Congress.

Then he compares himself to Harry Truman. Well, I knew Harry Truman, and let me say, my friends, I remember when I was in the Oval Office with Harry Truman behind that desk, and there was a sign that said, "The Buck Stops Here."

What does this President say? He moves it, and he says: The buck stops with Jim Baker—that he is the one that has to face the problem. No, we all must face it together. The buck stops with us, and we have to exercise that kind of discipline.

This amendment would cut all programs deeply and indiscriminately. There is no attempt made to set priorities.

My friend, the chairman of the Appropriations Committee, explained what it would do to ordinary men and women. You have a child sick, and you are trying to make a decision, and your decision is not just a medical decision, it is a financial decision. What are you going to do about it? Are you going to cut Medicaid, going to cut Medicare? The kind of programs that the average American relies on. Are we going to say to the elderly of this country, with all of the escalating costs of medical care and their dependents, are we going to say we'll cut Medicare by $135 billion over 5 years? Medicaid by $75 billion? Are we going to say to the people who have fought for our country, military forces: Yes, we promised you that retirement pay, but, no, we are going to cut that by $24 billion? At a time of high unemployment in this country, are we going to say to those people who lose their jobs that we are going to cut unemployment compensation by $50 billion?

Remember, these are the entitlements that would be in addition to the $400 billion of other unspecified entitlement cuts that the President has promised. Discretionary programs that would be cut substantially—national defense, $180 billion. My folks in Texas don't agree they feel very strongly about this country being able to defend itself. This amendment could also cut domestic discretionary items by $100 billion.

Well, the proponents of this amendment claim that the provision would balance the budget by 1997. If they support those 40 percent cuts in programs such as unemployment compensation, national defense, and Medicare, then they ought to say so, and they ought not to be voting for things like they did yesterday, to waive this Budget Act and add, on one vote alone, $1.3 billion to the deficit.

A lot of attention has been focused on special interests of women in this country. Let me tell the Senators that they ought to understand that the sequester would result in this amendment would have a devastating effect on programs which are of particular interest to women.

For example, over the next 5 years, for breast and cervical cancer research, $250 million would be cut. We just voted the other day to add to that program. Maternal and child health care programs, $650 million; child support, Aid to Families with Dependent Children, $15 billion; family violence prevention, $25 million; child care, $1.2 billion.

The administration of this proposal would be an administrative nightmare. The Treasury has said that.

It is hard to imagine how one would plan an R&D program, for example, when the relevant level of funding would not be known until the checks are counted. Let us let the people decide all right, but let us let them decide by deciding which Presidential candidate will properly address these priorities and get this deficit down to the right time, and which Congressman, which candidate for the Congress will address the deficit problem. Let the people decide.

I yield the remainder of my time.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the amendment offered by the distinguished Senator from New Hampshire [Mr. SMITH].

In the 14 years I have been in the Senate, there has been one issue that has dominated our attention, challenged our ingenuity, and, in the end completely frustrated us. And that issue is the Federal budget deficit and the national debt. When I came to the Senate, the budget deficit was $70 billion and the national debt was less than $1 trillion. Twelve years later, the deficit is more than $400 billion, and before this calendar year is out, we will be more than $4 trillion in debt.

We have had endless debates over the past 12 years on how to control the deficit. We had the KGB plan. We had Gramm-Rudman-Hollings. We had son of Gramm-Rudman-Hollings in the form of the 1990 budget agreement. And what is the end result? We are the greatest debtor nation on the face of the globe.

In the early 1980's, I joined my colleague Senator GORTON in a proposal that would have required the President, in any year when he sent up an unbalanced budget, to send up a second, balanced budget. And that rule would also have applied to the budget resolutions reported by the House and Senate Budget Committees. Had we adopted the Gorton-Durenberger proposal, we as a body would have, at least, had the opportunity to make clear choices on how to balance the budget.

Mr. President, so far, nothing has worked. The amendment before us is another in a long list of what I would call gimmicks to balance the budget. It allows the American taxpayer to check off 10 percent of income taxes owed and have that money placed in a debt reduction fund. How would this checkoff work?

Let us assume that every American taxpayer exercised this checkoff in 1992. What would happen? From the personal income tax, the Government receives $485 billion. If every American checked off this box, we would supposedly reduce the deficit by $48.5 billion? How would we do that?

Under current law, there would have to be a $48.5 billion across-the-board sequester. What would we cut? We would not be able to cut Social Security because it is exempt from a sequester. And we could not cut interest payments. So where would we cut?

In May, we debated a bipartisan amendment offered by the distinguished ranking member of the Budget Committee, Senator DOMENICI, and the chairman of the Armed Services Committee, Senator NUNN. That amendment would have capped all of the entitlement programs in the budget with the exception of Social Security.

Although I agreed with the Senator's goal of restraining the growth in the entitlement programs, I disagreed in principle with his method. But I voted for that amendment because it would have forced us to face up to the real problem, which is entitlement growth.

Mr. President, across-the-board cuts in entitlements do not provide a rational way to achieve programmatic reform. Each of the entitlement programs that would have to be cut under the pending amendment—Medicare, Medicaid, unemployment compensation, food stamps, AFDC, veterans' benefits, agriculture, Federal retirement—need to be closely examined to determine how they can be streamlined and reformed.

In many senses, it would be unfair to cut all of these programs because each of them is not an equal contributor to the problem of Federal spending. Growth in the Federal retirement programs was 6.7 percent a year between 1980 and 1992. Growth in veterans' benefits was 2.5 percent. Growth in AFDC was 6.3 percent. By contract, growth in Medicaid was 15 percent annually during this period and 11.8 percent in Medicare.

Each of these programs needs fundamental reform. An across-the-board approach merely pits one group against the other and in the end, those with the greatest political clout will retain their special benefits while those without a political voice—the poor and children will be left behind.

More importantly, Mr. President, what is lost in the debate about entitlements is that another type of entitlement—tax entitlements are never addressed. What I am referring to are the subsidies we provide through the Tax Code for all types of activities. In 1992, we are providing a $39 billion non-needs-related subsidy to homeowners—that's 300 percent more than we spent to subsidize owner-occupied housing in 1980. We've seen a 1,100-percent increase in the subsidy we provide homeowners who sell their houses and pay no tax on the gain because they move into a more expensive home.

Mr. President, in 1992, we will provide $108 billion in non-needs-related tax subsidies to individuals and corporations for health insurance. And, if we don't do anything about that entitlement, by 1995, the tax subsidy under health insurance will reach $146 billion in just 1 year, as much as we will spend on the entire Medicaid Program.

Mr. President, many of us are unwilling to stand up and say what we are willing to change; what programs we are willing to slow the growth in; what revenues we are willing to raise. So we come to the point where we are forced to propose across-the-board percentage reductions in the growth of out-of-control programs.

Had the Domenici-Nunn amendment become law, this Congress, and this President would have been forced to reform not the budget process, but the value systems that prevent us from voting the courage of convictions. But what we learned that day is that instead of taking a first step toward gaining control over this country's fiscal future, we were outmaneuvered by the organized interest groups.

We were placed in the position of appearing to vote for or against one of the most important groups in our country—veterans. Men and women who have sacrificed for the greater interests of our country.

Mr. President, if we are going to resolve the deficit and debt programs, we are going to have to make some very hard choices and cast some very difficult votes over the next several years. Gimmicks do not work. What we need is courage and leadership and decisions in this body, not on people's 1040 forms.

Mr. SIMPSON. Mr. President, the junior Senator from New Hampshire [Mr. SMITH] should be commended for proposing this amendment. I wholeheartedly support this amendment and I encourage my colleagues to do likewise.

Mr. President, this body must never lose sight of the fact that the single greatest threat to this Nation's future comes in the form of the spiraling national debt. The American public certainly does not lose sight of that, and neither should we. It is the threat which, if we do not meet it, all of our other policy aims become irrelevant. Whether the concern is our children's education, or promoting the competitiveness of American business, or assuring economic fairness—everything depends on our taking meaningful action against the national debt. If we do not do that, we destroy our ability to direct our resources toward solving any pressing problem that you can name.

This amendment really deals with the question of our priorities. For too long this Government has told the taxpayer that, although you have told us that the national debt is your greatest concern, we have a better idea on how to spend your money. We just don't have room to apply any of these moneys to the deficit—there is too much else that we have to fund.

I am sure that all of my colleagues are amused from time to time by those lobbyists who come through our doors and say, "We are doing God's work," "Reduce the deficit," "Don't raise taxes," and "Don't cut our program."

I think it is important to remember that this is not the attitude of the average, beleaguered American taxpayer. The attitude there is the same in some respects—they certainly say "Reduce the deficit" and "Don't raise my taxes"—but when the question comes up as to spending, the public at large says, "Cut it."

Many are the times that a taxpayer has called up to complain about the tax burden. I think we have all heard our constituents say something like, "I would not mind nearly so much if you were taking my tax money and using it to reduce the burden on my children—but you're not, you're spending it all. I do not resent as much having hard-earned money taken from me to help out my country and my children—but I very much resent it if you spend their inheritance."

I have been astonished to hear people decry this proposal as unworkable or a gimmick. We have a checkoff on our tax forms to fund political campaigns—that, apparently, is a high priority, not a gimmick at all—a higher priority than reducing the national debt. I think it is absolutely absurd to suggest that the American taxpayer should be able to elect to finance political campaigns with the tax dollar—but not to attack the greatest single problem facing this Nation.

So, again, I encourage my colleagues to support this important amendment. We all say that there is nothing more important—many of my colleagues have said that: Nothing—nothing is more important than reducing the national debt. We do not budget as if that is the case. This is our chance to have our tax process reflect a set of priorities that we all claim to have. I assure my colleagues that the taxpayers will respond—if they are allowed to buy down the debt, millions will demonstrate their sincerity by doing exactly that. This is our chance to demonstrate our own sincerity about facing down this mortal threat, and I earnestly hope that my colleagues support this proposal, and I richly commend my fine and stalwart friend Senator BOB SMITH. I admire his great heart and courage.

Mr. SANFORD. Mr. President, I rise to oppose the amendment proposed by the Senator from New Hampshire. Unfortunately, this proposed checkoff is another effort by the President to abdicate his responsibility for bringing the Federal budget under control.

This year, President Bush proposed a budget with the largest budget deficit in the history of this country. It's probably the largest deficit in the history of the world. His budget added $463 billion to the national debt. Let me repeat that number: $463 billion in 1 year. That is more than $1.268 billion, each day of the year. President Bush's budget would add almost $2 trillion to the national debt over the next 5 years.

But because he lacks the political courage to provide a serious blueprint to eliminate the deficit, President Bush is asking the American people to do it for him.

Since 1921, the budget law of the United States has delegated to the President the responsibility of preparing the annual budget. This is obviously a responsibility this President does not want, so he prepares a budget that is totally irresponsible and then blames the Congress.

Naturally, the President fails to tell the American people that he—the President—is responsible for preparing the budget and has been for 70 years. President Bush fails to tell the American people that the Congress has spent less than he and President Reagan asked for—that for every dollar he has asked for, the Congress has only given him 97 or 98 cents.

But then he brings this amendment, trying again to pass the buck, this time to the American taxpayer. Without balancing the current budget, he is offering the American people the opportunity to check a box on their tax return and have those funds go to reduce the deficit. That's just a joke. It ignores the seriousness of this very important issue and treats it like a gimmick. But every American taxpayer will recognize that if you take a dollar out of one pocket and put it into another, you haven't saved a penny, much less a dollar.

Instead of providing a serious effort to deal with the budget crisis, he decided to indiscriminately cut most expenses across the board. Without regard to merit. Without regard to need. Without regard to common sense. Every household and every business knows that you cannot just make across-the-board cuts on everything. Responsible budgeting requires responsible decisionmaking.

If health care providers fail to reduce their costs, how do we summarily reduce Medicare or Medicaid? Do we just tell the ill that they get less medical care? Do we tell veterans that their benefits are to be reduced despite the fact that they have already completed their service to the country? Do we tell undernourished babies to reduce their milk consumption by some percentage? Do we tell the schools to simply reduce their already stretched budgets because of an across-the-board cut? Do we tell the unemployed that their benefits are to be reduced because the President can't make hard decisions?

President Bush was in North Carolina earlier this week offering tax incentives to small businesses. He had something for everyone, though little to make a difference from what I hear. By the time he got to the end of his handouts, he had spent $20 billion. He then began bashing Congress for being irresponsible in its management of the budget—the one he prepared with a record deficit. There is something inconsistent here.

President Bush has tried to compare himself to Harry Truman, a great Democrat who is remembered for unparalleled courage. But while Harry Truman said, "The buck stops here," President Bush is passing the buck to the very people he seeks to lead. And in this case, where the heat in the kitchen is too hot, President Bush is getting out of the kitchen and is asking the American taxpayer to put out his fire.

As I said, we need a comprehensive, thoughtful blueprint for reducing the debt, not increasing it.

Mr. BYRD. Mr. President, how much time has the Senator yielded?

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. SASSER. Has all time been yielded back?

The PRESIDING OFFICER. Yes.

Mr. SASSER. Mr. President, I raise a point of order that the first-degree Smith amendment violates section 306 of the Congressional Budget Act of 1974.

Mr. SMITH. Mr. President, pursuant to section 904 of the Budget Act, I move to waive that point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive the Congressional Budget Act for the consideration of this amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

The PRESIDING OFFICER [Mr. BRYAN]. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 36, nays 58—as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—36

Brown
Bryan
Burns
Chafee
Coats
Cochran
Craig
D'Amato
Danforth
Daschle
Dixon
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Nickles
Pressler
Reid
Roth
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—58

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick, Jocelyn
Byrd
Cohen
Conrad
DeConcini
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—6

Bond
Boren
Cranston
Gore
Murkowski
Seymour

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

On the point of order the Chair rules that in mandating the annual amounts of deficit and debt reduction, the Smith amendment, amendment No. 3161, would affect the process by which Congress annually establishes the appropriate levels of budget authority, outlays, deficits, and public debt.

The amendment thus deals with matters within the jurisdiction of the Committee on the Budget and violates section 306 of the Congressional Budget Act of 1974.

The point of order is sustained. The amendment falls.

The Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I would ask what is the parliamentary situation?

The PRESIDING OFFICER. The parliamentary situation is the committee substitute to the pending bill.

Mr. LEAHY. Is that under any sort of time agreement?

The PRESIDING OFFICER. There is no unanimous-consent agreement in effect.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## RESTRUCTURING AND REVITALIZING USDA

Mr. LEAHY. Mr. President, I have said on this floor before that it is high time for a change at the Department of Agriculture. The USDA needs a new vision for a new world. The department has to be restructured to face the challenges of competing in a new global market, of protecting our environment and of maintaining economic growth in the United States.

The Department of Agriculture has to be restructured. It has 17 separate personnel offices. It has three offices—offices there simply to make sure that the various offices do not duplicate each other. They have a duplication of three offices to cut out duplication.

It has four separate farm agencies. Each have their own separate computer system, a fleet of field offices and automobiles. If you merge the four farm agencies into a single farm service agency, taxpayers could save over $1.5 billion by the turn of the century. The benefits to farmers for more accessible and efficient service cannot be measured in dollars and cents.

The Department of Agriculture has grown way out of proportion to the good it does. It has built-in inefficiencies and duplication that are just costing the taxpayers of this country billions of dollars. They are not doing anything for the farmers and ranchers of this country.

As we have seen farms and ranches decline nationwide, we have seen growth in only one area, the department itself.

It is time to have a complete reorganization, cut out the excess waste and fat, put it back to the agency it is supposed to be. It will help our rural America. It will help out those who create the food and fiber for our country. It will improve our economy. And it will save suffering taxpayers of this country billions of dollars.

The Department of Agriculture is an agency with a proud past. But like all agencies, there is a very real danger that USDA will seek solutions to the problems of the past instead of looking to the future.

That is an outcome that neither rural America nor the American taxpayer can afford. Restructuring USDA will not only revitalize the Department to meet the challenges of the future, but can save the American taxpayer over $1 billion.

That is why I am taking the floor of the Senate today to propose a new vision for the Department of Agriculture. This vision can mean a new Department of Agriculture that delivers services more efficiently and leads rural Americans into the 21st century.

Four months ago I introduced legislation to create a bipartisan Reform Commission to present recommendations to reorganize USDA. Unfortunately, the administration did not support the legislation, choosing instead to support a joint USDA/OMB SWAT team to review the Department's field structure. It appears that the SWAT team is actually just a stall team—stalling tough decisions about streamlining a $60 billion annual USDA budget until after the November election.

This is not evidence of an administration committed to cutting waste. This is administration lip service. But we cannot surrender the issues of streamlining USDA to election year politics.

This issue is too important and too expensive to place on a back burner. It is too important, and too expensive to put off until next year. It is a bipartisan issue. My colleague, the minority leader, has stated that if we are lucky, we may set a precedent in housecleaning at USDA. If we succeed we might clear the way for similar action elsewhere in the Federal Government.

Unfortunately, the opposite is also true. All the press about phantom farmers and hunt clubs receiving tax dollars through USDA programs to dispose of horse manure has put the focus on whether the Congress and the administration will reform USDA. Inaction will contribute to a growing resentment of USDA.

Today I will present my vision of the challenges facing USDA in the next century, and the restructuring that is necessary to meet these challenges. I believe that USDA must address five principal challenges:

The challenge of meeting tougher economic competition in the face of a technological revolution and globalization of world markets;

The challenge of helping farmers combine their responsibilities as producers and resource managers;

The challenge of providing services to farmers in a way that is cost-effective for both farmers and consumers;

The challenge of meeting the moral imperative of hunger in America;

The challenge of maintaining economic growth and economic opportunity in rural America.

For far too long USDA has developed our agricultural programs hoping that a market would somehow be found for the products farmers grow.

This will not work. Wheat exports, for example, are at their second lowest level since the 1977 in spite of over $4 billion in export subsidies over the last 6 years.

In rapidly changing domestic markets our producers are faced with meeting consumer demands for fresher, more nutritious foods in greater varieties. USDA must have a strategic marketing focus that looks toward new opportunities both domestically and internationally.

Today, marketing responsibilities are spread among eight agencies reporting to four different Assistant and Under Secretaries. It is little wonder that the Department has not been able to produce the comprehensive trade strategy that we required in the 1990 farm bill.

The new marketing structure should combine both domestic and international activities under a single Assistant Secretary—including the marketing functions of today's Agricultural Marketing Service, Foreign Agricultural Service, Federal Grain Inspection Service, Agricultural Cooperative Service, and Packers and Stockyards Administration. The end result will be a more competitive U.S. agricultural industry.

Technological innovation is also critical to meet marketing competition. USDA must keep pace with scientific advancements if America's farmers are to remain competitive. The Department should invest in the kinds of innovative research that will give producers the tools they need to meet the challenges of the 21st century. Combining USDA's research and extension programs into a single agency will focus its efforts on critical new technologies, improve the transfer of those new technologies from the laboratory to the field, and help give our farmers a competitive edge.

The second challenge that USDA must face is helping farmers balance their responsibility as producers with their responsibility as resource managers.

At the same time that farmers are facing stiff economic competition, they must also address their responsibility as resource managers. Seventy-five percent of the land in the United States is either forest or farm. Thus decisions made by farmers and foresters have a fundamental effect on the quality of the environment.

Long-term economic growth itself is not sustainable if we do not preserve our natural resource base. Thus it is critical that USDA develop new policies that balance the tensions between production and the environment.

The current structure of USDA sends a mixed message to farmers. It is little wonder that the Department has never developed, for example, a comprehensive strategy, unified under one administrator, to protect water quality. The agencies that provide the incentives, plans and technical assistance all report to different bosses. This must change.

Further, since two-thirds of America's forests are privately owned—many by farmers—the Department must also integrate private forestry assistance into its entire resource management and environmental protection strategy.

The third challenge USDA faces is to provide its services to farmers in a way that is cost-effective for both farmers and consumers.

Four agencies currently deliver services to farmers through three different Under and Assistant Secretaries. The results, as brought out in hearings held by my committee, are four different lines for farmers to stand behind to obtain farm services, four different sets of personnel regulations, four different computer systems that cannot share data. And the end result is millions of wasted tax dollars.

Until the farm agencies are placed under one boss, with one computer system, one personnel system and one procurement system, waste of farmers' time and the taxpayers' money is inevitable.

The fourth challenge that USDA must face is to meet the moral imperative of hunger in America. This is not fundamentally a reorganization or restructuring issue. It is a question of priorities. Hunger in America is a moral issue. As a Nation we must continue to meet the moral imperative of hunger, both at home and abroad.

The fifth challenge is to maintain economic growth and opportunity in rural America.

Two percent of Americans work on farms, yet 22 percent of Americans live in rural America. For the past century, there has been a steady decline in our small towns. It is ironic that in towns where the quality of life is best, it is the hardest to make a living.

Here again, I do not believe that the issue is one of reorganization. The issue is investment priorities.

For the past decade the administration in Washington has given little more than rhetoric to rural development. While it proposed a-half-billion-dollars for rural development in Latin America, it froze the budget for rural development here at home. It has proposed paper restructuring USDA's rural development offices instead of reinvesting in rural America.

We must have a targeted program of investment in rural America—in human infrastructure, in business infrastructure, and in natural resource infrastructure to make economic growth possible.

My vision of the challenges before USDA, and the restructuring that must occur if we are to face those challenges, will make USDA a leaner more efficient operation, and save over a billion dollars for the American taxpayer.

USDA has not significantly updated its structure since the 1930's. The result is an out-of-date, oversized Department that cannot deliver services in a timely, efficient fashion today and lacks the vision to meet the needs of tomorrow. For example, currently USDA has: 17 separate personnel offices; 3 offices that exist to keep track of departmental proposals or to keep agencies from duplicating each other's work; 4 fiercely turf-conscious farm agencies that all maintain their own core administrative structures, complete with separate offices for financial management, procurement, and so on.

The litany of disorganization and duplication demands that a higher priority be put on management at USDA. Management of the Department must be at the level of Deputy Secretary. The Assistant Secretary for Administration does not now have the power to manage the day-to-day operation of the Department.

I would like to emphasize that I am presenting my vision of how the Department needs to be restructured to meet the challenges of the 21st century. The streamlined USDA that I have broadly outlined would provide better services, be more responsive to a changing economy, and would save the American taxpayers billions-of-dollars. While I am not proposing a detailed plan at this time, I believe that the number of separate agencies can be cut nearly in half.

The immediate savings from a one-third reduction in Assistant Secretary and other Presidential appointee positions alone would be over $40 million for the first 5 years.

As a result of streamlining the massive bureaucracy, we also stand to save hundreds of millions of dollars by the end of the century through consolidation of second level administration functions at USDA headquarters. For example, there are over 700 personnel staff in 17 separate USDA agency personnel offices. Through attrition rate alone, this staff could be reduced by one-third in 7 years, for a net savings in excess of $70 million.

Duplication and waste at USDA is not limited to the headquarters administration. Currently USDA maintains over 100 research facilities worldwide, more than a quarter of which are underutilized. Eliminating unnecessary and outdated research facilities could save as much as $30 million on maintenance and repairs alone.

But the largest savings will result from elimination and consolidation of the unnecessary farm service field offices. For example, consolidating wasteful offices in one agency alone would save over $90 million per year.

By merging the four farm agencies into a single farm service agency, taxpayers stand to save over $1.5 billion by the turn of the century, even if we replace two out of three employees who leave through normal attrition. Of course, administrative savings are only the beginning. The benefits to farmers from more accessible and efficient service cannot be measured in dollars and cents.

We need a revitalized USDA. We need a USDA that can meet fundamental changes in the global marketplace. We need a USDA that will face the environmental and economic challenges before rural America and the moral imperative of hunger. We need a USDA that will lead America into the 21st century.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD].

### AMENDMENT NO. 3178

(Purpose: To require that an annual Federal financial report be submitted to American citizens)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. JEFFORDS, and Mr. GLENN, proposes an amendment numbered 3178.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee amendment, add the following new section:

**SEC. . AMERICAN CITIZENS ANNUAL REPORT ACT.**

(a) SHORT TITLE.—This section may be cited as the "American Citizens Annual Report Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Publicly owned corporations provide shareholders with an annual report on the financial status of the corporation.

(B) Americans are entitled to an annual report on the financial status of the Federal Government, as all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(C) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(D) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(E) The Chief Financial Officers Act is leading agencies to develop reliable and relevant financial information that is to be useful to the public, including audited financial statements.

(F) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(G) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(2) PURPOSES.—The purposes of this section are to—

(A) provide the American taxpayer with an annual report on the financial status of the Federal Government;

(B) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(C) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(D) bring a public focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

(c) ANNUAL REPORT—Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall distribute to all taxpayers described in paragraph (6) an annual report (referred to in this subsection as the 'annual report') containing—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source, along with a brief description of those trends for the most recent year;

"(B) a comparison of the actual Federal spending and revenues by major category or source for the most recent fiscal year—

"(i) to the budget request estimates as submitted by the President for that year; and

"(ii) to the enacted budget, along with notes explaining differences;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure recommended for inclusion by the advisory committee and deemed appropriate by the Director of the Office of Management and Budget.

"(2)(A) Preparation and content of the annual report shall be supervised and directed by the Director of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Director of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 9 members as follows:

"(i) 3 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The annual report shall contain a statement of assurance by the Director of the Office of Management and Budget and an audit opinion by the Comptroller General attesting to the reliability and relevancy accuracy of the information contained in the annual report.

"(4) The annual report shall be prepared annually in a timely fashion after the close of each fiscal year. If the final annual report for a fiscal year is not available within 3 calendar months after the close of that fiscal year, a preliminary annual report shall be prepared and published within that period containing substantially all the material described in subparagraphs (A) and (B) of paragraph (1) and the final annual report shall be prepared and published as soon as possible thereafter.

"(5)(A) In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include on the front inside cover of such booklet of instructions (in addition to the information required in subsection (a) of section 7523 of the Internal Revenue Code of 1986) a summary of the annual report prepared by the Director.

"(B) The summary referred to in subparagraph (A) shall—

"(i) include the cumulative Federal debt at the end of each of the 10 preceding fiscal years expressed in total dollars and in dollars per capita; and

"(ii) be presented in a manner that is easily comprehensible to a taxpayer.

"(6)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the annual report described in this subsection and, in cases where a taxpayer requests more than one copy of the report, submits a processing fee (if any) as described in paragraph (7).

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(7) Notwithstanding any other provision of law, the Secretary of the Treasury may impose a processing fee or may accept contributions from corporations, foundations, and other private entities for distribution or preparation of the report, or both.".

"(d) AUTHORIZATION.—For the purpose of carrying out the provisions of the amendment made by this Act, there are authorized to be appropriated to the Secretary of the Treasury and the Director of the Office of Management and Budget $10,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal years 1994, 1995, 1996 and 1997. These amounts shall include any funds raised through the authority established in section 3513(d)(7) of title 31, United States Code, as added by this Act."

Mr. CONRAD. Mr. President, the amendment I have sent to the desk is on behalf of myself, Senator JEFFORDS, and Senator GLENN. It is an amendment incorporating the American Citizens Annual Report Act, which would require that an annual report on the financial condition of the Government be made available to all Americans.

This amendment takes the best provisions of legislation offered by myself in S. 3079 and by Senator JEFFORDS in S. 2313, along with suggestions from Senator GLENN, and combines them into the language we offer today.

Mr. President, this country is in trouble. We are deep in debt. We keep adding to the debt every year. Yet, we do not take the basic step of providing information on the financial condition of the country directly to the taxpayers of this country, directly to the people who vote in our elections to determine the future course and direction of our Nation.

Mr. President, when I go back to my constituency and hold community forums, over and over people ask me for the basic information about how the Federal Government is spending its money. How big is the deficit? What is the outlook for the coming year? How is the money being spent? Where is it going? How much is going for defense? How much is going for welfare? How much is going for agriculture? How much is going for foreign assistance?

These are basic questions, and the taxpayers of this country deserve answers. They are not going to get it from the daily news media. There is no way that television is going to provide the kind of report that is needed by the American people to understand what is happening and why with respect to our national economic condition.

That is why the amendment that we introduce today moves to change that.

It directs the chief financial officer to prepare an annual report at the close of each fiscal year. The report would be readily available to all households through a request designation box on the individual income tax forms.

If the people do not want this information, there is no reason to send it to them. But if they are interested in the financial condition of their country, it should be available to them.

The report is to contain the basic information that any financial report would contain: An income statement, a balance sheet, information on special funds, a review of trends in revenues and expenditures, and a comparison of actual results to the forecasted amount for the most recent fiscal year.

Let us make the Office of Management and Budget [OMB] accountable. Let us make the administration accountable. Let us let the American people see what was predicted and what is actually occurring.

The report would also contain short statements from the President, Senate and House leaders, as well as summary statements from the OMB Director and the Comptroller General.

Outside of these core requirements, Mr. President, the amendment would call on OMB to oversee the preparation of the report. In addition, the amendment establishes a citizens advisory committee to ensure that the design of the report is most informative for the citizen users.

Mr. President, cost of providing the annual report would be relatively modest. The Department of Treasury Financial Management Service already has the staff and budget in place to prepare the Government's financial reports. But additional funds would be required for printing and mailing copies to the households requesting the report. The total cost, if all households were to receive the annual report, would not be over $30 million.

Mr. President, to help defray the printing and distribution costs, the amendment establishes the authority for the receipt of contributions from corporations, foundations, and other private entities that would be willing to support this effort.

In the face of declining participation of the public in the electoral process, providing something so basic as an annual report would be a very positive action.

Mr. President, we face some very difficult challenges ahead if we are ever to get our fiscal house in order. It is going to require in my judgment, shared sacrifice. If the American people are going to be persuaded that shared sacrifice is really necessary, they are going to have to have available to them the basic information that leads a person to that conclusion.

Mr. President, let me just close by thanking my colleague from Vermont, Senator JEFFORDS, for his invaluable contributions to the legislation that we have before us today. I believe this is a significant step forward. I believe it will make a difference to our country. I believe that if the taxpayers and the voters of this Nation had available to them the basic financial information about their country, they could make better judgments about our future course.

So I just want to close again by thanking my colleague from Vermont for his effort and his very sincere desire to make this effective legislation and to thank, too, my colleague from Ohio, Senator GLENN, who has shared a deep commitment to making certain that the citizens of America have the information necessary to make wise judgments about our future. I thank the Chair and yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I certainly want to echo the remarks of my good friend from North Dakota and say that without his invaluable assistance and that of Senator GLENN, we would not have come up with what I think is an excellent piece of legislation.

I would also like to say to my good friend from North Dakota that his experience as tax commissioner is well evident in his ability to put forth a proposal which I think has such merit.

In March, I introduced a somewhat similar measure. The goal of my legislation was to try to give the taxpayers a measure not only of our fiscal management, but also of other economic indicators that will affect their futures.

Today's deficit means a lower standard of living tomorrow. I believe similar arguments can be made for such economic measures as the trade deficit and inflation. Our Government policies, however, only partially affect these indicators.

I agree with my colleague from North Dakota that we should focus attention on the Federal Government's management of taxpayer dollars rather than expanding the focus of this initiative to other economic measures. Thus, I wholeheartedly agree with his proposal.

We have been able to combine the best of our two approaches in my mind. This amendment will ensure that an annual report on the deficit is prepared and that Americans will know that they are entitled to this annual report. What better time to get Americans' attention than when they are paying their taxes?

Annual reports are put out by just about every public company in the United States. The American taxpayer deserves no less than the American stockholder.

Current law requires that graphical representations of the receipts and outlays be included in the tax booklets. Our amendment will add a requirement that graphical representations of the total debt be included as well. The tax booklet will contain the change in cumulative debt expressed both in total dollars and in dollars per capita.

The debt continues to increase, and we have saddled every single one of today's workers with over $20,000 of Federal debt. If you asked the taxpayers about the debt, they would probably say it is big. But how many of them would guess that it is $29,000 per worker?

Not only will this information inform them of the cost of our failure to address the deficit, but it will also call the taxpayers' attention to the availability of the annual report.

Those taxpayers who want to see this report will, again, be able to easily obtain a copy of an easy-to-read summary of the Governments' finances. We need to continue to focus Americans' attention on this issue. That is the only way we will solve the deficit.

The Treasury Department has prepared prototypes of this annual report, one expressed on a cash basis, and another expressed on an accrual basis. I wonder, before we began this debate, how many of our colleagues realized that the Treasury Department has been experimenting with preparing a financial statement? I have several copies of the 1991 U.S. Government annual report. Should any of my colleagues desire a copy, I will be glad to furnish it to them.

This report highlights much of what we have debated on the floor. Receipts are increasing, but outlays are increasing faster. In fiscal year 1991, the total borrowing from the public increased by 11.5 percent. Receipts increased by $23 billion in fiscal year 1991 over fiscal year 1990, but outlays increased by $71.2 billion. In fiscal year 1991, interest was the third biggest outlay at 14.7 percent after defense and Social Security. I strongly recommend that my colleagues get a copy of this report.

This combined approach, in my opinion, offers several advantages. This approach emphasizes the fiscal responsibility of Government.

If enacted, this amendment will guarantee that every citizen who so desires can obtain a copy of the United States report. I cannot think of a more fundamental taxpayer right than to know how we are managing their money.

There are a few provisions that I would like to briefly explain, Mr. President. First, we have included language specifying that a summary of the annual report be placed in the tax booklet. Only a synopsis of the debt, along with information on the receipts and outlays, are required. Other appropriate information can be added, as suggested by the advisory group. By including this information in the tax booklet, the taxpayer may decide whether or not to order the annual report.

Another provision of this amendment authorizes the Secretary to collect a processing fee in the event somebody does desire to obtain a copy of the report. The intent with this provision was to provide flexibility to the Secretary. There is no way of knowing how many people will order this report. Postage could become a significant expense. Once an initial allotment of reports was distributed, based upon the amounts of money appropriated, then the Treasury could institute a processing fee for citizens desiring a copy of this report. Alternatively, the Department could charge the fees on those seeking multiple copies.

These fees, which would be subject to appropriations, will, I believe, provide flexibility and help protect the Treasury Department's budget as well as provide some flexibility to the Appropriations Committee. We do not want to add to the deficit for reporting about the deficit.

One can make up a great many excuses for not doing this. But, the bottom line is this: Do you believe that Americans are entitled to the same type of financial information corporations must provide? Do you believe the taxpayer has a right-to-know? Overwhelmingly, I believe the answer is yes.

I would, at this point, like to thank my colleague from North Dakota and also Senator GLENN for his assistance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Texas.

Mr. BENTSEN. Mr. President, as manager of the bill on this side, let me state that I have looked at the amendment. I think it is a productive amendment. I think it is a worthwhile amendment. I know of no objections on this side.

Mr. PACKWOOD. Mr. President, I know of no objections on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3178) was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I would like to take a moment to thank the chairman of the committee and ranking member for accepting this amendment. I would also like to thank my staff person, David Haring, who has worked for a number of months on this proposal, and also I would like to thank Dr. Michael Kennedy, who is a professor in Minot, ND, who is one of the people who encouraged us to go forward with this legislation.

I thank the Chair and yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3179

(Purpose: To amend the Internal Revenue Code of 1986 to repeal the designation of income tax payments to Presidential election campaign fund)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3179.

Insert the following at the appropriate place:

"Section 6096 of the Internal Revenue Code of 1986 (relating to designation of income tax payments to Presidential election campaign fund) is hereby repealed, effective for taxable years beginning after December 31, 1992.".

Mr. GRAMM. Mr. President, we had a vote here a minute ago on an amendment that was offered by our distinguished colleague from New Hampshire, Senator SMITH, that proposed allowing the American taxpayer to check off part of the taxes on that family income to go to reduce the Federal debt.

This was a proposal that the President made in his acceptance speech in Houston. It is well understood by the American people and, I believe, is generally supported by them. The basic idea is to empower the taxpayer to designate that up to 10 percent of the taxpayer's taxes would go not to increase Government spending but to reduce Government debt. A taxpayer could use 10 percent of his taxes to reduce the indebtedness that Congress has imposed on our children, our grandchildren, and on those future generations of Americans.

During that debate numerous of our colleagues said we could not allow the taxpayer, through the tax return, to dictate budget policy: they insisted that budget policy was something that had to be held within the hands of Congress.

I responded to that by pointing out that we already have a checkoff system which allows people to check off money on their income tax return to go to the political parties for conventions and Presidential campaigns.

And the basic question I proposed was this:

How can it be wisdom to allow a taxpayer to check off part of his taxes to go to fund political parties and yet be folly to allow the same taxpayer to check off part of his taxes to go to reduce the national debt on his children and grandchildren?

We rejected the Smith amendment. The Senate decided not to allow the taxpayer to check off 10 percent of his taxes for debt reduction. I thought that that was a mistake. The Smith amendment was deficit neutral, because if the taxpayer designates that part of his taxes should go to reduce the debt, spending has to be reduced by a corresponding amount so the deficit does not go up.

I remind my colleagues that when people check off today to give money to the political parties, there is no corresponding reduction in Government spending. Those funds are simply spent for that purpose.

So I propose that if the Senate decided that we should not empower the taxpayer to designate a portion of taxes to go for debt reduction, we ought to come back and repeal the provision that allows the taxpayer to designate tax money to us as politicians.

What this amendment does is very simply this: It repeals the provision in the IRS Code whereby people check off money to go to political parties. My view is that if this Congress is not willing to allow people to check off for the purpose of reducing the debt, if the idea of a checkoff is so unreasonable when it relates to reducing the indebtedness of our Nation, our Government, our people, and our children, then the checkoff concept is not something that we should have to benefit politicians.

This amendment is straightforward. I would hope that the same argument would be used on its behalf as was used in opposition to the Smith amendment. Quite frankly I like the idea of letting people check off. One of our problems in Congress is we get too many messages and listen too often to all the people who are riding in the wagon. Very seldom do we get messages from, or listen to, the people who do the work, pay the taxes, and pull the wagon.

Most Americans do not check off to give a part of their tax money to political parties. I believe that most Americans would check off to reduce the public debt and reduce the indebtedness of their children.

So I hope my colleagues will vote for this amendment. This is a simple, straightforward proposal to end the situation where we allow people to give politicians money but we do not allow them to designate tax money to go to debt reduction.

I urge my colleagues to vote for the amendment. I do not know of anyone else who wants to speak on behalf of it, but I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I believe there is someone else coming who may wish to speak. So I suggest for the moment the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, on the pending amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum until we have enough people for a sufficient second.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate turn to morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROPAGANDA AND DECEPTION IN TV ADS

Mr. METZENBAUM. Mr. President, we have all heard that "you can't believe everything you read." In recent weeks, I have become more convinced you cannot believe a lot of what you see, either.

When certain groups lobby for or against a bill, truth in advertising does not apply.

If there is an award for propaganda and deception in TV ads, the cable industry should get this year's trophy.

The same cable industry that has fleeced consumers for years bankrolled a propaganda campaign against the Cable Television Consumer Protection and Competition Act that tried to turn the truth inside out.

The same cable industry—which used its unbridled monopoly power to send rates soaring—blanketed our TV screens with ads claiming rates would go even higher if this bill passed.

The ads were so patently, blatantly misleading that it backfired. The public did not buy it.

And Congress did not buy it either. Earlier this week, 74 Members of this body voted in favor of the bill to rein in cable's monopoly power and help control rates.

I was reminded of this case by an ad now running in my own State of Ohio, where opponents of a ballot measure have taken a page out of cable's playbook.

The chemical and pesticide industry has mounted a TV ad campaign that misrepresents and distorts a measure that would require warning labels on products with dangerous amounts of chemicals that cause cancer or birth defects. It would also require polluters that expose neighbors to dangerous chemicals to warn them.

I think if the ballot issue passes, it would mean Ohioans will be healthier because of it.

Since the opponents of issue 5 do not have the facts on their side, they have packaged some propaganda into a TV spot intended to scare Ohioans into voting against issue 5. The ad is so ridiculous it claims that bread and peanut butter would have to carry a warning label. That is a lot of baloney. And it is on a par with the level of absurd mistruths the opponents of issue 5 are spewing out.

The truth is the scare tactics polluters are using to try and frighten Ohioans are a shameful attempt to deny Ohioans the right to know when they are being exposed to chemicals that cause cancer or birth defects.

The truth is, when it comes to toxic chemicals, what we do not know can hurt us.

Issue 5 would call for a simple, straightforward label.

What is all the fuss. If your product does not contain substances at a level known to cause cancer, you will not have to label. If it does contain cancer causing substances, common decency dictates an obligation to let people know.

As a practical matter, the law will work like this—companies will make efforts to reduce the level of cancer causing agents in their products to avoid the labeling requirements. The public benefits.

Ohio ranks third in the Nation in toxic pollution and seventh in the rate of cancer deaths—and the Ohioans who support this measure want to change that. I agree with them.

As I said, opponents of the ballot measure do not have the facts on their side. But they do have money. And they can afford to air an ad that distorts the truth. I am confident Ohioans will not buy into the bunk, not withstanding the size of their bank.

I hope this ad backfires, as well, and the ballot measure prevails in November.

Mr. President, these are examples of what happens when big lobbies attempt to protect their moneyed interests. Scare tactics, distortions, and flatout lies seem to suffice.

We have reached a level where you do not have to be armed with the facts to battle an issue in a State house or Congress. All you need to do is stuff mistruths into a 30-second spot and sell them on TV.

Mr. President, all this bodes ill for the coming avalanche of advertising as the fall campaigns come down the stretch.

I hope that the voters will view these 30-second ads with a great deal of skepticism, and will dig a little deeper into the facts to learn the truth about issues that they will face in the ballot booth.

Mr. President, I want to express my appreciation to the managers of the bill for permitting me to have the time necessary in order to make these remarks.

Mr. President, I ask unanimous consent we return to the regular order.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

### AMENDMENT NO. 3179

Mr. McCONNELL. I want to say a few words on behalf of the amendment of the Senator from Texas [Mr. GRAMM]. This is essentially the same amendment I offered on campaign finance reform when we were in the midst of that debate and I offered it in one form or another on several occasions. So I want to commend him for offering it at this particular time because I think it does come on the heels of the Smith amendment and brings up the important issue of whether or not taxpayers ought to be able to directly address the question of how we spend funds around here.

It is my view, as I suspect the view of some 37 or 38 Senators who supported the amendment of Senator SMITH, that it is not inappropriate for taxpayers to be able to directly designate on their tax returns, their funds to go for a certain purpose if the purpose is extraordinarily significant. For example, reducing the deficit.

We have had, Mr. President, for quite some time, a checkoff on our tax returns for something that seems to me is not only not significant but harmful, and that is the fund which has squandered over a half a billion of tax dollars over the last 15 years, and has not controlled spending and has not controlled special interest money and has not done anything it was supposed to do other than to reach into the Treasury and provide tax dollars for political activities.

We get a poll on this every year. This is one of the few issues upon which there is a very comprehensive survey. Every April 15, taxpayers get to vote on the question of whether they want $1 of taxes they already owe—it does not add to their tax burden—$1 of taxes they already owe to the political campaigns for President of the United States. And the participation has been declining dramatically. It is now below 20 percent, having started off about 10 percent above that 15 years ago when we began this ill-fated experiment.

The American people, over 80 percent of them, are saying no. Do not use $1 of taxes I already owe to pay for political commercials, political conventions, and the booze and balloons that, often at taxpayers' expense, are used at these conventions.

Mr. President, clearly if we are not going to allow a checkoff for such a worthwhile purpose as reducing the deficit, why in the world would we want to allow a checkoff for Presidential election campaigns?

We have squandered an awful lot of the taxpayers' money. I was just looking here at the FEC report of September 1992, with reference to public funding in this year's Presidential election. I am sure my colleagues will be interested to know that Lenora Fulani, the candidate of the New Alliance Party, has now received this year, $1,589,775 of our tax moneys to run for President of the United States.

So I think this is a good amendment. We ought to be consistent. If we are not going to allow a checkoff to reduce the Federal deficit, one of the most important issues confronting this country and our children and their children, then why in the world would we want to continue to allow a checkoff for something so frivolous in the minds of most Americans as funding political party elections at the Presidential level?

We have dealt with this issue before, as I said. In past Congresses I have offered separate legislation to reform the Presidential system. I offered a similar amendment to the Democratic campaign finance bill that passed earlier this Congress. Unfortunately, it was defeated on a largely party line vote. I hope that will not be the case with the amendment we are considering today.

During floor proceedings on the budget last year I offered amendments to transfer the budget allocation for Presidential public financing to child nutrition programs. Unfortunately, all of these efforts that have been made by the Senator from Kentucky over the last few years to get at this problem of squandering tax dollars on Presidential elections have not been successful. But I am hopeful that on this bill, at this particular time, particularly since this amendment is offered in juxtaposition to the amendment of the Senator from New Hampshire to allow us to designate some of our tax dollars to reduce the deficit, that maybe, just maybe we will have a different result today.

So we will have a chance, hopefully in a little while, to approve an amendment that would allow us to eliminate this outrage once and for all.

Let me repeat, the American people vote on this issue every April 15. It is the most comprehensive poll taken in the United States. And over 80 percent of the American people every April 15 say no, please do not designate $1 of taxes I already owe to pay for political commercials for Presidential candidates. So if we want to respond to the will of the people on this particular issue, it seems to me this amendment should be approved.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 3271 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## NATIONAL PROSTATE CANCER AWARENESS WEEK

Mr. DOLE. Mr. President, National Prostate Cancer Awareness Week begins this Sunday, September 27 and lasts through October 11. During this time, hospitals and urologists at more than 2,000 sites across the country will offer free prostate cancer screening for men over the age of 40. This is the fourth annual National Public Education and Screening Program to combat prostate cancer, and it has been extended for 2 weeks this year in anticipation of a high level of interest.

These screenings will consist of a free simple little blood test, called a PSA test, that is helpful in picking up prostate cancer. It is not a perfect test, but it is another tool that aids in the detection of prostate cancer. In addition, physical exams are being offered free of charge also.

The 5 minutes it takes to perform the test could determine the rest of a man's life. It can detect a silent cancer that will strike 132,000 American men this year and will kill about 34,000.

The sad fact is that most men do not even know they have prostate cancer because it often shows no symptoms. The disease is the most common form of cancer for men and is the second leading cause of cancer deaths. One in eleven men will get prostate cancer. In fact, one in three in men over 50. Among black men, the number is one in nine.

But, there is hope. So, I urge all my male colleagues and the male staff members over the age of 40 to participate in National Prostate Cancer Awareness Week and obtain a free prostate checkup—and to alert the folks back home. Early detection is the key to cure.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, shortly I am going to send to the desk an amendment on behalf of myself, Senator KENNEDY, the chairman of the Labor Committee, Senator SASSER, the chairman of the Budget Committee, and Senator BIDEN, the chairman of the Judiciary Committee, Senator WOFFORD and also the majority leader.

This amendment provides the other half of the strategy needed to give the Federal enterprise zone experiment a chance to make a difference in some of our most depressed communities.

Mr. President, let me now send the amendment to the desk.

The PRESIDING OFFICER (Mr. ROBB). The Chair would remind the

Senator an amendment by the Senator from Texas is pending.

Mr. RIEGLE. Mr. President, I am told that there is a pending Gramm amendment. I was not aware of that. So I cannot send my amendment to the desk at the moment. Let me indicate that we are prepared, Senator KENNEDY, myself, and others, to send this amendment forward at the first opportunity that avails itself. I think perhaps as long as we have the floor we ought to discuss it. I think I will make my initial statement, and I think, Senator KENNEDY would like to do the same.

I will withhold sending the amendment to the desk at this point, but I will describe it at this time, and then we will send it forward at the first appropriate opportunity later in the afternoon.

As I said earlier, this amendment provides the other half of the strategy needed to give the Federal enterprise zone experiment the chance to work and make a significant difference in some of our most distressed communities across America.

This spring, I visited Benton Harbor, which is an inner city community in Michigan that is home to our State's only official enterprise zone. The zone has been underway now for some years in Benton Harbor, and the lesson Benton Harbor has learned from that experience is one that I think we must listen to in Washington and apply as we craft our Federal enterprise zone legislation.

The central message of what we have learned in Benton Harbor is that tax incentives alone do not generate sufficient new investment in jobs to by themselves turn around our inner cities. Certainly, they help. They are designed to help. But they have to be augmented in a much larger and aggressive strategy within the designated geographic enterprise zone in order for other constructive things to happen that really start to lift that enterprise zone community.

Benton Harbor's experience has been shared now by enterprise zones in 35 other States and here in the District of Columbia. Studies of State zones have shown that infrastructure quality, labor force skills, and community characteristics like public safety are every bit as important, in some respects even more important, in business location decisions as are tax incentives standing alone.

In July of this year, I introduced S. 2998 to create what I called enhanced enterprise zones by matching up with the tax incentives targeted investments in housing, in infrastructure, in public safety, in job training, in general economic development, and other needed services.

The amendment that I am offering today with Senator KENNEDY and others incorporates several of the elements of that bill and integrates them with elements of the House enterprise zone bill's investment provisions as well as with programmatic initiatives of the Senate Labor, Judiciary, and Agriculture Committees, respectively.

The amendment provides $500 million in increased authorizations for 1993 for Federal resources to be targeted to enterprise zones and nationwide urban aid programs, and over the next 10-year period of time an amount equal to the estimated cost of the tax breaks provided for the enterprise zones in the legislation now before us.

So our provision appropriates no money directly, but I should say that the $500 million in appropriations for 1993 was included in last week's supplemental appropriations bill contingent upon passage of this authorizing legislation.

So it is very important that the authorization legislation be incorporated here, and we are now moving to do that.

This package reflects an agreement reached through negotiations between congressional leaders, led by House Majority Leader GEPHARDT and the President, that the tax-side incentives for enterprise zones would be matched by equivalent Federal investments in other areas. The $500 million for 1993 is equivalent to the amount included in H.R. 11 which passed the House under suspension of rules with broad bipartisan support.

As I said, the programmatic details of this package have been developed in close consultation with the majority leader, with Senator KENNEDY, chairman of the Labor Committee; as well as Senator SASSER, chairman of the Budget Committee; Senator BIDEN, chairman of the Judiciary Committee; and Senator LEAHY,. chairman of the Agriculture Committee.

Senators KENNEDY and SASSER also serve on the Democratic Senate Task Force on Community and Urban Revitalization, which I have been privileged to chair, and they have been invaluable in the development of this proposal.

I also want to thank the majority leader and Senator BIDEN for their great help on this amendment.

Now, of the $500 million for 1993, $300 million would be allocated to a block grant program for enterprise zones. The money would be evenly divided among the zones in proportion to each zone's relative share of low-income people. Zones would be able to choose from a menu of Federal programs in five areas in which to best spend that money in their zone. Those five areas are crime and community policing—that turns out, for example, to be a major problem right now with an absence of resources in Benton Harbor, MI, about which I spoke.

So the first category is crime and community policing. The second is job training. The third is child care and education. The fourth is health, nutrition, and family assistance. And the fifth is housing and community development.

Zones would be required to spend one-fifth of their grant in each category but could receive special permission to spend up to two-fifths in any one of those five categories just named. They could not spend less than 5 percent in any one of the categories, however, in order to keep forward movement going in each of the problem areas just cited.

The housing and community development program choices would include programs that were provided to increase funding for enterprise zones in my enhanced enterprise zones bill. In particular, the zones could choose to spend their allotments on the community development block grant program and the HOME housing investment program which are the two most important Federal, State, and local partnerships now in existence for housing and community development.

The cap on spending block grant money on public services would be raised from 15 to 30 percent for projects within the zone to provide local communities with added flexibility, and this they have asked for.

State and local matching for HOME projects within a zone would be waived provided that the zone is fiscally distressed, as many are.

The remaining $200 million would be reserved for nationwide programs and empower local communities through public-private partnerships between Government and community-based organizations. For example, the Head Start preschool education program would receive $40 million. Community health centers, vital in this instance, which do now provide primary care in low-income areas, would receive $20 million.

Job Corps, which trains disadvantaged youth in boot camp like environments, would receive $40 million.

The high-risk youth programs, which target the social services to youths likely to become involved in crime and drugs, would receive $10 million.

The Neighborhood Reinvestment Corporation, which makes grants to community-based groups that develop affordable housing, would also receive $10 million.

Youthbuild, the new program developed by Senator KERRY of Massachusetts and included in the housing reauthorization bill in which community groups educate and train low-income youth while they are rehabbing and constructing affordable housing, would receive $15 million.

And two new programs to increase the availability of capital for business development would also be funded: The enterprise capital access program, which was included in my bill, would be funded at $25 million to make grants to nonprofit community-based lenders who in turn could provide loans for business and other community development activities in distressed communities. And, second, a national community economic partnership program would be funded with $40 million to provide grants to community development corporations to capitalize revolving loan funds for business development lending so that communities could start to lift themselves up by their own bootstraps but with this necessary infusion of capital availability.

With this investment program, the enterprise zone tax breaks present a promising experiment to address the challenges confronting some of our most distressed inner cities and other communities.

But Federal enterprise zones are only an experiment and will reach at least, initially, only a limited number of communities. We obviously need to do much more than that. Unfortunately, the administration has opposed an investment program for our cities that would be in excess of the cost of the tax side of the enterprise zone program.

I would say, as chairman of the Senate Democratic Task Force on Community and Revitalization, I have heard from our Nation's mayors and other local leaders about the hopelessness that is pervasive in many of these communities and the frustration in our inner cities that is near and at the breaking point.

We saw in Los Angeles what happens when we move past that point. I think we have to move directly and promptly with more resolve and more forcefulness and more resources coming in in the right areas to see to it that we do not have repeats of the situation that we saw in Los Angeles spreading out through other communities across the Nation.

In July, we outlined on the floor of this Chamber a $6.7 billion program of investment in our cities and other distressed communities. I do not abandon that program today in coming forward with this augmentation in the area of just the Enterprise Zone Program itself. But I think it is essential that we move ahead now, and put in this more modest amount of urban assistance rather than to go for a much larger package, which we have been told the administration would veto.

So, as long as that is the situation we face, our judgment is that this is the scale of what can be done at this time. Give us a new President, new national priorities, new orientation, and we will be back here and we will be talking about something far more substantive in terms of its breadth than what we are able to do under present circumstances.

I want to just say, as the chairman of the Senate Banking, Housing, and Urban Affairs Committee, that I am determined to see us press ahead to help our distressed communities, principally urban but rural as well, have the ways and means to be able to turn things around to provide hope for the people, create jobs, secure the public safety, upgrade the education, health, and housing systems, and begin to enable America to become the land where what happens starts to match the promise of our ideals and the needs of our people.

About that, Mr. President, I know the Senator from Massachusetts wants to speak. So I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I want to express my appreciation for the opportunity to work with Senator RIEGLE, who has been chairman of our Urban and Community Revitalization Task Force, on urban and community problems, and to express my appreciation to the other members of our task force for their contributions to this amendment.

We have tried, over the period of fashioning this particular amendment, to consult with as broad a group of our Members here in the Senate to find out, determine, what are the programs that are effective, what are the programs that are working, what are the programs that are really making an impact in those communities, and then to try to put those in a formula which would have the broadest kind of support and have the greatest impact in our inner cities and poor rural areas.

The amendment that we offer today, Senator RIEGLE and myself, Senators SASSER, MITCHELL, BIDEN, and WOFFORD, is a reflection of that effort.

The Los Angeles riots forcefully turned the Nation's attention to the drastic consequences of a decade of Federal retreat and withdrawal from the festering problems of America's cities.

One of the basic questions before the country is whether the Nation's attention span is long enough to make a difference. Many of us in the Senate intend to do all we can to see that it is. To some extent, the cold war buildup of the 1980's diverted scarce Federal resources from many domestic needs, including the cities. But our purpose today is not to refight past priorities, but to reorder future ones.

The fact of Federal urban neglect is indisputable. Federal aid to the cities declined by more than 50 percent—50 percent—between 1981 and 1991. In the past 2 years, the serious problems caused by Federal disinvestment in the cities have all been compounded by the continuing recession.

We all know it is a long road back. Our cities are in trouble, and so are many rural areas. Their wounds cannot be healed overnight. But we must make a beginning.

We would never treat our national security in the cavalier and irresponsible manner we have treated our cities. We know what is at stake—the Nation's future itself. We cannot afford the reckless gamble of doing too little.

We must categorically reject the preposterous attitude that says, "I'm from the suburbs—let the cities solve their own problems." The day we accept that divisive excuse for inaction is the day America's current decline becomes irreversible.

Last spring, as a first step on the road back, Congress provided funds in the supplemental appropriations bill for time-sensitive job, education, and community programs targeted to inner-city youth. As a result of that initiative, 400,000 more teenagers are earning a paycheck this summer, nearly doubling the Federal summer jobs program.

That was a worthwhile bipartisan step toward reinvesting in America, and I hope that we can take another significant step in the tax bill now before us.

The enterprise zone concept in this legislation is an experiment. If it works, the incentives in this measure will help only a small number of communities, but they will be a large step in the right direction, because they will show the right way to thousands of other communities in all parts of America.

The amendment that we are offering is designed to enhance the enterprise zone concept by incorporating the basic principle that tax breaks alone are not enough to make the concept work.

Our amendment assures that we will also invest directly in the people in the enterprise zones, and that these investments in people will be approximately equal in dollar amount to the tax incentives offered to businesses that invest in the zones.

In a sense, what we are creating by this amendment is a head-to-head competition between tax expenditures and direct expenditures, and may the best incentive win. In fact, the likely result is that the whole will be greater than the sum of its two parts, and both types of Federal spending will prove essential in achieving the goal we all share.

Our amendment has two parts. Part 1 authorizes $200 million a year for proven approaches to urban and rural revitalization, with funds available to eligible communities throughout the country, not just to enterprise zones. Funds are included under this part for Head Start, Job Corps, and Community Health Centers.

Also incorporated in the amendment is separate legislation entitled the "National Community Partnership Act." These provisions authorize additional funding for Community Development Corporations to make technical and financial assistance available to small businesses.

The continuing credit crunch has made it very difficult for these enterprises to obtain the financing they need. For example, the Coalition for a Better Acre, a community development corporation in Lowell, MA, has helped capitalize twelve successful small businesses since 1990. In every case, the new owners were low-income citizens in the community who could not obtain financing from traditional banks. One of these enterprises is a licensed day care center managed by women previously on public assistance.

The National Community Partnership Act mandates a local dollar-for-dollar match of each Federal dollar. This approach ensures that public resources will only be provided where the private sector has made an up-front commitment to the neighborhoods of the community.

Part 2 of this amendment assures that new tax benefits to encourage private investment in enterprise zones will be accompanied by $300 million a year in new public investments in jobs, job training, housing rehabilitation, education, and health care, so that residents in the zones can participate in the benefits of the businesses that move in.

Funding is also provided to improve law enforcement in the zones through programs that encourage neighborhood policing and alternative sentencing options such as boot camps and community service. The zones are given flexibility to design a public investment program that fits the special needs of individual communities.

The amendment matches the investment of new tax dollars with new public investments over the entire 10-year period for which the tax benefits are authorized by the tax bill. The amendment also requires an independent evaluation of the success of the tax expenditures and direct expenditures in the zones. The enterprise zone is a worthwhile experiment, but it must be carefully evaluated in both of these key aspects in order to guide future policy.

I hope that this measure is the start of a new national commitment to our cities and rural areas. We all know that we must do a better job of addressing the long-run domestic challenges we face in order to rebuild America's strength. A decade of neglect has red-lined the entire Nation—not just our poorest communities. We have seen disinvestment in a wide range of vital needs such as education, job training, housing, health care, and research and development. The need is more urgent than ever, but at least we are not making a beginning. I urge the Senate to accept this amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending Gramm amendment No. 3179 be temporarily laid aside in order to consider an Inouye amendment; and, that immediately following the disposition of the Inouye amendment, the Gramm amendment reoccur as the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. Inouye].

### AMENDMENT NO. 3180

(Purpose: To amend the Internal Revenue Code of 1986 to exempt certain passengers from the harbor maintenance tax.)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. Inouye] proposes an amendment numbered 3180.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment, be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of section 6202 add the following new subsection:

( ) Exemption From Harbor Maintenance Tax for Certain Passengers.—

(1) In general.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

Mr. INOUYE. Mr. President, I am pleased that the amendment I just proposed has been cleared by both managers. It is a clarifying amendment that addresses the tax treatment of intra-island cruise ship harbor maintenance fees. Under the Water Resources Development Act, a tax was imposed on port use. The Congress provided an exemption for Hawaii, Alaska, and the United States possessions from harbor maintenance tax, in recognition our dependence on ocean transportation. The measure defined "commercial cargo" as anything transported on a commercial vessel, including passengers, transported for compensation for hire.

In providing the insular areas with an exemption, the measure utilized the term "cargo" which was not defined in any fashion in the acts. Fortunately, the statute on its face, as well as the accompanying legislative history evidenced no congressional intent to provide a more restrictive definition of cargo.

The U.S. Customs Service issued interim regulations in 1987 and, on its own initiative, defined the term "cargo" to exclude the transport of passengers from the insular area exemption.

My amendment clarifies the conflicting interpretation of the term "cargo," thus exempting Hawaii and Alaska from harbor maintenance tax fees. The exemption covers only intrastate passenger loading and unloading in the same State.

My amendment is supported by the U.S. Customs Service and has been scored as being revenue neutral. In light of Hawaii's unique geography, transport by ship is extremely important to our economy. Unlike our sister States where buses, automobiles, and trains are the main modes of transportation, these are not the modes of transport which can be used by Hawaiian residents and visitors that travel among our islands. Hawaii visitors must travel by plane or ship. Therefore, to tax passenger ships for travel within our State's boundaries imposes on Hawaii an unfair and discriminatory burden.

I urge the favorable adoption of this amendment.

Mr. BENTSEN. Mr. President, I have examined this amendment. It is a worthwhile amendment, and I find no objection on this side.

Mr. CHAFEE. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 3180) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3179

The PRESIDING OFFICER. Under the previous order, we return to consideration of the Gramm amendment No. 3179.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. Riegle].

Mr. RIEGLE. Recognizing that the Gramm amendment is the pending order of business, I want to make a few additional comments on the amendment to create an enhanced enterprise zone package that I will be sending forward later at an appropriate point. First of all, I ask unanimous consent that Senator Kerry of Massachusetts be listed as a cosponsor. We certainly invite any other Members who wish to cosponsor to do so.

Let me now share with the Senate some letters of support that we have received for our package, which I think should become part of the Record. We have received a letter from the U.S. Conference of Mayors, indicating its support for this package. The letter is signed by J. Thomas Cochran, executive director. We have also received a letter from the National Association of Counties, indicating their strong support for this package and their belief that it will be very helpful in addressing the problems in our distressed communities.

We have also received a letter from the National Congress for Community Economic Development, signed by the president of that organization, in which the Congress also expresses its strong endorsement of this package. I will read one paragraph:

> This comprehensive legislation includes the Community Economic Partnership Act, which could have an enormous impact on the network of over 2,000 community development groups across the country.

The letter points out that those groups have become a major force for the fiscal and economic revitalization of our urban and rural communities, and that these resources will come at a critical time and enable them to be much more effective in their efforts.

We have also received a letter of endorsement from the AFSCME National Union, the American Federation of State, County, and Municipal Employees, signed by their director of legislation, Jerry Klepner, which indicates why AFSCME strongly supports this package and the benefit the package offers for our country.

We received, as well, a letter from the Center on Budget and Policy Priories, signed by its executive director, Robert Greenstein. I will read two paragraphs of this letter:

> As an organization concerned with the high levels of poverty in communities throughout this country, we believe that any "urban aid" legislation must include funds to be invested directly in low-income families and communities. A package that relied exclusively on tax benefits for enterprise zones would be likely to have limited impact on poor areas. The "Community Investment and Public Safety" amendment that you and Senator Kennedy have designed would provide funds to expand many highly successful programs that are targeted to poor families. I offer our support for your amendment.
>
> We believe that the Riegle/Kennedy package has two important features. First, it allocates most of the funds through a block grant for those poor urban and rural communities designated as enterprise zones, while reserving some funds to be distributed through highly successful national programs such as Head Start and Job Corps. This two-tiered approach will guarantee that many poor communities that are not certified as enterprise zones will benefit from this package. Second, the block grant includes a broad array of programs in five separate categories. This will help ensure that the zones will invest their funds in a variety of useful programs.

I might say that that flexibility is something that Governors and local officials—the mayors of our cities and county executives—have continued to ask for, and we have sought to provide that needed flexibility in our package. So enterprise zones can not only select which programs will review the resources but are able to select the amount of funding for each program, depending upon the need that is greatest in that particular community. The local jurisdictions should make these decisions. Because they are in the best position to do so.

Finally, we have a letter from the American Institute of Architects, signed by the institute's executive vice president, in which the institute indicates its support for this package. The letter explains why it is essential that this kind of focused effort go on in the enterprise zones, and also in other distressed communities that will not have the added advantage of being designated as enterprise zones.

Mr. President, I ask unanimous consent that the letters I have referred to be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE UNITED STATES
CONFERENCE OF MAYORS,
*Washington, DC, September 24, 1992.*

Hon. DONALD W. RIEGLE, Jr.,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR RIEGLE: I am writing to assure you of the support of the nation's mayors for the amendment you plan to offer to H.R. 11 that would provide $500 million of needed assistance to the nation's cities next year.

H.R. 11 has been termed the "urban aid" bill. Your amendment would bring it much closer to being one, providing direct programmatic assistance to cities receiving enterprise zone designation and to other cities in need. The U.S. Conference of Mayors urges all Senators to support your amendment and to provide desperately needed help to our cities.

Sincerely,

J. THOMAS COCHRAN,
*Executive Director.*

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NATIONAL CONGRESS FOR
COMMUNITY ECONOMIC DEVELOPMENT,
*Washington, DC, September 24, 1992.*

Hon. EDWARD KENNEDY,
*Chariman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing on behalf of the membership and Board of the National Congress for Community Economic Development (NCCED) to once again express our strong endorsement of the Urban Aid Package which you and Senator Riegle are sponsoring.

This comprehensive legislation includes the Community Economic Partnership Act which could have an enormous impact upon the network of over 2,000 CDCs across the country. As you are well aware, these CDCs have become a major force for the physical and economic rejuvenation of our nation's urban and rural communities. However, in order to effectively respond to the deepening economic and social ills facing these communities the federal government must renew its commitment to this revitalization process. The Partnership Act is an important step toward this renewal.

We will continue to work through our networks in support of the Urban Aid Package and in particular the Community Economic Partnership Act.

On behalf of NCCED's members, I thank you for your continued support.

Sincerely,

ROBERT O. ZDENEK,
*President.*

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AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
*Washington, DC, September 24, 1992.*

DEAR SENATOR: On behalf of the 13 million members of the American Federation of State, County, and Municipal Employees (AFSCME), I am writing to urge your support of the Riegle investment amendment to H.R. 11, the Urban Aid Tax Bill, and to oppose any attempt to change the funding allocations in the amendment.

The Community Investment and Public Safety amendment, sponsored by Senator Riegle and others, will authorize $500 million to be divided between National Public/Private Partnership Programs such as: Head Start, Community Health Centers, Community Development Corporations, Job Corps, and others, and Enterprise Community Block Grant Demonstration programs in the Department of Justice, Health and Human Service, Labor, Housing and Urban Development, Education and others. The additional funding will go to proven, successful programs. Such funding will increase the effectiveness of these programs and result in a smart investment as savings are accrued through more wider-spread application. While much more is needed to respond to the many difficulties facing our inner cities, including the problems of crime, housing, education, health care, jobs, and more, the Riegle amendment will provide a badly needed down-payment.

Please support the Riegle investment amendment and oppose any effort to alter the funding distribution in the amendment.

Sincerely,

JERRY D. KLEPNER,
*Director of Legislation.*

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CENTER ON BUDGET
AND POLICY PRIORITIES,
*Washington, DC, September 25, 1992.*

Hon. DON RIEGLE,
*Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.*

DEAR CHAIRMAN RIEGLE: As an organization concerned with the high levels of poverty in communities throughout this country, we believe that any "urban aid" legislation must include funds to be invested directly in low-income families and communities. A package that relied exclusively on tax benefits for enterprise zones would be likely to have limited impact on poor areas. The "Community Investment and Public Safety" amendment that you and Senator Kennedy have designed would provide funds to expand many highly successful programs that are targeted to poor families. I offer our support for your amendment.

We believe that the Riegle/Kennedy package has two important features. First, it allocates most of the funds through a block grant for those poor urban and rural communities designated as enterprise zones, while reserving some funds to be distributed through highly successful national programs such as Head Start and Job Corps. This two-tiered approach will guarantee that many poor communities that are not certified as enterprise zones will benefit from this package. Second, the block grant includes a broad array of programs in five separate categories. This will help ensure that the zones will invest their funds in a variety of useful programs.

Many of the programs included in the block grant are the same as those in the Administration's "weed and seed" package presented in its FY 1993 budget proposal. We believe, however, that the broader mix of programs included in your amendment represents a more effective use of federal resources than the narrower list of programs included in the Administration's proposal.

Sincerely,

ROBERT GREENSTEIN,
*Executive Director.*

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AMERICAN INSTITUTE OF ARCHITECTS,
*September 24, 1992.*

*U.S. Senate, Washington, DC.*

DEAR SENATOR: On behalf of the American Institute of Architects, I would like to alert you to our strong support for the Riegle/Kennedy amendment to the tax bill now under consideration on the Senate floor. This amendment would provide funding for the infrastructure and social service programs necessary for the success of the proposed enterprise zones. At the same time, we oppose an amendment that may be offered by Senator Specter to divert these funds to a Justice Department "weed and seed" program not directly tied to enterprise zones.

The AIA believes that the enterprise zone program must be based on a strategy that goes beyond tax incentives for new businesses to improve the social and physical environments of the neighborhoods that must support these businesses. This strategy must feature local planning that includes all segments of the zones, coordination of resources and programming, and a strong linkage between social service programs and the physical facilities to save them.

The Riegle/Kennedy amendment would advance these goals. It would do so by matching the amount provided for enterprise zone tax incentives with funds for job training, community development, neighborhood health centers, housing rehabilitation, Head Start, community policing, and a variety of other programs and projects essential to addressing the complex, deep-seated needs of the zones. It would assure the comprehensive program that the enterprise zone concept sought to foster when it was first proposed during the first term of the Riegle/Kennedy amendment has already been signed into law and is available pending an authorization.

In supporting the Riegle/Kennedy amendment, we are concerned with the possibility of another amendment that would divert funds away from the zones, and thus dilute the effectiveness of already limited resources. This additional amendment would establish "weed and seed" projects in places not necessarily connected with enterprise zones. As a result, funds badly needed for the enterprise zones would be drained away for an activity that the Riegle/Kennedy amendment would fund within the zones. The Justice Department program, which has already received a $13 million appropriation, should not receive additional support at the expense of the enterprise zone program, and any attempts to do so should be opposed.

The Riegle/Kennedy amendment, combined with tax incentives for businesses locating in enterprise zones applies important lessons in community revitalization learned through four decades of hard experience. We urge you to support it.

Sincerely,

JAMES P. CRAMER,
*Hon. AIA,*
*Executive Vice President/CEO.*

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NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC September 25, 1992.*

Hon. DONALD W. RIEGLE, Jr.,
*Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

Attn: Matt Roberts.

DEAR SENATOR RIEGLE: The National Association of Counties commends you for proposing to offer an amendment to the tax and urban aid bill (H.R. 11) that would provide additional funding for distressed areas and enterprise zones.

The proposed authorization of $500 million in fiscal year 1993 is a modest amount of funds considering the needs of counties and cities impacted by the recession. The proposed authorization will have little effect on the overall FY 1993 budget.

It is our understanding that an amendment will be offered to allow this authorization to be used for the Administration's Weed and Seed Demonstration program. Since some funding has been appropriated in FY 1993 for this demonstration program, we would be opposed at this time to including it in your proposed amendment..

Thank you very much for your leadership.

Sincerely,

LARRY NAAKE,
*Executive Director.*

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Mr. RIEGLE. I want to go back and underscore the general concept behind this amendment. In the tax bill there are tax incentives to attract private investment into designated enterprise zones. We give those tax credits to attract private investment that will create jobs. But the bill does not, at the same time, augment that community in other areas where it has terrible problems; tax credits, by themselves, do not generate the kind of broad lift that distressed communities need.

For example, I cited Benton Harbor, MI, which has now had an enterprise zone, the only official one in Michigan, for several years. When I met the other day with the mayor of that city, she indicated to me that her most pressing need is for additional police officers to deal with the crime problems in that city. She does not have the fiscal resources right now to be able to have on the streets the minimum number of police officers that she feels is vital to ensure the public safety and to instill a sense of confidence and security into the community itself. New business investment is deterred, even with tax incentives, if a community is deemed not to be safe.

Benton Harbor also offers a second very powerful statistic which I think my colleague from Rhode Island will find of interest.

In the Benton Harbor school system, we have roughly a population of about 600 students who would normally graduate each year at the end of the 12th grade with a high school degree. What we are finding in that community, and it is quite typical of other distressed urban communities is that we are only graduating about 300 of the 600 young people that should be coming through the educational system. So we are losing half these young adults, en route. Of the 600 who ought to be graduating, only half, approximately 300 actually make it through and graduate.

And of the 300, only 150, on average, are finding jobs. And in many cases, those jobs are not very promising jobs—maybe work in a fast food restaurant or things of that kind.

So what is happening, in effect, is that we are losing about 450 of the 600 young people that should be coming through that educational track and out into the system of work and self-sufficiency through which they can take care of themselves and support a family, if that is their wish, and contribute to the country.

This is a terribly distressing figure. Obviously, something has to be done here to augment our ability to strengthen that community, to upgrade the educational performance so we have more young people not only finishing the 12 grades of school, but being able to come on out and move on into a work situation.

For it is obvious, that the message that, of the roughly 300 students that stick it out and get through high school, half of that group cannot find jobs, is not lost on the other students who are still in the 11th grade or 10th or 9th, brothers and sisters of the people who are finishing high school. Other kids in the neighborhood, if they see that a student who stays in high school still cannot get a job, still cannot get hooked up in the work system, have a disincentive to stay in high school, and stick it out and get their degree.

I do not mean to suggest that our package is a cure-all. I wish it were. We do not have a cure-all right now to solve this problem, because the problem is so large and manifest across the country. The growth of the underclass in America—people who are locked into poverty and are having an increasingly difficult time getting out—has been so dramatic in part because job creation is insufficient in the country. And there are other problems that also contribute to the problem.

But, if we do not supplement these tax incentives with help with public safety, with strengthening of the school system all the way from Head Start right on up through, with health services, with decent housing—if these things in combination are not brought in at the same time as tax incentives—then the enterprise zone concept is being asked to do to much. It is being asked to do more than what it can logically be expected to do by itself or has been able to do even in a community like Benton Harbor, where a sustained good-faith effort has been made.

In the case of Benton Harbor, we had a corporate sponsor in an adjoining town, St. Joe. The Whirlpool Corp. has been a driving force behind efforts to implement the enterprise zone concept in Benton Harbor. And even with a committed corporate sponsor in the area trying to make the enterprise zone work with tax incentives alone, Benton Harbor has not been revitalized. Even though we have gotten some business location and job creation, that has not been sufficient to break the back of the problem. In order to do that, more is needed and it needs to be in the format that we have laid out here.

(Ms. MIKULSKI assumed the chair.)

Mr. RIEGLE. Madam President, we need Federal support because the local community just does not have the economic muscle and the fiscal strength within itself to raise revenue to do what is needed. The community is financially exhausted, as it were. This is why the mayor, more than anything else, wants a little bit of money to hire additional police officers so Benton Harbor's residents can have a degree of public safety and can make their community safe and more attractive to business formation.

But the city is not producing the needed revenue within its own tax boundaries, and the State of Michigan is now cutting back on programs. Unemployment in the State is high. It is running about 9 percent, part of the long-running, seemingly never-ending recession in the country.

The State of Michigan does not have the resources to invest. Frankly, we do not have a lot of resources to invest here at the Federal level, but we are investing some revenue expenditure through the tax incentives in the enterprise zone concept narrowly defined.

We do not want that money to be wasted. That is why we want to augment that money and match it dollar for dollar with support for Federal programs that we know work, that have a good track record, a high degree of success. This will add the muscle to the community's endeavors and, in a sense, wrap it around the tax incentive aspect to make that community able to begin to lift itself in a more direct and dramatic fashion.

That is the concept. It is very simple. We have had enough experience now to know that if you do not enhance the enterprise zone concept in that fashion, it is very, very difficult for the tax side by itself to work a miracle in these terribly distressed communities. It has to be augmented.

The money to do this has been provided in the appropriations bill that has already been approved. This amendment provides the authorization properly to support and undergird that commitment.

There are many of us who believe that enterprise zone concept can be made to work. People on both sides of the aisle who feel that this is something that we have to get behind and do in a fashion that can work and can start producing results—generating positive improvements in people's lives and generating hope where there is now hopelessness in so many communities.

Secretary Kemp of the Department of Housing and Urban Development has been out front on the issue for a long period of time. He has argued for this kind of concentrated focus. He and I have talked about the tax incentives and, in addition, the enhancements that have to wrap around the incentives to give the tax incentives the reinforcement, strength, and support that they must have if they are going to have beneficial effect.

So there are people on both sides of the aisle who want to try to make this enterprise zone concept work. I am one of those people. I want it to work. I do not want it to be just sloganeering or sophistry or a concept that is so narrowly defined that it is going to give us very limited result which, in the end, may not only undercut the concept itself, but also end up crushing people's hopefulness about what enterprise zones might do in their lives.

I think we have to make them work. We are so far behind now in this country that we cannot afford to have more time go by and more damage accrue, or more human wreckage pile up, without trying something that we have every reason to think can work.

It is time to make a serious commitment in this area, to put the force of this country behind it and change things for the better.

That is what people need. Every person in this country deserves an opportunity to have a better life, not just those who happen to be born into favorable circumstances, or who are blessed with either exceptional opportunity or exceptional abilities, and are able to have a very nice life in our country today. We have to have a society working so that people who work hard and who care and who try to apply themselves not only can move ahead but will move ahead. We have to open up the opportunities, create ladders for people to climb out of poverty in inner cities, in rural areas, and throughout the country. We have to continue to be and make ourselves again into a land of opportunity. And that is what we are talking about here.

If in even one city in our country there are 600 young people that should be graduating from high school and only 300 of the 600 manage to graduate, and then half of those that graduate are not able to find jobs, that is not good enough.

That is a recipe for disaster. Because those young people deserve a chance. We need them to be equipped to work and contribute for themselves and for our country. Our country needs what they can do. And so they need to be given the opportunity to prepare themselves educationally, to have their medical problems dealt with, their housing problems dealt with, so they have a chance to come forward and be everything that God intended for them to be.

Every other advanced country these days does things this way and has programs to do this. Japan has a very aggressive program in their society to see to it that opportunity is broadly available and people are able to come forward. The same is true for all the advanced countries in Europe. And increasingly it is true around the world.

Why is it that we are the country with the largest percentage of people in poverty, having the underclass problems getting worse, not better. We cannot accept this and we do not have to accept this. We can change it. And we can change it by doing intelligent things like this, where we have already developed the experience in these areas that we have cited.

When you invest in your people sensibly in this fashion, people respond and we get a return. We avoid sending people down dead-end streets to a despairing kind of future and no future. Instead, we enable people to get on routes into the future that are good for themselves and good for America.

That is what we are talking about here. Let us make enterprise zones work. Let us put the muscle, the energy, and the force in here so they will work, and so hope can be rekindled in these communities and young people can see that this country cares about them. So kids in this situation can understand that they are not just written off and it is not a situation where no one cares or that we only care about them if we need them, for example, to suit up and go on over in Desert Storm or some other operation of the kind.

I saw on network television the other night two veterans of Desert Storm who, over a year ago, wore the uniform of this country to carry out the objectives of our country, putting their lives on the line to do so, with distinction, as everyone else did who served in that effort. And how they are back in the United States, unemployed, homeless, and living in cardboard boxes here in our Nation's Capital.

We cannot have that. That cannot be America's story, and we cannot settle for that. They should not have to settle for it. And those of us that have any power or leverage in this system ought so see to it that they do not have to settle for that.

We can do better than that. I do not want young people in Benton Harbor, of Pontiac, or any city across this country to see that kind of a situation and say that the country either does not care or is not capable, or that one day they matter and the next day they do that.

Everybody in this country matters. We have to think in terms of Team America. And we have to think in terms of the fact that we are 240 million or so people who are on that team and everybody on that team is important. We have to look after the health needs of everybody on that team, the educational needs, the job training needs, and the retraining needs, so that members of the team can have full lives and so they can contribute and they can look after themselves and they can add strength and a contribution to this country as a whole.

That is why we started this country over 200 years ago. We did not just start it for a handful of people, or just have it be a dog-eat-dog system where some make it and some do not and we just walk away and leave part of our society behind. We have to reorient our thinking and we have to go right into these nagging problems.

The disgraceful conditions in our inner cities do not have to be this way. We do not have to settle for this. We are smarter than that, and we are better than that as a people, in terms of responding and facing up to these problems.

In fact, we know what to do. It is no mystery. If children have enough to eat, and if they are brought into a preschool program early enough in life and they are given the kind of educational opportunity that is there, they are going to come along, most of them are going to come along, and they are going to develop and be able to do a better and better job as they come down the track.

But if they need a pair of glasses because they cannot see very well, then they have to have the glasses. And if they need some other kind of health services, they have to have that. They cannot be living in rat-infested or rundown kinds of housing conditions or in unsafe neighborhoods where you have drug dealers on every corner.

We do not have to have an America like that. But that is what too much of America is like today.

Here is a chance to make a commitment to do something about changing it. And so I am for the tax incentives. I am for the enterprise zone concept. We have to try it. But more than that we have to make sure it is going to work. It cannot just be sloganeering. It cannot just be a way of buying time. It cannot be just a little trickle down of this or that. It has to be something that is big enough and broad enough that comes in on the problem that adds the muscle that really makes the difference so we can start to turn the corner.

I do not want to see us lose one more kid in this country to a hopeless future. We are building prisons all across America today. We are building them so fast we cannot even count them. In fact, we are having a hard time raising the money just to pay for them, just to get them constructed, let alone to fill them up with people.

We have to have some other route in our society than a route that is creating the exploding prison population. And that means getting started early in the game to help families hold themselves together. We need to get these Head Start programs going.

Only a fraction of the children in this country that are eligible for Head Start today get Head Start. Every kid in America that is eligible for Head Start and needs it ought to get it. And we do not spend a better dollar in this country than money spent in helping a young person achieve their promise and come forward and be able to look after themselves and their families, and make a contribution to America. That is what it is all about. And that is what we are talking about here.

We are not talking about inventing something new. We are not talking about outlandish amounts of money.

We are saying, look, let us match dollar for dollar what we are giving in the way of tax incentives to private businesses to locate in that area and create jobs. Let us use it for things that we know those communities need to make them stronger in education, health services, housing, and public safety, so that those communities can start to lift themselves back up. And these two things can work in tandem. If we have a real partnership—the public sector and the private sector—we really work the Team America concept, and we start making some positive things happen in this country.

Too often we give up on our people. I will just finish with an illustration of a case that I know about in my own home State of Michigan.

Many years ago, in the town of Saginaw, an industrial town in sort of central-lower Michigan, there was a baby born in a hospital. In this instance, the baby happened to be an African-American child. In one of these terrible accidents that can occur, there was a mistake made in the first few seconds of that child's life. At that time, in order to protect the child's eyes, there was a process in the hospitals where they would put silver nitrate into the eyes so that no infection could occur. That was the standard procedure for newborn infants in any hospital at that time. But on this day, with this child, in this hospital, a terrible mistake was made and someone got the wrong medicine. And instead of using silver nitrate, which was what was needed, they used something else and blinded that infant for life. It was a terrible mistake.

You might say to yourself, when a child is born in an inner-city hospital in an industrial town, also having to face the problems of racism in our society—which would apply in that child's case—literally only being 2 or 3 minutes old, to have its sight taken away by such a terrible accident, what chance does this child have? What is going to become of this child? What can this child's life turn out to be under those conditions?

It turns out that that child went on to become one of the most extraordinary musical talents and genius that we have ever seen. The person I am talking about is Stevie Wonder, who probably created as much magnificent music with his writing and with his performing as anybody alive today. Just, truly gifted almost beyond description.

That was the potential in that child who had to overcome that grievous problem that I have described, literally as his life began. He overcame that. And thank God for it, because everyone who has been touched by his creative work is better for it.

But how many children today do we have in the inner cities of America who have other gifts that we may never hear or never see because as a society we are turning away? We are not responding. We are not making sure there is an opportunity for people to come ahead and have the fullness of life that we all want, that we want for our children. We have to want it for all of our children, all of America's children.

I know as I stand here now that we have in our poor cities, in the poorest areas of our urban centers and in our poor rural areas, young people of extraordinary capacity who can make extraordinary contributions to our country. And we need them to do it. First because it is right. And also because our country desperately needs all the leadership it can get from our people.

It is time to change the focus and turn again to the needs, the basic human needs of the people of our country; to make these intelligent investments, and that is what they are. This is not going out and spending money, like going out and having a fancy dinner some night and the money is gone and the dinner has been eaten and there is nothing to show for it. What we are talking about is making an investment in people. Making an investment in people that will bring a return later on down the line in more productive lives and in a contribution to the public good. That is what we are talking about here. Invest in our people.

Yes, we have to invest in our technology and in our buildings and in our roadways. We have lots of things to invest in. But we do not have anything more important to invest in than investing in our people. If we fail to make the investments that are needed there, this country will falter and will fall behind. And we have been faltering and falling behind.

If you look at our average annual income for families in the United States, it has been dropping over the last few years. Look at the growth of poverty in the country. It is going up; the size and dimension of the underclass, as we call it in economic terms, is getting larger. We have to get on a different economic track. People want that. That is what public opinion polls tell us, that people are saying it is time to get on a different economic track, to have a new economic strategy for America.

But when you strip away all the complexity of how this has to be done, it essentially comes down to the question, what are we investing in our people? If we are moving in and maximizing the potential of each and every one of our citizens, then this country can soar. But if we turn away, if we tilt this country way off its axis in terms of an imbalance, if we put too much of the resources in too few hands and we stop investing in the things that we need to to bring our people forward, then we are going to see precisely what we see now, and that is the pileup of problems and grief and shortfall and terrible conditions that we cannot tolerate any longer.

In the news in this city just in the last week, within walking distance of this Senate Chamber and this Capitol Building, we have had two terrible crimes committed—two of many, but two that have been so terrible in their dimension that they have been very much in the news. One was an older woman, in her eighties, brutalized and sexually assaulted in her apartment. They do not know who committed that crime. Then, within just a matter of a few hours, a young woman, I think only 22 years old, who had recently come to Washington, was on her way back to her apartment, and she was accosted by somebody. She was beaten so terribly, left in an alleyway, that she died. She had been beaten beyond recognition. They could not even figure out who she was for a day or two. And this is just another random victim of the kind of violence that is going on.

Or the mother whose car was carjacked in this area. She was trying to get her 2-year-old baby out of the back seat and was dragged for a mile or two and was killed in the process, and the baby was thrown from the car. Fortunately the baby survived.

We cannot live like this. This is not the way things were in this country 20, 30, or 40 years ago. They do not have to be that way now. We do not have to have a Clockwork Orange society where you have these terrible kinds of violent crimes occurring, these random shootings, people being shot and killed by random bullets on expressways. These are manifestations of a society that is not attending to its basic human problems.

There are always going to be a certain amount of crimes, but the kind of explosion of crime we are seeing, the nature of the crime we are seeing, is in part due to the fact that we are not concentrating on basic human issues, starting right at the beginning to change our society back into an opportunity society.

I will not take any more time now to talk about my amendment, except to say what we are talking about here is carefully reasoned. We are talking about applying things we know work, that are highly effective, that are investments in our people. We are talking about making enterprise zones strong enough so they really start to turn things around. I hope when we are able to send this amendment to the desk later, after disposing of the amendment now pending, that every Senator will feel he or she can support this as a sensible step in the right direction. I hope we can send a ray of hope out to the country that says we understand what is going on, we want to respond to it, and we are endeavoring to do so.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if the Senator from Michigan will yield for a couple of questions. I am not familiar with the amendment he has. Could he just briefly explain to me what it does? I know it complements the enterprise zone effort and it provides, as I understand it, additional moneys for police protection and I presume some education assistance likewise.

Is this an appropriation? I am a little confused what exactly this is.

Mr. RIEGLE. Let me respond to the Senator. The appropriation for $500 million for the coming year has already passed the Senate in the supplemental appropriations bill.

This is the companion authorization, for that. The $500 million is divided into two parts: $300 million of it is to be allocated in the form of block grants to the designated enterprise zones themselves. It will be divided among the zones that are designated based on their relative low-income population. That amount of money, once it has been assigned to the various designated zones, would be spent in five different areas. But the communities will have flexibility to decide which of the areas are most important to emphasize given their own circumstances.

The five areas where we now have existing Federal programs available are the following: crime and community policing; job training and retraining; child care and education; health, nutrition, and family assistance; and finally housing and community development.

Spending would be allocated within each of those five categories depending upon how each community believes is the best way to blend the deployment of those resources in those five areas. So one community might do more in one and less in another.

The remaining $200 million is reserved for nationwide programs. This would also go to communities other than those designed enterprise zones communities that also have tough problems to deal with. We would give those communities the ability to work through public-private partnerships between the Government, and community-based organizations.

We allocate that $200 billion as follows: $40 million goes into the Head Start Program; $20 million goes into community health centers; $40 million into the Job Corps; $10 million into the high-risk youth program; $10 million into the Neighborhood Reinvestment Corporation; $15 million into Youthbuild, and there are two other programs we think are needed to increase the availability of capital for private business development.

One is called the Enterprise Capital Access Program. It would provide grants to nonprofits to offer loans to businesses that want to get started. There is $25 million there. the second is called the National Community Economic Partnership Program. That program provides grants to community development corporations to capitalize revolving loan funds for the purposes of business development. These funds enable entrepreneurs to get started who may have a concept but not enough capital to get their idea going. We provide $40 million there. So that is how the $500 million in total is divided.

Mr. CHAFEE. Is there something in it that involves justice administration? One of the problems I have heard bruited about here is there is some problem with the Judiciary Committee. I am not sure that is so. That has been suggested. Is there anything that would possibly become involved with that committee?

Mr. RIEGLE. The chairman of the Judiciary Committee, Senator BIDEN, is a cosponsor of the package. We have worked with him in developing it. So it certainly reflects his participation and support.

Mr. CHAFEE. Madam President, I thank the Senator.

### COMMUNITY INVESTMENT AND PUBLIC SAFETY TITLE OF THE URBAN BILL

Mr. SASSER. Mr. President, I rise today as an original cosponsor of the amendment offered by the Senator from Michigan. It is long past time that we addressed the long-neglected economic and social problems that spawned the Los Angeles riots. I rise to express my support for this amendment and to underscore my commitment to doing what I can to respond to these problems.

Let me begin by saying that we have been a long time coming to this point—too long if you ask most Americans. On July 2 this body rejected an amendment to the Soviet aid bill which was very similar to this one by a vote of 64 to 32. At that time, it had been more than 2 months since the verdict in the Rodney King case sparked the riots in Los Angeles and drew much-needed attention to the Nation's urban ills.

Well Mr. President, we have spent another month getting to this improbable juncture. And where are we today, more than 3 months after the riots? The bill we have before us, while purportedly driven by the need to address the Nation's urban problems with enterprise zones, has become a multi-headed, catch-all tax bill.

The title of the bill says it all: The Revenue Act of 1992. Indeed, the enterprise zone portion of the bill is dwarfed in comparison to a multitude of other tax provisions—including a $6.2 billion revamp of laws governing individual retirement accounts and $2.5 billion worth of dubious economic growth incentives, most of which have already been passed by the Congress and vetoed by the President.

The truth, Mr. President, is that we are a long way from a truly far-reaching and effective response to the Nation's urban problems. And while I hope that what we do here today will truly overcome the problems of poverty and violence that plague our inner-city neighborhoods, I fear it is, at best, merely a first step.

This amendment is a companion measure to the enterprise zone tax provisions contained in the tax bill before us. The amendment authorizes a total of $2.5 billion in spending on related programs over 5 years. The authorizations are divided into two parts.

Part 1 authorizes $200 million per year for a national public/private partnership program under which funds will be used for specified programs including Head Start, community health centers, Job Corps, and the Neighborhood Reinvestment Corporation. Part 2 authorizes $300 million per year for an enterprise community block grant demonstration program. These funds would be expended within the enterprise zones created in the underlying bill and would be allocated among five different activities.

Within the block grant, local coordinating boards would be responsible for allocating funds within their zones for:

First, crime and community policing;

Second, job training;

Third, child care and education;

Fourth, health, nutrition, and family assistance; and

Fifth, housing and community development.

The amendment would allow the coordinating boards to allot as much as 40 percent of the funds or as little as 5 percent to any one activity.

Within each activity the amendment allows the boards to select among a variety of programs. Thus, the amendment is designed to enhance the flexibility of the boards to respond to the problems peculiar to their zones. This approach will maximize the effectiveness of the Federal moneys authorized in this amendment. Let me take a moment to discuss some of the key features of the demonstration block grant.

### CRIME AND COMMUNITY POLICING

The demonstration crime and community policing block grants will provide critically needed resources to combat violent crime, curb gang activity, and provide relief to the Nation's overcrowded prison system.

The community policing grants will allow law enforcement officials to work closely with community residents to develop solutions to the problems of violent gang and drug-related crime. Alliances between community residents and the police are crucial for making neighborhoods safe and drug free. The initiative focuses on increasing police visibility and developing cooperative relationships between the police and local citizens through the use of officer foot patrols, citizen neighborhood watches, targeted mobile police units, and community relations activities.

The block grants corrections provision provides relief to the Nation's overcrowded prison system. Under this measure funds will be made available to provide assistance to public and private nonprofit agencies in designing, developing, and implementing innovative alternatives to traditional incarceration and offender release programs. This project also provides funds for prison boot camps. Prison boot camps focus on reducing crime recidivism rates amongst young first-time offenders by incarcerating them in military boot camp atmospheres.

### JOB TRAINING

The block grant demonstration provides for a number of options within the job training area—including a requirement that 25 percent of funds be spent on the young adult employment demonstration program. Among the other eligible programs is the Jobs Corps, of which this body should take special note.

In my judgment, Job Corps must be a centerpiece of any urban program. Indeed, increased funding for Job Corps is one of the true highlights of this package. Against the most difficult of odds, the Job Corps Program works. It's been working for nearly three decades.

The Job Corps takes the most disadvantaged young people. Typically, they are high school dropouts, from poor families, who have never held down a job before. Job Corps takes these young people and instills discipline and personal responsibility. And the Job Corps teaches these young people job skills. Whether it be as a plumber or a computer operator, Job Corps gives these young people a future.

More than 80 percent of Job Corps graduates are placed in jobs or go on to seek further education. Very simply, Mr. President, Job Corps works. And it is cost effective. For every dollar invested in Job Corps, $1.46 is returned because these graduates spend less time in jail and less time on the unemployment line.

Clearly more needs to be done to make Job Corps available to more young people. This bill is one more step down the road of long-term job corps expansion.

### CHILD CARE AND EDUCATION

The child care and education category of the Enterprise Community Block Grant Program provides zones with the authority and funds to carry out programs that address the needs of high-risk children at every stage of their lives, from preschool to college. Head Start has proven how early childhood education can put a student on the right path toward educational achievement. This Great Society Program, embraced by both Democrats and Republicans, will generate hope for the future for residents of enterprise zones.

Chapter 2 of the Elementary and Secondary Education Act will provide block grant funding to school districts in enterprise zones for school improvement programs designed to meet local needs. Programs funded by this block grant must be targeted at high-risk students, but there is great flexibility in how to spend the funds.

TRIO, or "special programs for the disadvantaged," provides assistance and encouragement to first generation college students. The TRIO programs would have success in motivating the youth population of an enterprise zone to seek education beyond high school.

The National Early Intervention Scholarship Program, just enacted by the higher education reauthorization, encourages States to provide scholarships to low-income high school graduates. This educational assistance program would help youth from enterprise zones make their college dreams come true.

### HEALTH, NUTRITION AND FAMILY ASSISTANCE

The block grant authority will also give local communities needed flexibility to apply the resources of a number of the most successful and effective health, nutrition, and family assistance programs to inner city revitalization and support.

WIC grants will allow expansion of the program of food supplements to low-income pregnant women, infants, and children. Studies have shown WIC to be the most effective program we have to combat infant mortality, prevent low birth weights, and in general reduce later health care costs. Yet thousands of low-income families still have no access to this child nutrition program.

Community health center grants would allow expansion of health centers located in inner city areas to provide basic health services to those without other access to health care. The dramatic rise in the uninsured and the financially strained condition of many inner city hospitals has resulted in great gaps in health care for many inner city residents.

Also included are homeless family support grants and the authority to use grant funds to develop or expand existing programs in the area of drug abuse capacity expansion, community prevention, and special drug abuse prevention programs for pregnant women.

HOUSING AND COMMUNITY DEVELOPMENT

In most zones, at least 20 percent of the block grant funds will go into programs under the rubric of housing and community development. It is difficult to overstate the value of these funds: you must give people a stable living environment before you can successfully intervene with the appropriate services.

The options under housing and community development include time tested programs like CDBG, section 8 rental assistance, and the Neighborhood Reinvestment Corporation. At the same time, however, several relatively new programs in HUD are included—among them the HOME Investment Partnership Program and the Public Housing Drug Elimination Grant Program.

I would like to particularly highlight the HOME program for Members still unfamiliar with its attributes. The HOME program fits into the philosophy of this bill. HOME is about creating partnerships to solve the affordable housing crisis. HOME links the Federal Government with local governments and links local government with for-profit and not-for-profit providers of housing services. I have seen the model work at Chattanooga Neighborhood Enterprises in my home State.

Mr. President, I think this discussion of these programs makes clear the benefits that this amendment will provide. Though it is late in the day and, in this Senator's opinion, we should have acted much sooner, I am happy to see the Senate take at least this first step toward a more rational urban policy. I urge my colleagues to swiftly approve this amendment.

Mr. RIEGLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I have had staff discuss with the proponent of the amendment a time agreement. I am advised that the proponent is agreeable to a 20-minute time limitation equally divided between the two sides on a motion to table. I ask unanimous consent that that agreement be approved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. And no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

With that, I yield 10 minutes to the majority leader.

Mr. MITCHELL. Madam President, Members of the Senate, this amendment to eliminate the public financing of Presidential campaigns would be a giant step backward in the American election campaign process. We would return once again to a system marked by the ability of candidates running for President to hustle campaign contributions.

The amendment ignores the scandal-ridden background against which public financing was enacted in 1974. By ignoring history, it invites a repetition of such scandals.

Twenty years ago Presidential election campaigns in our Nation were financed by the wealthiest and most influential individuals in our society. Often persons with interests they did not wish to be publicly known were among those giving the most to Presidential campaigns. It was done in secret.

The Nation's largest and wealthiest corporations were subjected to what can only be called a shakedown by Presidential fundraisers, who implied that those who failed to give enough would find themselves facing regulatory problems.

The scandal that has come to be known as Watergate was fueled and sustained by the drive to ensure an election victory. That goal lay at the heart of the enemies list as well as the threats of tax reprisals.

It was against this background that Congress decided in 1974 that reform was essential to free Presidential elections to the extent possible of the taint of enormous cash donations, given in secret and without accountability.

The reform recognized that in a nation of 200 million persons, the costs of reaching voters with a campaign message had outrun what a private fund raising system could accountably raise.

Equally important, the reform ensured that challengers to a sitting President, who cannot call on the vast array of Government programs and offices to bolster their campaigns, would have a more equal chance to bring their candidacies to the people.

Despite the fact that the checkoff has not been altered or changed for the 15 years it has been in effect, while campaign spending has risen substantially, the checkoff today remains the most broadly based public participation in our electoral system.

In the last Presidential election, 32 million Americans agreed to participate by checking off the $1 per taxpayer option. That is 27 percent of the electorate. In comparison, only 6 percent of Americans give donations to political candidates or political parties.

Even though the checkoff has not been widely advertised, even though it is said that some taxpayers may be confused and think it adds to their tax bill, millions of Americans have repeatedly made it clear by their actions that they believe enough in our system of free elections to participate, when doing so is as simple and direct as the dollar checkoff.

It demonstrates broad and totally voluntary public support.

Critics claim that because more people do not participate that the checkoff is a failure. That is the same reasoning which would see a lower voter turnout as an indictment of free elections. It is not very persuasive.

Never in the history of this country has the whole public, or even as much as half of the public, chosen to voluntarily engage in political activity whether giving donations or volunteering their time.

We can deplore this fact if we choose to, but in a free society it reflects the freely made choice of the people.

It is ironic that the opponents of the checkoff say that 27-percent participation in the last Presidential election is a failure. So they want to replace it with a system in which only 6 percent participate. If 27-percent participation is a failure, how do we improve by going to a system in which participation is 6 percent?

Under our system contributing money to political parties and candidates is entirely voluntary. So is the dollar checkoff. And a great many more people have chosen to participate through the checkoff than have chosen to give money directly to candidates or parties.

That outcome says that millions of Americans are concerned enough about the health of our free system of election to support the principle, even though they are not devoted enough to either party or any candidate to do so directly.

That is a good vindication of the 1974 reform. And the reform has been vindicated by the campaigns and the candidates themselves.

Since 1976, when public funds were first involved, Presidential elections in this country have been untainted by the kinds of scandals which marred the 1972 campaign.

We must remember that public financing of the Presidential system is entirely voluntary. Nobody is forced to contribute and nobody is forced to accept public financing to run for President. But in the four elections since the program was created, every candidate but one has chosen to participate in the public financing and spending limits which are part of the Federal Presidential system.

President Bush is by far the largest recipient of public taxpayer money in history. By the end of this current campaign he will have received $200 million in taxpayers' money for the Presidential campaigns in which he has participated. If this system is so bad as the proponents of this amendment say, then why has this President made such effective use of it?

In a larger sense, the dollar checkoff has already won the endorsement it deserves. The practical endorsement of 32 million American taxpayers in the last Presidential election, who see better than some elected officials what is at stake, and who choose, of their own free will, with no public encouragement, no national leadership, to take part in the free electoral process lies at the heart of our system of government.

Those who want to roll back this reform are selling America's system of elections short. This proposal should be soundly rejected.

Mr. BENTSEN. Madam President, how much time do we have left?

The PRESIDING OFFICER. Three minutes twenty seconds.

Mr. BENTSEN. Madam President, I yield that time to myself.

I find it quite interesting that some of my colleagues here, who have been talking about the empowerment of the people and against the special interests, would not support such an amendment because what we are talking about is taking the power away from the people and giving it back to the special interests.

The Presidential checkoff was put into effect to bring about reform, to limit that power of the special interests. Without this kind of a checkoff, you go back to the same thing we had before the Watergate incident. We would have a situation of corrupting influence of big money; we would have satchels filled with money; we would have foreign trust funds financing it; we would have the kind of a situation that led to enormous influence by big corporations, and special interests.

A vote for this amendment is not a vote for the people. It is a vote to take away the power from the people and give it back to the special interests.

The Presidential election checkoff was an important campaign financing reform that has worked. Let us not go back to pre-Watergate days.

I urge my colleagues to defeat this amendment. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, how much time do I have?

The PRESIDING OFFICER. Ten minutes.

Mr. GRAMM. Madam President, let me begin by saying that to a point I am in agreement with the distinguished majority leader.

The distinguished majority leader talks about a program whereby people on this Tax Code can check off to allow money to go to political parties and politicians. And he notes that they check this money off of their own volition. He supports this system.

But, Madam President, not 3 hours ago on the floor of the Senate, we voted on another proposal that would have allowed the taxpayer, of the taxpayer's own free volition, to check off and allow up to 10 percent of that taxpayer's money to go to reduce the national debt and, therefore, reduce the debt burden on that taxpayer's children, grandchildren, and future generations.

Madam President, I am struck by logic that says that the people are competent to check off to give money to politicians, but they are not competent, and cannot be trusted to check off their own tax money to be used to reduce the outstanding burden of a public debt. I do not understand the logic which says that we are against taxpayer checkoff which empowers taxpayers to lower the debt, but we are for empowering taxpayers to give money to political parties and politicians.

In my view, we ought to either empower taxpayers or not and, basically, what my amendment is based on is the following logic: I supported the amendment of the distinguished Senator from New Hampshire [Mr. SMITH] which is the President's proposal to allow every working family to voluntarily check off up to 10 percent of their taxes to go not to Congress to spend, but to be used to reduce the burden of Federal debt. That amendment was rejected.

Many of those here who speak in opposition to my amendment said then: We cannot allow budget policy to be dictated on the Tax Code. We cannot empower the taxpayer to decide where the taxpayers' money is going to be used.

Well, Madam President, if we allow taxpayers to designate to give money to us, why can we not let them give money to deficit reduction? Is their volition not the same? Are they not making the same free-will decision? I submit that that is not what this debate is about at all.

What this debate is about is taxpayer funding for elections. Congress wants to let taxpayers give us money, but we do not want to let taxpayers have a say about how their tax money is used. We want to deny them the ability to dedicate up to 10 percent of that money to debt reduction.

So my position is simply this: If we are not going to let people designate money for debt reduction then should we not, to avoid the charge of hypocrisy, go back and repeal the checkoff we have that allows people to check off money to give to the political parties? I simply make note of the paradox that not very many people voluntarily give us this money, which is a sign, in my opinion, of a wise and enlightened electorate. But I submit that a huge majority of working American families would designate part of their tax money to go to debt reduction which would force us to tighten our belt and make tough decisions.

Congress does not want to make tough decisions. That is why we rejected the Smith amendment. I think that was a mistake. But to eliminate this dual system where we let people check off to give money to politicians but not to reduce the debt, I have offered this simple amendment that eliminates public financing of Presidential campaigns and of national conventions. I hope all of those who did not want the taxpayer to have the freedom to check off to reduce the debt will now vote to eliminate this check off to give money to politicians.

How can it be wisdom to allow the taxpayer to check off to give money to politicians and be folly to allow the taxpayer to check off to designate that their money will go to reducing the public debt? I do not believe that that policy is folly. I think it was a tragic mistake that we made on the Smith amendment. And I offer this amendment to give us an opportunity to be consistent.

I reserve the remainder of my time, unless the opposition is finished, in which case I will yield it back, and ask for the yeas and nays.

Mr. BENTSEN. Mr. President, I yield back my time. Since all time has been yielded back, I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. WOFFORD). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Montona [Mr. KASTEN], the Senator from Arkansas [Mr. MURKOWSKI], and the Senator from California [Mr. SEYMOUR], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 31, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—62

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wirth
Wofford

NAYS—31

Brown
Burns
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NOT VOTING—7

Bond
Boren
Cranston
Gore
Kasten
Murkowski
Seymour

So the motion to table the amendment (No. 3179) was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader. The Republican leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ADAMS. Mr. President, no name having been called, the quorum call is not in progress. Under the regular order, I ask for the floor.

The PRESIDING OFFICER. A response to the quorum call is not required. A quorum call is in order.

Mr. ADAMS. Parliamentary inquiry, is that the ruling of the chair?

The PRESIDING OFFICER. It is not necessary for a Senator to respond to a quorum call for the quorum call to be in progress.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ADAMS. Mr. President, at the end of this statement, I am going to make an inquiry of the manager on the other side, and then I want to yield for the purpose of the Republican leader offering his amendment so that we can move this bill forward. There has been no desire on the part of any of us to delay it.

Mr. President, for 2 days, the Republican leader and I have waited to offer our amendments. These amendments are directly in point to the urban aid tax legislation. I have been waiting to offer this amendment. It would end the taxpayer subsidy for log exports and put people back to work in timber-dependent communities.

I had been attempting to get a time agreement with the Senator from Oregon yesterday and so had the manager of the bill. I want to thank the Senator from Texas for his efforts and those of his staff in attempting to do so. I have been unable to get a time agreement. We were told last night that the bill would be filibustered. He would not agree to a time agreement.

The timber communities of Washington and the Pacific Northwest are suffering from a combination of automation, log exports, and cheaper labor in the South. Timber-related employment has been reduced significantly. This is the important point. During the 1980's, while Federal timber harvests were growing from 3.6 to 5.5 billion board feet annually, timber-related employment fell by more than 26,000 jobs.

Mr. President, that did not have anything to do with owls or Endangered Species Act or anything else. That had to do with the fact that they were simply closing those mills and letting those people go. We did not hear any complaints about the Endangered Species Act then. It was not the owls or the courts causing a job loss; that is not the real cause of the job loss.

What is the cause? Let us look at log exports. I am familiar with this because I helped establish a program of log exports when we had a blowdown in the Pacific Northwest. When Mount St. Helens exploded and we had logs on the ground, we tried to figure out a way to export them.

So there is nothing intrinsically wrong with log exports. But when logs are exported and you have a shortage of logs and then to take that shortage and blame it on an owl or blame it on endangered species or blame it on not getting enough timber out of the Federal forest is wrong. That is false and that is what has been going on. That is what we are blowing the whistle on.

Since 1960, log exports have grown 31 percent, and during that period of time, instead of their being a shortage, what has happened is the number of U.S. log processors have been cut in half. The logs we ship to Japan would have built 7.5 million homes in the United States. For every million board feet of raw logs shipped overseas, we lose 5.5 American jobs.

Washington State alone exported more than 2 billion board feet of logs to Japan and elsewhere in 1991. That is worth 12,000 jobs. And we talk about owls and we talk about managing the forest. Timber-dependent communities have been hurting for quite sometime now. The same timber companies that export logs say the only answer is more logs and to increase cuts that are devastating Federal lands. They just cannot have it both ways, and that is what the amendment that I would have offered would do.

But worst of all—and this is the reason I wanted to offer the amendment on this bill—we are trying to help communities, we are trying to find the money to do it. Most people do not know this, but the American taxpayers are subsidizing the shipping of raw logs abroad. During the last 5 years we have given tax breaks, subsidies, to big timber companies to the tune of $373 million to ship their logs abroad. It gives these large timber companies a tax break to export raw logs.

Why should we have a policy of encouraging the export of raw logs when the same people are saying there is a shortage of logs? It is absolutely insane. That is an incredible tax break: $373 million to ship logs and then blame the shortage on endangered species or court cases or, yes, an owl.

The Joint Tax Committee is where we get the information that says this tax break is worth $373 million over 5 years. While mills have been closing throughout the Northwest because they cannot pay the premium price Japanese companies can pay for raw logs. Uncle Sam has been giving these log exporters a big tax break. Unemployed mill workers must be absolutely dumbfounded and angry. The big timber companies have told them the spotted owl is their problem. Even the wisest spotted owl does not know this well-kept secret about taxes.

The struggling timber families in my State and the State of Oregon and the State of Idaho deserve better. And they shall know the truth, and the truth will make them strong to fight the real battle of managing the forests and rehabilitating their communities on a scientific basis.

Now, how is it all done? First, get our U.S. taxpayer subsidy back. Tell everybody what it is. Then use those funds to improve the rural communities.

Now, what is this tax subsidy? A 1984 law allows companies, through the creation of a Foreign Sales Tax Corporation [FSC] to reduce the tax rate on log exports from 34 percent to 28.9 percent. The FSC's were meant to encourage exports of manufactured goods. I support that, and I have supported it, and many members in this Congress have.

Timber companies may also use foreign tax credits to defer repatriation of foreign earned income in order to reduce their tax burden. Some have cleverly used the Tax Code to save this $373 million over 5 years.

The amendment I have been wanting to offer would do two things. First, it would do away with this big tax break for the export of raw logs. Second, it would direct 40 percent of the annual savings from these repeals toward helping the timber-dependence communities diversify their economies. The remaining funds would be available to the committee to recommit to reduce the deficit or the other things that they need to do.

Now, the original idea of this tax system was to encourage U.S. companies to export products. I want more companies to export products, value-added products that keep jobs at home. I do not think we ought to use the Tax Code to promote the export of raw logs that are in short supply in the United States.

To my friends in agriculture, who say their tax breaks will be next on the chopping block, I say not so. Wheat, soybeans, corn, and other commodities are not in short supply. Unlike unemployed mill workers, I do not hear farmers complain about a shortage of grain. And when disasters wipe out crops, farmers can claim disaster aid.

Our timber communities are a disaster area. We should aid them. That is what this bill is all about. It is to aid urban communities, and it has been expanded to help smaller communities. This provision is to help the rural communities and ones that are suffering from a particular problem and to solve it within the problem area itself by using the resources that are available within that area.

Export tax breaks were not meant to idle mills across the Pacific Northwest. They were never intended to let good timber jobs get shipped overseas. Exports are good when they contribute to economic growth and create jobs. Unfortunately, that is not the case in log export tax breaks. They cost American jobs. Every million board feet of raw logs that is shipped abroad costs 5.5 American jobs.

Now, I just do not understand what the administration is doing. Last week Secretary Barbara Franklin announced the Bush administration decision to ban all exports of logs from Washington State lands. I think that is a good decision. We should do that. We have advocated it. A lot of us have advocated it for years. Well, having advocated it and their doing it, why should we not take away the tax break. We are not trying to prevent people exporting logs from their lands. But we should not be encouraging them to do it. Preventing the shipment from public lands is something the entire Washington State delegation has supported for many years.

Mr. President said that log exports are costing American jobs. Now that log exports from State lands have been banned, the next logical step is to end the practice of subsidizing the export of raw logs from private lands. Repeal of this special tax break will help get timber mills up and running and people back to work, and some of the $373 million over 5 years can be used to fund rural development initiatives for communities and business.

Now, part of this amendment is one that Senator LEAHY and I have had pending for weeks. We have asked that others join it. It is called the Community Rural Development Investment Fund. It is part of a bill that says do not cut away all your Federal forests; do not cut away the ancient forests; save those, redevelop these communities, redirect these communities, and this is a way of funding it. It would provide low-interest loans to timber-dependent communities that have suffered at least a 33-percent reduction in work force over the past 2 years, and it would promote small business development. These loans would help start new businesses and would assist existing businesses hard hit by the timber crisis.

Tough times call for sacrifices by everyone, not just the little guy in Forks, WA, or in Stevenson. It is time for big timber to pay its share. Let us get our mills running. Let us get our people back to work. Let us repeal the log export tax boondoggle and really help our communities.

The most eloquent plea for this subsidy came from the Washington State Economic Recovery Coordination Board. Some people have asked, "Well, where did you get this idea and why has it not surfaced before?" And so on. Well, let me read this letter of September 3, which comes from the Economic Recovery Coordination Board of Olympia, WA. It is directed to the Honorable BROCK ADAMS, Senate.

DEAR SENATOR ADAMS: We are a citizens advisory board which advises the legislature and Governor Gardner on issues affecting timber-dependent communities in Washington State.

This is dated September 3, 1992.

We have one member from each of Washington's 20 timber counties. Our membership consists of mill workers, loggers, mill owners, labor leaders, businessmen, county commissioners, mayors, economic development directors, and other citizens from timber communities. We are concerned about the enormous subsidies provided by the Federal Government to log exporters in our State.

Data from the Joint Taxation Committee staff indicates the Federal Government provides $100 million per year in corporate income tax subsidies to companies that export raw logs overseas. This is occurring at a time when we are expecting to lose 20,000 to 25,000 jobs in our State due to the shortage of logs caused by Federal timber policies.

Why are we subsidizing raw log exports when we are in the midst of a timber supply crisis? On the one hand, we restrict the export of logs from public lands. On the other hand, we subsidize the export of logs from private lands. Why do we encourage domestic processing in one section of Federal laws and turn around and discourage it in another?

We urge you to introduce legislation similar to H.R. 4208, which would eliminate this subsidy. We also urge you to use the funds saved from that legislation for two purposes:

1. Provide tax credits for private landowners which encourage new forestry practices and protect both wildlife and produce higher quality wood.
2. Provide income support and training for workers dislocated by Federal timber policies.

Your assistance would be greatly appreciated. We are looking forward to hearing from you on this matter.

Sincerely,

GIB JOHNSON,
*Chair.*

Mr. President, I have waited 2 days to offer the amendment, and although the floor manager, my good friend, Senator BENTSEN, has been ready to bring up the amendment, as you can see from what happened last night and from what happened again when I tried to get the floor today, the Senator from Oregon or the other Senators on that side have objected to a time agreement and to bringing it up.

We discussed it last night. I said I would bring it up today after he had had a chance to review it. I would agree to an hour's time agreement. I would agree to a 2-hour time agreement. Let us just go to the amendment. He objected last night, and I understand he continues to object today. In my book, that is the equivalent of a filibuster.

I do not want to stop this urban renewal bill, which has been started and carried by Senator BENTSEN of Texas. I am not here to delay the Senate. I have never been a person to delay in my life. I am prepared for a short time agreement and a vote on this matter.

If the Senator from Oregon does not want an agreement then I think he ought to explain his position.

I believe the Senate would vote to repeal this tax break for big timber companies. In the interest of making progress on this bill, and in deference to the desires of the floor manager, and in deference to the request of the minority leader, Senator DOLE, I will not offer my amendment unless the Senator from Oregon will let the bill proceed without a filibuster; with a short time agreement we can proceed with the debate; and finishing of this.

What is the position of Senator PACKWOOD? I am prepared to proceed, but I also have indicated to Senator DOLE, the Senator from Kansas, and I will keep my promise that I will yield at this point for him to proceed with his amendment. If the Senator from Oregon wants to agree for a time agreement sometime later, I will carry out my promise to Senator DOLE.

Mr. DOLE. I thank the Senator from Washington. I think he also indicated maybe the Senator from Oregon might want to make a brief statement.

Mr. ADAMS. I did, if he wishes to comment. If he does not wish to comment, of course that is his choice.

Mr. PACKWOOD. Mr. President, first I would like to set the record straight, if I might, about Senator ADAMS and his laudatory statement about Secretary of Commerce Franklin's announcement last week of a ban on all log exports from Washington State lands.

He now says that the loophole which allowed 25 percent of the State land logs to be exported is closed, and then he goes on.

I regard that as revisionist history. I will call to his attention a meeting we had in Senator HATFIELD'S office on the issue of banning public log exports several years ago. In that meeting, I indicated I wanted to offer an amendment on the floor to ban all log exports from public lands, State and Federal. Senator ADAMS, the principal aide to Speaker of the House FOLEY, and others, argued vehemently against my offering the amendment. They were opposed to my offering the amendment, and I finally said tomorrow I am going to offer it, and I did and it passed.

The Senator from Washington did not want me to offer it, and argued as hard as he could.

Second, the amendment that I offered would have banned, had it passed the way I wanted, the export of all logs from public lands. The Senator from Washington argued vehemently for an exception for the State of Washington for export of logs from their public lands.

So when you call this a loophole, it is a loophole, that the Senator wanted and argued for, not against.

Let me go to last night when he said there was a threatened filibuster. Let me give you the sequence of what happened. I have now traced it down.

Wednesday night one of the trade members of my staff received a phone call from one of Senator ADAMS' staff indicating he had an amendment to offer, and he asked if it was a trade amendment. And Senator ADAMS' staffer said no, it is a tax amendment. My trade staffer said I do not do tax. That was the end of that conversation.

Yesterday, at perhaps 3 o'clock, one of my principal staffers received the amendment. That was the first time we had seen it. I was then in the process of handling the bill on the floor for the Republican side.

I was not sure what was in the amendment. I did not know if it would adversely affect Oregon or not. I did not have time right then, in the midst of handling the other matters on the tax bill, to find out.

So I indicated that if he insisted upon bringing it up yesterday there would not be a vote on it last night. I might say to my colleagues I did not use the word filibuster, nor did I say I would filibuster it. I said there would not be a vote last night because he would not give me the time to check with my constituents in Oregon to see how it might affect them.

If he was not going to extend to me the courtesy, as the manager of the bill on the Republican side of the floor, to have time to check with my constituents, then there was not going to be a vote. But that is not a threat of a filibuster.

Mr. ADAMS. Will the Senator yield?

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Oregon has the floor.

Mr. PACKWOOD. No. I do not yield. The Senator asked for my comments. I would like to continue.

It was granted very generally. I asked the Senator not to bring it up. I said let me check with my constituents. The Senator did not give me more than 2 or 3 hours notice to check this amendment. We had no chance to check it. Had we known about it 10 days, 2 weeks ago—the Senator said he had a letter from the Washington group some time ago. But in any event, I said give me time to check it.

This morning I am back on the floor. There is a 3-hour time difference between here and Oregon. So I am having difficulty getting anybody in Oregon before 2 o'clock our time, or 1 o'clock our time.

I am now, I think, in the closing processes of gathering information from different groups in Oregon that may have an interest in this. At an appropriate time I will be ready to go.

If the Senator insists upon calling this a filibuster—I am trying to check with my constituents—in that case, it may take me a longer time to find out. When I have the information, I will be prepared to go. I would hope to have it within a few more hours.

But with short-notice handling of the bill on the floor, this is as far as I have been able to get at the moment.

I thank the Chair.

Mr. STEVENS. Mr. President, is this matter open for a discussion at this time?

The PRESIDING OFFICER. The Senators may seek recognition. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I also want the record to show that I contacted the Senator from Oregon to ask him that I might check this with my State last evening. I am still in the process of doing that.

It does seem to me that this is an attempt by some to short circuit the review we want to have of the endangered species impact on the timber industry. Really, it is an attempt to transition a great many of these places in the Pacific Northwest to a different form of economy.

That is laudable. But this foreign sales corporation concept is not exclusive to timber. The problems that the Senator from Washington has mentioned are not exclusive to Washington. I, for one, do not know the reason to rush into this until we know the full impact of it.

It just so happens that if this endangered species concept comes at my State, we do not have an opportunity to go to an alternative form of industry. We export exclusively from non-Federal lands timber that is harvested in Alaska.

I am very interested in this amendment. I am very interested in seeing to it that we get the proper time to have consultations with our people who are even further away than those in Oregon.

I do want the record to show I am one of those who asked the Senator from Oregon if this matter came up to notify me and make sure we had time, and we are still contacting. I, like the Senator from Oregon, still have not had information from my State concerning the impact of this proposed amendment on my State.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. Senator from Washington is recognized.

Mr. ADAMS. Mr. President, we gave notice to Senator PACKWOOD. There has not been any attempt to surprise anyone. The bill that Senator LEAHY and I drafted was introduced months ago. It is the second part of this amendment. We indicated to Senator PACKWOOD'S staff that this is the same as Representative STARK'S bill H.R. 4208, to do away with these subsidies.

So it was well known that this was the bill that was pending.

With regard to the log export matter off public lands, it is well-known that in the State of Oregon public lands exports are not used for schools, whereas they are in the State of Washington. This was a matter that was debated at some length. The Speaker of the House, Speaker FOLEY, led the contingent to say there should be some amount set aside, but most of us supported the Senator from Oregon in saying no more exports from public lands. We will make it up elsewhere. And we have supported the decision to cut off all log exports from State lands.

But what the Senator is doing here—this is a very simply proposition, very simple proposition—is the Senator simply supporting tax subsidies? That is why we have had to wait until this bill. This is not something that we would not have taken up earlier had we been given an opportunity, because Senator LEAHY and I had a scientific timber bill for assistance to the timber communities available—S. 2895 for months. It has had no action. The House has been working on trying to produce a bill which has been blocked by the timber industry for 3 years.

At the first opportunity on the tax bill, we took the provisions of Senate bill 2895, which has been here since June 25, 1992. And the Senator is very familiar with it. The whole body is very familiar with it. It has had a lot of publicity. In an attempt to manage our forests in a scientific matter, we have over cut them. We must help our communities, and we have had people traveling out through the Pacific Northwest saying that it is the fault of the spotted owl; it is the fault of a Federal judge; it is the fault of all of these various other factors that we have a shortage of logs. So we supported—the Senator will remember—saying no more exports from public lands, even though your schools had to make it up someplace else.

Then we supported doing away with a ban on Federal lands of shipping these logs out. Even though that ban was brought up by the Senator, none of us had heard about it, and it was pertinent. We got away with the grandfather clauses. Now we are involved with, again, a very simple proposition of taking the bill and paying for it, paying for the helping of those local communities, and paying for it out of a tax credit where people have been taking logs out of those forests in the Pacific Northwest and being paid by the Federal Government to do it.

It just seems to me to be outrageous that anybody could oppose the idea of saying no tax credit to send logs to Japan, and then have the same people turn around and say that we have a shortage of logs, and the shortage of logs is due to an owl or a number of other factors. At the same time, also, we have overforested the Federal forests, and have cut 5.5 billion board feet a year and knocked off 26,000 jobs at the same time.

Let us call an end to this charade. Let us call an end to this charade and get those forests back on a scientific basis, and let us proceed immediately with trying to help those timber towns with some real assistance, because that is what this bill is all about—raising some taxes. In this case, we do away with the credit and assisting communities that are in great trouble.

I thank the Republican leader for his cooperation. I know he has an amendment to offer. We have had an exchange, and I appreciate his courtesy.

AMENDMENT NO. 3181

(Purpose: To modify the enterprise zone provisions, to provide 12-month extenders, and for other purposes)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3181.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed today's RECORD under "Amendments Submitted").

Mr. DOLE. Mr. President, I think we are prepared to enter into a time agreement on this amendment, if the chairman is prepared.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I have discussed this with the minority leader and the sponsor of the amendment.

I ask unanimous consent that there be a time limitation for debate of 90 minutes on Senator DOLE's amendment, equally divided in the usual form, and no second-degree amendments nor amendment to any language that may be stricken in order thereto; and that following the disposition of Senator DOLE's amendment, I be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me indicate that it may not take 90 minutes. So I will say, as a matter of informtion to our colleagues on both sides, that this Senator does not intend to take much time at all. Certainly, the chairman may have a request for additional speakers, but I think I can explain the amendment and sort of set the stage and tell people what it is all about, and then we will have more or less made our case.

Mr. President, the much-maligned budget summit brought us a variety of revenue measures. Not surprisingly, among the most controversial were those dealing with individuals. While the creation of a third rate for higher income taxpayers was known to be a permanent change, additional offsets were needed to help with the other critical elements of the bill, including an increase in the earned income tax credit.

Other provisions, specifically the so-called "PEP and Pease" provisions—and they are very misleading; people do not understand that—were designed to be temporary in nature, and there was not any agreement to make these provisions permanent, but they will be made permanent in the pending legislation.

It is largely because of this understanding that President Bush felt he could sign the bill. But as is often the case with taxes, once they are on the books, some people like to keep them on the books forever. I think it is fair to say that there is a certain degree of politics in my amendment, politics in the sense that President Bush said in Houston, TX, at the Republican National Convention, that he would not sign any bill that called for tax increases, and he and the White House staff consider an extension of PEP and Pease, or to make these two provisions permanent, to be a tax increase.

They are right. I think the revenue estimate is about $7.7 billion. So when you vote against this measure, you are voting for tax increases of about $7.7 billion. So keep that in mind if you have told your constituents you are against tax increases; this is a chance to demonstrate that you are against tax increases.

PEP and Pease are no more than a hidden tax rate increase. In the first step, PEP disproportionately affects those with children, as the larger the family, the greater the loss. As was suggested by my colleague from Delaware, Senator ROTH, when this provision was first discussed in 1990, that is the way it happens, piece by piece, chipping away at middle America. No question about it, the American family does not need this, did not need it in the first place, and does not need it now. It needs to worry about securing its home, educating its children, meeting its spiritual and community commitments, not paying for Government's gross mismanagement; it is waste, fraud, or abuse.

In the case of the Pease amendment, we have a simple case of arbitrary denial of legitimate deductions. The limitation on itemized deductions is an added element of complexity which discourages charitable contributions and housing.

Additionally, the provision is regionally unfair, and I hope we may hear from the Senator from New York, who feels very strongly about this provision, both Senators from New York, Senator MOYNIHAN and Senator D'AMATO, as it disproportionately hits individuals in States with higher State and local taxes and hits people with large mortgages.

As I have said, I do not believe the President will even sign a 1-year extension of these provisions, because that would be viewed as a tax increase, and I am certain many on the other side will say there goes President Bush raising taxes again after he said the second time he would not raise taxes.

The bill before us today does not simply extend these flawed provisions for a limited time, it makes them permanent. It does so, we are told, to help pay for the new IRA proposal contained in the bill, and IRA means Individual Retirement Act, specifically to help provide funding for the enormous outyear revenue loss that results from what I consider to be at this time an ill-advised extension of individual retirement accounts.

So, Mr. President, not only do we continue a bad policy with the permanent extension of these provisions, but we also finance another poor policy. My amendment attempts to address both of these concerns.

We also avoid breaking any budget rules. We are not out here to spend more money or add more money to the deficit or charge it up to our children. This amendment is paid for. And to pay for it we have to make some changes some people may not like. We have reduced the amount spent on enterprise zones to approximately $3 billion instead of about $5.2 billion. So we had to take a reduction in what we spend for enterprise zones.

The amendment contains the Senate Finance Committee enterprise zone, the original Senate Finance Committee enterprise zone proposal. We modify it to some extent to increase the number of zones from 25 to 30 and include the so-called Bumpers SEED capital gains proposal.

Our proposed reduction in spending on enterprise zones in no way reflects a lack of enthusiasm for this important initiative. I know that the plight of urban, rural, and Indian areas is critical, but, Mr. President, $3.1 billion is no small amount of money. So we have to pick up $2.1 billion there. We can put in place an enterprise zone initiative that will spend $3.1 billion, or we can deny these critical areas any help by sending to the President a bill he will have to veto.

That is the point I want to make.

We can talk all day about these provisions and about how good some may be and how bad some may be or maybe they may be one or the other. In my opinion we are on our way to getting a bill. There are a number of important provisions in this bill that are bipartisan in nature that have a lot of support from Members across both parties and a lot of Americans all across America. First-time home builders credit, for example. Investment tax allowance, for example, and all the extenders. Most people support all the extenders whether it is low-income housing or targeted job tax credit, whatever it may be. So there are a lot of good provisions in this bill that people would like to see enacted into law.

We are probably 1 week, maybe 8 days at the most, 9 days at the most maybe away from adjournment this year. We have to make a decision. We can either make it on the Senate floor, and I am under no illusion we have the votes on this provision, but we need to make the case and we need to have it in the RECORD, because we are going to go to conference and if we cannot prevail on the floor then we have to prevail in conference if we want a bill.

If we do not want a bill, the President will veto this bill and I think without question there will be enough votes to sustain a veto. So that is the question.

I know my friend from Delaware Senator ROTH and my friend from Texas, the chairman of this committee, firmly believe in their IRA proposal. They like to have it in this legislation. It is not in the House bill. That does not mean it is not a good provision. But again, do we want a bill at all? Do we want a bill that includes all the good things that they are in bipartisan agreement on, and one that the President will sign? You cannot have it unless the President signs the bill, and he has made it very clear to me personally he will not sign a bill if we extend PEP and Pease, and certainly will not sign a bill if it is going to be made permanent.

So to make up additional revenue loss we also have to limit the extenders from 12 months and to strike the IRA's, the so-called individual retirement accounts. That is to get the money we need, the $7.7 billion. The so-called extenders are now at 15 months. This will make them 12 months.

No one wants to give up on extenders. I think we ought to take a look at them from time to time. We have not done that for a while. We keep extending up. Maybe some are fairly good, and maybe some ought to be modified. But it gives us a 1-year extension that many have sought routinely and we can review these again next year.

Again, there are many of my colleagues on both sides of the aisle who would like to make some of these permanent. And I know the chairman of the Ways and Means Committee would like to make the low-income housing credit permanent. But where do we find the money? How do we pay for it?

Some of us do not believe that making the PEP and Pease provision, another way of raising taxes, is the way to go.

The individual retirement accounts are another matter. It is a very important matter, and there is a lot of concern about it, and there is a lot of support for it. I do not know of anyone in the Finance Committee who opposes IRA's.

In fact, the concept of the universal IRA originated in the Finance Committee in 1981 while I was the chairman of that committee. We adopted the universal IRA, because we thought it was good saving policy and good retirement policy and no doubt the initial response of the universal IRA was overwhelming even more than we expected. In fact, as I recall when this issue was discussed in 1986 we determined that the actual revenue impact of that has been about four times as large as we had originally estimated.

So no doubt about it, it was a very popular program and it ended up costing about four times what we estimated it would cost. This unexpected revenue loss led to efforts to cut back on individual retirement accounts as a budget initiative but as a budget initiative we rejected those efforts. However, when we came to 1986 when we talked about tax simplification, changing the Tax Code, make it more understandable for the average American, and trying to restructure the Code, we obviously looked at trying to find a balance so we might reduce the rates for all Americans and for all taxpayers.

So, individual retirement accounts were part of that tradeoff. There is no secret about it. It is part of the record. It was debated on the Senate floor. It was debated in the Finance Committee. We could not have it both ways. We could not have all we wanted in IRA's and everything else. We wanted it as far as lowering tax rates for all Americans. We could not have it both ways then and we cannot have it both ways now unless we just want to charge it to the deficit, charge it to somebody else, some other generation, and keep in mind the deficit now is approaching $4.2 trillion and interest on the debt is about $260 to $265 billion a year.

And one reason the American people are so cynical, and one reason I might add that Ross Perot has been successful at least to some degree in early stages of his campaign before he withdrew, is that he was talking about the deficit, talking about Congress, talking about discipline, talking about what we are going to leave for our children and our grandchildren. Even though a lot of people do not say, "I am worried about the deficit" if you talk to them about it and you explain the problem to the American voter, Democrat, Republican, Independent, New York, Kansas, California, wherever it was, they are going to understand that we have a real problem. If we are going to add to the deficit, no.

I say in fairness the chairman does not add to the deficit but he does this tax increase that brings another Texan to his feet named George Bush. He said we cannot do that. We cannot tolerate that. So, if you want to vote for a tax increase, then you vote against this amendment.

It seems to me that particularly this IRA is certainly for the more well-to-do in America. And if that is what we want we had an amendment yesterday to have some surtax on millionaires. It is popular around here to go after the rich. Who the rich may be, that is generally somebody who has more than you have. I do not know how much that would be in some cases, but no doubt about it the individual retirement account favors upper income families, not those that are struggling to save enough to send a child though college. According to the Mutual Fund Association survey, a typical taxpayer, who contributes to an IRA is 40 to 60 years of age, higher educated, and has a higher income than the average taxpayer. That does not mean it is a bad idea. It is a good idea if we can pay for it.

The people we care about, the lower and middle income, can, under current law, continue to make tax deductible contributions to IRA's. So it is not this group we are trying to help. It is the more wealthy Americans.

Again maybe it is a good idea, maybe it is going to bring about more savings, maybe it will help us on interest rates and the savings pool in America. We do not do very well as a nation when it comes to savings.

But more than 80 percent of taxpayers can claim a deduction now for IRA's. So we have not taken that much away. Why do we need to do more now when the deficit should be our priority? And that is what is killing the economy and putting all of us at risk, and I mean by all of us, the American people trying to run a business, run a farm, whatever it may be, working for a living. It is having its impact in almost every part of America.

I do support Chairman BENTSEN'S proposal to allow penalty-free withdrawals from individual retirement accounts for the purchase of a first home, educational expenses, catastrophic medical expenses, or in cases of long-term unemployment. And that provision costs somewhere in the neighborhood of $2 billion. But I believe these situations warrant the penalty-free status accorded by the Bentsen bill and that many needy individuals and families will benefit.

So, I know we have already voted on a provision to strike the IRA's. I know we have already had an amendment by the Senator from Ohio [Mr. METZENBAUM] to put sort of a lid or a cap on who could qualify. Now the next step is how we can do all these things and still have the President sign the bill.

As I indicated earlier, the bottom line is will President Bush sign a bill that if we go to conference—and I assume the Senator from Kansas will be a conferee, as well as the Senator from Oregon, certainly the chairman of the committee and two or three Members on that side of the aisle.

Can we find agreement in a conference with the White House, with the President's advisers, so the President will sign the bill? If not, we are going to be faced with putting together in conference sort of a stripped-down version—maybe the extenders, maybe a few other provisions, maybe the first-time home buyer credit, maybe the passive loss changes, maybe some other provisions. But again that is something some of us would rather not do.

I know the chairman does not want a stripped-down version. This Senator does not want a stripped-down version unless that is all we can come to agreement on, because we do not want to leave without taking some action on extenders and four or five other key provisions in the total package.

So I would just make a plea to my colleagues on both sides of the aisle. I do not relish offering this amendment. I do not relish differing with the chairman of the committee. He is my friend. He is doing an exceptional job as chairman of the Finance Committee. And, having been chairman of the Finance Committee, I know it is not a very easy job.

But it seems to me if we want a bill, if we want a final product, if we want something that will be signed into law, if we want real people to have real benefits for the entire package, then we have to find a way President Bush will sign this legislation.

And I have to believe—maybe not anybody in this Chamber—there are a lot of the President's critics out there that will be glad to jump on him if he signs any legislation that will be identified with a tax increase. There are some lying in wait, just waiting to see if they cannot somehow, even if we knock out PEP and Pease, go through this bill, say, oh, oh, the President signed this bill, and there are $x$ number of tax changes or tax increases in this bill. In my view, the President can make the argument on most of those. He cannot make the argument on a permanent tax increase of about $7.7 billion.

So for all the reasons that I stated and probably a number that I should have stated, I hope that my amendment would be adopted.

Mr. President, I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I appreciate the problem and the dilemma facing my good friend from Kansas. I worked with both sides of the aisle and tried to bring out a bipartisan bill, discussing it with every member of that committee, Republicans and Democrats alike. And we had it, passed it without a vote against it.

No sooner did we get it out—and he is quite right in saying that we had 25 enterprise zones—but no sooner, within 2 days after we passed it out, I got a letter from the administration that said they would veto it unless we put more enterprise zones in it; veto it unless we did.

What did we do? We responded to that, tried to see that we had a bill that was bipartisan that we could put into law and that the President would sign.

So we increased it to 125 enterprise zones. The Secretary said it was a sham what we proposed because it was only 125. He wanted 300. But we came up with 125 we could pay for and do the job that had to be done to renew the urban areas, where you have poverty and high un-employment.

How many times are they going to flip-flop in this administration in trying to accomplish what they think the polls are requiring at the moment?

My friend says politics is involved. He is right. It sure is.

This is the dilemma, it seems to me, for the President. They sat down and they pointed out 128 tax increases for Clinton. As I understand it, one of them was the extension of the racing season was a tax increase because a tax was collected for a longer period of time.

In all reality, when you had the Reagan-Bush administration, when we had the 1986 tax bill, if you took that kind of reasoning, you could argue that you had had the second largest tax increase in the history of this country.

But that would not have been fair. That was not honest. What they had was closing tax loopholes. I do not think that is tax increases when you net it out and you are revenue neutral. And that is what we have done in this instance.

I do not think the President should think that he is charged with a tax increase when we present to him something that is revenue neutral. Sure, there are some tax increases, but, sure, there are some tax cuts, as we try to achieve the objective that we thought was necessary.

If you vote for this amendment, you are voting for a tax cut. You are voting for a tax cut for the top 3 percent; when we are talking about Pease, 2.5 percent of the top income people. On PEP, you are voting for a tax cut for people substantially higher than that.

This is the law now, on the books now, and it is purely an extension of that. And what this amendment would do would bring about that kind of a tax cut and at the same time cutting back the time for extenders on low-income housing, on research and development to make this country of ours competitive, cutting back on IRA's, when you have 78 Senators who have cosponsored the Bentsen-Roth IRA bill, when you saw them just yesterday by a vote of 72 to 25 to deny the cutting out of the IRA's.

We arrived at a compromise to put some cap on the IRA's. But remember what happened when the IRA was neutered back in 1986? You saw a substantial drop in savings in this country. At that time, you saw a drop in savings of some 40 percent, and the year following. You had a drop from $38 billion the year before to only $14 billion.

It is no coincidence that savings dropped in this country. If we are going to be competitive in the international market, we have to have capital in order to modernize, increase the productivity of our plants and our industry, have the capital and have it at reasonable rates so we can compete with the Japanese and the Germans. That is what we are seeking.

We worked long and hard at this. We have done things for targeted job increases, for simplification in the pension laws. We have a bill that has had the united support of that committee, but it has changed because we had a Republican Convention and the President is now concerned that this might be called a tax increase. And the President is now concerned that this might be called a tax increase when we are talking about Pease and PEP.

Another point that has to be understood and is often misunderstood, I think, on the question of Pease, we are not talking about cap on those deductions. We are talking about a floor. And we are talking about a floor at 3 percent. So that still means that above that you get your deductions for your charitable contributions, for the tax, estate and local, that you paid. So it is not the kind of limitation that so many people seem to think it has been.

If we are talking about what the President has already done, he has already signed a bill that had an extension in PEP. We had that on the emergency unemployment compensation. So the deed is done and no one is charging him with increasing taxes in that provision.

Oh, there is some irony in what we are talking about here because we are talking about things that Senators have placed a very high priority on in that committee and then turning it back, cutting back the limitation, the time on the extenders to reduce taxes for the wealthiest and most fortunate in our society by very substantial sums. That is a 180-degree turn.

Yes, I want this to go into law. We have worked long and hard putting through a piece of bipartisan legislation we think is important to the country. And we worked a compromise. And we have done that time and time again. We have tried to respond to this administration when we are talking about enterprise zones and that were the centerpiece of getting this movement started. We put in five out of the seven of the President's economic initiatives, things that he thought were important in trying to get this economy moving again.

I am hopeful that the Members of this Senate will sustain the bipartisan bill we brought out of that committee which expressed the concern of each of them, of those things that have to be done to move the economy: To get the savings up for people so they can save for retirement, so they can save for that college education, so they can save for that first home for those kids who have had to move in with mom and pop and would really rather be out on their own. And mom and pop thinking that is a pretty good idea, too.

So what we have done here is to try to accomplish those dreams and desires and make it where people can save for that purpose.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Do the managers yield time on the amendment?

Mr. BENTSEN. I yield 7 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 7 minutes.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment offered by the distinguished Senate Republican leader. I must say I am shocked to see it proposed. Things get curiouser and curiouser around here. This amendment is one of the most curious I have seen.

Mr. President, I say, and I say respectfully, as you follow the twists and turns on this particular bill, and particularly on the enterprise zone component of it which I have been actively involved in supporting, you can see why people become cynical and disappointed about what happens here. I think it is important to remember how this bill started.

Five months ago we watched with horror as riots and looting and crime spread through the streets of Los Angeles, forcing America and Congress to focus on the desperate conditions which exist in many of our inner cities. The riots really were a wakeup call, a cry of anguish and anger that we must respond to.

Part of the response was a bipartisan agreement to get together and do something to aid the urban and rural centers of poverty in our country.

I remember 2 or 3 days after the riots the Senator from Wisconsin [Mr. KASTEN] and I, who had cosponsored legislation in this session, came to the floor and said we are in a crisis. Urban America needs help. Let us forget the politics, let us forget the gridlock, let us get together and support an idea we know people here agree on and that is enterprise zones.

There was a pretty good response to it. It is actually hard for me on this occasion to follow the trail, but we began to gain support. In fact, enterprise zone legislation has passed this Senate twice because I think people understand at the core of the problems of urban America, which express themselves in crime and unrest, is the exit of manufacturing businesses. With them, from the central city, have gone jobs. And with the businesses have gone a good part of the local tax base. And with that erosion of the tax base the pressure on middle class residential taxpayers increases such that more of them move out. And the pressure on the city to deal with crime and drugs and educational problems increases.

So enterprise zones are a way, supported by this administration, supported by Members of both parties, I believe, to use tax incentives to bring businesses back to the central cities.

At one point the Finance Committee had a proposal which had what we thought was an inadequate number of enterprise zones. I recall on one occasion Senator KASTEN and I were joined by the spokesman for this administration on questions of urban aid and housing, Secretary of HUD Jack Kemp. We stood out in front of the Capitol and announced we were introducing a proposal—bipartisan sponsorship in the Senate but I thought on behalf of the Bush administration—calling for 300 enterprise zones. And that was a measure by the administration of a standard of need.

That is, the administration as I understood it at that point made a judgment there were 300 communities in this country that needed the incentives that enterprise zones would give.

We discussed it with the Finance Committee, the distinguished chairman, and I was really thrilled—and I think it is fair to say, so, too, was the Senator from Wisconsin and the Secretary of Housing and Urban Development—when the committee reported out a bill that had over $5 billion in it for enterprise zones, 125 zones with stock expensing, equipment expensing, 30-percent wage and training credit, tax-exempt bonds: a solid constructive program. In my opinion, if adopted, it would be the most creative and bold step Congress has taken, fresh step we have taken in more than a decade to help urban America.

Now, at the 11th hour on this urban aid bill, my friend and colleague, the Senate Republican leader, comes forward with a proposal that knocks this back down to 30 zones, which is 10 percent of what I believe the administration estimated to be the true need in this country.

I regret it. I regret it profoundly. And I hope Members of both parties will not let this good idea, enterprise zones, be gutted in this way, gutting not only the concept of enterprise zones but emasculating what was the original purpose of this bill which is to bring some hope, some business, some jobs back to the urban and rural poor places in America.

Mr. President, the bill before us is a superb piece of legislation. It holds some hope of giving the American economy the stimulus it needs for more investment, for more savings for the IRA's, and for a turnaround, for a break in the cycle of poverty and despair that breaks the back of urban America and affects all of us. It affects our safety, affects our future.

The enterprise component of this bill, carefully crafted, does everything that I would want an enterprise zone proposal to do and that I believe this administration, which has touted this proposal and certainly its Secretary of Housing and Urban Development would want it to do—I would like to know what the Secretary of Housing and Urban Development thinks about this amendment. I cannot believe he supports it.

Mr. President, let me mention in the moment I have left what I believe the objectives of enterprise zone legislation should be. One is to reduce capital costs. This bill does it in enterprise zones. Another is to reduce labor costs. This bill does it in enterprise zones. Another is to create incentives for capital to move into our communities, particularly the small businesses. This bill does it.

The PRESIDING OFFICER. The Senator's 7 minutes have elapsed.

Mr. DOLE. I yield 4 minutes.

Mr. BENTSEN. I yield another 2 minutes.

The PRESIDING OFFICER. The Senator from Texas yields 2 minutes. The Senator from Kansas yielded 4 minutes. The Senator from Connecticut has 2 minutes yielded by the Senator from Texas.

Mr. LIEBERMAN. Mr. President, I will gratefully accept the 2 minutes offered by the Senator from Texas.

Mr. President, I think all of us know enterprise zones are not the whole cure for the social and economic problems plaguing our cities. We have to have access to education, break the cycle of welfare, supply housing for the homeless, and rid our cities of crime and drugs. But as we develop a response to the crisis in urban America, as expressed most dramatically this year in the riots in Los Angeles, we have to understand that a mechanism that does not include an effort to attract jobs, businesses, and investment back to the inner city is destined to failure.

I will say that a bill that provides only 30 enterprise zones does not respond to the crisis in urban America. I can tell you, Mr. President, that I have in Connecticut three of the poorest cities in America. In a system that provides only 30 enterprise zones, I doubt that we will see one federally designated enterprise zone in our State.

Urban and unemployment and decay not only blight whole sections of our cities, but they also are becoming a way of life that spans generations. Our inner cities are a cloud over our Nation's future. Frankly, they are a national disgrace. Their problems are not going to be solved on their own. They need our help. The unemployed and the poor need our help in finding work, and enterprise zones are a way of putting our Federal dollars literally to that good work.

Mr. President, it is with a sense of surprise and dismay and hope that all of those of my colleagues with whom I stood as one of the few Democrats earlier in the session in support of enterprise zones, supported by most of my colleagues on the other side, will be true to that position and stand with us today and respectfully defeat this amendment and keep the number of enterprise zones supported by the bill at the reasonable number in the bill, which is 125.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time? Do the managers yield time?

Mr. BENTSEN. Mr. President, I yield 7 minutes to the Senator from Delaware, the coauthor of the IRA amendment.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 7 minutes.

Mr. ROTH. Mr. President, I thank the distinguished chairman, and I rise in opposition to the Dole amendment. My reason for doing so is because this amendment will take away the Bentsen-Roth individual retirement account that is a major part of this bill and has been cosponsored by 78 Members of the Senate.

This is an important tax cut for middle Americans and, most important, an important policy that will increase savings, a savings initiative that will help take America into the 21st century; poised to lead the world because of important capital that will be made available because of the IRA.

Today, despite the cutback of the IRA in 1986, some half-a-trillion dollars remain in individual retirement accounts. Clearly, this is an important source of capital for the country, but we must do better and we can. This is important for American's future retirement and for America's future.

Mr. President, I cannot emphasize too much the importance of providing an IRA for all middle Americans. It is a fact that Americans are living longer, and because by the end of the century we will be living in retirement as long as the typical American has worked, we have to make better provision for this new set of circumstances. The Super IRA that the distinguished chairman from Texas and myself have cosponsored does, indeed, provide a significant incentive that helps the American family. There is a lot of talk in this Presidential campaign about the importance of the family and, frankly, I know of no piece of legislation, of no concept of tax legislation that does more to help the American family than the enactment of the Super IRA into law.

The reason I say that is, first of all, as I have already pointed out, it will enable all families earning up to $120,000 to save $2,000 a year per worker. These savings are primarily intended to help for retirement, but one of the reasons I say this legislation is so helpful, so positive in its effect or impact on the American family is that the funds that are saved in an IRA could be withdrawn for one of four purposes: One is to withdraw for a young family to buy that first home, something that is important to the typical American dream to own your own home.

Second, you can withdraw for purposes of paying for higher education. It is critically important both to the family and to the Nation that we have a well-educated citizenry. This legislation will allow such withdrawals to be made without penalty.

Third, we would permit funds to be withdrawn in cases of catastrophic health costs to the American family.

Any American family that finds its insurance or health costs in excess of 7.5 percent will be able to withdraw funds from their IRA to pay the costs of much needed medical care. And finally, in those unfortunate cases where Americans find themselves unemployed under certain situations, again funds could be withdrawn without penalty.

Now, the important reason that it holds the family together is that you can withdraw funds not only to help your own family, but for instance, in the case of a grandparent, a grandparent can withdraw funds to help a grandchild go to college or buy that first home or, to the contrary, a grandchild can withdraw funds to help his or her grandparents in case they have catastrophic health costs.

So this is critically important in helping the American family meet the challenges that every family faces from time to time. But not only is it important to the family, the IRA is of critical importance to the Nation.

Economist after economist will tell you that if the United States is going to become competitive, if it is going to meet the challenge of the Japanese and German factories which incorporate the most modern technology, if it is going to be able to move into the markets that are springing up all over the world, it is critically important that American plants and facilities be the most modern in the world. If we cannot compete with the competition from Japan where the savings are anywhere from 15 to 20 percent, or Germany where they are likewise much higher than we have, we are not going to be able to compete because our plants will be old and out of date compared with that of our competition.

That means the loss of jobs.

The PRESIDING OFFICER. The Senator's 7 minutes have expired. Who yields time?

Mr. BENTSEN. Mr. President, I yield an additional 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware has 3 more minutes.

Mr. ROTH. The point I want to make is that this legislation incorporates one of the most important, innovative proposals seen on this Senate floor. As I say, it is good for the family and is good for the Nation as a whole.

Now, I must say that perhaps one of the greatest reasons to oppose the amendment before us is because it strikes the IRA, a provision that allows only families earning less than $120,000 to save up to $2,000 a year per person, and it also strikes the so-called PEP and Pease provisions which only apply to families with incomes over about $140,000 by the year 1996 when it becomes effective.

Now, I strongly disagree with the idea of tying these two provisions together. However, all of my colleagues know that this vote will be portrayed as a vote against the middle class and a vote for the wealthy. If you support the Dole amendment, there can be no doubt about that.

And second, I would like to point out to my colleagues that the Dole amendment will reduce the number of enterprise zones from 125 to just 30. That means it is much less likely that any one State will benefit from this provision.

I feel confident that we will be able to come to agreement to limit the PEP and Pease proposals in conference. But I think we have to get to conference before we can do it. I believe that we can get a bill which the President will eventually be able to sign once the conference agreement is done.

I agree with the minority leader and with the President that the Pease and PEP proposals should not be extended, and I will give them all my support in conference to do away with these provisions. But I hope I can have the support of both my Republican and Democratic colleagues in opposing this amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. BENTSEN. Mr. President, how much time do the opponents of the amendment have?

The PRESIDING OFFICER. The opponents of the amendment have 15 minutes 27 seconds.

The proponents have 27 minutes and 43 seconds.

Mr. BENTSEN. Mr. President, I yield myself an additional 3 minutes to make a couple points.

When we are talking about reducing the enterprise zones from 125 to 30, let us see how that breaks down in components and let everybody understand that. We are talking about, instead of having 75 urban enterprise zones, we will have 18. Instead of 75, we will have 18. Instead of having 40 rural enterprise zones, there will be 9. Instead of having a minimum of 10 Indian enterprise zones, there will be 3. The funding for the program will be cut by $2.2 billion.

It moves exactly in the opposite direction of what the administration advised us to do as we brought this bill out of committee.

Let me make another point, and that is on the question of the withdrawal provisions. My good friend, the minority leader, has put a lot of effort in this legislation. But when he talks about he is going to keep the withdrawal provisions, it does not help you much, if you keep the withdrawal provisions, if you do not have any input, if you do not have anything to withdraw.

So the last time that the IRA was neutered back in 1986, we saw the contributions drop from $38 billion to $14 billion. We saw a substantial decrease, a 40 percent decrease in the savings in this country of ours.

That is not the way we build the capital funds to modernize the plants to make this country more competitive. That is not the way we encourage people to save for their retirement or the first home for their children or the college education or for a major medical expense. We were right in the first instance in working together on that committee to bring out this piece of legislation.

I strongly urge that we vote against this amendment.

I retain the remainder of my time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I do not believe we will use all the time. I indicate to my colleagues there may be some time yielded back.

I point out as far as enterprise zones are concerned, there will not be any enterprise zones if this bill is vetoed and the veto sustained. So this is not what we would all like to have. Somebody has to pay for all these things, people in Minnesota, Kansas, Texas, Delaware, Wyoming, wherever.

IRA's are not free. It is a good program. Somebody has to pay. I think the estimated cost per year is between $4.3 and $5 billion. So you pay for that by raising somebody's taxes. Maybe the same people who benefit from IRA's. If that were the case, it would be a tradeoff. They could save on one end and pay for it on the other end. It does not seem very logical to me if that is the case.

So it is not just how good the program is but how do we pay for it, and when do we stop? When do we start thinking about children and grandchildren and others who may not be in the IRA market? When are they going to pay? This year, next year, the next century?

We cannot have it both ways. We cannot say, oh, well we do not like PEP and Pease either but we want to keep everything else. The Senator from Delaware has some other ideas on how we might save enough money to take care of the IRA proposal.

But I think because of the short time lag he did not have an opportunity to get it into legislative form. Maybe that is something that might be discussed later in conference.

So I do not quarrel because there has been an effort made to find some other provisions. I would say to the Senator from Connecticut [Mr. LIEBERMAN] we do also include the capital gains provision that he and Senator KASTEN offered before we recessed here in August. That is a plus. It is very important to have that in the enterprise zone package.

We believe in addition $3.1 billion is a lot of money. We are only going to spend $3.1 billion for the enterprise zones. They have not been tested, do not know how well they are going to work, do not know if it will be 30, 50, 70, or 300 enterprise zones. And $3.1 billion is a substantial amount of money. Plus, as I have indicated, we retained the provisions for withdrawal for educational purposes, whatever.

So, keep in mind, this is probably the tax increase of maybe about $20 billion between now and the end of the decade. If you want to vote for $20-billion tax increase, finance IRA's or anything else, this is an opportunity for you. The only point I would make is that if this bill goes to the President in this form, or substantially this form, there will not be any bill. Then all of the extenders, all the other provisions that we think are so good will fall by the wayside.

I am going to continue to reinforce and underscore that you are voting for a tax increase. There is no way you can deny it. You are voting for a tax increase: PEP and Pease. Tax increases were never intended to make permanent the budget summit we had in 1990. We will only do this on a temporary basis. That is always what happens when you have a temporary tax increase. It always becomes permanent; never intended to be permanent, just enough to get us through this agreement. Now it is permanent. It is permanent. It is a permanent tax increase the President of the United States cannot support.

So I hope that we will not, oh, say: I like enterprise zones. We ought to have more enterprise zones. We ought to have more IRA's. More of this. We ought to have more of that. Charge it up to our children. Charge it up to somebody. But you are voting for a tax increase if you support; if you vote against the pending amendment.

If you vote for the pending amendment, you are voting to have a bill, not with everything you want, but pretty good start on enterprise zones, with the capital gains provisions, which the Senator from Connecticut, [Mr. LIEBERMAN] and the Senator from Wisconsin [Mr. KASTEN] support.

But this is not the end. We will be back next year, the next year, and the next year. And if we can find ways to add additional enterprise zones, or if we find ways maybe in conference to add additional enterprise zones, and take the money from some other place, there are a lot of provisions in this bill where you can find revenue. Every time you touch one, another group rises up, and says: Do not take this. Do not take this. It seems to me that we did the best we could.

It is very political. This is political in the sense that the President of the United States is not going to sign a tax increase 30 days before the election. Maybe somebody wants to vote for a tax increase 30 days before the election. That is up to each individual Senator. Only about a third are running. So maybe by the time their cycle comes around people will forget about this little tax increase: $7.7 billion through 1997 and then it is about $4 and $5 billion a year thereafter.

So for all the reasons I stated previously, it seems to me that we have a good start. The chairman, and the ranking Repubican, Senator PACKWOOD, have done a good job. The chairman said it has been bipartisan. We tried to put everything together. We try to accommodate as many Members on each side as we could.

A lot of this was done before the President made his speech in Houston, TX, too. I have not heard Secretary Kemp say how many zones he wants since he left Houston. Maybe it is not 300; maybe 30 is perfect. I do not know. But it seems we have to do the best we can. Maybe 300 is a good nice round number.

But I want a bill. I want enterprise zones. We passed enterprise zones two or three times before in the Senate. They always died in the House. It is not going to happen this time because they are in both bills, and the only way it will lose all the enterprise zones is to keep PEP and Pease in here. Then you get a vote. You get the vote sustained. Then we get nothing.

We do not get first-time home buyer credit. Everybody is for first-time home buyer credit. We could take that out and save a few hundred million. Everybody is for passive losses. We could take those out, and save millions and millions of dollars. Take out the investment tax allowance. We just start down, take out the extenders, save a couple billion, maybe $3 billion. So there are a lot of ways we can keep all the enterprise zones.

If somebody wants to give me some suggestions, but where do you start? What we intend to do is to have some balance in the program, get the enterprise zone program started, spend $3.1 billion. And $3.1 billion is a lot of money. We also increased expensing, equipment expensing. We keep the other provisions that are pretty much the same. We did add the capital gains provision.

So I urge my colleagues at the appropriate time to support this amendment so we can have some enterprise zones, so we can have a first-time home buyers tax credit, and not to vote to raise taxes 30 days before the election.

Mr. BENTSEN. Mr. President, I yield myself 3 minutes.

Let me make the point on the PEP and Pease. We are not talking about raising taxes. We are talking about a continuance of a tax that is already on the books. PEP and Pease is there. That is something that applies on the PEP part to people making over $130,000 a year. If you are talking about the Pease part, you are talking about people in the top 2½ percent of the income earners in this country. We are talking about a continuation of that.

This amendment talks about cutting, it talks about stopping. It talks about a tax cut to people that are in the top 2½ percent, and at the same time, denying the IRA deduction for tax breaks for those people making under $100,000 a year. We have been through that one before. And we saw what happened to savings in this country.

Mr. President, I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my distinguished colleague.

This debate takes me back to 1986 when Senator D'AMATO and I tried to restore favorable treatment of individual retirement accounts [IRA's] in the 1986 tax bill. We lost that battle.

This afternoon, Mr. President, we see another effort to gut provisions in this tax bill which would encourage savings in individual retirement accounts.

The strongest argument I faced in 1986 as I recall that debate was that favorable treatment for IRA's was not going to generate new savings—it was only going to move savings around.

In 1986, I did not have a definitive response to that argument. But in 1989, the Institute for Research on the Economics of Taxation released a study which showed that IRA's generated a significant amount of savings, approximately $137.8 billion between 1982 and 1986.

Another argument advanced by those who want to eliminate favorable treatment of IRA's is that IRA's only benefit the rich. But the data shows that IRA's are used predominantly by moderate- and middle-income people. Although I do not have the most recent statistics in front of me, prior data from the IRS shows that the vast majority of taxpayers claiming an IRA deduction were families with incomes under $50,000.

I think many people probably do what I do. I do not fall into that category of the top 1 percent of income earners by any stretch of the imagination. I take out my IRA around April 13, to be quite honest with you, because I do not know if I have the disposable income during the year, but I know I can save on my Federal taxes if I take out an IRA. And the tax advantage to be gained motivates many citizens, at all income level's to take out IRA's.

In these troubled economic times, we need to do everything we can to encourage American citizens, particularly the younger generation, to participate in their own long-term financial security and to generate savings. IRA's do that directly.

To destroy, at this hour, one of the very important steps toward long-term economic security would be a devastating mistake.

I urge my colleagues to vote against this amendment.

Mr. BENTSEN. I thank my friend. I yield 2 minutes to the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I respond briefly to the comments of the Senate Republican leader: First, indicating that he has been prepared to cut the number of enterprise zones in this bill from 125 to 30, because the concept has not been tested. It has been tested—37 States have created enterprise zones—without the Federal incentives that would be part of this bill; 2,200 zones in 37 States have brought about more than $28 billion worth of investment and created more than a quarter of a million jobs. The money spent on enterprise zones is well spent, because the States' experience shows that $3 or $4 of private money is invested for every dollar of public tax relief.

Mr. President, the 300-zone number which the administration urged on us a short while ago is a standard of need. Fifty percent of the people in those zones, the administration says, are below the poverty rate. What changed in the 2 months since I stood out in front of this Capitol with Senator KASTEN and Senator PACKWOOD, the ranking Republican, and Secretary Kemp, and advocated 300 zones? We have 125 strong zones in this bill. The amendment proposes a cut to 30. What about the 270 other zones that the administration said needed this help?

I was startled when the Republican leader said that the President would veto this bill if this amendment is not passed. A short while ago, this year, the President indicated that he would veto this bill if we did not put more enterprise zones into it. Now they are saying just the opposite.

If I may conclude with a football metaphor, and it seems appropriate, since Secretary Kemp, the great advocate of this proposal and partner in it, was a former quarterback for the Buffalo Bills and an AFC champion at that. What is happening with this amendment is the equivalent of a double reverse. The problem here is that Secretary Kemp has been left with the ball and no blockers. Let us reject this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished majority leader.

Mr. MITCHELL. Mr. President, I have the greatest respect and affection for my colleague, the distinguished Republican leader, who I see more often these days than any other person and spend more time with and talk with more often. So it is always with some reluctance that I rise in opposition to a proposal made by my colleague. But I do so in this instance. I encourage the Members of the Senate to join the distinguished chairman of the Finance Committee in defeating this amendment and permitting us to proceed and enact the bill.

No one remembers better than I, and I am certain Senator DOLE, the difficult struggle we had to gain enactment of the budget bill, which grew out of the so-called summit, in 1990. We stood right here in the well of the Senate, just a few feet from where I am standing, seeking to persuade our colleagues to support what was, until then and since then, the largest deficit reduction measure ever enacted.

It included a lot of provisions that each of us, individually, not just Senator DOLE and I, but I think every single Senator, did not favor. But in the aggregate, it was necessary to deal, in the best manner we could under the circumstances, with addressing the deficit. One of the provisions in that agreement was to include those measures that have now come to be called the PEP and Pease provisions, for short. They have been explained here, so I am not going to repeat the mechanical explanation of their operation in the Tax Code.

In the agreement, they were to be placed in the law for a 5-year period, and the bill reported by the chairman of the committee extends that to make them permanent. That is being described as a tax increase.

Well, of course, if it is a tax increase to extend a provision, it was a tax increase to insert the provision in the first place. So everyone who voted for the original provision by the definitions used in this debate voted for a tax increase.

I note that the PEP provision applies to those persons with an adjusted gross income filing joint returns of nearly $160,000 a year and above; and the Pease provisions apply to those persons filing joint returns with adjusted gross income of approximately $105,000 and above. And so they apply, as the chairman has already noted, to only those that are at the top of the income scale.

If it is a tax increase to extend the provision, it must therefore follow logically that it is a tax cut not to extend the provision, and the tax cut is being provided to the top 2 or 3 percent of income earners. It is my view that if we are going to cut anyone's taxes, it ought to be working people and middle-income Americans, those who find themselves in the middle, the family in which both spouses work, the teacher, carpenter, police officer, fire fighter, factory worker, nurse, computer programmer, whose combined incomes are $40,000, $50,000, $60,000, $70,000 a year, and face the possibility of having a child in college and cannot meet the income, cannot meet the tuition payments.

This is not to suggest that a family with an income of $105,000 or even $160,000 is rich. I do not think it is appropriate to use that word, because that is a subjective judgment, and everything in life is relative. They are at the top 2 or 3 percent of the income, and the people who really need the employment help are the people in the middle-income category. If we are going to cut anybody's taxes, that is the people whose taxes we ought to be cutting.

As I said, reluctantly—because it is my colleague, the distinguished Republican leader who made the proposal—but nonetheless forcefully, I urge all of my colleagues to defeat this amendment. The tax bill we have before us is not perfect. It is a product of a great deal of effort by the chairman and the members of the committee. There is a lot of compromise in it, a lot of provisions in it I do not like; overall, it is a serious effort to deal with a serious problem in the country, and it does so.

So I urge my colleagues to defeat the amendment. I do not know if the chairman is going to make a tabling motion, but either by an up-or-down vote or tabling, I hope Senators will join to defeat the amendment.

I thank my colleagues for their courtesy.

The PRESIDING OFFICER. Who yields time?

The opposition to the amendment has 52 seconds remaining.

Mr. DOLE. I yield 4 minutes.

Mr. BENTSEN. I yield the remainder of my time.

Mr. DOLE. Three minutes, plus the remainder of his time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I will try to make my comments brief. Though there are some things in the amendment that are not bad, actually they are pretty good, there are two things in this amendment that makes it, from my standpoint, unacceptable.

The first thing that makes it unacceptable is that the so-called extenders are cut from 15 months to 12 months. In my view, extenders are basically a lobbyist's full-employment act. The shorter the length of the extenders, the bigger the fees the lobbyists charge to extend them. Let us cut the extension to 4 months, 3 months, or 2 months. Then they will all be here around the clock outside our doors saying, "We want to keep this in the code." We do not want to make a final decision whether we want them in or out. Cutting the extenders from 15 months to 12 months is one reason I oppose this amendment.

Second, the bill raises $23 billion. This is an urban bill. Under the amendment, it spends only $3 billion on urban America. It reduces the number of cities eligible for enterprise zones from 125 to 30.

This time last month we had the Secretary of Housing and Urban Development running around the country saying we had to increase the number of urban enterprise zones or we would not really be responsive to the urban crisis, and now we have an amendment that would dramatically cut the number of urban enterprise zones. Instead of using the revenues to promote jobs and reward people for hiring workers in zones and reward companies that provide stock ownership for people who live in the zones, we instead open up a capital gains exclusion that will benefit primarily people who live outside the zone.

So, Mr. President, I reject this amendment on two grounds. First, the shorter the extension of the extenders, the more the lobbyists will be employed to keep them alive in the next couple of months. Second, this amendment dramatically cuts the amount of urban assistance in this bill, in both the number of cities and the amount of relief. On those two grounds I think it is sufficient to reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, let me indicate to my colleagues I am going to yield back—how much time do we have remaining?

The PRESIDING OFFICER. The minority leader has 16 minutes, 56 seconds.

Mr. DOLE. I will yield back most of that time.

I do not want to shed any tears for lobbyists. I am pleased to know the Senator from New Jersey is concerned about their livelihood. A lot of them are our friends. Whether 12 or 18 months, I think, they are in a full-employment business, and I do not think there will be any 6 months' furlough because of other things they will be working on. I would just as soon have them working on extenders as on something else that might be less productive.

But in any event, if somebody has a better idea, I would be happy to modify my amendment to put in some other ways to avoid raising taxes.

The majority leader indicates we already voted for this once, so it is all right to make it permanent; it is really not a tax increase. I am not certain I follow that logic. I know President Bush does not follow that logic. I remember distinctly—I introduced him in Houston, and he made his acceptance speech, and I listened very carefully to every word that was spoken, and I heard him talk about budgets and vetoing bills and taxes. And I think he has concluded that the extension would be a tax increase, plus, I am certain, as I have said before, there will be a lot of tax changes. If somebody counts up how many there are in the bill, it is probably 40, 50, or 60. He may be charged, even if he signs the bill with only those changes, with raising taxes.

So it is a very sensitive issue, I might say, to the President of the United States, particularly only 30-some days before the election.

But for all the reasons that I think have been stated here, enterprise zones—again, I am glad to see all the enthusiasm today for enterprise zones. I did not realize it was so widespread. I remember when we first passed it in the committee a few years back, in 1981 I think it was, we could not get it through the House. I remember the second time we passed it, President Reagan, calling Chairman ROSTENKOWSKI and pleading for just 12 enterprise zones, just give us 12 enterprise zones, and that effort was to no avail.

So now we are up to 30—or up to zero, depending on what happens in the final analysis to PEP and Pease—and maybe, if it is not done here today, it will be done in conference. Maybe we will reach some agreement that everybody can be content with.

Finally, I say, certainly no one is opposed to savings, and I congratulate the colleague from Delaware and the chairman of the committee for their efforts. I know there were 78 cosponsors, but I think some of those cosponsors were never asked to pay for it. Do not pay for it; just be for the benefit. It is a great idea: Increase savings. But somebody has to pay for it, and its annual cost, after 1997 is going to be in excess of $4 billion a year.

Remember, in 1981, when we estimated the costs of IRA's, we found out 4 years later we were four times too low. It cost four times as much to the taxpayers as we thought it would. Now 81.6 percent of all Americans taxpayers are eligible for IRA's—81.6 percent right now. So it is not as if we were taking away that opportunity from any taxpayers.

This would increase it probably to 97 or 98 percent, because there are not too many people in the income brackets over $120,000 if married or $80,000 if single, the so-called Metzenbaum cap on IRA's that was adopted here sometime ago. The point is not how many people we can cover. It is how do we pay for it. And what we have before us is a tax increase. Maybe some would say not much, it is only about $20 billion between now and the year 2000, but it is more than some people want to pay. Maybe the same people, as I suggested, who get the IRA benefits are going to end up paying the taxes. Maybe it is a tradeoff; maybe in each case they will break even. This Senator does not understand all that.

But I do understand that we need to finish this bill, and in a spirit we hope may set an example for other amendments, I yield back the remainder of my time and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas [Mr. DOLE]. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—34

Brown
Burns
Chafee
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Hatch
Hatfield
Helms
Hollings
Jeffords
Kassebaum
Lott
Lugar
Mack
McCain
Moynihan
Pressler
Rudman
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—59

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Metzenbaum
Mikulski
Mitchell
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—7

Bond
Boren
Cranston
Gore
Kasten
Murkowski
Seymour

So the amendment (No. 3181) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas is recognized under the previous order.

Mr. BENTSEN. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, just let me indicate, as I did earlier, that at least 34 votes for the amendment is a clear indication that there are going to be enough votes to sustain a veto. That was the purpose of offering the amendment. We were never under any illusion we were going to carry the amendment. So I think it is an indication we need to work on this in conference. I think we will have the support of the conferees on both sides. Perhaps we can find some resolution that will avoid a veto and get us a bill that Members on both sides can support. I thank the chairman.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

### AMENDMENT NO. 3182

(Purpose: To extend the deduction for health insurance costs of self-employed individuals until June 15, 1994)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. DOLE, Mr. MITCHELL, and Mr. CHAFEE, proposes an amendment numbered 3182.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking "September 30, 1993" and inserting "June 15, 1994".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991, as amended by section 2143(e), is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting "June 16, 1994".

Mr. BENTSEN. Mr. President, I ask unanimous consent that we have a 20-minute time limitation, equally divided, on this, and no amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? The Senator from Texas.

Mr. BENTSEN. Mr. President, I am joined in this by the majority leader, the Republican leader, and by Senator CHAFEE. What we are talking about is an extension of the deductibility for health insurance by the self-employed, an extension of it some 8½ months beyond the time in the current piece of legislation.

Frankly, I know of no opposition to it. I am not sure it will take anything like 20 minutes for debate.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as we know, two evenings ago in what I think was a very dramatic step by this Senate, we passed a provision dealing with health care. And in that provision was a section which the distinguished chairman of the Finance Committee drafted and which we supported, I supported and everybody else supported, dealing with the deductibility of health insurance by the self-employed.

The trouble was in that we had a very limited amount of money, so it was a limited time that the 100 percent deductibility applied.

What this proposed amendment does is to take some money we do have available and to extend the period for the deductibility of 100 percent of the insurance for the self-employed. This is not going to solve everybody's problems, but it is a big step forward. Currently, the self-employed can only deduct 25 percent of their health insurance. This makes it 100 percent for a period. I am not sure, how long is the period?

Mr. BENTSEN. It will carry it out for another 8½ months to June 15, 1994.

Mr. CHAFEE. So there is 100 percent for approximately a little less than 2 years from now. I think it is a good amendment. I do not know anybody on our side who is against it. Certainly, as you will recall, we did not have a rollcall vote that evening, but we shopped on both sides and both sides supported the overall bill. Of course, this is a more limited part of that bill.

I ask unanimous consent that Senator DURENBERGER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, if there is no further debate on this side, I am prepared to yield back the remainder of my time.

Mr. CHAFEE. Likewise, Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment No. 3182.

The amendment (No. 3182) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3183

(Purpose: Encouraging new, direct, long-term investments by individual taxpayers in the stock of a C or S corporation with aggregate capitalization of less than $5 million, to limit the maximum deduction for moving expenses to $19,000, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk willing report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BROWN, Mr. KERRY, Mr. MACK, Mr. KOHL, Mr. DODD, Mr. HOLLINGS, Mr. BINGAMAN, Mr. DIXON, Ms. MIKULSKI, Mr. SANFORD, Mr. SASSER, Mr. GLENN, Mr. NUNN, and Mr. LIEBERMAN, proposes an amendment numbered 3183.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 948, strike line 2 and insert the following: "such paragraph (1).

**SEC. 2163. EXCLUSION FOR SEED CAPITAL GAIN FROM CERTAIN SMALL BUSINESS STOCK.**

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

**"SEC. 1202. EXCLUSION FOR SEED CAPITAL GAIN FROM CERTAIN SMALL BUSINESS STOCK.**

"(a) GENERAL RULE.—Gross income for taxpayers other than corporations shall not include an amount equal to the sum determined by applying the applicable percentages to the appropriate categories of gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) SEED CAPITAL GAIN.—For purposes of this section—

"(1) APPLICABLE PERCENTAGE.—The applicable percentage shall be computed as follows:

| "In the case of: | The applicable percentage is: |
|---|---|
| 5-year gain | 50 |
| 6-year gain | 60 |
| 7-year gain | 70 |
| 8-year gain | 80 |
| 9-year gain | 90 |
| 10-year gain | 100. |

"(2) CATEGORIES OF GAIN.—

"(A) 10-YEAR GAIN.—The term '10-year gain' means gain determined by taking into account only gain or loss from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean the gain determined by taking into account only gain from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(3) SPECIAL RULE FOR ENTERPRISE STOCK.—Solely for purposes of this section, in determining gain (but not loss) from the sale or exchange of qualified small business stock which is enterprise zone stock (within the meaning of section 1397B(c)), the basis of such stock shall be determined without regard to section 1397B(e)(1).

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after the date of the enactment of this section, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (e) and (f), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of this section, and before the issuance did not exceed $5,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $5,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (e)(4)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(e) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) startup activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC,

"(vi) any cooperative, and

"(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business (other than the business of raising or harvesting trees),

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) EXCEPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.—This subsection shall not apply to any small business investment company described in section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 682).

"(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) from a partnership to a partner of stock with respect to which the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding requirement), or

"(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (g) are met with respect to the stock.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(i) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise.

"(k) APPLICATION OF TAX INCENTIVE TO CURRENT STOCK HOLDINGS OF INVESTORS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer holds any stock on any date on or after the date of the enactment of this section which, at the time it was issued, would be treated as qualified small business stock without regard to the time it was issued, and

"(B) the value of such stock on such date exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain from such sale shall be treated as received or accrued (and the holding period of the reacquired stock shall be treated as beginning) on such date. For purposes of applying this section, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of subsection (a)(1) that the stock must have been issued after the date of the enactment of this section, shall not apply.

"(2) ELECTION.—An election under paragraph (1) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. Exclusion for seed capital gain from certain small business stock."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued six months after the date of the enactment of this Act.

**SEC. 2164. MODIFICATIONS TO DEDUCTION FOR MOVING EXPENSES.**

(a) DOLLAR LIMITATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) DOLLAR LIMITS.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $19,000. The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500.

"(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$9,500' for '$19,000' and by substituting '$750' for '$1,500'."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 217(h) is amended by inserting "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(3)(A) shall be applied as if it did not contain the last sentence thereof."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.".

Mr. BUMPERS. Mr. President, I was just wondering if I could have the attention of the Senator from Texas. Could we agree to some short time limit on this amendment?

Mr. BENTSEN. I would say to my friend from Arkansas, I have long been a proponent of this piece of legislation. The Senator has worked diligently for some 4 years on it that I know of. I have not, though, had a chance to see the specific legislation. I hope we could settle for a short time. Give us a chance to look at it. Why not proceed and then we will arrive at an agreement.

Mr. BUMPERS. Mr. President, this amendment is precisely one of the parts that you just voted on in the Dole amendment. It is an amendment that most of the Members of this body know that I have worked assiduously on for 5 years. It is an amendment whose time has come. We call it the seed capital amendment, and what it does, of course, is to allow people to make investments in the stock of small businesses with $5 million or less in paid-in capital when the money goes directly to the small business issuing the stock. It does apply to secondary trading of the stock. And once you make this seed capital investment in a small business, if you hang on to it for 5 years and then sell it, you can exclude 50 percent of the gain from taxation.

The National Federation of Independent Businesses, the American Electronics Association, the Industrial Biotechnology Association, the National Venture Capital Association, just about every business organization in America, favors this type of investment incentive.

The second part of the incentive, Mr. President, is that if you hang on to your investment for 10 or more years, you pay no capital gains tax.

Seed capital in this country has become almost impossible to obtain for small business. Here is an article from the September 6, 1991, Washington Post by a man named Michael Schrage entitled, "The Slow, Sorry Disappearance of Venture Capitalism." Just for the benefit of my colleagues the article says:

> In the 1990's, a venture capitalist is what you get when you cross a plucked chicken with an invertebrate. Venture capital has become Wimp Capital.
>
> The industry that helped create Intel Corp., Apple Computer Inc., Genentech Inc., Cetus Corp., Compaq Computer Corp., Lotus Development Corp., Sun Microsystems, Inc., Calgene Inc. and dozens of other influential, innovative and vital companies has lost its nerve. Instead of seeding start-ups and nurturing them into new industries, most "venture" capitalists now have retreated into the less risky regions of late-round financing.

Mr. President, this is an amendment similar to the venture capital provision in the bill that the President vetoed earlier this year.

I want to make this point crystal clear. Nearly 50 members of this body have cosponsored this bill (S. 1932) in this Congress. Governor Clinton endorsed the bill early this year. President Bush has made the seed capital half of this bill a part of his small business incentives. So I just do not see how anybody could have objection it as an amendment to this bill.

The cost of this is $340 million over a 5-year period. And we have an offset, and the offset is this: the deductibility of moving expenses stops at $19,000.

Now Mr. President, I am prepared to answer any question that any Senator has on the offset which deals with the moving expenses deduction. The average cost of moving in this country is about $4,600. Less than 1 percent of the people of the country—and that is the 29 percent of the people in the country who itemize their deductions—ever pay $19,000 or more in moving expenses. This offset actually contributes $4 million to the deficit as it raises $340 million over 4 years.

Mr. President, I would like to believe that the distinguished floor managers of this bill are willing to accept it.

Now, Mr. President, small business in this country is still producing more jobs, more jobs than anybody else in the country, and they are doing it under extremely difficult conditions. I hold hearing after hearing after hearing in the Small Business Committee, and it is always the same story. The availability of capital is what is holding small business up.

Here is an opportunity to vote for a very important amendment. It provides a dramatic incentive for seed capital investments. If the country were not in such fiscal condition, I would make this measure 10 times greater in reach. As a matter of fact, I have a companion proposal to it called the venture capital incentive—we call this seed capital—that I have studiously not offered which would allow a 50 percent exclusion on gains on investments in companies with up to $100 million in paid-in capital under the same terms for the first 5 years, but right now, frankly, I just cannot find an offset for both the seed plus venture capital incentives. So I have taken the seed capital provision, which I think everybody will endorse and will pursue the venture capital incentive next year.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. BENTSEN. I have discussed this with the manager of the minority and we are prepared to enter into a 30-minute time limitation equally divided, no second-degree amendments. Is that agreeable?

Mr. BUMPERS. I am happy to accept that.

Mr. BENTSEN. I ask unanimous consent that we have that agreement.

Mr. CHAFEE. I wonder if the distinguished proponent will yield for a question on this?

Mr. BENTSEN. With no amendments to the amendment under consideration in order.

Is there agreement?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE. This is a $19,000 cap for an employee per year or per move? That is the first question.

Mr. BUMPERS. Since it is a limit on tax deductibility, it would be for each tax year.

Mr. CHAFEE. For the employee.

Mr. BUMPERS. Yes, for an individual taxpayer.

Mr. CHAFEE. What about an overseas situation? How would that affect it? Suppose a company was moving an employee from Saudi Arabia with all their belongings to Illinois? What would be the consequences of that?

Mr. BUMPERS. Mr. President, we do not make any exemption for overseas moves, and that could present a problem. I would frankly suggest, since the Senator has raised it, that this is something the Senators from Rhode Island and Texas could deal with in conference. I think that is such a minuscule thing as a part of this.

Mr. CHAFEE. I am not trying to nitpick the amendment.

Mr. BUMPERS. I understand. If the Senator likes, I think there is enough leeway in this bill that without anything else you could probably exempt overseas moves from the $19,000 cap.

Mr. CHAFEE. Could we say that was the intention of the presenter of the amendment?

Mr. BUMPERS. Yes. I would be happy to do that because that is one of the places where the moving expenses might exceed $19,000.

But just to give the Senator some idea, if I could, for example, the total number of taxpayers in the class of $20,000 gross income or less, 57,000,000, nine hundredths of one percent, even claim any deduction for moving expenses. Moving up from $20,000 to $75,000 adjusted gross income, there are 49½ million taxpayers in that category, and 1 percent of those claim moving expense deductions. Of those who make $75,000 or more, there are 6½ million and 4 percent claim the deduction. But the real icing on the cake is that the average deduction by all classes of taxpayers is $4,622.

So this affects a very minuscule number of people. If affects some taxpayers as it wouldn't raise revenue but as compared to the number of taxpayers, not many would exceed the $19,000 cap.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, if I may make one other point that I should have made in my opening statement, it is that there is no limitation in my offset on the deductibility of moving expenses by a corporation when it pays for the moving expenses of an employee. That is an ordinary and necessary business expense which we do not touch.

Mr. CHAFEE. Let me see if I understand this. If the company, IBM, should move the employee——

Mr. BUMPERS. It is entitled to full deduction no matter what the cost is.

Mr. CHAFEE. So the only situation where this would, in effect, be where an employee chose to move or, or the company did not move him or did not reimburse him?

Mr. BUMPERS. Will the Senator repeat that?

Mr. CHAFEE. Would this apply only in those situations where the company did not move the employee?

Mr. BUMPERS. This would apply for an employee paying for his own expenses, for any person paying their own expenses.

You would have to, quite frankly—I do not want this to become a class action out here. But—you would have to move a pretty good sized mansion to reach this figure, $19,000 limitations. I think everybody in this body has either paid their own moving expenses or moving expenses for their children. And the ordinary seven-room home requires about $5,000 to move the furniture across the country. There are other deductible moving expenses but for the moving van it would be hard to hit the $19,000 limit.

I hope the managers can accept this, and if you find something between now and conference that troubles you about the limit, we will try to help work it out.

As I say, the seed capital incentive was in the Dole amendment just now, only that applied only to enterprise zones. The companion venture capital incentive was in the tax bill earlier this year, and the President did not veto that bill because of this. He vetoed it for other reasons, and on the contrary, just 3 days ago, the President came out in favor of this as applied to enterprise zones.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum, and I ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, on the last amendment that we passed, No. 3182, I ask that the distinguished Senator from Pennsylvania who has long been interested in these health care matters, particularly the deductibility for the self-employed, be added as a cosponsor along with Senators WARNER, GRASSLEY, PRESSLER, PACKWOOD; the Senator from Pennsylvania, Senator SPECTER, and the others.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Now I again suggest the absence of a quorum and ask that it be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 3183), as modified, is as follows:

At the end of Subtitle B of title II, insert the following:

**SEC. 2163. EXCLUSION FOR SEED CAPITAL GAIN FROM CERTAIN SMALL BUSINESS STOCK.**

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section.

On page 19, line 22, strike "six months" and insert "on or".

Mr. BUMPERS. We had the wrong page reference and effective date.

Mr. President, I suggest the absence of a quorum, with the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I yield such time as I have remaining to my colleague from Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. KERRY. Mr. President, I ask the distinguished Senator from Rhodes Island if it might be possible for me to have more time?

Mr. CHAFEE. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Rhode Island has 7 minutes.

Mr. CHAFEE. How long does the Senator think he would be?

Mr. KERRY. Would the Senator perhaps give me 6 minutes of his time, total of 10 minutes?

Mr. CHAFEE. Is that on this amendment?

Mr. BUMPERS. Yes.

Mr. CHAFEE. I would like to reserve a couple of minutes in case, because I am not sure what is happening. But I yield the remainder. Save me 2 minutes.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Rhode Island. How much time did he have?

The PRESIDING OFFICER. The Senator from Rhode Island yielded the Senator from Massachusetts 5 minutes.

Mr. KERRY. I thank the Senator from Rhode Island.

Mr. President, I am delighted to join with the Senator from Arkansas and other Senators in offering this amendment, which contains the small business portion of the targeted capital gains tax cut. This amendment would provide a 50-percent capital gains tax cut investments held in a small business for 5 years and, the cut held for 10 years declines to 100 percent for investments.

It strikes me that two of the most significant problems that our economy faces as we seek to compete in the international marketplace are the lack of access to sufficient capital and the focus on short-term, rather than longer term goals.

This amendment addresses both of those issues. As we know, small businesses all across this country are facing a credit crunch; they have been for several years. At this point, the credit crunch has literally become suffocating to those younger companies that are looking for the working capital they need to expand. There have been a series of devastating factors that contributed to this condition.

First, many of the small businesses are undercollateralized because of the changes in the banking rules and the decline in real estate values across the country.

Second, bank reserve requirements have been increased in the middle of a recession which has resulted in increased caution in lending. This has led to a return to what we call prudent lending practices, but it really has had severe implications for small businesses, which are the last in line for credit even in the best of times. Related to this has been the fact that banks have chosen to invest relatively large portions of their portfolios in long-term Treasury bills, which are paying higher rates, rather than lending money to commercial enterprises.

The third reason that small businesses are having trouble getting financing is that bank failures and the general consolidation of industry have led to much higher minimum loan requirements, and those have excluded many small business loans. In addition, as the larger banks have come out of the consolidation process, they have centralized their operations. The effect of that has been to limit access, by limiting much of the local availability that used to exist for capital.

I have worked with Senator BUMPERS and others on the Small Business Committee on a number of initiatives to address this credit crunch, including small business loan guarantees and the Small Business Incentive Program—the only Government source of venture capital.

However, these efforts have only gone so far. If we can give private capital a greater incentive to invest in startups, we have a far greater chance of creating a kick to the economy that might lead to the kind of growth in jobs that we need.

The other issue that the seed capital amendment addresses is the short-term focus of U.S. investment decisions.

Mr. President, the Harvard Business School recently completed a 2-year study of the American system of capital investment.

What they found is very disturbing. I quote:

> The U.S. system of allocating investment capital is threatening the competitiveness of American firms and the long-term growth of the national economy. Although the U.S. system has many strengths including efficiency, flexibility, responsiveness, and high rates of corporate profit, it does not seem to be effective in directing capital to the firms that can deploy it most productively and to the most productive investment projects. As a result of this system many American firms invest too little in those assets and capabilities most required for competitiveness (such as employee training), while wasting capital on investments with limited financial or social rewards (such as unrelated acquisitions).

This report points out that leading American firms in many industries are outinvested by their Japanese counterparts; that the R&D portfolios of American firms include a smaller share of long-term projects than those of European and Japanese firms; and that the American firms invest at a lower rate than both Japanese and German firms.

That is a very important finding. It goes to the heart of why they are able to get more products to the marketplace at a faster rate than we are and why they are gaining market share in many industries we used to dominate.

I strongly suggest to my colleagues who have been part of the competitiveness vanguard of the U.S. Senate, that the most significant way we could begin to change investment habits and draw capital into those enterprises that most need it is to offer a greater reward for long-term risk. That has always been the way we operated in this country—or wanted to operate. It is the best way to achieve what we are discussing.

We want to reward the startup entrepreneur who will commercialize the next generation of technology in the United States, whether in artificial intelligence, microelectronics, biotechnology, advanced materials, or environmental engineering. There are a host of new areas where companies desperately need capital and they are having trouble finding it because of the problems of capital availability that I have cited.

So, the second great problem our small businesses face is the pressure for short-term gain which results from the fact that Wall Street operates on the basis of tomorrow's stock price. The average holding period of stocks has declined from over 7 years in 1960 to about 2 years today. This has meant that long-term growth has become a less important influence on U.S. stock prices and, therefore, on the decision-making of managers in U.S. companies.

What Senator BUMPERS and others of us are saying is that we should change the framework for investment decisions. We don't want Government to make decisions for investors or to pick winners and losers. But we do want to change the framework within which the private sector makes its own choices about where to invest. If we reward investors for holding stock longer, we reward people for having a longer term vision and we begin the process of curing the quick-profit syndrome that depletes U.S. competitiveness.

In closing, I congratulate the Senator from Arkansas, with whom I have enjoyed working on this, and I hope that today we will decide to include the seed capital provision in this important bill so that we can improve our Nation's competitiveness while improving the capacity of our small companies to grow and expand.

I yield the remainder of my time back to the distinguished Senator from Rhode Island and thank him for having been gracious enough to yield me the time to speak on this important issue.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized. The Senator has 22 minutes.

Mr. CHAFEE. Mr. President, I yield 2 minutes to the distinguished Senator from Colorado. I thank the Senator from Massachusetts for his kind comments.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. BROWN. Mr. President, I thank the Chair, and I thank the distinguished Senator from Rhode Island for the time.

This measure, the Bumpers-Brown seed capital amendment, is essentially similar to the bill that was introduced earlier this year, S. 1932. It is a highly targeted capital gains amendment. The measure will provide strong incentives for new enterprises and new risk taking in America. It is a different approach. It is not a broad-based capital gains bill such as I would prefer. It is very limited and very targeted.

But, because it is highly targeted, it has attracted a great deal of support that the more broadly based capital gains measures did not enjoy. The original bill has 48 cosponsors which I think is an indication of the widespread interest in this Chamber and in our Nation for turning our economy around, and providing incentive to make America a country of risk takers again. It is targeted on small business, it is targeted on rewarding long-term investment not the short-term mentality.

Mr. President, some will say this is as far as we should go on capital gains and no further. Others, like me, believe it is simply a foot in the door. But I believe what will be amply demonstrated by this responsible amendment is that Americans respond to incentives. And if we want new enterprises, if we want risk taking, if we want new opportunities, if we want new jobs of which small business is the key generator in this country, this seed capital amendment can do the job. It is balanced in terms of its fiscal impact, it is fair, and it will do the job in terms of creating new opportunities. For me it is a way of showing that capital gains can work.

I yield back, Mr. President.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, there seems to be some time. We are trying to work out some matters here that perhaps if we had an additional 8 minutes equally divided—we may go on for more after that.

Mr. REID and Mr. LIEBERMAN addressed the Chair.

Mr. BUMPERS. Mr. President, before we agree, I inquire of both Senator REID and Senator LIEBERMAN how much time they wish?

Mr. LIEBERMAN. Three minutes.

Mr. REID. I did not want to speak on this amendment.

Mr. BUMPERS. Oh, I am sorry.

Mr. CHAFEE. Mr. President, I ask unanimous consent for that additional time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to say to my distinguished colleague from Colorado [Senator BROWN], that I appreciate his comments and I appreciate the unstinting help he has given us in getting this amendment to the floor, getting it perfected. I do not know much legislation around here that ever had the attention devoted to it in trying to perfect any single complaint that anybody could have about it. And I want to also say there is an opportunity for this country and for the Congress to actually give seed capital a chance.

If we pass this bill, within 5 years we will know does it really work to provide a dramatic incentive to people to invest in small companies. If it does not, we might as well torpedo any capital gains incentive. But I think most countries provide the incentive, most countries have found it very successful. We have not. I think it is time we gave seed capital incentives a chance.

Mr. President, I yield 3 minutes to my distinguished colleague from Connecticut [Mr. LIEBERMAN].

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Arkansas and the Chair.

Mr. President, I rise in strong support of the amendment offered by my friend and colleagues from Arkansas. I want to compliment him on what I take to be a very artful piece of legislation. He has taken an issue, the capital gains tax cut, or let me put it more generally, the question that has been before this Senate for the last several years, as to whether through a tax incentive reducing the tax on capital placed into businesses and particularly capital placed into businesses and held for awhile, whether for incentive we can encourage that behavior which almost everybody agrees we need in our economy.

Almost every economist and business person I talked to, regardless of ideology, has said that one of the problems plaguing our economy, making us less competitive, is the lack of investment, the relative inadequacy of investment as compared to the nations with which we compete.

This proposal offers a test, frames the issue in a way which really almost everybody in the debate on capital gains whichever side you are on, should be prepared to support, to try it, to see with whether the idea works. The fact is we need venture capital in our society.

I do not know about my colleagues in the Chamber. I so often meet small business people with a great idea who cannot find the money to try to develop an idea, to become the Apple Computer Co. of the future.

Venture capitalists have traditionally been the ones who supported these kinds of ideas in companies, but in the past few years, in part as a result of the 1986 Tax Reform Act, the available venture capital for small firms has been declining. Listen to the numbers. In 1987 the amount of venture capital committed to new companies was $4.2 billion. That has shrunk to $1.8 billion in 1990.

And that spells much less growth, less job creation than we need in the future.

Mr. President, this bill encourages money to move to small companies that have big ideas that can grow into big companies that can employ thousands of people in the future. And it encourages them to put that money in those companies and leave it there long enough to be totally free of taxation after 10 years on any income earned in that venture.

I am proud to be a cosponsor of this amendment. I urge my colleagues on both sides of the aisle to support it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Rhode Island has 4 minutes remaining.

Mr. CHAFEE. On my time, I yield to the Senator from Texas as much time as he would like, but no matter how much time he takes I would like a minute at the end if I could.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. BENTSEN. I will take 1½ minutes.

Let me state that this is a piece of legislation that we put into our bill in April and it passed this Senate before and passed the House. It has some difference, but in general it is really aimed at small business and the raising of capital for small business, and particularly for venture capital. That is where we have seen a spawning of some of the new breakthroughs in technology. We saw that particularly out in California. We have seen it in Texas. We have seen it down in the research triangle in the Carolinas.

But this would encourage more of that type of thing to help make us internationally competitive.

I strongly endorse and support my friend's amendment which is much like the one we passed in April.

I yield back the remainder of my time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if I am not a cosponsor of this, I ask unanimous consent to be added a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I think this is an excellent amendment. It is very ingenious. As has been pointed out, what it does is it targets small business. It applies all across the country to any small business. It is not restricted to enterprise zones as the prior legislation was that we voted on. It says if you leave your money in for 5 years, you get a 50-percent exclusion of your capital gain and if you leave it there for 10 years you get a 100-percent exclusion.

It would seem to me that would be a very strong inducement for capital to flow to these venture capital-type operations, where they need capital, as has been pointed out, whether it is biotech, the computer industry, whatever it might be.

So I think it is an excellent amendment, and I commend the Senator from Arkansas and the Senator from Colorado for developing this amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I want to express my sincere appreciation to both managers of the bill for accepting this amendment.

I am not going to ask for a rollcall. I learned a long time ago the disaster that befalls people who cannot take yes for an answer around here.

Mr. KOHL. Mr. President, I would like to express my strong support for the Senator from Arkansas' SEED capital gains break. This is exactly the sort of focused business incentive that we need to direct private capital toward long term, high payoff investments.

Since I have been in Congress the debate over capital gains taxes has been clouded by politics—class politics, party politics, Presidential politics. What is lost in all these clouds is the sound tax policy that underlies a targeted capital gains tax break.

If Congress wants to leverage scare Federal tax dollars to promote economic growth—and we do—we should direct that money toward the startup, small businesses that are big contributors to job creation in this country. If Congress wants to encourage private investment in high-employment, startup small businesses—and we do—we should provide incentive to the investors willing to take a risk on those enterprises.

This is not Democratic or Republican tax policy. It's common sense. It should be supported by every Member of this body.

I commend Senator BUMPERS for moving the capital gains tax debate out of the realm of politics and into the realm of the practical. Passing this amendment today will send a strong message: Congress supports job-producing private investment. That is an important message to send in these troubled economic times. I encourage my colleagues to send it—to vote for the Bumpers amendment.

### BUMPERS SEED CAPITAL AMENDMENT

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment now before the body offered by Senator BUMPERS. This is yet another capital gains preference in sheep's clothing. The amendment provides that if you invest in a company with less than $5 million of paid-in-capital and hold that investment for 5 years, you pay tax on only half of the appreciation. If you hold the stock for 10 years, you get a 100-percent exclusion—you pay no tax.

Mr. President, the fact that the companies are small does not change one fact. A cut in the capital gains rate is simply a transfer to wealthy taxpayers. Two-thirds of the tax benefits from a capital gains reduction goes to the wealthiest 1 percent of American taxpayers.

Still, the proponent of this amendment claims that it is a limited measure. Small investment, Mr. President, can grow into large returns. Indeed, that is the purpose of seed or venture capital. Let's be clear about one thing. The reason why the stated cost of this amendment is small is not because it is a limited tax break. After 10 years, an investor pays no tax. The reason why the stated cost of this amendment is so small is because the real costs of this amendment fall outside of the arbitrary 5-year budget window we use to score tax breaks. At some point, we have to quit thinking in terms of only 5 years. At some point we have to drop the pretense that we are not responsible for the debt burden we are placing on our children's backs.

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute remaining.

Mr. CHAFEE. I yield back the remainder of my time.

Mr. BUMPERS. Has all time been used?

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3183, offered by the Senator from Arkansas [Mr. BUMPERS].

The amendment (No. 3183) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President I ask unanimous consent that following the disposition of the Bumpers amendment, the following amendments be in order in the following order and that no second-degree amendments be in order to any of the following first-degree amendments; and that the time on each amendment be limited to 5 minutes, equally divided on both sides under the usual restraints:

The Reid amendment, the Stevens amendment, and the Glenn amendment;

I further ask unanimous consent that following the disposition of the Glenn amendment, Senator GRAHAM of Florida be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I did not hear the request.

Mr. BENTSEN. I did not have my mike on. I apologize for that.

Mr. President, I ask unanimous consent that following the disposition of the Bumpers amendment, the following amendments be in order in the following order; that no second-degree amendments be in order to any of the following first-degree amendments, and that the time limitation on each of those amendments be limited to 5 minutes equally divided by the proponents and the opponents; that the proponents' time be allocated to the sponsor of the amendment and that the opposition time be under the control of the Senator from Texas:

The Reid amendment, the Stevens amendment, and the Glenn amendment.

I further ask unanimous consent that following the disposition of the Glenn amendment Senator GRAHAM of Florida be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, I just want to inquire. I do have an amendment to the Graham amendment. This unanimous-consent request does not preclude a second-degree amendment to the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

### AMENDMENT NO. 3184

(Purpose: To amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3184.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

**SEC. . TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.**

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section:

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) A failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5)."

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property.

"Water utility property .............. 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and

"(B) which, without regard to this paragraph, would be 20-year property."

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 1992, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

Mr. REID. Mr. President, I rise to offer an amendment to H.R. 11, the Revenue Act of 1992. This amendment contains a badly needed reform to help boost the moribund housing industry. Adoption of my amendment will reduce the price of new homes by as much as $2,000 per unit without costing the Treasury a penny.

My amendment is very simple. It excludes from the gross income of water and sewage utilities contributions in aid of construction made by developers to the utility. These contributions, known as CIAC, were previously excluded from gross income by section 118(b) of the Internal Revenue Code which was deleted by the Tax Reform Act of 1986.

This change has been estimated by the Joint Committee on Taxation to lose approximately $136 million over 6 years. My amendment also includes a revenue offset lengthening the depreciable life of water utility property and is revenue neutral.

Before I explain this amendment further, I believe I should explain what a CIAC is. It is a concept widely employed by utilities but not well understood by others.

Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, typically a developer. The customer contributes this property, or a cash equivalent, to the utility. In this way, utilities can reduce their financing requirements and eliminate the need to spread additional borrowing costs, in the form of rate increases, to the general body of customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not earn, take tax depreciation or investment tax credits on CIAC.

The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. First, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. Had that been the result, I doubt very seriously that my colleagues or I would have shed anything other than crocodile tears for utilities and the deletion of section 118(b). But in practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers and home buyers.

State utility regulatory bodies, often referred to as PUC's, generally require utilities to pass tax costs onto their customers. This means utility customers must make a larger contribution in order to cover our tax costs. This is not a simple dollar-for-dollar charge. In order for a utility to be made whole, it must pay tax on the

CIAC, plus a tax on the tax. This phenomenon is known as a gross-up. Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contribution. In other words, a contribution of water mains valued at $100,000 would cost a customer $170,000. The State PUC directs these additional costs to be either passed on upfront to the new customer, or through rates to the existing customer base.

So you can see, utilities do not pay the tax, they pass it on. By passing the tax on has detrimental effects, not only on the utilities' ability to bring in new business, but on the environment and—most significantly—on the price of new housing and housing construction.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of homeownership for a young couple.

Even in those areas where the cost of this tax can be passed on, it is still a cost the developer must pay upfront. That can mean projects are scaled down. Where a developer was planning on constructing 100 units, maybe only 80 are built. In severe cases, it may cause a developer to scrub the project completely.

The effect of the CIAC tax is particularly severe on water and sewage utility customers because of their unique characteristics compared to electric and gas utilities. Capital costs for gas and electric utilities are lower than water and sewage, so the gross-up cost is less prohibitive. In addition, there are seldom alternatives to acquiring gas and electric service from an investor-owned utility. Investor-owned water utilities serve only 20 percent of the population, municipal water suppliers serve the balance. Remember, only investor-owned utilities pay taxes.

A developer must receive gas and electric service from the local utility. It is not economically feasible to set up an independent gas or electric supply. But there are alternatives to receiving water and sewage service from a privately owned utility. In some cases, it is cheaper for a developer to obtain water from a nearby municipality, establish an independent water system or drill individual wells and septic tanks for each household. All of these alternatives deprive water companies of business opportunities and local, State and the Federal Government of tax revenues.

It is also important to note that small water systems frequently pose problems for both EPA and the States. According to EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. Investor-owned water utilities are frequently asked by the State health department and/or the PUC to take over these systems to protect the public health of the community.

But a recent letter ruling by the IRS threatens to bring such acquisitions screeching to a halt. Letter ruling 9125009 states the CIAC tax applies to the difference between the replacement cost of a water system and its fair market value. This letter ruling has determined that fair market value is the replacement cost of these systems. With the purchase price of a poorly run system sometimes approaching zero, the CIAC tax can make the purchase of such a system uneconomical even if it is necessary to ensure water quality.

Some of my colleagues may still be skeptical that excluding CIAC from gross income is still a good idea. After all, a payment by a customer to a utility seems like income. And income is subject to tax under our laws; therefore, why should CIAC income be treated differently? It should be treated differently for one simple reason. CIAC is not income. It is capital.

Utilities don't make money on this capital, only on the product sold through the capital. A water utility doesn't make money on installing water mains. It makes money when it begins selling water through the mains it has installed. If a development goes bankrupt, it could conceivably never make any money from the installation of a particular main. In addition, utility earnings are regulated by PUC's. PUC's permit utilities to earn on the sale of their products, they don't permit them to earn on CIAC.

CIAC increase the value of a company's capital, not its income. But don't take my word for it. The courts have ruled the same way. In the Liberty Light case (BTA, 1926), the court found that contributions are not payments for services rendered or to be rendered. Payment of CIAC does not establish a legal obligation to provide service. You pay the CIAC—then you must pay for the product conveyed via the capital asset.

Mr. President, section 118(b) of the Internal Revenue Code, exempting contributions in aid of construction from gross income, should be restored. It is a tax on capital not income. It is not a tax on utilities, it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities, and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help get the real estate market back on its feet. Not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you just don't pay the price of the house. You pay closing costs, title costs, title insurance fees, attorneys' fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 a unit.

Finally, Mr. President, I would like to express my appreciation to the Senators from Texas and Oregon for their consideration of my amendment on contributions in aid of construction for investor-owned water utilities.

As they know, the amendment is revenue neutral because the investor-owned water utility industry has proposed lengthening the depreciable life of water treatment and distribution systems placed into service after the enactment of the bill. The water companies have taken this unprecedented step because of the extreme economic disruption caused by present law tax treatment of contributions in aid of construction.

It is my sincere hope when the chairman of the Committee on Finance takes this bill to a conference committee with the House of Representatives that he will consider this amendment as indivisible, and that if the conference committee decides to delete any part of this amendment, he will seek to drop the entire amendment, specifically the revenue raising language.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Nevada for his comments, and wish to assure him that it is my every intention to consider his amendment as indivisible in conference. If the conference committee decides for any reason not to include the changes made to the tax treatment of contributions in aid of construction, I would seek to drop the entire amendment.

I thank the chairman.

This bill has 24 cosponsors, 7 of which are members of the Finance Committee.

This legislation is supported by a wide range of people, including the National Association of Home Builders, the National Association of Water Companies, and the National Association of Regulatory Utility Commissioners.

I would further add that this amendment was passed previously in the bill that was vetoed by President Bush some time ago.

It has been cleared on both sides.

Mr. BENTSEN. I am in agreement with the amendment proposed by the Senator from Nevada. It is a good amendment. I know of no objection on this side.

Mr. PRYOR. Mr. President, I rise today in support of the amendment of the Senator from Nevada on contributions in aid of construction for the investor-owned water and sewerage industry. He has done an excellent job of drafting a compromise amendment, and, as usual, he has served his constituents well.

Over the last few days, the Senate has considered a multitude of amendments. to my knowledge, none of them paid for themselves by raising revenue from the same taxpayers which benefited from the amendment. The Senator from Nevada's amendment does just that. The investor-owned water and sewerage companies, which have been harmed from the Tax Reform Act of 1986 change to the tax treatment of contributions in aid of construction, are now proposing to go back to pre-1986 tax treatment. In order to pay for the repeal of this provision, the industry is proposing to lengthen the depreciable life of their water treatment and service equipment from 20 years to 25 years. The combined revenue package raises a net $30 million over the 5-year budget picture.

I would also like to thank the chairman and ranking member of the Committee on Finance for accepting this amendment. The Senator from Texas' statement concerning keeping the two parts of the amendment wedded in conference is most helpful. I look forward to working with the chairman to pass this important amendment into law.

Mr. CHAFEE. Mr. President, this amendment is acceptable on this side and indeed applauded.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. REID. I yield back my time.

Mr. BENTSEN. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment No. 3184 offered by the Senator from Nevada.

The amendment (No. 3184) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3186

(Purpose: To amend section 108(f) of the Internal Revenue Code to clarify the tax treatment of discharges of indebtedness under certain student loans)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 3186.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 8211 of the pending committee substitute, after subsection (b) insert the following new subsections:

"(c) DISCHARGES OF INDEBTEDNESS UNDER CERTAIN STUDENT LOANS.—

(1) IN GENERAL.—Paragraph (1) of section 108(f) of the Internal Revenue Code of 1986 (relating to student loans) is amended—

(1) by inserting "(A)" after "discharged", and

(2) by inserting before the period at the end the following: ", or (B) in the case of a loan made by a State (or from funds provided by a State) which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made".

(d) EFFECTIVE DATE; WAIVER OF STATUTE OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by subsection (c) shall apply to discharges of indebtedness made on or after January 1, 1987.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendment made by subsection (c) shall not expire before the date which is 1 year after the date of the enactment of this Act; and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendment made by subsection (c) is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendment made by subsection (c) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

Mr. STEVENS. Mr. President, today I am offering an amendment to bring fairness and equity to the tax treatment of Alaska's student loan forgiveness program.

Before I explain the need for this bill, I would like to give Senators some background on this issue. In general, forgiveness of debt in return for an action on the part of the debtor is taxable and must be reported as other income. This principle applies generally to forgiveness of student loan debt.

However, section 108(f) of the Internal Revenue Code provides an exemption from taxation for certain student loan forgiveness programs; the exemption applies to student loan program which condition forgiveness of the loans on the recipient "work(ing) for a certain period of time in certain professions for any of a broad class of employers." This exemption, in effect, permits States to treat as nontaxable grants, loan amounts made to individuals who end up serving in various needed professions in their home States.

However, in Alaska, one of our unique characteristics is that because of our small population and our location, we have no professional schools in our State to train lawyers and doctors. Our student loan forgiveness program was therefore designed to encourage students to return to our State after receiving an education elsewhere. For loans made before July 1, 1987, Alaska will forgive up to 50 percent of the loan amount made to individuals who reside in the State for a specified number of years following their schooling.

Therefore, our loan forgiveness provisions—unlike those of other States—are conditioned on residing in the State for a specified period of time following a course of study. However, because the program is not tied into service in specific professions, Alaska's loan forgiveness program does not technically fall within the section 108(f) exemption.

The problem is that most recipients of student loan forgiveness in Alaska were unaware that their student loan forgiveness benefits are taxable. This is entirely understandable if one considers the fact that the Form 1040 instructions mailed out to taxpayers during the years at issue, 1987 and 1988, do not mention student loan forgiveness as a type of reportable other income. In fact, the instructions do not even mention debt forgiveness generally as a type of income. It is only if a taxpayer refers to a much more detailed IRS publication that he or she will find explanations of other income which include debt forgiveness and student loan forgiveness.

Moreover, when you add to this the fact that student loan forgiveness programs in some States are exempt from tax, and student grant programs are largely exempt, you can understand why my constituents were unaware that their student loan forgiveness benefits are taxable. In addition, although the State began offering loans with a forgiveness option in the late 1960s, and continued the program through the 1987–88 school year, neither the Internal Revenue Service nor the State of Alaska had ever publicized the taxability of forgiveness benefits to Alaskans.

Then late in the summer of 1989, after the State had discontinued offering loans with a forgiveness option, the IRS district office in Anchorage decided to initiate an enforcement project to collect tax on unreported student loan forgiveness income back to the 1987 tax year. Unfortunately, 3,000 Alaskans who benefited from the forgiveness program were caught totally unaware that forgiven amounts are considered to be income.

Now 3,000 young people who have come back to Alaska following their education have had to pay back taxes, plus interest, on 1987 and 1988 loan forgiveness amounts.

Mr. President, there amounts should not be taxed. Other States have been able to exempt their student loan forgiveness programs by conditioning forgiveness on entering into certain professions. To those of us in Alaska, bringing students of all professions home, is just as important to us, as attracting students into particular professions might be for the Lower 48.

The amendment I am reintroducing today would bring Alaska's student loan program under the section 108(f) exemption. Specifically, the amendment would exempt from taxation student loan programs which forgive loans "made by a State * * * which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made." The amendment would be effective beginning with tax year 1987.

The amendment will provide relief to the 3,000 young people who had to pay back taxes and interest for 1987 and 1988 as a result of the IRS enforcement project. It will resolve an unfair situation which has lingered for too long. For those individuals who have already paid tax on loan forgiveness received during those years, the bill provides that they may receive refunds.

In addition, the amendment will provide equitable treatment to over 6,000 Alaskans who are currently participating in the student loan forgiveness project, by bringing Alaska's loan forgiveness program under the current law exemption. For the remaining 8 to 10 years of the forgiveness program, my amendment will guarantee that Alaska's forgiveness program is given the same tax-exempt treatment as other worthwhile forgiveness programs around the country.

I have explained this to my friend, the manager of the bill, the Senator from Texas. I know the other Members of the committee realize I have been discussing this for some time.

Simply put, if we had given our students a grant in the beginning it would not have been taxable. However, since we established this as a loan forgiveness program, conditioned on their returning to the State to bring back the benefits of their education, it has been considered taxable to the students.

Incidentally, these loans are no longer made, so this loan forgiveness is not something that goes on into the future too long. I do hope my friends will approve the amendment and that we can, in effect, make certain that the State's student loan forgiveness program does not result in taxable income to these students.

Mr. BENTSEN. Mr. President, we have examined the amendment of the Senator from Alaska. I think it is meritorious. We have no objection on this side. We are ready to support it.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, likewise I commend the Senator from Alaska for bringing this to our attention. It is a good amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3186) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, the Senator from Michigan is joined by others in support of an amendment that they have introduced and have debated extensively. My understanding it is now accepted on both sides.

### AMENDMENT NO. 3187

(Purpose: To provide additional assistance for urban areas and for the establishment of enterprise zones)

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, Mr. KENNEDY, Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, Mr. KERRY, Mr. SARBANES, and Mr. WOFFORD, proposes an amendment numbered 3187.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. RIEGLE. Mr. President, I will give a simple explanation, because we discussed this earlier. This is the amendment offered by myself, the majority leader, Senator SASSER, Senator KENNEDY, Senator BIDEN, Senator KERRY from Massachusetts, Senator WOFFORD, and others, that provides the authorizing language to support the appropriation already passed that provides the enhancement for the enterprise zone legislation.

I will not repeat the points made before.

Mr. THURMOND. Mr. President, I would like to engage the senior Senator from Massachusetts in a colloquy about the authorization for additional assistance to distressed communities.

The Riegle amendment, as I understand it, authorizes $300 million under a block grant for tax enterprise zones only, with several different Federal programs classified as eligible.

Similar to the Weed and Seed Program presently underway across the country, including Charleston, SC, this amendment requires the funds to be coordinated with a local steering committee so that social services are coordinated closely with law enforcement efforts.

In addition, the amendment requires the application for funds under this program meet several criteria also required for the Weed and Seed Program:

The leveraging of other State and local resources;

The encouragement of private sector involvement;

The support of the local community for the program in their neighborhood;

A requirement for a balanced, integrated and comprehensive plan for the use of these funds "that addresses removing violent offenders from neighborhood streets and that supports a balanced Seed Program;

In addition, these local plans are ultimately approved by an Interagency Council composed of various Cabinet members.

Is that the intent for the expenditure of these funds inside tax enterprise zones?

Mr. KENNEDY. That is correct.

Mr. THURMOND. Now, the other $100 million, for a National Public Private Partnership Program, authorized under this amendment does not require the comprehensive plan mandated under the Block Grant Program. I am concerned that this $200 million will not be effectively spent in an integrated urban strategy to reclaim our distressed neighborhoods. Will the Senator assure this Member that all steps will be taken in conference to make sure that these funds, the $200 million, are spent according to the criteria listed in subsection (c) and under the direction of the Interagency Council?

Mr. KENNEDY. I share the Senator's concern that these resources be properly targeted. I will assure the Senator that all steps will be taken to properly coordinate expenditure of the $200 million.

Mr. THURMOND. I am also concerned, Mr. President, that under this amendment no provision is made for Weed and Seed Program funding for existing sites, like Charleston, SC; Wilmington, DE; Chelsea, MA; San Antonio and Fort Worth, TX, and several other locations currently demonstrating the Weed and Seed concept. Will the Senator be open in conference for a provision to make these communities eligible for part of this funding?

Mr. KENNEDY. Yes, that is certainly an issue to be considered closely by the conference with the House.

Mr. THURMOND. Mr. President, the administration has several concerns with this amendment, and I hope that they can be worked out so that these communities implementing Weed and Seed, like Charleston, can receive the assistance needed to make the program more successful. For the RECORD, I ask unanimous consent to print in the RECORD a letter from the Attorney General that expresses some of the administration's concerns with this authorization, and a report recently prepared by the Deputy Attorney General which documents the ongoing Seed activities in the current demonstration sites. For those who question the proper balance of the Weed and Seed Program, I invite you to review this informative report.

Mr. BIDEN. I concur with my colleague from Massachusetts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HON. BOB PACKWOOD,
*Committee on Finance, U.S. Senate, Washington, DC.*

DEAR SENATOR PACKWOOD: The purpose of this letter is to reemphasize the Administration's views with respect to the funding provided to distressed communities under Title XII of H.R. 5620 and the authorization for those funds expected to be included in H.R. 11.

Title XII of H.R. 5620 appropriated $500 million, subject to the enactment of subsequent authorizing legislation, for assistance to distressed communities. Title XII allowed up to $400 million to be available for an "Enterprise Community Block Grant Demonstration Program" and allowed up to $200 million to be used for a "National Public/Private Partnership Program" (comprised of various specific eligible programs). Authorization legislation must be enacted before these funds are available for expenditure. The Statement of Administration Policy issued during consideration of H.R. 5620 clearly summarized the problems with this title.

The Administration objects to this new spending unless the funds are targeted more efficiently and effectively under the Weed and Seed program. Additional spending for social service and economic development programs is questionable unless those funds are expended in coordination with law enforcement efforts.

The Conference Report to accompany H.R. 5620 responded to these concerns by *not* precluding the authorization of funds for the Weed and Seed Program and by *not* earmarking the funds exclusively for tax enterprise zones. Those issues were left to be resolved in the authorization process. We strongly believe that the Weed and Seed strategy should be applied to the use of these funds and that these resources should not be exclusively earmarked for tax enterprise zones.

The Weed and Seed program, now operating in twenty communities throughout the country, is designed to effectively coordinate the delivery of social service spending with law enforcement activities while giving local communities the discretion to fashion a program that addresses local needs. In Trenton, New Jersey, for example, the local Weed and Seed steering committee has used limited federal resources (complemented by state, local and private sector resources) to fund a successful law enforcement effort, community policing program and Safe Haven initiative. Over 600 children per day have used "Safe Haven Schools" during the 1991-1992 academic year or during the summer of 1992. These schools are opened after hours to give the children of these neighborhoods a place, insulated from the fear of violence or intimidation by drug dealers, in which to do their homework, swim, play basketball, and other activities. In effect, "Safe Haven schools have become calm ports in stormy high-crime areas". For your reference, I am enclosing the "First Year Report" on Trenton Weed and Seed as prepared by the local steering committee.

Activities like Safe Haven schools and many other innovative programs are in various stages of development throughout the country in these pilot and demonstration locations:

Atlanta, GA, Chelsea, MA, Charleston, SC, Chicago, IL, Denver, CO, Ft. Worth, TX, Kansas City, MO, Los Angeles, CA, Madison, WI, Omaha, NE, Philadelphia, PA, Pittsburgh, PA, Richmond, VA, San Antonio, TX, San Diego, CA, Santa Ana, CA, Seattle, WA, Trenton, NJ, Washington, DC, and Wilmington, DE.

In addition, communities like Springfield, Illinois; Benton Harbor, Michigan; Mobile, Alabama; Birmingham, Alabama; Savannah, Georgia; Providence, Rhode Island; Indianapolis, Indiana; and Miami, Orlando, Ft. Myers, Jacksonville, and St. Petersburg/Clearwater, Florida are interested in or are beginning to adopt the Weed and Seed strategy without additional funding in FY 1992. If appropriated and authorized, the resources for Weed and Seed requested by the President in his FY 1993 budget will enable these and many other communities to implement this innovative strategy for assisting distressed communities. Likewise, the authorization to release the funds appropriated in H.R. 5620 should be fashioned in a way to provide the vital "seed" resources for these communities.

Since January, the Administration has consistently asked the Congress to appropriate $500 million under the Weed and Seed Program, particularly for "seed" or social service activities. In fact, 94% of the President's budget request for Weed and Seed activities is earmarked for "seed" programs. Under the Administration's proposal, $400 million would be available for Weed and Seed neighborhoods located in tax enterprise zones and $100 million for other communities adopting the Weed and Seed strategy. The Congress has not yet responded to this request, and many communities around the nation are waiting for these "seed" resources to make their locally designed programs for neighborhood revitalization complete and comprehensive.

Authorizing legislation must be enacted before the funds appropriated by H.R. 5620 are available. The funds appropriated are neither tied directly to the Weed and Seed strategy nor are they exclusively earmarked for tax enterprise zones. The Administration cannot support this new spending unless these funds are targeted more effectively under the Weed and Seed program. In these difficult times, a business as usual approach to government spending and crime fighting is wasteful and inefficient.

The Administration has several concerns about the authorization of the funds for assistance to distressed communities as it relates to the Weed and Seed Program. First, the funds should not be restricted to tax enterprise zones. The Interagency Council should have the flexibility to direct the use of these funds to the areas most in need. Second, the funds appropriated under the block grant program should not be strangled by Washington dictated formulas that smother local creativity and ignore community input. Third, the funds should be tied more closely to the Weed and Seed strategy, where law enforcement works hand in hand with social service agencies to comprehensively assist America's distressed communities.

I urge the Senate to work with the Administration to make these critical changes part of the authorizing legislation that would release the funds made available by H.R. 5620. The communities now implementing the Weed and Seed strategy and those who want to participate in the program are in dire need of "seed" resources. Working with state and local jurisdictions, we are effectively coordinating our law enforcement efforts to rid these neighborhoods of the most violent offenders and establish active community policing programs. To balance the effort, the President has requested over $470 million in "seed" programs to assist these communities. I hope the Congress will respond by providing the "seed" resources so important to the success of the program.

Thank you for your timely consideration of this important legislation.

Sincerely,

WILLIAM P. BARR,
*Attorney General.*

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WEED AND SEED, AUGUST 1991–AUGUST 1992
TRENTON, NJ

AUGUST 1991

In four high-crime areas of New Jersey's capital city, the federal/state/local program called Weed and Seed is demonstrating that cooperation and communication from grass roots to government is a major step towards empowering law-abiding residents of drug-ravaged inner city areas to help take back their communities.

The August 1991 selection of Trenton for a federal Weed and Seed demonstration grant was the opening salvo in a still-evolving multiagency effort to develop community-based approaches to unshackling drug-ridden communities from crime and its related ills.

The idea for Weed and Seed was first proposed by United States Attorney General William P. Barr in December 1990, while he was Deputy United States Attorney General. Although Barr was impressed with the success of a special federal/state violent traffickers program in Philadelphia, he wished to reach beyond law enforcement to deal with violent crime, drug trafficking and urban deterioration and avoid the seeping return of crime problems, characteristics of short term law enforcement "buy and bust" undertakings. Barr sought to add community involvement and rehabilitation to law enforcement to achieve more lasting results, a new strategy to combine and coordinate law enforcement with social service programs.

In early 1991, representatives of the Department of Justice worked with federal and state agencies in New Jersey, including the United States Attorney and the Divisions of Criminal Justice and State Police in the State Attorney General's office, to formulate the strategy. The result was the Weed and Seed program. And, in August, 1991, Trenton was one of two cities (Kansas City, Missouri being the other) to be selected as a pilot project and to be awarded a $1.6 million grant to undertake the task.

In Trenton, Weed and Seed is funded by the U.S. Department of Justice, along with the State of New Jersey's Division of Criminal Justice. The program is administered by the New Jersey Division of Criminal Justice and supervised by the U.S. Attorney for the District of New Jersey. The City of Trenton operates Weed and Seed through its Department of Recreation, Natural Resources and Culture.

The Weed and Seed program is advised and guided locally by a steering committee composed of representatives of the cooperating local, state and federal agencies.

In Washington an interagency group composed of representatives of federal agencies taking part in the Weed and Seed Program meets weekly to exchange ideas and plan more effective delivery of services.

Among the federal agencies represented are the Department of Health and Human services, the Department of Education, the Department of Labor, the Department of Housing and Urban Development and the VISTA (Volunteers In Service To America) Program.

In Spring 1992 the U.S. Department of Justice announced that Weed and Seed programs are to be started in 16 additional American cities.

Trenton is in the forefront of developing, refining and operating its Weed and Seed program.

### TRENTON, NJ

Trenton is New Jersey's fifth largest city, with a population of 88,675. In 1989 it had the second highest overall crime rate for New Jersey urban centers with over-50,000 populations, a crime rate twice as high as the state average, a homicide rate four times the state average, and one of the highest school drop-out rates in New Jersey.

Trenton has a population density of 11,823 persons per square mile, Its residents are 49 percent black, 42 percent Caucasian, and 9 percent other races. Some 14 percent of the city's residents are Hispanic.

### WEED

The "Weed" of Weed and Seed is designed to weed out drug traffickers and violent criminals from so-called Special Enforcement Areas with enhanced police presence that takes full advantage of the advanced intelligence and tactics provided by additional state and federal law enforcement involvement.

The "Safe Haven School," a "Seed" part of the program, serves as a community bulwark with police-supervised neighborhood meeting centers offering a broad range of activities and opportunities for children and adults.

"Weed and Seed" is a common sense, cooperative effort to attack crime, drugs, and despair on city streets. The underlying principle is simple and powerful: Federal, state, and local governments should work as a team to help the community take control of its own destiny.

No community can thrive in an atmosphere of fear and violence. First and foremost, every citizen is entitled to personal safety, peace and quiet. Moreover, urban rebuilding and business opportunities cannot take root in an environment in which people are terrorized by shootings and disturbed by drug traffickers. Those of us who are fighting for the health of the cities know that our hope of success rests upon an effective program of protecting the public through vigorous law enforcement.

By the same token, law enforcement is itself a variety of social service, and it must be planted in the needs and values of the community. All too often, members of the community come into contact with the police only as crime victims, crime witnesses, or—even more unfortunately—criminal defendants. Programs like community policing encourage citizens to form ongoing relationships with the police before criminal episodes occur. And through community policing, citizens work with officials in tailoring law enforcement initiatives to attack the criminal elements that most irritate and injure their neighborhoods.

Finally, real crime-fighting means more than just prosecuting today's criminals. It means restoring vitality and opportunity to demoralized neighborhoods. Nothing is more inspiring than the prospect of transforming a drug-infested vacant house into a family-occupied home by forfeiting the drug house, rehabilitating its structure, and turning it over to deserving residents. Equally important is encouraging businesses to bring new opportunities to the city—encouragement that depends in large part on the assurance that new businesses will be secure from personal and property crime.

Thus, we come full circle. Lasting law enforcement demands that we look beyond arrest statistics to the creation of a community with a healthy economy and spirit. A healthy economy and spirit rest upon a commitment to public safety through vigorous law enforcement. The insight of "Weed and Seed" is the need to view all these aspects of civic life as a whole. The challenge of "Weed and Seed' is to step away from traditional, bureaucratically-driven approaches to the city and toward a style of problem solving that engages police, prosecutors and public service officials as a team, brining to bear their different experiences and perspectives.

By definition, "Weed and Seed" is not a grand scheme imposed by distant government agencies. It is a pragmatic effort, fashioned by community experience, tailored to local needs, and, most important, aimed at fostering the power of people to help themselves.—U.S. Attorney, Michael Chertoff.

One year ago on a hot August day I joined with New Jersey's United States Attorney Mike Chertoff and Trenton's Mayor Doug Palmer in welcoming the U.S. Attorney General to Trenton.

We stood with the Attorney General in front of Battle Monument Park in one of the worst drug-infested neighborhoods in Trenton to announce the start-up of Weed and Seed. While I saw renewed hope in the faces of members of the community who live and raise their children in an environment where jumping rope on the sidewalk can be hazardous to a youngster's health, in others I saw doubt and disbelief. It was as if the people of Trenton had seen and heard it all before: government officials breeze in, hold a press conference announcing ambitious plans to revitalize a neighborhood, then return to their offices to administer the program from a distance.

Indeed, we were talking to the citizens of a city that had a homicide rate in 1990 that was four times as high as the state average, and a crime rate twice as high. In view of the drug peddling and violent crime that goes on night and day and the attendant problems including a high drop-out rate in the city schools, skepticism towards Weed and Seed was not only understandable, it was to be expected.

But we came to the Battle Monument neighborhood with a simple, clear-cut plan: put in action a program that would not so much give the streets back to the people of Trenton, as it would provide them with the hope, the will and the means and wherewithal to take back their own neighborhoods and continue to revivify them.

We also came with the resolve that this program would not be administered from a distance; there was too much at stake. And so, members of local, state and federal law enforcement agencies rolled up their sleeves and immediately went to work weeding out the criminal element that had taken this city hostage. We began an effort to form a new bond between Trenton's police officers and the community. We set up police ministations manned by local citizens and we started a program for youngsters called "Safe Havens" at local schools. Efforts to revitalize the city and create jobs also got under way.

By July 1, less than a year into the program, 230 Weed and Seed arrests had been made. Adhering to our original strategy, these were not arrests that resulted from street sweeps, but were instead the result of the program's carefully planned targeting of career criminals who have long been a blight on the streets of Trenton.

As the targeting of career criminals continues unabated, police report that residents often applaud as the drug dealers are led away. People are beginning to set up lawn chairs in front of their homes and enjoy the simple pleasure of conversation uninterrupted by drug trafficking on the street and violence.

Progress can be seen in other areas as well: at the police mini-stations where people are helping to protect their own neighborhoods; with the community police officers who are working with residents to safeguard their homes and the streets; and at the Safe Haven schools, where hundreds of youngsters are going every day to get help, recreation and a break from the everyday troubles that confront them.

It seems that some of the skepticism is beginning to give way to a growing belief that, with the help of government, the schools, community leaders and local groups, the people of Trenton can, and will, prevail.—New Jersey Attorney General, Robert J. DelTufo.

The City of Trenton is proud to be the prototype for Weed and Seed. We are part of a program that is developing into a national concept for the war on drugs. It is a program that is helping our residents reclaim and revitalize their neighborhoods.

From the beginning, Weed and Seed had many promises. It was to be a first step toward solutions to many of our cities' problems. It would address our inadequate housing, lack of jobs and recreation. Weed and Seed also offered a stepped-up way to crack down on the drug-trafficking that was destroying the social fabric of our neighborhoods.

Undoubtedly, Weed and Seed is a promising program. It is helping our children by providing safe havens for fun and educational activities. It is helping our neighborhoods by making it tough for drug dealers to conduct their illicit business. And it is helping our residents through Community Policing which fosters a positive relationship between police and residents.

Weed and Seed has lived up to most of its expectations, but as we look to the future more challenges lie ahead. The City of Trenton continues to face serious needs in the area of housing, social services, job training and economic development. Even our Safe Haven sites are in need of expansion and growth so that they offer people of all ages in our communities a safe place to go for recreation and learning. These are the areas in which we expect Weed and Seed to grow during the next few years.

It is my hope that the future also will bring an expanded Weed and Seed program that will include drug treatment facilities which are a most necessary weapon in our fight to eliminate illegal drug sales and use.

It is important that we remain on our path to expand this program so that it seeks to heal our drug-addicted residents just as it attempts to rebuild our drug-infested neighborhoods.

A year ago when the Weed and Seed program was launched in our city, our nation's leaders were in frantic search of a drug elimination program that works; as Mayor of the City of Trenton, I can truly say Weed and Seed is one that can—Trenton Mayor, Douglas H. Palmer.

### SPECIAL ENFORCEMENT AREAS

Four approximately 15-square-block zones have become Weed and Seed Special Enforcement Areas. The Special Enforcement Areas are neighborhoods where crime and drugs have been constant and growing problems. Under Weed and Seed these areas benefit from an enhanced local, state and federal law enforcement presence.

#### *Area No. 1*

The Special Enforcement Area in Trenton's West Ward begins at the intersection of Parkside Avenue and the Delaware Bound Brook Railroad bed. The boundary line runs south on Parkside Avenue to Stuyvesant Avenue; east on Stuyvesant Avenue to Elmhurst Avenue; south on Elmhurst Avenue to Rutherford Avenue; East on Rutherford Avenue to Prospect Street; North on Prospect Street to the Delaware and Bound Brook Railroad bed; and west along the railroad bed to the origin point. The Arthur J. Holland Middle School, at the intersection of West State Street and Parkside Avenue, is the Safe Haven School serving this area.

#### *Area No. 2*

The North Ward's Special Enforcement Area starts at the intersection of Wayne Avenue and Calhoun Steet; south on Calhoun Street to Pennington Avenue; east on Pennington Avenue to Martin Luther King Boulevard; north on Martin Luther King Boulevard to Wayne Avenue; and west on Wayne Avenue to the point of origin. The Rivera Middle School, at the corner of Montgomery Street and Martin Luther King Boulevard, is the Safe Haven School serving this Special Enforcement Area.

#### *Area No. 3*

The Weed and Seed Special Enforcement Area for Trenton's East Ward begins at the intersection of Walter Avenue and East State Street; west on East State Street to Chambers Street; south on Chambers Street to Greenwood Avenue; east on Greenwood Avenue to Walter Avenue; and north on Walter Avenue to the point of origin. The Hedgepath-Williams Middle School, at the intersection of Greenwood and Cuyler Avenues, is the Safe Haven School for this Special Enforcement Area.

#### *Area No. 4*

The fourth Special Enforcement Area, serving Trenton's South Ward, begins at the intersection of Third and Ferry Streets; southeast on Third to Federal Street; west to the intersection of Federal and Union Street; south to John Fitch Way; west on John Fitch way to Ferry Street; and northeast to the point of origin. The Parker School, on Union Street, is this Special Enforcement Area's Safe Haven School.

### VORP

Under the Violent Offenders Removal Program ("VORP"), violent criminals and drug traffickers are targeted for prosecution in state and federal courts.

Defendants who are convicted on weapons charges under the federal government's Operation Triggerlock face mandatory federal prison terms for illegal firearms use, while those convicted under federal career offender statutes also face long mandatory federal prison terms.

Drug traffickers who are prosecuted and convicted federally often also receive stiffer prison terms than they would receive in state courts.

Defendants in state or federal courts who are convicted for drug offenses occurring within so-called "Drug Free School Zones" are also subject to stronger punishments.

Since parole no longer exists in the federal system, those who are convicted in federal courts must serve nearly all the prison time to which they are sentenced.

The VORP Task Force includes the U.S. Attorney's Office; the Federal Bureau of Investigation; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco and Firearms; the New Jersey Division of State Police; the New Jersey Division of Criminal Justice; the Mercer County Prosecutor's Office; the Mercer County Sheriff's Office; and the Trenton Police Department.

The VORP Task Force meets regularly to share intelligence and to identify targets of prosecution.

Many VORP-targeted federally-prosecuted defendants are serving long federal prison terms as a result of being identified as criminals by residents who passed that information to foot patrol officers of Weed and Seed's Community Police. The Community Police, in turn, presented that information at VORP Task Force meetings.

By late July 1992, approximately 240 arrests of VORP-targeted defendants had been made by the task force. Those arrested were not apprehended during large-scale law enforcement "sweeps." They were alleged drug dealers and violent criminals who had been targeted by VORP for arrest, prosecution and removal.

More than 31 kilograms of drugs with a street-value of over $80,000—cocaine and marijuana, along with small amounts of heroin and phencyclidine (PCP)—have been seized by VORP, along with more than $55,000 in currency. A dozen vehicles, including a 1992 Jaguar luxury car, and 18 firearms have also been seized through VORP action. Three properties are currently the subject of forfeiture.

The FBI and the Mercer County Sheriff operate a fugitive effort under Weed and Seed that is similar to a violent felony warrant program. It is designed to identify, locate and arrest fugitives.

### COMMUNITY POLICE

VORP is a Weed and Seed law enforcement component that is visible to residents only when arrests are made.

Community Policing is the bridge connecting "Weed" with "Seed," a lifeline that links the police with the community and the community with available state, local and federal services.

The Community Police Officer is Weed and Seed's version of the old fashioned, reliable, friendly neighborhood beat cop. Community Police know the residents that they serve and are considered to be part of the neighborhoods that they patrol. And in addition to their law enforcement functions, Community Police are also community problem solvers.

Two Trenton Police officers—who have volunteered for the Community Police program—are permanently assigned to each Special Enforcement Area, receiving special training on theory and practice, management skills, community services and resources and crime prevention and education.

Community Police look their cars and, instead, walk the streets of their Special Enforcement Areas so that residents can see and interact with a visible, interested, friendly local law enforcement presence every day.

In two Special Enforcement Areas the Community Police work out of storefront mini-stations, and two mini-vans are being outfitted to serve the two remaining areas.

The mini-stations have become community hubs which residents are encouraged to visit.

Arrests are not the Community Police Officer's sole responsibility. Community Police are problem solvers who help document neighborhood complaints and then report them to the appropriate local authorities. Community Police take residents' complaints about housing, social services and other municipal services, give each complaint a case number and then enter it into a data base.

The complaint is then directed to the proper city agency—law enforcement or other—and that agency is given 30 days to work on the problem and report its action to the Community Police.

Community Police complaint referrals have resulted in action on more than 30 vacant houses, 85 abandoned vehicles and several vacant lots and small parks. Nearly 30 crack houses have been raided or closed.

To residents who had been receiving poor responses to their complaints, as well as to residents who did not know the correct forum to take complaints, Community Police have become an important link to government services.

Community Police on their daily beats also encourage neighborhood youngsters to attend after-school and summer activities in the Safe Haven Schools.

Community Police maintain liaison with the more than 10 crime watch organizations serving the Special Enforcement Areas, and help conduct safety surveys and crime prevention programs.

Lt. John Walsh of the Trenton Police Department is the unit commander for the Community Police. First Line Supervisor, Sgt. Marvin H. Johnson, is responsible for the day-to-day administration of the Community Police Program.

Ptl. Limmie Caver Jr., and Ptl. Howard Watkins are assigned to Special Enforcement Area #1; Ptl. Leopoldo Gonzales and Samuel Thomas Sr., are assigned to Special Enforcement Area #2; Ptl. James Ingram and Ptl. Roberto Rios are assigned to Special Enforcement Area #3; and Ptl. Jeremia Maldonado and Ptl. Luis Medina are assigned to Special Enforcement Area #4.

### SEED SAFE HAVEN SCHOOLS

Weed and Seed's impact is perhaps most visible in the faces of upwards of 600 children per day who have frequented Safe Haven Schools, either during the 1991-92 academic year or during the summer of 1992.

Safe Haven Schools are community meeting centers that are specially insulated from the fear of violence or intimidation by drug dealers. For children and adults who reside in Special Enforcement Areas, Safe Haven Schools have become calm ports in stormy high-crimes areas.

One Safe Haven School serves each Special Enforcement Area and the Trenton School District has cooperated with the program by approving the use of the four buildings and their related support services. Uniformed Trenton police officers, supplemented by trained security guards, provide security at Safe Havens.

Federal and state drug free school laws also help to discourage illicit activity near the Safe Havens.

Safe Havens began accepting after-school youngsters in November 1991, from 3 to 9 PM daily. By March 1992, demand for the after-school program resulted in the addition of a 10 AM to 3 PM Saturday session.

The summer Safe Haven program is offered during the day in week-long modules that concentrate on academic enrichment, arts and culture, science and technology or sports activities. The summer modules vary slightly in each of the neighborhood schools in which they are offered.

Each Safe Haven school is managed by a full-time site coordinator who is responsible for planning programs. The coordinator is assisted by two recreational aides and community volunteers.

Advisory boards for each Safe Haven are comprised of parents, civic association representatives, and leaders from the religious and business communities who assist in program development and in assessing community needs. During the school year, a high-school-age youth advisory board meets weekly to discuss Safe Haven programs and activities.

Before each Safe Haven opened its doors it invited area residents to make suggestions at community forums. Safe Haven programs have been tailored to many of those requests.

Thousands and thousands of flyers—posted and hand-delivered—alerted residents to the opening dates of the Safe Havens. A breakfast for community leaders was also held to introduce the program and solicit support for it.

In Special Enforcement Area #1—Trenton's West Ward—the Arthur J. Holland Middle School, at the intersection of West State Street and Parkside Avenue, is the Safe Haven School. Lanny Butler is the site coordinator at the Holland School. Stacey Harrison and Carl Byrd are recreational aides.

In the North Ward's Special Enforcement Area, the Rivera Middle School, at the corner of Montgomery Street and Martin Luther King Boulevard, is the Safe Haven School. Lonnie McQueen is the site coordinator, assisted by Recreational Aides Shirley Norman and Curt Broadway.

The Hedgepath-Williams Middle School, at the intersection of South Olden and Cuyler Avenues, is the Safe Haven School for the East Ward's Special Enforcement Area #3. The Safe Haven site coordinator at the Hedgepath-Williams School is Gwen Shy. John Yong and Andrew Bobbitt are recreational aides.

The first year of "Weed and Seed" has been a law enforcement benchmark, as county, state and federal authorities worked together with an extraordinary level of cooperation and accomplishment.

This is an enviable working relationship that is likely to continue beyond Weed and Seed and into other areas of mutual law enforcement interest in Mercer County.

In the 12 months since Trenton's Weed and Seed selection was announced at the Battle Monument we've been part of a VORP Task Force that has prosecuted 240 persons, 176 of whom were charged with offenses by our office. More than 70 defendants have been indicted on State of New Jersey charges and nearly 50 are awaiting trial.

The facilities of the Prosecutor's Office have been used as a hub of operations by members of the Task Force. The Prosecutor's investigative, legal and clerical staff have all contributed to the success of the joint law enforcement effort. More than 60 percent of Weed and Seed enforcement efforts were initiated by investigators from the Prosecutor's Office.

The effects of Weed and Seed in Special Enforcement Areas may not always be dramatic, but they are palpable and appreciated by the law-abiding men, women and children who live and work in them.

One benefit attributable to Weed and Seed has been its ability to humanize law enforcement. It allows residents to make Community Police their allies in the battle against crime and drugs. And the reverse is just as true for law enforcement as it finds a growing bond of cooperation between the police and residents who—earlier—might have been reticent to step forward and speak up.

The Safe Haven Schools are exciting social laboratories from which all have benefited. Our office has been proud to support Safe Havens in diverse ways with financing from our county drug forfeiture fund.

I periodically visit each of the four sites and was pleased to sponsor a poster contest in which three youngsters received awards for their interpretation of "The Spirit of Safe Haven" in their drawings. Each winner received a plaque and a U.S. Savings Bond.

Fourteen drill team members have been able to participate in parades and school activities as a result of uniform purchases financed by our office.

In late July we sponsored a trip to a Phillies game at Veterans Stadium, providing the youngsters transportation, game tickets, refreshments, DARE hats and T-shirts. Some of our assistant prosecutors and investigators accompanied the children as chaperons, an experience from which my staff and the children each benefited.

It's my hope that each Safe Haven activity that we sponsor will keep youngsters coming back for more fun and enriching activities and will continue to strengthen an alliance between law enforcement and the community.—Mercer County Prosecutor, Maryann K. Bielamowicz.

### AFTER SCHOOL

The after-school Safe Haven program starts with a study/homework period during which tutoring is offered and the school library is available. After the homework period students take part in varied activities.

Not all sites offer all programs, but after-school Safe Haven youngsters are enjoying swimming, arts and crafts, music lessons, dance and theater, computer literacy, drill team, karate, cosmetology, gymnastics, roller skating, aerobics and Boys and Girls Clubs.

The Safe Haven youngsters eat snacks that are provided by the U.S. Department of Agriculture and Trenton's Department of Health and Human Services.

Safe Haven youngsters celebrated Black History Month and participated in the Annual Mayor's Race, the Mayor's Earth Day Clean-Up Program, a Mothers' Day Luncheon, family nights, a talent show, a poster contest sponsored by the Mercer County Prosecutor's Office, and have been horseback riding.

Trips that have been offered include a recent outing to see a Philadelphia Phillies baseball game. For many of the Safe Haven youngsters, the bus trip to the Veterans Stadium was one of their few trips out of the inner city.

Adults taking part in Safe Haven activities can attend on-site meetings of Alcoholics Anonymous, Narcotics Anonymous, Parents Anonymous, and Neighborhood Crime Watch Groups. AIDS education is also offered.

Safe Haven youngsters soon will be able to travel to Weed and Seed activities in special vans, emblazoned with the Safe Haven logo.

In addition to federal and state funding, Safe Havens are supported, in part, by funds provided by the Success For Life Foundation; the Brother Officers Law Enforcement Society; the Mercer County Prosecutor; City at Peace; and the New Jersey Health Department's Division of Alcohol, Substance Abuse and Addictive Services.

As the program matures, Safe Havens are expected to become focal points for community activities in the Special Enforcement Areas.

The "Seed" of Weed and Seed is designed to build on the successes of law enforcement and Safe Havens to create a neighborhood network of support services, involvement and improvement. It is a less-visible, more-long-term goal that will take time to develop.

### *Housing*

As seized properties are forfeited, they are to be transferred to the City of Trenton to be rehabilitated as residences for low-income families or to be owned and operated by non-profit organizations.

### *Jobs*

A Jobs Subcommittee of the Weed and Seed Steering Committee will be identifying employment opportunities for Special Enforcement Area residents inside and outside the City and the needs of that employable work force. After identifying the jobs, the subcommittee will attempt to direct residents to those opportunities.

Career nights and other forms of job counseling are planned for the Safe Havens beginning this Fall.

### *Reverse commuting grants*

Through the Private Industry Council of Mercer County, the Weed and Seed program expects to apply for Department of Transportation funds for reverse commuting programs allowing Special Enforcement Area residents to hold suburban jobs. After the private sector is contacted to determine where such jobs exist, mass transportation or private carriers will be approached in an attempt to match transportation with jobs.

### *Education*

Drug and Violence Free Schools is the sixth National Education goal of the America 2000 program, a nationwide nine-year crusade to help America move itself, community by community, toward making our schools the best in the world. It is a national strategy and not a federal program.

"Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning," according to the America 2000 Program.

The goals of America 2000 are designed to cause major change in the country's 110,000 public and private schools and in all of our communities.

The America 2000 program is a four-pronged initiative for students in school today, students who will be attending school tomorrow, those who are out of school and in the work force, and for our communities.

In addition to drug and violence-free schools, other America 2000 goals include a high school graduation rate of at least 90 percent; adult literacy; and number one world ranking for American students in mathematics and science.

The Drug and Violence Free Schools goal will be integrated into the Weed and Seed program.

### *Drug rehabilitation*

The Trenton area lacks an in-patient drug rehabilitation center. A future goal is a concerted effort to develop a drug treatment component to the Seed of Weed and Seed, a health service that is needed for those who want to escape drug addiction.

A targeted drug treatment program would help to enhance Weed and Seed in Trenton. Addicted adults in the Special Enforcement Areas that are unable to find treatment would benefit from a substantive drug treatment program.

### *Mentoring programs*

Mentoring programs for Safe Haven youngsters are also planned for the Safe Havens in the future.

## WEED AND SEED BRIEFS

### *Cocaine-dealing gang is targeted—dismantled by VORP task force*

They called themselves "The New York Boys," a notorious gun-toting cocaine-dealing gang that trafficked in cocaine from a crack house/fortress at 491 Martin Luther King Boulevard in Trenton. The gang was targeted by the VORP task force and dismantled.

Some 240 grams of crack cocaine were seized from the crack house along with semi-automatic weapons, a sawed off shotgun, and an arsenal of ammunition. Five gang members, including ring leader Daryl Matthews, also known as "Heavy D", were prosecuted. After three days of trial, all of the defendants pled guilty.

In the first federal Weed and Seed sentences, primary defendant Matthews received a 17-year, no parole sentence. Co-defendant Gary Williams received a 15-year, no parole sentence.

Neighbors of the New York Boys' former crack house—who aided VORP in targeting the dealers—can take pride in helping get hard time for the gang members that their information helped to target.

### *An alleged heroin commuter*

Steven Lewis, a/k/a "Bayshawn," and three other persons, were arrested in late June 1992 and charged with heroin distribution in the area of the Battle Monument, the same location at which Trenton's Weed and Seed selection was first announced in August 1991.

More than $1 million worth of heroin was distributed by the Lewis organization between November 1991 and May 18, 1992, it is alleged.

Lewis, who resides across the Delaware River in a Bucks County, Pennsylvania, apartment complex, commuted to the Weed and Seed area in a Mercedes-Benz or Cadillac to supervise his drug operation, it is alleged. A Mercedes-Benz, Cadillac, and Jeep, along with $10,000 in cash was seized from Lewis by Weed and Seed agents.

A federal Indictment charges Lewis and four others with conspiring to distribute more than one kilogram of heroin, heroin distribution, and using juveniles to distribute drugs. Lewis is also charged with distributing drugs within 1,000 feet of a school zone. If convicted on all counts, Lewis faces a minimum of 10 years in federal prison without parole and a maximum of life in prison.

### *21 years without parole—for less than one gram*

James Gus Johnson, 28, of Hermitage Avenue in Trenton's West Ward, is a career offender now spending more than 20 years in federal prison for three separate Weed and Seed drug offenses.

Johnson, who had a number of prior state convictions for drug distribution, was arrested by the Mercer County Special Investigations Unit after he sold less than one gram of heroin to undercover agents within one thousand feet of a school. He was holding nine glassine packets of heroin when arrested in the fall of 1991.

Johnson was convicted after a half day of trial and sentenced to 21 years in prison without parole.

One purpose at the VORP Task Force is to identify drug offenders with significant prior records and to prosecute them federally as "career criminals" even where the defendant is caught selling only a small quantity of drugs.

### *15 years, no parole—weapons charges*

Oscar L. Tory was charged with unlawful possession of a weapon by an armed career criminal, which carries a mandatory 15-year prison sentence without parole under Title 18, United States Code, Section 924(e). Tory was also charged with unlawful possession of a sawed off rifle for which he faces a maximum of 10 years' imprisonment under Title 26, United States Code, Section 5861(d).

During the execution of a Weed and Seed search warrant, Tory, who has 11 prior state convictions, was found to be in possession of a sawed off rifle.

Because Tory has three prior state felonies involving crimes of violence he is being prosecuted as an armed career criminal subject to the mandatory 15 years' imprisonment without parole.

## CRIME WATCH ORGANIZATIONS

More than 10 Crime Watch groups have been established or reinforced by Weed and Seed's Community Police.

Neighborhood Crime Watch groups show their support for Community Police and drug-free neighborhoods by staging all-night vigils, sitting outside their homes and apartment houses to make a visible presence and reaffirm the right to their neighborhoods after dark.

Residents from two wards in the Humboldt-Sweets area (Special Enforcement Area #2) have combined neighborhood crime watch efforts to create a strong anti-crime presence. The members of the "North 10 Crime Watch Association" have designed their own logo that has been placed on custom-imprinted T-shirts worn by its members.

### *Police calls from SEA's appear to be decreasing to those of other areas*

Calls for police service from Weed and Seed's Special Enforcement Areas are now apparently decreasing, approaching the levels of other less crime-ridden areas of the city.

All areas of Trenton experience an increase of calls for police service over the summer, while Special Enforcement Areas historically are responsible for higher-than-average requests for police service.

Yet for May-June 1992 Special Enforcement Areas logged a slight 1 percent increase in calls for service, while the rate of calls for police service from other areas of Trenton increased about six percent.

Now, request rates for police service from Special Enforcement Areas have decreased to levels similar to the average rates in other areas of Trenton, according to Capt. Fred W. Reister, commander of the Trenton Police Department's Planning and Fiscal Management Units and the department's Inspectional Services Section.

### *SEA residents team with VORP to evict criminals from their neighborhoods*

Residents of Special Enforcement Areas are becoming more comfortable with Community Police, as they more freely and fearlessly deliver information about criminals in their neighborhoods.

Citizen information about crimes and criminals that is transmitted to the VORP Task Force has resulted in many arrests, a trend toward greater cooperation that is growing.

On several occasions, VORP arrests have been welcomed by residents who have cheered loudly and applauded as suspects were being taken away.

### *Former crack house becomes a first seed*

One of the first seeds in the Weed and Seed program is a recently-refurbished two-story former crack house on Trenton's Tioga Street that has been forfeited to the State of New Jersey and is soon to be turned over to the City of Trenton.

For two years, ending in July 1989, cocaine was sold from the house. Its occupants, including a grandmother and grandson, are serving state prison terms.

Teenagers from the Juvenile Service Division of the State of New Jersey's Correction Department are converting the former crack house into a residence to be occupied by a low-income family.

The $10,000 cost of materials to rehabilitate the house came from the New Jersey drug forfeiture fund, money that was seized from drug dealers.

The forfeiture and fix-up program is expected to place more affordable housing into the community as the Seeds of Weed and Seed take root.

### *Community police become part of their communities*

Community Police have gone beyond their Weed and Seed responsibilities to show how much they have become part of the communities that they serve.

For Thanksgiving 1991 Community Police officers arranged for holiday dinners, "turkey and all the fixings," to be delivered to 52 needy families.

During the Christmas season—in conjunction with the U.S. Marine Corps—Community Police Officers arranged a party for children from the Special enforcement Zones at which 1,200 new toys were given away.

### *Frank questions about AIDS at safe havens*

Safe Haven AIDS Education Workshops give youngsters a chance to get answers to the frank, sensitive questions they are reluctant to pose in large during-school auditorium programs, according to Peg Kowalski, Safe Haven's program developer. The more private and familiar atmosphere of the Safe Haven has allowed children to ask questions they might be embarrassed to ask in more crowded school situations, she said.

### *One pound of crack*

Cleveroy Willocks was charged with possession with intent to distribute in excess of one pound of crack cocaine. He allegedly initially sold 28 small bags of crack cocaine to an undercover agent. Later, one pound of crack cocaine was recovered in a search at Willocks' residence. He faces a minimum of 10 years and a maximum of life, without parole, if convicted on federal cocaine possession and distribution charges.

OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
*Washington, DC, September 25, 1992.*

DEAR SENATOR: I am pleased to forward, for your information, a Report to the Attorney General: Seeding America's Neighborhoods, Partnerships Under the Weed and Seed Program.

As you know, Weed and Seed represents a dynamic and innovative strategy to combine law enforcement and social services in some of our most distressed communities.

The Weed and Seed demonstration program, now operating in twenty communities, is proving that coordination at the local level can produce results from a joint law enforcement-social service effort. Our program has been enthusiastically received by its beneficiaries—the local residents themselves. Many other communities across the country are taking steps now to pursue the Weed and Seed strategy.

All these communities desperately need the "seed" resources requested by the President in his fiscal year 1993 budget. The resources requested by the Administration will enable these communities to pursue and implement the strategy in a balanced fashion, and most importantly will enable these communities to engage in "seeding" activities. In fact, 94 percent ($470 million) of the President's Weed and Seed budget request is earmarked for "seed" activities.

The attached report demonstrates the "seeding" activities currently taking place in the twenty demonstration sites. Expansion and continuation of these "seeding" activities are essential to the success of the Weed and Seed program.

I hope the Congress will respond to the needs of these communities and provide the "seed" resources requested, and authorize the expenditure of these resources so that communities across the country can benefit from the Weed and Seed strategy.

Sincerely,

GEORGE J. TERWILLIGER III,
*Deputy Attorney General.*

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REPORT TO THE ATTORNEY GENERAL: SEEDING AMERICA'S NEIGHBORHOODS

(Partnerships Under the Weed and Seed Program)

Memorandum to the Attorney General

From: George J. Terwilliger, III, Deputy Attorney General

Subect: Seeding America's Neighborhoods: Partnerships under the Weed and Seed Program

The attached is a status report on the community revitalization efforts which comprise the Seeding activities in the Weed and Seed Program. As an important part of the President's domestic agenda, Weed and Seed has enjoyed considerable support from other cabinet agencies. I am pleased to be able to report that our seeding efforts are ahead of schedule. As you recognized, local control of seeding initiatives is providing a "living laboratory" of ideas during the demonstration phase of the program.

As you know from your role in helping to formulate this strategy, it entails a comprehensive new approach to urban renewal in America. Its goal is to "weed out" violent crime, drug use and gang activity from targeted neighborhoods and to prevent violent crime from returning by "seeding in" a wide variety of public and private efforts to strengthen the community.

The Seeding initiatives described in this report reflect a considerable degree of local community input. Local residents need to have a large role in defining the problem and the solution because they know it well; because they are immediately affected by it; and because their participation in planning helps to reinforce their commitment to the implementation of those plans.

While a variety of projects are underway in demonstration sites around the country, there are a number of common themes as well: the value of community policing as a bridge between law enforcement and social revitalization efforts; the importance of improved coordination between law enforcement and social service agencies, the private sector, and the community; the key role of strengthening the social infrastructure; and the importance of providing opportunities for economic development.

As the project descriptions in this report show, we have benefited greatly from the generous cooperation of a wide spectrum of federal, state and local officials, community residents, and private sector partners.

I look forward to providing you with further updates as this important initiative progresses.

OVERVIEW OF THE WEED AND SEED STRATEGY

The Weed and Seed program is a focused, comprehensive effort to revitalize high-crime, low-income neighborhoods. The goal is to "weed out" violent crime, drug use, and gang activity from selected neighborhoods and then to help prevent crime from recurring by "seeding" those sites with a wide range of public and private efforts to empower and develop them.

First and foremost, Weed and Seed is a strategy. Success of the strategy depends on improved coordination by law enforcement, community groups, social service agencies (government and private), and business and non-profit groups to work together to revitalize distressed neighborhoods.

These groups participate in one or more steering committees organized under the leadership of the local U.S. Attorney.

The strategy emphasizes:

The importance of coordinating law enforcement and neighborhood revitalization efforts so that each reinforces the other—social revitalization efforts cannot work where they are undermined by crime and where people are afraid to take advantage of them;

The role of the U.S. Attorneys as coordinators of this effort, using their many local contacts in law enforcement, government, and social service;

The importance of improved coordination among all levels of government, the community, and the private sector in dealing with the problems of targeted areas. Coordination needs are of four different but related kinds:

Of law-enforcement and social revitalization efforts;

Among federal agencies as they interact in Washington, in federal regions, and in particular cities;

Among federal efforts and those of state and local governments; and

Among government, the communities, and private sector businesses and non-profit groups.

The importance of community involvement, both in terms of community policing in combatting drugs and violent crime and the development of social service and community revitalization needs and solutions;

The importance of targeting one or a few neighborhoods at a time, to concentrate law enforcement and revitalization activities;

The role of the federal criminal justice system, both as a partner with local law enforcement and as a model for strengthening state criminal justice systems—removing the worst criminals from the streets and avoiding the "revolving door" which would return them there—through measures such as pretrial detention, determinate sentencing, and prison construction;

The importance of flexibility in the implementation of government programs, so that they can contribute to seeding efforts in a comprehensive way;

The role of core values such as self-restraint and respect for the rights of others as a root cause of law-abiding behavior and the absence of those values as a root cause of criminal behavior; and

The potential for fostering those core values by means of opportunity and empowerment initiatives (such as enterprise zones, school voucher programs, and public housing tenant management and ownership programs) as well as early intervention with troubled youths.

This strategy was implemented in FY 1991 as a program which provided start-up or planning grants to selected pilot cities: Trenton, New Jersey; Kansas City, Missouri; and Omaha, Nebraska.

In FY 1992, that strategy was extended to the designation of 16 additional cities as Weed and Seed grant recipients. These cities are: Atlanta, Georgia; Charleston, South Carolina; Chelsea, Massachusetts; Chicago, Illinois; Denver, Colorado; Fort Worth, Texas; Madison, Wisconsin; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Richmond, Virginia; San Antonio, Texas; San Diego, California; Santa Ana, California; Seattle, Washington; Washington, D.C.; and Wilmington, Delaware. In addition, the President's budget proposal for FY 1993 featured the Weed and Seed program as the organizing framework for $500 million in expenditures by a variety of Federal agencies (Agriculture, Education, Health and Human Services, Housing and Urban Development, Justice, Labor, and Transportation) and as part of a group of proposals for increasing opportunity, choice, and home ownership.

The Weed and Seed Strategy is also being implemented with significant federal funding for "seed" initiatives in South Central Los Angeles and the Pico/Union-Koreatown areas (see the Overview of Federal Efforts section, below).

Finally, additional cities have designed and implemented Weed and Seed strategies independent of Weed and Seed funding grants. Those cities have achieved the goals of the strategy through the development of the federal-state-local and public-private partnerships necessary to provide comprehensive service delivery and community revitalization in concert with a strong law enforcement effort.

OVERVIEW OF FEDERAL EFFORTS

Federal seeding activities include coordination of existing efforts along with new programs and activities. The following efforts are representative of significant elements of the Weed and Seed strategy.

*1. Safe havens*

In the Safe Haven component of its Weed and Seed strategy, Trenton, New Jersey designed a program to bring together education, community services, law enforcement, health, recreation, and other groups to provide alternative and support activities for high-risk youth and other residents of the community.

In the initial phase of pilot program development, Trenton, was awarded funds to target four neighborhoods. Three public middle schools in three of the targeted neighborhoods are being used after regular school hours from 3 to 9 p.m. to house these programs. Funds have been allocated for a fourth Safe Haven, and for extended hours in all facilities. In addition to programs for high-risk youth, the Safe Haven Project also includes a number of programs that are adult-oriented. (Example appear in the City-by-City Updates section, below).

An interagency agreement at the federal level is allowing for the design and coordination of safe haven prototypes, as well as for the provision of training, technical and financial assistance to encourage their replication in other Weed and Seed target neighborhoods.

The Department of Education is also working with the Justice Department's Office of Justice Programs (OJP) to transfer $2 million to OJP for a Safe Haven initiative that will be implemented by the Cities in Schools organization in Weed and Seed sites. This amount will be supplemented by the Justice Department's Bureau of Justice Assistance (BJA), which will add $500,000 for an overall Safe Haven package of $2.5 million.

### *2. Community policing*

Community Policing combines elements of both "weeding" and "seeding." Community-oriented policing activities focus on developing cooperative relations between the police and the citizenry in the targeted areas. Techniques such as foot patrols, mobile units, victim referrals to support services and community relations activities will increase positive interaction between the police and the community.

The Executive Office of United States Attorneys (EOUSA) has made $9 million available for Weed and Seed activities, including community policing in the pilot and demonstration sites. There are also $2 million in funds available for projects including community policing from the BJA. In addition, the Department of Housing and Urban Development has transferred $1.7 million to the Justice Department's Bureau of Justice Assistance (BJA), which will be supplemented by an additional $150,000 in BJA funds; the total $1.85 million will provide training and technical assistance in community policing in public housing.

### *3. Forfeiture policy*

As part of the Weed and Seed program, DOJ has established a mechanism whereby real properties forfeited according to federal law because of their connection with illegal activity may be transferred to state and local public agencies and private non-profit organizations for use in support of the Weed and Seed initiative. Recipients are expected to pay any mortgages and qualified third party interests against the real property transferred, but other costs will be paid from the Asset Forfeiture Fund. Transfers will be made in cooperation with, and with the consent of, state or local law enforcement agencies whose participation in the criminal investigation leading to the forfeiture entitles them to an equitable share of the net proceeds from the sale of the property to be transferred.

The proposed uses of any property to be transferred must be in accordance with the Weed and Seed initiative, focusing on support of community-based drug abuse treatment, prevention, education, housing, job skills and other activities that will substantially further Weed and Seed goals.

### *4. National Center for Neighborhood Enterprise (NCNE)*

The National Center for Neighborhood Enterprise (NCNE) is cooperating with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in a demonstration program that provides small grants to neighborhood groups that are successfully fighting crime and working to prevent youths from becoming involved in criminal activity. Two principal criteria have been establish for awarding grants: (1) the organization must have a low operating budget ($150,000 or less); and (2) the organization must not have access to traditional funding sources. Historically, for each dollar that these organizations have received, they have been able to leverage three dollars. Funded programs have included those for technical assistance vouchers to neighborhood programs working with delinquent youth, and anti-drug activities.

### *5. Boys and girls clubs*

Boys and Girls Clubs of America has agreed to establish clubs in public housing in Weed and Seed sites, consistent with the $2.5 million Congressional earmark, and has allocated approximately $1 million to establishment of these clubs. Between $25,000 and $100,000 is provided to each site, as well as training and technical assistance to facilitate the development or expansion of activities.

Boys and Girls Clubs provide children in public housing units with the opportunity to engage in organized recreational, educational, sports, social and vocational activities outside of school. The Boys and Girls Clubs also are working with local Weed and Seed coordinators to develop a program for organizing, planning, developing, and implementing a system of networking and referral to comprehensive children's health, education, and social services, as well as for monitoring the progress and children through a case management system. The Clubs will aid local groups in assessment of current programs, development of a prototype (with the approval of BJA), training and technical assistance. Those Weed and Seed areas with a public housing facility in the target area will receive funding (approximately $25,000 in demonstration funds with $75,000 worth of training and technical assistance provided by Boys and Girls Clubs of America) to establish a Boys and Girls Club in public housing.

### *6. Wings of Hope*

This comprehensive prevention program of the Southern Christian Leadership Conference works to develop community-police partnerships to combat crime and drug abuse, sponsors anti-drug events, educates and trains church and community groups about drug use prevention and community revitalization, is developing a neighborhood watch program, and provides assistance to families at high risk of becoming involved in drug abuse and trafficking. Under an agreement with the Bureau of Justice Assistance, Wings of Hope is active in several Weed and Seed sites and will be providing training and technical assistance to additional sites in the coming year.

### *7. Small Business Administration (SBA) microloans*

The Small Business Administration is working to integrate its microloan program into the Weed and Seed framework. Under this program small loans are given to entrepreneurs in inner-city and rural areas to form small, often home-based enterprises. Fifteen million dollars has been provided for FY 92 to fund 35 microloan demonstration projects. Under this program, ten year loans of up to $750,000 have been made to non-profit lenders who use the funds to make small loans to budding entrepreneurs. These loans, ranging from a few hundred to $25,000, are made by private community-based non-profit organizations with at least one year's successful experience making small loans to entrepreneurs to establish or strengthen their small businesses. The interest rates on loans are negotiated by borrowers and lenders, but cannot exceed 4 percentage points over he prime rate.

### *8. Weed and Seed initiative in Los Angeles*

Immediately following the riots in Los Angeles earlier this spring, President Bush directed that $19 million be made available to the City of Los Angeles for a special Weed and Seed project. Of the $19 million, $18 million is to be used for "seed" activities and $1 million is to be used for "weed" activities.

An ad hoc site selection committee made up of representatives of the Mayor's Office, the United States Attorney's Office, the Los Angeles Police Department, the other federal "seed" agencies, and other local organizations worked together to recommend sites consistent with the Weed and Seed strategy and target area selection criteria. In early August, Associate Attorney General Wayne Budd traveled to Los Angeles and announced the selection of two target areas. One target area is in South-Central Los Angeles, and the other target area is in Pico-Union/Koreatown.

At the same time the target areas were being selected, "weed" and "seed" committees were being formed under the leadership of the United States Attorney's Office. These groups had two goals. First, to encumber the funds allocated in fiscal year 1992 and develop plans for the timely use of those funds. Second, to develop long-term strategies for the revitalization of the target areas. The "seed" committee has formed the following work groups to enhance the involvement of the community in the planning and implementation process: (1) Education, (2) Family, Health, and Mental Services, (3) Job Training and Employment, (4) Drug Treatment and Prevention, (5) Gang Alternatives, (6) Cultural and Recreational Activities, (7) Business Opportunities, and (8) Housing.

The $1 million in 1992 "weed" funding has been allocated as follows: $789,181 to the Los Angeles Police Department, $106,739 to the Los Angeles County Probation Department, and $104,080 to the Los Angeles Housing Authority Police. The portion of the 1992 funds allocated to the Los Angeles Police Department will be used to support a variety of community policing activities such as the establishment of mobile substations, increased bike patrols, enhanced recreational activities for youths in the target areas, and the establishment of community councils to assist the Police Department in the development of a "weed" strategy each of the target areas. The funds allocated to the Housing Authority will be used to purchase a security kiosk for a public housing development in the South-Central target area, and to train and employ residents of the housing development as security guards. The funds allocated to the Probation Department will be used (1) to support the assignment of one Deputy Probation Officer from the Gang Suppression Unit to work with the Los Angeles Police Department to identify and remove from the target areas gang members responsible for violent crime and narcotics offenses, and (2) to support the assignment of one Deputy Probation Officer from the Gang Alternative and Prevention Program to work with at-risk youths from the two public housing developments in the South-Central target area.

The $18 million in 1992 "seed" funds is being provided as follows: HUD, $8 million; HHS, $7 million; Education, $2 million; and Labor, $1 million.

HUD has provided 175 Section 8 housing vouchers. These vouchers have been received by the Housing Authority. The housing work group will coordinate the use of the vouchers with the other work groups in order to support their efforts. HHS has provided $3 million for Head Start Family Services Centers; $2 million for community health center expansion, increased personnel from the National Health Service Corps, health care for the homeless, and an HIV early intervention program; $1 million for a comprehensive residential drug treatment and prevention program for substance abusing women and their children; and $1 million for drug treatment programs for juveniles in the justice system. Secretary Sullivan announced the award of the $3 million for Head Start on September 18th, and HHS representatives expect to announce the rest of the awards soon. The formal application for the $2 million in Education funding was submitted on September 11th. This application provides for a broad variety of in-school and after-school programs for students and their families at six of the elementary schools in the target areas. Los Angeles is prepared to begin implementation of the education plan immediately. The $1 million in Labor funds are from Title III of the Job Training Partnership Act which funds have been received by the City of Los Angeles. The job training and employment work group is working to identify priorities for the use of these funds.

### DESCRIPTIONS OF FEDERAL SEEDING PROGRAMS INVOLVED IN WEED AND SEED EFFORTS

The following programs are key building blocks of the Weed and Seed strategy. They are described below, along with the amounts requested for their implementation within the Weed and Seed framework, in the President's budget request for Fiscal year 1993.

#### *Department of Agriculture*

The President's 1993 budget requested a total of $5 million for the implementation of the following Department of Agriculture programs within the Weed and Seed framework.

##### *1. Women, Infants, and Children (WIC) nutrition*

The Special Supplemental Food Program for Women, Infants and Children (WIC) goal is to improve the health of pregnant, breastfeeding, and postpartum women, and infants and children up to 5 years old, by providing supplemental foods, nutrition education, and access to health services. Eligibility is determined by income (185% of the poverty level or below) and nutritional risk as determined by a health professional. Participants receive vouchers that can be redeemed at retail food stores for specified foods that research has shown are frequently lacking in the diet of low-income mothers and children. The program has been shown to be effective in improving the health of pregnant women, new mothers and their infants.

##### *2. The National School Lunch Program (NSLP)*

The NSLP provides cash and commodity foods to non-profit food services in elementary and secondary schools and in residential child care centers. The age limit is 18. All children from households with incomes below 130 percent of the poverty level are eligible for free meals.

##### *3. The School Breakfast Program (SBP)*

As in the school lunch program, low income children may qualify to receive school breakfast free or at a reduced price, and states are reimbursed according to the number of meals served in each category. Schools serving high proportions of low income children are eligible for special severe need means reimbursements.

Special provisions of particular interest to Weed and Seed communities:

Schools which have a significant percentage of low income students and are not currently participating in the SBP can apply for SBP competitive start-up grants which are authorized through FY 1994. Start-up funds can be used to purchase equipment, upgrade facilities, etc.

In both the NSLP and the SBP, children from Aid to Families with Dependent Children (AFDC) and Food Stamp Program (FSP) households can be directly certified for free meals without submitting an application.

##### *4. The Special Milk Program (SMP)*

The Special Milk Program provides milk to children in schools, camps, and child care institutions that have no other federal child nutrition program, or to kindergarten children who attend half-day sessions and have no access to meal programs provided by the schools. The age limit is 18.

##### *5. The Child and Adult Care Food Program (CACFP)*

The CACFP provides cash and commodity assistance for meals (breakfasts, lunches, suppers and snacks) served in child and adult care centers and family day care homes for children. The age limit for children is 12 years.

Special provisions of particular interest to Weed and Seed communities:

Start-up payments are available to sponsoring organizations to develop or expand Program operations in family day care homes.

Additional administrative payments are available to sponsoring organizations of family day care homes wishing to expand into rural and low income areas.

##### *6. The Summer Food Service Program (SFSP)*

The SFSP funds meals and snacks for children in needy areas when school is not in session. At most feeding sites, participants receive either one meal (a breakfast, a lunch or a supplement) or two meals (lunch and either a breakfast or a supplement). The age limit is 18. Public and private nonprofit organizations can sponsor the program.

A special provision of particular interest to Weed and Seed communities is that homeless feeding sites primarily serving homeless children may participate in the SFSP regardless of the location.

#### *Department of Labor*

The President's budget request for the Department of Labor's Operation Weed and Seed effort for Fiscal Year 1993 included $28 million from Job Training Partnership Act Adult and Youth grants, $5 million from youth demonstration projects, and $9 million from the Community Service Employment for Americans Program. States, local service delivery areas, and contractors receiving funds have been strongly encouraged to fully participate in the Weed and Seed strategy, and to recruit program participants from Weed and Seed communities. In addition, an estimated $50 million in Job Corps funds will be used to recruit enrollees from these communities and to provide services in existing centers. The total requested in the President's 1993 budget for Department of Labor participation in Weed and Seed is $92 million.

##### *1. Job Training Partnership Act*

The Job Training Partnership Act (JTPA) provides job training services for economically disadvantaged adults and youth, dislocated workers, and others who face significant employment barriers. The Act aims to move the jobless into permanent self-sustaining employment.

State and local governments have primary responsibility for the management and administration of job training programs under JTPA. Governors have approval authority over locally developed plans and are responsible for monitoring program compliance. In addition, public/private partnerships at the local level design training programs and deliver job and training services.

Training services are available for the disadvantaged and others who face significant employment barriers, through block grants to states for local training and employment programs. Job and training services are available for economically disadvantaged youth during the summer months, including basic and remedial education, institutional and on-the-job training, work experience programs, and supportive employment services.

Employment and training assistance is available for dislocated workers. Workers who lose their jobs due to mass layoffs or plant closings, long term unemployed persons, or workers who are eligible for or have exhausted unemployment insurance and who are unlikely to return to their previous occupation or industry can take advantage of early intervention programs, job search assistance, support services, and relocation assistance. State matching funds are not required where the state unemployment rate exceeds the national average. Additional acts passed by Congress affect these services. The Worker Adjustment and Retraining Notification Act requires advance notice of plant closings or mass layoffs. The Economic Dislocation and Worker Adjustment Assistance Act provides for improved service delivery and rapid response units in each state. The Trade Adjustment Assistance Act provides benefits and services to workers dislocated due to imports. The Jobs for Employable Dependent Individuals Act established an incentive bonus program for states which provide services to certain categories of individuals and move these individuals off various assistance programs and into jobs.

##### *2. Youth opportunities unlimited*

The Department currently has several Youth Opportunities Unlimited demonstration grants with several Weed and Seed cities. These grants are provided to communities with high concentrations of poverty to enable them to establish and meet goals for improving the opportunities available to youth within their communities, and facilitate the coordination of comprehensive services to serve these youths.

##### *3. Senior community service employment*

The Senior Community Service Employment Program promotes the creation of part-time jobs in community service activities for jobless, low-income persons who are at least 55 years of age and have poor employment prospects. This program is sponsored by state and territorial governments and 10 national sponsors: 1) Associacion Nacional Por Personas Mayors, 2) National Center on Black Aged, Inc., 3) National Council on the Aging, 4) American Association of Retired Persons, 5) National Council of Senior Citizens, 6) National Urban League, Inc., 7) Green Thumb, Inc., 8) National Pacific/Asian Resource Council on Aging, 9) National Indian Council on Aging, and 10) the U.S. Department of Agriculture's Forest Service.

Individuals work in part-time jobs at senior citizen centers, in schools or hospitals, in programs for the handicapped, and in fire prevention programs and beautification and restoration projects. In addition to providing employment for needy jobless workers, this program makes possible an array of community services to the elderly. Services include nutrition programs, recreation, health and home care, and transportation. Participants receive annual physical examinations, personal and job-related counseling, job training if necessary, and in some cases placement into regular unsubsidized jobs.

Almost 80% of program participants are over 60 years of age, two thirds are women, more than 30% are minority group members, and more than 50% did not finish high school.

### *4. Job Corps*

The Job Corps is a federally administered national employment and training program designed to serve severely disadvantaged youth ages 16 through 21. Enrollees are provided food, housing, education, vocational training, medical care, counseling and other support services. The program prepares youth for stable, productive employment and entrance into vocational/technical schools, junior colleges or other institutions for further education and training. Jobs Corps centers range in capacity from 175 to 2,600 enrollees. Some Job Corps centers are called civilian conservation centers and are operated by the Departments of Interior and Agriculture and staffed by federal employees. Remaining centers are operated under contracts with the Department of Labor, primarily by major corporations such as General Electric, ITT, Career Systems, Inc., Teledyne, and the Management Training Corporation, with a smaller number operated by various non-profit organizations.

### *Department of Transportation*

The President's 1993 budget requested $1 million for Department of Transportation participation in Weed and Seed.

### *Reverse commute demonstration grants*

Grants from programs authorized by Sections 3, 9, and 26 of the Federal Transit Act are available to support reverse commuter services from the targeted communities to allow residents access to suburban jobs or job training.

### *Department of Education*

The President's 1993 budget proposed $16 million for Compensatory Education, $30 million for School Improvement/Pre-College Outreach, and $10 million for Family Literacy and Adult Education, for a total of $56 million for Weed and Seed.

### *1. Drug Free Schools and Communities Act*

There are several different programs included in the Drug-Free Schools and Communities Act. Generally, funds from the Act can be used to establish, operate, and improve local (school based) programs related to drug abuse prevention, early intervention, rehabilitation referral, and education for school age youth. The Act also provides assistance to states for services to high-risk youth and for development training, technical assistance, and coordination activities. Examples of activities funded include: 1) purchase or development of drug education and prevention curricula, 2) programs such as DARE that teach youth how to resist peer pressure, 3) drug and alcohol counseling programs, 4) student assistance programs, including referral to appropriate services, 5) peer support and mentoring programs, and 6) programs that assess the extent and nature of student alcohol and drug use.

The Drug Free Schools State and Local Grants Program is a formula grant program that allocates funds to states based on school age population. Each state's allocation is divided between the state educational agency and the Office of the Governor.

The School Personnel Training Program awards grants to state educational agencies, local educational agencies, and institutions of higher education to establish, expand, or enhance programs and activities for the training of teachers, administrators, guidance counselors, and other school personnel concerning drug and alcohol abuse education and prevention.

The Counselor Training Grant Program provides funds for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

The Emergency Grants Program provides assistance to local educational agencies that demonstrate a significant need for additional assistance in combatting drug and alcohol use. Districts compete for funding to support a comprehensive range of services, including educational programs, counseling programs, enhancement of school security, after-school programs, programs for parents and other community outreach efforts, and alternative programs for students with a history of drug abuse or others who are difficult to reach in the regular school setting.

The Model Demonstration Grants Activities Program awards grants to institutions of higher education and consortia of institutions of higher education for model demonstration programs coordinated with local elementary and secondary schools for the development and implementation of quality drug and alcohol abuse education and prevention programs.

The Federal Activities Grants Program supports the development, implementation, dissemination, and evaluation of educational strategies and programs that are designed to prevent substance abuse.

### *2. Compensatory education*

Chapter 1. The Chapter 1 program provides financial assistance to state and local educational agencies to meet the special needs of educationally deprived children at the preschool, elementary, and secondary levels. The purpose of assistance is to improve the educational opportunities of such children by helping them to succeed in the regular school program, attain grade level proficiency, and improve achievement in basic and more advanced skills.

A wide variety of educational activities and services (such as tutors, computers, books, and transportation) can be provided under Chapter 1, provided the services are supplementary to on-going activities. Schools that receive Chapter 1 funds target selected students for Chapter 1 services. However, those schools enrolling at least 75% of students who meet poverty criteria are eligible to apply for school-wide project status in order to serve all students in a school. School-wide projects allow Chapter 1 funds to be used for all purposes (including salaries of principals and teachers, etc.).

Even Start. Even Start is a program designed to provide family-centered education programs that involve parents and children in a cooperative effort, enabling parents to become partners in their children's education and to assist their children to reach their full potential. It is the purpose of the program to integrate early childhood education and adult education for parents into projects that build on existing community resources.

### *3. Family literacy and adult education*

Under this program, the Department makes formula grants to the states for programs to teach basic skills to illiterate adults and to help adults attain high school equivalency. Included within the Adult Education Act are the following programs:

Basic State Grants Program. This program provides grants to the States and outlying areas to support programs that assist educationally disadvantaged adults in developing basic skills, including literacy, and in achieving certification of high school equivalency.

National Programs-National Research Activities. This program supports applied research, development, demonstration, dissemination, evaluation, and related activities that contribute to the improvement and expansion of adult education.

English Literacy Grant Program. This program provides grants to states for English literacy programs of instruction for individuals of limited English proficiency, as well as support services for program participants, including child care and transportation.

Workplace Literacy Partnership Program. This program provides support to demonstrate job related programs of literacy and basic skills that result in new employment, career advancement, or increased productivity for workers.

State Literacy Resource Centers. This is a new program that will create a network of centers to coordinate the delivery of literacy services and advise states and local service providers on methods for strengthening their programs.

Commercial Driver Literacy. This program provides competitive grants for projects that establish and operate adult education programs to increase the literacy skills of commercial drivers.

### *4. Pre-college outreach*

Talent Search. This program helps identify and counsel eligible persons ages 12 to 27 years, usually high school students and dropouts, to complete high school and pursue postsecondary education.

Upward Bound. This program develops skills and motivates high school students from low-income backgrounds to enter and complete college.

### *Department of Housing and Urban Development*

The President's 1993 budget request for HUD participation in Weed and Seed included $20 million for Public Housing Modernization, $20 million for Housing Vouchers, $44 million for Community Development Block Grants, and $6 million for Public Housing Drug Elimination Grants, for a total of $90 million.

### *1. Public housing modernization*

Modernization funds enable public housing authorities and Indian housing authorities to correct the physical condition and upgrade the management and operation of existing public and Indian housing developments, to assure that such developments continue to be available to serve lower income families. This may involve alterations, additions, or rehabilitation of existing structures, replacement of nonexpendable equipment and improving the management and operation of such projects. In addition, modernization funds are used to provide technical assistance to Resident Management Corporations and to resident councils.

### *2. Housing vouchers*

A special set aside of housing vouchers will be available for very low income families in need of assistance in the targeted areas.

### *3. Community development block grants*

Title I of the Housing and Community Development Act of 1974, as amended, authorizes the Secretary to make grants to units of general local government and states for the funding of local community development programs. The primary objective is to provide decent housing and a suitable living environment and to expand economic opportunities, principally for persons of low and moderate income.

### *4. Public housing drug elimination grants*

Grant funds for drug prevention, control and elimination activities at public and Indian housing projects are required as part of the National Drug Control Strategy to help mobilize communities in the war on drugs by increasing security and ridding such projects of drug dealers and drug use. These grant funds are used by the public housing authorities to develop and implement various support activities to prevent and eliminate drug related crime.

## *Department of Health and Human Services*

The President's 1993 budget requested a total of $226 million for the Department of Health and Human Services participation in Weed and Seed: 1) $36 million for Treatment Improvement Grants, 2) $47 million for Capacity Expansion Grants, 3) $7 million for High Risk Youth/Pregnant Women Preventive Care, 4) $4 million for Community Partnership Grants, 5) $43 million for AFDC/JOBS, 6) $54 million for Head Start, and 7) $35 million for Community Health Centers.

### *1. Drug treatment improvement grants*

Treatment Improvement Program grants, cooperative agreements, and contracts, funded through the states, are used for both model demonstration treatment programs and other programs intended to improve and expand treatment. Generally these programs are intended to be only short term demonstrations and it is expected that the states will continue funding those programs which meet their treatment goals.

### *2. Drug treatment capacity expansion grants*

The Capacity Expansion Grant Program is intended to expand and enhance the number of effective drug treatment slots available. This program is designed specifically to expand the availability of drug treatment services in areas of need. Special emphasis will be placed upon expanding treatment capacity for high risk populations, with careful attention to the unique needs of racial and ethnic minorities, pregnant and postpartum women and their substance exposed infants, the homeless, residents of public housing, and adolescents.

### *3. High risk youth/pregnant women preventive care*

The High Risk Youth demonstration program provides funds to community based organizations, educational institutions, and other non-profit organizations to develop innovative approaches aimed at preventing alcohol and other drug use among youth. Funded projects are designed to identify and enhance resiliency or protective factors while diminishing the risk factors for using alcohol and drugs.

### *4. Community partnership grants*

The Community Partnership program was established to demonstrate the effectiveness of providing long term, multi-disciplinary resources to assist communities in implementing coordinated, comprehensive, community-wide alcohol and drug abuse prevention systems. These grants promote systems change by assisting communities in developing programs that are both self-sustaining and replicable.

### *5. Aid to families with dependent children (AFDC) jobs*

This account provides payments to fund the Job Opportunities and Basic Skills training (JOBS) program. The purpose of this program is to make it possible for AFDC recipients to obtain jobs and leave the AFDC rolls. The JOBS program provides an array of education, training and employment services to applicants for and recipients of AFDC.

### *6. Head Start*

Head Start provides comprehensive services for children and families. Intended for pre-schoolers from low income families, the program seeks to foster the development of children and enables them to deal more effectively with both their present environment and later responsibilities in school and community life. Head Start children receive comprehensive health services, including immunizations and physical and dental exams and treatment, and hot meals to help meet daily nutritional requirements. Grants are awarded to public and private non-profit agencies. Grantees must contribute 20 percent of the total cost of the program from non-federal funds. The Act requires that at least 87 percent of Head Start's appropriation be distributed by formula. The total minimum allocation to a state's Head Start program is based on the state's relative number of poor children, ages 0–5, compared to all other states. The remainder is used for discretionary grants, and to fund other Head Start programs in the territories, and other special programs.

### *7. Community Health Centers*

The Community Health Center program supports the establishment and operation of systems that provide access to and availability of family oriented preventive and primary health care services to people living in rural and urban medically underserved areas. These people may be minorities, women of child bearing age, infants, persons with HIV infections, substance abusers, or homeless individuals or families.

## *Department of Justice*

A total of $30 million in specially targeted Department of Justice funds was requested for FY 1993 to help finance overall coordination of Weed and Seed efforts as well as state and local law enforcement activities as part of the Weed and Seed strategy.

### *1. U.S. Attorneys*

A total of $20 million is requested from the United States Attorneys funds for Weed and Seed. These funds will be used for coordination efforts as well as cooperative agreements to help finance state and local law enforcement activities in the targeted neighborhoods.

### *2. Office of Justice Programs (OJP)*

A total of $10 million for the Office of Justice Programs is requested for support of Weed and Seed for demonstration projects in FY 1993. Such projects combine weeding and seeding elements.

## *Other Federal programs*

In addition to the programs listed above, a growing number of other Federal programs are being coordinated with the Weed and Seed framework. These programs include VISTA volunteer services, the National Health Service Corps program of the U.S. Public Health Service, the Department of Education's America 2000 Program, and the Small Business Administration's Service Corps of Retired Executives.

## CITY-BY-CITY UPDATES

The Weed and Seed strategy was first implemented in FY 1991 as a program which provided start-up or planning grants to selected pilot cities. The Weed and Seed program continues at all three sites: Trenton, New Jersey; Kansas City, Missouri; and Omaha, Nebraska. In FY 1992, the Weed and Seed strategy was extended to the designation of sixteen additional cities: Atlanta, Georgia; Charleston, South Carolina; Chelsea, Massachusetts; Chicago, Illinois; Denver, Colorado; Fort Worth, Texas; Madison, Wisconsin; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Richmond, Virginia; San Antonio, Texas; San Diego, California; Santa Ana, California; Seattle, Washington; Washington, D.C.; and Wilmington, Delaware.

The following updates are representative of the seeding activities underway in Weed and Seed sites. Other activities are also underway in each of the sites, so this listing is not exhaustive.

## PILOT CITIES

### *Trenton, New Jersey*

### *1. Project Safe Haven*

Three Safe Haven sites, using existing school facilities, have been operating since November 1991. Recently, the Trenton City Council dedicated funds to open a fourth site at the Parker School. The Safe Havens are open daily in the afternoon and evening, and offer a homework assistance/tutoring program and activities such as basketball, karate, swimming, arts and crafts, aerobics, dance and a number of other instructional and leisure activities.

Volunteers play a vital part in the daily activities of the Safe Havens. Recruitment continues at churches, neighborhood associations and community groups. Each Safe Haven site has formed an Advisory Board that consists of parents, civic, church, business and other interested community leaders. The Advisory Boards assist in the development of programs, serve as consultants to site coordinators and staff, and help in planning, executing and evaluating programs, and assessing community needs.

Events have included field trips to local parks, a Girls Club luncheon and Fashion Show, intramural sports, and AIDS awareness classes. Approximately 100 to 150 youths participate daily in Safe Haven activities at each site. On several occasions, the combined number of participants has reached 600.

### *2. Home ownership program*

The Miller Homes public housing complex, located less than a quarter of a mile west of a Weed and Seed neighborhood, is targeted for stabilization through a HOPE I program. Services to be provided include legal training and technical assistance in owner management, expansion of patrolling, upkeep and rehabilitation activities, security planning and counseling and training for home ownership.

### *3. Low-income single-family housing*

The City of Trenton has received approval from the Department of Housing and Urban Development for a $2 million grant for the HOPE III program to support low-income single-family housing. Forty vacant single family houses will be rehabilitated and sold to families of low and moderate income, with closing cost assistance provided. Home buyer counseling and training, supportive social services, sweat equity and economic development activities are also integral parts of the program.

### *4. Urban school enrichment program*

This program is currently in place at the Gregory School, which is in a Weed and Seed target zone. This school-based planning model helps its participating teachers, mental health professionals, social workers, guidance personnel, and parents to identify and resolve problems burdening the students attending the school.

### *5. Urban school service corps*

This program provides for parent and community involvement for school-site management teams, mental health and support teams, and volunteer work in the schools and after-school programs.

#### *6. Housing rehabilitation*

The local Juvenile Services Division utilizes the participants in the St. Joe's Residential Program to rehabilitate houses and parks in the City of Trenton. The residents are involved in renovating the first house forfeited under the Weed and Seed Program.

#### *7. Referral and coordination*

The Local Weed and Seed Steering Committee has compiled a listing of substance abuse treatment facilities, as well as other resources for purposes of referral and coordination.

#### *8. Reverse commuter program*

The City, the Private Industry Council and Mercer County are planning to utilize U.S. Department of Transportation funds along with private sector funds to establish a reverse commuter program that will provide individuals with transportation to employment in the area. The Safe Havens will be the central location for transportation pickup.

#### *9. Medical and social services in safe havens*

Immunizations will be provided in each of the Safe Haven sites. Additionally, the Women, Infants and Children Program will provide services from the Safe Havens.

#### *10. Drug elimination program in public housing*

Funds will be utilized to expand the Weed and Seed Program into public housing complexes that border the Weed and Seed target areas.

#### *11. Drug and alcohol abuse prevention counselors*

Drug and alcohol prevention counselors will be placed in Safe Havens. The focus will be on prevention; however, intervention referral to treatment and family counseling will be provided. Linkage will be made with Substance Abuse Coordinators in the schools.

#### *12. Job training/job banks*

Job training and job banks will be provided through the Safe Havens as a result of cooperation of the U.S. Department of Labor, the State Department of Labor, and the County Office of Employment and Training.

### *Kansas City, Missouri*

#### *1. Summer safe haven*

This program, which is receiving funding from the Bureau of Justice Assistance (BJA), is a full-day program serving about 100 children from ages 8 to 13 who are considered to be at-risk because of any number of factors. They are broken into two groups: ages 8 to 11 and 12 to 13. The teaching and activities through the day are designed to more fully develop values of morality, self-respect, family and community. The teachers include police from the Kansas City Police Department Drug Abuse Resistance Education (DARE) program. It is hosted by a local church.

#### *Community sentencing*

This is a program which began in August with some local funding, but additional funding from BJA is pending. This involves taking persons charged with first-time minor state drug charges, who would normally get probation, and putting them into a training program where they get marketable skills in construction and property rehabilitation. They do this by rehabilitating houses in the targeted area. The hope is to provide the houses to be rehabilitated through forfeiture, then some houses may be purchased by the not-for-profit Community Development Corporation running this program.

#### *3. Youth gang prevention and intervention project*

The local Seed subcommittee is working to integrate into its program a project already begun in its target area, developed by its cochair to recruit outreach workers from the community to develop relationship with at-risk young black males between the ages of 9 and 19, including those who are members of the city's gangs.

### *Omaha, Nebraska*

#### *1. Community policing*

Under its community policing component, Omaha is allocating nine police officers to the target neighborhood to work with community leaders and serve as the "bridge" between neighborhood residents and the six task forces formed by the Steering Committee: citizen involvement; housing/employment; provention/education; enforcement/prosecution; corrections; and treatment.

#### *2. Activity programs*

Omaha's seeding strategy focuses on providing alternative activities for high-risk youth, particularly gang "wanna-be's." More than a dozen local service agencies and the public schools are participating in this effort to provide recreational activities, including Boy and Girl Scout troops, as well as educational and career counseling, pre-school programs, and other special education programs designed to build children's self-esteem, communication skills, and ability to deal constructively and nonviolently with day-to-day problems. In addition, a number of public and private organizations are working to rehabilitate housing and attract businesses to the area to provide employment opportunities for neighborhood residents.

#### *3. Education: Omaha 2000*

The Department of Justice has been working to include America 2000 projects in the Weed and Seed framework. Many of the America 2000 efforts reinforce the objectives of the Weed and Seed strategy. Omaha is a leader in the Department of Education's America 2000 initiative, striving to meet the program's six educational goals through local community action so that students will stay in school and eventually learn and earn their way out of poverty.

While all six goals of the America 2000 initiative have relevance to seeding programs, the sixth goal and Omaha's efforts to reach it are especially relevant. Goal Six is that: Every School in America Will Be Free of Drugs and Violence and Will Offer a Disciplined Environment Conducive to Learning. Omaha's implementation efforts include: a) DARE (Drug Abuse Resistance Education) is taught in metro area elementary schools by law enforcement officers. b) Metro Omaha Drug Free Youth programs unite students from all school districts in drug prevention workshops and after-school activities. c) A variety of programs and services support the Omaha Public Schools K–12 Human Growth and Development curriculum. School Community Teams, Positive Peer Culture, and Drug Assistance Counselors emphasize awareness, prevention, intervention and rehabilitation. d) The Mayor of Omaha has established Drug Free Zones around all schools.

#### *4. Manufacturing products in public housing*

On July 17, 1992, the Omaha Housing Authority (OHA) was named administrator of Omaha's Weed and Seed project. OHA will implement its "Renovation and Reclamation of the Neighborhood" program as part of its seeding effort. A part of this program, OHA manufactures doors and windows which have been installed in all of its housing units. This manufacturing project involves a comprehensive 3-year training program where the residents are paid during their job training. This results in job skill development for the residents, a quality product for the housing units, reduction in the unemployment rates, and revitalization of the neighborhood.

## DEMONSTRATION SITES SELECTED IN SPRING 1992

### *Atlanta, Georgia*

#### *1. Transfer of forfeited property to community groups*

The U.S. Attorney's Office has initiated the forfeiture of a 35-acre tract of land located near Metro Atlanta. Twelve state and local law enforcement agencies were involved with this seizure, including the Atlanta Police Department. With the new Weed and Seed transfer authority, Atlanta plans to transfer the property to the Georgia Sheriffs Youth Homes (GSYH), to serve two functions: (1) GSYH will provide full-time emergency shelter for children in immediate need, i.e., crisis intervention in a comforting and loving environment, to children from the Weed and Seed target areas and to children from other parts of the Metro Atlanta area; and (2) each of the 12 law enforcement agencies will be assigned one week during each summer, during which they will bring children from throughout Metro Atlanta to attend a summer drug education (Drug Abuse Resistance Education (DARE)) camp on the property.

#### *2. Wings of hope*

This comprehensive prevention program of the Southern Christian Leadership Conference works to develop community-police partnerships to combat crime and drug abuse, sponsors anti-drug events, educates and trains church and community groups about drug use prevention and community revitalization, is developing a neighborhood watch program, and provides assistance to families at high risk of becoming involved in drug abuse and trafficking.

#### *3. Summer and after-school employment*

Atlanta's Private Industry Council is in the process of providing summer and after-school employment to youths aged 14 to 21, as well as job development and placement.

#### *4. Boys and Girls Clubs*

The Boys and Girls Clubs of Atlanta have instituted a program of summer camps for the children of Thomaville Heights and Englewood. These public housing developments are a part of the Atlanta Housing Authority. Additionally, a soccer program was developed this summer involving 65 children in the targeted area. This camp was sponsored by Soccer in the Streets, a local private, nonprofit organization.

### *Charleston, South Carolina*

#### *1. Combined Boys and Girls Club*

As an agency which seeks to assist youths in developing and achieving their maximum potential, the local Boys and Girls Club Organization intends to expand its services in the target area. The original club (Shaw Unit), located in the East Side Neighborhood, serves more than 300 youths. In September 1992, the agency is establishing its second unit in the target area primarily to serve youths from the Meeting Street Manor/Cooper River Courts Housing Projects. The new program, funded with a $75,000 grant from the parent organization, will be housed in the East Side Community Center, which is in close proximity to the Meeting Street Manor/Cooper River Courts Housing

Projects. The Center was formerly an abandoned incinerator building renovated by the City of Charleston, and is now used as a neighborhood multi-purpose building.

### *2. Beautification project*

The Charleston Police Department recently conducted a sweep of the target neighborhood and identified and tagged all abandoned vehicles. These abandoned cars, in addition to being eyesores, were often used as stash locations for drugs, and often contained used needles and other dangerous articles. After these vehicles were tagged and not removed within the requisite time, the Police Department towed them out of the neighborhood. This project, which received positive public reaction, will be continued in the future.

### *3. Home ownership programs*

The Charleston Weed and Seed Steering Committee is integrating into its program the Police Home Ownership Program, which uses funds acquired from drug seizures to renovate and market seized property. In addition, local banks, as well as the Charleston Community Development Corporation, are providing low-interest loans to residents to buy homes in the area.

### *4. Inner-city arts and sports programs*

Charleston is sponsoring cultural, recreational, and other events to improve the quality of life in the Weed and Seed neighborhood, including inner-city golf, tennis, and sailing programs, a Storefront School for the Arts, and a youth theater group.

### *5. Job training*

The Trident Community Foundation is implementing the "Work, Opportunity, Responsibility, and Knowledge" (WORK) program to help residents acquire job skills.

### *6. YWCA of greater Charleston, Inc.*

The trust of the YWCA's latest initiative is to conduct specialized seminars for youth and adult groups by focusing on its innovative program call "Non-Violence . . . a Blueprint For Life." In September 1992, the YWCA is sponsoring "Night Beat", a recreational program for youths age 13–17. The program, alternating between recreational and educational activities, will be held at the City Gymnasium every other Saturday night.

### *7. Charleston Clean City Commission*

The Clean City Commission has increased the number of members from the target area and will increase the number of city-wide clean up programs to accommodate the needs of Weed and Seed neighborhoods. Instead of an annual city-wide program, cleanups will be held quarterly, beginning in the Fall. Additionally the Commission will provide assistance for the East Side Neighborhood Clean-Up and will assist in designing public awareness and education programs for the community.

### *8. Charleston County Library*

The John L. Dart Branch of the Charleston County Library serves as "Safe-Haven" for youth in the North Central neighborhood. The DuBois Kenyatta Campbell Memorial Collection of African American children's and young people's literature will be dedicated to the Dart Branch on September 27. The Campbell family will donate $1,000 each year to expand the collection.

### *9. Educational activities*

Efforts are underway to get assistance for youth development programs, in cooperation with Clemson Extension; technical training programs, in cooperation with Trident Technical College; and forestry programs, in cooperation with the South Carolina Forestry Commission.

## *Chelsea, Massachusetts*

### *1. Summer youth job programs*

The City of Chelsea earmarked $80,000 for a Youth Summer Program for youths from the Weed & Seed area to work on various city maintenance projects, such as cleaning public areas, and to receive employment training as well.

### *2. Boys and Girls Club*

Negotiations are underway with the Massachusetts Executive Office of Communities and Development, the Chelsea Housing Authority and the Boys and Girls Clubs to establish a youth development center in the Weed and Seed area. Renovation of existing Chelsea Public Housing Authority property is necessary prior to the commitment of Boys & Girls Club funding. The Chelsea Housing Authority (CHA) has applied for a 1-year Drug Elimination Grant to hire a community police officer and a youth activities coordinator.

### *3. Spanish-speaking substance abuse counselor*

Weed and Seed grant money has been used to hire an additional Spanish speaking counselor for the local alcohol and substance abuse program. The counselor will work with individuals and families in the target area referred by the Chelsea District Court as part of the Weed and Seed program.

### *4. School lunches and farmers market*

Steps are being taken to offer Agriculture Department school breakfast and lunch programs to all children in the Weed and Seed area. Also, a farmers' market in the area is being expanded and publicized. Food Stamp recipients can use their coupons at this market to purchase fresh fruits and vegetables.

### *5. Choice through education*

Choice Through Education (CTE), which provides counseling and outreach services for 60 youths and their families, is being integrated into the Weed and Seed framework. CTE provides crisis intervention, self-esteem training, development of realistic education and employment plans, advocacy with courts, schools, and other agencies, and recreational activities. CTE also is expanding English as a Second Language classes for neighborhood residents.

### *6. Alternatives to violence and drug abuse*

Local leaders are working to integrate an anti-drug and violence program, Reaching Out to Chelsea Adolescents (ROCA), into the Weed and Seed framework. ROCA works with young men, ages 12 to 21, and sponsors ocean rowing, boxing, basketball and other sports activities, provides counseling and referral to drug treatment and other services, and involves young men in community projects.

### *7. Low-interest mortgages*

Chelsea is working to promote greater home ownership among residents by providing low-interest mortgages. In addition, high-risk loan pools and Mortgage Credit Certificates are being negotiated.

## *Chicago, Illinois*

### *1. Pre-natal care and substance abuse prevention*

The local Weed and Seed Committee is working to integrate into the program two Chicago Housing Authority programs—one emphasizing pre- and post-natal care and parenting training, the other concentrating on substance abuse prevention and intervention.

### *2. Prep school for young children*

The Justice Department's Office of Juvenile Justice and Delinquency Prevention is working with the Chicago Housing Authority and the Westside Preparatory School to operate a private prep-school for children in kindergarten through fourth grade at the Ida B. Wells Housing Development. The prep-school is based on a model developed by the Marva Collins Westside Preparatory School, which has had dramatic success in raising the academic achievement and self-esteem of low-income minority children. This demonstration program is aimed at preventing delinquency through early intervention in the form of educational choice, focusing on low-income children living in publici housing. This program opened on September 8, 1992.

### *3. Job training*

Other key activities include the Job Path Program, a comprehensive family-focused literacy and job training program.

### *4. Supermarket cooperative*

Plans are being developed to facilitate the formation by area churches of a not-for-profit supermarket cooperative to acquire existing stores from current owners who do not live in the community. The co-op will retain management assistance from credible food store operators with preference given to qualified minority operators. Profits generated from this co-op will be rebated to shoppers and/or used to fund other economic development activity.

### *5. Safe haven school network*

Roosevelt University's Institute for Metropolitan Affairs has proposed the Safe Haven School Network (SHSN) as an integral component of Chicago's Weed and Seed program. In a one-year pilot project, SHSN will combine approaches successfully utilized elsewhere, such as Trenton, NJ, with some innovative activities to be pilot tested in Chicago, emphasizing safe, supervised after-school activities.

### *6. Chicago Housing Authority Cadre Centers*

The core of prevention and intervention activities under CHA's Anti-Drug initiative is the development of CADRE Centers (Combatting Alcohol and Drugs through Rehabilitation and Education) within each of the targeted developments. The CADRE Centers are centers for family social service referrals and programs focused toward youth. CADRE Centers are located in six CHA developments, including Ida B. Wells.

The centers are staffed by a program site coordinator who works with the lead agencies serving that particular development, assisted by two prevention specialists and a case manager who develops centralized case management systems.

In addition to making referrals and managing specific cases, the centers plan specific prevention programs targeted toward the needs of that particular development. These may include tutoring programs, Just Say No Clubs, cultural activities and family events.

Each CADRE Center is paired with one prevention and one treatment agency. Representatives from these agencies are included on an Advisory Council for each CADRE Center, which also includes resident representatives and CADRE staff. CADRE staff is also in the process of developing new programs to be targeted to the youth. These programs range from the Just Say No Clubs, which are active in each Center, to field trips. Two such examples of trips are to the DuSable Museum of African-American History and a sports outing with Athletes Against Drugs, a prevention organization that uses the volunteer services of professional athletes to promote drug awareness.

### 7. The Chicago Housing Authority Mama Said Program

More than three-quarters of Chicago Housing Authority households are headed by single females on public aid. To assist these young mothers with their own unique needs, resident leaders at the Ida B. Wells housing development joined with the CHA's Department of Resident Programs to develop an intergenerational parenting program called Mama Said. This new effort was based on the observation that many teenagers and young adults starting families were ill-prepared to do so. They knew little about caring for young children and equally little about managing a household.

Mama Said involves young mothers in public housing between the ages of 13 and 25 who have limited education or employment history. Recruitment criteria includes women who receive Aid to Families with Dependent Children; have difficulty completing education; difficulty in finding or maintaining employment; and desire to become self-sufficient.

Providing a support network for these young mothers, through education, human services and peer counseling, is the purpose of Mama Said. Through these means, the young women in the program are provided with the motivation to improve their quality of life, and the knowledge and skills to do so. These resources take the form of comprehensive life skills training, health care for them and their children, educational opportunities and pre-employment training.

Participants meet the CHA apartments located centrally within developments. The "drop-in centers" are staffed by a coordinator from the resident-elected local Advisory Council. Currently, there are only two paid Mama Said staff: a project director and assistant.

## Denver, Colorado

### 1. Neighborhood storefronts

Each of the target neighborhoods will have a "storefront" which will function, in part, as a police mini-station. The Neighborhood Police Officers, Neighborhood Prosecutor, and Victim Assistant will work out of the storefronts. The storefronts will also be staffed on a rotating basis by representatives of various government agencies and local service providers as well as the Neighborhood Organizer and Members of the Neighborhood Partnership Team. At the storefronts, neighborhood residents will be able to obtain information about, and assistance in gaining access to, the full range of available social services and programs. In one of the two target neighborhoods, a HUD-owned residence will be used as the storefront.

The storefront in the Baker/La Alma/Lincoln Park neighborhood illustrates the degree to which collaboration is succeeding in Denver. With assistance and input from local residents, the Denver Police Department Weed and Seed Unit located a suitable site in a residential area which has significant gang activity (the Inca Street Boys), and determined that it was HUD-owned property. Local HUD officials facilitated the transfer of the property to the City of Denver through a no-cost lease. Renovations to the property will be done by members of the Colorado National Guard, who will also transport furniture donated for use at the storefront by the Justice Department's Immigration and Naturalization Service.

### 2. Use of Vista volunteers

In each of the target neighborhoods, a full-time Neighborhood Organizer works with the city's Weed and Seed coordinator and the Neighborhood Partnership Teams to help identify and implement the project's initiatives; developing a process to assist community residents, youth, and families in receiving necessary services (e.g., education, employment, and treatment); and developing community revitalization projects (graffiti removal, neighborhood crime watch, and clean-up of nuisance property). ACTION/Denver committed four VISTA volunteers to be used for these Neighborhood Organizer positions.

### 3. Multi-cultural arts enrichment program

The Baker/La Alma/Lincoln Neighborhood Partnership Team has developed and is seeking funding for a year-round, multi-cultural enrichment recreational program for residents of all ages. The program is intended to increase self-esteem and pride by fostering artistic expression and increasing residents' understanding of their cultural heritage. Multi-cultural activities will include visual and plastic arts, music, theater, dance, culinary arts, and perhaps manual arts (light furniture design and building). Guidance and support for making decisions that preempt criminal activity, for positive role modeling, for rewarding group memberships, etc., will be part of the responsibilities of program staff.

### 4. Economic Revitalization Plan

The Cole/Whittier Neighborhood Partnership Team has recommended that weed and seed activates support Cole's eight year comprehensive economic development plan. The Steering Committee has a commitment to implementing this recommendation. The main goals of this long-term revitalization effort are:

To implement plans to revitalize the local economy by offering technical assistance to existing businesses.

To identify new business opportunities in Cole.

To recruit qualified entrepreneurs to establish these businesses by offering training and start-up funding, using the "good faith fund concept."

To reduce the number of vacant and boarded-up retail, commercial and industrial structures.

### 5. Transfer of forfeited property

The U.S. Attorney's Office is working with Denver's local and federal law enforcement agencies to identify seized property in the target neighborhoods that could, if forfeited, be transferred to the city and/or community groups to support seed activities.

### 6. Job Training Partnership Act (JTPA)

Two JTPA programs, Summer Youth Employment, and JOBS, providing counseling, education, and employment services to out of school youth in the target areas, are being integrated into the Weed and Seed framework.

### 7. Denver urban conservation corps

The local Weed and Seed Steering Committee is working with the Denver Urban Conservation Corps, which provides employment and training for youth while, at the same time, improving the community environment. They also are working to integrate Jobs Corps activities into the Weed and Seed framework.

### 8. Recreation programs

The Department of Housing and Urban Development's Drugs Elimination Project, the HUD Youth Sports Program, and the Denver Department of Parks and Recreation are working to coordinate recreation programs in the target neighborhoods.

### 9. Peer counselor

Denver Area Youth Services (DAYS) is providing training for a peer counselor who will provide prevention, intervention, treatment, and aftercare services to youth and families in the target neighborhoods.

## Fort Worth, Texas

### 1. Anti-drug activities by ministers

A coalition of ministers from the Weed and Seed area has been meeting with the Fort Worth Police Department to develop strategies in the Weed and Seed area. The ministers have agreed to assist in eradicating street drug markets.

### 2. Midnight basketball

Beginning in May, the Fort Worth Parks and Recreation Department began its extended-hours program in recreation centers in the Weed and Seed target area. Midnight basketball has been implemented to keep kids off the street. Through the first 13 weeks of the midnight basketball initiative, 4,356 participation opportunities were provided at recreation centers located in the Weed and Seed target area (the participation opportunity figure counts an individual separately each time he participates). The midnight basketball program is taking place between 10:00 p.m. and 2:00 a.m. at five recreation centers in Fort Worth, three of which are located in the Weed and Seed target area. The program which began on May 16, concluded on September 19. Volunteers have served as coaches. After each game, all late-night players are required to attend a program that focuses on issues such as viewing police officers as friends, resume writing and job hunting, the importance of finishing school and the responsibilities of raising a family.

### 3. Transfer of forfeited property to community groups

The United States Attorney's office is organizing a crack house seizure and forfeiture program. Meetings have been held with police and city officials, who have agreed to convert crack houses to low income housing or other worthwhile purposes. The U.S. Marshals Service and other federal agencies have already participated with the U.S. Attorney's Office in such forfeiture proceedings elsewhere in the Northern District of Texas.

### 4. Crime victim seminar

The United States Attorney's Office is working with the "Seeding" Steering Committee in organizing a crime victim seminar to serve the residents of high crime/low income housing.

### 5. Job placement and transportation

Several groups in the community are working to locate jobs or transportation for jobs for individuals in the Weed and Seed community. New jobs which are to be provided by the Citizen Crime Commission will begin as soon as computer equipment is purchased and in place. When the computer equipment is operational, computer magnet students from Poly High School will be hired to begin data entry from the community assessments and target area residents will be hired to assist with the monthly Weed and Seed newsletter.

The "At Large" subcommittee of the Community Revitalization Committee has met with representatives of the local Transportation Authority seeking transportation for individuals who live in the Weed and Seed area who want to work for Dallas-Fort Worth Airport companies. On an experimental basis, the Transportation Authority has agreed to provide a van to furnish transportation for east side residents of Fort Worth who work at the Dobbs Company, which has a restaurant at the airport and which caters for Delta Airlines.

#### 6. Poly Leadership Council

The Poly Leadership Council is attempting to locate employment opportunities for youth who reside in the Weed and Seed area. Additionally, this Leadership Council, formed as part of the Weed and Seed strategy, feels that clean, well maintained neighborhoods are essential for economic revitalization in the target area. In order to promote this goal, the Poly Leadership Council has donated t-shirts that say "Good in the Hood" which they intend to give to youth who volunteer in the clean-up process. The "Good in the Hood" slogan is intended to recognize "Good" kids in the "Neighborhood."

#### 7. Neighborhood Housing Services

Neighborhood Housing Services, a nonprofit corporation which has been in existence since the 1950's, has agreed to paint 12 houses in the Poly area of the Weed and Seed target area. The Home Depot company will provide the paint, and bank employees will scrape and paint the houses.

### Madison, Wisconsin

#### 1. Parent-to-Parent program

Under its Parent-to-Parent program, Family Enhancement Inc. (a private, non-profit agency) will recruit and train neighborhood residents in community development skills. These residents will in turn engage in door-to-door outreach to help other residents understand and participate in the neighborhood revitalization effort. Parent-to-Parent members will be a primary resource for the neighborhood organizing efforts of the neighborhood police officers. They will also serve as liaisons between residents and human service providers.

#### 2. Alternatives to aggression

Neighborhood police officers will make referrals to the Alternatives to Aggression program of Family Services, Inc., (a private, non-profit agency) which is designed to enable males prone to domestic violence to change personal behaviors and family life patterns so that disputes can be resolved without resorting to violence. Family Services, Inc. will also run groups for women and children, to help victims of domestic violence deal with the effects of violence they have suffered and to influence family life patterns to prevent violence.

#### 3. Substance abuse treatment

Madison is contracting with the ARC Center for Women and Children to provide alcohol and drug abuse treatment for pregnant women and mothers of young children in an effort to reduce child abuse and neglect. The Center also will provide child care and child counseling, so that mothers receiving treatment can bring their children with them.

### Philadelphia, Pennsylvania

#### 1. Boys and Girls Club grant

Boys and Girls Clubs have started a program at Fairhill public housing project and provided $75,000 in funds for the project. The grant is being administered by the Crime Prevention Association of Philadelphia. The program has started and three staff members have been hired and are working at Fairhill. There is a very active basketball league formed with several teams of varying ages participating. A summer lunch program was implemented and 30 teens were hired with summer jobs program money to clean up the area across from the public housing buildings. In addition, a HUD youth sports grant for $125,000 was awarded to the Philadelphia Housing Authority, of which $25,000 is for programs at the Fairhill public housing project.

#### 2. Forfeited property given to community group

Arrangements have been made so that commercial store-front properties forfeited by drug dealers in federal drug cases will be turned over to The Association de Puertorriquenos en Marcha, Inc., a non-profit corporation which has been recently awarded a grant from CODAAP (the Coordinating Office for Drug and Alcohol Programs of the Philadelphia Department of Health). The Association plans to use the forfeited property as a substance abuse treatment center.

#### 3. Anti-violence and substance abuse programs

The Weed and Seed Steering Committee is working to integrate several anti-violence and substance abuse projects. The BANNER project has children paint banners with the names of persons they know who have died or been incarcerated due to drug involvement. The banner also describes the child's vision of the future. These banners are displayed or carried by the children during anti-drug vigils or marches. Other efforts include a new Minority Juvenile Delinquency Prevention Interdiction Program, the Student Anti-Violence Education Program (SAVE), and a variety of school-based substance abuse prevention programs. The Philadelphia Housing Authority is implementing programs that also focus on drug interdiction and prevention.

#### 4. Drug elimination

The Department of Housing and Urban Development will provide funding through its Drug Elimination Grant program to expand activities. Also, the Department of Health and Human Services will provide a Community Partnership Demonstration grant to assist in forming a task force for planning and coordinating drug and alcohol prevention activities.

#### 5. Youth sports

Community United Neighbors Against Drug (CUNAD), along with the Police Athletic League (PAL), has started its youth sports program at the Hersch Recreation Center. A summer camp program served 30 kids. Twenty teens were hired with the summer jobs program money to clean up vacant lots surrounding the recreation center.

#### 6. Summer jobs

United Neighbors Against Drugs (UNAD) was able to hire 100 teens with the summer jobs program money. These teens did a wide variety of jobs within the community.

### Pittsburgh, Pennsylvania

#### 1. Youth opportunities unlimited grant

The City of Pittsburgh and the Private Industry Council recently were awarded a Youth Opportunities Unlimited (YOU) grant in the amount of $500,000 per year which is renewable for three years. The grant will be used to establish a Community Learning Center at the Ammon Recreation Center, which is located in the heart of the target area, to provide services for in-school youths and adults. The service will include pre-employment and skills training and assistance in finding part-time jobs for youths, links to employment and training programs, a social worker to provide links with social service agencies, homework help and tutoring, a computer center, recreational activities, and other community education activities and special projects.

The grant was awarded to Pittsburgh by the U.S. Department of Labor (DOL). Pittsburgh's designation as a Weed and Seed site was a significant factor in Pittsburgh's selection as a YOU grant recipient.

#### 2. Mobile trailers

The University Health System of the University of Pittsburgh has recently donated three mobile trailers to the City of Pittsburgh for use in community policing. One of these trailers will be utilized in the Hill District (the current target area) and the other two may be available as the target area is expanded. The value of each mobile trailer is $55,000. The trailers will provide a setting for residents to interact with community police officers that is less formal and more easily accessible than the traditional police station.

#### 3. Chemical dependency outpatient program

The Weed and Seed Steering Committee is working to fund an intensive outpatient program run by the St. Francis Center for Chemical Dependency to provide peer group counseling, individual counseling, and multi-family counseling with followup monitoring, all to take place within the Weed and Seed area.

#### 4. Housing rehabilitation

Approximately $32 million in public and private funding has been requested to rehabilitate or develop 203 affordable rentals and 37 new homes in the target areas. The city also is expanding its effort to create minority-owned businesses in the target neighborhoods, to provide specialized assistance to small businesses to improve their retailing skills and to rehabilitate the facades of storefront businesses, and to provide subsidized or public housing for low-income residents, especially elderly citizens.

The Crawford Square housing development, located at the lower end of the Hill District, is the largest residential redevelopment effort undertaken in Pittsburgh in the last 30 years. Located on an 18.5 acre site, a large portion of which has been vacant since the late 1950's, Crawford Aware will eventually consist of 500 units of affordable rental and for sale housing, which will serve households with a wide range of incomes. The total cost of the project is approximately $55 million. This is an activity that is scheduled to take place over the entire year of the grant.

#### 5. Recreation leagues

The city is creating recreation leagues for approximately 300 youths aged 6 to 18. Also, a Boys Club program is being implemented, and Day Camp activities are being developed for youths in the third to fifth grade.

#### 6. Head Start

The city is working to establish three Head Start programs in the Hill District.

#### 7. Housing and urban development grants

The Department of Housing and Urban Development has agreed to issue Section 8 certificates to enhance self-sufficiency programs; will implement a Section 202 elderly housing project; will complete the modernization of two developments initiated under a 1991 grant; and will provide the following funding (a) Comprehensive Grant program as a source for development and modernization activities; (b) Public Housing Drug Elimination Program grant to engage in drug elimination activities; (c) Public Housing Youth Sports Program to provide sporting activities for youth; (d) Comprehensive Improvement Assistance Program grant to hire a Police Activities League Coordinator; and (e) Community Development Block

Grants will be used to support employment and training programs. The Department of Health and Human Services will provide support for the establishment of a chemical dependency program treatment and prevention program.

### *8. Vocational and employment programs*

Available vocational, GED, pre-employment and other employment programs include Pittsburgh Partnership, Neighborhood Employment Project and Single Point of Contact. Efforts are underway to expand the number of slots available to Hill District residents. The City's JTPA Program is currently negotiating with Three Rivers Employment to offer some of these additional slots. One of the areas in which a major effort has been made has been the Summer Youth Employment Program. The City of Pittsburgh augmented the normal funding in order to double the number of jobs that were available to youth this summer. It is estimated that the number of slots available to Hill District youth expanded to 150 for this program.

### *9. United Way*

Private support is being maximized by including the target area in the United Way's "Community Collaborative" effort, which brings together a number of community groups to prevent and treat substance abuse, with a special focus on women and children. The Hill District is one of three such community collaboratives. This program will continue to develop over the entire 12 months of the project.

## *Richmond, Virginia*

### *1. The Carver Promise, phase II*

Weed and Seed grants will play a role in extending the scope of this existing program by preparing a second group of third graders at Carver Elementary School to take advantage of the opportunity to attend one of four Richmond Metropolitan Area colleges, provided they graduate from high school. Under the Carver Promise Program, mentors from four area colleges and members of the Richmond Bar Association have agreed to serve as tutors, role models and friends of these young people as they progress through grade school and high school. The four Richmond colleges have earmarked the tuition assistance necessary to cover the total for both groups of approximately 125 students. Weed and Seed funds have been set aside for a drug assistance coordinator who will work closely with the families to assure family success and support for the children involved, all of whom are residents of one of the targeted Weed and Seed neighborhoods.

### *2. Richmond Police Department/Friends Association for Children*

Following an arrest in the Weed and Seed neighborhoods, caseworkers affiliated with the Richmond Police Department and the Friends Association for Children will intervene in the home, offer supportive services to the remaining family members affected by the arrest and removal of a dominant male figure. This unusual partnership between police and social services is a unique opportunity to assist the families at their low point and attempt to build confidence and trust in the police department and the helping systems already in place in the community. The caseworker will be trained to know of existing services which may range from drug treatment and counseling to job and educational training to the need for other adult leadership and medical services.

### *3. Transitional housing program*

Richmond Police, in conjunction with Community Mental Health, Richmond Redevelopment and Housing Authority, and Richmond Department of Social Services, will develop a plan for substitute housing and shelter for residents who have been victimized in crime and abuse situations and need to be removed from the threat of additional violence. Weed and Seed grant funds will be used to train the facilitator who will coordinate the resources of the participating parties described above.

### *4. Volunteer educators*

Going for the Goal, a model volunteer-based program, is expanding, within the Weed and Seed framework, to provide services for 7th and 8th grade youth. Currently serving 6th grade students in the target areas, the class sessions focus on teaching children to define goals, build a goal ladder, understand and overcome roadblocks to achieving their dream, rebound, and reward themselves for success.

### *5. Boys and Girls Clubs*

The local Weed and Seed Steering Committee is working to integrate into its framework the Boys and Girls Clubs, which provide services to address personal adjustment and citizenship and leadership development, along with cultural, social, physical, and recreational programs.

### *6. Blackwell area economic development*

Working in conjunction with the Development Coordinator for the City of Richmond, the Weed and Seed Task Force has put together several federal seed agencies (SBA, Labor, HUD, Commerce, and HHS) to assist the City of Richmond in developing a strategy to revitalize a decaying business and residential community in one of the targeted areas. This area has been a state enterprise zone.

### *7. Coordinating services and resources*

The Memorial Child Guidance Center and the Bainbridge Blackwell Family Counseling Program are collaborating to coordinate counseling services for the Blackwell Community. This cooperation will reduce duplication of services and will better serve the needs of the entire family. The counseling centers will use signed "Release of Information" forms that will allow them to share patient information and to work on comprehensive family treatment plans.

On September 17, 1992, the United States Attorney hosted a "Seed Fair" in Richmond, which assembled the representatives of federal agencies as well as many state, local and private service organizations. The purpose of this "Seed Fair" was to encourage communication and cooperation between the state, local, and federal agencies regarding the provision of services.

## *San Antonio, Texas*

### *1. Springview sports complex*

One ongoing project in San Antonio involves building recreation facilities on an open field adjacent to a low income housing facility within the target neighborhood. The 1.8 acre tract is owned by HUD. The San Antonio Housing Authority operates the contiguous subsidized housing known as the Springview Apartments. The plans call for converting the vacant area into a baseball field, a young children's playground and a basketball court. The Housing Authority is working closely with the City Parks and Recreation Service, and the Mayor's office, and a local U.S. Army Reserve Engineer unit in hammering out the details of the construction plans. The Army unit started leveling, clearing, and fence-building on the weekend of September 12–13, 1992, and is expected to complete work on the project during its October monthly weekend drill. In addition, Bexar County Adult Probation will be providing significant manpower to the effort using probationers obligated to perform community service. San Antonio Fighting Back, a United Way Agency, will provide refreshments, with the help of donations from local soft drink bottling companies.

### *2. Forfeited property given to community group*

On April 15, 1992, the U.S. Attorney's Office provided to the City of San Antonio the title to a strip shopping center, located within the target area, formerly known as the Sonny Mitchell center. Sonny Mitchell is a notorious drug dealer who for years operated the shopping center as an "open air market" for drugs. His outrageous activity and flaunting of authority became symbolic of lawlessness in the area.

The City is allowing People Against Corruption (PAC), an intensely active community group, to utilize a large portion of the center for office and activity space. PAC has enlisted the assistance of H.B. Zachary Company, a locally headquartered international construction company, to remove in-ground gasoline tanks located on the premises. All details have not yet been resolved, but efforts continue, and the community views the transition as the retaking of a landmark from a notorious outlaw, for the use of the law abiding community.

### *3. Police Athletic League (PAL)*

Youth in the target areas may register in the centrally-located Weed and Seed office for PAL basketball clinics, coached by professional athletes from the San Antonio Spurs. A Weed and Seed officer also is working with local businesses to encourage their support and participation in PAL activities. Currently, a number of gang members, including one well-known gang leader, are actively participating in PAL efforts.

### *4. Safe Havens*

San Antonio has established a Safe Haven program of after-school activities in local libraries. Activities include tutoring and mentoring programs for children as well as a storytelling program.

### *5. Health clinic for adolescents*

San Antonio has established a special health clinic for adolescents in the target area.

### *6. Boys and Girls Clubs and YMCA*

The local Weed and Seed Steering Committee is working to integrate into its framework Boys and Girls Club and YMCA efforts to provide services, including drug education and prevention classes.

### *7. Cultural arts program*

Through the assistance of the City's Department of Arts and Cultural Affairs, a unique opportunity will be provided to area youth introducing them to the various fields of cultural and media arts. Through professional instruction, youths will write, produce and perform their own anti-gang/drug production. They will receive instruction in all aspects of theater arts, including make-up, costuming, stage presence and voice projection, filming and choreography. This eight week effort will conclude with a public presentation. This will be a major accomplishment providing not only alternative activities but also the element of learning and enjoying it. This project will be a primary initiative in restoring self-esteem and promoting a sense of accomplishment.

## *San Diego, California*

### *1. Ralph Bunche Youth Center*

San Diego's Neighborhood House, a multi-agency non-profit organization, has $100,000 in private donations to be used for its Nu-Way Youth Center. The City of San Diego has offered the use of facilities in Southcrest Park, a drug infested park in the Weed and Seed target area, to Neighborhood House. Neighborhood House would be responsible for operating and maintaining the indoor facilities, while the city would maintain the outdoor areas of the park.

#### *2. Gang activity prevention*

A program has been developed to prevent Southeast Asian children from becoming involved in gangs and drug trafficking.

#### *3. Safe havens*

Boys and Girls Clubs are being established, and library and recreational facility hours are being expanded.

#### *4. Job training and placement*

The Private Industry Council/San Diego Regional Employment and Training Consortium is sponsoring programs to enhance job training and placement for residents of the target area.

### *Santa Ana, California*

#### *1. Summer youth job programs*

After Santa Ana was selected as a Weed & Seed demonstration site, the Private Industry Council of Santa Ana allocated $16,000 in Job Training Partnership Act funds for a summer youth job program conducted jointly with the Santa Ana Unified School District. The program was designed to provide special summer school classes in the morning covering basic academic skills along with work experience in the afternoon.

#### *2. Recreational program*

The Santa Ana Recreation and Community Services Division is establishing a Boxing Against Alcohol and Drugs (BAAD) program as part of its Project P.R.I.D.E. This program is established to provide a recreational alternative to gang activity and to encourage attendance at school. The program also hopes to provide training for teenagers so that they can develop and implement recreation programs for younger children.

#### *3. Neighborhood revitalization*

The City of Santa Ana is coordinating its efforts with the Weed and Seed Steering Committee to invest over $25 million during the next three years to renovate buildings, improve lighting, repair streets, and make improvements for businesses.

### *Seattle, Washington*

#### *1. Transportation to job sites*

The Department of Labor and the Department of Transportation, Federal Transit Authority are planning a program whereby youths and adults in the designated area will be transported by van to training and job sites outside of the target area. City agencies have expressed to DOL an urgent need for this service to make existing programs available to citizens in the Weed and Seed area.

#### *2. Drug elimination*

The Department of Housing and Urban Development is working to establish a Drug Elimination Program to help eliminate drug-related crime in public housing developments. Specific activities will include: Citizen Block Watch; Community Police Abuse Outreach Programs; Youth Tutoring Programs; Youth Life Skills Programs; Drug Treatment Programs; and Planned Resident Activities Fund. Law-Related Education and DARE programs also are being established in the target area.

#### *3. Anti-violence program*

The Seattle Office of Education and the Seattle Police Department are working to develop an anti-violence program for high school students. The program will teach students how to resolve problems nonviolently.

#### *4. Low-interest loans*

Low-interest loans are to be provided by a group of banks to residents for home purchases or renovation, and to businesses.

### *Washington, D.C.*

#### *1. Youth recreation*

Local public schools are conducting basketball clinics, dance clinics, after-school classes in computer science, a summer performing arts and sports program serving 150 students, and a mini-olympics. Projects of particular note include the following:

Carver Terrace Summer Day Camp: approximately 200 children from 2 to 18 years of age participated in a summer day camp sponsored by the Carver Terrace Tenant and Civic Association and the Girl Scout Council of the Nation's Capital.

Basketball and Performing Arts Camp: Approximately 85 youths between ages 6 and 18 participated in a day camp program at Brown Junior High School that emphasized personal development and pride through mastery of skills in dance and basketball. Brown Junior High School and the Weed and Seed Initiative sponsored the program.

Fun In the Sun Camp: Approximately 25 children, ages 4 to 6, attended a day camp program sponsored by Langston Dwellings Tenant Association and the D.C. Department of Recreation.

The Langston Dwelling Playground Restoration project: Under the sponsorship of Development Resources, Inc., Washington Urban League, and Langston Dwellings Tenant Association, 10 teenagers undertook a restoration project at the Langston Dwellings playground that included, among other things, cleaning up the playground, painting basketball backboards, improving the safety of playground equipment and grounds maintenance.

T-shirt and button-making enterprise: Community Research Institute is running a program for youth that provides them with training in designing, producing, and marketing t-shirts and buttons.

#### *2. Family preservation program*

The D.C. Commission on Social Services is developing a family preservation program. "Families Together" is designed to preserve the family unit by providing short-term, intense home based services to families where the removal of a child is imminent due to physical abuse or neglect. Each social worker assigned to the program will have a caseload of only two families, so that intensive services can be provided.

#### *3. Neighborhood commercial revitalization program*

The local Weed and Seed Steering Committee is working to coordinate efforts with the Neighborhood Commercial Revitalization Program, which is providing assistance to help businesses obtain capital and improve business management skills.

### *Wilmington, Delaware*

#### *1. Youth recreational activities*

With the help of "Seed" funds, community centers in the target area were able to extend their hours of operation this summer, thereby providing expanded recreational opportunities to the youths in that area, including basketball and swimming. Both Centers saw an increase in daily attendance and participation by teenagers since they extended their evening and weekend hours.

The Hicks Anderson Community Center is working to open a Fitness Center this Fall, thanks to Seed funds. It will purchase the equipment and hire staff for this facility targeted at young adults. Additionally, two of the Community Policing Officers, as well as other police officers, will serve as volunteer instructors at the Fitness Center.

#### *2. Mobile health care van*

The St. Clare Medical Mobile Unit operated by St. Francis Hospital in conjunction with its Ministry of Caring, began operation on April 9, 1992. This van travels to the Ministry of Caring's facilities to provide on-site health services to the homeless and poor in Wilmington. Eight of the Ministry of Caring's nine facilities are located in the target area for the "Weed and Seed" grant. St. Francis Hospital did not request any "seed" funding for this service, but is working to coordinate its efforts with the "Weed and Seed" program.

#### *3. Computerized job bank*

A computer assisted job search project, ALEX, operated by the Delaware Department of Labor's Division of Employment and Training, is slated to be expanded in the target area thanks to Seed funding. ALEX (Automated Labor Exchange System) provides access to local, statewide and national job opportunities. With Seed funding, a main computer will be placed in the Porter State Service Center, located in the target area. Additionally, a personal computer hooked up to ALEX will be placed in each of the three community centers noted above, likewise located in the target area.

## OTHER CITIES ADOPTING THE WEED AND SEED STRATEGY

As a result of the demonstration efforts described above, other cities are beginning to adopt the Weed and Seed strategy on their own. This approach focuses on Weed and Seed as a strategy: improved coordination among government at all levels, the private sector, and community groups; maximization of existing and available resources; and providing opportunities through empowerment initiatives.

In particular, Weed and Seed as a strategy emphasizes:

First and foremost, more active, better focused coordination as a means of deriving greater benefit from existing levels of federal (and other) funding;

The coordinating role of the United States Attorneys, building on their contacts with local and state governments, the community, and regional Federal agency officials (Regional Administrators, Regional Inspectors General, etc.);

The role of state enterprise zones, initiatives to augment people's choices in selecting schools and housing, and reforms to reduce regulatory impediments to economic development;

Definition of problems and development of solutions at the local level by coalitions of residents, service providers, and public officials; and

The role of private sector organizations—both profit and non-profit. There is a range of possibilities for such roles:

Joint funding and participation in projects with government;

Another approach—one which minimizes administrative burdens for the locality—is incorporation of privately run, neighborhood-focused public service programs into a Weed and Seed framework. Examples of such programs include adopt-a-school efforts, mentoring programs, efforts to rehabilitate housing, and in-kind gifts to community organizations.

The advantages of adopting Weed and Seed as a strategy, even without new funding, are that this approach:

Takes full advantage of the flexibility of States, localities, and the private sector;

Minimizes additional administrative burdens and strings;

Reflects better the unique characteristics of a site and the perspective of the people most directly affected and whose active cooperation is of key importance; and

Provides a way for many more communities to take advantage of the strategy—including communities served by private sector businesses and foundations which focus their efforts in a limited geographic area.

Springfield, Illinois has been a leader in developing this approach. The following results of Springfield's efforts provide examples of what can be accomplished with the Weed and Seed strategy, even without additional federal funding.

*Springfield, Illinois*

*1. Beautification and facility improvement*

A "Homestead" rehabilitation program initiated by the Springfield Housing Authority in May provides prospective tenants in the John Hay Homes with opportunity to earn rent credit for rehabilitation of vacant, damaged units. To date, 22 units have been cleaned up and renovated by residents participating in the "Homestead" initiative with $800 dollars earned in rent credit. Ten individuals from the Gateway Drug Rehabilitation Center have also contributed volunteer hours to this effort. Because of the success and interest in this program, it will be expanded throughout other housing authority developments.

Work involving Illinois Department of Corrections inmate work crews has been done to assist residents in clearing overgrown shrubbery, mowing lawns, picking up debris, and planting and caring for flowers. As of early August, 479 inmates and 128 staff have participated in a combined total of 3,170 man hours. This includes 186 man hours by 26 inmates and five staff devoted to renovation of the baseball diamond located in the John Hay development.

*2. Education and child care*

Springfield School District 186 hired staff for and implemented a Chapter One outreach project at the John Hay housing development on the first day of school, August 26, 1992. Staff hired include a site coordinator, parent educators, and a home/school liaison. The outreach program is designed to involve parents in a full partnership with the school.

The Springfield Housing Authority has identified a staff position for a truancy officer. This position is designed to promote improved communication amongst the school, truant students and parents.

The Springfield Housing Authority awarded a total of $4,015 in scholarships to nine residents to help pay for their education beyond high school. Five attend Lincoln Land Community College, two attend Sangamon State University, and two attend Eastern Illinois University. Scholarship recipients were honored at an awards program on August 20.

Architectural plans for conversion of a four-bedroom single family home to a day care center were drawn up and provided gratis by an architect member of the Junior League of Springfield and subsequently certified by another architectural firm. The Junior League, in cooperation with the Family Service Center of Sangamon County and the Springfield Housing Authority, plans to establish a day care center for teen parents in high school. The center will be located in Johnson Park.

*3. Employment and vocational training*

Funding through the Job Training Partnership Act provided for the employment of ten youths to assist with a summer nutrition program. In cooperation with the Illinois State Board of Education, the Springfield Housing Authority provided 9,784 lunches and 8,015 snacks to school-age children throughout the summer at three sites (John Hay Homes, Brandon Court, and Johnson Park). The program ended on Friday, August 14. During the lunch program at Brandon Court, the Illinois Coalition for Community Involvement and Illinois Churches in Action sponsored a "Little Lambs" storytelling program for children aged 3 to 5 and 6 to 12.

Through JTPA funding, the Springfield Housing Authority employed ten additional youth as aides as senior high-rise complexes, maintenance workers, and clerical assistants.

American Savings donated $1,000 dollars to employ public housing youths. Seven youths were employed primarily in the Johnson Park area to cut grass at vacant units and common areas.

*4. Drug prevention and demand reduction*

The Springfield Housing Authority sponsored six youths to attend the Illinois Teen Institute this summer. Founded in 1974, the Illinois Teen Institute on Substance Abuse is part of a national prevention program which emphasizes positive peer pressure. It also joins teens with adults to prevent alcohol and other drug abuse. ITI works in cooperation with Operation Snowball, Inc. and its Illinois chapters, with the Illinois Department of Alcoholism and Substance Abuse member agencies, local prevention groups and In-Touch. SHA plans to recruit ITI teen graduates as peer advisors and role models for other public housing youth.

*5. Family self-sufficiency program*

A new initiative for Springfield public housing known as the Family Self-Sufficiency Program (FSS) has recently been approved for funding through the U.S. Department of Housing and Urban Development at an annual level of $165,600 for a five-year total of $850,000.

This program is one of the HUD Homeownership and Opportunity for People Everywhere (HOPE) initiatives enacted in the National Affordable Housing Act of 1990. It builds on the experience of two prior HUD initiatives, the Project Self-sufficiency Demonstration and Operation Bootstrap.

Twenty-five families will receive Section 8 rental certificates based upon a comprehensive five-year, individualized plan designed to make the family economically independent. Each participating family will sign a Contract of Participation that spells out the services to be provided to the family and the obligations the family agrees to undertake. Each family's service package will be individually designed to meet its particular need for services, training, counseling and other assistance. The head of the family must agree to seek and retain employment.

The five-year contract may be extended up to two years for good cause and modifications may be made as family conditions change. FSS services may be withheld or withdrawn for failure to comply with the contract. The plan also provides for establishment of an interest-bearing escrow account to which the FSS family will contribute all or part of any income they would normally pay as increased rent due to an increase in their earned income.

A coordinating committee of service and governmental agencies has begun preliminary development of an action plan which must be approved by HUD prior to implementation.

*6. Resident representatives and initiatives*

Resident council elections have been held in the Johnson and Brandon Drive Public Housing communities.

The Sangamon/Menard County Crimestoppers has printed and distributed flyers throughout targeted neighborhoods to provide residents with a system to report crime on an anonymous basis. Plans for the future include newsletters to announce community activities.

*7. Sports and sport facility improvement*

The combined efforts of the Illinois National Guard and the Illinois Department of Corrections resulted in the refurbishing of the baseball diamond located in the John Hay Homes. Youths aged 6 to 16 will attend Saturday practice sessions this year in anticipation of full league play beginning in May 1993. The Springfield Cardinals provided a baseball mini-clinic as the opening event held on August 5. The American Business Club has donated monies for operation of the 1992 clinics.

The Springfield Youth Soccer Program was organized in conjunction with the New Frontier Management Corporation to establish a soccer league for the children of Evergreen Terrace, Brandon Court, John Hay Homes and other east side communities who have been unable to participate in existing soccer programs. The program utilizes the field at the Withrow Elementary School to conduct practice sessions.

Public housing youth participated in a golf instruction program organized by Nick Hoffman, golf pro at Pasfield Public Golf Course. The program included visits by Springfield's Kevin Gamble, who now plays professional basketball with the Boston Celtics. Through donations, all youths who participated received golf sports equipment. A program to provide interested youth with a means to earn greens fees has also been implemented.

*8. Resident management*

A resident management project in Brandon Court will employ two public housing residents as management trainees and three residents in Security.

*9. Head Start*

The Springfield Urban League is working to establish a Head Start program in the Brandon Drive neighborhood and the John Jay Homes development to serve several dozen three and four-year-olds and their families.

APPENDIX

*Background and Perspective: Other Federal Seeding Programs*

One of the key goals of the Weed and Seed strategy is to provide better coordination in the implementation of existing federal and other programs. The importance of this task can be judged by the size of federal seeding efforts already ongoing.

To get some background and perspective on this challenge, it is worth looking at the data for federal "seeding"-type program spending. Using the latest full fiscal year for which there is data, FY 1991, the following table provides a sense of the *existing* federal spending for seeding programs—even before the new funds added or sought in connection with this program. Funds included are those which were disbursed to the Weed and Seed cities (or, when the accounting system in place was limited, to the counties in which those cities are located). Where funds could not be traced for those programs to those levels, they were omitted from the table.

The funds listed in Column A are for those programs identified as part of the "Weed and

Seed" initiative in the FY 1993 Budget Proposal. Column B lists funds for related programs.

In addition, significant additional funds for social objectives (typically several times greater than the program funds summarized on the following table) come to these cities in the form of entitlement payments to individuals, but they have not been included in this chart.

The source of these data is the Government Division of the Bureau of the Census of the U.S. Department of Commerce.

TABLE 1—PERSPECTIVE ON SOCIAL PROGRAMS

[Federal Funding of Social Programs (see Key below) in Weed and Seed Cities for Fiscal Year 1991 (Traceable to the City level; or, where not available, to the County level. Where funds could not be traced to those levels for relevant programs, they were omitted.)]

| Cities | Column A | Column B | Total of A and B |
|---|---|---|---|
| Atlanta, GA | $100,377,323 | $316,220,964 | $416,598,287 |
| Charleston, SC | 14,958,346 | 62,675,408 | 77,633,754 |
| Charlotte, NC | 11,797,625 | 90,005,014 | 101,802,639 |
| Chelsea, MA | 27,663,049 | 142,319,541 | 169,982,590 |
| Chicago, IL | 250,186,815 | 1,620,994,991 | 1,871,181,806 |
| Denver, CO | 55,782,177 | 314,062,426 | 369,844,603 |
| Fort Worth, TX | 27,448,277 | 120,235,133 | 147,683,410 |
| Kansas City, MO | 22,361,084 | 142,716,365 | 165,077,449 |
| Madison, WI | 63,620,695 | 156,297,179 | 219,917,874 |
| Omaha, NE | 14,938,057 | 67,337,683 | 82,275,740 |
| Philadelphia, PA | 139,190,861 | 817,529,653 | 956,720,514 |
| Pittsburgh, PA | 55,188,000 | 360,203,612 | 415,391,612 |
| Richmond, VA | 67,684,664 | 223,872,802 | 291,557,466 |
| San Antonio, TX | 66,042,851 | 333,339,916 | 399,382,767 |
| San Diego, CA | 70,473,757 | 503,162,056 | 573,635,813 |
| Santa Ana, CA | 42,224,235 | 243,557,891 | 285,782,126 |
| Seattle, WA | 44,471,183 | 221,999,848 | 266,471,031 |
| Trenton, NJ | 85,273,408 | 290,790,656 | 376,064,064 |
| Washington, DC | 319,575,035 | 375,714,032 | 695,289,067 |
| Wilmington, DE | 18,727,399 | 79,330,815 | 98,058,214 |
| Special Site | | | |
| Los Angeles | 338,687,972 | 2,559,913,739 | 2,898,601,711 |
| Track II Site | | | |
| Springfield, IL | 89,686,479 | 312,579,143 | 402,265,622 |

Key: Column A funds are for the following programs listed in the fiscal year 1993 budget proposal for the "Weed and Seed" program as Seeding programs: DOL: Job Training Partnership Act; Youth Opportunities Unlimited; Senior Community Service Employment; Job Corps. HHS: Treatment Improvement Grants; Capacity Expansion Grants; High Risk Youth/Pregnant Women Prevention; Community Partnership Grants; Aid to Families with Dependent Children (AFDC) JOBS; Head Start; Community Health Centers. HUD: Public Housing Modernization; Housing Vouchers; Community Development Block Grants; Public Housing Drug Elimination Grants. Ed: Compensatory Education; School Improvement/PreCollege Outreach; Family Literacy; and Adult Education. DOT: Reverse Commute Demonstration Grants. DOA: Women, Infants, Children (WIC) Nutrition. Column B funds are federal payments for programs similar to those specified in Column A.

Mr. BIDEN. Mr. President, I rise as a cosponsor of this amendment to provide important assistance to the enterprise zones established in Chairman BENTSEN's urban aid package.

This amendment will, if adopted, provide the programs that go to the heart of the profound social crises facing the Nation:

The epidemic of criminal violence that robs families of their loved ones and neighborhoods of their vitality;

The scourge of drugs which must be met with tough law enforcement, and with steps that are even tougher—drug treatment programs that force hard-core addicts to beat their addiction;

The lack of economic opportunity necessary to assure that every citizen can contribute to a productive American society; and

The crisis of neglect that is leaving literally millions of American children ill-prepared for the challenges of the 21st century—all Americans must recognize that the future prosperity of our Nation depends squarely on the skills and knowledge of every American child.

These are the problems—and our Nation must respond.

This package responds to the crisis facing America with two major thrusts—

First, $200 million that will be available nationwide. These funds will support some of the Nation's highest priority needs—Head Start; Job Corps; Capital Access Program; and aid for children at highest risk of turning to drugs and crime.

Second, $300 million for aid to enterprise zones—this aid will be equally divided to boost crime and drug fighting efforts, job training programs, child care and education efforts, drug treatment programs, as well as housing and community development programs.

One of several key aspects of the amendment is that it requires State and local officials to tailor their program to meet the specific needs of the enterprise zone.

For example, while $1 of every $5 must be expended on criminal justice programs—it will be State and local officials who build the comprehensive anticrime program most responsive to their needs. These officials—who know best the challenges and problems facing their city or town—will develop plans for a balanced attack to put more police on the street, add innovative corrections programs such as military style boot camp prisons, or provide programs to combat youth gangs.

These are tough law enforcement measures that will reclaim neighborhoods from violent thugs and drug dealers. Specifically, the key crime fighting elements include:

Community policing—as many as 1,000 police officers could be added to the streets and neighborhoods hardest hit by violent crime and drugs. Community policing has already shown its promise—an aggressive effort in New York City has actually paid off with declines in violent crime by nearly 7 percent so far this year.

Military style boot camp prisons—as many as 4,000 young offenders could be taken off the streets and placed in tough, military-style boot camp prison if this amendment is adopted. The discipline and responsibility instilled by these programs has proven helpful in nipping young criminals in the bud—before they become hardened career criminals; and

Anti-youth-gang programs—as everyone knows, cities across America have seen shocking rise in violent youth gangs—not only must these be addressed with more police on our streets, and with more boot camp prisons available to take care of youthful offenders—but we must also provide positive alternative activities—such as boy's and girl's clubs and police athletic leagues that have proven track records at keeping children away from violent youth gangs.

In summation, Mr. President, this amendment provides the necessary first steps to rebuilding neighborhoods—for we cannot hope to bring business and opportunity back to any community if it is still controlled by, and ravaged by, violent criminals.

Nor can we hope to help any community where children—our hopes for tomorrow—cannot grow up safe from the influence of violent youth gangs, drugs, and crime.

Mr. President, this amendment focuses the tough law enforcement measures and other programs necessary to combat the crises facing urban and rural America. I urge every Member of the Senate to support this amendment.

Mr. RIEGLE. Mr. President, I understand the amendment is acceptable on both sides. On that basis, I ask that we now act to adopt the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, it is indeed acceptable on this side, and we commend the Senator from Michigan.

Mr. BENTSEN. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3187) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I want to thank the chairman of the committee and the ranking member for their courtesy, and my cosponsors.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3188

(Purpose: To except certain expenditures from qualified small issue bond limitation)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report, and the Chair reminds the Senator from Ohio that there are 5 minutes equally divided.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself and Mr. METZENBAUM, proposes an amendment numbered 3188.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert:

MODIFICATION TO $10,000,000 LIMITATION.—Subparagraph (C) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by inserting after clause (iv) the following new clause:

"(v) not to exceed $10,000,000 (determined without regard to the preceding clauses of this subparagraph) during the 3-year period ending after the date of such issue."

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CAPITAL EXPENDITURES.—The amendment made by subsection (b) shall apply to expenditures made after the date of the enactment of this Act.

Mr. GLENN. Mr. President, I offer an amendment that will promote the competitive position of small manufacturing firms to create jobs. My amendment modifies the Industrial Development Bond, the IDB Program, to allow for more private financing during the years following an IDB issue.

It also moves the limit on this up from $10 million to $20 million, a move that has not been done since the bill was originated or since this was placed into law back in 1978. It basically keeps up with inflation. We have had considerable success in Ohio with IDB financing of small business enterprises which for the whole United States provides about two-thirds of the new jobs for the country, When we are talking about job formation and different programs, this is one that has been valuable in Ohio.

I am pleased that at a time when everyone is looking to new means of promoting business growth such as enterprise zones, the Finance Committee with this bill has not lost sight of existing approaches such as the IDB Program which has proven its worth in Ohio and throughout the Nation. The pending urban aid bill retroactively extends the IDB Program which expired on June 30, 1992.

The IDB Program provides an important source of affordable financing necessary for small manufacturing businesses to establish new plants and modernize existing facilities. And in recent years as more and more banks restrict their lending, IDB's are the only source available to these firms.

Mr. President, I do not believe that our country is well served by the current movement from a manufacturing to a service economy. The IDB Program has served as a critical economic development tool for States that seek to preserve and expand their manufacturing base. And it targets smaller businesses and projects responsible for two-thirds of our Nation's job growth. Last year, my State of Ohio was the largest issuer of IDBs in the Nation. Ohio now has nearly 1,100 more manufacturing jobs than it would have had if it had not aggressively pursued the IDB Program last year. That is what this program is all about.

In 1968, the IDB Program limited each bond offering to $5 million. Ten years later—in 1978—the limit was raised to $10 million where it remains today. Funding for IDB projects is made up partially of public bond financing as well as private capital. Public bonds are tax exempt providing an investment incentive for bond holders. The private portion of a bond is fully taxed like any other investment. If the $10 million bond cap is reached, no additional capital expenditures can be made on an IDB project for 3 years following issue.

Mr. President, we live in a different world than we did in 1978. Manufacturing businesses have greater capital financing needs due to the demands of the global marketplace. They require advanced equipment for which they have to pay a price. And we have new kinds of businesses that are desperate for development capital. High technology businesses are faced with costs as great as $300 per square foot just to build modern facilities. These are the businesses of the future. They are being turned away at the banks. And they are being turned away from the IDB program.

Let me provide an example of the effects that the current capital expenditure limit is having in Ohio. A facility in Jackson, OH used IDB's to renovate an abandoned food processing plant, creating 73 new jobs earlier this year. This is in a community with 8.5 percent unemployment. The $9.2 million IDB package for this facility consisted of $6.5 million in public financing and $2.7 million in private capital.

This facility has been more successful than anyone could have imagined. In March of this year, the plant added 120 new workers. In June, another 50 were added. Now there are plans to add another 250–300 workers over the next few months. To do so, however, will require additional capital expenditures. Here lies the problem.

Under the IDB program, such capital expenditures are prohibited for 3 years—no matter whether they are public or privately financed. This restriction is halting the planned expansion, preventing new employment and costing the State of Ohio and the local community additional revenues.

Mr. President, if the goal of this bill is to promote economic growth and job creation, this is the perfect place to start. That is why I am offering my amendment which will allow expenditures of additional private capital of up to $10 million during the 3 years following an IDB issue.

Make no mistake, this is not an expansion of the public portion of the IDB program. It would still preserve the current limit on bond issues to no more than $10 million per project. it would, however, allow private capital expenditures of up to $10 million beyond the total bond issue so that bond-financed enterprises can expand prospectively. My amendment would only bring the total allowed for capital expenditures to $20 million. This brings the program more into line with capital financing needs of today's economy.

The additional private capital expenditures would be fully taxed like any other investment. The potential of the Jackson, OH project is just one example of the impact that this amendment can have. I have heard from businesses across the country that will be given new opportunities to start-up and expand if this amendment is adopted.

Mr. President, this amendment has been endorsed by the Council of Industrial Development Bond Issuers [CIDBI]. I will ask unanimous consent to print a letter in the RECORD from CIDBI indicating their support. And it has been endorsed by Ohio State Treasurer Mary Ellen Withrow who is a prominent national spokeswoman on issues concerning tax-exempt financing.

Mr. President, this amendment goes a long way to ensure that the goals of the bill before us are fully realized. It's good for growth. It's good for job creation. And it makes good sense. I urge my colleagues to support its adoption.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the Council of Development Finance Agencies to me.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNCIL OF DEVELOPMENT
FINANCE AGENCIES,
*Washington, DC, September 22, 1992.*

Hon. JOHN GLENN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR GLENN: The Council of Development Finance Agencies expresses its strong support for your effort to raise the capital expenditure limitation for projects financed with small-issue industrial development bonds. Your proposal to raise to $20 million the amount of total money that can be invested in these bond-financed manufacturing facilities will help create potentially thousands of new jobs in all parts of the country.

While this proposal will definitely help encourage the growth of the manufacturing sector in Ohio, it is equally important in States from Massachusetts to Illinois to Alabama to California. All across the country, small manufacturing businesses are being denied the opportunity to grow or expand because of the current $10 million limit, which was established back in 1978. Your amendment would remove this impediment. It would retain the current law limit of $10 million in tax-exempt financing per local business operation, thereby retaining the character of the existing program.

Raising the capital expenditure limit will allow plants to expand and modernize, enabling them to take advantage of market growth or increase their productivity to remain competitive. At the same time, the new

$20 million limit continues to ensure that this program is targeted to smaller companies. In today's manufacturing environment, a plant with $20 million of capital investment is considered a relatively small operation.

The Council of Development Finance Agencies represents more than 100 State and local finance agencies in 40 states, including the Ohio Department of Development. Our members are the State and local officials who are on the front line in the effort to encourage a strong manufacturing sector for the U.S. economy. We applaud the strong leadership that you have shown in working to raise the capital expenditure limit. Your amendment will mean a boost for smaller manufacturing businesses all across the country. We look forward to working with you in securing Senate passage of the amendment.

Sincerely,

GUY PAUL LAND,
*Legislative Counsel.*

Mr. GLENN. Mr. President, I understand this has been accepted on both sides. If it is acceptable, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, as manager for the majority, we have examined this amendment. We think it is a worthy amendment and something we strongly support.

Mr. CHAFEE. Mr. President, we have looked it over. It is a fine amendment. We commend the Senators from Ohio for presenting it.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3188) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3185

(Purpose: To disallow any deductions allocable to subpart F income from Cuba)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. MACK, and Mr. LIEBERMAN, proposes an amendment numbered 3185.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . NO DEDUCTIONS ALLOWABLE AGAINST CUBAN SOURCE SUBPART F INCOME.**

(a) IN GENERAL.—Section 952 (defining subpart F income) is amended by adding at the end the following new subsection:

"(d) NO DEDUCTIONS ALLOWED AGAINST CUBAN SOURCE INCOME.—

"(1) IN GENERAL.—No reduction shall be made under the last sentence of subsection (a) for any deductions allocable to income described in subsection (a)(5) which is Cuban source income.

"(2) CUBAN SOURCE INCOME.—For purposes of paragraphs (1), Cuban source income shall be determined under the sourcing rules generally applicable under this title, except that Cuban source income shall include income from the sale of goods or services if—

"(A) the goods sold are ultimately delivered for use in Cuba or if the services are performed in Cuba, or

"(B) any portion of the value of the goods sold was added in Cuba or if Cuban residents or citizens performed the services."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of enactment of this Act.

Mr. GRAHAM. Mr. President, I offer this amendment on behalf of myself, Senators MACK and LIEBERMAN. There were also a total of 52 cosponsors of legislation which contained the substance of this amendment.

Mr. President, we learned last week that Russia is finally pulling out its combat brigade from Cuba.

This is a historic moment. Many of my colleagues will remember that it was the imbroglio over the combat brigade that led in part to the failure to ratify the SALT II Treaty in the late 1970's. How the world has changed since then.

The Soviet Union and its Eastern bloc has disintegrated, democracy is sweeping the world, and Castro's Cuba remains more isolated than ever.

Last week, the Senate also took a historic step by approving the Cuban Democracy Act. Aimed at supporting democratic change in Cuba, the amendment is now being considered as part of the DOD authorization conference.

Mr. President, this legislation was cosponsored by 52 of my colleagues and supported by both President Bush and Presidential candidate Bill Clinton.

I ask unanimous consent that statements from the administration and Mr. Clinton be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, at the request of the Finance Committee, we dropped a tax provision from our original legislation. I am introducing this measure today as amendment to this tax bill. This is virtually the same language that was cosponsored by 52 of my colleagues, including Senator MACK, who is joining me today as a cosponsor of this amendment.

The amendment is simple. It would prevent United States subsidiaries from deducting business expenses associated with doing business with Cuba. Under current law, those business expenses are deductible.

Mr. President, this is outrageous. U.S. taxpayers are subsidizing U.S. subsidiaries—who are taking U.S. jobs offshore—so that those subsidiaries can conduct taxpayer-subsidized business with a dictator and a thug.

If my colleagues want to continue this practice—

If they want to continue to throw a lifeline to Castro's tyranny, at the very time Russia has eliminated its subsidies to Cuba;

If they want to subsidize one of the world's worst human rights violators;

If they want to continue to support the last Communist leader in this hemisphere;

And if they want to continue to encourage U.S. companies to export U.S. jobs to third countries, then they will oppose this amendment.

If on the other hand, Mr. President, my colleagues want to send a clear message in support of democracy and in opposition to tyrants and human rights violators, they will support this amendment.

Mr. President, the Senate has provided key leadership at a number of pivotal points when debating this country's relationships with authoritarian governments. From South Africa to Chile, from China to Bosnia, the Senate has shown leadership and resolve.

We should do no less in the case of Cuba.

EXHIBIT 1

U.S. DEPARTMENT OF STATE,
*Washington, DC., August 5, 1992.*

DEAR SENATOR GRAHAM: I am writing in response to your request for the views of the Administration on S. 2918, the Cuban Democracy Act.

As the President made clear in his April 18 statement on the bill, we endorse "the objectives of this legislation to isolate Cuba until democratic change comes to that embattled island." The President also made clear his commitment "to working with the Congress to pass a stronger, more effective 'Cuban Democracy Act,' which tightens the embargo and closes any unintentional loopholes that could benefit the Castro regime, while preserving the proper constitutional prerogatives of the Congress and the President."

We are committed to seeing a strong bill move promptly in the Senate, and look forward to enactment of such legislation this year.

Sincerely,

JANET G. MULLINS,
*Assistant Secretary*
*Legislative Affairs.*

### GOVERNOR BILL CLINTON REAFFIRMS SUPPORT FOR CUBAN DEMOCRACY ACT

(Press release from Clinton-Gore campaign headquarters, Sept. 18, 1992)

I want to reaffirm my support for the Cuban Democracy Act, which has been introduced by Senator Bob Graham and Congressman Robert Torricelli, and is now being debated in Congress.

Fidel Castro remains one of the world's most ruthless dictators, and the Cuban people are deprived of the most basic human rights. At a time when most of Latin America has joined the community of democratic nations, his regime stands as an island of tyranny.

The dissolution of the Soviet Union offers the United States an important opportunity to increase pressure on Castro. But now that Cuba no longer receives Soviet economic subsidies, foreign companies and subsidiaries of U.S. companies in third countries are beginning to bring hard currency to Cuba through new trade openings.

The Cuban Democracy Act addresses this important issue by tightening the economic embargo against Castro. At the same time, this legislation has the added benefit of opening new contacts with the Cuban people by authorizing telecommunications services, mail delivery, and by encouraging donations of food and medicine.

As I have said before, I support the Cuban Democracy Act. I hope the Senate and House will pass the legislation introduced by Senator Graham and Congressman Torricelli.

Hon. BOB GRAHAM,
*U.S. Senate.*

AMENDMENT NO. 3189 TO AMENDMENT NO. 3185

(Purpose: To exempt food and medicine from prohibition against deductions)

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have an amendment to the amendment, second-degree amendment, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3189 to Amendment No. 3185.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 14 and 15, insert:

"(3) EXCEPTION FOR FOOD AND MEDICINE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to deductions allocable to Cuban source income derived from the sale of food or medicine ultimately delivered to Cuba.

"(B) PRESIDENTIAL DETERMINATION.—Subparagraph (A) shall not apply to income derived from any item for any period for which the President determines that there is a reasonable likelihood that such item—

"(i) will be used for purposes of torture or other human rights abuses,

"(ii) will be reexported,

"(iii) will be used in the production of any biotechnological product, or

"(iv) will be used for purposes other than intended.

In making a determination under this subparagraph, the President may use any means the President determines appropriate, including onsite verification by Federal officials or officials of international organizations.

Mr. HARKIN. Mr. President, the amendment I am offering to the amendment offered by the Senator from Florida is very simple and straightforward, and I do not consider it in any way to be a hostile amendment but I hope a perfecting amendment. The amendment I am offering exempts food and medicine from the prohibition related to tax deductions from a Cuban source of income.

Mr. President, on August 10, Senator GRAHAM, my good friend from Florida, stated in this Chamber his intention that food and medicine should be permitted to flow for the benefit of the Cuban people between now and the fall of Castro. The distinguished Senator from Florida said:

Any shipments of food and medicine in the meantime will be granted for humanitarian reasons and will benefit only the Cuban people, not the Cuban authorities.

I was not present during that debate, but I would have seconded that amendment he offered and also the statement that was made. As I looked at this amendment, however, it appeared to me that food and medicine was not exempted.

My amendment simply states that food and medicine should continue to flow and that U.S. companies ought not be penalized if their foreign subsidiaries provide such items to the Cuban people.

My amendment ensures that food and medicine will be used only to benefit the Cuban people. The exemption would not apply if the President determines, that there is a reasonable likelihood that an item of food or medicine will be:

First, used for purposes of torture or other human rights abuses;

Second, reexported;

Third, used in the production of any biotechnological product; or

Fourth, used for purposes other than intended.

My amendment further gives the President the authority to use any means he may deem appropriate to make such a determination. The President may use onsite verification by U.S. Government officials, or onsite verification from international organizations such as the Organization of American States or the United Nations.

Mr. President, let me be clear what is meant by the phrase "used for purposes other than intended." The intention of the amendment is that food and medicine should be provided for the benefit of the Cuban people, not to feed Castro's military or the elite of his government.

Companies will not be penalized if their foreign subsidiaries provide food and medicine that is intended to benefit ordinary Cuban people. That is the reason that phrase was included and the President was given full authority to use any means he may deem appropriate, including onsite verification by U.S. Federal officials or international organizations, to make a determination.

Mr. President, unfortunately, the Graham amendment does not include an exemption for food and medicine from the prohibition related to tax deductions from a Cuban source of income. Without the exemption, food and medicine could effectively be denied to the Cuban people. Again, under my amendment, U.S. companies would not be penalized if their subsidiaries provide food to the Cuban people. I believe that is consistent with the spirit and intent of the Senator from Florida's statements on this issue.

I have limited my amendment to food and medicine for three reasons. First, because permitting the flow of food and medicine for humanitarian purposes is consistent with the reported intent of the Cuban Democracy Act—no one wants to see the Cuban people suffer from the lack of basic human needs.

Second, I do not believe that food should be used as a weapon in foreign policy. Also, U.S. food and grain embargoes never work and they hurt U.S. farmers and agribusiness. As any Midwest Senator will tell you, our food and grain embargo against the old Soviet Union did not work—it hurt United States farmers. They just got the grain someplace else. So it did not work against the old Soviet Union and it will not work against Cuba.

Third, by not seeking to exempt other items, we will still demonstrate our moral revulsion at Castro's continuing crackdown on human rights activists and the pro-democracy movement.

In that regard Mr. President, let me state that I have long advocated that our foreign policy must be guided by our fundamental values—democracy and respect for human rights. In fact, I authored the major human rights legislation that forms a part of our foreign policy law in 1975, 1976, and 1977—three separate amendments.

Internationally respected human rights organizations, such as Americas Watch, have documented human rights violations in Cuba. These organizations have also noted that Castro's government has increased its repression against human rights activists and the pro-democracy movement. According to Americas Watch, Cuban authorities have arrested 200 human rights monitors and political activists since 1989. Elizardo Sanchez, a respected human rights activist, has spent 8 of the past 11 years in jail for his beliefs. People such as Elizardo Sanchez and other human rights activists, are people I have defended around the globe, and Cuba is no different.

I have criticized U.S. administrations for failing to take a strong stance against authoritarian governments that abuse human rights whether they are on the right or on the left. I have criticized President Bush's past opposition to sanctions against South Africa's racist government. I joined others in offering amendments to put sanctions on the Government of Iraq, as many of us did. I have complained about George Bush's unwillingness to take a tough stance on China. Whether in East Timor, Kenya, Chile, Guatemala, or El Salvador, I have always fought for human rights and human rights activists. Again, in that regard, Cuba is no different.

Mr. President, our policy toward Cuba should encourage that Government to respect internationally recognized human rights. There is now a wide consensus, both in Cuba and around the world, on the need for a more open political and economic system in Cuba. There are policy disagreements over how to achieve that goal and whether certain measures are counterproductive, but there should be no doubt that we all want to see a Cuba without political prisoners—a Cuba that respects human rights and civil liberties.

But, Mr. President, while there is a general consensus on what we want to see happen in Cuba, there is also consensus on what we do not want to see happen in that country.

No one wants a bloodbath in Cuba as that country makes a transition to a post-Castro era. No one wants the Castro regime replaced by another regime that restricts freedom of expression, civil and political rights. And again no one, and I am sure including the Senator from Florida, wants to see the Cuban people suffer—either from the lack of individual freedom or basic human needs, food and medicine.

We do not want to see the Cuban people suffer and, therefore, United States companies ought not to be penalized if their foreign subsidiaries provide food and medicine to Cuba. Also, as I previously stated, U.S. grain embargoes do not work. They are harmful to us here in this country.

So, Mr. President, if the intention of the Senator from Florida is to ensure that food and medicine be granted to benefit the Cuban people, then I hope that my amendment will be accepted.

I yield the floor.

Mr GRAHAM. Mr. President, last week we spent considerable time debating the Cuban Democracy Act as an amendment to the Defense authorization bill, and part of that act, which was subject to close scrutiny, related to sales directly from the United States of food and medicine to Cuba.

These were the conditions that we provided on sales from this country as it relates to food. "Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba." The operative word is "donations" of food, not sales of food to nongovernmental organizations or individuals.

The amendment that has been suggested by the Senator from Iowa would provide a much more liberal standard, in terms of avoiding higher embargo for food produced in a third country such as Mexico into Cuba, than we would allow our own farmers because it would provide that sales to Cuba, not limited to sales to nongovernmental organizations, presumably sales to the Cuban Government, would be allowed under the second-degree amendment.

As it relates to medicine, what do we allow from the United States to Cuba under the Cuban Democracy Act? We allow: Exports or medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted except to the extent authorized by section 5(m) of the Export Administration Act of 1970, or section 203(b)(2) of the International Emergency Economic Powers Act, except in the case where there is reasonable likelihood that the item will be exported, will be used for purposes of torture or other human rights abuses, except in the case where there is reasonable likelihood that the item will be reexported, except in the case where the item to be exported could be used in the production of biotechnology products, and we require that all of the above be subject to onsite inspections or other appropriate means to verify that those conditions are being met.

We have a much laxer standard as to medicines produced by a United States subsidiary in a third country selling to Cuba.

I cannot see any justification for our having a strong position relative to the sale of United States products directly to Cuba, and then having a laxer standard in terms of United States subsidiaries selling the same products from a third country into Cuba.

The whole purpose of this amendment is to provide for a parity of treatment by a United States firm dealing directly from America to Cuba, and a United States firm dealing through a third country to Cuba. The effect of this is going to be to encourage the export of agricultural jobs and jobs in the medical-related areas to third countries by U.S. subsidiaries.

It is going to be a significant product, a lifeline to Fidel Castro at the time that we are trying to accelerate his demise, and it will forestall the day of a free Cuba, which will provide great economic opportunities for a new relationship between the United States and Cuba while providing to the people of Cuba, after 30 years of authoritarian rule, the benefits of democracy and respect for human rights.

If the Senator from Iowa would be prepared to accept the same restrictions, the same conditions on food and medicine going from a United States subsidiary in a third country to Cuba as we have already imposed on United States firms in this country dealing with Cuba, that would be an amendment that the Senator from Florida would consider to be acceptable. But I can see no reason to provide a more generous standard toward Fidel Castro by U.S. firms who are operating in third countries than we allow for U.S. firms operating in the United States of America.

Mr. HARKIN. Mr. President, again, I really do not know that there should be an objection to this amendment because, basically, the fact is that the Cuban people pay in hard currency to United States subsidiaries for food and medicine that is sent to their country. The question is, if they do not get it from U.S. subsidiaries, they are going to get it from somebody else. It is just like the grain embargo against the old Soviet Union. That is all it is; they will just get it from someone else.

Quite frankly, as the situation is right now, the United States right now permits the direct commercial export and sale of food and medicine under specific license to Vietnam. We permit the direct commercial export and sale of food to North Korea under specific license. I do not know of any country that abuses human rights any more than North Korea. We permit the direct commercial export and sale of food to Haiti. Don't anyone try to tell me that the Haitian dictators are better than Castro. They are both the same. The Haitian dictators running that country are killing their people. People are starving in Haiti. Trying to keep them from starving, we permit the direct sale of food to Haiti as long as it goes to the people.

I am not even arguing here for the direct sale of food from the United States. That has been covered under the Cuban Democracy Act. What I am saying is that here you have subsidiaries of U.S. companies, and they are good U.S. companies, people like Cargill, Continental Grain, Central Soya, Beatrice Foods, Del Monte, that do, indeed, sell food.

What I am saying is that this amendment still leaves on restrictions. The food must only go to the Cuban people. It cannot be used for reexport, cannot be used for torture, cannot be used for biotechnological purposes, or for any unintended purposes, and by that it means Castro cannot take the food and use it for his military and deny it to his people.

Furthermore, under this amendment, we give the President of the United States the authority, the ability, to determine by whatever means he deems is most appropriate, to investigate and determine if the food and medicine is being used for the right purposes. He may deem it appropriate to U.S. inspectors, but in case they are not available or we cannot do that, then he could use something like the United Nations or the Organization of American States.

Again, Mr. President, I do not think that this amendment ought to cause any problem. I do not understand—the Senator from Florida himself said in August that the intention was that we should permit food and medicine. I will read the statement again. Any shipments of food and medicine in the meantime will be granted for humanitarian reasons and will benefit only the Cuban people, not the Cuban authorities. My amendment, the way it is drafted, benefits only the Cuban people, not the Cuban authorities.

Again, I ask the Senator from Florida, is it his intent and purpose to cut off all food and medicine regardless of the source? Because what his amendment really does, I suggest to my friend from Florida, to cut off food sales from United States subsidiaries to Cuba. We are talking about $700 million a year.

Like I said before, the grain embargo that was put on under President Carter we know did not work. We have historical proof it does not work. Is it the Senator's intention to stop all food and medicine other than that which is donated? If that is his intention, that will not work because other companies who are not U.S. subsidiaries will sell it.

Then I ask if his intention is only to prohibit U.S. subsidiaries from selling the food, in which case it then becomes a grain embargo. I yield for a response.

Mr. GRAHAM. The answer is for over 30 years we have had an embargo against Cuba which includes an embargo on food and medicine.

United States firms, for over 30 years, have not legally been allowed to sell products, including food or medicine, to Cuba. That has been our embargo. The Cuban Democracy Act, which we adopted last week, and which I hope will soon become law, provides some openings to Cuba, specifically as it relates to food and medicine. This represents a liberalization. As it relates to food, the liberalization is: Nothing, in this or any other title, shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

Donations to nongovernmental entities, or directly to individuals. Contrast that, Mr. President, with the language in the second-degree amendment which states:

> Except as provided in subparagraph (B), paragraph 1, shall not apply to deductions allocable to Cuban source income derived from the sale of food or medicine ultimately delivered to Cuba.

It is the sale of food or medicine, not the donation, that would be allowed to a United States subsidiary in the third country, and ultimately delivered to Cuba, not restricted to being delivered to a nongovernmental organization or individuals, in order to avoid Fidel Castro taking advantage directly monetarily or indirectly by sustaining what is left of his support among the people of Cuba by being able to distribute food through the normal governmental channels.

So if there is a rationale for the United States of America adopting a policy that says United States subsidiaries in a third country, farmers in a third country, exporters in a third country, will be able to do business with Cuba on a sale basis, directly to the Government, while farmers, exporters and others in the United States of America itself can only do so by donation and to nongovernmental entities or to individuals—a position which represent a liberalization of our current practice and which is done for humanitarian purposes, but is also done in order to further our principal policy objective, which is to speed the demise of the dictator in Havana.

I cannot conceive of a rationale that would justify us having a policy that would encourage United States firms to prop up Cuba by using sales of food through a third country, why we would propose a policy that would provide for those economic benefits to flow to third countries, while frustrating and delaying the day that we will have a free Cuba and that market available to American farmers and Americans involved in export.

I do not believe that the policy is rational in terms of the structure of policy that the United States has followed for 30 years and will be following with the adoption of the Cuban Democracy Act, and I think it defeats our objective of accelerating the demise of this dictatorship.

Mr. HARKIN. If I might engage my friend from Florida in some questions and answers here. The Senator is right. There has been an embargo for over 30 years against Cuba. We have not been allowed to sell food or drugs directly to Cuba. I ask the Senator from Florida, has the embargo also covered United States subsidiaries from selling food and medicines?

Mr. GRAHAM. Yes. Until 1974, the embargo did cover U.S. subsidiaries operating in third countries. In 1974, in what I consider to be a fit of ill wisdom, that embargo on U.S. subsidiaries was terminated. And since that time, it has been allowed.

Unfortunately, Mr. President, since the demise of the Warsaw Pact, the Soviet Union, Hungary, Czechoslovakia, all of those countries that used to be the principal patrons and economic foundation of Cuba, since they have fled from Fidel Castro, we have seen a startling increase in the use of that loophole by United States subsidiaries to provide sustenance to Fidel Castro.

The purpose of the Cuba Democracy Act and the amendment before us today is to shut down that loophole and hasten the day when Fidel Castro will no longer be able to engage in a regin of terror over his people.

Mr. BAUCUS. Will the Senator yield for a question?.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. I would be delighted to yield, without losing my right to the floor.

Mr. BAUCUS. I wonder whether we can even enter into a time agreement here. We have been on this amendment for a few minutes now. Senators are wondering when there might be a vote. I am wondering whether the Senators can agree to a time agreement of 10, 15 minutes equally divided, say, on the Harkin amendment, and that there be a vote on the Harkin amendment. And at the end of that vote, there would be a vote on the Graham amendment or in relation to it, immediately following the vote on the Harkin amendment.

Mr. GRAHAM. Mr. President, 15 minutes is agreeable to the Senator from Florida with the understandings that, as it relates to the second-degree amendment, a motion to table would be in order.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be 15 minutes for debate equally divided——

Mr. HARKIN. Can we extend that to 20 minutes?

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be 20 minutes for debate, equally divided, on Senator HARKIN's amendment the time to be equally divided between Senator HARKIN and Senator GRAHAM, and at the end of the 20 minutes, there be a vote in relation to the Harkin amendment, and that their be an additional 10 minutes equally divided between the two managers on the Harkin amendment; upon disposition of the Harkin amendment, the Senate vote on or in relation to Senator GRAHAM's amendment, and that no other second-degree amendments be in order to the Graham amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, as I understand it, the managers would have 10 minutes equally divided on the Harkin amendment?

Mr. BAUCUS. Yes.

The PRESIDING. OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, again, the Senator from Florida is right. There was an embargo on food that was lifted in 1974. I might add the subsidiary embargo was lifted under President Ford. Not even Ronald Reagan, and I do not think you will find a more ardent foe of Castro and communism than Ronald Reagan, even Reagan never asked to undo what was done in 1974 for U.S. subsidiaries.

This is a drastic change in the position that the United States has had for a long period of time. I think that position has been right. Keep in mind, Mr. President, Castro has to pay hard currency for this food; it is not that we are giving it to him.

So, again I say, with the adoption of this amendment, what it basically says is: United States subsidiaries cannot sell food and medicine but foreign companies can go right ahead and sell them. That does not quite make sense to this Senator. This is like the old grain embargo of the past, against the old Soviet Union.

Second, the Senator talked about food to be donated under the Cuba Democracy Act. Let me read the regulation on that for the benefit of Senators. "The combined total domestic retail value of all commodities included in a gift parcel shall not exceed

$400 except for gift shipments to Cuba where the value shall not exceed $200."

If we start cutting overall food and medicine, the only thing that can go to Cuban people is a parcel worth $200.

Mr. President, I suggest quite sincerely that under this amendment, as it is drafted by the Senator from Florida, you are going to cause the same kind of unrest in Cuba that could lead to a bloodbath. You are going to repress the very people we are trying to help—the Cuban people and the people fighting for human rights and democracy. Sometimes, you have to approach things with a sharp sword and not a blunt action. The amendment of the Senator from Florida, I believe, is a blunt action, not a sharp sword.

I think my amendment quite correctly says that food can go to the Cuban people, as long as it is not used for: torture; reexport; if they do not use it for biotechnological purposes; or for uses other than intended—which means they cannot use it for Cuba's military. Further, the President is given broad authority under my amendment to ensure that this happens; he can either use onsite inspection by United States inspectors, he can mandate that, or he can use other inspectors from the United Nations or the Organization of American States. So, the President can make a determination.

Mr. President, again I think this amendment is one that follows through what the Senator from Florida said in August; we ought to permit food and medicine to go to the people of Cuba. I think so too.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, again let us focus. We are dealing here with not firms doing business in the United States but with the subsidiaries of United States firms doing business in a third country. The question before us is what should be the standard for those subsidiary firms in their commercial dealings with Cuba. We have had for 30 years virtually an embargo on all products of direct shipment to and from the United States to Cuba. The Cuban Democracy Act represents a liberalization of that policy particularly as it relates to food and medicine and also to some important services such as telecommunications and postal service, a liberalization.

Now the question is, should we be even more liberal in relationships with Cuba by United States subsidiaries in third countries than we are proposing to be directly from the United States.?

I can see no rationale for doing so. If the Senator from Iowa had proposed that we allow food to go from a third country through a U.S. subsidiary under the same conditions that the U.S. firm could ship it directly from the United States itself that is donation, to nongovernmental agencies or direct individuals, I would support his second-degree amendment. That is not what he proposes.

He proposes to allow sales of food to Cuba to the Cuban Government which clearly will have the effect of sustaining Fidel Castro and lengthening his already too long tyrannical rule over that island nation.

In the area of medicine, we have passed just last week some very appropriate humanitarian standards that will substantially expand the availability of medicine for appropriate purposes within Cuba. But we also placed some procedures to assure that it reached those appropriate purposes, including the requirement of on-site verification so that we knew that it was being used for humanitarian purposes and not, for instance, for reexport or one of the other impermissible purposes. That is not contained in the amendment of the Senator from Iowa.

Again, if the Senator from Iowa would take the position that the same strictures, the same procedures, the same controls should be applicable to United States subsidiaries when dealing from a third country as we are imposing under this liberalized procedure for United States firms dealing directly with Cuba, I would accept his amendment and we whould be on the way to the adoption of this important change in our tax law.

But I cannot accept an amendment that would set up a dual standard providing greater benefits to U.S. firms doing business in third countries than we are allowing them in our own country and clearly fostering activities that are adversary to the United States foreign policy and national security in our own hemisphere.

So, as submitted, I strongly object to the second-degree amendment of the Senator from Iowa and urge my colleagues to reject it and then to proceed to adoption of the underlying amendment.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. HARKIN. Mr. President, again I ask, and in the most friendly manner to my friend from Florida, is it really his intention to cut off food and medicine to the people of Cuba? If that his intention?

Mr. GRAHAM. I say to the Senator from Iowa, it is not my intention. And what I am saying is that the bill that we passed last week represents an expansion of the opportunity for the United States to engage in food and medicine to Cuba.

Mr. HARKIN. In humanitarian aid?

Mr. GRAHAM. Yes.

Mr. HARKIN. And I point out the total dollar value would only be $200; you do not get much food for that.

Mr. GRAHAM. That provision was repealed as part of the Cuban Democracy Act. There is no longer a dollar restriction on the amount that can be donated to an individual in Cuba. That is one of the liberalizations contained in the Cuban Democracy Act.

Mr. HARKIN. If the Senator will yield, I have the regulations here from the Commerce Department, dated August 1992.

Mr. GRAHAM. Those, I say to my friend, are under the law as it exists today.

Mr. HARKIN. Yes.

Mr. GRAHAM. I am discussing the law we passed last week in the United States Senate which is today being conferenced with the House of Representatives, the Cuban Democracy Act, which will allow a donation unrestricted in terms of dollar amount to nongovernmental entities and to individuals, but would not allow the sale, the commercial transaction to the Cuban Government.

Mr. HARKIN. I am not suggesting a direct sale, although we sell to Vietnam, and we sell to North Korea, and we sell to Haiti. I am sure the Senator feels that the dictators in Haiti are every bit as bad as the dictator in Cuba.

I hope the Senator will feel that way. And yes, we do sell food directly to Haiti. We do not have restrictions on it. We sell rice, beans, wheat flour, cooking oil, milk, corn, and corn flour directly to Haiti.

In the case of the Haitian embargo, items such as rice, beans, wheat flour, cooking oil, milk, corn and corn flour, all food staples in Haiti, are specifically exempted from any export restrictions. What I am trying to do here, is to say food and medicine by United States subsidiaries ought to be allowed to go the help the Cuban people, provided that no item is used for: torture; reexport; in the production of biotechnological product; or for purposes other than intended.

Mr. GRAHAM. I would point out to the Senator from Iowa that those sales of foodstuffs are directly from the United States, a policy that frankly I opposed. I believe that the loosening of the embargo vis-a-vis Haiti was an error in foreign policy, and said so at the time.

Having said that, it is a different issue to say that we should set one set of standards for a U.S. firm dealing directly from the United States with a foreign country and then to say we are going to have a more generous policy, a more open and willing policy, for the subsidiary of that firm doing business with a country with which the United States has no political or economic relations, a country that has fomented revolution throughout this hemisphere and much of the world.

Mr. HARKIN. First of all, there may be a difference of opinions between the two of us. I do not believe we should have an embargo on rice, beans, wheat flour, cooking oil, milk, corn and, corn flour to Haiti. I believe we ought to allow the foods to go to the people of Haiti. The Senator does not. I do not believe we ought to penalize the Haitian people any more than they are suffering right now.

That is perhaps the disagreement with us on Cuba. I do not believe we ought to penalize the Cuban people any more.

Again, subsidiaries of United States companies operate under the laws of other countries—Canadian, English, and Argentinian law. The Senator probably knows under that the laws of those countries, companies are allowed to sell foodstuffs and other items to Cuba. My amendment only exempts foodstufffs and medicine.

What the Senator from Florida is saying is that if companies in other countries can go ahead and sell to Cuba, then we will penalize their parent companies in this country. That does not seem to make much sense to me. We shouldn't penalize a U.S. parent company because a subsidiary company is following the laws of the country in which they are domiciled.

I find that kind of an odd argument to make. Under the Senator from Florida's amendment we penalize U.S. parent companies if their subsidiaries follow the laws of the countries in which they are located. The United States would demand that subsidiaries of Japanese or German, or any other foreign company operating in this country that they follow the laws of America. We would not permit another country to say that a company here cannot follow our laws. We would not permit that.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. GRAHAM. Mr. President, a final closing comment, and I am prepared to yield back whatever time remains.

Mr. President, one of the essential elements of the Cuban Democracy Act which passed this Senate last week over a tabling motion by a margin of better than 2 to 1 was exactly what the Senator from Iowa has just been criticizing.

The Cuban Democracy Act has as one of its strongest provisions the extension of the United States embargoes on Cuba to subsidiaries of United States firms. That is a restoration of law that existed prior to 1974 and is an essential element of the Cuban Democracy Act.

Therefore, this amendment relative to tax treatment is the corollary, is the fiscal completion of that policy decision.

We are not just allowing commercial transactions. As long as we allow these deductions to be taken, the U.S. taxpayers are subsidizing commercial trade with Fidel Castro. The U.S. taxpayers are subsidizing policies by U.S. subsidiaries in third countries not only to export our jobs but also to undercut our foreign policy. That does not make any sense.

Mr. President, I think we spoke strongly on that matter last week when we passed the Cuban Democracy Act. The House of Representatives, since we acted, has passed the same bill by also better than a 2-to-1 margin.

I believe we should complete the action by defeating the amendment, well intended, but I think inappropriate to the state of U.S. economic policy that we are attempting to advance in order to accelerate the demise of Fidel Castro. We should defeat the second-degree amendment and proceed to the adoption of the underlying first-degree amendment.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HARKIN. How much time do I have?

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes and 26 seconds.

Mr. HARKIN. I will just wrap it up here.

Mr. President, the Senator from Florida knows full well that we cannot stop subsidiaries of United States companies from selling to Cuba. There is no way that we can do that. But what the Senator wants to do is to say——

Mr. GRAHAM. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. GRAHAM. The Senator understands that before 1974, we had this and we enforced it. The Senator understands that today we have this as it relates to Korea and Libya.

Mr. HARKIN. And the reason we had it before 1974 and the reason it was lifted was because the countries in which these companies were domiciled said that they had to follow the laws of those countries. They objected strenuously to the United States. The Ford administration, lifted the restriction because we want comity with these other countries. Companies from other countries that operate here must operate under our laws, not the laws of other countries. In the same way, U.S. subsidiaries must operate under the laws of the counties in which they are located.

The Senator from Florida cannot stop U.S. subsidiaries in other countries from selling food, but what he can do, is penalize the U.S. parent companies. That is what he is doing.

Mr. GRAHAM. The Senator understands that we are imposing our embargo again both in North Korea and Libya, against United States subsidiaries in third countries doing business with North Korea and Libya, in the same way we would impose it more or less relative to Cuba, reestablishing a policy that existed from 1971 to 1974.

Mr. HARKIN. We allow direct sales of food from the United States to North Korea under specific license. We allow direct sales of food from the United States to North Korea, as well as Vietnam and Haiti.

Lastly, I just say, Mr. President, if we really want to get food and medicine to the people of Cuba, the second-degree amendment should be adopted. I believe that the amendment, as drafted by the Senator from Florida, will, in fact, cut off that food and medicine. That is not what we want to do.

In my amendment, I have restrictions to ensure that food benefits only the Cuban people and I have given the President every ounce of authority he needs to make the determination whether or not the rules are being followed. He can have on-site inspections by U.S. officials or he can use any other inspection procedure he wants. The food can only go to the Cuban people. It cannot be reexported. It cannot be used in the production of any biotechnological product. It cannot be used to feed the military forces of Cuba.

On that basis, I have always thought my amendment was reasonable and one that was in keeping with what we try to do whether it is in Haiti or Cuba or any other country.

On Haiti, I think the Senator and I disagree. I do not think and do not believe we ought to cut off corn flour, wheat flour and milk to the people of Haiti. I do not believe that. And, I do not believe we should deny such items to the people of Cuba. So maybe there is a fundamental disagreement here. I did not think there was.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa has yielded back the remainder of his time.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as I see what is taking place here this evening, the Senator from Florida, who last week succeeded in passing a bill which said that no foreign subsidiary of a United States company could sell to Cuba, is now saying that, should such a foreign subsidiary sell to Cuba, in effect, there would be a gross tax.

In other words, if it cost that subsidiary $700 to produce something and they sold it for $1,000 to Cuba, that $1,000 would be taxable; there would be no deduction for materials, for labor, for anything. That, as I understand it, is the amendment of the Senator from Florida.

Now the Senator from Iowa is saying, maybe so, but, I, the Senator from Iowa, wish to make an exception to that by saying it would not apply to food and to medicine.

Mr. HARKIN. Might I respond?

I think there is one correction that needs to be made.

Mr. CHAFEE. All right.

Mr. HARKIN. The Senator might correct me if I am wrong, but I believe the amendment of the Senator from Florida says that, if a subsidiary sells to Cuba, the taxes they pay in the domiciled country in which they reside cannot be deducted from the parent company's taxes that they pay. They cannot take a deduction for taxes they pay in another country.

Mr. CHAFEE. Maybe the Senator from Florida can explain.

Mr. GRAHAM. The Senator from Rhode Island properly described the amendment.

It is section 952, subpart F, Internal Revenue Code, which relates to controlled foreign corporations, section (a)(5) states in the last sentence that: "For purposes of paragraph (5) income described therein shall be reduced under regulations prescribed by the Secretary," of the Treasury "so as to take into account deductions—including taxes—properly allocable to such income."

As the Senator from Rhode Island used in his example, if there were $700 of deductions, which might include the cost of goods sold, transportation costs, as well as taxes, that would be allocable to the $1,000 of income earned by a sale of a United States subsidiary in a third country to Cuba. They would not be allowed to take that $700 deduction, including taxes, in arriving at their income tax due to the U.S. Government, thus eliminating the subsidy that the U.S. taxpayers are not being coerced into paying to Fidel Castro.

Mr. CHAFEE. So the Senator from Iowa would have an exception to that for medicines and food. And the Senator from Florida said, do you not realize that United States farmers, or United States prescriptive drug manufacturers, drug manufacturers, cannot sell to Cuba so why should the overseas subsidiaries be permitted to do this?

I myself think we are getting into heavy weather here with these solo embargoes that we embarking on by the United States. I voted against the proposal of the Senator from Florida last week. As he said, he won overwhelmingly. He won 61 to 24. That was the sentiment of the Senate, that, since we cannot sell it ourselves from here, anything, that our overseas subsidiaries should not be permitted to do the same.

I do not agree with him. I think, as I mentioned before, this is very tricky business, saying that an overseas subsidiary, entirely owned subsidiary of a U.S. corporation, cannot do something overseas that is permitted in the country where it is domiciled, as the Senator from Iowa said.

So I am not persuaded that we should extend the policy that I am not sure is right, that is this total embargo of everything from the United States to Cuba, and that we should extent it to our overseas operations. So I am not in favor—I support the Senator from Iowa.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Montana has 5 minutes.

Mr. BAUCUS. Mr. President, I am not particularly enamored of either of these amendments myself so I am not going to speak vigorously against them.

I yield 3 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. MACK. Mr. President, I thank the Senator for yielding. I just want to take this moment to express my support for the amendment of my colleague, Senator GRAHAM, and ask my colleagues to vote against the amendment offered by the Senator from Iowa.

Early it was noted that Ronald Reagan, a staunch anti-Communist, did not call for this type of legislation. I would just remind people the reason we need to do what we are doing tonight is because it was the fall of communism, that took place in the late 1980's, that set up a situation where U.S. subsidiaries moved in to fill the void created by the fall of communism and the failure of the Communist countries to provide the resources to Fidel Castro.

The Graham amendment allows for the donation of food, from a humanitarian perspective, to the people of Cuba. For those who may have a concern that what we are doing here is tightening this to such a degree that we are hurting those people on a day-to-day basis, let me tell you what the people of Cuba who have defected from Cuba say to me. They say keep tightening the screws. They say make it more difficult for Fidel Castro. We want to hear this message from the free world that you support us.

So, again, I ask my colleagues to reject the second-degree amendment and support the amendment of my colleague from Florida.

I yield the remainder of my time, Mr. President.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM. I move to lay on the table the second-degree amendment offered by the Senator from Iowa.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Florida has asked for the yeas and nays. On the underlying amendment?

Mr. GRAHAM. I move to table the second-degree amendment and request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays have been ordered on the motion of the Senator from Florida to lay on the table the second-degree amendment of the Senator from Iowa.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. PRYOR], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 37, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—51

Bradley
Brown
Bryan
Bumpers
Burns
Byrd
Cochran
Cohen
Conrad
Craig
D'Amato
Daschle
DeConcini
Dole
Domenici
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Hollings
Kerry
Lautenberg
Lieberman
Lott
Mack
McCain
McConnell
Mitchell
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop

NAYS—37

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Breaux
Chafee
Coats
Danforth
Dixon
Dodd
Durenberger
Exon
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kohl
Leahy
Levin
Lugar
Metzenbaum
Mikulski
Moynihan
Pell
Roth
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NOT VOTING—12

Bond
Boren
Burdick, Jocelyn
Cranston
Gore
Helms
Kasten
Murkowski
Pryor
Rudman
Seymour
Wirth

So the motion to lay on the table the amendment (No. 3189) was agreed to.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. There is an order which requires us now to vote on the underlying amendment.

Mr. MITCHELL. Mr. President, I yield the floor until that is completed.

The PRESIDING OFFICER. The question is on an agreeing to the underlying amendment.

The amendment (No. 3185) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## VETO MESSAGE ON S. 323

Mr. MITCHELL. Mr. President, I ask unanimous consent that, upon receipt of the veto message on S. 323, the title 150 gag rule legislation, reading be dispensed with; that it be spread upon the Journal and laid aside; and that the majority leader may return to its consideration after consultation with the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

## START AGREEMENT

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Republican leader on the floor and I would like, through the Chair, to inquire of the Republican leader on a matter which we discussed here on the floor 2 days ago.

As we all know, the President negotiated and entered into the so-called START agreement, and the President has now requested that the Senate act to ratify that treaty.

I have advised the distinguished Republican leader of my intention to proceed to that matter on Monday. I have been advised that there is objection on the Republican side to proceeding. I would like to inquire of the Republican leader of the current status of the matter.

As I stated two evenings ago, if we are to be confronted with a filibuster on the START Treaty, I would like to know that in advance so we could take steps to file the cloture motion in order to set up a cloture vote on that early next week.

I inquire of the Republican leader for any comments he may have on the matter at this time.

Mr. DOLE. Mr. President, I will just indicate that I think—I know—there is opposition to taking up the START Treaty on this side of the aisle.

The President also hopes that we can do the START Treaty before we adjourn.

So I would suggest that as I understand the opposition on this side is firm, and I have received a letter from two of my colleagues on this side outlining a number of requests to object to any agreement that might interfere or might lead to moving to that matter, it would seem to me that, if the majority leader insists on moving ahead to the START agreement, it would have to be done under cloture.

Mr. MITCHELL. Mr. President, I thank my colleague. I regret the response that I received, but I recognize the right of any Senator to utilize the rules to object to proceeding to any measure.

I want to make clear to the Members of the Senate my belief that the START agreement is good for the country. When negotiated, I publicly commended the President for his efforts in that regard. I now repeat my statement in that regard.

I commend President Bush for his efforts in that regard, and I will, to the extent possible, within the rules, attempt to comply with the President's request to gain ratification of that treaty.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WALLOP. It is no secret to either the majority leader or many others that I am one of those who does not wish to filibuster. But I would say to the leader that none of the three committees who have jurisdiction over this allowed any skeptics in any of their hearings.

There are serious questions which have not been answered. It is the belief of the Senator from Wyoming that the chairman of the committee, and the ranking member of the committee, could not ask a series of questions which I think the Senate ought to have answers to.

The Senator from Wyoming believes that this is a serious commitment on the part of the United States, so serious that the Senator from Delaware [Mr. BIDEN] has attached two—not reservations but, two—conditions to the treaty, dealing with a problem that is inherent to the treaty as it sits. Otherwise the conditions would not have been attached.

I intend to ask of the chairman of the Armed Services Committee, and the ranking member, the chairman of the Foreign Relations Committee, and the ranking member, the chairman of the Intelligence Committee and the ranking member, a series of questions which I believe the Senate is entitled to hear before we proceed with that resolution of ratification.

Somehow or another, the idea that we would have a debate on this treaty during a holiday when certain Members have deep religious convictions that require them to participate, and others will take advantage of it because we are in campaign season, does not seem to the Senator from Wyoming to be a responsible move on the part of the Senate to take something so serious as that and have no one here with whom to debate, have no one here to respond to questions, ultimately, to deal with the certain amendments that might be offered on the basis of the response or lack thereof to those questions.

The Senator from Wyoming, it is no secret, does not have a phantom argument. But in this instance the President of the United States and the President of the Russian Republics made two agreements; an agreement between themselves in June of this year, which says the American administration is willing to ignore in the pursuit of trying to have a very, very serious commitment of the United States.

So it is not the desire of the Senator from Wyoming to delay the treaty, but it is very much my concern to explore this with the appropriate committee officer and other Members of the Senate. I do not think that it is a good idea to try to do that during the day in which there are no votes and therefore probably no Senators.

Mr. MITCHELL. Mr. President, if I might respond to the Senator, I wish to make clear that the proposal I made for considering the treaty was to have a minimum of 4 hours of debate on Monday, and more if the Senator from Wyoming desires; and, then to have 5½ hours on Tuesday devoted entirely to an amendment or amendments of the Senator from Wyoming, during which time he could present whatever amendment he chooses, debate it in whatever manner he chooses, and then I proposed voting on the Senator's amendment and on the treaty no earlier than—I believe it was—4:30 Tuesday.

I will be perfectly willing to expand the time for debate on both Monday and Tuesday, if the Senator feels he needs more than 5½ hours for his amendment. I will be pleased to consider that. What I have been told is there is simply an objection, and therefore we have no alternative but to proceed. I share the Senator's expressed view that this is a serious matter, and I share the view that this amendment should be thoroughly considered. Does the Senator wish to have more time on Tuesday?

Mr. WALLOP. I say to the leader, it is very difficult to craft an amendment prior to receiving the answers, or lack of answers on the part of the appropriate committee chairmen. I do not believe that the Senate is in a position to make an informed judgment. I tossed this around a little bit this morning, and it came as no surprise to me, but it ought to come as a discomfort to the Senate that a lot of people did not know there were two binding conditions to the resolution of ratification.

So I do not know yet, pending answers to questions, what amendments may be necessary. It is difficult to enter into a time agreement on amendments the scope of which and design of which will be dependent upon the answers or lack thereof that come.

My worry is that we will not have the six appropriate Members of the Senate present to answer or respond to the questions. There is nobody here in this Chamber that does not know what a frustrating thing it is to pose questions and to receive no answers, and to assume that the Senate has debated.

So I must insist that if we are going to take a step as serious as this, long after the President has left office, and long after many of us in this Chamber have left office, this will still be the thing which controls the behavior of this country in the years to come. I do not think that a treaty that is as serious as this simply ought to be constrained in the last few hours of a very difficult session, without proper time for Members to understand what is and is not known about it.

I say that I have received calls from significant members of the administration who are concerned with this and could not answer the questions for me. And if the administration cannot answer the questions, it seems that at least the Senate might bother to concern itself with the responses before it acts.

I do not wish to do anything but try to provide a means by which the Senate understands what it does and does not know about these treaties. That is another thing I say to the leader. Is it not an unusual circumstance in which we have one resolution of ratification that takes care of both the treaty and the protocol? Would it not be normal that we would have dealt with the June 13 Lisbon document first and then with the treaty second?

Mr. MITCHELL. Mr. President, I will say to the Senator that I would like to be in a situation where we could devote an unlimited amount of time to this measure or to any measure before us. The circumstances are such that it is not possible, and I therefore feel I have no alternative but to proceed in the manner that at least represents an effort to get it done.

Those of us who serve in the Senate, and those of us present who have served as majority leader, know how limited are the powers of the majority leader. One power we do not have is to compel the presence of any particular Senator. I will encourage the Senators mentioned by the Senator from Wyoming as the persons that he will inquire of to be here. I know the chairman of the Foreign Relations Committee will be here. I do not know the schedules of all of the others to which the Senator referred. But I will do my best to have them here on Monday to try to respond to any question that the Senator has.

Mr. WALLOP. Would the leader be disposed to having a closed session of the Senate, in which certain problems that have been brought to my attention might be displayed at least in front of the Senate? I say again to the leader that I do not understand why it is that we would try so to constrain ourselves in the consideration of such a serious document without the information that is necessary for Senators to make serious judgments.

And the Senate goes to cloture and the germaneness rules apply. My guess is that we have—we have heard problems with the conditions under that, and the Senate is faced with a very serious commitment of the United States with no understanding of what is in these treaties.

I say again to my friend that we have not had any committee hearings to hear any skeptics. The Senate Armed Services Committee, from which the Senator's amendment came, has had one hearing. We had 20 on the INF Treaty. The Armed Services Committee was not permitted to hear skeptics on this treaty; nor were there any skeptics of consequence that appeared at any of the other committee hearings.

Mr. MITCHELL. Well, Mr. President, it is not my wish or intention to debate the matter this evening. I will simply say to the Senator that I do not accept the characterization that the Senate has no idea what is in these agreements. There may be some Senators who have no idea what is in the agreements, and each Senator can and will, of course, speak for himself. That will be a judgment to be made by each Senator.

I would like to do it in a way that complies with the President's request, that is in the national interest, and that accommodates the wishes of every Senator and still get the treaty acted on prior to the time of adjournment. It now appears quite clear that all of those interests cannot be reconciled, in view of this colloquy, and I accept that. The Senator has the right to object and conduct himself appropriately under the rules, as do the rest of us, and we will simply have to proceed as best we can. Ultimately, the decision will be made by the Senate.

I believe I had three Senators wishing me to yield. I yield to Senator PELL.

Mr. PELL. My recollection is that we did have some skeptics. How many, I cannot recall. We had 10 or 15 hearings, and as far as the set of questions goes, this is news to me.

Mr. MITCHELL. I yield to Senator BIDEN.

Mr. BIDEN. Mr. President, I respect the point of view of my friend from Wyoming, but I reject the notion that we do not know what is in the treaty. We did a lot of work on the treaty. We held hearings on the treaty. We heard from skeptics. He may not think they are skeptics that he would like to hear from. We had closed and open hearings, and I cannot speak to what the Armed Services Committee did, but I can tell you what the Foreign Relations Committee did.

I am prepared, and the chairman, obviously, of the full committee is fully capable and prepared to speak to this.

I also will be here if the Senator wants on Monday. I will do whatever he wants. I believe I can answer his questions. The answers may not be the ones he wants to hear, but there are answers to questions.

I quite frankly think if you look around the Chamber and you look around the country and you look around at the people who are involved in both for and against arms control generally over the past two decades, there is a view widely held that there is clearly sufficient information upon which to base a judgment on whether to ratify or not.

I will be here if the chairman wishes me to and the leader wishes me to and my friend from Wyoming, not that I am a repository of all knowledge, but I did spend a lot of time on this. We did have extensive hearings.

Mr. MITCHELL. Mr. President, I yield to the Senator from Connecticut.

Mr. COHEN. Mr. President, could I ask a question of the Senator from Wyoming?

Mr. WALLOP. Yes.

Mr. COHEN. Have the questions the Senator from Wyoming has been put in the form of writing and submitted to the six individuals that he would like to have respond to them? Perhaps if they have not, over the weekend the ranking members of Armed Services, Foreign Relations, and Intelligence might have an opportunity to try to respond to the question or at least do the research that might be required in order to satisfy the Senator from Wyoming.

Mr. WALLOP. I say to my friend he put the finger on every problem faced with these treaties. If they cannot answer them and have to go seek the answers, then that tells you something about the level and nature of where we are with our understanding of these treaties. They have not been all done because in honesty the Armed Services Committee of which we both are members, suddenly decided under some set of requests or pressures, or otherwise, to issue its report when we on the committee had asked to have certain people appear before us.

The Senate Armed Services Committee report is a minimal document that expresses some reservations about this treaty. Apparently, we are going to allow those to pass without comment other than the report that came with it. And I am trying, on the basis of what we did not do in the Armed Services Committee, what is not contained in the report of the Foreign Relations Committee or the Intelligence Committee, to get some understanding of what it is that this Senate is about to do.

I would say again to the leader this is not the usual way in which we go about making serious decisions with regard to treaties on the nature of arms control in the Senate. We have never done one in such constrained circumstances and we have never done one with a resolution of ratification embracing by its resolution two separate documents, the second of which is the contingency of the first.

And we also have the reservations that have been expressed, or the so-called Biden reservations, that really talk to a situation that this Senate cannot control. The statement by the Russian Republic that this treaty would be null and void until Byelorussia, Kazakstan, and Ukraine came into a circumstance that they cannot come into, and hence the Biden conditions.

I do not intend to debate it here, but these are not lighthearted events, and the Russian Republic has basically told us that this treaty does not go into effect though we will have ratified it until certain things take place that cannot take place.

Mr. MITCHELL. Mr. President, I thank my colleagues.

Under the circumstances, it is my determination that the best way to proceed would be for the Senate to debate the matter on Monday for so long as any Senator wishes to do so; that there will be no limit on the time on Monday.

I will immediately communicate with the six Senators to which the Senator from Wyoming referred and request their presence on Monday. In the meantime, on tomorrow, prior to the conclusion of the Senate's session, I will file a cloture motion which will ripen under the rule 1 hour after the Senate convenes on Tuesday morning unless agreement is reached to the contrary with respect to that vote.

I thank my colleagues.

Mr. DOLE. Mr. President, if the Senator will yield, on the program for the balance of the evening and tomorrow, it is my understanding that the managers would like to proceed until about 10 o'clock this evening.

It is my further understanding that the majority would like to have a vote fairly early tomorrow morning, say, around 9:30.

It is my additional understanding that, hopefully, Members—and we have a list of some 60 amendments on this side; I think there are some on the other side. It is obvious that not all 60 will be offered. So, hopefully, those who do not intend to offer the amendments will notify staff on this side and, second, that after the first rollcall vote tomorrow morning, there will be about 10 Members on each side absent.

So that we do not punish absent Members who have long-time engagements outside Washington, it would be my hope that we could agree to voice vote some of these amendments or somehow avoid a string of rollcall votes—that would only cause our colleagues on each side some distress—and perhaps finish action on the bill by 3 o'clock tomorrow, and in the event a rollcall were demanded on final passage, perhaps that could be done on Tuesday.

Mr. MITCHELL. Mr. President, we will certainly with the distinguished managers consider each of the requests made. I regard them as reasonable and appropriate. It is my hope we can have the first vote prior to 9:30, perhaps at 9 a.m.

So everyone will be present and we can get going on the bill. It will be my intention—and I know it is that of the managers—to minimize the number of rollcall votes consistent with getting the bill done. I think we have to emphasize that. We do want to finish, and to the extent necessary, have rollcall votes.

But I agree with the Senator's assessment of the desirability of minimizing the number of such votes to the extent possible consistent with completing action on the bill and will certainly also, as we do on every suggestion made by the distinguished Republican leader, consider the request with respect to the vote on final passage.

Mr. WALLOP. Mr. President, will the leader yield for a further observation?

Mr. MITCHELL. Certainly, if I may first make a further comment.

In addition to what Senator DOLE said, we had hoped to do the VA-HUD appropriations bill conference report this evening as well, and I am advised we may still be able to do that, and that may require one vote.

So there is a possibility of more votes on the pending measure as well as on the VA-HUD appropriations bill if we can reach an agreement to dispose of that.

Mr. President, I am pleased to yield to the Senator from Wyoming.

(Mr. SIMON assumed the chair.)

Mr. WALLOP. Mr. President, I hesitate to bring it up, but this is precisely what the Senator from Wyoming worries about.

There are to be no Senators here other than these few chairmen to respond to questions about something that is a very serious matter for this Senate.

I would urge the leader to take into account that the Senate must, by its own constitutional obligation, proceed cautiously in matters as serious as this one. To have this debate on a Monday when nobody is here for as long as someone wishes to be here but nobody is going to be here until Tuesday morning does not seem a responsible way for the Senate to meet its obligations on a treaty that commits the United States to a violation of the Jackson amendment to the Arms Control and Disarmament Act on equal levels of reductions.

I just urge the leader again to give us a chance to understand some of the problems that some of us have identified on this. And if I am to be here and make my questions alone to a few chairmen, the rest of the Senate is simply going to be able to have the opportunity to have heard what those are.

When you go to cloture, you take away the opportunity to give serious amendments to the treaty and nobody will have heard the responses to the questions.

Mr. MITCHELL. Mr. President, if I may, I wish to get back to the tax bill. There is no way of assuring that any Senator will come to listen to the questions of the Senator from Wyoming, whether we are here Tuesday, Wednesday, Thursday, or Friday, or any other day.

The Senator well knows it is commonplace when debate occurs in the Senate with very few Senators present Senators make their own individual judgments as to whether personally to listen to the debates, participate in them, or engage in other matters.

Second, I think it should be clear that participating in or listening to a debate on the Senate floor is not the exclusive method of Senators gaining information about important matters. A number of Senators I know have read the documents, have read either extensive or parts of the transcript of hearings to inform themselves on these matters.

Each Senator has a constitutional responsibility to cast a vote on such important matters. I do not think any of us should make a prior determination of the best or only method of any Senator acquiring information sufficient to discharge that responsibility.

I will try very hard to get the relevant Senators here on Monday. I cannot ensure their presence.

But we are trying to do this in a way that complies with the President's request, that enables the Senate to meet its constitutional responsibility and still complete action on the treaty before we adjourn. And we will do the very best we can to accommodate all of those interests.

Mr. WALLOP. I understand what the leader says.

But the fact of it is, Senators are more likely to gain a little bit of knowledge if they happen to be in town than if they know there is no obligation for them to be here whatsoever. It is a pity the Senate chooses not to exercise its responsibility.

Mr. MITCHELL. Mr. President, I do not want to prolong it, but I do not accept the characterization that the Senate does not accept its responsibility because it does not conduct its affairs in a manner proposed by the Senator from Wyoming.

I think the Senate will meet its responsibility. I think it would be able to do so more readily if we did not have to file cloture, but that is a decision, of course, dictated by the actions of the Senator.

So I thank my colleague and I now yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I would like to take 1 minute.

What is so discouraging here is that several Members in this Chamber, primarily the majority leader and minority leader, work their hearts out.

And the chairman and ranking member of the Finance Committee, day in day out, try to get Senators over here to bring up amendments. They do not come.

You turn around and tomorrow we are going to be in. Some of us are going to work. There are going to be some away from here. So the move is to protect them, to protect them. The rest of us stay here and take the hit.

Somewhere along the way, we are all going to have to stay and work. We are going to have to have a better system. We are going to have to support our leaders, we are going to have to support our chairmen, we are going to have to be part of the Senate instead of Friday night getting on a Red Eye to get out of here to a fundraiser and a lot of other things and then they get protected on the floor.

I think that is somewhat disconcerting to those who stay around here, who are going to be here tomorrow and will do their job not in leadership positions.

So I just think that our leaders on both sides deserve more support than they receive, when you find 10 people gone and then you protect them so they will not miss a vote, and others will stay here to see that they do not miss it.

### UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 5679

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers the conference report to accompany H.R. 5679, the VA, HUD and independent agencies appropriations bill, there be 10 minutes on the conference report, equally divided and controlled in the usual form between Senators MIKULSKI and GARN; that following the adoption of the conference report, the Senate recede from its amendment numbered 268, and that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc, with the exception of amendment numbered 242; that the only amendment in order to amendment numbered 242 prior to a motion to table be one offered by Senator WIRTH, or his designee, with respect to extending the statute of limitations by 2 years of RTC civil claims; that there be 20 minutes for consideration of the Wirth amendment, equally divided and controlled in the usual form, prior to a motion to table; that no amendments to the amendment be in order prior to a motion to table; and that, if the Wirth amendment is tabled, the Senate agree, without any intervening action or debate, to the House amendment to the Senate amendment numbered 242, as amended, if amended.

I further ask unanimous consent that if the Wirth amendment is not tabled, the Wirth amendment and amendment numbered 242 be subject to additional amendments and debate.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

### AMENDMENT NO. 3190

(Purpose: To permit residents in small communities hosting special annual or semiannual events to rent their homes during such events for less than 15 days without having to claim such rent as income)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. HELMS, proposes an amendment numbered 3190.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 982, before the period on line 5, insert the following: "*Provided*, That such regulations shall include as an exception to taxable income, any income received by a taxpayer for rent of a dwelling unit used during the taxable year by the taxpayer as the taxpayer's principle residence, not a vacation home, where such dwelling is rented for less than 15 days for the purpose of providing accommodations for participants in, or spectators of, a special annual or semi-annual event (except a sporting event) unique to, and regularly located in or near the community in which such dwelling is located".

Mr. COCHRAN. Mr. President, I send this amendment to the desk in behalf of myself and the distinguished Senator from North Carolina, Senator HELMS.

The purpose of the amendment is to permit residents in small communities hosting special annual or semiannual events to rent their homes during such events for less than 15 days without having to claim such rent as income.

Mr. President, this amendment seeks to deal with a specific situation that exists in our State of Mississippi and in North Carolina, as well, with furniture fairs being held every year to try to attract attention to the furniture industry in the respective States.

Because in, for instance Tupelo, MS, a town of about 30,000 population, there are not adequate hotel and motel rooms available, many people in the community make their homes available only for that special occasion—hostess homes, they are called—for those who are coming to attend and participate in the furniture fair each year.

Unless this amendment is adopted, these small annual rental activities put the taxpayers in a completely different situation. They are not renting rental homes. They are renting simply space in their own homes for this limited time each year.

I know the managers of the bill have had an opportunity to look at the amendment. I am advised that it is possible that there may be an agreement to accept the amendment. I hope the managers will give it their attention. If there is some way that we could get this included in the bill, it certainly would be a great benefit to those in this special situation that would be adversely affected if the amendment is not agreed to.

Mr. HELMS. Mr. President, when H.R. 11 was initially considered by the Senate prior to the August recess, I had been detained in Raleigh by some remarkable surgeons and cardiologists, with whom I had a very successful encounter. These are very strong-willed individuals who laid down the law: I would go back to Washington when they decided I could safely do so.

At that time, I was informed of a provision in H.R. 11 which will adversely affect many people in High Point, NC. Since Tupelo, MS, is similarly affected by this provision, I called the able Senator from Mississippi [Mr. COCHRAN], who readily agreed to offer the pending amendment in my absence.

I am grateful to Senator COCHRAN for pursuing this matter and bringing it before the Senate today.

Our amendment will correct what I am confident was an unintended consequence of one of the so-called revenue offsets in the bill—and which originated in the House of Representatives.

Specifically, approximately $333 million is raised by requiring that taxpayers include as income any rent they receive for use of their residences regardless of the period of rental—in effect, eliminating the current exception for rentals of fewer than 15 days.

Mr. President, the purpose of the revenue offset in H.R. 11 was obviously to tax: First, people who rent out vacation homes, or residences in resort areas, and, second, people who rent out their primary residences for visitors to major sporting events such as the Olympics, the Super Bowl, et cetera. The Joint Tax Committee confirmed to me that these taxpayers are intended to provide the bulk of the money raised by this offset.

However, since approval of this tax by the House of Representatives, residents of High Point, NC, and Tupelo, MS, have brought to Senator COCHRAN's and my attention a consequence of this revenue offset which we doubt its drafters—or its original proponents—anticipated.

Twice a year, High Point—a city of less than 70,000—hosts the world's largest home furnishings market, an event which attracts more than 65,000 temporary visitors, effectively doubling High Point's population. Of course, High Point does not have nearly enough hotel and motel rooms to accommodate the 65,000 people attracted by the furniture market. In fact, it does not have enough hotel rooms to house even the market's staff.

In order to house the 65,000 visitors, many residents of High Point and surrounding communities have, since 1905, rented out their homes temporarily to folks in the area for the two markets—in fact, families from as far away as Reidsville open their homes. The average rental is 6 or 7 nights at an average rate of $40 per night per bed.

While I was in Raleigh, I received letters from a number of people in High Point elaborating on how the proposed revenue offset in this bill will adversely impact their community and the semiannual furniture market.

Mr. President, I ask unanimous consent that two of these letters, those from Eugene H. Bohi, chairman-elect of the High Point Chamber of Commerce, and Bill Fenn, Jr., president of the National Home Furnishings Marketing Association, Inc., be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HIGH POINT CHAMBER OF COMMERCE,
*High Point, NC, July 30, 1992.*

Senator JESSE HELMS,
*Dirksen Senate Office Building,*
*Washington, DC.*

DEAR JESSE: It has just come to our attention that HR2735 has a provision pertaining to requiring homeowners to list income from rental of their homes. This bill passed the House by voice vote because it was considered not a controversial issue. The rental of a dwelling unit is controversial here in North Carolina.

Here in High Point, North Carolina, we are fortunate to be the home of the International Home Furnishings Market. This event is held semi-annually. It is the largest event in North Carolina bringing an estimated 65,000 plus visitors to each Market. That is about 130,000 people each year. Obviously the motels and hotels have trouble accommodating this influx of visitors who contribute to the State income an estimated $198,000,000 for accommodations, transportation, retail purchases, state and local taxes and miscellaneous services (not including furniture orders) annually. As mentioned, this is the largest event in the state.

The Chamber of Commerce operates a housing bureau free of charge. The bureau helps visitors find lodging and is a service to the community. We depend on the generosity and hospitality of homeowners to open their homes to market visitors when needed. They do this primarily as a service to help keep Market visitors coming to High Point year after year.

We have two major concerns if this bill becomes law: (1) the homeowner may decide that it is simply not worth the effort, consequently some visitors may not be accommodated; or (2) the homeowner may pass the additional taxes on to the visitor adding yet another cost to visitors attending the Market. Any legislation that could inhibit the rental of private home units during Market is seen as a possible detriment to the Furniture Market. These are elements we have been trying to eliminate for 15 years.

We urge you, as a member of Congress from North Carolina, to oppose this portion of the bill.

Sincerely,

EUGENE H. BOHI,
*Chairman Elect,*
*High Point Chamber of Commerce.*

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INTERNATIONAL HOME FURNISHINGS
MARKETING ASSOCIATION, INC.,
*High Point, NC, July 29, 1992.*

Hon. JESSE HELMS,
*U.S. Senate, Dirksen Senate Office Building,*
*Washington, DC.*

DEAR SENATOR HELMS: We wish to register our concerns about a provision in the recently passed bill H.R. 2735 that reads as follows: "require taxpayers to include in income the rental of a dwelling unit used as a residence during the year regardless of the length of that rental (current tax law states that proceeds from rentals of less than fifteen days in a year do not count as income)"

Since its beginning in 1905 the International Home Furnishings Market has become the largest wholesale home furnishings Market in the world. This industry event attracts attendance from all 50 U.S. states and 65 foreign countries each April and each October. It is held in the High Point, North Carolina area. With 1,800 exhibitors utilizing 7 million sq ft of permanent exhibit space in 150 buildings its importance to the home furnishings industry is unequalled worldwide. Market utilizes all commercial hotel space in the area within a forty-five minute drive. From Market's beginning in 1905 the citizens of the High Point area have allowed market participants to rent private home accommodations. Without private home housing Market would not have accommodations for its more than 65,500 participants. Anything that would inhibit the rental of private home units during Market is seen as a obstacle to the future stability of the event.

Our concerns are that this provision negatively impacts the private house rental situation at Market in High Point. We are asking that this new provision be stricken and the current provision be left intact.

Your consideration and action are greatly appreciated.

Sincerely,

O.W. FENN, Jr.,
*President.*

Mr. HELMS. Mr. President, as Senator COCHRAN has noted, Tupelo, MS, likewise hosts a furniture market, drawing 14,000 buyers and thousands more visitors to a town with a population of 30,000. Tupelo area residents rent out their homes for these 3-day events, with rent averaging about that of the High Point market—$40 per night.

The pending amendment would prevent a new tax from being imposed on residents of the High Point and Tupelo areas by exempting taxpayers who rent their principle residence for fewer than 15 days to accommodate participants in and spectators of a special, nonsporting event unique to the community.

Specifically, the amendment proposes three things:

First, to cover only rentals of a taxpayers' principal residence—not a vacation or second home;

Second, to cover only properties in and around a community holding a special event unique to that community—not resort areas; High Point residents would be covered as well as those in Reidsville, Winston-Salem, and other towns in which visitors to the market are accommodated.

Third, to cover only rentals for nonsporting events regularly held in the community on an annual or semiannual basis, not rentals undertaken for visitors to large scale sporting events.

Mr. President, this Senator has no quarrel with the basic thrust of the revenue offset regarding rental property. But people who rent out their homes for the express purpose of earning money—vacation home owners and those who rent out homes during major sporting events—are in a category entirely different from the folks in the High Point region who accommodate visitors to the furniture market.

The fine people of High Point, NC and Tupelo, MS areas are continuing a notable tradition of facilitating an event crucial to their local economies. Obviously, Mr. President, to go through the inconvenience of hosting guests in one's home, $40 a night is not a great sum.

Furthermore, Mr. President, the furniture market, for High Point, is a community event. Twice a year, the community—in fact, the entire region—comes together to host visitors from across the country—indeed, from around the world. It is an event in which residents of the entire region take great pride—and deservedly so. The furniture market could never work without the community spirit so evident during the market.

When we have the opportunity, Mr. President, we should encourage communities to sponsor events which bring people together for a common goal and for the common good of the community.

For almost 90 years, the residents of the High Point region have been inviting visitors into their homes twice each year during the furniture market—without the intrusion of the Federal Government. H.R. 11, unless amended, will extend the long arm of the Federal Government to where it has not intruded since 1905—to tax those who willingly open their homes to participants in the High Point furniture market.

High Point residents will be forced to keep detailed records, the IRS will swoop down to conduct audits, and in order to compensate for the additional tax and effort, residents will likely raise the cost of rentals—discouraging visitors to the market.

Mr. President, I ask unanimous consent that a letter dated September 17, 1992, from the certified public accountant firm of Coopers & Lybrand, outlining in great detail the tax compliance burden that would be placed on the people of High Point and Tupelo areas, should this provision remain in the bill as is, be placed in the RECORD at the conclusion of my remarks.

Mr. President, as I noted previously, the issue here is not holding vacation homeowners accountable for rent they receive on these homes—nor is the issue taxing people who profit from events like the Olympics.

Rather, the question is whether in bringing these for-profit exercises under the Tax Code, we will inadvertently discourage communities like High Point and Tupelo from holding special events unique to those communities.

I strongly feel that we should not.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COOPERS & LYBRAND,
*September 17, 1992.*

MS. KAY RUOCCHIO,
*Legislative Assistant, Office of Senator Jesse A. Helms, Senate Dirksen Office Building, Washington, DC.*

DEAR MS. RUOCCHIO: Coopers & Lybrand, on behalf of itself and its clients, would like to express concern about the proposal currently under consideration in H.R. 11 which would repeal the special tax exclusion for income received from the rental of a residence for less than 15 days if the taxpayer forgoes related deductions (IRC §280A(g)). This proposed tax change would subject taxpayers who rent out all or a portion of their homes for less than two weeks to the inordinately complex maze of rules which govern the tax treatment of mixed-used residences.

For the large number of average taxpayers who may rent their homes for a special community event on a one-time or annual basis, the additional tax complexity would be truly inordinate, particularly in contrast to any additional tax collected. The rationale for the present law rule in fact is to simplify tax filings for this class of taxpayer who very likely has rather uncomplicated tax circumstances otherwise.

In assessing this additional complexity, it is important to note that there is a very high initial threshold of tax compliance activity that must be undertaken to even begin to understand and address the statutory requirements for mixed use residences. In addition to time spent just reading and absorbing the requirements, records must be gathered to document the annual costs for utilities, insurance, and other deductible expenses; basis must be established and depreciation calculated (IRS estimates an average of 36 hours for recordkeeping and 7 hours for filing Form 4562, Depreciation and Amortization Schedule); Schedule E must be completed (another estimated 6 hours). In subsequent years, the added burden would be somewhat less, but still significant. In any year that the home is sold, additional complexity would be involved in calculating gain and applying the rollover rules.

If this added level of tax complexity discourages homeowners from making their homes available for rent, it would prove significantly disruptive to the annual events (both commercial and charitable) that take place in those rural communities which lack the hotel capacity for the event. Although there is provision for Treasury to establish a new "de minimis" exception in the proposed tax change, the legislation offers no guidance as to what this exception might be, given that the 14-day de minimis exemption is repealed.

On balance, we question whether this proposed change in the tax law is warranted. The following is an explanation of some of the complex rules that H.R. 11 would extend to more taxpayers, as they apply to taxpayers who rent their principal residences; similar but slightly different rules would apply to vacation homes rentals.

The rule to determine the deductible portion of rental expenses are very intricate. A taxpayer renting a portion of a principal residence is allowed to deduct expenses to the extent of rental income. However, the rules provide a specific order to determine which type of expenses will be deductible. Mortgage interests and taxes are deducted first, then other operating expenses (e.g., advertising, utilities, insurance), then depreciation. If the rental portion of interest and taxes is greater than the rental income, the other types of expense cannot be deducted. These rules are designed to strictly limit a taxpayer's deductions for expenses related to the rental of his residence such that there is no loss on the rental activity.

In addition, other rules must be applied to determine the appropriate amount of an expense which is allocable to the rental use of the house. For example, if an expense relates to both the personal and rental areas of the house, such as mortgage interest or heat for the entire house, the expense must be divided between rental and personal use; usually this allocation is based on the square footage of the house. Once the expense amount for the rental area is calculated, the taxpayer must further allocate the expense based on the number of days the area is used for rental versus personal purposes.

For example, assume a taxpayer rents a 200 sq. ft. room of his 1800 sq. ft. house for 7 days and has an annual utility bill of $1000. To determine the deductible portion of the utility bill, the total yearly expense first is multiplied by 200 sq. ft./1800 sq. ft. to determine how much of the total expense relates to the rented bedroom; this result is multiplied by 7/365 to determine the amount related to the rental days. This final product is the amount that may be deductible subject to the income limitation and ordering rules.

This allocation process must be done for all out-of-pocket expenses related to the rental activity including interest, taxes, utilities, insurance and maintenance costs.

Depreciation calculation can be a difficult task. Once the taxpayer has determined the amount of interest, taxes and other operating expenses which are deductible, he must then calculate the amount of depreciation for the part of his house which is rented.

The first step in this process is determining the taxpayer's basis in the house. This can be a formidable project for many taxpayers. The beginning point for this determination is generally the purchase price of the property plus certain closing costs. This cost usually includes the land under the building, which then must be divided between the building and the land. The initial building cost is then increased by such costs as major repairs and improvements and decreased by any costs that represent a return of the taxpayer's cost such as insurance reimbursements due to a casualty or theft loss. This basis calculation is further complicated if the taxpayer has deferred recognition of gain from a previous principal residence. Taxpayers may need to access records that are 30, 40 or even 50 years old to determine their basis.

After determining the basis in the house, the taxpayer must determine the portion of that basis related to the rental use of the house. Finally, the amount of the depreciation can be calculated—both for regular tax and alternative minimum tax purposes—using the different periods and methods allowed by each under the applicable tax law. This is not as straightforward as it may sound. A 1984 Revenue Ruling held that when a house was converted to rental use, the applicable cost recovery rules were those in affect at the time of the home's purchase, not the date of conversion. If this rule is held to still apply, taxpayers could be faced with selecting the correct rules from several sets of depreciation rules applicable to past years.

Further it should be noted that, upon future sale or replacement of the home, computing the house's basis, the amount of gain on sale and any possible gain deferral will be more complex.

Reporting the income and expenses on a tax return. After determining the amount of gross rental income received and calculating the deductible amount of all of the expenses, the taxpayer should be ready to complete the appropriate tax forms. The rental income and the deductible expenses for rental use are reported on Schedule E. This includes the rental use portion of mortgage interest and taxes. The remaining "personal" portion of mortgage interest and taxes is reported on Schedule A. If total rental expenses are more than the rental income, the excess amount cannot be deducted. However, the extra rental expenses can be carried forward and used in future years to reduce rental income if there are not enough expenses in those years to totally offset the rental income. To take advantage of this carry-forward provision, the taxpayer must keep records of these expenses year to year on an ongoing basis. In addition, the taxpayer must complete Form 4562, at least for the first year, to report any allowed depreciation.

As illustrated above, the rules governing the tax treatment of income and expenses relating to the rental of a portion of a taxpayer's principal residence are very complicated. Most taxpayers will find it difficult and very time consuming to negotiate this maze of rules without the help of a tax preparation professional. For some annual regional events of which we are aware, the available commercial rooms are insufficient to handle the volume of people who attend. Our clients are concerned that many taxpayers will simply choose not to rent their homes for special events in their communities and the consequences to these local economies and affected businesses could be severe.

We suggest that the legislative proposal to repeal the special tax exclusion for income received from a 14-day (or less) rental of a residence be dropped as adding additional complexity to the tax law that is simply not warranted, either by the small additional revenue to be gained or by the policy result. If that cannot be achieved, we recommend that the de minimis exception in the proposed changes to current law be clarified to exclude from income any receipts from the rental of a principal residence to participants in an annual regional event, limited to 14 days per year, or rental income of $200 or less per day, limited to 14 days per year.

If we can be of any assistance, please call Pamela Pecarich at (202) 822-4239 or John Harman at (202) 822-4406.

Sincerely,

COOPERS & LYBRAND.

Mr. BENTSEN addressed the chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, the Senator from North Carolina has proposed a similar amendment. He has been soliciting the support on the other side in the way of a clearance. That has been objected to, as I understand it.

I have not seen the amendment. I have to object to it.

I hope the two Senators can get together and resolve the difference between the two amendments and then see the managers on both sides and see what we can work out.

Mr. COCHRAN. I thank the distinguished chairman and manager of the bill for his comments.

Our amendment has been before the committee for some time. We continue to hear from the managers that they were going to deal with amendments of this kind later on during the handling of the bill, and they were not able to discuss it with us.

Then this Senator was in his office and heard the other distinguished Senator from North Carolina was about to offer the amendment that this Senator had pending for some time and which was being reviewed by staff, being discussed, and that that amendment was going to be accepted.

I understand there are some differences between the amendment of the Senator from North Carolina [Mr. SANFORD] and the amendment just proposed by this Senator and the other distinguished Senator from North Carolina.

I hope it can be possible to modify this amendment, if that is what would be required, to add provisions that were included in the other Senator's amendment.

But I hope that we can get the job done and that we not try to freeze out others who have been working on this issue and trying to get it resolved. We want to be cooperative on this side of the aisle in dealing with the problem, and I hope that is the goal of all Senators who are interested in this issue.

Mr. BENTSEN. If I might say, Mr. President, I had never seen the Senator's amendment. It may have been filed with the committee, but it had not been brought to my attention. The Senator, to my recollection, had not discussed it with me.

There ought to be enough credit to go around for all. So why do the Senators not get together and try to work out the differences to the amendment?

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the Finance Committee.

That is what this Senator would like to do very much.

Mr. BENTSEN. I assure you there is no intent to freeze anyone out, otherwise they would not have been over there soliciting the agreement on the amendment of the Senator from North Carolina. There was no attempt to keep it under wraps. It was being publicized, and the question of consent on that side was being solicited.

But in all candor, I had not been approached, from my memory, and I would have been very happy to, as we looked at a great many on the Republican side.

So if we could, I would suggest the two Senators get together and that we try to work out the differences.

Fair enough?

Mr. COCHRAN. I am happy for Senators to get together and staff to let us know whether there is anything wrong with the content of the amendment. I am advised there is no reason the amendment cannot be accepted.

Mr. BENTSEN. I have to look at it. I have not seen it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I think the Senator has introduced this without any effort to discuss it with me. There has been an awareness that this has been in preparation, now, for weeks. This is an election period and I suppose I understand those things about as well as anyone. But I do not think that this is the kind of procedure that serves the Senate well. We are concerned with not adding a tax burden to the people who have long provided what appears to me to be a civic duty. In the case of the furniture market in High Point, NC, the repeal of this provision would have taxed the citizens in and around High Point for rental to visitors from around the world of their homes during the market season of a few days, or a week, 2 weeks. Because there is not a year-round demand for rooms, there are not an adequate number of hotels.

So when this came up, obviously it was a matter of considerable concern. My colleague from North Carolina at that time was out under medical care. I had believed that we were in accord with this. I am caught completely by surprise by another amendment, especially when my colleague knew I had one and had not made any effort to discuss it with me.

Of course I have no interest in claiming credit. I did not come up here to claim credit. I came up here to serve the people of North Carolina. I would be pleased to talk to the Senator from Mississippi. But I do not want it to go unnoticed that this kind of procedure does not serve the Senate well.

The PRESIDING OFFICER. Is there further discussion of the amendment? The Senator from North Carolina.

Mr. SANFORD. Mr. President, this amendment to the tax bill which is of extreme importance not only to my State of North Carolina, but also to the entire furniture industry.

Section 3007 of H.R. 11 repeals the section of the Internal Revenue Code which permits taxpayers to exclude rental income if property is rented for less than 15 days.

This particular provision was not discussed in the Finance Committee. It passed the House by voice vote, again without any forethought. Yet it would have a devastating impact on the North Carolina furniture market.

North Carolina is the Nation's largest manufacturer of furniture. Twice a year, a world-renowned market is held in High Point to showcase furniture and home decorating items. Approximately 50,000 manufacturing and sales representatives from all over the country and the world attend. High Point is a small city with less than 900 hotel rooms. Because virtually every hotel room within 75 miles is reserved, often years in advance, approximately 8,000 to 10,000 homeowners make part or all of their homes available to market representatives twice each year.

This major event for High Point and for North Carolina could be dramatically affected without this provision in the Tax Code because the primary offset is a provision to eliminate the 15-day period during which an individual may rent real property without reporting the income. This provision was adopted to differentiate between personal and business use by providing a safe harbor for those owning property used almost entirely for personal use. It was intended to relieve the taxpayer of detailed recordkeeping, the IRS from having to audit those records, and both, along with the courts, from having to deal with the characterization of the property usage. It accomplished those goals.

At a policy level, reversing this simplification provision will burden the taxpayer and government alike. On a practical level, it will hurt small towns and small businesses. In looking around the country for the types of communities that would be affected, I found a mosaic, The America of Norman Rockwell, to use a metaphor. There are little cities and towns around the entire country that host county fairs, in Texas and Ohio that host bicycle races, in New England and the South that host craft fairs, in Georgia that host cherry blossom festivals, in Washington that host apple blossom festivals, and in numerous towns along both coasts that host boat shows. All of these would be affected, in favor of large urban areas which have the facilities to accommodate visitors.

In the case of the furniture industry, there is a significant concern in the business community that the furniture market, the largest of its kind in the world, would relocate. The repeal of this provision was characterized in the House as "prospective, non-controversial, and no- or low-cost proposals." That is just not the case.

But it did raise revenue. So, I found a way to amend the law to make it revenue neutral. My amendment will preserve the opportunity for taxpayers in small cities and towns to host the special events by permitting the taxpayers in communities which lack sufficient commercial accommodations to open their principal residences for these events. These taxpayers will not be permitted to gouge their guests. They cannot rent their principal residences for more than the reasonable commercial rate in the community. If a golf tournament or a football game attracts a large following, that's OK too, if commercial facilities cannot accommodate the visitors.

But a taxpayer cannot rent his vacation home and exclude the income. Nor can the taxpayer in a city which has adequate commercial facilities avoid paying tax. Therefore, this amendment serves the taxpayer, the visitors, the event, and the U.S. Treasury. As amended, this provision still raises over $300 million with virtually no loss to the Treasury.

So, it accomplishes all of the intended goals. I want to thank the leadership for their assistance and acceptance of this amendment.

### AMENDMENT NO. 3191 TO AMENDMENT NO. 3190

(Purpose: To permit residents of communities hosting events for which commercial rental space is unavailable to rent their principal residences for less than 15 days each year)

Mr. SANFORD. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 3191 to amendment No. 3190.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the Cochran amendment No. 3190, insert:

On page 981, beginning with line 19, strike all through page 982, line 1, and insert:

**SEC. 3007. SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.**

(a) In General.—Section 280A is amended by striking subsection (g) and inserting:

"(g) Special Rule for Certain Rental Use.—Notwithstanding any other provision of this section or section 183, if the principal residence of the taxpayer is actually rented for less than 15 days during the taxable year for the purpose of providing accommodations to visitors to an event for which commercial rental accommodations in the community holding the event are unable to reasonably provide more than one-half of the accommodations necessary (and the rental income received by the taxpayer for any visitor is not greater than a reasonable rental rate charged per individual guest by commercial rental accommodations), then—

"(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

"(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61.

"(h) Regulations.—The Secretary shall prescribe * * *

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as I understand the situation, the modification of the Senator from North Carolina will make it possible for the amendment, as modified by his amendment, to be acceptable to the managers of the bill. And if that is correct, this Senator joins in the request his amendment be agreed to as an amendment and we proceed to consider the amendment as amended.

The PRESIDING OFFICER. Is there further discussion? The question is on agreeing to the second-degree amendment. Does the Senator from Texas seek recognition?

If there be no further debate, the question is on agreeing to the second-degree amendment.

The amendment (No. 3191) was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the underlying amendment, as amended.

The amendment (No. 3190), as amended, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENTS NOS. 3192 AND 3193, EN BLOC

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I have two amendments that have been, I believe, approved by the manager and the ranking member. I ask unanimous consent I might send both of those amendments to the desk and ask they be considered en bloc in order to save time.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc? Without objection, it is so ordered.

Mr. FORD. Mr. President, I send en bloc amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself, and Mr. MCCONNELL, proposes an amendment numbered 3192 and, for himself, an amendment numbered 3193.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3192 and 3193) are as follows:

### AMENDMENT NO. 3192

(Purposes: Certain costs of private foundation in removing hazardous substances treated as qualifying distribution)

At the end of title VIII, insert:

**SEC. . CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTION.**

(a) In General.—In the case of any taxable year beginning after the date of enactment of this Act, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1986 shall be reduced (but not below zero) by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) Limitations.—Subsection (a) shall only apply to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a nonconsensual judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) Hazardous Substance.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

Mr. FORD. Mr. President, I offer this amendment to clarify the tax treatment of certain costs incurred by charitable foundations under section 4942 of the Code. This amendment has the approval of the chairman of the Finance Committee, Senator BENTSEN, and the ranking member, Senator PACKWOOD.

Section 4942 of the Code requires that charitable foundations make qualifying distributions equal to 5 percent of the fair market value of the foundation's assets for the year, reduced by certain amounts. Qualifying distributions include expenditures for charitable purposes and grants to public charities or private operating foundations.

My amendment provides that certain costs incurred to voluntarily investigate, remove, or take other remedial action in regard to hazardous substances released at facilities owned or operated by the charitable foundation, shall qualify under section 4942 as a qualifying distribution. I stressed that this amendment would only apply to hazardous substance removal costs incurred voluntarily by the foundation.

This provision has been adopted by the Senate on three previous occasions: in September 1985, during debate on the Superfund legislation; in June 1986, as an amendment to the Tax Reform Act; and in October 1986, as an amendment to the continuing resolution for fiscal year 1987. This provision was the subject of hearings in the House in 1986, and most recently passed the House last month on the Suspension Calendar, as H.R. 5644.

This provision addresses the problem that charitable foundations face in choosing to voluntarily engage in hazardous substance clean-up efforts, the potentially enormous cost of which can threaten to deplete the corpus of the trust. This amendment recognizes that clean up efforts voluntarily undertaken by a foundation effectively advance a charitable purpose, and provide a strong incentive for such foundations to come forward and begin clean up efforts.

My amendment will encourage early intervention and cooperation with Federal and State entities, and ultimately will forward the goal of Superfund clean up. This provision will not let such foundations off the hook, nor recognize efforts made pursuant to nonconsensual order or judgments. It will, however, allow those responsible foundations which voluntarily engage in clean up efforts to remain in the business of supporting charitable causes.

One such example of a responsible charitable foundation is the Brown Foundation, in my State. Since its inception in 1969, the Brown Foundation has disbursed grants of $127 million to charitable causes in Kentucky, and throughout the Southeast. These causes include the Boy Scouts, children's homes in Kentucky and Alabama, colleges and universities, the YMCA, Goodwill Industries, Junior Achievement, and numerous other worthy causes.

However, the continued good work on the foundation is jeopardized by its decision to voluntarily engage in hazardous substance clean up efforts at sites previously owned by the foundation.

In 1969, the foundation was bequeathed the majority of its assets, including the stock in three wood treating plant facilities. The foundation dissolved the companies and liquidated the assets. Nearly 15 years later, the foundation was notified by the Environmental Protection Agency of a hazardous substance clean up problem at one of its sites.

Consistent with the foundation's charitable purpose, and reflecting the integrity and responsible character of its benefactor, Mr. James Graham Brown, the trustees entered into a voluntary consent order with EPA to clean up the site. That effort is almost complete, and is in the investigatory stage at the other two potential sites.

The Brown Foundation has been an exemplary partner in this effort. They have sought to fulfill their obligation to cleanup and restore these sites, and have use the latest technology to achieve the most effective results. However, the substantial costs incurred to date, and the potential costs that may be incurred in the remaining two sites, are not recognized as a qualifying distribution under section 4942 of the code.

These substantial cleanup costs, incurred voluntarily, coupled with the requirements of section 4942, threaten to deplete the corpus of the foundation and jeopardize the ability of the foundation to continue its substantial support of so many charitable causes in my State.

The Brown Foundation, and other responsible foundations that find themselves in a similar situation, deserve relief. I thank my distinguished colleagues, Chairman BENTSEN, and Senator PACKWOOD, and their able staff, for their support and assistance over the years in this regard, and urge adoption of this amendment.

AMENDMENT NO. 3193

(Purpose: To provide the same exemption for all gambling winnings subject to withholding)

At the appropriate place insert:

**SEC. 8217. UNIFORM EXEMPTION AMOUNT FOR GAMBLING WINNINGS SUBJECT TO WITHHOLDING.**

(a) UNIFORM EXEMPTION AMOUNT.—

(1) IN GENERAL.—Subparagraphs (A) and (C) of section 3402(q)(3) are each amended by striking "$1,000" and inserting "$5,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments of winnings after December 31, 1992.

(b) TREATMENT OF CERTAIN HIGH YIELD DISCOUNT OBLIGATIONS.—

(1) GENERAL RULE.—Paragraphs (1)(A) and (2)(A) of section 163(i) (relating to applicable high yield discount obligations) are each amended by striking "5 years" and inserting "4 years".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to instruments issued after the date of the enactment of this Act.

Mr. FORD. Mr. President, this amendment has the approval of the chairman of the Finance Committee, Senator BENTSEN, and the ranking member, Senator PACKWOOD.

Mr. President, the horse industry is vital to the economy of Kentucky. It is an industry that employs nearly 80,000 Kentuckians and contributes over $5 billion annually to the economy of the Commonwealth. In recent years, this industry has felt more than its share of the economic pressures, due in part to changes in the Tax Code.

The amendment I offer attempts to provide some relief to this important industry by conforming treatment of withholding on parimutuel racing winnings in 38 States to that of State-conducted lotteries.

It is a simple amendment. It will conform the withholding threshold on wagering winnings to treat all such wagers equally. Under the current law. proceeds from State-conducted lotteries are subject to a 20-percent withholding requirement for winnings over $5,000. However, all other wagers subject to withholding are withheld on proceeds over only $1,000.

This amendment increases the withholding threshold for these other wagers to $5,000 to conform withholding treatment to that of the State-conducted lotteries under section 3402(q) of the code. The amendment does not affect the treatment of State-conducted lotteries.

The Finance Committee amendment also contains a provision which increases the current withholding rate from 20 to 28 percent, and my amendment does not change that provision. While the impact of this increase is of great concern to the horse industry in my State, and to parimutuel industries in 37 other States, I do not seek to amend that provision at this time.

Instead, my amendment is an attempt to mitigate the impact of the increase in the withholding rate on the horse industry in Kentucky, and other States. For an industry that is vital to the Kentucky economy, and has fallen on hard times in recent years, this modest amendment will ensure that the horse racing industry, as well as dog racing and jai alai in other States, can continue to complete with expanding State-conducted lotteries.

This amendment is paid for with a provision which passed the House in August of this year on the Suspension Calendar as part of a different amendment. The revenue offset for this amendment modifies the definition of applicable high yield discount obligations, such as the so-called junk bonds, under section 163(i) of the code dealing with interest deductions. Under this section of the code, special rules apply to applicable high yield discount obligations which restrict the amount of discount that can be deducted as interest.

The current definition of an applicable high yield discount obligation is one that has a maturity date of 5 years from the date of issue, has a specified yield, and has significant original issue discount. The determination of significant original issue discount is also figured over the same 5-year period. This amendment amends the definition of an applicable high yield discount obligation to change the 5-year period to 4 years in both cases.

While this revenue provision does not provide sufficient funds to reduce, or eliminate, the committee provision increasing the withholding rate to 28 percent, I would strongly encourage the committee to consider such action in conference on this measure.

The impact of the withholding increase is considerable in my State. According to the Kentucky Thoroughbred Association, and the American Horse Council, the increase in withholding will result in over $260 million being taken out of the betting stream at parimutuel facilities throughout the United States. This translates into a loss in revenue to parimutuel states of almost $11 million annually, and a loss of over $21 million annually each to the race tracks and the racehorse owners.

The Finance Committee provision will also affect State-conducted lotteries, which are subject to this same withholding provision. During the fiscal year that just ended in Kentucky, the Kentucky Lottery returned $100 million to the Commonwealth. The increase in withholding will have an equally devastating impact on the parimutuel industries and the State-conducted lotteries across the country.

But more importantly, this provision really unfairly hits the average Kentuckian, and the low- and middle-income taxpayer, who chooses to participate in legal wagering. Over 70 percent of taxpayers in this Nation fall within the 15 percent Federal income tax bracket, and many of them ultimately owe no taxes on winnings at all. For these taxpayers, imposing a 28-percent withholding on winnings amounts to nothing less than an interest-free loan to the Federal Government until the next April 15.

For the horse racing tracks, and the States which derive revenue from that industry, it means a reduction in the total betting dollars, and a corresponding reduction in State revenues, track income, and purse winnings.

My modest amendment will mitigate this impact some, but I encourage my colleagues to review this issue and its full impact in conference.

I thank my distinguished colleagues, the chairman of the committee, Senator BENTSEN, and the ranking member, Senator PACKWOOD, and their able staff, for their assistance in approving this amendment. I urge my colleagues to accept the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, it is my understanding that the amendment pending is an amendment of the senior Senator from Kentucky [Mr. FORD].

The PRESIDING OFFICER. There are two amendments that are under consideration en bloc.

Mr. MCCONNELL. Mr. President, I rise today in support of the amendment offered by Senator FORD that will encourage the cleanup of hazardous waste sites all over our Nation. The amendment accomplishes this by eliminating the harsh and unintended tax consequences that charitable foundations face when they undertake the study and cleanup of Superfund sites.

The problem arises when property bequeathed to a charitable foundation prior to enactment of Superfund is subsequently determined to be contaminated with hazardous materials. Under current law, a charity must disburse a certain percentage of its assets each year for charitable purposes to maintain its legal status as a nonprofit organization. Unfortunately, any moneys spent by a foundation to clean up hazardous waste sites under Superfund do not qualify as a charitable purpose under the Tax Code's distribution requirement. The result is that charitable foundations are put at a serious financial handicap for voluntarily cleaning up contaminated property they once owned.

Mr. President, the Federal Government is having enough trouble getting guilty polluters to pay for remediation of property under Superfund. Why are we dissuading charitable foundations, who happened to be given contaminated property, from contributing to cleanup costs? Their financial security and tax-exempt status are threatened by acting as responsible members of the community. The amendment before us would change this strange and unintended consequence of the Tax Code.

Mr. President, when charitable organizations commit funds to clean up contaminated properties, they are promoting what amounts to a charitable purpose that greatly benefits the surrounding community. The moneys that foundations spend in such efforts should be allowed to reduce their required charitable giving. This amendment would simply classify expenditures for the study and cleanup of contaminated property as a charitable payment for the purposes of the qualifying distribution requirement of section 4942 of the code. It will relieve charitable foundations of the onerous burden they currently face of contributing to clean up costs in addition to the full amount of charitable giving.

Some of my colleagues may be concerned that such a change in the Tax Code could allow polluters to set up foundations solely to avoid their Superfund obligations. However, this legislation prevents evasion since it only applies to property acquired and disposed of prior to the enactment of the Superfund law. Further, the legislation applies only to study and clean up costs incurred after this amendment is enacted.

Mr. President, this legislation will aid our national hazardous materials cleanup effort by encouraging charities to voluntarily assist in the remediation of contaminated land. It will ensure that charities will not be forced out of existence simply because they were bequeathed property that was contaminated with hazardous materials. It will not penalize them for acting responsibly.

This legislation passed the House by voice vote last month. It has passed the Senate on three separate occasions, but each time has failed to be enacted. I hope my colleagues will join again in support of this amendment, so that charitable foundations will finally be believed of unintended and counterproductive tax consequences when they help make our Nation safe from hazardous materials.

Mr. President, the amendment of the Senator from Kentucky [Mr. FORD] is an amendment that has cleared the Senate on three separate occasions and has passed the House just last month on a voice vote. It is certainly my hope that it will be accepted. I understand it has been cleared on this side.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the amendment of the Senator from Kentucky be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3194

(Purpose: Relating to sponsorship payments to charities)

Mr. BENTSEN. Mr. President, I send to the desk an amendment on behalf of the senior Senator from Georgia and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. NUNN, proposes an amendment numbered 3194.

On page 1750, line 13, insert "or the right to use the name or logo of the organization conducting the qualified public event" after "event".

Mr. BENTSEN. Mr. President, this amendment, as I understand it, has been cleared on the other side of the aisle and has been cleared by the manager for the majority. I urge its adoption.

### UNRELATED BUSINESS INCOME TAX [UBIT] IMPACT ON THE 1996 ATLANTA OLYMPIC GAMES

Mr. NUNN. Mr. President, I rise today on behalf of myself and Senator FOWLER to offer an amendment to the pending legislation, H.R. 11, concerning the Federal income tax treatment of the unrelated business income derived by the U.S. Olympic Committee [USOC] and the Atlanta Committee for the Olympic Games [ACOG] in connection with the 1996 summer Olympic games. The intent of my amendment is to afford the sponsors of the 1996 summer Olympic games the same tax treatment that was afforded the sponsors of the 1984 Los Angeles Summer Olympic Games.

Quoting from the managers explanation accompanying H.R. 11:

> The Committee believes that the UBIT should not apply to the receipt of sponsorship payments (in return for which the sponsor is identified) by tax-exempt organizations in connection with their conduct of public events, provided that substantially all activities in conducting the event are not subject to the UBIT and the net proceeds from the event are used for a charitable, educational, or other purpose described in section 170(c)(2)(B).

Mr. President, I support this provision and commend its sponsors for including it in this bill. This section will have a positive impact, particularly in relation to college bowl games and the educational support activities which stem from these games. Although Georgia has not been as blessed as Texas in regard to the number of bowl games hosted each year, I assure my good friend from Texas, the distinguished chairman of the Finance Committee, that Georgia too cherishes its long and storied football history.

However, as written, I am concerned that H.R. 11 leaves in doubt whether a sponsor's payment to ACOG and the USOC for the use of Olympic trademarks, emblems and designations is excluded from the UBIT. H.R. 11 specifically excludes from the UBIT payments made by a corporate sponsor to use its own name or logo in connection with a qualified event. The amendment that I am offering will ensure that a payment made by a corporate sponsor to use Olympic trademarks, emblems and designations also will be excluded from unrelated trade or business income taxation. This amendment spells out what is already implicit in H.R. 11: if payment for the use of the sponsor's name or logo in connection with the event is excluded from the UBIT, then payment for the use of the name or logo of the event itself, for example, the Olympics, certainly is intended to be excluded.

Mr. President, as I indicated, my intent in offering this amendment is to seek the same result for the USOC and ACOG that was granted by a private revenue ruling in connection with the 1984 Los Angeles Olympic games. The USOC and ACOG are concerned that since that private ruling was granted, the Internal Revenue Service [IRS] has taken a progressively harder line toward sponsorship income and royalty income. Given current licensing practices, sponsors of the Atlanta Olympics will receive more ancillary benefits than the sponsors did at the Los Angeles Olympics. Additionally, the USOC and ACOG will be taking a more active role in marketing and policing the use of its marks. My amendment seeks to ensure that income derived by the USOC and ACOG through the 1996 games from licensing Olympic trademarks, emblems and designations will be treated as exempt from the UBIT, regardless of those ancillary benefits and activities.

I understand that the Joint Committee on Taxation has reviewed this amendment and concluded that it would have a negligible revenue benefit.

Mr. President, I would like to thank the chairman and the ranking members of the Finance Committee for their attention to this matter and their willingness to accept this amendment.

### UNRELATED BUSINESS INCOME TAX PROVISIONS (H.R. 11)

Mr. FOWLER. Mr. President, I am pleased to join Senator NUNN in offering this amendment to ensure that royalty income received by the United States Olympic Committee [USOC] and the Atlanta Committee for the Olympic Games [ACOG] through the conclusion of the 1996 Atlanta Centennial Olympic Games will not be subject to unrelated business income taxation.

The USOC and ACOG are licensing Olympic trademarks, emblems and designations for use through the 1996 Summer Olympic Games. The Senate Finance Committee Report for H.R. 11 contains a footnote which states that the committee expects that under general UBIT rules the royalty income from the license of Olympic trademarks will be exempt from the UBIT.

I understand that the litigating position of the IRS is that a tax exempt organization cannot be active in generating its royalty income because the exemption for royalties was intended to apply only to passive income. The USOC and ACOG will be actively marketing, licensing and policing the Olympic trademarks. Those activities might be regarded by the Internal Revenue Service as too active, thereby converting the royalty income into taxable income.

Furthermore, the IRS may consider the provision of ancillary benefits to sponsors as an unrelated trade or business, potentially tainting all of the sponsorship income, or perhaps just a portion of it.

Essentially, the amendment that I am offering with Senator NUNN seeks to grant to the USOC and ACOG the same status granted in connection with the 1984 Los Angeles Olympic Games.

The PRESIDING OFFICER. Is there further discussion?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio has no objection, but I do not know what the amendment is.

I have no objection.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3194) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENTS NUMBERED 3192 AND 3193

The PRESIDING OFFICER. The pending business is the Ford amendments, en bloc. Is there further discussion? The Senator from Ohio is recognized.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments, en bloc.

The amendments (No. 3192 and No. 3193) were agreed to, en bloc.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 5679 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated. The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5679) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1992.)

Ms. MIKULSKI. Mr. President, I am pleased to present the conference report on H.R. 5679, the 1993 VA, HUD, and independent agencies appropriations bill.

This legislation appropriates nearly $86.9 billion for Federal investments in a host of key areas that include: veterans, housing, the environment, America's space program, basic scientific research and education, and Federal disaster relief.

The bill as reported is within the 602(b) allocation for the VA-HUD Subcommittee and is more than $3.6 billion below the amount requested by the President for the bill as a whole. It is also $84 million lower than the President's budget request in total discretionary spending.

In my four years as chairman of the VA-HUD Subcommittee, this year has been by far the most difficult. There were more than 1,100 requests from Senators, totaling $44 billion, for items in the bill. And yet, we had no place divided with which to work to accommodate these requests because the fire wall between defense and domestic spending remained intact.

Our 602(b) allocation, the total pot from which the subcommittee can work, was nearly $1.4 billion in outlays below the amount requested by the President. That has forced the conferees on this bill to make hard choices this year.

Like all conference reports, this one represents a compromise between the differences in the bills passed by the House and Senate. It does not contain all items I would like to have included, nor make every funding allocation the same way that I would have liked.

Nevertheless, I believe it is a reasonable compromise—protecting our commitments to veterans and at the same time helping America prepare to win the war for its economic future in science and technology.

Given these severe limits, I would like to highlight some of the major accomplishments in this legislation.

### VETERANS

First, for America's 27 million veterans. The bill provides $34.5 billion, including $18 billion for mandatory benefits like pensions, readjustment benefits, and housing loans. Our goal, despite severe funding constraints, is to maintain our commitments to the VA health care system, provide funds to eliminate backlogs in VA cemeteries, and improve the delivery of veterans benefits by the Department of Veterans Affairs.

#### *Health care*

The bill provides $14.6 billion for veterans medical care, an increase of $1.1 billion over the current budget.

These funds will enable the VA to hire additional nurses, ensure quality of care through activities like hospital inspections, provide additional homeless assistance, and expand post-traumatic stress disorder treatment.

These additional funds mean VA will be able to treat 1.1.million veterans in VA hospitals, community nursing homes, and state-run nursing homes for veterans. They will also pay for 24 million outpatient visits at VA hospitals and clinics throughout the United States.

For homeless veterans, the VA will have the funds to help more than 16,000 former men and women of our armed forces who have lost their way in life. Included in these efforts are funds for programs which help get these veterans back on their feet and into jobs.

For veterans suffering posttraumatic stress disorder, $45 million is provided, which will make counseling available for approximately 20,000 veterans, including those who served in Desert Storm.

Also included in the medical care budget are funds to continue quality assurance activities, which were initiated last year, including hospital inspections, ensuring all physicians have proper credentials, and establishing programs to ensure that VA's budget is spent in the most effective manner possible.

I want to be absolutely sure that there isn't another VA hospital making headline news because of scandalous events such as deaths due to misdiagnosis or inappropriate treatments, missing patients, or patients being given blood contaminated with the AIDS virus.

#### *Service delivery*

VA's general operating expenses would also receive an increase of over the President's request. The Veterans Benefits Administration would receive an additional $7 million in order to reduce the backlog of claims, which averages 500,000 each month.

#### *Veterans' cemeteries*

The bill also provides more than $70 million for the National Cemetery System, an increase of $6.4 million over the current budget, which will help VA eliminate the backlog of equipment needs. These basic items include tractors, mowers, and backhoes, simple items which VA must have to maintain these hallowed grounds in a dignified manner, befitting those who served their country.

### HOUSING

For housing, the bill includes $24.7 billion for the Department of Housing and Urban Development. This is an increase of $1.6 billion above the 1992 level and $1.4 billion above the budget request.

The conference report emphasizes maintaining and retaining the existing stock, and those programs which provide State and local governments with the maximum flexibility to address their housing and community development needs.

Included is $9.4 billion for section 8 housing. Two-thirds of these funds are for the renewal of expiring section 8 contracts. The committee's emphasis on section 8 renewals is based on the weak and deficient management with which HUD has run this program.

Poor data management of section 8 has been the most serious and persistent problem that the committee has faced in tackling the Nation's housing problems. And our emphasis again on this subject this year indicates that the section 8 situation is far from being corrected.

In other areas, the final bill includes a record $4 billion for community development block grants, $572 million for homeless programs, $3.1 billion for public housing modernization, $175 million for drug elimination grants and $1 billion for the HOME Program.

Finally, there is over $600 million for the HOPE Program, including funds for a new empowerment initiative, designed to bring adequate shelter, self-sufficiency services, and community sweat equity in the most distressed areas of America's cities.

### ENVIRONMENTAL PROTECTION AGENCY

For EPA, the bill provides almost $7 billion, $248 million above the current budget.

Operating programs would get $2.7 billion, an increase of about $100 million above the current budget, which would sustain most programs at current levels, including grants to control stormwater runoff and for eliminating asbestos in schools. Also included is the President's request of almost $60 million for public water supply supervision grants, to ensure a safe drinking water supply.

Sewage treatment construction funding is $2.5 billion, $150 million above the current budget, in order to reduce the $80 billion unmet need for sewage treatment construction nationwide. The amount of funding provided will generate 150,000 construction jobs.

The Superfund Program is funded at $1.57 billion, a slight decrease below the current level of funding.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The bill includes $14.316 billion for NASA, only $26,000 above last year's appropriation, virtually a hard freeze of NASA's budget. This amount is $677 million below the budget request.

Despite the hard freeze on NASA's funding, we have provided full funding, or nearly full funding, for the space station, the Earth observing system, the advanced x-ray astrophysics facility, and the Cassini planetary mission to Saturn.

So to my colleagues who have suggested that we cannot afford investments in space, and the space station in particular, this bill proves that argument to be false.

The bill also contains funding for the advanced solid rocket motor. Although this is a controversial item, ASRM has received substantial support from this body and this Senator in the past. My colleague, Senator GARN, has expressed strong objections about ASRM in the past and continues to do so. However, he has been gracious enough to work for the entire bill even though he does not like parts of it.

NATIONAL SCIENCE FOUNDATION

This bill also provides $2.734 billion in funding for the National Science Foundation. Despite the severe budget constraints, the bill recommends an increase of $163 million, or 6 percent, for the foundation. This level would mean an overall increase of $810 million, or 42 percent, on the level of funding given to the NSF in 1989 when I became chair of this Appropriations Subcommittee. Our commitment to the nation's research base is strong and long-term.

The foundation has been very successful during its 40 year history in maintaining American leadership in basic research and in providing the Nation with a rich resource of knowledge. However, we all recognize that America is not using that resource in an effective manner. Other nations which, quite frankly, have inferior research bases, have captured much of the high-technological markets of the world. It is important to recognize that the role of the Federal Government in support of science will change in the new world order.

A Commission on the Future of the National Science Foundation has been recently formed to provide a clear and decisive vision of the NSF's role in putting raw knowledge to work for the well being of the nation. This conference report provides the foundation a lot of flexibility so that the NSF can incorporate the recommendations of the Commission on the Future of the NSF into its 1993 operating plan. Congress, however, must make it clear that the weakness in utilizing our rich resources of basic research need immediate and strong attention.

Included in the bill is $488 million for education programs, $24.5 million for EPSCoR, $43 million for LIGO, and $143 million for the Antarctic Research Program.

FEMA

This bill also includes $827 million for the Federal Emergency Management Agency, including $300 million for disaster relief.

This appropriations bill does not meet all of our wishes or needs. Given the limited funds we had to work with, however, I believe it is fair and responsible, and deserves the support of the Senate.

Not everyone with an interest in this legislation will be satisfied with its results. It does not reflect, but it represents a reasonable compromise that looking at the limitations we faced due to our 602(b) allocation, I think most will agree that it is the best that could have been done given those circumstances.

Mr. President, I want to thank Senator GARN, ranking minority, for the assiduous way he worked in bringing about the compromise on the conference and also moving this particular conference report and all others during his years in the Senate on that committee.

I yield back all time on the conference report and urge adoption of the conference report.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes.

Mr. GARN. Mr. President, I will simply save my remarks for the amendment to come up, other than to say that this is the last VA-HUD bill that I will manage, and I would like to compliment Senator MIKULSKI for doing an outstanding job under extremely difficult circumstances, and the staffs on both sides of the aisle that have worked to make this possible.

Mr. President, I am pleased to recommend to the Senate this conference agreement on the VA-HUD, and related agencies appropriations bill for fiscal year 1993. As I reflect on my tenure on the Appropriations Committee, and my close association with programs and activities under this subcommittee's jurisdiction, I must confess that this conference agreement represents a substantial relief for me.

We have been forced to contend with budgetary constraints, which have grown more severe with each passing year. This, in turn, has made all the more difficult and painful the choices confronting our subcommittee.

Mr. President, that we have managed to successfully grapple with our funding shortfall, and balance the important priorities and needs reflected in this bill is truly remarkable and is a tribute to the leadership and perseverance of the Senator from Maryland [Ms. MIKULSKI].

As I leave the Senate, I must say that my work on this appropriations bill was among the most interesting and rewarding of my responsibilities. I will miss this direct role in fostering a more aggressive and effective Federal program of investment in science, space, and technology development. I must add, however, that the budgetary constraints that have made consideration of this bill so difficult will only get worse, and while it is some relief to me that I, personally, won't have to try to adequately fund these activities within these truly impossible budgetary limitations, it is a critical task which must be carried on.

The measure before us represents a far better result that what I would have predicted possible earlier this year, and despite the difficult and problematic issues confronting us, I believe it represents a meaningful step forward in addressing activities under our jurisdiction.

The bill before us appropriates $86.9 billion in new budget authority from programs under our jurisdiction. Of this amount, $66 billion is for discretionary activities, directly under the spending jurisdiction of the Committee on Appropriations. This bill is the largest appropriations bill in terms of domestic discretionary spending.

Given our budgetary constraints and the difficult choices we are forced to make in moving a bill under these circumstances, we simply cannot avoid conflicting opinions and judgments. For example, I personally am very troubled that the NSF research account has been cut from its current budget level. Similarly, because of budgetary constraints, we were forced to recommend that the NASA appropriation be frozen with no adjustment for inflation nor recognition that individual projects which comprise our civil space program require additional funds to meet their planned development rate.

Mr. President, despite these shortcomings, I can recommend enactment of this bill simply on the basis that it is the best possible agreement we could hope for under the circumstances, and that failure to enact this agreement would only jeopardize and hurt programs and activities under our jurisdiction. The start of the new fiscal year is only 5 days away. I urge adoption of this measure.

Mr. BIDEN. Mr. President, the conference report on the fiscal year 1993 VA-HUD-independent agencies appropriations bill includes $20.5 million for the construction of an outpatient clinical addition at the Elsmere Veterans Hospital in Delaware.

This project was originally proposed by the Veterans Administration nearly 20 years ago in order to meet the changing health care needs of our region's veterans. Through the tenacity, hard work, and perseverance of many people—most notably, the veterans of Delaware—this much-needed addition will soon become a reality. Because of the funding provided in this bill, construction will finally begin next spring.

I would especially like to thank Senator MIKULSKI, the chair of the VA-HUD Appropriations Subcommittee. Over the past several years, she has been an invaluable help to me in securing the funding for this project. In a letter I recently received, one of my Delaware constituents summed up Senator MIKULSKI'S contribution to the Elsmere project this way: "We knew we could count on her when we were residents of Maryland and its nice to know she is still helping us as residents of Delaware."

I wish to echo that sentiment, Mr. President, a sentiment that I am sure is shared by all the veterans of Delaware. For nearly two decades those veterans have waited for this day, and because of this bill, they need wait no more.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I would like to congratulate Senators MIKULSKI and GARN for their accomplishment in bringing this bill to fruition. They worked within the confines of a tight budget and with many important but controversial issues, and have now brought the bill to closure. This is an achievement of which they can rightly be proud.

I would like to observe that the conference committee has agreed to a $1.573 billion funding level for the Superfund. This is a decrease from prior funding levels and from the amount provided by the Senate. As chairman of the subcommittee with jurisdiction over the Superfund Program, I believe it to be extremely important that the Environmental Protection Agency make every effort to devote these resources to actual cleanup activities and to the cost-effective, tightly scrutinized management of cleanup activities. The protection of tens of millions of Americans who live near Superfund sites, and of future generations of Americans, is at stake. I will continue to exercise a close oversight of the program and expect to be able to report substantial progress when we next turn to the appropriations for Superfund.

Mr. JOHNSTON. Mr. President, I rise to discuss an important issue with my distinguished colleagues, the Chair of the Appropriations Subcommittee Senator MIKULSKI, and the ranking minority member, Senator GARN, regarding funds contained in the report accompanying H.R. 5679, the HUD, VA, and independent agencies appropriations bill for the Center for Research and Development of Functional skills in New Orleans, LA.

Ms. MIKULSKI. I would be glad to discuss the funds contained in the report for the center.

Mr. GARN. I would be pleased to discuss this issue with the senior Senator from Louisiana.

Mr. JOHNSTON. I would first like to thank my colleagues on the subcommittee, particularly Chairwoman MIKULSKI and the ranking member, Senator GARN, for including $5 million for the continuation of funds for the center which is provided within HUD special purposes grants. As the Senate Appropriations Committee report states, these funds are intended for the continuation of activities in the city of New Orleans, LA, to provide job training, education, and functional skills to at-risk residents of public housing. As earlier referred to, this project was initiated through funds appropriated in fiscal year 1992 in the Appropriations Act—on page 48, S. Rept. 102-107 and page 19, H. Rept. 102-226—as part of a dramatic joint private/Federal effort led by Loyola University in New Orleans to provide a national model for training adults in literacy skills. The fiscal year 1992 report provided these funds for development of a center, which is part of a $25 million effort, with $15 million being provided through private and university resources. As I raised this issue during consideration of the bill, and expressed that if I was not satisfied with HUD's reaction to our earlier colloquy, the conference committee would address this issue in order to fully clarify the congressional intent, although not specifically mentioned by name in the report, that these funds be used by Loyola University in its effort to provide a Federal component to establish a Center for Research and Development of Functional Skills" at Loyola University including, but not exclusively, for job training, education, and functional skills.

Ms. MIKULSKI. As we previously discussed, it was our intent that the funds provided in the bill currently before the Senate, as well as the fund appropriated in the fiscal year 1992 appropriations bill, be used for the establishment of the center at Loyola University. The funds are desired for not only research and development of functional skills once the center is constructed, but also costs associated with site design and preparation as well as construction. I believe the Center for Research and Development of Functional Skills will be a very successful venture which shall stand as a national model dealing with the linkage between employment and business and growth on the one hand, and the level of functional literacy of a portion of the labor force, on the other. It is vital to the success of this program that the fiscal year 1992 appropriated funds, and any funds appropriated in the fiscal year 1993 bill, be provided to Loyola University.

Mr. GARN. I appreciate the chief proponent of this proposal, Senator JOHNSTON, for bringing this matter to our attention. I certainly concur with the statement of Senator MIKULSKI, and emphasize the need for this program and support its development at Loyola University.

Mr. JOHNSTON. I would like to thank my colleagues who believe, as I do, that the funding we appropriate for efforts such as this, which promotes literacy and the other skills people need in order to enter the work force, is one of the soundest investments that the Federal Government can make. The long-term dividends, for all of society, far outweigh the costs of programs like this.

However, I am concerned with the administrative delays this project has experienced from the Department of Housing and Urban Development with regard to its fiscal year 1992 grant and believe HUD is acting directly contrary to congressional intent.

Ms. MIKULSKI. The Senator from Louisiana has mentioned a particularly concerning trend I have noticed with HUD administering the special project grants. I would like to point his attention to language that was included in the committee report on page 53 which addressed this problem. The language states that "* * * the committee expects the Department to administer these grants, upon the submission of a proper application, in a timely and expeditious fashion." The language further states that "since these projects are incorporated into the law, the committee expects the funds for them to be administered for the purpose for which they were intended." As HUD was not responsive to our earlier clarification, we included specific language in the statement of managers which states unequivocally that the grants provided in the fiscal years 1992 and 1993 bills be awarded to Loyola University consistent with the application filed with HUD for the fiscal year 1992 funds appropriated. I hope that these funds are immediately made available and the project does not experience similar delays in receiving its fiscal year 1993 appropriations.

Mr. JOHNSTON. Once again, I thank my colleagues for their support of this program, and I yield the floor.

Mr. President, I would like to engage the distinguished chair of the Appropriations Subcommittee Senator MIKULSKI, in a colloquy relating to a specific provision in the report accompanying H.R. 5679, the HUD, VA, and independent agencies appropriations bill. The conference agreement provides $3,800,000 out of the abatement, control, and compliance budget of the EPA for Lake Pontchartrain, LA, water quality improvements. As the chair knows, this appropriations will provide critical assistance to dairy farmers and others to construct ponds and other pollution control structures to curb agricultural runoff, which is the primary source of pollution on the lake's northern shore. The Lake Pontchartrain Basin Foundation, a nonprofit State-chartered entity, has been the leading research and advocacy group in the State which has identified the sources of this pollution and has proposed projects to curb its proliferation. Does the chair agree with me that it was the intention of the conference committee to provide these funds to the Lake Pontchartrain Basin Foundation through grants by the EPA?

Ms. MIKULSKI. The answer to the senior Senator from Louisiana is yes. The committee is aware that the EPA currently provides funds to the Lake Pontchartrain Basin Foundation to conduct research and to compose a master plan for environmental remediation of Lake Pontchartrain. It is the intention of the committee that these additional funds be administered by the EPA in a similar manner. In this way, the EPA would provide grants to the Lake Pontchartrain Basin Foundation for pollution abatement projects proposed by the foundation after consultation with local affected parties and after a plan for expenditure of the funds is developed.

Mr. JOHNSTON. Once again, I thank the chair for her support of this program and I yield the floor.

### EPA RULES PERTAINING TO RECYCLING AT FEDERAL FACILITIES

Mr. HATFIELD. As the Senator knows, I have long advocated placing an increased emphasis on national efforts to save energy and natural resources and reduce solid waste by recycling. My own State of Oregon is a national leader in the recycling area and has set an example through a number of programs that many other States have followed. I ask my colleague from Maryland if she shares my belief that the Federal Government should do all that it can to lead by example in this important area?

Ms. MIKULSKI. I agree with my good friend from Oregon. Recycling, as it bears on energy and resources savings and litter and solid waste reduction, is vital for this country, and it is important for the Federal Government to set an example through Federal recycling and procurement initiatives.

Mr. HATFIELD. I thank the Senator. Knowing that the Senator shares my general concern in this area, I would like to draw your attention to the Environmental Protection Agency guidelines in current Federal law at 40 CFR 244 that require all Federal agencies and facilities to implement or show reasons for nonimplementation of a program to recycle beverage containers sold on Federal facility premises. These mandatory guidelines were issued pursuant to a congressional directive included in the Resource Conservation and Recovery Act.

Ms. MIKULSKI. I was not aware of such guidelines. Could the Senator comment on the compliance or enforcement history of the provision?

Mr. HATFIELD. Unfortunately, I am not in possession of the compliance record of this provision. I ask the Senator if we could expect a full report from the Environmental Protection Agency on its prior and continuing efforts gain compliance with 40 CFR 244?

Ms. MIKULSKI. I believe such a request is warranted and I would hope that the Environmental Protection Agency would give the committee a full report of its actions under these guidelines and its success in seeing them implemented.

Mr. HATFIELD. I thank the Senator. I ask unanimous consent that the guidelines appear in the RECORD.

Ms. MIKULSKI. I thank the Senator for his longstanding interest in this area and look forward to reviewing the report of the Environmental Protection Agency.

There being no objection, the guidelines were ordered to be printed in the RECORD, as follows:

### PART 244—SOLID WASTE MANAGEMENT GUIDELINES FOR BEVERAGE CONTAINERS

#### Subpart A—General Provisions

Sec.
244.100 Scope.
244.101 Definitions.

#### Subpart B—Requirements

244.200 Requirements.
244.201 Use of returnable beverage containers.
244.202 Information.
244.203 Implementation decisions and reporting.

APPENDIX—RECOMMENDED BIBLIOGRAPHY

AUTHORITY. Secs. 1008 and 6004 of the Solid Waste Deposit Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6907, 6964).

SOURCE. 41 FR 41203, Sept. 24, 1976, unless otherwise noted.

#### Subpart A—General Provisions

§ 244.100 Scope.

(a) The "Requirement" sections contained herein delineate minimum actions for Federal agencies for reducing beverage container waste.

(b) Section 211 of the Act, and Executive Order 11752 make the "Requirements" section of the guidelines mandatory upon Federal agencies. They are recommended for adoption by State and local governments and private agencies.

(c) *Intent and Objectives.* (1) These Guidelines for Beverage Containers are intended to achieve a reduction in beverage container solid waste and litter, resulting in savings in waste collection and disposal costs to the Federal Government. They are also intended to achieve the conservation and more efficient use of energy and material resources through the development of effective beverage distribution and container collection systems.

(2) The guidelines are intended to achieve these goals by making all beverage containers returnable and encouraging reuse of recycling of the returned containers. To accomplish the return of beverage containers, a deposit is to be paid upon purchase by the consumer and refunded to the consumer when the empty container is returned to the dealer. This refund value provides a positive incentive for consumers to return the empty containers. Once containers are returned, nonrefillable containers can be recycled and refillable bottles can be reused.

(3) The minimum deposit of five cents has been chosen because it is deemed a large enough incentive to induce the return of most containers, and it is the most widely used deposit amount in present deposit systems. Because this action is intended to be compatible with present deposit systems, it is recommended that Federal facilities apply higher deposit levels in localities where higher levels are ordinarily used and lower deposit levels if the local area has an established return system with a minimum deposit level, for some or all beverage containers, of less than five cents.

(4) Final determination of how the requirements of the guidelines will be met rests with the head of each Federal agency.

(5) Federal facilities implementing the guidelines must charge refundable deposits on both refillable beverage containers and nonrefillable ones. Use of a refillable beverage container system will achieve the objectives of this guideline and will also most likely result in lower beverage prices for consumers. However, placing refundable deposits on nonrefillable containers, which are subsequently returned and recycled, also achieves the objectives of the guidelines.

(d) *Nonimplementation for Federal Facilities.* (1) The objectives of these guidelines are to reduce solid waste and litter and to conserve energy and materials through the use of a return system for beverage containers. In order to have a substantial impact on solid waste and litter created by beverage containers and to effect the concomitant energy and materials savings in a cost-effective manner, three conditions will be necessary: First, that consumers continue to purchase beverages from dealers at Federal facilities; second, that empty containers be returned and then reused or recycled; third, that the costs of implementation are not prohibitive. The head of each agency should consider these factors in order to make a determination regarding implementation of these guidelines.

(2) The Administrator recognizes that the requirements of these guidelines may not be practical at some Federal facilities due to geographic or logistic problems of a local nature. Further, he recognizes that the use of a returnable beverage container system will accomplish nothing if all reasonable efforts to implement such a system have failed to induce consumers to buy beverages in returnable containers or to return them when empty. When these situations persist, agencies may determine not to continue implementation of these guidelines.

(3) Federal agencies that make the determination not to use returnable containers shall provide to the Administrator the analysis and rationale used in making that determination as required by § 244.100(f)(3). The Administrator will publish notice of availability of this report in the FEDERAL REGISTER. The following conditions are considered to be valid reasons for not using returnable beverage containers.

(i) Situations in which, after a trial implementation, there is no alternative available that results in meeting the objectives of the guidelines in a cost effective manner. Examples of indications of this situation include, but are not limited to: (A) Data indicating a substantial and persistent reduction in beverage sales that is not directly attributable to any other cause; and (B) failure to establish a beverage container return rate that effectively achieves the objectives of these guidelines.

(ii) Situations in which no viable alternative can be found which avoids excessive, irrecoverable costs to the facility or the Agency. These conditions may prevail at either part or all of a facility. It is expected that facilities will use returnable beverage containers in those portions of their beverage distribution systems where it is effective to do so. However, it is recognized that in some situations, such as for unattended vending machines where it is impractical to establish refund locations, or in small remote outlets where the majority of consumers are transient, it may not be possible to use returnable containers effectively. The provisions for nonimplementation can be applied to those portions of a facility.

(e) The Environmental Protection Agency will render technical assistance and other guidance to Federal agencies when requested to do so pursuant to section 3(d)(1) of Executive Order 11752.

(f) *Reports*—(1) *Implementation Schedule Report.* This report is to advise the EPA of plans for the implementation of these guidelines. It is to be submitted to the Administrator within 60 days following an agency's determination to implement, and should include a list of planned implementation actions and a schedule indicating when those actions will be taken.

(2) [Reserved]

(3) *Nonimplementation Report.* Nonimplementation reports are to be submitted to the Administrator as soon as possible after a final agency determination has been made not to use returnable beverage containers but not later than sixty days after this determination. The Administrator will indicate to the reporting agency his concurrence or nonconcurrence with the agency's decision, including his reasons therefor. This concurrence or nonconcurrence is advisory.

Nonimplementation reports should include:

(i) A description of alternative actions considered or implemented, including those actions which, if taken or continued, would have involved a deposit or return system.

(ii) A description of ongoing actions that will be continued and actions taken or proposed that would preclude future implementation of a returnable beverage container system. This statement should identify all agency facilities or categories of facilities that will be affected.

(iii) An analysis in support of the determination not to implement a deposit system, including technical data, market studies, and policy considerations used in making that determination. If the determination not to implement is based on inability to achieve a cost-effective system, this analysis should include such things as sales volume, impact on total overhead costs, administrative costs, other costs of implementation, percentage of containers sold that are returned, solid waste and litter reduction, energy and materials saved, and retail prices (before and after implementation).

[41 FR 41203, Sept. 21, 1976, as amended at 47 FR 36602, Aug. 20, 1982]

**§ 244.101 Definitions.**

(a) "Beverage" means carbonated natural or mineral waters; soda water and similar carbonated soft drinks; and beer or other carbonated malt drinks in liquid form and intended for human consumption.

(b) "Beverage container" means an airtight container containing a beverage under pressure of carbonation. Cups and other open receptacles are specifically excluded from the definition.

(c) "Consumer" means any person who purchases a beverage in a beverage container for final use or consumption.

(d) "Dealer" means any person who engages in the sale of beverages in beverage containers to a consumer.

(e) "Deposit" means the sum paid to the dealer by the consumer when beverages are purchased in returnable beverage containers, and which is refunded when the beverage container is returned.

(f) "Distributor" means any person who engages in the sale of beverages, in beverage containers, to a dealer, including any manufacturer who engages in such sale.

(g) "Federal Agency" means any department, agency, establishment, or instrumentality of the executive branch of the United States Government.

(h) "Federal facility" means any building, installation, structure, land, or public work owned by or leased to the Federal Government. Ships at sea, aircraft in the air, land forces on maneuvers, and other mobile facilities; and United States Government installations located on foreign soil or on land outside the jurisdiction of the United States Government, are not considered "Federal facilities" for the purpose of these guidelines.

(i) On-Premise Sales" means sales transactions in which beverages are purchased by a consumer for immediate consumption within the area under control of the dealer.

(j) "Recycling" means the process by which recovered materials are transformed into new products.

(k) "Refillable Beverage Container" means a beverage container that when returned to a distributor or bottler is refilled with a beverage and reused.

(l) "Refund" means the sum, equal to the deposit, that is given to the consumer or the dealer or both in exchange for empty returnable beverage containers.

(m) "Returnable Beverage Container" means a beverage container for which a deposit is paid upon purchase and for which a refund of equal value is payable upon return.

### Subpart B—Requirements

**§ 244.200 Requirements.**

**§ 244.201 Use of returnable beverage containers.**

(a) All beverages in beverage containers sold or offered for sale shall be sold in returnable beverage containers. On-premise sales are specifically included from this requirement provided that empty beverage containers are returned to the distributor for refilling or are recycled, either by the dealers or by the distributor when markets for recyclable materials are available.

(b) The deposit shall be at least five (5) cents unless the local area has a established return system in operation with a lower minimum deposit level. In these specific areas, Federal facilities may adopt a minimum deposit equal to the local deposit level.

(c) A dealer shall accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, and pay the consumer the refund value of the beverage container, provided the container is refillable or is labelled in accordance with § 244.202(a).

(d) The refund shall be provided at the place of sale whenever possible or as close to that place as practicable and in any event, on the premises of the particular federal facility involved. Refund locations shall be conspicuously labelled as refund centers. If they are not in the immediate vicinity of the place of sale, notice of their location shall be prominently posted at that place of sale.

(c) A dealer shall not procure beverages in beverage containers from distributors who refuse to: Accept from the dealer any returnable beverage containers of the kind, size and brand sold by the distributor; pay to the dealer the refund value of the beverage containers; and reuse the returned containers or recycle them where markets for recyclable materials are available.

(f) Returned refillable beverage containers shall be returned to the distributor for refilling. Nonrefillable beverage containers shall be returned to the appropriate distributor or recycled, where markets for recyclable materials are available.

**§ 244.202 Information.**

(a) With the exception of refillable beverage containers, every returnable beverage container sold or offered for sale by a dealer shall clearly and conspicuously indicate, by embossing or by stamp, or by a label securely affixed to the beverage container, the refund value of the container and that the container is returnable.

(b) Dealers shall inform consumers that beverages are sold in returnable beverage containers by placing a sign, or a shelf label, or both, in close proximity to any sales display of beverages in returnable containers. That sign or label shall indicate that all containers are returnable, separately list the beverage price and deposit to be paid by the consumer, and shall indicate where the empty beverage containers may be returned for refund of the deposit.

**§ 244.203 Implementation decisions and reporting.**

Federal agencies are to determine whether or not to implement these guidelines by October 20, 1977. Reporting of that determination shall be in accordance with the following requirements:

(a) Federal agencies that plan to implement these guidelines shall report that decision to the Administrator in accordance with the procedures described in § 244.100(f)(1).

(b) Agencies that determine not to implement these guidelines shall provide to the Administrator a nonimplementation report in accordance with § 244.100(f)(3). This report shall include the reasons for nonimplementation, based on concepts presented in § 244.100(d).

[47 FR 36602, Aug. 20, 1982; 47 FR 41959, Sept. 23, 1982]

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The PRESIDING OFFICER. All time having been yielded back, the question is on the agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate recedes from its amendment No. 268 and agrees, en bloc, to the amendments of the House to the amendments of the Senate in disagreement, with the exception of amendment No. 242.

The amendments agreed to, en bloc, are as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$71,954,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, on page 12 of the House engrossed bill, strike out the sum "$190,701,000" on line 21, and insert in lieu thereof *$149,525,000*; strike out the proviso beginning on line 25, through "technology" on line 3 of page 13 and insert in lieu thereof: *: Provided, That notwithstanding any other provision of this Act, no part of the funds appropriated under this heading shall be available to carry out the functions of the Office of Facilities*; and on page 15 of the House engrossed bill, insert after line 19 the following new paragraph:

*Notwithstanding any other provision of this Act, funds appropriated under the following headings shall be available to carry out the functions of the Office of Facilities to support the purposes enumerated for each account: (1) "Medical administration and miscellaneous operating expenses" for administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including, site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; (2) "Medical care" for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; and oversight, engineering and architectural activities not charged to project cost; and (3) "General operating expenses" for construction program oversight; legal services; and in addition to the availability of other accounts, expenses in support of lease-purchase agreement and enhanced-use lease activities.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

*Of the amounts provided under this heading for the HOPE for Homeownership of Multifamily units program, $10,000,000 shall be available for assistance to mutual housing associations submit approvable grant applications under such program.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

Insert the matter proposed by said amendment, amended as follows:

In lieu of the number "$350,000,000", insert: *$300,000,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,000,000,000, to remain available until expended*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*: Provided further, That of the $9,223,965,000 total under this head, $3,100,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371), including $4,750,000 for technical assistance and training under section 20 of the Act (42 U.S.C. 1437(r)) and $10,500,000 for the inspection of modernization units and provision of management and technical assistance for troubled Public Housing Authorities and Indian Housing Authorities*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and proposed by said amendment, insert:

*and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects*

*Resolved*, That the house recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,116,099,000*

*Resolved*, That the house recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*Of the $9,223,965,000 total under this head, $193,754,000 shall be*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows:

At the end of the amendment, add the following:

*Notwithstanding any other provision of this Act, the amount appropriated under this heading for fiscal year 1993 shall be "$6,076,135,000" and the amount under this heading for fiscal year 1994 shall be "$720,000,000".*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*For contracts with and payments to public housing agencies and non-profit corporations for congregate services programs, $21,000,000, to remain available until September 30, 1994, of which up to $10,800,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for such programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101–625).*

*Resolved*, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$104,652,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*: Provided further, That $10,000,000 of the foregoing amount shall be made available for grants for federal-assisted, low-income housing.*

*Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a is amended—(1) in subsection (a), by striking "in" and insert "for residents of";*

*(2) in subsection (b)(5), after "nonprofit organizations", by inserting "and institutions of higher learning"; and*

*(3) in subsection (d)(3), after "cultural activities,", by inserting "transportation costs,"*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*: Provided further, That of the total amount, $1,000,000 and 20 staff years shall be for the Office of Lead-Based-Paint Abatement and Poisoning Prevention, which shall be located within the Office of the Secretary: Provided further, That not to exceed $8,793,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters budget activity of Departmental Management, including not to exceed $673,000 for travel expenses: Provided further, That not to exceed $14,609,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of General Counsel, including not to exceed $259,000 for travel expenses: Provided further, That not to exceed $8,717,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of Policy Development and Research, including not to exceed $141,000 for travel expenses*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate number 151 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to add the following:

*Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 (as such section existed immediately before October 1, 1991), the City of Harrisburg, in the State of Pennsylvania, shall not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grants awarded under section 17(d) of such Act to the city for use in connection with the Washington Square Phase II housing development project (Project No. PA009HG701), if before October 1, 1993, the city (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts remain available.*

*Amounts made available for a housing development grant under section 17(a)(1)(B) of the United States Housing Act of 1937 for NJ 008–HG7–01 in Camden, NJ, shall be deemed to have been recaptured, and shall be made available during fiscal year 1993 for such project.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate number 156 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Section 213(e) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439(e)), is amended by striking "the Park Central New Community Project or in adjacent area that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project" and inserting "Jefferson County, Texas"; and, notwithstanding the provisions of section 213(c) of such Act, of the budget authority set aside in section 213(e) of such Act, the Secretary shall enter into annual contributions contracts under section 8(b) of the United States Housing Act of 1937 with the Housing Authority of the City of Galveston, Galveston, Texas, for 18 units, with the Housing Authority for the City of Rockwall, Rockwall, Texas, for 36 units, and for the balance of such budget authority, with the Port Arthur Housing Authority, Port Arthur, Texas.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate number 164 to the aforesaid bill, and concur therein with an amendment as follows:

At the end of the matter inserted by said amendment, insert:

*Notwithstanding any other provision of the law, the Secretary of Housing and Urban Development shall immediately forego and forbear from all efforts to recapture funding, by means of offset or reduction, against current or future subsidy, or other means, from the Housing Authority of the City of Seattle based on a finding pertaining to tenant utility allowances contained in the Office of Inspector General Report 86–SE–201–1003, dated February 21, 1986, and shall restore any funds previously recaptured.*

*The Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MIS–22–PFL0094). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.*

*Resolved*, That the House recede from its disagreement to the amendment of the senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*That funds shall not be available for the personnel compensation and benefits of more than three Commissioners of the Consumer Product Safety Commission for fiscal year 1993 and thereafter*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 178 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*: Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken, amended to red as follows:

### *PROGRAM AND RESEARCH OPERATIONS*

*For necessary expenses, not otherwise provided for, for personnel compensation and benefit costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901—5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; $823,607,000: Provided, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913): Provided further, That if the agency determines that it would be more cost effective and less disruptive of accomplishing the agency's mission in issuing a new research support contract, after the agency has notified the appropriate committees of the Congress, not more than $10,000,000 of the amount appropriated herein may be made available for personnel compensation and benefits and travel of additional personnel (on a temporary or permanent basis) needed to replace contract services at the agency's environmental research laboratories.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*consisting of $1,323,528,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $201, 120,000 during fiscal year 1993, with all of such funds,*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 197 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken, amended to read as follows:

*: Provided, That notwithstanding any other provision of law, such sums as may be necessary shall be available, from within available funds, for a cooperative agreement to demonstrate the use of the latest gas-phase thermo-chemical technology for the remediation of a municipal landfill located on a river island*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 227 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken, amended to read as follows:

*Notwithstanding any other provision of the Federal Water Pollution Control Act, as amended, or this Act, $80,000,000 of fiscal year 1992 and 1993 funds for San Diego allocation for coastal cities shall be available only for the construction of the San Diego wastewater treatment facilities included in the consent decree lodged in the United States and California v. City of San Diego, Civil Action #88–1101 (S.D. Cal.). The extension of the Point Loma outfall for which a certified EIR has been reviewed by EPA, and for which construction has begun, shall be eligible for funding. The Federal share for construction of these projects will be 55 per centum. Nothing in this provision shall be interpreted or is intended to modify commitments made by the City of San Diego in the above referenced consent decree. Notwithstanding any provision of the Federal Water Pollution Control Act, the City of San Diego shall be entitled to retain all funds received under EPA construction grant C–06–03014–110.*

*Resolved*, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 230 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Notwithstanding any other provision of law, the Administrator shall make a grant of up to $2,500,000 under title II of the Federal Water Pollution Control Act, as amended, from funds deobligated by and available to the State of Florida under section 205 of the Act to Dixie County, Florida, for a publicly-owned treatment works for the community of Suwannee, Florida: Provided, That the geographic scope of the advanced water treatment project specified and supported from funds appropriated under this heading may be modified as deemed necessary and appropriate after advanced notification to the Appropriations Committees.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 232 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 56 workyears for the Immediate Office of the Administrator; (2) 45 workyears for the Office of Congressional and Legislative Affairs; (3) 78 workyears for the Office of Communications, Education, and Public Affairs; (4) 192 workyears for the Office of General Counsel; and (5) 1,477 workyears for the Office of Administration and Resources Management, of which 120 workyears shall be for contract management activities.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 241 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*SOLID WASTE DISPOSAL ACT*

*No funds appropriated to the Environmental Protection Agency for fiscal year 1993 may be expended for the promulgation, implementation, or enforcement of any regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) concerning process wastewater from phosphoric acid production and phosphogypsum from phosphoric acid production. The preceding sentence shall not apply to the regulation of those wastes under sections 3007, 3013, and 7003 of that Act (42 U.S.C. 6927, 6934, and 6973, respectively).*

*EXXON VALDEZ SETTLEMENT FUND*

*Sum sums provided for the Environmental Protection Agency under the Exxon Valdez settlement shall be credited during fiscal year 1993 and thereafter to the Exxon Valdez Settlement Fund established by this heading and shall remain available until expended for environmental restoration activities by the Environmental Protection Agency to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Water Pollution Control Act, as amended by the Oil Pollution Control Act of 1990, and other appropriate authorities of the Administrator.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 242 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*: Provided, That the Council on Environmental Quality and Office of Environmental Quality shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 243 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*NATIONAL SPACE COUNCIL*

*SALARIES AND EXPENSES*

*For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,591,000, of which not to exceed $1,000 may be for official reception and representation expenses: Provided, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 244 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$6,225,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 245 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*: Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: Provided further, That the Office of Science and Technology Policy may award grants and enter into cooperative agreements with qualified recipients to further science, technology development, education, and other purposes*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 246 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*Chapter X of title XI of the Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet the Present Emergencies Arising from the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities (H.R. 5620) is amended by (1) striking the matter under the heading "Disaster relief" and insert in lieu thereof: "For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the 'Disaster Assistance Direct Loan Program' account for administrative expenses and subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended." and (2) striking the matter under the heading "Disaster assistance direct loan program account" and insert in lieu thereof: "The limitation on direct loans for the 'Disaster assistance direct loan program account' is increased, within existing funds, by $230,000,000 to not to exceed $258,000,000: Provided further, That not to exceed $58,000,000 is available for direct loan obligations provided to eligible applicants or to States under section 319 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: Provided further, That not to exceed $200,000,000 is available for community disaster loans to local governments under section 417 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: Provided further, That any unused portion of the direct loan limitation shall be available until September 30, 1993: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 247 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert:

*$160,409,000: Provided further, That up to $1,000,000 of the funds appropriated under this heading may be transferred to and merged with sums appropriated for "Office of Inspector General"*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 249 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$253,243,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 254 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*(1) six workyears for the Office of the Director, (2) 22 workyears for the Office of General Counsel,*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 259 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Hazardous Materials Branch of the Office of Technological Hazards, and all funds and staff years provided to it by this Act, shall be transferred from the State and Local Programs and Support Directorate to the United States Fire Administration within 90 days of the enactment of this Act.*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 260 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*The Director of the Federal Emergency Management Agency shall undertake a review of the agency's organizational structure and, within 180 days of enactment of this Act, submit to the appropriate committees of the Congress a reorganization plan which reflects changing mission requirements and priorities. The review shall include an assessment of the National Preparedness Directorate and examine potential alternatives to meet that directorate's principal objectives while increasing overall agency efficiency.*

*Resolved*, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 277 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*The Mission Simulator and Training Facility, Building Number 5, of the National Aeronautics and Space Administration, located at the Johnson Space Center in Houston, Texas, is hereafter named and designated the "Jake Garn Mission Simulator and Training Facility". Any reference in a law, rule, map, regulation, document, record, or other paper of the United States to such facility shall be held to be a reference to the "Jake Garn Mission Simulator and Training Facility".*

*Resolved*, That the house recede from its disagreement to the amendment of the Senate numbered 303 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 591 SAFE DRINKING WATER ACT IMPLEMENTATION.—

(a) Safe Drinking Water Act Report.—The Administrator of the Environmental Protection Agency shall report to the Congress within nine months of the date of enactment of this section recommendations concerning the reauthorization of the Safe Drinking Water Act. Such report shall address—

(1) the adverse health effects associated with contaminants in drinking water and the public health and other benefits that may be realized by removing such contaminants;

(2) the process for identifying contaminants in drinking water and selecting contaminants for control;

(3) schedules for the development of regulations and compliance with drinking water standards;

(4) the financial and technical capacity of drinking water systems to implement monitoring requirements associated with regulated and unregulated contaminants and options to facilitate implementation of such requirements, with special emphasis on small communities;

*(5) the financial and technical capacity of drinking water systems to install treatment facilities needed to assure compliance with drinking water standards and options to facilitate compliance with such standards, with special emphasis on small communities;*

*(6) the financial and technical capacity of States to implement the drinking water program, including options for increasing funding of State programs; and*

*(7) innovative and alternative methods to increase the financial and technical capacity of drinking water systems and the States to assure effective implementation of such Act.*

*(b) MORATORIUM AND REPORT ON RADIONUCLIDES IN DRINKING WATER.—(1) The Administrator of the Environmental Protection Agency shall conduct a risk assessment of radon considering: (A) the risk of adverse human health effects associated with exposure to various pathways of radon; (B) the costs of controlling or mitigating exposure to radon; and (C) the costs for radon control or mitigation experienced by households and communities, including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. The Science Advisory Board shall review the Agency's study and submit a recommendation to the Administrator on its findings. The Administrator shall report the Administrator's findings and the Science Advisory Board recommendation to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Not later than July 31, 1993, the Administrator shall publish the Administrator's study and risk assessment and the Science Advisory Board recommendation.*

*(2) The Administrator is directed, if additional time is required to establish the radon standard, to seek an extension of the deadline contained in the judicially-imposed consent decree for promulgation of the radon standard to a date not later than October 1, 1993.*

*(c) Small System Monitoring Cost Reduction.—With respect to monitoring requirements for organic chemicals, pesticides, PCBs, or unregulated contaminants promulgated in January 1991 (known as the Phase II rule), the Administrator or a primacy State may modify such requirements to provide that any drinking water system serving a population of less than 3300 persons shall not be required to conduct additional quarterly monitoring for a specific contaminant or contaminants prior to October 1, 1993, if monitoring for any one quarter conducted after the date of enactment of this subsection and prior to October 1, 1993 for any such contaminant or contaminants fails to detect the presence of such contaminant or contaminants in the water supplied by the drinking water system.*

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 242 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That the Council on Environmental Quality and Office of Environmental Quality shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.".

Mr. METZENBAUM. Mr. President, I rise on behalf of Senator WIRTH to address myself to this amendment, which I very strongly support. Senator WIRTH is unable to be with us at this late hour, but on behalf of him, I want to make a statement that reflects his views. It is his statement, but it certainly encompasses the views of the Senator from Ohio as well.

The amendment is to extend the statute of limitations for civil professional liability claims filed by the Resolution Trust Corporation. The Senate has already passed this provision three times, most recently adding it to the VA-HUD and Independent Agencies appropriations bill on an overwhelming 78 to 10 vote.

That vote took place on September 8. Two weeks later, the House and Senate conference committee took the Wirth amendment out of the legislation despite the strong Senate vote in favor of the provision.

This is an urgent matter that the Senate has overwhelmingly supported. Yet, a handful of Members decided that Congress should not act on it. I do not think that we should accept an action taken out of the public eye as the last word on the issue. At the very least, the conferees should have permitted the House of Representatives to vote on the issue.

Statutes of limitation have been expiring virtually every week and the RTC legal division's ability to pursue claims has been significantly disrupted by RTC reorganization and personnel decisions this year.

It is all but certain that cost-effective claims have already been missed and possible that further claims may be missed in the future.

We should not allow the 102d Congress to leave town without extending the statute of limitations.

Taxpayers will lose out on millions, perhaps even billions, of dollars if we fail to act. And the only beneficiaries will be those who helped loot the S&L's. Those individuals would be much more likely to get away without ever having to pay any of the money back.

We might be willing to accept the conferees' decision if there had been more disagreement within the Senate on this question or if the House had taken an opposing position. After all, we do have to compromise with the House at times.

But, in this case, the Senate had a clear, strong position, 78–10, while the House had no provision, although the House Banking Committee has reported similar legislation. In fact, there is significant bipartisan support in the House for an extension of the statute of limitations.

On the Senate side, the initial legislation, S. 2334, was also referred to the Banking Committee, as in the House, not the Judiciary Committee.

If the Judiciary Committee had jurisdictional concerns about this matter, why were those concerns not raised when the legislation was earlier introduced? That would have been the appropriate time.

Instead, the House committee only raised it's concerns at the last minute, when its effect was to derail the legislation, not ensure that it received appropriate consideration by the committee.

The administration and the RTC also strongly support extending the statute of limitations.

The conference report includes amendments in disagreement. The House has sent several of those provisions back with amendments which we must accept or reject.

Those provisions are now amendable, and that is the reason we have the amendment that is here before us today.

AMENDMENT NO. 3195

(Purpose: To extend the statute of limitations for certain actions in tort brought by the Resolution Trust Corporation in its capacity as a conservator or receiver of a failed savings association)

Mr. METZENBAUM. Mr. President, I send an amendment for Mr. WIRTH to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for Mr. WIRTH, proposes an amendment numbered 3195.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

**SEC. . CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.**

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as designated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

Mr. METZENBAUM. Mr. President, we should again adopt the Wirth amendment, give House Members an opportunity to consider the topic and resolve the issue. As previously stated the administration and the RTC support this amendment. There is still more than enough time to send the legislation back to the House for a vote on the statute of limitations issue.

I should point out to my colleagues, although there is more than enough time, the Senator from Colorado has indicated that he does want a vote. I will ask for a rollcall vote. But upon the conclusion of that, the floor would then be open for debate.

It is my understanding that the manager of the bill, Senator GARN, would at that time indicate that it would be the intention of Senator GRAMM on that side of the aisle or Senator GARN to filibuster the question. That would mean that we would not be able to conclude the matter this evening. The Senator from Ohio, on behalf of Senator WIRTH, does not wish to see that this bill is defeated and if that is the case and the representation made by the Senator from Ohio is accurate at an appropriate time the Senator from Ohio will act on behalf of Senator WIRTH.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I rise in opposition to the Wirth amendment, as I did on the floor, and as I did in the Banking Committee.

Having said that I would indicate that I worked for several months with the Senator from Colorado trying to work out a compromise, because my personal opposition position is not to the extension of the statute of limitations from 3 to 5 years. It is to the definition of negligence and what is happening while we are trying to pursue some of the people who have ripped off a lot of the taxpayer's money in the S&L crisis we are also sweeping up a lot of innocent directors and officers, because of this definition of gross versus a simple negligence standard. We were not able to come to agreement on that change of definition and, therefore, that is why I have opposed it. However, there are others who oppose on my side of the aisle in addition the extension of the statute of limitations.

So I do personally oppose it. But I would also indicate that the reason we dropped it in the conference committee was the fact that the House Judiciary Committee was so overwhelmingly opposed, not necessarily on the substance, but we received a letter signed by Chairman BROOKS and several other Members, both Republicans and Democrats, while we were in conference that they resisted it procedurally, because they had had no opportunity to hold hearings or address it and thought we were infringing upon their jurisdiction. so I cannot tell you how the House of Representatives would vote if it went to the full body.

But certainly led by the chairman of the Judiciary Committee there would be serious opposition. Therefore, I object from a procedural standpoint, because the Senator from Maryland and I having worked for several months putting this bill together for veterans, for EPA, for housing, and also NASA, we do not want this bill to be held up. It is so important in so many areas over this issue that is highly controversial and the reason that we dropped it in the conference.

So, we will have a tabling motion under the unanimous-consent agreement, and it is my expectation that that tabling motion will probably succeed. Although I will not I mean will not succeed. But if that is the case and I am correct then it certainly is the case, as my good friend from Ohio stated, that it will be resisted and of course there is the opportunity as well to offer other amendments and so the point of it is it would just be tied up and would be in lengthy, lengthy debate, and some of us on this side would see fit to stall this, even though I would regret that, to make sure that this provision was not added.

I yield back the remainder of my time. And if the Senator from Ohio will yield back his?

Mr. METZENBAUM. I yield back mine.

Mr. GARN. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Utah to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Washington [Mr. ADAMS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mrs. JOCELYN BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Arkansas [Mr. PRYOR], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 18, nays 68, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—18

Coats
Cochran
Craig
Danforth
Domenici
Durenberger
Garn
Gramm
Hatch
Hatfield
Kassebaum
Lott
Lugar
Mack
McConnell
Stevens
Symms
Wallop

NAYS—68

Akaka
Baucus
Bentsen
Biden
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Exon
Ford
Fowler
Glenn
Gorton
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Thurmond
Warner
Wellstone
Wofford

NOT VOTING—14

Adams
Bingaman
Bond
Boren
Burdick, Jocelyn
Cranston
Gore
Helms
Kasten
Leahy
Murkowski
Pryor
Seymour
Wirth

So the motion to lay on the table was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, once again, the Senate has approved this amendment by not tabling it. However, I would state once again that we had a difficult time in the conference. The House Judiciary Committee was very much opposed to this. The House insisted that we drop it and, therefore, I oppose it myself, and so want to reiterate the fact even though it has not been tabled that it is now open to debate and it would be debated at great length by myself and others.

So I hope the Senator from Ohio, as he mentioned before, will now withdraw the amendment.

Mr. METZENBAUM. Will the Senator from Utah yield for a question?

Mr. GARN. I will be happy to yield.

Mr. METZENBAUM. Mr. President, when the Senator from Utah indicates that there would be some considerable debate, is he using the language of this body to indicate that there would be a filibuster if there was some effort to pass this amendment?

Mr. GARN. Oh, I am happy to indicate to my friend from Ohio that we could term it a filibuster.

Mr. METZENBAUM. I thought I heard him clearly.

Mr. President, on behalf of Senator WIRTH, myself, and under those circumstances, it seems entirely inappropriate to tie up the HUD-VA conference report. It is very important legislation. The Senator from Maryland has given a great deal herself in order to bring this bill to the point where it is this moment. She has probably put in over a year's work on it. I know neither Senator WIRTH nor myself would want to endanger the passage of that legislation. Therefore, I am instructed by Senator WIRTH on his behalf and mine to withdraw the amendment in view of the impending filibuster.

Ms. MIKULSKI. I do thank the Senator from Ohio.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3195) was withdrawn.

Ms. MIKULSKI. Mr. President, I do thank the Senator from Ohio for withdrawing the amendment. There is substantial substance in this bill that will meet compelling human needs, and I appreciate his courtesy in this.

I, therefore, move to concur in the amendment of the House to the amendment of the Senate numbered 242.

The motion was agreed to.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 11.

### AMENDMENT NO. 3196

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator SEYMOUR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. SEYMOUR, proposes an amendment numbered 3196.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.**

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

Mr. SIMPSON. Mr. President, this amendment, on behalf of my colleague, Senator SEYMOUR, has to do with tax relief for disaster victims. I am not familiar with the full content of it. It has been cleared apparently through the managers of the bill on this side of the aisle. I leave the chairman and the managing Senator to refer to it further.

### TAX RELIEF FOR DISASTER VICTIMS

Mr. SEYMOUR. Mr. President, I want to thank the distinguished chairman and ranking member of the Finance Committee for working with me so diligently to include the provisions of S. 3123 in the tax bill we are now considering. As you know, I introduced this legislation in early August in an effort to relieve a great tax burden placed on victims of federally declared disasters. Now, with a few simple revisions in the Tax Code, we will assist disaster victims in rebuilding their lives more quickly, and with less heartache and suffering.

As we all remember, searing brush fires cut a swath through 1,900 acres in California's East Bay communities last October 20. This whirlwind firestorm claimed 25 lives and destroyed over 3,000 homes, leaving most victims with nothing more than the clothes on their backs. Just as frightening, was the death and destruction recently handed down by Hurricane Andrew on the people of Florida and Louisiana, and Hurricane Iniki on the citizens of Hawaii on the island of Kauai. Unfortunately, as if this were not enough, victims are now faced with Federal tax rules that will inhibit their rebuilding efforts.

Mr. President, this measure provides three very simple, but effective, revisions to the Tax Code in an effort to help victims who have lost homes and/or personal property in presidentially declared disasters.

First, it extends the time to rebuild or purchase, and refurnish, a principle residence from 2 to 4 years, allowing victims more time to reinvest their insurance proceeds without being unfairly penalized by the Internal Revenue Service. And because entire communities are normally destroyed in these disasters, the rebuilding effort is made much more difficult and time-consuming.

Second, it excludes from taxation proceeds obtained from homeowners or renters insurance for any unscheduled personal property. In essence, this removes the need for victims to report, item by item, each piece of personal property lost in a disaster, as required by current law. In many cases, victims have lost hundreds, if not thousands, of personal items, making the task of listing all items very cumbersome, if not impossible.

And finally, it allows insurance proceeds from other scheduled personal property and real property to be treated as one common fund. Under current law, proceeds from personal property losses must be used to replace personal property. Likewise, real property proceeds must be used to replace real property. Simply, this provision allows the victim to allocate insurance proceeds to replace real and personal property as the victim deems necessary, without the fear of incurring a taxable gain.

While the introduction of my legislation was prompted by the Oakland firestorm of last October, it is important to keep in mind that this measure will assist victims of each and every Presidentially declared disaster occurring on or after September 1, 1991. And, we will provide this relief with little cost. The Joint Tax Committee estimates the revenue loss of this legislation as negligible.

Just as important is the fact that H.R. 5640, the companion legislation to my bill, was overwhelmingly passed by the House of Representatives in July.

Mr. President, there is not one State in our Nation that has not been hit by one disaster or another. And certainly, we can expect another disaster to disrupt our lives again. While in some cases we may predict the proximate location of an expected hurricane along the eastern seaboard and gulf coast, a tornado in the Midwest, or an earthquake in California, it is truly impossible to predict the death and destruction handed down by Mother Nature.

With this in mind, I want to encourage the members of the conference committee to insure that this disaster relief measure remains in the tax bill when they begin the most difficult tax of reconciling the differences between the House and Senate tax packages.

I thank my colleagues for their support.

Mr. BENTSEN. Mr. President, this deals with involuntary conversions. We have checked it on this side and, as manager for the majority, we have no objection to it and are ready to adopt it.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3196) was agreed to.

Mr. SIMPSON. Mr. President, I very much thank the Senator from Texas for his courtesy and cooperation on this amendment.

### UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that the only amendments remaining in order to H.R. 11, other than the committee-reported substitute, be the list I will shortly send to the desk; that the list of amendments be in the first degree with second-degree amendments in order relevant to the subject matter of the first-degree amendment to which they are offered; that no amendment on the subject matter of lender liability or municipal liability be in order to this bill; that amendments listed as relevant must be relevant to either the House bill or the committee substitute, and I send that list to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

*Ordered*, That during the further consideration of H.R. 11, an act to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, the only amendments remaining in order, other than the committee reported substitute, be the following listed amendments; that the listed amendments be in the first degree, with second degree amendments in order relevant to the subject matter of the first degree amendment to which they are offered; and that amendments listed as relevant must be relevant to either the House bill or the committee substitute:

Bentsen: Relevant.
Bentsen: Relevant.
Bentsen: Relevant.
Bentsen: Relevant.
Bentsen: Relevant.
Bentsen: Relevant.
Boren: Interdepartmental task force.
Bradley: Add urban aid tax incentive.
Bradley: Cut tax incentive.
Bradley: Trade circumvention.
Breaux: Drift nets.
Breaux: Lash barges.
Breaux: User fee.
Brown: Police and firemen.
Cochran: Miss. school district.
Cochran: Move the effective date for act minimum tax.
Cohen: D.O.D. homeowners assistance programs.
Conrad: Investment tax.
Conrad: Rural enterprise zones.
Craig: Adoption deduction.
D'Amato: Foreign controlled companies should pay fair share.
D'Amato: Trade circumvention.
D'Amato: Times square transition rule.
Daschle: Japanese study.
Daschle: Indian trust income.
Daschle: Logger milage deduction.
Daschle: V.I. beneficiaries starting their own business.
Daschle: Tariff on clomiphene citrate.
Dole: Relevant.
Dole: Relevant.
Domenici: Life insurance contracts of terminally ill.
Domenici: Tax-exempt bonds for environmental infrastructure.
Exon: Undercharge.
Glenn: Industrial development bonds.
Gorton: Dental schools.
Graham: Hurricane relief.
Gramm: Economic growth dividends.
Gramm: Growth package.
Gramm: Sense of Senate indexing tax rates.
Grassley: Enterprize zones/farms.
Hatch: Excise tax/explosive mixing vehicles.
Hatch: S-corporations.
Helms: 20% withholding/IRA rollovers.
Hollings: Relevant.
Hollings: Technical.
Inouye: Indian enterprise zones.
Kennedy: National Board for Skill study.
Kennedy: Urban aid.
Kerry: Strike ACE/Fund jobs.
Kohl: Second degree to earned income tax credit.
Kohl: Welfare demonstration.
Lautenberg: Wine production.
Lautenberg: Yugoslavia MFN.
Levin: Accrual accounting.
Levin: Foster care.
Levin: Super 301 reauthorization.
Lott: Scholarship tax.
Lugar: Tax exempt bonds/ambulances and emergency vehicles.
Mack: Deferral of Ag. taxes.
Mack: First time homebuyers.
Mack: Indexing cap. gains.
Mack: Loans from IRA's.
Mack: Tractors.
McCain/Inouye: Indian reservations investment tax credit.
McConnell: PRC human rights commission.
Metzenbaum: Holding company.
Metzenbaum: Settlement of good will litigation.
Mitchell: Relevant.
Moynihan: Effective date re: charitable substantiation requirement.
Moynihan: Students participation in jobs program.
Packwood: Small woodlots.
Packwood: R & D Tax credit for start up co's.
Packwood: "Good Government."
Packwood: Drift nets.
Packwood: Relevant.
Pressler: Auto theft.
Riegle: Accelerated death benefits.
Riegle: Amortization of software.
Riegle: Foreign insurance companies in U.S.
Riegle: MPV.
Riegle: Small business equity.
Riegle: Tax treatment leased aircraft.
Riegle: Urban enterprise zones.
Sanford: Temporary phaseout itemized deductions.
Sasser: Study: taxes and pool bonds.
Seymour: Turbo enterprise zone pilot program.
Seymour: Disaster victims relief.
Seymour: Targeted Jobs tax credit.
Seymour: Tech. transfer tax credit.
Seymour: SSI substance abuse payments.
Seymour: Empowerment/youth violence prevention.

Seymour: State taxation of S.S. benefits.
Seymour: Child support.
Seymour: Welfare reform.
Seymour: Chapter 1.
Seymour: Youth corps.
Simon: Jobs program.
Simon: Urban academies.
Specter: Penalty-free IRA withdrawals for durable goods.
Specter: Tax reporting/overhead expenses.
Specter: Tax incentives for minority/women owned business.
Stevens: Enterprise zones.
Stevens: Fishing boats/self-employed payroll taxes.
Wofford: Environmental clean-up enterprise zones.
Thurmond: Charleston waterfront.

*Ordered further*, That no amendment on the subject matter of lender liability or municipal liability be in order to this bill.

Mr. BENTSEN. Mr. President, I will advise the Senate that we will be laying down the Craig amendment at 8:30 tomorrow morning, and that I anticipate a vote on a tabling motion at 9 o'clock, and that will be a recorded vote.

### REPEAL THE LUXURY TAX ON BOATS

Mr. PELL. Mr. President, the tax bill we are considering has a number of very important provisions to encourage investment, stimulate our economy, and provide much needed hope and help for individuals and communities who have been struggling during this prolonged recession.

Yet there is one provision more than any other that I want to see enacted: repeal of the 10-percent luxury tax on boats over $100,000 in value.

This luxury tax on boats has had a devastating effect on the boat-building industry in my State and across the Nation. It has led to the loss of jobs and the disappearance of some of our Nation's finest boat-building firms, many of which were located in my home State of Rhode Island. Boat manufacturers have estimated that the 10-percent tax on boats has caused the loss of up to 20,000 jobs in the industry in the last year, including 3,000 in Rhode Island alone. And this luxury tax has had a ripple effect, hurting individuals and companies that rely on the boating industry, including suppliers, engineers, sailmakers, marinas, and restaurant owners.

The individuals whose jobs depend on the boat-building industry are understandably frustrated. Congress has been talking about repealing this tax for over a year and, indeed, both the House of Representatives and the Senate have overwhelmingly passed legislation to do just that. The administration even advocates repeal, although President Bush did veto a comprehensive tax bill Congress sent to him in March which included a repeal of the luxury excise tax.

Even with this support, the luxury tax is still in place, jobs continue to be lost, boat yards continue to close their doors, and the people who have been affected by this tax are becoming more and more disillusioned by this process. On September 10, the Senate passed a resolution introduced by my colleague Senator CHAFEE declaring that the luxury tax should be repealed retroactive to January 1, 1992, and that its approval should not be contingent upon passage of any other tax legislation. I strongly supported that resolution, but I am not convinced that the Congress will take the necessary action to repeal the luxury boat tax if the tax bill before us is not signed into law. The luxury tax is hurting the boat-building industry and it is adding significantly to the depressed state of Rhode Island's economy. We must act to repeal this mistaken and unfair tax and it is imperative that we act this year.

### SOURCE TAX OF PENSION BENEFITS

Mr. REID. Mr. President, within this urban aid bill is proof that our political system does work. Across this country, we are seeing certain segments of our population that believe their actions in the political arena do not make a difference. They are giving up on the system. They no longer vote, they no longer have confidence in their political party, and they don't see any way out. In short, these people are disenfranchised.

Well, Mr. President, today we can offer these citizens a ray of hope. There is evidence in this bill that proves that the system does work. A provision within this urban aid bill is a result of nothing less than good old-fashioned grassroots politics. It is the result of a citizen seeing something wrong with the system, organizing a coalition, and doing something about it. The result of their work is a provision within H.R. 11 that will prohibit a State from source taxing a nonresident's pension income.

I do not want to take too much of the Senate's time, however this is a story that deserves to be told. Several years ago a Nevadan by the name of Bill Hoffman contacted me with a problem he was experiencing. He told me about his situation, and many others, where retired people collecting a pension were being source taxed by a State where they no longer lived. In fact, he had heard so many complaints that eventually he and his wife, Joanne, began organizing the people that were affected. Eventually, they formed a group known as Retirees To Eliminate State Income Source Tax, or RESIST. As a result of their efforts, I introduced legislation to correct this inequity.

RESIST was founded in July 1988, in Carson City, NV. In the 4 years since its beginning, RESIST membership has grown to tens of thousands of members. It includes members in every State of the Union. It is truly a nonprofit, grassroots organization. It operates entirely through the work of volunteers—no members are salaried.

The credibility of this group has convinced other long-established organizations, such as the National Association of Retired Federal Employees [NARFE] and the National Association for Uniformed Services, with 60,000 members. To make a commitment to the prohibition of the source tax on pension incomes. In addition, the Fund for Assuring an Independent Retirement, or FAIR, has lent its support to the cause.

Mr. President, this is the problem. Retirees in every State may be forced to pay taxes to States where they do not reside. The retirees pay taxes on pensions drawn in the States where they spent their working years, despite the fact that they are no longer present to participate in the programs which their taxes are funding. They do not participate in medical assistance programs, senior centers, nor do they use the roads or public parks that these taxes are helping to fund. Most important of all, they don't even get to vote in their former State of residence—yet they still pay taxes to these States. It has been said may times, and I would agree—this is taxation without representation.

A Nevada case history will illustrate the problem that exists.

An older woman who lives in Fallon, NV, has an annual income of between $12,000 and $13,000 a year. She is not rich, but she is surviving. One day the mail carrier delivers a notice from California that says she owes taxes on her pension, plus the penalties and interest on those taxes. She cannot believe it, but being an honest person, she tells California that she has never paid these taxes in the past and asks why she is being assessed at this time. Mr. President, to make a long story short, the California Franchise Tax Board went back to 1978 and calculated her tax debt to be about $6,000. Mr. President, this woman's income is only $12,000 per year.

We are all aware of the increased mobility that Americans have come to know. Many people today plan to retire in places other than the area they work. The recent growth of Nevada is ample evidence of this. There are many reasons for it. People might want to live in a warmer climate. Or, possibly their families have moved and they want to join them. Whatever the reason, they spend their working years saving enough to be able to move to their chosen area. You can imagine their shock and then dismay when they receive a notification that back taxes, along with interest and penalties, are owed to their old State of residence. The shock is from a tax for which they receive no services and no representation. The dismay from the inability to pay a sometimes enormous tax debt when one lives on a fixed income.

Mr. President, it is also important to note that the State deriving the source tax on pension income is collecting the tax not just based on the amount of pension income for the year, but on the entire income. Income that includes the amounts earned in the current State of residence. Income that could be used to pay taxes to the State of residence. In fact, of the States responding to a Federation of Tax Administration [FTA] survey completed in May 1991, Maine and Utah do not provide a tax credit for taxes paid to another State. Hence, someone living in one of these States that gets hit with this tax would have to pay taxes on the same income to both States, or would be double taxed.

Mr. President, while the source tax may be bringing in revenues to one State, it can actually decrease the revenues to another State. As I just mentioned there are only a couple of States that do not allow a tax credit for taxes paid to another State. Most States allow for it. The tax credit is fair as it prevents double taxation, but it means the State of residence is losing out on revenues. If I retire from California to Oklahoma, and California taxes my pension, Oklahoma will grant me a credit for the amount I owe California. But Oklahoma will still be the State providing me with services. Services such as medical assistance when I will most likely need it. Parks when I will have the opportunity to use and enjoy them. Senior services for me to participate in. As well as the streets I drive to get to these places. Not to mention, the right to vote. And Oklahoma will be providing these programs at bargain basement prices because my tax dollars will be going to California.

To prohibit this unethical practice, a provision has been included in this bill which prohibits States from taxing pension income of nonresidents, taking into consideration the way the State defines a resident. Earlier this year, during the Senate consideration of H.R. 4210, the comprehensive tax bill passed by Congress and subsequently vetoed by the President, I offered a similar amendment to repeal this unfair tax. At that time there was concern that my amendment would open up loopholes for the very wealthy to avoid paying State income taxes. Mr. President, that was never my intention. Since that time, I have worked hard to address the concerns of some of my colleagues. The amendment I offer today precludes a State from taxing pension income of a nonresident if that pension income is in one of the plans listed in the bill as defined by the Tax Code.

There is no cost to the Federal Government to prohibit the source taxing of pension incomes. In fact, if anything, the prohibition will increase revenues to the Federal Government. Currently, those people who itemize deductions can use State income tax as a deduction. If someone moves to a State like Nevada, which has no State income tax, or a State with a lower income tax than the one they moved from, the State income tax deduction would either be reduced or nullified.

I thank the chairman, and members of the Finance Committee for including this provision in this bill. But, most importantly, I applaud the efforts of Bill Hoffman, his wife Joanne, and the coalition they organized. Their actions should serve as an alarm clock to those citizens in our country that feel disenfranchised. Something can be done. It is not easy and it often can take a long time—but the system can work, and I encourage the citizens of this country to get back into the political arena. They should not give up.

### HEALTH CARE

Mr. PACKWOOD. Mr. President, I support this bill and I am pleased to join my colleague, the chairman of the Finance Committee, in sponsoring this very modest series of important Medicare provisions. Senator BENTSEN and I have worked hard to construct a bipartisan bill that addresses most of the pressing Medicare concerns that need to be taken care of before we adjourn. There were literally hundreds of issues that many of our colleagues wanted to include in this bill. We were not able to accommodate all requests, but we were able to include key items that will assure the continuation of essential health services, particularly in rural sections of the country.

This bill extends several Medicare provisions which support access to health services in my State of Oregon and across America. Two special designations for rural hospitals will be extended by passage of this bill—Medicare dependent hospitals and regional referral centers. These hospitals play an important role in our health care delivery system by caring for a high proportion of older patients and by treating more complicated cases in rural areas. The more favorable reimbursement rates which they now rely upon to operate will discontinue if we do not act expediently to pass this bill. More than 700 hospitals in the United States will be aided by these extensions. The bill also extends the rural health transition grants and the essential access community hospital demonstrations which provide funding for small rural hospitals to develop and implement new innovations in delivering health services in their communities. The grants and demonstrations are another important element in our encouragement of new models of improving access, affordability, and quality health care services throughout America.

This bill also includes the extension of a number of important demonstration projects. These projects provide essential information which we need as we continue to debate the future of our Nation's health care system. The Alzheimer's disease demonstration projects, one of which is in Portland, OR, provides vital information on the services that are needed to allow these patients to remain in their homes. The social health maintenance organization demonstrations, one of which is also in Portland, OR, provide integrated health and long-term care services to Medicare beneficiaries on a capitated basis.

The bill further includes several important issues related to physician payment. These issues need to be addressed now so that Medicare can continue to implement the new payment system for physicians in an efficient manner. Many of these issues could cause serious access problems for Medicare beneficiaries if they are not addressed soon.

One of these issues is the payment for the interpretation of electrocardiograms. A ban on payments for EKG interpretation went into effect this year. As a result, some problems have arisen with having EKG's interpreted for Medicare beneficiaries. Interpretation of EKG's is a skill for which physicians who perform the service should expect to be paid. I introduced a bill with Senators DURENBERGER and ROCKEFELLER which remedies this situation. The bill we are introducing today includes this EKG provision.

Another physician payment issue which needs to be addressed is paying for anesthesiology services based on actual time spent with patients. This has been the traditional method of payment for anesthesiology services. The administration would like to change this method and base payments on average time. There is no evidence to indicate that this change is necessary or prudent. The bill we are introducing here includes a measure I introduced with Senator BENTSEN which would prohibit any change for 5 years and mandate a study so that we will have the necessary information as to whether or not a change is needed.

In concluding, I want to emphasize that this is a good bill, and I would hope that we could avoid adding on to it further. In the interests of getting this bill passed, I would like to keep our focus narrow.

### APPLICATION OF THE 1983 COMMON PAYMASTER PROVISION TO DENTAL SCHOOLS

Mr. GORTON. Mr. President, Senator ADAMS and I intended to offer an amendment making a technical correction to the 1983 common paymaster provision, to make it crystal clear that the provision applies not only to medical schools but also to dental schools. However, I understand that we may have further information rendering such an amendment unnecessary.

By way of background, the University of Washington's medical and dental schools operate clinical programs in order to train residents and students, as well as provide health and dental care to people in the community who otherwise could not afford that care. Doctors and dentists who serve on the schools' faculties typically practice as part of these clinical programs.

In the early eighties, the University of Washington sought to improve the operation of the medical school's clinical program by establishing a faculty practice plan, pursuant to Tax Code section 501(c)(3), that would serve as an umbrella employer for the faculty members practicing as part of the clinical program. There was, however, a problem with duplicate payroll taxes. The payroll tax rules generally require employers to pay FICA taxes with respect to each employee, up to the threshold amount. In the case of an employee who technically is employed by two or more related entities, these general rules could result in an overpayment of FICA taxes if the employees' total wages exceeded the threshold amount. Recognizing this, Congress previously had enacted the section 3121(s) common paymaster rule, which provides that an employee of two or more related corporations may designate one of those corporations as the common paymaster, with payroll taxes paid only by that corporation. It did not apply to a university/501(c)(3) arrangement. Therefore, establishment of a faculty practice plan would have resulted in an overpayment of FICA taxes.

To correct this problem, I offered an amendment, to the 1983 Social Security Amendments Act, extending the common paymaster rule specifically to cover medical school faculty practice plans. The amendment was adopted by voice vote and enacted as section 125 of the 1983 act.

Today, Mr. President, the University of Washington wishes to further improve the operation of its clinical programs by establishing a similar faculty practice plan for the dental school. However, a question has arisen about whether section 125 applies to dental schools. Therefore, the amendment that Senator ADAMS and I planned to offer simply would have modified section 125 to apply expressly to any medical school or dental school.

This is consistent with my intent in proposing section 125 back in 1983. I see no reason, in policy or law, to distinguish between medical schools and dental schools with respect to this provision, particularly in light of the fact that oral surgeons and other physicians participate in dental school clinical programs.

Mr. BENTSEN. Mr. President, I appreciate the interest of the Senators from Washington in this issue and have been happy to work with them to resolve any uncertainty regarding the application of section 125 of the 1983 Social Security Amendments Act to dental schools. Like Senator GORTON, I see no reason to distinguish between medical schools and dental schools in this regard.

At the point, the IRS has not made a final determination regarding its interpretation of the application of section 125 of the 1983 Social Security Amendments to dental schools. I understand that the IRS appears to be leaning towards ruling that dental schools are covered. If, however, the IRS rules to the contrary, I believe that this issue is an issue the Finance Committee should clarify legislatively. Does Senator PACKWOOD agree with this approach?

Mr. PACKWOOD. Yes. It is my understanding that the IRS will be ruling on this issue soon. In light of this, I agree we should defer action in the hope that the IRS will interpret section 125 to include dental schools as Congress intended and render a legislative solution unnecessary.

Mr. GORTON. Given the help of the majority and minority staffs on this issue, I am willing to refrain from offering my amendment at this time. I thank the chairman and ranking member, and their staffs, for their diligent attention to this matter. It may seem like a small item in the context of a major tax bill, but it is critically important to public universities that are struggling because of repeated budget cuts.

Mr. ADAMS. I also would like to thank the chairman, the ranking member, and their staffs. By confirming that the IRS will interpret section 125 consistently with congressional intent, we will have resolved the uncertainty facing not only UW but also other dental schools. As a result, they will be able to improve the operation of the clinical programs without suffering a tax penalty.

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## MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NUCLEAR TESTING PHASEOUT

Mr. MITCHELL. Mr. President, I am pleased that the Congress last night approved the Senate's plan to phase out nuclear testing. This measure, which is included in the Energy and Water appropriations bill, is an appropriate and prudent response to the changing international environment.

The basic provisions include a 9-month moratorium on nuclear testing, followed by a testing program to allow all necessary safety upgrades on stockpiled weapons, and then an end to all U.S. Nuclear testing ending on January 1, 1997.

A United States moratorium is an appropriate response to the Russian and French testing moratoriums and the international demand to halt nuclear testing. If we halt testing, other nations will continue their moratoriums or join anew.

More importantly, a testing pause would provide the political momentum for all nuclear nations to negotiate a comprehensive test ban.

The provision commits the United States to end all nuclear testing by a date certain. This is a conceptual change, and a clear acknowledgment of the end of the cold war.

This commitment to end all nuclear testing is critical, and not just for reasons of common sense, budgetary savings and environmental safety.

Ending nuclear testing is a critical step toward ending nuclear proliferation.

The 1969 Treaty on the Non-Proliferation of Nuclear Weapons [NPT] offered an implicit quid pro quo to induce nonnuclear states to sign on: The nuclear powers would work to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament.

For nonnuclear states, the sign of seriousness that the nuclear powers are upholding their end of the bargain is whether they are moving to end nuclear testing. This is particularly important because in 1995, the signatories will discuss whether to continue the Non-Proliferation Treaty itself.

But President Bush already has said that he wants to continue testing.

In fact, the Bush administration is the first administration in the nuclear age to reverse American policy of seeking an end to all nuclear testing.

Congress, in committing our Nation to ending nuclear testing, tells the nonnuclear powers that the United States is serious about nonproliferation and improves the prospects for strengthening the Non-Proliferation Treaty.

Congress, in passing this critical legislation, tells the administration that it must negotiate an end to testing.

The American people and the international community demand it.

I am pleased that the Congress joins them in committing the United States to halt nuclear weapons tests.

### RECOGNITION OF SOUTH DAKOTA OFFICE OF GROUND WATER QUALITY

Mr. PRESSLER. Mr. President, I wish to recognize the successful work of the South Dakota Department of Water and Natural Resources Water Quality Program. This program is under the leadership of administrator William E. Markley.

The Environmental Protection Agency [EPA] has singled out South Dakota's program as a model for other States. In 1988, the EPA set up a task force to examine what States were doing to protect ground water. According to the EPA, the success of South Dakota's program is something to emulate throughout the Nation.

The outstanding feature of the South Dakota system is the centralized coordination of all ground water activities. This provides for more efficient monitoring of problems affecting ground water quality. In comparison, most State oversight programs are fragmented. This can lead to a situation in which the process of ground water protection becomes bogged down in bureaucratic red tape among numerous departments.

Started in the early 1980's, centralized computer tracking of threats to South Dakota's ground water occurs from the time of the initial reporting through final cleanup. Spills currently being tracked include everything from petroleum to milk.

Mr. President, I would like to personally commend the Department under Mr. Markley's leadership. My staff and I have worked with him and other members of his office regarding an extensive fuel leak that occurred earlier this year. That fuel leak could have caused serious damage to drinking water in the most heavily populated region of South Dakota. Mr. Markley has worked diligently and effectively on this matter and many others to maintain the quality of ground water in my home State.

I ask unanimous consent that an article entitled "South Dakota Water Plan To Be EPA Model" from the Rapid City Journal of August 16, 1992, be printed in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### S.D. WATER PLAN TO BE EPA MODEL

PIERRE.—The Environmental Protection Agency plans to use South Dakota's ground water quality program as a model for other states.

The department is organized and has employees who are well-qualified and knowledgeable, said Jim Dunn, chief of the EPA's ground water branch in Denver.

All cases related to ground water contamination are processed in the state Department of Water and Natural Resources.

"Everything is in one spot. That is fairly unique in our region in that the other states are somewhat more fragmented," Dunn said. "It makes for easier coordination and integration of programs."

The ground water department started organizing in the late 1980s to be better able to deal with spills when they occur, said Bill Markley, administrator of the ground water quality program.

"I don't know of any other state where all spills come in to one central area and are tracked—pesticides, fertilizer, petroleum, even milk. We've had instances of spilled milk out there," he said.

The state's small population and less bureaucracy make the department more efficient, Markley said.

After a large gasoline spill in Sioux Falls in 1986, the department started looking at how spills could be cleaned up and taken off the books, Markley said. After a spill is reported, the information is put into a computer, and progress is tracked until it's cleaned up.

"We had not been doing that. It's a good thing for us and the industry, so everybody knows when it's clean enough to get on with life."

In 1988; the EPA set up a task force to look for ways to protect ground water and looked to see what the states were doing, Dunn said. EPA officials went to Pierre recently to interview state officials.

The idea is still being developed, but the EPA hopes to provide money for exceptional state environmental programs, Dunn said.

### PRESIDENT BUSH GIVES VISIONARY UN SPEECH

Mr. PRESSLER. Mr. President, as a congressional delegate to the U.N. General Assembly session this year, I was privileged to be present Monday when President Bush addressed that body. I believe the President's remarks were consistent with his vision of the new world order. Congress should consider and address these items responsibly in its next session.

Since at least the time President Bush served as U.S. Permanent Representative to the United Nations, he has been an enthusiastic supporter of multilateral diplomacy and international organizations. The President's fundamental optimism about multilateral possibilities are clearly reflected in Monday's speech.

President Bush was correct to begin his statement by highlighting many of the extraordinary changes that have occurred over the last 12 months. The President also was correct to note we now have a "unique opportunity" to form "a genuine global community of free and sovereign nations * * built on respect for principle, of peaceful settlement of disputes, fundamental human rights and * * * freedom and democracy." Unfortunately, the democratic reality in Estonia, Latvia, and Lithuania has yet to emerge in a number of the other newly independent states of the former Soviet Union. All, however, have signed the Helsinki Principles of the Commission on Security and Cooperation in Europe [CSCE]. America must insist that the former Soviet Republics live up to these commitments.

In yesterday's speech, President Bush discussed a rapid expansion and increased commitment to U.N. peacekeeping. The Foreign Affairs Committee in the other body and the Commerce, Justice, State Department, Subcommittee of the Senate Appropriations Committee have begun examining implications of increased U.S. involvement in U.N. peacekeeping. I hope that the same careful diligence will be invested by the Foreign Relations Committee as it drafts the Foreign Relations Authorization Act for Fiscal years 1994 and 1995.

U.N. peacekeeping could become almost prohibitively expensive for the U.S. taxpayer. Nearly one-third—30.4 percent—of all peacekeeping costs are assessed to the United States. I support the United Nations and appropriate U.N. peacekeeping efforts but, as I have said here before, the time is bound to come when Congress will suffer peacekeeping sticker shock. Tradeoffs must and will occur. The time has come to examine the costs and benefits of U.N. peacekeeping to the United States.

In his remarks to the General Assembly, President Bush characterized U.N. peacekeepers as being "stretched to the limit" while incessant demands are made for the U.N. blue helmets to become involved in new conflicts. The United Nations and other international bodies must respond in certain cases, but this will require a prioritization of missions.

Lawless governments—like the Serbian outlaw regime—are a threat to international peace. Appropriate and effective international peacekeeping efforts should be directed at changing the behavior of Serbian officials. Likewise, in the Transdniester region of Moldova, the international community's monitoring and peacekeeping efforts should be directed to removal of the occupying Russian 14th Army.

An even more striking case exists for the international community to hasten and supervise Russia's complete and early troop withdrawal from Lithuania, Latvia, and Estonia as well as the closure of Russian military bases and factories. Early and effective action in the Baltic States and Moldova by the United Nations or—more ideally—CSCE can avoid the necessity of future peacekeepers.

In Monday's speech, President Bush proposed that military units be developed and trained for humanitarian and peacekeeping missions and be on call to the Security Council. He also suggested joint training and interoperability of communications and equipment. President Bush further recommended supplies be prepositioned for humanitarian emergencies. All of these ideas sound like worthy experiments.

None of these efforts, and none of the other proposals in President Bush's remarks requires activation of the U.N. Military Staff Committee, under article 47 of the U.N. Charter. Mr. President, I do not believe the American people or military professionals are prepared to cede command and control to the U.N. Security Council, to a multinational committee, or to foreign officers. The President is absolutely correct to retain "the final decision on the use of * * * troops," as a fundamental sovereign right.

President Bush's speech made a commitment to "adequate, equitable financing for U.N. and associated peacekeeping efforts." The United States is being gouged by the current scale of assessments for U.N. peacekeeping. Under these circumstances, a very serious reappraisal of the U.N. scale of assessments and the cost-effectiveness of regional peacekeeping alternatives should be undertaken by the Congress and the administration.

I do not think it proper to, in effect, hand the United Nations a blank check for peacekeeping.

All of these and other issues raised in President Bush's U.N. speech deserve careful examination outside the burdens of election year politics. Serious questions regarding provisions of article 43 of the U.N. Charter should be examined dispassionately by Congress in 1993 as the international organizations account provision's are developed for the State Department reauthorization legislation.

Finally, Mr. President, President Bush's General Assembly speech looked toward "a top-to-bottom overhaul" of foreign aid institutions, transferring to the State Department the tasks of "promoting economic security, opportunity, and competitiveness." As a former employee of the State Department and member of the Foreign Relations Committee, would be a truly radical move. I anticipate interesting debates over the future of foreign aid in a debt-laden Federal budget. The time to cut costs and assure program effectiveness is long overdue.

Mr. President I commend President Bush's vision on international organizations and foreign aid and pledge to work with him on each of them.

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,042,399,022,165.92 as of the close of business on September 23, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman and child owes $15,737.81—thanks to the big-spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

## ROBERT F. KENNEDY HUMAN RIGHTS AWARD TO CHAKUFWA CHIHANA

Mrs. KASSEBAUM. Mr. President, I rise today to congratulate Mr. Chakufwa Chihana of Malawi, 1992 recipient of the Robert F. Kennedy Memorial Human rights award. For over two decades, Mr. Chihana has fought for human rights and democracy in Malawi, a country with a long record of political repression. He has served as a beacon of hope for all those Malawians striving for freedom.

Mr. Chihana began his political life as a trade union activist. At independence in 1964, he was forced into internal exile by the new President, Hastings Banda. Because of his differences with Banda, Chihana was detained without trial for 8 years, mostly in solitary confinement. After his release in 1977, Chihana went into exile in the United States and Europe.

In April of this year, Mr. Chihana announced that he intended to return to Malawi to form a coalition of Malawian political opposition groups in a nonviolent movement against the ruling Malawi Congress Party. As he stepped off the plane, in the presence of a number of foreign ambassadors, including the American ambassador, Mr. Chihana was seized and detained. For 2 months, no one saw or heard from him.

Finally, on July 11, the Malawian courts freed Mr. Chihana on bail, while charging him with three counts of sedition. four days after his release, when he reported to the police station as part of his bail conditions, the police again detained him—this time for conducting an interview with the BBC.

As international and internal pressure grew, President Banda released Mr. Chihana on September 9. His charges are still pending, although no trial date is set.

Mr. President, much of Africa is undergoing a fundamental change, away from closed, repressive political systems to more open, responsive governments. Malawi stands in opposition to this trend. I believe the continued repression and suppression of basic human rights in Malawi will only lead to increased instability in the country.

I strongly support the decision of the U.S. administration to suspend all assistance to the Government of Malawi until there is an improvement in the human rights situation in Malawi. At this point, I cannot justify sending U.S. Government resources to a repressive government which is leading its country to instability and destruction.

Mr. President, I have followed the case of Mr. Chihana through his son, Enoch, a student at Wichita State University in Kansas. Again I join with much of the international community in congratulating Mr. Chihana. It is my hope that his fight for freedom and democracy will succeed, and his son, Enoch can return to a new Malawi, one where political expression is permitted and human rights for all people are respected.

## EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 741, Hugo Pomrehn, of California, to be Under Secretary of Energy; and

Calendar No. 799, C. LeRoy Hansen, of New Mexico, to be U.S. district judge for the District of New Mexico.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominees considered and confirmed en bloc are as follows:

### DEPARTMENT OF ENERGY

Hugo Pomrehn, of California, to be Under Secretary of Energy.

### THE JUDICIARY

C. LeRoy Hansen, of New Mexico, to be United States District Judge for the District of New Mexico.

### STATEMENT ON THE NOMINATION OF HUGO POMREHN

Mr. WALLOP. Mr. President, on August 5, 1992, the Committee on Energy and Natural Resources favorably reported the nomination of Hugo Pomrehn to be Under Secretary of Energy by a vote of 19 to 1.

Dr. Pomrehn has been employed by Bechtel Corp. for more than 24 years and is currently vice president and manager of their Los Angeles office. He holds a Ph.D. in engineering from the University of Southern California. Bringing more than 30 years of energy-related experience to DOE, Dr. Pomrehn is well qualified for the position of Under Secretary of Energy.

Mr. President, I support the nomination of Hugo Pomrehn to be Under Secretary of Energy.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now return to legislative session.

## U.S. OFFICE OF SPECIAL COUNSEL AUTHORIZATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 698, S. 2853, a bill to authorize appropriations for the U.S. Office of Special Counsel, that the committee substitute amendment be agreed to, the bill, as amended, be deemed read three times, passed and the motion to reconsider laid upon the table, and that any statements on this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2853), as amended, was deemed read three times and passed, as follows:

S. 2853

### SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, and 1995".

### SEC. 2. OFFICE OF SPECIAL COUNSEL.

Chapter 12 of title 5, United States Code, is amended—

(1) in section 1211(b) by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.";

(2) in section 1212(g)—

(A) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(B) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any";

(3) in section 1214(b)(2)—

(A) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(B) by inserting before subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(C) by inserting after subparagraph (D) (as redesignated by subparagraph (A) of this paragraph) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person submitting the allegation of a prohibited personnel practice.";

(4) in section 1218 by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,";

(5) in section 1221(d) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."; and

(6) in section 1221(g)—

(A) in paragraph (1), by striking out "and any other reasonable costs incurred" and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant."; and

(B) in paragraph (2), by striking out "and any other reasonable costs incurred," and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant,".

### SEC. 3. PROHIBITED PERSONNEL PRACTICES.

(a) Definition.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon; and

(2) by redesignating clause (x) as clause (xi) and inserting before such clause the following:

"(x) a decision to order psychiatric testing or examination; and".

(b) Informational Program.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

### SEC. 4. IMPLEMENTATION.

No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include—

(1) a statement that the Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegation; and

(2) detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

### SEC. 5. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after October 1, 1992.

### OFFICE OF SPECIAL COUNSEL REAUTHORIZATION

Mr. PRYOR. Mr. President, I rise today to discuss S. 2853, the Office of Special Counsel Reauthorization Act of 1992. I would like to commend Senators Levin and Cohen, the primary sponsors of the bill, for their leadership in whistleblower protection issues. Senator Levin took part in the Federal Services Subcommittee's oversight hearing on the Office of Special Counsel [OSC], which I chaired, and used some of the information gathered at that hearing in the drafting of S. 2853.

The Whistleblower Protection Act of 1989 established the Office of Special Counsel as an independent agency with the mandate to "protect employees, especially whistleblowers, from prohibited personnel practices." The Whistleblower Protection Act was the culmination of many years of effort and was intended to address deficiencies in the operations of the OSC. The legislation, among other things, established a simpler and fairer standard for whistleblowers in proving retaliation and gave whistleblowers increased procedural protections and guarantees of confidentiality.

While the Office of Special Counsel has shown some improvement in dealing with whistleblowers, my subcommittee continues to hear from whistleblowers who have had disappointing and frustrating encounters with the OSC. Due to these persistent concerns about the operation of the Office of Special Counsel, S. 2853, as originally introduced, only contained a 2-year authorization period. This relatively short authorization highlights continuing congressional concerns about OSC. The authorization would have required us to review OSC's activities in the next Congress and determine whether OSC is fulfilling its mission.

In response to the OSC's request for a longer authorization, the Governmental Affairs Committee accepted an amendment by Senator Roth to increase the time period to a total of 3 years. It remains my intent to continue to work with Senator Levin in the next Congress to monitor and improve the operations of the OSC.

In addition to the reauthorization, S. 2583 also clarifies the rules governing OSC disclosure of information about whistleblowers, requires the OSC to provide detailed information to employees when their cases are terminated, and establishes a 240-day time limit for OSC to make a determination regarding whistleblower cases.

The committee report accompanying the bill makes an important point which I would like to emphasize, Mr. President. The Whistleblower Protection Act covers any disclosure of violations of law, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This language was intended to ensure that an employee, making otherwise protected disclosures through the chain of command or as a part of his/her job, receive the protection of the Whistleblower Protection Act. As the committee report states:

> [T]he plain language of the Whistleblower Protecton Act extends to retaliation for "any disclosure", regardless of the setting of

the disclosure, the form of the disclosure, or the person to whom the disclosure is made.

Mr. President, Congress relies on Whistleblowers to bring to our attention information on problems within the Government that otherwise we would never find. Whistleblowers often act at their peril and we must do all that we can to ensure that whistleblowers are not punished for their actions. S. 2853 makes some improvements to the Whistleblower Protection Act to make their plight somewhat easier. I urge my colleagues to support the bill.

### THE OFFICE OF SPECIAL COUNSEL

Mr. LEVIN. Mr. President, I call upon my colleagues to approve S. 2853, the Office of Special Counsel reauthorization bill. In the absence of congressional action, OSC's authorization would expire at the end of this fiscal year, on September 30, 1992. This bill would reauthorize the Office for a limited, 3-year period.

The Office of Special Counsel is charged with the important task of protecting Federal employees who blow the whistle on fraud, waste, and abuse from harassment or retaliation. We depend on such whistleblowers to save taxpayer money by helping to identify potential problems and wrongdoing at an early stage. These brave individuals deserve our respect and our thanks, but all too often they are threatened instead with on-the-job harassment, negative job ratings, unfavorable transfers, denial of promotions, or even dismissal.

Three years ago, Congress sought to address this problem by unanimously enacting the Whistleblower Protection Act of 1989, a landmark piece of legislation which offered whistleblowers substantial new job protections that were not previously available. Under the new legal standards written into the law by the Whistleblower Protection Act, several hundred Federal employees who would previously have had no recourse have been able to bring their own individual right of action cases to the Merit Systems Protection Board. At least half a dozen of these employees have won their cases on the merits, and many more have obtained favorable settlements from their agencies.

That's the good news. The bad news is that the performance of the Office of Special Counsel has remained a disappointment. Although OSC has achieved some form of corrective action for about 70 whistleblowers over the last 2 years, many others have not received the Office's help. In too many cases, OSC has shied away from providing the kind of aggressive assistance that some whistleblowers really need. Indeed, the Office has only once made a determination under the statute that there were reasonable grounds to believe that a prohibited personnel practice had taken place.

In one case, OSC made a whistleblower named John Ganz wait 1½ years before deciding not to bring a case on his behalf. OSC found that Mr. Ganz made repeated disclosures on important matters of health and safety, that these disclosures occurred close in time to adverse actions taken against him, and that there was evidence of retaliatory animus toward Mr. Ganz by his superiors. Nonetheless, OSC accepted the agency's explanations for every one of its actions against Mr. Ganz and refused to take his case.

We are not ready to pull the plug on OSC yet, but OSC must get the message that we expect a stronger performance and a more aggressive effort to fight for the rights of whistleblowers in the future. In light of the serious questions about OSC's record, I originally proposed to reauthorize the Office for a 2-year period, instead of the 5-year period requested by the Office. The short period of the reauthorization was expressly intended to keep OSC on a short leash and put it on notice that real improvements are expected.

At the markup of the Governmental Affairs Committee, I accepted an amendment offered by Senator Roth to extend the authorization to 3 years, in light of OSC's pledge to implement the substantive provisions of the bill in good faith. However, I remain concerned about OSC's record and I want to make it absolutely clear that OSC will be closely watched to ensure that it serves its statutory mandate to protect whistleblowers. The 3-year reauthorization period provided by the bill should put OSC on notice that improved performance is expected.

In addition, S. 2853 contains several provisions to strengthen the remedies available to whistleblowers and make it clear that Congress intends OSC to work as an ally of whistleblowers. These provisions would:

Make retaliatory psychiatric examinations a prohibited personnel practice;

Clarify and strengthen the rules on OSC disclosure of information from or about whistleblowers;

Require OSC to provide appropriate information to whistleblowers whose cases have been closed;

Establish a fixed time limit for OSC to take action on whistleblower cases;

Strengthen the attorneys' fees provisions of the whistleblower Protection Act; and

Ensure that whistleblowers have access to relevant evidence in the event that they bring their own cases to the Merit Systems Protection Board.

Mr. President, I think we need to keep a close eye on the Office of Special Counsel, but I do believe that we should reauthorize the office, to give it another chance to show that it can work effectively for the protection of Federal employee whistleblowers. I urge my colleagues to support this bill.

Mr. STEVENS. Mr. President, I support passage of S. 2853, a bill which would extend the authorization of appropriations for the U.S. Office of Special Counsel for a period of 3 years.

The Office of Special Counsel has been the subject of criticism in one form or another for several years. Some of this criticism has been justified; most has not. Congress gave this agency a difficult mission. We tasked fewer than 100 people with significant responsibility, including policing prohibited personnel practices in the entire executive branch of the U.S. Government throughout the world. I do not know of many agencies who could have met this expectation with so few resources. I believe that the Office of Special Counsel has compiled an excellent record interpreting and enforcing the law, and in protecting the rights of Federal employees. This agency is worthy of reauthorization.

The Subcommittee on Federal Services, Post Office, and Civil Service, on which I serve as ranking member, held a hearing on legislation to extend the authorization for OSC. The subcommittee heard testimony from Kathleen Day Koch, the recently-appointed Special Counsel, who described the efforts of her agency to implement the Whistleblower Protection Act. Despite a dramatic increase in the number of complaints filed with the Office of Special Counsel since 1989, including a 100 percent increase in the number of whistleblower complaints, the agency has been able to achieve corrective actions on behalf of Federal employees in three times as many instances than was the case before enactment of the Whistleblower Protection Act. This increase in corrective actions was accomplished during a period in which the average processing time of employee complaints was substantially reduced. That is success.

As is usually the case, we in Congress hear from people when they believe the system is not working. Most citizens expect the system to work and see no need to contact their representatives when it does. We on the committee have heard from some disappointed complainants. I ask unanimous consent to have printed in the RECORD an article which appeared in Government Executive magazine in May 1991 which outlines the positive experiences of a whistleblower, Mr. Leo Bosner.

The Presiding Officer, without objection, it is so ordered.

Mr. STEVENS. Mr. President, there are those who believe that the Office of Special Counsel has not fulfilled its responsibilities and therefore should be kept on a short leash. I do not agree. I urge my colleagues to reject any attempt to reauthorize the Office of Special Counsel for less than the 3 years contained in the bill before us. It is time to permit the Office of Special Counsel to get on with its mission.

EXHIBIT 1

### A WHISTLEBLOWER'S STORY

(By Leo Bosner)

Editor's Note.—Some federal whistleblowers have made front-page news by exposing instances of fraud and waste involving billions of dollars or hazardous practices threatening the health and safety of many people. For each such high-profile case there are dozens of less visible complaints lodged against agencies, some never proven, and they are no less traumatic for the people in government who are affected. The whistleblower's life is inevitably changed, and rarely for the better, as are the lives of officials in the whistleblower's agency.

In this article, Leo Bosner tells of his experiences at the Federal Emergency Management Agency. A 44-year-old GS-13 program analyst with 16 years of federal service, Bosner filed complaints alleging procurement irregularities, alcohol abuse and software piracy in 1989. The allegations in the complaints have either been denied or remain under investigation. But certain reactions to the complaints, including a suspension of Bosner without pay, landed agency managers in hot water last year and led to a ruling against them by the Office of Special Counsel. Bosner's story thus holds at least one lesson for management: Retaliation against whistleblowers can backfire.

Bosner learned some lessons as well, but these are best left to his own account:

I felt exhausted as I stepped out of the cab in front of the San Francisco Marriott that evening a year and half ago. It was only 9 p.m., but my body's clock was still on East Coast time, and it felt like midnight to me.

Thirty-six hours earlier, I had been at my desk in Washington when my employer, the Federal Emergency Management Agency, had asked for volunteers to help with the Loma Prieta earthquake, which had shaken the San Francisco Bay area the week before. FEMA had already sent dozens of people, but more were needed, I volunteered, and left for the coast within hours.

So here I was in California on Saturday, Oct. 20, 1989. It had been a long day, starting with a bus trip that took me and my fellow disaster workers to the Presidio Army base for a day of rapid-fire instruction in filling out paperwork for the thousands of people whose homes had suddenly been reduced to piles of bricks and lumber.

As a 10-year FEMA veteran, I had been tapped to help run one of our Disaster Assistance Centers, Now, I wanted only to get a few hours sleep before picking up the rented station wagon and heading out with our team the next morning.

I didn't realize that a chain of events had already begun that would land me in the newspapers, on television, in a psychiatrist's office, in a congressional press conference and on suspension without pay from my job.

#### TROUBLE

My first clue was the message light blinking on the telephone in my hotel room. I punched up the message on the television screen and the words appeared:

"You are needed back at FEMA headquarters. Fly back to Washington Monday and report to work Tuesday."

Fly back? I had just gotten here. I phone headquarters and the FEMA Regional IX office in San Francisco, only to get the same answer: Yes, the message is correct; no, we don't know why, either.

It made no sense, but orders are orders. I spent Sunday playing tourist in San Francisco and flew home Monday.

I walked into my office Tuesday morning and received a reception that I thought strange, in light of the message I had received: "What are you doing here?"

I needed answers, so I went upstairs to meet with Dick Krimm, the FEMA official who had requested my recall.

"Is there a special assignment you need me for, Dick?"

"No, Leo."

"Why was I called back, Dick?"

"Well, someone in Region IX felt there would be problems if you worked the earthquake."

"Who felt that way, Dick?"

"Well, I can't tell you that, Leo."

Finally, his patience wearing thin, Krimm looked at me and said, "Leo, we've known each other a long time, so let me be honest with you. You have a reputation as a troublemaker in this agency, and I think that the feeling of the person in Region IX was that you would cause problems."

I thanked him and went back to my office. Now I understood.

#### SERVICE IN PEACE AND WAR

The trouble had started about two years earlier, when I first began challenging my superiors' interpretation of FEMA's mission.

FEMA is charged with protecting Americans from Hazards: earthquakes, hurricanes, enemy attacks, you name it. Our motto is "Pace Ac Bello Merita" ("Service in Peace and War.")

The problem is that the "peace" and "war" constituents of the agency have been in disagreement for nearly 10 years. Should we spend more to prepare for earthquakes and hurricanes that will happen, or should we concentrate on the much more devastating nuclear attack that might happen?

As a FEMA project manager, I had tried to steer between the two extremes, advocating preparedness to deal with a sudden influx of casualties from whatever source, be it an earthquake, wounded troops returning from overseas or Americans injured in an attack.

This had worked for a while, but in 1987 the "nuclear attack" faction gained ascendancy in FEMA, and I was on the outs. The Civil Service System meant that I could just be fired. Instead, I was removed from my project manager job and given a variety of make-work assignments while FEMA placed increasing emphasis on nuclear civil defense.

Then, on Dec. 7, 1988, a devastating earthquake shook Soviet Armenia. In the new spirit of East-West detente, American aid was offered and accepted.

As I watched the TV news coming out of Armenia, I had an awful sensation of deja vu. The problems the rescue crews were seeing in Armenia—delayed response time, inadequate training, lack of equipment—these were the same things I had tried to warn of in the United States! My wife, Pat, suggested that I write a newspaper article saying just that.

I drafted an article, called a few journalists, and, as required, submitted the draft to FEMA's general counsel for review. The general counsel's office raised a variety of objections, as it had to earlier requests I had made to make speeches and engage in other outside activities relating to management of emergency medical services.

Already, in connection with those earlier requests, I had approached the American Civil Liberties Union for help and secured pro bono assistance from attorney Lawrence Speiser. Speiser went to bat in support of my right to publish the article I had drafted.

The February 1989 issue of the Journal of Emergency Medical Services published my guest article under the headline; "Are We Ready for an Armenia-style Earthquake?" My answer was no, and I blamed this on federal bickering over nuclear-attack vs. natural-hazard preparedness. I concluded:

"Put bluntly, if a major disaster should strike, thousands of Americans who could have been saved will die; many more who could have fully recovered from their injuries will be permanently disabled."

On March 15, 1989, the point was driven home at a hearing held by the House Science, Research and Technology Subcommittee. Dr. Eric Noji, a respected emergency physician from Johns Hopkins University Hospital in Baltimore, had flown to Armenia after the earthquake as part of the U.S. aid effort. Noji's testimony before the subcommittee was succinct: "During the past several years, FEMA has de-emphasized preparedness for natural disasters such as earthquakes in favor of nuclear civil defense planning. Although civil defense planning is an important priority for the federal government, the relative lack of attention paid to the more likely event of a natural disaster such as an earthquake has been to the detriment of preparedness programs in communities at risk of earthquakes."

#### PROBLEMS AND THE TREATMENT

Spring brought more problems for me and for FEMA.

Though I felt vindicated by Noji's testimony, I realized that these kinds of differences about FEMA's proper role were not the only problems in the agency. I believed I had witnessed favoritism in awards of procurement contracts, illegal copying of word processing software, and alcohol abuse among the staff. In April, I was personally enlisted in what I believed to be questionable actions regarding a procurement, and I decided I had to act.

In May 1989, I filed signed, written reports with FEMA's Office of the Inspector General, Office of Personnel and Office of Security. The reports alleged improper sole-source contracting, illegal copying of software and alcohol abuse within FEMA.

At about 4 p.m. on May 10, my supervisor, John Lynch, called me into his office and asked me to close the door. He asked why I had written to the IG. I told him I felt that, as a government employee, I was obligated to report unethical or illegal behavior if I saw it and that I felt the problems were not being addressed in-house.

Lynch said that he now found a "lack of trust" in working with me, and that he had problems with my work. He said that he would be more specific with me that next day at 11 a.m.

That's when what I call "the treatment" began. Lynch berated me for an hour in front of another staff member for loading slides incorrectly into a slide projector and then handed me a lengthy "Notice of Warning" memo telling me that such behavior would no longer be accepted. I was told I could no longer work late at my desk, but must leave each day at 5 p.m. sharp.

I began receiving memos from Lynch indicating that he did not know what I was working on and demanding an accounting. On June 30, I received a performance rating of "minimally satisfactory"—a far cry from the "exceptional" rating and cash award I had gotten a year earlier.

On July 13, Lynch called me into his office and handed me a written notice that I would be suspended for five days without pay for "failure to follow instructions." The list of my offenses was an exercise in creative writing: I had questioned my boss as to why I could not work late, I had laughed in the course of a conversation, and I had sent my boss a memo that was not on an official letterhead.

I was stunned that FEMA was going this far, but realized that I now had two choices. I could either fight back, or I could take my punishment and eventually be fired on similar trumped-up charges.

I decided to fight back.

My first job was to tally up my own resources. On July 24, I went to the FEMA IG's Office and told a branch chief there that, after following the rules and reporting apparently illegal activities to the IG, I was now being seriously harassed and might be suspended without pay.

I asked him to take five minutes to walk downstairs to see the illegal software on our computers, but he said he would have to check with his boss, who was not in the office that day. Maybe his boss would have time to discuss it tomorrow, he said.

Tomorrow came; the IG didn't.

I now realized that I would have to go outside the agency if I was to protect myself and salvage my career. The question was. where would I go?

### OUTSIDE CHANNELS

In the coming months, I was able to establish contact with numerous reporters, congressional staff, public interest groups and others who could help me.

At first I felt extremely tentative. The FEMA IG didn't seem very interested in my report of bootlegged software. I wondered: How would the software companies feel?

I called a software company whose product I thought was being copied and told them the problem. They referred me to David Baruch, a Washington-based investigator for the Software Manufacturers' Association, who promised to investigate.

This gave me some satisfaction, but it didn't solve my problems at the office. I needed someone who could go to bat for me against the agency. The IG was out, this wasn't big enough to interest Congress, and I couldn't afford a private attorney.

That's when I heard about the Office of Special Counsel.

OSC is a small independent agency operating out of a suite of rental offices on Vermont Avenue in downtown Washington. One of its job is to protect federal whistleblowers.

I called OSC and was told to submit a written complaint. I did so, but I also started looking in the help-wanted ads. I really didn't expect much. If the FEMA IG wouldn't help me out, why should OSC? Would one federal agency protect me from another? Still, it might be worth a try. I agreed to meet with an OSC attorney and an investigator.

At 1 p.m. on Aug. 11, 1989, the two knocked on my office door, and in came a young attorney name Lynn Alexander and investigator Geoffrey Covert. The pair could have passed for any of a thousand GSer's waiting for their carpools to leave. I couldn't help but wonder: Would these two be able to save my job?

By 3 p.m., I had the answer. Alexander and Covet may never have worked as homicide investigators but they probably could get the job if they wanted it. For two hours straight, they grilled me on every detail of my story—names, dates, occurrences everything. About halfway through, I took a bathroom break. They didn't.

I had found the right people.

### EARTHQUAKES AND AFTERSHOCKS

During the fall of '89, I felt as though I were leading two or three different lives. FEMA had agreed to hold off on suspending me until OSC finished its investigation. I came to work each day and received assignment from a man who I felt was trying to fire me. We were both very polite to each other. Covert was taking testimony from everybody in sight, and Alexander seemed intent on writting a new chapter for the law books.

Then came the Loma Prieta earthquake. When I got back from my round trip to California in October, I felt extremely frustrated. The only person I knew in Region IV was the FEMA lawyer who had raised so many objections to my earthquake article, and who was now Region IX deputy director. I thought she had demanded my recall, but I couldn't prove it.

There was nothing OSC could do about the aborted trip. They were good investigators, but their mandate was narrow: investigate whether illegal personnel actions were being taken against me. While my California junket may have wasted a thousand or so taxpayer dollars, it was not an illegal personnel action against me.

I thought about it. A software company might go after an agency for copying its products. OSC might go after FEMA managers for harassing a whistleblower. But who in the world would care that I had been pulled off the earthquake relief effort?

Rep. Barbara Boxer is a former Marin County supervisor who was elected to the House of Representatives as a Democrat in 1982. Her district includes parts of San Francisco.

On the advice of a friend, I phoned Boxer's office and told her staff what had happened: how I had written the article criticizing our lack of earthquake preparedness, how I had been pulled off the relief effort and how other FEMA staff volunteering to help out had been turned down.

At that time, the earthquake was big news. Top FEMA officials had been on TV nearly every night, reassuring Americans that FEMA was doing everything it could to help out. Now Boxer had learned that maybe FEMA wasn't doing quite all it could. She was not pleased.

I met with Donna Martin of Boxer's staff. Martin, an experienced Hill veteran, quickly assembled the information for Boxer, who began firing off letters to FEMA asking why I had been pulled off the relief effort. Copies of the letters were sent to the press, and I found myself being interviewed by publications ranging from Federal Computer Week to the San Francisco Examiner. I was even interviewed by Jack Anderson!

It was interesting for me, but FEMA was not amused.

On Jan. 24, 1990 Lynch handed me a memo alleging that I had been insubordinate to him during a conversation and telling me that I would be suspended for two weeks without pay. This time there would be no delays. Despite the fact that OSC's investigation was still going on, Joan Steyaert, Lynch's boss, wasted no time. She gave me my suspension order on Feb. 7. I would be off for two weeks without pay.

I checked the FEMA personnel manual. The penalty for the next "offense" was removal from federal service.

FEMA was moving quickly. Fortunately for me, OSC was faster. I called Jeff Covert at his office, and he told me to come in right away and give a statement. Lynn Alexander had left to have a baby. Her replacement, Ruth Robinson, was an experienced, no-nonsense attorney who said she would do her best to help.

Within days. Tom Ainora, the FEMA associate general counsel, called me at home. The remainder of my suspension had been put on hold pending OSC's investigation. I was to come back to work immediately.

Back at the office, I thought that the harassment might be over, at least for a while. But FEMA had one more card to play.

### A VISIT TO THE DOCTOR

I had been back at my desk less than a week when I received a memo from Richard Eligan, chief of FEMA's Personnel Security Division. The memo asked me to come to his office to meet with a Public Health Service official regarding the alcohol abuse that I had reported as occurring in FEMA.

On Feb. 28, 1990, I reported as instructed and sat down to meet with Dr. Harold Ginzburg of the Public Health Service. I had previously met with several members of the Office of Security regarding this problem and assumed that Ginzburg, being from PHS, would be an expert in substance abuse and that he had been brought in to ask me detailed clinical questions about my observations of alcohol abuse in FEMA.

To my surprise, Ginzburg said he was a psychiatrist, and from that point on the interview was far from what I had expected.

As we began to talk, Ginzburg seemed intent on exhibiting petty forms of rudeness. He refused to show me his ID, for example, or to turn down the office background music to accommodate my slight hearing problem.

As the interview proceeded, it became clear to me that the subject of the meeting was not just alcohol abuse. More than half of the two-hour interview consisted of personal questions. How did I feel about working for FEMA? How did I feel about nuclear civil defense? Did I wish I were the branch chief?

Ginzburg seemed especially interested when I mentioned having been in combat in Vietnam and began tossing questions about my service and bits of military slang and jargon into the conversation.

I went home that night feeling ill. If you've ever had this type of interview, then you know what I mean; if you haven't, believe me, you don't want to.

That evening, I discussed the interview with my wife, a psychiatric social worker who has been in practice since 1976. Her opinion was that Ginzburg had been testing me, using such time-honored psychiatric techniques as provoking a power struggle to observe my responses, examining my personal power motivations, and probing for evidence of post-traumatic stress, from which some Vietnam Veterans suffer.

At work the next day, I mentioned the incident to some of my colleagues and was fascinated to learn that I wasn't alone. Apparently, a lot of FEMA employees are sent to "counseling." From what I could see, many of them are just people who reported a wrongdoing, filed a grievance or appealed a performance rating. In fact, one staffer who had complained about alcohol abuse in our office, for example, was ordered to see an "employee assistance counselor."

### TOWARD A DECISION

On the advice of Larry Speiser, my attorney, I wrote a memo to OSC about the experiences of myself and others at the hands of mental health professionals working for FEMA. I gave a copy of my memo to Donna Martin, just in case Rep. Boxer's office might be interested.

They were very interested. I had no way of knowing this, but Boxer was writing legislation to protect government whistleblowers from psychiatric intimidation. Using "mental health professionals" to quell dissidents is normally associated with the Soviet Gulag. Apparently, it's done here as well.

A few days later, Martin called to ask if I would attend a press conference with Boxer on March 20. I agreed and went. On that date, Boxer put out a press release calling for a stop to psychological intimidation of whistleblowers. The release mentioned FEMA, and me, at some length.

The new twist made the story more interesting, and several newspapers picked up on it. My picture was in the San Francisco Examiner under the headline, "Treatment of FEMA Expert Stirs Fuss." I appeared on Jack Anderson's TV show, The Insiders.

The stakes had now gone too high for FEMA. I was not popular with management and continued to receive a string of makework assignments. But the more overt forms of harassment stopped. No more warning notices, no more suspensions, no more visits to psychiatrists. We would wait for OSC's decision.

On June 25, 1990, the decision finally came. After a year-long investigation, OSC had found "reasonable grounds" to believe that FEMA offices had committed prohibited personnel practices against me. In effect, OSC had found that FEMA had retaliated against me for the complaints I had filed; OSC did not rule one way or the other on the validity of the complaints themselves.

FEMA was given a choice: Take corrective actions, or face a hearing before the Merit Systems Protection Board. FEMA chose to take corrective action.

On Sept. 20, I received a letter from OSC telling me that the actions had been agreed upon. I would receive back pay for the six days I had been suspended in February. Lynch and Steyaert would receive letters of reprimand. The assistant associate director for civil defense, John McKay, would himself receive "counseling" regarding the rights of federal employees, and a memo he had written warning me about attending congressional hearings on my own time would be rescinded. All copies of Dr. Ginzburg's report would be destroyed; FEMA's Office of Security could keep one copy, provided that they deleted everything in the report not related to the alcohol abuse that I had reported. No action would be taken against Ginzburg, nor against Richard Eligan, the FEMA security specialist who had set up the Ginzburg meeting, nor against any of the IG staff or anyone else involved. All warnings and suspensions against me would be rescinded.

It was over.

LESSONS FOR WHISTLEBLOWERS

My experience shows that blowing the whistle can be stressful.

But I would argue that not blowing the whistle can be even more stressful. How long can you work in an organization that you feel is being eroded by incompetence or corruption? Are you willing to sign your name to questionable documents that could surface in an investigation years from now? Can you stand by if you know that American lives are being needlessly endangered by your agency's actions?

On the other hand, are you ready to abandon your public service career because of other people's shortcomings?

If you're faced with these kinds of problems, try to solve them in-house first; this is often possible. But if it isn't, and if you finally do decide to go public and blow the whistle, there are rules to follow. Many of them are illustrated in an excellent guidebook called Courage Without Martyrdom: A Survival Guide for Whistleblowers, which is available for $5 from the Government Accountability Project in Washington, at (202) 347-0460.

I won't try to duplicate that guidebook here, but I did learn a few things.

For one thing, I learned to stress the problem, not my problem. Not many people really want to hear about a poor federal employee who is being picked on, but they may want to hear about their tax dollars being wasted, their products being misused, or their favorite program being mismanaged.

I also chose to be an open (rather than anonymous) whistleblower. My allegations were in writing, were signed and were photocopied to management. Risky? My reasoning was that, if FEMA came after me, I wanted to be able to prove that management knew that I was a whistleblower. If I had worked anonymously and they figured out who I was, they could still have gone after me, but I would have had a harder time proving it was retaliation for whistleblowing.

Most of all, I found that I needed allies—and that they were there if I was willing to look for them. People and organizations like the ACLU, the Office of Special Counsel, Barbara Boxer, Jack Anderson and Larry Speiser can help you win in the end, but you have to go out and look for them. They won't come looking for you.

Was it worth it?

I risked my job. I lost some sleep. I had stomach pains that weren't there before. I lost money in promotions I might have had, in job advancement and awards I might have gotten. People I had known for years stopped talking to me. I'll probably never get a security clearance, and I certainly won't be promoted any time soon.

But I also learned who my real friends were. I learned (again) what a good woman I had married. I relearned survival skills and inner strengths I hadn't thought about in 20 years. I think my whistleblowing did some good. And in the end, I kept my job, I kept my grade, and I kept my integrity.

Yes. It was worth it.

Mr. ROTH. Mr. President, I rise to express support for a 3-year reauthorization of the Office of Special Counsel. This reauthorization is contained in S. 2853 as reported by the Committee on Governmental Affairs on September 22, 1992.

The Office of Special Counsel protects Federal employees against reprisal for whistleblowing activity, provides advisory information and enforces the Hatch Act, and brings action against Federal employees who commit prohibited personnel actions.

The Office of Special Counsel serves a central function in the administration of Federal personnel law. Since its inception in 1979, the Special Counsel has been given greater and greater responsibility. The Special Counsel provides protection for Federal employees by investigating allegations of prohibited personnel practices within the Federal Government and allegations of activities prohibited by civil service laws, rules, and regulations.

The Office of Special Counsel was established on January 1, 1979, by Executive order by President Carter. The Civil Service Reform Act of 1978 expanded the Special Counsel's functions and powers. Under the 1978 act, the Special Counsel operated as the autonomous investigative and prosecutive arm of the Merit Systems Protection Board. Ten years later, the Whistleblower Protection Act established the Office of Special Counsel as an independent agency within the executive branch. The Office of Special Counsel continues to investigate and prosecute matters before the Merit Systems Protection Board.

A principal function of the Office of Special Counsel is the investigation of complaints of alleged prohibited personnel practices, including those activities covered by the Whistleblower Protection Act. The Whistleblower Protection Act is intended to protect Federal employees who report wrongdoing in the Federal Government. The Office of Special Counsel also provides a secure channel through which Federal employees may make disclosures of information evidencing violations of law, rule, regulation, waste of funds, mismanagement, abuse of authority, or a substantial danger to public health or safety, without the disclosure of the employees identity and without fear of retaliation.

The Office of Special Counsel is also responsible for providing guidance and enforcing the Hatch Act. Apart from investigating and prosecuting alleged violations of the Hatch Act, the Office of Special Counsel provides advisory opinions in response to employee questions and has published a very straight-forward booklet explaining the coverage of the Hatch Act.

Earlier this session I introduced, on behalf of the administration, legislation for a straight 5-year reauthorization. The legislation reported by the committee reauthorizes the Office for 3 years and makes a number of substantive changes in the statute governing the activities of the Office.

A 3-year extension is critical because it will provide the continuity necessary for the recruitment and retention of highly qualified employees. Given the important functions of the Office and the need to provide quality performance, the Office must attract and retain high-quality employees. A very important factor in an individual's decision as to whether to accept employment, or for that matter, stay with an office, is the employment stability that office provides. A 3-year reauthorization provides the stability necessary to recruit and retain high-caliber employees.

A letter to the Governmental Affairs Committee on July 17, 1992, from the Office of Special Counsel stated that the possibility of a 2-year reauthorization has had a negative impact on the ability of the OSC to retain and recruit staff for the agency. Some agency employees have expressed concerns about their careers in Government with the agency.

The Special Counsel stated: A limited reauthorization would send the wrong signal to the federal employee community as a whole regarding the congressional commitment to whistleblower protection, and would do little to retard the potential demoralization of the dedicated staff of this agency which has obtained record numbers of corrective actions for whistleblowers and other victims of prohibited personnel practices, and which will continue to do so if given appropriate congressional support and encouragement.

Finally, Mr. President, a 3-year extension will not prevent Congress from holding oversight hearings if it choose to do so. As any Member knows, oversight hearings are not restricted to years in which reauthorizations take place.

As reported out of the Subcommittee on Federal Services, Post Office, and Civil Service, this legislation contained substantive amendments to the statute along with a 2 year reauthorization. During consideration of the measure by the full committee, the committee adopted my amendment to provide for a 3 year reauthorization. The committee adopted the amendment without dissent.

The Special Counsel, Kathleen Day Koch, wrote to the committee on September 14 and expressed her view that while the substantive amendments made by the legislation may not be necessary, she committed to implement the changes fully. For these reasons, Mr. President, I support this bill, and urge support for the legislation.

## DISTRICT OF COLUMBIA SPOUSE EQUITY ACT AMENDMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 615, S. 1880, the D.C. Spouse Equity Act, the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table and that any statements on this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1880) was deemed read three times and passed, as follows:

S. 1880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the District of Columbia Spouse Equity Act of 1988, effective March 16, 1988 (D. C. Law 7-214; D. C. Code, section 1-3001 et seq.) is amended—

(1) in section 2 (section 1-3001) by striking the period at the end thereof and inserting ", or an officer, member, or retiree of the United States Park Police Force, or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D. C. Code) applies.";

(2) in section 3(1) (section 1-3002(a)) by striking "a District" and inserting "an"; and

(3) in section 3(2) (section 1-3002(b)) by striking the period at the end thereof and inserting "or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D.C. Code) applies.".

Mr. LEVIN. Mr. President, I am pleased that the Senate is acting to pass S. 1880, which amends the D.C. Spouse Equity Act of 1988 to extend rightful coverage of the benefits of this act to pre-1984 employees of the U.S. Secret Service and the U.S. Park Police and their spouses.

The purpose of S. 1880 is to amend the District of Columbia Spouse Equity Act of 1988 to include under its coverage certain employees of the U.S. Secret Service and U.S. Park Police hired prior to 1984, who participate in a retirement system of the District of Columbia and who are not currently covered by the provisions of either the D.C. Spouse Equity Act or its Federal counterpart.

Both the Federal Government and the District have enacted laws which currently afford former spouses of Federal civil service and District employees, respectively, legal rights with regard to the receipt of annuity benefits. these rights are afforded to former spouses, because Congress and the District have determined that spouses are entitled to a share of the annuity benefits earned during the course of a marriage. Persons who have participated and lent support to their spouses' careers are deemed to deserve adequate and equitable economic protections in the event of a divorce or the death of their spouse. Currently, many private and public pension plans also facilitate spousal entitlement to annuity benefits earned during the course of a marriage.

Certain U.S. Park Police assigned to the Washington, DC area, the Secret Service Uniformed Division which protects the White House and certain embassies in the District of Columbia, and nonclerical employees of the U.S. Secret Service whose duties related to the protection of the President hired prior to 1984, although Federal employees, are not covered by either Civil Service Retirement System [CSRS] or the Federal Employee Retirement System [FERS]. They are covered by the District of Columbia Police Officers and Firemen's Retirement System. This unique situation places these individuals directly in a small legislative gap between the provisions of the federally enacted Spouse Equity Act for Civil Service employees and the D.C. Spouse Equity Act which covers employees of the District of Columbia.

They do not qualify under the Federal Spouse Equity Act because the do not fulfill the requirement that they be annuitants under the CSRS or FERS. They do not qualify under the D.C. Spouse Equity Act due to the fact that they do not fulfill the requirement that they be employees of the District of Columbia.

Therefore, spouses of these individuals do not have the force of law to uphold any rightful claim they may have with regard to annuity benefits. These spouses are left in a tenuous position with regard to receiving benefits to which former spouses of any other Federal civil service or District retiree are legally entitled.

Without recognition by either the Federal or the District governments of State court orders awarding a portion of annuity or survivor benefits to a Park Police or Secret Service spouse, such an individual must rely on the ex-spouse, or the latter's current spouse, to release their share of annuity or survivor benefits awarded in the divorce settlement. Affected former spouses have reported delays in the receipt of their portions of the annuity or survivor benefit check which can cause considerable financial difficulties.

In fact last May, I was contacted by a woman from my own State, a former spouse of a Secret Service agent, who was being adversely affected by this legislative gap. As my staff began to look into this situation, they discovered that the Secret Service and the Park Police had already begun seeking a legislative remedy. Both groups were in agreement that, as a matter of equity, a legislative remedy was needed.

Moreover, the District of Columbia Corporation Counsel and the Office of Personnel Management [OPM], when contacted by the Secret Service regarding this issue in 1990, were in agreement that there was, in fact, a gap in coverage for these individuals and that an amendment to the Federal or District spouse equity acts would be an appropriate remedy. OPM recommended that the amendment be made to the D.C. Spouse Equity Act due to the fact that, although the Federal Treasury was funding the annuities of Federal employees who are covered by the District's retirement system, the District performs the administrative function of sending out annuity and survivor benefits for these individuals.

After working closely with the Secret Service, the Park Police and the District's Corporation Counsel, I introduced S. 1880 in October of last year. The bill was favorably reported out of the Government Affairs Committee in March.

I want to take this opportunity to express my appreciation to Senators SASSER and GLENN and their staffs for their assistance in moving this bill through the Senate. I also want to thank Ms. Dinah Stoakes of Michigan for bringing this inequitable situation to my attention.

There are no significant costs associated with this legislation. I ask that my colleagues join me in support of this small but needed change to close this inadvertent gap and provide rightful legal protections to those entitled employees and their spouses and I hope the House acts quickly to do the same when we return in September.

## VETERANS' MEDICAL PROGRAMS AMENDMENTS OF 1992

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 2344 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 17, 1992.)

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I urge my colleagues to approve the conference report on S. 2344, the proposed Veterans' Medical Program Amendments of 1992. This conference report is the final result of efforts by the Senate and House Veterans' Affairs Committees to reach a compromise on certain legislation—principally S. 869 in the Senate and H.R. 2280 in the House—that one body passed but was not acted on in the 1st session of the 102d Congress.

Mr. President, the conference report contains provisions covering a range of subjects related to veterans health and mental health care, including provisions requiring VA to create a plan to improve its overall approach to meeting the needs of veterans with PTSD; provisions mandating coordination and expansion of services for homeless veterans; and provisions creating a marriage and family counseling program for Persian Gulf veterans and their families.

Mr. President, I will at this time summarize the conference report and discuss certain key provisions. Detailed descriptions of all provisions are set forth in the joint explanatory statement accompanying the conference report.

### SUMMARY OF PROVISIONS

Mr. President, the conference report has three titles: Health Care, Health-Care Personnel, and Miscellaneous.

### GENERAL HEALTH CARE

Mr. President, part A of title I, relating to general health-care matters, contains provisions that would:

First, increase (a) from $2,500 to $4,100 the maximum amount of a one-time home-improvement and structural-alteration grant as part of home health services furnished in connection with the treatment of a service-connected disability, and (b) from $600 to $1,200 the maximum for such grants in connection with the treatment of a non-service-connected disability.

Second, require that (a) any reports issued by VA's Geriatrics and Gerontology Advisory Committee be submitted simultaneously to the Secretary and the congressional committees on Veterans' Affairs; and (b) the Secretary, not later than 90 days after the receipt of such a report, resubmit the report to the committees along with any comments and recommendations that the Secretary may have.

Third, authorize VA and community health-care facilities jointly to acquire for mutual use major medical equipment, with VA paying no more than half the purchase price, and require VA to report on its plans to implement this authority not later than 45 days after the date of enactment.

Fourth, require that all Veterans Health Administration quality assurance programs and activities be deemed to be part of the operation of VA facilities and, thus, funded through the medical care account.

Fifth, establish an advisory Committee on Prosthetics and Special-Disabilities Programs, which would replace the administratively established Prosthetics Service Advisory Committee and would (a) advise the Secretary on all matters related to prosthetics and special-disabilities programs administered by VA, and (b) be required to submit, not later than January 15 of 1993, 1994, and 1995, reports on the effectiveness of VA prosthetics and special disabilities programs.

Sixth, require the Secretary to submit to the congressional committees on Veterans' Affairs, not later than 6 months after the date of enactment, a report containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's procurement of prosthetic appliances in fiscal year 1989 and for the failure to observe, in connection with the furnishing of prosthetic appliances, the priorities established in section 1712 (i) of title 38, and (b) a description of the actions that the Secretary has taken, and is planning to take, to prevent such a recurrence of the accumulation of such a significant backlog and of the failure to observe those priorities.

Seventh, require the Secretary to assess all programs developed by VA facilities which have been designed to assist homeless veterans and, to the maximum extent practicable, seek to replicate at other VA facilities those programs that have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal.

Eighth, require each VA medical center [VAMC] or regional benefits office [VARO]—in consultation with other VA facilities serving veterans in the appropriate service area, representatives of State and local governments, and community-based organizations working with homeless persons—to make an assessment with respect to the needs of homeless veterans living within that facility's catchment area and to identify the needs of homeless veterans in the areas of health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Ninth, require each VAMC and VARO director to develop a list of all local private and governmental programs that offer assistance to homeless persons or homeless veterans, identify the services offered by those programs, and seek to encourage the development by VA and the other entities of a plan to coordinate their programs.

Tenth, require the directors of each VAMC and VARO to meet, within existing authorities and available resources, the needs identified in the assessment as unmet and attempt to inform homeless veterans of the services available to them.

Eleventh, authorize VA to accept donations for the purposes of establishing one-stop, nonresidential service centers and mobile support teams to assist homeless veterans and expanding the health services available to homeless veterans eligible for VA benefits and services.

Twelfth, extend through fiscal year 1994 VA's Homeless Chronically Mentally Ill [HCMI] program's authority, which currently expires at the end of fiscal year 1992, and increase the authorized level of appropriations for the HCMI and the VA Domiciliary Care for Homeless Veterans [DCHV] programs to $50 million for fiscal year 1993.

Thirteenth, require the Secretary to submit to the congressional Committees on Veterans' Affairs an evaluation of (a) VA's replication of successful homeless veterans programs and (b) programs established pursuant to the authority to accept donations for certain programs related to veterans who are homeless.

### MENTAL HEALTH PROVISIONS

Part B of title I, relating to VA mental health programs, contains provisions that would:

First, authorize VA to provide, either directly or by contract, marriage and family counseling to veterans who served in the Persian Gulf theater or were members of the Reserves who were called to active duty during the Persian Gulf war, and their spouses and children, where, based on an assessment by a designated mental-health professional, it is determined that counseling is necessary for the amelioration of psychological, marital, or familial difficulties that resulted from the veteran's active duty service.

Second, authorize VA to employ certified marriage and family counselors to provide counseling under this program and establish a personnel classification specifically for marriage and family counselors.

Third, authorize the appropriation of $10 million for this marriage and family counseling program for each of fiscal years 1993 and 1994.

Fourth, require that the Secretary submit a report by July 1, 1994, on the furnishing of marriage and family counseling services under this program.

Fifth, require that the Secretary in carrying out research and awarding grants under chapter 73 of title 38, assign a high priority to the conduct of research on mental illness including research on PTSD, PTSD in association with substance abuse, and the treatment of those disorders.

Sixth, require that the VA Chief Medical Director's Special Committee on PTSD submit concurrently to VA and the congressional Committees on Veterans' Affairs not later than October 1, 1992, and October 1, 1993, a report containing information updating committee reports previously submitted to the Secretary, together with any additional information regarding the overall efforts of VA to meet the needs of veterans suffering from PTSD.

Seventh, require that the Secretary develop and initiate implementation of a plan to (a) ensure that veterans suffering from PTSD related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner; (b) expand and improve the services available for veterans suffering from PTSD related to active duty; (c) eliminate waiting lists for inpatient and other modes of treatment for PTSD; (d) enhance outreach to inform combat veterans and their families and State and local health and social service organizations of the availability of such treatment and appropriately encourage veterans to participate in treatment; and (e) ensure, to the extent practicable, that there are VA PTSD units in locations readily accessible to veterans residing in rural areas of the United States.

Eighth, require that the Secretary, in developing the plan, take into consideration (a) the number of veterans suffering from PTSD related to active duty; (b) the numbers of veterans who would likely seek PTSD treatment from VA if waiting times for treatment were eliminated and outreach activities enhanced; (c) the current and projected capacity of VA to provide appropriate treatment and rehabilitative services for PTSD; (d) the level and geographic accessibility of inpatient and outpatient care available through VA for veterans suffering from PTSD; (e) the desirability of providing that inpatient and outpatient PTSD care be furnished in VA facilities that are physically independent of general psychiatric wards of VA medical facilities; (f) the treatment needs of veterans suffering from PTSD who are women, ethnic minorities, and of such veterans who suffer from substance abuse problems in addition to PTSD; and (g) the recommendations of the Special Committee on PTSD with respect to specialized VA PTSD inpatient and outpatient programs and with respect to the establishment of educational programs that are designed for mental health professionals involved in the treatment of veterans suffering from PTSD.

Ninth, require that, not later than 6 months after the date of enactment, the Secretary submit to the congressional Committees on Veterans' Affairs a report on the plan.

### HEALTH-CARE PERSONNEL

Mr. President, title II, relating to health-care personnel matters, contains provisions that would:

First, increase the cap on special salary rates that may be paid to health-care personnel so as to permit the rates to be up to two times the difference between the minimum and maximum of the applicable grade and require the Secretary to notify the congressional Committees on Veterans' Affairs when a special salary rate reaches or exceeds 94 percent of the maximum amount permitted.

Second, require participants in VA's Health Professional Scholarship Program who enter into scholarship agreements after the date of enactment to serve as full-time employees in VHA for a minimum of 2 years.

Third, authorize the Secretary to purchase promotional items of nominal value for use in the recruitment of individuals for employment in VA health-care provisions and require the Secretary to prescribe guidelines for the administration of the procurement and use of such items.

Fourth, require that a physician or dentist who was employed in VHA on July 13, 1991, and who was being paid special pay for no special pay factors other than primary, full-time, length of service, or specialty or board certification shall continue to be paid special pay at an annual rate no lower than the rate at which the physician or dentist was paid on that date.

Fifth, authorize the Secretary to appoint non-physicians as directors of clinical support services within VHA under the title 38 personnel appointment authority.

Sixth, authorize the use of the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, or independent outpatient clinic.

### MISCELLANEOUS

Title III contains miscellaneous provisions that would:

First, provide, with respect to construction projects as to which no funds have been appropriated before the date of enactment, that no funds may be appropriated for any fiscal year, and the Secretary may not obligate or expand funds—other than for advance planning and design—for any major medical project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.

Second, redesignate the positions of Chief Medical Director and Chief Benefits Director as the Under Secretary for Health and the Under Secretary for Benefits, respectively.

Third, authorize the payment of reasonable attorneys' fees for representation in a proceeding before VA in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38.

Mr. President, at this time I would like to highlight three sections of this legislation that I consider particularly urgent—expanded services for homeless veterans, marriage and family counseling for Persian Gulf war veterans, and provisions relating to PTSD.

### EXPANDED SERVICES FOR HOMELESS VETERANS

Mr. President, section 107 of the conference report is designed to provide VA with a comprehensive blueprint on how to address the problem of homelessness among the veteran population. This section contains provisions that were derived from legislation (S. 2128) introduced last Congress by Senator KERRY, and would require VA programs to assist homeless veterans with State and community-based programs that provide needed services.

In addition, this section would extend through fiscal year 1994 the VA's HCMI program's authority, which currently expires at the end of fiscal year 1992, and increase the authorized level of appropriations for the HCMI and the DCHV programs to $50 million for fiscal year 1993.

Homelessness among veterans is a national problem of great magnitude. The best estimates of government and non-government researchers indicate that between 150,000 and 250,000 veterans are homeless, and I believe the provisions of the conference report will assist VA in improving services provided to homeless veterans and allow VA to encourage more extensive community participation in and support for its programs for homeless veterans.

### MARRIAGE AND FAMILY COUNSELING

Mr. President, the marriage and family counseling provisions in section 121 of the conference report are derived from S. 1553, a bill I introduced on July 24, 1991. These provisions would authorize VA to provide marriage and family counseling services to certain veterans of Persian Gulf war service and to their family members.

I introduced S. 1553 in response to committee hearings held on July 16 and 25, 1991, on the readjustment needs of Persian Gulf war veterans and their families. Testimony presented at the hearings indicated that many Persian Gulf war veterans and their families were subjected to extraordinary stress during the mobilization and war. The hearings and the advice we received informally convinced me that a program of marriage and family counseling is needed to fulfill the Government's obligation to the men and women who volunteered to serve this Nation and to their loved ones.

The composition of the American force that fought in the Persian Gulf war was unlike any other in our history. There are over 220,000 women on active duty and, according to the Department of Defense, more than 40,000 women served in the Persian Gulf. Also since 1972, representation in the active-duty forces by nonwhite individuals has increased from 16 percent to almost 30 percent.

The changed composition of the Armed Forces is further characterized by increased numbers of active-duty servicemembers who are married and who are parents. According to information provided to the committee by DOD, 293,513 married servicemembers were deployed in the gulf. Of that number, 205,876 were parents, 21,954 of whom were single parents.

Mr. President, I believe that the large numbers of married individuals and parents among the newest generation of wartime veterans present a new challenge to VA.

At the committee's July 1991 hearings, expert witnesses representing mental-health professional organizations, individual veterans and their family members, as well as various VA and DOD officials testified as to the effects of the war on those who served, problems encountered by military families during, and resulting from, the war, and the various forms of counseling and other services that were available to service members, veterans, and the services that they need. Several witnesses testified as to the effects of the war on the military families and the need for improved services for them.

Mr. President, various aspects of the Persian Gulf war, and the media's coverage of it, contributed to the stress that was placed upon the family members of those serving in the gulf. The war received nearly 24-hour-a-day coverage by television networks, much of it consisting of live reports, and many of the reports focused on the potential for Iraqi missile attacks and the possibility that the missiles might carry chemical or biological agents. Reporters were frequently seen with gas masks at the ready, and some filed reports while wearing masks. During the period leading up to the ground war, various military analysts projected that American troops would suffer high casualties, possibly numbering in the tens of thousands. Witnesses at the committee's July hearings commented on the effects of the media coverage and noted that the anticipation of a catastrophe and the accompanying uncertainty created tremendous anxiety among service members and their loved ones at home.

The mobilization of Reserve Forces, often on short notice, was another aspect of the war that was cited by witnesses as contributing to stress placed upon military families. Dr. Dennis Embry, testifying on behalf of the American Psychological Association at the committee's July 16 hearing, said that the activation and deployment of reservists on short notice was a receipt for considerable difficulties, especially for the children involved.

Mr. President, testimony received from Operation Desert Storm personnel and their family members indicated a tremendous need for counseling services among deactivated personnel and that many could not afford to obtain help.

Under current law, VA has limited authority to provide counseling services to family members of eligible veterans. Under these authorities, counseling may be provided only if it is either necessary for the effective treatment or rehabilitation of a service-connected disability of a veteran, part of necessary followup treatment of a veteran who has been hospitalized, or essential to the effective treatment or readjustment of a veteran receiving mental health services under VA's readjustment counseling authority.

In light of the stresses that were placed upon the unprecedented number of military families during the Persian Gulf war and the resulting need for access to counseling services, I believe strongly that VA should provide access to needed marriage and family counseling services to individuals who may no longer avail themselves of DOD services. Section 121 of the conference report is intended to ensure that deactivated and discharged personnel and their families have access to counseling services that may be needed for problems resulting from active-duty service during the Persian Gulf war.

### POST-TRAUMATIC STRESS DISORDER

Mr. President, I am pleased that the conference report contains provisions that would improve VA's efforts to provide needed care to veterans with PTSD related to combat-area service. I have long had serious concerns about the adequacy of VA's response to veterans with PTSD and other mental health care needs. Although the conference report does not contain what I believe to be a vitally needed provision, which the Senate has passed several times, to provide PTSD treatment on a priority basis to veterans with diagnosed PTSD related to combat-area service, I believe that the provisions in the conference report will help produce improvements in VA services.

For detailed background on the provisions related to PTSD, I refer my colleagues to my statement on introducing S. 869, which appears in the RECORD for April 18, 1991, beginning on page 8682, and the committee report (S. Rept. No. 102–118).

Mr. President, section 122 of the conference report would require that the Secretary, in carrying out research and awarding grants under chapter 73 of title 38, assign a high priority to the conduct of research on mental illness including research on PTSD, PTSD in association with substance abuse, and the treatment of those disorders. In addition, section 122 would require that the VA Chief Medical Director's Special Committee on PTSD submit concurrently to VA and the congressional Committees on Veterans' Affairs not later than October 1, 1992, and October 1, 1993, a report containing information updating Committee reports previously submitted to the Secretary, together with any additional information regarding the overall efforts of VA to meet the needs of veterans suffering from PTSD. These provisions make clear Congress' assessment that much more research needs to be conducted in order to understand fully and treat the service-related psychological problems of veterans.

Mr. President, section 123 of the conference report would require that the Secretary develop a plan to expand and improve services for veterans suffering from PTSD, eliminate waiting lists for inpatient and other modes of treatment for PTSD, enhance outreach to inform combat veterans and their families about available PTSD services, and ensure that there are VA PTSD units in locations readily accessible to veterans residing in rural areas of the United States. To ensure that Congress is a fully informed participant in the process of change that VA would be required to undertake to meet the needs of veterans with PTSD, this section of the bill would require VA, not later than 6 months after the date of enactment of this legislation, to submit to the Committees on Veterans' Affairs a report on the plan required in this section.

Mr. President, the provisions of part B of title I of the conference report are intended to place appropriate priority on the treatment of veterans with PTSD related to their service and to create meaningful expansions and improvements in VA's system of providing mental health care to veterans who need it as a result of their service. This is extremely important legislation, and

I am delighted that it is about to be enacted into law.

CONCLUSION

Mr. President, in closing I thank our committee's ranking Republican member, Senator SPECTER, for his cooperation and help with this legislation. I also am grateful to the other members of the committee for their support of, or cooperation on, this measure and especially to Senator ROCKEFELLER for his role as a conferee on this measure.

I also express my gratitude for their work on this legislation to the committee's minority staff, Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, and Tom Roberts, and, for all their help to me on this measure, majority staff members Janet Coffman, Susan Thaul, Kimberly Morin, Virginia Rowthorn-Apel, Thomas Tighe, Bill Brew, and Ed Scott.

I would also like to thank the chairman of the House Veterans' Affairs Committee, G.V. "SONNY" MONTGOMERY, and that committee's ranking Republican member, BOB STUMP, as well as the other members of the House committee, for their great cooperative spirit in working with the Senate Veterans' Affairs Committee to reach an agreement on this important legislation.

Mr. President, I believe the conference report addresses in a fair and reasonable manner a number of pressing needs of our Nation's veterans, and I urge my colleagues to support it.

Mr. ROCKEFELLER. Mr. President, as one of the Senate conferees, I am proud to report that Congress has finally reached agreement on the veterans' health care amendments, important legislation that has been pending for several years.

The conference report takes action on a variety of initiatives including health care improvements, outreach efforts regarding homeless veterans, and a small but meaningful provision that states clearly that veterans have the right to seek legal counsel.

Personally, I have worked years to enact the simple provision in the package to ensure that veterans have access to legal counsel when they have an adversarial case against the Department of Veterans Affairs regarding a VA home loan.

This is an issue of basic fairness. When a claim regarding a VA home loan is in dispute, a veteran's home and future credit rating are at stake. The amount in dispute can be tens of thousands of dollars. It is understandable that a veteran in this situation might want to consult an attorney. Previously, a veteran's ability to seek legal counsel has been in question. This was unfair and passage of this conference report will rectify this once and for all.

Initially, I joined Senator CRANSTON in pushing for legislation that would have removed the prohibition against attorneys' fees in any adversarial claim between a veteran and the Department. Personally, I support the comprehensive approach taken in the Senate to declare specifically that veterans have the right to seek legal counsel in any adversarial matter. But in the spirit of compromise and with the desire to see needed legislation enacted, I support the Senate's acceptance of the modification proposed by the House of Representatives. The provision in the conference report only covers VA home loan cases, but such cases tend to be the most expensive and are a genuine priority. When a veteran and his or her family may lose their home and their credit, they deserve the right to get an attorney, if they so choose.

Originally, the idea to prohibit the payment of attorneys' fees in VA claims was intended to protect veterans from excessive legal fees. But in practice, it denied veterans their legitimate rights to seek legal advice. This issue has been in dispute between the Court of Veterans Appeals and the Department. Enactment of this legislation will clarify this issue and set the record straight—veterans deserve the right to seek legal advice.

I am also pleased to see action on the issue of homeless veterans. Last year, on Veteran's Day, I participated in a national press conference to call attention to the unmet needs of homeless veterans. In April of this year, the Senate Veterans' Affairs Committee held a hearing about homeless veterans.

With passage of this conference report, we are taking an essential step forward in developing a network to respond to the needs of veterans who are homeless. This legislation directs the Department of Veterans Affairs to have each VA Medical Center access the local services available to homeless veterans—both VA and community-based programs. The process of taking such an assessment will ensure that every VA center makes contact with community homeless programs, a necessary first step to build cooperation among groups to address this serious problem. Once an assessment is made of the existing resources available to homeless veterans, the Department can identify where greater efforts are needed. The legislation encourages the VA to pursue one-stop, nonresidential centers for homeless veterans. It also extends and seeks to expand the only existing VA programs targeted to homeless veterans—the Homeless Chronic Mentally Ill Program [HCMI] and the VA Domiciliary Care for Homeless Veterans.

This legislation will not solve all the problems facing the 200,000 to 330,000 veterans who are homeless. But it acknowledges the seriousness of this problem, and it will provide the information needed to move forward. Other legislation is pending before Congress to help homeless veterans, and I hope additional progress will be made this year.

Veterans suffering from post traumatic stress disorder [PTSD] will also be helped by the legislation. It calls for improvements to ensure that veterans with PTSD have access to care and urges VA to pursue research in this critical area.

Other provisions regarding health care personnel, medical equipment, quality assurance and other issues may seem small, but each contributes to ensure that veterans receive the quality health care they deserve.

Our Nation owes an enormous debt of gratitude to the brave men and women who have served our country, often risking their lives. It is a privilege and honor to serve on the Senate Veterans' Affairs Committee and work to ensure enactment of needed legislation like the veterans' health care amendments.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, and as a conferee, I am pleased to join with our distinguished chairman, Senator CRANSTON, in support of the conference report on S. 2344. This measure would make important improvements in the provision of health care to our Nation's veterans.

Title I of the bill would make improvements for some of our neediest veterans. It would increase the amount of VA's grant for home improvement and structural alterations [HISA] for those disabled veterans who need, as part of their medical services, those kinds of alterations to have access to their home or essential laboratory facilities. It would establish an Advisory Committee on Prosthetics and Special Disabilities to advise the Secretary on the matters of importance to disabled veterans. It would require VA to begin a systemwide assessment of its services to homeless veterans, and then to establish plans, at each medical center and regional office, to develop a comprehensive plan for the area served by the center or office.

Title I would also, subject to the availability of funds, require VA to establish a program of marriage and family counseling for veterans of the Persian Gulf war and their spouses and children. This provision is based on S. 1553, of which I was an original cosponsor. One of the remarkable features of this provision, Mr. President, is that it actually extends entitlement to the spouse and children of veterans. As we heard in testimony at committee hearings, it can be the family members who recognize the need for counseling; with this special feature, we empower those family members to get the healing process started. I note that, through the efforts of Senator MURKOWSKI, our former chairman and ranking Republican member, the committees have added a provision to ensure that the medical care cost recovery requirements apply to this counseling.

Title II of the bill would make some technical, though quite necessary, changes with regard to health-care personnel. These provisions are intended to ensure fair treatment for VA medical personnel and to give the Secretary added flexibility in the appointment to certain high staff positions within the Veterans Health Administration.

Finally, title III of the bill would make three miscellaneous changes to current law. First, with respect to major medical construction, the report would prohibit the appropriations of funds and prohibit the Secretary from obligating or expending such funds unless funds for the project have been specifically authorized by law. Second, the titles of "Chief Benefits Director" and "Chief Medical Director" would be changed to "Under Secretary for Benefits" and "Under Secretary for Health," respectively. Finally, the report would clarify that veterans may pay an attorney for representation in any case arising out of a loan made, guaranteed, or insured by VA.

I want to thank my fellow conferees for their cooperation and courtesy as we worked together on this measure: Senators CRANSTON and ROCKEFELLER, and Representatives MONTGOMERY, STUMP, EDWARDS, ROWLAND, and HAMMERSCHMIDT. As leaders of the Veterans' Committees, we share a common desire to serve veterans. That desire is, I believe, well-shown in this report.

I also want to thank the staff of the committees who worked so hard on the conference report: Pat Ryan and Mack Fleming from the House majority; Kingston Smith and Carl Commenator from the House minority; Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott from the Senate majority; and Carrie Gavora, Yvonne Santa Anna, Charlie Battaglia, and Tom Roberts from my staff.

I urge my colleagues to support this important measure.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

## APPOINTMENT OF CONFEREE—H.R. 776

Mr. FORD. Mr. President, I ask unanimous consent that Mr. MOYNIHAN be appointed a conferee on the part of the Senate on the bill, H.R. 776, the National Energy Policy Act, in lieu of the late Senator Burdick.

The PRESIDING OFFICER. Without objection, it is so ordered.

## USE OF BICYCLE HELMETS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 674, S. 3096, a bill to promote the use of bicycle helmets.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3096) to establish a grant program under the administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and new matter is shown in italic.)

### S. 3096

*Be it enacted by the Senate and House of Representatives of the United States of Amercia in Congress assembled,*

### FINDINGS

SECTION 1. The Congress finds that—

(1) **[**Ninety**]** *90* million Americans ride bicycles and **[**twenty**]** *20* million ride a bicycle more than once a week;

(2) between 1984 and 1988, **[**two thousand nine hundred and eighty-five**]** *2,985* bicyclists in the United States died from head injuries and **[**nine hundred and five thousand seven hundred and fifty-two**]** *905,752* suffered head injuries that were treated in hospital emergency rooms;

(3) **[**Forty-one**]** *41* percent of bicycle-related head injury deaths and 76 percent of bicycle-related head injuries occurred among American children under age **[**fifteen**]** *15;*

(4) deaths and injuries from bicycle accidents cost society **[**$7,600,000,000**]** *$7.6 billion* annually; and a child suffering from a head injury, on average, will cost society **[**$4,500,000**]** *$4.5 million* over the child's lifetime;

(5) universal use of bicycle helmets in the United States would have prevented **[**two thousand and six hundred**]** *2,600* deaths from head injuries and **[**seven hundred and fifty-seven thousand**]** *757,000* injuries; and

(6) only 5 percent of children in the Nation who ride bicycles wear helmets.

### ESTABLISHMENT OF PROGRAM

SEC. 2. The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 3, make grants to States and State political subdivisions for programs that require or encourage individuals under the age of **[**sixteen**]** *16* to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

### PURPOSES FOR GRANTS

SEC. 3. A grant made under section 2 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of **[**sixteen**]** *16* to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of **[**sixteen**]** *16* to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of **[**sixteen**]** *16* and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

### AUTHORIZATION OF APPROPRIATIONS

SEC. 4. For the National Highway Traffic Safety Administration to carry out this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

### DEFINITION

SEC. 5. In this Act, the term "approved bicycle helmet" means a bicycle helmet which meets the testing standards of the American National Standards Institute or the Snell Memorial **[**Institute.**]** *Foundation.*

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

### AMENDMENT NO. 3199

(Purpose: To establish consumer product safety standards for bicycle helmets)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. DANFORTH, proposes an amendment numbered 3199:

Strike everything on page 4 of the bill and insert in lieu thereof the following:

### STANDARDS

SEC. 4. (a) IN GENERAL.—Bicycle helmets manufactured 60 days or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

(d) FAILURE TO MEET STANDARD.—A bicycle helmet that does not conform to an interim standard or final standard as required under subsection (a) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

### AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the National Highway Traffic Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

### DEFINITION

SEC. 6. In this Act, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 4(b), pending establishment of a final standard under section 4(c); and

(2) the final standard, once it is established under section 4(c).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3199) was agreed to.

Mr. DANFORTH. Mr. President, I am pleased to rise in support of S. 3096, legislation to promote the use of bicycle helmets by children under age 16, which I introduced on July 29. This is important safety legislation which will reduce the risk of deaths or severe injuries for children riding bicycles.

The need to address bicycle safety is clear. A study conducted for the Centers for Disease Control [CDC], which was published last December in the Journal of the American Medical Association, provides revealing data about the magnitude and severity of head injuries suffered by cyclists. The study found that, between 1984 and 1989, nearly 3,000 people died from head injuries while cycling, and over 900,000 suffered head injuries. This represents 62 percent of all bicycling deaths and 32 percent of bicycling injuries that required treatment in hospital emergency rooms. The Consumer Product Safety Commission [CPSC] estimates that bicycle-related deaths and injuries cost society $7.6 billion annually.

The statistics regarding children are even more compelling. The CDC study found that 41 percent of head injury deaths and 76 percent of total head injuries occurred among children under age 15. According to the National Head Injury Foundation, the cost of supporting a child who has suffered a severe head injury, on average, is $4.5 million over that individual's lifetime. For the family of a child killed or injured in a bicycle accident, the tragedy is immeasurable.

These losses are made more tragic by the fact that so many of them could be prevented by taking one simple step: wearing protective bicycle helmets. A 1989 study published in the New England Journal of Medicine found that use of a bicycle helmet reduces the risk of all head injuries by 85 percent and brain injuries by 90 percent. According to the CDC study, universal use of bicycle helmets would have prevented 2,600 deaths and 757,000 injuries between 1984 and 1988. Unfortunately, few riders wear helmets. In the case of children cyclists, it is a tragic fact that only 5 percent of these vulnerable riders wear helmets, according to the American Academy of Pediatrics.

Several local governments have taken steps to increase helmet use. For example, Howard and Montgomery Counties in suburban Maryland have enacted laws requiring children to wear bicycle helmets. I applaud their actions, but more needs to be done. The legislation that I am introducing today provides incentives for state or local governments to address this problem. The bill establishes a grant program within the National Highway Traffic Safety Administration to promote helmet use. State or local governments could qualify for these grants in any of three ways. First, the grant could be used to assist those unable to afford a helmet, which costs about $40, to purchase one. In addition, it could be used for the creation of a helmet bank, which would allow parents of limited means to obtain helmets for their children and to trade old helmets in for a larger size as their children grow. Second, the funds could be used to educate children about the need to wear bicycle helmets. Finally, the grant could be used to assist in the enforcement of a mandatory bicycle helmet law for children. The bill specifically states that State or local governments are to be given broad discretion in establishing programs that effectively promote increased helmet use.

The bill includes an amendment that requires the CPSC to establish government standards for bicycle helmets. Included in these standards are provisions that address the risk of injury to children. The purpose of this requirement is to replace the existing voluntary standards with a single provision approved by the CPSC.

Mr. President, it is essential that bicyclists wear helmets. It is a simple matter, but the failure to wear a helmet can have tragic results. The grant program in this measure takes a reasonable approach of allowing state and local officials to decide how their communities can best address this problem. This proposal will bring together state and local governments, parents, teachers, and others responsible for children, to protect against injuries and to save lives. The total funding of $9 million over 3 years would be offset if we could prevent only a few serious head injuries a year, but this bill should prevent hundreds. According to the National Safe Kids Campaign, an organization consisting of health, consumer, educational and law enforcement groups dedicated to improving child safety, this legislation will reduce the leading cause of death for children 15 and under—accidental injury. I urge my colleagues to support this bill.

Mr. METZENBAUM. Mr. President, I rise to urge my colleagues to approve legislation to encourage the use of bicycle helmets by children and to accept an amendment I am offering to mandate the development of Federal bicycle helmet safety standards. This is very important legislation which will help reduce many bicycle-related head injuries and deaths.

Everyone who rides a bicycle should wear a helmet. But, first and foremost, it is critical to get children to wear then. Children and young people have more head injuries than any other group. In fact, according to the organization Safe Kids, two-thirds of all bicycle-related head injuries occurred among American children under age 14. In 1990, 400 children died as a result of head injuries caused by bicycle accidents.

Bicycle helmets work. Their proper use has been shown to reduce the risk of head injury by 85 percent. That is why States and localities have begun to adopt laws requiring or encouraging bicycle helmet use by children. Congress should help foster these efforts.

The legislation which Senator DANFORTH and I are seeking passage of today will do just that. It will make grant money available to State and local governments to fund programs which promote or require children to wear bicycle helmets.

Finally, the amendment I am offering to the underlying bill will require the Consumer Product Safety Commission to issue uniform safety standards for adult and child-size helmets. Today's voluntary standards are confusing and inadequate. My amendment will help ensure that if children are wearing helmets that these helmets are made of solid, safe construction.

Mr. President, only 5 percent of the children in this country who ride bicycles wear helmets. For safety's sake, we can and must do better. I urge my colleagues to support prompt passage of this bill and my amendment to it.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to engrossed for a third reading, was read the third time, and passed.

(The text of S. 3096, as passed by the Senate, will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## VETERANS' EMPLOYMENT AND TRAINING ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 640, S. 2515, relating to job training for unemployed veterans; that the committee substitute amendment be agreed to; that the bill be deemed read for the third time, passed; that the motion to reconsider be laid upon the table and that any statements relative to the passage of this item be inserted at the appropriate place in the RECORD.

So the bill (S. 2515), as amended, was deemed read the third time and passed, as follows:

*S. 2515*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Veterans' Employment and Training Act of 1992".*

**SEC. 2. PURPOSE.**

*The purpose of this Act is to address the problem of severe and often continuing unemployment among veterans by providing incentives to certain employers to permit such employers to defray the costs of training veterans (including veterans who have been recently separated from an Armed Force as a result of the current reduction in the size of the Armed Forces) and to encourage such employers to employ and train such veterans in stable and permanent positions of employment for which significant training is required.*

**SEC. 3. DEFINITIONS.**

*In this Act:*

*(1) The term "Secretary" means the Secretary of Labor.*

*(2) The terms "veteran", "Armed Forces", "compensation", "service-connected", "State", and "active military, naval, or air service" have the meanings given such terms in paragraphs (2), (10), (13), (16), (20), and (24) of section 101 of title 38, United States Code, respectively.*

**SEC. 4. AUTHORITY TO CARRY OUT PROGRAMS.**

*(a) IN GENERAL.—In accordance with the provisions of this Act, the Secretary shall assist eligible veterans in obtaining employment with eligible employers in permanent and stable positions of employment that require significant training. Assistance shall be provided under this Act through—*

*(1) the payment of training assistance to employers who employ and train eligible veterans in such positions to assist such employers in defraying the costs of such training; and*

*(2) the provision to such veterans of training benefits and appropriate counseling to assist such veterans in receiving such training.*

*(b) ASSISTANCE IN CARRYING OUT PROGRAM.—The Secretary shall carry out that Secretary's responsibilities under this Act through the Assistant Secretary of Labor for Veterans' Employment and Training referred to in section 4102A of title 38, United States Code.*

**SEC. 5. ELIGIBILITY OF VETERANS FOR PARTICIPATION IN JOB TRAINING PROGRAMS.**

*(a) IN GENERAL.—A veteran may participate in a job training program under this Act if—*

*(1) the veteran is eligible for such participation under subsection (b);*

*(2) the veteran submits to the Secretary an application for a certificate of eligibility for participation in the program under subsection (c); and*

*(3) the Secretary issues such a certificate to the veteran under subsection (d).*

*(b) ELIGIBILITY.—(1) A veteran eligible to participate in a job training program is any veteran unemployed at the time the veteran submits an application for a certificate of eligibility under subsection (c) who—*

*(A) has not been employed on a full-time basis during at least 10 of the 15 weeks immediately preceding the date of the veteran's commencement of participation in the program; or*

*(B) was separated from active military, naval, or air service not more than 10 weeks before the commencement of such participation.*

*(2) For purposes of paragraph (1), the term "veteran" means a veteran who—*

*(A) performed service in the active military, naval, or air service for a period of more than 90 days; or*

*(B) was discharged or released therefrom for a service-connected disability.*

*(3) For the purposes of paragraph (1), a veteran shall not be considered to be employed during any period of part-time or temporary employment (as determined under regulations prescribed by the Secretary).*

*(c) APPLICATION FOR CERTIFICATE OF ELIGIBILITY.—(1) A veteran who desires to participate in a job training program under this Act shall submit to the Secretary an application for a certificate of eligibility for participation in such a program. Such an application shall—*

*(A) include a statement by the veteran that the veteran meets the criteria for eligibility referred to in subsection (b); and*

*(B) contain such other information as the Secretary shall prescribe.*

*(2) The Secretary shall prescribe the form of an application under this subsection.*

*(d) CERTIFICATE OF ELIGIBILITY.—(1) Subject to paragraph (2), the Secretary shall issue to each veteran who meets the eligibility requirements referred to in subsection (b) and who submits an application for a certificate of eligibility under subsection (c) a certificate of eligibility for participation in a job training program under this Act.*

*(2) The Secretary may withhold the issuance of a certificate of eligibility under this subsection to any veteran if the Secretary determines that it is necessary to limit the number of veterans who participant in job training programs under this Act by reason of a lack of funds to carry out such programs.*

*(e) APPEAL OF DENIAL OF CERTIFICATE.—The Secretary shall permit each veteran who is not issued a certificate of eligibility under subsection (d) (other than a veteran who is not issued such a certificate by reason of paragraph (2) of that subsection) to challenge in a hearing before the Secretary the failure of the Secretary to issue the certificate. The Secretary shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.*

*(f) PERIOD FOR COMMENCEMENT OF PARTICIPATION UNDER CERTIFICATE.—A veteran who is issued a certificate of eligibility for participation in a job training program under this section shall commence participation in such a program not more than 90 days after the date of the issuance of the certificate. The date on which a certificate is furnished to a veteran shall be stated on the certificate.*

*(g) RENEWAL OF CERTIFICATE.—A veteran may apply for a renewal of a certificate of eligibility for participation in a job training program (including a renewal of a renewed certificate). The application for the renewal of any such certificate shall be treated as an initial application for such a certificate under this section.*

**SEC. 6. EMPLOYER JOB TRAINING PROGRAMS.**

*(a) IN GENERAL.—Job training shall be provided to veterans under this Act by eligible employers through job training programs that meet the requirements of this section.*

*(b) ELIGIBLE EMPLOYERS.—An employer is eligible to provide job training to veterans through a job training program under this Act if, as determined by the Secretary, the employer intends to provide such training in a field of employment providing the reasonable probability of stable, long-term employment.*

*(c) REQUIREMENTS OF JOB TRAINING PROGRAMS.—Except as provided in subsection (d) and subject to subsections (f) and (g), in carrying out a job training program under this Act, an employer shall agree as follows:*

*(1) To identify a stable and permanent position of employment of the employer—*

*(A) in which there is a vacancy at the time of the identification;*

*(B) that requires an employee with significant training; and*

*(C) for which the employer is willing to provide such training.*

*(2) To devise a training program of such period and having such content, training materials, and instructors as are necessary to provide an employee with such training.*

*(3) To employ and train in the position on a full-time basis a veteran who—*

*(A) has been issued a certificate of eligibility for participation in such a program under section 5(d); and*

*(B) is not already qualified for employment in that position by reason of prior training or experience.*

*(4) To provide the veteran with such training for a period that is not longer than the period customarily required by similar employers in the community of the employer, if any, to provide similar training to the employees of such employers.*

*(5) During such employment and training, to provide the veteran with compensation and other benefits that are similar to the compensation and other benefits provided by the employer to non-veteran employees during such training.*

*(6) Unless intervening circumstances have made it economically impracticable for the employer to do so, to employ the veteran in that position upon the veteran's completion of the program.*

*(d) RESTRICTIONS ON EMPLOYMENT POSITIONS.—An employer may not employ a veteran in a job training program under this Act if—*

*(1) the training is for a position of employment—*

*(A) that consists of seasonal, intermittent, or temporary employment;*

*(B) for which the primary pay is commissions;*

*(C) that includes political or religious activities; or*

*(D) in any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service or the Postal Rate Commission);*

*(2) the training under the program will not be carried out in the United States; or*

*(3) the employment of the veteran during the training—*

*(A) will result in the displacement (including any reduction in hours of non-overtime work, wages, or employment benefits or other partial displacement) of employees currently employed by the employer; or*

*(B) will be in a position of employment—*

*(i) while any other employee of the employer is currently laid off from the position or a substantially similar position; or*

*(ii) for which there is a vacancy as a result of the employer's reduction of the workforce of the employer (including the termination of any regular employee) for the purpose of employing the veteran under the program.*

*(e) JOB TRAINING THROUGH EDUCATION.—An eligible employer may provide job training to veterans under this Act, in whole or in part, by permitting such veterans to pursue or enroll in programs of education that—*

*(1) are offered by educational institutions that meet the requirements of chapter 36 of title 38, United States Code; and*

*(2) do not violate any provision of that chapter.*

*(f) LIMITATIONS ON TRAINING PERIODS.—(1) Except as provided in paragraph (2), an employer shall provide a period of training under a job training program under this Act of not less than six months or more than two years.*

*(2) An employer may provide a period of training under a job training program of three months to six months if the Secretary determines that a program of training of that period will satisfy the purposes of a job training program under this Act.*

*(g) ADDITIONAL REQUIREMENTS.—The Secretary may prescribe such additional requirements with respect to job training programs*

*under this section as the Secretary determines are necessary to carry out the purposes of this Act.*

**SEC. 7. APPROVAL OF EMPLOYER JOB TRAINING PROGRAMS.**

*(a) IN GENERAL.—The Secretary shall approve each job training program established by an employer under this Act. The Secretary shall approve such programs in accordance with this section.*

*(b) SUBMITTAL OF APPLICATION FOR APPROVAL.—An employer who intends to carry out a job training program under this Act shall submit to the Secretary an application for approval of that program. The application for approval shall contain the following:*

*(1) A statement that the employer is an eligible employer under section 6(b).*

*(2) A statement that the proposed job training program of the employer meets the requirements for such programs established in section 6, together with such documentation to support that statement as the Secretary may prescribe.*

*(3) A statement of—*

*(A) the total number of hours of participation required of a veteran under the program;*

*(B) the number of weeks that the veteran will participate in the program; and*

*(C) the starting wages (and other compensation) of the veteran under the program.*

*(4) A description of—*

*(A) the training objective of the program; and*

*(B) the training content of the program (including the intent, if any, of the employer to permit the veteran to pursue or enroll in a program of education under section 6(e)).*

*(5) In the event that training under the program will include a veteran's pursuit of or enrollment in a program of education under section 6(e), a statement of the manner in which such training will include the program of education.*

*(c) APPROVAL OF THE SECRETARY.—The Secretary shall approve a job training program of an employer under this section if the Secretary determines from the information contained in the application for approval submitted by the employer under subsection (b) that the program meets the requirements for such a program under this Act.*

*(d) APPRENTICESHIP PROGRAMS.—(1) Except as provided in paragraph (2), a program of apprenticeship or other on-job training that meets the requirements of section 3687 of title 38, United States Code, shall be considered to be a job training program that is approved by the Secretary under this section.*

*(2) A program of apprenticeship or other on-job training shall not be considered to be a job training program that is approved by the Secretary under this subsection if it provides for apprenticeship or training for any position of employment referred to in section 6(d)(1).*

*(e) DISCONTINUATION OF APPROVAL.—(1) The Secretary may discontinue approval of any job training program previously approved under subsection (c) if the Secretary determines that—*

*(A) the program no longer meets the requirements of an approved program under this section; or*

*(B) the rate of the successful completion of the program by participating veterans is unacceptably low (when compared with rates of such completion for other such programs) by reason of deficiencies in the program.*

*(2) In making the determination referred to in paragraph (1)(B), the Secretary shall take into account any information that the Secretary considers to be relevant, including—*

*(A) the information collected in the quarterly assessment referred to in section 17(b) relating to—*

*(i) the number of veterans who are provided with job training under this Act;*

*(ii) the number of veterans who receive counseling in connection with job training provided under this Act;*

*(iii) the number of veterans who complete such training; and*

*(iv) in the case of veterans who do not complete such training, the reasons for such lack of completion; and*

*(B) data compiled through employer compliance surveys.*

*(3) A job training program that is disapproved by the Secretary under paragraph (1) shall not be an approved job training program for the purposes of this section.*

*(4)(A) Upon disapproving a job training program under this subsection, the Secretary shall notify the employer carrying out the program and any veterans participating in the program of that disapproval. The notice shall contain—*

*(i) a statement of the reasons for the Secretary's disapproval of the program; and*

*(ii) a statement that the employer and such veterans are entitled to challenge the disapproval in a hearing before the Secretary.*

*(B) Any notice under this paragraph shall be by certified or registered letter, return receipt requested.*

*(5)(A) The Secretary may reapprove any program that the Secretary has disapproved under paragraph (1) if the Secretary determines that the employer has taken appropriate remedial actions with respect to those matters upon which the Secretary based the disapproval.*

*(B) A program that is reapproved under this paragraph shall be considered to be a job training program that is approved by the Secretary for the purposes of this section.*

**SEC. 8. PAYMENTS OF TRAINING ASSISTANCE AND OTHER ASSISTANCE TO EMPLOYERS.**

*(a) IN GENERAL.—The Secretary shall pay training assistance to employers who provide job training to veterans in job training programs under this Act.*

*(b) AMOUNT OF PAYMENT.—(1) Subject to paragraph (2), for each payment period referred to in subsection (c) during which an employer provides job training to a veteran under this Act, the Secretary shall pay training assistance to the employer of the veteran on behalf of the veteran in an amount equal to 50 percent of the product of—*

*(A) the rate of the starting hourly wage (excluding overtime or premium pay) of the veteran under the program; and*

*(B) the number of hours worked by the veteran during the period.*

*(2) The amount paid to an employer on behalf of a veteran in any year under paragraph (1) may not exceed $7,500.*

*(c) PAYMENT PERIOD.—(1) Except as provided in paragraph (2), the Secretary shall pay training assistance to employers under this section on a quarterly basis.*

*(2) The Secretary may pay training assistance to an employer on a monthly basis if the Secretary determines (pursuant to regulations prescribed by the Secretary) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.*

*(d) APPROVAL OF SECRETARY.—The Secretary shall pay training assistance to an employer for a quarterly or monthly period (as the case may be) after—*

*(1) the Secretary receives the certifications with respect to that period referred to in subsection (e); and*

*(2) the Secretary approves of the payment of such assistance for that period based upon such certifications.*

*(e) CERTIFICATIONS RELATING TO PAYMENT.—(1) Subject to paragraph (2), with respect to each period for which an employer seeks payment of training assistance on behalf of a veteran under this section, the following shall be submitted to the Secretary:*

*(A) By the employer, a certification—*

*(i) that the employer provided the veteran with training during the period;*

*(ii) of the number of hours worked by the veteran in the program during the period; and*

*(iii) that the progress of the veteran in the training program during the period was satisfactory.*

*(B) By the veteran, a certification that the veteran was provided with job training by the employer in a job training program on a full-time basis during the period.*

*(2) The first certification submitted to the Secretary by an employer under paragraph (1)(A) and by a veteran under paragraph (1)(B) shall include—*

*(A) the date on which the veteran commenced participation in the job training program; and*

*(B) the rate of the starting hourly wage of the veteran under the program.*

*(f) PAYMENT OF ASSISTANCE TO ACCOMMODATE DISABLED VETERANS.—(1) The Secretary shall pay accommodation assistance to employers who provide job training to disabled veterans under this Act to permit such employers to make modifications of the facilities or equipment of such employers on behalf of such veterans to facilitate the training and employment of such veterans.*

*(2) To be eligible for the payment of accommodation assistance for modifications of facilities or equipment made on behalf of a disabled veteran under this subsection, an employer shall submit to the Secretary—*

*(A) prior to the commencement of such modifications, a detailed proposal relating to such modifications, including the estimated cost of such modifications; and*

*(B) upon the completion of such modifications, any documentation that the Secretary may require that indicates (i) that the employer has completed such modifications, and (ii) the final cost of such modifications.*

*(3)(A) The Secretary shall—*

*(i) approve each proposal for modifications submitted to the Secretary under paragraph (2)(A); and*

*(ii) approve the cost of each modification indicated in the documentation submitted to the Secretary under paragraph (2)(B).*

*(B) The Secretary shall approve the cost of a modification of facilities or equipment under paragraph (A)(ii) only if the Secretary determines that the cost of the modification is reasonable.*

*(4) The Secretary shall pay as accommodation assistance under this subsection the cost of any modification approved by the Secretary under paragraph (3)(A)(ii). The total amount of accommodation assistance payable to an employer for modifications made by the employer on behalf of a disabled veteran under this subsection may not exceed $3,000.*

*(5) Each employer paid accommodation assistance under this subsection shall permit the Secretary reasonable access to the facilities and equipment of the employer to enable the Secretary to ensure that the employer has made the modifications of such facilities and equipment in accordance with the proposals and documentation submitted to the Secretary by the employer.*

*(6) For the purposes of this subsection, modifications of facilities or equipment on behalf of a disabled veteran shall include any improvement, alteration, or purchase of facilities or equipment that is necessary to make the facilities or equipment readily accessible to, and usable by, a disabled veteran.*

*(g) OVERPAYMENT.—(1) A payment of training assistance (other than accommodation assistance under subsection (f)) to an employer on be-*

*half of a veteran for a quarterly or monthly period, as the case may be, shall be an overpayment of assistance for that period if the Secretary determines that—*

*(A) during that period, the employer—*

*(i) has failed to comply in material respect with the requirements of this Act; and*

*(ii) is responsible for such failure;*

*(B) the payment is based upon the willful submittal by the employer to the Secretary in a certification under subsection (d)(1)(A) of material information that the employer knows to be false;*

*(C) the payment is based upon the willful or negligent submittal by the veteran to the employer of any material information that is false;*

*(D) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in an application for a certificate of eligibility for participation in the program under section 5(b) of any material information that is false; or*

*(E) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in a certification under subsection (d)(1)(B) of any material information that is false.*

*(2)(A) An employer shall be liable to the United States for an overpayment referred to in subparagraph (A) or (B) of paragraph (1).*

*(B) A veteran shall be liable to the United States for an overpayment referred to in subparagraph (C), (D), or (E) of that paragraph.*

*(h) RECOVERY OF OVERPAYMENT.—(1) Except as provided in paragraph (2), the Secretary may recover an overpayment under this section by any method that is provided by law for the recovery of amounts owing to the Federal Government. Any overpayment recovered shall be credited to the account relating to the funds available to carry out this Act. If there is no such account, any overpayment recovered shall be covered into the Treasury.*

*(2)(A) The Secretary may waive the recovery of an overpayment under this section, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.*

*(B) The Secretary shall establish in the Department of Labor appropriate administrative procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).*

### *SEC. 9. TRAINING BENEFITS FOR VETERANS.*

*(a) IN GENERAL.—The Secretary shall pay training benefits to veterans who participate in job training programs under this Act. The purpose of such training benefits is to assist such veterans in defraying the cost of work-related expenses. The total amount of training benefits payable to a veteran by the Secretary under this section may not exceed $1,500.*

*(b) APPROVAL OF SECRETARY.—A veteran shall be entitled to the payment of a training benefit for work-related expenses incurred by the veteran if—*

*(1) the veteran submits to the Secretary an application for payment (in such form and including such documentation as the Secretary may require) stating the amount of any such expenses incurred by the veteran as a result of the veteran's participation in a job training program under this Act; and*

*(2) the Secretary approves the payment of a training benefit with respect to such expenses.*

*(c) ADMINISTRATION OF PAYMENT.—The Secretary shall prescribe the manner of the payment of training benefits under this section, including the period and frequency of the payment of benefits to veterans and the means of ensuring the prompt payment of benefits to veterans by the Secretary.*

*(d) OVERPAYMENT.—(1) A veteran shall not be entitled to the payment of a training benefit under this section if the veteran terminates participation in a job training program prior to the scheduled date of the completion of the program by the veteran.*

*(2) In the event that the Secretary determines that a veteran has been paid a training benefit to which the veteran was not entitled, the amount of the benefit paid to the veteran to which the veteran was not so entitled shall constitute an overpayment of the benefit and a liability of the veteran to the United States.*

*(e) RECOVERY OF OVERPAYMENT.—(1) Subject to paragraph (2), the United States may recover an overpayment of a training benefit from a veteran by any method that is provided by law for the recovery of amounts owing to the Federal Government.*

*(2)(A) The Secretary may waive the recovery of an overpayment of a training benefit, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.*

*(B) The Secretary shall establish in the Department of Labor appropriate administrative procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).*

*(f) DEFINITION.—For the purposes of this section, the term "work-related expenses", in the case of a veteran who participates in a job training program under this Act, means any expenses incurred by the veteran by reason of such participation, including expenses for the purchase of work clothes and tools, car or bus fare, and the provision of child care.*

### *SEC. 10. PROHIBITION ON COMMENCEMENT OF JOB TRAINING PROGRAMS UNDER CERTAIN CIRCUMSTANCES.*

*(a) IN GENERAL.—An employer may not provide a veteran with job training under a job training program if the Secretary determines that, on the date on which the employer intends to commence providing such training, there are insufficient funds available under this Act to carry out the program.*

*(b) COMMENCEMENT OF PROGRAM.—Each employer shall—*

*(1) notify the Secretary of the employer's intention to commence furnishing job training to a veteran under a job training program not less than 14 days before such commencement; and*

*(2) commence the program in accordance with that notification unless the Secretary advises the employer within the 14-day period referred to in paragraph (1) that there are insufficient funds available under this Act to carry out the program.*

*(c) ADDITIONAL REQUIREMENT RELATING TO COMMENCEMENT OF PROGRAM.—An employer who provides a veteran with job training in a job training program under this Act shall provide the veteran with a copy of the application for approval of the program submitted by the employer to the Secretary under section 7(b).*

### *SEC. 11. INVESTIGATION AND MONITORING OF PROGRAMS BY THE SECRETARY OF LABOR.*

*(a) IN GENERAL.—(1) The Secretary shall ensure that the job training programs carried out under this Act (including the activities of veterans and employers under such programs) are carried out in accordance with the provisions of this Act. In ensuring such compliance, the Secretary may investigate any matter relating to a job training program (including any application of a veteran for a certificate of eligibility under section 5(c), any employer application for approval of a program under section 7(b), and any program records under subsection (b) of this section).*

*(2) In conducting an investigation under paragraph (1), the Secretary may enter onto the premises at which an employer furnishes job training under a job training program and question employees of the employer (including any veterans who are provided with job training under the program) with respect to the program.*

*(b) PROGRAM RECORDS.—(1) Each employer that provides job training in a job training program under this Act shall maintain such records of the provision of such training as are necessary for the Secretary to monitor the provision of such training. The Secretary shall prescribe the form and content of such records.*

*(2) The Secretary shall have reasonable access to the records maintained by employers under paragraph (1) for the purpose of monitoring the provision of job training by such employers.*

### *SEC. 12. COORDINATION WITH OTHER JOB TRAINING ASSISTANCE PROGRAMS.*

*(a) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS PARTICIPATING IN CERTAIN OTHER PROGRAMS.—(1) An employer may not be paid training assistance on behalf of a veteran under section 8 during the period referred to in paragraph (3) if, during that period, the employer is allowed a tax credit or is paid an allowance for that veteran under any of the following provisions of law:*

*(A) Chapter 30, 31, 32, 35, or 36 of title 38, United States Code.*

*(B) Chapter 106 of title 10, United States Code.*

*(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).*

*(D) Section 44B of the Internal Revenue Code of 1986 (relating to tax credits for employment of certain new employees).*

*(2) A veteran may not be paid training benefits under section 9 during the period referred to in paragraph (3) if, during that period, the veteran is paid or receives a benefit or allowance under any of the provisions of law referred to in subparagraphs (A) through (D) of paragraph (1).*

*(3) The period referred to in this paragraph is the period beginning on the date on which an employer begins to provide job training to a veteran under a job training program under this Act and ending on the date on which the employer ceases to provide such training to the veteran under the program.*

*(b) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS WHO COMPLETE CERTAIN PROGRAMS.—An employer may not be paid training assistance under section 8 on behalf of a veteran, and a veteran may not be paid benefits under section 9, for participation of the veteran in a job training program under this Act if the veteran has completed a program of job training under this Act or under the Veterans' Job Training Act (29 U.S.C. 1721 note).*

### *SEC. 13. COUNSELING AND CASE-MANAGEMENT SERVICES.*

*(a) AUTHORITY TO PROVIDE COUNSELING SERVICES.—(1)(A) The Secretary and the Secretary of Veterans Affairs may provide the employment counseling services and employment guidance services referred to in subparagraph (B) to veterans who are issued certificates of eligibility for participation in a job training program under section 5(d).*

*(B) The counseling services and guidance services authorized under this paragraph are services relating to the development of any job-readiness skills and services relating to any other assistance that a veteran may require (as determined by the Secretary and the Secretary of Veterans Affairs) to enable the veteran to participate in a job training program under this Act, including assistance relating to the resolution of difficulties encountered by the veteran in finding, applying for, and participating in a job training program that is suitable to the veteran.*

*(2) In the event that the Secretary and the Secretary of Veterans Affairs exercise the authority to provide counseling services to veterans under this subsection, the Secretary and the Secretary of Veterans Affairs shall—*

*(A) upon the issuance to a veteran of a certificate of eligibility for participation in a job training program under section 5(d), advise veterans of the availability of such counseling services;*

*(B) urge such veterans to request such services; and*

*(C) provide such services to veterans upon the request of such veterans.*

*(3) To the extent practicable, the Secretary and the Secretary of Veterans Affairs shall coordinate the provision of counseling services and guidance services under this subsection, if any, with counseling services provided under sections 1712A, 3697A, 4103A, 4104, 7723, and 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.*

*(b) CASE MANAGEMENT SERVICES.—(1) The Secretary shall establish a program of case management services under which the Secretary shall provide the services described in paragraph (2) to the veterans referred to in paragraph (3) and (4).*

*(2) The Secretary shall provide case management services under this subsection as follows:*

*(A) By assigning to each veteran eligible for such services under this subsection a case manager who is a disabled veterans' outreach program specialist appointed pursuant to section 4103A of title 38, United States Code.*

*(B) By ensuring that the veteran has a personal interview with the outreach specialist not later than 60 days after the date on which the veteran commences participation in a job training program under this Act.*

*(C) By ensuring that the veteran meets personally with the outreach specialist on a monthly basis for the purpose of—*

*(i) preventing the unnecessary voluntary or involuntary termination of the veteran from the program;*

*(ii) referring the veteran to appropriate counseling, if necessary;*

*(iii) following the veteran's progress in the program;*

*(iv) facilitating the veteran's successful completion of the program; and*

*(v) assessing the veteran's participation in and, as applicable, completion of the program.*

*(3)(A) Except as provided in subparagraph (B), the Secretary shall provide case management services under this subsection to any veteran who—*

*(i) is issued a certificate of eligibility for participation in a job training program under this Act; and*

*(ii) notifies the Secretary that the veteran has identified an employer with which the veteran will participate in such a program.*

*(B) The Secretary is not required to provide a veteran with case management services referred to in paragraph (2)(C) if—*

*(i) on the basis of a personal interview between the veteran and an outreach specialist under paragraph (2)(B), the outreach specialist recommends that the veteran does not need such services and the Secretary ratifies that recommendation; or*

*(ii) the Secretary determines that—*

*(I) the employer of the veteran under the program has an appropriate and effective employee assistance program that is available to the veteran; or*

*(II) the rate of successful completion of the program by veterans on the date the veteran intends to commence participation in the program (either during the course of the entire program or during the calendar year preceding that date) is more than 60 percent.*

*(4) Notwithstanding paragraph (3), the Secretary, in consultation with the Secretary of Veterans Affairs, shall provide case management services under this section to each veteran—*

*(A) whose participation in a job training program is terminated (either voluntarily or involuntarily); and*

*(B) who applies to the Secretary for a certificate of eligibility for participation in another such program under section 5(c).*

*(c) COUNSELING INFORMATION.—(1) The Secretary and the Secretary of Veterans Affairs shall carry out a program to provide to veterans who participate in job training programs under this Act information relating to the availability and scope of the following:*

*(A) The counseling services and guidance services, if any, provided under subsection (a).*

*(B) The case management services, if any, provided under subsection (b).*

*(C) The supportive services and resources available to service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).*

*(D) Any additional counseling services, guidance services, and other support services and resources available to veterans through appropriate Federal, State, and local agencies.*

*(2) In order to facilitate the provision of services and information to veterans under paragraph (1), the Secretary and the Secretary Veterans Affairs shall advise the veterans referred to in that paragraph of the availability, if any, of such services and information not later than the date upon which the Secretary issues a certificate of eligibility for participation in a job training program under section 5(d).*

*(d) PAYMENT FOR THE PROVISION OF COUNSELING AND OTHER SERVICES.—(1) Notwithstanding any other provision of law, the Secretary and the Secretary of Veterans Affairs may enter into contracts with appropriate entities or individuals for the provision by such entities or individuals of counseling services, guidance services, case management services, or other services under this section. Such contracts shall contain any terms or conditions that the Secretary and the Secretary of Veterans Affairs determine to be necessary to ensure the appropriate provision of such services and to protect the interests of the United States.*

*(2) The Secretary of Veterans Affairs may pay entities or individuals for the provision of services under paragraph (1) in accordance with the contracts entered into with such entities or individuals under that paragraph. Any such payments shall be made from the account relating to the funds available for readjustment benefits referred to in section 3104(a)(7)(B) of title 38, United States Code.*

### SEC. 14. INFORMATION AND OUTREACH SERVICES.

*(a) INFORMATION AND OUTREACH SERVICES.—Subject to subsection (b), the Secretary and the Secretary of Veterans Affairs shall carry out a program of public information and outreach under which program the Secretary and the Secretary of Veterans Affairs shall—*

*(1) inform veterans of the job training programs (and other employment opportunities) provided for under—*

*(A) this Act;*

*(B) chapters 30, 31, 36, 41, and 42 of title 38, United States Code; and*

*(C) any other applicable provisions of law, as determined by the Secretary and the Secretary of Veterans Affairs;*

*(2) inform private businesses (including small businesses), appropriate public agencies and organizations, institutions of higher education, trade associations, and labor organizations of such training programs and employment opportunities; and*

*(3) promote the development of job training and employment opportunities for veterans by—*

*(A) encouraging employers to create job training programs under this Act;*

*(B) advising appropriate Federal departments and agencies of the authority provided for under this Act for the establishment of job training programs; and*

*(C) advising employers of the responsibilities of employers of veterans under chapters 41 and 42 of title 38, United States Code.*

*(b) COORDINATION OF PROGRAMS.—To the extent practicable, the Secretary and the Secretary Veterans Affairs shall coordinate the provision of public information and outreach program under this section with the provision of job counseling, placement, development, and other services under chapters 31, 36, 41, and 42 of title 38, United States Code, and with the provision of similar services offered by other Federal, State and local agencies and organizations.*

### SEC. 15. ADDITIONAL ASSISTANCE AND RESOURCES.

*(a) PERSONNEL.—(1) The Secretary of Veterans Affairs shall make available in regional and local offices of the Department of Veterans Affairs, and the Secretary shall make available in regional and local offices of the Department of Labor, such personnel as are necessary to carry out the provisions of this Act.*

*(2) In carrying out the responsibilities of the Secretary under this Act, the Secretary shall, to the maximum extent practicable, make use of the services of Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training appointed under section 4103 of title 38, United States Code, disabled veterans' outreach program specialists appointed pursuant to section 4103A of that title, and local veterans' employment representatives appointed under section 4104 of that title.*

*(b) ASSISTANCE OF SMALL BUSINESS ADMINISTRATION.—(1) The Secretary shall obtain from the Administrator of the Small Business Administration a list of small businesses that are suitable businesses (as determined by the Administrator in consultation with the Secretary) to carry out job training programs under this Act.*

*(2) The Administrator of the Small Business Administration shall update the list referred to in paragraph (1) on a regular basis (as determined by the Secretary).*

*(c) USE OF RESOURCES AVAILABLE UNDER JOB TRAINING PARTNERSHIP ACT.—(1) To facilitate the carrying out of job training programs under this Act, the Secretary shall, to the extent practicable, use such resources as are available to assist service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).*

*(2) The Secretary shall assist veterans who are denied certificates of eligibility for participation in job training programs under section 5 in taking advantage of any opportunities available to such veterans under any programs carried out pursuant to title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or under any other similar programs that are carried out with funds made available to the Secretary.*

### SEC. 16. PILOT PROGRAM OF EMPLOYMENT SERVICES FOR HOMELESS VETERANS.

*(a) IN GENERAL.—(1) In each of fiscal years 1993 through 1997, the Secretary shall award grants to the entities referred to in paragraph (2) with which such entities shall provide employment assistance (including counseling and other assistance) to homeless veterans. The Secretary shall prescribe procedures for the award of such grants.*

*(2) An entity entitled to a grant under this subsection is any nonprofit entity determined by the Secretary (under regulations prescribed by the Secretary) to have special expertise or experience in the provision of employment assistance to homeless individuals or in other employment matters relating to such individuals.*

*(b) FUNDING LIMITATION.—In carrying out this section, the Secretary may use not more*

*than $5,000,000 of the funds obligated or otherwise made available to the Department of Labor in each of fiscal years 1993 through 1997 pursuant to the authorization of appropriations referred to in section 21.*

### *SEC. 17. PROGRAM ASSESSMENT.*

*(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall evaluate on an annual basis the status of the programs authorized and carried out under this Act to ensure that such programs satisfy the purposes of this Act.*

*(b) QUARTERLY ASSESSMENT.—The Secretary shall collect on a quarterly basis from appropriate officials of State employment services or offices and the Directors of Veterans' Employment and Training of each State in which job training programs are carried out under this Act the following information:*

*(1) The number of veterans in the State who were certified for participation in such programs under section 5(d) during the previous calendar quarter.*

*(2) The number of such veterans who participated in such programs during that period.*

*(3) The number of such veterans who completed participation in such programs during that period.*

*(4) The number of veterans who terminated (either voluntarily or involuntarily) participation in such programs, and the reasons for each such termination.*

*(5) Such other information as the Secretary, in consultation with the Secretary of Veterans Affairs, determines to be appropriate for the purposes of ensuring the effective administration of the programs.*

### *SEC. 18. REPORTS.*

*(a) PRELIMINARY REPORT.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the committees referred to in paragraph (2) a report on—*

*(A) the actions taken by the Secretary to implement this Act; and*

*(B) the estimated administrative costs of carrying out this Act.*

*(2) The Secretary shall submit the report under paragraph (1) to the following:*

*(A) The Committee on Veterans' Affairs of the Senate.*

*(B) The Committee on Labor and Human Resources of the Senate.*

*(C) The Committee on Veterans' Affairs of the House of Representatives.*

*(D) The Committee on Education and Labor of the House of Representatives.*

*(b) ANNUAL REPORTS.—Not later than March 31, 1994, and on an annual basis thereafter, the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the following:*

*(1) The general assessment of the Secretary under section 17(a) of the programs carried out under this Act during the calendar year preceding the report.*

*(2) The quarterly assessments carried out by the Secretary under section 17(b) for each of the four calendar quarters preceding the date of the report.*

*(3) A statement by the Secretary relating to—*

*(A) amounts paid by the Secretary to employers and veterans under this Act during such calendar quarters;*

*(B) any obligation of funds in connection with the implementation of this Act that is projected by the Secretary for the calendar year following the report;*

*(C) a general assessment by the Secretary of the adequacy and timeliness of payments made by the Secretary under this Act; and*

*(D) such other information as the Secretary considers appropriate relating to the process of making payments to employers and veterans under this Act.*

*(4) Any additional assessments, matters, or recommendations that the Secretary or the Secretary of Veterans Affairs consider appropriate.*

### *SEC. 19. TERMINATION OF PROGRAM.*

*An employer may not be paid training assistance on behalf of a veteran under section 8 and a veteran may not be paid training benefits under section 9 with respect to any training provided to the veteran in a job training program under this Act if the training is provided after September 30, 1997.*

### *SEC. 20. CONFORMING AMENDMENTS TO TITLE 38.*

*(a) UNDER CHAPTER 31.—Section 3104(a)(7)(A) of title 38, United States Code, is amended by striking out "section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note)" and inserting in lieu thereof "section 13(e) of the Veterans' Employment and Training Act of 1992".*

*(b) UNDER CHAPTER 41.—Chapter 41 of such title is amended—*

*(1) in section 4102A(b)(3)(B), by striking out "the Veterans' Job Training Act (29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";*

*(2) in section 4103(c)(1)(A), by striking out "the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";*

*(3) in section 4103A(c)—*

*(A) in paragraph (6), by striking out "the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note))" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992)"; and*

*(B) in paragraph (10), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)." and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992.";*

*(4) in section 4104(b)(12)—*

*(A) by striking out "section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 5(d) of the Veterans' Employment and Training Act of 1992,"; and*

*(B) by inserting "in job training programs" after "for participation";*

*(5) in section 4104A(a)(2)(C), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992,";*

*(6) in section 4105(b), by striking out "the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992"; and*

*(7) in section 4108(b), by striking out "the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note)." and inserting in lieu thereof "the Secretary of Labor under section 7(c) of the Veterans' Employment and Training Act of 1992.".*

### *SEC. 21. AUTHORIZATION OF APPROPRIATIONS.*

*(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Labor for the purpose of carrying out the provisions of this Act the following:*

*(A) $75,000,000 in fiscal year 1993.*

*(B) $100,000,000 in fiscal year 1994.*

*(C) $125,000,000 in fiscal year 1995.*

*(D) $125,000,000 in fiscal year 1996.*

*(E) $100,000,000 in fiscal year 1997.*

*(2) Amounts appropriated pursuant to this section shall remain available until September 30, 1997, without fiscal year limitation.*

*(b) LIMITATION ON OBLIGATION FOR ADMINISTRATIVE COSTS.—(1) Not more than 10 percent of the amount appropriated or otherwise made available to the Department of Labor in a fiscal year pursuant to the authorization of appropriations for that fiscal year under subsection (a) may be obligated for administrative activities under this Act.*

*(2) Not more than an amount equal to 50 percent of the amount available under this subsection for administrative activities may be obligated for administrative activities of the Department of Labor.*

*(3) The Secretary may use funds authorized by paragraph (1) to be obligated for administrative activities under this Act to provide, by grant or contract, for the conduct of such activities by entities outside of the Department of Labor.*

The title was amended so as to read: "A bill to authorize the establishment of job training programs for certain unemployed veterans, to pay certain assistance and benefits to employers of such veterans and to such veterans to defray certain costs relating to the provision of such training, and for other purposes".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to S. 2515, the proposed "Veterans' Employment and Training Act of 1992," as reported by the Veterans' Affairs Committee on August 12, 1992. This measure was introduced on April 2, 1992, by my good friend from Arizona and colleague on the committee, Mr. DECONCINI, and I have been very pleased to work with him in the development of this measure and to join as a cosponsor. This bill would establish a job training program for veterans who have been unemployed for substantial periods and for unemployed veterans recently separated from the Armed Forces.

On May 13, 1992, the committee received testimony from the administration and representatives of veterans organizations and military associations regarding S. 2515 as introduced. The bill as reported, which I will refer to as the committee bill, is the result of revisions in response to this testimony and the continuing work of our committee to strengthen veterans' employment assistance programs.

### BACKGROUND

Mr. President, the committee bill is a revised and expanded version of the Emergency Veterans' Job Training Act of 1983, later named the Veterans' Job Training Act [VJTA], enacted in Public Law 98-77 on August 15, 1983, and significantly revised by section 11 of Public Law 100-323, enacted on May 20, 1988. Congress originally intended VJTA to be a short-term emergency program to assist veterans of the Korean conflict and Vietnam era who were chronically unemployed. However, the program was subsequently extended over the next 8 years before it expired on June 30, 1991.

VJTA was enacted amid the recession experienced in the early 1980's when the unemployment level among veterans reached 9 percent. Today, nearly 917,000 veterans are unemployed. An additional 400,000 service members are expected to be separated from the Armed Forces over 5 years due to the downsizing of our military establishment. Another 300,000 per year will leave the military through attrition.

Mr. President, our committee is concerned that many of the soon-to-be-separated service members entered the Armed Forces in hopes of long, satisfying careers and that those careers will come to a premature end. The committee bill, like VJTA, would provide incentives to employers to hire and train veterans in fields leading to stable, long-term employment.

The committee bill follows the basic structure of VJTA with many revisions and substantive changes in order to update and improve the prior program.

Mr. President, because the various provisions in the committee bill are described in detail in the committee's report accompanying this measure (S. Rept. No. 102–377), I will at this time just set forth a summary of the provisions and then discuss certain provisions that I wish to highlight. I refer my colleagues and all others with an interest in the committee bill to the committee report for more complete information on it.

### SUMMARY OF PROVISIONS

Mr. President, the committee bill would:

First, declare that the purpose of the bill is to address the problem of severe and continuing unemployment among veterans by providing incentives to employers to hire and train veterans in stable and permanent positions of employment.

Second, provide that the Secretary of Labor would assist eligible veterans in obtaining employment through the provision of assistance in the form of payments to employers to assist them in defraying the costs of training eligible veterans; and training benefits and appropriate counseling for veterans.

Third, provide that to be eligible a veteran must be unemployed when applying and must either have been unemployed for 10 of the previous 15 weeks or been discharged not more than 10 weeks prior to the commencement of the veterans' training program, with periods of part-time or temporary employment not being counted.

Fourth, provide that the training must be in a field providing a reasonable probability of stable, long-term employment; a training program must be for a period of not less than 6 months nor more than 2 years; and the employer must agree that, unless intervening circumstances have made it economically impractical, the employer will retain the veteran in the position for which the veteran was trained.

Fifth, provide for DOL to approve job training programs established by employers in accordance with the requirements specified in the bill.

Sixth, provide that DOL would make payments to employers of training assistance equal to 50 percent of the starting hourly wage of the veteran times the number of hours worked, except that the total payment could not exceed $7,500 per annum; and make payments to employers of up to $3,000 for the modification of facilities or equipment on behalf of a disabled veteran hired and trained under this legislation.

Seventh, require DOL to pay veterans participating in an approved job training program up to $1,500 to defray approved work-related expenses such as the purchase of work clothes and tools, car or bus fare, and the acquisition of child care.

Eighth, require an employer to notify DOL of its intention to hire a veteran not less than 14 days before the commencement of training; and DOL to notify the employer within this time if there are insufficient funds available.

Ninth, make DOL responsible for ensuring that the job training programs comply with the legislation, and also provide that DOL may discontinue approval of a training program if the rate of successful completion is unacceptably low; authorize DOL, in carrying out its compliance responsibilities, to investigate any matter relating to the job training program; and give DOL reasonable access to records kept by the employer regarding the program of training.

Tenth, prohibit duplicate payments of Federal benefits to employers and veterans participating in the program.

Eleventh, provide for DOL and the Department of Veterans Affairs to furnish employment counseling and guidance services relating to the development of any job-readiness skills and other assistance a veteran may require to participate in a program of job training under this legislation; and DOL to establish a program of case-management services for veterans who need such services.

Twelfth, require DOL and VA to establish a public information and outreach program to inform veterans of the job training programs provided under this and other Federal training programs; and to inform private businesses, appropriate public agencies, and others of these training programs.

Thirteenth, require DOL, during fiscal years 1993 through 1997, using not more than $5 million per year of funds appropriated under this measure, to conduct a pilot program under which DOL would award grants to provide employment services, including counseling and other assistance, to homeless veterans.

Fourteenth, require DOL to collect information on the job training program on a quarterly basis and, in consultation with VA, annually evaluate the status of the programs carried out under this measure.

Fifteenth, require DOL to submit to the congressional Committees on Veterans' Affairs not later than 90 days after the effective date of this program, a report on the actions taken to implement this measure and the estimated administrative costs for carrying it out; and annual reports assessing the program under this measure.

Eighteenth, specify that payments could not be made with respect to training provided after September 30, 1997.

Nineteenth, authorize to be appropriated to DOL to carry out this measure: $75,000,000 in fiscal year 1993; $100,000,000 in fiscal year 1994; $125,000,000 in fiscal year 1995 and fiscal year 1996; and $100,000,000 in fiscal year 1997; provide that these amounts would remain available until September 30, 1997, without fiscal year limitation; and specify that not more than 10 percent of the amount appropriated or otherwise made available to DOL may be obligated for administrative activities, with not more than 5 percent of the appropriated funds to be retained by DOL.

### ELIGIBILITY OF VETERANS FOR PARTICIPATION IN JOB TRAINING PROGRAMS

Mr. President, the committee bill is designed to assist the employment needs of all veterans who have been unemployed for a substantial period of time and recently discharged veterans. Section 5 of the committee bill would establish the following eligibility requirements for veterans to participate in a program of job training under this measure:

First, the veteran must have been discharged or released from active duty under conditions other than dishonorable.

Second, the veteran must have either served on active duty for a period of more than 90 days or been discharged or released because of a service-connected disability.

Third, the veteran must be unemployed when applying for a job training program and must either have been unemployed for 10 of 15 weeks or have been discharged not more than 10 weeks prior to the commencement of his or her training program. Periods of part-time or temporary employment would not be considered for purposes of eligibility.

A veteran who desires to participate in a job training program would be required to submit to DOL an application for a certification of eligibility including verification of unemployment and such other information as the Secretary of Labor may prescribe. DOL would certify veterans for program participation and would permit veterans who are denied certificates of eligibility to appeal pursuant to hearing procedures prescribed by the Secretary. Once a certificate of eligibility is issued, the veteran would be required to begin participation in a job training program within 90 days or to apply for a renewal of that application.

PAYMENTS OF TRAINING ASSISTANCE AND OTHER ASSISTANCE TO EMPLOYERS

Mr. President, the committee bill would provide for DOL to make payments to employers in order to defray the costs of a veteran's training and any worksite modifications needed for a disabled veteran's participation in the training program.

Payments of training assistance to employers would be equal to 50 percent of the starting hourly wage of the veteran times the number of hours worked, except that the total payment would not exceed $7,500 per annum.

Originally, S. 2515 as introduced would have set at $5,000 per year the maximum allowable payment to an employer to defray costs of training a veteran. However, at the committee's May 13 hearing, many witnesses testified that an increase in the maximum allowance would improve this program by attracting more employers to participate. While reimbursement of 50 percent of wages, subject to $5,000-per-year cap on reimbursements, would not prevent employers from paying veterans more than $10,000 per year during training, under the bill as introduced employers would have been required to bear the full amount of additional costs above $10,000. In the committee's view, this $5,000-per-year cap might have been a disincentive for participation by employers who would have paid veterans more than $10,000 per year during training. In addition, it might have been a disincentive to employers who otherwise would have been willing to do so to pay veterans more than $10,000 per year during training.

A maximum allowance of $7,500 per year would cover 50 percent of wages up to $15,000 per year, a much more realistic figure. With the national poverty level for a family of four at nearly $14,000 per year, this level of reimbursement would attract more employer training programs providing wages above the poverty level. Thus, the committee believes that a maximum allowance of $7,500 per year would provide a more effective incentive to employers to hire and train veterans.

Mr. President, DOL also would pay employers up to $3,000 to defray the costs of modifying facilities or equipment to accommodate a disabled veteran hired and trained under this program. An employer applying for such accommodation assistance would be required to submit to the Secretary a detailed proposal including the estimated cost of the modifications and verification of their completion.

AUTHORITY TO CARRY OUT PROGRAMS

Mr. President, VJTA provided for VA and, to the extent specified, DOL to administer the prior veterans' job training program.

Modeled after VJTA, section 4 of S. 2515 as introduced would have split the administration of this program between VA and DOL. However, upon extensive consideration of the problems experienced under VJTA and testimony received at the May 13 hearing, our committee modified the bill to grant full administrative authority for this program to DOL, including the making of payments to employers and veterans.

In our view, timely and efficient administration of this program—which is so essential to avoid some of the coordination difficulties that occurred under VJTA and to provide effective job training programs to veterans—could best be achieved by unifying the overall administrative responsibility and placing it with DOL, which has the employment and training program expertise and the relationships with State employment security agencies and others that can contribute to the success of this program.

COUNSELING AND CASE-MANAGEMENT SERVICES

Mr. President, the committee bill incorporates improvements enacted in 1988 in Public Law 100-323 that were designed to improve the administration of VJTA and facilities, the successful completion of job training programs by veterans through more effective counseling and consultative services. Section 13 of the committee bill would authorize DOL and VA to furnish employment counseling and guidance services relating to the development of job-readiness skills and to furnish other assistance which veterans might require to participate in a program of job training under the committee bill. This could include assistance relating to the resolution of difficulties encountered by the veteran in finding, applying for, and participating in a job training program that is suitable to the veteran.

Finally, section 13 would direct DOL to establish a program of case-management services for veterans who need such services, particularly veterans who withdraw—either voluntarily or involuntarily—from one job training program and apply to participate in another one. Under the case-management program, a disabled veteran outreach program specialist would be required personally to interview the veteran within 60 days after the beginning of the veteran's training program and generally monthly thereafter unless, in certain cases, DOL finds that case-management services are not necessary.

This section also would authorize DOL and VA to enter into contracts for counseling, guidance, or case-management services. VA would be authorized to pay for such contracted services from funds available for readjustment benefits referred to in section 3104(a)(7)(B) of title 38, United States Code.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, the committee bill would authorize to be appropriated to DOL to carry out this measure $75,000,000 in fiscal year 1993, $100,000,000 in fiscal year 1994, $125,000,000 in fiscal year 1995 and fiscal year 1996, and $100,000,000 in fiscal year 1997; and would provide that these amounts would remain available until September 30, 1997, without fiscal year limitation.

In contrast to the well-defined authorization of the committee bill that I just outlined, VJTA was erratically funded throughout the program's life. VJTA originally was meant as a short-term emergency program to address the employment needs of veterans of the Korean and Vietnam eras and funds were authorized to be appropriated for fiscal years 1983 through 1985. In 1984, $150 million was appropriated for the program and no additional funding was appropriated in 1985. The authorization for VJTA was extended five times between 1985 and 1991 and the program's viability was often in doubt from one year to the next. The committee found that the continual uncertainty of authorization and funding for VJTA plagued the program by discouraging employer involvement, particularly among employers who had longer, higher paying, and more stable training programs. The committee bill would authorize appropriations for fiscal years 1993 through 1997 at which time the program would end, thus establishing the timeframe of the program and its funding requirements.

CONCLUSION

Mr. President, in closing I congratulate Senator DECONCINI for his great work on this legislation. I also express my deep appreciation to the ranking Republican member of our committee, Mr. SPECTER, for his excellent cooperation and assistance on this measure and to all other members of the committee for their help in the development of and action on this legislation.

I am also grateful for the contributions of Mr. DECONCINI's staff members Tim Gearan and Sandra Lindsay, an American Political Science Association Congressional Fellow who recently returned to her regular employment in the National Heart, Lung, and Blood Institute, and the Senate Veterans' Affairs Committee staff members who have worked on this legislation—on the minority staff, Quent Kinderman, Bill Tuerk, and Tom Roberts; and on the majority staff, Tom Hart, Chuck Lee, and Ed Scott. In addition, I very much appreciate the technical advice and expert assistance of Charles Armstrong of the Senate Legislative Counsel's Office in the drafting of the measure.

Mr. President, once again I urge my colleagues to give their unanimous approval to this bill and assist these servicemembers who are being displaced from the military, through no fault of their own, into difficult economic times. Now that we have reached the point at which major reductions in our Military Establishment are possible, we have a direct and important responsibility to assist those servicemembers who will face the already long unemployment lines. This veteran job training program seeks to fulfill this responsibility.

Mr. DECONCINI. Mr. President, I rise in support of S. 2515, the Veterans Employment and Training Act of 1992.

On April 2, 1992, I introduced this veterans' employment and training package, cosponsored by Senators MITCHELL, GRAHAM, AKAKA, and DASCHLE, in order to respond to the plight of nearly 1.3 million currently unemployed veterans and another 1.3 million soon-to-be veterans who will leave the military in the next 3 years.

Figures vary, but the best estimates I have indicate that approximately 8.4 million American men and women, including some 917,000 veterans, are unemployed. To make matters worse, we know that over the next 5 years our Armed Forces will discharge a minimum of 400,000 military personnel and lose another 300,000 or so per year through attrition.

Many of the soon-to-be-separated men and women entered the Armed Forces because they were promised a satisfying, full-length career. Circumstances have changed dramatically with the collapse of communism, and many careers will now be cut short through no fault of the individuals involved. As a matter of conscience, we owe these men and women help in their transition from military to civilian life.

The Veterans Employment and Training Act of 1992 is a revised and expanded version of the Emergency Vietnam Veterans Job Training Act of 1983, later known as the Veterans Job Training Act. This bill provides immediate incentives to employers to hire and train veterans in fields leading to stable, long-term employment.

This bill authorizes a 5-year employment and training program. Employers who hire and train veterans under this act will be eligible for payments of up to $7,500 per year to defray the costs of training. Veterans participating in an approved job training program, including apprenticeship programs, may also receive up to $1,500 for work-related expenses such as special clothing, tools, bus or car fare, and child care.

More than 2 million veterans are disabled. In many cases, unemployed disabled veterans could work if the worksite were adapted to their special needs or if specialized tools or equipment were provided. My bill, therefore, includes a special incentive of up to $3,000 for employers hiring disabled veterans for the purpose of worksite modification.

An estimated one-third of all homeless single men are veterans, and 80 to 85 percent of homeless veterans are unemployed. On any given night, a deplorable 110,000 to 250,000 veterans are homeless. To address the employment problems of these veterans, I have included $5,000,000 to establish pilot projects to provide employment services—including counseling and development of job placement skills—to these veterans.

I fully recognize that veterans represent only one part of our Nation's overall unemployment problem. In Arizona, thousands of civilian workers in the aerospace industry have lost their jobs as a result of defense budget cuts. Nationwide, estimates indicate reductions of almost 130,000 civilian DOD employees, many of whom are also veterans. Something must be done for all of these individuals.

However, I believe the Nation owes special consideration to those who have served in our Armed Forces who, at great personal sacrifice, dedicated themselves to military service. There is another reason why we should provide the resources and programs necessary to get these discharged men and women on their feet—it is cost effective.

Veterans as a group have very high potential for benefiting from a program of job training. Military experience has provided them with discipline, drive, and energy—they are eager to make their own way. All they need is a boost to get them going. And that is what my colleagues and I have proposed.

Mr. President, I would note for the record that the following seven Senators are cosponsors of this legislation: Senators CRANSTON, GRAHAM, AKAKA, MITCHELL, FORD, BURDICK, and INOUYE.

In closing, I want to express my thanks once again to the distinguished chairman of the Senate Committee on Veterans' Affairs, Senator CRANSTON, and his able staff led by Ed Scott, Bill Brew, and Chuck Lee, for all the assistance they provided to me and my staff. I would also like to pay special tribute to Sandra Lindsay for her assistance on this legislation. Sandy was a legislative fellow in my office this past year and was instrumental to the passage of this legislation. I also thank Tim Gearan, Mary Hawkins, Cybele Cobb, and others of my staff for their fine work on this vital legislation for America's newest veterans.

As this may be the last time Senator ALAN CRANSTON manages veterans' legislation before he retires, I would like to take this opportunity to pay tribute to his great service to the country, and especially its veterans, over the past 24 years. Senator CRANSTON's leadership on this important veterans' issue once again reinforces his stature as the greatest legislative advocate and defender of America's veterans and their families the Senate has ever known. It has truly been an honor and privilege to have served with him during his chairmanship on the Senate Committee on Veterans' Affairs. I believe I speak for all of my colleagues on the Committee of Veterans' Affairs when I say that we will sorely miss him.

Mr. SIMPSON. Mr. President, I rise today to offer my qualified support for S. 2515, the Veterans' Employment and Training Act of 1992.

I along with my colleagues on the committee, the administration, and the VA, are very interested in fairly addressing issues regarding employment and training of our deserving veterans.

That is why I cosponsored a comprehensive bill with the fine Republican leader, Senator DOLE, that addressed these issues of education, jobs, and transition assistance for veterans.

That bill was offered in concert with the House Veterans' Affairs Committee chairman—my old friend, SONNY MONTGOMERY and the fine ranking minority member, BOB STUMP. They introduced a companion bill, H.R. 5097 on the same day.

Our bill would have increased the Montgomery GI bill educational assistance by raising the current payment from $300 per month to $500 per month. It would have revived the Veterans Job Training Act and increased funding to the Veterans' Homeless Assistance Act.

Clearly, there is a great need for transition assistance to the civilian community.

But, I also noted the concern raised by the VA that—

> Any consideration given a possible reiteration of a Veterans Job Training Act (VJTA)-type program * * * prompts scrutiny of that program's past performance.

I agree with this statement wholeheartedly and I am deeply concerned that this legislation—which was in effect from 1983 through 1990—produced less than impressive results—even though I was active in its passage.

In the final analysis, the majority of veterans who participated in the program were not hired by the employers who trained them. That is quite disturbing.

I also understand the VA's frustration with the administrative difficulties experienced with the Department of Labor under the old Veterans Job Training Act, and the difficulties that are anticipated with this new legislation.

Finally, I would note that this legislation duplicates programs already in existence and currently mandated by the VA and the Department of Labor.

I raised these and other concerns during hearings on this bill. That is why I felt the Dole-Simpson legislation was more appropriate, and more comprehensive.

However, it is not my intention to stand in the way of passing this bill, which, is committed to the important policy goals of employing our Nation's veterans and ameliorating the impact of the rising costs of education, particularly at this historic time of change in our country.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support passage of S. 2515.

This bill would assist our Nation's men and women in uniform in their successful transition to civilian life by providing the Department of Labor with the authority and resources to assist them in their first priority upon separation from military life: Successfully converting from a promising military career, cut short by the victory of democracy in the cold war, to a civilian livelihood, made more difficult by the current slow growth of the economy.

Mr. President, our service men and women have performed well their assignment of ensuring our national security. They have won the cold war. They have kept us free and safe. As a direct result, we have been able to eliminate many military jobs. Armed Forces active duty personnel reductions are projected to be over 90,000 by the end of this year, with a total reduction of over 300,000 by the end of 1995. If we do not provide for the effective and efficient transition of these highly disciplined, responsible, and productive people into the civilian work force, then we will have failed in our obligation to our own employees.

The purpose of this bill, Mr. President, is to assist these men and women to contribute more to our society by assisting a number of them in their efforts to find productive and stable employment.

The bill would encourage employers to train veterans in permanent, stable jobs by establishing a program under which the Secretary of Labor would pay such employers up to 50 percent of a veteran's beginning wages—up to $7,500 per year—for a period of not more than 2 years. The bill would also provide allowances for workplace accommodations for disabled veterans, as well as to defray certain work related expenses.

I feel strongly that this bill is not an expense, but an investment in our Nation's future. It is as well an investment in our Nation's finest men and women. While the cost is significant—$525 million over the next 5 years—it is not so high as the cost of not assisting our military men and women, as they make new lives in the civilian sector.

History has proven time and again that our people are our most valuable resource. If we make this investment in them now, they will pay America back over and over again.

In closing, I would like to thank the staff who worked so hard to prepare this bill: Tim Gearan, from Senator DECONCINI's staff, Tom Hart, Chuck Lee, Bill Brew, and Ed Scott from the majority staff, and Quent Kinderman, Charlie Battaglia, and Tom Roberts from my staff.

Mr. President, the sooner we assist the transition of our service men and women into productive civilian employment, the sooner they can help us meet the economic challenges that we face today. I urge my colleagues to support S. 2515.

## HEALTH PROFESSIONS EDUCATION EXTENSION AMENDMENTS OF 1992—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee on conference on H.R. 3508 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, September 25, 1992.)

Mr. FORD. Mr. President, I ask unanimous consent that the conference report be agreed to; the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

## MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee on conference on H.R. 5428 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1992.)

### HOUSE AMENDMENTS

*Resolved*, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$717,280,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$209,639,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$287,559,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$29,900,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$378,434,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$661,246,000*

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with the following amendments:

Restore the matter stricken by said amendment, amended to read as follows:

*SEC. 125. (a) The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627) are completed—*

*(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and*

*(2) annually submit to the Congress a report containing—*

*(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;*

*(B) any additional recommendations that the task force considers appropriate; and*

*(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.*

*(b) The task force shall consist of—*

*(1) the individuals (or their designees) described in section 2923(c)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821); and*

*(2) a representative of the Urban Land Institute (or such representative's designee), appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.*

On page 9 of the House engrossed bill, strike line 4; and beginning on line 11 strike all after "restoration" down to and including "restoration" on line 17.

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the conference report on the military construction appropriations bill for fiscal year 1993.

Mr. President, the conference report is within the revised 602(b) budget allocation for both budget authority and outlays. The conference agreement is also below the President's budget request. In addition it is $173 million under last year's appropriated level.

Mr. President, there were 350 differences between the House and Senate approved versions of the appropriations bill and report. Those differences totaled $2.1 billion, the largest dollar amount of differences we have ever had during my 14 years of service on the subcommittee.

The conferees were able to work out an agreement to bring the bill back below the President's budget estimates. The conferees had to make some very difficult decisions. Most Members agreed to take cuts in our own States. In addition, the conferees had to compromise on programs which usually receive support.

This agreement provides $1.5 billion less for the regular military construction program than the Congress approved last year.

I would like to discuss two items of particular interest. First, the NATO infrastructure program will receive $60 million in this agreement. This is a split between the House which had $121 million and the Senate which approved no funds for the program. In addition to the $60 million we are providing, NATO will have an additional $60 million in prior year project recoupment which can be applied toward the program. So, the U.S. contribution to NATO will total $120 million for fiscal year 1993.

Mr. President, we should not be providing any additional funding for the NATO program this year. The program is undergoing a tremendous programmatic change. Less and less appropriated for the program will be for infrastructure development. Dozens of projects are being canceled. And the program is becoming a cash cow, not for facilities, but for communications programs and other nonconstruction procurement items.

In addition, there are now more than $500 million in prior year appropriations for this program which remain unspent. NATO has not been able to execute the program it already has. This is a program that is simply not being administered in a business-like manner by the overly bureaucratic North Atlantic Treaty Organization.

Frankly, it is only in the spirit of compromise and the insistence by the administration that I was willing to agree to a compromise for NATO. It is my view that we should not be providing this program any new funds until NATO demonstrates it can more effectively execute the contracts it already has signed.

Mr. President, you can mark my word, the funds approved in this bill are just going to sit in the treasury or in NATO bank accounts for years before NATO will ever be able to spend the money.

Second, I would like to mention that the conferees agreed to provide more than $2 billion for the base closure accounts. That is almost three times the amount provided last year.

The Senate should be aware that there are two more Base Closure Commissions to act in 1993 and 1995. So, the cost of closing bases is going to continue to grow in the military construction bill for many years to come.

Mr. President, this bill is a good compromise. It is under budget. It is under the amounts provided last year. I recommend its approval.

Mr. President, I want to thank the ranking minority member, the junior Senator from Texas, for his support and for his contributions to the subcommittee this year.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate concur, en bloc, with the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT AUTHORIZATION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 657, S. 2792, the Juvenile Justice and Delinquency Prevention Act of 1974 reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2792) to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

### *SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.*

*(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—*

*(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;*

*(2) by inserting after paragraph (1) the following new paragraphs:*

*"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;*

*"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";*

*(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";*

*(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);*

*(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and*

*(6) by adding at the end the following new paragraphs:*

*"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and*

*"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".*

*(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";*

*(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";*

*(C) by striking "and" at the end of paragraph (7);*

*(D) by redesignating paragraph (8) as paragraph (9);*

*(E) by inserting after paragraph (7) the following new paragraph:*

*"(8) to strengthen families in which juvenile delinquency has been a problem;";*

*(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and*

*(G) by adding at the end the following new paragraphs:*

*"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and*

*"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and*

*(2) in subsection (b) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families".*

### *SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.*

*(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".*

*(b) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—*

*(1) in subsection (a)(1) by inserting "the Commissioner of Immigration and Naturalization," after "Community Services,"; and*

*(2) in subsection (c)—*

*(A) in the first sentence by inserting "all Federal programs and activities that detain or care for unaccompanied juveniles apprehended by or in the custody of the Immigration and Naturalization Service," after "delinquency programs"; and*

*(B) in the second sentence by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles apprehended by or in the custody of the Immigration and Naturalization Service" before the period.*

*(c) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—*

*(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended by striking "existence" and inserting "experience".*

*(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—*

*(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation"; and*

*(B) in subsection (a)—*

*(i) in paragraph (2)(A)—*

*(I) by striking "part D" and inserting "parts D and F";*

*(II) by inserting "or such greater amount, up to $390,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and*

*(III) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";*

*(ii) in paragraph (2)(B)—*

*(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$400,000,"; and*

*(II) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and*

*(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992".*

*(3) STATE PLANS.—Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—*

*(A) in subsection (a)—*

*(i) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part F. The State";*

*(ii) by amending paragraph (3) to read as follows:*

*"(3) provide for an advisory group, which—*

*"(A) shall consist of not less than 15 and not more than 30 members appointed by the chief executive officer of the State—*

*"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;*

*"(ii) which members include—*

*"(I) at least 1 locally elected official representing general purpose local government;*

*"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, and counsel for children and youth;*

*"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;*

*"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;*

*"(V) volunteers who work with delinquents or potential delinquents;*

*"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;*

*"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and*

*"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;*

*"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;*

*"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and*

*"(v) at least 3 members who have been under the jurisdiction of the juvenile justice system at some time;*

*"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;*

*"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);*

*"(D) shall, consistent with this title—*

*"(i) advise the State agency designated under paragraph (1) and its supervisory board;*

*"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part F; and*

*"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and*

*"(E) may, consistent with this title—*

*"(i) advise on State supervisory board and local criminal justice advisory board composition;*

*"(ii) review progress and accomplishments of projects funded under the State plan.";*

*(iii) in paragraph (9) by inserting "recreation," after "special education,"; and*

*(iv) by amending paragraph (10) to read as follows:*

*"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—*

*"(A) community-based alternatives to incarceration and institutionalization, specifically—*

*"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;*

*"(ii) for youth who need temporary placement: crisis intervention, shelter, and after-care; and*

*"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;*

*"(B) community-based programs and services to work with parents and other family member to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;*

*"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;*

*"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;*

*"(E) educational programs or supportive services for delinquent or other youth, provided equitably regardless of sex, race, or family income, designed to encourage them to remain in school, including—*

*"(i) education in settings that promote experiential, individualized learning and exploration of academic and career options;*

*"(ii) assistance in making the transition to the world of work and self-sufficiency; and*

*"(iii) alternatives to suspension and expulsion;*

*"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;*

*"(G) youth-initiated outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;*

*"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;*

*"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;*

*"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;*

*"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency; and*

*"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—*

*"(i) a sense of safety and structure;*

*"(ii) a sense of belonging and membership;*

*"(iii) a sense of self-worth and social contribution;*

*"(iv) a sense of independence and control over one's life;*

*"(v) a sense of closeness in interpersonal relationships; and*

*"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation.*

*"(M) programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults.";*

*(v) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";*

*(vi) in paragraph (14) by striking "1993" and inserting "1997";*

*(vii) by amending paragraph (16) to read as follows:*

*"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and*

*(viii) in paragraph (17) by striking "and maintain the family units" and inserting "the families";*

*(B) by amending subsection (c) to read as follows:*

*"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.*

*"(2) If a State fails to comply with the requirements of paragraph (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—*

*"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and*

*"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—*

*"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or*

*"(ii) the Administrator determines, in the discretion of the Administrator, that the State—*

*"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and*

*"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and*

*(C) in subsection (d)—*

*(i) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";*

*(ii) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and*

*(iii) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".*

*(d) NATIONAL PROGRAMS.—*

*(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—*

*(A) by inserting "recreation and park personnel," after "special education personnel"; and*

*(B) by inserting "prosecutors and defense attorneys," after "probation personnel,".*

*(2) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—*

*(A) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";*

*(B) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;*

*(C) by inserting after paragraph (2) the following new paragraphs:*

*"(3) establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults;*

*"(4) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;"; and*

*(D) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (B), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities".*

*(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(3)) is amended by inserting "prosecutors and defense attorneys," after "judges".*

*(4) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—*

*(A) by striking "(a) Not later" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later";*

*(B) by striking "(1) to review" and inserting "(A) to review";*

*(C) by striking "(A) conditions" and inserting "(i) conditions";*

*(D) by striking "(B) the extent" and inserting "(ii) the extent";*

*(E) by striking "(2) to make" and inserting "(B) to make";*

*(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";*

*(G) by striking "(A) how" and inserting "(i) how";*

*(H) by striking "(B) the amount" and inserting "(ii) the amount";*

*(I) by striking "(C) the extent" and inserting "(iii) the extent";*

*(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";*

*(K) by striking "(B) For purposes" and inserting "(ii) for purposes";*

*(L) by striking "(c) Not later" and inserting "(3) Not later";*

*(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and*

*(N) by adding at the end the following new subsection:*

*"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—*

*"(A) conduct a study with respect to juveniles waived to adult court that reviews—*

*"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;*

*"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and*

*"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and*

*"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.*

*"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—*

*"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—*

*"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and*

*"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and*

*"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.*

*"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—*

*"(A) conduct a study of gender bias within State juvenile justice systems that reviews—*

*"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and*

*"(ii) the appropriateness of the placement and conditions of confinement for females; and*

*"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.*

*"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—*

*"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and*

*"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a*

report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban areas in the United States.

"(B) Such urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) With respect to each urban area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(D) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (C).".

(5) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended—

(A) in subsection (a)—

(i) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(ii) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles."; and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,".

(e) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that apply to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists."; and

(2) by striking subparagraph (C).

(f) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended—

(1) in the heading by inserting ", INTERVENTION," after "PREVENTION";

(2) in section 281—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11);

(B) by striking "SEC. 281. The Administrator" and all that follows through "purposes:" and inserting the following:

"SEC. 281. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in the prevention of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) To target elementary school students, with the purpose of steering students away from gang involvement.

"(2) To provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed.

"(3) To develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs.

"(4) To include a special location within a school or housing project for program activities.

"(b) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in crisis intervention and rehabilitation of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) Establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults."; and

(C) in paragraph (8) of subsection (b), as designated by subparagraph (B), by inserting "recreation," after "local education,"; and

(3) in section 282(b)(1) by inserting "(a) or (b)" after "section 281".

(g) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 291(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D and F) there are authorized to be appropriated such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D or F of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D or F of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D or F of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out the purposes of part F, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.".

(h) STATE CHALLENGE ACTIVITIES.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by adding at the end the following new part:

"PART F—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

"SEC. 297. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 6 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 18 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

*"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.*

*"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.*

*"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.*

*"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.*

*"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.*

*"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.*

*"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.*

*"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.*

*"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.*

*"(J) Developing and adopting policies to establish—*

*"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and*

*"(ii) a statewide case review system.".*

***SEC. 3. RUNAWAY AND HOMELESS YOUTH.***

*(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—*

*(1) by amending paragraph (1) to read as follows:*

*"(1) the number of youth who have become homeless or who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and may live on the street, leaving them at high risk for health and other serious problems;";*

*(2) by striking "and" at the end of paragraph (4); and*

*(3) by striking paragraph (5) and inserting the following new paragraphs:*

*"(5) runaway youth, homeless youth, and other street youth have a disproportionate share of health problems compared to the general adolescent population but lack access to health care;*

*"(6) increasingly, runaway youth, homeless youth, and other street youth in need of services have more serious emotional and behavioral problems and fewer resources and therefore may need access to longer periods of residential care, more intensive aftercare services, and other assistance;*

*"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;*

*"(8) to reconnect runaway youth, homeless youth, and other street youth to their communities, street-based services must be provided where they congregate;*

*"(9) home-based services are also needed to prevent youth from leaving home or developing more serious emotional and behavioral problems; and"*

*"(10) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures.".*

*(b) AUTHORITY TO MAKE GRANTS.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711) is amended—*

*(1) by amending subsection (a) to read as follows:*

*"(a) The Secretary shall make grants to nonprofit private entities, combinations of such entities, and public entities to establish, renovate, and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of such youth and their families. The centers shall serve as alternatives to the law enforcement, child welfare, mental health, and juvenile justice systems.";*

*(2) in subsection (b)—*

*(A) in paragraph (2)—*

*(i) by inserting "or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$75,000,"; and*

*(ii) by inserting ", or such greater amount, up to $45,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$30,000"; and*

*(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and*

*(3) by striking subsection (c).*

*(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—*

*(1) in subsection (a) by striking "facility providing" and inserting "project that provides"; and*

*(2) in subsection (b)—*

*(A) in paragraph (3) by striking "child's" and inserting "youth's" and striking "child" each place it appears and inserting "youth";*

*(B) in paragraph (4) by inserting "health and mental health care personnel," after "social service personnel,"; and*

*(C) in paragraph (6) by striking "children and family members which it serves," and inserting "children and family members that it serves, including youth that are not referred to out-of-home shelter services,".*

*(d) GRANTS FOR A NATIONAL COMMUNICATION SYSTEM.—Section 313(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712a(b)) is amended—*

*(1) in paragraph (1) by striking "1989 not less than $500,000" and inserting "1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment";*

*(2) in paragraph (2) by striking "1990 not less than $600,000" and inserting "1994 not less than $826,900"; and*

*(3) in paragraph (3) by striking "1991 and 1992 not less than $868,300" and inserting "1995 and 1996 not less than $911,700".*

*(e) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5716) is amended in the second sentence by striking "$150,000" and inserting "$250,000".*

*(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714–2(a)) is amended—*

*(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and*

*(2) in paragraph (13) by striking "and parent or legal guardian".*

*(g) STREET-BASED SERVICES AND COORDINATING ACTIVITIES.—Title III of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5701 et seq.) is amended—*

*(1) by striking sections 314, 315, and 365 and redesignating parts C and D as parts E and F, respectively; and*

*(2) by inserting after part B the following new parts:*

### *"PART C—STREET-BASED SERVICES*

### *"PURPOSE AND AUTHORITY; DEFINITIONS*

*"SEC. 325. (a) PURPOSE AND AUTHORITY.—The Secretary may make grants and provide technical assistance to public and nonprofit private entities and combinations of such entities to establish and operate street-based services to runaway youth, homeless youth, and other street youth.*

*"(b) DEFINITIONS.—For purposes of this part—*

*"(1) the term 'homeless youth' means a person—*

*"(A) who is not less than 10 years of age and not more than 21 years of age;*

*"(B) for whom it is not possible to live in a safe environment with a relative; and*

*"(C) who has no safe living arrangement as an alternative to living with a relative;*

*"(2) the term 'other street youth' means a person under the age of 21 who may be intermittently homeless and spends the majority of his or her time on the street, using it as a primary means of economic survival and socialization; and*

*"(3) the term 'street-based services' includes—*

*"(A) street-based crisis intervention and counseling;*

*"(B) information and referral for housing;*

*"(C) information and referral for transitional living and health care services; and*

*"(D) advocacy, education, and prevention services for—*

"(i) alcohol and drug abuse;

"(ii) sexually transmitted diseases including HIV/AIDS infection; and

"(iii) physical and sexual assault.

"ELIGIBILITY

"SEC. 326. (a) PLAN AND AGREEMENT.—To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a street-based services project and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to identify and frequent areas in which runaway youth, homeless youth, and other street youth congregate, making contact and forming relationships with such youth;

"(2) to assess the problems and service needs of such youth and provide appropriate services or information and referral for these services;

"(3) to cause its staff to work in teams with on-street supervision or backup and off-street clinical supervision;

"(4) to cause its staff to—

"(A) develop referral relationships with agencies and organizations, including law enforcement, education, social service, vocational services, training, public welfare, legal assistance, and health and mental health care organizations; and

"(B) help integrate and coordinate such services for youth;

"(5) to submit to the Secretary an annual report that includes information regarding—

"(A) the activities carried out with funds under this part;

"(B) the achievements of the project under this part carried out by the applicant; and

"(C) statistical summaries describing the number and the characteristics of the youth who participated in the project in the year for which the report is submitted;

"(6) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(7) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(8) to keep adequate statistical records profiling the youth that it serves and not to disclose the identity of individual runaway youth, homeless youth, or other street youth in reports or other documents based on such statistical records;

"(9) not to disclose records maintained on individual runaway youth, homeless youth, or other street youth without the consent of the individual youth to anyone; and

"(10) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) PRIORITY.—In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing direct services to runaway youth, homeless youth, or other street youth.

"PART D—COORDINATING ACTIVITIES

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 335. The Secretary shall make grants to State, regional and other nonprofit organizations and combinations of such organizations to provide technical assistance and training to eligible groups for the purpose of establishing and improving the operation of programs for runaway youth, homeless youth, and other street youth.

"GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 336. (a) IN GENERAL.—The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth, homeless youth, and other street youth.

"(b) SPECIAL CONSIDERATION.—In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) youth who repeatedly leave and remain away from their homes;

"(2) outreach to runaway youth, homeless youth, and other street youth;

"(3) skill-based HIV/AIDS prevention training for runaway and homeless youth and training for staff to work with such youth;

"(4) increasing access to health and mental health care and services for runaway and homeless youth;

"(5) increasing access to education for runaway and homeless youth;

"(6) staff training in—

"(A) the behavioral and emotional effects of sexual abuse and assault;

"(B) responding to youth who are showing effects of sexual abuse and assault; and

"(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;

"(7) transportation of runaway and homeless youth, and other street youth in connection with services authorized to be provided under this part;

"(8) the special needs of runaway and homeless youth in rural areas;

"(9) the special needs of family host home programs for runaway youth, homeless youth, and other street youth;

"(10) transitional living programs for homeless youth; and

"(11) innovative methods of developing resources that enhance the establishment or operation of runaway youth, homeless youth, or other street youth centers.

"(c) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants that have knowledge of or experience in working with runaway and homeless youth.

"COORDINATION OF ACTIVITIES

"SEC. 337. With respect to matters relating to health, education, employment, and housing, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of other divisions of that department and other public and private entities and encourage coordination with other departments.".

(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended—

(1) in subsection (a)—

(A) by inserting ", activities," after "status";

(B) by striking "part A," and inserting "parts A, B, C, D, and E,"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) plans for the next fiscal year.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992" and inserting "such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996"; and

(B) by adding at the end the following new paragraphs:

"(3) In the use of funds appropriated under paragraph (10) that are in excess of $38,000,000 but less than $42,600,000, priority shall be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000) if the appropriation were equal to or less than $38,000,000, for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent shall be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent shall be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b)(1) by striking "of this title, there are authorized to be appropriated such sums as are necessary for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992." and inserting "there are authorized to be appropriated such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There are authorized to be appropriated to carry out part C such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

### SEC. 4. MISSING CHILDREN.

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal year 1993".

### SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

## "TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

### "SEC. 501. SHORT TITLE.

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

### "SEC. 502. FINDINGS.

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

### "SEC. 503. DEFINITION.

"In this title, the term 'State advisory group' means the advisory group appointed by the *chief executive officer of a State under a plan described in section 223(a).*

### "SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

*"The Administrator shall—*

*"(1) issue such rules as are necessary or appropriate to carry out this title;*

*"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);*

*"(3) provide adequate staff and resources necessary to properly carry out this title; and*

*"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—*

*"(A) describing activities and accomplishments of grant activities funded under this title;*

*"(B) describing procedures followed to disseminate grant activity products and research findings;*

*"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and*

*"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.*

### "SEC. 505. GRANTS FOR PREVENTION PROGRAMS.

*"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—*

*"(1) recreation services;*

*"(2) tutoring and remedial education;*

*"(3) assistance in the development of work awareness skills;*

*"(4) child and adolescent health and mental health services;*

*"(5) alcohol and substance abuse prevention services;*

*"(6) leadership development activities; and*

*"(7) the teaching that people are and should be held accountable for their actions.*

*"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—*

*"(1) the unit is in compliance with the requirements of part B of title II;*

*"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end investment plan for delinquency prevention and early intervention activities;*

*"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);*

*"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;*

*"(5) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and*

*"(6) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.*

*"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—*

*"(1) plans for service and agency coordination and collaboration including the colocation of services;*

*"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and*

*"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.*

### "SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

*"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".*

*(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.*

### SEC. 6. CHILDREN'S ADVOCACY PROGRAM.

*(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—*

*(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;*

*(2) by inserting after paragraph (2) the following new paragraph:*

*"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and*

*(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:*

*"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".*

*(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—*

*(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and*

*(2) by inserting after section 211 the following new sections:*

### "SEC. 212. DEFINITIONS.

*"For purposes of this subtitle—*

*"(1) the term 'Administrator' means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));*

*"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;*

*"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);*

*"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;*

*"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;*

*"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;*

*"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;*

*"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and*

*"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).*

### "SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.

*"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—*

*"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;*

*"(2) provide support for nonoffending family members;*

*"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and*

*"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.*

*"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—*

*"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—*

*"(A) establish regional children's advocacy program centers;*

*"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and*

*"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,*

*for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.*

*"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—*

*"(A) assist communities—*

*"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;*

*"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;*

*"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;*

*"(iv) in providing families with needed services and assisting them in regaining maximum functioning;*

*"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;*

*"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;*

*"(vii) in obtaining information useful for criminal and civil proceedings;*

*"(viii) in holding offenders accountable through improved prosecution of child abuse cases;*

*"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse through training; and*

*"(x) in enhancing community understanding of child abuse; and*

*"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.*

*"(c) Operation of the Regional Children's Advocacy Program.—*

*"(1) Solicitation of proposals.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.*

*"(2) Minimum qualifications.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:*

*"(A) A proven record in conducting activities of the kinds described in subsection (c).*

*"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.*

*"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.*

*"(D) Experience in serving as a center for training and education and as a resource facility.*

*"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.*

*"(3) Proposal requirements.—*

*"(A) In general.—A proposal submitted in response to the solicitation under paragraph (1) shall—*

*"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;*

*"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and*

*"(iii) state the annual cost of the proposal and a breakdown of those costs.*

*"(B) Content of management plan.—A management plan described in paragraph (3)(A) shall—*

*"(i) outline the basic activities expected to be performed;*

*"(ii) describe the entities that will conduct the basic activities;*

*"(iii) establish the period of time over which the basic activities will take place; and*

*"(iv) define the overall program management and direction by—*

*"(I) identifying managerial, organizational, and administrative procedures and responsibilities;*

*"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and*

*"(III) providing sufficient rationale to support the costs of the plan.*

*"(4) Selection of proposals.—*

*"(A) Competitive basis.—Proposals shall be selected under this section on a competitive basis.*

*"(B) Criteria.—The Administrator, in coordination with the Director, shall select proposals for funding that—*

*"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;*

*"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse;*

*"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);*

*"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and*

*"(D) otherwise best carry out the purposes of this section.*

*"(4) Funding of program.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.*

*"(5) Coordination of effort.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.*

*"(d) Review.—*

*"(1) Evaluation of regional children's advocacy program activities.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.*

*"(2) Annual report.—A grant recipient shall provide an annual report to the Administrator and the Director that—*

*"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and*

*"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.*

*"(3) Discontinuation of funding.—*

*"(A) Failure to implement program activities.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.*

*"(B) Solicitation of new proposals.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).*

*"(e) Children's Advocacy Advisory Board.—*

*"(1) Establishment of board.—*

*"(A) In general.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.*

*"(B) Membership.—(i) The board—*

*"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;*

*"(II) shall include at least 1 member from each of the 4 census regions; and*

*"(III) shall have members appointed for a term not to exceed 3 years.*

*"(ii) Members of the Board may be reappointed for successive terms.*

*"(2) Review and recommendations.—*

*"(A) Objectives.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).*

*"(B) Review.—The board shall annually—*

*"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and*

*"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.*

*"(3) Rules and regulations.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.*

*"(f) Reporting.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".*

*(c) Local Children's Advocacy Program.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—*

*(1) by amending the heading to read as follows:*

***"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";***

*(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";*

*(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and*

*(4) by adding at the end the following new subsection:*

*"(d) Consultation With Regional Children's Advocacy Centers.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".*

*(d) Specialized Technical Assistance and Training Programs.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".*

*(e) Authorization of Appropriations.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), is amended to read as follows:*

***"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.***

*"(a) In General.—There are authorized to be appropriated to carry out this subtitle—*

*"(1) $20,000,000 for fiscal year 1993; and*

*"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.*

*"(b) Use of Funds.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under sections 213 and 214.".*

AMENDMENT NO. 3198

Mr. FORD. Mr. President, on behalf of Senator KOHL and others, I send a substitute for the committee-reported substitute to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for Mr. KOHL, proposes an amendment numbered 3198.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. KOHL. Mr. President, today the Senate will reauthorize the Juvenile Justice Act—a significant step forward in Federal, State, and local efforts to combat youth crime and prevent delinquency. I wish to commend the distinguished ranking minority member of the Juvenile Justice Subcommittee, Senator BROWN, for his hard work and close cooperation in crafting this legislation. And I wish to thank the distinguished chair and ranking minority member of the Judiciary Committee, Senators BIDEN and THURMOND, for their sustained assistance and support.

Mr. President, juvenile justice in America is a system under siege. Some 700,000 juveniles enter the justice system each year. We spend close to $2 billion each year confining many of these young people in facilities with recidivism rates that make them schools for crime. Moreover, we have seen an alarming upsurge nationwide in arrests of adolescents for murder, assault and weapon use.

S. 2792 reauthorizes and strengthens the Juvenile Justice and Delinquency Prevention Act of 1974 [JJDPA] by focusing on six key areas. First, it expands the existing state formula grant program, providing much needed funding to deter delinquency and violence. Second, the bill sets up a new State challenge program, which has ten activities to choose from. These activities will allow States to focus on areas where they need the most help: ranging from alternatives to incarceration for nonviolent teens to secure confinement for violent ones.

Third, this reauthorization sets up a new title on delinquency prevention, which will help communities keep youth from getting into trouble in the first place.

Fourth, it strengthens the juvenile gang prevention and rehabilitation provisions by providing incentives for local schools and community coalitions to get involved. For this language, we are indebted to our colleague from Illinois, Senator SIMON.

And fifth, it expands an existing program to help provide justice for abused and neglected children—a critical component of delinquency prevention. Senator NICKLES, Representative CRAMER, and Chairman BIDEN provided the impetus for this provision.

The sixth priority area strengthens title III of JJDPA, the Runaway and Homeless Youth Act. Even by conservative estimates, more than one-half million young people run away from home every year. Most are fleeing physical and sexual abuse and/or alcohol and drug problems at home. Our bill expands existing basic center grants for runaway and homeless youth centers and transitional living programs. Furthermore, it establishes a new grant program for street-based crisis intervention services, which is crucial given the risks of sexual exploitation and sexually transmitted diseases facing the majority or runaways.

Mr. President, this legislation is also strengthened by amendments we have accepted from Senators KASSEBAUM, GRAHAM, STEVENS, INOUYE, LAUTENBERG, SIMON, and DODD. Senator KASSEBAUM has proposed and new juvenile boot camp program. Senator GRAHAM has added a provision calling for a White House conference on juvenile justice. Senator STEVENS requested recognition that severe weather conditions may affect the ability of Alaskan communities to comply with certain regulations. And Senator INOUYE added language authorizing the consortium on children, families, and the law.

Senator LAUTENBERG's amendment authorized mentoring programs as a further means of preventing delinquency and youth gangs. Senator SIMON added a study and other language relating to hate crimes committed by juveniles. Senator DODD added two technical amendments to the Child Care and Development Block Grant Act and one technical amendment to the Head Start Program. These amendments are relevant to juvenile justice. Experts tell us children who participate in quality, early childhood programs are much less likely to engage in delinquent behavior later on. And Senator SIMPSON requested that certain provisions referring to the Immigration and Naturalization Service be modified.

We thank all our colleagues for enacting this legislation. This Nation's problems with youth crime and violence did not develop, nor will they be solved overnight. But S. 2792 goes a long way toward providing the necessary local and State incentives to deter delinquency—or prevent it to begin with.

Mr. DODD. Mr. President, I rise today in support of S. 2792, which amends and reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974. This bill goes far in strengthening the programs and services provided under this act. Mr. President, as chairman of the Subcommittee on Children, Family, Drugs and Alcoholism, I have a very strong interest in this area, particularly because of the increasing numbers of children who are involved in crimes that are more violent than we have ever seen. My subcommittee recently held a hearing entitled "Children of War: Violence and America's Youth." For Americans in many neighborhoods, the war is right outside their front doors. And it is our children who are foot soldiers in the war and the victims of its shocking violence.

Some of these youth offenders are extremely young—elementary school age—too young to have no hope of ever turning their lives around. One witness at our subcommittee hearing commented on how willing we are as a society to spend $35,000 per person each year to incarcerate our youth, when we could spend considerably less toward investing in a positive future for that child. The Department of Justice puts the national figures at 700,000 young people detained each year at a cost of $2 billion in State and local funds.

The Juvenile Justice and Delinquency Prevention Act is not the sole solution to the problem of youth violence. The problem is too complicated, to interrelated with a whole host of social ills. But this act is a critical piece of the commitment we must make if we are ever to come close to eliminating the horror of youth violence. It focuses not just on band-aid solutions to the present and growing problem of youthful offenders, but recognizes that preventing violence in the first place is the safest, healthiest, and most cost-effective way of combating this issue.

The real strength of this amended act is its focus on early intervention and comprehensive, community-based solutions. This approach is one that I consistently have supported in other areas related to children's legislation and I find to be a sensible approach here.

Mr. President, in my own State of Connecticut, the Juvenile Justice Advisory Committee has expressed its overwhelming support for strengthening this act, as this reauthorization bill does. They recognize that the programs under this act are important to the success of our State's juvenile justice system and the services provided to help Connecticut's runaway and homeless youth. The Juvenile Justice and Delinquency Prevention Act is the lifeline of some of these community-based services; without it, these efforts could not be sustained.

Mr. President, I commend Senator KOHL, the chief sponsor of this bill and chairman of the Subcommittee on Juvenile Justice of the Committee on the Judiciary, for his outstanding work in this area. He and Senator BIDEN, who chairs the Committee on the Judiciary, have put together a bill that addresses the concerns of the administration, the service providers, the community, and most of all, the children. When we are dealing with an epidemic, and there is no question that youth violence in America is an epidemic, it is important to expand resources, but expand in such a way that the impact is greatest. I believe that this bill does just that.

Mr. President, I am also pleased that the legislation we are considering includes legislation I sponsored with Senators KASSEBAUM and KENNEDY that addresses an aspect of Head Start that is just as critical to meeting the needs of low-income children as expanding their opportunities to participate. The Head Start Training Improvement Act speaks to the quality of the Head Start Program itself by focusing on the most critical element of early childhood programs, the qualifications of its staff.

The legislation clarifies existing language regarding a national credentialing program for early childhood and child care providers, that is, the Child Development Association [CDA]. The CDA is earned through a mixture of classroom training and practical experience and therefore provides an excellent opportunity for child care providers and Head Start staff to improve their qualifications.

Since 1985, a national organization, the Council for Early Childhood Professional Recognition, has received a grant through Head Start to administer the CDA Program, thereby keeping the credential's cost within reach of workers who are chronically underpaid. Without this grant, the cost of the credential doubles from $325 to $650, a sizable expense for workers who may only make $9,000 to $10,000 a year. This legislation ensures continued funding for this program and therefore continued access for early childhood workers to a credential that helps ensure quality services and gives them a boost up the career ladder.

The legislation also would require the Department of Health and Human Services to develop a systematic approach to training, which must ensure continuing input from the Head Start community. We are pumping a lot of money into Head Start training, approximately $44 million in 1992, up from about $28 million in 1990. We need to know how this money is being used, where we want to go with improving Head Start qualifications, and how we are going to get there. The National Head Start Association has listed the need for this type of approach to training as a major policy priority.

A third provision would require the Secretary to fund staff training in helping children cope with the effects of living amidst community violence. I believe it is imperative that Head Start staff be prepared to help children whose communities are under siege. Finally, the legislation explicitly provides that Head Start training funds may be used for programs that teach staff how the performing and visual arts, as well as interactive video programming, may be used to enhance children's learning experiences.

I thank Senator KOHL for his willingness to include this important measure in this Act. It is modest, but recognizes the important role that community-based programs play in the lives of our youth, and that small investments like these often prevent the need for much larger expenditures in the future. Mr. President, I urge my colleagues to support the reauthorization of the Juvenile Justice and Delinquency Prevention Act.

### THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Mr. NICKLES. Mr. President, members of the Senate, I would like to voice my strong support for the passage of S. 2792, the Juvenile Justice and Delinquency Prevention Act Reauthorization of 1992. This piece of legislation will address the needs of all too many young people in our country who have become delinquent or suffered the ills of child abuse. With this summer's events in Los Angeles and an increasing rise of juvenile crime in our Nation, measures addressing these problems are imperative to assure justice for our citizens of all ages.

I would like to compliment Chairman BIDEN, Senator THURMOND, Chairman KOHL, Senator BROWN, and the entire Judiciary Committee for the work that you have done in addressing the needs of juvenile offenders and the factors that lead them to commit crimes. Further, I want to commend you for incorporating my legislation which will aid innocent victims of child abuse.

Earlier this year, I introduced the National Children's Advocacy Program Act. I, and the cosponsors of this measure, am pleased that the major provisions of our legislation have been included in the bill we are passing tonight. Enactment of the "National Children's Advocacy Program Act of 1992" will complement current law by creating a catalyst for the implementation of multidisciplinary child abuse programs in every area of our Nation. This is a proactive measure aimed at helping abused children and their nonoffending family members deal with the pitfalls of an unfeeling judicial system.

It disturbs me, as it should disturb every member of the Senate, that legislation of this nature is necessary. It disturbs me that in the United States, child abuse and neglect have been designated as a national emergency, that there are over 2.5 million reports of child maltreatment each year, and that the number of confirmed cases of child abuse in my State of Oklahoma more than doubled in the eighties. Congress must come to realize that this plague haunts every facet of American life and it must be stopped.

Until we eliminate the prevalence of child abuse in America, it is imperative that governments, law enforcement agencies, health care providers, and concerned citizens all over the Nation use every means necessary to aid and comfort the innocent victims of these most heinous of crimes. The National Children's Advocacy Program Act of 1992 contained in section six of this legislation will create a Federal program to facilitate the development of community-based, child-focused centers aimed at alleviating much of the trauma the criminal justice system has brought to the victims of child abuse.

Currently, these innocent victims face an uncompassionate maze of interviews and bureaucracy. Implementing programs that will reduce the revictimization of these children as they go through the judicial system is a necessity. National Children's advocacy Centers will improve the efficiency and humanity of society's response to young victims of sexual and physical abuse. By creating a compassionate setting for these victims and cutting down the repetition of interviews, the children who are faced with the ordeals of being a victim of child abuse will not face the trauma that is abundant in the current system.

There is a substantial amount of evidence that indicates a strong relationship between child maltreatment and juvenile delinquency. By addressing the inequities in society's response to the Nation's abused children, I believe that we will take a significant step toward addressing the problem of juvenile delinquency in our Nation.

The National Children's Advocacy Program Act of 1992 has bipartisan support in both Chambers of Congress. S. 2509 currently is cosponsored by Senators KASSEBAUM, GORTON, SHELBY, GRASSLEY, SPECTER, INOUYE, DURENBERGER, BURNS, D'AMATO, and DECONCINI.

In closing, I would again like to thank the Judiciary Committee, most notably Chairman KOHL, and Senator BROWN for acknowledging the need to bolster multidisciplinary child abuse efforts throughout the Nation. Even though it is true that children are only 25 percent of our population, they are 100 percent of our future. This legislation will help to ensure their future is one that is bright and full of hope.

### THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Mrs. KASSEBAUM. Mr. President, I rise today to join my colleagues in supporting the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I want to thank Senators BIDEN, THURMOND, KOHL, BROWN, and the other members of the Judiciary Committee for their excellent work on this legislation.

Since 1974, the Juvenile Justice and Delinquency Prevention Act has represented the Federal Government's primary vehicle for providing leadership and direction in juvenile justice. As a catalyst for system improvements, this legislation has helped States remove runaways and truants from secure detention, require sight and sound separation between adults and juveniles held in the same correctional facility, and encouraged the development of community based services for at risk youth.

The 1992 reauthorization of this legislation continues the tradition of leadership in the juvenile justice field which began with the act's passage 18 years ago. The bill has been crafted to strike a balance between encouraging community based activities to prevent juvenile delinquency and supporting improved techniques and programs to hold juveniles accountable for their criminal behavior. The Victims of Child Abuse Act, included in the legislation, strengthens the capacity of communities to respond to child abuse allegations in ways that will minimize the trauma of the child and improve the chances for the successful prosecution of the abuser. The provisions focused on juvenile gangs and drug abuse encourage innovative techniques for prevention through family crisis intervention, school based programs, and community education while recognizing the need to improve the range of sanctions available to the courts for holding youth accountable when they have broken the law.

I am particularly pleased that the members of the Judiciary Committee have included in the reauthorization language to establish military style boot camps for juvenile delinquents. This language was originally included in my urban initiatives bill, S. 2790.

I believe we must do something more to reach young people early on, where there are clear signals that intervention is needed. This must be done before a young person becomes committed to a life of crime. This bill would establish a cooperative program between the Office of Juvenile Justice, the Department of Defense and the States for the development of up to 10 boot camps for juvenile offenders. The boot camps will utilize the physical facilities of existing or closed military installations and, to the maximum extent possible, will be operated and maintained by active or Reserve military personnel under the supervision of the grant recipient agency. In this way, we can help transition some of our military resources, both personnel and facilities, into a positive domestic role while at the same time helping States to broaden the range of alternative sanctions to better meet the needs of delinquent youth.

I again want to thank the members of the Judiciary Committee for their assistance in getting this language included in the Juvenile Justice and Delinquency Prevention Act reauthorization, and for their fine work in crafting this legislation.

Mr. GRASSLEY. Mr. President, I understand that the bill contains language authorizing funding for the Consortium on Children, Families and the Law which includes the National Maternal and Child Health Resource Center at the University of Iowa College of Law. The consortium conducts interdisciplinary multistate research, training, and consultation on issues affecting children and families.

Mr. KOHL. The distinguished Senator is correct. The bill authorizes the National Institute on Juvenile Justice and Delinquency Prevention to support independent and collaborative research on social, psychological, educational, economic, and legal issues affecting children and families. This is the speciality of the consortium.

We are pleased to include this authorization amendment proposed by Senators INOUYE, GRASSLEY, EXON, and others.

Mr. DECONCINI. Mr. President, as my distinguished colleague from Wisconsin knows, I am very concerned about Federal programs and activities that detain or care for unaccompanied juveniles, particularly those juveniles apprehended by or in the custody of the Immigration and Naturalization Service [INS]. I am, therefore, pleased that you agreed to my language in your legislation to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to include the Commissioner of the INS as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention.

The Council, an independent organization in the executive branch of the Federal Government, is required to coordinate, study, and report to the President and Congress on all Federal juvenile delinquency programs. By reviewing the reasons why Federal agencies take juveniles into custody, the Council will play an instrumental role in our efforts to improve Federal practices and facilities for holding juveniles in custody.

In the case of the INS, for example, most undocumented juveniles are detained unless or until a close adult relative comes forward to request their custody. Many of these children are traveling alone and are unaccompanied by an adult, let alone an adult relative. This practice is squarely at odds with accepted child welfare practices, which uniformly provide that juveniles should be released unless detention is necessary to protect the community or a particular minor from imminent harm.

Moreover, the condition in which the INS detains juveniles also fail to meet child welfare standards. These juveniles typically are held either in juvenile halls designed for the detention of juveniles held on criminal charges or in secure detention centers under contract with the INS or the Community Relations Service of the U.S. Department of Justice. The INS deems the latter facilities to be "child care facilities," when in reality these centers do not adequately meet these juveniles' needs. Problems range from physical abuse to inadequate educational and psychological services.

Although the INS has assured Congress that it agrees in principle to reforming its policies and procedures toward juveniles, little actual progress has been made, underscoring the need for congressional oversight.

With these concerns in mind, I would like some clarification from my distinguished colleague from Wisconsin about the INS Commissioner's role as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention.

Is my understanding correct that the committee, by including the INS Commissioner's participation in the Council, is encouraging the INS to establish policies and procedures that facilitate release of undocumented juveniles to immediate relatives, responsible adults, or licensed child welfare agencies that have expertise in meeting the mental health, physical, and educational needs of juveniles in nonsecure group homes and/or foster care settings?

Mr. KOHL. The Senator is correct. The INS Commissioner is included as a member of the Council to address the need to coordinate its policies and procedures on juvenile detention issues with other Federal agencies.

Mr. DECONCINI. Is my understanding also correct that as an example of reforming INS procedures, the committee encourages the INS to limit the use of juvenile halls or other secure facilities only to circumstances in which such detention is absolutely necessary and warranted because the juveniles pose a danger to themselves or the community?

Mr. KOHL. Yes. The Coordinating Council on Juvenile Justice and Delinquency Prevention includes the INS Commissioner as a participant to address concerns made by you and others regarding the need to coordinate INS policies with other Federal programs that detain unaccompanied juveniles. May I also suggest that we hold hearings on this issue in the next Congress.

Mr. DECONCINI. I agree that this is an issue that deserves further investigation. In fact, as a Senator representing a border State, I believe a field hearing in Arizona would be useful in evaluating the Federal Government's policies in general, and INS policies in particular, regarding the treatment and detention of unaccompanied minors. I look forward to discussing this matter further and appreciate the Senator's continuing interest in the welfare of this Nation's juveniles.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. FORD. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 5194, the House companion measure; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 2792, as amended, be inserted in lieu thereof; and that the bill be deemed read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE INDEFINITELY POSTPONED—S. 2792

Mr. FORD. Mr. President, I ask unanimous consent that the Senate indefinitely postpone Calendar No. 657, S. 2792.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXPRESSING THE SENSE OF CONGRESS THAT WOMEN'S SOCCER SHOULD BE A MEDAL SPORT AT THE 1996 CENTENNIAL OLYMPIC GAMES IN ATLANTA, GA

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, GA; and that the Senate then proceed to its immediate consideration, that the concurrent resolution be agreed to and the motion to reconsider laid upon the table; further that the preamble be agreed to and any statements appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

So the concurrent resolution, with its preamble, was deemed agreed to, as follows:

S. CON. RES. 127

Whereas participation in soccer programs by women in the United States and abroad has increased dramatically since 1988;

Whereas 45 nations competed in the 1st Women's World Soccer Championships in the People's Republic of China;

Whereas the United States Women's National Soccer Team won the 1st Women's World Soccer Championships;

Whereas bids have been extended to host the 2d Women's World Soccer Championships;

Whereas 64 nations have a national women's soccer team;

Whereas 40 percent of young soccer players in the United States are female;

Whereas one-third of the children under the age of 18 in the United States play soccer;

Whereas 26 percent of the more than 29,000 soccer players at the college level in the United States are women;

Whereas one-third of the 327,000 soccer players at the high school level in the United States are women;

Whereas, during the 1990-1991 school year, high schools in the United States added soccer to their sports programs more often than any other sport;

Whereas Atlanta, Georgia, will host the 1996 Olympic games;

Whereas many nations have announced that they will give women's soccer priority in their Olympic programs once it becomes a medal sport; and

Whereas the Congress has in the past designated a special day to honor women and girls in sports: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

Mr. DECONCINI. Mr. President, I am pleased that the Senate has unanimously supported Senate Concurrent Resolution 127, a concurrent resolution urging the International Olympic Committee to establish women's soccer as a medal sport in the 1996 summer Olympics in Atlanta.

Mr. President, Congress has clearly expressed its opposition to discrimination in the sports arena with the enactment of title IX of the Education Amendment of 1972. As a result of this, girls' high school athletics have grown enormously in the last 20 years. According to the National Federation of State High School Associations, only 7.4 percent of the participants in high school athletics were female in 1971. By 1977–78, that figure leaped to 32.2 percent and the latest compilation for 1990–91 reveals the participation is at 35.7 percent. Women's soccer is one sport that has benefited dramatically from the 1972 Act, as is borne out by the following statistics:

Females make up 40 percent of all youth league players around the Nation.

One out of every three youngsters under the age of 18 plays soccer—of that number, 50 percent are women.

Of the 29,372 who play college soccer, 26 percent are women.

In all high schools, 33 percent of the 327,000 soccer players are women.

High schools added more boys and girls varsity soccer programs than any other sport in 1990–91.

This is very encouraging, but when we all tuned into the Barcelona Olympics this year, many soccer fans were shocked—equal opportunity hit a roadblock for there was no women's soccer in the international Olympic games. This is particularly frustrating for American soccer fans as well as thousands of others in the 64 nations that currently have national women's teams.

American soccer has developed methodically and patiently over the years—and on November 30, 1991, a United States team was honored as a world champion when the women's national team won the World Cup at the first Federation of International Football Associations [FIFA] championships in Guangzhou, China, before 59,000 fans. Unfortunately, we didn't see this team in action in Barcelona.

Mr. President, the U.S. women's success with the World Cup program brought to the minds of all the viewers watching the Barcelona games the incredible fact that women's soccer is not a medal sport at the Olympics. This paradox is all the more flagrant in this new era of the Olympic games because, not only new sports but entire teams from new nations are being brought into the program. Therefore, I feel confident that officials of the International Olympic Committee [IOC] and FIFA will include women's soccer in the 1996 games.

However, Mr. President, I believe it is most fitting and proper for the Congress to convey our strong support for this effort. In that regard, I am pleased that Representative JIM MORAN introduced House Concurrent Resolution 324 to express the sense of Congress is to end discrimination in the soccer competition by including women's soccer at the Olympic games in 1996. At the urging of the Arizona State Soccer Association, I am pleased to have the opportunity to introduce the companion bill, Senate Concurrent Resolution 127.

It is particularly timely because the IOC now has this matter under active consideration. I was delighted to learn, along with millions of soccer fans throughout this country and the world, that the president of the U.S. Soccer Federation, Alan Rothenberg, wrote to Joao Havelange, president of FIFA, officially requesting that women's soccer be made a medal sport at the 1996 Olympics. Havelange replied in the affirmative and said he would discuss the request with IOC President Juan Smaranch at their meetings last May.

Mr. President, I ask unanimous consent that this exchange of correspondence between FIFA President Dr. Joao Havelange and Mr. Alan Rothenberg be printed in the RECORD immediately following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DECONCINI. The additional good news, with respect to influencing the decision of the IOC, is the announcement by the International University Sports Federation in Brussels [FISU] that women will compete in soccer at these games and 80 percent will be future Olympic participants. Those competing in women's soccer will add to the pool of talent on the various women's national teams around the world and provide exciting and highly experienced and skilled teams at the 1996 Olympics in Atlanta.

Again, I emphasize my confidence that President Samaranch and the IOC will rule favorably. We recently witnessed at the winter Olympics a new, exciting gold medal sport, mogul skiing, which didn't even exist 4 years ago, had been added to the competition. President Samaranch and his deputies deserve our commendation for their efforts to bring not only new sports, but also new nations, with their full compliment of teams, into the winter and the summer Olympics. It would not be in keeping with the Olympic spirit and the accomplishments of Mr. Samaranch to make the international soccer community and its fans sit around and wait to the year 2000 for medal status.

The fact that the second women's World Cup will have been played prior to the 1996 Olympics provides another sound reason why we should convey to the IOC the sense of Congress that, as the host nation, we would support a positive response. In so doing, we can encourage more participation in girl's soccer in our own States by promoting the U.S. Women's National Team and our ever improving youth programs.

The U.S. Youth Soccer Association's National Workshop and Coaches Convention recently announced a new Girl's Olympic Development Program [ODP] which is designed to focus on the youth player from the State level to the national team. I am pleased that thousands of girls and women, as well as their parents, are very active in this program in Arizona.

In closing, Mr. President, I thank my colleagues for joining me in honoring our outstanding American women athletes by voting in favor of this resolution to promote women's soccer as a medal sport at the 1996 Olympics.

EXHIBIT 1

UNITED STATES SOCCER FEDERATION, WORLD CUP USA 1994,
*Los Angeles, CA, April 9, 1992.*

Dr. JOAO HAVELANGE,
*President, Federation Internationale de Football Association, Rio de Janeiro, Brazil.*

DEAR DR. HAVELANGE: While we have had a number of discussions about adding women's soccer to the Olympic Games in 1996, I am not sure whether any formal request has ever been made to FIFA to seek that approval from the International Olympic Committee. Because of that, please deem this correspondence to be the formal request by the United States Soccer Federation that women's soccer be added to the Olympic Games in 1996.

If there is anything further that we at the United States Soccer Federation have to do to cause the IOC to add women's soccer to the 1996 Olympics, please advise me.

Best regards.

Sincerely,

ALAN I. ROTHENBERG,
*President.*

FEDERATION INTERNATIONAL DE FOOTBALL ASSOCIATION,
MAY 15, 1992.

Mr. ALAN I. ROTHENBERG,
*U.S. Soccer Federation,*
*Los Angeles, CA.*

DEAR PRESIDENT AND FRIEND, ALAN ROTHENBERG: I am only now able to reply to your letter dated 9th April 1992 in which you inform me that the USSF officially requests that women's football be included in the Olympic Games 1996, as I was absent from FIFA due to visits to South Africa and U.S.A.

Please be informed, that I will be meeting President Samaranch in Lausanne on the 18th May and that this matter will certainly be discussed then. I am very hopeful that the discussion will result in a favorable solution by President Samaranch, and will keep you informed.

Yours sincerely

JOAO HAVELANGE,
*President.*

## AUTHORIZING THE MAKING OF APPOINTMENTS

Mr. FORD. Mr. President, on behalf of the majority leader and the minority leader, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 350) to authorize the making of appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 350) was agreed to, as follows:

S. RES. 350

*Resolved,* That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

## VETERANS READJUSTMENT BENEFITS IMPROVEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 642, S. 2647, relating to vocational assistance for veterans.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2647) to amend title 38, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Veterans' Readjustment Benefits Improvement Act of 1992".*

***TITLE I—EDUCATIONAL ASSISTANCE PROGRAMS***

***SEC. 101. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.***

*(a) ALL VOLUNTEER FORCE.—(1) Section 3015 of title 38, United States Code, is amended by adding at the end the following new subsection:*

*"(g) Notwithstanding the determination of the Secretary with respect to a fiscal year to pay the monthly rates of educational assistance otherwise provided for under this section, the monthly rates payable for that fiscal year shall be the rates that the Secretary determines to pay under this section plus the following:*

*"(1) In the case of an individual whose educational assistance would otherwise be determined under subsection (a) of this section—*

*"(A) $50, for an approved program of education pursued on a full-time basis; or*

*"(B) an appropriately reduced amount (as determined under regulations prescribed by the Secretary under paragraph (2) of such subsection (a)), for an approved program of education pursued on less than a full-time basis.*

*"(2) In the case of an individual whose educational assistance would otherwise be determined under subsection (b) of this section—*

*"(A) $40, for an approved program of education pursued on a full-time basis; or*

*"(B) an appropriately reduced amount (as determined under regulations prescribed by the Secretary under paragraph (2) of such subsection (b)), for an approved program of education pursued on less than a full-time basis.".*

*(2) The amendment made by paragraph (1) shall take effect on September 1, 1993, and apply to educational assistance paid for education or training pursued on or after that date.*

*(b) SELECTED RESERVE.—(1)(A) Subsection (b) of section 2131 of title 10, United States Code, is amended by adding at the end the following new paragraph:*

*"(3) Notwithstanding the determination of the Secretary with respect to a fiscal year to pay the monthly rates of educational assistance otherwise provided for under this subsection, the monthly rates payable for that fiscal year shall be the rates that the Secretary determines to pay under this subsection plus the following:*

*"(A) $25, in the case of full-time pursuit of a program of education.*

*"(B) $18.75, in the case of three-quarter-time pursuit of a program of education.*

*"(C) $12.50, in the case of half-time pursuit of a program of education.*

*"(D) An appropriately reduced amount, as determined under the regulations referred to in paragraph (1)(D) and subject to the restriction described in that paragraph, in the case of less than half-time pursuit of a program of education.".*

*(B) Paragraph (1) of such subsection is amended in the matter above subparagraph (A) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".*

*(2) The amendments made by paragraph (1) shall take effect on September 1, 1993, and apply to educational assistance paid for education or training pursued on or after that date.*

***SEC. 102. ELIGIBILITY OF CERTAIN OFFICERS FOR EDUCATIONAL ASSISTANCE.***

*(a) ACTIVE DUTY.—Section 3011(c)(2) of title 38, United States Code, is amended by inserting "but before October 1, 1992," after "December 31, 1976,".*

*(b) SELECTED RESERVE.—Section 3012(d)(2) of such title is amended by inserting "but before October 1, 1992," after "December 31, 1976,".*

***SEC. 103. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.***

*(a) TREATMENT OF SERVICE.—Section 3011 of title 38, United States Code, is amended by adding at the end the following new subsection:*

*"(e)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.*

*"(2) This subsection applies to a member who—*

*"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and*

*"(B) after such discharge or release, reenlists or re-enters on a period of active duty.".*

*(b) ADJUSTMENT IN REDUCTION OF BASIC PAY.—Subsection (b) of such section 3011 is amended—*

*(1) by striking out "(b) The" and inserting in lieu thereof "(b)(1) The"; and*

*(2) by adding at the end the following new paragraph:*

*"(2)(A) The number of months of basic pay of a member referred to in subparagraph (B) of this paragraph that shall be reduced under paragraph (1) of this subsection shall be 12 minus the number of months that the member's basic pay was so reduced during the member's preceding period or periods of active duty.*

*"(B) Subparagraph (A) of this paragraph applies to a member of the Armed Forces—*

*"(i) whose basic pay was reduced under paragraph (1) of this subsection for any period of active duty service referred to in subsection (e)(2)(A) of this section served by the member; and*

*"(ii) who does not make an election under subsection (c)(1) of this section upon such reenlistment or reentry.".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.*

### SEC. 104. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

*(a) TREATMENT.—Section 3011 of title 38, United States Code (as amended by section 103), is further amended by adding at the end the following new subsection:*

*"(f) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 19, 1984.*

### SEC. 105. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.

*(a) EDUCATIONAL ASSISTANCE.—Section 3015 of title 38, United States Code (as amended by section 101), is amended—*

*(1) by redesignating subsections (c), (d), (e), (f), and (g) (as so amended) as subsections (d), (e), (f), (g), and (h), respectively;*

*(2) in subsection (d) (as so redesignated), by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and*

*(3) by inserting after subsection (b) the following new subsection (c):*

*"(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.*

*"(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—*

*"(A) whose initial obligated period of active duty is less than three years;*

*"(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and*

*"(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.".*

*(b) CONFORMING AMENDMENTS.—Such section 3015 (as so amended) is further amended—*

*(1) in subsection (a), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)"; and*

*(2) in subsection (b), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on September 1, 1993, and apply to the payment of educational assistance for education or training pursued on or after that date.*

### SEC. 106. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.

*(a) CLARIFICATION.—Section 3018(b)(3)(B) of title 38, United States Code, is amended—*

*(1) by striking out "or (iii)" and inserting in lieu thereof "(iii)"; and*

*(2) by adding before the semicolon at the end the following: ", or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 19, 1984.*

### SEC. 107. EDUCATIONAL ASSISTANCE RATES FOR CERTAIN ACTIVE-DUTY MEMBERS.

*(a) RATES.—Subsection (a) of section 3032 of title 38, United States Code, is amended to read as follows:*

*"(a) The amount of the monthly educational assistance allowance payable to an individual entitled to educational assistance under this chapter who pursues a program of education on less than half-time basis is the amount determined under subsection (b) of this section.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and apply to educational assistance paid for education or training pursued on or after that date.*

### SEC. 108. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.

*(a) MONTGOMERY G.I. BILL.—*

*(1) ACTIVE-DUTY PROGRAM.—Section 3032(f)(1) of title 38, United States Code, is amended by striking out "(other than tuition and fees charged for or attributable to solo flying hours)".*

*(2) SELECTED RESERVE PROGRAM.—Section 2131(g)(1) of title 10, United States Code, is amended by striking out "(other than tuition and fees charged for or attributable to solo flying hours)".*

*(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 3231(f)(1) of title 38, United States Code, is amended by striking out "(other than tuition and fees charged for or attributable to solo flying hours)".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, on or after the first day of the second month following the date of the enactment of this Act.*

### SEC. 109. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

*Section 3485(a)(1) of title 38, United States Code, is amended in the third sentence—*

*(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and*

*(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.*

### SEC. 110. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.

*(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 of title 38, United States Code, is amended—*

*(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";*

*(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and*

*(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:*

*"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.*

*"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.*

*"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.*

*"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—*

*"(i) state with specificity the requirements of the institution with respect to graduation;*

*"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and*

*"(iii) include any attendance standards of the institution, if the institution has and enforces such standards.".*

*(b) TECHNICAL AMENDMENT.—Subsection (a)(1)(B) of such section (as redesignated by subsection (a)(2)) is amended by striking out "sections 11–28 of title 20;" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq.);".*

### SEC. 111. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

*(a) PROHIBITION OF APPROVAL OF NONACCREDITED COURSES.—Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:*

*"(e) Notwithstanding any other provision of this title, a course of education which has not been approved by a State approving agency pursuant to section 3675 of this title may not be approved under this section if it is to be pursued, in whole or in part, by independent study.".*

*(b) REQUIREMENT OF DISAPPROVAL OF ENROLLMENT IN CERTAIN COURSES.—*

*(1) IN GENERAL.—Section 3473 of title 38, United States Code, is—*

*(A) transferred to chapter 36 and inserted after section 3679; and*

*(B) redesignated as section 3679A.*

*(2) APPLICATION.—Such section 3679A is amended—*

*(A) in subsection (a)(4), by striking out "one" and inserting in lieu thereof "an accredited independent study program";*

*(B) in subsection (d)(1), by striking out "32, 35, or 36" in the third sentence and inserting in lieu thereof "32, or 35"; and*

*(C) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following new paragraph (2):*

*"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—*

*"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, 3241(a)(2), or 3533 of this title or section 2131(h) of title 10;*

*"(B) in a farm cooperative training course; or*

*"(C) in a course described in section 3689(b)(6) of this title.".*

*(3) SURVIVORS' AND DEPENDENTS' ASSISTANCE.—Section 3523(a)(4) of such title is amended by striking out "one" and inserting in lieu thereof "an accredited independent study program".*

*(c) CONFORMING AMENDMENTS.—*

*(1) TITLE 38.—(A) Section 3034 of title 38, United States Code, is amended—*

*(i) in subsection (a)(1), by striking out "3473,"; and*

*(ii) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)".*

*(B) Section 3241 of such title is amended—*

*(i) in subsection (a)(1), by striking out "3473,";*

*(ii) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)"; and*

*(iii) in subsection (c), by striking out "3473,".*

*(2) TITLE 10.—Section 2136 of title 10, United States Code, is amended—*

*(A) in subsection (b), by striking out "1673,"; and*

*(B) in subsection (c)(1), by striking out "1673(b)" and inserting in lieu thereof "3679A(b)".*

*(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by striking out the item relating to section 3473.*

*(2) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3679 the following new item:*

*"3679A. Disapproval of enrollment in certain courses.".*

*(e) SAVINGS PROVISION.—The amendments made by subsections (a) and (b) shall not apply to any person who is receiving educational assistance under chapter 30, 32, or 35 of title 38, United States Code, or chapter 106 of title 10, United States Code, on the date of the enactment of this Act for pursuit of an independent study program—*

*(1) in which the person is enrolled on that date;*

*(2) in which the person remains continuously enrolled thereafter (until completion of the program by the person); and*

*(3) for which the person continues to meet the eligibility requirements for such assistance that apply to the person on that date.*

### SEC. 112. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.

*(a) TREATMENT.—Section 3680(e) of title 38, United States Code, is amended—*

*(1) by striking out "(e) If" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), if"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.".*

*(b) TECHNICAL AMENDMENT.—Section 3680(e) of such title (as amended by subsection (a)) is further amended by striking out "eligible person," and inserting in lieu thereof "eligible person".*

### SEC. 113. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.

*Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary" and all that follows through the period and inserting in lieu thereof a period.*

### SEC. 114. REVISIONS IN MEASUREMENT OF COURSES.

*(a) ELIMINATION OF DISTINCTION BETWEEN ACCREDITED AND NON-ACCREDITED COURSE MEASUREMENT.—*

*(1) TRADE OR TECHNICAL COURSES INVOLVING SHOP PRACTICES.—Subsection (a)(1) of section 3688 of title 38, United States Code, is amended by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours per week of rest periods allowed".*

*(2) THEORETICAL COURSES NOT LEADING TO STANDARD COLLEGE DEGREES.—Subsection (a)(2) of such section is amended by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (which shall exclude supervised study but may include customary intervals not to exceed 10 minutes between hours of instruction) is required".*

*(b) TREATMENT OF CERTAIN COURSES OFFERED BY INSTITUTIONS OF HIGHER LEARNING.—*

*(1) COURSES LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(4) of such section is amended—*

*(A) by striking out "in residence"; and*

*(B) by inserting "(other than a course pursued as part of a program of education beyond the baccalaureate level)" after "semester-hour basis".*

*(2) COURSES NOT LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(7) of such section is amended to read as follows:*

*"(7) an institutional course not leading to a standard college degree offered by an institution of higher learning on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided for in clause (4) of this subsection, except that such a course may not be measured as full time if the course requires less than the minimum weekly hours of attendance required for full-time measurement under clause (1) or (2) of this subsection, as the case may be.".*

*(c) MEASUREMENT OF REFRESHER COURSES.—Subsection (a)(6) of such section is amended by striking out "an institutional course" and all that follows through "of this title" and inserting in lieu thereof "an institutional course offered by an educational institution under section 3034(a)(3), 3241(a)(2), or 3533(a) of this title as part of a program of education not leading to a standard college degree".*

*(d) MEASUREMENT OF PART-TIME TRAINING.—Subsection (b) of such section is amended by striking out "34 or 35" and inserting in lieu thereof "30, 32, or 35".*

*(e) CONFORMING AMENDMENTS.—(1) Section 3688 of title 38, United States Code (as amended by subsections (a) through (d)), is further amended—*

*(A) in subsection (a), by striking out the flush material that follows paragraph (7); and*

*(B) by striking out subsections (c), (d), and (e).*

*(2) Section 3532(c) of such title is amended by striking out paragraphs (3) and (4).*

*(f) EFFECTIVE DATE.—The amendments made by subsections (a) through (e) shall take effect on September 1, 1993.*

### SEC. 115. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.

*Subsection (d) of section 3691 of title 38, United States Code, is amended to read as follows:*

*"(d) For the purposes of this section, the term 'change of program of education' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—*

*"(1) the veteran or eligible person has successfully completed the former program;*

*"(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;*

*"(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or*

*"(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.".*

### SEC. 116. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.

*Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:*

*"(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—*

*"(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and*

*"(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.*

*"(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.*

*"(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.*

*"(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—*

*"(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;*

*"(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (wheth-*

*er or not married or over eighteen years of age), brother, or sister; and*

*"(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.*

*"(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.*

*"(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".*

### *SEC. 117. TECHNICAL AMENDMENTS.*

*(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—*

*(1) in section 2131(c)(2), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(2) in section 2131(c)(3)(A)(ii), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(3) in section 2131(c)(3)(C), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(4) in section 2133(b)(2), by striking out "section 1431(f)" and inserting in lieu thereof "section 3031(f)";*

*(5) in section 2133(b)(3), by striking out "section 1431(d)" and inserting in lieu thereof "section 3031(d)"; and*

*(6) in section 2136(b) (as amended by section 111(c)(2))—*

*(A) by striking out "sections 1670," and all that follows through "and 1685" and inserting in lieu thereof "sections 3470, 3471, 3474, 3476, 3682(g), 3683, and 3685";*

*(B) by striking out "1780(c),"; and*

*(C) by striking out "1786(a), 1787, and 1792)" and inserting in lieu thereof "3686(a), 3687, and 3692)".*

*(b) TITLE 38.—Section 3679A of title 38, United States Code (as redesignated and amended by section 111(b)) is further amended in subsection (b) by striking out "The Secretary" and inserting in lieu thereof "Except as provided in this title or chapter 106 of title 10, the Secretary".*

## *TITLE II—VOCATIONAL REHABILITATION AND PENSION PROGRAMS*

### *SEC. 201. PERMANENT PROGRAMS OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.*

*(a) PERMANENT PROGRAM.—(1) Subsection (a)(1) of section 1163 of title 38, United States Code, is amended by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,".*

*(2) Subsection (a)(2) of such section is amended to read as follows:*

*"(2) For the purposes of this section, the term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.".*

*(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out "During the program period, the Secretary" and inserting in lieu thereof "The Secretary".*

*(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out "during the program period" and all that follows through "(a)(2)(A)" and inserting in lieu thereof "after January 31, 1985, of a rating of total disability described in subsection (a)(2)".*

*(d) CONFORMING AMENDMENTS.—(1) The section head of such section is amended to read as follows:*

***"§1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings".***

*(2) The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by striking out the item relating to section 1163 and inserting in lieu thereof the following:*

*"1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".*

### *SEC. 202. PERMANENT PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.*

*(a) PERMANENT PROGRAM.—Subsection (a) of section 1524 of title 38, United States Code, is amended to read as follows:*

*"(a)(1) A veteran who has been awarded pension under this chapter may submit to the Secretary an application for vocational training under this section.*

*"(2) Subject to paragraph (4) of this subsection, upon the submittal of an application by a veteran under paragraph (1) of this subsection, the Secretary shall—*

*"(A) make a preliminary finding (on the basis of information contained in the application or otherwise in the possession of the Secretary) whether the veteran has good potential for achieving employment after pursuing a vocational training program under this section; and*

*"(B) if the Secretary makes a preliminary finding that the veteran has such potential, provide the veteran with an evaluation to determine whether the veteran's achievement of a vocational goal is reasonably feasible.*

*"(3) An evaluation of a veteran under subparagraph (B) of paragraph (2) shall include a personal interview of the veteran carried out by a Department employee who is trained in vocational counseling (as determined by the Secretary) unless the Secretary determines that such an evaluation is not feasible or is not necessary to make the determination referred to in that subparagraph.".*

*(b) CONFORMING AMENDMENTS.—(1) Subsection (b)(4) of such section is amended by striking out "the later of (A)" and all that follows through the period at the end of the first sentence and by inserting in lieu thereof "the end of a reasonable period of time (as determined by the Secretary) following the evaluation of the veteran under subsection (a)(2)(B) of this section.".*

*(2)(A) The section head of such section is amended to read as follows:*

***"§1524. Vocational training for certain pension recipients".***

*(B) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1524 and inserting in lieu thereof the following:*

*"1524. Vocational training for certain pension recipients.".*

### *SEC. 203. PROTECTION OF HEALTH-CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.*

*(a) PERMANENT PROTECTION.—Section 1525 of title 38, United States Code, is amended—*

*(1) in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,"; and*

*(2) by striking out subsection (b) and inserting in lieu thereof the following:*

*"(b) For the purposes of this section, the term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for renumeration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.".*

*(b) CONFORMING AMENDMENTS.—(1) The section head of such section is amended to read as follows:*

***"§1525. Protection of health-care eligibility".***

*(2) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1525 and inserting in lieu thereof the following:*

*"1525. Protection of health-care eligibility.".*

### *SEC. 204. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.*

*(a) VOCATIONAL REHABILITATION.—Section 3102 of title 38, United States Code, is amended to read as follows:*

*"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—*

*"(1) the person is—*

*"(A)(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or*

*"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—*

*"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and*

*"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and*

*"(B) determined by the Secretary to be in need of rehabilitation because of an employment handicap; or*

*"(2) the person is a veteran who—*

*"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and*

*"(B) has a serious employment handicap.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.*

### *SEC. 205. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS RECEIVING VOCATIONAL OR REHABILITATIVE TRAINING.*

*(a) INCREASE.—Section 3108(b) of title 38, United States Code, is amended by striking out the table at the end and inserting in lieu thereof the following new table:*

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| *Type of program* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
|  |  |  |  | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *Institutional training:* |  |  |  |  |
| *Full-time* | *$366* | *$454* | *$535* | *$39* |
| *Three-quarter-time* | *275* | *341* | *400* | *30* |
| *Half-time* | *184* | *228* | *268* | *20* |
| *Farm cooperative, apprentice, or other on-job training:* |  |  |  |  |
| *Full-time* | *320* | *387* | *446* | *29* |
| *Extended evaluation:* |  |  |  |  |
| *Full-time* | *366* | *454* | *535* | *39* |
| *Independent living training:* |  |  |  |  |
| *Full-time* | *366* | *454* | *535* | *39* |
| *Three-quarter-time* | *275* | *341* | *400* | *30* |
| *Half-time* | *184* | *228* | *268* | *20".* |

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.*

### *SEC. 206. TREATMENT OF CERTAIN APPLICATIONS FOR PENSION AND FOR DEPENDENCY AND INDEMNITY COMPENSATION.*

*Section 5306(b) of title 38, United States Code, is amended to read as follows:*

*"(b)(1) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date.*

*"(2) Except as provided in paragraph (3), a new application for pension, compensation, or dependency and indemnity compensation under this subsection shall be treated as an original application, and no payments shall be made for any period before the date such application is filed.*

*"(3) An application for dependency and indemnity compensation to parents payable under section 1315 of this title or for pension payable under chapter 15 of this title that is filed during the one-year period beginning on the date that a renouncement thereto was filed by the person pursuant to subsection (a) shall not be considered an original application, and payment of such benefits shall be made as if the renouncement had not occurred.".*

### *SEC. 207. STYLISTIC AMENDMENT.*

*(a) IN GENERAL.—Section 5110(h) of title 38, United States Code, is amended by striking out "calendar".*

*(b) RULE OF CONSTRUCTION.—The purpose of subsection (a) is to make a nonsubstantive stylistic amendment that conforms the terminology used in section 5110(h) of title 38, United States Code, to that used in such title.*

## *TITLE III—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS*

### *SEC. 301. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.*

*Section 4103A(a)(1) of title 38, United States Code, is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.".*

### *SEC. 302. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR EMPLOYMENT AND TRAINING PROGRAM PURPOSES.*

*Section 4211(2) of title 38, United States Code, is amended—*

*(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and*

*(2) by striking out subparagraph (B).*

### *SEC. 303. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.*

*Section 1144(e) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and*

*(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".*

## *TITLE IV—COST SAVINGS*

### *SEC. 401. PERMANENT AUTHORITY FOR RECOVERY OF CERTAIN MEDICAL-CARE COSTS.*

*Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1993,".*

### *SEC. 402. PERMANENT AUTHORITY TO CARRY OUT INCOME VERIFICATION.*

*(a) TITLE 38.—Section 5317 of title 38, United States Code, is amended by striking out subsection (g).*

*(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking out the second sentence of the flush material.*

### *SEC. 403. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.*

*(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) of title 38, United States Code, is amended to read as follows:*

*"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.*

*"(B) A person referred to in subparagraph (A) is a person—*

*"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and*

*"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".*

*(b) CONFORMING AMENDMENTS.—Section 5503(f) of such title is amended—*

*(1) in paragraph (3)—*

*(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and*

*(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and*

*(2) in paragraph (4)—*

*(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";*

*(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and*

*(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.*

*(d) DELETION OF EXPIRATION DATE.—Section 5503(f) of such title is amended by striking out paragraph (6).*

### AMENDMENT NO. 3197

(Purpose: To revise and improve certain educational assistance programs, to provide a cost-of-living increase in the subsistence allowance payable to veterans participating in rehabilitation programs, and for other purposes)

Mr. FORD. Mr. President, on behalf of Mr. CRANSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. CRANSTON, proposes an amendment numbered 3197.

On page 30, strike out line 12 and all that follows through page 32, line 22, and insert in lieu thereof the following:

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) of title 38, United States Code, is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out

"may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) Conforming Amendments to Selected Reserve Program.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) Effective Date and Rule of Construction.—(1) The amendments made by this section shall take effect on September 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

On page 34, strike out line 3 and all that follows through page 34, line 23.

On page 34, beginning on line 24, strike out "(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect" and insert in lieu thereof "(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted".

On page 35, line 17, insert "as if enacted" after "shall take effect".

On page 35, between lines 17 and 18, insert the following new section:

### SEC. 105. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

(a) Active Duty.—Section 3011 of title 38, United States Code (as amended by section 104), is further amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

"(2) This subsection applies to a member who—

"(A) during an initial period of active duty, commences pursuit of a course of education—

"(i) at a service academy; or

"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

"(B) fails to complete the course of education; and

"(C) re-enters on a period of active duty.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

On page 35, line 18 strike out "**105.**" and insert in lieu thereof "**106.**".

On page 37, line 8, strike out "on September 1, 1993," and insert in lieu thereof "as if enacted on June 30, 1985,".

On page 37, line 10, strike out "that date" and insert in lieu thereof "September 1, 1993".

On page 37, line 11, strike out "**106.**" and insert in lieu thereof "**107.**".

On page 38, line 4, insert "as if enacted" after "shall take effect".

On page 38, line 5, strike out "**107.**" and insert in lieu thereof "**108.**".

On page 38, between lines 13 and 14, insert the following:

(b) Advance Payment.—Section 3680(d)(2) of title 38, United States Code, is amended by striking out the third sentence.

On page 38, line 14, strike out "(b)" and insert in lieu thereof "(c)".

On page 38, line 18, strike out "**108.**" and insert in lieu thereof "**109.**".

On page 38, strike out line 20 and all that follows through page 39, line 11, and insert in lieu thereof the following:

(a) Active-Duty Program.—Section 3032(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(b) Selected Reserve Program.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(c) Post-Vietnam Era Veterans' Educational Assistance Program.—Section 3231(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to flight training received

On page 39, line 16, strike out "**109.**" and insert in lieu thereof "**110.**".

On page 40, line 1, strike out "**110.**" and insert in lieu thereof "**111.**".

On page 41, strike out line 14 and all that follows through page 41, line 18, and insert in lieu thereof the following:

(b) Approval of Nurses Aide Courses.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

On page 41, line 19, strike out "**111.**" and insert in lieu thereof "**112.**".

On page 45, line 7, strike out "**112.**" and insert in lieu thereof "**113.**".

On page 46, line 1, strike out "**113.**" and insert in lieu thereof "**114.**".

On page 46, line 8, strike out "**114.**" and insert in lieu thereof "**115.**".

On page 48, line 21, strike out "**115.**" and insert in lieu thereof "**116.**".

On page 49, line 18, strike out "**116.**" and insert in lieu thereof "**117.**".

On page 52, line 1, strike out "**117.**" and insert in lieu thereof "**118.**".

On page 52, line 19, strike out "111(c)(2)" and insert in lieu thereof "112(c)(2)".

On page 53, line 6, strike out "111(b)" and insert in lieu thereof "112(b)".

On page 59, beginning on line 12, strike out "**RECEIVING VOCATIONAL OR REHABILITATIVE TRAINING.**" and insert in lieu thereof "**PARTICIPATING IN A REHABILITATION PROGRAM.**".

On page 59, below the table following line 16, add the following:

(b) Cost-of-Living Increase.—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

On page 60, strike out lines 1 and 2 and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

On page 61, line 23, strike out "**EMPLOYMENT AND TRAINING**" and insert in lieu thereof "**DISABLED VETERANS' OUTREACH**".

On page 62, between lines 4 and 5, insert the following:

**SEC. 303. IMPROVEMENT OF PROGRAM OF FEDERAL EMPLOYMENT OF VIETNAM ERA VETERANS.**

Section 4214(b)(2)(A) of title 38, United States Code, is amended—

(1) at the end of clause (i), by striking out "or";

(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or"; and

(3) by adding at the end the following new clause:

"(iii) was discharged or released from active duty after December 31, 1979, under conditions other than dishonorable; and".

On page 62, line 5, strike out "**303.**" and insert in lieu thereof "**304.**".

On page 63, strike out line 1 and all that follows through page 63, line 8.

On page 63, line 9, strike out "**403.**" and insert in lieu thereof "**402.**".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to S. 2647, the proposed Veterans' Readjustment Benefits Improvement Act of 1992, as reported by the Veterans' Affairs Committee on August 12, 1992, and as it will be amended by a committee modification that I am proposing. This measure, which I will refer to as the committee bill, would provide increases in GI bill educational assistance and in the subsistence allowance paid to service-disabled veterans pursuing vocational rehabilitation, revise and improve educational assistance for veterans and members of the Armed Forces, improve certain vocational assistance programs for veterans, and expand the job counseling, training, and placement services for veterans.

Mr. President, the committee bill includes proposals that I made in the bill as introduced to increase the basic monthly allowance paid to veterans and active-duty participants in the Montgomery GI bill [MGIB] program and to increase the subsistence allowance paid to service-disabled veterans pursuing vocational rehabilitation. It also contains various proposals I developed in order to improve the administration of Department of Veterans Affairs [VA] educational-assistance programs based on the final report of the Commission on Veterans' Education Policy, mandated by section 320 of Public Law 99-576, and delivered to the committee by VA on October 24, 1991. Other provisions of the bill as reported were derived from legislation I introduced at the request of the administration.

On May 13, 1992, the committee received testimony from the administration and representatives of veterans' organizations and military associations regarding S. 2647 as introduced. The committee bill is the result of revisions I proposed in response to this testimony and of our committee's continuing efforts to update and improve veterans' educational and other readjustment benefits.

Mr. President, because the various provisions in the committee bill are described in detail in the committee's report accompanying this measure (S. Rept. No. 102-379), I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I wish to highlight. I refer my colleagues and all others with an interest in the committee bill to the committee report for more complete information on it.

### SUMMARY OF PROVISIONS

Mr. President, the provisions in the committee bill would:

First, provide, effective September 1, 1993, an approximately 15-percent increase in MGIB educational benefits.

Second, provide the opportunity to participate in the MGIB to an individual who, after September 30, 1992, receives a commission upon graduation from a military academy or upon completion of a senior reserve officer training corps program.

Third, provide that individuals who are discharged by reason of disability, hardship, or reduction-in-force after less than 12 months of active duty and later re-enter on active duty would be deemed to have served a continuous period of active duty equal to the total of the two periods of active duty.

Fourth, provide that a period during which an MGIB participant is assigned full time by the Armed Forces to a civilian institution for a course of education would not be considered a break in the continuity of the individual's active-duty service for purposes of MGIB eligibility.

Fifth, provide that an individual who was initially obligated to serve only 2 years of active duty but actually serves a continuous period of 3 years on active duty is eligible for the same level of MGIB benefits as one who performs an initial obligated period of active-duty service of 3 years.

Sixth, provide MGIB entitlement to individuals who enrolled in the program during the open period between December 1, 1988, and June 30, 1989, and who separated from the service early due to certain physical or mental conditions.

Seventh, permit active-duty participants in the MGIB to receive benefits at the same rate as veterans.

Eighth, authorize, for the last 2 years of the current 4-year program under which veterans may use VA educational benefits for flight training, the use of those benefits for solo flying hours up to the minimum required for the rating or certification being pursued.

Ninth, limit advance payments to work-study participants to the amount they would be paid for the first 50 hours of each work-study contract.

Tenth, for VA purposes, repeal the requirement that an elementary or secondary school furnish a copy of a catalog in applying for approval of an accredited course and add a requirement that schools that have and enforce standards of attendance submit those standards for approval.

Eleventh, prohibit the use of VA educational benefits for non-accredited independent study.

Twelfth, provide that the termination of an educational assistance allowance by reason of the death of the payee of an advance payment is effective as of the end of the period for which the advance payment was made.

Thirteenth, bar payment of VA educational assistance for a course paid for under the Government Employees Training Act.

Fourteenth, replace the statutory measurement system used in evaluating courses at an educational institution for the payment of VA education benefits with the institution's measurement system.

Fifteenth, provide that the limitations on changes of programs by students using VA educational assistance do not apply to (a) a student beginning a new program of education after successfully completing another program, (b) a student not changing his or her vocational objective, and (c) a student transferring back to a former program without loss of credit for that program.

Sixteenth, permit reservists to receive tutorial assistance under the MGIB.

Seventeenth, make permanent the programs of 12-month trial-work periods and vocational rehabilitation outreach for service-disabled veterans who have total disability ratings based on individual unemployability.

Eighteenth, make permanent and totally voluntary the program of vocational evaluation and training for VA pension recipients.

Nineteenth, maintain the 3-year protection of VA health-care eligibility for veteran pension recipients participating in a program of vocational training who lose their pension due to employment income.

Twentieth, provide VA rehabilitation program entitlement to a veteran who has a 10-percent service-connected disability and a serious employment handicap.

Twenty-first, increase by 10 percent the subsistence allowance for veterans with service-connected disabilities who participate in a VA vocational rehabilitation program.

Twenty-second, provide that, where a new application for income-tested VA pension or parents' dependency and indemnity compensation is filed within 1 year after a renouncement, benefits would be payable as if the renouncement had not occurred.

Twenty-third, expand the formula for the appointment of disabled veterans' outreach program specialists to include, in addition to Vietnam-era veterans and disabled veterans, veterans who first entered on active duty after the end of the Vietnam era, May 7, 1975.

Twenty-fourth, repeal the limitation on veteran's employment and job-training programs under chapters 41 and 42 of title 38 that provides that, after December 31, 1994, no veteran would be eligible for those programs on the grounds that his or her service occurred during the Vietnam era.

Twenty-fifth, authorize an increase in the fiscal year 1993 appropriation for the Transition Assistance Program [TAP] for servicemembers who are being discharged from active duty and extend the authorization for the TAP appropriation by 2 years—through FY 1995—as follows: $11 million for fiscal year 1993 and $8 million for each of fiscal years 1994 and 1995 for the Department of Labor, and $6.5 million for each of fiscal years 1993–1995 for VA.

Twenty-sixth, provide for offsetting the direct-spending costs of the committee bill by (a) repealing the October 1, 1993, expiration date of the legislation authorizing the collection of third-party reimbursements for the non-service-connected care furnished by VA to service-disabled veterans; (b) repealing the September 30, 1992, expiration date of the legislation that allows VA to use certain Social Security Administration and Internal Revenue Service data to verify the incomes of those who apply for or receive VA needs-based pension; and (c) repealing the September 30, 1992, expiration date of legislation that limits pension payments to $90 a month for Medicaid-eligible veterans receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid, and expanding that legislation, effective July 1, 1992, to cover similarly situated veterans' survivors who are receiving VA pension.

### BACKGROUND

Mr. President, the cutback in America's active-duty and reserve force is moving hundreds of thousands of men and women into civilian life in the middle of difficult economic times, high unemployment, and ever-increasing costs of education. Nearly 400,000 service members will be discharged from the military over the next several years and an additional 200,000 service members per year will leave the military through attrition. We have a clear responsibility to assist these service members into civilian life with proper educational opportunities, vocational rehabilitation programs, and job counseling, training, and placement services. The committee bill seeks to help meet this responsibility.

### INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE

Since the enactment of the MGIB in 1984, this Educational Assistance Program has been enormously successful, with 76 percent of the 1.7 million people eligible to participate doing so. With the end of the cold war and the downsizing of the military, the MGIB has new importance. A smaller, more mobile, and technically oriented Armed Forces will need highly skilled and motivated service members. One of the original purposes of the MGIB was to attract such highly qualified people. If the educational allowance fails to cover even a major portion of the post-secondary education costs, it will fail as an attraction for individuals who are needed to meet future military requirements. Preserving the value of MGIB benefits will help protect the quality of our military as its quantity is scaled down.

Mr. President, the MGIB was also developed to facilitate the readjustment of service members into civilian life. With the major cuts in troop strength, particularly among long-term service members who may have family responsibilities, it is critical that MGIB benefits keep pace with the cost of education. We must provide these individuals with a realistic opportunity to pursue a post-secondary education.

Mr. President, as temporarily increased by title III–C of Public Law 102–25, the Persian Gulf War Veterans' Benefits Act of 1991, the levels of MGIB educational assistance for full-time study are $350 per month for active-duty participants whose initial obligated period of active duty is 3 years or more, $275 per month for those whose initial obligated period is 2 years, and $170 per month for participants in the Selected Reserve program. In all cases, proportionally reduced amounts are provided for part-time study. For fiscal year 1994, the Secretary of Veterans Affairs must choose one of three options with respect to MGIB rates: First, continue these rates, second, continue these rates and provide for a cost-of-living adjustment [COLA], or third, allow the monthly full-time-study rates to revert to their original levels—before the enactment of Public Law 102–25—of $300 per month for participants obligated for 3 years or more, $250 per month for those who are obligated for 2 years, and $140 per month for participants in the Selected Reserve program. For each following fiscal year, the Secretary is authorized to continue to pay the monthly rates that were paid during the previous fiscal year or provide a COLA in those rates.

Mr. President, it is difficult to quantify the importance of an education, especially for those members of our Armed Forces and Selected Reserves who have foregone formal education in order to serve their country and will be returning to civilian life in the near future. However, we are better able to quantify the costs of education and how the rising cost of education has chipped away at the value of MGIB educational assistance.

Since the original MGIB payment rates were established in 1984, inflation as measured by the Consumer Price Index [CPI] has been 31 percent and the cost of education at a 4-year public college has increased by 42.5 percent. Last year's 16.7-percent increase in MGIB benefits, enacted in the Persian Gulf War Veterans' Benefits Act of 1991, marked the only rate increase in the program's history. It fell far short of the increase in the cost of education since 1984 mainly because of the limits that were inherent in the special nature of the funding of the legislation.

The value of the MGIB Program to our active duty and veteran participants must not be undercut. The Department of Defense, in its May 1992 Biennial Report to Congress on the Montgomery GI Bill Education Benefits Program, stated, "Although the Department is continuing to reduce and will achieve an overall manpower reduction of 25 percent by 1995, we believe strongly that an incentive to pursue educational enhancement on the part of our veterans is beneficial to the military and to the Nation as a whole." I agree wholeheartedly.

Mr. President, the committee bill seeks to bring the MGIB benefits more closely abreast of the rising costs of higher education by raising the basic monthly educational allowance for active -duty and reserve participants. Section 101 of the committee bill would provide that the monthly full-time-study rates that the Secretary decides to pay in any fiscal year would be increased by $50 per month for participants serving on active duty for 3 years or more, $40 per month for those serving on active duty for 2 years, and $25 per month for members of the Selected Reserve. The Committee modification, which I will discuss in a few minutes, would provide for a fixed increase in monthly allowance and index future increases to the CPI.

### VA'S VOCATIONAL REHABILITATION PROGRAM FOR CERTAIN SERVICE-DISABLED VETERANS

Mr. President, the next two committee bill provisions that I will describe, and which I authored, would improve VA's program of vocational rehabilitation for service-disabled veterans. The proposed increase in the subsistence allowance and the proposed extension of vocational training to certain veterans with a 10-percent service-connected disability are designed to make it possible for more veterans to use their existing talents and develop new ones to support themselves and their families. These improvements are a sound investment in enabling service-disabled veterans to return to work. We should encourage and support their efforts to do so. Productive work gives disabled veterans a renewed sense of self-worth and purpose as well as helping the Government reduce expenditures over the long term.

Mr. President, current law provides vocational-rehabilitation entitlement to a veteran who has a service-connected disability that is compensable at a rate of 20 percent or more and is determined by the Secretary to be in need of rehabilitation because of an employment handicap. The Omnibus Budget Reconciliation Act of 1990 increased the requisite disability rating from 10 percent to 20 percent.

Mr. President, many veterans with service-connected disabilities rated at 10 percent have a serious employment handicap resulting either from their service-connected disabilities alone or from those disabilities in conjunction with nonservice-connected disabilities.

Thus, I am pleased that the committee agreed to my proposal to reopen the vocational rehabilitation program for these veterans who, by reason of having a serious employment handicap, are clearly in need of vocational rehabilitation services to improve their ability to return to the work force.

Mr. President, the subsistence allowance provided to veterans pursuing a rehabilitation program was last increased in January 1990, under Public Law 101-237. That increase, of 7.5 percent, did not adequately cover the nearly 20-percent increase in the CPI that had occurred since the previous adjustment 6 years earlier in October 1984. The CPI has increased another 9.8 percent in fiscal years 1990 and 1991.

A recent General Accounting Office study of the effectiveness of the VA vocational rehabilitation and counseling program—(GAO/HRD-92-100, September 1992)—revealed that 71 percent of all applicants for vocational rehabilitation drop out of the program before obtaining suitable employment. The study indicated that one reason for attrition is that the subsistence allowance is too low to provide a decent living for program participants. At its current levels, the subsistence allowance has lost approximately 22 percent of its value due to the increase in the CPI since 1984.

Mr. President, the committee bill would, effective October 1, 1993, increase the subsistence-allowance rates by 10 percent in order to bring its value more in line with the rising cost of living. While this 10-percent increase falls short of the full measure of the inflationary rise, the committee believes such an increase would be useful in helping service-disabled veterans to maintain a reasonable standard of living while pursuing programs of rehabilitation. As I will discuss in a moment, the committee modification would index future increases to changes in the CPI.

### IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM

Mr. President, the committee bill also includes my proposal to update and strengthen the State-grants program administered by the Department of Labor [DOL] to provide job counseling, training, and placement services for veterans. Most importantly, it would stabilize the staffing of this program, which in recent years has existed in the shadow of a sunset provision that threatened to reduce its employment base to an unworkable level.

Currently, section 4103A of title 38 provides for the appointment of one disabled veterans' outreach program [DVOP] specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in each State. This formula now requires 1,885 DVOP specialists. However, section 4211 of title 38, provides, that for the purpose of the DVOP formula, no veterans may be considered to be veterans of the Vietnam era after December 31, 1994, which would cause the number of DVOP's in the statutory formula to drop to 433 after that date. Last year, when I proposed to extend the sunset provision regarding the definition of veterans of the Vietnam era from 1991 to 1994, in what became Public Law 102-16, I promised to review the concept of the formula. The proposed changes in the committee bill reflect this review.

First, Mr. President, the committee bill would delete the sunset provision, thus allowing Vietnam-era veterans to be a permanent part of the DVOP formula. Second, the bill would recognize that veterans who entered active duty after the Vietnam era also need and are eligible for the employment assistance provided by DVOP's and should be considered in calculating available DVOP staffing. As a beginning point, I was interested in approximating the size of the current DVOP force, with a number of DVOP's added in recognition of the increased involvement of DVOP's in the Transition Assistance Program [TAP], administered under section 1144 of title 10, United States Code. I also desired to use a formula rather than a fixed figure in order to allow for program growth to meet the projected new workload expected to result from the military downsizing. Additionally, I believe the formula should continue to distribute DVOP specialists to States in proportion to the States' veteran employment workloads. The result is a revised formula that would provide for the appointment of one DVOP specialist for each 6,900 veterans residing in a State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or who are disabled veterans.

Mr. President, I have long valued very highly the services being provided for veterans by the State Employment Security Agencies. This legislation is designed to eliminate the uncertainty that has too long plagued the DVOP program and to provide a stronger, more realistically sized work force.

### AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE

Mr. President, section 408 of Public Law 101-237, enacted on December 18, 1989, a provision I initiated based on a successful State of California model, mandated that DOL conduct a 3-year pilot transition assistance program to provide employment and training information and services to members of the Armed Forces who were within 180 days of their separation from active duty. Due to the favorable experience with this experimental program and the anticipated need for more transition assistance through at least fiscal year 1995—covering the then-expected period of military downsizing—TAP was made a nationwide program in 1990 by Public Law 101-510.

Currently, the TAP program under section 1144 of title 10 requires DOL, in conjunction with VA and the Department of Defense, to furnish counseling, assistance in identifying employment and training opportunities, and help in obtaining such employment and training to members of the Armed Forces who are within 180 days of separation from active duty and to their spouses. The current authorizations of appropriations for TAP are $9 million for each of fiscal years 1992 and 1993 for DOL, and $4 million for each of those years for VA.

At the committee's May 13 hearing, DOL testified that, from October 1991 to March 1992, the TAP program reached 44,000 existing service members. By the end of fiscal year 1992 TAP 3-day workshops will be operating at 178 sites, making the program available to 97 percent of the separating service members in the United States. DOL plans to create a video to complement the TAP workbook for those service members who are overseas.

However, Mr. President, in an April 10, 1992, response to questions submitted prior to the committee's budget hearing, DOL states that, in fiscal year 1993, it anticipated serving only 60 percent of the 200,000-person nationwide audience potentially reachable by TAP. At our committee's February 27, 1992, budget hearing, the DOL witness testified that, according to preliminary calculations, DOL would require $11 million in fiscal year 1993 to put TAP on a solid footing and give all separating service members the employment assistance they need—without detracting from services to veterans. Approximately $3 million of the funds needed by DOL for fiscal year 1993 represented one-time purchases of equipment and certain other nonrecurring costs, leaving an ongoing need of $8 million to provide adequate TAP services in each of fiscal year 1994 and 1995.

VA, in its February 20, 1992, response to questions I submitted prior to the committee's budget hearing, stated that it would need an additional 40 veterans benefits counselors and nine support personnel to meet the VA's military service program goals, and an additional 50 Vocational Rehabilitation Service personnel to meet its disabled transition assistance program [DTAP] goals—DTAP being the TAP component for service members being discharged with a disability. VA's total annual personnel cost was estimated to be $6.5 million.

Mr. President, witnesses at committee hearings have consistently testified that timely Federal assistance during the critical period of transition from active duty to civilian life—the last 6 months before separation—is extremely valuable for the men and women being released. In addition, studies conducted in connection with the California career service program similar to TAP have shown that such assistance is a good government investment. Development of job-readiness skills, such as resume writing and interview techniques, can eliminate or reduce any period during the which a person draws unemployment compensation after discharge and increase his or her taxable salary level in the initial post-service job. Mr. President, the committee bill would authorize appropriations for both DOL and VA in accordance with DOL and VA estimates for the needs of their TAP components through fiscal year 1995—$11 million for fiscal year 1993 and $8 million for each of fiscal years 1994 and 1995 for DOL, and $6.5 million for each of fiscal years 1993–1995 for VA.

As hundreds of thousands of military personnel move into the civilian work force amid troubling economic conditions, TAP and DTAP provide critical information and outreach to ease their transition.

### COMMITTEE MODIFICATION OF THE BILL AS REPORTED

Mr. President, at this point I will discuss provisions that I am proposing on behalf of the committee as a modification of S. 2647 as reported. In summary, the provisions of the committee modification would:

First, increase, effective September 1, 1993, the MGIB monthly full-time study benefits to (1) $400 for those serving on active duty for 3 years or more, (2) $325 for those serving 2 years on active duty, and (3) $190 for reservists, with rates for part-time study increased proportionally.

Second, provide for indexing to the CPI future MGIB increases and increases in the subsistence allowance paid to service-disabled veterans participating in VA vocational rehabilitation.

Third, simplify the statutory process of adjusting basic pay reductions for certain individuals re-entering active duty by deleting a provision in the committee bill that appears to be unnecessary.

Fourth, provide, in the case of MGIB participant who leave their initial period of active-duty service to enroll in a service academy or service-academy preparatory school, drop out of the academy or preparatory school, and reenter active duty, that they would be able to merge their second active-duty period with the initial period so that the aggregate length of the two periods will be considered a continuous period of service for purposes of MGIB eligibility.

Fifth, make applicable to the payment of benefits for training pursued only on or after September 1, 1993, the committee bill provision that would provide full MGIB entitlement to an individual who serves an initial continuous period of 3 years even though he or she was initially obligated to serve only 2 years.

Sixth, delete the provision in section 3680(d)(2) of title 38 that allows advance payments of all MGIB benefits to participants on active duty.

Seventh, all nurses' aide courses to be approved for VA educational assistance when such courses have been approved by a State under regulations established by the Secretary of Health and Human Services.

Eighth, temporarily reinstate the Veterans' Readjustment Appointments [VRA] authority for all veterans of the Vietnam era who were discharged or released from active duty after December 31, 1979, and have not had a 10-year opportunity to use VRA eligibility.

Ninth, in order to avoid certain jurisdictional concerns, delete section 402 of the committee bill. Section 402 would repeal the September 30, 1992, expiration date of the legislation that allows VA to use certain Social Security Administration and Internal Revenue Service data to verify the incomes of those who apply for or receive VA needs-based pension. A provision substantively identical to section 402 recently passed the Senate in H.R. 5008.

Mr. President, I will elaborate on a few of these provisions.

### MONTGOMERY GI BILL COST-OF-LIVING ADJUSTMENTS

Mr. President, the most important provisions of the committee modification would alter the process by which the committee bill would provide increases in MGIB benefits. As I mentioned earlier, I originally proposed, and the committee agreed, to seek to increase these rates above whatever level of assistance the Secretary of Veterans Affairs chose to set for a given fiscal year.

However, upon further consideration, I am proposing, with the committee's support, provisions setting the level of the entire benefit, rather than just specifying the increase. Therefore, the Committee modification would change section 101 of the committee bill to increase the monthly full-time study benefits to (1) $400 for those serving on active duty for 3 years or more, (2) $325 for those serving 2 years on active duty, and (3) $190 for reservists, with rates for part-time study increased proportionally.

The committee modification would also repeal the Secretary's authority, under section 3015(f) of title 38, to provide COLA's and replace it with a provision indexing MGIB rates to the CPI in fiscal year 1994 and later years.

Since the enactment of the MGIB in 1984, veterans and active-duty participants have watched the value of their educational benefits slowly dwindle as prices rose and their MGIB rates stayed the same. The legislation I am proposing in this modification would ensure that the MGIB rates keep pace with the times and that our veterans and active-duty participants receive the educational benefits they deserve.

### MONTGOMERY GI BILL ELIGIBILITY FOR PERSONNEL WHO TEMPORARILY ENROLLED IN A SERVICE ACADEMY

Mr. President, servicemembers are on occasion accepted into a service academy or an academy's preparatory school during their initial obligated period of active duty. Individuals who enroll in such schools and fail to complete their course of education must return to finish their obligated period of active duty.

Section 105 of the committee modification would assist those MGIB participants by allowing them to merge their second active-duty period with their initial period so that the aggregate length of the two periods would be considered one continuous period of service for purposes of MGIB eligibility.

### COST-OF-LIVING ADJUSTMENTS FOR SERVICE-DISABLED VETERANS PARTICIPATING IN VOCATIONAL REHABILITATION

Mr. President, as I noted earlier, section 205 of the Committee bill as reported would increase by 10 percent the subsistence allowance paid to service-disabled veterans participating in vocational rehabilitation. Though this increase does not cover the nearly 22-percent loss in value this allowance has undergone since 1984, it does begin to close the gap between the inflationary rise in prices and the rate of the subsistence allowance.

In order to prevent further slippage of the value of this allowance in future years, the committee modification contains my proposal to index future increases to changes in the CPI. Service-connected disabled veterans should be encouraged to participate in vocational rehabilitation and training to find suitable employment, not discouraged by having their subsistence allowance fall farther and farther behind the cost of living.

### VETERANS' READJUSTMENT APPOINTMENTS

Mr. President, the committee modification would add to the committee bill a new section 303 to reinstate the VRA authority for certain veterans of the Vietnam era who were discharged or released from active duty after December 31, 1979, and have not had a 10-year opportunity to use VRA eligibility. This new section would amend current section 4214(b)(2)(A) of title 38, so that those veterans would be eligible to receive such an appointment during the period ending 10 years after the date of their last discharge or release from active duty, or December 31, 1993, whichever is later.

All veterans of the Vietnam era were eligible for VRA's—limited non-competitive appointments that can lead to full civil service status—in the Federal Government through December 31, 1989, at which time the statutory authority for these appointments expired. Section 407(a) of Public Law 101-237, the Veterans' Benefits Amendments of 1989, extended the VRA authority to December 31, 1993, but appointment was limited to Vietnam-era veterans who were service-disabled or had received a campaign badge, which means they served in the Southeast Asia theater of operations, and to post-Vietnam-era veterans. Post-Vietnam-era veterans included only those who first entered on active duty after May 7, 1975.

Section 9(b) of Public Law 102-16 made the VRA authority permanent but limited eligibility for Vietnam-era veterans to those covered by Public Law 101-237. For Vietnam-era veterans who received a campaign badge, Public Law 102-16 also extended their VRA eligibility to 10 years after the date of their last discharge or release from active duty, or December 31, 1993, whichever is later.

Thus, since January 1, 1990, Vietnam-era veterans who are not service disabled nor authorized a campaign badge have not been eligible for a VRA appointment, even those who are leaving the service at the same time as post-Vietnam-era veterans who have such eligibility.

Mr. President, we all know that the Vietnam era has been over for many years and recognize that most of those who served their country during that period and who discharged shortly thereafter have long ago successfully made the transition into the civilian workplace. For them, readjustment is not an issue. However, for some Vietnam-era veterans, including those who remained on active duty after the Vietnam era or who jointed the selected Reserves and were activated during Desert Storm, employment may very well be a major concern in today's economy. This population of Vietnam-era veterans—those who recently have been released or who are scheduled to soon be released under the Department of Defense's down-sizing plans, but who are not eligible for a VRA appointment—would be assisted by this provision.

Also, the committee modification, by restoring eligibility to those discharged after December 31, 1979, would be restoring equity to the VRA Program by providing those Vietnam-era veterans with at least a full 10-year opportunity for receipt of a VRA appointment similar to that available to other veterans eligible for VRA, whether they be from the Vietnam-era or post-Vietnam era. With the committee modification, all veterans who served from the beginning of the Vietnam era forward would at some point have VRA eligibility for not less than 10 years.

### CONCLUSION

Mr. President, in closing I express my deep appreciation to the ranking Republican member of our committee, Mr. SPECTER, for his excellent cooperation and assistance on this measure and to all other members of the committee for their help in the development of and action on this legislation.

I am also grateful for the contributions of the Senate Veterans' Affairs Committee staff members who have worked on this legislation—on the minority staff, Quent Kinderman, Charlie Battaglia, Bill Tuerk, and Tom Roberts; and on the majority staff, Tom Hart, Chuck Lee, Bill Brew, and Ed Scott. In addition, I very much appreciate the technical advice and expert assistance of Charles Armstrong of the Senate Legislative Counsel's Office in the drafting of this legislation.

Mr. President, now that we have reached the point at which major reductions in our military establishment are possible, we have a direct and important responsibility to assist those whose service and sacrifices have kept our Nation free and strong and helped bring us to this much-awaited point in world history, the end of the cold war. As new veterans move into civilian life, and as older veterans encounter employment problems, we must respond with adequate and responsive educational assistance, vocational rehabilitation programs, and job placement, training, and employment services. This legislation could contribute much toward fulfilling these goals and fulfilling an important obligation to our Nation's veterans. I urge the Senate to give its unanimous approval to the pending measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3197) was agreed to.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support passage of S. 2647, the Veterans' Readjustment Benefits Improvement Act of 1992.

Generally, this bill would enhance programs administered by the Department of Veterans Affairs and the Department of Labor that assist in the readjustment of veterans to civilian life. Specifically, the bill would provide improvements to veterans' educational assistance programs, vocational rehabilitation, and job counseling, training, and placement services for veterans.

Mr. President, as we all know, the Montgomery GI bill has been a great success. The bill would build on that success by increasing the monthly benefits to veterans, as well as including a number of important technical provisions requested by VA and by the Commission to Assess Veterans' Education Policy.

The bill would also significantly improve the vocational rehabilitation program for service-connected disabled veterans, both by increasing the subsistence allowable provided to program recipients, and by making this valuable program available for all veterans who have suffered a serious employment handicap as a result of service-connected disability. In addition, S. 2647 would extend and improve certain other provisions of the rehabilitation programs for unemployable disabled veterans and for pension recipients.

The bill would improve certain Department of Labor programs for disabled and unemployed veterans, including the disabled veterans' outreach program, administered through the State employment security agencies. In addition, the bill would expand the Transition Assistance Program, under which Department of Labor assists active duty military men and women in their transition from military service to the civilian job market.

In closing, I would like to thank the staff who worked so hard to prepare this bill: Tom Hart, Chuck Lee, and Ed Scott from the majority staff, and Quent Kinderman, Scott Waitlevertch, and Tom Roberts from my staff.

Mr. President, as the downsizing of the military continues, we owe those who won the peace—our veterans—the best readjustment possible to civilian life. This bill moves toward that critical goal.

I urge my colleagues to support S. 2647.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 5087, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 2647, as amended be inserted in lieu thereof; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table and that any statements relative to the passage of this item be inserted at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, on behalf of Senator CRANSTON, I send a title amendment to the desk.

The title was amended so as to read:

To amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes.

## APPOINTMENTS BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to the provisions in House Concurrent Resolution 192–102d Congress, 2d session—announces the appointment of the following Senators to the Joint Committee on the Organization of Congress:

The Senator from New Mexico [Mr. DOMENICI], vice chairman;

The Senator from Kansas [Mrs. KASSEBAUM];

The Senator from Mississippi [Mr. LOTT];

The Senator from Alaska [Mr. STEVENS];

The Senator from Maine [Mr. COHEN]; and

The Senator from Indiana [Mr. LUGAR].

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## EXTENSION OF DECLARATION OF NATIONAL EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 277

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

On September 30, 1990, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*), I issued Executive Order No. 12730, declaring a national emergency and continuing the system of export regulation, including antiboycott provisions, under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on each anniversary of its declaration unless I publish in the *Federal Register* and transmit to the Congress notice of its continuation.

I am hereby advising the Congress that I have extended the national emergency declared in Executive Order No. 12730. Attached is a copy of the notice of extension.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

## EXTENSION OF DECLARATION OF NATIONAL EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 278

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

1. On September 30, 1990, in Executive Order No. 12730, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701, et seq.) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, et seq.), and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768, et seq. (1991)), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. I issued Executive Order No. 12730 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act (NEA) (50 U.S.C. 1601, et seq.), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from April 1, 1992, to September 30, 1992, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer and enforce the system of export controls, including antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the Department has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since my last report to the Congress, there have been several significant developments in the area of export controls:

—As the nations of Central Europe and the former Soviet Union continue their progress toward democracy and market economies, United States Government experts have been working with officials of Albania, Bulgaria, the Czech and Slovak Federal Republic, Hungary, Poland, Romania, the Baltic States, and many republics of the former Soviet Union to implement and strengthen their export control systems, including pre-license inspections and post-shipment verifications. These developments will facilitate enhanced trade in high technology items and other commodities in the region, while helping to prevent unauthorized shipments or uses of such items. At the same time, we have been engaged in activities with the Central and Eastern European countries to assist in the prevention of proliferation of weapons of mass destruction and corresponding technology. A significant result of these activities was the removal of Hungary from the list of proscribed destinations to the list of free world destinations on May 1, 1992, thereby liberalizing export controls with respect to Hungary and easing the burden on exporters dealing with Hungary. This action should facilitate a significant increase in exports and reexports to Hungary. (57 F.R. 19805, May 8, 1992.)

—Working diligently with our Coordinating Committee (COCOM) partners to streamline multilateral national security controls, we are pleased to report the following important developments:

—Elimination of nearly all individual license requirements for exports to COCOM and cooperating countries, enabling exporters to ship items without prior agency approval. (57 F.R. 18819, May 1, 1992.)

—Elimination of most U.S. reexport authorizations for U.S.-origin goods going from COCOM and cooperating countries to most third countries, except when destined to a country or region of proliferation concern. (57 F.R. 18817, May 1, 1992.)

—Liberalized licensing requirements on exports to Hong Kong and New Zealand, following their designation as COCOM cooperating destinations. (57 F.R. 19334, May 5, 1992.)

—At the June 1992 High-Level Meeting in Paris, in response to a proposal from former Secretary of State James Baker, our COCOM allies agreed to establish a new "COCOM Cooperation Forum" (CCF) to include the 17 members of COCOM, the newly independent states of the former Soviet Union (NIS), and most recently other Central and Eastern European nations. The CCF hopes to engage these nations in further establishing controls for sensitive goods and technologies, and to provide an impetus for wider access by those countries to controlled items. The first High-Level Meeting of the CCF is scheduled for late November of this year.

—Also at the June High-Level Meeting, the COCOM partners agreed to significantly liberalize export controls on telecommunications exports to the NIS, which should facilitate rapid and reliable telecommunications between the NIS and the West, as well as modern, cost-effective domestic telecommunications systems.

—The Department of Commerce also recently revised the regulations governing the Distribution License procedure, thereby allowing expanded use of this special license and eliminating many current prior-approval requirements. The Distribution License, which permits multiple exports of controlled items to approved consignees in eligible countries without prior review of individual transactions, is used by approximately 125 of the largest exporters to export computers and other items to many countries. (57 F.R. 18815, May 1, 1992.)

—In my last report, I noted that the Department of Commerce issued a conforming regulation to bring the Commerce Control List (CCL) into line with special country- and commodity-based controls. In this action, the transfer from the State Department to the Commerce Department of licensing jurisdiction over certain civil aircraft inertial navigation equipment was implemented. (57 F.R. 4553, February 6, 1992.) This transfer of items formerly included in the State Department's U.S. Munitions List (USML) to the CCL is ongoing. The majority of overlaps between the USML and the CCL were eliminated in the April 25, 1992, amendment to the USML. (57 F.R. 15227.) In the future, certain commercial telecommunications satellites, imaging technologies, and navigational technologies will be removed from the USML and added to the CCL.

—We are continuing our efforts to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction and missile delivery systems. As such, we have been working with our major trading partners to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of nuclear, chemical, and biological weapons and missile systems.

—At the June 1992 meeting of the 22-nation Australia Group (AG), a consortium of nations that seeks to prevent the proliferation of chemical and biological weapons (CBW), the delegates agreed to establish a refined common control list for exports of dual-use biological equipment and to increase from 50 to 54 the number of precursor chemicals subject to control. The Commerce Department is in the process of publishing rules reflecting the changes to conform the U.S. list to the AG list.

—The United States has also been a key participant in the ongoing Chemical Weapons Convention (CWC) negotiations in Geneva, Switzerland. On September 3 the Conference on Disarmament, which is the drafting body for the CWC, forwarded to the United Nations General Assembly, a draft CWC, which includes a prohibition on the design, development, production, or use of chemical weapons, as well as destruction of chemical weapons production facilities and stockpiles. The United States strongly supports these provisions.

—In April, the 27-nation Nuclear Suppliers Group (NSG), in which the United States participates, formally established a multilateral regime to control nuclear-related dual-use items similar to the nuclear-referral list currently administered by the Department of Commerce. The Department is working to publish a rule to conform the U.S. list with the NSG list.

—At the June-July plenary session in Oslo, the Missile Technology Control Regime (MTCR) members welcomed Greece, Ireland, Portugal, and Switzerland to their ranks, bringing the total membership to 22 nations. The MTCR members also agreed to amend the Guidelines and Equipment and Technology Annex to ensure adequate control of delivery systems for *all* types of weapons of mass destruction—including chemical and biological weapons, as well as nuclear weapons. The MTCR partners expect to have the revised Guidelines in effect by the end of October 1992.

—The Commerce Department has also participated in implementation of missile technology sanctions imposed by the Department of State under Title XVII of the National Defense Authorization Act for FY 1991 (Public Law 101-510). Sanctions, which include denial of export licenses, have been imposed on the following foreign entities: ARMSCOR (South Africa), Changgwang Credit Corporation (North Korea), China Great Wall Industry Corporation (PRC), China Precision Machinery Import-Export Corporation (PRC), Glavkosmos (Russia), Indian Space Research Organization (ISRO—India), Lyongaksan Machineries and Equipment Export Corporation (North Korea), Ministry of Defense (Syria), Ministry of Defense and Armed Forces Logistics (Iran), Space and Upper Atmosphere Research Commission (SUPARCO—Pakistan), and Syrian Scientific Research Center a/k/a Centre d'Etudes et Recherches Scientifique (Syria). The sanctions imposed in June 1991 on the two Chinese entities were recently waived.

—In the area of supercomputers we have established a supercomputer safeguard regime with Japan, and we are negotiating with our European trading partners to expand this regime. Under the provisions published in May, exports of supercomputers to Canada do not require a license, exports to Japan may be made under General License GCT, and both Distribution Licenses and individual validated licenses are available for exports to many Western European destinations with only minimum safeguards. Supercomputer exports involve sensitive national security and foreign policy interests, such as cryptology, strategic defense, and submarine warfare; the multilateral safeguard regime is therefore intended to establish uniform and effective international policies and procedures to protect supercomputers from unauthorized end-uses and end-users, without unnecessarily burdening U.S. exporters. (57 F.R. 20963, May 18, 1992.)

—At the beginning of the year, I announced the lifting of the U.S. embargo against Cambodia in response to the United Nations-directed comprehensive political settlement of the decades-long Cambodian conflict. In April the Commerce Department issued a rule removing Cambodia from the list of embargoed countries and revising licensing policies and procedures affecting Cambodia and Laos to allow these countries to receive general license treatment for exports and reexports of many items. (57 F.R. 11576, April 6, 1992.)

—More recently, the Department issued a rule permitting commercial exports of humanitarian goods—including food, building materials, and health and educational items to Vietnam, under a new general license. This liberalization in export control policy is consistent with the step-by-step process for normalizing relations with Vietnam, and should further reduce paperwork and expand trade to benefit America's exporters. (57 F.R. 31658, July 17, 1992.)

—Finally, our enforcement efforts are proceeding apace as we continue to enforce export controls vigorously. The export control provisions of the Export Administration Regulations are enforced jointly by the Commerce Department's Office of Export Enforcement and the U.S. Customs Service. Both of these agencies investigate allegations and, where appropriate, refer them for criminal prosecution by the Justice Department. Additionally, the Commerce Department has continued its practices of imposing significant administrative sanctions for violations, including civil penalties and denial of export privileges.

—Commerce's Office of Export Enforcement (OEE) has continued its vital preventive programs such as pre-license checks and post-shipment verifications, export license review, and on-site verification visits by teams of enforcement officers in many countries. The OEE has also continued its outreach to the business community to assist exporters with their compliance programs and to solicit their help in OEE's enforcement effort. The OEE has initiated its well-received Business Executive Enforcement Team (BEET) to enhance interaction between the regulators and the regulated.

—The OEE has also initiated a new program—the Strategic and Nonproliferation Enforcement Program (SNEP)—which targets critical enforcement resources on exports to countries of concern in the Middle East and elsewhere.

—In one of many successful enforcement efforts, following his plea of guilty to several counts of an indictment charging him with violating U.S. export control laws, Don Danesh, an Iranian national doing business in the United States, was sentenced to serve 12 months in jail and placed on supervised probation for an additional 36 months. Danesh's associate, Ray Amiri, also an Iranian national doing business in the United States, is expected to be sentenced in the near future following his guilty plea. In developments related to the criminal case, on May 29, 1992, the Acting Assistant Secretary for Export Enforcement renewed an order temporarily denying the export privileges of Amiri, his company, and Danesh. (57 F.R. 24242, June 8, 1992.)

—In the last 6 months, the Department has continued to enforce the antiboycott law vigorously. The Office of Antiboycott Compliance (OAC) is fully staffed with 30 full-time employees, and OAC has doubled the level of civil penalties it seeks to impose within the statutory $10,000 per violation maximum. The total dollar amount of civil penalties imposed so far in fiscal year 1992 approaches $2 million, the second largest amount in the history of the program.

—During this 6-month reporting period, significant civil penalties were assessed against several companies in antiboycott compliance cases. Among them, by Order of May 19, 1992, L.A. Gear, Inc., was assessed a civil penalty of $404,000 to settle allegations that the company complied with boycott requests from a customer in Kuwait and that it failed to report its receipt of boycott requests. On August 12, 1992, the Bank of Baroda, one of India's largest banks, was assessed a civil penalty of $502,000 to settle allegations that it implemented letters of credit containing prohibited boycott conditions and that it failed to report its receipt of boycott requests. After reviewing data related to the financial condition of the bank, the Department agreed to suspend payment of $227,000 of the $502,000 civil penalty.

5. The expenses incurred by the Federal Government in the 6-month period from April 1, 1992, to September 30, 1992, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are anticipated to be $19,186 million, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

6. The unrestricted access of foreign parties to U.S. goods, technology, and technical data, and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, continue to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. I shall continue to exercise the powers at my disposal to retain the export control system, including the antiboycott provisions, and will continue to report periodically to the Congress.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

## FEDERAL PAY REDUCTION ACT—MESSAGE FROM THE PRESIDENT—PM 279

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Government Affairs:

*To the Congress of the United States:*

I am pleased to transmit today for your immediate consideration and enactment the "Federal Pay Reduction Act of 1992." This legislation is part of my Agenda for American Renewal. The proposal is an important step toward "rightsizing" our Government—making it more fiscally responsible and reducing its size and structure. Also transmitted is a section-by-section analysis.

There are many in America who are out of work or uncertain of their prospects. The Federal deficit constrains the capacity to rejuvenate the economy. It is therefore appropriate that those who lead the Government make a personal contribution—toward reducing the deficit and as a symbol of our understanding of the concerns of so many Americans. Accordingly, this proposal would reduce the salary of the President, the Vice President, and the Speaker of the House of Representatives by a full 10 percent. For other leaders in the Government—Members of Congress, senior officials paid more than $75,000 in all three branches of the Government, and high-ranking military officers—the pay reductions would be 5 percent. An otherwise scheduled pay increase in January 1993 for these officials would not take place.

Under our Constitution, the President's salary can only be changed at the beginning of a new term of office. Pay reductions for all others affected will take place with the first pay period beginning on or after January 20, 1993. It is therefore essential that this legislation be enacted immediately, before the adjournment of the current Congress.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

### VETO MESSAGE ON S. 323, THE FAMILY PLANNING AMENDMENTS ACT—MESSAGE FROM THE PRESIDENT—PM 280

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was ordered to lie on the table:

*To the Senate of the United States:*

I am returning herewith without my approval S. 323, the "Family Planning Amendments Act of 1992." This legislation would extend and amend the Federal family planning program under title X of the Public Health Service Act.

If the scope of S. 323 were limited to family planning, I would approve it. My Administration has an excellent record in support of family planning. About this there can be no question. Our approach to reauthorizing title X was embodied in a bill transmitted to the Congress on February 25, 1991. We need a family planning program to deliver preventive, pre-pregnancy services.

Unfortunately, S. 323 is unacceptable because it would override current regulations that are designed to maintain the title X program's integrity as a pre-pregnancy family planning program. The bill would require projects supported by title X family planning funds to counsel pregnant women on, and refer them for, abortions. Such a requirement is totally alien to the purpose of the title X program. Title X is a quality health care program that provides pre-pregnancy family planning information and services and refers pregnant women to health care providers who can ensure continuity of care.

Under current regulations, upheld by the United States Supreme Court, pregnant women who seek services from clinics funded by title X would be referred to qualified providers for prenatal care and other social services, including counseling. Moreover, nothing in these regulations prevents a woman from receiving complete medical information about her condition from a physician. The Supreme Court specifically found that the regulations regarding the title X program in no way violated free speech rights.

In a memorandum to Department of Health and Human Services Secretary Louis Sullivan on November 5, 1991, I reiterated my commitment to preserving the confidentiality of the doctor/patient relationship. In that memorandum, I also repeated my commitment to ensuring that the operation of the title X family planning program is compatible with free speech and the highest standards of medical care. My memorandum makes clear that there is no "gag rule" to interfere with the doctor/patient relationship. There can be no doubt that my Administration is committed to the protection of free speech.

I have repeatedly informed the Congress that I would disapprove any legislation that would transform this program into a vehicle for the promotion of abortion. Unfortunately, the Congress has seen fit to entangle this family planning program in the politics of abortion.

I believe that the title X family planning program should be reauthorized. I now urge the Congress to adopt a bill that promotes true family planning rather than requiring Federal tax dollars to be used in a manner that promotes abortion as a method of birth control.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1992.*

### PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On February 18, 1992:

S. 1415. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.

On March 17, 1992:

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

On March 19, 1992:

S. 996. An act to authorize and direct the Secretary of the Interior to terminating a reservation of use and occupancy at the Buffalo National River; and for other purposes, and

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

On March 20, 1992:

S. 1467. An act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr., Federal Building and United States Courthouse."

S. 1889. An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse"; and

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

On March 26, 1992:

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes.

On April 15, 1992:

S.J. Res. 246. Joint resolution to designate April 15, 1992 as "National Recycling Day."

On April 16, 1992:

S.J. Res. 271. Joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.

On April 20, 1992:

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

On April 21, 1992:

S. 985. An act to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

On April 22, 1992:

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes.

On May 9, 1992:

S.J. Res. 174. Joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month," and

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

On May 14, 1992:

S.J. Res. 251. Joint resolution to designate the month of May 1922 as "National Huntington's Disease Awareness Month".

On May 20, 1992:

S. 2378. An act to amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes.

On May 26, 1992:

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes.

On May 27, 1992:

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, and

S. 749. An act to rename and expand the boundaries of the Mound City Group National Monument in Ohio.

On May 28, 1992:

S. 838. An act to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such act and for other purposes, and

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

On June 2, 1992:

S. 2569. An act to provide for the temporary continuation in office of the current Deputy Security Advisor in a flag officer grade in the Navy.

On June 9, 1992:

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California.

On June 16, 1992:

S. 2783. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical devices and for other purposes.

June 26, 1992:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes, and

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

On July 1, 1992:

S. 2905. An act to provide a 4-month extension of the transition rule for separate capitalization of savings associations' subsidiaries.

On July 2, 1992:

S. 2901. An act to direct the Secretary of Health and Human Services to extend the waiver granted to the Tennessee Primary Care Network of the enrollment mix requirement under the Medicaid Program.

On July 10, 1992:

S. 1254. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes, and

S. 1306. An act to amend the Public Health Service act to restructure the Alcohol, Drug Abuse, and Mental Health Administration and the authorities of such administration, including establishing separate block grants to enhance the delivery of services regarding substance abuse and mental health, and for other purposes.

On July 20, 1992:

S.J. res. 324. Joint Resolution to commend the NASA Langley Research Center on the celebration of its 75th anniversary on July 17, 1992.

On July 22, 1992:

S. 2780. An act to amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes.

On July 23, 1992:

S. 1150. An act to reauthorize the Higher Education Act of 1965, and for other purposes.

On August 3, 1992:

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada;

S. 2938. An act to authorize the Architect of the Capitol to acquire certain property;

S.J. Res. 92. Joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; and

S.J. Res. 295. Joint resolution designating September 10, 1992, as "National D.A.R.E. Day."

On August 4, 1992:

S. 249. An act for the relief of Trevor Henderson, and

S.J. Res. 310. Joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

On August 6, 1992:

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991.

On August 7, 1992:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan, and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

On August 12, 1992:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day."

On August 14, 1992:

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

On August 17, 1992:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson.

On August 26, 1992:

S. 544. An act to protect animal enterprises;

S. 807. An act to permit Mount Olivet Cemetary Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years;

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes;

S. 1963. An act to amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress;

S. 2079. An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes;

S. 3001. An act to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes;

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes; and

S. 3163. An act to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, or for other purposes.

On September 24, 1992:

S.J. Res. 303. Joint resolution to designate October 1992 as "National Breast Cancer Awareness Month".

## MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes.

S. 1766. An act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes.

H.R. 2194. An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes.

H.R. 3654. An act to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes.

H.R. 5126. An act to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:45 p.m., a message from the House of Representatives, delivered by Mr. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 5, 7, 9, 10, 15, 27, 29, 36, 40, 42, 49, 78, 88, 90, 120, 127, 131, 159, 160, 161, 163, 171, 182, 189, 190, 191, 192, 194, 200, 218, 219, 220, 221, 222, 231, 233, 235, 236, 237, 252, 256, 266, 267, 269, 272, 278, 280, 281, 282, and 287 and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 28, 41, 47, 48, 51, 64, 79, 87, 91, 97, 98, 107, 113, 139, 151, 156, 164, 170, 178, 180, 196, 197, 227, 230, 232, 241, 242, 243, 244, 245, 246, 247, 249, 254, 259, 260, 277, and 303 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 268.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1330. An act to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes; and

S. 2266. An act to provide for recovery of costs of supervision and regulation of investment advisors and their activities, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3627. An act to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs;

H.R. 5058. An act to authorize appropriations for the American Falkklife Center for fiscal year 1993.

H.R. 5716. An act to extend for two years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968.

### ENROLLED BILLS SIGNED

At 6:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5373. An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5517. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

## MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4014. An act to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committee on Labor and Human Resources.

## ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 25, 1992, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes;

S. 1731. An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes;

S. 1766. An act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes;

S. 3175. An act to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990; and

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2642. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, 1995, and for other purposes (Rept. No. 102–424).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 3177. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula (Rept. No. 102–425).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 3179. A bill to amend title IX of the Public Health Service Act to revise and extend programs under such title, and for other purposes (Rept. No. 102–426).

By Mr. JOHNSTON, from the Committee on the Judiciary, without amendment:

S. 1697. A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the Act, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. THURMOND, Mr. D'AMATO, Mr. STEVENS, Mr. MCCAIN, and Mr. LOTT):

S. 3271. A bill to prevent and punish sexual violence and domestic violence, to assist and protect the victims of such violence, to assist State and local efforts, and for other purposes; to the Committee on the Judiciary.

By Mr. GLENN:

S. 3272. A bill to amend title 39, United States Code, to provide that Federal contract laws shall apply to the United States Postal Service; to the Committee on Governmental Affairs.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. GRAHAM, Mr. BREAUX, Mr. AKAKA, and Mr. BENTSEN):

S. 3273. A bill to establish a wind engineering program within the National Institute of Standards and Technology; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. DOLE, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. BOREN, Mr. BAUCUS, Mr. RIEGLE, Mr. SIMPSON, Mr. DURENBERGER, Mr. ROTH, Mr. GRASSLEY, and Mr. DASCHLE):

S. 3274. A bill to amend various medicare and medicaid provisions of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. PELL (by request):

S. 3275. A bill to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include Administratively Uncontrollable Overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself and Ms. MIKULSKI):

S. 3276. A bill to reduce motor vehicle theft; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 3277. A bill to permit the Secretary of Health and Human Services to grant waivers to States to provide coverage under State health care delivery programs to individuals who are otherwise eligible for benefits under title XVIII of the Social Security Act or eligible to enroll under State plans for medical assistance under title XIX of such Act; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself and Mr. PELL):

S. Res. 349. A resolution relating to hostilities between the Republics of Armenia and Azerbaijan; to the Committee on Foreign Relations.

By Mr. FORD (for Mr. MITCHELL):

S. Res. 350. A resolution to authorize the making of appointments; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. THURMOND, Mr. D'AMATO, Mr. STEVENS, Mr. MCCAIN, and Mr. LOTT):

S. 3271. A bill to prevent and punish sexual violence and domestic violence, to assist and protect the victims of such violence, to assist State and local efforts, and for other purposes; to the Committee on the Judiciary.

### SEXUAL ASSAULT PREVENTION ACT OF 1992

Mr. DOLE. Mr. President, the media has told us that this is the "Year of the Woman." And there is no doubt that women are running for office in record numbers.

But while the media has fallen all over itself in reporting on women candidates, they have devoted much less attention to the countless women who are victims of violent crime.

Over a year and a half ago—on February 21, 1991—several of my colleagues joined me in introducing the Women's Equal Opportunity Act.

This legislation contained numerous provisions which got tough with those who assault women, either on the street, or in the home.

Many of the provisions of this bill, which was introduced in the House by Congresswoman SUSAN MOLINARI—were included in the anticrime bill passed by the House of Representatives.

Unfortunately, and for reasons I still cannot understand, the Democrat-controlled conference committee stripped nearly all of these provisions out of the bill. This is just one of the many reasons why many Senators have continued to oppose the conference bill on crime.

Meanwhile, a staggering 2.5 million violent crimes are committed against women each year.

Indeed, according to the Senate Judiciary Committee, violent attacks by men is the No. 1 health risk to adult women in America today. Further, the United States has a rape rate that is 13 times higher than England's and more than 20 times higher than Japan's.

I believe these numbers are a national disgrace—a disgrace we must have the courage to recognize and the commitment to reform.

Therefore, I am introducing legislation today that combines the strongest parts of my 1991 legislation with the strongest parts of other legislative proposals dealing with violence against women.

Senators THURMOND, D'AMATO, MCCAIN, LOTT, and STEVENS join me as original cosponsors, and I invite other Senators to sign on, as well.

Our legislation will accomplish the following: authorizing the death penalty for murders committed by sex offenders.

Doubling the maximum penalty for recidivists convicted of sexual assaults.

Testing those accused of sexual assaults for the AIDS virus, and disclosing the results of those tests to the victim.

Authorizing the admission of evidence of prior sexual assault offenses by the defendant in sexual assault trials.

Creation of a Federal crime covering spousal abuse, violation of protective orders, and stalking, if interstate travel is involved.

Establishment of comprehensive grant programs to assist State and local efforts to combat sexual violence and domestic violence, and to enforce child support obligations.

Mr. President, we all know that time is short. There are only a few weeks left to act on this bill. But I believe there is still time to pass this legislation.

President Bush has always supported and proposed the toughest possible provisions to get tough with sexual offenders. The chairman of the Judiciary Committee has also proposed legislation on this topic, although it is much, much, weaker than the legislation I introduce today, or that which the President has proposed.

I ask my friends on the other side of the aisle to look again at this legislation, to look again at the epidemic of violence against women, and to join those of us who want to pass the toughest legislation possible.

I know the distinguished chairman of the Judiciary Committee, Senator BIDEN, also has a deep interest in this matter. It is still my hope that there may be some way to put together the best parts of each legislation and pass the bill before Congress adjourns.

I send the bill to the desk and ask for its appropriate referral, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3271

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Assault Prevention Act of 1992".

### SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SEXUAL VIOLENCE

Subtitle A—Penalties and Remedies

Sec. 101. Pre-trial detention in sex offense cases.
Sec. 102. Death penalty for murders committed by sex offenders.
Sec. 103. Increased penalties for recidivist sex offenders.
Sec. 104. Increased penalties for sex offenses against victims below the age of 16.
Sec. 105. Sentencing guidelines increase for sex offenses.
Sec. 106. HIV testing and penalty enhancement in sex offense cases.
Sec. 107. Payment of cost of HIV testing for victims in sex offense cases.
Sec. 108. Increased penalties for drug distribution to pregnant women.
Sec. 109. Extension and strengthening of restitution.
Sec. 110. Enforcement of restitution orders through suspension of Federal benefits.
Sec. 111. Civil remedy for victims of sexual violence.

Subtitle B—Rules of Evidence, Practice, and Procedure

Sec. 121. Admissibility of evidence of similar crimes in sex offense cases.
Sec. 122. Extension and strengthening of rape victim shield law.
Sec. 123. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
Sec. 124. Right of the victim to fair treatment in legal proceedings.
Sec. 125. Right of the victim to an impartial jury.
Sec. 126. Victim's right of allocution in sentencing.
Sec. 127. Victim's right of privacy.

Subtitle C—Safe Campuses

Sec. 131. National baseline study on campus sexual assault.
Sec. 132. Disclosure of arrest records by campus police.
Sec. 133. Required reporting of campus sexual assaults.

Subtitle D—Assistance to States and Localities

Sec. 141. Sexual violence grant program.
Sec. 142. Supplementary grants for states adopting effective laws relating to sexual violence.

TITLE II—DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

Sec. 201. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.
Sec. 202. Non-compliance with child support obligations in interstate cases.
Sec. 203. Full faith and credit for protective orders.
Sec. 204. Presumption against child custody for spouse abusers.
Sec. 205. Report on battered women's syndrome.
Sec. 206. Report on confidentiality of addresses for victims of domestic violence.
Sec. 207. Report on recordkeeping relating to domestic violence.
Sec. 208. Anti-stalking legislation.
Sec. 209. Domestic violence and family support grant program.

TITLE III—NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

Sec. 301. Establishment.
Sec. 302. Duties of task force.
Sec. 303. Membership.
Sec. 304. Pay.
Sec. 305. Executive director and staff.
Sec. 306. Powers of task force.
Sec. 307. Report.
Sec. 308. Authorization of appropriations.
Sec. 309. Termination.

## TITLE I—SEXUAL VIOLENCE

### Subtitle A—Penalties and Remedies

### SEC. 101. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking ", or" at the end of subparagraph (A) and inserting a semicolon;

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following:

"(C) any felony under chapter 109A or chapter 110 of this title.".

### SEC. 102. DEATH PENALTY FOR MURDERS COMMITTED BY SEX OFFENDERS.

Title 18 of the United States Code is amended—

(1) by adding the following new section at the end of chapter 51:

**"§ 1118. Death penalty for murders committed by sex offenders**

"(a) OFFENSE.—Whoever—

"(1) causes the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life; or

"(2) causes the death of a person through the intentional infliction of serious bodily injury;

shall be punished as provided in subsection (c) of this section.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section, except that a sentence of death may not be imposed on a defendant who was below the age of 18 years at the time of the commission of the crime.

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f) of this section, including the following factors—

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES.—The conduct resulting in death occurred in the course of an offense defined in chapter 109A, 110, or 117 of this title.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant committed a crime of sexual assault or crime of child molestation in the course of an offense on which Federal jurisdiction is based under subsection (b).

"(3) Prior conviction of sexual assault or child molestation.—The defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

"(f) Notice of Intent To Seek Death Penalty.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time before trial as the court may permit for good cause. If the court permits a late filing of the notice upon a showing of good cause, the court shall ensure that the defendant has adequate time to prepare for trial. The notice shall set forth the aggravating factor or factors the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) Judge and Jury at Capital Sentencing Hearing.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

"(h) Proof of Mitigating and Aggravating Factors.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f) of this section, may be presented by either the Government or the defendant. The information presented may include trial transcripts and exhibits. Information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and the attorney for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) Findings of Aggravating and Mitigating Factors.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) of this section and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) Finding Concerning a Sentence of Death.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in this section exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j) of this section, shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) of this section that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, that is authorized by law.

"(m) Review of a Sentence of Death.—The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i) of this section. The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i) of this section, and that the proceedings were otherwise free of prejudicial error that was properly preserved for and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was not supported by the evidence and information if at least one aggravating factor set forth in subsection (e) of this section which was found to exist remains and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar to Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection to Participation in Execution.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no person providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel for Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A of this title shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable that counsel to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time for Collateral Attack on Death Sentence.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) of this section appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u) of this section, or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) of this section has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'crime of sexual assault' means a crime under Federal or State law that involved—

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C);

"(2) 'crime of child molestation' means a crime under Federal or State law that involved—

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C); and

"(3) 'child' means a person below the age of 14."; and

(2) by adding the following at the end of the table of sections at the beginning of chapter 51:

"1118. Capital punishment for murders committed by sex offenders.".

**SEC. 103. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.**

(a) Redesignation.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) Penalties for Subsequent Offenses.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

**"§ 2245. Penalties for subsequent offenses**

"Any person who violates this chapter, after a prior conviction under this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended—

(1) by striking "2245" and inserting in lieu thereof "2246"; and

(2) by inserting after the item relating to section 2244 the following:

"2245. Penalties for subsequent offenses.".

**SEC. 104. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.**

Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

**SEC. 105. SENTENCING GUIDELINES INCREASE FOR SEX OFFENSES.**

The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (relating to aggravated sexual abuse) or section 2242 (relating to sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors. In any subsequent amendment to the sentencing guidelines, the Sentencing Commission shall maintain minimum guidelines sentences for the offenses referenced in this section which are at least equal to those required by this section.

### SEC. 106. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL OFFENSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

**"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty**

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

### SEC. 107. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

### SEC. 108. INCREASED PENALTIES FOR DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

### SEC. 109. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim" in paragraph (2);

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and"; and

(3) in subsection (d), by inserting at the end the following: "However, the court shall issue an order requiring restitution of the full amount of the victim's losses and expenses for which restitution is authorized under this section in imposing sentence for an offense under chapter 109A or chapter 110, unless the Government and the victim do not request such restitution.".

### SEC. 110. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

### SEC. 111. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIOLENCE.

(a) CAUSE OF ACTION.—Whoever, in violation of the Constitution or laws of the United States, engages in sexual violence against another, shall be liable to the injured party in an action under this section. The relief available in such an action shall include compensatory and punitive damages and any appropriate equitable or declaratory relief.

(b) DEFINITION.—For purposes of this section, "sexual violence" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(c) ATTORNEY'S FEES.—The Civil Rights Attorney's Fees Award Act of 1976 (42 U.S.C. 1988) is amended by striking "or" after "Public Law 92-318" and by inserting after "1964" the following: ", or section 111 of the Sexual Assault Prevention Act of 1992,".

## Subtitle B—Rules of Evidence, Practice, and Procedure

### SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

**"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases**

"(a) Evidence admissible.—In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) Disclosure to defendant.—In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) Definition.—For purposes of this Rule and Rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in any of paragraphs (1) through (4).

**"Rule 414. Evidence of Similar Crimes in Child Molestation Cases**

"(a) Evidence admissible.—In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) Disclosure to defendant.—In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) Definition.—For purposes of this Rule and Rule 414, 'child' means a person below the age of 14 years, and 'offense of child molestation' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in any of paragraphs (1) through (5).

**"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation**

"(a) Evidence admissible.—In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these Rules.

"(b) Disclosure to other parties.—A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) Effect on other rules.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.".

### SEC. 122. EXTENSION AND STRENGTHENING OF RAPE VICTIM SHIELD LAW.

(a) AMENDMENTS TO RAPE VICTIM SHIELD LAW.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in subdivisions (a) and (b), by striking "criminal case" and inserting "criminal or civil case";

(2) in subdivisions (a) and (b), by striking "an offense under chapter 109A of title 18, United States Code," and inserting "an offense or civil wrong involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison,";

(3) in subdivision (a), by striking "victim of such offense" and inserting "victim of such conduct";

(4) in subdivision (c)—

(A) by striking in paragraph (1) "the person accused of committing an offense under chapter 109A of title 18, United States Code" and inserting "the accused"; and

(B) by inserting at the end of paragraph (3) the following: "An order admitting evidence under this paragraph shall explain the reasoning leading to the finding of relevance, and the basis of the finding that the probative value of the evidence outweighs the danger of unfair prejudice notwithstanding the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased inferences."; and

(5) in subdivision (d), by striking "an offense under chapter 109A of title 18, United States Code" and inserting "the conduct proscribed by chapter 109A of title 18, United States Code,".

(b) INTERLOCUTORY APPEAL.—Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following:

"An appeal by the United States before trial shall lie to a court of appeals from an order of a district court admitting evidence of an alleged victim's past sexual behavior in a criminal case in which the defendant is charged with an offense involving conduct proscribed by chapter 109A of this title, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.".

### SEC. 123. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 415 (as added by section 121 of this Act) the following:

**"Rule 416. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.**

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This Rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these Rules.".

### SEC. 124. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted as an appendix to title 28, United States Code:

## "RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Abuse of Victims and Others Prohibited
"Rule 3. Duty of Enquiry in Relation to Client
"Rule 4. Duty to Expedite Litigation
"Rule 5. Duty to Prevent Commission of Crime

**"Rule 1. Scope**

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before federal tribunals.

"(b) For purposes of these rules, 'federal tribunal' and 'tribunal' mean a court of the United States or an agency of the federal government that carries out adjudicatory or quasi-adjudicatory functions.

**"Rule 2. Abuse of Victims and Others Prohibited**

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

**"Rule 3. Duty of Enquiry in Relation to Client**

"A lawyer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime or civil wrong, the duty of enquiry under this rule includes—

"(1) attempting to elicit from the client a materially complete account of the alleged criminal activity or civil wrong if the client acknowledges involvement in the alleged activity or wrong; and

"(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

**"Rule 4. Duty to Expedite Litigation**

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

**"Rule 5. Duty to Prevent Commission of Crime**

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious bodily injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

### SEC. 125. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

### SEC. 126. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following: "(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.

### SEC. 127. VICTIM'S RIGHT OF PRIVACY.

(a) FINDINGS.—The Congress finds that—

(1) the crime of rape is underreported to law enforcement authorities because of its traumatic effect on victims and the stigmatizing nature of the crime;

(2) rape victims may be further victimized by involuntary public disclosure of their identities;

(3) rape victims should be encouraged to come forward and report the crime without fear of being revictimized through involuntary public disclosure of their identities; and

(4) any interest of the public in knowing the identity of a rape victim notwithstanding the victim's wishes to the contrary is outweighed by the interest of protecting the privacy of rape victims and encouraging rape victims to report the crime and assist in prosecution.

(b) SENSE OF CONGRESS.—It is the sense of Congress that news media, law enforcement personnel, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

## Subtitle C—Safe Campuses

### SEC. 131. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

### SEC. 132. DISCLOSURE OF ARREST RECORDS BY CAMPUS POLICE.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

### SEC. 133. REQUIRED REPORTING OF CAMPUS SEXUAL ASSAULTS.

Section 485(f)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)(F)), as added by the Crime Awareness and Campus Security Act of 1990, is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.".

## Subtitle D—Assistance to States and Localities

### SEC. 141. SEXUAL VIOLENCE GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish sexual violence, and to assist and protect the victims of sexual violence.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to sexual violence, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of sexual violence;

(2) law enforcement and prosecutorial units and teams that target sexual violence;

(3) victim services programs for victims of sexual violence;

(4) educational and informational programs relating to sexual violence;

(5) improved systems for collecting, keeping, and disseminating records and data concerning sexual violence and offenders who engage in sexual violence;

(6) background check systems that enable employers to determine whether employees and applicants for employment have criminal histories involving sexual violence, in relation to employment positions for which a person may be unsuitable on the basis of such a history, such as child care positions and positions involving access to people's homes;

(7) registration systems which require persons convicted of sexual violence to keep law enforcement authorities informed of their addresses or locations;

(8) security measures in parks, public transportation systems, public buildings and facilities, and other public places which reduce the risk that acts of sexual violence will occur in such places;

(9) programs addressing campus sexual assaults, as defined in section 131 of this Act;

(10) programs assisting runaway and homeless children who have been subjected to or at risk of sexual violence or sexual exploitation;

(11) training programs for judges and court personnel in relation to cases involving sexual violence; and

(12) treatment programs in a correctional setting for offenders who engage in sexual violence, which may include aftercare components, and which shall include an evaluation component to determine the effectiveness of the treatment in reducing recidivism.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing sexual violence in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project of program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(4) PAYMENT OF COST OF FORENSIC MEDICAL EXAMINATIONS.—It is a condition of eligibility for grants under subsection (c) that a State pay the cost of forensic medical examinations for victims of sexual violence.

(5) POLICIES AGAINST CAMPUS SEXUAL ASSAULTS.—For an institution of postsecondary education seeking a grant under subsection (d), it is a condition of eligibility that the institution articulate and communicate to its students a clear policy that sexual violence will not be tolerated by the institution.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Domestic Violence and Family Support Grant Program established by section 209 of this Act, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—For purposes of this section, "sexual violence" includes non-consensual sex offenses and sex offenses involving victims who are not able to give legally effective consent because of age or incompetency.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in each of fiscal years 1993, 1994, and 1995, $250,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

### SEC. 142. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) SUPPLEMENTARY GRANTS.—The Attorney General may, in each fiscal year, authorize the award to a State of an aggregate amount of up to $1,000,000 under the Sexual Violence Grant Program established by section 141 of this Act, in addition to any funds that are otherwise authorized under that program. The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws relating to sexual violence that exceed or are reasonably comparable to the provisions of federal law (including changes in federal law adopted by this Act) in the following areas:

(1) Authorization of pre-trial detention of defendants in sexual assault cases where prevention of flight or the safety of others cannot be reasonably assured by other means, and denial of release pending appeal for persons convicted of sexual assault offenses who have been sentenced to imprisonment.

(2) Authorization of severe penalties for sexual assault offenses.

(3) Pre-trial testing for the human immunodeficiency virus of persons charged with sexual assault offenses, with disclosure of test results to the victim.

(4) Payment of the cost of medical examinations and the cost of testing for the human immunodeficiency virus for victims of sexual assaults.

(5) According the victim of a sexual assault the right to be present at judicial proceedings in the case.

(6) Protection of victims from inquiry into unrelated sexual behavior in sexual assault cases.

(7) Rules of professional conduct for lawyers that protect victims from unwarranted cross-examination and impeachment, dilatory tactics, and other abuses in sexual assault cases.

(8) Authorization of admission and consideration in sexual assault cases of evidence that the defendant has committed sexual assaults on other occasions.

(9) Authorization of the victim in sexual assault cases to address the court concerning the sentence to be imposed.

(10) Authorization of the award of restitution to victims of sexual assaults as part of a criminal sentence.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this section.

## TITLE II—DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

### SEC. 201. INTERSTATE TRAVEL TO COMMIT SPOUSE ABUSE OR TO VIOLATE PROTECTIVE ORDER; INTERSTATE STALKING.

(a) OFFENSE.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

### “CHAPTER 110A—DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

“Sec.

“2261. Domestic violence and stalking.

**“§ 2261. Domestic violence and stalking**

“(a) OFFENSE.—Whoever, in a circumstance described in subsection (c), causes or attempts to cause bodily injury to, engages in sexual abuse against, or violates a protective order in relation to, another shall be punished—

“(1) if death results, by death or by imprisonment for any term of years or for life;

“(2) if permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years;

“(3) if serious bodily injury results, or if a firearm, knife, or other dangerous weapon is possessed, carried, or used during the commission of the offense, by imprisonment for not more than 10 years; and

“(4) in any other case, by imprisonment for not more than five years.

If, however, the defendant engages in sexual abuse and the penalty authorized for such conduct under chapter 109A exceeds the penalty which would otherwise be authorized under this subsection, then the penalty authorized for such conduct under chapter 109A shall apply.

“(b) MANDATORY PENALTIES.—A sentence under this section shall include at least 3 months of imprisonment if the offense involves the infliction of bodily injury on or the commission of sexual abuse against the victim. A sentence under this section shall include at least 6 months of imprisonment if the offense involves the violation of a protective order and the defendant has previously violated a protective order in relation to the same victim.

“(c) REQUIRED CIRCUMSTANCES.—The circumstance referred to in subsection (a) of this section is that the defendant traveled in interstate or foreign commerce, or transported or caused another to move in interstate or foreign commerce, with the intention of committing or in furtherance of committing the offense, and—

“(1) the victim was a spouse or former spouse of the defendant, was cohabiting with or had cohabited with the defendant, or had a child in common with the defendant; or

“(2) the defendant on two or more occasions—

“(A) has caused or attempted or threatened to cause death or serious bodily injury to or engaged in sexual abuse in relation to the victim; or

“(B) has engaged in any conduct that caused or was intended to cause apprehension by the victim that the victim would be subjected to death, serious bodily injury, or sexual abuse.

“(d) DEFINITIONS.—As used in this section—

“(1) the term 'protective order' means an order issued by a court of a State prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person;

"(2) the term 'sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison;

"(3) the terms 'serious bodily injury' and 'bodily injury' have the meanings, respectively, given those terms in section 1365(g) of this title; and

"(4) the term 'State' has the meaning given that term in section 513(c)(5) of this title.".

(b) Clerical Amendment.—The table of chapters at the beginning of Part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Domestic violence and offenses against the family ............ 2261".

(c) Mandatory Restitution.—Section 3663 of title 18, United States Code, as amended by section 109 of this Act, is further amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261" in subsection (b)(2) and in subsection (d).

(d) Interim Protection.—Section 3156(a)(4)(C) of title 18, United States Code, as added by section 101 of this Act, is amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261".

(e) Death Penalty Procedures.—Section 1118 of title 18, United States Code, as enacted by section 102 of this Act, is amended in paragraph (1) of subsection (e) by inserting "or section 2261" after "117".

### SEC. 202. NONCOMPLIANCE WITH CHILD SUPPORT OBLIGATIONS IN INTERSTATE CASES.

(a) Offense.—Chapter 110A of title 18, United States Code, as enacted by section 201 of this Act, is amended by adding at the end the following:

**"§ 2262. Noncompliance with child support obligations**

"(a) Offense.—Whoever—

"(1) leaves or remains outside a State with intent to avoid payment of a child support obligation; or

"(2) fails to pay a major child support obligation, as defined in subsection (e), with respect to a child who resides in another State, despite having the financial resources to pay the obligation or the ability to acquire such resources through reasonable diligence;

shall be punished as provided in subsection (c).

"(b) Presumption.—In relation to an offense charged under subsection (a)(1), the absence of the defendant from the State for an aggregate period of 6 months without payment of the child support obligation shall create a rebuttable presumption that the intent existed to avoid payment of the obligation.

"(c) Penalty.—A person convicted of an offense under this section shall be punished by imprisonment for up to 6 months, and on a second or subsequent conviction, by imprisonment for up to 2 years.

"(d) Restitution.—In addition to any restitution that may be ordered pursuant to section 3663, a sentence for an offense under this section shall include an order of restitution in an amount equal to the past due support obligation as it exists at the time of sentencing. Subsections (e) through (i) of section 3663 apply to an order of restitution pursuant to this subsection.

"(e) Definitions.—As used in this section—

"(1) the term 'child support obligation' means an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support of a child or of a child and the parent with whom the child is living;

"(2) the term 'major child support obligation' means a child support obligation that has remained unpaid for a period exceeding one year, or that is greater than $5,000;

"(3) the term 'past due support obligation' means a child support obligation that is unpaid at the time of sentencing for an offense under this section; and

"(4) the term 'State' has the meaning given in section 513(c)(5).".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 110A of title 18, United States Code, as enacted by section 201 of this Act, is amended by inserting at the end the following:

"2262. Non-compliance with child support obligations.".

(c) Condition of Probation and Supervised Release.—Section 3563 of title 18, United States Code, is amended in subsection (b)(1) by inserting before the semicolon: ", including compliance with any court order or administrative order under the law of a State (as defined in section 513(c)(5)) requiring payments for the support of a child or of a child and the parent with whom the child is living".

### SEC. 203. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) Requirement of Full Faith and Credit.—Chapter 110A of title 18, United States Code, as enacted by sections 201 and 202 of this Act, is amended by adding at the end the following:

**"§ 2263. Full faith and credit for protective orders**

"(a) A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that it would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in that State.

"(b) As used in this section—

"(1) the term 'protective order' means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person; and

"(2) the term 'State' has the meaning given in section 513(c)(5) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 110A of title 18, United States Code, as enacted by sections 201 and 202 of this Act, is amended by inserting at the end the following:

"2263. Full faith and credit for protective orders.".

### SEC. 204. PRESUMPTION AGAINST CHILD CUSTODY FOR SPOUSE ABUSERS.

(a) Findings.—The Congress finds that—

(1) courts fail to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as they do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a damaging psychological environment for a child;

(3) physical abuse of a spouse is relevant to the likelihood of child abuse in child custody disputes;

(4) the effects on children of physical abuse of a spouse include—

(A) traumatization and psychological damage to children resulting from observation of the abuse and the climate of violence and fear existing in a home where abuse takes place;

(B) the risk that children may become targets of physical abuse when they attempt to intervene on behalf of an abused parent; and

(C) the negative effects on children of exposure to an inappropriate role model, in that witnessing an aggressive parent may communicate to children that violence is an acceptable means of dealing with others; and

(5) the harm to children from spouse abuse may be compounded by award of exclusive or joint custody to an abuser because further abuse may occur when the abused spouse is forced to have contact with the abuser as a result of the custody arrangement, and because the child or children may be exposed to abuse committed by the abuser against a subsequent spouse or partner.

(b) Sense of Congress.—It is the sense of the Congress that, for purposes of determining child custody, evidence establishing that a parent engages in physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

### SEC. 205. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) Report.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) Components of Report.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

### SEC. 206. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) Report.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) Use of Components.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

### SEC. 207. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

### SEC. 208. ANTI-STALKING LEGISLATION.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the criminal act of stalking other persons is a problem of deep concern;

(2) previously available legal recourses against stalking, such as restraining orders, have proven to be inadequate;

(3) anti-stalking legislation has been enacted or proposed in several States;

(4) the constitutionality of State anti-stalking statutes may be challenged by defendants; and

(5) the Congress has an interest in assisting the States in enacting anti-stalking legislation that is effective, constitutional, and enforceable.

(b) EVALUATION AND REPORT.—The Attorney General shall—

(1) evaluate enacted and proposed anti-stalking legislation in the States;

(2) develop model anti-stalking legislation that is effective, constitutional, and enforceable;

(3) prepare and disseminate to State authorities the findings of the evaluation under this subsection and the model anti-stalking legislation; and

(4) not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing the findings of the evaluation and the model legislation, and any recommendations the Attorney General may have concerning the need for or appropriateness of further action by the Federal Government.

(c) USE OF NATIONAL INSTITUTE OF JUSTICE.—The Attorney General may use the National Institute of Justice in carrying out this section.

### SEC. 209. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) shelters that provide services for victims of domestic violence and related programs;

(8) educational and informational programs relating to domestic violence;

(9) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(10) coalitions of domestic violence service providers, agencies, and programs;

(11) training programs for judges and court personnel in relation to cases involving domestic violence; and

(12) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be use to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Sexual Violence Grant Program established by section 141 of this Act, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—For purposes of this section, "domestic violence" includes any act of criminal violence in which the offender and the victim are members of the same household or relatives, or in which the offender and the victim are present or former spouses or cohabitors or have a child in common.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in each of fiscal years 1993, 1994, and 1995, $250,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

## TITLE III—NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

### SEC. 301. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the "National Task Force on Violence Against Women" (referred to in this title as the "task force").

### SEC. 302. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE.—The task force shall recommend Federal, State, and local strategies aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including—

(1) considering the reports and recommendations of past Federal and State studies of violent crime, family violence, and the treatment of crime victims, including the Report of the Attorney General to the President on Combating Violent Crime (1992), the Report of the Attorney General's Task Force on Family Violence (1984), the Report of the President's Task Force on Victims of Crime (1982), and the reports and recommendations of the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designed to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(3) evaluating the adequacy of rules of evidence, practice, and procedure to ensure the

effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, and making recommendations for the improvement of such rules;

(4) evaluating the adequacy of pre-trial release, sentencing, incarceration, and post-conviction release in relation to violent offenders against women, and making recommendations designed to ensure that such offenders are restrained from causing further harm to the victim and others and receive appropriate punishment, including means of ensuring that the efficacy of criminal sanctions will not be undermined by parole or other early release mechanisms;

(5) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for the effective use of such orders to protect women from violence;

(6) assessing the problem of stalking and persistent menacing of women, and recommending effective means of response to the problem; and

(7) generally evaluating the treatment of women as victims of violent crime in the criminal justice system, and making recommendations designed to improve such treatment.

**SEC. 303. MEMBERSHIP.**

(a) IN GENERAL.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(b) CHAIRMAN.—The Attorney General or the Attorney General's designee shall serve as chairman of the task force.

**SEC. 304. PAY.**

(a) NO ADDITIONAL COMPENSATION.—Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

**SEC. 305. EXECUTIVE DIRECTOR AND STAFF.**

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under section 303.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

**SEC. 306. POWERS OF TASK FORCE.**

(a) HEARINGS.—For the purpose of carrying out this title, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(b) DELEGATION.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this title, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) MAIL.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**SEC. 307. REPORT.**

Not later than 1 year after the date on which the task force is fully constituted under section 303, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

**SEC. 308. AUTHORIZATION OF APPROPRIATION.**

There is authorized to be appropriated for fiscal year 1993, $500,000 to carry out the purposes of this title.

**SEC. 309. TERMINATION.**

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 307. The Attorney General may extend the life of the task force for a period of not to exceed one year.

Mr. THURMOND. Mr. President, I rise today to join with my colleague from Kansas, Senator DOLE, in introducing the Sexual Assault Prevention Act. Senator DOLE has labored tirelessly on this legislation and I am pleased to have worked with him in drafting this bill.

This bill already enjoys strong support because of the positive ramifications it carries for women, the family, and college campuses. While I still continue to fight for congressional action on an omnibus anticrime bill, the Senate should also examine and consider this bill which will fight the victimization of women. This legislation proposes tougher penalties for sex offenders, pretrial HIV testing for offenders with disclosure of test results to the victim, and civil action alternatives for victims of sexual assault. It also contains measures to address campus sexual assaults. This bill furthers the interest of prosecuting the guilty and preserving the dignity and privacy of innocent victims and families.

The tough stand I have taken on crime in the past is consistent with my present support of this important bill. Just as our laws are built around the concept that a defendant is innocent until proven guilty, I am just as equally determined that victims of sexual assaults should not be punished or ridiculed for the crime committed upon them. That is why this legislation includes the following additional key factors protecting and promoting the rights and the integrity of the victims: Admissibility of evidence of previous, similar crimes in sex offense cases; strengthening and extending the rape victim shield law; clarification that invitation or provocation is not a defense in sexual assault cases; and victims rights to fair treatment in legal proceedings, to an impartial jury, to allocation in sentencing, and to privacy. All of these proposals are provictim and will aid in our efforts to fight violence against women. All too often, Congress' response to the plight of crime victims is to simply throw money at them rather than eliminating fundamental obstacles to justice. This is often the case when a woman is the victim. This bill removes these unnecessary impediments to justice and empowers the victims of sexual violence.

For these reasons, I urge my colleagues to support this proposed legislation.

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By Mr. GLENN:

S. 3272. A bill to amend title 39, United States Code, to provide that Federal contract laws shall apply to the U.S. Postal Service; to the Committee on Governmental Affairs.

### APPLICATION OF FEDERAL CONTRACT LAWS TO THE POSTAL SERVICE

• Mr. GLENN. Mr. President, I rise today to introduce a bill to expand the coverage of Federal procurement laws to the Postal Service. I do so after witnessing instances of flagrant administrative incompetence and the waste of significant amounts of money by the Postal Service in its contracting activities.

Recent Postal activity in the acquisition of property provides a shocking illustration of Postal's wasteful activities. Just this past summer, the General Accounting Office [GAO] reported on Postal's efforts to find a site at which to consolidate its mail processing operations. Postal focused on two parcels in New York: one a former manufacturing facility, and the other a former metal refinery. After investing $80 million for the purchase of two sites, one is unusable because of hazardous waste contamination, and the other is experiencing millions of dollars in construction cost overruns.

With respect to the hazardous waste site, GAO found that while early drafts of the purchase agreement for the site placed responsibility for waste removal on the seller, the final agreement eliminated that responsibility. The same is true for asbestos removal provisions—responsibility in early drafts of the purchase agreement rested with the seller, but in the final agreement shifted to Postal. Translation: the Postal Service is struck with an unusable piece of earth and it may have to pay a fortune to remedy the situation. The project is such a mess that the Postal Inspection Service investigated the matter, as well.

In another case, GAO found serious ethics violations on the part of Postal contracting officials, high level officials, even an inspector in Postal Inspection Service. In a recent report, GAO found in connection with the image processing subsystem procurement the contractor provided trips overseas with lodging, meals and other expenses to these officials, and in some cases, to their wives. That this type of activity, could go on after the years of attention focused on procurement integrity and ethics issues is mind boggling. GAO noted that these actions violated the law and created the appearance of a conflict of interest.

And finally, Mr. President, I raise what is a significant case to me because it involves the people of my State, the Eagle Air hub procurement. This procurement sought permanent facilities for Postal's priority mail operations. Various airports in a four-State area—Kentucky, Illinois, Indiana, and Ohio—bid to provide these facilities. What took place in Postal's award process, however, was nothing short of a comedy of errors.

According to the GAO, Postal failed to consider all the award factors, and minimized the most important factor—delivery time and move-in date—when it selected an Indiana site for its facilities. Further, the agency utilized erroneous costs estimates, so much so that the GAO was unable to ascertain who actually would have won the contract had the evaluation been consistent with the solicitation. Finally, when a protest to the award was lodged with Postal, it was disallowed, according to the GAO, "without satisfactorily resolving a key issue being protested—that the scoring plan did not follow the solicitation's stated evaluation scheme."

Now, I must comment on the gravity of Postal's actions in this case. By failing to follow the criteria set forth in the solicitation, and further, by misleading bidders on the import of evaluation criteria, Postal violated fundamental tenets of procurement policy. Sound procurement policy dictates that bidders should be made aware of these factors to be used in an evaluation and the relative importance of those factors. Anything less would undermine our competitive procurement system by reducing the credibility of the system in the eyes of vendors, and thus, reducing participation. And when vendors cease to participate, the government is left with fewer goods at higher prices. It's that simple.

Since 1970, the Postal Reorganization Act removed Postal procurements from public contract law and, consequently, regulations, notably, the Federal Acquisition Regulation, that applies to other Executive branch agencies. The reason for exempting Postal from these laws and regulations was to provide the agency the opportunity to act like a private business. But, I'll tell you, Mr. President, if a private business acted as the Postal Service, that is, if a private business ignored the obligations of fairness and integrity, it wouldn't be in business for long.

Simply put, my bill amends the Postal statutes to provide that all laws relating to Federal contracts apply to the Postal Service. I want to take the Administrative bid protest resolution authority out from Postal and place it in the hands of objective tribunals, like the GAO and the General Services Administration Board of Contract Appeals. I want to assure that oversight mechanisms are built in to the process, as they are throughout the rest of the government. Furthermore, most important, I want to restore integrity to Postal procurements so that vendors, like those in my home state, are guaranteed a fair deal when they spend the time and money to submit a bid for a Postal requirement.

I ask that my colleagues join me in restoring confidence to the system. My bill will be a starting point for reforming a highly unsatisfactory procurement process that has existed far too long at Postal. It represents meaningful change for the good of the country. I look forward to working with you, Mr. President, in assuring enactment of this much needed legislation.

Mr. President, I unanimously consent that a Section-by-Section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

### SECTION-BY-SECTION ANALYSIS

Section One of the bill strikes the word "contract" from the statutory provision exempting the Postal Service from various laws. In addition, Section One adds language that explicitly applies all federal contract law to the activities of the Postal Service.

Section Two provides that this amendment shall apply to contracts entered into by the Postal Service on all after the date of enactment of this bill.

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By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. GRAHAM, Mr. BREAUX, Mr. AKAKA, and Mr. BENTSEN):

S. 3273. A bill to establish a wind engineering program within the National Institute of Standards and Technology; to the Committee on Commerce, Science, and Transportation.

### WIND ENGINEERING PROGRAM ACT OF 1992

Mr. HOLLINGS. Mr. President, in the last few weeks, we all have seen pictures of the terrible devastation caused by Hurricane Andrew, in Florida and Louisiana, and by Hurricane Iniki, in Hawaii. We have seen houses blown off their foundations and entire neighborhoods flattened—block after block without a single house or tree standing.

For me the images are all too familiar. Just 3 years ago, Hurricane Hugo did much the same to parts of my home State of South Carolina.

Much of the damage could have been prevented. Buildings can be built to withstand hurricane-force winds, and it does not require a great deal of special, expensive hardware or sophisticated, new building techniques. Engineers have developed inexpensive, simple techniques for ensuring that roofs stay in place and windows remain intact—even if wind speeds top 120 or 130 miles per hour. Yet, too often, home owners and builders do not know about these techniques.

I am introducing legislation today to create a wind engineering program at the National Institute of Standards and Technology [NIST] of the Department of Commerce. For years, the Center for Building Technology at NIST has helped builders and architects to design better buildings. The Center is well-known for developing new ways to design and build earthquake-resistant buildings. It helps builders to evaluate new building materials and techniques.

Back in the 1970's, the Center had a small, but active wind engineering program. It developed and tested new techniques for making buildings more wind-resistant, and it helped the construction industry adopt them. Unfortunately, over the last 15 years, the program has withered away. Today, there is not a single engineer working full-time on wind engineering at NIST, and the entire Federal Government spends less than $5 million supporting wind engineering research.

In contrast, during the 1980's, severe wind storms—hurricanes, tornadoes, mountain winds like chinooks and Santa Anas—caused an average of about $3.7 billion in damage to buildings and other facilities each year. According to some estimates, without new efforts to reduce wind damage, by the year 2000, the average annual cost could rise to $8.8 billion.

The Wind Engineering Program Act would authorize a total of $9 million over the next 3 years to create a wind engineering program at NIST. The program would coordinate wind engineering research being done at the National Oceanic and Atmospheric Administration [NOAA], the National Science Foundation [NSF], and other agencies. Half the money authorized to NIST would be used for joint projects with other agencies. For instance, this money could be used by NOAA and Department of Defense meteorologists to provide better data on wind speeds in severe storms so that wind engineers at NIST, in universities, and in industry can understand better how winds damage structures. NIST could also join with NSF to fund wind engineering research in universities and to ensure that the results of that research are disseminated to the architects and builders who can put them into practice.

In this area of wind engineering, there is some very exciting, useful research being done in our universities. I am most familiar with research being done at Clemson University by Dr. Ben Sill, Dr. Peter Sparks, and others. They have constructed a wind tunnel that enables them to test the response of different types of roofs to hurricane-force winds. In addition, after Hurricane Hugo they used their expertise to assess the damage and determine how communities could prepare better for the next hurricane. The bill I am introducing today will ensure that such important work is continued.

The wind engineering program created by this bill will be small, but I believe it can do a great deal to reduce the damage caused by hurricanes in the future. We should not assume that nothing can be done. In South Carolina, many homeowners who had taken extra precautions came through Hurricane Hugo relatively unscathed, while their neighbors' homes lost their roofs and suffered tens of thousands of dollars of damage. Even in the most hard-hit neighborhoods in Homestead, FL, a few houses, which were designed with hurricanes in mind, remained standing. In the last 2 weeks, there have been a number of articles on how much of the wind damage caused by Hurricane Andrew could have been prevented; the technology exists to ensure that houses withstand not only hurricanes but even tornadoes. If the technologies developed by the wind engineering program can cut wind losses by just 5 percent, we can save American taxpayers almost $200 million annually. This bill represents a solid investment—in terms of dollars and, more importantly, in terms of lives saved.

Almost every State is subject to severe windstorms. I hope that all of my colleagues will join me in supporting this important legislation.

I ask unanimous consent that the text of the bill I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Wind Engineering Program Act of 1992".

### SEC. 2. FINDINGS AND PURPOSES.

The Congress finds the following:

(1) Hurricanes and tornadoes kill more Americans and destroy more property than any other natural disaster.

(2) Each year, in the United States, extreme winds cause billions of dollars of damage to homes, schools, and other buildings, roads and bridges, electrical power distribution networks, and communications networks.

(3) Research on wind and wind engineering has resulted in improved methods for making buildings and other structures less vulnerable to extreme winds, but additional research funding is needed to develop new improved, and more cost-effective methods of wind-resistant construction.

(4) Federal funding for wind engineering research has decreased drastically over the last 20 years.

(5) Wind research has been hampered by a lack of data on near-surface wind speed and distribution during hurricanes, tornadoes, and other severe storms.

(6) Many existing methods for wind-resistant construction are inexpensive and easy to implement but often they are not applied because the construction industry and the general public are unaware of such methods.

(7) Various Federal agencies have important roles to play in wind engineering research, but at present there is little interagency cooperation in this area.

(8) Establishment of a Federal Wind Engineering Program would result in new technologies for wind-resistant construction, broader application of such technologies in construction, and ultimately decreased loss of life and property due to extreme winds.

### SEC. 3. PURPOSE.

The purpose of this Act is to create a Wind Engineering Program within the National Institute of Standards and Technology, which would—

(1) provide for wind engineering research;

(2) serve as a clearinghouse for information on wind engineering; and

(3) improve interagency coordination on wind engineering research between the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Federal Aviation Administration, and other appropriate agencies.

### SEC. 4. ESTABLISHMENT.

Within the National Institute of Standards and Technology, there shall be established a Wind Engineering Program which shall—

(1) conduct research and development, in cooperation with the private sector and academia, on new methods for mitigating wind damage due to tornadoes, hurricanes, and other severe storms;

(2) fund construction and maintenance of wind tunnels and other research facilities needed for wind engineering research;

(3) promote the application of existing methods for, and research results on, reducing wind damage to buildings that are usually incompletely- or non-engineered, such as single family dwellings, mobile homes, light industrial buildings, and small commercial structures;

(4) transfer technology developed in wind engineering research to the private sector so that it may be applied in building codes, design practice, and construction;

(5) conduct, in conjunction with the National Oceanic and Atmospheric Administration, post-disaster research following hurricanes, tornadoes, and other severe storms to evaluate the vulnerability of different types of buildings to extreme winds;

(6) serve as a point of contact for dissemination of research information on wind engineering and work with the private sector to develop education and training programs on construction technique, developed from research results, for reducing wind damage;

(7) work with the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, and other agencies as is appropriate, on meteorology programs to collect and disseminate more data on extreme wind events; and

(8) work with the National Science Foundation to support and expand basic research on wind engineering.

### SEC. 5. AUTHORIZATIONS.

(a) AUTHORIZATION FOR NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the National Institute of Standards and Technology for the purposes of this Act, $1,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $5,000,000 for fiscal year 1995.

(b) COOPERATIVE AGREEMENTS.—Of the amounts authorized under subsection (a), no less than 50 percent shall be used for cooperative agreements with the National Oceanic and Atmospheric Administration, the National Science Foundation, the Federal Aviation Administration, or other agencies, for wind engineering research, development of improved practices for structures, and the collection and dissemination of meteorological data needed for wind engineering.

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By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. DOLE, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. BOREN, Mr. BAUCUS, Mr. RIEGLE, Mr. SIMPSON, Mr. DURENBERGER, Mr. ROTH, Mr. GRASSLEY, and Mr. DASCHLE):

### MEDICARE AND MEDICAID AMENDMENTS ACT

Mr. BENTSEN. Mr. President, I am pleased to be joined by Senator PACKWOOD today in introducing the Medicare and Medicaid Amendments Act of 1992. We hope that other colleagues will join us in cosponsoring this important bill. This bill is designed to address critical funding issues in Medicare and Medicaid that must be resolved before the end of the year. Time, and in some cases, cost precluded us from addressing certain issues raised by Members. We regret that we could not adequately address all the issues Members brought to us in this bill, but we intend to devote considerate time to the topic of health care next year.

Some of the bill's most critical provisions extend expiring provisions of law for enhanced Medicare payment to small rural Medicare dependent hospitals, regional referral centers, and payment for hemophilia clotting factor for Medicare hospital inpatients. Authorization for the rural health transition grants and other expiring programs would be extended.

In addition to critical funding issues, the bill includes a limited number of time-sensitive and high priority issues, such as repealing the prohibition on separate payment for electrocardiograms [EKG's]; reinstating equal payments for new physicians and other practitioners; phasing-in expanded coverage for immunosuppressive drugs for transplant patients; broadening coverage for nurse practitioners and physicians' assistants; tightening fraud and abuse provisions for durable medical equipment. The bill also includes provisions to enable States to provide comprehensive substance abuse treatment to pregnant women; to permit States to provide Medicaid coverage to more foster children; and to enhance access to childhood immunization services.

Finding the funding necessary to offset spending for critical provisions is a difficult, but necessary task. We are convinced that the savings provisions in our bill are reasonable. We looked very carefully to find targeted savings without jeopardizing the quality of the care provided to Medicare beneficiaries. The Congressional Budget Office estimates that this bill complies fully with the pay as you go Budget Act requirements, and that it would not increase the deficit over the 5-year budget window as a whole, nor in any individual year.

Because so little time remains and it is critical that this bill be enacted before the end of the session, we want Senators to be aware that it is our intention to move this bill in whatever way is most likely to result in its enactment. That is, we may follow regular markup procedure in the Finance Committee. Alternatively, we may poll the bill out of committee without holding a formal markup or offer the bill as an amendment to H.R. 11 or another viable legislative vehicle.

Finally, for my colleagues who may be concerned about taking up a bill of this size in the late days of the session, I would like to note that almost half the pages consist of the provisions of S. 3120, the Medical Technical Corrections and Clarification Act, which Senator PACKWOOD and I introduced on August 3, 1992. These provisions were included here in order to simplify the legislative drafting of cross-references to the Medical statute included in the rest of the bill.

Mr. President, I ask unanimous consent that the text of the bill and the bill summary be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3274

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Medicare and Medicaid Amendments Act of 1992".

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this Act, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", and "OBRA-1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—AMENDMENTS TO MEDICARE PROGRAM

Subtitle A—Provisions Relating to Part A

PART I—EXTENSION OF EXPIRING PROVISIONS

Sec. 101. Extension of regional referral center classification.
Sec. 102. Medicare-dependent, small rural hospitals.
Sec. 103. Extension of rural health transition grant program.
Sec. 104. Extension of essential access community hospital program.
Sec. 105. Extension of pass through payment for hemophilia inpatients.
Sec. 106. Extension of rural hospital demonstration.

PART II—MISCELLANEOUS PART A AMENDMENTS

Sec. 107. Wage index hold harmless protection.
Sec. 108. Supervision of hospital treatment by psychologists.
Sec. 109. Delay in recoupment.
Sec. 110. Skilled nursing facility wage index.

Subtitle B—Provisions Relating to Part B

PART I—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 111. Permitting separate payment for interpretation of electrocardiograms.
Sec. 112. Repeal of reduced medicare payment provision for new practitioners.
Sec. 113. Basing medicare payments for anesthesia services on actual time.
Sec. 114. Refinement of geographic adjustment factor for medicare physicians' services.
Sec. 115. Extra billing.

PART II—MISCELLANEOUS PART B AMENDMENTS

Sec. 121. Durable medical equipment.
Sec. 122. Amendment to definition of certified nurse-midwife.
Sec. 123. Payment under the fee schedule for services furnished by a certified registered nurse anesthetist who is medically directed.
Sec. 124. Alzheimer's disease demonstration projects.
Sec. 125. Designation of certain hospitals as eye or eye and ear hospitals.
Sec. 126. Extension of cap on payments for intraocular lenses.
Sec. 127. Expanded coverage for physician assistants, nurse practitioners, and clinical nurse specialists.
Sec. 128. Oral cancer drugs.

Subtitle C—Provisions Relating to Parts A and B

Sec. 131. Medicare select.
Sec. 132. Reduction in payment for erythropoietin provided to patients with end stage renal disease.
Sec. 133. Application to renal dialysis facilities of provisions under the medicare and medicaid programs relating to advance directives.
Sec. 134. Extension of secondary payor provisions for individuals with end stage renal disease.
Sec. 135. Expansion of immunosuppressive drug benefit.
Sec. 136. Clarification of exceptions to prohibited physician referrals.
Sec. 137. Graduate medical education resident amounts.
Sec. 138. Hospice notification.
Sec. 139. Social health maintenance organizations.
Sec. 140. Interest payments.

TITLE II—AMENDMENTS TO MEDICAID PROGRAM

Subtitle A—Technical Corrections

Sec. 201. Effective date.
Sec. 202. Corrections relating to section 4401 (reimbursement for prescribed drugs).
Sec. 203. Corrections relating to section 4402 (enrollment under group health plans).
Sec. 204. Corrections relating to section 4501 (low-income medicare beneficiaries).
Sec. 205. Corrections relating to section 4601 (child health).
Sec. 206. Corrections relating to section 4602 (outreach locations).
Sec. 207. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
Sec. 208. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
Sec. 209. Corrections relating to section 4704 (Federally-qualified health centers).
Sec. 210. Corrections relating to section 4708 (substitute physicians).
Sec. 211. Corrections relating to section 4711 (home and community care for frail elderly).
Sec. 212. Corrections relating to section 4712 (community supported living arrangements).
Sec. 213. Correction relating to section 4713 (COBRA continuation coverage).
Sec. 214. Correction relating to section 4716 (medicaid transition for family assistance).
Sec. 215. Corrections relating to section 4721 (personal care services).
Sec. 216. Corrections relating to section 4723 (medicaid spend-down option).
Sec. 217. Corrections relating to section 4724 (optional State disability determinations).
Sec. 218. Correction relating to section 4732 (special rules for health maintenance organizations).
Sec. 219. Corrections relating to section 4744 (frail elderly waivers).
Sec. 220. Corrections relating to section 4745 (low-income families demonstration project).
Sec. 221. Corrections relating to section 4747 (coverage of HIV-positive individuals).
Sec. 222. Correction relating to section 4751 (advanced directives).
Sec. 223. Corrections relating to section 4752 (physicians' services).
Sec. 224. Corrections relating to section 4801 (nursing home reform).
Sec. 225. Other technical corrections.
Sec. 226. Corrections to designations of new provisions.
Sec. 227. Corrections relating to section 4008 (conforming amendments to medicare).

Subtitle B—Other Amendments to Medicaid Provisions

PART I—SUBSTANCE ABUSE PROVISIONS

Sec. 231. Exception to IMD exclusion for qualified comprehensive substance abuse treatment programs.

Sec. 232. Coverage of alcoholism and drug dependency residential treatment services.

PART II—CHILD IMMUNIZATION PROVISIONS

Sec. 241. Bulk vaccine purchasing systems for increased vaccination of medicaid enrolled children.
Sec. 242. Reimbursement to vaccine manufacturers.
Sec. 243. Immunization outreach demonstration program.

PART III—MANAGED CARE WAIVER PROVISIONS

Sec. 251. Modification of freedom-of-choice waivers.
Sec. 252. Waiver of 75/25 rule.
Sec. 253. Rolling one month continuous eligibility for individuals enrolled in an HMO or PCCM.
Sec. 254. Enhanced match related to quality review.
Sec. 255. Statewide waiver for certain county administered programs.
Sec. 256. Extension of a certain medicaid health maintenance organization waiver.

PART IV—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

Sec. 261. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 262. Payments for services arranged through private nonprofit entities or public entities.
Sec. 263. Agreements with private nonprofit entities and public entities arranging for home and community-based services.
Sec. 264. Freedom of choice restriction for case management services with respect to home or community-based services.
Sec. 265. Relief from third party liability requirements when cost effective.
Sec. 266. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

PART V—ELIGIBILITY PROVISIONS

Sec. 271. Optional coverage for foster children.
Sec. 272. Qualified medicare beneficiaries outreach demonstration projects.
Sec. 273. Extension of certain demonstration projects.
Sec. 274. Periods of ineligibility for nursing facility services.

PART VI—OTHER PROVISIONS

Sec. 281. Drug price rebate agreements.
Sec. 282. Clarification of coverage of certified nurse-midwife services performed outside the maternity cycle.
Sec. 283. Criteria for making determinations of denial of payment to States.
Sec. 284. Certification of additional payment to Puerto Rico under medicaid.
Sec. 285. Expenditures for community supported living arrangements services.
Sec. 286. Native Hawaiian health centers.

TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Evaluations of maternal and child health services block grant programs.

## TITLE I—AMENDMENTS TO MEDICARE PROGRAM

### Subtitle A—Provisions Relating to Part A

### PART I—EXTENSION OF EXPIRING PROVISIONS

#### SEC. 101. EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.

(a) IN GENERAL.—Section 6003(d) of OBRA-1989 is amended by striking "1992" and inserting "1994".

(b) RECLASSIFICATION DECLINATION ALLOWED.—If any hospital fails to qualify as a regional referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act with respect to such hospital's application for a change in geographic classification for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) administer the Social Security Act with respect to such hospital from October 1, 1992, until the effective date of the declination as if the decision by the Review Board had not occurred.

(c) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for hospitals which decline reclassification under subsection (b).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of OBRA-1989.

#### SEC. 102. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) by amending clause (i) to read as follows:

"(i) In the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) for discharges occurring before October 1, 1994, shall be—

"(I) for any cost reporting period beginning on or after April 1, 1990, and before April 1, 1993, the amount determined under clause (ii); and

"(II) for any cost reporting period beginning on or after April 1, 1993, the amount determined under clause (ii) by substituting '50 percent' for '100 percent'.";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is the sum of—

"(I) the amount determined under paragraph (1)(A)(iii), and

"(II) 100 percent of the excess (if any) of—

"(aa) the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(D), over

"(bb) the amount determined under paragraph (1)(A)(iii).".

(b) RECLASSIFICATION DECLINATION ALLOWED.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act with respect to such hospital's application for a change in geographic classification for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) administer the Social Security Act with respect to such hospital from October 1, 1992, until the effective date of the declination as if the decision by the Review Board had not occurred.

(c) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for hospitals which decline reclassification under subsection (b).

#### SEC. 103. EXTENSION OF RURAL HEALTH TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of OBRA-1987, as amended by section 6003(g)(1)(B) of OBRA-1989, is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993 through 1997".

#### SEC. 104. EXTENSION OF ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) IN GENERAL.—Section 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(b) CLARIFICATION OF CRITERIA.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended by striking "72 hours" and all that follows through "conditions)" and by inserting "an average of 72 hours".

#### SEC. 105. EXTENSION OF PASS THROUGH PAYMENT FOR HEMOPHILIA INPATIENTS.

(a) IN GENERAL.—Section 6011(d) of OBRA-1989 is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of OBRA-1989.

#### SEC. 106. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

### PART II—MISCELLANEOUS PART A AMENDMENTS

#### SEC. 107. WAGE INDEX HOLD HARMLESS PROTECTION.

(a) IN GENERAL.—Section 1886(d)(8)(C)(iii) (42 U.S.C. 1395ww(d)(8)(C)(iii)) is amended by adding at the end the following new sentence: "In the case of an urban area in a State that has—

"(I) a wage index below the wage index for rural areas in such State, or

"(II) no rural areas,

such an application or decision may not result in a reduction of that urban area's wage index.

(b) URBAN STANDARDIZED AMOUNT ADJUSTED.—For discharges occurring on or after the effective date of this section and before October 1, 1993, the Secretary of Health and Human Services shall adjust the urban standardized amount by a factor of 0.999321.

(c) UPDATING STANDARDS.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(1) by striking "(B)" and inserting "(B)(i)",

(2) by inserting "most recently available" before "standards" each place it appears,

(3) by striking "published in the Federal Register on January 3, 1980", and

(4) by adding at the end the following new clause:

"(ii) If a hospital was previously reclassified under this paragraph based on standards for Metropolitan Statistical Areas (and New England County Metropolitan Areas) published in the Federal Register on January 3, 1980, and the hospital is located in a rural county under the most recently available standards for designating Metropolitan Statistical Areas, the Secretary shall treat the hospital as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute.".

(d) Effective Date.—The amendments made by this section shall be applied to discharges occurring on or after the date which is 30 days after the date of the enactment of this Act.

### SEC. 108. SUPERVISION OF HOSPITAL TREATMENT BY PSYCHOLOGISTS.

Section 1861(e)(4) (42 U.S.C. 1395x) is amended by inserting ", or, in the case of inpatients receiving qualified psychologist services (as defined in subsection (ii)), may be under the care of a clinical psychologist to the extent permitted under State law" after "physician".

### SEC. 109. DELAY IN RECOUPMENT.

(a) In General.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") may not, on or after the date of the enactment of this Act and before April 1, 1993, recoup from or otherwise reduce payments to hospitals with respect to alleged overpayments made to such hospitals with respect to a waiver granted by the Secretary to a State under section 1886(c) of the Social Security Act.

(b) Information Made Available.—Prior to undertaking a recoupment, the Secretary shall make available to the State and the hospitals in the State all relevant information used by the Secretary to determine the amount of the alleged overpayments, including—

(A) the cost reports submitted by the hospitals during the relevant cost reporting period, and

(B) the methodology used by the Secretary to determine the amount of payments that would have been made under title XVIII of the Social Security Act to hospitals in the State in the absence of the waiver.

### SEC. 110. SKILLED NURSING FACILITY WAGE INDEX.

(a) In General.—Within one year of the date of the enactment of this Act, the Secretary of Health and Human Resources shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) ProPAC Report.—The Prospective Payment Assessment Commission shall, by March 1, 1993, study and report to the Congress on the impact of applying routine cost limits for skilled nursing facilities on a regional basis.

## Subtitle B—Provisions Relating to Part B

## PART I—PAYMENT FOR PHYSICIANS' SERVICES

### SEC. 111. PERMITTING SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) In General.—Section 1848(b) (42 U.S.C. 1395w–4(b)) is amended by striking paragraph (3).

(b) Development of Separate Fee Schedule Amounts for Electrocardiogram Interpretations.—

(1) In general.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall make separate payment, under the fee schedule established under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician.

(2) Adjustment of visit and consultation relative values.—The Secretary shall adjust the relative values established for medical visits and consultations under part 415 of title 42 of the Code of Federal Regulations, so as not to include relative value units for electrocardiogram interpretation in the relative value for medical visits and consultations.

(3) Adjustment of fee schedules.—The Secretary shall adjust—

(A) the fee schedule amounts which are determined under section 1848(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(2)(A)) and used in application of the special rules for 1993, 1994, and 1995, under section 1848(a)(2)(B) of such Act (42 U.S.C. 1395w–4(a)(2)(B)), and

(B) the relative values for all services established under section 1848(b) of such Act (42 U.S.C. 1395w–4(b)),

to reflect the separate payment for electrocardiogram interpretations under paragraph (1) so as not to increase or decrease expenditures under such section as determined without regard to paragraph (1).

(c) Effective Date.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply to services furnished on or after January 1, 1993.

### SEC. 112. REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR NEW PRACTITIONERS.

(a) Physicians.—Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by repealing paragraph (4).

(b) Other Practitioners.—Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(c) Budget Neutrality.—The Secretary of Health and Human Services shall provide that in carrying out the amendments made by subsections (a) and (b) that payments under section 1848 of the Social Security Act are no greater or lesser than what such payments would have been but for the provisions of this Act.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply with respect to physicians' services furnished on or after January 1, 1993.

### SEC. 113. BASING MEDICARE PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) Physicians' Services.—Section 1848(b)(2)(B) (42 U.S.C. 1395w–4(b)(2)(B)) is amended by adding at the end the following: "Notwithstanding any other provision of law, for anesthesia services furnished on or after January 1, 1993, and before January 1, 1997, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(b) Services of Certified Registered Nurse Anesthetists.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "Notwithstanding any other provision of law, for anesthesia services furnished on or after January 1, 1993, and before January 1, 1997, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this subsection.".

(c) Study on Time Reported for Anesthesia Services.—

(1) Contents of study.—The Comptroller General of the United States (hereafter in this section referred to as the "Comptroller General") shall—

(A) study the actual time reported for anesthesia services furnished under title XVIII of the Social Security Act for high-volume surgical procedures,

(B) compare the actual time reported for a procedure during 1991 with the time reported for the same procedure during each of the 4 succeeding years,

(C) evaluate the extent to which the actual time reported for a procedure has increased or decreased during such period, and

(D) determine (to the extent practicable)—

(i) whether any increases or decreases identified under subparagraph (C) are the result of changes in patterns of medical practice, physician responses to reductions in payments for anesthesia services, or other factors, and

(ii) the effect of such increases or decreases on the total amount expended under title XVIII of the Social Security Act for anesthesia services.

(2) Design of study.—The Comptroller General shall consult with the Physician Payment Review Commission (hereafter in this section referred to as the "Commission") in designing the study required under paragraph (1).

(3) Reports.—

(A) Interim report.—The Comptroller General shall transmit an interim report on the progress of the study to the Commission, the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives not later than July 1, 1994.

(B) Final report.—The Comptroller General shall report the results of the study to the Commission and the Committees referred to in subparagraph (A) not later than July 1, 1996.

(4) Evaluation of reports by the commission.—The Commission shall evaluate each report required under paragraph (3) and transmit comments on the report to the Committees referred to in paragraph (3)(A) not later than 90 days after the report is received by the Commission.

### SEC. 114. REFINEMENT OF GEOGRAPHIC ADJUSTMENT FACTOR FOR MEDICARE PHYSICIANS' SERVICES.

(a) Deadline for Initial Review and Revision.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by adding at the end the following: "The first such review and revision shall apply to services furnished on or after January 1, 1994, and shall be based on the most recent data on practice expenses, malpractice expenses, and physicians' work effort.".

(b) Authority To Adjust Index Value for Input Component Under Certain Circumstances.—

(1) In general.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (D)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) Special adjustment to correct for unique local circumstances.—The Secretary may adjust the value assigned to an input component of an index in a fee schedule area if the Secretary determines that the value that would otherwise apply in such area does not accurately reflect the relative costs of such input for such area because of unique local circumstances.".

(2) CONFORMING AMENDMENT.—Section 1848(i)(1)(D) (42 U.S.C. 1395w-4(i)(1)(D)) is amended by inserting "(including any adjustment under subparagraph (C) thereof)" after "subsection (e)".

(c) REPORT ON REVIEW PROCESS.—Not later than April 1, 1993, the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(A)), including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data sources.

(d) STUDY ON LOW-VOLUME ADJUSTMENT IN ISOLATED AREAS.—

(1) IN GENERAL.—Not later than July 1, 1993, the Physician Payment Review Commission shall study and report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the feasibility and desirability of providing for a special adjustment to the index value of the medical equipment and supplies input component of the index used under section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) with respect to services described in paragraph (2).

(2) DESCRIPTION OF SERVICES.—Services described in this paragraph are services—

(A) furnished by a physician who practices in an isolated area;

(B) requiring the presence of expensive medical equipment and supplies in the physician's office; and

(C) with respect to which the cost per service of operating the equipment is increased because of the low volume of patients of such physician.

**SEC. 115. EXTRA BILLING.**

(a) APPLICATION OF EXTRA-BILLING LIMITS.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) NO BILLING IN EXCESS OF LIMITING CHARGES.—A nonparticipating physician who does not accept payment on an assignment-related basis for physicians' services furnished with respect to an individual enrolled under this part may not bill or collect an actual charge in excess of the limiting charge described in paragraph (2) for such services.

"(B) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed in excess of the amount permitted under subparagraph (A).

"(C) REFUND OF EXCESS CHARGES.—If a physician bills or collects an amount that exceeds by at least one dollar the applicable limiting charge for a service furnished to an individual enrolled under this part, the physician shall on a timely basis—

"(i) refund the full amount collected in excess of the limiting charge,

"(ii) if there is an outstanding balance owed to the physician for other items and services and furnished to the individual, reduce this balance by the amount of the excess charge and refund any amount in excess of the outstanding balance, or

"(iii) if the physician has not yet collected such excess charges, reduce the actual charge billed for the service to the amount permitted under subparagraph (A).

"(D) TIMELINESS OF REFUND.—

"(i) IN GENERAL.—A refund (or reduction) under subparagraph (C) is considered to be made on a timely basis if the full refund (or notice to the individual of reduced outstanding balance or reduced charge, as applicable) is made within 30 days after a carrier notifies the physician that the limiting charge has been exceeded.

"(ii) RESPONSE TO CARRIER'S DETERMINATION.—In the case of a physician who, within 30 days after the carrier notifies the physician that the limiting charge has been exceeded, submits to the carrier documentation supporting application of a different limiting charge to the service furnished, a refund (or reduction) under subparagraph (C) is considered to be made on a timely basis if the full refund (or notice to the individual of reduced outstanding balance or reduced charge, as applicable) is made within 15 days after the carrier notifies the physician following review of such documentation that the limiting charge has been exceeded.

"(E) SANCTIONS.—If a physician—

"(i) knowingly and willfully bills for services in violation of subparagraph (A),

"(ii) collects for services in violation of subparagraph (A) on a repeated basis, or

"(iii) fails to comply with subparagraph (C),

the Secretary may apply sanctions against the physician in accordance with section 1842(j)(2) and apply paragraph (4) of section 1842(j) in the same manner as such paragraph applies to such section.".

(2) APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES FURNISHED BY ANY PERSON.—

(A) IN GENERAL.—Section 1848(g) (42 U.S.C. 1395w-4(g)) is amended—

(i) in paragraph (1), as amended by subsection (a) of this section—

(I) in subparagraph (A), by inserting "or nonparticipating supplier or other person (as defined in section 1842(i)(2))" after "nonparticipating physician",

(II) in subparagraph (C), by inserting ", supplier, or other person" after "physician" each place it appears,

(III) in subparagraph (D), by inserting ", supplier, or other person" after "physician" each place it appears, and

(IV) in subparagraph (E), by inserting ", supplier, or other person" after "physician" each place it appears, and by inserting before the period at the end the following: "and any reference in such section to a physician is deemed to include a reference to a supplier or other person under this subparagraph"; and

(ii) in paragraph (2)(C), by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(C) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(i) in subsection (a)(3)—

(I) in the heading, by inserting "AND SUPPLIERS" after "PHYSICIANS", and

(II) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(ii) in subsection (j)(3), by inserting ", except for purposes of subsection (g)," after "tests and".

(b) DETERMINATIONS BY CARRIERS REGARDING APPLICABLE LIMITING CHARGES FOR PHYSICIAN SERVICES.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by striking "and" at the end of subparagraph (H); and

(3) by inserting after subparagraph (H), the following new subparagraph:

"(I) will, for claims that are not paid on an assignment-related basis—

"(i) determine, prior to making payment, whether the amount billed for physicians' services furnished with respect to an individual enrolled under this part exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person within 30 days of any determination that the amount billed exceeds by at least one dollar the limiting charge applicable under section 1848(g)(2) and provide an opportunity for the physician supplier or other person to respond;

"(iii) notify the physician, supplier, or other person, within 30 days of the receipt of a response, of the carrier's determination with respect to such response regarding whether the limiting charge applicable under section 1848(g)(2) has been exceeded; and

"(iv) include limiting charge information in the explanation of medicare benefits that is sent to an individual enrolled under this part after the submission of an unassigned claim on an individual's behalf which exceeds the limiting charge by at least one dollar; and".

(c) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) or a service incident to such practitioner's service and for which payment may be made under this part under section 1833(a)(1) may only be made under this part on an assignment-related basis.

"(B) Except for deductible and coinsurance amounts applicable under this part, a practitioner described in subparagraph (C) may not bill for an individual or other person any service described in subparagraph (A). No person is liable for payment of any amounts billed for such a service in violation of subparagraph (A). If a practitioner (or other person billing for a service on behalf of the practitioner) knowingly and willfully bills for such a service in violation of subparagraph (A), the Secretary may apply sanctions against the practitioner (or such other person) in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such subsection applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such subsection.

“(C) A practitioner described in this subparagraph is any of the following:

“(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

“(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

“(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

“(iv) A clinical social worker (as defined in section 1861(hh)(1)).

“(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5)—

(I) by striking subparagraph (B), and

(II) by redesignating subparagraph (C) as subparagraph (B),

(ii) by striking subsection (p), and

(iii) in subsection (r)—

(I) by striking subparagraph (3), and

(II) by redesignating subparagraph (4) as subparagraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(C) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking “and” at the end of subparagraph (N),

(ii) by adding “and” at the end of subparagraph (O), and

(iii) by adding at the end the following new subparagraph:

“(P) with respect to services described in clauses (i), (ii), and (iv) of section 1861(s)(2)(K), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the amount determined under section 1842(b)(12)(A)(ii);”.

(d) MONITORING OF CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6) (42 U.S.C. 1395w-4(g)(6)) is amended in subparagraph (B), by striking “report to the Congress” and inserting “report to the Congress regarding the charges described in subparagraph (A)(i), including the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges”.

(e) ESTABLISHMENT OF MEDICARE BENEFICIARY ADVISORY COUNCIL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1889 the following new section:

### “SEC. 1890. MEDICARE BENEFICIARY ADVISORY COUNCIL.

“(a) APPOINTMENT OF MEMBERS.—The Secretary shall appoint, based on nominations submitted by organizations representing elderly and disabled populations, a Medicare Beneficiary Advisory Council (hereafter in this section referred to as the ‘Council’) to be composed of 15 individuals who are entitled to benefits under part A or who are enrolled under part B.

“(b) MEETINGS.—The Council shall meet once during each calendar quarter to discuss proposed regulations, carrier manual instructions, and any other issues with a direct or indirect impact on delivery, cost, quality, or expansion of medicare services. To the extent feasible and consistent with statutory deadlines, such consultation shall occur before the publication of such proposed changes.

“(c) REIMBURSEMENT OF EXPENSES.—Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursement and per diem under this title.”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1993.

(2) COUNCIL.—The amendment made by subsection (e) shall take effect on the date of the enactment of this Act.

## PART II—MISCELLANEOUS PART B AMENDMENTS

### SEC. 121. DURABLE MEDICAL EQUIPMENT.

(a) DEFINITION OF MEDICAL EQUIPMENT AND SUPPLIES.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

### “MEDICAL EQUIPMENT AND SUPPLIES

“(oo) The term ‘medical equipment and supplies” means—

“(1) durable medical equipment (as defined in section 1861(n));

“(2) prosthetic devices (as described in section 1861(s)(8));

“(3) orthotics and prosthetics (as described in section 1861(s)(9));

“(4) home dialysis supplies and equipment (as described in section 1861(s)(2)(F));

“(5) surgical dressings and other devices (as described in section 1861(s)(5));

“(6) immunosuppressive drugs (as described in section 1861(s)(2)(J)); and

“(7) such other items as the Secretary may determine.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after January 1, 1993.

(b) DEVELOPMENT AND APPLICATION OF NATIONAL STANDARDS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

“(i) REQUIREMENTS FOR ISSUANCE AND RENEWAL OF SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

“(1) PAYMENT.—No payment may be made under this part after July 1, 1993, for items furnished by a supplier of medical equipment and supplies (as defined in section 1861(oo)) unless such supplier meets the national standards specified by the Secretary and possesses a valid supplier number.

“(2) REVISED STANDARDS.—

“(A) IN GENERAL.—The Secretary shall, by no later than January 1, 1995, in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers, revise the national standards for suppliers of medical equipment and supplies to include the requirements listed in subparagraph (B).

“(B) STANDARDS DESCRIBED.—The requirements listed in this subparagraph are that suppliers of medical equipment and supplies shall—

“(i) comply with all applicable State and Federal licensure and regulatory requirements;

“(ii) maintain a physical facility on an appropriate site;

“(iii) have proof of appropriate liability insurance; and

“(iv) meet such other requirements as the Secretary may specify.

“(C) APPLICABILITY OF REVISED STANDARDS.—Beginning after December 31, 1994, each supplier of medical equipment and supplies applying for a supplier number or renewing such supplier's supplier number shall meet the revised standards described in this paragraph.”.

(c) CERTIFICATES OF MEDICAL NECESSITY.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (b), is amended—

(A) in subsection (a), by striking paragraph (16), and

(B) by adding at the end the following new subsection:

“(j) CERTIFICATES OF MEDICAL NECESSITY.—

“(1) STANDARDIZED CERTIFICATES.—Not later than July 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in paragraph (3)) for medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)). If a certificate of medical necessity is required by the Secretary, such standardized certificates shall—

“(A) be completed by each physician who prescribes such medical equipment and supplies for any beneficiary under this part, and

“(B) be transmitted to the supplier and then to the carrier processing the claim for payment for such medical equipment and supplies under this part.

“(2) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a supplier of medical equipment and supplies described in paragraph (1) may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity.

“(B) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Subparagraph (A) shall not apply with respect to a certificate of medical necessity to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this subparagraph, such certificate shall also contain the supplier's charge and the fee schedule amount for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

“(C) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(3) DEFINITION.—For purposes of this subsection, the term ‘certificate of medical necessity’ means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to certificates of medical necessity on or after January 1, 1993.

(d) COVERAGE AND REVIEW CRITERIA FOR CERTAIN MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (c), is amended by adding at the end the following new subsection:

"(k) COVERAGE AND REVIEW CRITERIA.—

"(1) DEVELOPMENT AND ESTABLISHMENT.—Not later than July 1, 1993, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)), individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies (as so defined) selected in accordance with the standards described in paragraph (2). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(2) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under paragraph (1) if the Secretary finds that—

"(A) the item is frequently purchased or rented by beneficiaries;

"(B) the item is frequently subject to a determination that such item is not medically necessary; or

"(C) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(3) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under paragraph (1) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than January 1, 1994, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under paragraph (1) on the utilization of items of medical equipment and supplies by individuals enrolled under this part.".

(e) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by subsection (d), is amended by adding at the end the following new subsection:

"(l) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies (as defined in section 1861(oo)) unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished on or after July 1, 1993.

(f) DEFINITION OF INDUCEMENTS AS KICKBACKS CLARIFIED.—

(1) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between a skilled nursing facility and a supplier of medical supplies and equipment (as defined in section 1861(oo) other than paragraphs (4), (6), and (7)), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after January 1, 1993.

(g) LIMITATION ON BENEFICIARY LIABILITY.—

(1) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1861(oo))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15);

"(3) is excluded from participation under this title; or

"(4) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier on an unassigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services, unless the supplier informs the individual in advance that payment under this part will not be made for the item or services and the individual agrees to pay for the item or service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items or services furnished on or after July 1, 1993.

(h) TREATMENT OF NEBULIZERS AND ASPIRATORS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(2) PAYMENT FOR SUPPLIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(7)(A) (42 U.S.C. 1395m(a)(7)(A)) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting "; and", and by inserting after clause (vi) the following new clause:

"(vii) In the case of supplies to be used in conjunction with a nebulizer or aspirator for which payment is made under this paragraph, payment shall be in accordance with paragraph (2) of this subsection.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1993.

(i) PAYMENT FOR OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, UROLOGICALS, SURGICAL DRESSINGS, AND OTHER MEDICAL SUPPLIES.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, urologicals, surgical dressings, and other medical supplies shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2) (except that in the case of surgical dressings, the national limited payment amount shall be computed based on local payment amounts using average reasonable charges for the six-month period ending June 30, 1992, increased by the covered item update for 1993).".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply with respect to items furnished on or after January 1, 1993.

(B) SURGICAL DRESSINGS AND OTHER MEDICAL SUPPLIES.—The amendment made by paragraph (1) with respect to surgical dressings and other medical supplies shall apply to items supplied on or after July 1, 1993.

(j) FREEZE IN REASONABLE CHARGES FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1993.—In determining the amount of payment under part B of title XVIII of the Social Security Act during 1993, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1992.

(k) STUDIES.—

(1) SUPPLIES AND SERVICES IN NURSING FACILITIES.—The Comptroller General of the United States shall conduct a study and report to the Congress no later than January 1, 1994, on the types, volume, and utilization of services and supplies furnished under contract or under arrangement with suppliers to individuals eligible for benefits under title XVIII of the Social Security Act residing in skilled nursing facilities and nursing facilities.

(2) DESCRIPTIONS RELATING TO CERTAIN CODES.—The Comptroller General of the United States shall conduct a study beginning no earlier than July 1, 1993, and report to the Congress no later than January 1, 1994, on—

(A) whether changes made by the Department of Health and Human Services to the descriptions relating to the codes for medical equipment and supplies (as defined in section 1861(oo) of the Social Security Act other than paragraphs (4), (6), and (7))—

(i) accurately reflect the items being furnished under such codes, and

(ii) are sufficiently explicit to distinguish between items of varying quality and price, and

(B) recommendations for additional changes that would improve the descriptions relating to the codes for such items.

### SEC. 122. AMENDMENT TO DEFINITION OF CERTIFIED NURSE-MIDWIFE.

(a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking ", and performs services in the area of management of the care of mothers and babies throughout the maternity cycle".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

### SEC. 123. PAYMENT UNDER THE FEE SCHEDULE FOR SERVICES FURNISHED BY A CERTIFIED REGISTERED NURSE ANESTHETIST WHO IS MEDICALLY DIRECTED.

(a) IN GENERAL.—Section 1833(l)(4)(B) (1395l(l)(4)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1992, and before January 1, 1997, by a certified registered nurse anesthetist who is medically directed shall be $10.75.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

### SEC. 124. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA–1986 is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years",

(2) in subsection (d)(1), by striking "fourth year" and inserting "fifth year", and

(3) in subsection (f), by striking "$55,000,000" and "$3,000,000" and inserting "$58,000,000" and "$5,000,000", respectively.

### SEC. 125. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i)(3) (42 U.S.C. 1395l(i)(3)) is amended—

(1) by striking the last sentence of subparagraph (B); and

(2) by adding at the end the following new subparagraph:

"(C)(i) In the case of a hospital that—

"(I) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(II) receives more than 30 percent of its total revenues from outpatient services, and

"(III) on October 1, 1987—

"(aa) was an eye specialty hospital or an eye and ear specialty hospital, or

"(bb) was operated as an eye or eye and ear unit of a general acute care hospital which, on the date of the application described in subclause (I), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of subparagraph (B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(ii) For purposes of this subparagraph the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1993.

### SEC. 126. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

### SEC. 127. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.

(a) PHYSICIAN ASSISTANTS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(b) NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(1) by inserting "(I)" before "in a rural area", and

(2) by inserting ", (II) in any other area, in the case of services furnished by nurse practitioners other than services furnished to an inpatient of a hospital, or (III) in any other area, in the case of services furnished by clinical nurse specialists other than services furnished to an inpatient of a hospital, skilled nursing facility or nursing facility (as defined in section 1919(a)), and" after "section 1886(d)(2)(D))".

(c) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "described in section 1861(s)(2)(K)(iii)".

(2) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "provided in a rural area".

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended by striking "provided in a rural area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

### SEC. 128. ORAL CANCER DRUGS.

(a) UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For purposes of paragraph (1) the term 'drugs' includes any drugs or biologics used in an anticancer chemotherapeutic regimen for a medically accepted indication as described in subparagraph (B).

"(B) The term 'medically accepted indication' means any use of a drug included under paragraph (1) which is approved by the Food and Drug Administration, which appears in one or more of the following: *Annals of Internal Medicine, Blood, Journal of Clinical Oncology, Journal of National Cancer Institute, Lancet*, and *New England Journal of Medicine*; or which is included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations and the United States Pharmacopoeia-Drug Information.".

(b) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) oral drugs prescribed for use in an anticancer chemotherapeutic regimen, for a medically indicated use (as described in subsection (t)(2)), if such drugs contain the same active ingredient that would be covered pursuant to subparagraph (A) or (B);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

## Subtitle C—Provisions Relating to Parts A and B

### SEC. 131. MEDICARE SELECT.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Subsection (c) of section 4358 of OBRA–1990 is hereby repealed.".

(2) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1)."

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) (42 U.S.C. 1395ss(q)(1)) is amended:

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) In the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy; except that, if such individual moves to a geographic area where such issuer, or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(ii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(c) CIVIL PENALTY.—Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I); and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by inserting at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(d) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1993 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in paragraph (1), the Secretary of Health and Human Services (hereafter in this subsection as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1993 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1993 NAIC Model Regulation or the 1993 Federal Regulation, or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1993 NAIC Model Regulation or the 1993 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

### SEC. 132. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN PROVIDED TO PATIENTS WITH END STAGE RENAL DISEASE.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii))(I)) is amended

(1) by striking "1991" and inserting "1993", and

(2) by striking "$11" and inserting "$10".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

### SEC. 133. APPLICATION TO RENAL DIALYSIS FACILITIES OF PROVISIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS RELATING TO ADVANCE DIRECTIVES.

(a) MEDICARE PROGRAM.—Section 1866(a)(1)(Q) (42 U.S.C.1395cc(a)(1)(Q)) is amended by striking "and hospice programs" and inserting "hospice programs, and renal dialysis facilities".

(b) MEDICAID PROGRAM.—Section 1902(a)(57) (42 U.S.C. 1396(a)(57)) is amended by striking "hospice program" and inserting "hospice program, renal dialysis facility".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1993.

### SEC. 134. EXTENSION OF SECONDARY PAYOR PROVISIONS FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.

Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) by striking "18-month" and inserting "24-month", and

(2) by adding at the end the following new sentence "Effective for items and services furnished after January 1, 1996, and on or before January 1, 1998, clauses (i) and (ii) shall be applied by substituting '18-month' for '12-month' each place it appears.".

### SEC. 135. EXPANSION OF IMMUNOSUPPRESSIVE DRUG BENEFIT.

Subparagraph (J) of section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended by striking "within 1 year after the date of the transplant procedure;" and inserting "within, in the case of calendar year—

"(i) 1993 and 1994, 12 months,

"(ii) 1995, 24 months,

"(iii) 1996, 30 months, and

"(iv) 1997 and thereafter, 36 months,

after the date of the transplant procedure;".

### SEC. 136. CLARIFICATION OF EXCEPTIONS TO PROHIBITED PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(1) by inserting "or buildings" after "building" each place it appears in paragraph (2)(A)(ii);

(2) by striking "centralized provision" in paragraph (2)(A)(ii)(II) and inserting "provision of all or a portion";

(3) by inserting "under a billing number assigned to the group practice" after "member" in paragraph (2)(B);

(4) by adding at the end of paragraph (2) the following new sentence: "Such requirements may not have the effect of prohibiting the group's clinical laboratory services from accepting referrals from outside sources as authorized by State law and section 353 of the Public Health Service Act";

(5) by inserting "or a tax-exempt health services entity, wholly owned by, operated by, or affiliated with one or more not-for-profit, tax-exempt hospitals," after "hospital" in paragraph (4); and

(6) by redesignating paragraph (5) as paragraph (8) and by inserting after paragraph (4) the following new paragraphs:

"(5) RURAL PROVIDERS.—In the case of clinical laboratory services if the laboratory furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)).

"(6) SERVICES UNDER ARRANGEMENTS.—In the case of clinical laboratory services provided by a group practice laboratory under arrangements described in section 1861(w), if—

"(A) the arrangement is for identifiable services;

"(B) the amount of the remuneration under the arrangement is consistent with the fair market value of the services; and

"(C) the remuneration provided under the arrangement would be considered to be commercially reasonable even if no referrals were made between the parties.

"(7) SHARED LABORATORY FACILITIES.—In the case of clinical laboratory services furnished by a laboratory which is—

"(A) owned by a university, a medical school, or an organization or hospital which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of section 501(c)(3) of such Code and which operates an approved medical training program; and

"(B) used in common under a written arrangement with a group practice whose physician-members constitute all or substantially all of the active medical and teaching staff of such university, medical school, organization or hospital.".

(b) Rental of Equipment.—Section 1877(e)(1) (42 U.S.C. 1395nn(e)(1)) is amended—

(1) by inserting "or equipment" after "space" the first three places it appears; and

(2) by inserting "OR EQUIPMENT" after "SPACE" in the heading.

(c) Definition of Group Practice.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(1) by inserting "providing services in an entity" after "two or more physicians";

(2) by striking "in the name of" in subparagraph (B) and inserting "under a billing number assigned to";

(3) by inserting ", or, in the case of a not-for-profit corporation, previously determined consistent with such corporation's articles of incorporation and bylaws" after "group" in subparagraph (C);

(4) by inserting ", except that such standards may not have the effect of prohibiting the retention of physicians on a part-time basis as independent contractors if the group qualifies to receive payment for such physician's services under section 1842(b)(6)" after "regulation" in subparagraph (D); and

(5) by inserting "university, medical school, or" before "hospital" in the last sentence.

(d) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

### SEC. 137. GRADUATE MEDICAL EDUCATION RESIDENT AMOUNTS.

(a) In General.—Section 1886(h)(2)(E) (42 U.S.C. 1395ww(h)(2)(E)) is amended—

(1) by striking "In the case" and inserting the following:

"(i) No medical residency program.—In the case"; and

(2) by adding at the end of subparagraph (E) the following new clause:

"(ii) Only primary care residency program.—In the case of a hospital that in a cost reporting period beginning in fiscal year 1984 had a primary care residency training program as its only approved residency program and that had an FTE resident amount in its cost reporting period beginning in fiscal year 1984 of less than $10,000, the Secretary shall provide for an approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1992.

### SEC. 138. HOSPICE NOTIFICATION.

(a) By Home Health Agency.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new paragraph:

"(H) The right to be fully informed orally and in writing (in advance of coming under the care of the agency) of the individual's option to choose hospice care (as defined in section 1861(dd)(1)), and a description of such care, if—

"(i) a hospice providing services under this title is located within the agency's geographic area, or

"(ii) it is common practice to refer patients to such hospices located outside the geographic area.'.'

(b) By Skilled Nursing Facility.—Section 1819(c)(1)(B) (42 U.S.C. 1395i-3(c)(1)(B)) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; and", and by inserting adding after clause (iii) the following new clause:

"(iv) inform each resident, orally and in writing, prior to or at the time of admission, of the resident's option to choose hospice care (as defined by section 1861(dd)(1)), and a description of such care, if—

"(I) a hospice providing services under this title is located within the facility's geographic area; or

"(II) it is common practice to refer patients to such hospices located outside the geographic area.".

(c) By Hospital.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 139. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) Extension of Current Waivers.—Section 4018(b) of OBRA–1987 is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1998"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1999".

(b) Expansion of Demonstrations.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply);".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

### SEC. 140. INTEREST PAYMENTS.

With respect to claims received in the 12-month period beginning October 1, 1992, sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

## TITLE II—AMENDMENTS TO MEDICAID PROGRAM

## Subtitle A—Technical Corrections

### SEC. 201. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect as if included in the enactment of OBRA–1990.

### SEC. 202. CORRECTIONS RELATING TO SECTION 4401 (REIMBURSEMENT FOR PRESCRIBED DRUGS).

(a) Section 1903.—

(1) In general.—Paragraph (10) of section 1903(i) (42 U.S.C. 1396b(i)), as inserted by section 4401(a)(1)(B) of OBRA–1990, is amended to read as follows:

"(10)(A) with respect to covered outpatient drugs unless—

"(i) there is a rebate agreement in effect under section 1927 with respect to such drugs;

"(ii) section 1927(a)(3) applies; or

"(iii) section 1927(j) applies; and

"(B) with respect to an innovator multiple source drug (as defined in section 1927(k)) dispensed on or after July 1, 1991, if, under applicable State law, a less expensive multiple source drug could have been dispensed, unless reimbursement for such innovator multiple source drug is at or below the upper payment limit for the drug dispensed;".

(2) Conforming amendment.—The section heading of section 4401(a)(1) of OBRA–1990 is amended by striking "and drug use review".

(b) Section 1902.—Section 1902(a)(54) (42 U.S.C. 1396a(a)(54)), as inserted by section 4401(a)(2)(C) of OBRA–1990, is amended—

(1) in subparagraph (A) by striking "1927(k)(6)" and inserting "1927(k)"; and

(2) by striking "reporting requirements" and all that follows through "1927" and inserting "requirements of section 1927".

(c) Section 1927.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "April";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)) shall not apply to drugs dispensed before April 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.".

(C) by amending paragraph (3) to read as follows:

"(3) Authorizing payment for drugs not covered under rebate agreements.—Paragraph (1) and section 1903(i)(10) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the State plan;

"(B) the drug has been given a rating of 1–A by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(4), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A)."; and

(D) in paragraph (4)—

(i) by striking "in compliance with" and inserting "in effect under", and

(ii) by striking "coverage of the manufacturer's drugs" and inserting "ingredient costs of the manufacturer's covered outpatient drugs covered".

(2) Section 1927(b) (42 U.S.C. 1396r–8(b)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "each calendar quarter (or periodically in accordance with a schedule specified by the Secretary)" and inserting "for a rebate period", and

(ii) by striking "dispensed under the plan during the quarter (or other period as the Secretary may specify)" and inserting "dispensed after December 31, 1990, for which payment was made under the State plan for such period";

(B) in paragraph (2)(A)—

(i) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(ii) by striking "dosage units" and inserting "units of each dosage form and strength and package size",

(iii) by inserting "after December 31, 1990, for which payment was made" after "dispensed", and

(iv) by striking "during" and inserting "for";

(C) in paragraph (3)(A)—

(i) in clause (i), by striking "quarter" each place it appears and inserting "rebate period under the agreement",

(ii) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(iii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C)) for each covered outpatient drug", and

(iv) in clause (ii), by inserting a comma after "this section" and after "1990";

(D) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "about charges or prices", and

(iii) by striking "or knowingly provides false information";

(E) in paragraph (3)(C)—

(i) in clause (i)—

(I) by striking "increased by", and

(II) by striking ", and, if" and inserting ". If",

(ii) in clause (ii), by striking "under this section" and inserting "under this section, or a wholesaler or direct seller,",

(iii) in clause (ii), by inserting "under subparagraph (A) or (B)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(F) in paragraph (3)(D), by striking "wholesaler," the first time it appears and inserting "wholesaler or the"; and

(G) in paragraph (4)(B)—

(i) in clause (ii), by striking "such period" and inserting "the calendar quarter beginning at least 60 days",

(ii) in clause (ii), by striking "of the notice" and all through "the agreement)." and inserting "the manufacturer provides notice to the Secretary.",

(iii) by redesignating clause (iii) as clause (iv) and inserting after clause (ii) the following new clause:

"(iii) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.", and

(iv) by adding at the end the following new sentence: "Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.".

(3) Section 1927(c) (42 U.S.C. 1396r–8(c)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) by amending paragraph (1) to read as follows:

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate for a rebate period with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State plan in the period reported by the State under subsection (b)(2), and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

for the period.

"(B) RANGE OF REBATES REQUIRED.—

"(i) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' for rebate periods beginning—

"(I) before January 1, 1993, is 12.5 percent, and

"(II) after December 31, 1992, is 15 percent.

"(ii) TEMPORARY LIMITATION ON MAXIMUM REBATE AMOUNT.—In no case shall the amount applied under subparagraph (A)(ii) for a rebate period beginning—

"(I) before January 1, 1992, exceed 25 percent of the average manufacturer price, or

"(II) after December 31, 1991, and before January 1, 1993, exceed 50 percent of the average manufacturer price.

"(C) BEST PRICE DEFINED.—For purposes of this section, the term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, provider, nonprofit or for-profit entity, or governmental entity within the United States (excluding depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government). The term 'best price' shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.";

(B) by amending paragraph (2) to read as follows:

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) 1991 THROUGH 1993.—The amount of the rebate for a rebate period beginning before January 1, 1994, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, is increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for September 1990.

In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, subclause (II) of clause (ii) shall be applied by substituting 'the first full calendar quarter after the drug was marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the drug was marketed' for 'September 1990'.

"(B) AFTER 1993.—Except as provided in subparagraph (D), the amount of the rebate for a rebate period beginning after December 31, 1993, is increased by an amount equal to the product of—

"(i) the total number of all units of the single source and innovator multiple source drugs of a manufacturer for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

"(ii) the amount (if any) by which—

"(I) the current weighted average manufacturer price (as defined in subparagraph (C)(i)) for the single source and innovator multiple source drugs of the manufacturer for the period, exceeds

"(II) the base weighted average manufacturer price for such drugs of such manufacturer (as defined in subparagraph (C)(ii)).

"(C) WEIGHTED AVERAGE MANUFACTURER PRICE DETERMINATIONS.—

"(i) CURRENT WEIGHTED AVERAGE MANUFACTURER PRICE DEFINED.—For purposes of subparagraph (B), and except as provided in subparagraph (D), the term 'current weighted average manufacturer price' means, with respect to a rebate period, the amount described in clause (iii) divided by the amount described in clause (iv).

"(ii) BASE WEIGHTED AVERAGE MANUFACTURER PRICE.—For purposes of subparagraph (B), and except as provided in subparagraph (D), the term 'base weighted average manufacturer price' means, with respect to a rebate period, the amount described in clause (iii) (by substituting in subclause (I) of such clause 'the average manufacturer price for each drug for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for September 1990 (or, in the case of a covered outpatient drug approved for marketing after October 1, 1990, as of the first full calendar quarter after the drug was marketed, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the rebate period exceeds such index for the first full month of the first full calendar quarter after the drug was marketed)' for 'the average manufacturer price for each drug for such period'), divided by the amount described in clause (iv).

"(iii) TOTAL DOLLAR VOLUME (BASED ON CURRENT PRICE AND CURRENT DISPENSING).—The amount described in this clause for a manufacturer for a rebate period is the sum of the products (for all single source and innovator multiple source drugs of the manufacturer for which payment was made under State plans for the period) of—

"(I) the average manufacturer price for each such drug for such period, and

"(II) the total number of units of each such drug paid for under the State plans for the period.

"(iv) TOTAL UNITS PAID FOR.—The amount described in this clause for a manufacturer for a rebate period is the sum of the total number of units of the single source and innovator multiple source drugs of the manufacturer paid for under State plans for the period.

"(D) EXCLUSION OF CERTAIN NEW DRUGS.—

"(i) IF UNDUE HARDSHIP.—The Secretary may exclude certain drugs approved by the Food and Drug Administration on or after October 1, 1990, from the calculation of the weighted average manufacturer price under subparagraph (C) if the manufacturer demonstrates, through a petition in a form and manner prescribed by the Secretary, that undue hardship on the manufacturer would result if the drug is included in the calculation. The Secretary may promulgate guidelines to restrict the conditions under which the Secretary may consider such petitions.

"(ii) DETERMINATION OF REBATE FOR EXCLUDED DRUGS.—If a drug is excluded under clause (i) from the calculation of a rebate, the amount of the additional rebate with respect to that drug shall be determined as specified in subparagraph (A).

"(E) USE OF ALTERNATIVE FORMULA.—For rebate periods beginning during the 2-year period beginning July 1, 1991, the Secretary shall compare the total amount of additional rebates under subparagraph (A) to such total amount if subparagraph (B) applied to such rebate periods. Based on such comparison, the Secretary may propose and utilize an alternative formula for the purpose of calculating the additional rebate."; and

(C) by amending paragraph (3) to read as follows:

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2).

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' for rebate periods beginning—

"(i) before January 1, 1994, is 10 percent, and

"(ii) after December 31, 1993, is 11 percent.".

(4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "(6)" and "(5)" and inserting "(5)" and "(4)", respectively, and

(II) in subparagraph (B)(i), by striking "(k)(6)" and inserting "subsection (k)(5)";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "anorexia or weight gain" and inserting "weight gain or loss", and

(II) by inserting after subparagraph (K) the following new subparagraph:

"(L) other drugs specified by the Secretary pursuant to paragraph (3).";

(iii) in paragraph (3)—

(I) by striking "The Secretary shall" and inserting "Subject to paragraph (5), the Secretary shall",

(II) by striking "(except with respect" and all that follows through "of this paragraph)",

(III) by striking "described in paragraph (2)", and

(IV) by inserting "described in paragraph (2)" after "medical uses,";

(iv) by striking paragraph (4) and by redesignating paragraphs (5) through (7) as paragraphs (4) through (6);

(v) in paragraph (4), as so redesignated, by striking "(k)(6)" and inserting "(k)(5)";

(vi) in paragraph (5), as so redesignated—

(I) by striking "for coverage" and inserting "from coverage"; and

(II) by striking "any new biological or drug" and inserting "any biological or drug which is a new chemical or molecular entity";

(vii) in paragraph (6), as so redesignated, by striking "provided" and inserting "if"; and

(viii) by striking the second sentence of paragraph (6), as so redesignated, by striking paragraph (8), and by inserting the following:

"(7) CONSTRUCTION WITH RESPECT TO FRAUD AND ABUSE.—Nothing in this section shall be construed to restrict the authority of a State to apply sanctions under this Act against any person or organization for fraud or abuse.".

(B) Section 1927(d)(4) (42 U.S.C. 1396r-8(d)(4)), as redesignated by subparagraph (A)(iv), shall first apply to drugs dispensed on or after July 1, 1991.

(5) Section 1927(e) (42 U.S.C. 1396r-8(e)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES.—Section 1903(i)(10)(B) shall apply to payments made by the Secretary to a State under section 1903 with respect to innovator multiple source drugs dispensed on or after July 1, 1991.".

(6) Section 1927(f) (42 U.S.C. 1396r-8(f)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(f) PHARMACY REIMBURSEMENT LIMITS.—

"(1) NO REDUCTIONS IN REIMBURSEMENT LIMITS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1994—

"(i) a State may not reduce the payment limits established by regulation under this title with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the limits in effect as of January 1, 1991, and

"(ii) except as provided in paragraph (2), the Secretary may not change the regulations under sections 447.331 through 447.334 of title 42, Code of Federal Regulations, in effect on November 5, 1990, governing the limits described in clause (i).

"(B) SPECIAL RULE.—If a State is not in compliance with the regulations described in subparagraph (A)(ii), subparagraph (A)(i) shall not apply to such State until such State is in compliance with such regulations.

"(2) ESTABLISHMENT OF UPPER PAYMENT LIMITS FOR CERTAIN MULTIPLE SOURCE DRUGS.—The Secretary shall establish an upper limit on the amount of payment which is eligible for Federal financial participation under this title for each multiple source drug for which the Food and Drug Administration has rated at least 3 formulations of such drug as therapeutically and pharmaceutically equivalent, regardless of whether all the formulations of such drug are rated as so equivalent.".

(7) Section 1927(g) (42 U.S.C. 1396r-8(g)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(g) DRUG USE REVIEW.—

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs which—

"(i) meets the requirements of paragraph (2), and

"(ii) assures that prescriptions for such drugs are appropriate, medically necessary, and not likely to result in adverse medical results.

"(B) TREATMENT OF NURSING FACILITIES.—A State is not required in such State's drug use review program to provide for drug use review with respect to drugs dispensed to residents of nursing facilities which are in compliance with the requirements of subsections (b)(4)(A)(iii) and (c)(1)(D) of section 1919.

"(2) REQUIREMENTS OF PROGRAM.—

"(A) PROSPECTIVE DRUG USE REVIEW.—

"(i) IN GENERAL.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title. The review shall be designed to identify potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

"(ii) STANDARDS FOR COUNSELING BY PHARMACISTS.—As part of the prospective drug use review program of a State, applicable State law shall establish standards for counseling by pharmacists of individuals receiving benefits under this title. Such standards shall include, at a minimum, the following:

"(I) The pharmacist must offer to discuss (in person, face-to-face whenever practicable, or through access to a telephone service which is toll free for long-distance calls) with each individual receiving benefits under this title or caregiver of such individual who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant, which may include the following:

"(aa) The name and description of the medication.

"(bb) The dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth, (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individual's drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) STANDARDS.—

"(i) IN GENERAL.—The program shall, on an ongoing basis, assess data on drug use against explicit standards determined by the State (using the sources described in clause (ii) as the basis for determining the standards for such assessment). Such assessment shall include monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse or misuse, and introduce remedial strategies in order to improve the quality of care and to conserve program funds or personal expenditures.

"(ii) SOURCES.—The sources described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, the American Medical Association Drug Evaluations, and the peer-reviewed medical literature.

"(D) EDUCATION AND INTERVENTION.—The program shall provide for, either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists' associations or societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems—

"(i) ongoing educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices; and

"(ii) ongoing interventions for physicians and pharmacists targeted toward common drug therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection, including, in appropriate instances, at least the following:

"(I) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

"(II) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and followup face-to-face discussions; and

"(III) intensified review or monitoring of selected prescribers or dispensers.

"(3) STATE DRUG USE REVIEW BOARD.—

"(A) ESTABLISHMENT.—Each State shall establish a drug use review board (hereafter in this paragraph referred to as the 'DUR Board'). The State shall disseminate information to physicians and pharmacists within the State concerning the duties and powers of the DUR Board and the basis for its standards.

"(B) MEMBERSHIP.—The members of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

"(i) The clinically appropriate prescribing of covered outpatient drugs.

"(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

"(iii) Drug use review, evaluation, and intervention.

"(iv) Medical quality assurance.

The membership of the DUR Board shall be made up of at least ⅓ but no more than 51 percent licensed and actively practicing physicians and at least ⅓ licensed and actively practicing pharmacists.

"(C) RESPONSIBILITIES.—The DUR Board shall—

"(i) approve the standards and criteria for drug use review;

"(ii) recommend policies and procedures for the prospective and retrospective drug use review, education, and interventions required by this subsection;

"(iii) compile data on common drug therapy problems; and

"(iv) evaluate the effectiveness of the drug use review program in improving the quality of drug therapy and make recommendations for modifications as necessary.

"(4) ANNUAL REPORT.—Each State shall submit an annual report to the Secretary which shall include a description of the nature and scope of the drug use review program, a summary of the interventions used, and an assessment of the impact of such interventions on improving quality of care. Such report shall also include an estimate of the cost savings resulting from the operation of such program.

"(5) RESPONSIBILITY OF SECRETARY.—By July 1 of each year beginning with 1994, the Secretary shall submit an annual report to the Congress evaluating the effectiveness of States' drug use review programs utilizing each State's annual report.".

(8) Section 1927(h)(2)(A) (42 U.S.C. 1396r-8(h)(2)(A)), as inserted by section 4401(a)(3) of OBRA-1990, is amended by inserting "develops or" before "acquires".

(9) Section 1927(i)(2) (42 U.S.C. 1396r-8(i)(2)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(10) Section 1927(j) (42 U.S.C. 1396r-8(j), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(j) EXEMPTION FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this section shall not apply with respect to covered outpatient drugs dispensed by—

"(A) a health maintenance organization; or

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system, and bills the plan no more than the hospital's purchasing costs for covered outpatient drugs (as determined under the State plan).

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(11) Section 1927(k) (42 U.S.C. 1396r-8(k)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1)—

(i) by striking "calendar quarter" and inserting "rebate period", and

(ii) by inserting before the period at the end the following: ", after deducting customary prompt pay discounts";

(B) in paragraph (2)—

(i) in the matter before clause (i) of subparagraph (A), strike "paragraph (5)" and insert "subparagraph (D)";

(ii) in subparagraph (A)—

(I) in clause (i), by striking "for safety and effectiveness" and by striking "or which is approved under section 505(j) of such Act"; and

(II) by striking "and" at the end thereof;

(iii) in subparagraph (B)—

(I) in clause (i), by striking "prescription," and inserting "prescription;";

(II) in clause (ii), by striking ", and" and inserting "; and"; and

(III) by striking "and" at the end thereof;

(iv) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(C) in paragraph (3)—

(i) in subparagraph (E), by striking "**** emergency room visits",

(ii) in subparagraph (F), by striking "sevices" and inserting "services and services provided by an intermediate care facility for the mentally retarded",

(iii) in subparagraph (H), by inserting "services" after "dialysis",

(iv) in the matter following subparagraph (H), by striking "which is used" and inserting "for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used", and

(v) in the matter following subparagraph (H), by inserting "as defined in paragraph (5)" after "indication";

(D) by striking paragraph (4) and redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(E) by amending paragraph (4), as so redesignated, to read as follows:

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.";

(F) in paragraph (5), as so redesignated, by striking ", which appears" and all that follows and inserting "or which is listed in any of the sources described in subsection (g)(2)(C)(ii).";

(G) in paragraph (6), as so redesignated—

(i) in subparagraph (A)(i), by striking "calendar quarter" and inserting "rebate period",

(ii) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(iii) in subparagraph (A)(ii), by striking "an original new" and inserting "a new",

(iv) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(v) in subparagraph (A)(iv), by striking "an original new" and inserting "a new",

(vi) in subparagraph (A)(iv), by inserting "or product licensing application" after "application",

(vii) in subparagraph (A)(iv), by striking "distributers" and inserting "distributors",

(viii) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(ix) in subparagraph (C)(iii), by striking ", provided that" and inserting "if"; and

(H) by inserting after paragraph (6), as redesignated, the following new paragraph:

"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

(12) Section 1927 (42 U.S.C. 1396r–8), as inserted by section 4401(a)(3) of OBRA–1990, is further amended by adding at the end the following:

"(l) MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs is subject to such limitations or the amount of such cost limitations.".

(d) FUNDING.—Section 4401(b)(2) of OBRA–1990 is amended by striking the semicolon and all that follows and inserting a period.

(e) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA–1990 is amended—

(1) in subparagraph (A), by striking "1992" and inserting "1993";

(2) in subparagraph (A), by striking "10" and inserting "5"; and

(3) in subparagraph (C), by striking "regiment" and inserting "regimen".

(f) STUDIES.—Section 4401(d) of OBRA–1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities," and inserting "nursing facilities, intermediate care facilities for the mentally retarded,";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second time it appears and inserting "the type of drug use review that is", and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C), by striking "May 1, 1991" and inserting "May 1, 1992";

(7) in paragraph (2), by striking "an annual report" and inserting "a report";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,",

(B) by indenting subparagraph (B) an additional 2 ems, and

(C) in subparagraph (B), by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary";

(9) in paragraph (4)(A), by striking "each" and by striking the semicolon and inserting a comma;

(10) in paragraph (4)(B), by striking "December 31, 1991" and inserting "January 1, 1993";

(11) in paragraph (5)—

(A) by striking "Secretary of Health and Human Services" and inserting "Comptroller General",

(B) by striking "under this title" and inserting "under State medicaid programs", and

(C) by striking the second sentence and inserting the following new sentence: "The Comptroller General shall report to the Congress on the study not later than January 1, 1993."; and

(12) in paragraph (6), by striking "1 year after the date of enactment of this subsection" and inserting "January 1, 1993".

### SEC. 203. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA–1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

### SEC. 204. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of OBRA–1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B) (42 U.S.C. 1396d(p)(4)(B)), as amended by section 4501(c)(1) of OBRA–1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

### SEC. 205. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C. 1396a(a)(10)(A)(i)(VII)), as added by section 4601(a)(10)(A)(iii) of OBRA–1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l) (42 U.S.C. 1396a(l)), as amended by section 4601(a)(1)(C) of OBRA–1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Section 1925 (42 U.S.C. 1396r–6), as amended by section 4601(a) of OBRA–1990, is amended—

(1) in subsection (a)(3)(C), by striking "(i)(VI)" and inserting "(i)(VI),", and

(2) in subsection (b)(3)(C)(i), by striking "(i)(IV) (i)(VI) (i)(VII), ," and inserting "(i)(IV), (i)(VI), (i)(VII),".

### SEC. 206. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)), as added by section 4602(a)(3) of OBRA–1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

### SEC. 207. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s) (42 U.S.C. 1396a(s)), as added by section 4604(a) of OBRA–1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r–4(a)(2)(C)) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

### SEC. 208. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) (42 U.S.C. 1396r–4(c)) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) (42 U.S.C. 1396r–4(d)(2)(A)(ii)) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA–1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

### SEC. 209. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of OBRA–1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified"; and

(3) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(B)), as amended by section 4704(b)(2) of OBRA–1990, is amended by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as amended by section 4704(c) of OBRA–1990, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualififed" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient", and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (i),

(C) by striking the semicolon at the end of clause (ii)(II) and inserting a comma,

(D) by moving clause (ii) 4 ems to the left,

(E) by striking the comma at the end of clause (iii) and inserting ", or", and

(F) by striking "and includes an outpatient health program" and all that follows through "for good cause shown." and inserting the following:

"(iv) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).

In applying clause (iii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

### SEC. 210. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

Section 1902(a)(32)(C) (42 U.S.C. 1396a(a)(32)(C)), as added by section 4708(a)(3) of OBRA–1990, is amended to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this clause for payment to the first provider.".

### SEC. 211. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING"; and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth place it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) a nonresidential setting that serves 8 or more individuals; or"; and

(B) in subparagraph (B)—

(i) by striking "more than 8" and inserting "8 or more"; and

(ii) by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third place it appears and inserting "home and community care";

(10) in the first sentence of subsection (j)(1)(A), by striking "the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty" and inserting "the State may provide for a civil money penalty and, in addition, may terminate the provider's participation under the State plan";

(11) in the first sentence of subsection (j)(2)(B), by striking "the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)" and inserting "the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider's participation under the State plan";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in subsection (m)—

(A) in paragraph (1), by striking "The amount of funds" and inserting "Except as provided in paragraph (5), the amount of funds",

(B) in paragraph (2)—

(i) by striking "Individual Community Care Plan" and inserting "individual community care plan", and

(ii) by striking "an election period is the period of 4 or more calendar quarters" and inserting "an election period is a Federal fiscal year (or in the case of States described in paragraph (4)(C)(ii), the period beginning on April 1, 1993, and ending on September 30, 1993)",

(C) by amending paragraph (4) to read as follows:

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—All of the funds available to be expended under paragraph (1) during a fiscal year shall be available as Federal medical assistance to the States electing to provide services under this section during such fiscal year.

"(B) GENERAL ALLOCATION FORMULA.—For each fiscal year, beginning with fiscal year 1994, a State which has provided a notice to the Secretary under paragraph (6)(A) shall be allocated an amount of the funds that may be expended under paragraph (1) for such fiscal year equal to the product of—

"(i) the total amount of funds that may be expended under paragraph (1) for such fiscal year; and

"(ii) the amount determined by dividing—

"(I) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(II) the total number of individuals age 65 or older residing in all States which have submitted notices to the Secretary under such paragraph during such fiscal year.

"(C) SPECIAL ALLOCATION FORMULA FOR FISCAL YEAR 1993.—

"(i) FIRST 6-MONTH PERIOD.—For the period beginning on October 1, 1992, and ending on March 31, 1993, each State for which a State plan amendment to provide home and community care under this section has been approved by the Secretary as of the date of enactment of the Medicare and Medicaid Amendments Act of 1992 shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the product of—

"(I) $65,000,000; and

"(II) the amount determined by dividing—

"(aa) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(bb) the total number of individuals age 65 or older residing in all States which are providing home and community care under this section on the date of enactment of such Act.

"(ii) SECOND 6-MONTH PERIOD.—For the period beginning on April 1, 1993, and ending on September 30, 1993, a State which has provided a notice to the Secretary under paragraph (6)(B) shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the amount such State would receive under the formula set forth in subparagraph (B) by substituting—

"(I) '(6)(B)' for '(6)(A)', and

"(II) '$65,000,000' for 'the total amount of funds that may be expended under paragraph (1) for such fiscal year'.

"(D) REALLOCATION OF FUNDS.—

"(i) FORMULA FOR REALLOCATION.—

"(I) GENERAL RULE.—Except as provided in subclause (II), within 60 days after the end of each fiscal year, beginning with fiscal year 1993, the Secretary shall pay to each State which provided services under this section during such fiscal year an amount equal to the product of—

"(aa) the total amount of funds that may be expended under paragraph (1) for such fiscal year which remain available at the end of such fiscal year; and

"(bb) the amount determined by dividing the unavailable Federal amount (as defined in clause (ii)) for such State by the total unavailable Federal amount for all the States which provided services under this section during such fiscal year.

"(II) SPECIAL RULE.—The amount determined for payment to a State under subclause (I) shall not exceed the unavailable Federal amount for such State.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'unavailable Federal amount' means the excess of—

"(I) the amount a State would have received in Federal medical assistance based on such State's expenditures for services provided under this section but for the allocation under subparagraph (B), over

"(II) the amount of Federal medical assistance allocated to such State under subparagraph (B).", and

(D) by adding at the end the following new paragraphs:

"(5) CARRYOVER OF FUNDS TO NEXT FISCAL YEAR.—Beginning with fiscal year 1993, any funds available under paragraph (1) for a fiscal year which remain available after the application of subparagraphs (B), (C), and (D) of paragraph (4) shall be available under paragraph (1) to be expended in the following fiscal year.

"(6) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) IN GENERAL.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for any fiscal year (beginning with fiscal year 1994), a State shall submit not later than 3 months before the beginning of such fiscal year a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the fiscal year of the amount of Federal medical assistance that will be available to the State for such fiscal year (as established under paragraph (4)(B)).

"(B) SPECIAL RULE FOR FISCAL YEAR 1993.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for the period beginning on April 1, 1993, and ending on September 30, 1993, a State shall submit not later than March 1, 1993, a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than April 1, 1993, the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the period beginning on April 1, 1993, and ending on September 30, 1993, of the amount of Federal medical assistance that will be available to the State for such period (as established under paragraph (4)(C)(ii))."; and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is amended by striking "1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA–1990 is amended by striking "Act" each place it appears and inserting "section".

### SEC. 212. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS).

(a) Section 1930 (42 U.S.C. 1396u), as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking "3 other" and inserting "3";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "program," and inserting "program", and

(B) in the second sentence, by striking "plan" each place it appears and inserting "program"; and

(3) in subsection (i), by striking "FUNDS" and inserting "FUNDS".

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting "of section 1930 of the Social Security Act" after "subsection (h)"; and

(2) in paragraph (2), by striking "this section" and inserting "such section".

### SEC. 213. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(1) by striking "; and (XI)" and inserting ", (XI)";

(2) by striking "individuals, and (XI)" and inserting "individuals, and (XII)"; and

(3) by striking "COBRA continuation premiums" and inserting "COBRA premiums".

(b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as added by section 4713(a)(2) of OBRA–1990, is amended by striking "title VI" and inserting "part 6 of subtitle B of title I".

### SEC. 214. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking "AMENDMENTS.—Subsection (f) of section" and inserting "IN GENERAL.—Section".

### SEC. 215. CORRECTIONS RELATING TO SECTION 4721 (PERSONAL CARE SERVICES).

Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)), as amended by section 4721(a) of OBRA–1990, is amended to read as follows:

"(7)(A) home health services; and (B) personal care services which are (i) prescribed by a physician for an individual in accordance with a plan of treatment, (ii) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (iii) supervised by a registered nurse, (iv) furnished in a home or other location, and (v) furnished to an individual who is not an inpatient or resident of a nursing facility;".

### SEC. 216. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPEND-DOWN OPTION).

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as amended by section 4723(a) of OBRA–1990, is amended by striking "to the State, provided that" and inserting "to the State if".

### SEC. 217. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v) (42 U.S.C. 1396a(v)), as added by section 4724 of OBRA–1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

### SEC. 218. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking "or" before "with an eligible organization".

### SEC. 219. CORRECTIONS RELATING TO SECTION 4744 (FRAIL ELDERLY WAIVERS).

(a) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA–1990, is amended by striking "1986." and inserting "1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.".

(b) Section 603(c) of the Social Security Amendments of 1983 is amended—

(1) by striking "(c)" and inserting "(c)(1)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end the following new paragraph:

"(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

### SEC. 220. CORRECTIONS RELATING TO SECTION 4745 (LOW INCOME FAMILIES DEMONSTRATION PROJECT).

Section 4745(e)(1) of OBRA–1990 is amended by adding at the end the following new sentence: "Such sums as may be available under the limitations set forth in this paragraph for fiscal years 1993 and 1994 shall be available until expended.".

### SEC. 221. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a), by striking "subsection (c)" and inserting "subsection (b)";

(2) in subsection (b)(2)—

(A) by striking "preventative" each place it appears and inserting "preventive", and

(B) by adding a period at the end of subparagraph (J);

(3) in subsection (c)(1)—

(A) by striking "subsection (c)" and inserting "subsection (b)", and

(B) by striking "paragraphs (1) and (2) of";

(4) in subsection (d)—

(A) by striking "paragraph (3)" and inserting "subsection (b)", and

(B) by striking "paragraph (1)" and inserting "subsection (a)"; and

(5) in subsection (f), by adding at the end the following new sentence: "Such sums as may be available under the limitation set forth in this paragraph for fiscal year 1993 shall be available until expended.".

### SEC. 222. CORRECTION RELATING TO SECTION 4751 (ADVANCED DIRECTIVES).

Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

### SEC. 223. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) The paragraph (58) of section 1902(a) (42 U.S.C. 1396a(a)) added by section 4752(c)(1)(C) of OBRA–1990 is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Section 1903(i)(14)(A)(i) (42 U.S.C. 1396b(i)(14)(A)(i)) is amended to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,".

(c) Subparagraphs (A) and (B) of section 1903(i)(14) (42 U.S.C. 1396b(i)(14)) added by section 4752(e)(2) of OBRA–1990 are each amended—

(1) by striking "or" at the end of clause (v);

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

### SEC. 224. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking "not to exceed" before "14 days".

(b) Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program.".

(c) Section 1919(b)(5)(G) (42 U.S.C. 1396r(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) (42 U.S.C. 1396r(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(3)(C) (42 U.S.C. 1396r(g)(3)(C)) is amended by striking "1903(a)(2)(D)" and inserting "1903(a)(2)(C)".

(g) Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(h) Section 4801(a)(6)(B) of OBRA-1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

(3) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii)(I) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

### SEC. 225. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) (42 U.S.C. 1396n(d)) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the first place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

"(A)(i) is in a medical institution or nursing facility; or

"(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and".

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1993.

### SEC. 226. CORRECTIONS TO DESIGNATIONS OF NEW PROVISIONS.

(a) Paragraphs Added to Section 1902(a).—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA-1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA-1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA-1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA-1990, by striking the period at the end and inserting "; and"; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA-1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(b) Paragraphs Added to Section 1903(i).—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA-1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, and by striking the period at the end and inserting a semicolon;

(2) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA-1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting "; or"; and

(3) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA-1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking "; or" and inserting a period.

(c) Paragraphs Added to Section 1905(a).—

(1) In general.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) in paragraph (24), by striking the comma at the end and inserting "; and"; and

(C) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24), as so redesignated, after paragraph (23), as so redesignated.

(2) Conforming amendments.—(A) Effective July 1, 1991, section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 4755(c)(1)(A) of OBRA-1990, is amended by striking "through (21)" and inserting "through (23)".

(B) Effective July 1, 1991, section 1902(j) (42 U.S.C. 1396a(j)), as amended by section 4711(d)(1) of OBRA-1990, is amended by striking "through (22)" and inserting "through (24)".

(d) Final Sections.—Section 1928 (42 U.S.C. 1396s), as redesignated by section 4401(a)(3) of OBRA-1990, is amended—

(1) by transferring such section to the end of title XIX; and

(2) by redesignating such section as section 1932.

### SEC. 227. CORRECTIONS RELATING TO SECTION 4008 (CONFORMING AMENDMENTS TO MEDICARE).

(a) Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA-1990, is amended by striking the comma before "or a new competency evaluation program.".

(b) Section 1819(b)(5)(G) (42 U.S.C. 1395i-3(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(c) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i-3(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(d) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(e) Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(f) Section 4008(h)(1)(F)(ii) of OBRA-1990 is amended—

(1) by striking "The amendments" and inserting "(I) The amendments";

(2) by striking "nursing facility" each place it appears and inserting "skilled nursing facility";

(3) by redesignating subclauses (I) through (V) as clauses (aa) through (ee); and

(4) by adding at the end the following new subclause:

"(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, clause (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.".

## Subtitle B—Other Amendments to Medicaid Provisions

## PART I—SUBSTANCE ABUSE PROVISIONS

### SEC. 231. EXCEPTION TO IMD EXCLUSION FOR QUALIFIED COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) Exception to IMD Exclusion.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended in subparagraph (B) of the matter following paragraph (24), by inserting ", other than care and services (excluding room and board) for any individual who is participating in a qualified comprehensive substance abuse treatment program under title IV and who would be eligible for medical assistance under this title but for the application of this subparagraph" after "institution for mental diseases".

(b) Waiver Authority.—The Secretary of Health and Human Services shall waive the requirements of section 1902(a)(1) of the Social Security Act (relating to statewideness) and section 1902(a)(10)(B) of such Act (relating to the amount, duration, and scope of benefits) to the extent the Secretary determines that a waiver of such requirements is necessary and appropriate to enable a State to establish a comprehensive substance abuse treatment program described in title IV of such Act.

(c) Effective Date.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply to services furnished on or after July 1, 1993.

### SEC. 232. COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.

(a) Medicaid Coverage of Alcoholism and Drug Dependency Residential Treatment Services for Pregnant Women, Caretaker Parents, and Their Children.—

(1) Coverage of alcoholism and drug dependency residential treatment services.—

(A) Optional coverage.—Section 1905 (42 U.S.C. 1396d), as amended by section 231, is further amended—

(i) in subsection (a)—

(I) by striking "and" at the end of paragraph (23);

(II) by redesignating paragraph (24) as paragraph (25); and

(III) by inserting after paragraph (23) the following new paragraph:

"(24) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1931); and"; and

(ii) in subparagraph (B) of the matter following paragraph (25), as redesignated—

(I) by striking "room and board" and inserting "room and board, unless such payment is for services authorized under paragraph (24) to an individual described in section 1931(e)"; and

(II) by striking "title IV" and inserting "title IV or who is receiving alcoholism and drug dependency residential treatment services under paragraph (24)".

(B) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES DEFINED.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

### "ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES

"SEC. 1931. (a) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—The term 'alcoholism and drug dependency residential treatment services' means, subject to subsection (d), all the required services described in subsection (b) provided—

"(1) in a coordinated manner (either directly or through arrangements with public and nonprofit private entities or, for medical services, through arrangements with licensed practitioners or federally qualified health centers or, with respect to such services provided to individuals eligible to receive services in Indian Health Facilities, through or under arrangements with the Indian Health Service or a tribal or Indian organization that has entered into a contract with the Secretary under section 450(g) of the Indian Self-Determination and Education Assistance Act or section 1652 of the Indian Health Care Improvement Act) by a residential treatment facility that meets the requirements of subsection (c); and

"(2) pursuant to an individualized treatment plan prepared by the facility for each individual, which plan—

"(A) states specific objectives necessary to meet the individual's needs,

"(B) describes the services to be provided to the individual to achieve those objectives,

"(C) is established in consultation with the individual and reflects the preferences of the individual,

"(D) is periodically reviewed and (as appropriate) revised by the staff of the facility in consultation with the individual, and

"(E) is established in a manner which promotes the active involvement of the individual in the development of the plan and its objectives.

"(b) REQUIRED SERVICES DEFINED.—For purposes of subsection (a), the required services described in this subsection are as follows:

"(1)(A) Individual, group, and family counseling, addiction education and treatment, provided pursuant to individualized treatment plans, including opportunity for involvement in Alcoholics Anonymous and Narcotics Anonymous,

"(B) parenting skills training,

"(C) education concerning prevention of HIV infection, and

"(D) assessment of each individual's need for domestic violence counseling and sexual abuse counseling and provision of such counseling where needed.

Services under this paragraph shall be provided in a cultural context that is appropriate to the individuals and in a manner that ensures that the individuals can communicate effectively, either directly or through interpreters, with persons providing services.

"(2) Room and board in a structured environment with on-site supervision 24 hours a day.

"(3) Therapeutic child care or counseling for children of individuals in treatment.

"(4) Assisting parents in obtaining access to—

"(A) developmental services (to the extent available) for their preschool children,

"(B) public education for their school-age children, including assistance in enrolling them in school, and

"(C) public education for parents who have not completed high school.

"(5) Facilitating access to prenatal and post partum health care for women, to pediatric health care for infants and children, and to other health and social services where appropriate and to the extent available, including services under title V, services and nutritional supplements provided under section 17(i) of the Child Nutrition Act of 1986, services provided by federally qualified health centers, outpatient pediatric services, well-baby care, and early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)).

"(6) Ensuring supervision of children during times their mother or, if applicable, their caretaker parent, is in therapy or engaged in other necessary health or rehabilitative activities.

"(7) Planning for and counseling to assist reentry into society, including referrals to appropriate educational, vocational, and other employment-related programs (to the extent available), referrals to appropriate outpatient treatment and counseling after discharge (which may be provided by the same program, if available and appropriate) to assist in preventing relapses, transitional housing, and assistance in obtaining suitable affordable housing and employment upon discharge.

"(8) Continuing specialized training for staff in the special needs of residents and their children, designed to enable such staff to stay abreast of the latest and most effective treatment techniques.

"(c) FACILITY REQUIREMENTS.—The requirements of this subsection with respect to a facility are as follows:

"(1) The State has determined that the facility is able to provide (either directly or through arrangements with public and nonprofit private entities or, for medical services, through arrangements with licensed practitioners or federally qualified health centers or, with respect to such services provided to individuals eligible to receive services in Indian Health Facilities, through or under arrangements with the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 450(g) of the Indian Self-Determination and Education Assistance Act or section 1652 of the Indian Health Care Improvement Act) all the services described in subsection (b) and, except for Indian Health Facilities, meets all applicable State licensure or certification requirements for a facility of that type.

"(2)(A) Subject to subparagraph (B), the facility or distinct part thereof provides room and board and such facility is not licensed as a hospital and does not have more than 40 beds (including beds occupied by children).

"(B) The requirement under subparagraph (A) that a facility not be a hospital may be waived by the Secretary, if the Secretary finds that such facility is located in an Indian Health Service area and that such facility is the only, or one of the only, facilities available in such area to provide services under this section.

"(3) With respect to a facility providing the services described in subsection (b) to an individual eligible to receive services in Indian Health Facilities, such a facility demonstrates (as required by the Secretary) an ability to meet the special needs of Indian and Native Alaskan women.

"(d) LIMITATIONS ON COVERAGE.—(1) Subject to paragraph (2), services described in subsection (b) shall be covered in the amount, duration and scope therapeutically required for each eligible individual in need of such services, as determined by the State.

"(2) A State plan may limit coverage of alcoholism and drug dependency residential treatment services to a period of not less than 1 year. This paragraph shall not be construed as requiring a State plan to cover such services for any individual beyond the period for which such services are therapeutically required for that individual.

"(3) An assessment of an individual specified in subsection (e) seeking alcoholism and drug dependency residential treatment services shall be performed by the State to determine whether the individual is in need of alcoholism or drug dependency treatment services and, if so, the treatment setting (such as inpatient hospital, nonhospital residential, or outpatient) that is most appropriate in meeting the individual's health and therapeutic needs and the needs of the individual's dependent children, if any.

"(e) ELIGIBLE INDIVIDUALS DEFINED.—A State plan shall limit coverage under the plan of alcoholism and drug dependency residential treatment services under section 1905(a)(24) to the following individuals otherwise eligible for medical assistance under this title:

"(1) Women during pregnancy, and until the end of the 12th month following the termination of the pregnancy.

"(2) Children of a woman described in paragraph (1).

"(3) At the option of a State, caretaker parents and children of such parents.

"(f) OVERALL CAP ON MEDICAL ASSISTANCE AND PER-STATE BED LEVELS.—

"(1) IN GENERAL.—Federal expenditures with respect to alcoholism and drug dependency residential treatment services under this section shall be limited to the lesser of expenditures related to—

"(A) the total number of beds allocated by the Secretary for such services in any year under paragraph (3); or

"(B) 350 beds.

"(2) PARTICIPATION BY STATES.—

"(A) APPLICATIONS.—In order to receive Federal medical assistance for expenditures for alcoholism and drug dependency residential treatment services under this section beginning with fiscal year 1994, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall determine.

"(B) SELECTION BY THE SECRETARY.—During fiscal year 1993, the Secretary shall evaluate the applications described in subparagraph (A) and shall select no fewer than 5, and no more than 15, States to provide alcoholism and drug dependency residential treatment services under this section.

"(3) ALLOCATION OF BEDS.—

"(A) INITIAL ALLOCATION.—Not later than July 1, 1993, the Secretary shall allocate a number of beds with respect to alcoholism and drug dependency residential treatment services under this section to each State selected by the Secretary under paragraph (2)(B) based on the need for such beds as demonstrated in the application submitted by such State under paragraph (2)(A) and notify such State of such allocation.

"(B) ADDITIONAL ALLOCATIONS.—If the number of beds allocated by the Secretary under subparagraph (A) is less than 350, the Secretary shall continue to solicit and evaluate applications from States and shall select additional States to provide alcoholism and drug dependency residential treatment services under this section until 350 beds have been allocated.

"(g) MAINTENANCE OF STATE FINANCIAL EFFORT.—No payment shall be made to a State under section 1903 in a State fiscal year for alcoholism and drug dependency residential treatment services unless the State provides assurances satisfactory to the Secretary that the State is maintaining State expenditures for such services at a level that is not less than the average annual level maintained by the State for such services for the 2-year period preceding such fiscal year.

"(h) FEDERAL FINANCIAL PARTICIPATION.—The Secretary shall make Federal funds available for alcoholism and drug dependency residential treatment services beginning on October 1, 1993.".

(2) PAYMENT BASIS.—Section 1902(a)(13) (42 U.S.C 1396a(a)(13)) is amended—

(A) by striking "and" at the end of subparagraph (E),

(B) by adding "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) for payment for alcoholism and drug dependency residential treatment services which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide all the services listed in section 1931(b) in conformity with applicable State and Federal laws, regulations, and quality and safety standards and to assure that individuals eligible for such services have reasonable access to such services;".

(3) CONFORMING AMENDMENTS.—

(A) CLARIFICATION OF OPTIONAL COVERAGE FOR SPECIFIED INDIVIDUALS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (F)—

(i) by striking "and (XII)" and inserting "(XII)", and

(ii) by inserting before the semicolon at the end the following: ", and (XIII) the making available of alcoholism and drug dependency residential treatment services to individuals described in section 1931(e) shall not, by reason of this paragraph (10), require the making of such services available to other individuals".

(B) CONTINUATION OF LIMITED MEDICAID ELIGIBILITY FOR PREGNANT WOMEN FOR 12 MONTHS FOLLOWING END OF PREGNANCY.—Section 1902 (42 U.S.C. 1396a) is amended—

(i) in subsection (e)(5)—

(I) by striking "(5) A woman" and inserting "(5)(A) Except as provided in subparagraph (B), a woman"; and

(II) by adding at the end the following new subparagraph:

"(B) A woman who, while pregnant, received alcoholism and drug dependency residential treatment services under section 1931, shall continue to be eligible for such services for a period of up to 12 months following the termination of such pregnancy, if such services are provided on a continuous basis during a period beginning during such pregnancy."; and

(ii) in subsection (l)(1)(A), by striking "the pregnancy)" and inserting "the pregnancy, or in the case of women receiving alcoholism and drug dependency residential treatment services under section 1931, for a period of up to 12 months following the termination of such pregnancy, if such services are provided on a continuous basis during a period beginning during such pregnancy)".

(C) REDESIGNATIONS.—Section 1902 (42 U.S.C. 1396a) is further amended—

(i) in subsection (a)(10)(C)(iv), by striking "(23)" and inserting "(24)", and

(ii) in subsection (j), by striking "(24)" and inserting "(25)".

(4) ANNUAL EDUCATION AND TRAINING IN INDIAN HEALTH SERVICE AREAS.—The Secretary of Health and Human Services in cooperation with the Indian Health Service shall conduct, on at least an annual basis, training and education in each of the 12 Indian Health Service areas for tribes, Indian organizations, residential treatment providers, and State health care workers regarding the availability and nature of residential treatment services available in such areas under the provisions of this Act.

(b) TRANSITION.—The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State under title XIX of the Social Security Act with regard to alcoholism and drug dependency residential treatment services (as defined in section 1931(a) of such Act) made available under such title on or after October 1, 1993, before the date the Secretary issues final regulations to carry out the amendments made by this section, if the services are provided under its plan in good faith compliance with such amendments.

## PART II—CHILD IMMUNIZATION PROVISIONS

### SEC. 241. BULK VACCINE PURCHASING SYSTEMS FOR INCREASED VACCINATION OF MEDICAID ENROLLED CHILDREN.

(a) STATE MEDICAID BULK PURCHASING SYSTEMS.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (58);

(B) by striking the period at the end of paragraph (59) and inserting "; and"; and

(C) by inserting after paragraph (59) the following new paragraph:

"(60) provide for the establishment and operation of a vaccine replacement system (as described in section 1905(t)(1)), unless—

"(A) the State operates a universal vaccine distribution system (as described in section 1905(t)(2)), or

"(B) the State demonstrates to the satisfaction of the Secretary that a vaccine replacement system (as described in section 1905(t)(1)) would not be appropriate or cost-effective in the State."; and

(2) by adding at the end the following new subsection:

"(z) A State which establishes and operates a vaccine replacement system (as described in section 1905(t)(1)) under subsection (a)(60) shall not be precluded from making payments to providers on a fee-for-service basis for the provision of immunization services.".

(b) PAYMENTS TO STATES FOR MEDICAID BULK PURCHASING SYSTEMS.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 75 percent of the sums expended during such a quarter which occurs within any 4-quarter period during the period beginning October 1, 1993, and ending April 1, 1995, with respect to costs incurred during such quarter which are attributable to developing and establishing a vaccine replacement system (as defined in section 1905(t)(1)) or a universal vaccine distribution system (as defined in section 1905(t)(2)) with respect to individuals eligible for medical assistance under a State plan under this title; plus".

(c) DEFINITION.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) VACCINE REPLACEMENT SYSTEM AND UNIVERSAL VACCINE DISTRIBUTION SYSTEM.—

"(1) VACCINE REPLACEMENT SYSTEM.—The term 'vaccine replacement system' means a State program which purchases childhood vaccines on behalf of entities providing medical assistance to individuals eligible for such medical assistance under the State plan under this title at prices negotiated by the Centers for Disease Control childhood immunization program (or at a lower price, if available) and provides such vaccines free of charge to such entities for administration to such individuals.

"(2) UNIVERSAL VACCINE DISTRIBUTION SYSTEM.—The term 'universal vaccine distribution system' means a State program under which vaccines are purchased in bulk on behalf of public and private entities providing routine immunization services in the State and provided, at no charge, to such entities.".

(d) GUIDELINES RELATED TO VACCINE REPLACEMENT SYSTEMS.—Not later than April 1, 1994, the Secretary shall issue guidelines for the operation of any vaccine replacement system established by a State under section 1902(a)(60) of the Social Security Act which shall include standards for the safe storage and distribution of childhood vaccines.

(e) COMPLIANCE.—Each State with a State plan under subsection (a) of section 1902 of the Social Security Act shall comply with paragraph (60) of such subsection no later than October 1, 1994.

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c), and the provisions of subsections (d) and (e), shall be effective on the date of the enactment of this section.

### SEC. 242. REIMBURSEMENT TO VACCINE MANUFACTURERS.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(32)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) nothing in this paragraph shall be construed to prevent the making of such a payment to a manufacturer of a vaccine under a contract with the State, pursuant to which the manufacturer—

"(i) supplies without charge doses of vaccines to providers administering such vaccines to individuals eligible to receive medical assistance under the State plan,

"(ii) replaces such vaccines as needed, and

"(iii) charges the State agency the price under the most recent bid (determined once such bid price is made public) submitted by the manufacturer to the Centers for Disease

Control with respect to the Centers for Disease Control childhood immunization program, plus a reasonable fee to cover shipping and handling of returns for doses administered by providers to individuals eligible to receive medical assistance under the State plan.".

(b) AGREEMENTS WITH THE STATE.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)) is amended—

(1) by striking "under the State plan" and inserting "under the State plan and with any entity that is a manufacturer of a vaccine under a contract with the State under section 1902(a)(32)(E)"; and

(2) by striking "such person or institution" each place it appears and inserting "such person, institution, or entity".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

### SEC. 243. IMMUNIZATION OUTREACH DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall establish a demonstration program to enable States to establish innovative immunization outreach demonstration programs.

(b) ELIGIBLE STATES.—To be eligible to participate in the demonstration program under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

(c) APPROVAL OF APPLICATIONS.—The Secretary shall review and approve such applications submitted under subsection (b) as the Secretary determines appropriate.

(d) USE OF AMOUNTS.—Immunization outreach programs established under the demonstration program shall include—

(1) contacting parents concerning the immunization of children eligible for medical assistance under the State plan under title XIX of the Social Security Act,

(2) tracking the immunization status of such children, and

(3) such other activities as determined appropriate by the Secretary.

(e) REPORTS.—A State participating in the demonstration program conducted under this section shall annually prepare and submit to the Secretary a report with respect to the outreach activities conducted by such State under this section which shall include such information as the Secretary may require.

(f) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—In conducting the demonstration program under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $10,000,000 for fiscal years 1994 through 1997.

(2) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under this section with respect to expenditures made by such State under this section may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(g) REPORT.—Not later than September 30, 1998, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section.

## PART III—MANAGED CARE WAIVER PROVISIONS

### SEC. 251. MODIFICATION OF FREEDOM-OF-CHOICE WAIVERS.

(a) IN GENERAL.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended by striking "(b)" and inserting "(b)(1)", by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and by adding at the end the following new paragraphs:

"(2) A waiver under this subsection shall be for an initial term of 3-years and, upon the request of a State, shall be extended for additional 5-year periods, unless the Secretary determines that a shorter period is appropriate.

"(3) The Secretary shall not grant a waiver under this subsection to restrict an individual's freedom of choice of provider with respect to an entity which is paid on a risk basis if such entity is responsible for the provision (directly or through arrangements with providers of services) of—

"(A) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a), or

"(B) any three or more of the services described in such paragraphs, unless there is a choice of at least two such entities in an area and an individual has a choice between such entities.".

(b) CONFORMING AMENDMENT.—Section 1915(h) (42 U.S.C. 1396n(h)) is amended by inserting "(b)," before "(c)".

### SEC. 252. WAIVER OF 75/25 RULE.

(a) IN GENERAL.—Section 1903(m)(2)(D) (42 U.S.C. 1396b(m)(2)(D)) is amended to read as follows:

"(D)(i) In the case of a health maintenance organization that is a public or private entity, the Secretary may waive or modify the requirement described in subparagraph (A)(ii) if—

"(I) the entity is located in a medically underserved area;

"(II) the Secretary determines that the entity is unlikely to achieve compliance with such requirement without the expenditure of significant resources that would detract from the entity's ability to provide or improve patient care; and

"(III) the Secretary determines, pursuant to regulations issued by the Secretary, that the entity is likely to provide, or in the case of renewals, has provided and will continue to provide to individuals served by the entity, the access to and quality of care that would be available to such individuals if such individuals were not served by such entity.

"(ii) With respect to any private entity that is granted a waiver or modification under clause (i), the Secretary shall conduct an annual review of such entity's financial stability and provisions against the risk of insolvency. The Secretary shall publish the results of each annual review (in a manner that does not reveal any proprietary information). If the Secretary determines that such entity is not financially stable or has not made adequate provision against the risk of insolvency, the Secretary shall revoke such waiver or modification.

"(iii) Except as provided in clause (ii), a waiver under this subparagraph shall be for an initial term of 3-years and, upon the request of a State, shall be extended for additional 5-year periods, unless the Secretary determines that a shorter period is appropriate.".

(b) EXISTING WAIVERS.—Any waivers or modifications of the requirement under subsection (m)(2)(A)(ii) of section 1903 of the Social Security Act granted under subsection (m)(2)(D) of such section as in effect on the day before the effective date of this section shall continue in effect until such waivers expire.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall be effective upon the issuance by the Secretary of Health and Human Services of the regulations described in section 1903(m)(2)(D)(i)(III) of the Social Security Act.

### SEC. 253. ROLLING ONE MONTH CONTINUOUS ELIGIBILITY FOR INDIVIDUALS ENROLLED IN AN HMO OR PCCM.

(a) IN GENERAL.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended by adding at the end the following new subparagraph:

"(C) The State plan may provide, notwithstanding any other provision of this title, that an individual shall be deemed to continue to be eligible for benefits under this title until the end of the month in which such individual would (but for this paragraph) lose such eligibility because of excess income or resources, if such individual is enrolled with an entity described in subparagraph (A) or a primary care case management system operating under a waiver under section 1915(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1993.

### SEC. 254. ENHANCED MATCH RELATED TO QUALITY REVIEW.

(a) IN GENERAL.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)) is amended—

(1) by striking "organization or by" and inserting "organization, by"; and

(2) by striking "1902(d)" and inserting "1902(d), or by another organization approved by the Secretary which is unaffiliated with the State government or with any entity with a contract under subsection (m)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to reviews conducted on or after January 1, 1993.

### SEC. 255. STATEWIDE WAIVER FOR CERTAIN COUNTY ADMINISTERED PROGRAMS.

(a) IN GENERAL.—Section 1915 (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(i) In the case of a State which has a managed care system to be operated by the political subdivisions within the State, the Secretary is authorized to approve, based on a single application, a series of waivers of the applicable provisions of section 1902 (in accordance with the requirements of subsection (b)) to authorize the State to approve managed care plans to be operated by such subdivisions. The Secretary shall approve such waivers only if the application contains a description of all the managed care models to be implemented by the political subdivisions within the State and documentation showing that such models have been established by State laws or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this section.

### SEC. 256. EXTENSION OF A CERTAIN MEDICAID HEALTH MAINTENANCE ORGANIZATION WAIVER.

The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") may retroactively to October 1, 1991, extend until January 31, 1994, the waiver of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act, granted to the District of Columbia Chartered Health Plan, Inc., if the Secretary determines that such entity has made and continues to make reasonable efforts and progress towards achieving compliance with such requirement contained in such Act.

## PART IV—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

### SEC. 261. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished after January 1, 1993.

### SEC. 262. PAYMENTS FOR SERVICES ARRANGED THROUGH PRIVATE NONPROFIT ENTITIES OR PUBLIC ENTITIES.

(a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)), as amended by section 242, is further amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) in the case of services arranged through any private nonprofit entity or public entity under subsection (c), (d), or (g) of section 1915, payments made by such entity to providers of services shall be permitted if—

"(i) such entity maintains a clear system of records demonstrating that payments made are for services required under the individual's plan of care; and

"(ii) providers paid by such entity could otherwise receive payments under the State plan;

"(iii) the services for which payment is made by such entity are services covered under waivers granted to the State under subsection (c), (d), or (g) of section 1915;

"(iv) the services for which payment is made by such entity were furnished to individuals eligible to receive services under waivers granted to the State under subsection (c), (d), or (g) of section 1915; and

"(v) such entity does not retain any portion of the payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

### SEC. 263. AGREEMENTS WITH PRIVATE NONPROFIT ENTITIES AND PUBLIC ENTITIES ARRANGING FOR HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)), as amended by section 242, is further amended by striking "1902(a)(32)(E)" and inserting "1902(a)(32)(E) or a private nonprofit entity or public entity that arranges for home or community-based services under subsection (c), (d), or (g) of section 1915"; and

(b) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1993.

### SEC. 264. FREEDOM OF CHOICE RESTRICTION FOR CASE MANAGEMENT SERVICES WITH RESPECT TO HOME OR COMMUNITY-BASED SERVICES.

(a) DISCRETIONARY WAIVER PROGRAM FOR INDIVIDUALS OTHERWISE REQUIRING INSTITUTIONALIZATION.—The first sentence of section 1915(c)(3) (42 U.S.C. 1396n(c)(3)) is amended by striking the period at the end and inserting the following: ", and may include a waiver of the requirements of section 1902(a)(23) (relating to individual choice of providers) with respect to the provision of case management services in order to ensure that case managers for individuals receiving home or community-based services are capable of ensuring that such individuals receive needed services, if the State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services.".

(b) MANDATORY WAIVER PROGRAM FOR INDIVIDUALS 65 OR OLDER OTHERWISE REQUIRING INSTITUTIONALIZATION.—The first sentence of section 1915(d)(3) (42 U.S.C. 1936n(d)(3)) is amended by striking the period at the end and inserting the following: ", and may include a waiver of the requirements of section 1902(a)(23) (relating to individual choice of providers) with respect to the provision of case management services in order to ensure that case managers for individuals receiving home or community-based services are capable of ensuring that such individuals receive needed services, if State provides assurances satisfactory to the Secretary that a waiver of such requirements will not substantially limit access to such services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

### SEC. 265. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services, the State demonstrates to the satisfaction of the Secretary that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan, using methods specified by the Secretary which shall include a demonstration that such services are not generally covered by health insurers in the State;".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1993.

### SEC. 266. STATE EXPENDITURES FOR MEDICAL ASSISTANCE WITH RESPECT TO HOME AND COMMUNITY-BASED SERVICES PROVIDED UNDER A WAIVER.

(a) IN GENERAL.—Section 1915(d)(5)(B) (42 U.S.C. 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking "times the number of years" and inserting "compounded annually for years"; and

(2) in clause (ii), by striking "times the number of years" and inserting "compounded annually for years".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the OBRA–87.

## PART V—ELIGIBILITY PROVISIONS

### SEC. 271. OPTIONAL COVERAGE FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (X),

(2) by striking the semicolon at the end of subclause (XI) and inserting "; or"; and

(3) by adding at the end the following new subclause:

"(XII) who are described in subclause (IX) and subsection (aa);".

(b) DESCRIPTION OF CHILDREN IN FOSTER HOMES, GROUP HOMES, OR PRIVATE INSTITUTIONS.—Section 1902 (42 U.S.C. 1396a), as amended by section 241, is further amended by adding at the end the following new subsection:

"(aa) Individuals described in this subsection are children who have been placed in foster care, including children placed under the auspices of a public child welfare agency, children placed by a private agency under contract to a public agency, and children placed by a licensed private child welfare agency.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1993.

### SEC. 272. QUALIFIED MEDICARE BENEFICIARIES OUTREACH DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for the establishment of demonstration projects in no fewer than 5 and no more than 10 States for the purpose of providing information, counseling, and assistance to individuals who are likely to be eligible for benefits as qualified medicare beneficiaries (as defined in section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)), qualified disabled and working individuals as defined in section 1905(s) of such Act (42 U.S.C. 1396d(s)), and individuals described in section 1902(a)(10)(E)(iii) of such Act (42 U.S.C. 1396a(a)(10)(E)) (in this section referred to as "eligible individuals").

(b) APPLICATIONS.—

(1) IN GENERAL.—

(A) SUBMISSION.—Each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information (in addition to the information required under subparagraph (B)) as the Secretary may require.

(B) CONTENTS OF APPLICATION.—As part of an application submitted under subparagraph (A), a State shall submit a plan for an information, counseling, and assistance program. Such program shall—

(i) establish or improve upon an information, counseling, and assistance program that provides counseling and assistance to eligible individuals to assist such individuals in applying for medicare cost-sharing (as defined in section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3));

(ii) provide for acceptance of applications for medicare cost-sharing and information, counseling, and assistance at sites described in subsection (c);

(iii) establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to enrollment in and full implementation of such medicare cost-sharing program;

(iv) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the information, counseling, and assistance program;

(v) provide for the collection and dissemination of timely and accurate enrollment information to staff members;

(vi) provide for training programs for staff members (including volunteer staff members);

(vii) provide for the coordination of the exchange of enrollment information between the staff of departments and agencies of the State government and the staff of the information, counseling, and assistance program;

(viii) make recommendations concerning consumer issues and complaints related to such enrollment to agencies and departments of the State government and the Federal Government responsible for providing such medicare cost-sharing;

(ix) establish an outreach program to provide the enrollment information and counseling described in clause (i) and the assistance described in clause (iii) to eligible individuals; and

(x) demonstrate, to the satisfaction of the Secretary, an ability to provide the services required under this subsection.

(2) Approval of Applications.—The Secretary shall approve no fewer than 5 and no more than 10 of the applications submitted under paragraph (1)(B).

(c) Administration.—The State shall operate the information, counseling, and assistance program in locations other than State welfare offices, including Social Security Administration offices, facilities operated by Area Agencies on Aging, senior centers, and other locations determined by the Secretary in consultation with the State.

(d) Maintenance of Effort.—Any funds appropriated for the activities under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local program.

(e) Annual Applicant Report.—A State that conducts a demonstration project under this section shall, not later than 180 days after the date on which such project begins, and for each year in which such project is conducted, issue a report to the Secretary that includes information concerning—

(1) the number of individuals served by the information, counseling, and assistance program of such State; and

(2) the problems that eligible individuals encounter in enrolling for medicare cost-sharing.

(f) Report to Congress.—Not later than 2 years after the first demonstration project under this section begins, and for each year in which a project is conducted under this section, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(1) summarizes the allocation of funds under this section and the expenditure of such funds;

(2) outlines the problems that eligible individuals encounter in enrolling for medicare cost-sharing as reported by the States in the reports submitted to the Secretary under subsection (e);

(3) makes recommendations that the Secretary determines to be appropriate to address the problems described in paragraph (2); and

(4) evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(g) Duration.—A demonstration project provided under this section shall be conducted for a period not to exceed 3 years. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) Limits on Expenditures and Funding.—

(1) In general.—In conducting the demonstration projects under this section, the Secretary shall limit the total amount of the Federal share of expenses incurred under title XIX of the Social Security Act to no more than $15,000,000 for fiscal years 1994 through 1997.

(2) No increase in Federal medical assistance percentage.—Payments to a State under this section with respect to expenditures made by such State under this subsection may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

**SEC. 273. EXTENSION OF CERTAIN DEMONSTRATION PROJECTS.**

(a) Demonstration Projects Extending Medicaid to Pregnant Women and Children Not Otherwise Eligible.—

(1) In general.—Section 6407 of OBRA–89 is amended—

(A) in subsection (d), by striking "3 years" and inserting "5 years";

(B) in subsection (f), by striking "$10,000,000 in each of fiscal years 1990, 1991, and 1992" and inserting "$30,000,000 for fiscal years 1990 through 1996"; and

(C) in subsection (g)(2), by striking "January 1, 1994" and inserting "one year after the termination of the demonstration projects".

(2) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–89.

(b) Demonstration Projects to Study Effect of Allowing States to Extend Medicaid Coverage to Certain Low-Income Families Not Otherwise Eligible.—

(1) Extension of demonstration.—

(A) In general.—Section 4745 of OBRA–90 is amended—

(i) in subsection (d), by striking "shall commence not later than July 1, 1991 and shall be conducted for a 3-year" and inserting "shall be conducted for a period not to exceed 5 years";

(ii) in paragraph (1) of subsection (e), by striking "$12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994" and inserting "$40,000,000 for fiscal years 1991 through 1997"; and

(iii) in paragraph (2) of subsection (f) by striking "January 1, 1995" and inserting "one year after the termination of the projects".

(B) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–90.

(2) Addition of certain projects on a substate basis.—

(A) In general.—Section 4745 of OBRA–90, as amended by paragraph (1), is amended—

(i) by amending paragraph (1) of subsection (a) to read as follows:

"(a) Demonstration Projects.—

"(1) In general.—

"(A) Projects conducted on a statewide basis.—Except as provided in subparagraph (B)(ii), the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall enter into agreements with no fewer than 3 and no more than 4 States submitting applications under this section for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

"(B) Projects conducted on a substate basis.—

"(i) In general.—Except as provided in clause (ii), in entering into agreements with States under this section, the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis.

"(ii) Certain substate projects.—

"(I) In general.—In addition to the demonstration projects conducted under subparagraph (A) and clause (i), the Secretary shall provide that no more than 3 projects are conducted on a substate basis in substate areas with—

"(aa) a per capita income that does not exceed 70 percent of the national average per capita income, as determined by the Department of Commerce, and

"(bb) an unemployment rate, as determined by the employment statistics of the applicable State, that is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics,

at the time the applications required under subclause (II) are submitted.

"(II) Submission of applications.—Each State desiring to conduct a demonstration project on a substate basis under this clause shall submit an application to the Secretary at such time and in such manner as the Secretary shall determine.

"(III) Approval of applications.—The Secretary shall review the applications submitted under subclause (II) and approve no fewer than 2 and no more than 3 such applications. The Secretary shall begin making Federal funds available for the projects approved under this subclause no later than April 1, 1993.

"(IV) Selection of substate areas.—In approving applications under subclause (III), the Secretary shall give a preference to remote communities—

"(aa) in which the health services delivery infrastructure is poorly developed,

"(bb) in which the residents face significant health risks due to lack of adequate public services,

"(cc) in which there is a health risk relating to communicable diseases or parasites, and

"(dd) in which the State or local government is prepared to make a financial contribution to the project in addition to such State's share of expenditures under title XIX of the Social Security Act.";

(ii) in subsection (e)(1), by adding at the end the following new subparagraph:

"(C) In addition to the amounts referred to in subparagraph (A), the Secretary shall make available $10,000,000 for fiscal years 1993 through 1997 for the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act for projects conducted under subsection (a)(1)(B)(ii)."; and

(iii) in paragraph (1) of subsection (f) by adding after subparagraph (C) the following new flush sentence:

"In addition to the issues described in subparagraphs (A), (B), and (C), for each substate project conducted under subsection (a)(1)(B)(ii), the Secretary shall provide an evaluation to determine the effect of the project with respect to whether the expanded availability of benefits under the medicaid program for the individuals residing in a community is effective in helping the community to develop a viable health care infrastructure.".

(B) Effective date.—The amendments made by this paragraph shall be effective on the date of the enactment of this section.

### SEC. 274. PERIODS OF INELIGIBILITY FOR NURSING FACILITY SERVICES.

(a) In General.—The last sentence of section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended to read as follows: "The period of ineligibility shall—

"(A) be equal to the lesser of—

"(i) 30 months, or

"(ii)(I) the total uncompensated value of the combined amount of all transferred resources, divided by

"(II) the average cost to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized, and

"(B) begin upon the discovery by the State that resources have been transferred.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to resources transferred on or after January 1, 1993.

## PART VI—OTHER PROVISIONS

### SEC. 281. DRUG PRICE REBATE AGREEMENTS.

(a) Medicaid Rebate Agreements.—

(1) Minimum rebate percentages increased.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r-8(c)(1)(B)(i)) is amended—

(A) by amending subclause (II) to read as follows:

"(II) after December 31, 1992, and before January 1, 1994, is 15.7 percent," and

(B) by adding at the end the following new subclauses:

"(III) after December 31, 1993, and before January 1, 1995, is 15.4 percent,

"(IV) after December 31, 1994, and before January 1, 1996, is 15.2 percent, and

"(V) after December 31, 1995, is 15.1 percent.".

(2) Modification of best price definition.—Section 1927(c)(1)(C) (42 U.S.C. 1396r-8(c)(1)(C)) is amended—

(A) by striking "For purposes of this section" and inserting "(i) For purposes of this section",

(B) by inserting "supply schedule prices or prices paid by any entity described in clause (ii), and" after "excluding", and

(C) by adding at the end the following new clause:

"(ii) An entity described in this clause is—

"(I) a Federally qualified health center (as defined in section 1905(l)(2)(B),

"(II) an alcohol or drug treatment entity or mental health entity receiving assistance under title V or title XIX of the Public Health Service Act;

"(III) a family planning project described in section 1001 of the Public Health Service Act;

"(IV) an entity receiving assistance under title XXVI of the Public Health Service Act;

"(V) a black lung clinic authorized under the Public Health Service Act;

"(VI) a clinic that treats sexually transmitted diseases and is authorized under section 318 of the Public Health Service Act;

"(VII) an entity receiving funds to provide primary health services to residents of public housing under section 340A of the Public Health Service Act;

"(VIII) a non-Federal entity authorized under the Indian Self-Determination Act;

"(IX) a tuberculosis clinic receiving assistance under section 317(j)(2) or 317(k)(2) of the Public Health Service Act; or

"(X) a satellite entity of any of the entities described in subclauses (I) through (IX).

This clause shall apply to an entity only if such entity is principally engaged in the purpose for which funding is provided under the Public Health Service Act. An entity with respect to which funds are provided under the Public Health Service Act and which is a distinct part of a larger organization (whether or not it is legally distinct) shall be treated as a separate entity for purposes of this clause.

(3) Additional definitions.—Section 1927(k) (42 U.S.C. 1396r-8(k)) is amended by adding at the end thereof the following new paragraph:

"(8) Supply schedule.—The term 'supply schedule' means Group 65 of the Federal Supply Schedule.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1993.

### SEC. 282. CLARIFICATION OF COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) In General.—Section 1905(a)(17) (42 U.S.C. 1396d(a)(17)) is amended by inserting before the semicolon at the end the following: ", and without regard to whether or not the services are concerned with the management of mothers and newborns throughout the maternity cycle".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1993.

### SEC. 283. CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF PAYMENT TO STATES.

(a) In General.—Section 1903 (43 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under this section and the State exercises its right of reconsideration under section 1116(d), the Departmental Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include, but not be limited to—

"(A) whether the basis of the disallowance was procedural in nature;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services of recipients eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(2) No disallowance shall be taken or upheld if action of the State on which the disallowance would be based is consistent with its approved State plan.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

### SEC. 284. CERTIFICATION OF ADDITIONAL PAYMENT TO PUERTO RICO UNDER MEDICAID.

Section 1108(c)(1) (42 U.S.C. 1308(c)(1)) is amended by striking "and (C) $79,000,000 for fiscal year 1990 (and each succeeding fiscal year)" and inserting "(C) $79,000,000 for fiscal years 1990, 1991, 1992, and 1993, (D) $89,000,000 for fiscal year 1994, (E) $91,000,000 for fiscal years 1995 and 1996, and (F) $94,000,000 for fiscal year 1997 (and each succeeding fiscal year)".

### SEC. 285. EXPENDITURES FOR COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) In General.—Section 1930(j) (42 U.S.C. 1396u(j)) is amended by striking ", and for fiscal years thereafter such sums as provided by Congress", and by adding at the end the following new sentence: "Beginning with fiscal year 1993, any funds available under this paragraph for a fiscal year which remain available at the end of the fiscal year shall be available to be expended in the following fiscal year."

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of the OBRA–1990.

### SEC. 286. NATIVE HAWAIIAN HEALTH CENTERS.

(a) In General.—Section 1905(l)(2)(B)(iv) (42 U.S.C. 1396d(l)(2)(B)(iv)) is amended by striking the period at the end and inserting "or is a native Hawaiian health center operated under the Native Hawaiian Health Care Act of 1988.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1992.

## TITLE III—MISCELLANEOUS AMENDMENTS

### SEC. 301. EVALUATIONS OF MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAMS.

(a) In General.—Section 502 (42 U.S.C. 702) is amended by adding at the end the following new subsection:

"(e) During any fiscal year when the amount appropriated under section 501(a) is not less than the amount authorized under such section, such portion of the appropriations for that fiscal year under such section as the Secretary may determine, but not exceeding 1 percent thereof, shall be available for evaluations to be conducted by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriations, the amount available for allotments shall be reduced accordingly.".

(b) Increase in Authorization of Appropriations.—Section 501(a) (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1), by striking "$686,000,000 for fiscal year 1990" and inserting "$686,000,000 for fiscal years 1990, 1991, and 1992, and $692,860,000 for fiscal year 1993".

(c) Additional Responsibilities for Entity Administering Program.—Section 509(a) (42 U.S.C. 709(a)) is amended—

(1) by striking "and" at the end of paragraphs (6) and (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) program evaluations as described in section 502(e).".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

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## Summary of Medicare and Medicaid Amendments Act of 1992—Medicare Amendments

### A. AMENDMENTS RELATING TO PART A OF THE MEDICARE PROGRAM

*Section 101. Extension of regional referral center classification*

Present law.—Hospitals in rural areas meeting certain criteria may be classified as regional referral centers and receive payments based on the prospective payment system standardized amount for hospitals in "other urban" areas (those with less than 1 million people) rather than the standardized amount for rural areas. The Omnibus Budget Reconciliation Act of 1989 provided that hospitals classified as regional referral centers on September 30, 1989 would retain such status through cost reporting periods beginning before October 1, 1992. Beginning on October 1, 1994 payments to hospitals in rural areas will be based on the same standardized amount as payment to hospitals in "other urban" areas.

Proposal.—All hospitals classified as regional referral centers on September 30, 1992 would retain such status through September 30, 1994. Hospitals to which this provision applies that lost regional referral center status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal year 1993 would be given the opportunity to decline the reclassification and retain referral center status.

*Section 102. Medicare dependent, small rural hospitals*

Present law.—The Omnibus Budget Reconciliation Act of 1989 provides for special payment for rural hospitals qualifying as Medicare dependent hospitals (MDHs). In order to qualify for MDH status, a hospital must be located in a rural area, have no more than 100 beds, and have had at least 60 percent of its inpatient days or discharges attributed to Medicare patients during the cost reporting period beginning during fiscal year 1987. MDHs are eligible for payment under the same rules as sole community hospitals for cost reporting periods beginning on or after April 1, 1990 and before April 1, 1993. Beginning on October 1, 1994, payments to all hospitals in rural areas will be based on the same standardized amount as payment to hospitals in "other urban" areas (those with less than 1 million people).

Proposal.—Special payments for small rural, Medicare dependent hospitals would be continued for discharges occurring through September 30, 1994 on a phase-down basis. For discharges occurring during cost reporting periods beginning on or after April 1, 1990 and before April 1, 1993, current MDH payments would apply. For discharges occurring during any cost reporting period beginning on or after April 1, 1993 through September 30, 1994, an MDH would receive 50 percent of the difference between their payment under the current MDH rules and the payment regularly provided under the prospective payment system. Small rural Medicare dependent hospitals that lost MDH status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal year 1993 would be given the opportunity to decline the reclassification and retain Medicare dependent hospital status.

*Section 103. Extension of Rural Health Transition Grant Program*

Present Law.—The Omnibus Budget Reconciliation Act of 1987 instituted a program of grants to assist rural hospitals with fewer than 100 beds in developing and implementing projects to modify the type and extent of services they provide. Grants may be used to develop health systems with other providers, diversify services, recruit physicians, improve management systems, and instruction and consultation via telecommunications to physicians in manpower shortage areas. The program is authorized at $25 million per year for fiscal years 1990, 1991 and 1992. The fiscal year 1992 appropriation is $23 million.

Proposal.—Appropriations would be authorized at $30 million a year for fiscal years 1993 through 1997.

*Section 104. Extension of Essential Access Community Hospital Program*

Present Law.—The Omnibus Budget Reconciliation Act of 1989 established the Essential Access Community Hospital demonstration program. Under this program, up to 7 states may be designated by the Secretary to receive grants to develop rural health networks consisting of essential access community hospitals and rural primary care hospitals. Individual hospitals may be designated as essential access community hospitals and rural primary care hospitals. Authorization of appropriations for fiscal years 1990, 1991 and 1992 is $10 million a year for grants to states and $15 million a year for grants to hospitals. In order to receive designation by a state as a rural primary care hospital, a facility must meet certain criteria, including a requirement that inpatient stays not exceed 72 hours.

Proposal.—Authorization for appropriations would be continued at current levels ($10 million a year for grants to states and $15 million a year for grants to hospitals) for fiscal years 1993, 1994 and 1995. The length of stay requirement for state designation of rural primary care hospitals would be modified to require these facilities to maintain an average length of stay not to exceed 72 hours.

*Section 105. Extension of pass through payments for hemophilia inpatients*

Present Law.—The costs of administering blood clotting factor to Medicare beneficiaries with hemophilia who are admitted for hospital stays are not reimbursed as part of the DRG payment, but are separately reimbursed. The additional payments apply only to clotting factor furnished between June 19, 1990 and December 19, 1991.

Proposal.—The additional payments for hemophilia clotting factor would be extended for clotting factor furnished through September 30, 1994, effective December 19, 1991.

*Section 106. Demonstration extension*

Present Law.—The Omnibus Budget Reconciliation Act of 1990 gave the Secretary authority to waive such provisions of Title XVIII as necessary in order to conduct any demonstration project with respect to limited-service rural hospitals with respect to which the Secretary has entered into an agreement prior to enactment of the Omnibus Budget Reconciliation Act of 1989.

Proposal.—Any such demonstration projects would continue at least through December 31, 1995.

*Section 107. Wage Index hold harmless protection*

Present Law.—A change in classification of hospitals from one wage area to another may not result in the reduction in the wage index for a county to an amount below the level of the rural wage index for a state. No similar protection applies in the case of an urban area with a wage index already below the rural wage index for a state, or in the case of an urban area located in a state without any rural areas. Certain hospitals in rural counties adjacent to one or more urban areas are treated as part of an urban area if they otherwise meet certain requirements with respect to commuting standards used in designating Metropolitan Statistical Areas or New England County Metropolitan Areas as published in the Federal Register on January 1, 1980.

Proposal.—A change in classification of hospitals from one area to another could not result in a reduction in the wage index for an urban area if the area has a wage index below the rural wage index for the state, or if the urban area is located in a state without any rural areas. The January 1, 1980 requirements with respect to commuting standards would be replaced by the most recently available standards, but any hospital that qualified for treatment as an urban county under the 1980 standards but not meeting the most recent standards would continue to quality.

*Section 108. Psychology services in hospitals*

Present Law.—Clinical psychologists are authorized to provide qualified psychologist services to Medicare beneficiaries. In order to participate in Medicare, hospitals must require that all Medicare patients are under the care of a physician, defined to include doctors of medicine, osteopathy, dentists, podiatrists, chiropractors and optometrists practicing within the scope of state law. Certain states authorize psychologists to supervise the care of inpatients receiving psychologist services.

Proposal.—In a state in which such supervision is authorized by state law, the care of hospital inpatients receiving qualified psychologist services could be supervised by a clinical psychologist with respect to such services to the extent permitted by state law.

*Section 109. Delay in recoupment*

Present Law.—Under Section 1886(c) of the Social Security Act, the Secretary may provide that Medicare payments to hospitals in a state be made in accordance with a state hospital reimbursement system meeting certain standards. The state must assure that over a 36 month period, payments to hospitals for services provided to Medicare beneficiaries will not exceed the amount that would have been paid for those services under Medicare payment rules. The Secretary may recoup excess payments to hospitals if he finds that this standard was not met.

Proposal.—Recoupment of any amount owed by hospitals due to alleged overpayments relating to the operation of Section 1886(c) Medicare waiver would be delayed until April 1, 1993. No change would be made from current law with respect to payment of interest on overpayments.

Prior to the beginning of recoupment, the Secretary would be required to provide to the state and the hospitals in the state all relevant data used by the Secretary to determine the amount of alleged overpayments, including but not limited to (1) the cost reports submitted by hospitals for the relevant cost reporting periods and (2) the methodology used by the Secretary to determine the payments which would otherwise have been made to the hospitals by Medicare during the period for which any overpayments are alleged to have been made.

*Section 110. Skilled Nursing Facility Wage Index*

Present Law.—Skilled nursing facilities are reimbursed on a reasonable cost basis, subject to per-diem limits. The limits are adjusted to reflect differences in area wages. In applying the wage index adjustment, the Secretary currently uses a wage index based on wage data collected from hospitals. In its March 1, 1992 Report and recommendations, the Prospective Payment Assessment Commission recommended that the Secretary collect data on employee compensation and paid hours of employment for nursing facilities for the purpose of implementing a nursing facility wage index to adjust Medicare SNF payments.

Proposal.—The Secretary would be required to begin collecting the data necessary to compute a wage index based on wages specific to skilled nursing facilities within two year of enactment. The Prospective Payment Assessment Commission would be required to study and report by March 1, 1993 on the impact of applying routine per-diem cost limits on a regional basis.

### B. AMENDMENTS RELATING TO PART B OF THE MEDICARE PROGRAM

*Section 111. Reinstating separate payment for interpretation of electrocardiograms (EKGs)*

Present Law.—OBRA 90 eliminated separate payments for interpretation of EKGS performed or ordered to be performed as part of, or in conjunction with, a medical visit or consultation, effective January 1, 1992.

Proposal.—Repeals the OBRA 90 prohibition on separate payments for interpretation of EKGs. Separate fee schedule payment amounts for interpreting EKGs in all settings would be established. In order to comply with budget neutrality rules, several adjustments to the current fee schedule would be needed. First, HCFA would subtract the relative value units for EKG interpretation that were bundled into medical visit and consultation relative values for 1992.

A second adjustment would also be needed to account for the shortfall of relative value units that were bundled into medical visits and consults in 1992. The proposal would require HCFA to make across-the-board adjustments to the relative values for all services to account for this insufficiency. HCFA currently estimates this reduction at .37 percent; the reduction would apply only to services paid at the full fee schedule.

A third adjustment is needed to make the bill budget-neutral during the transition because more EKG interpretations would be paid at the full fee schedule amount than medical visits and consultations. The proposal would require HCFA to make the adjustment to the historical payment basis in the fee schedule. No reduction would be made for services already at the full fee schedule amount. For services in transition to the fee schedule, the estimated reduction is 1.07 percent in 1993, 0.84 percent in 1994, and 0.6 percent in 1995. These reductions will have no permanent effect on fee schedule payments in 1996, when the fee schedule will be fully implemented.

*Section 112. Payments for new physicians and practitioners*

Present Law.—New physicians and practitioners receive reduced payments during their first four years of practice. These reductions were imposed on the first two years of practice by OBRA 87 and extended to the third and fourth years of practice in OBRA 90. Payments are 80 percent of the amount otherwise recognized during the first year of practice, 85 percent during the second year, 90 percent during the third year, and 95 percent during the fourth year. These reductions apply to payments under the fee schedule, prevailing charges, or other fee schedule payment amounts.

Proposal.—Reductions in payments to new physicians and practitioners would be repealed. This would be accomplished by reducing payments under the RBRVS fee schedule, prevailing charges or other fee schedule payment amounts by an estimated 1.2 percent. This reduction would be uniform across all types of physicians and practitioners.

*Section 113. Retaining payment for actual anesthesia time*

Present Law.—Anesthesia services are paid on the basis of a fee schedule. One component of the fee schedule is actual time spend administering anesthesia. In the proposed rule implementing the RBRVS physician fee schedule, HCFA announced its intention to eliminate the use of actual time and substitute average time. In the final rule, HCFA stated that it would continue to use actual time temporarily while it analyzed other methods of accounting for time in the payment of anesthesia services.

Proposal.—HCFA would be prohibited from changing the methodology of calculating anesthesia time in the fee schedules for anesthesia services until January 1, 1997. The proposal would require the Comptroller General of the General Accounting Office to: (1) study the actual time reported for anesthesia services under Medicare; (2) compare the actual time reported for a procedure during 1991 with the time reported for the same procedure during each of the 4 succeeding years; (3) evaluate the extent to which the actual time reported for a procedure has increased or decreased during this period; and (4) determine (to the extent practicable): (a) whether increases or decreases are the result of changes in medical practice, physician responses to reductions in payments for anesthesia services, or other factors; and (b) the effect of such increases or decreases on Medicare expenditures for anesthesia services. An interim report would be required to be submitted to Congress by July 1, 1994 and a final report submitted by July 1, 1996. The Comptroller General would be required to consult with the Physician Payment review Commission (PPRC) in designing the study. PPRC would be required to comment on the interim and final reports.

*Section 114. Geographic cost of practice index refinements*

Present Law.—One of the components of the Medicare RBRVS fee schedule for physicians' services is a geographic cost of practice index (GPCI), which is designed to measure local variations in the costs of practicing medicine. HCFA has previously indicated that they intend to revise the GPCI by 1995. Some have raised concerns that the index uses outdated Bureau of Census data and may not accurately reflect true variations in practice expenses.

Proposal.—HCFA would be required to review and revise the geographic practice cost index by January 1, 1994. The Secretary of HHS would be authorized to take unique local circumstances into account in revising the index. The Secretary would also be required to study and report to Congress on the construction of the index by April 1, 1993.

The Secretary would be required to study and report on: (1) the data necessary to review and revise the GPCI indices, including the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses) and malpractice expenses; the weights assigned to the input components of such shares; and the index values assigned to such components; (2) any limitations on the availability of data necessary to review and revise the indices at least every 3 years; (3) ways of addressing such limitations, with attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and (4) the costs of developing more accurate and timely data sources.

The Physician Payment Review Commission would be required to study and report to Congress by July 1, 1993 on the feasibility and desirability of providing for a special adjustment to the index value of the medical equipment and supplies input component of the index with respect to services: (1) furnished by a physician who practices in an isolated area; (2) requiring the presence of expensive medical equipment and supplies in the physician's office; and (3) equipment whose operating costs per service are increased by low-volume use.

*Section 115. Extra billing*

*a. Limitations on beneficiary liability*

Present Law.—OBRA 89 established limits on the amount above the Medicare approved payment amount nonparticipating physicians may charge Medicare beneficiaries. OBRA 89 permitted the Secretary to impose sanctions on physicians who knowingly and willfully bill above the limiting charge on a repeated basis. However, it did not specifically prohibit physicians from billing beneficiaries more than the limiting charge. OBRA 89 also did not require physicians to make refunds to beneficiaries when they billed above the limiting charge and did not absolve beneficiaries from liability for amounts they are billed above the Medicare limiting charge.

Proposal.—Prohibits nonparticipating physicians from billing or collecting from any person an actual charge in excess of the Medicare limiting charge. The provision would specify that no person is liable for payment of any amount billed in excess of the limiting charge. It would also require physicians who bill or collect amounts exceeding the limiting charge by more than $1 to: (1) refund the full amount collected in excess of the limiting charge; (2) reduce the outstanding balance owed to the physician for other items and services furnished to the individual by the amount of the charge exceeding the limiting charge and refund any amount in excess of the outstanding balance; or (3) in the case of where the excess charges have not been collected by the physician, reduce the actual charge billed for the service to the amount approved by Medicare.

Carriers would be required to notify a physician within 30 days if the physician has billed in excess of the limiting charge by at least $1. The physician would be required to refund or credit excess charges within 30 days unless the physician submits documentation supporting application of a different limiting charge to the carrier within 15 days of receipt of the notice of overcharge. In the case of a physician who submits documentation questioning the limiting charge, the carrier would be required to respond to the physician within 30 days with a determination of agreement or disagreement with the physician's documentation regarding the limiting charge.

If a physician (1) knowingly and willfully bills in excess of the limiting charge; (2) collects charges exceeding the limiting charge on a repeated basis; or (3) fails to comply with the refund requirements the Secretary would be authorized to impose sanctions in accordance with Section 1842(j) of the Social Security Act.

*b. Pre-payment screening of claims*

Present Law.—Carriers are not currently required by law to screen unassigned claims submitted by nonparticipating physicians prior to payment in order to determine whether the amount billed exceeds the limiting charge.

Proposal.—Requires carriers to screen 100 percent of unassigned claims submitted by nonparticipating physicians prior to making payment to determine whether the amount billed exceeds the limiting charge.

### *c. Information regarding limiting charges*

Present Law.—There is currently no requirement that beneficiaries be given information on the explanation of Medicare benefits (EOMB) form if physicians have charged beneficiaries in excess of the limiting charge.

Proposal.—Requires carriers to provide limiting charge information on the explanation of Medicare benefits form after the submission of an unassigned claim which exceeds the limiting charge by at least $1.

The Secretary would be required to report to Congress annually on the extent to which annual charges exceeded limiting charges, the number and types of services involved, and the average amount of excess charges.

### *d. Medicare Beneficiary Advisory Council*

Present Law.—No provision.

Proposal.—Creates a Medicare Beneficiary Advisory Council composed of 15 Medicare beneficiaries. The Secretary would be required to appoint members to the Council based on nominations submitted by organizations representing elderly and disabled populations. The Council would be required to meet once each quarter to discuss proposed regulations, carrier manual instructions, and any other issues with a direct or indirect impact on delivery, cost, quality, or expansion of Medicare services. To the extent feasible and consistent with statutory deadlines, the consultation is to occur before the publication of proposed changes. Reimbursement to council members would be the same as for other members of advisory councils established by the Secretary.

### *e. Applying the limiting charge to nonphysician services provided under the Physician Fee Schedule*

Present Law.—The five percent differential in payments to nonparticipating physicians and suppliers does not apply to nonphysician services furnished under the Medicare physician fee schedule. These services generally consist of the technical components of services, such as services rendered by freestanding radiology centers or independent physiological laboratories.

Proposal.—Applies the 5 percent differential between payments to participating and nonparticipating physicians and suppliers and limiting charge restrictions to the technical components of nonphysician services paid on the basis of the physician fee schedule.

### *f. Clarification of mandatory assignment rules for certain practitioners*

Present Law.—There is some ambiguity in current law regarding the application of mandatory assignment rules for certain nonphysician practitioners.

Proposal.—Specifies that physicians' assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, certified nurse-midwives, clinical social workers and clinical psychologists may only bill for services on a assignment-related basis and that no person is liable for amounts billed in violation of the assignment-related basis. The Secretary could impose sanctions under Section 1842(j) of the Social Security Act on a practitioner who knowingly and willfully bills in violation of this requirement.

### Other Part B Services

### *Section 121. Durable medical equipment*

### *a. Standards for obtaining provider numbers*

Present Law.—There are no statutory standards that suppliers of durable medical equipment (DME), prosthetic devices, prosthetics and orthotics, surgical dressing, splints, casts, and other devices for fractures and dislocations, home dialysis supplies, and immunosuppressive drugs must meet in order to supply items to Medicare beneficiaries.

Proposal.—Requires the Secretary to revise by January 1, 1995, uniform national standards for suppliers of these items. The standards would require suppliers to (1) comply with all applicable State and Federal licensure and regulatory requirements; (2) maintain a physical facility and inventory on an appropriate site; (3) have proof of appropriate liability insurance; (4) meet other requirements established by the Secretary. In addition, beginning July 1, 1993, suppliers will not be reimbursed for these items unless they have a Medicare provider.

### *b. Uniform national coverage and utilization review requirements for 200 selected items*

Present Law.—There are no uniform coverage or utilization review criteria in current DME law. HCFA is currently in the process of developing uniform coverage and utilization review policies for 100 items of its own choosing.

Proposal.—Requires the Secretary, in consultation with representatives of DME suppliers, beneficiaries and medical specialty organizations, to develop and establish uniform national coverage and utilitization review criteria for 200 items of DME, prosthetic devices, prosthetics and orthotics, and surgical dressings. The criteria are to be published as instructions to carriers and intermediaries, and no further publication, including Federal Register publication, would be required.

The Secretary may select an item for coverage if: (1) the item is frequently rented or purchased by beneficiaries; (2) the item is frequently subject to a determination that it is not medically necessary; or (3) coverage or utilization review criteria applied to the item is not consistent among carriers. The Secretary would be required annually to review and determine whether items not on the list should be subject to uniform national coverage and utilization review criteria and to subject them to these criteria if necessary. The Secretary would also be required to submit a report to Congress by January 1, 1994, analyzing the impact of these uniform criteria on the utilization of items subject to the criteria by Medicare beneficiaries.

### *c. Standardized certificates of medical necessity*

Present Law.—There are currently no standardized medical necessity certificates.

Proposal.—Requires the Secretary to develop, by July 1, 1993, one or more standardized certificates of medical necessity for durable medical equipment, prosthetic devices, orthotics and prosthetics, and surgical dressings and other devices (to be completed by the prescribing physician if a certificate of medically necessity is required by the Secretary.

### *d. Distribution of Certificates of Medical Necessity*

Present Law.—OBRA 90 prohibited suppliers of durable medical equipment from distributing, for commercial purposes, completed or partially completed certificates of medical necessity to physicians or Medicare beneficiaries.

Proposal.—Extends the OBRA 90 provision prohibiting DME suppliers from distributing medical necessity forms to suppliers of prosthetics and orthotics and prosthetic devices. Modifies the prohibition provision by permitting suppliers to complete information identifying beneficiaries and suppliers, a description of the item, a product code identifying the item, and any other information required by the Secretary. If a supplier provides any of the above information on a certificate of medical necessity, the supplier would be required to include the actual purchase or rental price paid by Medicare prior to distribution to the physician for completion.

### *e. GAO studies*

### (i) Supplies and Services in Nursing Facilities

Present Law.—No provision.

Proposal.—Requires the Comptroller General to study and report to Congress by January 1, 1994 on the types, volume and utilization of services and supplies furnished under contract or under arrangement with suppliers to Medicare beneficiaries residing in skilled nursing facilities and nursing facilities.

### (ii) Variations in Quality of Equipment

Present Law.—No provision.

Proposal.—Requires the Comptroller General to study and report to Congress by July 1, 1994 on whether changes made by the Department of Health and Human Services to the descriptions of HCPCS codes for DME, prosthetics and orthotics, prosthetic devices and surgical dressings covered by Medicare (1) accurately reflect the items being furnished under the codes; and (2) are sufficiently explicit to distinguish between items of varying quality and price. GAO's evaluation would not begin before July 1, 1993; its report to Congress would be due by July 1, 1994. The Comptroller General would also be required to make recommendations for additional changes to improve the descriptions of codes.

### *f. Modification of anti-kickback law*

Present Law.—Current law exempts employees in bona-fide employment relationships from penalties assessed for knowingly and willfully soliciting or receiving remuneration (including kickbacks, bribes, or rebates) or offering or paying remuneration as an incentive for Medicare business.

Proposal.—Specifies that the exemption from anti-kickback penalties for employees in bona-fide employment relationships with providers of Medicare covered services and supplies does not include the tasks of transmitting assignment rights of Medicare beneficiaries to suppliers of covered items, or performing warehousing or stock inventory functions.

### *g. Limitations on beneficiary liability*

Present Law.—There are no limits on balance billing for medical equipment and supplies, and there are no circumstances specified in current law under which beneficiaries are not liable for charges for items furnished by suppliers on an unassigned basis.

Proposal.—Stipulates circumstances under which Medicare beneficiaries are not financially liable for covered items furnished by a supplier on an unassigned basis. Unless suppliers inform beneficiaries in advance that an item is not covered by Medicare and beneficiaries choose to accept responsibility for paying for the item, beneficiaries are not obligated to pay for an item if: (1) the supplier is excluded from Medicare participation; (2) Medicare has denied payment for the item in advance; or (3) the supplier does not meet Medicare standards for supplier of medical equipment and supplies.

### *h. Prohibition against multiple billing numbers*

Present Law.—No provision.

Proposal.—Prohibits the Secretary from issuing more than one billing number to any supplier, unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

### *i. Treatment of nebulizers and aspirators*

Present Law.—There are five categories in the DME fee schedule. Aspirators and nebulizers are in a category entitled items requiring frequent and substantial servicing. These items may only be rented on the grounds that they require frequent servicing in order to avoid imminent danger to a beneficiary's health.

Proposal.—Removes aspirators and nebulizers from the category of DME items requiring frequent and substantial servicing and includes disposable supplies used in conjunction with aspirators and nebulizers in the category of inexpensive and other routinely purchased equipment.

### *j. Application of national payment limits to some items of prosthetics and orthotics.*

Present Law.—Ostomy supplies, tracheostomy supplies, urologicals, surgical and other medical supplies are included in the prosthetics and orthotics fee schedule, which is subject to regional payment limits.

Proposals.—Subjects ostomy supplies, tracheostomy supplies, urologicals, surgical dressings, splints, casts and other devices for reduction of fractures to national payment limits. For surgical dressings, splints, casts and other devices for reduction of fractures, average reasonable charges for the six month period ending June 30, 1992, increased by the covered item update for 1993, will be used as the base period for calculating national payment limits.

### *k. Parenteral and enteral nutrients, supplies and equipment*

Present Law.—Payment for parenteral and enteral nutrients, supplies and equipment is made on the basis of reasonable charges, updated by the CPI–U.

Proposal.—The proposal would eliminate the 1993 payment update for parenteral and enteral nutrient, supplies and equipment.

### *Section 122. Nurse-midwife services*

Present Law.—OBRA 87 provided for direct reimbursement of certified nurse midwives under both Medicare and Medicaid. The statutory definition of certified nurse midwives limits services to those regarding the care of mothers and babies during the maternity cycle, but the definition of covered services does not contain the restriction regarding the maternity cycle.

Proposal.—Modifies the definition of covered nurse midwife services, effective January 1, 1994, by eliminating the restriction that services include only those regarding the care of mothers and babies during the maternity cycle.

### *Section 123. Clarifying payments for medically-directed certified registered nurse anesthetists*

Present Law.—OBRA 90 set payment levels for both non-medically directed certified registered nurse anesthetists (CRNAs) and medically directed CRNAs. Payment for non-medically directed CRNAs were set at 100 percent of the amount paid to physicians for providing the same service and payments to medically directed CRNAs were set at 70 percent of the amount paid to physicians. These services are paid on the basis of a fee schedule which contains a dollar conversion factor. OBRA 90 specified the dollar conversion factors for these payments through 1997 based on the amount physicians would be paid for these services. Since that time, however, the actual amounts paid to physicians for these services have been lowered as a result of refinements to physician payments. As a result, the dollar conversion factors specified in the law are too high. However, since OBRA 90 also contains a provision which specifies that payments to CRNAs may not exceed the amount paid to physicians for the same service, only payments to medically directed CRNAs require a statutory correction.

Proposal.—Specifies that the conversion factor used to determine payments to medically-directed CRNAs would be frozen at $10.75, from 1993 through 1997. This is the same conversion factor used in 1992.

### *Section 124. Extension of Alzheimer's demonstration projects*

Present Law.—OBRA 86 authorized $40 million to conduct up to 10 Alzheimer's disease demonstration projects to provide comprehensive services to Medicare beneficiaries with Alzheimer's disease. The demonstrations were originally authorized for three years, but were extended an additional year in OBRA 90.

Proposal.—Extends the Alzheimer's disease demonstration projects for an additional year.

### *Section 125. Designation of certain hospitals as eye and ear hospitals*

Present Law.—Hospitals designated as eye and ear hospitals receive a blended payment rate for ambulatory surgery for which 75 percent is based on the hospital's costs and 25 percent is based on the rate paid to freestanding Ambulatory Surgery Centers (ASCs). This special rule applies for cost reporting periods beginning on or after October 1, 1988 and before January 1, 1995. In general, the blended payment rate to hospitals for outpatient surgery is based 42 percent on costs and 58 percent on the ASC rate. To receive designation as an eye or ear hospital, a facility must specialize in these services, receive more than 30 percent of its revenue from outpatient services, and must have been an eye or ear hospital on October 1, 1987.

Proposal.—Eligibility for designation would be extended to hospitals that otherwise meet the criteria but on October 1, 1987 operated as a physically separate or distinct eye and ear unit of a general acute care hospital which has since discontinued its other acute care operations.

### *Section 126. Extension of payment limit for intraocular lenses (IOLs)*

Present Law.—OBRA 90 established a payment limit of $200 for intraocular lenses inserted during 1991 and 1992.

Proposal.—Extends the $200 payment limit for 1993 and 1994. The purposes of this provision is to prohibit the Secretary from issuing a rule lowering the payment amount below $200.

### *Section 127. Nurse practitioners and physicians' assistants*

Present Law.—Under current law, nurse practitioners and clinical nurse specialists working in collaboration with a physician and physicians' assistants working under the supervision of a physician may bill Medicare Part B if they are working in specified settings. Payment may not be made directly to physicians' assistants, but must be made to the person or entity employing the physicians' assistant. Payment for nurse practitioners, clinical nurse specialists, certified nurse-midwives and physicians' assistants must be made on an assignment-related basis and are subject to Part B coinsurance and deductible requirements.

Reimbursement varies with the setting in which services are performed. For services provided by physicians' assistants serving as an assistant-at-surgery, payment is limited to the lesser of the actual charge or 65 percent of the amount that would be paid to a physician serving as an assistant-at-surgery. For services rendered in hospitals, other than as an assistant-at-surgery, payment is limited to the actual charge or the lesser of 75 percent of the amount paid to physicians for performing that service. In all other settings, payment is limited to the lesser of the actual charge or 85 percent of the amount that would be paid to physicians for performing that service.

Employers of physicians' assistants may bill Medicare Part B directly for services performed in a rural health professional shortage area (HPSAs). Nurse practitioners and clinical nurse specialists may bill Medicare Part B for services performed in a rural area, including hospitals. Physicians who employ physicians' assistants, nurse practitioners and clinical nurse specialists may bill Medicare for services provided by these practitioners as incident to physicians' services.

Proposal.—Expands the settings in which nurse practitioners, clinical nurse specialists and physicians' assistants may bill Medicare Part B for services performed to include all outpatient settings. Payment for services in settings not already authorized in law would be established at: (a) 80 percent of the lesser of the actual charge; or (b) 85 percent of the fee schedule amount that would be paid if the services were performed by a physician. Nurse practitioners and clinical nurse specialists would be permitted to bill Medicare independently, but only on an assignment-related basis. Services rendered by physicians' assistants must also be billed on an assignment-related basis by the person employing a physician's assistant, as in current law.

### *Section 128. Oral cancer drugs*

Present Law.—Under current law, Medicare coverage for outpatient prescription drugs (with some exceptions for immunosuppressive drugs and erythropoietin) is limited to drugs which cannot be self-administered. Thus, drugs which can be taken orally are not covered.

Proposal.—Extends Medicare coverage for oral cancer treatment drugs if they are the same chemical entity as anticancer drugs covered by Medicare when administered intravenously. The proposal would also require uniform Medicare coverage for "off-label" cancer drugs if such drugs have been approved by the Food and Drug Administration (FDA), have appeared in specified peer-reviewed medical journals, or are included in one of the three specified major medical compendia.

## C. AMENDMENTS RELATING TO PARTS A AND B OF THE MEDICAL PROGRAM

### *Section 131. Medicare select*

Present Law.—As amended by the Omnibus Budget Reconciliation Act of 1990, the standards relating to Medicare supplemental policies, known as Medigap policies, provide for the sale of certain policies under which benefits for items and services provided by a network of health care providers may differ from benefits for items and services provided outside the network. These policies, known as Medicare Select policies, must meet certain requirements, and can be offered only in fifteen states chosen by the Secretary for a period of three years. In addition, the OBRA '90 amendments require that all Medigap policies conform to one of ten standard benefits packages, including a core benefit package that must be made available by all Medigap insurers, and nine other packages that an insurer has the option of offering. In general, Medigap policies may not be canceled and must be guaranteed renewable as long as premiums are paid.

Proposal.—Medicare Select policies could be offered in all states and the three year limitation would be eliminated. A health maintenance organization could offer a Medicare supplemental policy that does not conform to one of the ten standard benefit packages if (1) the benefits include at least the core benefit package, although the plan could charge nominal copayments, and (2) the benefit package including any copayments, when combined with Medicare benefits, is substantially similar to benefits provided to non-Medicare enrollees of the health maintenance organization. A Medicare Select policy may be canceled or not renewed in the case of an individual who leaves the service area of the policy, except that if the individual moves to an area for which the issuer of the Medicare Select policy (or an affiliate) offers a Medigap policy, the alternative policy must be made available to the individual.

### *Section 132. Reduction in payments for erythropoietin*

Present law.—Medicare is the principal purchaser of erythropoietin (EPO), an antianemia drug given to end stage renal disease (ESRD) beneficiaries with a specified level of anemia. Payment for the drug is made as an add-on to the composite rate paid to facilities for dialysis treatment. Payments to facilities are made in increments of 1,000 unit doses, rounded to the nearest 100 units, with a maximum payment of $11 per 1,000 units.

For ESRD beneficiaries who are not treated through dialysis facilities, payment is made to physicians for drug costs in a variety of ways.

Proposal.—Reduces Medicare payments for erythropoietin by $1.00 per 1,000 units. The proposal would not alter payments to physicians for EPO.

### *Section 133. Modifications to advance directives law enacted in OBRA 90*

Present Law.—OBRA 90 required hospitals, nursing homes, home health agencies, hospices and health maintenance organizations to provide written information to each individual concerning an individual's rights under State law to make decisions regarding their medical care, including the right to accept or refuse treatment and the right to formulate an advance directive; to document in the medical record whether an advance directive exists for each individual; to comply with the advance directive and to educate the staff about advance directives in general.

Proposal.—The proposal would add renal dialysis facilities to the list of institutions required to furnish patients with advance directive information.

### *Section 134. Secondary payer provisions for end stage renal disease beneficiaries*

Present Law.—Under current law, Medicare is secondary payer to other insurance plans for 18 months for beneficiaries who are eligible for Medicare solely because they have end stage renal disease. After January 1, 1996, Medicare is secondary to other payers for a 12 month period.

Proposal.—Extends the period for which Medicare is secondary to other payers to twenty four months from January 1, 1993 to January 1, 1996. After January 1, 1996, until January 1, 1998, the period for which Medicare is secondary to other payers is eighteen months.

### *Section 135. Immunosuppressive drug therapy*

Present Law.—Medicare currently pays for immunosuppressive drug therapy for Medicare beneficiaries who have received organ transplants for one year following the date of the transplant procedure.

Proposal.—Extends Medicare coverage of immunosuppressive drug therapy to two years following the date of the transplant procedure in calendar year 1995; to 30 months following a transplant procedure in calendar year 1996; and to 36 months following a transplant procedure in calendar year 1997.

### *Section 136. Clarification of Self-Referral Exceptions for Physician Ownership of Clinical Laboratories*

#### *(a) Modification of general exceptions*

Present Law.—Physicians with certain ownership and/or compensation arrangements with clinical laboratories are prohibited from referring patients to these clinical laboratories.

There are a series of general exceptions to both the ownership and compensation provisions, including: (1) physicians' services provided by (or under the personal supervision of) a physician or another physician in the same group practice; (2) in-office ancillary services; and (3) hospital financial relationships unrelated to the provision of clinical laboratory services. In-office ancillary services are defined as services furnished by the physician himself, another physician in the same group practice, or employees of the physician or the physician's group practice. To be exempted from the referral ban, the services must be provided in a building in which the physician or other member of the group practice provides services unrelated to laboratory services, or in a central building set up by the group to perform ancillary services for its members. The services must be billed by the physician performing or supervising the service or by that physician's group, or by an entity owned by the physician or group practice. In addition, the ownership or compensation interests in such in-office ancillary services must meet other requirements as the Secretary may impose by regulation as needed to protect against patient fraud and abuse.

A number of group practices own and operate satellite facilities in communities other than the community in which the main clinic facility is located.

Proposal.—Ancillary services provided by a group practice with multiple office locations would be exempted from the prohibition on referrals.

The exemption for hospital financial relationships unrelated to the provision of clinical laboratory services would be modified to include tax-exempt health services entities wholly owned, operated or affiliated with one or more not-for-profit tax exempt hospitals if the financial relationship does not relate to the provision of laboratory services.

The provision would clarify the billing provision to specify that when services are billed by the group practice, the billing number assigned to the group is to be used.

#### *(b) Rural providers*

Present Law.—In addition to the general exemptions, the law includes specific exemptions from just the ownership prohibitions and specific exemptions from just the compensation provisions. The law includes an exemption under the ownership prohibition for rural providers. Proposed implementing regulations contain provisions directed at preventing possible abuses of this exemption.

Proposal.—The provision provides a general exemption for rural laboratories furnishing services in a rural area, as defined for purposes of the hospital prospective payment system. It is expected that implementing regulations, as well as other sections of Medicare law, will serve to prevent possible abuses of this exemption.

#### *(c) Services under arrangements*

Present Law.—Some group practices operate full-service laboratories and contract with hospitals and other providers to furnish clinical laboratory services to hospital and other provider patients "under arrangements" with such entities. Medicare requires that the hospital or other provider bill for such services. These "under arrangements" services are therefore not protected under the general exemption for in-office ancillary services.

Proposal.—The provision provides a general exemption for clinical hospital laboratory services provided by a group practice laboratory under arrangements with hospitals or other Medicare providers. Remuneration under the arrangement must be consistent with fair market value of the services and considered commercially reasonable even if no referrals were made between the two parties.

#### *(d) Shared laboratory facilities*

Present Law.—Some group practices, and the hospitals with which they are affiliated, operate a laboratory facility which serves both the hospital inpatients and the group practice's office patients. Current law does not contain a general exemption for this type of arrangement.

Proposal.—The provision adds an exemption for shared laboratory services in certain specified cases. Specifically, the services must be provided by a university, a medical school, a nonprofit organization or hospital with an approved medical training program. Further, the laboratory must be used in common under a written arrangement with a group practice whose physician members constitute all, or substantially all, of the medical teaching staff of the university, medical school, organization or hospital.

#### *(e) Leasing*

Present Law.—The law includes specific exemptions from just the compensation prohibitions.

Proposal.—A new exemption would be created for the rental of equipment by a group practice. In order to qualify for the exemption, payments for the rental or lease of the equipment would have be provided pursuant to a written agreement signed by the parties. The agreement must: (1) specify the equipment covered by the agreement and dedicated for use of the lessee; (2) provide for a term of rental or lease of at least one year; (3) provide for payment on a periodic basis of an amount consistent with a fair market value; (4) provide for an amount of aggregate payments that does not vary (directly or indirectly) based on the volume or value of any referrals of business between the parties; and (5) considered to be commercially reasonable even if no referrals were made between the parties.

#### *(f) Definition of group practice*

Present Law.—The law contains a definition of group practice for purposes of the self-referral provision. Under this definition, a group practice is defined as a group of two or more physicians legally organized as partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan or similar association in which: (1) each physician group member furnishes substantially the full range of his or her services through the joint use of shared office space, facilities, equipment, and personnel; (2) substantially all of the services of the physicians group members are furnished through the group and billed in the name of the group, with billing receipts treated as receipts of the group; (3) the practice cost expenses and income generated by group members are distributed in accordance with predetermined methodologies; and (4) any additional standards established by the Secretary are satisfied.

Faculty practice plans operated by a hospital fall under the definition of group practice only for those services provided within the faculty practice plan.

This definition does not specifically address the issue of part-time or independent contractor arrangements. Many group practices, particularly those in smaller communities, arrange for specialists, usually from other communities, to provide services for the group on a part-time basis, usually as independent contractors. Many of these specialists are either already members of another group practice, have their own practice, or have similar contractual arrangements with several group practices.

Proposal.—The provision would modify the definition of group practice so that two or more physicians providing services in an entity who comply with the other requirements specified in current law would also meet the definition of a group practice. The provision would be further modified to expand the definition of faculty practice plans to include those associated with a university or a medical school in addition to those operated by a hospital.

This provision would prohibit the Secretary from imposing any standard which would have the effect of prohibiting a group practice from contracting with physicians on a part-time or intermittent basis, provided such group practice qualified to receive Medicare payment for the physicians' services.

The provision would specify that the practice and overhead expenses of not-for-profit entities could be determined in accordance with methods previously determined by the entity consistent with its articles of incorporation and bylaws.

The provision would also clarify the billing provision to specify that when services are billed by the group practice, the billing number assigned to the group practice is to be used.

### *(g) Reference laboratories*

Present Law.—No provision.

Proposal.—The proposal would prohibit the Secretary from including requirements in regulations that would have the effect of prohibiting the acceptance of reference work by group practice laboratories.

### *Section 137. Graduate medical education*

Present Law.—Payments for the direct costs of graduate medical education are based on Medicare's share of each hospital's direct costs per full-time equivalent (FTE) resident, in a base year, updated each year by the consumer price index. The base year is defined as a hospital's cost reporting period beginning during fiscal year 1984. The law provides for no adjustments to the base year amount. In the case of a hospital that did not have an approved medical residency training program or was not participating in the Medicare program during the base year, the Secretary shall provide for an FTE resident amount as the Secretary determines to be appropriate based on approved FTE resident amounts for comparable programs.

Proposal.—The Secretary shall provide an FTE resident amount that the Secretary deems appropriate in the case of hospitals which in 1984 operated a primary care residency training program as their only approved residency program and had a base year per resident amount of less than $10,000. In providing an FTE resident amount, the Secretary shall take into account approved FTE resident amounts for hospitals with comparable residency programs.

### *Section 138. Hospice notification*

Present Law.—Medicare beneficiaries who are certified as terminally ill by a physician may elect to receive hospice benefits in lieu of other Medicare covered services. Skilled nursing facilities (SNFs) are required to provide each resident at the time of admission with a written statement of rights. SNFs must also inform each resident of services available and related charges for services, including any charges not covered under Medicare or by the facility's basic per diem charge. Home health agencies and hospitals are required to meet Medicare conditions of participation in order to receive reimbursement for treatment of Medicare beneficiaries. Conditions of participation for discharge planning in hospitals require an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

Proposal.—Skilled nursing facilities and home health agencies would be required to inform beneficiaries of the hospice benefit under Medicare, if a Medicare participating hospice is located in the geographic area or it is common medical practice to refer patients to hospices out of the area. SNFs would be required to provide the information to all beneficiaries at the time of admission as part of the oral and written statement of rights. As a condition of participation in Medicare, home health agencies would be required to provide the information in advance of the patient's coming under care of the agency. Hospital conditions of participation with respect to discharge planning would be modified to require an evaluation of a patient's likely need for appropriate post-hospital services, including hospice services, and the availability of those services.

### *Section 139. Extension of social health maintenance organization demonstrations (SHMOs)*

Present Law.—The Deficit Reduction Act of 1984 required the Secretary to grant three year waivers for demonstrations of social health maintenance organizations (SHMOs). These demonstrations provided integrated health and long-term care services on a prepaid capitated basis. The Omnibus Budget Reconciliation Act of 1987 required the Secretary to extend the waivers for SHMOs through September 30, 1992. The Omnibus Budget Reconciliation Act of 1990 extended the waivers through December 31, 1995 and required the Secretary to add up to four additional sites. It also authorized $3.5 million for technical assistance and evaluation.

Proposal.—Extends the SHMO demonstrations for an additional 3 years. Specifies that one of the SHMO demonstration sites may enroll Medicare end stage renal disease (ESRD) beneficiaries.

### *Section 140. Interest payments*

Present Law.—The Social Security Act requires the payment of interest on if payment is not made within 24 days of receipt of a clean claim for payment, and within 17 days in the case of a clean claim from a participating physician.

Proposal.—For fiscal year 1993, interest payments would be required on clean claims if payment is not made within 30 days of receipt. Both the House and Senate have passed fiscal year 1993 appropriations for the Department of Health and Human Services requiring that, for fiscal year 1993, payment for Medicare claims must be made within 14 days of receipt with respect to claims submitted electronically and 27 days with respect to claims submitted on paper. Without a corresponding change in interest payment requirements under the Social Security Act, interest payments would be required for every paper claim submitted during fiscal year 1993. The Congressional Budget Office estimates that enactment of the appropriations measure would thereby increase Medicare interest payments by $15 million in fiscal year 1993.

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## TITLE II—MEDICAID AMENDMENTS

### SUBTITLE A—TECHNICAL CORRECTIONS

### *Section 201. Effective date*

Unless otherwise provided, the technical amendments take effect as if included in OBRA 1990.

### *Section 202. Corrections relating to reimbursement for prescribed drugs*

There are a number of technical changes made with respect to the Medicaid prescription drug rebate program. Where the Secretary has resolved statutory ambiguities through the rebate agreement currently in effect between the Secretary and pharmaceutical manufacturers, the technical corrections to the statute conform to the rebate agreement. Minor changes have also been made in response to Administration requests concerning the contents and dates of required reports. Described below are explanations of other provisions.

#### *1. Upper payment limits for multiple-source drugs*

Present law.—Unless applicable state law requires the dispensing of an innovator multiple-source drug (brand-name), no Federal matching payments may be made to a State with respect to an innovator multiple-source drug dispensed on or after July 1, 1991, if, under applicable State law, a less expensive non-innovator multiple-source (generic) drug could have been dispensed. According to current HCFA regulation, where an upper limit has not been established, remibursement for either the brand-name or generic version of a multiple source drug shall not exceed the payment limit established by the Federal government for the multiple-source drug.

Proposal.—Clarifies that, in a case where HCFA has established an upper limit for a multiple-source drug, payment may be made for any brand of the drug (including the innovator), as long as reimbursement is at or below the upper payment limit. Current exceptions are retained for cases where State law requires dispensing of the brand-name, and where no upper payment limit has been established.

#### *2. Penalties for failure to provide information or providing false information*

Present law.—Pharmaceutical manufacturers with Medicaid rebate agreements are required to report specified price information to the Secretary. If a manufacturer fails to report such information on a timely basis, the amount of the penalty shall "be increased by" $10,000 for each day that the information is not provided. If a manufacturer provides false information, it is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. The Secretary may survey wholesalers and manufacturers that directly distribute covered outpatient drugs to verify manufacturer prices reported to the Secretary. The Secretary may impose a civil money penalty in an amount not to exceed $100,000 on a wholesaler, manufacturer, or direct seller, if it refuses a request for information in connection with such a survey or knowingly provides false information.

Proposal.—The language "be increased by" is deleted, to clarify that the penalty for a manufacturer's failure to provide timely information is $10,000 per day of delay. The maximum penalty on a wholesaler, manufacturer, or direct seller for refusing a request for information is changed from $100,000 to $10,000, to correct a drafting error. Another technical change clarifies that any wholesaler, manufacturer or direct seller that provides false information is subject to a penalty of up to $100,000.

### *3. Rebate formula*

Present law.—Manufacturers of covered outpatient drugs pay basic rebates to States to assure that the State Medicaid receives the lower of the manufacturer's "best price" (with certain statutory exceptions) for that drug or a minimum discount. In FYs 1991-92, the minimum discount is 12.5%; beginning in FY 1993, the minimum discount is 15%. Manufacturers also pay an additional rebate to the States based on the amount by which their prices for single-source and innovator multiple-source drugs exceed the rate of inflation. Prior to 1994, the additional rebate is based on the difference between the drug's "average manufacturer price" (AMP) on October 1, 1990, indexed by the CPI-U (urban consumer price index) and the current AMP. Prior to 1994, this calculation is made on a drug-by-drug basis. After 1994, the amount will be calculated on an aggregate basis for each manufacturer's product line, weighted for volume.

Proposal.—(1) To improve the data on which the additional (inflation) rebate is based, and conform the statute to the rebate agreement, the base price from which price increases are calculated is changed from the AMP on October 1, 1990, to the AMP during the period from July 1 to September 30, 1990. For drugs approved after October 1, 1990, the base price would be based on the AMP during the first full calendar quarter after which the drug was marketed. The base CPI-U to be used to calculate the additional (inflation) rebate is changed from the CPI-U on October 1, 1990, to the average CPI-U during the month of September, 1990. For drugs approved after October 1, 1990, the base CPI-U level to be used will be CPI-U during the first full month prior to the first full calendar quarter in which the drug was marketed.

(2) The formula for calculating the additional (inflation) rebate after 1993, which is based on the weighted AMP (WAMP) for all the drugs in a manufacturer's product line, is amended to allow a manufacturer to use its current Medicaid utilization data, rather than the utilization data from October 1, 1990, as under current law. The amendment also clarifies that the WAMP is calculated based on utilization data for all States.

### *4. Treatment of new drugs*

Present law.—A State may not exclude from coverage, subject to prior authorization, or otherwise restrict any new biological or drug approved by the Food and Drug Administration after the date of enactment of OBRA 1990 for a period of 6 months after such approval.

Proposal.—The provision clarifies original Congressional intent that "new biological or drug" refers only to a new product that is a new chemical or molecular entity (as opposed to a new form of an existing drug).

### *5. Moratorium on reductions in pharmacy reimbursement*

Present law.—During the period between January 1, 1991 through December 31, 1994, the Secretary may not modify by regulation the formula used to determine reimbursement limits described in the regulations under 42 CFR 447.331-447.334, as in effect on the date of enactment of OBRA 1990, to reduce such limits for covered outpatient drugs.

Proposal.—The statutory language is amended to clarify that, for States that were in compliance with the regulations, a State may not change the payment levels in effect on January 1, 1991, for the ingredient costs or dispensing fees for outpatient prescription drugs during the moratorium period. However, States not in compliance are first required to come into compliance before the moratorium applies.

### *6. Drug-use review*

Present law.—States are required to begin conducting a drug-use review program meeting statutory criteria beginning on January 1, 1993.

Proposal.—The statutory provisions on drug-use review programs have been substantially reorganized to make them more clear and concise. A change included in S. 3120, the Medicaid Technical Corrections and Clarification Act of 1992, which would have changed the composition of the State Drug-use Review Board, is not included.

### *7. Electronic claims management*

Present law.—During FYs 1991 and 1992, States receive an enhanced Federal Medicaid match for activities related to the development of an electronic claims processing system for Medicaid pharmaceutical claims. Specifically, the enhanced match is available if the State acquires such a system through a competitive procurement process.

Proposal.—The enhanced match is also available when States develop their own electronic claims system, as well as when they acquire one from another source.

### *8. Annual report by Secretary*

Present law.—The Secretary is required to submit an annual report to Congress containing data and analysis concerning the Medicaid prescription drug prices and rebates. Among the information to be reported is how the size of Medicaid rebates compare with the size of rebates offered to other purchasers of covered outpatient drugs.

Proposal.—The requirement that the annual report include a comparison of Medicaid and other rebates is deleted since the Secretary is not required to collect information on rebates offered to other purchasers and does not have the ability to collect such information.

### *9. Definitions*

Present law.—Section 1927(k) of the Social Security Act contains the definitions related to the Medicaid prescription drug rebate program.

Proposal.—Some minor changes are made to clarify definitions or remove redundancies. Among these, the following are of the most significance:

(1) Section 1927(k)(3), "Limiting Definition," is amended to exclude from the definition of "covered outpatient drug" any drug or product for which a National Drug Code number is not required by the Food and Drug Administration. This amendment clarifies that blood and blood products are not subject to rebate agreements.

(2) The definition of "manufacturer" is amended to replace a definition based on a description of activities with a simpler definition suggested by the Secretary. The term "manufacturer" means, with respect to a covered outpatient drug, the entity which holds title to or legal possession of the National Drug Code number for such drug. This amendment is intended only to clarify, not broaden or narrow the definition of manufacturer for purposes of determining the entity responsible for paying a rebate to the Medicaid program.

(3) The definition of "medically accepted indication" is amended only to delete redundant language. The amendment does not include a proposed change included in S. 3120, to eliminate the use of "peer-reviewed medical literature" as a basis for determining whether a use is medically indicated.

(4) The definition of "innovator multiple source drug" and "single source drug" are modified to clarify that such terms refer only to drugs marketed under a new drug application or product licensing application. These terms were not intended to refer to drugs marketed under abbreviated new drug applications.

### *10. Maximum Allowable Cost limitations*

Present law.—States may impose "maximum allowable cost" (MAC) limitations on the reimbursement for generic drugs.

Proposal.—A new subsection (l) is added to section 1927 of the Social Security Act to clarify that the prescription drug rebate law, particularly, the moratorium on changes in pharmacy reimbursement (see item #5 above), does not supersede or affect provision of the law relating to the States' use of MAC limitations.

### *11. Demonstration project on prospective drug-use review*

Present law.—The Secretary is required to establish, not later than January 1, 1992, at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug-use review in fulfilling patient counseling and in reducing prescription drug costs.

Proposal.—The date by which the demonstration projects must be established is changed from January 1, 1992 to January 1, 1993. The number of projects to be conducted is changed from 10 to 5.

### *12. Studies*

Present law.—The Comptroller General is required to conduct a study of drug purchasing and billing activities of certain institutional purchasers of prescription drug products. The results of the study are to be reported to Congress by May 1, 1992. The Secretary and Comptroller General are required to study prior approval procedures used by State Medicaid programs and, no later than December 31, 1991, report to Congress and make recommendations on certain aspects of these programs. The Secretary is required to study and make recommendations to Congress concerning Medicaid acquisition and reimbursement policies for vaccines and the accessibility of immunizations to Medicaid-eligible children. The Comptroller General is required to conduct a study on negotiating discounts for prescription drugs under the Medicare program, and report to Congress on its results no later than December 5, 1991.

Proposal.—The date on which the results of the study on drug purchasing and bill must be reported to Congress is changed from May 1, 1992, to May 1, 1993. The study on prior approval procedures is to be conducted by the Secretary only, not the Secretary and the Comptroller General, and the report must be made to Congress no later than June 1, 1993. The vaccine study is to be conducted by the Comptroller General instead of the Secretary, and the report must be made to Congress no later than January 1, 1993. The results of the study on discounts under the Medicare program must be reported no later than January 1, 1993.

### *Sections 203-227. Other technical corrections*

A number of purely clerical and technical changes were made to the other provisions of OBRA 1990. Described below are explanations of the changes that might be difficult to understand from the statutory language or reflect minor changes in policy.

### *1. Payments for hospital services for children under 6 years of age*

Present law.—Section 1902(a)(55) [to be renumbered as (a)(56)] and section 1902(s) require that payments for inpatient services furnished to infants (under age 1) in any hospital, and to children under age 5 in a disproportionate share hospital (1) must be adjusted for outliers (exceptionally long or costly stays) if such payments are made on a prospective basis; and (2) may not be limited by the imposition of day limits. Payments for inpatient services furnished to infants in any hospital may not be limited by the imposition dollar limits (other than limits resulting from prospective payments).

Proposal.—The effect of law is not changed, but its provisions are reorganized and conforming amendments are made. The prohibition against day limits for children under age 6 served in disproportionate share hospitals is incorporated into section 1902(a)(10) in clause (X) in the matter following subparagraph (F). The requirement that outlier payments be made with respect to inpatient services to children under age 6 is disproportionate share hospitals is incorporated into section 1923(a)(2)(c). With respect to inpatient services to infants in any hospital, the prohibition against day and dollar limits, and the requirement that outlier payments be made under prospective payment systems, are included in section 1902(s).

### *2. Billing for services of substitute physicians*

Present law.—Current law prohibits payment for care or services made to anyone other than that individual receiving the services or the person or institution that furnished the services except under specified circumstances. Where one physician is billing for services provided by another who was substituting for the billing physician, payments may be made to the latter if the substitution does not exceed 14 days, in the case of an informal reciprocal arrangement, or 90 days (or such longer period as the Secretary may provide), in the case of an arrangement involving per diem or other fee-for-time compensation, but only if the claim identifies the physician who actually furnished the services. This provision does not conform to current Medicare law.

Proposal.—As originally intended, the law is changed to conform to the Medicare policy (as reflected in the Medicare technical amendments included in H.R. 11), so that physicians serving both Medicare an Medicaid do not have to follow different rules for each program. As modified, payment made for visit services furnished to a substitute physician on an occasional, reciprocal basis, if (1) the billing physician is unavailable to provide the services, (2) the individual receiving services has sought them from the billing physician; (3) the claim identifies the substitute physician; and (4) the services are not provided by the substitute physician over a continuous period of longer than 60 days.

### *3. Home and community-based care for the frail elderly*

Present law.

(a) Allocation of Federal funds.—Federal matching expenditures for home and community-based care for the frail elderly are limited to specified levels for fiscal years 1991–1995. A state may elect to provide such services at any time during a fiscal year and for any period of 4 or more calendar quarters (its election period). The Secretary is directed to limit the amount of matching funds available to any State participating in the option during the State's election period. The Secretary's limitation must take into account the overall annual Federal expenditure limits for this option, and the number of elderly individuals age 65 or over residing in each participating State in relation to the number of such individuals in the United States during 1990. For this purpose, the elderly individuals taken into account must, to the maximum extent practicable, be low-income elderly individuals.

(b) Penalties.—The State and the Secretary are given the authority to terminate providers of home and community-based care under this section for failure to comply with the law and, in addition, may impose civil money penalties.

(c) Definitions of community care settings.—"Small community care setting" is a nonresidential setting that serves more than 2 and less than 8 individuals. A "large community care setting" is one that serves more than 8 individuals. Settings that serve 8 individuals are not included in either category.

Proposal.

(a) Allocation of Federal funds.—The election period and the formula for allocating funds among participating States are modified, and annual deadlines are established for States to notify the Secretary of their intent to participate in the option and the Secretary to notify such States of their allocations. Beginning with FY 1994, an election period will be a Federal fiscal year. States are required to notify the Secretary of their intent to participate in the option not later than 3 months before the beginning of each fiscal year. Not later than 2 months before the beginning of each fiscal year, the Secretary is required to notify each participating State of its allocation.

Beginning with FY 1994, the allocation of funds among the States will be based on the number of individuals in each participating State in relation to the number of individuals in all the participating States (instead of in the United States in 1990). At the end of each fiscal year, Federal funds that were allocated to participating States, but were not expended because State expenditures were insufficient to draw the entire Federal allocation, will be re-allocated, at the regular Federal matching rates, among the participating States in which expenditures under this section exceeded the amount necessary to draw down their Federal allocation.

For FY 1993, special allocation and notification rules are established. For the period beginning October 1, 1992 and ending March 31, 1993, each State for which State plan amendment to provide services under this section has been approved by the Secretary as of the date of enactment of this Act, will be allocated its share of half of the FY 1993 Federal funds available under this section, based on the State's elderly population in relation to the elderly population in all participating States. For the second half of FY 1993, the remaining half of the FY 1993 funds will be allocated, on the same basis, among all States that have provided notice of their intent to participate in the option by March 1, 1993. The Secretary must provide notice of the Federal funds available for each such State April, 1993.

If Federal funds available for services under this section remain at the end of any fiscal year, beginning with FY 1993, such funds may be applied for services under this section in the following fiscal year.

(b) Penalties.—Civil money penalties may be imposed on the State or Secretary instead of in addition to termination of a provider or setting (rather than just in addition to termination).

(c) Definitions of community care settings.—The definition of large community setting is amended to include settings serving 8 individuals. Amendments are made in the definitions of "small community setting" and "large community setting" so they they are consistent with one another. A definition of "community care setting" is added to the law for ease of reference.

(d) Other.—Inconsistent terminology used to refer to the services provided under this section are changed so that such services are consistently refered to as "home and community care." The base year for purposes of maintenance of effort of State expenditures for home and community care is changed from 1989 to 1990 to make it consistent with the first year for which States must report such expenditures. Section 1905(r) of the Social Security Act (SSA) is amended to clarify that neither home and community care to the frail elderly under Section 1929 of the SSA nor community-supported living arrangements services under Section 1930 of the SSA are required to be provided to children as part of treatment services to which they are entitled under the Early and Periodic Screening, Diagnosis, and Treatment program.

### *4. Community-supported living arrangements (CSLA) services*

Present law.—Developmentally disabled individuals entitled to services community-supported living arrangements services are defined as individuals residing with the individual's family or legal guardian in such individual's own home in which no more than 3 other recipients of such services are residing. The intent of the provision was to allow an individual to receive services if residing with the individual's family or guardian or independently in the individual's own home. The limitation on the total number of individual's residing together and receiving CSLA services was intended to be 3, not 4.

Proposal.—To reflect the original intent of the law, drafting errors are corrected so that an individual may receive CSLA services if living independently, and so that individuals may receive CSLA services only if they are residing where no more than 2 other individuals are receiving such services.

### *5. Personal care services*

Present law.—Pursuant to section 4721 of OBRA 1990, personal care services meeting specified criteria are covered by Medicaid effective October 1, 1994. Although originally intended to give States the option to cover personal care services, this amendment was executed by including personal care services as a subset of home health services. Home health services are required to be covered by a State for individuals who are entitled to nursing facility services.

Proposal.—Section 1905(a)(7) of the SSA is amended to clarify that personal care services are not a subset of home health services, thereby becoming a mandatory service, but are instead a separate, optional service.

*6. Low-income families demonstration project*

Present law.—Federal expenditures for a demonstration project to extend Medicaid eligibility to individuals in families with incomes up to 150% of the Federal poverty level are limited to specified levels in fiscal years 1991-1994. The Health Care Financing Administration (HCFA) has informed Committee staff that the projects are expected to require Federal matching funds through 1995.

Proposal.—Federal expenditures for this demonstration project that are designated for FYs 1993 and 1994 are made available until expended.

*7. Physician quality*

Present law.—Federal expenditures are not available for payments made by States to reimburse a physician for treating a pregnant woman or child unless the physician meets one of several specified qualifications.

Proposal.—Allows emergency physicians to bill for services provided to pregnant women and children in the emergency department of a Medicaid-participating hospital. In addition, the provision clarifies that physicians certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association (AOA) may bill for services provided to pregnant women and children. The original list of qualifications was not intended to exclude these types of physicians.

*8. Nursing home reform—nurse aide training*

Present law.—Nurse aides working in Medicare or Medicaid nursing facilities must undergo training and/or competency evaluation. Certain types of professionals who furnish services in nursing facilities are not considered nurse aides and therefore are exempt from the training and competency evaluation requirements. Generally, nurse aide training is not permitted by or in facilities that have been subject to certain penalties within the previous two years, due to the facility's failure to meet Medicaid requirements. There is no provision for approving nurse aide training by or in facilities that were subject to certain penalties applicable before 1990.

Proposal.—Added to the types of professionals who are not considered to be nurse aides, and therefore are not subject to training and competency evaluation requirements, are registered respiratory therapists and certified respiratory therapy technicians. Nursing facilities that are prohibited from training nurse aides because they were subject to certain penalties applicable before 1990 are permitted to train nurse aides if they have not been subject to such penalties within the previous 2 years. (Conforming amendments are also made with respect to Medicare).

SUBTITLE B—OTHER MEDICAID AMENDMENTS

*Part I—Substance abuse provisions*

*Section 231. Exception to IMD exclusion*

Present law.—Medicaid does not pay for any services (including prenatal care and other medical services) provided to Medicaid-eligible individuals between ages 21 and 65 who are residing in "institutions for mental diseases" (IMDs) which, by statutory and regulatory definition, include non-hospital, residential substance abuse treatment facilities with more than 16 beds. If the individual is under age 21, Medicaid will pay for residential substance abuse treatment services only in qualified psychiatric hospitals.

A State must provide Medicaid services throughout all its political subdivisions. Medical assistance available to any beneficiary may be no less in amount, duration, or scope than that made available to any other beneficiary.

Proposal.—An exception to the IMD exclusion is created for Medicaid-eligible individuals (of any age) who are participants in a qualified comprehensive substance abuse treatment program meeting the requirements of the Title IV grant program for comprehensive substance abuse treatment for pregnant women and caretaker parents (established under provisions of H.R. 11). Thus, services that would be covered if an individual were not residing in an IMD will be covered notwithstanding the individual's residence in a substance abuse treatment facility. As under current law, room and board is not such a covered service. Effective July 1, 1993.

The Secretary of Health and Human Services shall waive the requirements that all Medicaid services be provided on a statewide basis and be provided in comparable amount, duration, and scope to all Medicaid beneficiaries where the Secretary determines that a waiver of such requirements is necessary and appropriate to enable a State to establish a comprehensive substance abuse treatment program as defined under the Title IV grant program to provide substance abuse treatment for pregnant women. Thus, the State can target programs to individuals and areas with the greatest need. Effective July 1, 1993.

*Section 232. Coverage of alcoholism and drug dependency residential treatment services*

Present law.—Medicaid does not pay for any services (including prenatal care and other medical services) provided to Medicaid-eligible individuals between ages 21 and 65 who are residing in "institutions for mental diseases" (IMDs), which by statutory and regulatory definition, include non-hospital, residential substance abuse treatment facilities with more than 16 beds. If the individual is under age 21, Medicaid will pay for residential substance abuse treatment services only in qualified psychiatric hospitals.

Proposal.—A targeted option to cover residential substance abuse treatment for pregnant women, caretaker parents, and dependent children is created in the Medicaid program. States participating in this option also could elect to extend Medicaid eligibility to women to receive residential substance abuse and pregnancy-related treatment for one year following the end of pregnancy.

Although, the proposed exception to the IMD exclusion, as described above, allows States to provide medical services to individuals receiving residential substance abuse treatment in comprehensive programs meeting certain criteria, this targeted option will permit States to use alternative ways to cover and finance comprehensive residential substance abuse treatment, as defined under the option. Rather than billing separately for various Medicaid-covered services and using other sources of financing for residential treatment costs not normally covered by Medicaid, residential treatment facilities will be reimbursed through Medicaid on a global (e.g., per diem) basis for the costs of all services required to provide comprehensive residential substance abuse treatment to Medicaid-eligible pregnant women, caretaker parents, and dependent children.

The required services are: individual, group and family counseling; addiction education and treatment; parenting skills training; education on prevention of HIV infection; domestic violence or sexual abuse counseling where needed; room and board; 24-hour supervision; therapeutic child care or counseling for children of individuals in treatment; assistance to parents in obtain educational services for themselves and their children; facilitating access to prenatal and postpartum and pediatric care, and other health and social services; supervision of children while parents are in treatment; counseling for re-entry into society; and continuing staff training.

Services would have to be provided under individualized treatment plans and in licensed and certified non-hospital facilities with no more than 40 beds (including those for children). The IMD exclusion would be waived for the facilities paid under this option. Payment rates must be based on the reasonable and adequate costs that must be incurred by efficiently and economically operated facilities providing the required services in conformity with applicable State and Federal law.

The Secretary is directed to solicit applications from States during FY 1993, and to allocate expenditures on October 1, 1993. The total number of beds for which Federal expenditures are available nationwide is 350. The Secretary is directed to continue to solicit proposals and allocate beds until such time. as 350 beds are funded. States participating in the option will receive their normal Federal medical assistance percentages.

No later than October 1, 1997, the Secretary is required to report to Congress on: whether allowing Medicaid to cover all costs associated with residential treatment through a global reimbursement mechanism facilitates the States' establishment of residential substance abuse treatment services for pregnant women; the relative cost-effectiveness of providing residential substance abuse treatment services using a global reimbursement structure under which all medical and ancillary services are covered, versus a fee-for-service reimbursement system covering only medical services otherwise covered under the State's Medicaid program; the cost impact on the Medicaid program of extending the IMD exclusion to programs with up to 40 beds; the efficacy of residential substance abuse treatment (incidence of successful treatment) and the efficacy of residential treatment in comparison to other forms of substance abuse treatment.

*Part II—Childhood immunization provisions*

*Section 241. Bulk vaccine purchasing systems*

Present law.—Since Medicaid is a reimbursement system most State agencies do not purchase vaccines directly. Rather, health care providers are reimbursed for supplying and administering vaccines to Medicaid-eligible individuals.

States have the right to purchase vaccines from pharmaceutical manufacturers at the price negotiated between the manufacturer and the Centers for Disease Control (CDC) of the U.S. Public Health Service. This price generally is discounted significantly from that which an individual provider would get purchasing from a manufacturer or distributor. According to the American Public Welfare Association, at least 12 States (Connecticut, Kansas, Kentucky, Maine, Michigan, Minnesota, Nevada, Ohio, South Caroline, Texas, Vermont, and Washington State) currently operate either a "vaccine replacement" or "universal distribution" system. Under the former, the State (usually the health department) purchases vaccines at the CDC price and distributes them free of charge to health care providers for use in inoculating Medicaid patients. The State Medicaid agency then reimburses the health care provider for the administration of the vaccine, and the health department for its cost. Under a universal distribution system, the State purchases the vaccine at the CDC price or another negotiated price, and distributes the vaccine free of charge for use in inoculating all children in the State. Medicaid providers are then reimbursed for the administration of the vaccine.

Proposal.—Effective October 1, 1994, States generally would be required to operate a vaccine replacement system under which childhood vaccines are purchased at the CDC price, or a lower price, if available, and provided free of charge to Medicaid providers. The State would not be required to operate such a system if it already operates a universal vaccine distribution system or demonstrates to the satisfaction of the Secretary that a vaccine replacement system would not be appropriate or cost-effective in the State. States operating a vaccine replacement system would not be precluded from continuing to let Medicaid providers bill on a fee-for-service basis for the provision of vaccines to medicaid-eligible children. A 75% enhanced match is available to States for the costs of developing a vaccine distribution program under this section. The enhanced match is available for any 4-quarter period from October 1, 1994 to April 1, 1995.

### *Section 242. Reimbursement to vaccine manufacturers*

Present law.—Under current law, States may not reimburse vaccine manufacturers for the cost of a vaccine since the manufacturer does not supply the vaccine directly to a Medicaid-eligible individual.

Proposal.—States, at their option, could reimburse manufacturers directly when the manufacturer distributes childhood vaccines to Medicaid providers free-of-charge under a contract with the State. The payment would be the most recent bid price submitted by the manufacturer for the CDC childhood vaccine program (as soon as that bid price is made public) plus a reasonable shipping and handling fee. Effective January 1, 1993.

### *Section 243. Immunization outreach demonstration program*

Present law.—States are required to cover, as part of the screening services provided under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) element of the Medicaid program, "appropriate immunizations according to age and health history." The EPSDT screenings are required to be provided "at intervals which meet reasonable standards of medical . . . practice, as determined by the State after consultation with recognized medical . . . practice, as determined by the State after consultation with recognized medical . . . organizations involved in child health care. . . ." States are required to inform all Medicaid-eligible individuals under age 21 of the availability of EPSDT services, and to provide such services, including immunizations, to all individuals under age 21.

Proposal.—An outreach demonstration program is established to fund innovative immunization outreach programs for children enrolled in EPSDT. Funds would be used for activities specifically designed to boost immunization rates among their Medicaid population, such as tracking children's immunization status and contacting parents to urge them to have their children vaccinated. Over 5 years, $10 million would be available for this demonstration, to be awarded to States on a competitive basis.

## *Part III—Managed care waiver provisions*

### *Section 251. Modification of freedom-of-choice waivers*

Present law.—Section 1915(h) of the SSA limits to 2 years the duration of section 1915(b) waivers, which are used by States to establish primary care case management (PCCM) programs. By regulation, renewals of such waivers are limited to 2 years. Under HCFA policy, freedom-of-choice waivers are not granted to enroll beneficiaries in comprehensive risk-based managed care plans (such as HMOs) unless there is a choice of at least two such plans in an area.

Proposal.—The duration of 1915(b) waivers is extended to initial periods of 3 years and additional periods of 5 years, unless the Secretary determines that a shorter period would be appropriate.

Current HCFA policy concerning freedom-of-choice waivers for enrollment of beneficiaries into comprehensive risk-based managed care plans is codified.

### *Section 252. Waiver of 75/25 rule*

Present law.—Generally, Medicare and Medicaid enrollees can comprise no more than 75 percent of the enrollment of a health maintenance organization (HMO) or other comprehensive risked-based Medicaid managed care plan. This rule does not apply to HMOs during their first 3 years of operation, if the HMO demonstrates to the satisfaction of the Secretary, by the submission of plans for each year of such 3-year period, that it is making continuous efforts and progress toward meeting the rule. The Secretary is authorized to modify or waive the 75/25 rule for public entities, but only if the Secretary determines that the organization has taken and is taking reasonable efforts to enroll individuals who are not Medicare or Medicaid beneficiaries.

Proposal.—The Secretary would be permitted to waive or modify the 75/25 rule for a State to contract with a public or private entity. The waivers could be granted only if: (1) the plan is located in a medically underserved area; (2) the Secretary determines that it is not likely that any managed care entity operating in that area would be likely to achieve compliance with the 75/25 rule without the expenditure of significant resources that would detract from its ability to provide or improve patient care; and (3) the Secretary determines that the plan is likely to provide, or in the case of renewals, has provided and will continue to provide, access to high quality care at least as great as the access and quality in Medicaid fee-for-service care in the same area under regulations established by the Secretary. The waivers could be granted for initial periods of 3 years and renewed for 5 years unless the Secretary determines that shorter period is appropriate. With respect to private entities that have waivers under this section, Secretary would be required to review annually the entity's financial stability and provisions against the risk of insolvency, and may revoke the waiver or modification if the Secretary determines that the entity is not financially stable or has not made adequate provisions against the risk of insolvency. The Secretary would be required to publish his review findings (in a manner that does not jeopardize proprietary information).

### *Section 253. Rolling one month of continuous eligibility for individuals enrolled in HMOs or PCCMs*

Present law.—When a beneficiary is enrolled in a Federally qualified HMO or in a certain type of managed care entity specified in the statute, the State may also provide for "guaranteed eligibility" for a period of up to 6 months from the date of initial enrollment; that is, the State may continue premium payments to the HMO on behalf of an enrollee, and the enrollee is entitled to services, even if the enrollee otherwise would cease to be eligible for Medicaid during that period. States may also automatically re-enroll a beneficiary in an HMO if the beneficiary loses Medicaid eligibility and regains it within 2 months.

Proposal.—For beneficiaries enrolled in any of the same types of managed care entities for which guaranteed eligibility currently is available, plus beneficiaries enrolled in primary care case management programs (PCCMs), a one-month extension of eligibility is established, at State option, for beneficiaries losing eligibility as a result of excess income or resources.

### *Section 254. Enhanced match related to quality review*

Present law.—The State must provide for an annual, independent, external review of the quality of care furnished by entities with Medicaid managed care contracts. Although the review may be conducted by a Peer Review Organization (PRO), or private accreditation body, an enhanced match (of 75%) for expenditures related to the review is available only when the review is conducted by a PRO.

Proposal.—The enhanced match is available for external reviews performed by any organization approved by the Secretary which is unaffiliated with the State or with any entity that has a Medicaid managed care contract.

### *Section 255. Statewide waiver for certain county-administered programs*

Present law.—Section 1915(b) of the Social Security Act authorizes the Secretary to grant waivers to restrict freedom of provider choice for beneficiaries in order to enroll them in a managed care plan. Applications for such waivers are approved with respect to individual managed care plans.

Proposal.—The Secretary is authorized to approve, based on a single application by the State, a series of 1915(b) waivers to authorize a State to approve managed care plans operated by the political subdivisions of the State. Waivers may be granted only if the application contains a description of all the managed care models to be implemented by the political subdivisions in the State and documentation showing that such models have been established by State laws or regulations.

### *Section 256. Extension of a certain Medicaid HMO waiver*

Present law.—Chartered Health Plan (CHP) of the District of Columbia was granted a 3-year waiver of the 75/25 enrollment composition rule. The waiver expired on October 1, 1991 and is not renewable because CHP is not a public entity.

Proposal.—The CHP waiver is extended retroactively to October 1, 1991, through January 31, 1994, provided the plan continues to meet the requirements specified by the Secretary for such waivers. This termination date coincides with the termination dates for similar waiver extensions approved by the Senate (for managed care plans in Tennessee and Ohio).

## *Part IV—Home and community-based services waiver provisions*

### *Section 261. Elimination of prior institutionalization requirement for habilitation services provided under a waiver*

Present law.—Prevocational, educational and supported employment services for individuals with developmental disabilities is available in home and community based services (HCBS) waiver programs only for individuals who were previously institutionalized.

Proposal.—These services are available for an individual participating in a HCBS waiver program regardless of whether the individual was previously institutionalized.

*Section 262. Payments for services arranged through private nonprofit or public case-management entities*

Present law.—Current law requires payments to be made to providers directly by the State.

Proposal.—States would be permitted to let public and nonprofit case management entities pay providers, under certain circumstances. In accordance with Administration recommendations, this would be permitted only where the case management entity can maintain a clear audit trail and does not retain any of the funds itself.

*Section 263. Agreements with private nonprofit and public entities arranging for home and community-based services*

Present law.—Current law requires Medicaid providers to have a contract with the State under which they are required to maintain claims records and provide information to the Secretary about such claims.

Proposal.—The same requirement would be applied to case management entities that pass along payments to providers.

*Section 264. Freedom-of-choice restriction for case-management services with respect to home and community-based services*

Present law.—Current law does not permit States to restrict an individual's freedom of choice of providers, except under specified waiver authority.

Proposal.—This provision would allow States to restrict individual freedom of choice of case managers under home and community-based waiver programs. This restriction would only be allowed to ensure case managers are qualified to coordinate services under the waiver program. In addition, the State must provide assurances satisfactory to the Secretary that a waiver of the freedom of choice requirements will not substantially limit individuals' access to home and community-based services.

*Section 265. Relief from third-party billing requirements where cost-effective*

Present law.—A State must bill private insurers for services provided to Medicaid beneficiaries with insurance. Case management services are very rarely covered by private insurance.

Proposal.—States would no longer be required to bill third parties for case management services where the Secretary determines that it would not be cost-effective to do so.

*Section 266. State expenditures with respect to home and community-based waiver services*

Present law.—The expenditure cap for 1915(d) waivers is limited to the base year expenditures inflated at 7 percent (simple interest) per year.

Proposal.—The formula for calculating the inflation factor is 7 percent per year calculated on a compound basis.

*Part V—Eligibility provisions*

*Section 271. optional coverage for foster children*

Present law.—States are required to provide Medicaid for children for which the State is receiving Title IV-E Federal foster care matching funds. States have the flexibility to cover other foster children up to age 18, 19, 20, or 21 (at the option of the State) whose income and resources do not exceed the State's AFDC eligibility thresholds. (These children can be covered as "Ribicoff children" under section 1905(a)(i) of the Social Security Act.) In addition, States currently cover some non-Federal foster children under the recent eligibility expansions for younger children. The Congressional Budget Office estimates that almost 95 percent of all non-Federal foster children (approximately 190,000 children) are currently covered under Medicaid.

Proposal.—Effective January 1, 1993, States have the option to extend eligibility to all foster children who have been placed in foster care under the auspices of a public child welfare agency, placed by a private agency under contract to a public agency, or placed by a licensed private child welfare agency. A child would not be eligible if his or her own income (not the family income) exceeds 185 percent of the Federal poverty level (i.e., $12,599 in 1992).

*Section 272. Qualified Medicare beneficiary outreach demonstration program*

Present law.—Elderly individuals who may be eligible to have their Medicare cost-sharing covered by Medicaid (Qualified Medicare Beneficiaries) must apply for such assistance through State Medicaid offices (welfare offices).

Proposal.—A demonstration program is established to permit 5-10 States to develop outreach programs to provide counseling and assistance to individuals likely to be eligible for the QMB program. Such outreach programs must provide for the use of locations other than welfare offices to accept and begin processing QMB applications. Such locations include Social Security Administration (SSA) offices, Area Agencies on Aging, senior centers and other locations determined by the Secretary, in consultation with consumer advocates and States, as appropriate. In addition to accommodating the administrative cost of using alternate sites to accept applications, funds could be used for public awareness activities, one-on-one counseling and other outreach activities. Over 5 years, $15 million is available to fund this demonstration program. The Secretary is required to evaluate the effectiveness of using alternate sites, especially SSA offices, in increasing enrollment into the QMB program.

*Section 273. Extension of certain demonstration projects*

Present law.—The Omnibus Budget Reconciliation Act of 1989 (OBRA 1989, section 6407) established a 3-year, $30 million demonstration program to study the effects of allowing States to provide Medicaid coverage, either directly or by contributing to an employer's insurance plan, to pregnant women and children under age 20 who would not otherwise be eligible for Medicaid and have family incomes below 185 percent of the Federal poverty level. Federal funds available for the project are limited to $10 million in each of fiscal years 1990, 1991 and 1992. The Health Care Financing Administration (HCFA) estimates that a total of $26.3 million (of the $30 million authorized) will be spent by the 3 States participating in the OBRA 1989 program. The demonstrations, however, did not get underway until FY 1991 and are not expected to be completed until FY 1995.

The Omnibus Budget Reconciliation Act of 1990 (OBRA 1990, section 4745) established a 4-year, $40 million demonstration program to study the effects of allowing 3 to 4 States to provide Medicaid coverage to individuals in uninsured families with incomes below 150 percent of the Federal poverty line who are not otherwise eligible for Medicaid. One or 2 of the demonstrations must be conducted on a sub-state basis. (Report language directs that the sub-state projects be conducted in areas with a high percentage of racial or ethnic minorities.) Families with incomes below 100 percent of the poverty level cannot be subject to any premiums, deductibles, or other cost-sharing; families with incomes between 100 and 150 percent of the poverty level may not be subject to cost-sharing in excess of 3 percent of the family's average gross monthly earnings. If the Secretary determines that it is cost-effective for the project to utilize employer coverage, an employer contribution is required. Federal funds available for the project are limited to $12 million in each of fiscal years 1991, 1992 and 1993, and $4 million in FY 1994. No more than one-third of such amounts may be used to carry out the sub-state demonstrations. HCFA estimates that a total of $38.2 million (of the $40 million authorized) will be spent by the 3 States participating in the OBRA 1990 program. These demonstrations did not commence, however, until FY 1992, and are not expected to be completed until FY 1995.

Proposal.—The Federal expenditures authorized for the OBRA 1989 and OBRA 1990 demonstration projects will remain available until expended, so that the projects can continue.

In addition, the Secretary is directed to conduct 2 or 3 additional projects in sub-state regions. These new sub-state projects must be conducted in regions with especially high rates of poverty and unemployment. Specifically, each region's per capita income can be no more than 70 percent of the national average per capita income and the unemployment rate of the region can be no less than 125 percent of the national average unemployment rate. In selecting the sub-state project sites, the Secretary must give preference to remote communities where there is poorly developed health services delivery infrastructure; where residents face significant health risks due to lack of adequate public services; and where there is a health threat relating to communicable diseases or parasites. Preference shall also be given where the State or local community is prepared to make a financial contribution to the project in addition to the State's Medicaid matching share, and is working with the State or local department of health to improve the primary care infrastructure. The Secretary is required to solicit proposals for the new sub-state projects in FY 1993 and to begin funding the projects no later than April 1, 1993. Each project shall be conducted for a period of at least 3 years. An additional 10 million in Federal expenditures is available for these new sub-state projects, which shall remain available through FY 1997. The Secretary is required to evaluate these projects on the same basis as under current law (effect on access to and cost of health care, on private health care insurance coverage, and on premiums and cost-sharing). In addition, the Secretary must evaluate whether the expanded availability of Medicaid for the population is effective in helping the community to develop a viable health care infrastructure.

*Section 274. Periods of ineligibility for nursing facility services*

Present law.—Individuals who dispose of resources (transfer assets) for less than fair market value are ineligible for Medicaid payment for nursing home expenses for a period of time for which the State determines those resources could have covered the cost of nursing home care as a private-pay patient. Current law does not specify whether periods of ineligibility run concurrently or consecutively. Thus, if an individual transfers assets in "pieces," penalties for each "piece" run concurrently, effectively reducing the period of ineligibility.

Proposal.—Present law would be clarified to state that periods of ineligibility must run consecutively, not concurrently. This provision is effective for transfers made on or after the date of enactment of this act.

### *Part VI—Other provisions*

### *Section 281. Drug price rebate agreements*

Present law.—Under the Medicaid prescription drug rebate program established by the Omnibus Budget Reconciliation Act of 1990, the Medicaid program is entitled to the lower of the "best price" on the market for a given drug, or a minimum percentage discount price (12.5% in FYs 91-92; 15% beginning in FY 93). Excluded from the determination of the "best price" are: (1) depot prices and single award contract prices of any agency of the Federal Government; and (2) prices that are nominal in amount (defined by the Health Care Financing Administration as 10 percent or less of the average manufacturer price). Prices negotiated by the Department of Veterans Affairs (DVA) for the "Federal Supply Schedule" (FSS) are included in the calculation of the best price. These prices are available to the DVA and the Department of Defense (DoD).

Proposal.—In addition to depot and single award contract prices, the definition of "best price" is amended to exclude (effective January 1, 1993): (1) prices on the Federal Supply Schedule; and (2) prices paid by the following types of health centers and other entities that receive funding through the Public Health Service Act: community, migrant, and homeless health centers; alcohol/drug treatment and mental health centers; and family planning, black lung, AIDS, sexually transmitted disease, public housing, and tuberculosis clinics.

The cost to the Medicaid program of excluding the FSS prices and prices paid by these Federally funded clinics is $43 million over 5 years. The cost is offset by increasing the minimum Medicaid rebate from 15% to 15.7% for calendar year 1993, 15.4% for CY94, 15.2% for CY95, and 15.1% for CY96 and thereafter.

### *Section 282. Clarification of coverage of certified nurse-midwife services*

Present law.—State Medicaid programs are required to cover services furnished by a certified nurse-midwife which the nurse-midwife is legally authorized to perform under State law or regulation. The services must be covered whether or not the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider. Regulations issued by the Health Care Financing Administration restrict covered services to those related to managing the care of mothers and babies throughout the maternity cycle.

Proposal.—The definition of nurse-midwife services is amended to clarify that such services are covered, without regard to whether they are related to the maternity cycle, to the extent that nurse-midwives are legally authorized to perform such services under State law or regulation. Thus, nurse-midwives could be reimbursed for providing non-maternity related services, such as gynecological check-ups, PAP smears, family planning, and new born care.

### *Section 283. Criteria for making determinations of denial of payment to States*

Present law.—The Secretary may audit State Medicaid programs to ensure that they are meeting statutory and regulatory requirements and complying with their State plans. If the Secretary finds that a State is out of compliance, the Secretary may disallow the payment of Federal matching funds for all expenditures for the services to which the violation was related. The State has the right to appeal to the Departmental Appeals Board, but the Board may only rule on whether the disallowance is justified; it may not adjust the amount of a disallowance.

Proposal.—The Departmental Appeals Board is authorized to adjust the amount of a disallowance based on the nature of the State's violation. The Board could modify the disallowance based on: whether the State's violation was procedural, whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based, whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services to Medicaid-eligible individuals, whether the State's action on which the disallowance is based is consistent with the State's approved State plan, and, in cases where applicable regulations were not yet promulgated when the violation occurred, whether the State made good faith efforts to conform its action to the intent of the applicable Federal statute. In addition, no disallowances could be taken or upheld if the action on which the disallowance would be based is consistent with the approved State Medicaid plan.

### *Section 284. Certification of additional payment to Puerto Rico*

Present law.—Federal Medicaid matching funds available for the Commonwealth of Puerto Rico is capped by statute at $79 million annually. The cap was last increased in 1990. In FY 1991, the Commonwealth spent $440 million. Thus, its effective Federal match is less than 18%. (For States, the lowest Federal match is 50% and the highest is 83%.)

Proposal.—The annual cap on Federal Medicaid matching funds for Puerto Rico is increased in FY 1994, to $89 million; in FYs 1995 and 1996, to $91 million; and for fiscal years thereafter, to $94 million.

### *Section 285. Community supported living arrangements services*

Present law.—Section 4712 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) established a new, capped option under Medicaid to permit States to provide community-supported living arrangements (CSLA) services (personal assistance, training, rehabilitation, emergency assistance, assistive technology, adaptive equipment, support services, and other services) to individuals with mental retardation or a related condition. The option is limited to 2 to 8 States, selected based on criteria developed by the Secretary. Federal spending for these services was limited to $5 million for FY 1991, $10 million for FY 1992, $20 million for FY 1993, $30 million for FY 1994, $35 million for FY 1995, and for fiscal years thereafter, "such sums as provided by Congress."

Proposal.—The phrase "such sums as provided by Congress" is deleted to clarify that the program continues, and expenditures are not capped, after FY 1995.

### *Section 286. Native Hawaiian Health Centers*

Present law.—State Medicaid programs are required to pay Federally Qualified Health Centers (FQHCs) 100 percent of their costs which are reasonable and related to the cost of furnishing such services. An FQHC is an entity which is receiving a grant under sections 329, 330, or 240 or the public health service act (i.e., is a migrant, community, or homeless health center); meets the requirements to be a migrant, community or homeless health center and is receiving funding from such a grant under a contract with a grantee; is determined by the Secretary to meet the requirements for receiving such a grant (even if it is not actually receiving one), based on the recommendation of the Health Resources and Services Administration within the Public Health Service; or is outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).

The Native Hawaiian Health Care Act of 1988 authorized the Secretary to enter into contracts and provide grants to establish and fund health centers on the 5 Hawaiian islands to service the health care needs of native Hawaiians. The centers are mandated to provide comprehensive health promotion and disease prevention services, as well as primary health care services to native Hawaiians.

Proposal.—Native Hawaiian Health Centers are included in the Medicaid definition of "Federally Qualified Health Center" so that Native Hawaiian Health Centers have the same status as Native American Health Centers.

### TITLE —MATERNAL AND CHILD HEALTH PROVISIONS

### *Section . Evaluation set-aside*

Present law.—The Title V program, includes the Maternal and Child Health Block Grant to States and Federal set-asides for Special Projects of Regional and National Significance and other Federal priorities (e.g., infant mortality initiatives). There is no set-aside for planning and evaluation. An appropriation level of $686 million per year is authorized.

Proposal.—The Title V authorization level is increased by 1 percent (to $692.86 million per year). Once the appropriated level for the Title V program reaches $692.86 million, 1 percent of the appropriated funds must be set-aside for the MCH Bureau to evaluate the States' use of Title V block grant funds.

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By Mr. PELL (by request):

S. 3275. A bill to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include Administratively Uncontrollable Overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator; to the committee on Foreign Relations.

### FOREIGN SERVICE ACT AMENDMENTS

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age, and to include administratively uncontrollable overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator.

This proposed legislation has been requested by the U.S. Agency for International Development, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis, and the letter from the Administrator of the U.S. Agency for International Development, which was received on September 9, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3275

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

(a) Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from the law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.".

(b) Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. §4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.".

(c) Section 812(a) of the Foreign Service Act of 1980 is amended by striking out the number "55" from paragraph (2) and inserting the number "57" in lieu thereof.

(d) Section 806(a)(6) of the Foreign Service Act of 1980 is amended by striking out "5545(a)(2)" and inserting "5545(c)(2)" in lieu thereof.

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SECTION-BY-SECTION ANALYSIS

Section 805(a)(2)(A) the amendment authorizes the Agency for International Development (A.I.D.) to withhold from the salary of an Inspector General Foreign Service criminal investigator/inspector hired prior to January 1, 1984, an amount equal to that withheld from the salary of a civil service law enforcement officer hired prior to that date and contribute it to a retirement fund.

Section 805(a)(2)(B) the amendment authorizes A.I.D. to withhold from the salary of an Inspector General Foreign Service criminal investigator/inspector hired after January 1, 1984, or who elected to participate in the Foreign Pension System an amount equal to that withheld from the salary of a civil service law enforcement officer hired after January 1, 1984, or who elected to participate in the Federal Employees' Retirement System and contribute it to a retirement fund. This section also authorizes A.I.D. to contribute an equal amount from appropriations into the retirement fund.

Section 805(d)(5) the amendment authorizes a special contribution to be made by A.I.D. and the Inspector General Foreign Service criminal investigator/inspector into the retirement fund for past service that would have been creditable toward law enforcement retirement under the civil service the difference between the amount actually contributed and that which should have been contributed under the civil service law enforcement retirement system.

Section 812 the amendment will increase the mandatory retirement age of a Foreign Service criminal investigator/inspector from 55 to 57 years of age in order to make it equal to that of civil service law enforcement officers.

Section 806(a)(6) the amendment will include administratively uncontrollable overtime in the definition of basic pay for computing annuities of noncommissioned A.I.D. Foreign Service Inspector General Foreign Service criminal investigators/inspections.

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U.S. AGENCY FOR
INTERNATIONAL DEVELOPMENT,
*August 5, 1992.*

Hon. DAN QUAYLE,
*President of the Senate,*
*U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT: I herewith transmit a bill to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development (A.I.D.) from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include Administratively Uncontrollable Overtime (AUO) as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator.

On November 5, 1990, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (P.L. 101-513) amended Section 806(a)(6) of the Foreign Service Act of 1980 to make the computation of retirement benefits for A.I.D./Inspector General (IG) Foreign Service criminal investigators/inspectors the same as that of Civil Service criminal investigators. However, this legislation did not contain authority for A.I.D. to deduct the additional required contributions from the wages of those investigators/inspectors. This bill will provide A.I.D. with such authority.

In addition to making the computation of retirement of A.I.D./IG Foreign Service criminal investigators/inspectors equivalent to that of Civil Service criminal investigators, P.L. 101-513 made the mandatory retirement age for A.I.D. criminal investigators/ inspectors age 55, the same as that for Civil Service law enforcement personnel. However, on November 5, 1990, the Federal Employees Pay Comparability Act (P.L. 101-509) was enacted and Section 409 of that Act increased the mandatory retirement age for Civil Service criminal investigators to age 57. However, Foreign Service criminal investigators were not included in that provision. This bill will correct the discrepancy and make the mandatory retirement for A.I.D. criminal investigators/ inspectors at age 57.

Finally, the bill would correct an error in Section 806(a)(6) of the Foreign Service Act of 1980. This section was intended to include AUO in the definition of basic pay for computing annuities of the criminal investigators/inspectors. However, the reference to Title 5 Section 5545(a)(2) contained in Section 806(a)(6) refers to night pay. The correct reference is Title 5 Section 5545(c)(2). This bill will correct the error currently existing in Section 806(a)(6).

The technical amendment to the Foreign Service Act outlined above is required to implement the system authorized in the 1990 legislation, to make the mandatory retirement age for A.I.D./IG Foreign Service criminal investigators/inspectors equal to that of their Civil Service counterparts and to include AUO in the definition of basic pay in computing annuities for non-commissioned Foreign Service criminal investigators/inspectors. I urge prompt enactment of this bill, as the retirement system provided by P.L. 101-513 is currently in effect but cannot be implemented until the mechanisms for deducting the additional amounts are in place.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's Program to the presentation of this proposed legislation to Congress.

Sincerely,

RONALD W. ROSKENS.●

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By Mr. LAUTENBERG (for himself and Ms. MIKULSKI):

S. 3276. A bill to reduce motor vehicle theft; to the Committee on the Judiciary.

### ANTI-AUTO THEFT ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Anti-Auto Theft Act, to address the national epidemic of motor vehicle theft.

The Anti-Auto Theft Act would make vehicles more resistant to theft, establish new criminal sanctions for carjacking, increase existing penalties for auto thieves, tighten controls on the export of stolen vehicles, support State and local initiatives to combat auto theft, reduce juvenile auto theft through mentoring relationships between law enforcement officers and children in high theft areas, and establish a voluntary national motor vehicle theft prevention program, for vehicle owners.

### THE AUTO THEFT PROBLEM

Mr. President, the problem of auto theft has increased substantially in recent years. According to the uniform crime report, between 1984 and 1991 motor vehicle theft increased by 61 percent, to almost 1.7 million offenses per year. Around the country, there is an average of one motor vehicle theft every 19 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The vehicle theft problem is particularly serious in my State of New Jersey. According to recent figures, Newark, NJ, has the highest rate of auto theft in the Nation. Several New Jersey cities also share the dubious distinction of being in the top 10. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem, Mr. President. Perhaps the most disturbing is the emerging problem of violent carjackings. Increasingly, thieves are using violence and intimidation to force drivers to give up their cars. Many innocent people are losing their lives in the process. For others, an evening drive with an open widow is an experience now best avoided.

Random carjacking may be the most horrifying form of auto theft, Mr. President, but it is just the tip of the iceberg. Stealing cars has developed into a full-fledged industry, run by professionals. Many criminals routinely solicit orders for a particular part, and then go out and steal a car to get it. Others run chop shops, breaking down stolen cars and selling their parts on the black market.

The National Highway Traffic Safety Administration has reported estimates that between 10 and 16 percent of all thefts occur in order to sell the parts for profit. Others put that figure as high as 40 percent. In any case, it's a major problem. And one reason is that the market for stolen parts is enormous. Repair shops can save substantial sums by purchasing parts on the black market, and thieves often can deliver parts more quickly than legitimate manufacturers.

According to a report in the U.S. News & World Report, for example, "undercover cops in California's San Fernando Valley offered stolen parts to some 20 body shops; 12 agreed to buy them. An honest body shop owner may be unaware he's dealing in stolen parts, because many are sold through regional networks that resemble a Turkish bazaar."

Beyond operating an extensive black market in stolen parts, professional car thieves also are in the exporting business. Again, the motivation is largely economic. Vehicles are in great demand overseas, where they may be worth three times more than in the United States.

Mr. President, another aspect of the auto theft problem is the rash of theft by juveniles. Children, some not even teenagers, are stealing cars at an appalling rate. They start young—sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in seconds.

These young auto thieves pose a substantial threat to public safety. In Newark, for example, juvenile thieves routinely drive wildly around the streets late at night, wreaking havoc with other drivers and pedestrians. The results are often tragic, involving destruction of homes and property, serious injuries, and death.

Clearly, Mr. President, auto theft is a multidimensional problem that demands a multidimensional solution. The Anti-Auto Theft Act proposes several new approaches.

### MAKING CARS MORE THEFT RESISTANT

First, the bill would make it physically more difficult for thieves to steal a motor vehicle. The legislation would make it unlawful to manufacture for sale, sell, lease, or import for sale any new car with a steering column that is not shielded in a manner that adequately prevents theft. In addition, the bill provides the National Highway Traffic Safety Administration with authority to prohibit manufacturers from incorporating other vehicle components, if the components would physically facilitate theft, and create an unreasonable risk of theft. NHTSA may waive these prohibitions if a vehicle includes an equally effective antitheft device.

Mr. President, whenever I have spoken to law enforcement officers who spend much of their lives on the streets, fighting auto theft, I've heard the same message: We'll never eliminate auto theft unless auto manufacturers get serious about producing theft-resistant cars. More specifically, they say, it is absolutely essential to protect vehicle steering columns from easy tampering. So long as a young child can break into a steering column and hot wire a car in a matter of seconds, not even an army of police officers will be able to stop auto theft.

Earlier this year, at my request, the National Highway Traffic Safety Administration prepared a report on auto theft resistance. The report confirms what these law enforcement officers have been telling me. According to NHTSA, providing new vehicles with hardened steering column collars "will significantly increase the time required to disable the locking mechanism for the ignition, steering wheel, and automatic transmission gear selector." NHTSA concluded that reinforcing steering columns should discourage theft. The report encouraged manufacturers to use hardened collars.

I've also heard from the insurance industry, which knows from experience how unprotected steering columns encourage auto thefts. Experts at State Farm Insurance Co., for example, are convinced that better protecting these columns from criminals would dramatically reduce vehicle theft.

State Farm is conducting a study involving cars with unusually high rates of theft, 927 of which were equipped with reinforced steering columns. Based on average theft rates for these cars, 45 would have been expected to be stolen. Instead, only two were lost to theft. In fact, subsequent investigation revealed that one of the two thefts turned out to be a case of insurance fraud, and in the other instance the owner had left the keys in the car. In other words, the reinforced collars had yet to be defeated.

Keep in mind that these results were achieved with high theft vehicles, and in a high theft area, where thieves might be expected to have especially well-developed techniques for stealing cars.

Unfortunately, despite the obvious importance of protecting steering columns from thieves, too many newly-manufactured cars remain vulnerable. This is a source of great frustration to many in law enforcement and the insurance industry. Officials tell me that they have tried to work constructively with the auto industry to redress the problem. But while auto industry executives sometimes promise reforms, actual results have been disappointing.

Mr. President, let me emphasize that I am not accusing the auto industry of acting in bad faith. Industry executives are accountable to their shareholders, and properly are concerned about eliminating all unnecessary costs. It may not be in any one manufacturer's economic interest unilaterally to incur the additional costs associated with theft-resistant components. This bill would eliminate any risk of competitive disadvantage, and ensure an even playing field.

Mr. President, I am not claiming that reinforcing steering columns is the ultimate solution to auto theft. Clearly, there is no way to eliminate all thefts, and no single antitheft device will be 100 percent effective. However, to reduce theft, we need not make cars entirely theft-proof. We just need to make them more theft resistant.

The problem is that too many of today's steering columns are made-to-order for thieves, allowing them to steal a car in as little as 15 seconds. Reinforcing those columns will make theft much more difficult and time consuming, and that will mean a significant reduction in thefts. In addition, reinforced columns can completely thwart many of the young children who are stealing cars less for profit than for bragging rights.

Mr. President, I want to acknowledge that many manufacturers have taken steps to make many cars more theft resistant. They should be commended for these initiatives. Unfortunately, the industry's efforts have been uneven. Not all manufacturers have been equally responsible. And too often, theft protections are provided only for relatively expensive models of cars. Yet all car owners, not just those who can afford expensive models, deserve protection from theft.

The proposed theft resistance standards will not impose an unreasonable burden on the auto industry or consumers. Many vehicles will not have to be modified to conform with the bill's requirements. Responsible manufacturers already are producing steering columns that are adequately protected. And many cars with vulnerable columns already come equipped with antitheft devices, which would make the cars eligible for a waiver under the bill.

From the consumer's perspective, reducing vehicle theft will reduce the costs of auto insurance, perhaps significantly. Also, to the extent that law enforcement officers are freed to pursue other types of crimes, all citizens will be more secure.

### TOUGHENING PENALTIES ON AUTO THIEVES

The second major element of my bill is the establishment of a new Federal crime of carjacking. Those who use force or intimidation to take a vehicle would be subject to imprisonment for up to 15 years. If a firearm is used, the maximum penalty would be 20 years.

Mr. President, law enforcement officials have expressed the fear that carjacking could spread rapidly around the country as criminals commit so-called copycat crimes. Preventing such a plague must be a high priority and is in the national interest. Under the circumstances, it is important that Federal resources be made available to help in the battle.

The bill also would increase existing penalties for certain auto theft-related offenses. Maximum terms for those convicted of importing or exporting stolen vehicles, possessing a stolen vehicle that has been transported interstate, or transporting a stolen vehicle interstate, would be doubled from 5 to 10 years.

### TIGHTENING EXPORT CONTROLS

The bill also would tighten controls on the export of stolen automobiles.

Mr. President, one of the reasons why the auto theft epidemic has hit New Jersey so hard is that organized rings of car thieves are stealing vehicles for export to foreign countries, through New Jersey's ports. A similar problem is occurring in many areas near port facilities.

Exporting is motivated largely by a great demand for vehicles in a wide variety of overseas locations. These include Central and South America, the Caribbean, Western Europe, the Middle East, and Africa. As I noted earlier, prices for cars abroad may be three times higher than in the United States.

The scope of the international trade in stolen vehicles is astonishing; 200,000 stolen cars a year may be shipped abroad, some experts believe. According to the FBI, one in five vehicles on the docks waiting for Customs clearance in some Caribbean countries show clear signs of having been stolen and shipped from the United States. For vehicles worth over $15,000, the rate is nearly four out of five. It's an outrageous situation and must not be tolerated.

To cut down on exports of stolen cars, we need to beef up efforts by the Customs Service to interdict these cars as they leave the country. Last year, I secured $500,000 for an enhanced interdiction effort in New Jersey's ports. And Congress must ensure that Customs efforts around the country are provided with adequate resources.

This bill will strengthen the law in this area, and close a loophole that auto thieves are using to evade Customs inspection. Under existing regulations, a person exporting a used vehicle must report the vehicle's identification number to Customs within 3 days prior to shipment. However, an exporter can evade this requirement by claiming that the vehicle is being exported for personal use.

This bill would codify the reporting requirement, and eliminate the personal use loophole. It also would require Customs to conduct spot checks of automobiles being exported, to ensure that the reported identification numbers match the numbers on the vehicles being shipped. This provision is based on similar legislation introduced in the House of Representatives by Congressman CHARLES SCHUMER.

### SUPPORTING STATE AND LOCAL ANTIAUTO THEFT PROGRAMS

The next major component of the Anti-Auto Theft Act would establish a new program to provide support to State and local antiauto theft efforts.

Mr. President, the NHTSA report I mentioned earlier indicates that State and local authorities can adopt a variety of approaches to deal with auto theft. Teams of police officers from several jurisdictions can work together to identify and apprehend thieves. Teams of prosecutors can be established to ensure that these thieves are brought to justice. Public awareness campaigns can educate residents about preventive measures, and encourage citizens to provide law enforcement officials with valuable tips to help in the crackdown.

These kind of initiatives can make a real difference. In New Jersey, local law enforcement officials in Essex and Union Counties have banded together to mount a coordinated assault on the problem, and preliminary results are impressive. Arrests for auto theft have increased substantially. And while auto theft remains a problem, there has been real progress.

Unfortunately, State and local efforts like these can be costly. Even where auto theft is rampant, many municipalities simply are unable to devote the resources needed. In fact, many of the areas hit hardest by auto theft are those with the fewest resources to fight back.

This bill would help, by establishing a grant program designed to target resources where the needs are greatest, and where local officials have developed quality antitheft action plans. Funds could be used for a broad range of antitheft activities, from law enforcement task forces to prevention and public awareness initiatives. The program would encourage the development and testing of new approaches to reducing thefts, which would provide national benefits. it would be authorized annually at $25 million.

### FIGHTING JUVENILE AUTO THEFT THROUGH MENTORING

The next element of the Anti-Auto Theft Act is designed as a more long-term approach to address the problem of juvenile auto theft. These provisions are based on legislation I introduced earlier as S. 3086, the Juvenile Mentoring Program Act, or JUMP.

JUMP would provide resources to local education agencies and nonprofit groups for the implementation of mentoring programs linking law enforcement officers and other responsible adults with children in high crime areas. Recipients could use funds to hire mentoring coordinators and support staff, to recruit, screen, and train adult mentors, and to reimburse mentors for their reasonable incidental expenses.

Mr. President, I personally have been involved in mentoring programs, and I know how valuable they can be. They're not a cure-all, nothing is. However, if we can link law enforcement officers and other caring adults with children in high crime areas, we should be able to direct many of these young people away from auto theft and other crimes, and lead them toward better and more socially constructive lives.

### MOTOR VEHICLE THEFT PREVENTION ACT

Finally, Mr. President, the Anti-Auto Theft Act includes provisions based on legislation I introduced last year, the Motor Vehicle Theft Prevention Act, which has been incorporated into the pending conference report on the crime bill.

The Motor Vehicle Theft Prevention Act would authorize a voluntary vehicle theft prevention program. The legislation is based on programs operating in various jurisdictions around the country, typically called combat auto theft [CAT] or help end auto theft [HEAT].

Under these programs, a vehicle owner may voluntarily sign a form stating that his or her vehicle is not normally operated during certain hours, typically between 1 a.m. and 5 a.m. Decals are then affixed to the vehicle. If a law enforcement officer later sees the vehicle being driven during the specified hours, the decals provide grounds for establishing the reasonable suspicion necessary under the Constitution to stop the vehicle and make appropriate inquiries.

It's a simple, inexpensive and innovative concept. And by all indications it's been extraordinarily successful.

In New York City, where this idea first originated, well over 70,000 vehicles participate in the program. In 1990, only 60 were stolen. Cars without decals were about 65 times more likely to be lost to theft.

The success of the program in New York has led to similar success stories around the country. Over 75 jurisdictions have adopted the program, including Dallas, Houston, Philadelphia, St. Louis, St. Paul, and San Diego. New Jersey and New York have programs that operate on a statewide basis. The idea has even been adopted in England, Canada, and Australia.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

The Motor Vehicle Theft Prevention Act directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide. Participation will be entirely voluntary on the part of States, localities, and individual vehicle owners.

There are several benefits of establishing a national program. First, it will increase the use of this approach, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the program. At the same time, many officials, particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across State or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to lawfully stop the car. A uniform design will eliminate this problem.

Mr. President, some have asked how a program like this works, since professional auto thieves should be able, with some work, to scratch off the decals. Most officials I have talked with believe that the program works because time is of the essence to auto thieves, who typically will enter a car and drive away in a matter of seconds. Many cars are stolen in exposed areas, such as shopping center parking lots. So thieves feel they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials are skeptical about the program's likely effectiveness in their jurisdiction, they are free not to participate.

I would also note, Mr. President, that this type of program is entirely consistent with the Constitution's fourth amendment protections against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a "reasonable suspicion" of criminal activity. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

### CONCLUSION

In sum, Mr. President, the Anti-Auto Theft Act offers an effective, multi-dimensional approach to the auto theft problem. I urge my colleagues to support the bill, and ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3276

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Anti-Auto Theft Act".

### TITLE I—MOTOR VEHICLE THEFT RESISTANCE

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Motor Vehicle Theft Resistance Act".

**SEC. 102. PURPOSE.**

The purpose of this title is to reduce motor vehicle theft by ensuring that motor vehicles do not contain components, such as unreinforced steering columns, that could create an unreasonable risk of such vehicles' theft.

**SEC. 103. THEFT VULNERABLE VEHICLE COMPONENTS.**

(a) REQUIREMENTS.—No person shall knowingly manufacture for sale, sell, lease, offer for sale or lease, deliver for introduction in interstate commerce, or import into the United States for sale any new motor vehicle which incorporates—

(1) any steering column that is not shielded in a manner that adequately prevents theft, in accordance with regulations promulgated under this title, or

(2) any other component or design feature specifically identified in regulations promulgated under this title that, if included as a part of a motor vehicle, would physically facilitate the vehicle's theft and create an unreasonable risk of such theft.

(b) WAIVER.—The Secretary of Transportation may waive any of the requirements contained in subsection (a) for any line or lines of motor vehicles which are equipped as standard equipment with an antitheft device which the Secretary determines is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of subsection (a). The granting of waivers under this subsection shall be made in accordance with section 605 of the Motor Vehicle Information and Cost Savings Act, provided that there shall be no limit on the number of lines for which a manufacturer may receive a waiver.

(c) PROHIBITION ON CERTAIN IMPORTS.—

(1) IN GENERAL.—Except as provided under paragraph (2), any motor vehicle not in compliance with subsection (a) shall be refused entry into the United States.

(2) EXEMPTION.—The Secretary of the Treasury, by regulation, may provide an exemption from paragraph (1), and the provisions of subsection (a) relating to importers, if the Secretary determines that such exemption is in the public interest.

**SEC. 104. ENFORCEMENT PROVISIONS.**

(a) CIVIL PENALTIES.—Whoever violates section 103 may be assessed a civil penalty of—

(1) not more than $1,000 for the first such violation;

(2) not less than $3,000 or more than $5,000 for the second such violation; or

(3) not less than $7,000 or more than $25,000 for each subsequent violation.

(b) ACTION OF PENALTY.—Any civil penalty under subsection (a) shall be assessed by the Secretary of Transportation and collected in a civil action brought by the Attorney General of the United States. Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.

(c) DEDUCTION.—The amount of a civil penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(d) VIOLATION.—For purposes of this section a separate violation shall be found for each individual vehicle that is unlawfully sold, leased, offered for sale or lease, delivered, or imported in violation of section 103.

### SEC. 105. SCOPE OF REGULATIONS.

(a) EFFECTIVE DATES.—Not later than December 31, 1993, the National Highway Traffic Safety Administration shall promulgate regulations to implement this title. The regulations shall establish an effective date or effective dates for the requirements in section 103 in a manner that provides motor vehicle manufacturers, dealers, and importers, and other affected persons with sufficient time to comply with the requirements.

(b) EXPORT EXCEPTION.—Such regulations shall not apply to any vehicle which is intended solely for export (and is so labeled or tagged on the vehicle or equipment itself and on the outside of the container, if any) and which is exported.

## TITLE II—TOUGHER LAW ENFORCEMENT AGAINST AUTOMOBILE THEFT

### SEC. 201. FEDERAL PENALTIES FOR CARJACKING.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2119. Carjacking**

"(a) Whoever, by force and violence, or by intimidation, takes or attempts to take a motor vehicle, that has been transported, shipped, or received in interstate or foreign commerce, from the person or presence of another, shall be fined under this title, or imprisoned not more than 15 years, or both.

"(b) Whoever, in committing, or in attempting to commit an offense defined in this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title, or imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Carjacking.".

### SEC. 202. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title, or imprisoned not more than 10 years".

### SEC. 203. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title, or imprisoned not more than 10 years".

## TITLE III—EXPORT OF STOLEN MOTOR VEHICLES

### SEC. 301. RANDOM CUSTOMS INSPECTIONS FOR STOLEN MOTOR VEHICLES BEING EXPORTED.

Part VI of title IV of the Tariff Act of 1930 is amended by inserting after section 646 the following new sections:

### "SEC. 646A. RANDOM CUSTOMS INSPECTIONS FOR STOLEN MOTOR VEHICLES BEING EXPORTED.

"The Commissioner of Customs shall direct customs officers to conduct at random inspections of motor vehicles, and of shipping containers that may contain motor vehicles that are being exported, for purposes of determining whether such motor vehicles were stolen.

### "SEC. 646B. EXPORT REPORTING REQUIREMENT.

"The Commissioner of Customs shall require all persons or entities exporting used motor vehicles, including motor vehicles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such motor vehicle and proof of ownership of such motor vehicle. The Commissioner shall check all vehicle identification numbers obtained under this section against the information in the National Crime Information Center to determine whether any motor vehicle intended for export has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section.".

## TITLE IV—AUTO THEFT TASK FORCE GRANTS

### SEC. 401. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance shall make grants to Auto Theft Task Forces submitting applications in compliance with the requirements of this title.

### SEC. 402. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this title, a chief executive of an Auto Theft Task Force shall submit an application to the Director in such form and accompanied by such materials as the Director may require.

(b) CONTENT.—Such application shall include the following:

(1) A statement that the applicant Auto Theft Task Force is either a State agency or an agency of a unit of local government, or a group of such agencies.

(2) An assurance that Federal funds received under a grant under this title shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under such grant.

(3) A statement that the resources of the applicant Auto Theft Task Force will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the export of stolen vehicles.

(D) Training programs regarding vehicle theft for law enforcement officials.

(E) Public education programs, to increase public awareness about vehicle theft and measures to prevent such theft.

(F) Purchase of equipment, such as mobile data terminals for installation in patrol cars, to enhance the effectiveness of law enforcement efforts to address vehicle theft.

(4) A description of the budget for the applicant Auto Theft Task Force for the fiscal year for which a grant is sought.

### SEC. 403. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall select grantees on a competitive basis, based on the following selection criteria:

(1) the quality of the applicant's plan for addressing motor vehicle theft; and

(2) the severity of the motor vehicle theft problem in the geographical areas to be covered in the plan.

(b) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this title may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

### SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $25,000,000 for each fiscal year to carry out this title.

## TITLE V—REDUCING JUVENILE AUTO THEFT THROUGH MENTORING PROGRAMS

### SEC. 501. JUVENILE MENTORING.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

## "TITLE V—JUVENILE MENTORING PROGRAM (JUMP) ACT OF 1992

### "SEC. 501. SHORT TITLE.

"This title may be cited as the 'Juvenile Mentoring Program Act of 1992' or the 'JUMP Act'.

### "SEC. 502. AUTHORITY TO MAKE GRANTS.

"(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to local educational agencies and nonprofit organizations to implement mentoring programs under this title.

"(b) ELIGIBLE MENTORING PROGRAM.—A mentoring program funded under this title shall be a program, or a new component or enhancement of an existing program, providing assistance to eligible children—

"(1) designed to link children in high crime areas with adult law enforcement officers and other responsible adults; and

"(2) intended to achieve one or more of the following goals:

"(A) Provide general guidance to eligible children.

"(B) Promote personal and social responsibility among such children.

"(C) Discourage their use of illegal drugs, violence and dangerous weapons, and other criminal activity.

"(D) Enhance eligible children's ability to function effectively in, and benefit from, elementary and secondary education.

"(E) Discourage involvement in gangs.

"(F) Encourage eligible children's participation in community service.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Administrator, after consultation with the Secretary of Health and Human Services and the Secretary of Education, shall promulgate regulations to implement this title.

"(2) SCREENING MENTORS.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

### "SEC. 503. APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under this title, a local educational agency or nonprofit organization shall submit an application containing the information specified in subsection (b) to the Administrator at such time, in such form, and accompanied by such additional information as the Administrator may reasonably require.

"(b) CONTENTS OF APPLICATION.—

"(1) CONTENT OF PLAN.—All applications for grants shall include a specific plan for implementing a mentoring program, including—

"(A) the method by which mentors and mentees will be recruited;

"(B) the method by which prospective mentors will be screened;

"(C) the training that will be provided to mentors; and

"(D) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education.

"(2) COMMUNITY INVOLVEMENT.—All applications shall describe the extent to which parents, teachers, community-based organizations, and the local community have participated in the design and implementation of the mentoring plan.

"(c) SELECTION CRITERIA.—The Administrator shall select grant recipients based on the following:

"(1) QUALITY OF PLAN.—The quality of the mentoring plan, including—

"(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan.

"(2) EFFECTIVE IMPLEMENTATION.—The capability of the applicant to effectively implement the mentoring plan.

**"SEC. 504. USE OF FUNDS.**

"(a) ELIGIBLE USES.—Grants awarded pursuant to this title shall be used to implement mentoring programs, including—

"(1) hiring of mentoring coordinators and support staff;

"(2) recruitment, screening, and training of adult mentors;

"(3) reimbursement of mentors for reasonable incidental expenditures directly associated with mentoring; and

"(4) such other purposes as the Administrator may reasonably prescribe by regulation.

"(b) PROHIBITED USES.—Grants awarded pursuant to this title shall not be used—

"(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

"(2) to obtain educational or other materials or equipment which would otherwise be used in the ordinary course of the grantee's operations; or

"(3) for any other purpose reasonably prohibited by the Administrator pursuant to regulation.

**"SEC. 505. REPORTS.**

"(a) IN GENERAL.—The Administrator shall require grantees to provide periodic reports that include information on the obligation and expenditure of grant funds, and the progress made by the grantee in implementing the mentoring plan described in section 503.

"(b) REPORTS.—Not later than 4 years after the date of enactment of this title, and periodically thereafter, the Administrator shall submit a report to Congress evaluating the program established under this title.

**"SEC. 506. MONITORING.**

"The Administrator shall audit and monitor the programs funded under this title to assure that assistance provided under this title is administered in accordance with its provisions.

**"SEC. 507. DEFINITIONS.**

"For purposes of this title—

"(1) the term 'Administrator' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

"(2) the term 'eligible children' means individuals who live in high crime areas, as shall be reasonably defined by the Administrator pursuant to regulations, and who are less than 18 years of age and older than a minimum age established by the Administrator by regulation;

"(3) the term 'law enforcement officer' means any employee of a Federal, State, or local law enforcement agency who is engaged in law enforcement or crime prevention;

"(4) the term 'local educational agency' means any local agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381); and

"(5) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

**"SEC. 508. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated $50,000,000 for each fiscal year to carry out the purposes of this title.".

## TITLE VI—MOTOR VEHICLE THEFT PREVENTION

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Motor Vehicle Theft Prevention Act".

**SEC. 602. MOTOR VEHICLE THEFT PREVENTION PROGRAM.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

### SEC. 603. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with, or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

**"§ 511A. Unauthorized application of theft prevention decal or device**

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device."

By Mr. SANFORD:

S. 3277. A bill to permit the Secretary of Health and Human Services to grant waivers to States to provide coverage under State health care delivery programs to individuals who are otherwise eligible for benefits under title XVIII of the Social Security Act or eligible to enroll under State plans for medical assistance under title XIX of such act; to the Committee on Finance.

STATE HEALTH CARE REFORM INCENTIVE ACT

Mr. SANFORD. Mr. President, I am today introducing legislation to help States develop their own health care reform. This is legislation that was introduced in the House before the August recess by a good friend and colleague from North Carolina, MARTIN LANCASTER.

The State Health Care Reform Incentive Act of 1992 is not at all intended to slow down efforts at the Federal level to achieve national health care reform, but I do not believe States should be held back from developing their own reform if they wish, without waiting for Washington to act.

Almost 1 year ago I challenged a group of Southern State legislators to develop their own reform. A growing number of States are seeking to do this. The legislation I am introducing today is simply intended to make this a little easier for those States.

Health care costs are escalating out of control. The cost of an average hospital stay in North Carolina 10 years ago was $1,800. Today it averages $7,000, and that cost is much higher in other States. The per capita health care cost in North Carolina has risen from $770 in 1980 to more than $1,800 now. The status quo will not do. If health care costs cannot be controlled, the per capita cost in North Carolina will reach $4,000 in 8 more years. Far too many working families have no health care coverage now, and this will surely increase unless steps are taken to protect them.

Mr. President, this legislation would amend the Social Security Act to allow the Secretary of Health and Human Services to waive Federal requirements under the Medicaid and Medicare programs as necessary to implement the State's plan. Federal funds that would otherwise have been spent for waivered Medicaid and/or Medicare benefits for State residents, including funds for program administration, would be paid to the State in the form of a block grant. States would have the flexibility to cover part or all of the Medicare and/or Medicaid benefits if they choose to under this waiver authority.

In the first year of the program operation, the block grant would be set equal to Federal Medicaid—and if included, Medicare—payments on behalf of State residents in the most recent fiscal year, updated for inflation. Increases in the grant amount for later years would be established by the Secretary, taking into account inflation, changes in population, utilization trends, and other appropriate factors.

A State program would have to make services covered by waiver available to current beneficiaries. Benefits would have to be uniform for all individuals in age/sex classes established by the States. Lower income persons could be provided more generous benefits or reduced out-of-pocket costs. In order to obtain waivers and funding, a State would have to file an application providing assurances that these eligibility and benefit standards were met, along with any other assurances required by the Secretary.

In order to allow States to apply their programs uniformly to persons covered under employer group health care plans should States choose to, this act would waive the provisions of the Employee Retirement Income Security Act of 1974 [ERISA] that preempt State regulation of employee health benefit plans.

States are fertile laboratories of Government and are in a unique position to design health care reform that works best for their citizens. A national reform effort can gain a great deal from State experiences.

The State Health Care Reform Incentive Act of 1992 is very straightforward, and it is budget neutral.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3277

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "State Health Care Reform Incentive Act of 1992".

### SEC. 2. WAIVER OF MEDICARE AND MEDICAID FOR SERVICES PROVIDED UNDER STATE HEALTH CARE PROGRAMS.

(a) WAIVERS UNDER MEDICARE.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"WAIVER OF PROGRAM REQUIREMENTS WITH RESPECT TO INDIVIDUALS RECEIVING BENEFITS UNDER STATE PROGRAMS

"SEC. 1893. (a) IN GENERAL.—Notwithstanding any other provision of this title or title II, the Secretary may, at the request of a State, waive the application of this title with respect to individuals residing in the State for a year to the extent that the individual receives items and services during the year under a State health care delivery program that meets the requirements of subsection (b)(2).

"(b) REQUIREMENTS FOR STATES.—

"(1) SUBMISSION OF APPLICATIONS.—In order to receive a waiver under subsection (a), a State must submit to the Secretary (at such time and in such form as the Secretary may require) an application containing—

"(A) information and assurances that the State has enacted a health care delivery program that meets the requirements of paragraph (2); and

"(B) such other information and assurances as the Secretary may require.

"(2) REQUIREMENTS FOR STATE PROGRAM.—

"(A) IN GENERAL.—A State health care delivery program meets the requirements of this paragraph if—

"(i) the program ensures the provision of all items and services subject to the waiver to all individuals in the State who are otherwise entitled to benefits under this title; and

"(ii) the program does not distinguish among individuals within the same age and gender classifications in ensuring the provision of such items and services (except as provided in subparagraph (B)).

"(B) PERMITTING MORE GENEROUS TREATMENT FOR LOW-INCOME INDIVIDUALS.—Notwithstanding subparagraph (A)(ii), the Secretary may not find that a State health care delivery program fails to meet the requirements of this paragraph solely because the program provides for additional benefits or reduced out-of-pocket expenses for low-income individuals.

"(c) PAYMENT OF EXPENDITURES FOR SERVICES COVERED.—

"(1) NO PAYMENTS TO PROVIDERS.—Notwithstanding any other provision of this title, no payment may be made during a year under this title (except as provided in paragraph (2)) for items and services provided to or on behalf of residents of a State that has received a waiver under this section for the year to the extent that such items and services are subject to the waiver.

"(2) PAYMENTS TO STATES.—The Secretary shall pay each State receiving a waiver under this title during a year (on such a periodic basis as approximates the periods for which payments are otherwise made under this title) an amount equal to—

"(A) for the first year for which the State receives a waiver under this section, the total amount of any payments that were made to or on behalf of residents of the State under this title during the most recent fiscal year that ended before such first year for items and services subject to the waiver, adjusted (in such a manner as the Secretary may establish) to take into account inflation during the period between the end of such fiscal year and the beginning of such first year; and

"(B) for each subsequent year for which the State receives a waiver under this section, the total amount paid to the State under this paragraph during the preceding year, adjusted (in such a manner as the Secretary may establish) to take into account inflation, changes in the State's population, the utilization of services under the State's health care delivery program, and other appropriate factors affecting expenditures under the State's health care delivery program during the year.

"(d) COVERAGE OF INDIVIDUALS ENROLLED IN EMPLOYEE WELFARE BENEFIT PLANS.—No provision of the Employee Retirement Income Security Act of 1974 may be construed to prohibit a State from implementing a State health care delivery plan for purposes of receiving a waiver under this section.

"(e) HOLD-HARMLESS FOR ITEMS AND SERVICES NOT SUBJECT TO WAIVER.—Nothing in this section shall be construed to limit or otherwise affect the provision of items and services under this title to any individual eligible for benefits under this title who is residing in a State subject to a waiver under this section to the extent that the waiver does not apply to such items and services.".

(b) WAIVER UNDER MEDICAID.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by transferring section 1928 (as redesignated by section 4401(a)(3) of the Omnibus Budget Reconciliation Act of 1990) to the end and redesignating such section as section 1931; and

(2) by inserting after section 1927 the following new section:

"WAIVER OF PROGRAM REQUIREMENTS WITH RESPECT TO INDIVIDUALS RECEIVING BENEFITS UNDER ALTERNATIVE STATE PROGRAMS

"SEC. 1928. (a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, at the request of a State, waive the application of this title with respect to a State plan under this title for a year to the extent that items and services that are otherwise provided under the plan are covered during the year under an alternative State health care delivery program that meets the requirements of subsection (b)(2).

"(b) REQUIREMENTS FOR STATES.—

"(1) SUBMISSION OF APPLICATIONS.—In order to receive a waiver under subsection (a), a State must submit to the Secretary (at such time and in such form as the Secretary may require) an application containing—

"(A) information and assurances that the State has enacted an alternative health care delivery program that meets the requirements of paragraph (2); and

"(B) such other information and assurances as the Secretary may require.

"(2) REQUIREMENTS FOR ALTERNATIVE STATE PROGRAM.—

"(A) IN GENERAL.—An alternative State health care delivery program meets the requirements of this paragraph if—

"(i) the program ensures the provision of all services subject to the waiver to all individuals in the State who would otherwise receive such services as medical assistance under this title; and

"(ii) the program does not distinguish among individuals within the same age and gender classifications in ensuring the provision of such services (except as provided in subparagraph (B)).

"(B) PERMITTING MORE GENEROUS TREATMENT FOR LOW-INCOME INDIVIDUALS.—Notwithstanding subparagraph (A)(ii), the Secretary may not find that an alternative State health care delivery program fails to meet the requirements of this paragraph solely because the program provides for additional benefits or reduced out-of-pocket expenses for low-income individuals.

"(c) PAYMENT OF EXPENDITURES FOR SERVICES COVERED.—

"(1) NO PAYMENTS TO PROVIDERS.—Notwithstanding any other provision of this title, no Federal financial participation may be made to a State during a year under this title (except as provided in paragraph (2)) for medical assistance provided to or on behalf of individuals in a State that has received a waiver under this section for the year to the extent that such assistance is subject to the waiver.

"(2) PAYMENTS TO STATES.—The Secretary shall pay each State receiving a waiver under this title during a year (on such a periodic basis as approximates the periods for which payments are otherwise made under this title) an amount equal to—

"(A) for the first year for which the State receives a waiver under this section, the total amount of any payments that were made to the State under this title during the most recent fiscal year that ended before such first year for medical assistance subject to the waiver (including payments to carry out the proper and efficient administration of the State plan under this title with respect to such assistance), adjusted (in such a manner as the Secretary may establish) to take into account inflation during the period between the end of such fiscal year and the beginning of such first year; and

"(B) for each subsequent year for which the State receives a waiver under this section, the total amount paid to the State under this paragraph during the preceding year, adjusted (in such a manner as the Secretary may establish) to take into account inflation, changes in the State's population, the utilization of services under the State's alternative health care delivery program, and other appropriate factors affecting expenditures under the State's alternative health care delivery program during the year.

"(d) COVERAGE OF INDIVIDUALS ENROLLED IN EMPLOYEE WELFARE BENEFIT PLANS.—No provision of the Employee Retirement Income Security Act of 1974 may be construed to prohibit a State from implementing an alternative State health care delivery plan for purposes of receiving a waiver under this section.

"(e) HOLD-HARMLESS FOR MEDICAL ASSISTANCE NOT SUBJECT TO WAIVER.—Nothing in this section shall be construed to limit or otherwise affect the provision of medical assistance under a State plan under this title to any individual eligible for such assistance who is residing in a State subject to a waiver under this section to the extent that the waiver does not apply to such medical assistance.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to years beginning on or after January 1, 1993.

## ADDITIONAL COSPONSORS

### S. 1777

At the request of Mr. ADAMS, the names of the Senator from Delaware [Mr. ROTH], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

### S. 2385

At the request of Mr. RIEGLE, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

### S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

### S. 2792

At the request of Mr. SASSER, his name was added as a cosponsor of S. 2792, a bill to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2878

At the request of Mr. BOND, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2878, a bill to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes.

S. 2969

At the request of Mr. KENNEDY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2969, a bill to protect the free exercise of religion.

S. 2970

At the request of Mr. SASSER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 3221

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 3221, a bill to deny most-favored-nation status to Serbia and Montenegro unless certain conditions are met.

S. 3254

At the request of Mr. REID, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 3254, a bill to authorize the President to award a gold medal on behalf of Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public.

SENATE JOINT RESOLUTION 260

At the request of Mr. COCHRAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. CONRAD], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 260, a joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

SENATE JOINT RESOLUTION 325

At the request of Mr. BIDEN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 325, a joint resolution entitled the "Collective Security Participation Resolution."

SENATE JOINT RESOLUTION 327

At the request of Mr. BRYAN, the names of the Senator from Utah [Mr. HATCH], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. AKAKA], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. PELL], the Senator from Alaska [Mr. STEVENS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. THURMOND], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Montana [Mr. BURNS], the Senator from Ohio [Mr. GLENN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. MOYNIHAN], the Senator from California [Mr. CRANSTON], the Senator from Utah [Mr. GARN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Colorado [Mr. WIRTH], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 327, a joint resolution to designate October 8, 1992, as "National Firefighters Day."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Colorado [Mr. BROWN], the Senator from Georgia [Mr. FOWLER], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 331

At the request of Mr. REID, the names of the Senator from Colorado [Mr. BROWN], the Senator from Nevada [Mr. BRYAN], the Senator from Indiana [Mr. COATS], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. SASSER], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 331, a joint resolution to designate the month of January 1993 as "National Cowboy Poetry Month."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 332, a joint resolution to establish the month of October 1992 as "Country Music Month."

SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

AMENDMENT NO. 3162

At the request of Mr. SMITH the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of amendment No. 3162 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

## SENATE RESOLUTION 349—RELATIVE TO THE ARMENIAN MAJORITY ENCLAVE OF NAGORNO-KARABAKH

Mr. SIMON (for himself and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 349

Whereas, the Republic of Armenia and the Republic of Azerbaijan have been engaged in armed conflict since 1988, primarily over the disputed Armenian-majority enclave of Nagorno-Karabakh;

Whereas, numerous attempts to end this conflict have failed;

Whereas, the recent mediation effort by the Conference on Security and Cooperation in Europe (CSCE), which featured a proposal for a sixty-day cease-fire and the placement of military observers, was not agreed to;

Whereas, President Nursultan Nazarbayev of Kazakhstan brought about through his good offices a preliminary cease-fire agreement that was signed on August 27th, 1992, but was never observed;

Whereas, the Russian Federation helped bring about a cease-fire agreement on September 19th, 1992, scheduled to begin at midnight, September 25, 1992;

Whereas, on August 24th, 1992, the Republic of Armenia formally requested the convening of the United Nations Security Council to address the situation in Nagorno-Karabakh;

Whereas, both the Republic of Azerbaijan and the Republic of Armenia have requested the deployment of cease-fire monitors;

*Resolved*, That it is the Sense of the Senate that:

(1) the Republic of Armenia and the Republic of Azerbaijan should immediately cease all hostilities and abide by the cease-fire resolution of September 19, 1992; and

(2) failing an immediate cessation of hostilities, and considering the collapse of the regional mediation attempts, the United Nations Security Council should meet to address the situation in Nagorno-Karabakh and should authorize the Secretary-General of the United Nations to take appropriate steps to bring about an end to the conflict, including, if necessary, the use of United Nations peacekeepers.

• Mr. SIMON. Mr. President, in just a few hours the latest agreement to cease hostilities between Armenia and Azerbaijan will go into effect. This agreement, negotiated by the concerned parties on September 19, represents the latest in a long series of cease-fire agreements which, up to now, have failed. The main source of the conflict—who will control Nagorno-Karabakh, an Armenian-majority enclave located in Azerbaijan—does not seem to be easily amenable to peaceful negotiations. But an end to the fighting and peace talks are precisely what is required.

Sadly, the failure of cease-fire efforts worldwide has become the rule rather than the exception—so much so that a new word, "Lebanonization," has entered our vocabulary to describe it. Failures have become so common in this part of the former Soviet Union, as in the former Yugoslavia, that the world community appears to have become more and more indifferent to efforts to achieve peace where violence prevails.

Mr. President, I do not accept this and I know that my distinguished colleagues in the U.S. Senate do not. That is why I am today introducing a resolution asking both Armenians and Azerbaijanis to stop the fighting, and if that does not happen, for the UN Security Council to consider this conflict on an urgent basis and take appropriate steps to stop the fighting—including sending peacekeepers if that proves necessary.

Mr. President, violence in the area has already claimed more than 2,500 lives since hostilities erupted in 1988. Some 500 people have died in intensified fighting in the region this month alone.

This resolution will not stop the fighting. It does not point the finger at anyone, although it is clear that this most recent round of fighting was begun by Azerbaijan. The odds are that the agreement which will go into effect later today will do little to stop continued violence and bloodshed in the region. Nevertheless, every effort that we make, every measure of support for peace that we adopt, contributes to the peace process that must take hold. We have a responsibility to let our voices be heard.•

## SENATE RESOLUTION 350—AUTHORIZING THE MAKING OF APPOINTMENTS

Mr. FORD (for Mr. MITCHELL, for himself, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 350

*Resolved*, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

## AMENDMENTS SUBMITTED

## TAX ENTERPRISE ZONES ACT

### CONRAD (AND OTHERS) AMENDMENT NO. 3178

Mr. CONRAD (for himself, Mr. JEFFORDS, Mr. GLENN, and Mr. SANFORD) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

At the end of the committee amendment, add the following new section:

**SEC. . AMERICAN CITIZENS ANNUAL REPORT ACT.**

(a) SHORT TITLE.—This section may be cited as the "American Citizens Annual Report Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Publicly owned corporations provide shareholders with an annual report on the financial status of the corporation.

(B) Americans are entitled to an annual report on the financial status of the Federal Government, as all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(C) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(D) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(E) The Chief Financial Officers Act is leading agencies to develop reliable and relevant financial information that is to be useful to the public, including audited financial statements.

(F) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(G) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(2) PURPOSES.—The purposes of this section are to—

(A) provide the American taxpayer with an annual report on the financial status of the Federal Government;

(B) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(C) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(D) bring a public focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

(c) ANNUAL REPORT.—Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall distribute to all taxpayers described in paragraph (6) an annual report (referred to in this subsection as the 'annual report') containing—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source, along with a brief description of those trends for the most recent year;

"(B) a comparison of the actual Federal spending and revenues by major category or source for the most recent fiscal year—

"(i) to the budget request estimates as submitted by the President for that year; and

"(ii) to the enacted budget, along with notes explaining differences;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure recommended for inclusion by the advisory committee and deemed appropriate by the Director of the Office of Management and Budget.

"(2)(A) Preparation and content of the annual report shall be supervised and directed by the Director of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Director of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 9 members as follows:

"(i) 3 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The annual report shall contain a statement of assurance by the Director of the Office of Management and Budget and an audit opinion the Comptroller General attesting to the reliability and relevancy accuracy of the information contained in the annual report.

"(4) The annual report shall be prepared annually in a timely fashion after the close of each fiscal year. If the final annual report for a fiscal year is not available within 3 calendar months after the close of that fiscal year, a preliminary annual report shall be prepared and published within that period containing substantially all the material described in subparagraphs (A) and (B) of paragraph (1) and the final annual report shall be prepared and published as soon as possible thereafter.

"(5)(A) In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include on the front inside cover of such booklet of instructions (in addition to the information required in subsection (a) of section 7523 of the Internal Revenue Code of 1986) a summary of the annual report prepared by the Director.

"(B) The summary referred to in subparagraph (A) shall—

"(i) include the cumulative Federal debt at the end of each of the 10 preceding fiscal years expressed in total dollars and in dollars per capita; and

"(ii) be presented in a manner that is easily comprehensible to a taxpayer.

"(6)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the annual report described in this subsection and, in cases where a taxpayer requests more than one copy of the report, submits a processing fee (if any) as described in paragraph (7).

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(7) Notwithstanding any other provision of law, the Secretary of the Treasury may impose a processing fee or may accept contributions from corporations, foundations, and other private entities for distribution or preparation of the report, or both.".

"(d) AUTHORIZATION.—For the purpose of carrying out the provisions of the amendment made by this Act, there are authorized to be appropriated to the Secretary of the Treasury and the Director of the Office of Management and Budget $10,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal years 1994, 1995, 1996 and 1997. These amounts shall include any funds raised through the authority established in section 3513(d)(7) of title 31, United States Code, as added by this Act.

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## GRAMM AMENDMENT NO. 3179

Mr. GRAMM proposed an amendment to the bill H.R. 11, supra; as follows:

Insert the following at the appropriate place:

"Section 6096 of the Internal Revenue Code of 1986 (relating to designation of income tax payments to Presidential election campaign fund) is hereby repealed, effective for taxable years beginning after December 31, 1992."

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## INOUYE AMENDMENT NO. 3180

Mr. INOUYE proposed an amendment to the bill H.R. 11, supra; as follows:

At the end of section 6202 add the following new subsection:

( ) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

## DOLE (AND OTHERS) AMENDMENT NO. 3181

Mr. DOLE (for himself, Mr. DOMENICI, and Mr. SIMPSON) proposed an amendment to the bill H.R. 11, supra; as follows:

Beginning on page 814, line 1, strike all matter through page 998, line 14, and insert the following:

### TITLE I—PROVISIONS RELATING TO DISTRESSED URBAN AND RURAL AREAS

### Subtitle A—Urban Tax Enterprise Zones, Rural Development Investment Zones, and Indian Reservation Tax Enterprise Zones

**SEC. 1101. STATEMENT OF PURPOSE.**

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses, and

(2) to promote meaningful employment for tax enterprise zone residents.

**SEC. 1102. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES, RURAL DEVELOPMENT INVESTMENT ZONES, AND INDIAN RESERVATION TAX ENTERPRISE ZONES.**

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

### "Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.

"Part II. Incentives for tax enterprise zones.

### "PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility and selection criteria.

"Sec. 1393. Definitions and special rules.

**"SEC. 1391. DESIGNATION PROCEDURE.**

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone,

"(B) the Secretary of Agriculture, in consultation with the Secretary of the Interior, in the case of a rural development investment zone, and

"(C) the Secretary of the Interior in the case of an Indian reservation tax enterprise zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries shall designate 30 nominated areas as tax enterprise zones under this section, of which 18 shall be urban tax enterprise zones, 10 shall be rural development investment zones, and 3 shall be Indian reservation tax enterprise zones. Such designations may be made only during calendar years after 1992 and before 1997 and shall be subject to the availability of eligible nominated areas.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 6,

"(ii) in calendar year 1994 shall not exceed the sum of 5 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 4 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 3 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 2,

"(ii) in calendar year 1994 shall not exceed the sum of 2 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 3 plus the carryover amount for such year.

"(C) INDIAN RESERVATION TAX ENTERPRISE ZONES.—The number of Indian reservation tax enterprise zones under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 1,

"(ii) in calendar year 1994 shall not exceed the sum of 1 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 1 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the carryover amount for such year.

"(D) CARRYOVER AMOUNT.—For purposes of subparagraphs (A), (B), and (C), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year after 1992 shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(4) CERTAIN ZONES MUST BE IN SMALL CITIES, ETC.—For purposes of this subsection of the 18 urban tax enterprise zones, at least 6 shall be from nominated areas which are nominated by 1 or more local governments having jurisdiction over areas with an aggregate population (as determined by the 1990 or subsequent census data) of less than 500,000.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(3) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 10th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record at which officials of the State or local government are given the opportunity to participate and after an opportunity for the State or local government to correct any deficiencies the Secretary determines under subparagraph (A).

"(C) REVOCATION TO BE PROSPECTIVE.—Any revocation under subparagraph (A) shall not take effect before the date of the final determination under subparagraph (A) (after application of subparagraph (B)).

**"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.**

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area (and any portion of which is not located on an Indian reservation) shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 20,000 (10,000 in the case of any urban tax enterprise zone described in section 1391(b)(4)).

"(B) DISTRESS.—The nominated area is one of pervasive unemployment and general distress.

"(C) SIZE.—The nominated area—

"(i) is one contiguous area, and

"(ii) is located within not more than 2 States.

"(D) POVERTY RATE.—The poverty rate (as determined by the 1990 or subsequent census data)—

"(i) for each population census tract within the nominated area is not less than 25 percent, and

"(ii) for not less than 80 percent of the population census tracts within the nominated area is not less than 35 percent.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 5,000.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (C), (D), and (E) of paragraph (1).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONES.—A nominated area which is an Indian reservation tax enterprise zone shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) SIZE.—The nominated area—

"(i) is located on an Indian reservation,

"(ii) is one contiguous area, and

"(iii) is located within not more than 2 States.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (D), and (E) of paragraph (1).

"(4) SPECIAL RULE WITH RESPECT TO COURSE OF ACTION CRITERIA.—In the case of a nominated area which is—

"(A) described in paragraph (2) and is located on an Indian reservation, or

"(B) described in paragraph (3),

the criteria set forth in subparagraph (E) of paragraph (1) shall apply only to the extent the reservation governing body has legal authority to comply with such criteria.

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and nongovernmental entities, may not be funded from proceeds of any Federal program (other than discretionary proceeds), and—

"(A) shall include—

"(i) a certification by the State insurance commissioner (or similar State official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas, whichever is applicable, throughout the State is available to businesses within the tax enterprise zone,

"(ii) a program to ensure the necessary rehabilitation of publicly owned property within the tax enterprise zone,

"(iii) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(iv) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(v) the giving of special preference to contractors owned and operated by members of any socially and economically disadvantaged group within the meaning of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), in connection with an activity any part of which occurs within the tax enterprise zone,

"(vi) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on locally-owned businesses and on small-business concerns as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(vii) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(viii) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146, and

"(B) may include—

"(i) a reduction of tax rates or fees applying within the tax enterprise zone,

"(ii) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land, and

"(iii) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area outside the nominated area to the nominated area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—

"(1) ELIGIBILITY.—The appropriate Secretary shall make a determination as to whether a nominated area meets the eligibility requirements under subsection (b) for designation as a tax enterprise zone.

"(2) DESIGNATION.—From among the nominated areas determined to be eligible for designation under paragraph (1), the appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight).

"(A) STATE AND LOCAL COMMITMENTS.—The strength and quality of the commitments which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(B) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out, including the specificity with which the commitments under subparagraph (A) are described in order that the applicable Secretary will be better able to determine annually under section 1391(d)(2)(A)(ii) whether the commitments are being carried out.

"(C) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(D) LEVELS OF POVERTY AND DISTRESS.—The relative levels of distress and poverty under subparagraphs (B) and (D) of subsection (b)(1).

**"SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONE.—The term 'Indian reservation tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(3).

"(4) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(5) INDIAN RESERVATION.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(8) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of the Interior, to be a rural area.

Such term may include an area within an Indian reservation.

"(9) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones,

"(B) the Secretary of Agriculture in the case of rural development investment zones, and

"(C) the Secretary of the Interior in the case of Indian reservation tax enterprise zones.

"(10) POPULATION CENSUS TRACTS.—If areas are not tracted as population census tracts, the equivalent county divisions as defined by the Bureau of the Census for purposes of defining poverty areas shall be treated as population census tracts.

### "PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credits.

"SUBPART B. Investment incentives.

"SUBPART C. General provisions.

### "Subpart A—Enterprise Zone Employment Credits

"Sec. 1395. Enterprise zone employment credit.

**"SEC. 1395. ENTERPRISE ZONE EMPLOYMENT CREDIT.**

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any employer for any taxable year is 40 percent of the qualified zone wages paid or incurred during such taxable year.

"(b) QUALIFIED ZONE WAGES.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee to the extent such wages do not exceed $20,000.

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual unless such individual either—

"(i) is employed by the employer at least 90 days, or

"(ii) has completed at least 120 hours of services performed for the employer,

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(E) any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000.

"(d) CREDIT REFUNDABLE FOR SMALL EMPLOYERS.—

"(1) IN GENERAL.—In the case of so much of the credit allowed by section 38 which is attributable to the enterprise zone employment credit of a small employer—

"(A) section 38(c) shall not apply, and

"(B) for purposes of this title, such credit shall be treated as if it were allowed under subpart C of this part (relating to refundable credits).

"(2) SMALL EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'small employer' means, with respect to any taxable year, any employer which had gross receipts not greater than $2,000,000 during the preceding taxable year.

"(B) PHASEOUT.—In the case of an employer which had gross receipts in excess of $1,000,000, the amount of the credit to which paragraph (1) would otherwise apply shall be reduced by the amount which bears the same ratio to the amount of the credit as such excess bears to $1,000,000.

"(C) GROSS RECEIPTS; PREDECESSORS.—For purposes of this paragraph, rules similar to the rules of subparagraphs (B), (C), and (D) of section 448(c)(3) shall apply.

"(e) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—No credit shall be allowed to any employer which fails to notify all of the employees of such employer eligible to receive advanced payments of the credit under section 32 (relating to the earned income credit) of the availability of such advanced payments.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—

"(A) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(B) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(i) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(I) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person which is not a related person.

"(II) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(ii) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(2) CONTROLLED GROUPS.—

"(A) TREATED AS SINGLE EMPLOYER.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart.

"(B) PROPORTIONATE SHARE.—The credit (if any) determined under this section with respect to each employer described in subparagraph (A) shall be such employer's proportionate share of the wages giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

### "Subpart B—Investment Incentives

"Sec. 1397. Additional expensing allowance.

"Sec. 1397A. Accelerated depreciation.

"Sec. 1397B. Deduction for purchase of enterprise zone stock.

"Sec. 1397C. Low-income housing credit.

"Sec. 1397D. Ordinary loss treatment for certain property.

"Sec. 1397E. Exclusion of certain enterprise zone investor gain.

**"SEC. 1397. ADDITIONAL EXPENSING ALLOWANCE.**

"(a) IN GENERAL.—In the case of a qualified enterprise zone business, for purposes of section 179—

"(1) qualified zone property shall be treated as section 179 property, "(2) the limitation under subsection (b) shall apply in lieu of the limitation under section 179(b)(1), and

"(3) in the case of section 179 property other than qualified zone property, the limitation under section 179(b)(1) (as reduced under section 179(b)(2)) applicable to such property shall be reduced (but not below zero) by the cost of qualified zone property placed in service during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—The aggregate cost of qualified zone property which may be taken into account under section 179(a) for any taxable year shall not exceed $75,000.

"(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by 50 percent of the amount by which the cost of qualified zone property placed in service during such taxable year exceeds $300,000.

"(c) QUALIFIED ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'qualified enterprise zone business' means—

"(A) any qualified business entity, and

"(B) any qualified proprietorship.

"(2) QUALIFIED BUSINESS ENTITY.—For purposes of this subsection, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(A)(i) every trade or business of such entity is the active conduct of a qualified business within a tax enterprise zone, and

"(ii) at least 80 percent of the total gross income of such entity is derived from the active conduct of any such business,

"(B) substantially all of the use of the tangible property of such entity (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(D) substantially all of the services performed for such entity by its employees are performed in a tax enterprise zone,

"(E) at least ⅓ of its employees are residents of a tax enterprise zone, and

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of any such business, or

"(ii) nonqualified financial property.

"(3) QUALIFIED PROPRIETORSHIP.—For purposes of this subsection, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(A) at least 80 percent of the total gross income of such business is derived from the active conduct of such business in a tax enterprise zone,

"(B) substantially all of the use of the tangible property of such business (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(D) substantially all of the services performed for such business by employees of such business are performed in a tax enterprise zone,

"(E) at least ⅓ of such employees are residents of a tax enterprise zone,

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such business is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, or

"(ii) nonqualified financial property.

For purposes of this paragraph, the term 'employee' includes a self-employed individual (within the meaning of section 401(c)(1)).

"(4) QUALIFIED BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified business' means any trade or business.

"(B) RENTAL OF REAL PROPERTY.—The rental of any building or structure located in a tax enterprise zone shall be treated as a qualified business if and only if at least 50 percent of the gross rental income from the building or structure is from enterprise zone businesses (without regard to this subparagraph).

"(C) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

"(D) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(E) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B) or of operating a trade or business the principal activity of which is farming (within the meaning of subparagraph (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000.

"(5) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this subsection, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(A) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(B) accounts or notes receivable described in section 1221(4).

"(6) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be a qualified enterprise zone business as of the date on which the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 1391(d). The preceding sentence shall not apply—

"(A) during the 1st taxable year of an activity,

"(B) to property placed in service before the date of the termination or revocation of such designation, or

"(C) to property placed in service on or after such date pursuant to a binding, written contract in effect before such date and at all times thereafter.

"(d) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) if such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the tax enterprise zone took effect,

"(B) the original use of which in a tax enterprise zone commences with the taxpayer, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the tax enterprise zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(e) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (b)(2), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(f) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property of any business which ceases to be a qualified enterprise zone business.

### "SEC. 1397A. ACCELERATED DEPRECIATION.

"(a) IN GENERAL.—For purposes of section 168, with respect to qualified zone property (as defined in section 1397(d)) of a qualified enterprise zone business (as defined in section 1397(c)), the applicable recovery period shall be determined in accordance with the table contained in subsection (b) in lieu of the table contained in section 168(c)(1).

"(b) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of subsection (a)—

| "In the case of: | The applicable recovery period is: |
|---|---|
| 3-year property | 2 years |
| 5-year property | 3 years |
| 7-year property | 4 years |
| 10-year property | 6 years |
| 15-year property | 9 years |
| 20-year property | 12 years |
| Nonresidential real property | 20 years. |

### "SEC. 1397B. DEDUCTION FOR PURCHASE OF ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to 50 percent of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATION.—

"(1) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed the lesser of—

"(A) $25,000, or

"(B) the excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(2) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under paragraph (1)(A)—

"(A) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(B) the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(3) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family (as defined in section 267(c)(4)) shall be treated as one person for purposes of paragraph (1), and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ZONE PROPERTY.—The term 'enterprise zone stock' shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified zone property (as defined in section 1397(d)).

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic corporation if—

"(1) such corporation is a qualified enterprise zone business (as defined in section 1397(c)) or, in the case of a new corporation, such corporation is being organized for purposes of being such a qualified enterprise zone business,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disposition by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.

"(3) DEDUCTION NOT ALLOWED IF EXCLUSION TAKEN.—No deduction shall be allowed with respect to the purchase of any enterprise zone stock under this section if the individual elects the application of section 1397E with respect to such stock.

**"SEC. 1397C. LOW-INCOME HOUSING CREDIT.**

"For purposes of section 42(d)(5)(C), any building located in a tax enterprise zone shall be treated in the same manner as if located in a qualified census tract.

**"SEC. 1397D. ORDINARY LOSS TREATMENT FOR CERTAIN PROPERTY.**

"(a) IN GENERAL.—Loss on any qualified zone asset held for more than 2 years (5 years in the case of real property) shall be treated as an ordinary loss.

"(b) QUALIFIED ZONE ASSET.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) in the case of an individual, any qualified zone stock or any qualified zone partnership interest, and

"(B) any qualified zone business property.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business, or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business, and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397B ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397B(e)(1).

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business, or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business, and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(4) QUALIFIED ZONE BUSINESS PROPERTY.—The term 'qualified zone business property' means—

"(A) any qualified zone property (as defined in section 1397(d)), and

"(B) any land which is an integral part of an enterprise zone business.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' means a qualified business entity (as defined in section 1397(c)(2)).

"(6) REAL PROPERTY.—The term 'real property' means any property which is section 1250 property (as defined in section 1250(c)).

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as a tax enterprise zone shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF PASS-THRU ENTITIES.—

"(A) SALES AND EXCHANGES.—Loss on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as ordinary loss described in subsection (a) to the extent such loss is attributable to amounts which would be loss on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of subparagraph (B)(iii) shall apply for purposes of the preceding sentence.

"(B) DISTRIBUTIONS.—

"(i) IN GENERAL.—Any loss described in clause (ii) shall be treated as ordinary loss described in subsection (a).

"(ii) REQUIREMENTS.—A loss is described in this clause if—

"(I) such loss is attributable to loss on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(II) such amount is included in computing the taxable income of the taxpayer by reason of the holding of an interest in such entity.

"(C) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any partnership,

"(ii) any S corporation,

"(iii) any regulated investment company, and

"(iv) any common trust fund.

"(2) CERTAIN TAX-FREE AND OTHER TRANSFERS.—

"(A) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this paragraph applies, the transferee shall be treated as—

"(i) having acquired such asset in the same manner as the transferor, and

"(ii) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this paragraph) by the transferor.

"(B) TRANSFERS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any transfer—

"(i) by gift,

"(ii) at death, or

"(iii) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of paragraph (2)(B) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1), (2), and (3) of section 1244(d) shall apply.

"(4) COORDINATION WITH SECTION 1231.—Losses treated as ordinary losses by reason of this subsection shall not be taken into account in applying section 1231.

### "SEC. 1397E. EXCLUSION OF CERTAIN ENTERPRISE ZONE INVESTOR GAIN.

"(a) EXCLUSION ALLOWED.—

"(1) IN GENERAL.—Gross income does not include an amount equal to the applicable percentage of any enterprise zone investor gain.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

| **"If the holding period of the stock is:** | | **The applicable percentage is:** |
|---|---|---|
| At least | But less than | |
| 5 years | 6 years | 50 |
| 6 years | 7 years | 60 |
| 7 years | 8 years | 70 |
| 8 years | 9 years | 80 |
| 9 years | 10 years | 90 |
| 10 years | | 100. |

"(b) ENTERPRISE ZONE INVESTOR GAIN.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) ENTERPRISE ZONE INVESTOR GAIN.—The term 'enterprise zone investor gain' means any capital gain recognized with respect to the disposition of enterprise zone stock (as defined in paragraphs (1) and (3) of section 1397B(c)) held by the taxpayer—

"(i) if the stock was held by the taxpayer for at least 60 full calendar months immediately preceding the disposition, and

"(ii) to the extent the taxpayer establishes that the amount is attributable to the period that the corporation was a qualified enterprise zone issuer (as defined in section 1397(d)).

"(B) ENTERPRISE ZONE INVESTOR LOSS.—The term 'enterprise zone investor loss' means any capital loss recognized with respect to the disposition of stock or a partnership interest in a qualified enterprise zone issuer (as so defined), or with respect to the disposition of enterprise zone property.

"(C) DISPOSITION.—The term 'disposition' means any event in which gain or loss is recognized, in whole or in part.

"(2) SPECIAL RULES.—

"(A) PROPERTY AND SERVICES TAKEN INTO ACCOUNT.—Notwithstanding the provisions of section 1397(d), property received by a qualified enterprise zone issuer is taken into account to the extent of its adjusted basis at the time of receipt by the corporation, reduced by any liability to which the property is subject or which is assumed by the corporation. Services received by a corporation are taken into account to the extent of their value.

"(B) TERMINATION OF QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, notwithstanding termination of the treatment of a trade or business as a qualified enterprise zone issuer, gain or loss recognized with respect to stock, or loss recognized with respect to a partnership interest or enterprise zone property, following the termination shall be treated as enterprise zone investor gain or loss to the extent the taxpayer establishes that the amount of gain or loss is the amount that would have been so treated if the stock, partnership interest or enterprise zone property had been disposed of immediately before the termination for its fair market value immediately before the termination. In no event may the cumulative amount treated as enterprise zone investor gain or loan pursuant to the preceding sentence exceed the net amount that would have been so treated if all of the taxpayer's stock in the qualified enterprise zone issuer had been disposed of immediately before the termination for their fair market value immediately before the termination. A similar rule shall apply to enterprise zone investor loss with respect to partnership interests and enterprise zone property.

"(C) LIMITATION ON ENTERPRISE ZONE INVESTOR GAIN OR LOSS.—Gain treated as enterprise zone investor gain for any taxable year shall not exceed the excess (if any) of gain that would be treated as enterprise zone investor gain for that taxable year over loss that would be treated as enterprise zone investor loss for that taxable year, each determined without application of this subparagraph. Loss treated as enterprise zone investor loss for any taxable year shall not exceed the excess (if any) of loss that would be treated as enterprise zone investor loss for that taxable year over gain that would be treated as enterprise zone for that taxable year, each determined without application of this subparagraph. For purposes of this subparagraph, except as otherwise provided in regulations, all related persons are treated as one person.

"(D) DETERMINATION OF AMOUNT OF ENTERPRISE ZONE INVESTOR GAIN FOR A HOLDING PERIOD.—If for a taxable year a taxpayer has enterprise zone investor loss and has enterprise zone investor gain for more than one holding period (each determined without regard to subparagraph (C)), the enterprise zone investor loss shall be applied against the enterprise zone investor gain with the shortest holding period to establish the holding period of any enterprise zone investor gain determined under subparagraph (C).

"(E) DETERMINATION OF HOLDING PERIOD.—The holding period for any enterprise zone stock (as so defined) shall exclude any period during which the corporation was not a qualified enterprise zone issuer.

"(c) CERTAIN TAX-FREE AND OTHER TRANSACTIONS.—For purposes of this section—

"(1) TRANSFER BY DEATH, GIFT OR CERTAIN PARTNERSHIP TRANSACTIONS.—In the case of a transferee whose basis in stock is determined under section 1014, 1015, 723 or 732 with reference to the basis of the stock in the hands of the transferor, the transferee shall be treated as having acquired the stock at the time and in the manner it was acquired by the transferor.

"(2) REORGANIZATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer who acquires stock in a transaction described in section 351 or section 368 in exchange for predecessor stock in a corporation which was a qualified enterprise zone issuer (as so defined) when the predecessor stock was acquired by the taxpayer, the taxpayer shall, to the extent appropriate, be treated as having acquired the stock at the time and in the manner the predecessor stock was acquired.

"(B) SPECIAL RULE.—Gain or loss with respect to stock treated as enterprise zone stock (as so defined) by reason of subparagraph (A) shall be treated as enterprise zone investor gain or loss only to the extent of—

"(i) the enterprise zone investor gain or loss which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time, plus

"(ii) any subsequently accruing enterprise zone investor gain or loss with respect to the stock.

"(3) OPTIONS, WARRANTS, ETC.—In the case of stock which is acquired by the taxpayer through the exercise of an applicable option or warrant or through the conversion of convertible debt, the stock shall be treated as having been acquired at original issue and as having been held during the taxpayer's holding period for the option, warrant, or convertible debt. The term 'applicable option or warrant' means a nontransferable option or warrant which was issued in exchange for the performance of services for the corporation issuing it.

"(4) CERTAIN REDEMPTIONS, EXCHANGES, ETC. DISQUALIFIED.—Stock shall not be treated as acquired by the taxpayer at its original issue if—

"(A) it is issued directly or indirectly in redemption of, or otherwise in exchange for, stock which is not enterprise zone stock (as so defined), or

"(B) it is issued in an exchange described in section 351 in exchange for property other than enterprise zone stock (as so defined), if immediately after the exchange, both the issuer and transferee of the stock are members of the same controlled group of corporations (as defined in section 1563).

"(5) REGULATORY AUTHORITY.—The Secretary shall have regulatory authority to issue regulations as necessary to carry out the purposes of this section, including the issuance price for purposes of section 1302 of convertible stock, stock acquired in a reorganization, or any other relevant transaction.

"(d) BASIS.—Amounts excluded from gross income pursuant to subsection (a)(1) shall not be applied in reduction to the basis of any property hold by the taxpayer.

**"Subpart C—General Provisions**

"Sec. 1397F. Regulations.

**"SEC. 1397F. REGULATIONS.**

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of tax enterprise zones."

**SEC. 1103. TAX ENTERPRISE ZONE BONDS.**

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended by striking "or" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(12) qualified enterprise zone facilities."

(b) DEFINITION.—Section 142 is amended by adding at the end thereof the following new subsection:

"(j) QUALIFIED ENTERPRISE ZONE FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'qualified enterprise zone facilities' means any qualified zone property (as defined in section 1397(d) (other than paragraph (3) thereof)) of a qualified enterprise zone business (as defined in section 1397(c)), and any land located within a tax enterprise zone which is an integral part of such business.

"(2) TAX ENTERPRISE ZONE.—For purposes of this subsection (and for applying sections 1397(c) and 1397(d) under paragraph (1)), the term 'tax enterprise zone' has the meaning given such term by section 1391(a), except that such term also includes any other nominated area for the 5-year period beginning with the date such area determined by the appropriate Secretary under section 1392(d)(1) to be eligible for designation as a tax enterprise zone.

"(3) USE OF PROCEEDS.—

"(A) PERIOD TO SPEND PROCEEDS.—

"(i) GENERAL RULE.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless the proceeds are spent for the governmental purpose of the issue within an 18-month period of the date of the issuance of the bond.

"(ii) EXCEPTION.—Clause (i) shall not apply to any bond if—

"(I) the issuer pays a penalty equal to 3 percent of the amount of available proceeds of the issue which is not spent for the governmental purpose of the issue as of the close of the 18-month period described in clause (i), and

"(II) the issuer redeems such bond not later than 24 months after the date of the issuance of the bond.

"(B) LIMITATION ON AMOUNT OF BONDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if, at any time, the face amount of such bond plus the aggregate face amount of any outstanding bonds issued as part of an issue described in subsection (a)(12) used or to be used with respect to any qualified enterprise zone business which is a principal user of a facility financed by the proceeds of the issue exceeds $1,000,000 (not including as outstanding any bond which is to be redeemed). For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person.

"(C) HOUSING LOANS EXCLUDED.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if any portion of the proceeds are used directly or indirectly to provide residential real property."

(b) CERTAIN RULES NOT TO APPLY.—Subsection (h) of section 147 (relating to other requirements applicable to certain private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(3) BONDS FOR QUALIFIED ENTERPRISE ZONE FACILITIES.—Subsections (c)(2) and (d) shall not apply to any bonds the proceeds of which are used to finance qualified enterprise zone facilities."

(c) VOLUME CAP ONLY CHARGED WITH 50 PERCENT OF TAX ENTERPRISE ZONE BONDS.—Subsection (g) of section 146 (relating to volume cap) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) 50 percent of any bond issued as part of an issue described in subsection 142(a)(12)."

(d) PENALTIES FOR LOANS MADE TO BUSINESSES THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES, ETC.—Subsection (b) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) TAX ENTERPRISE ZONE BONDS.—In the case of any qualified enterprise zone facility with respect to which financing was provided by an issue described in section 142(a)(12)—

"(A) NO DEDUCTION ALLOWED.—No deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) the trade or business to which the financing was provided ceases to be a qualified enterprise zone business (as defined in section 1397(c)), or

"(ii) substantially all of the use of such facility (determined in accordance with subchapter U) with respect to which the financing was provided ceases to be in a tax enterprise zone. For purposes of this subparagraph (and for applying section 1397(c) under this subparagraph), the term 'tax enterprise zone' has the meaning given such term by section 142(j)(2).

"(B) PENALTY IMPOSED ON BUSINESS.—If at any time during the 10-year period beginning on the date such financing was provided—

"(i) such facility ceases to be used in a qualified enterprise zone business (as so defined), or

"(ii) substantially all of the use of such facility ceases to be in a tax enterprise zone (as so defined),

there is hereby imposed on such business to which such financing was provided a penalty equal to 1.25 percent of so much of the face amount of all financing provided (whether or not from the same issue and whether or not such issue is outstanding) before such cessation to such business using such facility.

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a tax enterprise zone designation.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy."

(e) BANK INTEREST DEDUCTION.—

(1) IN GENERAL.—Clause (ii) of section 265(b)(3)(B) (relating to exception for certain tax-exempt obligations) is amended—

(A) by striking "or" at the end of subclause (I),

(B) by redesignating subclause (II) as subclause (III), and

(C) by inserting after subclause (I) the following new subclause:

"(II) any bond elected not to be treated as private activity under clause (iii), or".

(2) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—Section 265(b)(3)(B) is amended by adding at the end thereof the following new clause:

"(iii) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—A bond issued as part of an issue described in section 142(a)(12)) shall not be treated as a private activity bond if, on or before the date of the issue of such bond, the issuer irrevocably elects not to treat such bond as a private activity bond for purposes of clause (i)(II)."

(3) CONFORMING AMENDMENT.—Subclause (I) of section 265(b)(3)(B)(i) (defining qualified tax-exempt obligation) is amended by inserting "or is an obligation issued as part of an issue described in section 142(a)(12)" after "issues".

### SEC. 1104. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING TAX ENTERPRISE ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups), as amended by section 2148 of this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by adding at the end the following new subparagraph:

"(L) a tax enterprise zone resident."

(b) TAX ENTERPRISE ZONE RESIDENT.—Section 51(d), as so amended, is amended by adding at the end thereof the following new paragraph:

"(18) TAX ENTERPRISE ZONE RESIDENT.—

"(A) IN GENERAL.—The term 'tax enterprise zone resident' means an individual whose principal place of abode while performing services for the employer is within a tax enterprise zone (as defined in section 1391(a).

"(B) COORDINATION WITH ZONE EMPLOYMENT CREDIT.—For purposes of this paragraph, the term 'qualified wages' shall not include wages taken into account in determining the credit under section 1395."

### SEC. 1105. OTHER PROVISIONS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) EMPLOYMENT CREDIT MAY OFFSET REGULAR AND MINIMUM TAX.—

(A) REGULAR TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR EMPLOYMENT CREDIT.—

"(A) IN GENERAL.—This section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the employment credit, and

"(ii) then with respect to the employment credit.

"(B) RULES FOR APPLICATION OF EMPLOYMENT CREDIT.—

"(i) IN GENERAL.—In the case of the employment credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the employment credit).

"(C) EMPLOYMENT CREDIT.—For purposes of this paragraph, the term 'employment credit' means the credit allowable under subsection (a) by reason of section 1394, other than that portion of such credit which is treated under section 1394(d) as allowable under subpart C."

(B) MINIMUM TAX.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provisions allowing employment credit against the tax imposed by this section, see section 38(c)(3)."

(2) EXPENSING.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), is amended—

(A) in clause (i), by striking "or (ii)" and inserting "(ii), or (iii)", and

(B) by adding at the end thereof the following new clause:

"(iii) EXPENSING FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(3) ENTERPRISE ZONE INVESTOR GAIN.—

(A) IN GENERAL.—Section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new clause:

"(iii) EXCLUSION OF ENTERPRISE ZONE INVESTOR GAIN.—Clause (i) shall not apply to any amount excludable from income as enterprise zone investor gain under section 1393(a)(1), and such gain shall not be included in income for purposes of computing alternative minimum taxable income.".

(B) CONFORMING AMENDMENTS.—Sections 56(a)(1)(A)(i) and 56(g)(4)(A) (relating to adjustments in computing alternative minimum taxable income) are each amended by inserting "(as adjusted by section 168(j))" after "section 168(g)" each place it appears.

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the enterprise zone employment credit determined under section 1394(a)."

(2) Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF SECTION 1394 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the enterprise zone employment credit determined under section 1394 may be carried to a taxable year ending before the date of the enactment of section 1394."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) ACQUISITIONS.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(e) NONITEMIZERS ALLOWED DEDUCTION FOR ENTERPRISE ZONE STOCK.—Subsection (a) of section 62 is amended by adding at the end thereof the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1397B."

(f) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 1395(d) of the Internal Revenue Code of 1986 (as added by this Act) shall be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

### SEC. 1106. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR RULES.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this subtitle),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by subtitle B, and

(4) providing that State and local governments shall have at least 5 months after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

## Subtitle B—Study

### SEC. 1111. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(9), as added by subtitle A), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to conduct a study of the effectiveness of the incentives provided by subtitle A in achieving the purposes of such subtitle in tax enterprise zones.

(b) CONDUCT OF STUDY.—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) REPORTS.—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2000, a final report setting forth the findings as a result of such study.

(d) FUNDING.—There are authorized to be appropriated to carry out the study and reports described in this section, $500,000 for fiscal year 1993, and such sums as are necessary for each succeeding fiscal year.

# TITLE II—GROWTH INCENTIVES

## Subtitle A—Economic Development Provisions

## PART I—INVESTMENT IN REAL ESTATE

### Subpart A—Modification of Passive Loss Rules

### SEC. 2101. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) LOSSES FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the lesser of—

"(A) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates, or

"(B) an amount equal to the lesser of—

"(i) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

"(ii) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

"(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(4) SPECIAL RULES.—

"(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

"(5) COORDINATION WITH SUBSECTION (i).—

"(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

"(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

"(i) the passive activity loss and passive activity credit, and

"(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

## Subpart B—Provisions Relating to Real Estate Investments by Pension Funds

### SEC. 2111. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after July 28, 1992.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after July 28, 1992.

### SEC. 2112. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II). For purposes of subclause (II), interests owned by individual retirement plans (as defined in section 7701(a)(37)) shall not be taken into account.

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership years ending after July 28, 1992.

### SEC. 2113. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

### SEC. 2114. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) General Rule.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were not) in excess of 20 percent of the net selling price of the property with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property acquired on or after July 28, 1992.

### SEC. 2115. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) Loan Commitment Fees.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) Option Premiums.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) Effective Date.—The amendments made by this section shall apply to amounts received on or after July 28, 1992.

### SEC. 2116. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) General Rule.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) Treatment of trusts described in section 401(a).—

"(A) Look-thru treatment.—

"(i) In general.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) Certain related trusts not eligible.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of of e aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) Coordination with personal holding company rules.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) Treatment for purposes of unrelated business tax.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) Pension-held REIT.—The purposes of subparagraph (C)—

"(i) In general.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) Predominantly held.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) Qualified trust.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

## Subpart C—First-Time Homebuyer Credit

### SEC. 2121. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

### "SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) Allowance of Credit.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) Limitations.—

"(1) Maximum overall credit.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) Maximum first year credit.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) First-Time Homebuyer.—For purposes of this section—

"(1) In general.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) Unmarried joint owners.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) Allocation of limits.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) Certain individuals ineligible.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) Special rule for certain contracts of deed.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) Other Definitions.—For purposes of this section—

"(1) Eligibility period.—

"(A) In general.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) Binding contracts.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) Purchase.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

Notwithstanding any other provision in this Act, there shall be no requirement for State and local governments to report refunds or payments of real property taxes of State and local governments.

### Subpart D—Discharge of Indebtedness

### SEC. 2131. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of an individual, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by an individual in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before July 30, 1992, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings of paragraphs (6) and (7)(A) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

## PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

### SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993".

(c) Effective Date.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

### SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) In General.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) Conforming Amendments.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

### SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) Conforming Amendments.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

### SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) In General.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) Mortgage Credit Certificates.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) Financing Allowed for Contract of Deed Agreements.—

(1) In general.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) Exception to new mortgage requirement.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) Exception for certain contract of deed agreements.—

"(i) In general.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) Contract of deed defined.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) Adjustment to income level.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(3) Acquisition cost includes cost of land.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(d) Effective Dates.—

(1) Bonds.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) Certificates.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) Contract of deed agreements.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

### SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) In General.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

### SEC. 2146. RESEARCH CREDIT.

(a) In General.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "June 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993".

(b) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

### SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) Extension.—

(1) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "June 30, 1993".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "June 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "June 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "July 1, 1995".

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to periods ending after June 30, 1992.

(b) Modifications.—

(1) Carryforward rules.—

(A) In general.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) Conforming amendment.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-year anti-churning rule waiver expanded.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) Housing credit agency determination of reasonableness of project costs.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) Units with certain full-time students not disqualified.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) Certain students not to disqualify unit.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) Treasury waivers of certain de minimis errors and recertifications.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) Waiver of certain de minimis errors and recertifications.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) Basis of community service areas included in adjusted basis.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) Basis of property in community service areas included.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs, "(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

### SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) ALLOWANCE OF CREDIT FOR HIRING LONG-TERM UNEMPLOYED.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) LONG-TERM UNEMPLOYED.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) LONG-TERM UNEMPLOYED.—

"(A) IN GENERAL.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) EFFECTIVE PERIOD.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) CERTAIN INDIVIDUALS ELIGIBLE.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR LONG-TERM UNEMPLOYED.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) LONG-TERM UNEMPLOYED AND MINIMUM PERIOD.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

### SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

### SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

### SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

### SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subsection (f) of section 29 is amended to read as follows:

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility originally placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) SPECIAL RULE FOR CERTAIN GAS-PRODUCING FACILITIES.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of paragraph (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is originally placed in service before January 1, 1998, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'.

"(3) SPECIAL RULE FOR FACILITIES PRODUCING COKE OR COKE GAS.—This section shall not apply to a facility described in paragraph (1) which produces coke or coke gas unless—

"(A) the original use of the facility commences with the taxpayer, or

"(B) if subparagraph (A) does not apply, the taxpayer owned the facility on December 31, 1992, and at all times thereafter."

(b) LIMITATION ON CREDIT.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON GAS ELIGIBLE FOR CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) EXCEPTION FOR CERTAIN GAS.—In the case of gas produced from a tight formation or gas described in subparagraph (D)—

"(i) subparagraph (A) shall be applied by substituting '550' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for the amount in effect under subsection (a)(1) for the taxable year, except that the $2.25 amount shall not be adjusted under subsection (b)(2).

"(C) UNITIZATION AND POOLING ARRANGEMENTS FOR DEVONIAN SHALE GAS.—In the case of gas produced from Devonian shale, if—

"(i) wells are being operated under a voluntary or compulsory unitization or pooling agreement under which wells are not separately metered for sale purposes, and

"(ii) no gas from wells being operated under such agreement is fuel which is not qualified fuel,

then, for purposes of this paragraph, production for any year from each well under such agreement shall be equal to the total production from all such wells during the year divided by the number of wells actually producing gas during the year.

"(D) CERTAIN COAL SEAM GAS.—Gas described in this subparagraph is gas produced from coal seams which is captured from the de-stressed zone associated with any full-seam extraction of coal which extends above and below mined-out coal seams."

(c) OIL FROM THE BAKKEN SHALE FORMATION.—Section 29(c) is amended by adding at the end the following new paragraph:

"(4) OIL FROM THE BAKKEN SHALE FORMATION.—For purposes of this section, oil produced from shale from a conventional or nonconventional well producing from the Bakken shale formation shall be treated as a qualified fuel to the extent that the production from such well during the taxable year does not exceed 7,125 barrels."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wells drilled, and facilities placed in service, after December 31, 1992.

## PART III—OTHER INCENTIVES

### SEC. 2162. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

## Subtitle B—Better Access to Affordable Health Care

## PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

### SEC. 2171. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

### SEC. 2172. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall study and report to the Congress on the feasibility and desirability of the Secretary establishing payment rates, based upon medicare payment rules, for optional use by private health insurers. In developing the study, the Secretary shall take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(b) PROVISIONS OF STUDY AND REPORT.—The study and report shall evaluate—

(1) the appropriateness of using medicare payment rules to determine payments for services furnished to non-medicare populations (with particular emphasis on services furnished to children);

(2) the potential impact on private health insurance premiums, national health spending, and access to health care services (by medicare beneficiaries and others) of requiring health care providers and practitioners to accept such payment rates as payment in full if the optional use of such rates is available—

(A) to all private health insurance and employer health benefit plans, or

(B) only to private health insurance sold to small employers or small employer health benefit plans; and

(3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

## PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

## Subpart A—Standards and Requirements of Small Employer Health Insurance Reform

### SEC. 2173. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

### "TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

### "PART A—GENERAL STANDARDS; DEFINITIONS

### "APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (e) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a small employer on the basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) LIMITATION.—An insurer may not establish more than six distinct groups of small employers.

"(f) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(g) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—

"(A) PACKAGE DEFINED.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1993, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests; and

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colorectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.".

### Subpart B—Tax Penalty on Noncomplying Insurers

### SEC. 2174. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

### "SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) Small Employer.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) Eligible Employee.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) Person.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) Nondeductibility of Tax.—Paragraph (6) of section 275(a) (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) Clerical Amendments.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) Nondeductibility of tax.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

### Subpart C—Studies and Reports

### SEC. 2175. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) In General.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) Recommendations.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

## PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

### SEC. 2176. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) In General.—Chapter 47 (relating to taxes on group health plans), as amended by section 2221, is amended by adding at the end thereof the following new section:

### "SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) General Rule.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f),

with respect to any covered individual.

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) Noncompliance period.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) Correction.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) Limitations on Amount of Tax.—

"(1) Tax not to apply where failure not discovered exercising reasonable diligence.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) Tax not to apply to failures corrected within 30 days.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) Liability for Tax.—

"(1) In general.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) Special rules for persons described in paragraph (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) No Discrimination Based on Health Status for Certain Services.—

"(1) In general.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) Treatment of preexisting condition exclusions for all services.—

"(A) In general.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) Crediting of previous coverage.—

"(i) In general.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) Definitions.—As used in this subparagraph:

"(I) Period of continuous coverage.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

## PART IV—HEALTH CARE COST CONTAINMENT

### SEC. 2177. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this subtitle referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with nationally recognized expertise in health insurance, health economics, health care provider reimbursement, and related fields. The President shall provide for appointment of individuals to the Commission within 6 months of the date of enactment of this Act and in appointing such individuals to the Commission, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

(b) TERMS.—

(1) CHAIRMAN.—The term of the Chairman shall be coincident with the term of the President.

(2) OTHER MEMBERS OF THE COMMISSION.—Except as provided in paragraph (1), members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year.

(3) VACANCIES.—Individuals appointed to fill a vacancy created in the Commission shall be appointed only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also analyze and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) NATIONAL UNIFORM CLAIMS FORMS AND REPORTING STANDARDS.—

(A) IN GENERAL.—As part of its first annual report, the Commission shall, taking into account recommendations by the Secretary of Health and Human Services, recommend—

(i) a national uniform claims form for use by health care providers and individuals in submitting claims to private health insurers and the medicare and medicaid programs;

(ii) national standards for reporting of insurance information including coverage benefits, copayments, and deductibles;

(iii) national standards for uniform reporting by health care providers of information including clinical diagnoses, services provided, and costs of services; and

(iv) a strategy and schedule for implementing national use of such claims forms and reporting standards by January 1, 1996.

(B) RELEVANT FACTORS.—In developing its recommendations, the Commission shall consider—

(i) the potential use of electronic cards or other technology that allows expedited access to medical records, insurance, and billing information;

(ii) the need for patient confidentiality; and

(iii) special implementation issues including those concerning providers in rural and inner-city areas.

(C) REPORT.—The Commission shall report annually and make recommendations with respect to—

(i) the progress made toward national implementation of uniform claims forms and reporting standards; and

(ii) other approaches to minimize the impact of administrative costs on national health spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

### SEC. 2178. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

### "PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

### "FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) RELATIONSHIP TO MEDICAID PROGRAM.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

### SEC. 2179. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993;

"(C) $275,000,000 for fiscal year 1994; and

"(D) $300,000,000 for fiscal year 1995."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

## PART V—MEDICARE PREVENTION BENEFITS

### SEC. 2180. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A), by striking "and, subject to section 4071 of the Omnibus Budget Reconciliation Act of 1987, influenza vaccine and its administration; and" and inserting a comma; and

(2) by adding at the end the following new subparagraphs:

"(C) influenza vaccine and its administration, and

"(D) tetanus-diphtheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(G) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by striking "and paragraph (1)(B) or under paragraph (1)(F)" and inserting "or under subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines administered on or after October 1, 1992, and tetanus-diphtheria boosters administered on or after January 1, 1993.

### SEC. 2181. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 2261(b), is amended—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2261(c), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1993.

### SEC. 2182. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy.

(4) Screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Prostate-specific antigen (PSA) testing.

(7) Other services considered appropriate by the Secretary.

Not more than one such service shall be covered at each site.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1994, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1993.

(2) $4,000,000 for fiscal year 1994.

(3) $5,000,000 for fiscal year 1995.

(4) $5,000,000 for fiscal year 1996.

(5) $6,000,000 for fiscal year 1997.

### SEC. 2183. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

### SEC. 2184. FINANCING OF ADDITIONAL BENEFITS.

(a) PREMIUMS FOR 1993–1995.—Section 1839(e)(1)(B) of the Social Security Act (42 U.S.C. 1395r(e)(1)(B)) is amended—

(1) in clause (iii) by striking "$36.60" and inserting "$36.70",

(2) in clause (iv) by striking "$41.10" and inserting "$41.20", and

(3) in clause (v) by striking "$46.10" and inserting "$46.20".

(b) PREMIUMS FOR 1996–1997.—(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Except as provided in subsections (b) and (f), the monthly premium otherwise determined, without regard to this subsection, for each individual enrolled under this part shall be increased by 10 cents for each month in 1996 and 1997.".

(2) Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (e), and (g)",

(B) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)", and

(C) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

### SEC. 2185. TREATMENT OF SEVERE MENTAL ILLNESS.

(a) IN GENERAL.—Notwithstanding any other provision of title XXI of the Social Security Act, the standard health benefit package defined in such title shall cover items and services for the treatment of severe mental illness, as defined by the Secretary of Health and Human Services, equally with items and services covered for the treatment of other illness and without regard to any special limitations placed on mental health benefits.

(b) COST NEUTRAL.—If the Secretary of Health and Human Services finds that the enactment of subsection (a) would increase the cost of a standard benefit package, the Secretary shall revise the provisions of such package, as amended, so that such package is no more costly than if subsection (a) had not been enacted.

## Subtitle C—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used In Noncommercial Boats

### SEC. 2201. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

### "Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

### "SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

### "SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section

4052(b) shall apply for purposes of this subchapter.

**"SEC. 4003. SPECIAL RULES.**

"(a) Separate Purchase of Vehicle and Parts and Accessories Therefor.—Under regulations prescribed by the Secretary—

"(1) In general.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) Limitation.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) Exceptions.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

."(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) Installers secondarily liable for tax.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) Imposition of Tax on Sales, Etc., Within 2 Years of Vehicles Purchased Tax-Free.—

"(1) In general.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) Exempt use.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) Parts and Accessories Sold With Taxable Article.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) Partial Payments, Etc.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) Conforming Amendments.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) Technical Amendments.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect before the date described in subsection (d)(1), is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(d) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on January 1, 1992.

(2) Indexing for inflation.—Subsection (e) of section 4001 of the Internal Revenue Code of 1986 (relating to inflation adjustment), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) purchased on or after July 1, 1992.

(3) Demonstrator vehicles.—Subsection (b)(3) of section 4002 of the Internal Revenue Code of 1986 (relating to exemption for demonstration use), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) the use of which begins on or after July 1, 1992.

(4) Certain equipment for use by disabled individuals.—The amendments made by subsection (c) shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

### SEC. 2202. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) General Rule.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) Exemption for Use In Fisheries or Commercial Navigation.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) Uses in boats.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat employed in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation."

(c) Retention of Taxes in General Fund.—

(1) Taxes imposed at highway trust fund financing rate.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) Taxes imposed at leaking underground storage tank trust fund financing rate.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following flush sentence:

"For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 1992, and before October 1, 1997.

## Subtitle D—Penalty-Free Distributions of Retirement Savings

### SEC. 2301. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE LONG-TERM UNEMPLOYED.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) Distributions from certain plans for first home purchases or educational expenses.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) Financially Devastating Medical Expenses.—

(1) In general.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) Certain lineal descendants and ancestors treated as dependents.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and "(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1992.

### SEC. 2302. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t) is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL RULE FOR ROLLOVERS.—

"(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c) applied.

"(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1993.

## TITLE III—OFFSETTING REVENUE INCREASES

### Subtitle A—General Provisions

### SEC. 3001. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

**"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.**

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired—

"(i) by a floor specialist (as defined in section 1236(d)(2)) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

"(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

"(I) the security is included on the National Association of Security Dealers Automated Quotation System,

"(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

"(III) as of the last day of the taxable year, the taxpayer has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date), and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(D) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in its capacity as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

**SEC. 3002. INDIVIDUAL ESTIMATED TAX PROVISIONS.**

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "120 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 6654(i)(1) is amended by striking "and without regard to subparagraph (C) of subsection (d)(1)".

(2) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

**SEC. 3003. CORPORATE ESTIMATED TAX PROVISIONS.**

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

| "In the case of the following required installments: | The applicable percentage is: |
|---|---|
| 1st | 25 |
| 2nd | 50 |
| 3rd | 75 |
| 4th | 100." |

(B) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

### SEC. 3004. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed, no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after October 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after October 1, 1992, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after October 1, 1992, regardless of the taxable period to which such refund relates.

### SEC. 3005. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by the treatment of FSLIC assistance credited before such date in a manner other than the manner described in subsection (a). All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

### SEC. 3006. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

### SEC. 3007. REPEAL OF SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.

(a) IN GENERAL.—Subsection (g) of section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacations homes, etc.) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing such de minimis rules as the Secretary may deem appropriate."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 3008. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property ..... 40 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after July 28, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before July 28, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before July 28, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

### SEC. 3009. INFORMATION REPORTING OF REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more, shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E is amended to read as follows:

**"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."**

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1993.

### SEC. 3010. MODIFICATIONS TO DEDUCTIONS FOR CERTAIN MOVING EXPENSES.

(a) IN GENERAL.—

(1) RESIDENCE SALE, PURCHASE, OR LEASE EXPENSES.—Section 217(b)(1) (defining moving expenses) is amended—

(A) by striking subparagraph (E),

(B) by striking ", or" at the end of subparagraph (D) and inserting a period, and

(C) by inserting "or" at the end of subparagraph (C).

(2) MEAL EXPENSES.—Section 217(b)(1) is amended—

(A) by striking "meals and" in subparagraphs (B) and (C), and

(B) by striking "of meals and lodging" in subparagraph (D) and inserting "of lodging (but not meals)".

(b) CONFORMING AMENDMENTS.—

(1) Section 217(b) (defining moving expenses) is amended—

(A) by striking paragraph (2),

(B) by striking the second sentence in paragraph (3)(A), and

(C) by striking ", and by substituting '$1,500' for '$3,000' " in paragraph (3)(B).

(2) Section 217 is amended by striking subsection (e).

(3) Section 217(h) (relating to special rules for foreign moves) is amended—

(A) by striking "and by substituting '$6,000' for '$3,000' " in paragraph (1)(B), and

(B) by striking ", and by substituting '$3,000' for '$6,000' " in paragraph (1)(C).

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

### SEC. 3011. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired."

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(h) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

### SEC. 3012. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

### SEC. 3013. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTION TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

**"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.**

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution, had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) Partnership's basis in contributed property.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) Exceptions.—

"(1) Distributions of previously contributed property.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) Coordination with section 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) Technical Amendments.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) Effective Date.—The amendments made by this section shall apply to distributions on or after June 25, 1992.

### SEC. 3014. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) In General.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) Travel expenses of spouse, dependent, or others.—No deduction shall be allowed under this chapter for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1992.

### SEC. 3015. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) In General.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) Additional base tax amount.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following table for such calendar year:

| "For calendar year: | The base tax amount is increased by: |
|---|---|
| 1992 | $0.15 |
| 1993 | 0.25 |
| 1994 | 0.35 |
| 1995 and each calendar year thereafter | 0.45." |

(b) Treatment of Certain Halons.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

| *"In the case of:* | *The applicable percentage is:* | |
|---|---|---|
| | *For sales or use during 1992* | *For sales or use during 1993* |
| *Halon-1211* | *4.58* | *2.78* |
| *Halon-1301* | *1.38* | *0.83* |
| *Halon-2404* | *2.29* | *1.39".* |

(c) Rates Retained for Chemicals Used in Rigid Foam Insulation.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.76", and

(B) by striking "10" and inserting "8.33".

(d) Chemicals Used for Sterilizing Medical Devices.—

(1) In general.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) Chemicals used for sterilizing medical devices.—

"(A) Rate of tax.—

"(i) In general.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed:

| "In the case of sales or use during: | The applicable percentage is: |
|---|---|
| 1992 | 91.76 |
| 1993 | 55.67. |

"(ii) Qualified sale.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance described in clause (i)—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) Overpayments.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, over

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(e) Floor Stock Taxes.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the succeeding calendar year, respectively," after "such year".

(f) Effective Date.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

## Subtitle B—Extension of Existing Provisions

### SEC. 3101. EXTENSION OF TOP ESTATE AND GIFT TAX RATES.

(a) General Rule.—

(1) Subparagraph (A) of section 2001(c)(2) (relating to rate schedule) is amended by striking "1993" and inserting "1998".

(2) Subparagraph (D) of section 2001(c)(2) is amended by striking "1993" each place it appears (including in the subparagraph heading) and inserting "1998".

(3) Paragraph (3) of section 2001(c) is amended by striking "1992" and inserting "1997".

(b) Effective Date.—The amendments made by subsection (a) shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

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## BENTSEN (AND OTHERS) AMENDMENT NO. 3182

Mr. BENTSEN (for himself, Mr. Dole, Mr. Mitchell, Mr. Chafee, Mr. Durenberger, Mr. Warner, Mr. Grassley, Mr. Pressler, Mr. Packwood, and Mr. Specter) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

### SEC. . EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking "September 30, 1993" and inserting "June 15, 1994".

(b) Conforming Amendment.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991, as amended by section 2143(e), is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting "June 16, 1994".

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## BUMPERS (AND OTHERS) AMENDMENT NO. 3183

Mr. BUMPERS (for himself, Mr. Brown, Mr. Kerry, Mr. Mack, Mr. Kohl, Mr. Dodd, Mr. Hollings, Mr. Bingaman, Mr. Dixon, Ms. Mikulski, Mr. Sanford, Mr. Sasser, Mr. Glenn, Mr. Nunn, Mr. Lieberman, Mr. Chafee, Mr. BENTSEN, and Mr. WELLSTONE) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 948, strike line 2 and insert the following: "such paragraph (1)."

### SEC. 2163. EXCLUSION FOR SEED CAPITAL GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

### "SEC. 1202. EXCLUSION FOR SEED CAPITAL GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—Gross income for taxpayers other than corporations shall not include an amount equal to the sum determined by applying the applicable percentages to the appropriate categories of gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) SEED CAPITAL GAIN.—For purposes of this section—

"(1) APPLICABLE PERCENTAGE.—The applicable percentage shall be computed as follows:

| "In the case of: | The applicable percentage is: |
|---|---|
| 5-year gain | 50 |
| 6-year gain | 60 |
| 7-year gain | 70 |
| 8-year gain | 80 |
| 9-year gain | 90 |
| 10-year gain | 100. |

"(2) CATEGORIES OF GAIN.—

"(A) 10-YEAR GAIN.—The term '10-year gain' means gain determined by taking into account only gain or loss from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean the gain determined by taking into account only gain from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(3) SPECIAL RULE FOR ENTERPRISE STOCK.—Solely for purposes of this section, in determining gain (but not loss) from the sale or exchange of qualified small business stock which is enterprise zone stock (within the meaning of section 1397B(c)), the basis of such stock shall be determined without regard to section 1397B(e)(1).

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after the date of the enactment of this section, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (e) and (f), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of this section, and before the issuance did not exceed $5,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $5,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (e)(4)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(e) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) startup activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4), such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC,

"(vi) any cooperative, and

"(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business (other than the business of raising or harvesting trees),

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

59-059 O—97 Vol. 138 (Pt. 19) 32

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) EXCEPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.—This subsection shall not apply to any small business investment company described in section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 682).

"(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) from a partnership to a partner of stock with respect to which the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding requirement), or

"(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (g) are met with respect to the stock.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(i) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise.

"(k) APPLICATION OF TAX INCENTIVE TO CURRENT STOCK HOLDINGS OF INVESTORS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer holds any stock on any date on or after the date of the enactment of this section which, at the time it was issued, would be treated as qualified small business stock without regard to the time it was issued, and

"(B) the value of such stock on such date exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain from such sale shall be treated as received or accrued (and the holding period of the reacquired stock shall be treated as beginning) on such date. For purposes of applying this section, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of subsection (a)(1) that the stock must have been issued after the date of the enactment of this section, shall not apply.

"(2) ELECTION.—An election under paragraph (1) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to a net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. Exclusion for seed capital gain from certain small business stock."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued six months after the date of the enactment of this Act.

### SEC. 2164. MODIFICATIONS TO DEDUCTION FOR MOVING EXPENSES.

(a) DOLLAR LIMITATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) DOLLAR LIMITS.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $19,000. The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500.

"(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$9,500' for '$19,000' and by substituting '$750' for '$1,500'."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 217(h) is amended by inserting "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(3)(A) shall be applied as if it did not contain the last sentence thereof."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.".

## REID (AND GRAHAM) AMENDMENT NO. 3184

Mr. REID (for himself and Mr. GRAHAM) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert:

**SEC. . TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.**

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by striking subsection (b) and inserting the following new subsections:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) DEFINITIONS.—For purposes of this section—

"(A) CONTRIBUTIONS IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5)."

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"Water utility property .... 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and

"(B) which, without regard to this paragraph, would be 20-year property."

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 1992, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

## GRAHAM (AND OTHERS) AMENDMENT NO. 3185

Mr. GRAHAM (for himself, Mr. MACK, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

**SEC. . NO DEDUCTION ALLOWABLE AGAINST CUBAN SOURCE SUBPART F INCOME.**

(a) IN GENERAL.—Section 952 (defining subpart F income) is amended by adding at the end the following new subsection:

(d) NO DEDUCTIONS ALLOWED AGAINST CUBAN SOURCE INCOME.—

(1) IN GENERAL.—No reduction shall be made under the last sentence of subsection (a) for any deductions allocable to income described in subsection (a)(5) which is Cuban source income.

"(2) CUBAN SOURCE INCOME.—For purposes of paragraph (1), Cuban source income shall be determined under the sourcing rules generally applicable under this title, except that Cuban source income shall include income from the sale of goods or services if—

"(A) the goods sold are ultimately delivered for use in Cuba or if the services are performed in Cuba, or

"(B) any portion of the value of the goods sold was added in Cuba or if Cuban residents or citizens performed the services."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

## STEVENS (AND MURKOWSKI) AMENDMENT NO. 3186

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 11, supra, as follows:

In section 8211 of the pending committee substitute, after subsection (b) insert the following new subsections:

"(c) DISCHARGES OF INDEBTEDNESS UNDER CERTAIN STUDENT LOANS.—

(1) IN GENERAL.—Paragraph (1) of section 108(f) of the Internal Revenue Code of 1986 (relating to student loans) is amended—

(1) by inserting "(A)" after "discharged", and

(2) by inserting before the period at the end the following: ", or (B) in the case of a loan made by a State (or from funds provided by a State) which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made".

(d) EFFECTIVE DATE; WAIVER OF STATUTE OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by subsection (c) shall apply to discharges of indebtedness made on or after January 1, 1987.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendment made by subsection (c) shall not expire before the date which is 1 year after the date of the enactment of this Act; and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendment made by subsection (c) is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendment made by subsection (c) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

## RIEGLE (AND OTHERS) AMENDMENT NO. 3187

Mr. RIEGLE (for himself, Mr. Kennedy, Mr. Sasser, Mr. Mitchell, Mr. Biden, Mr. Kerry, Mr. Sarbanes, and Mr. Wofford) proposed an amendment to the bill H.R. 11 supra, as follows:

RIEGLE (AND OTHERS) AMENDMENT NO. 3187

Mr. RIEGLE (for himself, Mr. KENNEDY, Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, Mr. KERRY, Mr. SARBANES, and Mr. WOFFORD) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 874, line 14, strike out "study" and all that follows through line 16, and inserting in lieu thereof the following: "study of the relative effectiveness of the incentives provided in subtitle A of title I and the assistance provided by subtitle B of title ____ in achieving the purposes of such subtitles in tax enterprise zones.".

At the appropriate place, insert the following new title:

### TITLE ____—AUTHORIZATION FOR ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

### Subtitle A—National Public-Private Partnership Programs

**SEC. ____11. NATIONAL PUBLIC-PRIVATE PARTNERSHIP PROGRAMS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that public-private partnerships between government and community-based organizations offer an opportunity to empower residents of low-income distressed communities and to forge innovative solutions to the challenges confronting these communities, and that increased resources should be invested in such partnerships.

(b) AUTHORIZATION OF APPROPRIATIONS.—To promote national public-private partnerships, there are authorized to be appropriated—

(1) with respect to the Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.)—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(2) with respect to the community health centers program under sections 329 and 330 of the Public Health Service Act (42 U.S.C. 254c)—

(A) $20,000,000 for fiscal year 1993;
(B) $21,000,000 for fiscal year 1994;
(C) $22,000,000 for fiscal year 1995;
(D) $23,000,000 for fiscal year 1996;
(E) $24,000,000 for fiscal year 1997;
(F) $26,000,000 for fiscal year 1998;
(G) $27,000,000 for fiscal year 1999;
(H) $28,000,000 for fiscal year 2000;
(I) $30,000,000 for fiscal year 2001; and
(J) $31,000,000 for fiscal year 2002;

(3) with respect to the National Community Economic Partnership program established under section ____34—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(4) with respect to the Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.)—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(5) with respect to the Enterprise Capital Access Fund Demonstration Program established under section ____35—

(A) $25,000,000 for fiscal year 1993;
(B) $26,000,000 for fiscal year 1994;
(C) $28,000,000 for fiscal year 1995;
(D) $29,000,000 for fiscal year 1996;
(E) $30,000,000 for fiscal year 1997;
(F) $32,000,000 for fiscal year 1998;
(G) $34,000,000 for fiscal year 1999;
(H) $35,000,000 for fiscal year 2000;
(I) $37,000,000 for fiscal year 2001; and
(J) $39,000,000 for fiscal year 2002;

(6) with respect to the Youthbuild program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act—

(A) $15,000,000 for fiscal year 1993;
(B) $16,000,000 for fiscal year 1994;
(C) $17,000,000 for fiscal year 1995;
(D) $17,000,000 for fiscal year 1996;
(E) $18,000,000 for fiscal year 1997;
(F) $19,000,000 for fiscal year 1998;
(G) $20,000,000 for fiscal year 1999;
(H) $21,000,000 for fiscal year 2000;
(I) $22,000,000 for fiscal year 2001; and
(J) $23,000,000 for fiscal year 2002;

(7) with respect to the Neighborhood Reinvestment Corporation established under title VI of the Housing and Community Development Act of 1978—

(A) $10,000,000 for fiscal year 1993;
(B) $11,000,000 for fiscal year 1994;
(C) $11,000,000 for fiscal year 1995;
(D) $12,000,000 for fiscal year 1996;
(E) $12,000,000 for fiscal year 1997;
(F) $13,000,000 for fiscal year 1998;
(G) $13,000,000 for fiscal year 1999;
(H) $14,000,000 for fiscal year 2000;
(I) $15,000,000 for fiscal year 2001; and
(J) $16,000,000 for fiscal year 2002; and

(8) with respect to projects for high risk youth under section 517 of the Public Health Service Act (as amended by the ADAMHA Reorganization Act)—

(A) $10,000,000 for fiscal year 1993;
(B) $11,000,000 for fiscal year 1994;
(C) $11,000,000 for fiscal year 1995;
(D) $12,000,000 for fiscal year 1996;
(E) $12,000,000 for fiscal year 1997;
(F) $13,000,000 for fiscal year 1998;
(G) $13,000,000 for fiscal year 1999;
(H) $14,000,000 for fiscal year 2000;
(I) $15,000,000 for fiscal year 2001; and
(J) $16,000,000 for fiscal year 2002.

### Subtitle B—Block Grant Funding for Eligible Programs

**SEC. ____21. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for assistance under section ____22(a), $300,000,000 for fiscal year 1993, $530,000,000 for fiscal year 1994, $820,000,000 for fiscal year 1995, $1,108,000,000 for fiscal year 1996, $1,397,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002, except that amounts authorized under this subsection for each of the fiscal years 1998 through 2002 shall not be less than the amount of the revenue loss estimates to result as a result of enterprise zone tax preferences under section 1391 of the Internal Revenue code of 1986 less the amounts authorized by section ____11(b).

**SEC. ____22. ALLOCATION OF AMOUNTS AMONG TAX ENTERPRISE ZONES.**

(a) IN GENERAL.—The interagency council established under section ____26 of this Act shall make any amounts appropriated pursuant to section ____21(a) available under this subtitle to provide assistance on behalf of each tax enterprise zone designated under section 1391 of the Internal Revenue Code of 1986 for which an application under section ____25 of this Act has been approved by the interagency council. Such appropriated amounts shall be distributed among approved applications based on the number of persons of low-income (as defined in section 102(a)(20)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20)(A)) residing within the zones covered by such applications.

(b) FISCAL YEAR 1993.—The amount of assistance provided under this section on behalf of a given tax enterprise zone in fiscal year 1993 shall be the amount determined by multiplying the total amount appropriated for the fiscal year pursuant to section ____21(a) by the fraction that represents the number of persons of low-income (as defined in section 102(a)(20)(A) of the Housing and Community Development Act (42 5302(a)(20)(A))) residing within the zone divided by the number of such persons residing in all the tax enterprise zones that are designated under section 1391 of the Internal Revenue Code of 1986 in calendar year 1993.

(c) FISCAL YEARS 1994 TO 1997.—The interagency council shall provide for the allocation of amounts made available for each of the fiscal years 1994 through 2001 pursuant to section ____21(a) so that the amount provided under this subtitle in any of the fiscal years 1994 through 2001 on behalf of any designated tax enterprise zone is, to the extent possible, proportional to the relative share of persons of low-income (as defined in section 102(a)(20)(A) of the Housing and Community Development Act (42 U.S.C. 5302(a)(20)(A))) residing within the zone. In determining the amount to be provided under this paragraph, the interagency council shall take into consideration the total number of tax enterprise zones to be designated in such fiscal years, the number of years that such designations shall be in effect, the sum of such amounts appropriated for such fiscal years, the number of persons of low-income (as defined in section 102(a)(20)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20)(A))) residing within the zone, and the period during which such amounts will remain available.

**SEC. ____23. USE OF AMOUNTS.**

(a) IN GENERAL.—The assistance allocated under section ____22 on behalf of each tax enterprise zone (as defined in section ____27) shall be available only for carrying out selected programs within the tax enterprise zone, in accordance with the application of the tax enterprise zone approved under section ____25 and subject to the provisions of this section.

(b) ALLOCATION AMONG PROGRAM CATEGORIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the total amount of assistance provided under this subtitle on behalf of a tax enterprise zone for any fiscal year, the sum of the amounts used to carry out selected programs referred to under any one of paragraphs (1) through (5) of section ____24 may not exceed 20 percent of such total amount.

(2) WAIVER OF CAPS.—Pursuant to a request contained in an application under section ____25, the interagency council may provide that the requirement under paragraph (1) shall not apply with respect to amounts used to carry out selected programs under the application, except that of the total amount of assistance provided under this subtitle on behalf of such tax enterprise zone for any fiscal year, the sum of the amounts used to carry out selected programs referred to under any single paragraph under section ____24 may not exceed 40 percent of such total amount and may not be less than 5 percent of such total amount.

(c) ALLOCATION AMONG JOB TRAINING PROGRAMS.—In any fiscal year, of the sum of the amounts of assistance provided under this subtitle on behalf of a tax enterprise zone that are used to carry out any of the job training programs under section ____24(2), not less than 25 percent shall be used for assistance under the Young Adult Employment Demonstration program referred to in section ____24(2)(A) of this Act.

(d) PROVISION OF ASSISTANCE.—Upon the approval of an application under section ____25 for a tax enterprise zone, the appropriate Federal agency head for each selected program under the approved application shall make available on behalf of the enterprise zone (under such program and through the appropriate eligible entity), from amounts available on behalf of such zone pursuant to section ____22, the amount of assistance determined in accordance with the approved application, notwithstanding any other procedure or timetable for making available other funding under the selected programs. The availability of such assistance shall be subject to any laws and regulations applicable to such program.

(e) SUPPLEMENTATION REQUIREMENT.—Any amounts provided under this subtitle shall be in supplement to, and shall not supplant, any Federal, State, local, or private funds from other sources already used, or committed for use, for programs, projects, activities, and services assisted under this subtitle or comparable to such programs, projects, activities, and services. Federal agency heads shall not reduce the usual allocations with respect to any jurisdiction under any of the eligible programs described in section ____24 because such jurisdiction allocates funds under this title to any of such programs.

**SEC. ____24. ELIGIBLE PROGRAMS.**

Assistance may be provided under this subtitle for carrying out the following activities, projects, and programs:

(1) CRIME AND CRIMINAL JUSTICE.—

(A) Community policing projects and activities under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.), but only if the Community Policing; Cop on the Beat Act of 1991 is not enacted by November 1, 1992. If the Community Policing; Cop on the Beat Act of 1991 is enacted prior to November 1, 1992, funds under this subtitle shall be available through the Community Policing; Cop on the Beat Act of 1991.

(B) Chapter B of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(C) Projects and activities under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) but only if the Juvenile Justice and Delinquency Act of 1974 is not amended to provide for Juvenile Drug Trafficking Grants and Gang Prevention Grants prior to November 1, 1992. If the Juvenile Justice and Delinquency Act of 1974 is so amended prior to such date, funds under this subtitle shall be made available through the Juvenile Drug Trafficking Grants and Gang Prevention Grants.

(2) JOB TRAINING.—

(A) The Young Adult Employment Demonstration program under part H of title IV of the Job Training Partnership Act (as added by section ____33 of this Act).

(B) The Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

(C) Title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(D) The American Conservation and Youth Corps program under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12541 et seq.).

(E) The YouthBuild Program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (as added by section ____36 of this Act).

(F) The Community Services Block Grant (42 U.S.C. 9901-9912).

(G) The community job opportunity demonstration program under part I of title IV of the Job Training Partnership Act (as added by section ____37).

(H) The Access to Jobs/Reverse Commuting Demonstration Program established under section ____38.

(3) EDUCATION.—

(A) The programs under the Head Start Act (42 U.S.C. 9831 et seq.).

(B) Projects under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.).

(C) Activities under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

(D) The programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(E) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(4) HEALTH, NUTRITION AND FAMILY ASSISTANCE.—

(A) The special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966.

(B) The following programs under the Public Health Service Act (42 U.S.C. 201 et seq.):

(i) Community health centers.

(ii) Capacity expansion of substance abuse treatment facilities.

(iii) Substance abuse treatment for individuals under criminal justice supervision.

(iv) Substance abuse treatment for pregnant and postpartum women.

(v) Community prevention grants regarding substance abuse.

(vi) Substance abuse treatment improvement grants.

(C) The programs under title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.)

(D) The family support programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

(5) HOUSING AND COMMUNITY DEVELOPMENT.—

(A) The community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(B) The public and Indian housing modernization program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371).

(C) The public and assisted housing drug elimination program under chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.).

(D) Contracts for rental assistance attached to structures pursuant to paragraph (2) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(E) The HOME investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.).

(F) The self-help housing technical assistance grant program under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(G) Rural housing preservation grants under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(H) Rural rental housing loans under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(I) Rural rental housing assistance payments under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a).

(J) Rural water and waste disposal grants pursuant to paragraphs (2) and (6) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)).

(K) Private business enterprise grants under section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926).

(L) Grants under the National Community Economic Partnership Act authorized in section ____34 of this Act.

(M) Grants under the enterprise capital access fund demonstration program authorized in section ____35 of this Act.

(N) The Neighborhood Reinvestment Corporation under title VI of the Housing and Community Development Act of 1978.

**SEC. ____25. APPLICATION FOR FUNDING.**

(a) ESTABLISHMENT OF APPLICATION PROCESS.—The interagency council shall establish, by regulation, a procedure for a single comprehensive application to be submitted to the council for each tax enterprise zone designated under section 1391 of the Internal Revenue Code of 1986 for the purpose of making amounts available under this subtitle on behalf of such tax enterprise zones. The interagency council shall provide for the form and manner of such applications, and shall require the applications to be made by the State, unit of local government, or economic development agency chartered by the State that submitted the nomination for designation of the area designated as a tax enterprise zone and submitted promptly after such designation.

(b) LOCAL COORDINATION.—

(1) PURPOSES.—The interagency council shall provide that each application under this section shall be developed in coordination and consultation with a local coordinat-

ing board under paragraph (2), which shall ensure that the programs, projects, activities, and services under section ____24(1) carried out with amounts provided under this subtitle are sufficiently coordinated with the other programs, projects, activities, and services assisted under this subtitle, and that all such programs, projects, activities, and services are coordinated with law enforcement efforts within the area nominated for designation as a tax enterprise zone.

(2) MEMBERSHIP.—The local coordinating board referred to in paragraph (1) shall include representatives of units of local government within such area, representatives of law enforcement agencies having jurisdiction within such area, residents of the area, community leaders, including local business persons, bankers, architects and planners, representatives of school boards, and representatives of nonprofit community-based organizations such as community development corporations and community action agencies.

(c) CONTENTS.—Each application under the procedure established under this section shall contain the following information:

(1) A list of the programs referred to under section ____24 for which funding is requested and a general description of the types of activities to be carried out with such assistance.

(2) A statement documenting the percentage of the total amount of any funding received under this subtitle that will be used for each selected program.

(3) A statement documenting the entities that will receive any assistance provided for the selected programs on behalf of the tax enterprise zone and the entities' eligibility for such assistance.

(4) A statement documenting the membership of the local coordinating board organized pursuant to the requirement under subsection (b) and describing the coordination between the programs, projects, activities, and services assisted under this title and local law enforcement efforts in the tax enterprise zone.

(5) A request for any waiver of the requirement under section ____23(b)(1) and a statement documenting the rationale for such waiver.

(6) A statement documenting any other Federal, State, and local resources for the community in which the tax enterprise zone is located that will be dedicated to the types of programs, projects, activities, and services to be assisted under this subtitle.

(7) A statement documenting a strong commitment by community-based organizations in the tax enterprise zone for carrying out the selected programs and similar programs, projects, activities, and services.

(8) A statement documenting any private sector resources, including corporate contributions and individual commitments, to supplement assistance provided under this subtitle.

(9) A statement documenting the efforts made by the local jurisdiction containing the tax enterprise zone to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to enterprise zone businesses with emphasis on startup and other small business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the commitments made by local financial institutions in response to these efforts.

(10) A statement demonstrating a balanced, comprehensive plan for the tax enterprise zone, that addresses removing violent offenders from the neighborhood streets, supports drug and crime prevention, improves health, education and other social services, and promotes neighborhood revitalization through strategies to create jobs and other economic opportunities which assist families to become self sufficient. Such strategies shall include improvements in infrastructure, public facilities, and affordable housing opportunities embodying good urban design and neighborhood planning principles that contribute to the creation of wholesome and attractive social, economic, and physical environments.

(11) A statement demonstrating that any amounts requested for selected programs are part of an integrated and comprehensive plan for the use of Federal, State, local, and private resources to accomplish specific goals and measurable outcomes for neighborhood revitalization.

(d) REVIEW.—In reviewing each application submitted under this section, each member of the council shall review the portion of the application concerning any request or eligibility for assistance under any selected program under the jurisdiction of such member to determine whether providing assistance under this subtitle pursuant to such application will comply with the laws and regulations applicable to such program.

(e) APPROVAL AND DISAPPROVAL.—

(1) TIMING.—The council shall review each application promptly upon receipt and shall approve or disapprove the application not later than the expiration of the 30-day period beginning upon such receipt.

(2) STANDARDS FOR APPROVAL.— The council shall approve an application if the council determines that the assistance requested for the selected programs under the application will assist in the economic development of the tax enterprise zone, that the eligible entities identified in the application are capable and qualified to receive and administer the assistance pursuant to the application, and that the information, documentation, or evidence required under subsection (c) is sufficient in the determination of the council.

(3) DISAPPROVAL AND RESUBMISSION.—If, pursuant to review under this section, the council determines that the application of a tax enterprise zone is incomplete or unsatisfactory, the council shall, before the expiration of the period referred to in paragraph (1)—

(A) notify the entity submitting the application of the reasons for the failure to approve the application;

(B) notify the entity submitting the application that the application may be resubmitted during the period referred to in subparagraph (C); and

(C) permit such entity to resubmit a corrected or amended application during the 30-day period beginning on notification under this paragraph.

(4) REVIEW OF RESUBMITTED APPLICATION.— The council shall review and approve or disapprove any application resubmitted under paragraph (3) before the expiration of the 15-day period beginning upon such resubmission. Any application resubmitted under paragraph (3) that is disapproved may be resubmitted before the expiration of the 15-day period beginning upon such disapproval and shall be subject to review under the provisions of this paragraph.

(f) PUBLIC COMMENT.—An applicant under this section, in conjunction with the relevant local coordinating board, shall ensure that there are adequate opportunities for public comment concerning the application submitted under this section, including—

(1) furnishing citizens with information concerning the amount of funds available pursuant to this subtitle and the range of activities that may be undertaken with such funds;

(2) holding one or more public hearings to obtain the views of citizens on community needs; and

(3) providing citizens with reasonable access to any application filed pursuant to this section and to records regarding the use of funds received pursuant to this subtitle.

**SEC. ____26. INTERAGENCY COUNCIL.**

(a) ESTABLISHMENT.—There is hereby established an interagency council to provide assistance under this subtitle.

(b) MEMBERSHIP.—The members of the council shall be the Secretary of Agriculture, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Director of the Office of National Drug Control Policy, the Attorney General of the United States and the Chairperson of the Commission on National and Community Service.

(c) DUTIES.—The council shall—

(1) review and approve applications submitted under section ____25;

(2) direct the appropriate Federal agency head to provide assistance under the selected programs under approved applications using amounts available pursuant to this subtitle; and

(3) carry out any other responsibilities of the council as provided under this subtitle.

**SEC. ____27. DEFINITIONS.**

For purposes of this subtitle:

(1) The term "appropriate Federal agency head" means, with respect to each program referred to in section ____24, the head of the Federal agency or other Federal official responsible for administering such program.

(2) The term "approved application" means an application under section ____25 for assistance provided under this subtitle that is approved by the interagency council and which meets the public comment requirements under section ____25(f).

(3) The term "eligible entity" means, with respect to a selected program under an application under section 105, an entity in the tax enterprise zone that is eligible to receive and administer amounts under the program and is designated under the application to receive and administer amounts provided for the program pursuant to this subtitle.

(4) The terms "interagency council" and "council" mean the interagency council established under section ____26.

(5) The term "selected program" means, with respect to a tax enterprise zone, any of the programs identified in an application under section ____25 for which funding under this subtitle is requested.

(6) The term "tax enterprise zone" means an urban tax enterprise zone, a rural development investment zone, or an Indian tax enterprise zone, designated under section 1391 of the Internal Revenue Code of 1986.

**SEC. ____28. STUDY AND REPORT.**

(a) GENERAL STUDY.—The council shall conduct a study to identify—

(1) any alternative methods or systems for allocation of amounts made available pursuant to this subtitle among tax enterprise zones; and

(2) any problems experienced in the implementation and administration of the provisions of this subtitle, including identification of any provisions of law or regulations relating to the programs referred to in section ____24 for which a waiver would facili-

tate carrying out the purposes of this subtitle.

(b) REPORT.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the council shall submit to the Congress a report regarding the study conducted under subsection (a), which shall include any recommendations for improving the program for assistance under this subtitle.

### SEC. _____29. REGULATIONS.

The council shall issue any regulations necessary to carry out this subtitle not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

## Subtitle C—Other Programs

### SEC. _____31. WAIVER OF PUBLIC SERVICES CAP UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) by inserting "(A)" before "unless such unit"; and

(2) by inserting before the semicolon at the end the following: ", or (B) unless unit of general local government is located within or contains a tax enterprise zone (as designated under section 1391 of the Internal Revenue Code of 1986), in which case such unit of general local government may use, in addition to such 15 percent of the amount of any assistance provided to the unit (or in the case of nonentitled communities, 15 percent statewide) under this title, including program income, an additional 15 percent of such amount of assistance for activities under this paragraph within such enterprise zone".

### SEC. _____32. WAIVER OF MATCH FOR HOME INVESTMENT PARTNERSHIP.

Section 220 of the Cranston-Gonzalez National Affordable Housing Act is amended by adding at the end thereof the following new subsection—

(e) WAIVER OF REQUIREMENT FOR PROJECTS UNDERTAKEN IN ENTERPRISE ZONES.—The matching requirement specified in this section shall be waived for projects undertaken in a tax enterprise zone designated pursuant to section 1391 of the Internal Revenue Code of 1986 if such zone satisfies the following three distress criteria:

(1) The average poverty rate in the zone for the calender year immediately preceding the year in which the fiscal year of the jurisdiction containing the zone begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

(2) The average per capita income in the zone for the calendar year immediately preceding the year in which the fiscal year of the jurisdiction containing the zone begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

(3) The rate of growth in the labor force in the jurisdiction for the 2 calendar years immediately preceding the year in which the fiscal year of the jurisdiction containing the zone begins was less than 75 percent of the rate of growth in the national labor force during the same two-year period (as determined according to information of the Bureau of Labor Statistics of the Department of Labor).

### SEC. _____33. ESTABLISHMENT OF YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM.

Title IV of the Job Training Partnership Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

## "PART H—YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM

### "SEC. 491. STATEMENT OF PURPOSE.

"It is the purpose of the Young Adult Employment Demonstration program under this part to—

"(1) ensure access to education and job training assistance for youth and young adults residing in tax enterprise zones;

"(2) make provisions for a comprehensive range of education, training, and employment services to disadvantaged youth and young adults in tax enterprise zones who are not currently served or are underserved by Federal education and job training programs;

"(3) enable communities located in or containing tax enterprise zones to establish and meet goals for improving the opportunities available to youth and young adults within the tax enterprise zone; and

"(4) facilitate the coordination of comprehensive services to serve such youth and young adults.

### "SEC. 492. PROGRAM AUTHORIZED.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to establish a program of Young Adult Employment Demonstration grants to provide comprehensive services to youth and young adults living in tax enterprise zones.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) RECIPIENTS.—The Secretary may only award grants under this part to—

"(A) the participating community for a target area that is located with in a service delivery area; or

"(B) grantees designated under sections 401 and 402, or a consortium of such grantees and the State, when the target area is located in an Indian reservation, Alaskan Native village, or migrant or seasonal farmworker community.

"(2) NUMBER OF GRANTS.—The Secretary may award not more than 25 grants during the first fiscal year the program is authorized.

"(c) RENEWABILITY OF GRANTS.—Grants awarded under this part shall be for a 1-year period and shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(d) FACTORS FOR AWARDS.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support and other Federal and non-Federal funds available for similar purposes, and the new State, local, or private resources.

"(e) SELECTION REQUIREMENTS.—In awarding grants under subsection (b), the Secretary shall not approve an application unless the application contains assurances that the applicant will use funds from a grant to provide job training, education, services, stipends (only to individuals age 17 to 30), and needs-related payments in accordance with sections 493 and 494.

### "SEC. 493. APPLICATION.

"(a) ELIGIBILITY TO APPLY.—Participating communities shall be eligible to apply for a Young Adult Employment Demonstration grant under this part.

"(b) CONTENTS OF APPLICATION.—Each participating community desiring a grant under this part shall, through the individuals described in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Young Adult Employment Demonstration initiative designed to achieve identifiable goals for youth and young adults in the target area;

"(2) set forth measurable program goals and outcomes, which may include increasing the proportion of—

"(A) youth completing high school or its equivalent,

"(B) youth and young adults entering into postsecondary institutions, apprenticeships, or other advanced training programs;

"(C) youth and young adults placed in jobs; or

"(D) eligible youth and young adults participating in education, training, and employment services;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 494 will be met;

"(5) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(6) attempt to ensure that all youth and young adults in the target areas have access to a coordinated and comprehensive range of education and training opportunities which serve the broadest range of interests and needs of youth and young adults and simultaneously mobilize the diverse range of education and training providers in the participating community;

"(7) include support services necessary for successful participation by eligible youth and young adults, including child care, transportation, and assistance in resolving personal or family crises such as those related to substance abuse, homelessness, migration, and family violence;

"(8) include a system of common intake, individualized assessment, and case management;

"(9) include an estimate of the expected number of youth and young adults in the target area to be served;

"(10) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program;

"(11) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school system,

"(C) postsecondary education and training institutions,

"(D) the applicable private industry council,

"(E) local community leaders,

"(F) business,

"(G) labor organizations, and

"(H) other appropriate organizations; and

"(12) provide assurances that the target area includes, to the maximum extent possible, the poorest neighborhoods in the community, such as those with substantial numbers of public housing facilities.

"(c) SUBMISSION OF APPLICATION.—The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the mayor of a city or the chief elected official in a metropolitan statistical area, after the Governor of the State has had an opportunity to comment on the application;

"(2) the chief elected official of a nonmetropolitan county or the designated chief elected official of contiguous nonmetropolitan counties, after the Governor of the State has had an opportunity to comment on the application; or

"(3) the grantee designated under sections 401 or 402, or jointly by the grantee and the Governor or the State in which such grantee is located, in applications for Native American or migrant or seasonal worker communities.

### "SEC. 494. GRANT AGREEMENT.

"Each grant recipient under this part shall enter into an agreement with the Secretary. Each such agreement shall describe how—

"(1) the recipient will designate a target area that will be the focus of the demonstration project and which shall have a population of not more than 25,000 (or upon approval of the Secretary, a population of not more than 75,000), except that in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds this limit, the target area may encompass such boundary;

"(2) funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/post-secondary education program;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increased rural student enrollment in post-secondary institutions;

"(H) public-private collaborations to ensure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) funds received under this section will be used for services to youth and young adults age 14 to 30 at the time of enrollment;

"(4) the local educational agency and any other educational agency which operates secondary schools in the target area provide activities and resources to promote the educational goals specified in the application;

"(5) the participating community will provide activities and local resources to promote the goals specified in the application;

"(6) the participating community shall undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by those disadvantaged youth and young adults who are currently unserved or underserved by education and training programs, including targeted measures specifically designed to enlist the participation of minority youth and young adults, particularly those under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems;

"(7) the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(8) funds provided under this part shall be used to pay stipends for participant support in paid work experience and classroom training programs when such programs are combined with other education and training activities.

### "SEC. 495. JOB GUARANTEES.

"(a) PROGRAM AUTHORITY.—The Secretary shall permit a number of the grant recipients under this part to enter into an agreement to provide, in accordance with this section, a job guarantee program to youth meeting prior school attendance and performance standards.

"(b) GUARANTEE AGREEMENTS.—A grant recipient providing a job guarantee program shall enter into an agreement with the Secretary. Such agreement shall—

"(1) provide that the program be available to youth aged 16 to 19 who undertake a commitment to continue and complete their high school education;

"(2) require the grant recipient to guarantee employment to each youth undertaking that commitment if such youth meets school attendance and performance standards for the previous school semester, as established by the Secretary in consultation with the Secretary of Education;

"(3) provide that the grant recipient will make additional services available to support the undertaking of any such youth, which shall include counseling, job development and placement, and support services (including child care and transportation);

"(4) specify the conditions under which funds provided under this part may be used to provide wage subsidies of up to 50 percent through employers, which shall—

"(A) encourage subsidies to employers who provide advanced or specialized training, or who provide a structured and integrated learning experience involving the school and employer; and

"(B) limit the duration of such subsidies to not more than 1 year;

"(5) require that the employment provided to any such youth shall not exceed 15 hours per week during the school year;

"(6) permit employment to continue through the summer following high school graduation, or until the youth reaches age 19, whichever is later; and

"(7) contain such other terms and conditions as the Secretary requires by regulation.

"(c) SELECTION OF GRANT RECIPIENTS.—In determining which grant recipients to permit to enter into an agreement under this section, the Secretary shall seek to target funds to high poverty areas.

"(d) YOUTH ELIGIBILITY.—All youth age 16 to 19, regardless of income, residing in the eligible high poverty area shall be eligible to participate in the job guarantee.

"(e) PRIVATE FUNDS.—Nothing in this section shall be construed to prohibit the grant recipient from raising funds to augment such grant if such funds are utilized under the conditions of this grant, except that such funds shall not be used for administration purposes.

### "SEC. 496. PAYMENTS AND MATCHING REQUIREMENT.

"(a) PAYMENTS.—In any fiscal year, the grant awarded under this part to a grant recipient shall be determined according to the amount to be provided for the program pursuant to designation of the program as a selected program under an application made on behalf of a tax enterprise zone under section 105 of the Revenue Act of 1992, and shall be of sufficient size and scope to carry out an effective program.

"(b) MATCHING REQUIREMENT.—A grant recipient shall provide non-Federal funds in an amount equal to 10 percent of the funds from such grant, an in-kind contribution equivalent to such percent (as determined by the Secretary), or a combination thereof.

### "SEC. 497. REPORTING.

"The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

### "SEC. 498. FEDERAL RESPONSIBILITIES.

"(a) ASSISTANCE IN IMPLEMENTATION.—The Secretary shall provide technical assistance in the implementation of this project in participating communities.

"(b) INDEPENDENT EVALUATION.—The Secretary shall provide for a thorough, independent evaluation of the activities assisted under this part. Such evaluation shall include an assessment of—

"(1) the impact on youth and young adults residing in target areas, including their rates of school completion, enrollment in advanced education or training, and employment;

"(2) the extent to which participating communities fulfilled the goal of guaranteeing access to appropriate education, training, and supportive services to all eligible youth and young adults residing in target areas who seek to participate;

"(3) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth and young adults residing in target areas; and

"(4) the effectiveness of efforts to integrate service delivery in target areas, including systems of common intake, assessment, and case management.

"(c) REPORT.—The Secretary shall prepare a report describing the results of the independent evaluation conducted pursuant to subsection (b).

"(d) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amounts to be used for assistance under this part in each fiscal year to carry out the provisions of this section.

### "SEC. 498A. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'participating community' means—

"(A) a city, when referring to an urban area that is located within or contains a tax enterprise zone;

"(B) a nonmetropolitan county or contiguous nonmetropolitan counties, that is located within or contains a tax enterprise zone; and

"(C) a section 401 or 402 grantee, or consortia of the State and section 401 or 402 grantee, when referring to Indian reservation, Alaska Native village, and migrant or seasonal farmworker community, that are located within or contain a tax enterprise zone.

"(2) The term 'high poverty area' means (A) an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan Native village, with a poverty rate of 30 percent or more as determined by the Secretary based on the latest Bureau of the Census estimates, or (B) a migrant or seasonal farmworker community.

"(3) The term 'target area' means a high poverty area (or portion thereof) or set of contiguous high poverty areas, that is located within a tax enterprise zone and will be the focus of the program under this part in a participating community.

"(4) The term 'tax enterprise zone' has the meaning given the term in section 107 of the Revenue Act of 1992.".

**SEC. ____34. NATIONAL COMMUNITY ECONOMIC PARTNERSHIP.**

(a) SHORT TITLE.—This section may be cited as the "National Community Economic Partnership Act of 1992".

(b) FINDINGS.—Congress finds that

(1) the cities, towns, small communities and rural areas throughout the United States face critical social and economic problems arising in part from a lack of economic growth in community based economies;

(2) the crisis facing local economies has resulted in—

(A) a growing percentage of the workforce earning poverty level wages, even though they work full time and year round;

(B) the percentage of the labor force living below the poverty line increasing from 25.7 percent in 1979 to 31.5 percent in 1987;

(C) population losses, rising unemployment and a decline of the farm sector and of many other rural industries (such as timber, oil, gas, and mining) contribute to the decline of rural economies;

(D) with respect to rural areas, 31.9 percent of the workforce falling below the poverty line in 1979, with that percentage rising to 42.1 percent in 1987;

(E) with respect to urban areas, 23.4 percent of the workforce falling below the poverty line in 1979, with that percentage rising to 28.9 percent in 1987; and

(F) the average wage and salary income of the 90 percent of the population with the lowest incomes, between 1977 and 1988, falling 3.5 percent in contrast to the richest 1 percent of the population whose incomes more than doubled in that time period.

(3) the future well being of the United States and the well-being of its citizens depends on the establishment and maintenance of viable community development enterprises;

(4) meeting the goal of establishing and maintaining viable community development enterprises requires—

(A) increased public and private investment in business development activities, especially in the small business sector which generates the majority of new jobs as evidenced by the fact that between 1980 and 1986, enterprises with less than 100 employees accounted for more than 50 percent of the jobs created in the U.S.;

(B) increased investment and technical assistance tó existing community based enterprises as evidenced by the fact that during the first half of the 1980's, more than 75 percent of the total net new jobs in the United States came from the expansion of existing businesses;

(C) a substantial expansion and greater continuity in the scope of Federal programs that support community based economic development strategies;

(D) the continuing efforts at Federal, State and local levels to coordinate the planning, implementation and evaluation of community economic development efforts; and

(E) the formation of a national commission, as an independent agency, to administer the various community development programs and serve as a focal point for Federal efforts to promote community based economic development; and

(5) community development corporations, due to their proven capacity and achievements in both the field of community based housing and economic development, are appropriate vehicles through which to advance a national community economic development program because—

(A) there are currently over 2000 community development corporations throughout the United States, operating projects that promote community based housing and economic development;

(B) community development corporations operate in every State and in virtually every major city in the United States, and account for many of the existing efforts undertaken to meet the needs of low income persons in both urban and rural communities;

(C) community development corporations have developed some 225,000 units of housing, with over 90 percent of these units for use by low income occupants;

(D) community development corporations have developed over 17,400,000 square feet of retail space, offices, industrial parks and other industrial developments in economically distressed communities;

(E) community development corporations have made loans to over 3000 enterprises, equity investments in 242 ventures and own and operate 427 businesses; and

(F) community development corporations commercial, industrial and business enterprise development activities have accounted for the creation and retention of nearly 90,000 jobs in the last five years.

(c) PURPOSE.—It is the purpose of this section to stimulate enterprise development in economically distressed urban and rural areas through public and private partnerships facilitated by community development corporations.

(d) NATIONAL COMMUNITY ECONOMIC PARTNERSHIP.—

(1) TECHNICAL AMENDMENT.—

(A) AMENDMENT.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 is amended in the matter preceding paragraph (1) by striking "title IV" and inserting "title VI".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if the amendment had been included in the Omnibus Budget Reconciliation Act of 1990.

(2) PARTNERSHIP.—Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9801 et seq.) is amended—

(A) by redesignating subchapters D, E, and F (as so designated by section 5082 of the Omnibus Budget Reconciliation Act of 1990), as subchapters E, F, and G, respectively; and

(B) by inserting after subchapter C (as added by section 5082 of the Omnibus Budget Reconciliation Act of 1990) the following new subchapter:

### "Subchapter D—National Community Economic Partnership

### "PART 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

**"SEC. 659A. PURPOSE.**

"It is the purpose of this part to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

**"SEC. 659B. PROVISION OF ASSISTANCE.**

"(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this subchapter as the 'Secretary') is authorized, in accordance with this part, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

"(b) REVOLVING LOAN FUNDS.—

"(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this part an applicant shall—

"(A) be a community development corporation;

"(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

"(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

"(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

"(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 659F.

**"SEC. 659C. APPROVAL OF APPLICATIONS.**

"(a) IN GENERAL.—In evaluating applications submitted under section 659B(b)(2)(B), the Secretary shall ensure that—

"(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

"(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

"(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

"(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

"(B) local and regional job training programs;

"(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this part so that 75 percent of the jobs retained or created under such investments are provided to—

"(A) individuals with—

"(i) incomes that do not exceed the Federal poverty line; or

"(ii) incomes that do not exceed 80 percent of the median income of the area;

"(B) individuals who are unemployed or underemployed;

"(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

"(D) individuals whose jobs may be retained as a result of the provision of financing available under this part; or

"(E) individuals who have historically been underrepresented in the local economy; and

"(5) a representative cross section of applicants are approved including, large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

"(b) PRIORITY.—In determining which application to approve under this part the Secretary shall give priority to those applicants proposing to serve a target area—

"(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

"(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

### "SEC. 659D. AVAILABILITY OF LINES OF CREDIT AND USE.

"(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 659C with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

"(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

"(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this part to a single applicant.

"(2) PERIOD OF AVAILABILITY.—A line of credit provided under this part shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

"(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this part has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 659B(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

"(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this part shall be used solely for the purposes described in section 659A and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

"(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this part may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 659C(a)(4).

### "SEC. 659E. LIMITATIONS ON USE OF FUNDS.

"(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this part may be derived from funds made available from a line of credit under this part.

"(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 20 percent of the amounts available from a line of credit under this part shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

"(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this part, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 659B(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

"(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this part may be used only for the purposes described in section 659A and shall be reinvested in the community in which they were generated.

### "SEC. 659F. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

"(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this part to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, refugees or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

"(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section 659R(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

## "PART 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

### "SEC. 659I. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

"(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

"(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

"(B) to acquire such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

"(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

"(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under part I;

"(B) to develop a business plan related to such a potential project; or

"(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

"(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

### "SEC. 659J. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

"(a) AUTHORITY.—The Secretary is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a community development corporation;

"(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

"(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

"(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

"(c) USE OF THE REVOLVING LOAN FUND.—

"(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

"(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

"(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

"(3) LIMITATION.—Not to exceed 20 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

"(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subchapter and shall be reinvested in the community in which they were generated.

"(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

### "PART 3—RESEARCH AND DEMONSTRATION

**"SEC. 659M. RESEARCH AND DEMONSTRATION.**

"(a) GRANTS.—The Secretary shall award grants to organizations to enable such organizations to undertake programs involving research, testing, studies or demonstrations related to community economic development.

"(b) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a community development corporation, university, fiscal intermediary or a nonprofit organization involved in community-based economic development activities; and

"(2) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary determines appropriate.

"(c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be made available for studies, reports, tests or demonstration projects that—

"(1) identify current problems facing both urban and rural low-income communities or specific population groups within low-income communities and population-losing communities;

"(2) identify solutions to the problems facing both urban and rural low-income communities or specific population groups within low-income communities;

"(3) examine or critique current strategies being implemented to address economic issues facing low-income communities; and

"(4) relate to any other matters determined appropriate by the Secretary.

"(d) MAXIMUM AMOUNT OF GRANT.—A grant awarded under this section shall not exceed $50,000.

### "PART 4—MISCELLANEOUS PROVISIONS

**"SEC. 659P. JOINT PROGRAMS.**

"The Secretary shall develop and promulgate, in consultation with the heads of other Federal agencies, regulations designed to permit, where appropriate, the operation of joint programs under which activities supported with assistance provided under this subchapter are coordinated with community development activities supported with assistance provided under other programs administered by the Secretary and those administered by the heads of such agencies.

**"SEC. 659Q. REPORTS.**

"(a) COMMUNITY DEVELOPMENT CORPORATIONS.—Not later than 2 years after the date on which assistance is provided to a community development corporation under part 1 or 2, every 2 years thereafter, the community development corporation shall prepare and submit to the Secretary a report under this section. Such report shall include—

"(1) the amount of funds received by the community development corporation;

"(2) a summary of the uses of such funds;

"(3) the number of jobs created or retained by the corporation;

"(4) the number and type of new businesses started, including micro-businesses;

"(5) the number of jobs created or retained for individuals identified in section 659C(a)(4);

"(6) in the case of funds made available under part 1, the source and amount of matching funds;

"(7) in the case of revolving loan funds made available under part 2, the amount of funds leveraged; and

"(8) related human services and facilities provided as result of assistance provided under this Act.

"(b) SECRETARY.—Not later than 3 years after the date on which assistance is first provided under part 1 or 2, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report containing a summary of the reports received by the Secretary under subsection (a) for the period in which the report of the Secretary is submitted.

**"SEC. 659R. DEFINITIONS.**

"As used in this subchapter:

"(1) COMMUNITY DEVELOPMENT CORPORATION.—The term 'community development corporation' means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

"(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term 'local and private sector contribution' means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this title.

"(3) POPULATION-LOSING COMMUNITY.—The term 'population-losing community' means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

"(4) PRIVATE BUSINESS ENTERPRISE.—The term 'private business enterprise' means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this title to certain individuals.

"(5) TARGET AREA.—The term 'target area' means any area defined in an application for assistance under this title that has a population whose income does not exceed the median for the area within which the target area is located.

"(6) VERY LOW-INCOME COMMUNITY.—The term 'very low-income community' means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

**"SEC. ____ AUTHORIZATION OF APPROPRIATIONS.**

"(a) COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS AND EMERGING COMMUNITY DEVELOPMENT CORPORATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out parts 1 and 2, $75,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $125,000,000 for fiscal year 1995.

"(2) EARMARKS.—Of the aggregate amount appropriated under paragraph (1) for each fiscal year—

"(A) 60 percent shall be available to carry out part 1; and

"(B) 40 percent shall be available to carry out part 2.

"(3) AMOUNTS.—Amounts appropriated under paragraph (1) shall remain available for expenditure without fiscal year limitation.

"(b) RESEARCH AND DEMONSTRATION.—There are authorized to be appropriated to carry out part 3 such sums as may be necessary for each of the fiscal years 1993 through 1995.

**"SEC. 659T. PROHIBITION.**

"None of the funds authorized under this Act shall be used to finance the construction of housing.".

**SEC. ____35. ESTABLISHMENT OF ENTERPRISE CAPITAL ACCESS FUND.**

(a) SHORT TITLE.—This section may be cited as the "Enterprise Capital Access Fund Demonstration Program".

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems stemming from lack of economic opportunity among low-income persons and persons living in poverty;

(B) the numbers of low-income persons and persons living in poverty has grown significantly over the last decade;

(C) lack of access to credit and other forms of capital is a significant factor in the disinvestment and decline of low-income and minority neighborhoods;

(D) changes in the banking system and financial markets have made access to credit in low-income and distressed communities increasingly more difficult to obtain as decisionmaking on credit has been removed from local communities;

(E) the restoration and maintenance of viable local economies will require improved access to credit, as well as public and private investment in economic and community development activities, business development, and low-income housing;

(F) indigenous community-based financial institutions can play a significant role in identifying and responding to community needs;

(G) the Federal Government needs to develop new models and institutions for facilitating local revitalization efforts and improving access to credit; and

(H) nonprofit financial intermediaries have proven effective in meeting the credit and other capital needs in low-income and distressed communities.

(2) PURPOSE.—The purpose of this section is to establish a demonstration program to promote reinvestment in low-income and chronically distressed neighborhoods through community-based nonprofit financial institutions that work cooperatively with residents and State and local government.

(c) DEFINITIONS.—For the purpose of this section, the following definitions shall apply:

(1) ELIGIBLE INTERMEDIARY.—The term "eligible intermediary" means a nonprofit organization that—

(A) is organized under Federal, State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(C) complies with standards of financial accountability acceptable to the Secretary;

(D) controls, operates or is affiliated with an entity that provides credit or investment capital in a targeted geographic area;

(E) has as its primary mission the revitalization of low-income and chronically distressed neighborhoods or communities; and

(F) maintains, through significant representation on its governing board and otherwise, accountability to community residents.

(2) LOW-INCOME PERSONS.—The term "low-income persons" means persons whose incomes do not exceed 80 percent of the median for the area.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) TARGETED GEOGRAPHIC AREA.—The term "targeted geographic area" means a geographically contiguous area of chronic economic distress as measured by unemployment, growth lag, the extent of poverty, per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible intermediary as an area to be served by it.

(d) AUTHORITY.—The Secretary shall carry out, in accordance with this section, a demonstration program to provide assistance in the form of capital and technical assistance grants to nonprofit financial intermediaries for the establishment, maintenance, and expansion of such institutions, to be utilized to finance business and employment opportunities, housing opportunities affordable to low-income persons, and neighborhood revitalization projects.

(e) APPLICATIONS.—The Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible intermediaries.

(f) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall select eligible intermediaries to participate in the demonstration program, based on—

(A) the capacity of the eligible intermediary to carry out the purposes of this title;

(B) the financial capacity of the eligible intermediary based on evaluations provided by a certified public accountant and criteria to be determined by the Secretary;

(C) the extent of need in the targeted geographic area identified by the eligible intermediary as the area it serves;

(D) the extent to which the lending services of the eligible intermediary are coordinated with other revitalization activities in the targeted geographic area;

(E) the previous experience and achievements of the eligible intermediary in the financing or development of low-income housing, in development of businesses and other employment opportunities, or in neighborhood revitalization activities;

(F) the extent to which the eligible intermediary has firm commitments from local sources to provide matching funds in an amount that is at least equal to the amount requested in the application;

(G) an appropriate geographic distribution of intermediaries among regions in the United States;

(H) the extent to which the targeted geographic area served by the eligible intermediary includes a tax enterprise zone designated pursuant to section 1391 of the Internal Revenue Code of 1986; and

(K) other criteria deemed appropriate by the Secretary.

(g) CAPITAL GRANTS.—

(1) IN GENERAL.—The Secretary shall make capital grants to eligible intermediaries.

(2) USE OF GRANTS.—Capital grants may be used by eligible intermediaries to increase the capital available for loans, loan guarantees, interest rate reduction activities, and other activities deemed appropriate by the Secretary that promote housing affordable to low-income persons and economic and community development activities that benefit low-income persons.

(3) AMOUNT.—The maximum amount of Federal assistance an eligible intermediary can receive per fiscal year under this section is $1,000,000.

(h) TECHNICAL ASSISTANCE.—The Secretary is authorized to make grants to eligible intermediaries to provide technical assistance to borrowers.

(i) TRAINING PROGRAM.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible intermediaries and their staffs in developing the capacity to carry out the purposes of this title.

(j) REPORT.—The Secretary shall annually prepare and submit to Congress a report containing a summary of the activities carried out under this section and the findings and conclusions drawn from such activities.

(k) DUTIES OF ELIGIBLE INTERMEDIARIES.—An eligible intermediary receiving assistance pursuant to this section shall—

(1) match any assistance awarded by the Secretary dollar-for-dollar with non-Federal sources of funds;

(2) ensure that not less than 70 percent of loans to individual borrowers are to persons whose incomes are at or below 80 percent of the area median income and are residents of the targeted geographic area served; and

(3) ensure that all loans made to nonprofit or for-profit organizations provide a direct benefit to persons who are residents of the targeted geographic area served.

(l) OFFICE OF COMMUNITY BANKING.—There is established within the Department of Housing and Urban Development an Office of Community Banking which is responsible for the implementation of this section.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 1993 and $200,000,000 for fiscal year 1994. Any amounts appropriated pursuant to this paragraph shall remain available until expended.

### SEC. ____36. HOPE FOR YOUTH: YOUTHBUILD.

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

### "Subtitle D—Establishment of Youthbuild

### "SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by harnessing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

### "SEC. 452. PROGRAM AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this subtitle, $40,000,000 for fiscal year 1993 and $80,000,000 for fiscal year 1994. Any amount appropriated pursuant to this subsection shall remain available until expended.

### "SEC. 453. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**"SEC. 454. IMPLEMENTATION GRANTS.**

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including—

"(1) architectural and engineering work;

"(2) acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title; residential housing for homeless individuals, and low- and very low-income families; or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs;

"(3) administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization;

"(4) education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in obtaining admission to and obtaining financial assistance for enrollment in institutions of higher learning;

"(C) counseling services and other activities designed to—

"(i) ensure that participants overcome personal problems that would interfere with successful participation; and

"(ii) develop a strong, mutually supportive peer context in which values, goals, cultural heritage, and life skills can be explored and strengthened;

"(D) opportunities to develop the decisionmaking, speaking, negotiating, and other leadership skills of participants, such as the establishment and operation of a youth council with meaningful decisionmaking authority over aspects of the program;

"(E) activities designed to maximize the value of the participants as future employees and to prepare participants for seeking, obtaining, and retaining unsubsidized employment; and

"(F) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment;

"(5) wage stipends and benefits provided to participants;

"(6) funding of operating expenses and replacement reserves of the property covered by the Youthbuild program;

"(7) legal fees; and

"(8) defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure whereby an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

### "SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families;

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for homeless individuals and members of very low-income and low-income families;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)); and

"(iv) provide for the maintenance of a written waiting list in the chronological order of application, and give all applicants due consideration in appropriate sequence, notifying applicants promptly of the results of their applications.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of that in accordance with section 3(a) of the Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations imposed on comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—Aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on the equity investment, if any, of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of either subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

### "SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual shall be eligible to participate in a Youthbuild program receiving assistance under this subtitle if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) economically disadvantaged; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild program receiving assistance under this subtitle may be individuals who—

"(A) do not meet the requirement of paragraph (1)(B), but who are members of low-income families; or

"(B) do not meet the requirement of paragraph (1)(C), but have educational needs despite the attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle must be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in section 454(b)(4)(B) through (F) of this subtitle.

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. Nothing in this section shall be construed to prevent recipients from using funds from other sources to pay reasonable wages and benefits at a higher level if appropriate.

### "SEC. 457. DEFINITIONS.

"As used in this subtitle:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b)(5) of the United States Housing Act of 1937.

"(2) APPLICANT.—The term 'applicant' means a public or private nonprofit agency, such as—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency, including an agency of an Indian tribe;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps, including such a service or corps conducted by an Indian tribe; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) ECONOMICALLY DISADVANTAGED.—The term 'economically disadvantaged' has the same meaning given the term in section 4(8) of the Job Training Partnership Act.

"(5) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual—

"(A) who is neither attending any school nor subject to a compulsory attendance law; and

"(B) who has not received a secondary school diploma or a certificate of equivalency for such diploma.

Such term does not include any individual who has attended secondary school at any time during the preceding 6 months.

"(6) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(7) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, including an agency of an Indian tribe, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(8) INCOME.—The term 'income' has the meaning given the term in section 3(b)(4) of the United States Housing Act of 1937.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17).)

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(11) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(12) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term 'lower income families' in section 3(b)(2) of the United States Housing Act of 1937.

"(13) VERY LOW-INCOME FAMILY.—The term 'very low-income family' means families whose income does not exceed 50 percent of the median family income determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

"(14) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(15) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(16) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(18) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

"(19) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(20) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

### "SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

"(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts available in each fiscal year under section 452(b) to carry out subsections (b) and (c) of this section.

### "SEC. 459. CONTRACTS.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

### "SEC. 460. REGULATIONS.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

### SEC. _____37. COMMUNITY JOB OPPORTUNITY DEMONSTRATION PROGRAM.

Title IV of the Job Training Partnership Act (29 U.S.C. 1671) as amended by section _____33, is further amended by adding at the end the following new part:

### "Part I—Community Job Opportunity Demonstration Program

### "SEC. 499. COMMUNITY JOB OPPORTUNITY PROGRAM.

The Secretary shall establish a program, to be known as the Community Job Opportunity Demonstration Program, under which the Secretary may award grants to enable grantees to provide job opportunities to discouraged workers and individuals who have exhausted unemployment insurance benefits but who remain unemployed.

### "SEC. 499A. GRANTS AND CERTAIN REQUIREMENTS.

"(a) IN GENERAL.—The Secretary may, under the program established under section 499, award grants to eligible entities of the type described in subsection (c), to enable such entities to, in accordance with the requirements of this part, carry out community job opportunity demonstration projects that the Secretary determines will serve a significant public purpose in a community service field.

"(b) COMMUNITY JOB OPPORTUNITY PLANS.—To be eligible to receive a grant under this part, an entity shall prepare and submit to the Secretary a community job opportunity plan at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) information identifying the grant recipient and the entity or entities that will administer the proposed community job opportunity demonstration project under the grant;

"(2) a comprehensive description of the objectives and performance goals for the proposed project to be conducted under the grant, and a plan for managing and funding such project, including a description of the types and duration of training and work experience to be provided by such project;

"(3) assurances that the proposed project will meet the requirements described in subsection (d);

"(4) assurances that a sufficient number of individuals meeting the requirements of section 499B are available to participate in the proposed project in the enterprise zone where the project will be carried out;

"(5) an estimate of the number of participants and crew leaders necessary for the proposed project, the length of time that the services of such participants and crew leaders will be required, and the support services that will be required for such participants and crew leaders;

"(6) a description of the manner in which sufficient supervisory staff (including, where practicable, participants who have displayed exceptional leadership qualities) will be appointed and trained;

"(7) a description of the basic standards of work, health, nutrition, sanitation, and safety requirements under the proposed project, and the manner in which such standards shall be enforced; and

"(8) an assurance that, prior to the placement of a participant under this part, the grantee will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out under such proposed project.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this part shall include public and nonprofit private agencies and organizations.

"(d) COST LIMITATIONS.—A grantee under this part shall enter into a written agreement with the Secretary under which the grantee agrees that—

"(1) not more than 5 percent of the amounts received under the grant will be used for administrative expenses; and

"(2) not less than 70 percent of the amounts received under the grant will be used to provide compensation and supportive services to participants.

"(e) WORK AND JOB SEARCH REQUIREMENTS.—A grantee under this part shall ensure that, during each week of participation in a community job opportunity demonstration project under the grant, each participant shall

"(1) engage in work for 32 hours of such week; and

"(2) engage in job training or job search activities for 8 hours of such week.

"(f) COORDINATION WITH COMMUNITY WORKS PROGRESS DEMONSTRATION.—It is the intent of Congress that the Community Job Opportunity Demonstration Program established under this part be coordinated, to the extent practicable, with the Community Works Progress Demonstration Program.

"(g) GAO REPORT.—Not later than 1 year after the date on which the Secretary makes the initial grants under this part, the Comptroller General shall conduct an evaluation or study of the projects established under this part and prepare and submit a report containing the results of such evaluation to the Secretary and the appropriate committees of Congress. An evaluation or study of the program should include an analysis of—

"(1) the type of work activities that were created;

"(2) the interaction of program participants with the regular workforce; and

"(3) the extent of any substantiation discovered with respect to the program.

### "SEC. 499B. ELIGIBLE PARTICIPANTS.

"(a) IN GENERAL.—

"(1) PRIOR TRAINING EXPERIENCE AND SKILLS.—In determining which individuals to select for participation in a community job opportunity demonstration project established under this part, the grantee shall, to the maximum extent practicable, take into consideration the prior training experience and skills of the individuals. Eligibility for participation in such project shall be determined on a nonpartisan basis.

"(2) REQUIREMENTS.—To be eligible to participate in a community job opportunity demonstration project established under this part, an individual shall be—

"(A) a discouraged worker;

"(B) an individual who has exhausted unemployment benefits under Federal and State law and who remains unemployed;

"(C) a United States citizen; and

"(D) at least 20 years old or a high school graduate or an individual pursuing a GED.

"(b) TESTING AND EDUCATION REQUIREMENTS.—

"(1) TESTING.—Each participant in a community job opportunity demonstration project established under this part shall be tested for basic reading and writing competence by the grantee prior to the employment of such participant under the project.

"(2) EDUCATION REQUIREMENT.—

"(A) FAILURE TO SATISFACTORILY COMPLETE TEST.—Each participant who fails to complete satisfactorily the basic competency test required in paragraph (1) shall be furnished with appropriate counseling and instruction.

"(B) PROGRESS TOWARD DIPLOMA.—Each participant in a project under this part who has not received a high school diploma or its equivalent shall, in order to continue employment under the project, maintain satisfactory progress towards receiving a high school diploma or its equivalent.

"(C) LIMITED-ENGLISH.—Each participant in a project under this part who has limited-English speaking ability may be furnished such instruction as the grantee considers to be appropriate.

"(c) COMPENSATION.—Participants in a project established under this part shall be paid wages that shall not be less than the highest of—

"(1) the Federal minimum wage for the number of hours worked as prescribed in section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206);

"(2) the minimum wage payable under the applicable State or local minimum wage law; or

"(3) the prevailing rate of pay for individuals employed in similar occupations by the same employer.

"(d) RETIREMENT BENEFITS.—An individual shall not be eligible to participate in a community job opportunity demonstration project under this part if the individual is eligible for retirement benefits under—

"(1) the Social Security Act (42 U.S.C. 301 et seq.);

"(2) any retirement system for Federal Government employees, including—

"(A) the government retirement benefits Programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code; and

"(B) the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code;

"(3) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

"(4) the military retirement system; or

"(5) a private pension program.

### "SEC. 499C. DEFINITIONS.

"As used in this part:

"(1) DISCOURAGED WORKER.—The term 'discouraged worker' means an unemployed individual who is no longer seeking employment. Such term shall encompass the meaning given such term by the Secretary of Labor for purposes of compiling statistics on such workers.

"(2) PARTICIPANT.—The term 'participant' means an individual who meets the requirements of section 493 and is selected to participate in a community job opportunity demonstration project.

"(3) PROJECT.—

"(A) IN GENERAL.—The term 'project' means a definable task or group of related tasks that—

"(i) will be completed within a definable period of time (not to exceed 18 months);

"(ii) results in a specific product or accomplishment;

"(iii) would not otherwise be done with existing funds; and

"(iv) does not duplicate the routine services or functions of the employer to whom participants are assigned.

"(B) COLLECTIVE BARGAINING AGREEMENTS.—No project under this part shall impair contracts for services or collective bargaining agreements. No project that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned with respect to any elements of the proposed activities that affect such agreement, unless either such party fails to respond to written notifications requesting its concurrence within 30 days of receipt thereof.".

### SEC. ____38. ACCESS TO JOBS/REVERSE COMMUTING DEMONSTRATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to—

(1) improve employment rates and earnings in inner-city areas by improving access to job sites for inner-city residents;

(2) improve the viability of businesses in enterprise zones as a result of the increased incomes and purchasing power of zone residents; and

(3) test differing approaches to achieving these goals and determine their effects.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Transpor-

tation, shall establish a Reverse Commuting Demonstration Program to test the effects of assisting residents of poor inner-city areas to commute to job sites in other areas of the city or surrounding suburbs.

(2) USE OF FUNDS.—Any applicant eligible for block grant funding under section ___25 of this Act that submits an application to and receives the approval of the Secretary of Labor, in consultation with the Secretary of Transportation, may utilize funds it receives under this title to carry out a program established under this section.

(3) APPROVAL OF APPLICATIONS.—The Secretary of Labor shall approve all applications submitted under this section that meet the criteria in subsection (c).

(c) APPLICATION AND APPROVAL CRITERIA.—An application under this section shall provide information specified by the Secretary of Labor, in consultation with the Secretary of Transportation, that is sufficient to satisfy the Secretary that—

(1) the geographic area whose residents would be served by the program established by the applicant under this section is a low-income area that consists in whole or substantial part of an urban enterprise zone;

(2) one of the three program models described in subsection (d) will be used by the applicant;

(3) the data collection procedures that will be established by the applicant will be sufficient to enable the Secretary of Labor, in consultation with the Secretary of Transportation, to conduct an evaluation in accordance with subsection (e); and

(4) the applicant has the capability to perform adequately with respect to the program established and to meet such other criteria as the Secretary of Labor may prescribe.

(d) PROGRAM MODELS.—Applications approved under this section shall utilize one of the following program models:

(1) ADDING TRANSPORTATION SERVICES TO EXISTING JOB TRAINING AND PLACEMENT PROGRAMS.—Under this model an applicant shall supplement existing training and placement programs through the establishment of new transportation services that are designed to—

(A) transport inner-city residents to job locations (such as van service between the zones and business parks or major employers, with the service being provided by a public agency, a private vendor, or a neighborhood organization);

(B) provide transportation counseling and assistance (such as the creation of car pools and provision of education on public transit routes); or

(C) provide a direct subsidy of public transit fares or private automobile expenses.

(2) IMPROVING PUBLIC TRANSIT SYSTEMS TO FACILITATE ACCESS TO JOBS/REVERSE COMMUTING.—Under this model an applicant may—

(A) work with the relevant transit operator or agency to modify public transit routes and schedules to increase the accessibility of residents of inner-city areas to job locations (such as through the provision of express bus service to business parks at times coinciding with labor shifts or the provision of new connecting services to fill gaps that impede commuting from inner-city areas to jobs sites); or

(B) reimburse public transit operators for the costs of providing reduced fare programs to increase the access of inner city residents to employment opportunities.

An applicant under subparagraph (A) may request suburban employers to contribute to the costs of implementing such transit services.

(3) ESTABLISHING REGIONAL COALITIONS TO IMPROVE INNER-CITY ACCESS TO JOBS.—Under this model an applicant shall establish a regional coalition, which may include neighborhood organizations, employers and employers' associations, transportation providers, and similar entities, to implement comprehensive strategies to improve the access of residents of inner-cities to jobs through modifications in job training and placement services, support services such as child care, and transportation services. An applicant under this model shall attempt to link job training program participants with job opportunities throughout as much of the metropolitan area as practicable, and transportation barriers between inner-city areas and job locations shall be identified and transportation services implemented to address these problems.

(e) EVALUATION.—The Secretary of Labor, in consultation with the Secretary of Transportation, shall conduct a thorough evaluation of the program established under this section. Such evaluation shall include an assessment of—

(1) with respect to applicants adding transportation services to job training programs, the effect of the addition of such transportation services on employment rates, job retention, and earnings among residents of the demonstration project areas;

(2) with respect to applicants improving public transit systems, the effect of the improvements, on employment rates, job retention, and earnings;

(3) with respect to applicants establishing regional coalitions and implementing comprehensive strategies, the effects of such strategies on employment rates, job retention, and earnings; and

(4) the manner in which the adoption of such comprehensive strategies affect employment and earnings in urban enterprise zones, compared to other urban enterprise zones not initiating programs to improve inner-city access to suburban job locations.

(f) OTHER FUNDING SOURCES.—Nothing in this section shall be construed to prevent an approved applicant from raising funds for any program established under the application from other sources to augment the funds available under this Act.

(g) DEFINITION.—As used in this section, the term "urban enterprise zone" means an area designated under section 1391 of the Internal Revenue Code of 1986.

### SEC. ___39. HEALTH PROFESSIONAL SHORTAGE AREAS.

Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this section, a tax enterprise zone under section 1391 of the Internal Revenue Code of 1986, shall be designated as a health manpower shortage area.".

### SEC. ___40. WAIVER OF LIMITATION ON PROJECT-BASED SECTION 8 ASSISTANCE.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437F) is amended by inserting immediately before the last sentence of subsection (d)(2)(A), the following new sentence: "Also notwithstanding any other provision of this section, funds authorized pursuant to title ____ of the Revenue Act of 1992 (and the amendments made by such title) and allocated pursuant to the provisions of that title for assistance attached to structures under this paragraph shall not be subject to the provisions of this paragraph limiting the percentage of assistance that may be attached to structures.".

### SEC. ___41. STUDY OF INSURANCE AVAILABILITY IN CENTRAL CITIES AND DISTRESSED URBAN AREAS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report assessing the market availability of insurance (including insurance against crime, civil disorders and related perils) for businesses and residences located in central cities and distressed urban areas and the impact of the availability of such insurance on the economic development or redevelopment of such areas.

"(b) DETAIL OF CONTENTS.—The report required under subsection (c) shall consider—

(1) whether insurance (including insurance against crime, civil disorders, and related perils) is available at affordable rates in central cities and distressed urban areas either through the private insurance market or through a suitable program adopted under Federal or State law;

(2) whether reinsurance (including reinsurance against crime, civil disorders, and related perils) is available at affordable rates in central cities and other distressed urban areas either through the private reinsurance market or through a suitable program adopted under State law;

(3) the factors most likely to explain any deficiencies in the availability of such insurance or reinsurance;

(4) whether any deficiencies in the availability of such insurance or reinsurance act as a deterrent or barrier to the economic development or redevelopment of central cities and distressed urban areas;

(5) whether the Federal Crime Insurance Program operated pursuant to part C of title XII of the National Housing Act (12 U.S.C. 1749bbb et seq.) adequately promotes the availability of insurance in central cities and distressed urban areas and whether the program should be modified to more effectively advance that goal;

(6) whether those State Fair Access to Insurance (FAIR) Plans that were established pursuant to section 1211 of title XII of the National Housing Act or other programs adopted by State governments effectively promote the availability of insurance in central cities and distressed urban areas;

(7) whether reenactment of a Federal Riot Reinsurance Program to promote the availability of insurance against crime, civil disorders, and related perils would effectively promote the availability of insurance against such perils in central cities and distressed urban areas;

(8) whether other action by the Federal Government would be advisable to promote the availability of insurance (including insurance against crime, civil disorders, and related perils) in central cities and distressed urban areas in order to enhance the prospects for the economic development or redevelopment of such areas; and

(9) such other issues related to the availability of insurance in central cities and other distressed urban areas and the relationship of the availability of such insurance to the economic development or redevelopment of such areas as the Comptroller General considers appropriate.

(c) DEFINITIONS.—As used in this section,

(1) The term "affordable rates" shall have the meaning determined by the Comptroller General taking into consideration factors such as the nature and degree of risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas, the economic importance of the various individual coverages, the type

of property involved, and the relative abilities of the particular classes and types of insureds to pay the costs of coverages.

(2) The term "central city" means any political subdivision designated as a central city from time to time by the Office of Management and Budget.

(3) The term "distressed urban area" means an urban enterprise zone designated pursuant to section 1391 of the Internal Revenue Code of 1986 or any other urban area that has a high level of poverty, unemployment, or minority population share, as determined by the Comptroller General.

(d) REFERRAL.—The report required under subsection (a) shall, upon transmission to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and the Committee on Finance, and in the House of Representatives to the Committee on Banking, Finance, and Urban Affairs.

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### GLENN (AND METZENBAUM) AMENDMENT NO. 3188

Mr. GLENN (for himself and Mr. METZENBAUM) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the bill insert:

MODIFICATION TO $10,000,000 LIMITATION.—Subparagraph (C) of section 144(a)(4) (relating to $10,000,000 limit in certain clauses) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by inserting after clause (iv) the following new clause:

"(v) not to exceed $10,000,000 (determined without regard to the preceding clauses of this subparagraph) during the 3-year period ending after the date of such issue."

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CAPITAL EXPENDITURES.—The amendment made by subsection (b) shall apply to expenditures made after the date of the enactment of this Act.

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### HARKIN AMENDMENT NO. 3189

Mr. HARKIN proposed an amendment to amendment No. 3185 proposed by Mr. GRAHAM (and others) to the bill H.R. 11, supra, as follows:

On page 2, between lines 14 and 15, insert:

"(3) EXCEPTION FOR FOOD AND MEDICINE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to deductions allocable to Cuban source income derived from the sale of food or medicine ultimately delivered to Cuba.

"(B) PRESIDENTIAL DETERMINATION.—Subparagraph (A) shall not apply to income derived from any item for any period for which the President determines that there is a reasonable likelihood that such item—

"(i) will be used for purposes of torture or other human rights abuses,

"(ii) will be reexported,

"(iii) will be used in the production of any biotechnical product, or

"(iv) will be used for purposes other than intended.

In making a determination under this subparagraph, the President may use any means the President determines appropriate, including onsite verification by Federal officials or officials of international organizations.

### COCHRAN (AND HELMS) AMENDMENT NO. 3190

Mr. COCHRAN (for himself and Mr. HELMS) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 982, before the period on line 5, insert the following: "*Provided*, That such regulations shall include as an exception to taxable income, any income received by a taxpayer for rent of a dwelling unit used during the taxable year by the taxpayer as the taxpayer's principle residence, not a vacation home, where such dwelling is rented for less than 15 days for the purpose of providing accommodations for participants in, or spectators of, a special annual or semi-annual event (except a sporting event) unique to, and regularly located in or near the community in which such dwelling is located".

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### SANFORD AMENDMENT NO. 3191

Mr. SANFORD proposed an amendment to amendment No. 3190 proposed by Mr. COCHRAN (and Mr. HELMS) to the bill H.R. 11, supra, as follows:

On page 981, beginning with line 19, strike all through page 982, line 1, and insert:

**SEC. 3007. SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.**

(a) IN GENERAL.—Section 280A is amended by striking subsection (g) and inserting:

"(g) SPECIAL RULE FOR CERTAIN RENTAL USE.—Notwithstanding any other provision of this section or section 183, if the principal residence of the taxpayer is actually rented for less than 15 days during the taxable year for the purpose of providing accommodations to visitors to an event for which commercial rental accommodations in the community holding the event are unable to reasonably provide more than one-half of the accommodations necessary (and the rental income received by the taxpayer for any visitor is not greater than a reasonable rental rate charged per individual guest by commercial rental accommodations), then—

"(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

"(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61.

"(h) REGULATIONS.—The Secretary shall prescribe * * *

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### FORD (AND MCCONNELL) AMENDMENT NO. 3192

Mr. FORD (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

**SEC. . CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTION.**

(a) IN GENERAL.—In the case of any taxable year beginning after the date of the enactment of this Act, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1986 shall be reduced (but not below zero) by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall only apply to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act or pursuant to a nonconsensual judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

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### FORD (AND MCCONNELL) AMENDMENT NO. 3193

Mr. FORD (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place insert:

**SEC. 8217. UNIFORM EXEMPTION AMOUNT FOR GAMBLING WINNINGS SUBJECT TO WITHHOLDING.**

(a) UNIFORM EXEMPTION AMOUNT.—

(1) IN GENERAL.—Subparagraphs (A) and (C) of section 3402(q)(3) are each amended by striking "$1,000" and inserting "$5,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments of winnings after December 31, 1992.

(b) TREATMENT OF CERTAIN HIGH YIELD DISCOUNT OBLIGATIONS.—

(1) GENERAL RULE.—Paragraphs (1)(A) and (2)(A) of section 163(i) (relating to applicable high yield discount obligations) are each amended by striking "5 years" and inserting "4 years".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to instruments issued after the date of the enactment of this Act.

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### NUNN AMENDMENT NO. 3194

Mr. BENTSEN (for Mr. NUNN) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1750, line 13, insert "or the right to use the name or logo of the organization conducting the qualified public event" after "event".

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## DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

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### WIRTH AMENDMENT NO. 3195

Mr. METZENBAUM (for Mr. WIRTH) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 242 to the bill

(H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes; as follows:

At the end of the amendment, add the following:

**SEC. . CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.**

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraph (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

## TAX ENTERPRISE ZONES ACT

### SEYMOUR AMENDMENT NO. 3196

Mr. SIMPSON (for Mr. SEYMOUR) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

**SEC. . MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.**

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (nor described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

## VETERANS VOCATIONAL ASSISTANCE

### CRANSTON AMENDMENT NO. 3197

Mr. FORD (for Mr. CRANSTON) proposed an amendment to the bill (S. 2647) to amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance program for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes; as follows:

On page 30, strike out line 12 and all that follows through page 32, line 22, and insert in lieu thereof the following:

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) of title 38, United States Code, is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on September 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

On page 34, strike out line 3 and all that follows through page 34, line 23.

On page 34, beginning on line 24, strike out "(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect" and insert in lieu thereof "(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted".

On page 35, line 17, insert "as if enacted" after "shall take effect".

On page 35, between lines 17 and 18, insert the following new section:

**SEC. 105. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.**

(a) ACTIVE DUTY.—Section 3011 of title 38, United States Code (as amended by section 104), is further amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

"(2) This subsection applies to a member who—

"(A) during an initial period of active duty, commences pursuit of a course of education—

"(i) at a service academy; or

"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

"(B) fails to complete the course of education; and

"(C) re-enters on a period of active duty.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

On page 35, line 18 strike out "**105.**" and insert in lieu thereof "**106.**".

On page 37, line 8, strike out "on September 1, 1993," and insert in lieu thereof "as if enacted on June 30, 1985,".

On page 37, line 10, strike out "that date" and insert in lieu thereof "September 1, 1993".

On page 37, line 11, strike out "**106.**" and insert in lieu thereof "**107.**".

On page 38, line 4, insert "as if enacted" after "shall take effect".

On page 38, line 5, strike out "**107.**" and insert in lieu thereof "**108.**".

On page 38, between lines 13 and 14, insert the following:

(b) Advance Payment.—Section 3680(d)(2) of title 38, United States Code, is amended by striking out the third sentence.

On page 38, line 14, strike out "(b)" and insert in lieu thereof "(c)".

On page 38, line 18, strike out "**108.**" and insert in lieu thereof "**109.**".

On page 38, strike out line 20 and all that follows through page 39, line 11, and insert in lieu thereof the following:

(a) Active-Duty Program.—Section 3032(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(b) Selected Reserve Program.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(c) Post-Vietnam Era Veterans' Educational Assistance Program.—Section 3231(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to flight training received

On page 39, line 16, strike out "**109.**" and insert in lieu thereof "**110.**".

On page 40, line 1, strike out "**110.**" and insert in lieu thereof "**111.**".

On page 41, strike out line 14 and all that follows through page 41, line 18, and insert in lieu thereof the following:

(b) Approval of Nurses Aide Courses.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

On page 41, line 19, strike out "**111.**" and insert in lieu thereof "**112.**".

On page 45, line 7, strike out "**112.**" and insert in lieu thereof "**113.**".

On page 46, line 1, strike out "**113.**" and insert in lieu thereof "**114.**".

On page 46, line 8, strike out "**114.**" and insert in lieu thereof "**115.**".

On page 48, line 21, strike out "**115.**" and insert in lieu thereof "**116.**".

On page 49, line 18, strike out "**116.**" and insert in lieu thereof "**117.**".

On page 52, line 1, strike out "**117.**" and insert in lieu thereof "**118.**".

On page 52, line 19, strike out "111(c)(2)" and insert in lieu thereof "112(c)(2)".

On page 53, line 6, strike out "111(b)" and insert in lieu thereof "112(b)".

On page 59, beginning on line 12, strike out "**RECEIVING VOCATIONAL OR REHABILITATIVE TRAINING.**" and insert in lieu thereof "**PARTICIPATING IN A REHABILITATION PROGRAM.**".

On page 59, below the table following line 16, add the following:

(b) Cost-of-Living Increase.—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

On page 60, strike out lines 1 and 2 and insert in lieu thereof the following:

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

On page 61, line 23, strike out "**EMPLOYMENT AND TRAINING**" and insert in lieu thereof "**DISABLED VETERANS' OUTREACH**".

On page 62, between lines 4 and 5, insert the following:

### SEC. 303. IMPROVEMENT OF PROGRAM OF FEDERAL EMPLOYMENT OF VIETNAM ERA VETERANS.

Section 4214(b)(2)(A) of title 38, United States Code, is amended—

(1) at the end of clause (i), by striking out "or";

(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or"; and

(3) by adding at the end the following new clause:

"(iii) was discharged or released from active duty after December 31, 1979, under conditions other than dishonorable; and".

On page 62, line 5, strike out "**303.**" and insert in lieu thereof "**304.**".

On page 63, strike out line 1 and all that follows through page 63, line 8.

On page 63, line 9, strike out "**403.**" and insert in lieu thereof "**402.**".

## JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT AUTHORIZATION

### KOHL AMENDMENT NO. 3198

Mr. FORD (for Mr. Kohl) proposed an amendment to the bill (S. 2792) to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.

(a) Findings.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;

"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";

(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";

(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);

(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and

(6) by adding at the end the following new paragraphs:

"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and

"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";

(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";

(C) by striking "and" at the end of paragraph (7);

(D) by redesignating paragraph (8) as paragraph (9);

(E) by inserting after paragraph (7) the following new paragraph:

"(8) to strengthen families in which juvenile delinquency has been a problem;";

(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and

(G) by adding at the end the following new paragraphs:

"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and

(2) in subsection (b) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families".

(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (18) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(19) the term 'eligible children' means persons who live in high crime areas, as shall be reasonably defined by the Administrator by regulation, and who are less than 18 years of age and older than a minimum age established by the Administrator by regulation;

"(20) the term 'law enforcement officer' means an employee of a Federal, State, or local law enforcement agency who is engaged in law enforcement or crime prevention;

"(21) the term 'local educational agency' has the meaning stated in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2897(12)); and

"(22) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".

### SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".

(b) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)(1) by inserting "the Commissioner of Immigration and Naturalization," after "Community Services,"; and

(2) in subsection (c)—

(A) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs"; and

(B) in the second sentence by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period.

(c) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—

(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended—

(A) in the first sentence by striking "existence" and inserting "experience"; and

(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".

(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";

(B) in subsection (a)—

(i) in paragraph (2)(A)—

(I) by striking "part D" and inserting "parts D and E";

(II) by inserting "or such greater amount, up to $390,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and

(III) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";

(ii) in paragraph (2)(B)—

(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3)" after "$400,000,"; and

(II) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and

(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(C) in the second sentence of subsection (c) by striking "7½ per centum" and inserting "10 percent".

(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(i) in subsection (a)—

(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";

(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";

(III) by amending paragraph (3) to read as follows:

"(3) provide for an advisory group, which—

"(A) shall consist of not less than 15 and not more than 30 members appointed by the chief executive officer of the State—

"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

"(ii) which members include—

"(I) at least 1 locally elected official representing general purpose local government;

"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, and counsel for children and youth;

"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

"(V) volunteers who work with delinquents or potential delinquents;

"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

"(v) at least 3 members who have been under the jurisdiction of the juvenile justice system at some time;

"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

"(D) shall, consistent with this title—

"(i) advise the State agency designated under paragraph (1) and its supervisory board;

"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

"(E) may, consistent with this title—

"(i) advise on State supervisory board and local criminal justice advisory board composition;

"(ii) review progress and accomplishments of projects funded under the State plan.";

(IV) in paragraph (9) by inserting "recreation," after "special education,";

(V) by amending paragraph (10) to read as follows:

"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement: crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with parents and other family member to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other youth, provided equitably regardless of sex, race, or family income, designed to encourage them to remain in school, including—

"(i) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(ii) assistance in making the transition to the world of work and self-sufficiency; and

"(iii) alternatives to suspension and expulsion;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults; and

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.";

(VI) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";

(VII) in paragraph (14)—

(aa) by striking "1993" and inserting "1997"; and

(bb) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—

"(A)(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available;

"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

"(C) are located where conditions of safety exist (such as severely adverse weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;"; and

(VIII) by amending paragraph (16) to read as follows:

"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and

(IX) in paragraph (17) by striking "and maintain the family units" and inserting "the families";

(ii) by amending subsection (c) to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) If a State fails to comply with the requirements of paragraph (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State—

"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(iii) in subsection (d)—

(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";

(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and

(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".

(B) Notwithstanding the amendment made by subparagraph (A)(i)(IX), section 223(c)(3) of the Juvenile Justice and Deliquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.

(d) NATIONAL PROGRAMS.—

(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—

(A) by inserting "recreation and park personnel," after "special education personnel"; and

(B) by inserting "prosecutors and defense attorneys," after "probation personnel,".

(2) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(A) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";

(B) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults;

"(4) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";

(D) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (B), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";

(E) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (B);

(F) by striking the period at the end of paragraph (11), as redesignated by subparagraph (B), and inserting "; and"; and

(G) by adding at the end the following new paragraphs:

"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families; and

"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles.".

(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(3)) is amended by inserting "prosecutors and defense attorneys," after "judges".

(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period .

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban areas in the United States.

"(B) Such urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) With respect to each urban area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(D) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (C).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended—

(A) in subsection (a)—

(i) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(ii) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles."; and

(iv) by adding at the end the following new paragraph:

"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

"(iii) educating the offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration."; and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,".

(e) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that applies to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists or if the Congress specifically sets aside funds for a program as an appropriation; and

(2) by striking subparagraph (C).

(f) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended—

(1) in the heading by inserting ", INTERVENTION," after "PREVENTION";

(2) in section 281—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11);

(B) by striking "SEC. 281. The Administrator" and all that follows through "purposes:" and inserting the following:

"SEC. 281. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in the prevention of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) To target elementary school students, with the purpose of steering students away from gang involvement.

"(2) To provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed.

"(3) To develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs.

"(4) To include a special location within a school or housing project for program activities.

"(b) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in crisis intervention and rehabilitation of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) Establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults.";

(C) in paragraph (8) of subsection (b), as designated by subparagraph (B), by inserting "recreation," after "local education,"; and

(D) by adding at the end the following new subsection:

"(c)(1) The Administrator shall, by making grants to and entering into contracts with public and private agencies, institutions, and local educational agencies, establish and support programs and activities for the purpose of implementing mentoring programs that—

"(A) are designed to link children in high crime areas with adult law enforcement officers and other responsible adults; and

"(B) are intended to achieve one or more of the following goals:

"(i) Provide general guidance to eligible children.

"(ii) Promote personal and social responsibility among such children.

"(iii) Discourage their use of illegal drugs, violence and dangerous weapons, and other criminal activity.

"(iv) Discourage involvement in gangs.

"(v) Enhance eligible children's ability to function effectively in, and benefit from, elementary and secondary education.

"(vi) Encourage eligible children's participation in community service.

"(2) The Administrator, after consultation with the Secretary of Health and Human Services and the Secretary of Education, shall promulgate regulations to implement this subsection.

"(3) The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"(4)(A) Grants awarded pursuant to this subsection shall be used to implement mentoring programs, including—

"(i) hiring of mentoring coordinators and support staff;

"(ii) recruitment, screening, and training of adult mentors;

"(iii) reimbursement of mentors for reasonable incidental expenditures directly associated with mentoring; and

"(iv) such other purposes as the Administrator may reasonably prescribe by regulation.

"(B) Grants awarded pursuant to this subsection shall not be used—

"(i) to directly compensate mentors, except as provided pursuant to subparagraph (A)(iii);

"(ii) to obtain educational or other materials or equipment which would otherwise be used in the ordinary course of the grantee's operations;

"(iii) to support litigation of any kind; or

"(iv) for any other purpose reasonably prohibited by the Administrator by regulation.

"(5) The Administrator shall select grant recipients under this subsection based on the following:

"(A) The quality of the mentoring plan, including—

"(i) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and "(ii) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan.

"(B) The capability of the applicant to effectively implement the mentoring plan."; and

(3) in section 282—

(A) in subsection (b)—

(i) in paragraph (1) by inserting "(a), (b), or (c)" after "section 281";

(ii) by striking "and" at the end of paragraph (7);

(iii) by striking the period at the end of paragraph (8) and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(9) in the case of an application for assistance under section 281(c) include a specific plan for implementing a mentoring program, including—

"(A) the method by which mentors and mentees will be recruited;

"(B) the method by which prospective mentors will be screened:

"(C) the training that will be provided to mentors;

"(D) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(E) a description of the extent to which parents, teachers, community-based organizations, and the local community have participated in the design and implementation of the mentoring plan.".

(g) ADDITIONAL PARTS IN TITLE II.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by redesignating part E as part I;

(2) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and

(3) by inserting after part D the following new parts:

"PART E—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 6 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 18 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"PART F—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

"DEFINITION

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator—

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.

"PART G—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

"SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp.

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training; and

"(2) remedial, special, and vocational education and treatment for substance abuse and other health and mental health problems.

"CAPACITY

"SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY

"SEC. 289B. A person shall be eligible for assignment to a boot camp if he or she—

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"OPERATION

"SEC. 289C. To the maximum extent possible, a boot camp shall be operated and maintained by active or reserve military personnel, under the supervision of the grant recipient agency in accordance with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.).

"POST-RELEASE SUPERVISION

"SEC. 289D. A State that seeks to establish a boot camp, or participate in the joint administration of a boot camp, shall submit to the Administrator a plan describing—

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART H—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

"(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

"(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

"(2) to examine the status of minors currently in the juvenile and adult justice systems;

"(3) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(4) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

"(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

"(c) SCHEDULE OF CONFERENCES.—Conferences under this part shall be held at least once during each 5-year period, but not more often than once in each 3-year period. No conference shall be held during a Presidential election year. The first Conference under this Act shall be concluded not later than 18 months after the date of enactment of this part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in a Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

"(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

"CONFERENCE PARTICIPANTS

"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

"(b) SELECTION.—

"(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

"(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

"(i) each Governor may appoint 1 delegate and 1 alternate;

"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iv) the President may appoint 20 delegates and 5 alternates;

"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

"(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.

"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

"STAFF AND EXECUTIVE BRANCH

"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.

"(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

"PLANNING AND ADMINISTRATION OF CONFERENCE

"SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

"(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

"(2) may enter into contracts and agreements with public agencies, private organizations, and academic institutions to assist in carrying out this part; and

"(3) shall prepare and provide background materials for use by participants in the Conference by participants in State and regional conferences.

"REPORTS

"SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress.

"(b) CONTENTS.—A report described in subsection (a)—

"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

"(2) shall be made available to the public.

"OVERSIGHT

"SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.".

(h) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D and E) there are authorized to be appropriated such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D or E of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

"(i) $15,000,000 for fiscal year 1993; and

"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

"(i) not less than 85 percent to make grants for treatment and transitional services;

"(ii) not to exceed 10 percent for grants for research; and

"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

"(5)(A) There are authorized to be appropriated to carry out part G such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

"(B) Amounts appropriated under subparagraph (A) shall be in addition to any other amounts authorized to be appropriated to the Office of Juvenile Justice and Delinquency Prevention.

"(6)(A) There are authorized to be appropriated such sums as are necessary for each National Conference and associated State and regional conferences under part H, to remain available until expended.

"(B) New spending authority or authority to enter into contracts under part H shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(C) No funds appropriated to carry out this Act shall be made available to carry out part H other than funds appropriated specifically for the purpose of conducting the Conference.

"(D) Any funds remaining unexpended at the termination of the Conference under part H, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.".

**SEC. 3. RUNAWAY AND HOMELESS YOUTH.**

(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the number of youth who have become homeless or who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and may live on the street, leaving them at high risk for health and other serious problems;";

(2) by striking "and" at the end of paragraph (4); and

(3) by striking paragraph (5) and inserting the following new paragraphs:

"(5) runaway youth, homeless youth, and other street youth have a disproportionate share of health problems compared to the general adolescent population but lack access to health care;

"(6) increasingly, runaway youth, homeless youth, and other street youth in need of services have more serious emotional and behavioral problems and fewer resources and therefore may need access to longer periods of residential care, more intensive aftercare services, and other assistance;

"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

"(8) to reconnect runaway youth, homeless youth, and other street youth to their communities, street-based services must be provided where they congregate;

"(9) home-based services are also needed to prevent youth from leaving home or developing more serious emotional and behavioral problems; and

"(10) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures.".

(b) AUTHORITY TO MAKE GRANTS.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary shall make grants to nonprofit private entities, combinations of such entities, and public entities to establish, renovate, and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of such youth and their families. The centers shall serve as alternatives to the law enforcement, child welfare, mental health, and juvenile justice systems.";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting "or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$75,000,"; and

(ii) by inserting ", or such greater amount, up to $45,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$30,000"; and

(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(3) by striking subsection (c).

(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—

(1) in subsection (a) by striking "facility providing" and inserting "project that provides"; and

(2) in subsection (b)—

(A) in paragraph (3) by striking "child's" and inserting "youth's" and striking "child" each place it appears and inserting "youth";

(B) in paragraph (4) by inserting "health and mental health care personnel," after "social service personnel,"; and

(C) in paragraph (6) by striking "children and family members which it serves," and inserting "children and family members that it serves, including youth that are not referred to out-of-home shelter services,".

(d) GRANTS FOR A NATIONAL COMMUNICATION SYSTEM.—Section 313(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712a(b)) is amended—

(1) in paragraph (1) by striking "1989 not less than $500,000" and inserting "1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment";

(2) in paragraph (2) by striking "1990 not less than $600,000" and inserting "1994 not less than $826,900"; and

(3) in paragraph (3) by striking "1991 and 1992 not less than $868,300" and inserting "1995 and 1996 not less than $911,700".

(e) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5716) is amended in the second sentence by striking "$150,000" and inserting "$250,000".

(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714-2(a)) is amended—

(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and

(2) in paragraph (13) by striking "and parent or legal guardian".

(g) STREET-BASED SERVICES AND COORDINATING ACTIVITIES.—Title III of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5701 et seq.) is amended—

(1) by striking sections 314, 315, and 365 and redesignating parts C and D as parts E and F, respectively; and

(2) by inserting after part B the following new parts:

### "PART C—STREET-BASED SERVICES

### "PURPOSE AND AUTHORITY; DEFINITIONS

"SEC. 325. (a) PURPOSE AND AUTHORITY.—The Secretary may make grants and provide technical assistance to public and nonprofit private entities and combinations of such entities to establish and operate street-based services to runaway youth, homeless youth, and other street youth.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'homeless youth' means a person—

"(A) who is not less than 10 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no safe living arrangement as an alternative to living with a relative;

"(2) the term 'other street youth' means a person under the age of 21 who may be intermittently homeless and spends the majority of his or her time on the street, using it as a primary means of economic survival and socialization; and

"(3) the term 'street-based services' includes—

"(A) street-based crisis intervention and counseling;

"(B) information and referral for housing;

"(C) information and referral for transitional living and health care services; and

"(D) advocacy, education, and prevention services for—

"(i) alcohol and drug abuse;

"(ii) sexually transmitted diseases including HIV/AIDS infection; and

"(iii) physical and sexual assault.

### "ELIGIBILITY

"SEC. 326. (a) PLAN AND AGREEMENT.—To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a street-based services project and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to identify and frequent areas in which runaway youth, homeless youth, and other street youth congregate, making contact and forming relationships with such youth;

"(2) to assess the problems and service needs of such youth and provide appropriate services or information and referral for these services;

"(3) to cause its staff to work in teams with on-street supervision or backup and off-street clinical supervision;

"(4) to cause its staff to—

"(A) develop referral relationships with agencies and organizations, including law enforcement, education, social service, vocational services, training, public welfare, legal assistance, and health and mental health care organizations; and

"(B) help integrate and coordinate such services for youth;

"(5) to submit to the Secretary an annual report that includes information regarding—

"(A) the activities carried out with funds under this part;

"(B) the achievements of the project under this part carried out by the applicant; and

"(C) statistical summaries describing the number and the characteristics of the youth who participated in the project in the year for which the report is submitted;

"(6) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(7) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(8) to keep adequate statistical records profiling the youth that it serves and not to disclose the identity of individual runaway youth, homeless youth, or other street youth in reports or other documents based on such statistical records;

"(9) not to disclose records maintained on individual runaway youth, homeless youth, or other street youth without the consent of the individual youth to anyone; and

"(10) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) PRIORITY.—In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing direct services to runaway youth, homeless youth, or other street youth.

"PART D—COORDINATING ACTIVITIES

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 335. The Secretary shall make grants to State, regional and other nonprofit organizations and combinations of such organizations to provide technical assistance and training to eligible groups for the purpose of establishing and improving the operation of programs for runaway youth, homeless youth, and other street youth.

"GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 336. (a) IN GENERAL.—The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth, homeless youth, and other street youth.

"(b) SPECIAL CONSIDERATION.—In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) youth who repeatedly leave and remain away from their homes;

"(2) outreach to runaway youth, homeless youth, and other street youth;

"(3) skill-based HIV/AIDS prevention training for runaway and homeless youth and training for staff to work with such youth;

"(4) increasing access to health and mental health care and services for runaway and homeless youth;

"(5) increasing access to education for runaway and homeless youth;

"(6) staff training in—

"(A) the behavioral and emotional effects of sexual abuse and assault;

"(B) responding to youth who are showing effects of sexual abuse and assault; and

"(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;

"(7) transportation of runaway and homeless youth, and other street youth in connection with services authorized to be provided under this part;

"(8) the special needs of runaway and homeless youth in rural areas;

"(9) the special needs of family host home programs for runaway youth, homeless youth, and other street youth;

"(10) transitional living programs for homeless youth; and

"(11) innovative methods of developing resources that enhance the establishment or operation of runaway youth, homeless youth, or other street youth centers.

"(c) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants that have knowledge of or experience in working with runaway and homeless youth.

"COORDINATION OF ACTIVITIES

"SEC. 337. With respect to matters relating to health, education, employment, and housing, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of other divisions of that department and other public and private entities and encourage coordination with other departments.".

(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended—

(1) in subsection (a)—

(A) by inserting ", activities," after "status";

(B) by striking "part A," and inserting "parts A, B, C, D, and E,"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) plans for the next fiscal year.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992" and inserting "such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996"; and

(B) by adding at the end the following new paragraphs:

"(3) In the use of funds appropriated under paragraph (10) that are in excess of $38,000,000 but less than $42,600,000, priority shall be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000) if the appropriation were equal to or less than $38,000,000, for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent shall be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent shall be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b)(1) by striking "of this title, there are authorized to be appropriated such sums as are necessary for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992." and inserting "there are authorized to be appropriated such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There are authorized to be appropriated to carry out part C such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

**SEC. 4. MISSING CHILDREN.**

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".

**SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.**

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

## "TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

**"SEC. 501. SHORT TITLE.**

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

**"SEC. 502. FINDINGS.**

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

### "SEC. 503. DEFINITION.

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

### "SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

### "SEC. 505. GRANTS FOR PREVENTION PROGRAMS.

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

"(1) recreation services;

"(2) tutoring and remedial education;

"(3) assistance in the development of work awareness skills;

"(4) child and adolescent health and mental health services;

"(5) alcohol and substance abuse prevention services;

"(6) leadership development activities; and

"(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end investment plan for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

"(5) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(6) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

### "SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.

### SEC. 6. CHILDREN'S ADVOCACY PROGRAM.

(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and

(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:

"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".

(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—

(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and

(2) by inserting after section 211 the following new sections:

### "SEC. 212. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'Administrator' means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);

"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;

"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;

"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).

### "SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.

"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

"(2) provide support for nonoffending family members;

"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

"(A) establish regional children's advocacy program centers;

"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

"(A) assist communities—

"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

"(iv) in providing families with needed services and assisting them in regaining maximum functioning;

"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

"(vii) in obtaining information useful for criminal and civil proceedings;

"(viii) in holding offenders accountable through improved prosecution of child abuse cases;

"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse through training; and

"(x) in enhancing community understanding of child abuse; and

"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

"(c) Operation of the Regional Children's Advocacy Program.—

"(1) Solicitation of proposals.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

"(2) Minimum qualifications.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

"(A) A proven record in conducting activities of the kinds described in subsection (c).

"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

"(D) Experience in serving as a center for training and education and as a resource facility.

"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

"(3) Proposal requirements.—

"(A) In general.—A proposal submitted in response to the solicitation under paragraph (1) shall—

"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;

"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

"(iii) state the annual cost of the proposal and a breakdown of those costs.

"(B) Content of management plan.—A management plan described in paragraph (3)(A) shall—

"(i) outline the basic activities expected to be performed;

"(ii) describe the entities that will conduct the basic activities;

"(iii) establish the period of time over which the basic activities will take place; and

"(iv) define the overall program management and direction by—

"(I) identifying managerial, organizational, and administrative procedures and responsibilities;

"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

"(III) providing sufficient rationale to support the costs of the plan.

"(4) Selection of proposals.—

"(A) Competitive basis.—Proposals shall be selected under this section on a competitive basis.

"(B) Criteria.—The Administrator, in coordination with the Director, shall select proposals for funding that—

"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and

"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

"(D) otherwise best carry out the purposes of this section.

"(4) Funding of program.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

"(5) Coordination of effort.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

"(d) Review.—

"(1) Evaluation of regional children's advocacy program activities.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

"(2) Annual report.—A grant recipient shall provide an annual report to the Administrator and the Director that—

"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

"(3) Discontinuation of funding.—

"(A) Failure to implement program activities.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

"(B) Solicitation of new proposals.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

"(e) Children's Advocacy Advisory Board.—

"(1) Establishment of board.—

"(A) In general.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

"(B) Membership.—(i) The board—

"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

"(II) shall include at least 1 member from each of the 4 census regions; and

"(III) shall have members appointed for a term not to exceed 3 years.

"(ii) Members of the Board may be reappointed for successive terms.

"(2) Review and recommendations.—

"(A) Objectives.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

"(B) Review.—The board shall annually—

"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

"(3) Rules and regulations.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

"(f) Reporting.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".

(c) Local Children's Advocacy Program.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—

(1) by amending the heading to read as follows:

**"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";**

(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";

(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and

(4) by adding at the end the following new subsection:

"(d) Consultation With Regional Children's Advocacy Centers.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".

(d) Specialized Technical Assistance and Training Programs.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".

(e) Authorization of Appropriations.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), is amended to read as follows:

**"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

"(1) $20,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under sections 213 and 214.".

**SEC. 7. HEAD START TRAINING IMPROVEMENT.**

(a) PURPOSE.—It is the purpose of this section—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including—

"(A) specific goals and objectives for program improvement and continuing professional development;

"(B) a process for continuing input from the Head Start community; and

"(C) a strategy for delivering training and technical assistance; and

"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

**SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.**

(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—

(1) by striking out "obligated" and inserting in lieu thereof "expended"; and

(2) by striking out "succeeding fiscal year" and inserting in lieu thereof "succeeding 3 fiscal years".

(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858a et seq.) is amended by adding at the end thereof the following new section:

**"SEC. 658S. MISCELLANEOUS PROVISIONS.**

"Notwithstanding any other provision of law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—

(A) in paragraph (7), by striking out "4(b)" and inserting in lieu thereof "4(e)"; and

(B) in paragraph (14), by striking out "4(c)" and inserting in lieu thereof "4(l)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.

**SEC. 9. TECHNICAL AMENDMENT TO HEAD START ACT.**

(a) IN GENERAL.—Section 641(c)(1) of the Head Start Act (42 U.S.C. 9836(c)(1)) is amended by striking out "July 29, 1992" and inserting in lieu thereof "March 1, 1993".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment.

## BICYCLE HELMET GRANT ACT

### DANFORTH AMENDMENT NO. 3199

Mr. SIMPSON (for Mr. DANFORTH) proposed an amendment to the bill (S. 3096) to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16; as follows:

Strike everything on page 4 of the bill and insert in lieu thereof the following:

#### STANDARDS

SEC. 4. (a) IN GENERAL.—Bicycle helmets manufactured 60 days or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provision that address the risk of injury to children; and

(4) include additional provisions as appropriate.

(d) FAILURE TO MEET STANDARD.—A bicycle helmet that does not conform to an interim standard or final standard as required under subsection (a) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the National Highway Traffic Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

#### DEFINITION

SEC. 6. In this Act, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 4(b), pending establishment of a final standard under section 4(c); and

(2) the final standard, once it is established under section 4(c).

## NOTICES OF HEARINGS

### SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a business meeting on Friday, September 25, 1992, beginning at 10 a.m., in 485 Russell Senate Office Building to consider S. 2977, the Indian Agricultural Resources Management Act; S. 3237, to amend the Indian Self-Determination and Education Assistance Act; S. 3155, the National Indian Policy Research Institute Act; S. 3267, the Phoenix Indian School; S. 2617, the Indian Dams Safety Act of 1992; H.R. 2144, the California Tribal Status Act; and for other purposes.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

### SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Credit will hold a hearing on S. 3119, the USDA National Appeals Division Act of 1992. The hearing will be held on Wednesday, September 30, 1992 at 8:30 a.m. in SR-332. Senator KENT CONRAD will preside.

For further information please contact Suzy Dittrich at 224-5207.

## AUTHORITY FOR COMMITTEES TO MEET

### SUBCOMMITTEE ON PRIVATE RETIREMENT PLANS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Private Retirement Plans and Oversight of the Internal Revenue Service of the Committee on Finance be authorized to meet during the session of the Senate on September 25, 1992, at 10 a.m. to hold a hearing to examine the financial strength of the Federal Agency [Pension Benefit Guaranty Corportion] that insures retirement benefits for over 40 million American workers.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, September 25, 1992, to hold a hearing on "Oversight of the Insurance Industry: Blue Cross/Blue Shield-Maryland Plan."

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on September 25, 1992, beginning at 10 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 22977, the Indian Agricultural Resources Management Act; S. 3237, to amend the Indian Self-Determination and Education Assistance Act; S. 3155, the National Indian Policy Research Institute Act; S. 3267, the Phoenix Indian School; S. 2617, the Indian Dams Safety Act of 1992; H.R. 2144, the California Tribal Status Act; and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

## WINNERS OF THE NEW ENGLAND BABE RUTH LEAGUE CHAMPIONSHIP

• Mr. KERRY. Mr. President, today I would like to recognize the Central Massachusetts East All Stars Babe Ruth Team from Marlboro, MA, for its outstanding accomplishments during this past year. Following an exceptional season of victories, Marlboro won the Western Massachusetts 13-year-old Babe Ruth League Championship on July 24, 1992, the Massachusetts Championship on August 12, and the New England Championship on August 14. They represented New England in the 13-year-old Babe Ruth World Series in Houma, LA, beginning August 20, but unfortunately the series was canceled by Hurricane Andrew on August 25. I am confident that, had the series played out, they would have brought the world series trophy back to Massachusetts.

Manager Robert C. McAndrews and coaches Francis E. Bedard and my good friend Tom Hill have led the Central Massachusetts East Team to success, and I congratulate them as well as the players: Brian Bedard, Michael Cincotta, Philip Davis, Adam Fernald, Shane Gillatt, Adam Goulet, Brian Greska, Michael Hayes, William Hill, Andres MacNeil, Eric Maiuri, Shaun McAndrews, Michael Miele, and William Richards. These young men have shown a dedication to sportsmanship and the spirit of athletic competition. I congratulate them for their fine record this year and wish them the very best of luck in seasons to come.•

## TRIBUTE TO ADRIAN P. FREUND

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a gentleman who will help successfully guide the city of Louisville into the 21st century. Adrian P. Freund, recently named Jefferson County director of planning and environmental management, will bring his considerable experience to a vital area in the continuing development of Louisville and the surrounding area.

Mr. Freund's mission in the newly created position will be to create a new structure to bring together urban planning and environmental issues and to implement air-quality standards required under the new Federal Clean Air Act. He brings enthusiasm as well as an extensive knowledge of land-use planning and an understanding of solid-waste and water-quality issues.

Mr. Freund will be responsible for coordinating the various agencies so that together they can formulate a coherent plan for the future of the city of Louisville. Mr. Freund intends to lead the effort for regional growth while at the same time ensuring that there is an improvement in environmental integrity.

Many may ask how can this be accomplished. Mr. Freund believes that it will be necessary to formulate a vision of the community's future, and then develop a comprehensive plan to achieve that future. He insists this must be done he insists with the active involvement of environmental interests, industry interests, and municipalities. Throw in the right combination of staff and the fundraising to support it—about $5.8 million—and you have all the ingredients for success.

But of course, even all of the best ingredients do not always guarantee a perfect recipe, for that you need a master chef. Mr. President, I know my colleagues will agree that Mr. Freund is just the man to lead this effort and ensure that the ingredients are mixed properly.

I ask my colleagues to join me in congratulating Adrian Freund and wishing him luck in what I am sure will be a successful venture. I also ask that at this time an article from the July 27 Business First be inserted into the RECORD.

The article follows:

### FREUND TO "BUILD BRIDGES" BETWEEN COUNTY AGENCIES

(By Sandy Semans-Herald)

A new player is in town, and he's busy "buildings bridges" over the often-found gap between the urban planning, permitting and environmental management.

Adrian P. Freund, (pronounced Froined—rhymes with coined), 42, has come to Louisville as part of Jefferson County Judge-Executive Dave Armstrong's April pledge to create a new structure to bring together urban planning and environmental issues and to implement air-quality standards required under the new federal Clean Air Act.

The newly created Department of Planning and Environmental Management will eventually encompass about 160 employees, most of which are already working for the various departments involved in the merger but not yet under the new department heading, Freund says from his makeshift, naked-wall, colorless, temporary office in the Jefferson County Courthouse.

Experienced in building organizations from the ground up, Freund has an enthusiasm that he credits in part to Armstrong and his staff's sales pitch to get Freund here during their nationwide search for the head of the new department.

"Jefferson County has extremely good government leadership. They have a sense of where they are going and articulate it very well," says Freund of his interview with county officials when applying for the position that drew approximately 150 applicants.

Armstrong describes Freund as having "all the qualities we were seeking—from an extensive knowledge of land-use planning to understanding solid-waste and water-quality issues."

Freund's last stint as chief of the Bureau of Water Management, Connecticut Department of Environmental Protection, helped prepare him for his current position.

That post also was a newly created position wherein Freund was responsible for putting together a new organization, using previously separate programs as his building blocks.

There, Freund combined four department into a new one which dealt with water issues including monitoring, permitting and enforcement.

Along the way, he developed a plan to streamline the permitting process that helped disperse a four-year backlog of over 2,000 applications waiting for attention. At the same time that he was waist deep in permits, he reduced the department's general-fund budget by 25 percent without a reduction in output.

In his new position, Freund will be responsible for combining various county-wide agencies into one unit dedicated to comprehensive urban planning. Those agencies that will come together will include development, permitting, environmental management, and monitoring and enforcement.

Part of Freund's focus over the next few months will be on how to combine planning and zoning, the air pollution agency, the environmental health division of the health department, building-code enforcement, solid-waste planning and the hazardous materials response team into a single cohesive unit.

Armstrong has identified the mission of the new agency as being a conduit for producing regional growth, while maintaining and improving environmental integrity.

Jim DeWitt, a professional associate of Freund and president of the Connecticut Resource Group, an environmental consulting and industry advisory firm based in Hartford, refers to Freund as a "communicator" and a "collaborator."

"He effectively communicated to his department what he thought were the important priorities for the department, and he was also good with those on the outside—environmental and industrial groups.

"He was receptive to an open-door policy for those outside the bureau and never turned away those bringing problems to his desk," DeWitt adds.

Although budget and personnel cuts made the Connecticut position frustrating for Freund, DeWitt says he was still able to make a positive contribution.

"He made great efforts to bring environmental interests, industry interests and municipalities" to the same table to discuss and resolve their concerns, DeWitt says.

"We first need a vision of the community's future," says Freund, describing his agenda for implementing the new agency and its priorities.

"And we need a comprehensive plan. * * * There's a tremendous amount of work ahead as we develop the first significant program for planning that's been done (in Jefferson County) in the last 10 years," he adds, noting that it will probably take from 24 to 30 months for completion of the new land-use development plan.

Input from the Louisville Chamber of Commerce, the city of Louisville, various departments of local government and special interest groups—including environmentalists—is being sought by Freund to insure a proper balance and focus of issues, he says.

Members of the various factions will be used to form a policy committee which Freund says he hopes to have in place this summer.

"And we need the right combination of staff and the fund-raising to support it (the department)," he says. He estimates that the new department will require a budget of about $5.8 million.

"Oh, and we need bike trails," says Freund with a sheepish grin. Both an avid runner and cyclist, the director says that since his arrival in Louisville he has spent a lot of time at Seneca and Cherokee parks riding his bicycle.

He calls the area a "bike unfriendly environment."

Although it sounds like—and, in fact, is—a monumental task ahead of the England-born director, he says with no telltale accent that he is not overwhelmed.

"The secret is to focus clearly on the objectives, keep the process manageable and limit the number of priorities," says Freund, who professes a reading addiction to management books.

And that's not the only addiction of the transplanted Freund. While he may limit the department's priorities, his wife, Karin Fox, says there's virtually no limit to his interest in and collection of model trains.

"There are literally hundreds of them," says Fox, referring to Freund's vast collection. "He put together some of the models, and he has bought others."

Fox says that the couple's 3-year-old son, Justin, has inherited his dad's iron-horse enthusiasm.

"He takes his little trains to the basement and tries to run them on Daddy's tracks. Adrian usually keeps a couple of trains out that Justin can push around the tracks," Fox says.

And her husband's interest in trains is not limited to models. Fox says that when the family travels, Freund often finds new trains to ride.

An interest in trains isn't the only thing that runs in the Freund family. Freund's father was professor emeritus at the University of Illinois in—what else—urban planning.

His father now lives most of the year in England and Freund, an only child, has no other family in the United States other than Fox and Justin.

Fox says most of his relatives are now in England, Wales and New Zealand.

Moving around a lot has made Freund adaptable to new places, friends and situations, however.

Although he has moved often for professional reasons, Freund started his traveling when he left England as a child. First stop for the family was Canada. From there they moved to New York and finally settled in Illinois.

But some things you just take with you. A longtime active member of the Presbyterian Church, Freund has been visiting local churches since his arrival while he looks for a new spiritual home.

A former church trustee, Freund says he likes members of his chosen church because they often share his interest in politics and community matters.

Community involvement is also a special interest of Freund's as evidenced by his past involvement in neighborhood associations.

On the professional side, the director is involved in several organizations, including being a charter member of the American Institute of Certified Planners.

Freund is currently "baching" it because Fox continues working as a librarian at the Connecticut State Library while waiting to sell their West Hartford, Conn., home.

Going hungry will not be a problem for Freund while his wife remains in the Northeast, though.

"Adrian is a gourmet cook," Fox says. "We used to take turns cooking, but after Justin was born Adrian took over most of the cooking."

The couple, who have been married less than six years, met on a blind date while both were living in Wisconsin, where Freund worked for the Dane County Regional Planning Commission in Madison.

Fox says that at the time, she never dreamed it would lead to marriage or the moves the couple has since made.

From Wisconsin, they moved to Austin, Texas, where Freund took on the role of acting chief environmental officer, office of Environmental Resource Management.

Before leaving Austin for Connecticut in 1989, Freund held several positions during the city's efforts to consolidate and unify its planning, permitting and environmental offices.

His positions there included deputy director of the Department of Environmental Protection and acting director of the Resource Management Department.

One of the things Freund left Austin with was the nickname "Minister of Death," says Tracy Watson, Austin's assistant director of planning and development and a former colleague of Freund's.

"He was given that title as a joke by some in the developers' community in Austin because Adrian was involved in enforcing and sometimes in writing some very stringent codes.

"He had a reputation for holding their feet to the fire, but people respected him for it," Watson says.

"But he is also very practical and he always tried to work things out so that they were consistent with the ordinances. He would rather help bring a company into compliance than lose jobs," he says.

And Watson's final words on Freund?

"Adrian is strong and decisive as long as he knows that he has the authority behind him," says Watson. "And he's a strong negotiator."

Could that mean new bike trails?

BIO—ADRIAN FREUND

Title: Jefferson County Director of Planning and Environmental Management.

Age: 42.

Hometown: Champaign, Ill.

Education: Bachelor's degree, University of Illinois, Urbana-Champaign.

Family: Wife: Karin Fox; Children: Justin, 3.●

## REFUGEE ADMISSIONS TO THE UNITED STATES FOR 1993

● Mr. KENNEDY. Mr. President, as chairman of the Judiciary Subcommittee on Immigration and Refugee Affairs, I want to report to my colleagues, as required by the Refugee Act of 1980, on the Judiciary Committee's consultation with the President's representatives on the admission of refugees for 1993.

After regular meetings during the year, and after a formal hearing of the committee in July, the committee has now concluded the consultations and agrees with the President's proposal.

Our greatest concern during this period was that the President's proposed budget was simply not adequate to support the admission levels he had proposed. However, thanks to the leadership of the Appropriations Committee, particularly Senator HARKIN, with whom we have worked closely, and Congressman NATCHER, we believe the appropriations will in the end be sufficient to fund the President's proposal.

For the Record, Mr. President, I would like to submit the letter the Judiciary Committee has sent today to the President concluding the consultations under the Refugee Act, as well as the text of the report to the Congress by the administration justifying the proposed refugee admissions program for 1993.

The material follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, September 25, 1992.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: In accordance with the Refugee Act of 1980 (P.L. 96-212), members of the Committee on the Judiciary have consulted with your representatives on the proposed refugee admissions for fiscal year 1993.

Funding remains a concern, and the Committee trusts that the funding levels now under consideration will provide reasonable resettlement assistance for the proposed level of admissions. We reiterate our view that resettlement funding must correspond to the number of refugees admitted, except, of course, in the case of emergency situations.

As we expressed last year, the Committee believes that some refugee admission numbers should be reserved for refugees whom the U.N. High Commissioner for Refugees identifies as being "at risk." Often these refugees must be moved within a matter of hours, or face refoulement and imminent danger to their lives or freedom. The United States has a proud record, but we do not always respond well to individual refugees in need of urgent protection. To respond to these needs the Committee suggests that specific numbers be used for this purpose, and that the Coordinator for Refugee Affairs establish a permanent procedure with the Attorney General allowing Consular Officers to admit these refugees "at risk" rather than waiting months for an INS "circuit rider" to interview them.

Finally, we want to reiterate our support for efforts to strengthen the peace-keeping and peace-making roles of the United Nations—to deal with the root causes of refugee problems before they emerge into international tragedies. This is a time of historic change in the world, and with the end of the Cold War it also provides an historic opportunity for the United Nations and its agencies to become more effective and involved. We are witnessing a greater willingness by governments to address humanitarian and other problems collectively through the United Nations. Whether it is the crisis in the former Yugoslavia or Somalia, or the Cambodia issue, nations have joined together in looking to the U.N. as the best forum for resolving them. But if we are to expect the U.N. to finally be able to do what its original Charter gave it the responsibility to do, then there is a need to strengthen the U.N.'s capacity to do so. We support your proposal to do so.

As in previous years, we continue to support the objectives of our Nation's program to assist refugees of "special humanitarian concern" to the United States. But we again encourage you to consider the above suggestions as we implement this coming year's program.

With best wishes,

Sincerely,

Strom Thurmond, Ranking Member, Committee on the Judiciary; Alan K. Simpson, Ranking Member, Subcommittee on Immigration and Refugee Affairs; Joseph R. Biden, Jr., Chairman, Committee on the Judiciary; Edward M. Kennedy, Chairman, Subcommittee on Immigration and Refugee Affairs.

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## REPORT TO THE CONGRESS ON PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 1993

### FOREWORD

The annual Congressional consultations on refugee admissions provide a unique opportunity for the Congress and the Administration to focus on the domestic and international implications of the U.S. refugee policy, and mark the culmination of a many-faceted process.

The U.S. Coordinator for Refugee Affairs and other Administration officials have periodic discussions with Members and staff of the House and Senate Judiciary Committees, the Senate Foreign Relations Committee, the House Foreign Affairs Committee, the House and Senate Appropriations Committees and other interested Congressional committees. The Coordinator chairs interagency meetings which include representatives from bureaus of the Department of State including the Bureau for Refugee Programs and the Bureau for Human Rights and Humanitarian Affairs, the Department of Justice's Immigration and Naturalization Service, the Department of Health and Human Service's Office of Refugee Resettlement, the Office of Management and Budget, and the National Security Council. In addition, consultations are held with representatives of state and local governments, public interest groups, private voluntary organizations, mutual assistance associations, and other organizations concerned with refugees.

The Administration is committed to strengthening and implementing the U.S. refugee admissions and assistance policy consistent with domestic and international concerns within a humanitarian framework. The task of balancing these concerns has become increasingly difficult because of growing numbers of refugees and constrained budgets. Nevertheless, we continue to admit select numbers to our country as refugees. At the same time, we contribute to life-saving assistance programs which impact on millions of the world's refugees who are not eligible for our admissions program.

This document presents the President's admissions proposals for FY 1993. It is intended to initiate the Congressional consultations process set out in Section 207 of the Refugee Act of 1980 and to elicit responses from the House and Senate Judiciary Committees and others interested in refugee policies and programs. After receiving the views of the Congress, the President will determine refugee admissions levels and allocations for FY 1993.

### I. PROPOSED REFUGEE ADMISSIONS PROGRAM FOR FY 1993

### *A. Overview of U.S. refugee policy*

In the resolution of refugee problems, the United States gives highest priority to the safe, voluntary return of refugees to their homelands. This policy, embodied in the Refugee Act of 1980, is also the first priority for the United Nations High Commissioner for Refugees (UNHCR). If safe, voluntary repatriation is not feasible, settlement in countries of asylum within the region is sought as the next preferred alternative. Often, however, political differences, lack of economic resources to support large numbers of additional people, or ethnic, religious or other deep-rooted animosities prevent this option from being exercised. Finally, consideration is given to resettlement in third countries, including the United States.

The United States considers for admission persons of special humanitarian concern who can establish persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The legal basis of the refugee admissions program is the Refugee Act of 1980 which embodies the American tradition of granting refugee to diverse groups suffering or fearing persecution. The Act adopted, for the purpose of our refugee admissions program, the definition of "refugee" contained in the United Nations Convention and Protocol relating to the Status of Refugees. The definition which may be found in Section 101 (a)(42) of the Immigration and Nationality Act (INA), as amended by the Refugee Act, is as follows:

"The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such circumstances as the President after appropriate consultation (as defined in section 207 (e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion."

The estimated world population of refugees and externally displaced persons is over 16 million; persons displaced within their own countries by war, famine and civil unrest may equal that number. The United States works with other governments, and international and private organizations to protect refugees and displaced persons and strives to ensure that survival needs for food, health care and shelter are met. Under the authority contained in the Migration and Refugee Assistance Act of 1962, as amended, the United States contributes to the international activities of the UNHCR, the International Committee of the Red Cross (ICRC) and other international and private organizations which provide ongoing relief and assistance for refugees and displaced persons. (For example, the United States in FY 1990 contributed $74 million, 21 percent of the total General Program Budget of the UNHCR for Calendar Year (CY) 1990, plus $53 million, 23 percent of the UNHCR's total Special Programs Budget for CY 1990). The United States has been instrumental in mobilizing a community of nations to work through these and other organizations in alleviating the misery and suffering of refugees throughout the world.

The United States, aware that more than 75 percent of the world's refugees are women and young children, recognizes the special needs of these vulnerable groups, particularly in the areas of protection and assistance. The United States supports the UNHCR and other relevant international, governmental and non-governmental organizations in their efforts to involve refugee women in implementing programs on their own behalf, and also supports the assigning of women officers to positions where they can impact favorably on the protection and well-being of women and children refugees.

We continue to press for the most effective use of international resources directed to the urgent needs of refugees and displaced persons. During FY 1992, the United States supported major relief programs in Africa, Central America, Southeast Asia, South Asia and the Near East, including the Gulf region. Contributions for these funds were made through organizations including the UNHCR, the United Nations World Food Program (WFP), the ICRC, the United Nations Children's Fund (UNICEF), and the United Nations Relief and Works Agency for Palestine Refugees (UNRWA). This support averted further human tragedy and helped sustain life by providing food and other assistance to meet the basic human needs of refugees. Details are provided in the World Refugee Report.

With regard to refugees resettled in the United States, the U.S. Government aims to promote economic self-sufficiency as quickly as possible, limiting the need for public assistance and encouraging refugees to contribute to the diversity and enrichment of our country as previous newcomers have done. To this end, short-term English language and cultural orientation programs for certain groups of refugees have been established overseas to initiate the process of adapting to our complex society. Particular attention is paid to the health of refugees to ensure that communicable diseases are controlled before entry into the United States. Federally funded programs administered by the State have provided cash and medical assistance, training programs, employment and other support services to many refugees soon after arrival in the United States. A variety of institutional providers have performed these services, including private voluntary agencies who also perform initial reception and placement services under cooperative agreements with the Department of State. All of these benefits are intended for short-term utilization during a refugee's transition to an independent, contributing member of the national economy and of American society.

Publicly funded refugee admissions to the United States for FY 1992 are expected to be approximately 129,700. Total admissions, including privately funded, are expected to be approximately 131,200.

TABLE I—REFUGEE ADMISSIONS IN FISCAL YEAR 1992

| Region | Fiscal year 1991 actual | Fiscal year 1992 ceiling | Estimated fiscal year 1992 arrivals thru April 1992 | Total fiscal year 1992 anticipated |
|---|---|---|---|---|
| Africa | 4,424 | 6,000 | 2,303 | 6,000 |
| East Asia | 53,486 | 52,000 | 28,613 | 52,000 |
| Eastern Europe | 6,855 | 3,000 | 1,930 | 3,000 |
| Latin America/Caribbean | 2,237 | 3,000 | 1,476 | 3,000 |
| Near East/South Asia | 5,359 | 6,000 | 2,930 | 5,500 |
| Soviet Union/Former Soviet Union | 38,661 | 61,000 | 35,211 | 60,000 |
| Unallocated Res. | (1) | 1,000 | 0 | 200 |
| Sub-total | 111,022 | 132,000 | 72,463 | 129,700 |
| Privately funded | 1,789 | 10,000 | 693 | 1,500 |
| total | 112,811 | 142,000 | 73,156 | 131,200 |

[1] Not applicable.

The President proposes to respond to the humanitarian needs of refugees by establishing for FY 1993 an admissions ceiling of 132,000 refugees for permanent resettlement in the United States. Proposed allocations within this ceiling are shown in Table II below:

*Table II—Proposal for U.S. refugee admissions in fiscal year 1993*

| Area of origin: | *Proposed ceiling* |
|---|---|
| Africa | 7,000 |
| East Asia | [1] 52,000 |
| Eastern Europe | 1,500 |
| Latin America and the Caribbean | 3,500 |
| Near East and South Asia | 7,000 |
| Former Soviet Union | 50,000 |
| Unallocated | 1,000 |
| Subtotal | 122,000 |
| Unallocated (privately funded) | 10,000 |
| Total | 132,000 |

[1] Includes Amerasian immigrants and their families who enter as immigrants under a special statutory provision but receive benefits as refugees.

The President also proposes to specify that special circumstances exist so that, for the purpose of admission under the limits established above and pursuant to section 101(a)(42)(B) of the INA, certain persons, if they otherwise qualify for admission, may be considered as refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence. The proposed designations for FY 1993 are persons in Cuba, El Salvador, Guatemala, Haiti, Vietnam and the former Soviet Union.

In addition to the proposed admission of refugees from abroad, the Immigration and Naturalization Service (INS) will be authorized to adjust to the status of permanent resident alien 10,000 persons who have been granted asylum in the United States and have been in the United States for at least one year, pursuant to Section 209 (b) of the Immigration and Nationality Act.

In the regional descriptions which follow, an overview of refugee-generating conditions is provided. In addition, voluntary repatriation, resettlement within the region, and third country resettlement opportunities are mentioned. There is also reference to refugee resettlement by countries other than the United States. More detailed information and statistics on these subjects are found in the companion World Refugee Report.

### *B. Resettlement needs in FY 1993*

### 1. Africa

While 1991 and 1992 have been years of dramatic geopolitical changes in Africa, including some peace agreements and moves toward more open democratic political systems, over five million people fled conflicts and persecution during this period. In 1991, the decades old authoritarian Somali regime of Siad Barre collapsed and the Somali National Movement (SNM) declared the secession of "Somaliland"; Ethiopian head of state Mengistu was forced to flee the country after seventeen years of brutal rule and the nearly thirty-year-old civil war with Eritrea came to an end; peace accords were signed, ending sixteen years of civil war in Angola, and the UNHCR and the Government of South Africa signed a memorandum of understanding that covered the organized return of exiles. This was an important milestone in the process of dismantling apartheid. So far in 1992, Somalia has fragmented into a number of warlords' fiefdoms; Angola and Ethiopa have begun a transition to democracy; Eritrea has established its de facto independence from Ethiopa; Zaire has experienced great political turmoil; a coup has occurred in Sierra Leone; Kenya has become a major refugee host; and the most severe drought of this century has struck most of southern Africa, further complicating efforts to protect and assist refugees. Far less change has characterized the ongoing civil wars in Mozambique, Sudan, and Liberia—and all continue to generate refugees.

The dramatic changes in the Horn have uprooted over one million people, many of whom were already refugees or displaced persons. Almost all of the 350,000 Ethiopian refugees remaining in Somalia fled back to Ethiopia. The fighting in Somalia also pushed another 200,000 Somali refugees into Ethiopia, while the ascendancy of the SNM in northwest Somalia gave impetus to a return flow from the Ethiopian camps. Djibouti also received additional Somali refugees, and several thousand fled by ship to Yemen, while Kenya has been flooded with some 150,000 Somalis fleeing the desperation of the ongoing conflict in the southern part of Somalia.

When Mengistu's regime collapsed, nearly all of the Sudanese refugees in the west, a substantial number of whom were unaccompanied minor males, walked back into remote areas of Sudan where they were caught up, once again, in the civil war. There was also an outflow of over 100,000 Ethiopians (most ex-military personnel, government officials, and dependents) to all neighboring states. However, most returned within a few months. The defeated and displaced soldiers also included some 200,000 who were summarily pushed out of Eritrea to make their way south. A breakdown in centralized law and order has severely undermined the international relief efforts for Somali refugees and Ethiopian returnees in the eastern and southern parts of the country and has caused some 40,000 Ethiopians to flee to Kenya. The Sudanese civil war continues to uproot people internally and to push them into the Central African Republic, Zaire, Uganda, and even Kenya.

Before the Angolan peace accords were signed on May 31, 1991 the last and some of the fiercest fighting of the Angolan civil war pushed another 6,000 refugees into Zambia. The ceasefire, however, began a peace process that will ultimately provide an opportunity for repatriation of the over 400,000 Angolan refugees in Zaire, Zambia, and Namibia as well as the return to their homes of nearly one million internally displaced Angolans. The number of Mozambican refugees who are found in all of Mozambique's six neighbors has surpassed 1.5 million, including over 900,000 in Malawi, and drought overlaid on conflict will likely generate still more refugees.

Although some Liberian refugees have been able to return home, some 600,000 remain in neighboring countries, and some continue to flee to Cote d'Ivoire and Guinea. In March 1991, the Liberian civil war spilled over into Sierra Leone creating a new population of some 350,000 refugees and displaced persons. The Sierra Leone coup in May 1992 uprooted more people.

### Voluntary repatriation

Although Ethiopia's newest refugees repatriated quickly, the longtime ones, especially the estimated 700,000 in Sudan (including 500,000 Eritreans), have not yet returned, nor has UNHCR reached agreement on a repatriation program with the new Ethiopian/Eritrean authorities. However, the root causes of previous refugee flight have largely ceased to pertain. Accordingly, the U.S. refugee resettlement program was suspended for new Ethiopian/Eritrean applicants as of November 21, 1991. Those already in the pipeline continue to be processed. In view of the suspension of new applications, we monitor events to determine whether circumstances warrant changes in the program.

After many months of negotiations, the UNHCR, the African National Council (ANC), and the South African Government reached an agreement in September 1991 to establish a UNHCR presence in South Africa to handle physical repatriation of refugees as well as their protection and initial reintegration into a South Africa suffering from extreme economic distress. Nearly 6,000 exiles affiliated with the ANC repatriated before the UNHCR effort was fully underway. UNHCR took these into its reintegration program and is handling the return of another 9,000.

Spontaneous voluntary repatriation of Angolan refugees has begun, especially from Zaire where political instability has made refugees' lives more difficult. Massive repatriation of Liberian and Mozambican refugees continues to be unlikely before 1993 at the earliest. Voluntary repatriation plans for Rwanda and Burundi refugees have been temporarily derailed by armed attacks by exiles from both countries.

#### Resettlement within the region

The oft-praised generosity of the African people and governments in granting extended refuge to neighbors in distress has continued despite growing social and economic burdens on these developing nations. Still greater international efforts in enhancing self-sufficiency of refugee groups are needed.

#### Third country resettlement

Despite the usually generous asylum policies found within Africa, there are refugees who require resettlement outside the region. They are, generally, either political dissidents who are not welcome in neighboring countries, or urban refugees not easily assimilated into the predominantly rural economies of countries of first asylum. Since 1980, almost 31,000 African refugees have been resettled in the United States. Smaller numbers have been resettled in Canada, Australia, Scandinavia, and Western Europe.

#### U.S. admissions

*Proposed Ceiling*. The proposed admissions ceiling for African refugees for FY 1993 is 7,000. The FY 1992 admissions ceiling was 6,000.

After the Gulf War, refugee processing in Khartoum resumed in mid-1991. We expect approximately 1,500 arrivals of Ethiopian refugees from this post in FY 1992. In light of the influx of refugees into Kenya, the Joint Voluntary Agency (JVA) in Nairobi has expanded its program to camps outside of Nairobi. We anticipate about 1,700 arrivals of Ethiopians and 1,600 arrivals of Somalis from Nairobi in FY 1992. The JVA in Freetown has a caseload of 1,500 UNHCR-referred Liberians and we expect about 700 to arrive in FY 1992. 500 departures of other nationalities out of Nairobi and from other processing posts in Africa and around the world should result in 6,000 African admissions in FY 1992.

The situation in FY 1993 will change somewhat. With the suspension of new applications from Ethiopians on November 21, 1991 (except for persons eligible under priority one), we expect Ethiopian admissions to continue in FY 1993, with about 3,000 refugee admissions from Khartoum and 1,000 from Nairobi and elsewhere. The United States will continue accepting applications for our limited Liberian program. We expect another 500 admissions in this group.

The anticipated phase-out of these two programs is unfortunately compensated by new outflows from Somalia and Sudan. We will also need admission numbers for other nationalities, designated and non-designated. We therefore estimate a ceiling of 7,000 for Africa in FY 1993.

*Designated Nationalities*. The following African nationalities will be designated for FY 1993: Ethiopians, Liberians, Mozambicans, Somalis, Sudanese and Zairians. UNHCR-led repatriation programs for Angolans and South Africans and human rights improvements in Uganda, coupled with the paucity of applications from these three nationalities, led to their removal from the list of designated nationalities for FY 1993. However, in light of the volatile political and ethnic circumstances in many African countries, processing posts will continue to be authorized to process, without prior Washington approval, nationals of any African country referred to the U.S. program by UNHCR.

*Processing Priorities*. New Ethiopian applicants are processed in priority one only, with prior approval from Washington. Liberians are processed in priorities one through three. African applicants at non-African processing posts are processed in priorities one through five and must have arrived prior to July 1, 1988. All other African applicants are eligible in all six priorities.

### 2. East Asia

#### First asylum

There are over 110,000 Indochinese asylum seekers in first asylum camps in Southeast Asia and Hong Kong. In addition to its camp population of Vietnamese and Lao, Thailand continues to bear the burden of approximately 370,000 displaced persons from Cambodia whose repatriation began March 30. Thailand also hosts several thousand displaced Burmese, including some 1,000 to 2,000 dissident students who have fled their country. The past year has been marked by a continued drop in boat arrivals in the Association of South East Asian Nations (ASEAN) countries. From January 1 through April 30, 1992 there were only six arrivals, down almost 99 percent from the same period in 1991 (459). In Hong Kong, arrivals during the first four months of Calendar Year (CY) 1992 were seven, down over 99 percent from the same period in 1991 (1,510). This reverses the negative trend in CY 1991 when total arrivals (20,209) were up 206 percent from the 1990 total (6,598).

Vietnamese and Lao asylum seekers are processed under the provisions of the Comprehensive Plan of Action (CPA) adopted by over 50 nations at the International Conference on Indochinese Refugees (ICIR) in Geneva in June 1989. The CPA reaffirms both the practice of first asylum and international commitments to generous resettlement policies. The CPA calls for the expansion of legal emigration and institutes a screening program to identify bonafide Vietnamese refugees. With the exception of Malaysia and Singapore, the right of boat people to arrive on shore and seek asylum is recognized by the Southeast Asian nations and Hong Kong.

In Thailand, the 370,000 Khmer living in the border encampments are considered to be displaced persons, and their repatriation to Cambodia began March 30, 1992 under UNHCR auspices. Although the United States does not generally have access to border Khmer for admissions processing, in the past, access has been granted to several hundred persons whose close relatives in the United States filed immigrant visa petitions on their behalf. For those border Khmer whose immigration petitions were not current, INS would consider granting humanitarian parole. Over 3,800 border Khmer have received immigrant visa or parole since 1986. This special HP/IV program ended with the beginning of Cambodian repatriation in March. The Embassy has received permission from the Thai, however, to process the cases of Khmer whose approved petitions had been received at the State Department in Washington by the end of March. Resettlement countries have not generally been granted access to Cambodians who arrived by boat in Indonesia or Malaysia.

#### Voluntary repatriation

Under the terms of the CPA, asylum seekers who do not have valid refugee claims will not be processed for third country resettlement. They are encouraged to return voluntarily to Vietnam under a UNHCR program. As of February 1, 1992 over 15,000 persons had voluntarily returned to Vietnam from Hong Kong and almost 6,000 persons had voluntarily returned from the first asylum camps in ASEAN countries. Voluntary returnees are monitored by the UNHCR in Vietnam, and no incidence of persecution has been confirmed.

Since September 1980, a UNHCR voluntary repatriation program has existed to facilitate the return of ethnic Lao, Hmong and other highlanders to Laos from Thailand. Laos has agreed to accept more than 300 returnees per month. There are several reception centers for returnees in Laos, and UNHCR monitors the returnees to ensure their safety.

#### Resettlement in the region

In East Asia, willingness to settle Indochinese refugees or even to grant temporary asylum is constrained by security and economic concerns, as well as cultural, religious, and political sensitivities. At the ICIR, the ASEAN states made clear that they expected all Vietnamese asylum seekers either to be resettled in third countries outside the region or to return to Vietnam.

#### Third country resettlement

Under the CPA, resettlement countries agreed to resettle, over a three-year period, all Vietnamese asylum seekers who arrived in countries of first asylum prior to a specific cutoff date (mid-March 1989 for Southeast Asia and mid-June 1988 for Hong Kong). Over 99 percent of these roughly 50,000 pre-cutoff date persons have already been resettled or have been approved for resettlement. The United States also agreed to resettle up to 50 percent of the screened-in cases in the region and has been processing some of these cases. Unaccompanied minors in the post-cutoff date population are being reviewed by special committees in each first asylum country which determine what is in the best interest of each child in terms of resettlement or return.

#### U.S. admissions

*Proposed East Asia Ceiling*. The proposed admissions ceiling for East Asia for FY 1993 is 52,000.

In FY 1992, there is a single admissions ceiling for East Asia totaling 52,000 refugees. It is anticipated that 12,500 first asylum refugees and 39,500 Orderly Department Program (ODP) refugees from Vietnam will be admitted into the United State in FY 1992.

For FY 1993, in light of the unpredictability of first asylum needs, these ceilings will again be combined into a single East Asia ceiling of 52,000. Within this combined ceiling, priority will continue to be given to meeting U.S. commitments under the Comprehensive Plan of Action (CPA) to first asylum resettlement. In FY 1993, first asylum admissions needs are expected to be about 12,000. More than half of the first asylum admissions in FY 1993 will be Highland Lao and most others will be Vietnamese. ODP refugee admissions could total up to 40,000 in FY 1993.

#### Orderly Departure Program (ODP)

*Released Reeducation Detainees Program*. The United States remains firmly committed to the release and resettlement of those who have been detained in "reeducation centers" in Vietnam because of their association with the United States or the former South Vietnamese Government. An agreement creating a program for U.S. resettlement of released detainees was successfully negotiated in July 1989 and implemented in October 1989. Over 20,000 former detainees (including family members) were admitted in FY 1991 and about 21,000 are expected to be admitted in FY 1992. We now interview 2,000 persons per month under this program.

*Amerasian Program*. The Amerasian immigrant program is an integral part of the ODP. The United States plans to provide resettlement opportunities for all Amerasians in Vietnam along with their eligible close family members who wish to come here. Amerasians are processed for resettlement under a separate bilateral program with procedures similar to that of the regular ODP. Legislation passed in December 1987 created a special class of Amerasian immigrant. To date, more than 71,000 Amerasians and accompanying family members have been admitted into the United States. ODP admissions in FY 1992 will include 16,000 Amerasian immigrants and accompanying family members, who are admitted as immigrants but included in the refugee admissions ceiling for consistency with the budgetary process. We expect to complete interviews for most Amerasians by mid-1993; at current interview levels, Ameriasian admissions should be completed by mid-1994.

The total estimated refugee admissions for FY 1993 under ODP is 40,000: about 22,000 former detainees, 16,000 Amerasians, and 2,000 others. In addition, immigrant and parolee admissions will be significantly fewer in FY 1993 than the 38,000 admissions in FY 1992 as the backlog of immigrants is eliminated early in 1993 and the process towards normal consular operations in Vietnam continues.

*Designated Nationalities.* In FY 1993, Vietnamese, Lao, and Burmese are designated nationalities of particular concern to the United States. Under the CPA, Vietnamese in first asylum countries who are screened in are processed in priorities one through five. Lao are processed in priorities one through five. On a trial basis the U.S. Embassy in Bangkok is processing certain qualified Burmese students/dissidents referred by UNHCR who departed Burma after March 1988 and have a well-founded fear of persecution due to pro-democracy activities in Burma. Consideration of these nationalities for refugee admission is authorized without referral of specific cases to Washington. On a case-by-case basis, other nationalities, such as Cambodians and Chinese will continue to be processed with prior approval from the Department of State and INS headquarters in Washington. As discussed above, the special humanitarian parole/immigrant visa program for border Khmer in Thailand is ending this year. Cambodians with current immigrant visa petitions can continue to be processed through the ODP program in Vietnam until consular operations are established in Phnom Penh.

### 3. Eastern Europe

In many countries in Western Europe the proportion of asylum-seekers coming from Eastern Europe has decreased as democratic reforms have taken hold in countries of Eastern Europe. Exceptions to this trend were persons fleeing conflicts in the former Yugoslavia and Romanians seeking economic opportunity. Both of these groups constituted large portions of the asylum-seeking populations in nearly every country of Western Europe. Large numbers of Albanians seeking economic opportunities also appeared in some European countries. Several Western European countries give temporary refuge to persons fleeing conflicts in the former Yugoslavia. Most other Eastern European asylum-seekers, however, are now found ineligible for refugee status since they can return to their homes without fear of persecution. Poland, Czechoslovakia and Hungary have ceased to be refugee-generating countries and have become refugee-receiving countries.

### Resettlement in the region

The countries of Western and Southern Europe traditionally have been generous in granting asylum to persons fleeing Communist oppression in Eastern Europe. The increasing democratization of Eastern European countries has led to a reduction in approval of asylum requests and Western European countries have repatriated some unsuccessful Eastern European asylum-seekers. Several countries are contemplating large scale repatriation efforts linked to economic development projects in the home countries and assurances from the governments that repatriates will not be persecuted.

### Third country resettlement

In addition to the United States and Western Europe, Australia and Canada have resettled Eastern Europeans. Between FY 1975 and FY 1991, 112,000 refugees from Eastern Europe resettled in the United States. An additional 3,000 are expected to be admitted during FY 1992. In FY 1992 the U.S. refugee program accepted applications only from Albanians from this region.

### U.S. admissions

*Proposed Ceiling.* In FY 1992, the admissions ceiling was 3,000 and a ceiling of 1,500 is proposed for FY 1993. With the continuing changes in Eastern Europe during the course of FY 1992, the scope of the program will be narrower than in previous years. In FY 1992 only nationals of Albania, where democratic change has come relatively recent, were eligible to apply. However, in light of ongoing changes in Albania, Albanian nationals will not be a designated nationality for FY 1993.

As of March 31, 1992, there were some 2,800 applicants pending INS interview, about 1,300 of whom may be interviewed and those approved moved in FY 1992. The current approval rate of 30 percent is not expected to rise for this population.

Visas 93 recipients (i.e., spouses and children of previously admitted refugees), primarily from Romania and Poland, are expected to utilize about 30 percent of available numbers. The balance of admissions will include those Romanians and Albanians in first asylum countries who are approved by INS.

*Designated Nationalities.* For FY 1993 there will be no designated nationalities in the region and interviews will be granted only in exceptional circumstances. We will closely monitor the region in general and in the former Yugoslavia in particular to determine whether any changes are necessary in the program.

### 4. Latin America and the Caribbean

### Voluntary repatriation

Improvements in countries of origin, the difficulties of life in refugee camps and regional peace efforts have spurred voluntary repatriation in the region. In Guatemala, internal conflict remained a problem throughout 1991. However, the political climate improved sufficiently to permit discussions between refugee representatives and the Guatemalan government on plans for large scale repatriation of Guatemalan refugees from Mexico. By November 1991, President Serrano had signed a letter of understanding with United Nations High Commissioner for Refugees Sadako Ogata authorizing the organized repatriation of an estimated 10,000 refugees in 1992 and providing necessary security assurances for repatriates.

In El Salvador, despite continued guerrilla warfare, hundreds of refugees returned voluntarily from Honduras, Panama, and Nicaragua. The best hope for repatriation occurred when opposing forces agreed on December 31, 1991 to a UN-negotiated peace settlement. Thousands of remaining displaced Salvadorans—both registered refugees in Mexico and Central America and temporary migrants fleeing the conflict—may now be able to safely return home. The installation of a democratically elected government in Nicaragua in 1990 and subsequent encouraged an estimated 12,000 refugees to return home in 1991, joining at least 40,000 who returned the previous year.

### Resettlement in the region

Most host governments do not encourage permanent resettlement, largely because of their own depressed economic situations. Ethnic and national rivalries also make local resettlement difficult. However, various Central American governments as well as the Mexican government have demonstrated the forbearance necessary to make first asylum protection work. The region has been moving away from housing persons in refugee camps towards local integration with greater refugee self-sufficiency. Several countries in the region offered asylum to limited numbers of Haitians who had fled Haiti by boat. Many of these individuals chose to repatriate to Haiti.

### Third country resettlement

While third country resettlement has not been the preferred option for most Central American refugees, it has been the predominant solution for the Cubans fleeing repression by the Castro regime. Since the revolution in 1959, over one million Cubans have fled that country. The vast majority have resettled in the United States, but Venezuela, Peru, Spain and, to a lesser extent, other countries of Latin America and Western Europe have been quite generous in granting temporary or permanent asylum to Cuban refugees.

UNHCR does not generally refer Central American refugee cases for third country resettlement believing that most will eventually be able to repatriate or resettle within the region.

### U.S. admissions

*Proposed FY 1993 Ceiling.* The FY 1992 ceiling for this region was set at 3,000. The FY 1993 admissions ceiling proposed for the region is 3,500. The 3,500 number will be available principally for in-country processing of Cubans, Haitians approved in our in-country processing program and a small number of exceptional cases from other nationalities.

*Haitian Admissions.* Following the coup in Haiti in September 1991, the number of Haitians fleeing Haiti by boat and intercepted by the U.S. Coast Guard increased dramatically. Many of these were determined to have a possible claim to asylum and were brought to the U.S. to pursue asylum claims. In February we established an in-country refugee processing program to reach those individuals in Haiti who have valid claims to refugee status. On May 24, 1992 the White House announced that any Haitians who fear persecution may avail themselves of refugee processing in Haiti. Emphasis will be placed on refugees in the following categories: persons who are former political prisoners; human rights activists; persons subjected to disproportionately harsh or discriminatory treatment resulting from their perceived or actual political beliefs or activities; persons who fear persecution because they hold or held leadership positions in political or religious organizations; persons who have held sensitive positions in the Aristide government or are prominent in fields that may be targeted, such as journalists; refugees in immediate danger of loss of life; dissidents; and other refugees of compelling concern to the United States. This policy will continue in FY 1993.

*Cuban Admissions.* In FY 1991 and FY 1992 Cubans were eligible for admission in priorities one through five. In FY 1993 emphasis will be placed on refugees in the following categories: persons who are former political prisoners; members of persecuted religious minorities; human rights activists; forced labor conscripts; persons deprived of their professional credentials or subjected to other disproportionately harsh or discriminatory treatment resulting from their perceived or actual political or religious beliefs or activities, dissidents; and other refugees of compelling concern to the United States. All refugees in priorities 1–5 will be eligible for in-country processing. In third countries, funded priority one Cubans may be processed if they fled Cuba before November 20, 1987.

*Designated Nationalities.* During the current fiscal year, all Latin American and Caribbean nationalities were designated and in-country processing was authorized for them all. In FY 1993, Cuba, El Salvador Guatemala and Haiti will be designated and authorized for in-country processing. In third countries, processing of these nationalities is limited to priority one. Other nationalities may be recommended to Washington for consideration on a case-by-case basis.

### 5. Near East and South Asia

The Near East/South Asia region has the largest concentration of refugees and displaced persons in the world: five million Afghans, four million Palestinians, and smaller numbers of other nationalities. There are an estimated three million Afghan refugees in Pakistan and two million in Iran, and several hundred thousand Iranians in neighboring Turkey. An estimated 20,000 Iraqi Kurds who entered Turkey in 1988 and another 10,000 Iraqis from the Gulf war period remain in that country. Over 28,000 Iraqis remain in Saudi Arabia as a result of the Gulf war.

#### Voluntary repatriation

Most refugees from the Near East would like to return to their homeland.

The recent collapse of the Communist regime in Kabul and establishment of an interim leadership council in anticipation of free elections offers hope for continuing massive voluntary repatriation of Afghan refugees.

The positive response of the international community to the difficult situation of Iraqis who fled to Turkey, Iran, and other neighboring countries at the end of the war enabled the vast majority to return to their homes in northern Iraq. In recent months UNHCR, in consultation with governments such as the United States, has initiated an international resettlement effort for those who cannot remain in the region.

#### Resettlement in the region

Few countries within the region are willing to offer permanent resettlement to refugees from neighboring countries, but many have been generous with long-term asylum. Pakistan and Iran have offered asylum to over five million Afghans who are permitted to engage in many economic activities and are not restricted to their camps. Several countries in the Near East have extended work permits to Palestinian, Iranian, and Afghan refugees for long periods of time. Most of the Iraqis in Turkey are permitted to remain without threat of deportation. However, many live under difficult conditions and are unable to obtain permanent residence. Saudi Arabia does not intend to provide permanent resettlement to Iraqis presently residing within its territory. Palestinian support for Saddam Hussein during the Gulf war has led Kuwait and the other Gulf Coalition Countries (GCC) to reexamine their policies on Palestinian guest workers. Iranians appear to have the most difficulty in obtaining resident status in countries of first asylum or other countries in the region.

#### Third country resettlement

While third country resettlement is not the preferred solution in most cases, it is the only option for certain refugees at risk in countries of first asylum. For example, UNHCR considers third country resettlement to be the preferred solution for most Iranian refugees in Turkey and Pakistan. From FY 1980 to FY 1991, some 71,000 refugees from the Near East/South Asia, mostly Iranians and Afghans, were resettled in the United States. Other major resettlement countries for refugees from this region are Australia, Canada, Germany, France, Switzerland and the United Kingdom. Turkey has accepted refugees from the Turkic ethnic groups in Afghanistan and Bulgaria. Additionally, many other refugees reside in Western and Southern Europe.

#### U.S. admissions

*Proposed FY 1992 Ceiling.* The proposed ceiling for FY 1993 for refugees from the Near East and South Asia is 7,000.

This is an increase of 1,000 over the level authorized for FY 1992. While U.S. assistance to the vast majority of persons who fled Iraq in 1990–91 does not involve resettlement, UNHCR believes that members of certain groups risk refoulement and has asked for international aid in resettlement. In response, we have agreed to accept for interview 1,500 Iraqis in Turkey with temporary residence permits and 1,000 Iraqis in camps in Saudi Arabia. We expect 1,000 non-Kurdish Iraqi admissions in FY 1992 and, with additional groups who may be determined to be in danger during the following year, perhaps as many as 3,000 non-Kurdish Iraqi admissions in FY 1993 if sufficient fiscal resources and admissions numbers are available. It has proven difficult, however, to accurately project the timetable in which admissions processing for Iraqis in the first asylum countries of the region can be accomplished.

The difficult situation of Iraqi Kurds in first asylum in Turkey since 1988 has been recognized by the international community. In January 1991, the United States initiated a program to process for resettlement up to 3,000 individuals, most of whom have ties to the U.S. 400 were admitted in FY 1991, and we anticipate admitting 1,000 in FY 1992 and 1,000 in FY 1993.

In recent months, applications from Iranians have declined somewhat and we expect about 2,000 Iranian admissions in FY 1992. With the same level of activity predicted for FY 1993, we estimate perhaps 2,000 admissions.

On April 12, 1991, the U.S. limited new applications from Afghans to those who fall within priority one. Even so, Afghan admissions will continue for the next two fiscal years, with an estimated 1,500 admissions in FY 1992 and 1,000 in FY 1993.

*Designated Nationalities.* As in FY 1992, designated nationalities for FY 1993 will be Iranians, Afghans and Iraqis. On a case-by-case basis, nationals of other countries may be processed with prior approval from Washington.

*Processing Priorities.* FY 1993 processing priorities for the region are: Iraq, priorities one through five; Iran, one through four, including the expanded definition of priority four; and Afghanistan, priority one only. In special circumstances, adjustment in processing priorities is possible with prior approval from Washington.

### 6. Former Soviet Union

Within the past year, the former Soviet Union has become 15 separate republics. These newly independent states are wrestling with the difficult process of political and economic reform. The new republics have pledged to ensure freedom of emigration. This remains to be fully implemented.

Rising nationalism and ethnic tensions contribute to an unstable situation for ethnic and religious minorities. Overt demonstrations of anti-Semitism rekindled remembrances of harsh treatment suffered under both Czarist and communist rule and strengthened the fear of persecution. Violent ethnic conflicts have flared up in several republics. Some ethnic groups dispersed throughout the former Soviet Union seek to return to their traditional homelands. Other persons seek to migrate within and between the republics in response to political instability and difficult economic situations.

#### U.S. admissions

The proposed FY 1993 ceiling for nationals of the former Soviet Union is 50,000. The FY 1992 ceiling for persons who were nationals of the Soviet Union prior to September 2, 1991 is 61,000. As of March 31, 1992, over 30,000 refugees had been admitted from the former Soviet Union. We expect to utilize all available numbers under this year's ceiling. With an FY 1993 ceiling of 50,000, admissions from this region over three years will average 50,000 per year.

The 50,000 refugee numbers planned for the former Soviet Union in FY 1993 will be used by groups identified in the Lautenberg amendment. These are: Soviet Jews, Evangelical Christians, Ukrainian religious activists, as well as other individuals of concern. The vast majority of refugees from the former Soviet Union now interviewed have family ties to the United States.

### 7. Unallocated Reserve

As in FY 1992, an unallocated reserve of 1,000 is proposed which, after consultations with the Congress, would be allocated to the most needy regions during the course of FY 1993.

### 8. Private Sector Initiative (PSI)

The PSI is a joint private and public venture in which the basic costs of admitting and resettling refugees are paid for by the private sector.

The program was first approved in June 1988 with a project for the admission of Cuban refugees from third countries proposed by the Cuban American National Foundation. The Cuban program, now administered by the Foundation's independent office for immigration, the Cuban Exodus Relief Fund (CERF), was renewed for FYs 1989, 1990, 1991 and 1992. About 730 privately funded refugees were admitted in 1988, 1,500 in 1989, and 3,000 in 1990. For FY 1991 and 1992, the Fund proposed that some of the PSI admissions to be admitted receive Federal assistance for part of the cost of their health care. Plans call for the foundation to resettle 1,000 privately funded refugees, plus an additional 1,000 refugees who would have normally been publicly funded, in return for federal coverage of part of their health care cost. HHS recently approved this proposal.

Cuban refugees in third countries admitted through the Private Sector Initiative Program may be processed if they fled Cuba on or before January 1, 1992.

Since the program began, three other smaller privately funded sponsorship projects have been approved: for Iranian refugees from the Zoroastrian Association of North America, for Vietnamese refugees from the Vietnamese Resettlement Association, and for Ethiopian refugees from the Ethiopian Community Development Council. Additional proposals for admitting refugees from the Near East and other regions are under consideration.

### II. PROPOSED PLANS FOR MOVEMENT AND RESETTLEMENT

### *A. Admissions procedures*

#### 1. Eligibility Criteria

Applicants for refugee admission into the United States must meet all of the following criteria:

The applicant must meet the definition of a refugee contained in the Immigration and Nationality Act;

The applicant must be among those refugees determined by the President to be of special humanitarian concern to the United States;

The applicant must be otherwise admissible under United States law; and

The applicant must not be firmly resettled in any foreign country.

Although a refugee may meet the above criteria, the existence of the U.S. refugee admissions program does not create any entitlement for that person to enter the United States. The admissions program is a legal mechanism for admitting a refugee when the applicant is among those persons of particular interest to the United States.

With respect to persons applying overseas for admission to the United States as refugees, an initial review is performed to evaluate cases based on U.S. national interests, the refugees' situation in temporary asylum, the conditions from which they have fled, and other humanitarian considerations. Applicants who meet the criteria specified above and who fall within the priorities established for the relevant nationality or region, are presented to the INS for determination of eligibility for admission under Section 101(a)(42) of the INA.

#### 2. The Worldwide Priorities System

The worldwide priorities system sets guidelines for the orderly management of refugee admissions into the United States within the established annual regional ceilings.

The issue of whether a person is a refugee under U.S. law, and the priority to which a refugee should be assigned for resettlement are separate and distinct. Assignment to a particular priority does not make that individual either more or less a refugee although it may reflect an assessment of the urgency of the need for resettlement. Indeed, refugees could well be qualified for the resettlement program of another country. Just as qualifying for refugee status does not confer a right to resettlement in the United States, assignment to a particular priority does not entitle a person to acceptance into the United States refugee program.

The U.S. refugee priorities system sets guidelines for the orderly management of refugee admissions into the United States within the established annual regional ceilings and is subject to change during the fiscal year.

#### Refugee processing priorities—FY 1993

*Priority One.* Compelling concern/interest: exceptional cases of (a) refugees who are in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States, or (b) refugees of compelling concern to the United States such as former or present political prisoners and dissidents.

*Priority Two.* Former U.S. Government (U.S.G.) employees: refugees employed by the U.S.G. for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S.G. employees, but who for at least one year were so integrated into U.S.G. offices as to have been in effect and appearance U.S.G. employees.

*Priority Three.* Family reunification: refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the United States. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee or member of certain groups of public interest parolees).

*Priority Four.* Other ties to United States: (a) Refugees employed by U.S. foundations, U.S. voluntary agencies or U.S. business firms for at least one year prior to the claim for refugee status; (b) Refugees trained or educated in the United States or abroad under U.S.G. auspices;

*Priority Four (Iran and Cuba).* In addition to (a) and (b) above: (c) Refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination, including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies or councils; (d) Refugees who because of their minority religious affiliations have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated in the same area, or have been denied pensions that would otherwise be available; and (e) Refugees who have become targets of persecution because of a perceived identification with the United States or the other nations of the West (including Israel).

*Priority Four (East Asia).* In addition to (a) and (b) above: (f) Persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S.G. policies or U.S.-supported programs; (g) Persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

*Priority Five.* Additional family reunification: refugees who are: (a) married sons or married daughters of persons in the United States; (b) unmarried siblings of persons in the United States; (c) married siblings of persons in the United States; (d) grandparents of persons in the United States; (e) grandchildren of persons in the United States; or (f) more distantly related individuals who are part of the family group and dependent on the family for support. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee or member of certain groups of public interest parolees).

*Priority Six.* Otherwise of special humanitarian concern: other refugees whose admission is in the national interest.

#### 3. INS Refugee Processing

Authority for refugee processing is provided in Section 207 of the Immigration and Nationality Act (INA). The Attorney General has delegated this authority to the Immigration and Naturalization Service to admit any refugee who is not firmly resettled in a third country, who is determined to be of special humanitarian concern, and who is admissible as an immigrant.

In both overseas refugee processing and domestic asylum proceedings, INS has the statutory role of decision maker, determining who meets the requirements for refugee status.

#### INS overseas operations

The Immigration and Naturalization Service's overseas offices have a variety of responsibilities administered by three District Offices located in Bangkok, Mexico City, and Rome. The overseas officer corps currently consists of 21 officers in the Bangkok District, including suboffices in Manila, Singapore, Seoul, and Hong Kong; ten officers in the Mexico City District, including suboffices in Monterrey, Guadalajara, Ciudad Juarez, and Tijuana; and 20 officers in the Rome District, including suboffices in Frankfurt, Vienna, Athens, Moscow, London, Nairobi, and New Delhi.

One of the most important responsibilities of INS' overseas program is refugee processing. The percentage of time each office devotes to this activity depends on the refugee workload, as well as the staffing pattern and priorities within the office. The permanent staff are augmented by temporary duty personnel from stateside offices as needed. Circuit rides to processing posts are arranged by the office having geographic jurisdiction over the post.

#### Presentation to INS

In general, a refugee applicant proceeds through the following steps before his interview with an INS officer: an applicant is determined to be in need of protection and resettlement by the United Nations High Commissioner for Refugees (UNHCR); he or she is referred to a voluntary agency (VOLAG) or Joint Voluntary Agency (JVA) for prescreening; if the applicant is of a nationality of special humanitarian concern and within a processing priority eligible for U.S. consideration, the VOLAG or JVA prepares the case for submission to INS by assisting the applicant in filling out a request for refugee status, a biographic information sheet and other documents.

Processing priorities are administrative guidelines designed to order the refugee admissions process within the established ceilings. Priorities do not address the quality of an individual's claim to refugee status, but rather are an assessment of the relative degree of U.S. interest in resettling an applicant, made by ranking an applicant's ties to the United States based on factors such as relatives in the United States and prior employment by the U.S. Government or private U.S. firms.

Nationalities of special humanitarian concern to the United States are determined annually by the President in consultation with Congress.

#### The eligibility determination

Eligibility for refugee status is decided on an individual, case-by-case basis.

A personal interview of the applicant is held by an INS officer. The interview is nonadversarial and is designed to elicit information about the applicant's claim for refugee status. Questions are asked about the reasons for the applicant's departure from his country, his political or religious beliefs/activities, problems he may have had or fears having to do with the authorities in his home country.

A determination of well-founded fear of persecution requires judging both objective and subjective elements of an applicant's claim. Conditions in the country of origin are taken into consideration and the applicant's credibility is assessed. Persecution is the most difficult element of the refugee definition to analyze and apply. There is no internationally accepted definition of the term "persecution," but it includes a threat to life or freedom. Discrimination in the treatment of various groups is not, *per se*, persecution but at times an accumulation of discriminatory measures may involve such significant denials of opportunities to participate in society that it constitutes a threat to freedom. Economic hardship is not itself a basis for eligibility for refugees status but persecution may take the form of economic reprisals, such as denial of the opportunity to work.

### Post-interview processing

After interview, applicants found eligible for refugee status must have a medical examination and sponsorship assurance. A refugee admission number, subtracted from the annual ceiling, is allocated. Transportation arrangements are made through the International Organization for Migration (IOM) and the refugee signs a travel loan, promising repayment of the cost of airfare.

At the U.S. Port of Entry, INS admits a refugee to the United States and authorizes employment. After one year, a refugee is eligible for adjustment of status to lawful permanent resident. Five years after admission, a refugee is eligible for naturalization.

### Asylum issues

Last year, INS implemented new asylum regulations published in FY 1990, which established not only a specialized corps of asylum officers, but an entirely new organizational structure for processing asylum applications.

Regional asylum offices were opened at seven sites with a newly-hired corps of 82 Asylum Officers who inherited a backlog of 114,000 applications for asylum. During FY 1991, approximately 60,000 new applications were submitted; receipts are expected to be even higher in FY 1992. An additional workload burden was imposed by the December 1990 settlement in the case of American Baptist Churches v. Thornburgh. Under the terms of the settlement, INS will provide asylum interviews to 45,000 Guatemalans and up to 200,000 Salvadorans over the next several years.

During much of FY 1992, trained Asylum Officers were detailed to Guantanamo Bay to pre-screen Haitian migrants, leaving some asylum offices with fewer than half of normal staffing levels. Some 68 new Asylum Officers were hired and underwent a four-week training course in March. A total of 150 adjudicating officers and 24 supervisors are now onboard, ready to face the challenges ahead.

INS has regional asylum offices in Los Angeles, San Francisco, Chicago, Newark, Arlington, Miami and Houston, and the asylum program is administered from these seven locations, under the direction of INS Headquarters.

The Resource Information Center exists within the Asylum Branch to provide asylum adjudicators with easily accessible information on the human rights situations in refugee producing countries of origin. The Center produces country profile reports as well as periodic "Alerts" on new or evolving situations of direct interest and impact on the work of the Asylum Officers. The Center is located with the main Asylum Office headquartered in Washington, DC, and is linked to it and to each of the seven Asylum Office sites.

Section 209(b) of the INA permits the adjustment of status of persons previously granted asylum in the United States who have been in the United States as refugees for at least one year and who continue to qualify as refugees. The INS intends to adjust to the status to permanent resident alien 10,000 persons during FY 1993.

### *B. The resettlement process*

### 1. Voluntary Agency Processing

The Department of State contracts with private voluntary agencies—sometimes referred to as Joint Voluntary Agencies or "TVAs"—to assist in the processing of refugees for admission to the United States. These agencies pre-screen applicants to determine if they fall within the applicable processing priorities and otherwise appear eligible to be scheduled for an INS refugee interview. In some cases, individuals who appear to qualify for immigration to the U.S. are also advised of those procedures. In addition, prior to interview, they assist the applicant completing the documentary requirements of the program. If approved, voluntary agency staff guide the refugee through post-adjudication steps such as obtaining a medical clearance and sponsorship assurance.

Voluntary agencies are currently under contract to the Department of State at processing locations in Thailand, the Philippines, Malaysia, Hong Kong, Singapore, Pakistan, Turkey, Austria, Germany, Italy, Greece, the Sudan, Sierra Leone, and Kenya.

### 2. Overseas Language Training and Cultural Orientation

The Department of State strives to ensure that refugees who are accepted for admission to the United States are as well prepared as possible for the significant changes they will experience during resettlement. In support of this principle, the Bureau for Refugee Programs operates pre-departure training and orientation programs for eligible refugees at selected sites around the world.

In East Asia, the Bureau funds English-as-a-Second-Language and Cultural Orientation (ESL/CO) programs in Thailand and the Philippines. At these sites adult Indochinese refugees participate in a 20-week program consisting of ESL/CO, and Work Orientation. A special program for 11 to 16 year-olds, Preparation for American Secondary Schools (PASS), includes instruction in English, American Studies, basic math, and school orientation. In the Philippines, a program for 6 to 11 year olds, Preparing Refugees for Elementary Programs (PREP), also provides instruction in English, basic health, and school skills.

In FY 1992 over 30,000 Indochinese refugees, including Amerasians departing Vietnam under the Orderly Departure Program, are expected to complete this training.

In Africa, the Bureau conducts a short orientation program in Kenya which provides services primarily to Ethiopian refugees en route to the United States. The Bureau also supports a small cultural orientation program in Botswana for U.S.-bound refugees who come primarily from Angola, Namibia and South Africa.

### 3. Health Services

The Office of Refugee Health (ORH), in the Office of the Assistant Secretary for Health, Department of Health and Human Services (HHS), is the focal point for all activities of the U.S. Public Health Service in refugee health. The ORH develops health and mental health policy and identifies problem areas and solutions. Public Health Service agencies active in refugee matters include the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, and the Health Resources and Services Administration.

Close and regular consultative relations are maintained with the Department of State (DOS), Department of Justice, HHS's Office of Refugee Resettlement, State and local health departments, and with international organizations such as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

Routine U.S. Public Health Service refugee operations include:

Monitoring the quality of medical examinations provided to refugees in Southeast Asia and worldwide, through on-site visits and training conferences;

Inspection of each refugee at the U.S. port of entry;

Notification of local health departments of each refugee's arrival, with expedited notification of cases requiring special follow-up; and

Administration of a domestic preventive health program which provides for refugee health assessments locally following resettlement.

Special initiatives undertaken or completed recently have included:

Organizing and conducting an international medical conference on the health and mental health needs of refugees from the former Soviet Union and publication of meeting proceedings, which is a unique resource;

Conducting mental health training seminars for medical providers and resettlement workers for special refugee groups, including Vietnamese former reeducation camp detainees and Amerasians;

Evaluating reeducation camp detainee health and mental health services;

Directing the PHS response to Haitian migrants at Guantanamo Bay Naval Station and providing medical screening for Haitians admitted directly to the U.S.;

Consulting with DOS, INS, and UNHCR on individual refugee cases presenting unique health problems;

Planning for an international conference on migration medicine jointly with the World Health Organization (WHO) and IOM; and

Participating in the development of regulations to implement the medical exclusion provisions of the Immigration and Nationality Act of 1990.

### 4. Initial Reception and Placement and the Refugee Data Center

Under Reception and Placement (R&P) program cooperative agreements administered by the Bureau for Refugee Programs, eleven private voluntary agencies are responsible for providing initial resettlement services to refugees during their first 90 days in the United States and oversight of "free case" refugees (those without relatives in the United States) for six months. Voluntary agencies receive per capita funding ($588 in FY 1992), which is to be used along with cash and in-kind contributions from private and other sources. Refugee reception and placement services include:

Sponsorship; Pre-arrival resettlement planning; Reception; Basic needs support for 30 days; Counseling and orientation; and Health, employment, and other necessary referral services.

In FY 1992 the Bureau's on-site monitoring of the Reception and Placement program included in-depth reviews of refugee resettlement in twelve states. As a result of the monitoring, strengths and weaknesses of voluntary agency programs have been identified, and where needed, corrective action has been recommended.

In FY 1992 the domestic resettlement program will have witnessed large-scale arrivals of Soviets, and Amerasians and reeducation ex-detainees exiting Vietnam through the Orderly Departure Program. Most arriving refugees join family already resident in the United States.

### 5. Transportation

The Department of State funds the transportation of refugees resettled in the United States through a program administered by the International Organization for Migration (IOM) which includes funding for international and domestic airfares, IOM processing, medical screening, communications, documentation, and transit accommodations where required. The cost of the airfares (over 80 percent of this total) is provided for refugees in the form of a loan; loan beneficiaries are responsible for repaying a designated sum over time after resettlement. Funds provided for transportation loans and related services cover most refugees resettled in the United States. Amerasian immigrants receive services provided to refugees. Other immigrants enter the United States on prepaid tickets.

### 6. Ongoing Domestic Resettlement Programs

For FY 1993, the Administration has proposed $227 million for Refugee and Entrant Assistance, a 45 percent reduction from last year's budget.

The Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS) has proposed a new, streamlined program, entitled the "Private Resettlement Program (PRP)," that ensures newly-arrived refugees who are not eligible for Federal categorical public assistance will be able to receive transitional support while also receiving intensive case management through more efficient use of resources. The proposal assumes a funded admissions level of 122,000 refugees for FY 1993.

The PRP would terminate the States-administered Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) programs and would provide transitional support, through voluntary agencies, to newly-arrived refugees who are ineligible for Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI). States would continue to be responsible for administering Federal Targeted Assistance and Social Services funds. ORR would also provide funds to voluntary agencies to help refugees attain self-sufficiency as quickly as possible.

The implementation of the PRP continues to be discussed among the Office of the Coordinator, ORR, the States, voluntary agencies, mutual assistance associations and the Congress.

The Private Resettlement Program will provide a longer period of assistance to refugees and will help refugees obtain employment sooner than would be possible under the States-administered RCA and RMA Programs.

### 7. Domestic Initiatives

The Wilson/Fish Amendment to the Immigration and Nationality Act, contained in the FY 1985 Continuing Resolution on Appropriations, enables ORR to develop alternative projects which promote early employment of refugees. It provides to States, voluntary resettlement agencies, and others the opportunity to develop innovative approaches for the provision of cash and medical assistance, social services, and case management.

In the summer of 1985, ORR awarded grants to California and Oregon for demonstration projects designed to decrease refugee reliance on welfare and to promote earlier economic self-sufficiency. The California project was phased out by the State in 1990.

In FY 1990, ORR approved a grant to the United States Catholic Conference for a demonstration project, operated by Catholic Community Services of San Diego, which began September 1, 1990.

### The Oregon Refugee Early Employment Project (REEP)

The Oregon project, the Refugee Early Employment Project (REEP), began its seventh year of activity in FY 1992. REEP integrates the delivery of cash assistance with case management, social services, and employment services within the private non-profit sector in an effort to increase refugee employment and reduce reliance on cash assistance. REEP encompasses a tri-county area surrounding Portland, where 85 percent of all refugees in Oregon initially settle.

The project serves needy refugees who do not meet the AFDC or SSI categorical requirements (i.e., members of two-parent families, couples without children, and single individuals) during their initial eight months in the United States. Refugees who normally are eligible for assistance under AFDC continue to be eligible for that program and do not participate in REEP.

During the past year, 835 REEP participants, of whom 96 percent were receiving cash assistance, entered employment. During the first nine months of the fiscal year, REEP reported a 75 percent job retention rate for these individuals. The employment costs were $937 per job placement and $417 per REEP participant.

### United States Catholic Conference—San Diego Project

In FY 1990, USCC was awarded a grant for a demonstration project to be operated by its affiliate, Catholic Community Services of San Diego. It is the third Wilson/Fish project to be funded, and the first grant awarded directly to a private sector agency.

The project serves USCC-sponsored new arrivals and provides a range of in-house services aimed at increasing the rate of refugee self-sufficiency and decreasing the average length of time on assistance. The project provides cash assistance to project participants at a level comparable to cash assistance from State-administered programs. The 125 employable refugees who were enrolled during the first four months of the project utilized cash assistance an average of 6.7 months during their first eight months in the U.S. 90 (72 percent) became self-sufficient before the end of the first 12 months in the U.S.

### Cuban Exodus Relief Fund (CERF)

In September 1991, the Cuban Exodus Relief Fund (CERF) was awarded a grant of $1.7 million for a demonstration project to resettle 1,000 Cuban refugees admitted under the funded program. CERF provides medical assistance and services to newly-arrived refugees, who are precluded from accessing any public assistance for a minimum of 12 months. In agreement with the U.S. Coordinator for Refugee Affairs and ORR, CERF is also permitted to use the grant funds to provide medical assistance for up to 1,000 additional refugees admitted under the Private Sector Initiative (PSI).

### Alaska Refugee Outreach (ARO)

In January 1992, ORR awarded $140,000 to Alaska Refugee Outreach (ARO), a local affiliate of the Episcopal Migration Ministries, for a demonstration project to be operated in four communities in the State of Alaska. The demonstration project will provide language and employment services to approximately 100 refugees during FY 1992. This project is the third awarded to a non-profit organization and the first established in Alaska, the one State that has not participated in refugee assistance and services through a State-administered refugee program.

### Discretionary social service initiatives

ORR discretionary funds support initiatives aimed at aiding refugees to achieve self-sufficiency. The principal programs funded are listed below.

*Key States Initiative.* In FY 1987, ORR established the Key States Initiative (KSI) to provide special funds to projects to reduce cash assistance utilization by refugee families in States with high welfare utilization. Implementation of KSI has involved changes in the State systems for refugee services, as well as within the system of service providers and the refugee communities. Over $2.6 million was awarded in FY 1991 to five States pursuing innovative welfare reduction strategies under KSI. Savings from welfare reductions and terminations are now substantially exceeding the KSI grant amounts.

*Job Links.* The purpose of Job Links is to provide supplementary social service funding to qualifying States in which resettlement of refugees is encouraged based on the experience of refugees already in those communities, or where a special initiative is proposed to significantly improve the potential for self-sufficiency. The program seeks to link employable refugees with jobs in communities which have good economic opportunities. All States except those with KSI cooperative agreements or targeted assistance grants are eligible to apply.

General program objectives include:

Increased employment and self-sufficiency;

Active job development with employers offering job opportunities at self-sufficiency-supporting wages;

Retention of refugees in communities with good job opportunities;

Initial resettlement of refugees in communities with histories of effective early employment and self-sufficiency; and

Promotion of secondary migration of refugees to these communities from areas of high refugee impact and high welfare utilization.

*Planned Secondary Resettlement (PSR) Program.* The Planned Secondary Resettlement (PSR) program provides an opportunity for unemployed refugees and their families to relocate from areas of high welfare dependency to communities in the U.S. that offer favorable employment prospects. Secondary resettlement assistance and services are provided to refugees who participate in a planned relocation. Eligibility is limited to refugees who have lived in the U.S. for 18 months or more and who have experienced continuing unemployment.

Eligible grantees include States and public and private non-profit organizations which have had demonstrated experience in the provision of services to refugees, such as refugee mutual assistance associations (MAAs) and national and local voluntary agencies. As of the end of FY 1991, there were seven PSR grantees, with the Lao, Cambodian, and Hmong communities the most active in recruiting refugees for relocation.

The average cost of resettling families through PSR is less than $8,000 per family while average welfare cost savings to the government are estimated at $987 per month per family. At this rate, PSR families, on average, repay the cost to the government in just eight months.

*Amerasians.* A high priority of ORR is to assist in the successful resettlement of Amerasians and family members expected to arrive in the U.S. 15,000 Amerasians and accompanying family members are expected in FY 1992.

ORR will extend its participation in a national planning effort for clustering free cases in selected locations. This planning effort involves coordination with the Department of State, national voluntary agencies, State refugee coordinators, refugee leaders, and various other organizations.

ORR will again make funding available in localities with significant Amerasian populations. The purpose of the funding is to encourage community coordination and to provide counseling and case management services to deal with family disruption and social adjustment problems that may occur in the Amerasian community.

*Former Reeducation Camp Detainees.* About 21,000 former Vietnamese reeducation detainees and family members are expected to arrive during FY 1992, with more expected in future years. This population is expected to have a variety of special problems, creating a need for special social services beyond the initial resettlement period.

In a special initiative, ORR made one million dollars in discretionary grants available to support local community efforts to enhance the services provided to former reeducation detainees from Vietnam and their families. The grants, to 16 States and counties expecting to receive large numbers of former detainees, are designed to provide enhanced orientation, peer support, peer counseling, referral, employment services and vocational English, short-term vocational training, and mental health services. Although the grants are awarded to States and counties, they are required to contract with refugee mutual assistance associations where possible for the actual delivery of services.

### III. DOMESTIC IMPACT OF REFUGEES

### *A. Demographic impact*

#### Population Composition

The demographic characteristics of refugees to be admitted to the U.S. in FY 1993 are likely to be similar to those of refugees admitted in FY 1991 and FY 1992 while varying somewhat from those of refugees admitted in the 1980s. For example, the higher proportion of refugees from the former Soviet Union in the flow since 1989 has meant more adults and fewer children compared to the 1980s, when refugees from Asia predominated. At the same time, refugee populations will continue to vary in age and sex composition from the resident American population as well as from each other.

Indochinese refugees, for example, are younger on average than the resident U.S. population. The median age of the Indochinese arrivals from 1975 through 1991 was between 20 and 21 years. Nearly 40 percent were under age 15, compared to 23 percent of the American population. In this same period, the percentage who were age 65 and over remained roughly constant at less than two percent. About 55 percent of the arriving Vietnamese in recent years were males, in contrast to the general U.S. population in which about 49 percent are males. Because of the large proportion of children among the Indochinese refugees, the ratio of dependents will continue to be higher than in the general U.S. population, although the low proportion of elderly Indochinese is a significant mitigating factor. The young age structure means that a large number of young children from these refugee families will be entering the schools each year for some years to come.

Refugees from the former Soviet Union were the largest single nationality group to arrive in FY 1991 and one of the oldest, with a median age of 31. New refugees from Ethiopia and Eastern Europe averaged in their middle twenties in 1991, while those from Afghanistan and Iraq were only 20 on average. Cuban refugees were the oldest, with a median age in FY 1991 of 33. Male refugees outnumber females in most groups, but the former Soviets are an exception, with a slight female majority.

Because these nationality groups differ from each other in their background characteristics, any change in the source countries of the refugee flow means a corresponding change in the demographic impact of the refugee population.

### *B. Geographic distribution*

During FY 1990, 73.1 percent of newly arrived refugees and Amerasians were placed in ten States. Ten leading States received 71.6 percent of the FY 1991 placements (Table III). Four of these ten States (California, Texas, Washington and Georgia) received a higher share of the arrivals in FY 1991 than in FY 1990. The most notable trend is the decline from 19 to 14 percent in the proportion of refugees going to New York coupled with the increasing share going to California. The California proportion fell from 45.6 percent in FY 1988 to 29.1 percent in FY 1989 and to 25.3 percent in FY 1990, before rising slightly to 28.9 percent in FY 1991. Much of this change occurred because the large numbers of Soviet Armenians who arrived in FY 1988 and settled near relatives in the Los Angeles area have been replaced by Jews from the former Soviet Union settling in New York and other cities in the East. Together, California and New York continue to receive more than 40 percent of all newly arriving refugees. Table IV displays the number of refugee arrivals in every State during FY 1991. Generally, refugee communities in areas of current resettlement will continue to grow with admission of additional family reunification cases. As Table V shows, the geographic distribution of the Indochinese refugees is now well established, with nearly 40 percent living in California, and the rest distributed widely.

The more than 430,000 refugees who have arrived since FY 1980 from areas outside Southeast Asia have a residential distribution different from the Indochinese. This has tended to diffuse the impact of refugee arrivals upon local communities. Large numbers of these other refugees have been resettled in cities in the Northeast and the Midwest. Table VI shows the placement locations of the non-Indochinese refugees who arrived during the most recent nine fiscal years. California received the largest number, over 87,000, with New York in second place at nearly 77,000 and growing rapidly. The percentages in this table show the wide variations in ethnic composition of States' refugee populations. While 44 percent of the arriving refugees were non-Indochinese, 17 States resettled a refugee population composed of more than 50 percent non-Indochinese; and three States and Guam resettled a population of 90 percent or more Indochinese. Among the States with the largest refugee populations, Florida, Illinois, Michigan, New Jersey, and New York have majorities of non-Indochinese refugees.

As the ethnic composition of the arriving refugee population shifts in response to new needs, so will the geographic placement patterns of the new arrivals. In FY 1991, only 34 percent of the arrivals were from the former Soviet Union, compared with 41 percent during FY 1990. Other refugees arrived in about the same proportions as in FY 1990. This means that States that were slated to receive large numbers of refugees from the former Soviet Union saw their FY 1991 arrivals fall below expectations.

TABLE III—REFUGEES AND AMERASIANS: NEW ARRIVALS IN 10 LEADING STATES

[Fiscal Year 1990–91]

| State | Fiscal year 1990 | | Fiscal year 1991 | |
|---|---|---|---|---|
| | Percent | Number | Percent | Number |
| California | 25.3 | 31,024 | 28.9 | 32,935 |
| New York | 19.0 | 23,229 | 14.3 | 16,297 |
| Florida | 5.6 | 6,903 | 4.9 | 5,614 |
| Texas | 4.7 | 5,704 | 5.1 | 5,844 |
| Washington | 3.3 | 4,070 | 4.2 | 4,780 |
| Illinois | 3.7 | 4,534 | 3.5 | 3,954 |
| Massachusetts | 3.8 | 4,655 | 3.0 | 3,412 |
| Pennsylvania | 3.5 | 4,265 | 3.0 | 3,391 |
| New Jersey | 2.3 | 2,862 | 2.3 | 2,602 |
| Oregon | 1.9 | 2,330 | | |
| Georgia | | | 2.3 | 2,614 |
| Total[1] | 73.1 | 89.576 | 71.6 | 81,443 |

[1] Total percentages calculated from unrounded data.

TABLE IV—REFUGEES AND AMERASIANS: ARRIVALS FROM ALL COUNTRIES BY STATE

[Fiscal year 1991]

| State | Number | Percent |
|---|---|---|
| Alabama | 329 | 0.3 |
| Alaska | 50 | (1) |
| Arizona | 1,686 | 1.5 |
| Arkansas | 149 | (1) |
| California | 32,935 | 28.9 |
| Colorado | 1,286 | 1.1 |
| Connecticut | 1,226 | 1.1 |
| Delaware | 20 | (1) |
| D. of Columbia | 1,332 | 1.2 |
| Florida | 5,614 | 4.9 |
| Georgia | 2,614 | 2.3 |
| Hawaii | 298 | 0.3 |
| Idaho | 346 | 0.3 |
| Illinois | 3,954 | 3.5 |
| Indiana | 406 | 0.4 |
| Iowa | 874 | 0.8 |
| Kansas | 687 | 0.6 |
| Kentucky | 756 | 0.7 |
| Louisiana | 797 | 0.7 |
| Maine | 266 | 0.2 |
| Maryland | 2,002 | 1.8 |
| Massachusetts | 3,412 | 3.0 |
| Michigan | 2,280 | 2.0 |
| Minnesota | 2,011 | 1.8 |
| Mississippi | 107 | (1) |
| Missouri | 1,666 | 1.5 |
| Montana | 106 | (1) |
| Nebraska | 1,034 | 0.9 |
| Nevada | 337 | 0.3 |
| New Hampshire | 226 | 0,2 |
| New Jersey | 2,602 | 2.3 |
| New Mexico | 442 | 0.4 |
| New York | 16,297 | 14.3 |
| North Carolina | 885 | 0.8 |
| North Dakota | 256 | 0.2 |
| Ohio | 1,677 | 1.5 |
| Oklahoma | 546 | 0.5 |
| Oregon | 1,986 | 1.7 |
| Pennsylvania | 3,391 | 3.0 |
| Rhode Island | 401 | 0.4 |
| South Carolina | 133 | (1) |
| South Dakota | 311 | 0.3 |
| Tennessee | 1,134 | 1.0 |
| Texas | 5,844 | 5.1 |
| Utah | 637 | 0.6 |
| Vermont | 243 | 0.2 |
| Virginia | 2,113 | 1.9 |
| Washington | 4,780 | 4.2 |
| West Virginia | 42 | (1) |
| Wisconsin | 1,183 | 1.0 |
| Wyoming | 18 | (1) |
| Guam | 16 | (1) |
| Unknown/others | 56 | (1) |
| Total | 113,799 | 100 |

[1] Less than 0.1 percent. Percentages do not add to total due to rounding of figures.

TABLE V—INDOCHINESE REFUGEES ESTIMATED CUMULATIVE STATE POPULATIONS[1] INCLUDING ENTRIES FROM 1975 THROUGH DECEMBER 1991

| State of residence | Estimated total | Percent |
|---|---|---|
| Alabama | 3,600 | 0.4 |
| Alaska | 100 | (2) |
| Arizona | 8,700 | 0.9 |
| Arkansas | 3,400 | 0.3 |
| California | 398,200 | 39.8 |
| Colorado | 13,600 | 1.4 |
| Connecticut | 8,900 | 0.9 |
| Delaware | 300 | (2) |
| D. of Columbia | 2,400 | 0.2 |
| Florida | 17,200 | 1.7 |
| Georgia | 13,700 | 1.4 |
| Hawaii | 8,400 | 0.8 |
| Idaho | 1,900 | 0.2 |
| Illinois | 30,700 | 3.1 |
| Indiana | 4,600 | 0.5 |
| Iowa | 11,100 | 1.1 |
| Kansas | 11,700 | 1.2 |
| Kentucky | 3,700 | 0.4 |
| Louisiana | 16,400 | 1.6 |
| Maine | 1,800 | 0.2 |
| Maryland | 11,700 | 1.2 |
| Massachusetts | 31,400 | 3.1 |
| Michigan | 13,600 | 1.4 |
| Minnesota | 36,600 | 3.7 |
| Mississippi | 2,000 | 0.2 |
| Missouri | 9,200 | 0.9 |
| Montana | 1,100 | 0.1 |
| Nebraska | 3,500 | 0.4 |
| Nevada | 2,700 | 0.3 |
| New Hampshire | 1,100 | 0.1 |
| New Jersey | 9,300 | 0.9 |
| New Mexico | 2,500 | 0.3 |
| New York | 35,400 | 3.5 |
| North Carolina | 7,800 | 0.8 |
| North Dakota | 1,100 | 0.1 |
| Ohio | 13,300 | 1.3 |
| Oklahoma | 10,000 | 1.0 |
| Oregon | 21,800 | 2.2 |
| Pennsylvania | 31,200 | 3.1 |
| Rhode Island | 7,900 | 0.8 |
| South Carolina | 2,600 | 0.3 |
| South Dakota | 1,100 | 0.1 |
| Tennessee | 7,300 | 0.7 |
| Texas | 75,100 | 7.5 |
| Utah | 9,900 | 1.0 |
| Vermont | 700 | (2) |
| Virginia | 25,500 | 2.6 |
| Washington | 46,800 | 5.0 |
| West Virginia | 400 | (2) |
| Wisconsin | 17,500 | 1.8 |
| Wyoming | 200 | (2) |
| Guam | 300 | (2) |
| Other territories | (3) | (2) |
| Total | 1,001,000 | 100.0 |

[1] Adjusted for secondary migration through 9/30/91, rounded to the nearest hundred. Not adjusted for births and deaths in the U.S. These figures do not include the 38,000 Amerasian immigrants and accompanying family members that have arrived since FY 1988.

[2] Less than 0.1 percent.

[3] Fewer than 100.

TABLE VI—NON-INDOCHINESE REFUGEES: ARRIVALS BY STATE DURING FISCAL YEAR 1983–91[1]

| State | Non-Indo-Chinese arrivals | Percent of State's arrivals |
|---|---|---|
| Alabama | 312 | 14.4 |
| Alaska | 180 | 55.9 |
| Arizona | 3,506 | 35.2 |
| Arkansas | 192 | 14.5 |
| California | 87,096 | 37.0 |
| Colorado | 2,671 | 35.3 |
| Connecticut | 4,839 | 53.8 |
| Delaware | 174 | 64.7 |
| D. of Columbia | 2,100 | 39.8 |
| Florida | 20,162 | 70.7 |
| Georgia | 4,011 | 31.6 |
| Hawaii | 66 | 2.4 |
| Idaho | 1,515 | 60.2 |
| Illinois | 19,411 | 64.1 |
| Indiana | 1,184 | 48.4 |
| Iowa | 740 | 12.5 |
| Kansas | 674 | 12.4 |
| Kentucky | 589 | 17.7 |
| Louisiana | 382 | 6.5 |
| Maine | 1,267 | 52.5 |
| Maryland | 7,650 | 58.8 |
| Massachusetts | 11,280 | 41.6 |
| Michigan | 8,495 | 63.8 |
| Minnesota | 3,221 | 16.7 |
| Mississippi | 64 | 6.6 |
| Missouri | 4,299 | 45.8 |
| Montana | 244 | 44.1 |
| Nebraska | 938 | 29.2 |
| Nevada | 1,490 | 54.0 |
| New Hampshire | 733 | 47.8 |
| New Jersey | 9,269 | 66.2 |
| New Mexico | 585 | 27.9 |
| New York | 76,525 | 82.4 |
| North Carolina | 1,078 | 17.3 |
| North Dakota | 643 | 50.2 |
| Ohio | 5,728 | 53.6 |
| Oklahoma | 554 | 13.1 |
| Oregon | 5,274 | 44.3 |
| Pennsylvania | 10,955 | 48.0 |
| Rhode Island | 1,371 | 32.6 |
| South Carolina | 237 | 27.7 |
| South Dakota | 1,087 | 75.4 |
| Tennessee | 1,657 | 25.2 |
| Texas | 9,678 | 23.0 |
| Utah | 1,615 | 25.8 |
| Vermont | 743 | 59.8 |
| Virginia | 4,672 | 30.7 |
| Washington | 8,771 | 32.4 |
| West Virginia | 80 | 32.7 |
| Wisconsin | 1,314 | 13.5 |
| Wyoming | 93 | 68.4 |
| Guam | 0 | 0.0 |
| Other | 100 | 92.6 |
| Total | 331,514 | [2] 44.4 |

[1] The source of these data is the ORR Data System. Data on non-Indochinese refugees by State are not available before FY 1983.

[2] Percentage of total U.S. arrivals for the period.

### *C. Secondary migration*

Secondary migration is the term used to describe movement by refugees from the location where they were initially resettled upon arrival in this country to some other place. California is the favored destination of the Indochinese, and they are much less likely to leave California, once there, than are other residents. States in the Northeast and North Central regions have also received significant refugee in-migration. Secondary migration seems to be influenced by several major factors, including a desire to find improved employment opportunities, live in an area with a supportive ethnic community and perhaps near relatives or, in some cases, to have access to public assistance.

ORR has developed a system based on reports from the States for compiling and maintenance data on secondary migration. These data are important not only for general program planning, but also for the accurate computation of formulas for distribution of funds to States. Results of the State reports are contained in ORR's Annual Reports to the Congress.

### *D. Economic impact*

The net economic effect of refugees in the U.S. derives ultimately from their contributions to the American economy and from the Federal, State, and local government taxes they pay. In the short term, the primary question is whether or not refugees are obtaining employment which enables them to become self-supporting members of American society. ORR conducts an annual native-language survey of Southeast Asian refugees who have come to the U.S. during the five previous years. The most recent of these surveys was conducted in October 1991 and included 608 refugee households with which interviews were completed. Results from the survey indicate that the labor force participation rate (those working or seeking work) for refugees 16 or older was 36 percent, compared to an equivalent rate of 66 percent for the overall U.S. population. As in previous years the labor force participation of refugees varied with length of residence in the U.S. The most recent (1991) arrivals had a labor force participation rate of 23 percent, while the 1990 arrivals had a labor force participation rate of 35 percent. This rate increased gradually with time in the United States.

The 1991 survey also provides data on unemployed refugees (those who are in the labor force, but not working). Late in 1991, the overall U.S. unemployment rate was 6.4 percent, while the unemployment rate for refugees age 16 and older was 14 percent. Significant changes in unemployment occur for refugees over time. Those who arrived in 1990 had an unemployment rate of 28 percent by late 1991. Unemployment declines to 18 percent for 1989 arrivals and reached lower levels for earlier arrivals.

## IV. ESTIMATED COSTS OF REFUGEE MOVEMENT AND RESETTLEMENT

The Federal agencies which incur major program costs for the admission and resettlement of refugees in the United States are the Department of State, the Department of Health and Human Services and the Department of Justice's Immigration and Naturalization Service.

The Department of State provides funding for: (a) processing of refugees abroad to identify those persons who may be eligible for the U.S. refugee admissions program; (b) ESL/CO/VO programs for refugees overseas; (c) medical examinations and transportation assistance through the International Organization for Migration; (d) initial reception and placement services in the Unites States through cooperative agreements with voluntary agencies.

The Department of Health and Human Services has primary responsibility for the domestic resettlement of refugees. Under the Refugee Act of 1980, eligible refugees may receive support services designed to facilitate their successful settlement.

The Immigration and Naturalization Service has responsibility for and bears the costs of determining eligibility for U.S. refugee resettlement.

The estimated costs of services provided by the Department of State, the Department of Health and Human Services and the Immigration and Naturalization Service are based on the Administration's FY 1993 budget request for the funded admission of up to 122,000 refugees.

It is not possible to provide accurate cost data on refugee utilization of other Federal programs because statistics do not account for refugees separately from the general population. Because of the significance of the AFDC, Medicaid, and Supplemental Security Income programs, however, an estimate based on the best available information concerning refugee utilization of these programs has been made.

*Table VII—Estimated Costs of Refugee Processing, Movement, and Resettlement Fiscal Year 1993 Estimate*[1]

[In millions of dollars]

| Agency: | *Estimated Funding*<br>*Estimated Funding* |
|---|---|
| Department of State, Bureau of Refugee Programs: | |
| Refugee Processing | 18.00 |
| Language/Orientation Programs Overseas | 14.00 |
| Transportation | 99.09 |
| Reception and Placement | 76.86 |
| Subtotal | 207.95 |
| Department of Health and Human Services Administration for Children and Families, Office of Refugee Resettlement: | |
| Unaccompanied Minors | 30.00 |
| Voluntary Agency Program | 74.00 |
| Employment Services | 63.00 |
| Targeted Assistance | 40.00 |

| | *Estimated Funding* |
|---|---|
| Special Medical Assistance | 20.00 |
| Subtotal | 227.00 |
| Other HHS: | |
| Family Support Payments to States | 53.54 |
| Medicaid | 19.12 |
| Supplemental Security Income | 23.15 |
| Subtotal | 95.81 |
| Department of Justice, Immigration and Naturalization Service: | |
| Refugee Processing, Initial Interviewing and Other Considerations of Applicants | 7.80 |
| Soviet Processing | 6.00 |
| Subtotal | 13.80 |
| Grand Total | 544.56 |

[1] Figures are based on the Administration's budget request for FY 1993, for the funded admission of up to 122,000 refugees. At the time this report was prepared, Congress had not completed action on this request.•

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## GOVERNOR'S ENVIRONMENTAL CORPS

• Mr. SIMON. Mr. President, I would like to take this opportunity to recognize the efforts of a group of young men and women from my State who are striving to make a difference in the world today.

From all around Illinois 32 high school and college students spent this summer learning about the environment while serving as a first-ever group of interns in the Governor's Environmental Corps.

The students were assigned to all areas of the Illinois Environmental Protection Agency, including water, land, and air pollution control, legal counsel, vehicle inspection and maintenance, community relations, pollution prevention, public water supplies, public information and graphics, and photography.

The preservation and protection of the environment is something that should be of concern to us all. This issue is of particular importance to our younger generation, who will face the burden of improving the world we have left them, and will also provide an example of environmental awareness for generations to come.

This summer, these young men and women got hands-on experience in protecting the environment. Programs like these are essential to promote the type of individual concern and activism essential to a more environmentally aware society. I commend the organizer of the program, Dan Shomon, the Illinois EPA, the many sponsors of the program, and most of all, the 32 students who gave their time and effort in order to improve the world around them.

Mr. President, I ask that my comments and the names of the participants in the program be entered in the RECORD.

The list of names follows:

### GOVERNOR'S ENVIRONMENTAL CORPS PARTICIPANTS

David Aubry, Joshua Belletire, Christopher Benjamin, Amy Caygill, Mark Claypool, Amy Compton, Jim Day, Patrick Dorn, Amy Doyle, Monica Farquhar, Shannon Fitts, Alison Frerichs, Tiffany Full, Stephen Hartsfield, Olga Helmy, Alexander Klindt, Megan Knox, Erica Mahler, Derick McGee, Sean McGovern, Monica Moore, Sean Newell, Matthew Oehlert, Justin Olson, Nicole Park, Michelle Richie, Melissa Rockabrand, Alyssa Stark, Tia Thompson, Megan Western, Sarah Wiedel, Elizabeth Zells.

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## INCREASED TENSIONS IN BANJA LUKA

• Mr. DECONCINI. Mr. President, we hear reports today of an imminent outbreak of repression and violence in the city of Banja Luka in northern Bosnia-Hercegovina. Militant Bosnian Serbs, who have held Banja Luka as one of their strongholds now seem prepared to launch their reprehensible ethnic cleansing program there on a wider scale. Bombs are going off, including in the central hotel, gunfire is reported in the Moslem sections of the city and Moslems and Croats are increasingly harassed, intimidated, or threatened. A leader of the Moslems community in Banja Luka, Muharem Krzic, has been called in daily for interrogation by the police. Fortunately, the heads of the UN/EC effort to resolve the Yugoslav conflict, Cyrus Vance and Lord Owen, are traveling to Banja Luka today to assess the situation firsthand.

Mr. President, I am extremely concerned about these reports. Similarly, I have been extremely frustrated by the lack of an effective international response to the conflict as a whole. And as we hear of Serbian atrocities day after day, we also hear reports of Croatian militants taking advantage of the situation to grab land for themselves. In the meantime, the world looks for every report of a Moslem atrocity or of an alleged Islamic fundamentalism taking root to justify continued inaction as Bosnia-Hercegovina burns.

It should not be this way, and it does not have to be this way. The international community, and the United States in particular, could take more forceful action than it has to date. I am glad to see that the international community has taken some preemptive action, through the EC and CSCE, by deploying spillover missions in Macedonia and other neighboring countries, and by sending a human rights mission of long duration to Kosovo, Vojvodina, and Sandjak, where tensions are running high. I am also glad that the United States seems prepared to launch an effort to bring guilty parties to justice through a war crimes investigation and, hopefully, an international tribunal. I urge the United States to follow through on these activities, and to support them at a high level. It was unfortunate that President Bush did not include prosecution of war crimes with peacekeeping, proliferation, and prosperity as the themes for future U.N. work in his speech to the General Assembly earlier this week.

Moreover, we should make clear our determination to bring the actual fighting to an end and to secure relief to the millions of displaced as winter begins to set in. Our clearly stated unwillingness to directly intervene can easily encourage further aggression in the Balkans, and make aggressors and hate mongers elsewhere in the world feel they can get away with their heinous crimes.

In yesterday's Christian Science Monitor, George Kenney, a former State Department employee, wrote about the United States response to the Yugoslav conflict. One may not agree with every point he makes, but his central theme is clearly on the mark. Intervention can be justified on national interest grounds, but above all it is "an ethical imperative." He correctly concludes that the crisis, "fundamentally, is about political will—defending our ideals in the context of rapid change in the world." I would like to submit, for the RECORD, Mr. Kenney's article and commend it to my colleagues.

The article follows:

[From the Christian Science Monitor, Sept. 24, 1992]

### YUGOSLAV POLICY: A RETURN TO ISOLATIONISM

(By George Kenney)

American moral outrage over events in Yugoslavia has yet to find its voice. Instead of seeing a moral and political challenge in the bloody crisis, President George Bush casts the problem in geopolitical and strategic terms. Even so, he doesn't see any vital United States national interests at stake. Nor has public pressure or embarrassment caused him to rethink his policy of non-involvement. Although public lack of knowledge about Yugoslavia results in a lack of public discussion or political pressure, this should not be taken as evidence of a lack of public concern. People do care; they care a lot.

Most Americans probably can't find Yugoslavia on a map, or identify the parties to the conflict, or explain what it is about. Prospects of U.S. military intervention raise deep misgivings—some well-founded, some not. The issues are not easy to grasp in detail. Even experts disagree. After all, what interest does the West, the U.S. in particular, have in intervening to resolve the Yugoslav conflict—or any far-off conflict—rather than to stand aside and let it burn itself out? Where is it written, as State Department spokeswoman Margaret Tutweiler once rhetorically asked, that the U.S. is the policeman for the world?

It is not surprising that people can't take the time to inform themselves fully about Yugoslavia, or for that matter other foreign policy issues. People have to work to make a living. Given Yugoslavia's esoteric nature, plus a deficiency of political leadership in articulating the problem, the American public has had a hard time in getting a handle on the Yugoslav crisis.

But there are some straws in the wind. TV pictures of skeletal men in concentration camps hit a raw political nerve. They were Muslims in Serb camps. But it doesn't matter entirely why the men were there: It is common sense that we should stop such a thing. This may not be how the Holocaust ended, but it is how the Holocaust began. In 1945, we had the pictures and the evidence after it was over. In 1992, we know what is going on as it happens in Bosnia. Nor has the killing of civilians ended simply because such TV pictures have been cut back. Over 500,000 non-Serbs in Bosnia are still in a life-and-death struggle.

Bosnia's victims are innocent. They share our values. They are democratic and believe in freedom. All they ask is their own state with self-determination. In the name of every moral and political value we cherish, we have a duty to help them.

Most of us understand intuitively that "ethnic cleansing," or genocide, or whatever you prefer to call it, is a terrible evil that must be defeated. Given certain pressures and passions, if we scratched the surface, it might appear in our own societies. When we compromise our principles and better nature—under the false notion that it is too difficult or dangerous to act—and tolerate such an evil in Yugoslavia, we also weaken the moral and political bonds of our own social compact. It is no accident, given the power of an example like Yugoslavia, that we are seeing a resurgence of neo-Nazi youth in Germany. Indeed, underlying their attitude may be a calculation that if the West does not react to "ethnic cleansing" in Bosnia, it lacks the political will to stop similar crimes at home. Seriously, what comes next?

It is up to political leaders to chart a proper and more-detailed course. There are answers: We may not be able to stop all the violence, but we can control it, reduce its intensity. We can silence the Serb heavy guns, empty the concentration camps. We could use limited air power. We don't need Western forces on the ground.

We can and should help the Bosnians defend themselves. For whatever misguided reasons, we continue, shamefully, to block their access to the international arms market. In effect, we are telling the Bosnians to die quietly, negotiate their surrender, lose every last trace of human dignity. What a humiliation for them and us.

There are other compelling reasons to intervene. It would be a disaster of the first order for Europe if this conflict spread through the Balkans. A failure to stop aggression here most likely will encourage similar aggression in the former Soviet Union and in Eastern Europe. In addition, the crisis threatens the legitimacy and viability of institutions such as NATO, CSCE, and the EC, which help support international stability. U.S. world leadership is on the line, though we may not see this now.

Still, I feel a solution must come from an ethical imperative. This crisis, fundamentally, is about political will—defending our ideals in the context of rapid change in the world. But instead of a "New World Order," Mr. Bush gives us a new isolationism. It is terrifying for the U.S. to admit it is powerless to stop the carnage in Bosnia. It is an admission that civil society everywhere is in danger. Instead of moving forward with a spirit of freedom sweeping the post-cold-war world, we are moving backward, to a 19th century Darwinian world of animal nature—red in tooth and claw.

The White House does not believe this is an issue the American people care about or understand. That is wrong. In the election this crisis may weigh more heavily on voters' minds than many believe; it may be significant in a number of key states. Tragedy cuts across political boundaries. Republicans and Democrats, from ultra-conservative to ultra-liberal, are appalled at our policy of non-involvement. If this administration cannot find the will to deal successfully with the carnage in Yugoslavia, the American people will expect the next administration to deal with it.•

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## TWENTY-FIFTH ANNIVERSARY OF THE NATIONAL ASSOCIATION OF WOMEN HIGHWAY SAFETY LEADERS

• Mr. HOLLINGS. Mr. President, 25 years ago, the National Association of Women Highway Safety Leaders was organized with the noble purpose of mobilizing a grassroots, voluntary women's movement to prevent and reduce deaths and injuries on our Nation's roads. This year, on the association's silver anniversary, I can report that it has kept the faith and made a very real difference for the American people.

Over the last quarter century, NAWHSL has played a major role in passage of safety belt and child safety seat laws in the 50 States. It has been an outspoken advocate of the 55-mile-hour speed limit, motorcycle safety, and improved pedestrian safety. And it has been a pioneer in promoting education and awareness of the mature driver—drivers aged 55 and older.

Mr. President, South Carolina volunteers have been active in NAWHSL from the beginning, and the South Carolina chapter won the National Award of Honor in 1980. Especially noteworthy is the leadership role of Myrtle C. Riggs of Mt. Pleasant, SC, who served as national president of NAWHSL for 4 years. She has been a dynamic force for roadway safety in South Carolina, going back years.

Mr. President, it is fashionable to talk about so-called points of light in voluntarism. But that term doesn't do justice to NAWHSL, which is a veritable fireworks display of good works and accomplishments. I salute them for the terrific job they do, and wish them every success in their next 25 years.•

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(At the request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD:)

## THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY

• Mr. GORE. Mr. President, on October 4, 1991, the Antarctic Treaty consultative parties adopted and opened for signature the Protocol on Environmental Protection to the Antarctic Treaty. Twenty-five consultative parties have signed the protocol, including the United States. I urge my colleagues to ratify this protocol.

The protocol builds upon the 1959 Antarctic Treaty, extending and improving the treaty's effectiveness as a mechanism for ensuring the protection of the Antarctic environment. It designates Antarctica as a natural reserve, devoted to peace and science, and sets forth environmental protection principles applicable to human activities in Antarctica that will be binding under international law. These include obligations to accord priority to scientific research and a prohibition of Antarctic mineral resource activities.

Additionally, the protocol enforces an indefinite ban on mineral prosecting, exploration, and development activities. This ban is not reviewable for 50 years, and has no termination date, unless agreed upon by 75 percent of the consultative members. This ban is essential to uphold the integrity of the Antarctic environment.

The protocol is urgently needed to protect Antarctica's fragile environment. The Antarctic is remote from our thinking on most occasions and, yet, as we become more concerned about global climate changes, we begin to understand Antarctica. Far from being at the fringes of life on Earth, Antarctica is near its core, a prime mover in the organic food chain, a principal cause of the wind and ocean currents which make up the system of weather as we know it.

Anyone who visits Antarctica cannot help but experience a sense that the place dwarfs all human scale. I traveled to Antarctica in 1988, to gather evidence on global warming and ozone depletion. In many ways, Antarctica is the frontier of the ecological crisis. It is the Antarctic where the first evidence of an ozone hole was discovered. The Antarctic provides ice cores that indicate high levels of carbon dioxide in the atmosphere correlate with changes in global temperature. And it is the Antarctic that acts as a massive engine driving the world's weather, redistributing its massive coldness through the winds of the air and currents of the sea.

It is also the Antarctic that contains some of the most polluted waters in the world. A soup of PCB's, raw sewage, and other unknown substances contaminates much of McMurdo Sound. Without the protocol, more tragic situations like this are likely to develop, as yet more scientists and tourists make the long journey to the South Pole.

Most alarming is the possibility that mining could be carried out in the fragile Antarctic environment. Mining in Antarctica could have global consequences. Oil spills and pollution could kill the plankton that convert carbon dioxide into oxygen in the cold waters surrounding Antarctica. Other zooplankton provide the bottom layer of the food chain that so many marine organisms depend on.

That is why, in 1989, I introduced a bill to protect Antarctica as a global ecological commons. That bill, and another measure by my colleague Senator KERRY, were signed into law in 1990 by President Bush. But while we in Congress had clearly stated that it should be the policy of the United States to pursue an indefinite prohibition on commercial mineral development and related industrial activities in Antarctica, President Bush opposed us every step of the way—obstructing our efforts here at home and the effort of nearly every one of our Antarctica Treaty partners to prohibit mining and protect the fragile Antarctic ecosystem.

When the Antarctic Treaty parties met in Madrid in the spring of 1991 to negotiate the protocol, the President sent his representatives with the instruction to push for a temporary ban on mineral exploration—maybe 20 or 30 years—after which time the moratorium would be lifted. That is clearly not an indefinite ban, which we in Congress had passed—and the President signed—into law. The President was ignoring the wishes of the American people as expressed through votes here in Congress and flagrantly violating the law.

It should have come as no surprise that the Bush administration would attempt to scrap a treaty on environmental protection. It's a strategy we've seen played out in subsequent negotiations on other global environmental issues. In the global climate change negotiations, the biodiversity negotiations—and nearly every one of the many issues discussed at the Earth summit, the administration was the single largest obstacle to progress. The Earth summit for us was in every respect an environmental, economic, and foreign policy disaster.

The incredible thing about the President's position in the Antarctic negotiations is that there really is no reason to push for mining in Antarctica. The U.S. mining industry has had little interest in mining there—the environment is too harsh. In addition, the Office of Technology Assessment has started:

> There are no known oil, gas or mineral deposits in Antarctica of commercial value, and furthermore, the technology does not presently exist to recover minerals in the harsh environment of Antarctica.

While other nations at the Madrid negotiations pushed for a permanent and indefinite ban on mining activities in Antarctica, the United States continued to ask for only a 20-40 year moratorium. The administration pushed its case until, single handedly, our negotiators nearly caused the talks to crash. Finally, intense international pressure and the work my colleagues joined with me in here in the Senate sent a loud message to the President to change course. The negotiations were saved—but only at the 11th hour and well after our good will with our allies had been dealt a serious blow.

Rather than risk the demise of the whole treaty, the other signatory countries acquiesced to the U.S. demands and created a compromise treaty that would ban minerals exploration for 50 years and would continue the ban unless 75 percent of the consulting countries agreed to rescind it. This final compromise is what we are here to ratify today.

It is not a perfect measure. It is weaker than what I and others in Congress had hoped for. It is not the strongest bill the world could have had. The administration made sure of that. But it is a first step. It is a clear advantage over what the status quo offers, which is no protection whatsoever for Antarctica's environment. In spite of the fact that the Bush administration torpedoed a stronger protocol, I support this measure, and ask my colleagues to do the same.●

## ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Saturday, September 26, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, that immediately after the Chair's announcement, the Senate resume consideration of H.R. 11, the urban aid package, that once the bill is reported, Senator CRAIG be recognized to offer his amendment relating to adoption deduction, on which there be a time limitation of 30 minutes for debate, with the time equally divided and controlled in the usual form; with no second-degree amendment in order to the amendment; that when all time is used or yielded back, the Senate vote on or in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 8:30 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 11:07 p.m., recessed until tomorrow, Saturday, September 26, 1992, at 8:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 25, 1992:

### DEPARTMENT OF STATE

ERIC JAMES BOSWELL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, WITH THE RANK OF AMBASSADOR.

VICTOR JACKOVICH, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOSNIA AND HERCEGOVINA.

MARA M. LETICA, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CROATIA.

E. ALLEN WENDT, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA.

### U.S. SENTENCING COMMISSION

JOHN W. GILLIS, OF CALIFORNIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE HELEN CORROTHERS, TERM EXPIRED.

### DEPARTMENT OF JUSTICE

WILLIAM LUCAS, OF MICHIGAN, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS, VICE GRACE FLORES-HUGHES, TERM EXPIRED.

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be vice admiral*

VICE ADM. RICHARD C. MACKE, U.S. NAVY, [redacted]

### IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE OF COMMANDER:

ROBERT J. FULLER
RICHARD J. HARNETT

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

LUCRETIA A. FLAMMANG
JONATHAN C. RUSSELL
MICHAEL A. ALFULTIS

THE FOLLOWING CADET OF THE U.S. COAST GUARD ACADEMY FOR APPOINTMENT TO THE GRADE OF ENSIGN:

CARRIE M. STOFFEL

### IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

*To be lieutenant colonel*

WALTER K. KANEAKUA, [redacted] 11/1/89

MEDICAL CORPS

*To be lieutenant colonel*

ESTOL R. BELFLOWER, [redacted] 11/2/91
GREGORY H. BLAKE, [redacted] 6/7/90

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

*To be lieutenant colonel*

MAJ. JOSEPH AMARA, [redacted] 6/1/92
MAJ. DENNIS B. ARDINGER, [redacted] 5/30/92
MAJ. STEVEN E. BASWELL, [redacted] 5/6/92
MAJ. JESSICA C. BROWN, [redacted] 6/9/92
MAJ. THOMAS R. CARL, [redacted] 6/16/92
MAJ. WAYNE A. GALLO, [redacted] 5/29/92
MAJ. FREDERICK C. GRAU, [redacted] 5/29/92
MAJ. LARRY T. JOHNSON, [redacted] 6/11/92
MAJ. JOHN P. KANE, [redacted] 6/1/92
MAJ. KEITH D. KREYKES, [redacted] 6/6/92
MAJ. TY K. LEE, [redacted] 6/6/92
MAJ. DEAN W. OSWALD, [redacted] 5/11/92
MAJ. RICHARD S. RITTER, [redacted] 5/28/92
MAJ. WILLIAM G. SCHAETZLE, [redacted] 4/30/92

MAJ. GEORGE F. SCHELLER, [redacted] 6/5/92
MAJ. DEAN L. SHEWBRIDGE, [redacted] 5/20/92
MAJ. MICHAEL A. STEFFEN [redacted] 6/10/92
MAJ. JAY T. STEVENSON, [redacted] 6/7/92
MAJ. WILLIAM T. STUBLER, [redacted] 6/1/92
MAJ. LARRY M. YOUNG, [redacted] 6/19/92

### CHAPLAIN CORPS

*To be lieutenant colonel*

MAJ. VERNON L. BETTERMANN, [redacted] 5/16/92

### BIOMEDICAL SERVICES CORPS

*To be lieutenant colonel*

MAJ. CHARLES E. CRUTCHFIELD, [redacted] 6/6/92

### MEDICAL CORPS

*To be lieutenant colonel*

MAJ. MATHEW J. BRAKORA, [redacted] 6/25/92
MAJ. MICHAEL D. MILLER, [redacted] 6/6/92

## CONFIRMATIONS

## Executive Nominations Confirmed by the Senate September 25, 1992:

### DEPARTMENT OF ENERGY

HUGO POMREHN, OF CALIFORNIA, TO BE UNDER SECRETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### THE JUDICIARY

C. LEROY HANSEN, OF NEW MEXICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

# EXTENSIONS OF REMARKS

## SALUTE TO RAYMOND N. JOHNSON, JR.

### HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to a good friend and a leader in the business community of southern Illinois, Mr. Raymond N. Johnson, Jr.

Raymond started his own landscaping business with $13, a shovel and a rake he borrowed from his father. After 30 years of careful cultivation, that small business is now one of the largest African-American-owned general contracting firms in this country. And I am extremely pleased to say RNJ Interstate Corp. is located in Harrisburg, IL, which is within my district.

This is truly a great American success story, an example for any business pioneer looking to make a better life for their families and communities. In 1975, as a participant in the Small Business Administration's 8(a) program, Raymond's firm began to grow, performing on highway improvement projects. He merged with two other firms in one of the largest minority firm joint ventures in the history of Illinois, doing $15.5 million in business. When the highway improvement activity decreased, Johnson diversified into general contracting.

Under Raymond Johnson's leadership, RNJ Interstate Corp. has grown from a one-man operation into a multimillion dollar concern which employs 250 craftsmen, estimators, and project managers on a year-round basis. The firm operates a fleet of 21 heavy-duty trucks, 8 pick-up trucks and several cars. A registered professional landscaping architect and engineer, Johnson specializes in medium-to-large projects such as commercial and industrial buildings, municipal structures, medical facilities and multistory housing units.

We have a lot of fine people who own and operate businesses in our area, but Raymond Johnson does much more. He devotes a tremendous amount of time and money to civic and community projects, and his achievements have been recognized by many local and national organizations. The U.S. Department of Commerce and Small Business Administration are just the latest in a long line of organizations and individuals who have thanked Raymond for his contributions to our community. His recognition during the Minority Enterprise Development Week ceremonies is most appropriate and deserved, and I congratulate him for achieving this honor.

I am pleased to recognize Raymond for his unending service to our area and to thank him for all he has done to help build southern Illinois.

## INDEPENDENT COUNSEL STATUTE

### HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. COX of California. Mr. Speaker, on June 17 Congressman Bob Dornan and I hosted a Republican study committee hearing which examined the controversial history and uncertain future of the independent counsel statute. Today, I am submitting the testimony of Theodore Olson, former Assistant Attorney General and the head of the Office of Legal Counsel during the Reagan administration, who expertly detailed the statute's numerous shortcomings.

Since it is still possible that we will consider reauthorizing the independent counsel statute during this session of Congress, I hope my colleagues will take the time to read Mr. Olson's thoughtful and insightful analysis of the statute's flaws. More importantly, we should heed his advice: this Congress should let the independent counsel statute die a natural death this December when the statute expires, and return balance, integrity, and prosecutorial fairness to Washington.

Congressman Cox. I would like to welcome our distinguished panel. The first member is Theodore Olson, a partner at the prestigious international firm of Gibson, Dunn, and Crutcher for the last 20 years, having joined the firm in 1965. He has also served intermittently in government, and specifically in 1981 Mr. Olson was appointed by the President to serve as Assistant Attorney General and head of the Office of Legal Counsel in the United States Department of Justice. He held that position for 4 years. In this capacity he provided legal advice, to the President and to the heads of all Executive Branch departments, and formulated and articulated the Executive Branch's position on constitutional issues.

Mr. Olson is a member of the California, Washington, and United States Supreme Court bars. He is president of the Washington, D.C. chapter, Lawyers Division, of the Federalist Society. And, among other accomplishments, he is an editor of the 12-volume Department of Justice Manual, published by Prentice-Hall. He is also here in the capacity of one who has experienced both ends of the Independent Counsel statute.

Welcome to all of you. Thank you very much for being here. And I wonder, Mr. Olson, whether you might begin.

Mr. Olson. Thank you, Mr. Cox. I actually have three perspectives on the Independent Counsel statute. As an Assistant Attorney General, I assisted Attorney General William French Smith in complying with the provisions of the Independent Counsel statute and analyzing the Independent Counsel statute with respect to its constitutionality and its application.

Then, as most of you know, and I'll describe it in more detail if you wish, I was the target of an Independent Counsel investigation, an experience that consumed over 6 years of my life during the 1980's.

And thirdly, I have been an attorney for a witness in an Independent Counsel investigation. I represented former President Ronald Reagan, in connection with *United States v. Poindexter*. In the latter instance, he gave a televised videotape deposition in a courtroom in Los Angeles that was a piece of evidence in the Poindexter trial.

In conjunction with that last experience, I question the number of $30 million plus dollars with respect to the Walsh investigation. I think Terry Eastland suggested that that may not include FBI investigators and other people assigned to the investigation that are full-time Government employees.

I don't know that there has ever been any full, complete investigation of what the Walsh investigation cost, but at the two day videotape deposition of former President Reagan in Los Angeles, we had a large courtroom, which was considerably bigger than this room, filled with a judge and judge's law clerks. The judge was Judge Green from the District of Columbia, who flew to Los Angeles to preside over the deposition, as did his clerks, as did his bailiff. The court was also occupied by Secret Service agents protecting President Reagan, bailiffs from the court, the lawyers from the Justice Department, the State Department, the CIA, the NSA, and the Defense Department. Sometimes more than one were present. There were eight Independent Counsel staff lawyers present, as well as innumerable other people connected with that event.

So that two day deposition involved a full courtroom with probably somewhere between 50 and 75 people in the courtroom, many of them transported from Washington to Los Angeles for that one event. And I don't know how these costs were accounted for, but they were substantial.

This matter involves the power of the prosecutor in the United States. One of the most direct and pointed statements about the power of the prosecutor was made by a former Attorney General, Robert Jackson, who was also a justice on the United States Supreme Court.

Robert Jackson was the Attorney General for Franklin Roosevelt, who was giving a speech to a collection of United States Attorneys. And he said at that time: The prosecutor has more control over life, liberty and reputation than any other person in America.

His discretion is tremendous. He can have citizens investigated, and if he is that kind of person, he can have this done to the tune of public statements or veiled or unveiled intimations. Or the prosecutor may choose a more subtle course and simply have a citizen's friends interviewed.

Attorney General Jackson elaborated concerning the abuses that a prosecutor may commit. That's why this is so important: because prosecutorial power in the United States is enormous. The prosecutor's power must be exercised with restraint and discretion, or it can be abused.

In my judgment, the Independent Counsel statute is an egregious example of an unfortunate pattern in human nature and Amer-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ican history: we feel we must write a statute and create a new governmental institution every time something goes wrong, or is perceived to have gone wrong, in this country.

The Independent Counsel statute, as you know, is an outgrowth of the Watergate excesses. But our Constitution recognized that the men and women who were to run our Government were not perfect. The framers knew that there would be some corruption, some abuse, some malfeasance in office, and so they built a system—not a system that would or should be amended every time there was an abuse of power, but a system that provided checks and balances.

And that system, by and large, has worked for over 200 years. As Justice Scalia said, that system of separated powers is more important to protections of our liberty than the Bill of Rights. There are many countries in the world, including Iraq and Cambodia and the former Soviet Union, which have very noble bills of rights. But those bills of rights, as we know, have been worthless. What has protected our liberty in this country is the separation of powers.

The framers of the Constitution felt, and they said so in these exact words, that there is no principle that is more important than the separation of powers. If you accumulate the power to prosecute, along with legislative power and judicial power, in the same individual or groups of persons, you have the very definition of tyranny. The combination of legislative power with executive power: with that combination there can be no liberty. I'm quoting almost directly from the Federalist Papers.

One of the things that I believe very strongly in is that we should not have altered the structure of our Government because of Watergate. Watergate was a bad incident, but it was taken care of without the Independent Counsel statute.

The threat of prosecutions by a Justice Department which consists largely of career employees who are not going to be bent in any direction because of political sway, the power of freedom of the press in this country, the legitimate investigative power of Congress, and the power of the public to threaten impeachment when there was the firing of a prosecutor looking into Watergate were enough to deal with that problem. We didn't have to change our Constitution and create an independent agency.

Now, I don't know how much you want to hear about my own experience, but my own experience with the Independent Counsel statute arose because the President of the United States made a decision to exercise a claim of executive privilege, a claim that the Supreme Court of the United States has recognized unanimously as a power that the President has in an appropriate case.

In this instance, the President of the United States was attempting to protect from production to Congress a very, very small section of open law enforcement files involving the EPA. The President advised the congressional committee that we would produce most of the documents. But those that had to do with open, sensitive law enforcement files—the prosecutor's judgments about whether or not to settle a case, or what witnesses to use—we didn't feel we could make available to another branch of government. Because when we do that, we lose control of those documents, which have to do with law enforcement investigations.

Because certain committee members in Congress did not like the invocation of executive privilege by the President, there was an investigation by congressional committees of the advice given to the President. I testified in conjunction with that advice in March 1983.

As a result of that testimony and criticisms of it (which, by the way, after six years the Independent Counsel determined in a written report was literally true in all respects), that testimony was investigated for two and a half years by the House Judiciary Committee. The Committee produced a four volume report which measures, if you stack it up flat, something like 12 or 14 inches. The report demanded the appointment of an Independent Counsel to investigate a large number of people in the Justice Department.

After another investigation by the Justice Department of six months, which is required by the Independent Counsel statute, the Attorney General asked the court to appoint an Independent Counsel. That was in 1986.

When the matter was finally over in 1989, the cost to me in terms of time was enormous. The damage to reputation is difficult to quantify, but believe me, it is there. The cost in attorneys' fees was something over $1,250,000—much of which I had to bear, because the statute doesn't require reimbursement of those fees except in the discretion of the court. Only about two-thirds of that was reimbursed.

By the way, the Independent Counsel statue does not authorize reimbursement of attorneys' fees if there is an indictment. Therefore during the course of the proceedings, when the five year statue of limitations on my testimony was about to run, I was coerced—and I use that term advisedly—into a waiver of the statute of limitations. I was threatened with a protective indictment—in order to protect the prosecution's ability to continue to prosecute the case—if I didn't waive the statute of limitations.

The threat of an indictment is very serious. It is legendary among prosecutors that a prosecutor "can indict a ham sandwich." You don't have to be guilty of anything to be indicted. The fear of the indictment—what it would have done to my reputation, and to my career, and to my ability to recover attorneys' fees—required that I waive the statute of limitations.

So the process took over six years. I'll be happy to answer questions about that, but I know you have other people here.

Let me just mention one or two things that I think are wrong with the Independent Counsel statute and why it should not exist. One, it selects out a certain class of people, those people that occupy the top branches of our Government, for a special treatment with respect to law enforcement aims. Law enforcement aims in this country should be directed to people generally and equally, and you should not select out a certain class of persons for special treatment.

Secondly, there's an absurdly low threshold to trigger the Independent Counsel statute. That is, all there has to be is a reason to investigate. If the Attorney General cannot find that there is no reason to investigate further, he must seek the appointment of an Independent Counsel; that's an absurdly low threshold.

Thirdly, there is potential for abuse for partisan reasons. The statute provides that a majority of one party on the Judiciary Committee can command the Attorney General to seek the appointment of an Independent Counsel. In my case, a majority of Democrats on the House Judiciary Committee demanded that the Attorney General make his appointment, and thereafter it occurred.

That was, in my judgment, partially because of political reasons, partisan political reasons, but also because of more general institutional political reasons. It was a struggle for control between Congress and the Executive Branch officials. Executive Branch officials, if they are not cooperative, if threatened with this mechanism, can be terrified and change their decisions.

The triggering of the Independent Counsel statute ignites an exhaustive, meticulous, never-ending, expensive investigation. Prior to my case, the longest Independent Counsel investigation has been six months. Now Lawrence Walsh is making a continuing record; he's up to five years and six months. There was some discussion by the panel earlier about—

Mr. DORNAN. Excuse me. What was yours in totality?

Mr. OLSON. Mine is totality, from the time of the alleged event to the time that it was over, was six years. But from the time of the appointment of the Independent Counsel to the time the attorney fee issue was finally resolved was about three and a half years. From the time of the appointment until her final report it was about three years.

Mr. DORNAN. So you said—before you six months, yours, three and a half years to over six years if you take the whole process, and I interrupted you when you were about to say—

Mr. OLSON. Now the Independent Counsel Walsh is five and a half years and running. He's just announcing indictments, so he is nowhere near over.

Someone talked before about the longevity in government of cabinet officials and how people don't want to serve. It's very interesting. All of the power of the Justice Department is explicitly vested by statute in the Independent Counsel. All the power of the Attorney General is vested in the Independent Counsel. It's interesting, there hasn't been an Attorney General in maybe thirty years who has served five years. How many cabinet officials in the Reagan administration served five years. I think there may have been one or two. So we have an institution, a temporary institution of government, as the Supreme Court called it, that exists longer than most of our cabinet officials do.

I know you have other people to hear from and I don't want to spend any more time because you may have questions as well, but if you create an institution like this, you are placing that enormous governmental power in one individual.

You're giving that individual a license to examine the conduct of a certain class of individuals, so the individual is investigating persons not crimes. And as Robert Jackson also said, if you give an unlimited budget and an unlimited amount of time to a prosecutor and he is told to investigate you or you or you, that person is capable of producing probably a technical violation by any individual on the face of the earth.

So you're giving enormous power. You're separating the institution of the Independent Counsel from the structures of government. The Independent Counsel is given a license to fish, but the license has an identified number of persons on it. There's a tremendous amount of pressure not to come home with none of the fish that are identified in the fishing license.

And there is no concern about the normal institutional restraints that exist on a Justice Department prosecutor; no sense of priorities if this prosecution is more important, because the only prosecution that is important is the one that's placed in the hands of the Independent Counsel.

And I'll just conclude by saying that, notwithstanding the Supreme Court decision that said this was a constitutional statute, the Supreme Court was assuming that this was a temporary agency for temporary purposes. Just in the few years since that decision, it has made itself clear that it is much more than that, and this is a structure that not only should the Court reject, if it ever gets a chance, but I hope that the Congress will think very long and hard about approving—reapproving this statute and I hope the President will think long and hard about approving it if it comes to him. Thank you for your time.

## DON'T LET SERBIAN AGGRESSION DESTROY KOSOVO

## HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. BROOMFIELD. Mr. Speaker, this week, members of the Foreign Affairs Committee met at length with the new Prime Minister of Yugoslavia, Mr. Milan Panic. An immigrant from Yugoslavia to the United States, a successful businessman and an American citizen, Mr. Panic returned to Belgrade to try to stop the tragedy which is occurring in former Yugoslavia. The fighting there has left over 20,000 dead and more than 2 million innocent human beings displaced. Damage to the Croatian and Bosnian economies and the destruction of the infrastructure in those two republics exceeds $30 billion.

At our meeting, Mr. Panic shared his vision of a future Yugoslavia and impressed us all with his energy, his optimism, and his deep commitment to bring peace to his ancestral homeland. He is trying to halt the terrible ethnic cleansing in Bosnia and cease Belgrade's support for the Serbian fighters in that troubled republic, and he fully supports the peace process set in motion by the recent London Conference on Yugoslavia and continued in the ongoing negotiations in Geneva.

The Prime Minister is trying to dilute nationalism with democracy and has called upon Americans to help him in this effort. He hopes to someday have a United States of the Balkans with all nationalities living in interethnic coexistence. He wants to work with the international community to halt the unwise policies that have brought about U.N.-imposed sanctions.

Mr. Panic is also trying to impove relations between the Serbian community and the ethnic Albanians in the tense province of Kosovo, a region where Serbian oppression has drawn the condemnation of the international community. It is obvious that a graceful exit by Serbian President Slobodan Milosevic would help Mr. Panic realize his dreams. History will not be kind to Milosevic, an authoritarian Communist who rose to power by fanning the flames of Serbian nationalism. Milan Panic, however, may be known as a peacemaker who had the wisdom and courage to succeed.

I strongly urge him to do everything possible to ensure that Serbian military might is not unleashed against the unarmed ethnic Albanians in Kosovo, who have wisely chosen nonviolent resistance to Serbian oppression. The world does not want the nightmare of Bosnia, with its death camps and Nazi-like ethnic cleansing program, to be repeated in Kosovo.

I recommend the following Time magazine article on the tense situation in Kosovo to my colleagues in the Congress.

### EVER GREATER SERBIA

(By J.F.O. McAllister)

Given the horrors visited upon Bosnia-Herzegovina, it is difficult to believe that the Yugoslav conflict could get much worse. But that is exactly what Western officials fear is likely to occur when Belgrade turns its attention to Kosovo, the predominantly Albanian province that is a disputed part of southern Serbia. A U.S. analyst says Servian "ethnic cleansing" there is "inevitable"; a senior Administration official predicts the spark that ignites a bloody Kosovo war could come in "the next two or three months."

But this time, as in 1914, the conflagration could spread beyond Serbia. A Serb slaughter of Kosovars "is the point where the conflict will automatically trigger a wider Balkan war," says a U.S. official. It would almost certainly involve Albania and perhaps Macedonia, Greece, Bulgaria and even Turkey. If two NATO members become embroiled, the alliance could also be dragged in. "It's our nightmare scenario," says a senior British diplomat.

For Kosovars, life is already a nightmare. They vastly outnumber the ethnic Serbs in the impoverished territory, 2 million to 200,000, but Serb have the guns, control the government and run Kosovo as a brutal police state. The Albanian Human Rights Council reports an average of 190 beatings by police each month for the past year, often followed by jail sentences for "disturbing public order." It has also recorded 106 deaths and about 600 woundings of Kosovars by Serb security forces since Kosovars evicted from the provincial government by Serbs declared an independent republic in July 1990. Unemployment among ethnic Albanians is estimated at nearly 80% because Serb authorities have insisted upon mass firings—more than 112,000 workers—since the independence declaration. Kosovo's only university is closed to ethnic Albanians, and Albanian-language media have been stifled.

In the capital of Pristina, a dreary city of Stalinist-era high-rises scattered amid factory smokestacks and weed-infested lots, paramilitary units from Belgrade patrol the streets and carry out frequent identity checks. Hundreds of Yugoslav tanks are lined up at the large military base on the western edge of the city, a constant reminder of Serbian power. "Albanians are treated just like blacks in South Africa," says Avdush Bajgora, a 29-year-old doctor from Pristina. "It's complete apartheid."

One day recently, the doctor stashed some packages of medicine under the seat of his car, drove out of Pristina by back roads to avoid Serbian checkpoints and headed north toward the mountains. Every time he passed peasants sitting by the roadside he called out, "Any police up ahead?" If caught by Serb patrols, Bajgora feared, the medicine would be confiscated and he would be beaten and jailed. An hour later, he arrived in Dabishevc, an isolated hamlet without running water, paved roads, telephones or postal service, where no medical care has been available since Serbian authorities shut the only clinic two years ago. Alerted by the word-of-mouth network of the main Albanian political party, the Democratic League of Kosovo, 150 patients were waiting at the local school. With great ingenuity, Albanians have constructed an underground social network of schools, clinics and a welfare system fueled by contributions from Albanians abroad to replace what the Serbs have taken away. As she waited in line, Aisha Emini, 66, an illiterate mother of seven, said, "Many times I weep in my bed at night because I see how our young people are treated. None of my sons has ever found work. I was never happy in my life, and now is the worst time of all. If I had a gun, I would fight the Serbs myself."

Any provocation—perhaps the full-scale implementation of Serbia's announced plan to displace Kosovars from their homes so that 140,000 relocated Serb refugees from Croatia and Bosnia can be housed there—could turn these festering Albanian resentments into open war. Serbs' feelings about the region are intense too. "Kosovo is the holiest place to an Orthodox Serb, more holy than Jerusalem," says Father Miroslav, a priest at Pristina's only Serbian Orthodox church. "We are ready to die to defend it."

The roots of the conflict go back centuries. In 1389 the Serbs were defeated just a few kilometers from present-day Pristina in a decisive battle with the Ottoman Turks, laying the foundation for 500 years of Turkish rule. Most Serbs in Kosovo moved north, to be replaced over the centuries by Albanians, who largely converted to Islam. But Serbs are still powerfully attached to this ancient heartland. In 1989 more than 1 million of them trekked to Pristina for the 600th anniversary of the battle, and Serbia's strongman, Slobodan Milosevic, began his ride to power in 1987 by whipping up Serb anxieties about the "repression" of their Kosovo brethren.

Hundreds of thousands of Serbs decamped from the province during Josip Broz Tito's reign. Serbs say Albanians drove them away by intimidation; Albanians say the Serbs left for greener pastures, since Kosovo is Yugoslavia's least developed region. But there is no serious disagreement that Serbs loathe Kosovars, divided as they are by language, culture and religion. At the bar of a small restaurant in Kosovo Polje, a Serbian suburb of Pristina, a woman drinking slivovitz and beer beneath a portrait of Milosevic shouts, "Why shouldn't we kill all the Albanians? Kosovo is ours, and the Albanians have no place here!"

The dominant view among Western analysts is that Milosevic still has his hands full with Bosnia, and will avoid extending the war to Kosovo until his current charm offensive to secure diplomatic recognition of Serbia's gains in Bosnia has stalled. "But we have continually underestimated the savagery of this war," says a Western diplomat. "Kosovo is the one unifying issue he's got." If economic sanctions and international isolation make Serbs restive about Milosevic's rule, he could find a Kosovo clash very useful to prevent a coup by more radical Serbs who would consider peace a betrayal. The U.S. has received reports in the past few weeks that Serbs are moving heavy guns to Kosovo and conducting military exercises there.

With remarkably few exceptions, Kosovars have been willing to follow their leaders' policy of nonviolence and passive resistance. In May they evaded attempts by Serbs to block unauthorized elections, but their new assembly has been barred from meeting. The President of the unrecognized Independent Republic of Kosovo, Democratic League leader Ibrahim Rugova, says, "We hold meetings every week with local representatives" despite repeated Serb arrests of Albanian activists.

Far from the Muslim fanatic portrayed in Serbian propaganda, Rugova, 47, seems an unlikely nationalist leader. A Paris-educated Ph.D. in linguistics, he explains, "I opted for nonviolence because there has been too much violence in the Balkans. But since the war in Slovenia and Bosnia, Serbian ideology is one of brute force. Nonviolence may become absurd in these circumstances." The Kosovars harbor the dangerous conviction that the U.S. and Europe will help them win independence from Serbia—the same conviction once held by moderates in Bosnia. But because Kosovo has never been an independent republic and is technically part of Serbia, Western governments will have even more difficulty mustering a case for backing the Kosovars against Belgrade.

For more likely help, Kosovars must look instead to their ethnic brethren in Albania and the former Yugoslav republic of Macedonia, where an estimated 30% or more of the population is Albanian, and possibly to fellow Muslims in Iran, Turkey and elsewhere. That inevitably raises the threat of a wider war. Serbian forces are not expected to respect international borders if Albania gives sanctuary to Kosovar fighters. Macedonia, now led by moderates in a delicate coalition that seeks full recognition of its own independence despite bitter Greek opposition, could feel compelled to intervene on behalf of the Kosovars lest their own Albanians secede. Either outcome could tempt the Greeks to intervene militarily. They are already destabilizing the Macedonian government by choking off its oil imports, idling tractors and trucks during the crucial harvest period and leaving grapes and apples to rot.

According to U.S. officials, Greece has informally agreed with Serbia to divide Macedonia. The republic is setting up frontier posts and rudimentary defense facilities along its border with Serbia to blunt the spread of hostilities from the north. In the south, Greece has held military exercises meant to send threatening signals. An incursion into Macedonia could provoke the Bulgarians, who recognize Macedonian independence but also have their own territorial claims. Even Turkey, which sympathizes with the Kosovars, could get involved—on the side opposite Greece. This would throw southern Europe and NATO into serious disarray. "But no one is even looking at this problem," says a worried U.S. official.

So far, the Geneva conference on Yugoslavia plans to establish a Kosovo working group, and international monitors are to be sent to the region. "But if the monitors find abuses, where's the fire brigade?" asks a Washington-based diplomat. Absent a credible threat of force, there is no reason to believe Milosevic will be deterred from expanding his vision of a Greater Serbia to Kosovo. So the military planners whose fear of a quagmire has kept American, British and French combat forces out of Bosnia may soon be facing even worse choices posed by a general Balkan war.

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## UNITED STATES LAGS IN EDUCATION INVESTMENT

### HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. MARTINEZ. Mr. Speaker, Ben Franklin used to say that "Education is the best investment." Our Nation's history—from Jefferson's Northwest Ordinance Schools to Lincoln's land grant colleges to Truman's G.I. bill for education to Johnson's Head Start and student aid—makes it clear that America was built on education. Education provides perpetual possibilities—and historically the U.S. Federal Government has had a leading role in investing in education and encouraging educational equality and excellence for all Americans.

But I guess our President never met Ben Franklin. During the past 12 years, Federal funding for education has been slashed. At the same time, economic studies have clearly documented the increasingly important role of education both in determining family income and in providing the high skills needed to build the new American economy.

As reported in the Washington Post today, OECD reports in one of the most complete comparisons of education indicators among industrialized nations that the United States ranks 12th in overall spending, both public and private, on education. Moreover, much of the U.S. investment in education is devoted to ensuring wide access to postsecondary education.

America's decentralized system of education, with its emphasis on community control of schools, the great diversity among our Nation's students, and our Nation's immense distances ensure that the cost of education in America must be relatively high. Moreover, our Nation's commitment to quality educational opportunities for every child makes it hard to run American schools on the cheap. In contrast, the relative geographic concentration of students, relatively centralized control of schools, the relatively homogeneous population, the relative lack of attention to students with disabilities and other factors help keep the cost of education in Japan relatively low. Despite this, Japanese schools emphasize small class size in early grades, teacher salaries and other elements which clearly cost money.

While, as the current Secretary of Education reminds us, "money alone is not the answer", money clearly matters. Money matters in hiring and retaining skilled teachers, in providing quality education facilities and materials, and in ensuring that every child can get the help he or she needs, rather than falling by the wayside. As Jonathan Kozol's book, "Savage Inequalities" reminds us, much of the money that America is investing in education is earmarked for students from the most favored backgrounds. The Neighborhood Schools Act, which is now in conference, and which the President has threatened to veto, begins to address these issues of doing what needs to be done to ensure opportunities for excellence in education for every child. I hope that my colleagues will find the recent OECD study which was reported in today's Washington Post of interest, and I hope that they will join in convincing our education President to support quality neighborhood schools for every American child.

[From the Washington Post, Sept. 24, 1992]

#### U.S. LAGS IN EDUCATION SPENDING

The United States spends only an average portion of its money on education, compared with other industrialized nations. Japan spends the smallest percentage but gets the most results for its yen, a study of the world's 24 wealthiest industrialized democracies showed yesterday.

Denmark and Finland lead in spending public funds for education, followed by Norway, Canada, the Netherlands, Belgium and Luxembourg, said the Organization for Economic Cooperation and Development, an intergovernmental agency in Paris that monitors the world's economies.

The OECD report, which used 1988 figures for gross domestic product, offers one of the most complete comparisons of education indicators among industrialized nations.

According to the report, the United States is the wealthiest industrialized nation as measured by gross domestic product per capita, followed by Canada, Switzerland, Norway and Luxembourg, Sweden, Japan and Germany. Turkey is the poorest among the 24 countries studied.

The Bush administration touts the notion that the United States spends a great deal of its wealth on education. But among the 20 industrialized countries—out of 24 OECD countries—for which education data is included in the study, the United States ranks behind 12 other nations in its public spending on education, and behind eight other nations in overall spending, both public and private, according to the report. (Education indicators for Greece, Iceland, New Zealand and Turkey are not included in the report.)

The 20 countries surveyed spent an average of 4.8 percent of gross domestic product in public funds on education, the report said.

The United States spent 5.0 percent of its income, while the leaders in this category, Denmark and Finland, each spent 6.8 percent. Japan was last among the industrialized countries at 3.8 percent.

But U.S. Education Secretary Lamar Alexander said the report "reminds us that money alone is not the answer."

Although the high school graduation rate is almost 100 percent in Denmark and Finland, it also is that high in Germany, where public funding of education amounted to 4.3 percent of the country's gross domestic product and overall education funding totaled 6.2 percent.

Japan had about a 90 percent high school completion rate, and the rate for the United States was 73.7 percent.

Japan's 13-year-old students also had consistently high scores in arithmetic, algebra and geometry, the report said. U.S. students did relatively poorly in each of those subjects.

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## HON. WILLIAM S. BROOMFIELD

### HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. NATCHER. Mr. Speaker, one of the giants of our Congress, BILL BROOMFIELD, will be remembered by all of his colleagues, not only for his excellent service to the people of his congressional district, but also because of his strong leadership and dedication to the foreign affairs of our country. He has always been concerned about the health and education of our people and the future of our country.

I will always remember BILL BROOMFIELD as a friend and outstanding legislative leader, a symbol of strength and an example of the character and accomplishment that our legislative branch of the Government should always stand for. Few public servants have held such a warm and well-loved place in the hearts of their constituents.

He loves and respects the House of Representatives and is a man of high integrity, a man of determination and fairness, and a man who always believes in protecting the prerogatives of the House of Representatives, and a man endowed with the qualities of greatness. He is a gifted man and he possesses the necessary kinds of courage that have always made him an outstanding Member of Congress.

It has been a distinct honor and privilege to serve in the House of Representatives with my friend BILL BROOMFIELD, and I want to wish him the best of everything in the future.

## PROSTATE CANCER AWARENESS WEEK

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. PORTER. Mr. Speaker, I rise today to encourage my colleagues to participate in Prostate Cancer Awareness Week which begins September 27th. Men over 40 can obtain a free prostate screening during Prostate Awareness Week. This is the fourth annual national public education and screening program to combat prostate cancer. Last year more than 400,000 men received free screening at almost 1,500 sites. This year more than 2,000 sites are expected to participate and over 500,000 men will be screened for prostate cancer. In fact, interest in screening is so high that Prostate Cancer Awareness Week has been extended to two weeks, through October 11th. Members of Congress can be screened at sites here in Washington or in their districts.

As a member of the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies, I have become very aware of the impact of prostate cancer on men and their families in this country. The Appropriations Committee has responded to the increased incidence of this disease by expanding funding for prostate cancer research at the National Cancer Institute. We expect these funds will lead to improved screening methods and even more effective treatments.

Although current screening techniques are not perfect, men over 40 should still be checked every year. Early detection of prostate cancer is critical to effectively cure the disease, and the tests available today, such as the prostate specific antigen [PSA] test, can help urologists make early diagnosis of prostate cancer. Experts recommend that prostate cancer screening should become as routine for men as mammography and pap smears are for women.

I commend the sponsors and supporters of Prostate Cancer Awareness Week, including the Schering Corp., the American Urological Association [AUA], the American Foundation for Urological Disease [AFUD], and the Prostate Cancer Education Council, for their effective efforts on behalf of better health care in this country. I encourage my colleagues and male members of their families or staff over 40, to participate in Prostate Cancer Awareness Week.

## HONORING THE 50TH ANNIVERSARY OF THE SANTA BARBARA, CA, MUNICIPAL AIRPORT

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to the Santa Barbara Municipal Airport, which will be commemorating 50 years of service to the central coast of California on October 17, 1992 with its Wings of Gold celebration.

The concept of the Santa Barbara Municipal Airport was born in 1941 when the local citizenry passed a $149,000 bond issue to purchase 582 acres of land for the airport site. The project was launched as a regional commercial and general aviation facility, and was augmented with the construction by United Airlines, in 1942, of an architecturally distinctive Spanish-style passenger terminal which still exists today. Further improvements to the building and airfield were completed during World War II as the result of a $10 million U.S. Marine Corps project. These improvements were deeded back to the city of Santa Barbara at the end of the war.

Today, most of the original buildings and facilities still exist and are leased to generate revenue to support airport maintenance and operations. The Santa Barbara Municipal Airport currently services over 600,000 passengers a year, conducts over 185,000 annual flight operations, contributes $336 million in direct and indirect benefits to the region, and serves as one of Santa Barbara's largest employers, with its 117 tenants.

It is my privilege and distinct pleasure to join with the local citizens of the central coast of California in congratulating the Santa Barbara Municipal Airport for 50 years of exemplary service. We all wish you continued success in the future.

## GENDER EQUITY IN THE SCHOOL SYSTEM

### HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Ms. LONG. Mr. Speaker, earlier this year, on June 11th, I inserted in the RECORD a letter that 50 Members of Congress sent to Secretary of Education Lamar Alexander about gender equity in our Nation's school system. For the benefit of those interested in this issue, I am today inserting the correspondence on this issue which has taken place since that time.

DEPARTMENT OF EDUCATION,
*Washington, DC, July 20, 1992.*

Hon. JILL LONG,
*House of Representatives, Washington, DC.*

DEAR JILL: Thank you for your letter of June 11 about gender equity in schools. I appreciated your taking the time to write. Your letter discussed statements made by Assistant Secretary Diane Ravitch on "Dateline NBC" concerning the American Association of University Women's report entitled "How Schools Shortchange Girls."

The statements referred to in your letter were taken out of context and certainly do not reflect the views of either Dr. Ravitch or this Department that sex discrimination in education is not a serious issue. Dr. Ravitch was attempting to make the point that significant progress has been made in the past twenty years in eliminating sex discrimination. Of course, more remains to be done.

The Department is committed to ensuring equality of educational opportunity for all students. Enforcing Title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally funded education programs, is an important mission of the Department's Office for Civil Rights (OCR). During the past year, OCR has focused increased attention on sex discrimination in athletics programs. For fiscal year 1992, OCR has made sexual harassment of students and equal opportunity for minorities and women to participate in math and science courses two of its top priority issues. I look forward to your continued support in these efforts.

Thank you again for your comments.

Sincerely,

LAMAR ALEXANDER.

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HOUSE OF REPRESENTATIVES,
*Washington, DC, Sept. 10, 1992.*

Hon. LAMAR ALEXANDER,
*Secretary, U.S. Department of Education, Washington, DC.*

DEAR SECRETARY ALEXANDER: Thank you for responding to my letter regarding comments made by Assistant Secretary Diane Ravitch on "Dateline NBC" about gender equity in public schools. I appreciate your interest in addressing this concern.

However, I want to clarify that the quote made by Dr. Ravitch of most concern to me, and the 50 other Members of Congress who signed the June 11th letter, was, "If people believe this is a serious problem, they should send their daughters to single-sex schools."

In your letter you indicated that this quote was taken out of context. While I respect your opinion, I do not believe that there is any context in which such a quote would be acceptable to those who signed the June 11th letter. This quote displays insensitivity and unwillingness to address a serious concern in our public schools.

No one can deny that significant progress has been made in eliminating sex discrimination in our society, but that is not what is at issue here. What is at issue is that there are numerous studies that indicate gender inequity in our schools and the government office responsible for researching and addressing such an issue has focused its efforts not on solutions for this problem, but on an unrealistic alternative.

Thank you again for your attention to this issue. I look forward to learning how the Department of Education intends to address this problem within the confines of our current public school system.

Sincerely,

JILL LONG,
*Member of Congress.*

## RIGHT-WING BASHING IS ALL THE RAGE ON NETWORKS

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. DUNCAN. Mr. Speaker, the liberal bias of the media has become so obvious this year it is almost ridiculous. This is particularly true of those who control the programming for the major networks. I hope all of my colleagues and every reader of the RECORD will at least consider the following column by Noel Holston of the Minneapolis-St. Paul Star Tribune.

[From the Minneapolis-St. Paul Star Tribune]

RIGHT-WING BASHING IS ALL THE RAGE ON NETWORKS

(By Noel Holston)

Earlier this year, some Republican U.S. senators tried to sandbag a PBS funding bill, claiming that public broadcaster's don't give conservatives an even break. If they really wanted to get serious about anticonservative bias, they wouldn't pick on the playground runt, they'd go after the big kids: ABC, CBS, NBC and Fox.

PBS at least has William F. Buckley Jr. and John McLaughlin.

In all of prime-time commercial TV, the only clearly identifiable conservative of much stature is Maj. John "Mac" MacGillis, better known as "Major Dad."

He's a Marine. He's patriotic. He's smart and capable. And the actor who plays him, Gerald McRaney, is a Republican who introduced Marilyn Quayle at the GOP convention last month.

But let's not anybody mistake the major for liberal-basher Rush Limbaugh in fatigues. He is lovingly married to a liberal, and the overall tone of "Major Dad" is liberal enough to have made the hit list of the Rev. Donald Wildmon's American Family Association (along with "Roseanne," "The Simpsons" and "Designing Women").

Other conservative or Republican characters in prime-time series tend to be straw men (or women), caricatures designed to be the butt of jokes.

The most interesting of these is Maurice Minnifield, the gun-living, commie-hating ex-astronaut and entrepreneur in "Northern Exposure." Minnifield, played by Barry Corbin, is a learned man, conversant in subjects as diverse as rocket fuel and Broadway shows, but he's also a pompous blowhard.

Then there's the wealthy uncle in "Fresh Prince of Bel Air," who serves mainly as an authority figure to be poked fun at, and maybe Kevin Arnold's dad in "The Wonder Years."

The cops and prosecutors in "Law & Order" are conservative, but none is the kind of fellow who'd take a hard-right line on social issues. Ditto the top cop in "The Commish."

What really cemented the lowly status of conservatives on prime time was the recent Emmy Awards telecast. Virtually everybody who handed out or received a statuette made a crack about Vice President Dan Quayle and his attack on "Murphy Brown."

The members of the "TV community" came off looking monolithically liberal, and when you stop to look over the prime-time landscape, so do their shows. You can point to dozens of TV characters who might speak up for Murphy Brown. You can think of few if any who might take Mr. Quayle's side.

Linda Bloodworth-Thomason—creator of "Designing Women" and "Evening Shade" and a close personal friend of Arkansas Gov. Bill Clinton's—has a new series, "Hearts Afire," about people who work for a "conservative Southern senator." Now, is anybody surprised to find that the senator is a country-fried nitwit?

If you watch a lot of network TV, you know that conservatives are almost always crooked (Hello, Blake Carrington!) or foolish, and you seldom hear the phrase "right-wing" without the word "nut" attached.

It's not accurate, and it's not fair, but it's not so much a matter of a producer's conspiracy as it is a matter of what sells in a populist medium.

Free enterprise does have its flaws.

## AMENDMENTS TO THE DRUG PRICE COMPETITION AND PATENT RESTORATION ACT

### HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. LEVINE of California. Mr. Speaker, today I am introducing legislation to amend the Drug Price Competition and Patent Restoration Act to ensure that important new medical technologies developed in the university laboratory reach the consumer marketplace, and that universities derive a fair return on their inventions. The amendment, narrow in scope, addresses a technical problem with the patent term extension provisions of the act.

The act was enacted to encourage and reward investment and invention by allowing patent holders to recoup years of patent life lost due to regulatory review. A patent holder can apply for a limited extension of a patent for a product that has received regulatory approval prior to patent expiration. However, under current law, only one product derived from a patent can benefit from patent extension. This was to avoid the possibility of old patents being kept alive by claiming new uses for the same drug—evergreening. In crafting the 1984 act, undoubtedly it was not anticipated that one patent would actually encompass two or more separate new drugs, that is, new chemical entitles each requiring a full, separate and independent FDA review. This limitation in the act has had a detrimental impact on universities whose discoveries are oftentimes packaged in a broad patent, with multiple drug applications. A university is able to secure patent extension for only one of the products developed from a broad patent, which can impede the development of additional breakthrough drug products derived from the patent, since patent term restoration is unavailable to them.

In most cases, patents that result in multiple separate drug products are generated by university research departments, who engage in broad seminal research. This research can yield innovative new discoveries that have a wide range of potential uses. University researchers generally are more focused on publishing the results of their discoveries for the benefit of the scientific community, than in long-term development of various commercial applications of their invention. As a result, they file broad patent applications to protect rights that could be lost or forfeited by publication. Such patents often will contain claims that could cover many potential commercial applications. Later when the university seeks to find companies willing to commit the millions required to develop a drug based on the patent, a serious impediment is the 1984 act's provision that a patent may be extended for only one product, despite the fact it encompasses more than one drug.

Given the major costs and long leadtimes involved in developing a drug product and bringing it through the FDA approval process, a patent extension can make the difference between financial success and failure. The fact that a potential drug product could not qualify for patent extension has been a determining factor for drug companies not going forward with new, innovative products. For example, this limitation has recently resulted in a number of terminated licenses under a university derived patent for products which combat severe immune system disorders, including AIDS drugs. When these potentially pathbreaking new drugs are not developed, the real loser in the process is the American consumer. A university also loses when a second or third product is not developed from one of its pioneer patents, since it relies on the revenue stream from royalties, in a time of rising costs and limited dollars.

The legislation I am introducing seeks to correct this problem by allowing a patent derived from university research to be extended for more than one new drug, if the new drug otherwise qualifies for patent extension under this Act. This bill does not add extension on top of extension. Nothing in this bill will allow a patent to be extended beyond 5 years, the maximum extension available under the 1984 act. This legislation is not a private patent extension for one company's product. Rather, the narrow amendment to the act contained in this bill will be applied on a uniform basis to all university derived patents.

The legislation corrects a technical problem in the act, which has a negative impact on both consumers and universities. It will help ensure that important new medical technologies developed in the university laboratory reach the marketplace, providing consumers with innovative new drugs. I urge my colleagues to support this legislation.

## FOR THE RELIEF OF JORGE LUIS DOS SANTOS, SUZETE DE S. TENORIO, LUIZ ANTONIO CARDOSO TENORIO, AND JULLYE TENORIO

### HON. LARRY LAROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. LAROCCO. Mr. Speaker, I rise today for a special reason. At a time when the sense of community in our country seems to have evaporated, I have been presented with the signatures of hundreds of residents of Pierce, Weippe, and Clearwater County, ID, in support of Jorge Dos Santos, Luiz and Suzete

Tenorio, and their daughter Jullye requesting that they be allowed to remain as permanent residents in the United States.

Luiz Tenorio and his friend Jorge Dos Santos came to this country from Brazil in the spring of 1991. They began work as tree planters for a U.S. Forest Service contractor. When they discovered that the contractor would not pay as promised, or as required by Forest Service regulations, their objections resulted in the termination of their employment. Since then, they have been instrumental in assisting the Immigration and Naturalization Service of the Department of Justice in investigating such practices.

Despite their ill fortune, both men have found new jobs to support their families and are currently productive members of their community. Recently, Mr. Tenorio's daughter required medical attention before he had obtained insurance from his current employer. Although he qualified for public assistance, he refused to accept it, maintaining that in this country everyone must earn his own way.

The authorization for Mr. Santos and the Tenorios to remain in the United States has now expired, and the citizens of Clearwater County have petitioned to allow them to remain in the United States as permanent residents.

As the petition states:

> These individuals have, since their arrival in the United States, proven repeatedly their honesty and work ethic. They have cooperated and assisted Immigration officials in enforcement of U.S. law and are fine examples for all of us.

Because of these extraordinary circumstances, I have agreed to introduce this private bill for their relief, and I urge its favorable consideration.

H.R.—

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENCE STATUS FOR JORGE LUIS DOS SANTOS, SUZETE DE S. TENORIO, LUIZ ANTONIO CARDOSO TENORIO, AND JULLYE TENORIO.**

(a) IN GENERAL.—Subject to subsection (b), for purposes of the Immigration and Nationality Act, Jorge Luis Dos Santos, Suzete de S. Tenorio, Luiz Antonio Cardoso Tenorio, and Jullye Tenorio shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if an individual under such subsection applies to the Attorney General for permanent residence status pursuant to such subsection within 2 years after the date of the enactment of this Act.

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# PROTECT OUR COMMUNITIES FROM THE STORAGE OF HAZARDOUS WASTES

## HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. MAZZOLI. Mr. Speaker, recently I testified before the Kentucky Natural Resources and Environmental Protection Cabinet at a public hearing in my home district of Louisville and Jefferson County, KY. The hearing was part of a process to determine whether a permit should be issued to allow the storage of hazardous wastes in southwest Jefferson County.

Hundreds of citizens came to the hearing to voice their strong opposition to this proposal. It is gratifying to witness so many people by their presence standing firmly together for their families, their fellow citizens, and their community. I want to share with all of our colleagues my statement which I presented at this hearing.

### STATEMENT OF REPRESENTATIVE ROMANO MAZZOLI

Madam Chairman, distinguished members of the Kentucky Natural Resources and Environmental Protection Cabinet:

Thank you for allowing me the time to express my concerns about the health, wellbeing and reputation of all of Jefferson County even though it is in the Southwestern portion of the County where hazardous wastes are proposed to be stored and burned.

I say that the total community is involved—and, in my opinion, at risk—because the possible health hazards and a reputation as a dumping ground and burning pyre for someone else's hazardous waste will affect all of Jefferson County, every square mile of it.

Madam Chairman, numerous meetings and hearings have been held and reams of correspondence and studies have been produced addressing the safety—and the likely dangers—involved in the transporting, storing and burning of hazardous wastes in Jefferson County. This has been triggered primarily by the pending proposal of Kosmos Cement Company to expand their operations to include hazardous waste incineration in the production of cement.

But, I need not remind this distinguished panel that for years and years the good people of Southwest Jefferson County have sought relief from existing environmental degradation which is affecting their personal health, the use and enjoyment of their homes and properties and their overall sense of well-being, security and happiness.

Kosmos Cement's proposal is only the latest in a long string of environmental impositions placed upon the people of the Southwestern part of the County. It is not the first.

But, as I said earlier, this proposal may be aimed at Southwest Jefferson County, but its tentacles reach into all quadrants of our community.

Madam Chairman, throughout all of this the people of Southwest Jefferson County have been assured they will be protected from potential adverse effects on their persons and on their property. It is not surprising that these assurances have been received skeptically. The ugly evidence of industrial processes implanted here are everywhere. The slag heaps, the dust, the haze, the smells, the fumes.

And, these people read the papers and watch television. They know that health hazards—whether of Love Canal or the Valley of the Drums or lead paint or formaldehyde in furniture, or asbestos—don't show up tomorrow or next week but next decade, next generation.

Small wonder the people of Southwest Jefferson County do not clasp the assurances of scientists, engineers and CEOs—the bulk of whom do not live in this part of the county or even in the region or State—to their bosom and take them to the bank.

Madam Chairman, what are the cumulative affects of multiple industrial facilities on a community and its people? What risks are posed by prolonged exposure to the emissions produced at Kosmos? Are the risks of the Kosmos proposal worsened when taken in combination with emissions currently discharged by other installations in the area? How valid is a one week or a one month or even a one year test run in a laboratory or under controlled circumstances at a plant? How fair is it to issue a permit for this hazardous burning process without a thorough, comprehensive, regional study of health hazards and public safety and health implications?

These are legitimate questions which the people—who will have a hazardous waste storage and burning facility as their next door neighbor unless state and local leaders turn thumbs down—need to have answered.

In an earlier era, in a simpler time, the issue for the people of Southwest Jefferson County would today be one of environmental equity. Will these people be forced to accept more than their fair share of environmental risks in the name of economic growth?

But, that's a luxury your panel and the leadership of our community and state no longer enjoy. It is no longer a question limited to "Let's dump it out Dixie Highway. The people won't know the difference. And, if they do, they can't fight it."

As I said earlier, what happens with the Kosmos proposal—your decision—affects all of Jefferson County, all of it and all the people living in it.

I ask permission to submit for the record articles from the July 14, 1992 *Southwest Newsweek* which highlight the difficulties which are inherent in the handling, storage and transportation of hazardous wastes, even under "ideal" conditions.

They illustrate forcefully how hard it is to prevent such "unfortunate" events from occurring, despite everyone's best efforts and intentions. And, these events could have disastrous, even catastrophic, consequences to each of us.

The crux of the issue before this panel is community: that of Southwest Jefferson County and—by extension—that of all Jefferson County. People are born here, grow up here, marry here, raise families here, pray here, play here. This is not an industrial park or orphan land to seed with industrial, polluting facilities. It is a community, a neighborhood where people live, and it should be considered as such when proposals are made to initiate or to expand environmentally aggressive activities it boundaries.

Your task in this phase of the review process, is to judge the question of whether hazardous wastes should be stored on the Kosmos premises. Storage of this material, of course, is not an end in itself.

Storage foreshadows the transportation of hazardous substances through the community, past homes, schools, churches, elderly centers, playgrounds and businesses. It suggests that residents of Southwest Jefferson County and, indeed, of many other areas of the County as well, must learn to live with and defend themselves against tractors, trucks and tank cars passing by day and probably at night as well (when the hazardous waste trucks face less traffic but, also, when residents are more vulnerable and emergency response units are at a lower state of readiness).

Storage also augurs the eventual burning of this material. That's at the heart of these proceedings.

Therefore, I hope this panel—working with all the state and local authorities which have a statutory and legal role to play in the proceedings—will recommend a moratorium of at least two years before the Kosmos proposal can go forward.

I am the co-sponsor in the House of Representatives of a bill which would impose a two-year moratorium on the burning of hazardous waste in cement kilns all across the land.

During this moratorium period, a study of the environmental effects of this method of heat-production and incineration could be conducted both by the federal level Environmental Protection Agency (EPA) and by state and local counterpart agencies.

Communities with such facilities would have the right to participate in the decision-making process and would receive the fullest scientific and technical data upon which to make sound judgments about the risk to the environment, the human health and safety issues posed by the regular burning of hazardous wastes.

I hope this panel orders a reasonable and appropriate pause and a step back to allow for the fuller evaluation of the environmental, health and safety considerations the Kosmos project raises.

A member of my staff shared a story with me recently about one Easter Sunday during her youth. She lived in the Portland area and a barge carrying toxic waste material broke loose from its moorings and became lodged in the McAlpine Locks. The whole neighborhood had to be evacuated, church services canceled, Easter eggs left unhunted.

Recently there was a train derailment in Shepherdsville. Because the train was carrying toxic gases and hazardous waste, hundreds of people's lives were disrupted for over a week.

The bleak record of equipment failures and human error does not inspire, in me at least, a high degree of confidence that these will not mark the Kosmos proposal as well. They will. We know it. It is inevitable. A moratorium will help us avoid those which are avoidable and to prepare for those which are not.

On behalf of the families of the Southwest Jefferson County community—and of the larger community in this County and region—I ask that you not allow the storage of hazardous wastes at Kosmos Cement, that you impose a moratorium on all aspects of storage and burning of hazardous material at Kosmos Cement, and that you not allow our County to become, in name and in fact, a dumping ground, a funeral pyre for the nation's hazardous waste.

## INDEPENDENT COUNSEL LAW

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. DORNAN of California. Mr. Speaker, back on June 17, Congressman CHRIS COX and myself held a hearing, under the auspices of the Republican Study Committee, to look into the independent counsel law and how that law is being implemented. As I'm sure you know, the independent counsel statute may come up for reauthorization later this year. The statute had its genesis in the Watergate scandal. It was born in controversy and has been steeped in controversy ever since.

Congressman COX and I thought it would be helpful to bring together some experts on the independent counsel law to discuss whether the law should be allowed to expire, improved, or maintained in its current form.

What follows is the testimony of two witnesses, Terry Eastland and Suzanne Garment. Terry Eastland was a top Justice Department official from 1983 to 1988 and has since continued to write and comment on constitutional and legal subjects.

Suzanne Garment is a resident scholar at the American Enterprise Institute. She holds a Ph.D. in political science from Harvard and was a Fulbright Scholar at the University of Sussex.

I hope that all my colleagues take the time to read this very enlightening and very interesting testimony. Anyone requiring further information on this hearing should contact myself or Mr. COX.

TESTIMONY OF TERRY EASTLAND

Well, thank you Congressman. I should apologize in advance for not having a text here. I have been down in Dallas for a week and then in New York, and was simply unable to get a text. If you would like one later on, I will be happy to provide you with one.

My views about the Independent Counsel statute are well known. I've committed them to print, as you indicated. I will not spend much time on the constitutional issues involved. Those have been debated at great length over the past 20 years, in fact, and of course, were debated in Morrison against Olson.

I would just say, briefly, that I continue to disagree with the Court's analysis—with the Chief Justice's analysis in that case of the appointments clause issue, as well as the removal clause issue, and more generally his analysis of the executive power, and also his analysis of separation of powers in general.

Those issues, I think are worthy of debate. I doubt, frankly, whether given the 7-1 decision in Morrison, whether constitutional reasons alone will suffice to be sufficient political argument in the current climate. I think it would be right to focus more on policy grounds.

What I would like to do is discuss some of the policy reasons why I think the Independent Counsel statute is bad law. Senator Charles Mathias of Maryland expressed the fear, many, many years ago, in one of the precursor—in one of the debates that was a precursor to the actual framing of Title 6. He feared that Independent Counsel's or Special Prosecutors, as they were then called, would acquire what he called a disproportionate amount of influence.

In my view that's exactly what has happened. The urgency, I think is to integrate them into a more traditional prosecutorial universe; currently this simply is not possible. If that were done, I think that the unreasonable—the often unreasonable actions of Independent Counsels, such as the one yesterday, would tend to be more balanced and their influence would be less disproportionate upon our politics.

One step, by the way, in that direction would be the creation—and this is an option for you—of a permanent Office of Special Counsel that would be located within the Justice Department. That idea is, obviously, not original with me. Senator Howard Baker suggested it many years ago. Andrew Fry, who worked in the Solicitor General's Office, has made that argument on the op-ed pages of the Washington Post.

I have, again, reiterated that argument in my own book. It's there in one of the chapters. But an Office of Special Counsel would have the benefit, at least, of being designed in such a way as to make sure that so-called independent counsels or special counsels, whatever we wish to call them, did have to make their judgments in a case within a larger environment.

An environment where they would have to assess the claims in competing cases; where they would have to be reviewed by others; where there would be judgments that they could take into account by other prosecutors. This, of course, is how the Justice Department itself works, and you alluded earlier in your opening remarks to the kind of larger atmosphere environment in which they do work.

Right now Independent Counsels are estranged from that kind of environment. An Office of Special Counsel that would not investigate just one case, but all such cases, it seems to me would be a better option, if you're going to have such an office at all.

Another option, by the way, that is open to Congress and the President is letting the statute die its scheduled death. That is the option that I prefer. I happen to think that—we did make it through Watergate, the system worked; people often forget that. And the discretionary appointment of a special prosecutor is, I think, the way the system should work.

I saw what happened in Watergate. We had a firing, yes, but we also had, then a reconsideration of that firing, in effect by President Nixon. We all know that Special Prosecutor Jaworski then was named and the case continued on in the courts.

As to, again, the deficiencies from the standpoint of policy, I would just point out that the framers themselves did not design a government that was blind to the possibility of malfeasance, even in the Executive Branch. Alexander Hamilton, perhaps the original presidential political theorist, himself said that the members of the Government, including the President, he said, would or should be liable to prosecution and punishment in the ordinary course of law.

Officials suffering such fates would obviously be quite enfeebled, if not also dead politically. But I think the point that is important to understand is that the founders did not envision a routinely enfeebled executive. They made impeachment a quite difficult task, and they did not make the prosecution of executive officers any easier than it is in other cases.

The Independent Counsel statute, of course, quickly alters these arrangements in such a way as to more often and with much less justification, enfeeble the executive. And bear in mind Hamilton's remark that energy in the executive is a leading characteristic of good government; it is the defining characteristic of the Executive Branch, and of the President. The Executive, as a result of the Independent Counsel statute, has been less energetic, I think, over the past 14 years. The Presidents who have served have been less able to dare to act on their own opinions with vigor and decision, as Hamilton put it.

Independent Counsel Investigations tend to be lengthier. They're more costly than other government investigations. I don't even have to cite these investigations to you; we've been observing one.

Of course the Walsh investigation is just one that has been very lengthy, very costly, unjust in many ways in my judgment, but you can also go back to some of the first

Independent Counsel or Special Prosecutor inquiries: to the Hamilton Jordan case, for example, a case involving cocaine use, alleged cocaine use. Such a case would never have been prosecuted in the ordinary course of business at the Justice Department.

These investigations, because they are conducted pursuant to a formal statute, are typically done to avoid—at least people think they will avoid another Watergate. They have required, in our political culture, a special importance. Huge amounts of time and energy are expended by the media and various interested parties in following the twists and turns of Independent Counsel cases.

If time and energy, by the way, were infinite, this would not be a problem. Time and energy are not infinite. What is crowded out is ordinary politics. If you want to know why Americans hate politics and why, perhaps, some politicians, including perhaps some in this room hate politics, I think the Independent Counsel statute is one good reason why.

The statute, finally, has also shifted the balances that make for responsible government. The original teaching of the Federalist Papers is that energy has a cognate. There's something that goes with energy, and that's responsibility. We've vested the executive power in a single person in order to be able to hold that person accountable for what are often controversial exercises of executive power.

What has happened, I think through the Independent Counsel statute is that this formal understanding, this beginning understanding, has been seriously undermined. The President is absolved by the Independent Counsel statute of the responsibility of law enforcement in particular cases. Neither he nor his aides are able to make the most important law enforcement decision: whether to prosecute.

And, by the way, bear in mind, that in Morrison, Chief Justice Rehnquist did not dispute the proposition that the law enforcement power is part of the executive power.

At the same time, ironically for a statute that is part of the so-called Ethics in Government Act of 1978, the law allows the President to be irresponsible. Contrary to the design of the Constitution, it suggests that he no longer has any responsibility for the behavior of his top aides. Their ethics apparently need not concern the President.

Instead of inquiring personally or through subordinates into alleged misconduct of aides and dealing with it accordingly—which, by the way, may include standing behind someone accused of wrongdoing or prosecuting that person or removing that person—the President, thanks to the statute, can simply ask for the appointment of an Independent Counsel and be done with the whole business.

Only, I think, the strongest President could be expected to resist the temptation and be a truly responsible chief executive. We've not had one, in my view, in the past dozen years. Perhaps we will soon if the President—if this President comes through with a promise to veto—I hope, by the way, there would be veto strength in this chamber.

By the way, the issue of responsibility is not simply for the President; there's also an issue for Congress. The Independent Counsel statute enables Congress to slough off its constitutional responsibility to investigate allegations of malfeasance. The Congress itself can call for an Independent Counsel investigation. Members, as you know, have done that in some cases.

For Congress, the work of the Independent Counsel is the work of impeachment by other means. By, again I would say, easier means, Justice Scalia, in dissenting, put it as well as anyone has when he said that the statute is acrid with the smell of threatened impeachment. Congress may delight in an institution that batters the Executive Branch, but it does not have to be responsible for the work of the Independent Counsels.

Some may wonder why responsibility matters. I think just a question reveals the poverty of much of our own contemporary understandings about our form of government and about the executive and about Congress. The answer to that question is that by conscious design our politics focuses responsibility in the institutions of government.

The Independent Counsel law, though, invites the President and Congress, in effect, to join in a handshake of irresponsibility, and leave the issue of executive malfeasance to Independent Counsels who are politically accountable, as we learned, once again yesterday, to no one, except perhaps the elite political culture of Washington, D.C. This arrangement does not represent good government, at least not in the original and still worthy sense of government accountability for what are very often controversial exercises of power.

One last remark is simply this: something should be said about Watergate, this being the anniversary of that event. Let us assume as true what the severest critics of the Nixon Presidency said; that it was different from all previous Presidencies in that it was evil, dead set upon denying our constitutional freedoms.

If an Independent Counsel could prevent this, who could deny the need for the law we now have, or better yet, a constitutional amendment to that effect. The problem is we made it through watergate without such a law. Public opinion sustained us in that instance, and it would sustain us again, I am confident.

The Independent Counsel law has proved an unnecessary corrective that has had perverse and unintended consequences, not least of which is to wire this town, this political culture, in such a way as to make us think that another Watergate is somehow around the corner whenever there is some allegation of malfeasance involved in the Executive Branch. Thus in recent weeks and months, we've heard of Iraqgate and so on and so forth.

The statute has helped elevate the pursuit of Government malfeasance to such a high priority in this city that elitists seem to believe, perhaps unconsciously, that the whole point of our political system is to root out wrongdoing. That is, of course, preposterous. But the amount of time that we now spend on this exercise, it seems to me, suggests that this belief is there in this culture.

There will be occasions, of course, where if we did not have an Independent Counsel statute, in which the President would, acting as President Nixon did in Watergate and indeed as President Nixon did, who appointed the first Special Prosecutor in 1975, to appoint someone outside of the Justice Department to investigate allegations of malfeasance involving a high-ranking executive official.

But that is as it should be. That is proper; that is appropriate. In my view what we now have is a system that simply is unworkable, is unfair, and is one that is, in fact, detrimental to our system of government.

### TESTIMONY OF SUZANNE GARMENT

I'd like to talk just a bit more about the political culture that Terry alluded to—the culture that gave birth to the institution of the Independent Counsel and that still pervades its operations.

The Independent Counsel was born out of mistrust and not simply a passive mistrust but an extremely aggressive and punitive one. Most of Congress and the opinion leaders on whom Congress relied thought that the Executive Branch simply could not be trusted with any discretion when it came to the investigation of high administration officials.

That is why the Attorney General was put in such a small box with regard to these investigations. That's why the Attorney General was forced by law to investigate charges that no sane prosecutor would touch. That's why the law tied the Independent Counsel so closely to Congress. And that is why the law envisions each Independent Counsel ending an investigation with a public report explicitly justifying his or her actions.

These features of the office, not surprisingly, have been the ones that have caused us the most trouble. Terry Eastland has talked today about the case of Hamilton Jordan, in which Arthur Christie spent 6 months investigating a drug charge for which there were no credible witnesses and for which no ordinary citizen would have been prosecuted even had the charges been true.

You may also recall the case of Ray Donovan, a Reagan cabinet officer, who was investigated by Independent Counsel Leon Silverman. Mr. Silverman twice ended his investigation only to be forced to reopen it. The publicity surrounding the investigation had produced an unending stream of new charges against Donovan, and the law required investigation of these charges, even though they were virtually all unprovable.

In the case of Theodore Olson, from whom you will hear later on, it took 6 years from the date of the alleged offense for the Independent Counsel to conclude that Mr. Olson should not be prosecuted for lying because he did not lie. The length of the investigation stemmed in no small part from the unwholesome interest that certain members of Congress and their staffers took and were permitted to take in the entire investigative process.

For instance when Independent Counsel James McKay investigated Attorney General Edwin Meese in 1987–1988, Mr. McKay decided not to indict Mr. Meese for any crimes. But the report that Mr. McKay published at the end of the investigation ended Mr. Meese's public career almost as effectively as formal charges would have done.

Such problems, ranging from the injustices done to individuals to the inordinate amount of public wrongdoing, have arisen even when Independent Counsels are competent and honorable—as they often have been, a fact we should remember.

And in a case in which an Independent Counsel is seized by overweening ambition or self righteousness, or a case in which he or she simply has abysmal judgment, the consequences can be much worse for individuals under investigation and for the country.

We should remember, though, that it's not the office of the Independent Counsel alone that poses these problems for our politics today. The same aggressive spirit can be found among a good number of regular Federal and State prosecutors as well. For instance, when Mr. McKay was investigating Mr. Meese, Mr. McKay's Independent Counsel office transferred one part of the investigation to the regular Federal prosecutor in New York. That was the case of Meese's friend E. Robert Wallach.

Because of this transfer Wallach fell under the jurisdiction not of the Independent Counsel but the U.S. Attorney Rudolph Guiliani. The case was problematic from the beginning. Wallach was convicted, but the Second Circuit reversed on the grounds of perjury by the Government's chief witness, with even a suggestion from the bench that the prosecutors themselves may have been operating under less than the highest standards. And now the U.S. Attorney's office says that its prosecutors will try him again. I'm sure by now Wallach wishes that he had been left to the mercies of the Independent Counsel rather than thrown into the regular criminal justice system.

The Independent Counsel, in other words, is only the most prominent of a whole battery of laws, institutions, practices, and assumptions that embody an intensely punitive attitude today toward Federal officials. This attitude—and not just the Independent Counsel but the other manifestations as well—is beginning to have real effects on the operations of Government.

It is certainly making it more difficult to recruit talent into the Executive Branch. This is not something you can quantify, but I have heard this assertion from three separate White House personnel directors, from countless people in the private sector, and now from two official Government Commissions.

Within the Government, for those who do go in and stay in, this punitive culture makes itself felt in some ways that are concrete and some that are very general. To take just one example of the concrete, perhaps you have already heard that Government employees at senior levels nowadays do not write things down in the way they used to.

Instead, they paper their files with noncontroversial statements, or they rely on oral briefings to get their business done, or they communicate though little yellow Post-it notes they can take off documents and toss into the wastebasket. It's hard enough to get a decent decision out of Government under any circumstances. When you start imposing these additional burdens, your chances drop to nearly zero.

When it comes to more general consequences, I've had senior-level officials complain of what one of them called a halo effect. That is, officials become especially unwilling to take controversial stands because, in the current climate, they fear that by doing so they will open themselves to accusations of personal misbehavior. Again, it's hard enough under any circumstances to get initiative-taking out of Government officials; this increased fear is making things worse.

More generally still, the current climate in this country regarding Government is not merely skeptical, as it should be, but poisonous in a way that threatens to render us incapable of governing ourselves. This situation is due in good part to the unending stream of scandal news that has come out of Washington since Watergate. This type of news was produced by the same sorts of people who argued and who continue to argue that more rules, more penalties, and more publicity are what we need in order to increase citizen trust in Government. These people have been tragically wrong.

The institution of the Independent Counsel sorely needs changing. But no structural changes we make in that office will be much help unless we also begin to change the attitudes that produced not only this office but so much else that has backfired so badly in our current politics. Thank you.

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## NEW JERSEY PRIDE HONOR ROLL: JOHN M. FOX

### HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. GALLO. Mr. Speaker, law enforcement is a difficult and challenging profession, requiring a firm hand backed up by solid judgment and the ability to make critical decisions under pressure.

The job of sheriff requires all of these important skills and the ability to educate, to promote, and to plan ahead with the needs and wants of the community in mind.

For 17 years, Morris County, NJ, Sheriff John M. Fox has undertaken these duties with enthusiasm and has created a state-of-the-art department that effectively serves the 420,000 residents of the county.

His innovative programs, including the Sheriff's Labor Assistance Program [SLAP], creation of an inmate produce farm, computerization of department operations, and a whole host of other initiatives, have attracted State and national attention, serving as models for other departments to follow.

The SLAP program in particular is unique to Morris County and sets a national standard that I would urge my colleagues to carry back with them to their districts.

This one-of-a-kind program incorporates rehabilitation with community service and involves all community leaders in a nonpartisan voluntary effort to make our community a better place in which to live.

As a result of SLAP, Morris County has developed a network of more than 35 nonprofit agencies, including senior citizen groups, homeless shelters, food banks, and self-help organizations, linked together by a common dedication to building a better Morris County for all it citizens.

Individuals who would otherwise be in prison are working side-by-side with law enforcement and corrections officials to make constructive contributions to their communities.

Sheriff Fox's efforts to coordinate the specialized services and activities of local and county law enforcement agencies have resulted in the elimination of costly duplication and gives all departments the same access to available resources.

Sheriff Fox has had a long and distinguished career in law enforcement, beginning as a police officer in Parsippany in 1965, rising to the rank of detective before leaving the force in 1974 to take up the challenges associated with the sheriff's office.

He has taken time from his busy schedule to work toward the betterment of his profession, as member and secretary/treasurer of the Sheriff's Association of New Jersey, as a member of Governor Florio's Law Enforcement Study Commission, and as coordinator of crime prevention in Morris County, just to name a few.

Sheriff Fox has received commendations from more than a dozen civic and fraternal organizations in recognition of his community involvement, and continues to be actively involved in a wide range of community service activities, as well as professional organizations.

In January, John Fox will be leaving the Morris County Sheriff's office in order to undertake new career challenges, but he leaves behind a rich legacy of programs that apply the principles of law enforcement to a great many programs that bring people together in many positive ways for the betterment of their community.

Mr. Speaker, I ask my colleagues to recognize John M. Fox's many contributions to law enforcement and to Morris County, NJ, and to join with me in wishing him all the best as he tackles the challenges ahead.

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## TRIBUTE TO MR. WALLY McCORMACK

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor that I should rise today to recognize Mr. Wally McCormack, who has dedicated 40 years of distinguished service to northwest Indiana.

Raised in Gary, IN, Wally attended Beveridge and Miller Elementary Schools, and graduated from Emerson High School in 1939 as president of his class. He served in the U.S. Navy during World War II, and then devoted his life to sports as a coach and umpire.

Wally coached basketball and baseball in Portage from 1948 to 1955, and is a charter member of the Portage Little League. He began his officiating career in 1952, focusing on basketball, baseball, and football. Wally served as president of the Calumet Athletic Officials Association from 1968 to 1974. He was afforded the opportunity to umpire three State baseball finals in 1973, 1978, and 1982. Additionally, the National Federation of Interscholastic Officials honored him with the title of Outstanding Baseball Official for the State of Indiana in 1984.

Wally has served not only as a role model to our youth, but to the senior community as well. He umpired the Senior League World Series from 1972 to 1976. He was also umpire-in-chief for the Portage Babe Ruth League, East Gary Babe Ruth League and Miller Senior League. Wally officiated in 10 high school football tourneys, and has been an official referee for Indiana high school athletics for over 30 years. He refereed 10 successive finals in the National Lutheran Tourney, and holds the prestige of being the only official in the National Lutheran Basketball Hall of Fame.

Wally has received a plethora of awards since he began his career, including the first Wally McCormack Sportsmanship Award, the Gary Old Timers Outstanding Service Award, the National Baptist Basketball Award of Merit, and the Indiana High School Athletic Association's Certificate of Merit for Distinguished Service.

I commend Mr. Wally McCormack for 40 years of dedicated service to the sports community in northwest Indiana. He has greatly influenced three generations of sports enthusiasts through his devotion to his work. It is my distinct honor to wish Wally a most rewarding retirement.

## A TRIBUTE TO JAMES VINCENT BRUNO, JR.

### HON. RICHARD E. NEAL

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
*Friday, September 25, 1992*

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pleasure that I pay tribute to a generous gentleman from Agawam, MA, who has retired from the Agawam School District after 29 years of working toward the education of the youths of this community.

James Vincent Bruno, Jr., was born on March 11, 1939, and attended Agawam High School until 1958. In high school he participated in many sporting and civic activities, such as the student council and the school football team. After high school James attended the University of Miami where he received a degree in biology/physical education. During his college career he continued to play football and in 1961 was a participant in the third annual Liberty Bowl Classic. James continued his education at Westfield State College in Massachusetts where he received his masters degree in administration. In April 1966 he married Cheryl Teece. They had four children, James, Lisa, Cheryl, and Missy. In 1971 James completed his education by attaining sixth year level in education/administration from Westfield State College.

James began his allegiance to the Agawam School District in 1963 as a science teacher at the Agawam Junior High School until 1967. In 1967, he transferred to the high school where he was a biology and anatomy teacher until 1969. He was the head of the Agawam High School science department from 1968–69. From 1969–71 he served as the assistant principal for Agawam High School. For a decade he was the assistant superintendent and in 1981 he became the superintendent of the Agawam School District.

James remained up to date on current events in the educational field by becoming a lifetime member of the Massachusetts Teachers Association. As well as being a lifetime member he also held a membership in the National Teachers Association, Connecticut Valley Roundtable of Superintendents, Massachusetts Association of School Superintendents, and the New England Association of School Superintendents.

Not only is James an active participant in the education of Agawam youths but he is also an pivotal member of the community. In 1971 he was given the Agawam Jaycees Outstanding Young Educator Award. He is an extraordinary minister of communion at Our Lady of the Lake Church in Southwick, MA. As an active member of both UNICO and the Agawam Rotary, James is a charter member of the Westfield UNICO and was president of the Agawam Rotary from 1991 to 1992. On September 17, 1992, he was awarded "Friend of the Big E".

James' contribution to his family, his community, and the students of the Agawam School District is truly remarkable. As an educator his impact on the Agawam community is phenomenal.

Mr. Speaker, please join with me and the family and friends of James Vincent Bruno, Jr., in wishing him a long, happy, and healthy retirement. He certainly deserves it.

## TRIBUTE TO JOHN C. CORELLA

### HON. JON KYL

OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
*Friday, September 25, 1992*

Mr. KYL. Mr. Speaker, I would like to commend to my colleagues John C. Corella, president of Corella Electric, Inc., who has been named 1992 Arizona Minority Small Business Person of the Year by the Phoenix District Office of the U.S. Small Business Administration. His accomplishment is further underscored by the fact that he has been named Regional Minority Small Business Person of the Year for 1992 for Region IX, which includes Arizona, California, Nevada, Hawaii, and Guam. He is also a constituent of Arizona's Fourth Congressional District.

Since 1976, Corella Electric has established a national reputation for quality electrical construction of industrial, commercial, and institutional buildings. The company has technical experience in electrical engineering, design, and installation. The company designs and installs telecommunications systems, including fiber optics. Corella Electric, Inc., holds licenses in general contracting, electrical hi-line, electrical commercial, communication, and painting.

Arizona benefits greatly not only by the entrepreneurship of Mr. Corella, but also by the countless small businesses, such as his, that are the cornerstone of our economy.

Thank you, Mr. Speaker, for allowing me to share an Arizona success story.

## TRIBUTE TO GORDON W. CLOWNEY

### HON. BOB TRAXLER

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
*Friday, September 25, 1992*

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to Gordon Clowney, of Detroit, who will retire shortly as regional director of the Department of Veterans Affairs for the State of Michigan. With his retirement on October 3, he will have over 31 years of distinguished Federal service with over 24 years at the VA Detroit regional office, and over 12 years serving as director. His professional career and incredible integrity have been an inspiration to everyone who has worked with him.

As chairman of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, I appreciate how helpful and cooperative Gordon Clowney and his staff have been on behalf of veterans. I am also very proud of Gordon's leadership and commitment to developing the talent of the program staffs he managed for the VA. He has made a difference to employees in the VA offices in Detroit, Philadelphia, Washington, Lincoln, Denver, and Pittsburgh. Gordon has always promoted upward mobility and equal opportunity, as evidenced by his creative career development training program. He is one of the most influential, informal mentors among his peers who compliment him as a caring and fair man. In fact, Gordon's concern for both employees and veterans and his fairness in dealing with all issues have also given the Detroit regional office one of the best records for having the fewest EEO complaints or formal grievances.

Gordon's career was built with the bricks of his roles as personnel management assistant trainee, management analyst, congressional liaison representative, personnel officer, assistant director, and most recently, director of the Detroit office. He began his Federal career by carrying mail with the Postal Service. After serving in the U.S. Army from 1958–59 and 1961–62, he worked for a private advertising agency. Gordon joined the VA regional office in Pittsburgh and has been with the VA ever since. His genuine interest in providing quality service to veterans has made the Detroit office one of the best in the country.

His accomplishments include creating and producing a public affairs media guide and a congressional news brief which continues to be used by other VA offices around the country. Gordon's flawless work has earned the respect and admiration of his colleagues and the Presidential SES Rank Award for meritorious executive for fiscal year 1988. His quality and length of service truly merits outstanding honors.

Gordon W. Clowney is an exceptional person and a master public servant. Please join me in wishing him a very fine retirement and best wishes for a rewarding and fulfilling future.

## THE RETIREMENT OF JOHN A. LUKE

### HON. BEVERLY B. BYRON

OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
*Friday, September 25, 1992*

Mrs. BYRON. Mr. Speaker, today, I would like to join the family, friends, and professional associates of Mr. John A. Luke in congratulating him on a distinguished career and in wishing him well in retirement.

Mr. Luke, the president and chief executive officer of the Westvaco Corp., began his service with the company 43 years ago. In the finest traditions of his family, he entered the Westvaco mill in Charleston, SC and learned the business from the ground up. In rising to the presidency, he managed the Westvaco facility in my congressional district for a number of years.

I would be remiss if I didn't recognize Mr. Luke for all that Westvaco has meant to the citizens of western Maryland. The Westvaco facility in my district, located in a town named for Mr. Luke's family, has been in operation for over 100 years. It is home to the company's fine papers division which has produced paper for some of the world's most recognizable publications. The $200 million capital investment program highlights the Westvaco commitment to this region and is a source of hope and encouragement for the future.

Under his guidance, Westvaco has come to symbolize responsible corporate citizenship, environmental stewardship, and community involvement. In addition to being one of our Nation's leading corporations, Westvaco's products are recognized throughout the world for quality.

It has been my privilege to work with many of this company's outstanding managers and employees. I have greatly enjoyed my association with these people and I'm sure that they join me in celebrating Mr. Luke's career.

## HON. GUY VANDER JAGT

## HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. NATCHER. Mr. Speaker, when I was first elected a Member of Congress, Joseph W. Martin of Massachusetts was Speaker of the House of Representatives. At that time Charlie Halleck of Indiana was the majority leader. Since that time I have served with about 2,000 Members, and none who I respected more, or liked any better, than my friend GUY VANDER JAGT of the State of Michigan.

Mr. Speaker, as you and I know, GUY VANDER JAGT is one of the best speakers in the Congress, and he, on a number of occasions, has been selected as the keynote speaker at many conventions and meetings of his party. He has always been a loyal member of his party, but at the same time, has been fair with the members of the party that I belong to.

During his tenure in the House of Representatives, he has served with a number of Presidents and Speakers of the House of Representatives. He has always had the respect of the Presidents he served with, and the Speakers of the House of Representatives. He has always believed that he was in the right place to serve his people, his State, and his country. He is a good man and has served his country well.

For a great many years, he has served on the Ways and Means Committee, which is one of the most powerful committees in Congress. He has always been an active member of his committee and has the respect of every member of the committee. In every position he has held, either public or private, he has achieved distinction. His character, his achievements, and his faithful service will be an inspiration to generations yet to come.

I will always remember GUY VANDER JAGT as a friend and as an outstanding Member of the Congress. He is a man of high integrity, a man of compassion, and a man of determination and fairness.

Mr. Speaker, we will all miss our friend GUY VANDER JAGT, and I want to wish him the best of everything in the future.

## ENVIRONMENT AND THE SKIN

## HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. PORTER. Mr. Speaker, I invite the attention of my colleagues and all those concerned with our increasing environmental pollution problems to an excellent physician initiative, that of the American Academy of Dermatology's National Conference on Environmental Hazards to the Skin, to be held on October 15–16, 1992, at the Grand Hyatt Hotel in Washington, DC.

The skin is the major barrier to insults from a disturbed and polluted environment, and our bodies will become increasingly besieged as our environmental pollution increases. Recognizing this, the president of the American Academy of Dermatology, Dr. Wilma Bergfeld, initiated the development of this national conference to provide the academy's own membership and the interested public a forum to discuss all forms of environmental hazard to the skin. The conference will provide a consensus statement based on scientific evidence, and a public education program will be created for widespread dissemination of the information gained.

All of us should welcome this effort by the American Academy of Dermatology. Since 1985, the academy has annually conducted a major public health promotion and disease prevention initiative, a national skin cancer screening program, staffed voluntarily by dermatologists at sites all over the country. It is my understanding that the academy will draw upon the experience of this program as it creates a new program of environmental awareness.

There is no registration fee for the conference. To obtain materials, contact: National Conference on Environmental Hazards to the Skin, American Academy of Dermatology, P.O. Box 4014, Schaumburg, IL 60168–9959.

A description of this conference, in abbreviated form, follows:

CONFERENCE SCHEDULE

OCTOBER 15, 1992

8:15 a.m. Keynote Address.

Ozone Depletion and Other Atmospheric Hazards.

Anatomy of the Atmosphere as it Relates to the Skin.

Atmospheric Effects on the Biology of the Skin.

Atmospheric Effects on the Epidemiology and Incidence of Skin Cancer.

Protection of the Skin from Atmospheric Hazards.

Status of Skin Cancer Detection Program.
Panel Discussion on Atmospheric Hazards.
Lunch with Speaker.
Naturally Occurring Hazards.
Sun Effects on Young and Old.
Tanning Parlors.
Plant Photosensitivity and Irritation.
Poison Ivy/Oak/Sumac.
Tropical and Temperate Plant Allergens.
Marine Rashes.
Reptile and Arthropod Toxins.
Environmentally-Induced Infections.
Government Agency Discussion.
Conclusion.

OCTOBER 16, 1992

Breakfast—Roundtables with Environmental Groups.

Man-Made Hazards.

Recognition, Surveillance and Trends in Man-Made Hazards.

The Skin as a Major Portal of Entry of Man-Made Hazards.

Chemical Carcinogenesis.

Contact Dermatitis.

Pesticides.

Cosmetics.

Prevention and Control of Man-Made Hazards.

Panel Discussion with Faculty.

Lunch with Speaker.

Consensus/Action Plan Development Session.

Breakout to Subgroups.

Adjourn 5:30 p.m.

## ANGLO-AMERICAN AUTO AUCTION CELEBRATES 10 YEARS

## HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. CLEMENT. Mr. Speaker, this week, my friends at Nashville's Anglo-American Auto Auction celebrated 10 years in business.

Anglo-American started with 1 auction and now has 26. Its president, Michael J. Richardson, reports that this year's revenues will exceed $6.5 billion, which represents the sale of an estimated 1.3 million vehicles.

The company, with corporate headquarters in Nashville, employs 400 people between its offices and the Nashville Auto Auction. It is owned and operated by ADT, the International Security and Services Co.

Michael Richardson was managing director of British Car Auction Group when he decided to come to the United States in 1982 and start Anglo-American. He says that the experience in England taught him that a nationwide group of auctions offer services and economies of scale that individual auctions cannot.

And, while growth has been important, the auction's first priority has always been innovation. The auction has invested more than $200 million in renovating facilities, a systemwide computer system, new auction buildings and cafeterias, and other amenities to make the auctions safer, more efficient, and more attractive places for customers to do business.

Recently, Anglo Auction recently opened a new $17 million Dallas Auto Auction and also broke ground for constructing a new $12 million auto-auction facility in San Diego.

I congratulate the Anglo-American Auto Auction on its 10th anniversary. We are proud to have it headquartered in Nashville.

## TRIBUTE TO SHERIFF JOHN GILLESPIE

## HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Ventura County Sheriff John Gillespie, who will conclude a 30-year career in law enforcement on December 31, 1992. Sheriff Gillespie began his public service with a 3-year enlistment in the U.S. Marine Corps. In 1964, John Gillespie was hired as a police officer with the city of Claremont. After promoting through the ranks to lieutenant in 9 years, Gillespie was appointed as chief of police in the city of Ojai. Two years later, Gillespie was appointed undersheriff of the Ventura County Sheriff's Department, a position he held for 10 years.

In April 1984, Undersheriff Gillespie was appointed sheriff by the Board of Supervisors to complete the unfinished term of the retiring incumbent. Sheriff Gillespie was elected to a full term in 1986 and re-elected in 1990. He is the chief executive of a law enforcement organization of over 900 employees serving a population of bout 304,000. This includes the contract cities of Thousand Oaks, Moorpark, Camarillo, Fillmore, and Ojai and all unincorporated areas within the county. This jurisdiction has enjoyed, for several years running, the distinction of being the safest community west of the Mississippi according to FBI statistics.

Sheriff Gillespie was an innovator who saved the taxpayers millions of dollars through re-organizations and the use of modern technology. Several programs include the Sheriff-Marshall merger of 1980, Ojai Valley Senior Citizen Patrol, implementation of DARE anti-drug programs, acquisition of Cal ID terminal for Ventura County enabling single fingerprint cold search capabilities, K–9 program using private donations instead of tax money, trimming and reorganizing upper management, and the Rose Valley Work Camp. Rose Valley received national recognition as an innovative way to reduce jail overcrowding while creating an environment for recovery from chemical dependency in a custody facility. The camp was an abandoned military facility totally renovated with inmate labor at a savings of about $700,000.

Throughout his career, John Gillespie sought self improvement through education and earned an associate in arts degree from Mt. San Antonio College, a bachelor of science from Cal Poly Pomona, and a master of public administration from the University of Southern California. All of these degrees were earned while working full time and raising a family of four boys with his wife Carol. Sheriff Gillespie has been awarded every professional certificate offered by the California Commission on Peace Officer Standards and Training. During his tenure, Sheriff Gillespie raised the professional and educational level of his management team through increased training and higher educational eligibility requirements for incentives available to all employees.

Sheriff Gillespie has been a leader throughout the State and in his community. He has held offices in the Peace Officers' Association of Ventura County, Criminal Justice Advisory Board-Ventura County Community College, Ventura County Chiefs and Sheriff's Association, and retires as president of the California State Sheriffs' Association. He is a current or past member of the following organizations; executive committee for the United Way of Ventura County, American Cancer Society of Ventura County, Ventura Trade Club, Community Hospital Foundations, Boy Scouts of America.

Mr. Speaker, my wife Norma, and I are proud to call Sheriff John and Carol good friends.

Mr. Speaker, on behalf of the U.S. House of Representatives, I want to publicly salute John Gillespie for his long career in public service, and to wish him well in his future endeavors.

## TELECOMMUNICATIONS LEGISLATION SHOULD BE CONSIDERED NEXT YEAR

### HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. SLATTERY. Mr. Speaker, when the second session of this Congress adjourns on October 5, I am confident that we will have compiled an impressive record of achievement: 13 appropriations bills, cable TV legislation, an omnibus energy bill, tax reform legislation, a Congressional Reform Commission, a major cutback of B–2 Stealth bomber production, higher education reauthorization, important veterans' measures. The list is impressive.

One issue we should not rush to address in the last week of Congress, however, is telephone regulation. The ability of Bell Companies to get into the business of telecommunications equipment manufacturing, for example, has been controlled by a Federal court for the past 10 years. We need to correct this situation in order to create new jobs for Americans and bring competition to this marketplace.

Legislation is pending before the Rules Committee that would keep the courts in this market and prevent the creation of new jobs for American communications workers. We do not need to bring this bill to the floor next week. Congress can best address this issue early next year, by taking up legislation I have introduced that will open up this market to the Bell Companies. My bill, H.R. 1527, has 138 cosponsors.

We will have a good record of accomplishment without taking up a phone bill next week. Let's wait until next year, and do it right.

## TRIBUTE TO THE CABRINI MEDICAL CENTER

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. GREEN of New York. Mr. Speaker, I rise today to mark the occasion of the 100th anniversary of the Cabrini Medical Center, funded by Mother Cabrini in 1892. The year-long centennial celebration was highlighted with a gala dinner on September 17, 1992, at the Waldorf Hotel in Manhattan.

Mother Cabrini, the first American citizen saint and founder of the Missionary Sisters of the Sacred Heart, came to New York in 1890 and made health care for her fellow Italian immigrants one of her priorities. Over the years, the prestigious Cabrini Medical Center has evolved into a 499-bed voluntary acute care hospital, a major teaching facility of New York Medical College, and a State designated HIV/AIDS center to which the proceeds of the dinner were directed.

I should like to acknowledge Cabrini's president, Mr. Jeffrey Frerichs, for his outstanding contribution to the medical center. As the celebration of the centennial continues, there will be a paraliturgical service at St. John the Evangelist Church in Manhattan, followed by a brunch at the dining hall in the United Nations on Saturday, October 10, 1992.

At this time, I should like to join my colleagues in commending the Cabrini Medical Center for its valiant work and I extend my best wishes on its 100th anniversary. I wish Cabrini many more years of success.

## CHARLIE BRADFORD RETIRING AFTER 60 YEARS OF SERVICE TO PHILADELPHIA AND HIS COUNTRY

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. FOGLIETTA. Mr. Speaker, I rise today to thank and congratulate Charlie Bradford for 60-plus years of service to his country as a civilian worker at the Philadelphia Navy Yard on the occasion of his retirement.

Mr. Bradford has served his country well as a member of the U.S. Navy, and a dedicated worker as a rigger at the navy yard. He is also a father of two children and has five grandchildren.

Charlie began his life as an orphan, in an institution, but fought to make his life better and he serves as a role model for us and our children.

Mr. Bradford's undying passion for heights and nerves of steel were gifts which you so generously contributed to the navy yard. Climbing aircraft carrier antennas and walking across battleship yardarms during foul winter weather is a day's work for Charlie in south Philadelphia platforms.

Charlie has genuinely demonstrated an overwhelming degree of pride for his work, his fellow employees, as well as the accomplishments of the Philadelphia Navy Yard. He has contributed to the Service Life Extension Program, which effectively modernizes the Navy's fleet of aircraft carriers, and in the process creates new carriers at one-third of the cost of new construction.

These jobs have saved the U.S. taxpayer a tremendous amount of funds, which are so crucial in maintaining our Nation's defense force.

On behalf of the people of Philadelphia and the country, I thank Charlie Bradford for his 60 years of service and productivity. He represents everything good about the Philadelphia Naval Shipyard.

Our city has thrived on his efforts and will continue to look for other model citizens. I would also like to extend my wishes to you for a happy retirement, and the best of luck in your future endeavors. You deserve it.

## DANTE ALIGHIERI SOCIETY OF JERSEY CITY TO HONOR NICK SITA

## HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. GUARINI. Mr. Speaker, for the past year, the Dante Alighieri Society of Jersey City, an important civic organization in my home district, has worked hard preparing for the Christopher Columbus quincentennial celebration.

For the past 38 years, the Dante Alighieri Society has honored an individual for his community service at the annual Columbus Day dinner dance. At this year's dinner, which will be held on October 3 at Il Galleto in North Bergen, the honoree will be Nick P. Sita, who is president of the Hudson County Building Trades Council. Following in the footsteps of his father, Carmelo (Harry) Sita, he has worked at all levels of organized labor.

Under Nick's leadership, his union was one of the first to fight for unemployment disability and health benefits. He has also developed a plan to invest the union's financial assets in pensions and annuity programs.

Nick has been involved with many Hudson County organizations, including the United Way; St. Clare's Hospital for Infants With Aids; St. Joseph's Home for the Blind; Hudson County CYO; little league; and, most recently, a Windmill residential center for developmentally disabled adults.

In 1985, Nick was grand marshal of the Columbus Day parade. In 1990, the parade committee named him "Outstanding Labor Leader of Hudson County." He was also named "Man of the Year" by Cooley's Anemia Foundation.

In addition, Nick has been honored by the city of Jersey City and the city's mayor. He has also received meritorious service citations from the city council for outstanding contributions to civic and community affairs, and for his efforts in securing placement of unemployed minority workers into union and union apprentice programs of the Building and Construction Trades Council of Hudson County.

Nick has been married to Frances Lovero Sita for 45 years. They have 5 children and 12 grandchildren.

The Dante Alighieri Society of Jersey City was founded by Dr. Luigi Pezze in the early 1900's. It is made up of Italian-Americans who are devoted to public service. The original members included: Dr. Mangione; Dr. Del Baglivo; Louis Donato Di Paola, a druggist; Felice Martignetti, a barber; Giuseppi Caroselli, a jeweler; Giuseppe Cuparo, a banker; Michael Zampella; Salvatore Campanella, a baker; Pasquale Leno; Antonio Macchio; Giuseppe Graziano, and Giovanni Podesta.

Dr. Pezze, a ship physician on the S.S. *Dante Alighieri,* was invited to come to Hudson County because there were only two Italian-American physicians living there at the time. He worked at Christ Hospital, and studied under Dr. William L. Dickinson.

Initially, the members met in Dr. Pezze's office. Later, 20 members contributed $500 each to purchase a home on Summit Avenue. This house became the center of Italian-American cultural, educational, social, and community programs.

Through Dr. Pezze's efforts, another Italian-American organization, called the Cleo Club, joined the Dante Alighieri Society. This increase in membership gave the society a strong voice, not only in Jersey City, but throughout Hudson County and the New York metropolitan area. I remember vividly my father reminiscing about the struggles to form a united Italian-American organization.

The Dante Alighieri Society was incorporated on June 27, 1950. Its original trustees were: Louis J. Messano, Louis Meluso, Charles Rotondi, Charles Angelo, Max F. Losi, Thomas Gangemi, Joseph Ippolito, Alex R. De Sevo, John A. Botti, Dominick Bellezza, and Michael Comunale. One of its most prominent members was Peter Artaserse, who served as a judge of the superior court of New Jersey.

The society offers art and Italian language classes, and performs works of charity during the year, especially during Easter and Christmas. The Dante Alighieri Society is comprised of many physicians, lawyers, and businessmen. Women became members by joining the Dante Alighieri Society Ladies Auxiliary.

The society sponsors a scholarship fund for graduating seniors from local high schools who are proficient in Italian. This year four students from St. Peter's Preparatory School were awarded scholarships for excellence in the Italian language.

I recall a very moving ceremony several years ago, when Jersey City unveiled the Enrico Caruso postage stamp. At that time, I was joined at the society headquarters by my dear friend, Most Rev. Jerome A. Pechillo, T.O.R., auxiliary bishop of Hudson County for the Roman Catholic Archdiocese of Newark.

Some of the society's members who have contributed to the rich history of Hudson County were Thomas Gangemi, Jr., who served as Mayor of Jersey City; Rev. Victor R. Yanitelli, S.J., president of St. Peter's College; Paul Amico, mayor of Secaucus for many years; Congressman Dominick V. Daniels, who preceded me serving New Jersey's 14th District, Louis J. Messano, Esq., who became the first Italian-American city commissioner in 1949; and former Mayor Anthony R. Cucci, who holds honorary membership.

This year, the Dante Alighieri Society has served as the headquarters for the Hudson County chapter of the congressional Christopher Columbus quincentennial committee, which is organizing various activities for the 500th anniversary celebration.

I would be remiss if I did not mention the general chairman of the committee, Edward F. Zampella, who died recently. For more than 40 years, Mr. Zampella was the voice of Columbus at every Columbus Day parade. His untimely death leaves a great void.

Those working with the committee also deserve special recognition. I especially want to mention Ernest Liberatore and Peter Annunziata, past presidents of the Dante Alighieri Society, and Anthony J. Fiola, the current president. Tony is responsible for bringing a new generation of members into the society. Annarose Lorello, the current president of the ladies auxilitary, should be applauded for her continued work to being more women into the organization.

I want to express personal gratitude to the current members of the Dante Alighieri Society, and to its past members, for the fine work they have done for nearly 100 years. The society was a very important part of my father's life, both after his service in World War I, and throughout his professional years as a New Jersey assemblyman and a member of the New Jersey Bar.

The society has played a very important role in my life as well. My family has spent many happy hours enjoying friendship, cultural programs, fine food, and the company of some outstanding citizens. They include: Dr. Michael Aria; Dr. Charles Aria; Louis J. Messano; Ralph P. Messano; Superior Court Judge Frank A. Verga; his brother, Municipal Court Judge Joseph S. E. Verga; Frank J. Pagano; Nicholas Marino; Louis Meluso; Frank Contey; Dr. Charles De Fuccio; Richard Bonomo; Sam Di Fao; Joseph Soriero; Joseph Toscano; Judge Gustave A. Peduto; Lawrence Camisa; Joseph Loori, and Dr. John Lettieri.

Mr. Speaker, please join me in saluting the Dante Allighieri Society, its ladies auxiliary, and Nick Sita, their honoree, as we celebrate the 500th anniversary of Columbus' voyage to America.

## HON. BOB TRAXLER

## HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. NATCHER. Mr. Speaker, one of the nicest things that has happened to me during my lifetime is the opportunity I have had to serve with my friend BOB TRAXLER in the Congress of the United States.

During my tenure in the Congress, I have served with about 2,000 Members, and none more dedicated than BOB TRAXLER, and none more courageous.

As you know, he is a member of the Committee on Appropriations and is chairman of one of the most powerful subcommittees of the full committee. He is the chairman of the Subcommittee on VA, HUD and Independent Agencies. One of the independent agencies in his bill is NASA, and this along with veterans and housing, makes this one of the most powerful subcommittees of the Committee on Appropriations.

BOB TRAXLER has served with several of our Presidents and Speakers of the House. He is a giant at the center of national power, but at all times, he has remained a very modest man. He is a good man and has served his country well. He, as a man, can be compared to the giant, sturdy oak that grows on the hillside in the State of Michigan, and he will long be remembered not only in the State of Michigan, but throughout this country.

His concept of public trust has always been without parallel, and never has he resisted speaking out against any proposal not sound or in the best interest of our people. In every position he has held, either private or public, he achieved distinction. His character, his achievements, and his faithful service will be an inspiration to generations yet to come.

I will miss my friend BOB TRAXLER when he retires from the Congress, and I want to wish him the best of everything in the future.

## COMMON SENSE FROM ILLINOIS

### HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. POSHARD. Mr. Speaker, I rise to call attention to a most important article written by a gentleman from Mattoon, IL, a fine community in the heart of my district.

Mr. Jerome Betty has written about some of the important issues facing Congress, the Presidential candidates and this country. I believe we need to listen to what he is saying, therefore, I am pleased to enter his column in the CONGRESSIONAL RECORD, and I encourage my colleagues to pay close attention.

STOP GIVING AMERICA AWAY

(By Jerome Betty)

To President Bush and Governor Clinton:

Issues: 1. Family values, 2. Jobs, 3. Abortion.?? Or are the real issues:

1. Sovereign governments of the world bowing to the whimsy and dictates of a committee—i.e., the U.N. (or One World Government—or the New World Order).

2. Changing the U.S. Constitution to suit whomever is in power, i.e. (a.) Balanced Budget Amendment (b.) Abortion Amendment (c.) Congressional Term Limit Amendment.

3. Politicians doing more tricks than a monkey on a grapevine to meet demands of every special interest group that pipes up instead of governing for the good of the majority.

4. Efforts should be expended to contain America's industrial base within our borders. Industries that would leave the U.S., thus depriving our labor force of jobs and our country of a viable industrial base, should not be allowed. "Free Trade"—nor for that matter be allowed to bring their foreign-made products back into America.

5. If war is to be waged, then do so only if the United States is at hazard—not when it serves to protect special or economical interest groups.

Am I am isolationist? I think not—just an American who is tired of the destruction of the America I grew up in and in which I believe.

Questions: Why would politicians who govern honorably want to know or be worried about American citizens having guns? Why would these people pass "No fault" pay raise laws for their benefit—regardless of the economic stench? Why are they passing laws restricting adults smoking tobacco when this has been socially and legally acceptable for 500 years? We also lived with the smoke of coal stoves, furnaces, steam engines, leaf and wood burning and still having volcanoes and forest fires. The last two putting more smoke in the atmosphere than all the tobacco ever burnt.

Why do these people tell us we must fasten a seat belt on entering a car when we are a "free" people responsible for ourselves? And why do they not tell us of the number of people strangled, burned, drowned or severely injured due to seat belts? "Why do they purport to do this for our very own good and then slap a fine on us if we do not comply? Why do they state "driving" is a privilege and then tell people how many employers and how great a radius they must travel if they are to receive unemployment benefits? Why do they do "safety checks" or "road blocks" and stop and search "free" American citizens without due cause?

Also, the "No Knock Warrant Law" takes the night lock off every home in the land and Americans better add a request in their mighty prayers that the police have the correct address. Take a little freedom here and a little freedom there and what have you got? Adolf Hitler is probably rolling over in his grave because he had the answer about 1933.

As far as the "issues" you speak of:

1. Family values—demonstrated by a man in each camp who would not serve America as their peers did, during Vietnam, but who are actually brass-bound enough to stand up and want to lead America as commander-in-chief. Furthermore, if our local radio stations or newspapers put out the filth of the movie makers and the television industry, they would have been bankrupt years ago. Sic the EPA on them.

2. Regarding abortion—We hear much about the "quality of life" and if a "mother to be" determines she does not want to carry or nurture her child—insuring that child a "quality of life," then the child doesn't have too much to look forward to. Examples are to be seen in Somalia and Bangladesh where so many given the gift of life suffer so horribly.

Further a woman's's body is her own and even as we (society) abhor rape (what others would do with it by fear or force), we should perhaps abhor dictating to her what she must do with it—as that is tantamount to rape also.

3. Jobs should be strengthened by appropriate wage levels and enough hours of work to allow a substantial family income—one which will afford a family a quality of life and capacity to meet its needs. No one should be in jeopardy of layoff after 90 days at minimum wage with no unemployment benefits, etc.—and this set up "built in" at the beginning of the job. Americans need employment with a future.

4. Consider $10 billion to help Americans prior to helping Israel or the former U.S.S.R.

5. Stop giving America away with one hand and selling America with the other—no more foreign ownership of American land, industry, etc.

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## TRIBUTE TO NORMAN HAWKES

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Norman Hawkes, who is retiring this year as auditor-controller for Ventura County, CA.

Norm was appointed auditor-controller for the county in 1973, having worked in the county auditor-controller's office since 1964. He was subsequently elected to the position in 1974, 1978, 1982, 1986, and 1990. So you can safely say he's a real winner.

Norm is an alumnus of Burdette College of Massachusetts and the University of California at Los Angeles. Before joining the auditor's office, he worked as an accountant-auditor and controller in private industry.

He has auditing in his blood, and it shows in his professional affiliations. At the national level, he's a member of the American Institute of Certified Public Accountants, the Governmental Finance Officers Association, local government representative to the Western Intergovernmental Audit Forum, the WIAF's representative to the National Council of Government Accounting, and a former member of the National Association of Accountants.

At the State level, Norm's professional involvement includes chairman of the California Commission of Cost Accounting, State Controller's Advisory Committee on Accounting, former California State chairman of the Governmental Finance Officers Association, and president of the California State Association of County Auditors. Locally, he founded the Channel Islands Chapter of GFOA, and obtained Ventura County's first GFOA Award for Financial Reporting in 1965.

Community and civic activities are an everyday part of Norm's life. He served as secretary-treasurer of the Riverside Lions Club, board member of the Ventura Rotary, board member of the Oxnard Boys Club, president of the Ventura County Council of Boy Scouts of America, trustee of Ventura Dependent Children, director of the Ventura Symphony, board member of the American Cancer Society, and others. He was elected boss of the year in 1979 by the local chapter of the National Secretaries Association.

Last but by no means least, Norm and his wife, Eleanor, are the parents of three children.

Mr. Speaker, on behalf of the U.S. House of Representatives, it's my pleasure to commend Norm on his distinguished public career and his unlimited capacity for civic service, and to wish him well in his future endeavors.

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## ALFRED J. CHIUCHIOLO "MAN OF THE YEAR"

### HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to salute Alfred J. Chiuchiolo, a lifelong resident and constituent in the First Congressional District of New York, on Long Island, for outstanding service and dedication to his community.

One can only realize the true spirit of leadership and dedication through the setting of examples. Alfred Chiuchiolo, of Patchogue and Bayport, has strived throughout his life to do so.

Having distinguished himself by providing leadership and organizational skills in many local community services, Mr. Chiuchiolo has been selected as the "Man of the Year" by the Italian-American Service Club of Brookhaven. He held the position of chairman for the Brookhaven Memorial Hospital and continues to serve on its board for the 30th consecutive year. Mr. Chiuchiolo was honored by both Brookhaven Memorial Hospital and the Nassau-Suffolk Hospital Council in 1991 with the coveted Theodore Roosevelt Award, an award presented to those who have shown excellence in volunteering for nonprofit hospitals.

He has served as president of the Patchogue-Medford School Board and as president of both the Patchogue Kiwanis Club and the Patchogue Chamber of Commerce. He was inducted into the latter's hall of fame in 1987.

A recipient of the Bronze Star while serving in the European Theater of Operations with the U.S. Army Air Corps during World War II, Mr. Chiuchiolo continued his education at St. Johns University.

Once an accounting division supervisor for the Brookhaven National Laboratory, he later expanded his business endeavors by organizing a National Buying Appliance Cooperative, consisting of over 1,000 stores nationwide. In addition to his many accomplishments, he has been a member of the Patchogue American Legion, a charter member of the Jayne-Latin VFW Post, and served the Patchogue Fire Department. Furthermore, he was a principal of the Louis Cario Insurance Agency, and holds a New York State general insurance license.

Presently, Mr. Chiuchiolo owns and operates a rental appliance and furniture company with his son-in-law, Angelo Tarantino. Together, they manage and operate five stores in Suffolk County.

Mr. Chiuchiolo, who has an historical love for music, is married to the former Rose Marie Musso of Patchogue and has two daughters, Roseann Callistor and Eva Tarantino of Patchogue. He has four loving grandchildren, all of which will be fourth generation students at River Avenue School, where Alfred and Rose Marie attended. He is the youngest of six children born to the late Emanuel and Rose Chiuchiolo.

Mr. Speaker, it is my personal privilege and pleasure to recognize Alfred Chiuchiolo for his many accomplishments and his years of service and dedication to his community. Mr. Chiuchiolo serves as an example to us all. I wish him good health and continued success in his business endeavors.

## MARKETING ORDERS FOR FRUITS AND VEGETABLES

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 25, 1992*

Mr. THOMAS of California. Mr. Speaker, today I am introducing a bill to improve the administration of marketing orders for fruits and vegetables. Marketing orders are used to regulate the quality of fresh produce sent to market, assuring that shoppers get a high quality product when they buy. The orders help ensure that consumers get good produce and they help protect farmers by preventing inferior product from undermining sales. The orders serve a useful purpose but their administration does need to be improved.

My bill would accelerate reviews of certain marketing order regulations to ensure that regulations are in place in time for marketing seasons to begin. Today, the U.S. Trade Representative has the power to veto proposed regulations. If USTR does not approve the regulations in 60 days, they cannot take effect.

In practice, the approval process often takes longer than 60 days. USTR reviews both proposed and final regulations, which adds time to the review process. Reviews also run beyond the 60-day deadline. Certainly, we should look at whether proposed regulations comply with our trade tactics, but I do not think it should take as long as it has.

My bill will accelerate reviews by limiting USTR's examination to 10 days. If USTR has not expressed opposition to a rule within that 10-day period, the regulation will take effect. Further, USTR will only be required to review final, not proposed marketing order regulations.

The proposal is a reasonable one and there is enough time for us to pass it this year. I hope my colleagues will join me in passing the bill. If consideration must be deferred, I certainly encourage the Agriculture and Ways and Means Committees to consider the proposal as early as possible next year.

# SENATE—*Saturday, September 26, 1992*

*(Legislative day of Wednesday, September 23, 1992)*

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Baruch Ha'Shem! Blessed be the name of the Lord, God of Abraham, Isaac, and Israel. On this Sabbath, may we heed the ancient word of Moses:

*Hear therefore, O Israel, and observe to do it; that it may be well with thee, and that ye may increase mightily, as the Lord God of thy Fathers hath promised thee, in the land that floweth with milk and honey. Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart* * * *.—Deuteronomy 6:3–6.

Mighty God, give us ears to hear, minds to understand, hearts to receive and wills to obey. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 26, 1992.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## TAX ENTERPRISE ZONES ACT

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of H.R. 11, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized.

### AMENDMENT NO. 3200

(Purpose: To increase the supplemental young child credit and phaseout percentages as such percentages relate to the earned income credit, to amend the provision relating to deduction for qualified adoption expenses, and for other purposes)

Mr. CRAIG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. HATCH, Mr. COATS, Mr. GORTON, Mr. MCCAIN, and Mr. SEYMOUR, proposes an amendment numbered 3200.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 1022, beginning with line 4, strike all through line 7, and insert:

(c) INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended—

(1) by striking "5" in clause (i) and inserting "7.5", and

(2) by striking "3.57" in clause (ii) and inserting "5.35".

Beginning on page 1637, line 9, strike all through page 1639, line 19 and insert:

**SEC. 7104. DEDUCTION FOR ADOPTION EXPENSES.**

(a) DEDUCTION FOR ADOPTION EXPENSES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

**"SEC. 220. ADOPTION EXPENSES.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's regard to this section and section 134) exceeds $80,000, bears to

"(B) $10,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' means an individual who at the time of adoption under this section has not attained the age of 18.".

(2) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220.".

(c) ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

**"SEC. 136. ADOPTION ASSISTANCE PROGRAMS.**

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed the excess (if any) of $5,000 over the amount allowable as a deduction (or amounts taken into account in computing the deduction) under section 220 with respect to such adoption.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and section 220) exceeds $80,000, bears to

"(B) $10,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 220(c).".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. Adoption assistance programs.
"Sec. 137. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

**SEC. 7104A. DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a) (relating to allowance of credit) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of a taxpayer whose adjusted gross income for the taxable year exceeds $80,000, paragraph (2) shall be applied by substituting '20' for '30', by substituting '10' for '120', by substituting '$1,000' for '$2,000', and by substituting '$80,000' for '$10,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

Mr. CRAIG. Mr. President, this week, the Senate has considered a variety of issues from a veto override to very sincere concern about how we improve from at least where we are able to improve the condition of the American family. We debated the Family and Medical Leave Act. We looked at different approaches. I and several others introduced flexible tax credits to expand the ability of the employer and employee to develop a relationship to improve the ability of the individual to deal with young children within their family or with spouse difficulties or seniors within their family.

H.R. 11 also deals with another aspect of the family or the creation of a family that I think all of us here believe to be extremely important. And what I am talking about are the provisions within H.R. 11 that deal with the ability of individuals to form a family through adoption.

I think all of us have recognized since 1990, with certain provisions of the law—and in the past year—that Congress, through public tax policy, could enhance the ability of individuals to adopt children, bring them into a family environment, and that it was clearly much more beneficial for this country to do so.

So on those goals, we are all united. I do not think any of us want to take issue with the other as it relates to those kinds of concepts or goals, especially where it came to parents helping or spending time to be able to provide—and now we are saying to be able to provide—care to children immediately and to improve the ability to adopt. So those are our intents.

My amendment approaches this concern differently than H.R. 11, and that is what I want to discuss this morning. It is very simple and very direct. It is a four-part amendment that provides a deduction for adoption expenses. It increases, by 50 percent, from 5 to 7.5 percent, the supplemental young child credit.

My amendment provides 12 times as much in tax credit benefits for working poor families as does H.R. 11. Well, first, the immediate question is how can you do that? You obviously have to have offsets to do that under the current scenario and, of course, we are able to accomplish that. We create a third 10-percent bracket for dependent care tax credit at the top end of the income scale. We maintain current law by striking a provision of H.R. 11 that allows a few taxpayers to claim both the young child credit and the dependent care tax credit. We deny the double deduction that H.R. 11 provides, and we spread it amongst a broader base of people.

Our provisions would create a deduction for up to $5,000 of expenses relating to any adoption, except for adopting of spouses' children. H.R. 11 provides only a deduction of up to $3,000 for a special needs adoption, and special needs is a provision within H.R. 11, new to the Code. We would exclude from employees' income tax adoption expenses of up to $5,000, paid by the employers; deductibility phaseout for taxpayers with adjusted gross incomes between $80,000 and $90,000. In other words, those who can truly afford to adopt today, we scale back benefits to those and spread it amongst those who can less afford to adopt, but are still every bit as much wanting to form a family unit in this country as those with more money.

This Nation wants to and can afford to do more beyond what H.R. 11 does, and ours, in dealing with the special needs definition, argues that that is an open area that is left largely to the States to define. In other words, in one State, age alone might qualify a child for the special needs adoption, while in another State, a child profoundly retarded and physically disabled might fit that category. We are saying all children. We are not saying just the special, but all children, recognizing that clearly, in those areas, there would be the benefits to provide for them.

Our provisions in this amendment result in tying eligibility for this national tax deduction beyond, as I have said, to the broad base. We do not leave it up to the States to create these unique definitions. We think at this level, if we are going to set the standards, then we ought to be clearly uniform in what we do, and it ought not be left exclusively alone to the State. Those are generally what we worked to accomplish in making those kinds of limited adjustments and dealing with all of those types of provisions that I think we ought to be able to deal with in truly promoting the concept of adoption in this country. Instead of narrow categories that sometimes people find difficult to define or difficult to identify with, we are making it a much more simple approach, broadening the base and, of course, I think in the meantime saying to this country that we really do want to expand the parameters of accomplishing this.

Increasing the supplemental youth child credit is a concern that I think many of us have as it remits to creating a part of the law we accomplished in 1990. It is now just phasing in and it is working. Some will say there is no record yet as to ability of this law to be defined and should we be changing it at this time. I think H.R. 11 already clearly defines what the intent is of the law and that is why we are wanting to expand that now, because we think that it is important that we do so.

It ought not be so narrowly defined and so limited. Clearly what we are able to accomplish by these amendments accomplishes that. When you increase the supplemental young child credit from 5 to 7.5 percent or a 50-percent increase in this tax credit for working poor families with an infant under 1 year it does some very significant things. Right now the new maximum is about $395 under current law. In 1993 under our provision that would go to $592. That is a cost of about $599 million over a 5-year period.

We accomplish this in the necessary offsets by the reducing of independent care claimed by the higher income households. In other words, if you really are concerned about the working poor, then you need to take a very close look at this legislation.

My amendment that is cosponsored by Senator HATCH and others would phase down the dependent care tax credit again at the high end of the scale from 20 percent to 10 percent over the $80,000 to $90,000 range.

I think we would have to honestly argue in this country that families of that income if they want to adopt, can afford to adopt based on that income, and yet those that are making $25,000 or $30,000 a year who are anxious and desperate to form a family unit simply cannot look at the $10,000 to $12,000 in costs or more that are incurred in attempting to identify for the purposes of adoption.

That is exactly what we are tying to accomplish by this approach. Consistent with current progressivity at the lower end of the adjusted gross income scale is what we are attempting to do. It allows the channeling as additional revenue to, as I said, the supplemental young child credit where they have the maximum impact to low-income families with a child of 1 under where we really see parents, as we would hope, one of them wanting to stay at home for at least 1 year with that child during those most important years. It allows less discriminatory use of the tax credit assistance as I think I mentioned earlier and spreads the space.

Mr. President, that is the general thrust of this amendment, and I think we accomplish it in the way that the Tax Committee has insisted that we do as it relates to offsets in accomplishes that. And let me close this portion of the debate by demonstrating how largely we have accomplished that.

As I mentioned, we are talking about an increase of $197 a year, the full $5,000 deduction under H.R. 11 is about $63 million, the increase in supplemental young child credit to 7.5 percent would be $599 million so, totally, revenue cost of $662 million spread over a 5-year period.

The savings that I have mentioned in the way we have approved it from both the supplemental young child credit and the dependent child tax credit election status quo option there is a net savings of $51 million as so scored, and then there is a savings under the upper income phaseout of about $673 million. So there is a net savings offset of about $724 million, a net savings over a 5-year period by adopting this amendment of about $62 million.

Is it not amazing that we can in fact refigure the numbers, redirect it, serve more people, serve people of lesser income, make it a simpler approach than the very complicated approach that I think is embodied in H.R. 11 and have a net savings of $62 million over a 5-period.

With those considerations, let me also ask unanimous consent to enter into the RECORD statements by a variety of groups—from the National Council for Adoption; some additional information as it relates to the workability of this approach, Mr. President, and also a couple of editorials clearly arguing that we have created in this provision and in the law passed in 1990 a double dipping effect that we would eliminate by these provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 8, 1990]

### DAY CARE AND TAX BREAKS

Sandra Evans' article "Child Care Proposals on Hill Would Hit Area Middle Class" [Aug. 20] implied that the primary reason the House adopted a phaseout of child care tax benefits was to fund new day-care programs for low-income families. This is not true.

Day-care tax write-offs were scrapped in the House primarily because many believe tying tax benefits to day-care expenses penalizes families that make economic sacrifices to care for their own children.

According to the most recent Census Bureau report on child care practices, 74 percent of all families with children under 14 and 70 percent of those with preschool children have no day-care expenses. Despite the fact that these families pay a significant "opportunity cost" (in forgone wages) to care for their own children, some believe they should be denied dependent care tax benefits because they do not have any out-of-pocket day-care expenses.

This argument appears reasonable until one considers that it could be used to justify a tax break for just about any expense. A taxpayer who eats at restaurants or calls out to Domino's could argue for a tax break because he uses his after-tax earnings to pay for meals that other families prepare for themselves. Similar claims could be made by those who hire housekeepers, butlers, gardeners, interior decorators and chauffers.

Thus, those who advocate linking tax benefits to day-care expenses must demonstrate that paid forms of day care are superior to unpaid family care arrangements. It is here that their case breaks down, for the raging debate in child development circles centers around whether or not non-familial group day care is bad for kids—not whether or not it is good.

It is a lamentable fact of modern life that not all parents enjoy the economic freedom to provide primary care for their own children—or live close enough to their parents or other relatives that they can rely on extended family assistance. But public policies that skew benefits in favor of paid day care only serve to increase the number of families that lack this freedom. For as the old cliche goes, you get less of what you tax, and more of what you subsidize.

Business groups and feminists are right to be concerned about the tax treatment of America's families with young children. America's families are seriously overtaxed. But in defending the status quo, they must explain why a family with an annual income of $90,000 should be entitled to day-care tax benefits worth up to $2,025 when a $30,000-a-year family that cares for its own children is eligible for $0.

WILLIAM R. MATTOX, Jr.,
*Director of Policy Analysis,*
*Family Research Council.*

WASHINGTON.

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[From the Washington Post, Sept. 12, 1990]

### A CHILD CARE DECISION

An important though secondary issue in the House-Senate child care conference involves not a new federal child care program, but the main existing one—the so-called dependent care tax credit. Part of the cost of caring for children and other dependents can be subtracted by working taxpayers from the taxes they would otherwise owe; the provision now costs the Treasury about $4 billion a year.

The Senate would make the credit 90 percent refundable. If a family was too poor to owe tax, instead of getting no benefit, as it does now, it would get a check from the Treasury. The House, less for lack of sympathy than for lack of funds, did not include such a provision. Instead it did the opposite: to raise money for another form of aid to low-income families with children, it phased out the existing credit for families with incomes above $70,000.

Our sense is that both steps—extending the credit to the poor who need it while taking it back from those in the upper-income brackets who don't—are good ideas and ought to be combined. In a time and a bill where funds are tight, the one can help to pay for the other. A combination would be sensible fiscal tax and social policy, all three.

An objection to phasing out the credit as income rises has come mainly from women's groups. They are not opposed to shifting subsidies from rich to poor, but they are opposed to picking on this particular subsidy. They say there are plenty of other less socially useful provisions in the tax code that should be attacked either first or in concert. They believe the cost of child care should be looked upon not as a personal expense like the costs of clothing and transportation, which for the most part are not deductible, but as a business expense, a cost of producing income that should be deductible creditable against taxes just like any other. Only, they argue, if Congress wants to phase out all such deductions as income rises—for the much-abused ritual of the business lunch, for example—should it phase out the child care credit too.

It would be fine if Congress moved to rationalize the current, often arbitrary distinctions between deductible business and nondeductible personal expenses: a lot in current law is socially unwise. It would be fine as well as an alternate or supplement to raising income taxes by raising rates. Congress achieved the same result by capping or otherwise trimming deductions as income rises. But these are broad reforms unlikely to occur this year. The choice is much likelier to come down to which to cut, the existing child care credit for the upper-income brackets or the provisions in these bills for the poor. That one's not even close.

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[From the Wall Street Journal, Oct. 10, 1990]

### CONGRESS GETS THE CHILD-CARE ISSUE WRONG

(By Gary L. Bauer)

Congressional Democrats hoping to score political points on the day-care issue this fall may be in for a big surprise. While party leaders have long argued that the issue could alter the political landscape for years to come, recent field interviews conducted by social historian Barbara Dafoe Whitehead suggest otherwise.

Day care fails to "touch the emotional core of family concerns in grass roots America," Ms. Whitehead says in a recent publication of the Institute for American Values. Ms. Whitehead found that parents often stagger job schedules, work from home or find some other way "to maximize the time their child spends in the care of a parent or relative, and to minimize the time spent with non-relatives."

While policy makers and "day-care experts" claim that most employed parents who use family-based care do so because they cannot afford or do not have access to more preferred forms of "high quality" center-based care, Ms. Whitehead reports just the opposite. "Most parents believe that the safest and best child care is provided by a parent or a close relative," she notes. A number of public opinion polls support her case.

A 1989 Washington Post/ABC News poll found that eight out of 10 parents with children under age 14 believe it is best for children to be cared for by parents at home. A 1989 Lou Harris poll found that 82% of the American public believes care by parents or other family members is superior to care by non-relatives. And a University of Michigan study that year found that most employed mothers opting for care by family members did so out of preference rather than necessity.

This helps explain why a plan to provide school-based day care for preschoolers in Prince William County, Va., recently failed to generate enough parental interest to break even. If such a plan cannot work in a rapidly growing suburban county with no shortage of yuppie parents, one wonders whether it can work anywhere.

Apart from underestimating the power of family ties, official Washington also underestimates the power of family values. While policy makers and special-interest groups pooh-pooh care by family friends, neighbors and churches, Ms. Whitehead reports that parents who must rely on care by a non-family member prefer these options to institutional settings. Apparently, parents are more concerned about whether providers share their values than whether providers have completed 15 hours of state-approved training.

According to the most recent Census Bureau report, nearly half (47%) of all children under five have non-employed mothers at home. Add to that the 24% cared for by family members while Mom earns income, and one finds that approximately three out of four preschool children are cared by a mother at home or by some other family member.

Such information has not been reported widely in official Washington, in part because government bean counters rarely include children with mothers at home in their child-care statistics and usually focus greater attention on where a child is cared for than on who is providing the care.

Of course, this is not the only instance where official Washington flunks Demography 101. Both policy makers and the mass media are quick to draw the mistaken conclusion that the number of families using day care can be determined by measuring the number of employed mothers. This practice fails to take into consideration that roughly half of all preschool children with employed mothers are primarily cared for by family members.

A 1990 Los Angeles Times survey found that 57% of fathers and 55% of mothers feel guilty about spending too little time with their children. A 1987 Cornell University study found two-thirds of all mothers employed full-time would like to reduce their hours of employment and devote more time to their families. A 1989 New York Times survey found that 83% of employed mothers and 72% of employed fathers say they are torn by conflict between their jobs and the desire to spend more time with their families.

In addition, a 1988 USA Today poll found that parents with young children identify "missing big events in children's lives" as the thing they dislike most about their current day-care situation.

Given this data, it is little wonder that America's families have not rallied behind the Democratic leadership's day-care proposal. In fact, since the Democrats' day care bill was first introduced in 1987 public concern about day care's effects has actually increased. In a 1990 Times-Mirror poll, 73% of respondents said "too many children are being raised in day care," up from 68% in 1987.

Republicans can hardly gloat over Democratic failures, however, for the GOP has yet to demonstrate any keener understanding of or responsiveness to the concerns of average families. Indeed, many in the "me-too-only-cheaper" wing of the GOP are so fearful of being caught on the wrong side of a "motherhood" issue that they are urging the president to use new taxes to pay for a less-costly version of the Democrats' day-care bill. Apparently, they have yet to consider that day-care legislation is an attempt to supplant motherhood with bigger government.

Not only have Republicans failed to respond effectively to the day-care issue, but they also have positioned themselves as the enemies of family time by failing to develop pro-family alternatives to parental-leave legislation.

Parental leave, while conceived as a means of helping the parent-as-paid-worker protect his or her job, owes its public appeal to the fact that it symbolically places the child-rearing responsibilities of parents ahead of business interests. In the absence of a serious debate about more substantive ways to facilitate family time, such symbolism resonates—even though virtually everyone concedes children (and parents!) need far more than just 12 weeks of intense parent-child interaction.

No matter how resourceful they may be at finding ways to keep child-rearing "in the family," many parents believe they are fighting an uphill battle against the clock—a battle made all the harder by growing economic pressures, rigid employment structures and an aggressively anti-parent culture. Until official Washington demonstrates a concern for parent-child interaction beyond the child's 12th week of life, the official debate over work and family will continue to spark little enthusiasm among parents in grass-roots America.

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[From the Washington Post, Aug. 3, 1991]

### THE MOTHER OF ALL MYTHS

In his zeal to convince readers that the unprecedented drop in female labor force participation is a non-story ["The Trend That Wasn't" Outlook, July 14], Richard Morin perpetuates three common myths about at-home mothers that, ironically, help to explain why Liz Spayd's July 8 front-page story caused such a stir in the first place.

The June Cleaver Myth. When Morin speaks of "June Cleaver smiling approvingly from sitcom heaven" and women giving up jobs to bake oatmeal cookies, he reaffirms the stereotype that mothers at home are caught in a 1950s time wrap. The truth is the day-to-day experiences of modern moms differ in a number of important ways from those of the June Cleaver era. For example, research shows that mothers at home today spend more "quality time" reading to, playing with, caring for and teaching their children than did mothers a generation ago.

Part of what has fueled this time shift appears to be a growing conviction that unfriendly cultural changes have made unhurried parental time with children even more important today than it was a generation ago. Whereas June and Ward Cleaver's biggest worry was that their sons might get caught up in some of Eddie Haskell's schoolboy pranks, today's parents often have to contend with much weightier fears: drugs and guns in schools, sex abuse in day care, teen pregnancy and youth suicide.

Thus, it is not surprising that many mothers are seeking to maximize the amount of time they spend with children by staying home full-time or by working part-time or from home.

The Dinosaur Myth. The fact that many women are currently at home with children is often obscured by widely circulated statistics that have been twisted to suggest that "traditional" workaday-homemaker families are an extinct, or near-extinct, species.

The truth is 41.1 percent of all married women with children under 6 are outside the paid labor force. And since the government defines labor force participation so broadly, women who work for pay as little as one hour a week are considered "employed." This figure undoubtedly understates the percentage of women who, for all practical purposes, are home-based moms.

Still, many journalists, policy makers and ordinary people buy into the Dinosaur Myth—especially here in Washington, where a higher percentage of moms work.

Part of the reason mothers at home are perceived to be as rare as spotted owls stems from the fact that they are less visible than employed women in the public square. Typically, mothers at home aren't seen dropping their kids off at day care centers or debating job-related sexual harassment on "Nightline" or pitching exotic vacations via the America Express card in TV commercials.

Moreover, many are tripped up by the Dinosaur Myth because they assume all mothers at home are permanent homemakers. In reality, many women move in and out of the labor force as family responsibilities wax and wane. Today's working woman is often tomorrow's mother at home, and today's mother at home is sometimes tomorrow's businesswoman.

The East Street Myth. Growing economic pressures have made it increasingly difficult for many families to gain or maintain a middle-class lifestyle on a single income. As a consequence, many like Morin argue that most mothers at home these days are married to brain surgeons and other top-dollar earners. While this myth helps assuage the guilt that some yuppie couples feel for putting careers ahead of children, it belies the truth.

According to the Census Bureau, the median income for two-earner families is $45,266; for single-earner married couple families, it is just $28,747. Moreover, income differences between one- and two-income families are almost entirely attributable to the wife's earnings.

Thus, the Easy Street Myth ignores the economic sacrifices many families make to devote time to child rearing, and it falsely implies shifting more time to family responsibilities is something only the rich can do.

In the last year, the number of non-employed women aged 20 to 44 has increased nearly 320,000. While Morin would like for us to believe this growth is due solely to the recession, Labor statistics attribute more than nine-tenths of this increase to a rise in women "keeping house." Since Labor numbers show most of the recent increase in nonemployed men is due to "other reasons," there is reason to question seriously Morin's claim that women are not leaving paid work voluntarily any more than men are.

Whatever the case, one thing is certain. So long as the conventional wisdom denies that many gifted, intelligent, '90s women are choosing to devote significant amounts of time to the crucial task of raising children, Spayd and other journalists will find "news value" in stories that report the realities to be different. Thus, if Morin is tired of seeing mother-at-home stories, he should start dispelling—rather than reaffirming—the common stereotypes.—WILLIAM R. MATTOX Jr.

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### HOW "DOUBLE DIPPING" HURTS SINGLE MOMS, "MOMMY TRACKERS," AND FAMILY DAY CARE USERS

One of the critical questions that has been raised during the ongoing child care debate is this: should federal tax policy favor paid day care users over those families that provide care for their own children? Specifically, should day care users be permitted to "double-dip"; that is, should they be able to claim two tax credits while other families with young children claim but one?

As one might expect, much of the discussion about the alleged inequities posed by "double dipping" has centered on the treatment of so-called traditional families in which a mother stays home full time to rear her children. This focus has been appropriate, given the significant number of such families and their relatively lower income. But the fact that "double dipping" also adversely affects a number of families with employed mothers has often been obscured in the child care debate.

Accordingly, this paper will examine how "double dipping" hurts many single mothers, "mommy trackers," and family day care users. It will expose the faulty reasoning behind linking tax benefits to day care expenses and will propose a more equitable means of distributing tax benefits to families with young children.

#### MANY EMPLOYED MOMS DO NOT NEED PAID DAY CARE

One of the key arguments behind linking tax benefits to day care expenses is the assumption that paid day care is a mandatory precondition to employment. As the Philadelphia Inquirer put it in a recent editorial, "When the second parent or a single parent takes a job, [paid] child care is as mandatory as union dues for a Teamster or gasoline for a cabbie."

But this is not necessarily true. According to a recent Census Bureau survey of child care arrangements, half of all preschool children with employed mothers are primarily cared for outside the paid day care market. For example, more than 1.5 million preschool children are currently cared for by a grandmother or some other extended family member. This arrangement is particularly common in families headed by a single mother. In fact, black sociologist Robert Hill recently noted that 83 percent of the children in homes headed by an employed black woman who had never married are cared for by a family member while Mom is earning income.

While care by extended family members is also common in intact, two-earner households, some of these families resort to staggering work schedules so that children can be raised primarily by their parents. Indeed, recent Census Bureau data shows that more than one million preschool children are cared for in this manner.

As one would expect, "tag-teaming" is prevalent in families where one or both parents have decided to cut back on their hours of employment while children are young (parents who are on the so-called "Mommy Track" or "Daddy Track"). And it is particularly common in families where one or both parents do some or all of their income-producing activities from home.

In addition to children cared for by extended family members and "tag-team parents," there are some 600,000 preschool kids whose "doubletime mothers" hold jobs which allow them to care for their own children while earning income. Family day care providers who take in other children while they care for their own are the most obvious example of such mothers.

Thus, the number of families that primarily care for their own children is far larger than one might assume from considering data on employed mothers. Indeed, Census Bureau data on how preschool children are cared for (as opposed to whether their mothers are employed) show that three-fourths of the U.S. preschool population are primarily cared for by one or more family members.

While some of these families receive some modest benefit from the tax code's Dependent Care Tax Credit (because they occasionally use a paid babysitter when no family member is available to help), it is nevertheless true that the tax code currently penalizes their efforts to maximize the amount of time their children spend in the care of one or more family members. Indeed, the Dependent Care Tax Credit is configured in such a way that it perversely rewards parents for not spending time with their children.

Generally, the more time a child spends in substitute care, the greater the family's day care expenses. And the greater the family's day care expenses, the higher the family's tax credit. Thus, the DCTC discourages parent-child interaction by increasing the "opportunity cost" (in foregone after-tax earnings) that parents and other family members pay to spend time with their children.

In essence, the credit redistributes income from families that have little or no day care expenses to those that have considerable day care expenses. Not only does this penalize those families that seek to maximize the amount of care they provide their own children, but it has the effect of subsidizing center-based programs more heavily than home-based programs since family day care programs usually have lower overhead expenses, and, in turn, lower fees.

This fact is especially disconcerting since most parents prefer home-based day care programs over center-based care and most child development experts, including Ed Zigler, Urie Bronfenbrenner, Penelope Leach, and others, believe family day care programs are better for children under three years of age than center-based programs.

Moreover, the fact that family day care providers receive no tax benefit for caring for their own children creates a situation where in order to make ends meet, providers must either increase day care fees (hindering affordability of care) or increase the number of children they care for (possibly hindering quality of care). Thus users of home day care programs run by mothers of young children stand to gain from proposals to eliminate "double dipping."

#### THE REAL ISSUE

Apart from overemphasizing the link between paid day care and employment, supporters of tying tax benefits to day care expenses often argue that, all other things being equal, a family that uses day care should pay less taxes than a family that does not use day care.

In making their case, day care proponents often cite examples such as: why should a traditional family making, say, $20,000 a year receive the same tax benefits available to a two-earner family whose $20,000 income is reduced by day care expenses? Or, why should a traditional family earning $20,000 a year receive the same tax benefits available to a single mother whose $20,000 income is reduced by day care expenses?

Whether intentional or not, these comparisons often obscure the real issue in question. The real issue here is not whether a family has two parents or one, two workers or one. If it were, one could easily ask why single parents that rely on extended family help for child care should be denied assistance given to other single parents—or why tag-team couples who stagger work schedules so that they can share childrearing responsibilities should be denied tax benefits extended to other two-earner families.

Likewise, the real issue is not how many hours of paid employment a family logs in the labor force—for there are some traditional families where the single breadwinner is employed more hours a week than the combined labor force participation of some two-earner families. And strictly linking tax benefits to the number of hours of wage labor would have the effect of penalizing the industrious single mother who, by "working smart," earns in 40 hours what a less industrious two-earner couple earns in 55 hours of wage labor.

The real issue, then, is whether or not government tax breaks should be tied to day care expenses. Day care proponents believe such a linkage is appropriate because day care users have less "ability to pay" taxes since part of their income is absorbed by day care expenses.

This argument appears reasonable until one considers that it could be used to justify a tax break for just about any expense. A taxpayer who eats at restaurants or calls out to Domino's could argue that he has less "ability to pay" taxes than a family that prepares its own meals. Moreover, a taxpayer who pays someone to cut his grass could argue that he has less "ability to pay" than a family that mows its own lawn.

Indeed, in extremis, this reasoning could be used to justify tax breaks for people who hire housekeepers, butlers, gardners, interior decorators, and chauffers—since there are some people who perform these services for themselves.

Thus, the "ability to pay" argument cannot alone justify linking tax benefits to day care expenses. Instead, day care proponents must also argue that paid forms of day care are superior to unpaid child care arrangements within a family. It is here that the case for day care tax benefits breaks down, for there is an absence of data to support this proposition. Indeed, the current debate among child development experts is not over whether or not non-familial group day care has an overall positive effect on child development; it is instead over whether or not such care has an overall negative effect on children.

Accordingly, there is no legitimate reason for linking tax benefits to day care expenses. And this fact becomes clearer when one considers an exceptional case like this one:

Several months ago, a woman working in the U.S. Commerce Department became pregnant. Like many in her situation, she spent much of her pregnancy weighing the pros and cons of caring for her own child after the baby was born. When the baby was born, she and her husband learned that the boy had Down's Syndrome—a fact which strengthened this woman's resolve to devote herself full-time to the task of raising her child. Had she and her husband opted to place their child in the care of a paid caretaker, the federal government would have rewarded their decision by offering them a generous tax benefit for day care expenses. But since she decided to care for the child herself, she is entitled to no similar tax credit. Indeed, the taxes her family pays help subsidize the day care costs of other families.

### CONCLUSION

It is a lamentable fact of modern life that not all parents enjoy the freedom to provide primary care for their own children—or live close enough to their parents or other relatives that they can rely on extended family assistance. But public policies that skew benefits in favor of paid day care only serve to increase the number of families that lose this freedom. For as the ol' cliche goes, you get less of what you tax and more of what you subsidize.

Thus, when the House considers child care legislation again this year, it should remedy the tax bias against families that care for their own children by ensuring that all families at any given income level receive the same tax benefits for children—irrespective of whether or not they have day care expenses.

To be sure, such a policy would help mothers who are at home full time with their children—including those who are taking parental leave from their jobs. But tax credits built on a level playing field would also help a number of single mothers, mommy trackers, Mr. Moms, and family day care users and providers.

Moreover, there is nothing which says that legislation that eliminates tax discrimination against families that care for their own children cannot also extend significant assistance to families that use paid day care. Indeed, the most attractive policy proposal is one which sets new credit levels high enough so that all families can benefit significantly.

It is right and appropriate for public policymakers to be concerned about families that use paid day care because they have no other choice. But it is also right and appropriate for public policymakers to be concerned about families that make economic sacrifices to care for their own children. Certainly, all such sacrifices are not as heroic as the mother of the Down's baby or as challenging as the tag-team schedule jugglers. But they are valuable, because every child is valuable.

WILLIAM R. MATTOX, Jr.,
*Director of Policy Analysis.*

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WASHINGTON, DC, *August 3, 1992.*

DEAR SENATOR: On August 4, an amendment will be introduced on the floor of the Senate to H.R. 11, the Urban Aid Package, to expand the tax deduction for one-time adoption expenses to *all* adoptive families. We encourage you to vote *YES* on "The Fairness for Adopting Families" amendment.

Currently, the average fees for adopting a child from a non-governmental agency is between $8,000 and $15,0000—a lot of money for most Americans. Agencies try to minimize the costs to adoptive families through fundraising activities; however, as the costs of medical care, housing, etc. increase for pregnant women, much of the cost must be passed on to the adoptive families.

At the same time, while most Americans who give birth to children have insurance to cover the prenatal and delivery costs—adoptive families have no such benefit. When a child comes into a family through birth, the family is allowed to deduct the medical expenses from their income taxes—adoptive families have no such benefit.

Please vote Yes on the "Fairness for Adopting Families" amendment to provide a $3,000 tax deduction to *all* adoptive families to relieve some of the financial burden.

Sincerely,

MARY BETH SEADER,
*Vice President.*

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[From National Council for Adoption]

VOTE YES ON AMENDMENT TO H.R. 11 "THE URBAN AID BILL" TO PROVIDE TAX "FAIRNESS FOR ALL ADOPTING FAMILIES"

"Every child in need of a family is a child with a special need."

Currently, all parents who form their families through birth are allowed to deduct the costs of the child joining the family (i.e., medical expenses for fertility services, prenatal and delivery) from their income taxes. Adopting families have no such recourse. In addition, most families have medical insurance which covers all or part of the prenatal and delivery costs of the child born to them. No similar system is available for adopting families. Therefore, the financial costs of adopting a child is generally a much greater strain on a family than giving birth.

It has been argued that tax relief should only be available to families who adopt "children with special needs" because the government has an interest in reducing the rolls of children in foster care. This argument ignores the equity issue of adoptive families should be treated the same as families formed through birth in all government activities, including taxation. It also does not address the limitations on the definition of a "Child with special needs."

H.R. 11 provides a tax deduction of $3,000 for families who adopt a "child with special needs". Most people assume that the definition of a "child with special needs" is a child with a physical, emotional or mental disability, an older child, or a child who is a member of a minority race or ethnic group or part of a sibling group which must be placed together. H.R. 11 leaves the definition of a "child with special needs" to the state.

In some states a "child with special needs" is only a child with the characteristics described above who comes from the public foster care system and is adopted from the public, tax supported agency. Therefore a child with a disability who is placed from a voluntary charitable agency will not be eligible for the tax deduction.

Some states include only children who are eligible for Title IV-E reimbursement in their definition of "children with special needs.". Title IV-E reimbursement is based on the financial situation of the biological family. Therefore if a child a born with a disability to a middle class parent and place for adoption, the adoptive parents will not able to claim the tax deduction, even though the child's biological parent's income has no relation to the express incurred by the adoptive family.

The result of this discriminatory practice of excluding non-governmental adoptions from tax deductions will be that more children will enter the pubic child welfare system so that tax deductions are available, further increasing the case loads of the already overburdened system. Children will be denied adoption because of this limitation.

It must be remembered that families who will be eligible for this limited tax deduction are generally adopting children from tax supported public agencies. Generally these adoptions have very low, if any fees, for the adopting family and many of these families receive a subsidy for the special needs of the children. Therefore, the greatest financial burden for the actual adoption is not on the families who adopt "children with special needs" but those who adopt from the voluntary sector.

Because there is little government support for adoption related activities in the voluntary sector, the average fees which must be passed on to adopting families range from $8,000 to $20,000. These fees exclude many competent parents who could afford to raise a child, but who do not have the resources for one-time adoption expenses. Minority families have the most difficult time paying fees for service. The result is that it is difficult to find families for minority infants, because they cannot afford to come to private agencies (even when they reduce their fees). Most infants are placed for adoption through the voluntary sector, but if families cannot be found when the child is an infant, he will become a child with a special need. Is that the goal of this tax benefit?

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MARYLAND COALITION FOR ADOPTION,
*July 31, 1992.*

DEAR SENATOR: All children of adoption have special needs.

The Maryland Coalition for Adoption strongly supports Senator Hatch's Amendment to Senate Bill #709. This Amendment provides tax fairness to all adoptive families.

Special needs, status, as the major criteria for determining tax credit for adoptive families, is simply ineffective. Special needs is defined in many ways by different states, and often too narrowly. All adoptive families incur significant expenses in offering their home and hearts to an adoptive child.

Please lend your support to approving this Amendment and extending badly needed tax fairness to all families who adopt children in need of homes.

Sincerely,

PAUL DENHALTER,
*Maryland Coalition for Adoption.*

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ADOPTIVE FAMILIES OF
AMERICA, INC.,
*Minneapolis, MN, August 3, 1992.*

DEAR SENATOR: On behalf of the 15,000 adoptive families across the country who are members of Adoptive Families of America, I urge your support for a tax deduction for all adoptive families through the Fairness for Adopting Families Amendment.

For many years adoptive families have been told they do not deserve help in the forming of their families, that they will adopt anyway, whether there is tax help to offset the cost of adoption or not. But the real issue here is the children, and especially children with special needs.

All children without homes are children with special needs, whether they are healthy, white infants, members of minority or sibling groups, or children with mental, physical or emotional disabilities. These children deserve a home. And they deserve the best care possible in that home.

But a family starting out on shaky financial ground is a family who may find it difficult to give the best care possible to their newly-adopted child. Everyday I hear from families, who are taking out loans, using up credit card balances, and placing second mortgages on their homes just to form a family. These are not wealthy people. They are middle and working class people, hard-working Americans.

But, in order to afford the costs of the adoption of a child, they have put themselves deeply into debt. This debt puts parent and child at great financial risk. It is only fair and equitable to treat these families the same as families who give birth. Birth families have insurance coverage to provide for the costs of family forming, federal aid if they meet the eligibility standards, or, if the expenses of the birth are great enough, a tax deduction for the medical expenses associated with the birth. Adoptive families have no such assistance.

I also hear many cases of children falling through the cracks of the IVe adoption assistance program. These are children assumed to have federal or state adoption assistance. But they do not. The costs of their adoptions are equal to those of a healthy, white infant or a child from overseas.

These children include: minority children and sibling groups, who are denied eligibility based on arbitrary state rules; children, whose birth mother was homeless or who were placed through private agencies, and therefore are not considered "children with special needs" by a system full of loopholes; and even children with disabilities such as spinal bifida, Down's Syndrome, and autism, who have been turned away from federal help, because of technicalities in their eligibility.

The only way for these children and the families who adopt them to receive any help with adoption costs is through the Fairness for Adopting Families Amendment. A $5000 tax deduction for adoption expenses would go a long way to helping these families provide for the children they worked so hard to bring into their family.

For fairness, for equity, for the children who need homes, I urge you to support the Fairness for Adopting Families Act.

Sincerely,

STEVE HUMERICKHOUSE,
*Legislative Affairs.*

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SUPPORT SENATOR CRAIG'S AMENDMENT TO DECREASE THE BURDEN ON ADOPTIVE PARENTS

Senator Larry Craig (R–ID) will offer to H.R. 11 an amendment which provides a tax deduction for adoption expenses. He and Senator Orrin Hatch (R–UT) have worked tirelessly on behalf of parents who wish to adopt. This represents one of their many efforts.

SUMMARY

1. The amendment will provide an above-the-line deduction for adoption expenses up to $5,000, which would be phased out for taxpayers with adjusted gross incomes from $80,000 to $90,000. The deduction could not be used for costs of an adoption in the case of an individual who adopts the child of the individual's spouse.

2. Excludes from employee's income adoption expenses paid by an employer up to $5,000.

3. Treats employer contributions to an adoption expense plan as an ordinary and necessary business expense.

4. Effective date: applies to qualified adoption expenses incurred in taxable years beginning after December 31, 1992.

5. The amendment expands on the provision in the U.S. Senate Finance Committee's mark that provides for a deduction of up to $3,000 for adopting a special needs child.

ENDORSEMENT

The Family Research Council wholeheartedly supports the efforts of Senators Craig and Hatch to provide a deduction for families who are trying to adopt, no matter the circumstances or condition of the adoptive child. The Council urges support of this amendment.

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EXPLANATION OF THE CRAIG-HATCH ADOPTION AND YOUNG CHILD PRO-FAMILY AMENDMENT TO H.R. 11

(Revised September 25, 1992)

Summary: The Craig-Hatch amendment offers a larger adoption deduction, and makes it available to more families, than H.R. 11. It offers twelve times more tax relief to more working poor families with young children than H.R. 11. Rather than settle for ½ of every other slice, the Craig-Hatch amendment provides families with the whole loaf.

(1) Deduction for Adoption Expenses:

H.R. 11 as reported by Senate Finance provides a deduction of up to $3,000 for expenses related to "special needs" adoptions; "special needs" are defined by state laws, which would result in inconsistent, to the point of capricious, application of the deduction.

The Craig-Hatch amendment would provide a deduction of up to $5,000 for expenses related to any adoption (except for adopting the child of one's spouse). The amendment would exclude from an employee's income adoption expenses of up to $5,000 paid by an employer. Deductibility would be phased out for taxpayers with adjusted gross incomes (AGI) between $80,000 and $90,000 (except for special needs adoptions). Double benefits would not be allowed.

(2) Increasing the Supplemental Young Child Credit:

Current Law: The child care provisions in the 1990 Reconciliation Act created the Supplemental Young Child Credit (SYCC), a new component of the Earned Income Tax Credit (EITC). A low-income family with a child under age 1 and at least one parent in the paid work force can receive a credit of up to 5% of the first $7,520 of income. In 1992, the maximum credit is $376. The EITC and the SYCC phase out for incomes between $11,840 and $22,370, with this bracket adjusted annually for inflation.

The Craig-Hatch amendment would increase the SYCC to 7.5 from its current rate of 5 percent.

(3) Revenue Offset: Limit the amount of the Dependent Care Tax Credit that can be claimed by high-income households:

Current Law/Background: Current DCTC rates already include one phase-down bracket. A 30 percent credit against expenses is allowed for taxpayers whose AGI is $10,000 or less. The credit phases down to 20% for taxpayers with AGI above $28,000. The credit can be claimed against maximum expenses of $2,400 for one child or $4,800 for two or more. The DCTC is non-refundable and is based on documented (including the provider's tax ID number), out-of-pocket, formal, day care expenses; in 2-parent households, both parents must be employed or seeking employment. (In some cases, a dependent other than a minor child may qualify.)

The Craig-Hatch amendment would phase down the DCTC again at the high end of the income scale, beginning at $80,000 AGI and phasing down to a 10 percent credit by $90,000. This would be consistent with the current progressivity at the lower end of the AGI scale and would recognize that, like most essentials of life, dependent care costs consume a larger proportion of income for low- and middle-income families.

(4) Revenue Offset: Strike HR 11's Repeal of EITC–DCTC Election:

Current Law: A family that otherwise would qualify for both the SYCC and the Dependent Care Tax Credit (DCTC) must elect which credit to claim with regard to a child under age 1.

HR 11 as reported by Senate Finance would repeal the 1990 requirement of an election between the SYCC and the DCTC and would allow families that meet the qualifications for both credits to claim both.

The Craig-Hatch amendment would strike the election-repeal in HR 11, thereby maintaining current law in this area.

Increasing the SYCC is preferable to expanding eligibility for the DCTC.

(1) The DCTC is essentially a middle-to-upper class tax break; few working poor families can afford the expensive, documental, formal day care necessary to claim the DCTC.

(2) In half of all families with newborns, one parent takes at least a year off from paid work to stay at home. The large majority of families want one parent to be able to stay at home for the first year of a newborn's life, recognizing that the first year is a critical, formative time. The DCTC discriminates against traditional families, and also excludes those who use family caregivers and other informal babysitting arrangements.

(3) The SYCC is non-discriminatory, equally benefitting traditional and non-traditional families.

(4) The SYCC is simpler to qualify for and to claim, since it is merely a component of the EITC for which the family already qualifies and also doesn't require the extensive documentation and formal day care arrangements needed to claim the DCTC.

*Cost summary (over 5 years)*

| | *Millions* |
|---|---|
| Full $5,000 adoption deduction (net above HR 11) | $63 |
| Increasing Suppl. Young Child Credit to 7.5 percent | 599 |
| Total revenue costs | 662 |
| Savings from maintaining SYCC/DCTC election status quo | 51 |
| Savings from upper-end phase-down of DCTC | 673 |
| Total revenue-saving offsets | 724 |
| Net savings from amendment | 62 |

Source: Joint Tax Committee.

Mr. CRAIG. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes 8 seconds remaining.

Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to myself.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, I am a strong advocate of adoption. I have been the cochairman of the congressional coalition for adoption in the Congress for several years, and most importantly, my wife and I have a chosen child—I frankly prefer that term to adopted child. And I know the love that we have for that child. And I want to encourage adoption. But I believe we ought to use the limited resources that we have to provide an extra incentive to those who have the courage and the compassion to adopt a special needs child.

Who are these special needs children whose adoption is covered by the mark? They include minorities, the physically and mentally handicapped, and any group of siblings that must be adopted together. That term also includes children who are too old for a market that caters to infants. Nobody knows the exact numbers, but according to some estimates, special needs children account for nearly 60 percent of all those eligible for adoption. According to the national committee for adoption, there were more than 60,000 adoptions annually. However, each year there are at least 36,000 special needs children in the foster care system—on average, only 13,500 of those children can find families.

I remember a cover story in Time magazine a few years ago that highlighted some of the problems facing special needs children. This story told us that there are more than 60,000 adoptions a year but points out that "the figure would be much higher were it not for a great and tragic irony: while adoptive parents will literally go to the ends of the Earth to find healthy white, or perhaps Asian, infants, thousands of other American youngsters who are older or black or handicapped go begging for homes."

This is a question of which adoptions we want to subsidize. One problem I am particularly concerned about is the growing number of infants born with the AIDS virus or addicted to crack cocaine.

How many of you have been there to see the boarder babies, to see some of them no longer than your land; nobody will claim them and they stay there. There are children abandoned by their birth parents, or removed from those parents for their own safety.

Who is going to take care of these children? The provision in the Finance Committee bill would provide a subsidy to families that adopt these children. We have a serious problem. By 1993, some estimate that as many as 20,000 babies will be born with the AIDS virus. A $3,000 deduction is not going to solve the problem but it is a small step in the right direction.

Meanwhile, this amendment would provide a tax subsidy to the thousands of parents who are already on long waiting lists to adopt healthy children.

How many of you as Members have been asked by people who want to adopt a healthy, white child to get them on some kind of priority list so they can get that child? All of us have seen that I guess. I particularly have seen that because I have an adopted child and because I am cochairman of the adoption counsel. I commend the Senator for his strong advocacy on this issue. But we disagree on how our scarce resources should be used. We have to decide. Do we want the Federal Government to write checks to parents who are lined up, waiting for years, to adopt those infants who are already in such great demand? Or do we want to focus on the problems facing thousands of special needs children who are destined to bounce from foster home to foster home, or worse? Special needs children need our help.

That is why the President's budget recommends that we provide a deduction for expenses related to special needs children. The Budget states that:

> In a number of cases the children are in foster care with prospective adoptive parents. The prospective parents would like to adopt the child formally, but find that to do so would impose a financial hardship. * * * Moreover, a deduction for special needs children may alert families who are hoping to adopt a child to the many form of assistance provided to families adopting a child with special needs.

There are a lot of issues on which I disagree with the President—but not on this one. I strongly agree with him. We both believe that America should provide a special inducement for those who have the courage to adopt special needs children.

If you get one with special needs—and I can tell you this one, too, because we have one of those children—the costs and sacrifices are enormous.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. CRAIG. I will yield 3 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah has 3 minutes.

Mr. HATCH. Mr. President, I appreciated the comments of the distinguished Senator from Texas. He is a great human being and I have a great deal of respect and affection for him. He is a very fine chairman of this committee.

Mr. President, I rise today as an original sponsor of the amendment now before the Senate. My colleague, Senator CRAIG, has discussed at some length the major provisions of this amendment. To summarize his explanation, this amendment contains four principle provisions.

First, it will provide an expanded deduction of up to $5,000 for expenses related to any adoption except for adopting the child of one's spouse. To that end, this amendment expands the limitation within H.R. 11 that limits the deduction of adoption expenses to families adopting special needs children.

Second, the amendment will exclude from an employee's income any adoption expenses, up to $5,000, that are paid for by the employee's employer. At the same time, employers will be able to take an expense deduction for those payments.

Third, the amendment increases the amount of the supplemental young child credit from 5 to 7.5 percent.

Finally, the amendment reverses the provision in H.R. 11 that will allow taxpayers to take both the supplemental young child credit and the dependent child tax credit.

Since my able colleague has addressed the child care credit aspects of the amendment, I would like to focus the balance of my remarks on the adoption expense deduction provisions of this amendment.

Mr. President, this amendment provides a $5,000 tax deduction for parents who adopt children. The deduction is desperately needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. These families need our help and encouragement. The deduction is also desperately needed by children who are waiting to be adopted.

I am aware that the bill before us includes a tax deduction for the expenses of adopting a special needs child. I strongly support this deduction and I applaud the chairman of the Finance Committee for including this provision in the bill. This amendment supplements the H.R. 11 adoption deduction by allowing all children who are awaiting adoption and their future families to get this benefit. We must support all legal adoptions in America. While the deduction for special needs adoption is a very necessary and positive move, it is far from adequate.

Mr. President, our policy must be that all children awaiting adoption are special, regardless of sex, race, age, sibling size, or disability. There is a great demand for the adoption of healthy infants. Families hoping to adopt one of these children often have to wait for years to get their much longed-for baby. Other hopeful families wait for years, only to receive the heartbreaking news that they do not qualify to become adoptive parents for one reason or another. At the same time this tragedy is occurring, another, even sadder tragedy is also taking place. Unfortunately, children waiting for adoption who are not healthy white infants often do not enjoy the same popularity among adopting parents. It is estimated by the National Committee for Adoption that there are 36,000 children in this Nation who are waiting to be adopted. These children are, for the most part, older children, children with mental or physical disabilities, sibling children who must be adopted together, or minority children. Many of these children are classified as special needs children, and thus receive State and Federal assistance. But far too many other children fall through the various cracks and loopholes in the special needs definitions. This is a major reason why we need this amendment.

The unfortunate truth is that there is not a simple line between popular, healthy infants and other, less adoptable children. Because of variations and technicalities in the assorted state definitions of special needs children, many children do not qualify for the adoption tax deduction. Or, a child who qualifies in one State may not qualify in another.

This capriciousness is not good public policy, Mr. President. We cannot deny any eligible children the very assistance that may help them get adopted.

This leads to another reason this amendment is needed: fairness. It is simply not fair for us to provide a tax deduction for special needs adoptions only. Adoptions are expensive. In fact, the National Committee for Adoption has found that the actual costs connected with a legal adoption can exceed $15,000. The average costs for non-special needs adoptions are between $7,000 and $12,000. These high amounts exclude many wonderful families from adoption, simply because of inadequate incomes. I believe that family wealth should not be a factor in adopting a child. My amendment does not help those families who can easily afford the high costs of adoptions. It contains an income limitation that phases the deduction out over the adjusted gross income range of $80,000 to $90,000. With this amendment, we will be encouraging the adoption of all children, and we will be helping those families who wish to adopt and are least able to pay the high costs of adoption.

This amendment provides that as long as an adoption is in accordance with State and local laws, the tax deduction for unreimbursed adoption expenses would be available. Each legal adoption is socially beneficial. Each adopting family deserves and needs our support. This is true whether the child is a healthy infant, a child with special needs, or a child from another country.

Mr. President, the simplest and fairest solution to the problems I have identified is a tax deduction. I strongly urge my colleagues to support this amendment. We are representatives of a society that professes a commitment to ensure the success of the family. The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children with special needs. Among other benefits, adoption—including subsidized adoption—is much less expensive than public social services. This amendment will greatly benefit not only children and families, but society as a whole. I urge my colleagues to support this amendment.

Mr. HATCH. Mr. President, some opponents of this amendment have argued that the various State definitions of special needs adequately include the adopting families of children with disabilities. Tragically, this is far from true.

This past week I had a very special visitor in my office. His name is Phillip Tabar, and his story graphically illustrates the desperate need we have to change the definition of a special needs child.

You see, Mr. President, Phillip's biological mother was a heroin addict. As a result of his mother's addiction, Phillip will never know the life of a ordinary child. This 6-year-old is severely brain damaged, completely blind, and suffers from Cerebral Palsy. He has two dislocated hips and also suffers from continual epileptic seizures that cannot be treated with drugs. Phillip cannot walk or talk and will remain at the development level of a 1- to 3-month-old child for the rest of his life. He is totally dependent on his adoptive parents for care.

Yet Phillip is very much loved by his adoptive parents and siblings and adds a unique and special perspective to their family. In fact, the challenges and disabilities that make up Phillip's life are also the very elements that make him such a valued member of the Tabar family.

You would think, Mr. President, that given Phillip's history that his parents would be automatic candidates for the special needs adoption expense credit that H.R. 11 offers. Sadly, nothing could be further from the truth. Because of technicalities in the State laws that covered Phillip's adoption, he failed to qualify as a special needs adoptive child. His parents have had to shoulder alone the costs of adopting Phillip along with the other costs associated with his special needs.

Phillip's case is, admittedly, an extreme one. Yet he and his adoptive family represent hundreds of families throughout the United States. These families are penalized for adopting children who otherwise may not receive the love and nurturing of a family environment. It is this fact that strikes to the heart of the matter. The reality is that every child deserves the same kind of love and attention that Phillip receives from his adoptive family. The reality is that the prohibitive costs of adoption often deter families from adopting any children, let alone supposed special needs children like Phillip.

The time has come for us to act. Mr. President, we need to make sure that any family that wants to adopt a child will not be deterred simply because of the cost involved.

It must be our policy that all children awaiting adoption are special, regardless of sex, race, age, religion, sibling size or disability. Why is this provision necessary? We need this amendment because we cannot let even one child remain unadopted because he or she does not fit someone's definition of special needs. Under the current proposal, a State would have the authority to define when a child fits the special needs category.

The children waiting for adoption need our support, not regulatory hassles. The States will all have their own definitions of what determines whether a child is a special needs child. A child who in one State may be classified as a special needs child may not be so classified in another. Therefore, under the adoption expense deduction included in the reconciliation bill, a child's future may in part be decided by the State in which he or she happens to be residing. This is not good public policy, Mr. President. We cannot allow any child to be left unadopted because some bureaucrat in one of the States made a determination that he or she does not meet that State's definition of a special needs child. We cannot for 1 minute let a child or an adopting family think that all children waiting for adoption are not special needs children. A child in New York awaiting adoption should be as special as a child waiting in Utah. With this amendment, we will be encouraging the adoption of all children, and we will be sending the message to America that we support all families—whether formed biologically or by adoption.

Mr. President, we need to send the message to America now that the Senate believes that all children waiting for adoption are special. I want the adopting families in this country to know that all children waiting for adoption are special and I want the children to know it. A black infant waiting for adoption in New Jersey is a special needs child, even if that State does not define him or her as a special needs child. An older child lingering in foster care in New York City or Los Angeles is just as special as a newborn child born in Utah or Alabama. Let us not adopt a policy where we may, in fact, allow a newborn to linger in foster care until that child is old enough to fit the specials needs definition. How can we discriminate against any child waiting for adoption? How can we tell a 4-year-old child that he or she is not a special needs child until he or she turns 5?

A child waiting for adoption in Chicago has just as much right to our support as a child in Wyoming or San Francisco, regardless of whether that child is black, white, infant, older, part of a sibling group, or handicapped. We cannot arbitrarily support some children and not others. We must support all legal adoptions.

Mr. President, this amendment has received a strong endorsement from many groups and organizations in the adoption community. The deduction for all adoptions, instead of just special needs adoptions, has been endorsed by the following:

National Committee for Adoption Resolve, Inc;

Adoptive Families of America Mid-South Families Through Adoption;

North American Council on Adoptable Children;

Native American Adoption Resource Exchange;

National Adoption Center Committee for Single Adoptive Parents;

American Public Welfare Association;

Maryland Adoption Resource Exchange, Adoption Exchange Association;

National Resource Center for Special Needs Adoption;

Child Welfare Institute;

New York State Citizens Coalition for Children;

African American Children's Group;

Santa Fe NAACP;

Rainbow Families Adoption Support Group; and

The Adoption Defense Fund.

Consider the letter sent to me from the African American Children's Group in Santa Fe, NM. The letter reads, in part;

> Most special needs children already having their adoptions subsidized by their states so a tax deduction would not do those families any good. Many of America's black infants will fall through the cracks if this bill is accepted. Most black infants are placed through private agencies. Many of these infants will wait a year or two going from one foster home to another until they will be old enough to be classified as special needs. * * * Finding homes for black infants is the next most serious problem facing domestic placements. Black, interracial and white families who adopt these children need your support. * * *

Also consider the letter sent to me from Resolve, Inc.:

> DEAR SENATOR HATCH: On behalf of the 20,000 members of Resolve—the national organization offering education, support and referral to couples dealing with infertility—I would like to thank you for your leadership in working for the Fairness for Adopting Families Act and share with you our concern that it may be cast aside in favor of new legislation proposed by President Bush.
>
> While we appreciate the President's support for adoption, we are concerned that his compromise proposal has several built in problems, not the least of which, from our view, is the fact that it ignores the financial concerns of thousands of families who adopt infants domestically or both babies and older children internationally and that it provides at least one very obvious loophole that does not serve the best interests of waiting children in allowing the states to exclude children by varying their definitions of what constitutes "special needs."
>
> We wish to go on record as continuing to be strongly in support of The Fairness for Adoption Families Act as they have already been drafted and to urge you to push for the passage of the Fairness for Adopting Families Act in floor amendments if necessary.
>
> Thank you for your concern for families formed by adoption!
>
> Sincerely yours,
>
> PATRICIA IRWIN JOHNSTON,
> *Chairman,*
> *National Board of Directors.*

Mr. President, this amendment will do a great deal to help children of racial or ethnic background who are awaiting adoption. Currently, healthy babies who are of minority racial or ethnic background frequently wait for years in foster care simply because of economic factors. Many of the families who want to adopt minority babies have very modest incomes and need tax breaks to help them form families and offer permanent loving homes to these children. Do we want to deny these children our support because they are healthy or under five years of age?

I strongly urge my colleagues to support this amendment. We are representatives of a society that professes a commitment to ensure the success of the family. The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children arbitrarily defined as having special needs. This amendment will greatly benefit not only children and families but society as a whole.

We ought to do everything we possibly can to encourage adoption. We ought to close these loopholes. This approach, of which I am a principal cosponsor, I think is an intelligent, well thought out, compassionate, decent, honorable approach.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The time of the Senator from Idaho has expired.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I had originally stated that we would have a 30-minute time agreement, as the sponsors had requested. But I am looking at the number of people that feel very passionately about this issue.

At the request of the sponsors of the amendment, I ask unanimous consent that we add 10 minutes to each side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, 10 minutes will be added to each side.

The Senator from Idaho now has 10 minutes and the Senator from Texas has 19 minutes.

Mr. BENTSEN. I yield 5 minutes to the chairman of the Children's Commission, the Senator from West Virginia.

Mr. ROCKEFELLER. I thank my chairman of the Senate Finance Committee and the author of the legislation which created the Children's Committee.

The earned income tax credit, Mr. President, is a fundamental part of the four-part income security package. The earned income tax credit—to which this amendment, the Craig amendment, is a dagger in the heart; although its purposes are very, very well intentioned—that EITC credit is profamily, is prowork, proresponsibility, and it works.

To promote the fundamental principles of hard work and responsibility, Federal policy should provide support to working parents—that is what the EITC is all about—especially those at the low end of the wage scale who are struggling to work, and therefore should try to encourage them to work instead of go on welfare.

The earned income tax credit is a strong incentive for working families. It is refundable. It has bipartisan support. It works.

On the Children's Commission, the Bush administration members of the Children's Commission all voted for this and do not want to see this compromised.

In 1991, almost 14 million families received more than $11 billion thanks to the earned income tax credit, which this amendment seeks to, although well-intentioned, nevertheless undercut financially.

These are parents, Mr. President, who play by the rules. They work hard and struggle day in and day out to pay the rent, to buy groceries, and to raise their children. They could go on welfare, many of them. The point of this is to encourage them not to and it works.

Such working families deserve our support and they deserve our admiration. We should be working to help them and to make things easier for them.

The tax package on the Senate floor includes an important measure to remove something called the interaction between the EITC, earned income tax credit, and other tax credits for children. This is an essential change, getting rid of the interaction.

Simplification of this earned income tax credit is absolutely vital.

I am holding here, Mr. President, what people have to try to read to compute their tax forms, people that sometimes have not been used to paying taxes, to try to figure out how they are going to do this deal, which credit they are going to take.

And then there is a 28-page IRS instruction booklet on how to do it. People cannot do this. Millions of working families are avoiding and not getting this earned income tax credit because of the overwhelming complications which are built into it. And in fact the administration, the Bush administration, this year came before the Finance Committee, Secretary Gideon, and said, "The interaction rules"—which is what is at heart here—"create complexity in the EITC and will hinder compliance. Some taxpayers must complete numerous steps in order to calculate their credit amounts and tax liabilities."

They do not want to see this happen. This is the administration.

Unless the form is simple and clear, many parents who deserve the credit will not apply because they cannot understand the form. The current EITC has complicated interaction and requires parents to make a series of calculations in order to determine which credit they should take. And it is almost impossible to fill out. So many families give up and they ask the IRS to calculate the basic credit for them.

Thanks to the congressional interest and under the leadership of Senator KOHL from Wisconsin, the IRS has agreed to continue to calculate the EITC this year for families who could not handle the form, millions of families. But they did not promise to do so next year.

So this again could result in thousands of families, millions of families, failing to receive the income security Congress intended for hard-working, low-income people who are playing by the rules.

Requiring the IRS to do the work is not the answer. The answer is simplification of the earned income tax credit by removing the interactions, which Senator BENTSEN has done and which the Craig amendment threatens right at the heart.

We need to reduce the paperwork burdens for American taxpayers, and especially for those struggling in low-wage jobs, with small children. The legislation marked up by the Senate Finance Committee made progress in, in fact, simplifying the tax credit. I hope that Senators will vote to table the Craig amendment.

The PRESIDING OFFICER (Mr. BRYAN). The Senator's time has expired. Who yields time?

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from New Jersey who has substantial interest in this issue and has worked on it.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I oppose this amendment for two reasons. First, I do not know whether it is intentional or whether it is inadvertent, but the amendment adds great complexity to the earned income tax credit.

I wonder if the proponents of the measure have ever taken a look at the EITC form. It is a nightmare of complexity, a nightmare. First, taxpayers have to figure out whether they are even eligible for the credit: whether they have a qualifying child, whether they have earned income under $21,240, whether they have claimed income earned in foreign countries. Then taxpayers have to establish whether they received any nontaxable earned income, or paid for health insurance for their child. Then taxpayers must calculate their basic credit based on a declining percentage of earned income. Then they have to calculate the basic credit again as a percentage of adjusted gross income.

Next, they have to calculate their health insurance credit. Of course, they have to compare their out-of-pocket expenses against a separate table, based on gross income. That is, of course, if they have not fallen afoul of the interaction rules. Then they calculate their young child supplement. Of course, there are two different credit tables, one based on gross income and the other on earned income.

Let us not forget the interaction rules. Heaven forbid that we let a poor working family get an extra $350 to take care of their infant child. The complexity of the earned income tax credit discourages people from getting what they deserve.

Because of the complexity, GAO has warned that as many as 3 million families in America may fail to get the earned income credit; 3 million families, because of this incredible complexity. This form, that form, this table, that table, for those who are making $12,000, $13,000, $15,000 a year.

How can we pass a bill that is labeled, I think perhaps erroneously, an urban aid bill—how can we pass it without rectifying this glaring shortcoming in the law? It is beyond me. But this amendment does not simplify the EITC. It does not make it easier for those 3 million families to get the credit to which they are entitled. It is simply another roadblock in their way.

I urge the proponents of the amendment, not only to listen to this argument, but to listen to the administration's testimony before the Finance Committee, as the distinguished Senator from West Virginia quoted. The administration said, "Interaction rules create complexity in the EITC, and will hinder compliance."

So my first objection to this amendment is that it will make it more difficult for poor families in this country who are eligible for the EITC to receive the EITC.

My second objection is the way this amendment is paid for. It reduces the dependent care tax credit for women earning more than $90,000. It says that if you are a financially successful working mother, then you can deduct less of the costs of your child care than other taxpayers. If you are a financially successful working mother—if you are a lawyer, if you are a Senate staff member, if you work at a television station—if you are a successful working mother and you need child care for your child while you are working, under this amendment you deduct less, not more, than someone who is not quite as successful as you are. Instead of a 20-percent credit against child care expenses, you get 10 percent.

If we are going to say to working women that they cannot take the full tax credit if they are successful, I wonder if we would apply that logic to the travel and entertainment deduction? For example, why not tell the lobbyists in town that if they make more than $100,000 that they cannot deduct as much as somebody who makes less for their lunches and hotels and convention holidays.

This amendment should be rejected on the grounds of increasing the complexity of the EITC and on the grounds of the way it is paid for—by penalizing successful working women.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. CRAIG. Mr. President, I yield 5 minutes to the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, first of all let me commend Senator BENTSEN for his statement. I think it takes a special amount of courage and commitment and love to adopt a child. And it takes an extraordinary amount of those qualities to adopt a special needs child.

We talk about the need for Government to pick up the pieces of broken families, the problems in society—and broken children. If more people had the wherewithal and, more important, the commitment to reach out and help those most needy in society, we would not have to debate the inability of Government to fund and expand and provide help for so many in our society. So I commend the senior Senator from Texas and his wife and family for their commitment to that.

By the same token, because it is important to support and encourage and provide incentives for those who adopt special needs children, that does not mean we should not provide some assistance to those who adopt nonspecial needs children. I think adoption of children, both special needs and nonspecial needs, is a worthy goal and something we ought to provide incentives for, particularly at a time like this when the costs of adoption and the costs of rearing children in today's society are so great.

So the Craig-Hatch amendment does that. It provides extra help and extra incentives and extra encouragement to those who will reach out and adopt children that need families.

This amendment provides a greater adoption deduction than that contained in H.R. 11 which will cover related expenses up to $5,000 for any adoptions, including special needs adoptions.

We all know that adoption is one of the main alternatives to abortion, yet certain legal and financial barriers to adoptions exist in our Tax Code.

This is especially so in the case of special needs adoptions where parents are often forced to bear the entire health costs of the child without health insurance because of preexisting conditions.

With respect to the adoption of healthy newborns, the demand is so high that in private adoptions the cost often exceeds $20,000. If these children are not adopted, they will likely end up in the foster care system which is already overburdened. Over 375,000 children in foster care are legally available for adoption. Most of these children have special needs.

This amendment would be one way of addressing at least the financial barriers to adoption. In the past the Tax Code has contained a deduction for special needs adoption. It is time to restore and expand this deduction.

It is clear that our Tax Code over the years have not focused on the family and not provided families who are rearing children, whether adopted or otherwise, with the wherewithal and the support that it once did. Back in the early 1940's and 1050's, when Congress first adopted the personal exemption, it was geared toward roughly providing a significant amount of the costs of rearing a child.

We all know over the years that the personal exemption did not keep pace with inflation and the cost of living. Until in the mid-1980's we had a personal exemption currently at the level of $1,000 per dependent. The indexed cost of the then $600 exemption would have been significantly more than that. Many estimate it at $5,000 or $6,000. In the 1986 tax act we doubled that personal exemption.

Many said it could not be done. It was done because we reordered priorities within the Tax Code. We began to place a value on the family and on rearing children. Many of us have supported an effort to increase the personal exemption significantly more than the President's $2,000 level.

Again, it is a matter of determining our priorities. The earned income tax credit was an effort to provide a similar type of assistance for those who fell in an income bracket that would not qualify for the personal income exemption. A young child credit was added to recognize that many families chose, in the interest of the child and also at great financial sacrifice, to have the mother stay at home with a newborn child, particularly that first critical year of new birth. Many families, again, at great personal financial sacrifice believed it was in the best interest of their child and the best interest of their family, and we wanted to recognize that. All Senator CRAIG is trying to say is that it is a worthy goal and we are tying to expand the help available to those families that make that choice.

You do not have to talk to too many child psychologists to understand the benefit of that. Yet, we recognize that many families do not have that option.

A 1989 Lou Harris poll found that 82 percent of the American public believes care of parents or other family members is superior to care by nonrelatives.

Yet, according to the Economic Policy Institute, declining wages, increased work hours and fewer vacations have created the overworked American of the 1990's.

The amount of time parents spend with children has dropped roughly 40 percent since 1965. According to a recent poll, Americans believe parents having less time to spend with their families as a result of economic pressures is the single most important reason for the decline in the family in our society.

Between 1969 and 1989, the annual time worked by an average American rose by 158 hours, adding nearly 1 month of work a year. The upward trend in work hours has been most pronounced for women, who have entered the work force in increasing numbers during the last two decades.

Young parents are putting in even more hours of work since 1969—241 more hours per year for mothers and 189 for fathers.

Total work for single, fully employed parents rose by 222 hours or 5.5 weeks per year between 1969 and 1989.

During the past decade family vacations shrank by 15 percent. This combination of personal exemption, earned income tax credit, young child credit and then adoption assistance I think is very important.

I wish we did not have to argue how we divide a very small piece of the pie among those four worthy goals. I wish we could look at it in the broader context of the entire Tax Code and make priority decisions and say the family is important, child rearing is important, let us provide those incentives.

I thank my friend for the additional minute. I wish we could look at the entire Tax Code and reorder some of those priorities so that we could accommodate the worthy goals outlined in those four basic programs that provide support.

And so, this is an attempt to do so. It is a small one, but it is a significant one because it recognizes that this Congress recognizes that families are important, that child rearing is important and that we ought to do what we can to assist this process. In expanding the "wee tot" tax credit, Congress is acknowledging that families who opt to have one parent stay at home with their child during its first year—the most formative for a child—should be entitled to an effective tax break.

I thank my friend for offering this amendment and for the time to speak this morning. I urge adoption of this amendment.

Mr. President, I yield back any time I might have remaining.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I yield 1 minute to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the bill that we are debating is being touted as a relief for America's children and families. Mr. President, Senator CRAIG's amendment will help the neediest population of all in America: Children who have no families, children who for one reason or another are being moved from home to home, children who may never have lived in a stable environment in their entire lives. We have the opportunity to help place these children in loving and stable two-parent homes.

Mr. President, today there are approximately 450,000 children in the United States living in foster care. Of those 450,000, 40 percent have been in the system for 2 or more years, and 25 percent have been in foster care for at least 3 years. Yet, in 1990 there were only 51,000 nonrelated adoptions, a decrease of 38,000 adoptions per year since 1970.

My distinguished colleague from Idaho, Senator CRAIG, offers this amendment to create a $5,000 tax deduction for adoption expenses. This provision will help countless families who wish to adopt children. Whether they cannot have children of their own or whether they just wish to help children out of destructive situations, this tax deduction will help families afford the expenses of the adoption process. That process is not a cheap one. The cost to adopt an American child can run up to $15,000. For the adoption of a child from another country the expenses are often well above that figure. At the present time, there is little or no financial help available to cover adoption expenses.

In 1989, the median family income in the United States was $34,213. As you can see the cost of an adoption can have a significant effect on a family income. In order to afford the costs of starting or expanding a family through adoption many people have gone deeply into debt. They run up their credit cards, take out loans, some even have to take second mortgages on their homes.

As a father and grandfather, I know that it is not inexpensive for a couple who wish to start their family through the more conventional way to have their own natural child, but these costs are most frequently covered by insurance. Most birth parents will normally have to pay only a deductible and small copayment. Of the medical expenses not covered by a couple's insurance, most are tax deductible. Adoptive families do not have the luxury of any of these benefits. A $5,000 tax credit for adoption expenses is a fair and equitable way to help these families.

Adoptive families have expenses which birth parents do not have. They have finders' fees, placement fees, lawyers' fees, court costs, notary fees, and sometimes foster care expenses. If they are adopting a newborn, some plans require that the adoptive parents pay for the birth mother's hospital and medical expenses. If a family is adopting a child from another country it has to pay for airfare, passports, immigration fees, and a translator. If the couple is using a private adoption agency, there may be additional fees and expenses.

Currently, a couple receives little financial relief to cover expenses unless some services or money donated by private individuals or groups. As you can see, Mr. President, it is quite easy to run the cost of an adoption up to $15,000. A $5,000 deduction will go a long way toward providing relief to couples who wish to adopt a child.

This amendment will also expand relief to all families who adopt a nonrelated child. The current adoption tax credit provision in this bill is aimed at helping only children with special needs, which means physical or emotional difficulties, belong to sibling or minority groups or are older children. While this is a worthwhile effort, given that 60 percent of children in foster care are classified as children with special needs, the measure contains numerous cracks through which children can fall. The provision lists children with special needs as those who are eligible for reimbursement under the adoption assistance program under title 4-E of the Social Security Act. But some children with special needs are never listed as 4-E eligible. If a child has no public agency record, even though he or she fits all of the criteria to be listed with special needs, the child will not be eligible. If the child is placed by a private agency, he or she may not be 4-E eligible. If a child was once classified as special needs, is adopted, then is sent back to foster care, he or she may no longer be eligible. In fact, most children whose adoption placement has been disrupted with a family placement change are no longer eligible. Further, if the child's parents were migrant workers or moved around a lot, there would be little public agency records to support classification under 4-E.

Barb Holton of the Tressler Lutheran Services sums up the situation well, "In our view there are too many children who fall through the cracks. * * * In the end it is the child and the adoptive parents who 'pay' for the fall through the cracks." Mr. President, the only way to close the gaps in the current proposal and to treat all adoptive families equitably is to expand coverage to all nonrelated adoptions. Every child who is without a stable home, who does not have a loving and caring environment in which to live, who lives in poverty should receive our compassion and more importantly our support. I urge my colleagues to show their support for these needy children by supporting this amendment to provide a $5,000 tax credit for all nonrelated adoptions.

Mr. BENTSEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Eight minutes, 7 seconds.

Mr. BENTSEN. And the proponents?

The PRESIDING OFFICER. Two minutes, seven seconds.

Mr. BENTSEN. I yield an additional 4 minutes to myself.

Mr. President, anyone thinking about voting for this amendment ought to look at the tax form and understand how complicated it is. We have a lot of complaints about it.

This form is filled out by the poorest individuals in our society and many of them have been forced to pay professional tax counselors. That has led the American Bar Association to state: "If there is any one provision where overwhelming complication exists for a class of people who are least able to deal with it, it is the EITC." I agree. This is another issue where the administration has really flipflopped: On September 10, 1991, in testimony before the Finance Committee, the Treasury Department stated:

> The interaction rules create complexity in the EITC and will hinder compliance. Some taxpayers must complete numerous steps in order to calculate their credit amount and their tax liabilities. For example, a taxpayer who is eligible for both the young child credit and the dependent care credit must calculate both credits to determine which one provides the greater benefit, and making this comparison, the taxpayer must also account for the fact that the dependent care credit is nonrefundable and thus of potentially less value than its face value. The interaction rules also limit the IRS's ability to compute the EITC for taxpayers.

Now the administration claims that they do not want to simplify the law. I think they had it right the first time. This amendment proposes that we should deny a credit to a dual-income family making less than $21,500 a year. There is nothing objectionable about a low-income family qualifying for both the wee tot credit and dependent care credit. The family with both parents working has a higher child care bill and generally higher expenses than a family with one parent working. So it makes sense to allow them both credits.

Mr. President, I spoke a moment earlier about all the people who are lined up to adopt healthy white babies. Thousands of them are lined up to adopt them, but the thousands of mentally handicapped babies, physically disabled babies, who are not chosen, who stand there and wait, they are transferred from one foster home to another. No one wants them. Once in a while, you will find someone compassionate enough to pay the extra love, care and attention for that child. I will tell you, a lot of extra expenses, too.

My wife and I have a chosen child. We also understand what it is to have handicapped grandchildren—and all the expenses and the cost and the care and the limitation on those parents on outside activities, the 24 hours a day, and the constant visits to the doctor to try to take care of those concerns. Those are the people we want to help. Those are the children we want to see are adopted and given the love and the attention that should be coming to them. That is what we have provided for in the Finance Committee bill before us.

I strongly urge that we defeat this amendment which was prepared by good people, caring people, but people who I do not think understand the additional burden and the problem of having children with disabilities.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, let me share in that passionate plea of the chairman of the committee, for I, too, am an adoptive parent. The chairman mentioned that he was cochair of the adoption caucus on the Hill. I happen to be the other cochair. I did not mention that this morning, but it just so happens that this law exempts me because those children whom I adopted, who carry my name and whom I love, are the children of my spouse and they are healthy and they are not special needs children.

But what we are talking about is spreading it for all. My amendment will not—will not—destroy the special needs child requirement. That is defined State law, not by H.R. 11, and in State law it is arbitrary as defined by the State itself. So while I hear my chairman, and I share in his passion, I suggest we do need to accommodate all children and all parents who are seeking to adopt children.

Now, as to the complication of the form itself, let me challenge the committee that they have not changed the form at all. People who are identifying with the supplemental youth credit still must be under the EITC. I am not complicating it; I am only simplifying a portion of what is already very, very complicated within the law.

I heard the Senator from New Jersey and the Senator from West Virginia speak of great complications. I challenge them to look at my amendment and overlay it on H.R. 11, and I think they would find it is, in fact, a simplification of an already complicated identification with the EITC that this law, this provision, does not clarify beyond the current problem.

Those are really the issues at hand, and I think, therefore, falsely argued today is the question of increasing complication. I think that is simply not the case.

Now, Mr. President, the chairman and I share the compassion and I think we share the emotion, as we know all Senators in this body do, that we want to see adults adopting children of special needs and all children who want parents, and we want to make that process a little less complicated and a little less expensive.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. That is the intent of this amendment, and I encourage all to oppose the tabling.

Mr. KOHL. Mr. President, I rise in opposition to the pending amendment, not to that amendment's primary goal.

I applaud the families that chose to adopt special needs children and I agree that they deserve additional support.

Unfortunately, nothing is free. And when we support these families, we have to tax others. And that is what bothers me about the amendment offered by our colleague from Idaho. The Craig amendment gives increased Federal support to one set of families by taking away a tax break given to others, in this case, poor working families with small children.

The benefits in Senator CRAIG's amendment are paid for by restoring the current law interaction between the wee tot supplement to the earned income credit [EIC] and the dependent care tax credit [DCTC]. That's a mouthful. But what it boils down to is that this amendment would make it more difficult for low-income working families to apply for the EIC.

The EIC is the United States's largest and most effective program for low-income, working families. Families with children under 1 year old receive a supplement to the EIC known as the wee tot credit.

Under current law, a family cannot claim both the wee tot credit and the dependent care tax credit. To enforce this restriction, the IRS developed a complicated set of forms and rules which all EIC filers must comply with—even if they are not claiming the wee tot supplement.

For over a year, there has been almost universal agreement that the rules ought to be repealed to simplify the EIC. The administration testified in favor of repealing the rules. Outreach groups that work with EIC filers urged repeal. Senator BENTSEN and the Finance Committee, Representative ROSTENKOWSKI and the Ways and Means Committee all agreed to repeal of the interaction rules in H.R. 11.

As chairman of the Subcommittee on Information and Regulation, I held a hearing on the complicated paperwork connected with the EIC. The witnesses at that hearing presented a series of innovative ideas for cutting through the redtape that keeps so many eligible families from filing for or receiving the EIC. But the witnesses agreed that one of the most effective redtape cutting measures we could take would be to repeal the interaction rules.

The amendment of the Senator from Idaho restores all those rules and all those forms and all those pages we fought so hard to eliminate. It increases the paperwork associated with filing for the EIC. It increases the complicated instructions that must be read and comprehended by EIC filers. It increases—dramatically increases—the chance that eligible low-income families will not apply for the tax benefits to which they are entitled.

Do we really want to burden our most effective program for working poor families with paperwork? Do we really want to raise money by increasing the Government redtape that must be endured by families trying to work for a living?

In the Congress, we have—with good reason—heard a great deal about regulatory burden and about excessive Government paperwork. Every member of this body has spoken out against Government redtape. Well, I want my colleagues to know, that's what this amendment is about—redtape. Redtape that will keep deserving working families from receiving the tax break that may keep them off welfare, that may make it possible for them to make it from one payday to the next.

I am disappointed that there is not more concern about this paperwork producing amendment. Where is the Vice President's Council on Competitiveness on this issue? Why aren't they down here fighting against paperwork and redtape? Don't they understand that the working poor suffer from Government paperwork just as much as wealthy corporate conglomerates?

Redtape isn't only a problem for the rich. Paperwork doesn't only plague large companies. If the Craig amendment prevails, the 13 million families who apply for the EIC will pay, in the form of fees paid to professional tax preparers, in the form of time taken from the family and spent trying to read the complicated rules, in the form of the money lost when the wrong tax option is chosen because the rules are so hard to understand. If the Craig amendment prevails, another 2 million families eligible for the EIC—intimidated by the forms and rules—will never even apply for their benefits.

The Senate should not be willing to pay this price no matter how noble the goal of Senator CRAIG's amendment is. The Senate should not be asked to take benefits from the children of poor, working families—one vulnerable group—in order to give benefits to special needs children—another vulnerable group. The Senate should not stand for the imposition of more Government redtape of those least able to fight against it. The Senate should defeat the Craig amendment.

Mr. BENTSEN. Mr. President, what time is left?

The PRESIDING OFFICER. The Senator controls 3 minutes and 23 seconds, and the proponents' time has expired.

Mr. BENTSEN. I yield back the remainder of my time. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR], are necessarily absent.

I further announce that if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 30, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—46

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Byrd
Conrad
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wofford

NAYS—30

Burns
Chafee
Coats
Cochran
Craig
D'Amato
Danforth
Dole
Domenici
Gorton
Grassley
Hatch
Hatfield
Jeffords
Kassebaum
Lott
Lugar
Mack
McConnell
Packwood
Pressler
Roth
Rudman
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—24

Bond
Boren
Brown
Bumpers
Burdick, Jocelyn
Cohen
Cranston
Durenberger
Fowler
Garn
Gore
Gramm
Helms
Kasten
Leahy

McCain
Mikulski
Murkowski
Nickles
Reid
Sanford
Seymour
Wellstone
Wirth

So the motion to table the amendment (No. 3200) was agreed to.

Mr. DOLE. Mr. President, I have had a brief discussion with the managers, and also with the majority leader. I know that most of the amendments are on this side of the aisle, so I am going to make the following proposal.

If anybody feels constrained to have a rollcall on their amendment, let us offer those amendments now. We have a number of our colleagues on each side of the aisle who have obligations later today far away from Washington, DC. It would certainly accommodate a number of them if we could do the rollcall votes, say, between now and 11 or 11:30 on very short time agreements. We have 12 absent on each side. Within the next 2 or 3 hours, it will be up to 15 or 20, I would guess.

In an effort to help the managers, I make a strong plea to my colleagues on this side, if you have to have a rollcall on your amendment, offer it now, and let us get the rollcall votes out of the way and then Senators PACKWOOD and BENTSEN can deal with the acceptable amendments, and maybe we can have a final passage vote on Tuesday. I just make that suggestion.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments and for his courtesy. I make the same plea to our colleagues on this side of the aisle. We will finish the bill today, with the possibility of a final passage vote on Tuesday. We will, at the very least, go to third reading. If a Senator has an amendment, the time to offer it is now, because as soon as we can do so, we will proceed to third reading.

It is my hope that many of the proposed amendments will not be offered. I think the minority leader's suggestion of those which we know will require a recorded vote going immediately so that we can get that over with as soon as possible is a good one.

Mr. BENTSEN. Mr. President, if I might intercede for a moment, let me say I totally agree with the admonitions and the recommendations of the majority leader and the minority leader. I also want to say to you that if you want recorded votes on everything that is out there, forget it. We cannot get it done. It just means that I hope very strongly that you will tell us that you are not going to push the amendment.

Mr. DOLE. We do not necessarily want any recorded votes. If there has to be one, we ought to do it now so our other colleagues can be relieved of that problem of waiting around until 2 or 3 o'clock for somebody to say I want a rollcall.

Mr. METZENBAUM. Mr. President, I think that we are talking about a make-believe world. There are 90 amendments out there, I am told. I am not sure—maybe there is something less—whether it is 40 or 50. Most of the Members of this body do not know what is in those amendments. This Senator certainly does not. But I do not think there is any of us who can say at this point that after some that we know are going to need rollcalls on are dispensed with, somehow we are not going to have rollcalls after 11:30 this morning in connection with other amendments, the substance of which we are not familiar.

I want to make it clear that I am concerned about what these amendments provide. I do not know what they provide. I will be here, but if I think it is necessary to have a rollcall, I certainly am going to ask for a rollcall. I certainly am within my rights in doing so.

So regarding this whole concept of saying we will take up the amendments that need rollcalls before 11:30, and everything after that we assume there will not be any need for rollcalls, I want to make my voice heard and say I am not a party to that, and I would be prepared to ask for a rollcall whether 4 o'clock this afternoon or 6 o'clock this evening.

Mr. MITCHELL. Mr. President, I believe the suggestion is, first and foremost, that amendments not be offered. I expect that the Senator from Ohio would not object if an amendment is not offered.

Mr. METZENBAUM. I am hardly in a position to do that.

Mr. MITCHELL. There will be a number of amendments that the managers have already worked out and indicated they are willing to accept and will be cleared. There is no need for a rollcall vote now.

Mr. METZENBAUM. I am not sure the ones the managers have cleared have been cleared with all Members of the Senate. I think we have concern about that.

A couple amendments we took up totally by surprise. It so happens when we read them over they were acceptable.

I think the smallest amendment sometimes is the most significant amendment and I think that this rush is fine. I am just as anxious as anyone else to get out of here, but this is a very important piece of legislation and every amendment is in all probability very important.

Mr. MITCHELL. I am certain that the managers will be pleased to work with the Senator from Ohio and receive his advice and counsel on these amendments, and I hope that we can get going now and we can proceed to complete action.

Mr. DOLE. Mr. President, I say to the Senator from Ohio I know of his interest in the amendments and I certainly share that view. He was very helpful to me when I was chairman of the Finance Committee. In fact, I dubbed him my commissioner of taxation, and we had cleared them with the Senator from Ohio and in most cases we had no problem.

Mr. METZENBAUM. I thank the Senator from Kansas.

The PRESIDING OFFICER. Who seeks recognition.

The Senator from Utah [Mr. HATCH].

### AMENDMENT NO. 3201

(Purpose: To amend the Internal Revenue Code of 1986 to exempt explosives handling equipment from the heavy truck tax)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. BURNS, Mr. CRAIG, Mr. GARN, Mr. SIMPSON, Mr. SYMMS, Mr. MCCONNELL, Mr. WALLOP, and Mr. WARNER proposes an amendment numbered 3201.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII add the following new section:

**SEC. EXPLOSIVES HANDLING EQUIPMENT EXEMPT FROM HEAVY TRUCK TAX.**

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) EXPLOSIVES HANDLING EQUIPMENT.—Any article primarily designed—

"(A) to be placed or mounted on an automobile truck chassis, truck trailer, or semitrailer chassis, and

"(B) to be used to process, prepare, or load explosive products or the components thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(b) of the Surface Transportation Assistance Act of 1982.

Mr. HATCH. Mr. President, I hope that my colleagues on the committee will accept this amendment but let me just make a brief explanation of it. I think it is an important amendment. It is a low-cost amendment but one that could result in more revenues and help the explosives industry in this country.

This amendment is cosponsored by Senators BURNS, CRAIG, GARN, MCCONNELL, SYMMS, SIMPSON, WALLOP, and WARNER. It proposes to exempt from Federal excise tax bulk explosives handling vehicles or mobile units.

Let me make four main points regarding this amendment, Mr. President.

First, an explosives handling vehicle, which I will refer to as the "EHV," is a mobile manufacturing plant:

It mixes dangerous explosive chemicals into a volatile compound for insertion into detonation chambers in mining operations.

Only 30 percent of the vehicle's mixing unit, permanently attached to a specially configured truck chassis, contains bin space for explosives transport.

And, these vehicles will spend, on the average, only 420 to 700 miles on the public highways of the total 6,000 to 10,000 miles traveled annually. In other words, more than 70 percent of the unit's life is spent off the highway.

Second, current law exempts cement mixers from FET, presumably because they are specialized industrial vehicles. On this basis, however, the argument and case for EHV exemption could not be stronger.

Cement mixers do not transport dangerous or hazardous materials.

They are not rolling manufacturing units but, rather, they are transports of commodities that spend most of their lives on the public highways—in short, the EHV is more qualified than the cement mixer for the excise tax exemption under the current criteria.

Third, the impact of this amendment is widespread. It affects nearly 240 companies in 42 States, many of which have told us of the imminent financial peril which they face if this amendment fails. Since the IRS has not collected the FET on the EHV's for over 9 years, many companies face a tax charge that would drive them into immediate bankruptcy should the IRS force collection. I am attaching for the RECORD, Mr. President, the complete list of companies in each of the 42 States, and I believe all Senators have been contacted by them.

Finally, the revenue effect of this amendment is almost negligible, Mr. President. Although the Joint Committee on Taxation has estimated that enactment of this provision would cost the Treasury $2 million over 5 years, we must keep in mind that not $1 has yet been collected in Federal excise tax on these vehicles. And, more importantly, this is just a baseline estimate by Joint Tax: that is, the real offset is $200,000 annually—Joint Tax looks back for 5 years of uncollected taxes.

This is a fair amendment, and one that will give at least 84 Members of this body the chance to demonstrate their commitment to business growth and competitiveness.

I do not believe there will be any loss. In fact, I believe the businesses will be able to do even better.

Mr. President, let me elaborate on many of the points I made earlier.

Revenue Ruling 79-191 reviewed the nature and use of explosives handling vehicles, or EHV's, finding that the mixing units attached to the truck chassis were liable for a Federal excise tax or FET.

The industry redesigned the vehicles to avoid this tax. They became an integral, mobile unit. In 1991, an IRS technical advice memorandum [TAM] reviewed the 1979 decision, holding that both the mixer and the chassis continued to be liable for FET. However, the TAM relied on the 1970-era vehicle, rather than the modern version. The TAM makes minor concessions to some mixer-related equipment, such as stabilization jacks, but ignores the new nature of the vehicle.

Not surprisingly, the taxes remain uncollected while repeated appeals from this injustice are being filed. The Joint Committee on Taxation estimates the revenue effect of this amendment to be an aggregate amount of minus $2 million, based upon a 5-year projection over the period of 1992 to 1997.

I would argue that no offset is necessary for two reasons. First, there has been no actual revenue loss since no FET was collected. And, second, without the FET, more vehicles would be built, each paying the $7,000 FET on the chassis. At present, the FET on mixers is steep enough to make the EHV users refurbish old units rather than build the types of new ones that will add efficiency and, possibly, some modest profitability to the mining industry. I should also add that the United States is a net exporter of these vehicles, still another source of tax revenues.

Finally, some opponents of this amendment have raised the issue that these mobile manufacturing units are actually trucks, and that exempting them will cost revenues from the highway trust fund. These vehicles spend less than 7 percent of their annual 6,000 to 10,000 miles on public highways—that is, between 420 to 700 miles a year. For this very limited use, they pay the same excise tax rate as transport vehicles, like dump trucks or commercial tractor-trailer haulers.

Let me add one final clarifying point. Only 15 percent of the total vehicle value is attributable to a commodity hauling function: this is the amount of bin space in the vehicle. These units cost $140,000, of which the chassis and mixer component each cost $70,000. Is it fair to put a commercial hauler, with over 90 percent of the vehicle devoted to hauling, on the same tax footing as a vehicle which is so evidently a mobile manufacturing unit, and which in many States requires a special permit to use on the highways? This is the foundational wrong corrected by this amendment, Mr. President.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the States and companies affected by this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

E.T.I., P.O. Box 8520, Ketchikan, AK.

Reed Explosives, Inc., P.O. Box 482, Arab, AL.

Nelson Brothers, P.O. Box 207, Parrish, AL.

Drummond Coal Co., P.O. Box 1549, Jasper, AL.

Boren Ikeco, Rt. 2, Box 445-C, Parrish, AL.

High-Tech Inc., P.O. Box 3112, East Camden, AR.

Seco Inc., Box 1330, Greenwood, AR.

Universal Propulsion Systems Co., Inc., Phoenix, AZ.

Schlumberger Well SVC, 517 Houston Street, West Sacramento, CA.

Alpha-Ireco, P.O. Box 310, Lincoln, CA.

Rockwell International, North American Aircraft, Los Angeles, CA.

M.I. Baxter Drilling Co., P.O. Box 245, El Cajun, CA.

Southwestern Explosives, P.O. Box 308, Oro Grande, CA.

Southwestern Portland, 16806 North E. Street, Victorville, CA.

King Explosives, 3341 Fitzgerald, Rancho Cordova, CA.

W.A. Murphy Co., 16511 National Trails Hwy., Hellendale, CA.

Emrick & Hill, 4160 Fox St., Denver, CO.

Buckley Powder Company, 42 Inverness Drive East, Englewood, CO.

Deco Services, Inc., 107 Danbury Road, New Milford, CT.

Connecticut Explosives, P.O. Box 625, Branford, CT.

Vets Explosives, Box 843, Torrington, CT.

E.T.I., 501 Carr Road, Wilmington, DE.

ICI Americas, Inc., Export Purchasing, Wilmington, DE.

E.I. Dupont, Accounts Payable—13163, Newark, DE.

Contract Drill & Blasting, 2203 Laughing Gull Circle, Atlantic Beach, FL.

Engineering Technologies, 3275 Progress Drive, Orlando, FL.

Martin Marietta Corp., Box 555817, Orlando, FL.

Olympic Energy, Inc., 110 McClarty Road, Whitesburg, GA.

Georgia Explo. & Supply, 360 Englewood Avenue S.E., Atlanta, GA.

Atlanta Explosives, P.O. Box 1589, Carrollton, GA.

Olson Explosives, P.O. Box 90, Decorah, IA.

Bennett Explosives, RR #4, Box 9, Manchester, IA.

Quick Supply Co., 6620 N.W. Toni Drive, Des Moines, IA.

Explo Midwest, 4752 W. Stage Coach Trail, Galena, IL.

Evenson Explosives, Inc., 516A Bedford Road, Morris, IL.

Econex, Inc., 1776 S. Naperville Road, Wheaton, IL.

B&LS Coal, Box 740, Washington, IN.

Conex, Star Route 60, Derby, IN.

Associate Mining Corp., P.O. Box 5, Clay City, IN.

Evenson Explosives, 10065 E. State Road 46, Bloomington, IN.

United Minerals Inc., 409 Van Buren St., Huntingburg, IN.

Columbus Powder, 2360 North National Rd., Columbus, IN.

Peabody Coal Company, Lynnville Mine, Lynnville, IN.

Austin Powder Co., P.O. Box 46, Springville, IN.

Amax Coal Co., P.O. Box 967, Indianapolis, IN.

Warex Corporation, Box 306, Booneville, IN.

Warrick Co. Coal Corp., P.O. Box 376, Booneville, IN.

Dyna-Blast, Inc., P.O. Box 1650, Nortonville, KY.

Martiki Coal Company, P.O. Box 8, Lovely, KY.

Capco E.K.E. Division, P.O. Box 307, Prestonsburg, KY.

Kentucky Powder Co., P.O. Box 55660, Lexington, KY.

Farmers Supply & Explosives, P.O. Box 604, Barboursville, KY.

Falcon Coal, Arch on North Folk, Jackson, KY.

Delaware Powder Co., P.O. Box 640, Pineville, KY.

P & M Coal, Box 1056, Madisonville, KY.

Pine Branch Coal Sales, Box 246, Chavies, KY.

Sandy Valley Explosives, P.O. Box 488, Allen, KY.

Tri-State Explosives, 404 McLeod Lane, Madisonville, KY.

Costain Coal Inc., Western Division, Sturgis, KY.

Southern Explo. Corp., P.O. Box 685, Glasgow, KY.

Besse Branch Coal Co., 8529 Upper Johns Creek Rd., Kimper, KY.

Reed Crushed Stone, P.O. Box 35, Gilbertsville, KY.

Charolais Corp., Hwy. 82, Madisonville, KY.

Mountain Explosives, Co., HC 75, Box 545, Paintsville, KY.

Mine & Mill Supply Co., Rt. 1, Box 79, Dawson Springs, KY.

Caldwell Explosives, P.O. Box 716, Hazard, KY.

West Kentucky Explosives, P.O. Box 230, Lagrange, KY.

Wayland Explosives, P.O. Box 58660, Lexington, KY.

Pioneer Explosives, 174 Haydenville Rd., Whatley, MA.

CSX/Rids, 301 North Charles St., Baltimore, MD.

Explo-Tech, Inc., Box F, Westernport, MD.

Tri State Explosives, 8200 Seven Locks Road, Bethesda, MD.

Martin-Marietta, 1430 South Rolling Road, Baltimore, MD.

Potomac Edison, Attn: Robin Maloy, Hagerstown, MD.

Pepin-Breco, Inc., P.O. Box 8, Fishpeming, MI.

Decker Coal, 12 Lakeshore Drive, Decker, MI.

Callahan Mining Corp., Rt. 1, Box 380, Champion, MI.

Econek, Inc., 4368 S. Foco Road, Standish, MI.

F.M.C. Corporation, Naval Systems Division, Minneapolis, MN.

High Energy Technology, P.O. Box 676, Winona, MN.

Cook Slurry Company, Schley Mine Road, Gilbert, MN.

Dole Explosives, P.O. Box 71, Rosemont, MN.

Misabi Powder Co., 18th at 5th Avenue, Hibbing, MN.

Minnesota Explosives, P.O. Box 615, Biwabik, MN.

United States Steel Corp., Mgr Acctg, Attn: Acct Pay., Mt. Iron, MN.

Viking Explosives Supply, Box 207, Hibbing, MN.

Explo-Midwest, 2883 South Range Line, Joplin, MO.

Demo Coal Co., P.O. Box 587, Moberly, MO.

Associated Electric, Cooperative, Springfield, MO.

Eldorado Chemical, P.O. Box 27382, St. Louis, MO.

Consolidation Coal Co., Attn: Accts Payable, St. Louis, MO.

Hughes Aircraft Co., Rt. 15, Forest, MS.

Atlas Powder Internat'l, P.O. Box 74, Pearlington, MS.

Lavelle Powder Company, P.O. Box 3548, Butte, MT.

Round-Up Powder, Box 160, Miles City, MT.

Atlas Southeast, Inc., Attn: Jan Clayton, Greensboro, NC.

Martin Marietta Aggregate, Attn: Victor Bryan, Raleigh, NC.

Ideal Supply, P.O. Box 15397, Asheville, NC.

Piedmont Explosives, Rt. 13, Box 193, Statesville, NC.

Green Mountain Explosives, P.O. Box 129, Auburn, NH.

Explosives Supply Co. Inc., 18 Columbia Drive, Amherst, NH.

New England Explosives, P.O. Drawer H, Keene, NH.

Hercules, Inc., Howard Boulevard, Kenvil, NJ.

SSE Inc., 5801 Magnolia Ave., Pennsaken, NJ.

American Dredging Company, P.O. Box 190, Camden, NJ.

Pittsburgh & Midway Coal, P.O. Box 3238, Gallup, NM.

P & M Coal Company, McKinley Mine, Gallup, NM.

Santa Fe Pacific Coal Co., Lee Ranch Mine, Grants, NM.

Santa Fe Pacific Gold Co., Lone Tree Mine, Valmy, NV.

Echo Bay Minerals, Box 1668, Battle Mountain, NV.

Barrick Gold Strike Mines, P.O. Box 29, Elko, NV.

Brown & Root, P.O. Box 3570, Hawthorne, NV.

Refund Mt. Gold Corp., Box 480, Round Mountain, NV.

Western States Energy, Box 1386, Elko, NV.

Hall Explosives, P.O. Box 230, Adams Center, NY.

St. Lawrence Explosives, P.O. Box 230, Adams Center, NY.

Explo Inc., 750 Zerega Avenue, Bronx, NY.

Gray Rock Supply., 135 Fulton St., White Plains, NY.

St. Lawrence Explo. Corp., 8250 Gulf Road, Leroy, NY.

North Country Explo., Route 12-F, Dexter, NY.

Zinc Corporation of America, Hailesboro, NY.

Old Ben Coal Co., 200 Public Square, Cleveland, OH.

Austin Powder Company, 25800 Science Park Drive, Cleveland, OH.

Central Ohio Coal Co., Accounting Department, Lancaster, OH.

Northern Ohio Explosives, P.O. Box 155, Forest, OH.

Hooper Demolition. Inc., 10415 Riverside Drive, Powell, OH.

Buckeye Explosives, P.O. Box 753, Waynesburg, OH.

Geupel Construction, P.O. Box 20911, Columbus, OH.

High Power Energy, 1661 Old Henderson Road, Columbus, OH.

Bannock Coal Co., P.O. Box 98, Lafferty, OH.

Wampum Hardware Co., 60711 Dynamite Road, Salesville, OH.

Schlumberger Well Service, 6500 W. 45th Street, Shawnee, OK.

Mc Donnell Douglas-Tulsa, Accounts Payable T109, Tulsa, OK.

Explo Midwest, 12502 East 36th St. North, Tulsa, OK.

Delamar Silver Mine, P.O. Box 502, Jordan Valley, OR.

Atlas Powder Company, P.O. 577, Tamaqua, PA.

D.C. Guelich Explosives, RD 3 Box 125-A, Clearfield, PA.

Ramac Explo. of PA Inc., 4873 Hamilton Blvd., Allentown, PA.

David H Martin Excavating, 4691 Cumberland Highway, Chambersburg, PA.

D & J Maurer Inc., Rt 350 South, Phillipsburg, PA.

Explosives Services, Inc., RR #3, Box 749, Honesdale, PA.

Explo-Tech, Inc., 3rd Street & Cardinal Dr., Mt. Carmel, PA.

Keystone Explosives Inc., RD 5 Box 28A, Punxsutawney, PA.

Kesco, 127 Oneida Valley Road, Butler, PA.

Independent Explo Co. for FA-suite 500, Scranton, PA.

H.L. & A.G. Balsinger Inc., Miller Run Rd., Cuddy, PA.

Amos L. Dolby Co., P.O. Box 146, Corsica, PA.

Maurer & Scott, P.O. Box 2843, Lehigh Valley, PA.

Rock Poppers Ltd., P.O. Box 160, Shawnee-on-Delaware, PA.

Wayne Drilling & Blasting, HCR Box 24-A, Tyler Hill, PA.

Wyoming Valley Drilling, 29 Chamberlain, Plainsville, PA.

Wampum Hardware Co., RD #1, New Galilee, PA.

Divex, Inc., P.O. Box 3131, Columbia, SC.

E.T.I. P.O. Box 97, Van Wyck, SC.

Auld Hardware Company, 110 Poinsette Highway, Greenville, SC.

Southwestern Explosives, 1140 North Main Street, Spearfish, SD.

Hermitage Explosives Corp., P.O. Box 8001, Nashville, TN.

Martin Marietta Energy, Systems-Accts Payable, Oak Ridge, TN.

Southern Appalachian Expl., Box 567, Tracy City, TN.

Southeastern Energy Inc., P.O. Box 236, Louisville, TN.

Cherokee Products, P.O. Box 946, Rutledge, TN.

Tenn Nitrate Tech Inc., P.O. Box 85, Dunlap, TN.

Southwestern Explosives, P.O. Box 5556, Midland, TX.

Atlas Powder Co., 15301 Dallas Parkway, Dallas, TX.

Van Amburgialamo Explo. P.O. Box 244, Chico, TX.

Alamo Explosives Co. Inc., P.O. Box 2002, Houston, TX.

Ladshaw Explosives, P.O. Box 310510, New Braunfels, TX.

Schlumberger Perforating Center, Rosharon, TX.

Thermax Energy, 13601 Preston Road, Dallas, TX.

Strawn Explosives, 8701 Bedford-Euless Road, Hurst, TX.

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Mining Services Int., P.O. Box 774D, Salt Lake City, UT.

Wesco Inc., 3945 S. Wasatch Blvd., Salt Lake City, UT.

Western State Energy, P.O. Box 195, Lehi, UT.

A.T. Massey, Winston Coal, Richmond, VA.

Austin Sales, Inc., P.O. Box 133, Vansant, VA.

United Coal Company, P.O. Box 1280, Bristol, VA.

Paramount Coal Co., Attn: Accounts Payable, Lebanon, VA.

Luck Stone Central Serv., P.O. Box 128, Manakin, VA.

Motivation Coal Co., Attn: Accounts Payable, Lebanon, VA.

Little Six Corporation, P.O. Box 430, Clintwood, VA.

Holston Mining, P.O. Box 8000, Lebanon, VA.

Gibson/Reco Inc., P.O. Box 60, Duffield, VA.

Humphreys Ent. Inc., P.O. Box 668, Norton, VA.

Capitol Drilling Co., P.O. Box 1909, Manassas, VA.

Dama Inc., 1821 Thompson Memorial Dr., Roanoke, VA.

Buckanan Explosives, Box 776, Vansant, VA.

Capco-B&H Explosives Div., P.O. Box 757, Coeburn, VA.

Austin Powder Co., P.O. Box 167, Norton, VA.

Premium Energy, Box 430, Clintwood, VA.

Vess Excavating, P.O. Box 425, Crozet, VA.

Winchester Building Suppl., Rt. 6 Box 152AA, Winchester, VA.

Pacific Powder Co., 13120 Tilley Road, Olympia, WA.

Ahlgrimm Explosives, 1732 North Division St., Appleton, WI.

Geenen Explosives, 1273 County Truck Hwy E., Kaukauna, WI.

Eldorado Chemical Company, Blasting Products Div., Huntington, WV.

Austin Powder Company, Route 7E, Box 460, Masontown, WV.

Eastern Coal Company, P.O. Box 1233, Charleston, WV.

Hobet Mining Inc., P.O. Box 305, Madison, WV.

J.F. Allen Company, Box 49, Clarksburg, WV.

Ireco, Inc., Star Route, Box 346, Hernshaw, WV.

Lilly/Reco DBA, Lilly Explosives Co., Midway, WV.

Explo-Tech, Inc., 738 Berkeley Station Rd., Martinsburg, WV.

Buffalo Coal Co. Inc., P.O. Box 282, Baynard, WV.

Colony Bay Coal Co., West Virginia Division, Charleston, WV.

E.T.I., P.O. Box 288, Piney View, WV.

Old Hickory Coal, P.O. Box 203-5T Rt 17, Sharples, WV.

Al-Tex Coal Corp., P.O. Box D, Sharples, WV.

Southern Explosives Corp., Rock Branch Ind. Park, Poca, WV.

Dupont Potomac River Works, Rt 1 & Huffman Road, Falling Waters, WV.

E.T.I., P.O. Box Dr. 863, Martinsburg, WV.

Peabody Coal Company, P.O. Box 1233, Charleston, WV.

Mountain State Bit, P.O. Box 4300, Morgantown, WV.

Capco-West Virginia, Explosives Division, Glen Morgan, WV.

Eldorado Blasting Prod., Box 245, Rawlings, WY.

Cordero Mining, P.O. Box 1449, Gillette, WY.

Southwestern Explosives, P.O. Box 747, Mills, WY.

West Cordero Mining Co., P.O. Box 1449, Gillette, WY.

Western States Energy, Box 2560, Gillette, WY.

Alaska Pacific Powder Co., Anchorage, AK.

Alpha Ireco Inc., Lincoln, CA.

Boren Reco, Parrish, AL.

Buckley Powder Co., Englewood, CO.

W.H. Burt Explosives, Inc., Moab, UT.

Cona, Inc., Tahlequah, OK.

Conex, Derby, IN.

Dyna-Blast Inc., Nortonville, KY.

Econex North Inc., Wheaton, IL.

Econex West Inc., Wheaton, IL.

Explosives Supply, Shirley, MA.

Gibson Ireco Inc., Duffield, VA.

Southeastern Energy Inc., Louisville, TN.

Strawn Explosives Inc., Hurst, TX.

Wampum Hardware Co., New Galilee, PA.

Western Explosives Co. (WESCO), West Jordan, UT.

Ireco Detonators, Port Ewen, NY.

Ireco, Inc., Salt Lake City, UT.

Ireco, Florida, Miramar, FL.

Mountain Explosives Co. (MECO), Paintsville, KY.

Mine Equipment & Mill Supply Co., Dawson Springs, KY.

Midland Powder Co., Dawson Springs, KY.

Minnesota Explosives Co., Biwabik, MN.

OEI Inc., Whitesburg, GA.

Pacific Powder Co., Olympia, WA.

Pepin Ireco Inc., Ishpeming, MI.

EQUIPMENT MANUFACTURERS

Amerind Inc., 30 Lndel Avenue, Rancocas, NY 08073.

ARESCO, East 5650 Seltite Way, Post Falls, ID 83854.

Tradestar, 3150 West 8600 South, West Jordan, UT 84088.

Warren Manufacturing, 1008 37th Street North, Birmingham, AL 35234.

Washington Auto Carriage, P.O. Box 11435, Spokane, WA 99211.

Tread Corp., Roanoke, VA.

Mr. HATCH. Mr. President, that is a very simple explanation of what it is. It is a fair amendment. It is not a costly amendment. In fact, I do not think it will cost the Treasury a nickel. Joint Tax has it at $2 million over 5 years. So it is negligible.

I thank the Chair and invite my colleagues support.

Mr. BENTSEN. Mr. President, I will ask if there are any questions on this side.

Mr. METZENBAUM. There are.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, this is one of those amendments that comes as somewhat of a surprise but if my understanding of the amendment is correct it is an amendment to provide a tax exemption for certain trucks and the amendment is retroactive for 10 years, going back to 1982.

I have to believe that this is going to cost the Federal Treasury a substantial amount of money. I do not know why we would be doing it, why we would be providing a tax exemption with the strong need for dollars in the Treasury, why we suddenly come in and carve out an exemption and go back 10 years and provide that which would obviously bring about refunds.

Mr. HATCH. Mr. President, I do not want to keep my colleagues on this amendment very long but let me just answer my distinguished colleague who has sincerely raised questions. Why should we give special treatment to explosive handling vehicles, why not include cement mixers, grain haulers or even road graders.

This should not be seen as a request for special treatment. The explosives handling vehicles, hereinafter referred to as EHV, would be made exempt from the Federal excise tax by treating it in the same exemption category in the Internal Revenue Code section 4053 as the cement mixer which was made a special statutory exception years ago.

The EHV, however, meets the terms of the Code, justifies the exclusion and needs no special treatment. The 1979 revenue ruling making EHV eligible for Federal excise tax was based on a review of 1970 technology mixers. The modernized vehicle designed and in use since then to avoid Federal excise tax liability does meet the Code is grounds for exemption in my opinion.

However, this is the problem. The IRS continues to rely on the old-style truck as they have for 10 years, yet remaining uncertain enough to keep them from actually collecting the Federal excise tax. The provisions of the Code are met by the EHV.

Let me tell my distinguished friend from Ohio there are 42 States that have this problem and a lot of these companies will go out of business if we do not clarify this and make it clear. It is a negligible cost to Treasury. The EHV is not a highway vehicle which is, of course, the reason for the Federal excise tax and that is the legitimate subject for it. The EHV cannot exceed 45 to 50 miles per hour, it cannot turn or maneuver safely, nor can it transport anything except mixing equipment that is permanently fixed to a special configured vehicle. It is a manufacturing device under the law.

It specifically exempts from the Federal excise tax self-propelled vehicles with equipment permanently mounted for use in the mining, construction, manufacturing, and drilling sector, among other industries.

This vehicle has no conceivable, realistic value once its critical components are separated. It could not transport anything, unlike the old flat-bed truck in which the 1979 ruling relied.

All I can say is if this exemption is not granted, a number of businesses that are critical to the mining, and other industries, will go out of business and for what we really have to acknowledge is a negligible cost to the Treasury which they have not even tried to collect realizing this vehicle does not meet the Code requirement. I want to clarify the Code to clarify what I consider to be an inequity. I hope the Senators will accept this amendment.

Mr. President, IRS, I think, tacitly recognizes that these vehicles should be exempted, but it is just not statutorily delineated. They have not even tried to collect the tax on them, realizing they are manufacturing an off-the-road vehicle that is not used on the highways, which was why the Federal excise tax was designed to begin with.

The cost is negligible. It is about $2 million over 5 years, none of which has ever been collected.

And it makes good common sense to do it since 240 companies in 42 States could be drastically affected by it.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, in listening to the amendment and further developing an understanding for it, I see no objections on this side.

Mr. PACKWOOD. And no objection on this side, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 3201) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

### AMENDMENT NO. 3202

(Purpose: To add a technical amendment)

Mr. HOLLINGS. On behalf of myself and Senator THURMOND, I have an amendment at the desk, and I ask for its immediate consideration. It provides for technical corrections.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. THURMOND, proposes an amendment numbered 3202.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1527, between lines 22 and 23, insert the following:

(g) APPLICATION OF 1988 TECHNICAL.—At the election of an issuer made in writing to the Secretary of the Treasury, the amendment made by section 1009(b)(1)(B) of the Technical and Miscellaneous Revenue Act of 1988 shall not apply to bonds issued as bank eligible pursuant to Section 902 of the Tax Reform Act of 1986 before March 31, 1988.

Mr. METZENBAUM. Mr. President, would the Senator from South Carolina be good enough to yield for a question?

Mr. HOLLINGS. Yes.

Mr. METZENBAUM. Would the Senator from South Carolina be good enough to indicate what the cost of this amendment will be, if any?

Mr. HOLLINGS. The cost actually to the Government is none, in that this was a particular exemption back in the 1986 act. The facility's waterfront park was built, bonds were issued and then, in the 1986 act, this particular provision was left out in the engrossing, and we did not find it out until they got to the renewal of the bonds.

So this is to continue the present bond issue.

Mr. METZENBAUM. There is no change in the substantive law?

Mr. HOLLINGS. No change in the substantive law.

Mr. BENTSEN. Mr. President, I would say we look at this one at some length and are totally convinced there is equity in the request of the two Senators. We are delighted to accept it.

Mr. PACKWOOD. I can also add, I can assure the Senator from Ohio this was a genuine technical mistake between 1986 and 1988.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from South Carolina [Mr. HOLLINGS].

The amendment (No. 3202) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I thank the distinguished managers.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the managers of the bill for accepting this technical amendment.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

### AMENDMENT NO. 3203

(Purpose: To express the sense of the Senate with respect to the tariff classification of multipurpose vehicles)

Mr. RIEGLE. Mr. President, if this is an appropriate time, I will shortly send to the desk a sense-of-the-Senate resolution regarding multipurpose vehicles and the issue of their classification as trucks versus cars under our procedures here in the United States.

I will be sending it in my own behalf and with cosponsorship from Senator LEVIN, Senator GLENN, and Senator WOFFORD.

Let me, if I may, now send the sense-of-the-Senate resolution to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, Mr. LEVIN, Mr. GLENN, and Mr. WOFFORD, proposes an amendment numbered 3203.

At the end of title VIII of the Committee Substitute, insert:

### SEC. . SENSE OF THE SENATE REGARDING MULTIPURPOSE VEHICLES.

(a) FINDINGS.—The Congress finds that—

(1) multipurpose vehicles are classified as trucks by the United States Government for emissions, fuel economy, luxury tax, and other purpose;

(2) the automobile industry reports multipurpose vehicles, such as trucks, in its sales figures;

(3) after almost 1 year of thorough analysis, in a ruling requested by a vehicle importer, the United States Customs Service found that multipurpose vehicles, because of their design characteristics, should be classified as trucks for tariff purposes;

(4) after only 1 month of review, the Treasury Department overruled the decision of the Customs Service ruling that two-door sport utility vehicles are trucks and otherwise identical four-door sport utility vehicles are cars;

(5) from time-to-time, a number of vehicle importers have themselves classified multipurpose vehicles as trucks in order to avoid a self-imposed quota on cars;

(6) the multipurpose vehicle was invented in the United States, and the market for multipurpose vehicles in the United States exceeds the market for such vehicles in the rest of the world;

(7) the production of these vehicles in the United States is a significant contributor to employment and profits in a key manufacturing sector;

(8) classifying multipurpose vehicles as trucks would result in $210 million a year in revenues to the United States Treasury;

(9) the United States should not make large, unilateral trade concessions to its trading partners, but rather should strive to receive reciprocal trade concessions from its trading partners;

(10) consistent classification of products is an important element of trade policy; and

(11) as the Customs Service correctly found, minivans and sport utility vehicles are not principally designed for the transport of persons, but equally designed for the transport of goods, because of their cargo capacity, removal of seats, flat floors, and large cargo space (in the case of minivans), and because of their off-road capability, heavy-duty suspension, low torque, and other truck-like characteristics (in the case of sport utility vehicles).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the January 4, 1989, decision of the United States Customs Service classifying multipurpose vehicles as trucks for tariff purposes was correct and should stand; and

(2) action should be taken to reinstate the Customs Service's decision.

Mr. RIEGLE. I thank the clerk for reading the text of the sense-of-the-Senate resolution.

Let me say that earlier this year the Senate acted on this favorably as an actual legislative item, not as a sense-of-the-Senate resolution. It was contained in the tax bill that went over to the House. It did not come on through in conference, but the Senate has acted on this and, previously, so has the House of Representatives on a separate matter.

But let me just take a minute and explain what is involved here, although the text of the sense-of-the-Senate resolution goes through the history quite thoroughly.

Throughout the 1980's, as the MPV—the multipurpose vehicle—market was rapidly growing, the U.S. customs classification and tariff practices were ambiguous and unclear. The Customs Service allowed importers to actually choose either to classify their MPV's as passenger cars or as trucks, depending upon whether the vehicle was equipped with a back seat.

As a result, importers manipulated the tariff system by classifying the same vehicle both ways, as a passenger car, which would have a tariff of 2.5 percent, or as a truck, with a tariff of 25 percent, when that was necessary to avoid Japan's voluntary import restraint on the total number of cars coming into the United States. So this allowed foreign countries to game this system and go one way or the other and increase the volume of their activity in our market.

The Customs Service conducted a year-long investigation of this practice and they issued a ruling. Bear in mind, this is the Customs Service of the United States. It issued a ruling on January 4, 1989, that all of these so-called MPV's, these multipurpose vehicles, should be properly classified as trucks under the newly implemented HTS because, in the words of the Customs Service, they are principally designed—"with cargo-carrying and other characteristics which are not designed into cars." Those include such things as higher weight ratings, off-road capability, heavier suspensions and power trains, and all the other engineering configuration aspects that one would associate with a truck as opposed to a car.

But the very next month in a truly extraordinary action, the Treasury Department in an arbitrary move overturned the decision of the Customs Service and they ruled that any of these MPV's with two doors would be classified as trucks; but any of them that had four doors would be classified as passenger cars, even though in every other respect they were precisely the same—the heavier weight, all the other configuration aspects of a trucks. But if they put four doors on rather than two doors, they would allow them to treat those as cars as opposed to trucks, and come in under the lower tariff, the 2.5 percent as opposed to the 25 percent.

I must say the Customs Commissioner at the time, Commissioner von Raab, was very disturbed by this. So much so that he has written a letter on this subject in June 1992. He addressed this letter to Chairman ROSTENKOWSKI in the House, the Ways and Means Committee. Because he was being asked to explain what happened to overturn, in this arbitrary fashion, the formal customs ruling which is what we are seeking to reinstate here today in this sense-of-the-Senate resolution.

This is what he said. This is Customs Commissioner von Raab, who was a Reagan administration appointee, and I think it is fair to say a very effective person in that job. He writes as follows:

> It is my understanding that the Committee will soon consider HR 4318, a miscellaneous tariff bill that was reported by the Trade Subcommittee in February. At the time of the full Committee mark-up, an amendment will be offered which would reinstate a 1989 Customs Service decision concerning the classification of multipurpose vehicles (MPVs) which was overturned by the Treasury Department. Treasury's reversal of a Customs Service classification ruling, which was reached after a year long examination of the facts, was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. government trade policy.

Again let me just step aside, parenthetically. This is the director of the Customs Service at that time, indicating here that this was a "shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy." Those are his precise words.

> Since I was the U.S. Commissioner of Customs at the time of the original Customs Service ruling and the reversal by Treasury, I wanted to offer you my views on that decision.
>
> On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs would be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.
>
> The January 1989 Customs Service decision was right on the merits, and correct under the law. After the Treasury Department action, the Deputy Commissioner of Customs further substantiated the original Customs decision during an investigation he conducted in Japan. There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.
>
> The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached, and make clear that the trade rules of the United States government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

Signed William von Raab who, as I say, served as our Customs Commissioner during the Reagan administration.

So you have there in his letter both the substance of the case as to why the Customs Service found this—made this ruling as they did in the first instance, and as he repeats several times in his letter, the direct political influence through the Treasury Department to turn that issue upside-down.

What effect does it have? It has had the effect of putting people out of work here in the United States who could be building these multipurpose vehicles right here in this country, in various American firms. But those sales are displaced and those jobs are lost by this practice of trade cheating. And it also costs our Government money. And increases the Federal deficit.

We have asked for an estimate from the Joint Tax Committee of the amount of money that will come into the U.S. Treasury if this tariff classification is reestablished as it should be, and the figure is $220 million a year coming directly into the U.S. Treasury to reduce the deficit. So that is $1.1 billion over the 5-year time period.

Here is over $1 billion being taken right out of our country, just in terms of the impact on our Federal deficit, in addition to the jobs and the damage to our industrial base by a devise that is clearly not right under the law and where the Customs Commissioner himself has pointedly said the decision was turned upside-down on the basis of political pressure by representatives of the Japanese government and businesses. And it is just not right. It is just not right. It is part of the economic sickness in this country right now that we have not dealt properly and fairly with these abuses of the trade system such as the one I have described here.

So it is very important that this be changed. Why am I offering it on a tax bill? Because we have no reason to believe that there will be a tariff bill this year. Time is too short. I had hoped that there would be one. It does not appear as a practical matter that there will be a general tariff bill this year.

I would also like to see a trade bill this year. I will say, as a practical matter, we are not going to have a trade bill. That would be another place in which this issue could be dealt with. But as a sense-of-the-Senate resolution in the context of this tax bill, it is absolutely appropriate and it is necessary. I want to say that I understand that the chairman of the committee is prepared to support and accept this sense-of-the-Senate resolution. I am very grateful for that.

As I say, the Senate has already acted on this. We put this in the tax bill earlier in the year. The House has acted on it. And here is a chance to pick up $1.1 billion in additional revenue over 5 years to the Federal Government and create more jobs in America, and most of all, stop a trade abuse.

I have a chart that I just want to take 1 minute and illustrate. This is what is called an MPV, or a sports utility vehicle. It is built directly up from a pickup truck foundation in the general structure and engineering design.

Under the laws of the country, when that kind of a vehicle comes in here, whether it is built in the United States or whether it comes in from abroad, it is treated as a truck for emission standards, which is one of the Federal standards that has to be applied to it: It is treated as a truck for fuel economy standards: It is treated as a truck with respect to the gas guzzler tax, we call it, and any possible luxury tax that would apply. And it is treated as a truck by the U.S. Treasury for tariff purposes. So that is a truck.

The only thing that happens with respect to these multipurpose vehicles is you take exactly the same vehicle and you add two more doors to it. The weight stays the same. It continues to be evaluated as a truck for safety standards. It continues to be a truck, as far as emission standards are concerned, in terms of the actual application of our laws. It continues to be a truck from the point of view of fuel emission standards. But, lo and behold, the Treasury Department said, even though it is a truck by every other definition and is built precisely the same way, with the exception of adding two more doors, we are going to call it a car, and we are going to lower the tariff from 25 percent to 2.5 percent.

The Japanese break out in big smiles because they have accomplished their objective, and that is to circumvent the laws because they get the best of both worlds, do you not see? Once they put two extra doors on there, they get to bring this vehicle in here and they get to be measured against the emission standards, the safety standards, and the fuel standards as if it were a truck, but then they get this special treatment on the tariff classification where the Treasury Department says, no, we will treat it as a car, even though it is a truck by every other standard; we will treat it as a car and give you this big financial break, so you can have more penetration in this market and put more American workers out of work and loot the Federal Treasury for another $1.1 billion over a 5-year period of time.

So this is wonderful for the Japanese and the Japanese producers but it is a bloody outrage.

I am pleased, again, of the fact that former Customs Commissioner von Raab, serving as he did in the Reagan administration, has come forward and laid bare exactly what happened here; that it is a bloody outrage and it is political manipulation, as he has laid out in his letter which I just read a few minutes ago.

It is outrageous what has been done here. That is part of what is damaging this economy because we do not insist on fair trading rules.

I wish we had the whole story. I would like to know who talked to whom as to how this magical decision was made in the Treasury Department within 30 days to turn upside down the formal ruling of the Customs Service after a year-long investigation.

The fact of the matter is if we are going to treat this vehicle as a truck for every single test in our country when it comes in here in terms of Government standards, then we are going to have to treat it as a truck, and properly should, with respect to the tariff classification.

This is a classic case of manipulating the system in a way that hurts America. It hurts us economically, it hurts our job base and it helps a foreign country engaged in a trade cheating practice with the aid and abetment of our own Government.

It is just not right and it is time to change it. We are in a situation where we can do it as a matter of law, but we are offering it today as a sense-of-the-Senate resolution. I do not know how long we need to talk about it. I am willing to talk about it as long as it takes. I do not know whether a vote will be necessary or not. But I intend to see to it that we act on this issue today.

Mr. President, I ask unanimous consent to add Senator SHELBY as a cosponsor to this sense-of-the-Senate resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. METZENBAUM. Will the Senator from Oregon yield for just 1 minute?

Mr. PACKWOOD. Yes.

Mr. METZENBAUM. Mr. President, the Senator from Ohio has just been presented with I think it is five pages of possible amendments from that side of the aisle. Some of them we are a little bit familiar with. The vast majority of them we have no idea what they contain. I just urge upon my colleague that if these amendments are going to be brought up, in order that we not delay the process, it would be very helpful if we can get copies of them at the earliest possible point. I am making that as a recommendation so we can expedite the process.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, there will be a rollcall vote on this because I find this the most blatant piece of anti-consumer anti-job legislation that we have had in a long time. I am stunned by those who come here bleeding for the consumers and then will support what is going to be a $2,000 to $6,000 increase on cars, and I use that term exactly.

I am very familiar with the Customs ruling 4 years ago and the Treasury overruling it because I remember talking with the Customs Commissioner and the Assistant Secretary of Treasury. I said if you want to know how these things are used, go down to the Safeway parking lot and watch how they are used. This is where the parking lot test came from.

These are cars. These are hauling kids to soccer games. These are used by citizens to haul around handicapped and senior citizens. They are very common names. These are sport utility vehicles, they are minivans—we would call them Plymouth Voyagers, Dodge Caravans. I drive, as a matter of fact, a Plymouth Voyager, Chrysler. I like it, and it is exactly like many of the vans that we import. Jeep Cherokee, Toyota Landcruiser, Isuzu Trooper. These are the things we are talking about.

Take a look at your plumber and what he drives around at work. He does not drive around in something like this. He drives around in a panel truck. It has two doors on it. It has big rear opening doors in the back. He does not drive around in these kinds of vehicles which are used by all of the people in this country as cars.

Here is the irony of this. Detroit has 90 percent of the market in these vans, and for the last 3 years, ever since Treasury said these imported cars are cars, they have been trying to overturn it. Here is what will happen, and we saw it happen in the early eighties. Do you remember the complaint? The Japanese were taking over our market in cars. It would drive the Big 3 out of business. It is their own fault to begin with. During the early 1970's, late 1960's, they had the bulk of the auto business in this country and they lost it in the midseventies to cars that had better quality, better mileage, and cheaper price.

I can remember the testimony in the Commerce Committee when we first started the mileage standards. The auto industry said we cannot meet those standards. We were importing cars that met those mileage standards when they said we cannot meet them.

The next thing they said, well, it would take us 5 or 6 years just to tool up. This is from the industry that managed to move from cars to tanks in 6 months in World War II and turn out serviceable tanks for the duration of the war. They have never liked imported competition of any kind.

Now, I will say to their credit, in the last 5 to 6 years they have gotten much better. Their production quality has gotten better; their service has gotten better. They have had tremendous, fierce competition from overseas, but they have gotten better. And this year, for the first time, American manufacturers have increased their percentage of the market. It is all good. It is all because of competition.

But in 1981—when the argument was made that the American auto companies were going to go out of business if we did not put a quota on the import of Japanese cars—we almost passed quota legislation on this floor. And at this stage the Japanese agreed to what is called the voluntary restraints agreement. It is the voluntary restraint of a man with a gun at his head who, when asked will you sign this contract, voluntarily signs the contract. So they put a limitation on how many cars they would send in.

Now, what happens when you can only send in so many cars? What cars do you make greater profit on, $7,000 cars or $17,000 cars or $27,000 cars? You make a greater profit on higher-priced cars.

And because what they could send in was limited by number, not by value, what do you think were the cars that got left out as opposed to what got brought in? So right away we saw a disappearance of the lower-priced cars for middle-priced and gradually the Japanese moved into the upper-price market. And what happened to the price of cars in the United States, the domestic cars? Did our manufacturers seize this opportunity to move into the $6,000 to $9,000 market? No, they raised their prices. And so average, middle-income America was simply frozen out of cars that they used to be able to buy new because our manufacturers tried to maximize their profits rather than taking market share with a lower priced car.

Now we get down to the era of the vans, and these are commonly considered passenger vans, the Dodge Horizon, Volkswagen Vanagan. In other words, you see mothers and fathers with groceries, at supermarkets, at the soccer games, day care, the senior citizens, the door opens, out comes a handicapped. These are all cars and this is what they are used for.

Senior citizen groups are opposed to this amendment for the very reason they are buying these cars and using them in their daily lives.

In order to fully appreciate how unreasonable this provision is, one must understand the definition of an automobile and a truck under the harmonized tariff system. This is the common method of classifying goods throughout the world for customs treatment. We entered into the harmonized code, a brand new one, several years ago. The United States and almost all the developed countries belong. Automobiles are "motor cars and other vehicles principally designed for the transport of persons." Trucks are "motor vehicles principally designed for the transport of goods."

Under the U.S. tariff schedules, we impose a 2.5-percent duty on automobiles and a 25-percent duty on trucks. And in 1989, the Treasury overturned its own customs department and said that these vehicles would be considered as cars because they were used principally by the people in this country as cars.

Ever since 1989, the Big Three have been unsatisfied with this. Now, this sense-of-the-Senate resolution that the Senator from Michigan offers would classify for tariff purposes all sport utility vehicles and minivans in the same way that they are classified by the National Highway Traffic Safety Administration and the Environmental Protection Administration. And the argument is that they are doing this for regulatory consistency.

But that argument in my mind is fallacious. The argument that because these vehicles are treated as trucks under the Highway Safety Administration and the EPA, they therefore ought to be considered as trucks, is unfounded. The standards established for safety under the Highway Safety Administration and emission under EPA have no relevance whatever to the Customs criteria used to determine whether imports are trucks or cars.

The Highway Safety Administration and the Environmental Protection Agency criteria for sport utility vehicles and minivans have been developed to further the goals of those respective agencies, not for tariff purposes. Even though the Highway Traffic Safety Administration and EPA have traditionally regulated sport utility vehicles and minivans as trucks, the regulatory and legislative trend is to treat sport utility vehicles and minivans as automobiles.

The National Highway Traffic Safety Administration Authorization Act of 1991 calls for these vehicles to meet a whole array of passenger car safety standards. And the Clean Air Act is beginning to require light trucks to meet the same emission standards as passenger cars.

Then in the 1993 Department of Transportation appropriations bill which passed the Senate only a month ago, there is a provision which requires country of origin labels for automobiles sold in the United States. And the definition under this provision specifically includes passenger vans and its definition of automobiles.

But there are additional, perhaps more important, reasons that this amendment ought to be rejected. I emphasize again that Detroit, or I should say the big three—they are not all in Detroit—have about 90 percent of the passenger van business. They were the leaders. Chrysler was the leader of the leaders. But they want it all; 90 percent is not enough.

And my good friend from Michigan talked about jobs in Detroit. I am going to talk about jobs in Oregon. Oregon is the largest port of entry for Toyotas in the United States. It is the largest port of entry for Hyundais in the United States. It is the largest port of export for Hondas in the United States, made in this country and exported out. And the jobs that are created by this industry are family wage jobs. These are not minimum wage, fast-food jobs. These are teamsters, longshoremen, tugboat, railroad, and we all know the kind of wages that they pay in comparison to other wages. If anyone thinks I am going to trade off Detroit jobs for Oregon jobs with this kind of an amendment, then they are out of their minds.

I want you to now think once more when you go down to bargain for your car—and I say car or van, passenger van, call it as you want—and you suddenly find that you are going to have a $2,000 to $6,000 increase, depending upon what kind of import you are going to buy. In addition, you are going to have on average an increase probably in domestic van prices, I will take a guess of $1,600 to $3,000, which will rise right up as the price goes up. You are going to succeed, I think, in driving out the imports. They will not be able to compete at that price.

And the port of Portland is going to suffer job losses not in the tens and twenties and even scores, but in the hundreds if this passes.

The amendment, in addition, is GATT illegal, and I will tell you why. Under this international harmonized tariff system all auto-producing nations treat sport utility vehicles and minivans as automobiles. I want to say that again. All auto-producing nations treat sport utility vehicles and minivans for customs purposes. Under the GATT the United States is committed binding—and by that we mean in tariff terms—not to increase its 2.5 percent duty on automobiles. If we increase a bound duty it violates the General Agreement on Tariffs and Trade and we will be subject to retaliation and we will be required to compensate.

So not only are we going to lose jobs in all ports and dealerships in this Nation, but we in addition are going to pay compensation to the nation whose cars and vans we keep out. A 1,000-percent duty increase—and that is what 2.5 to 25 percent is—means an estimated cost to consumers of between $2,000 and $6,000, depending upon the value of the imported van. And all you are going to do is drive these vans out of the market and drive up the cost of the domestic vans.

Then let me say—and this is the most ironic of all because one of the leaders in this battle to impose this 2.5-percent tariff has been Chrysler—Chrysler exported out of the United States over 12,000 U.S.-made Jeep Cherokees—these are sport utility vehicles—to Europe. I asked the European Community ambassador how Europe treats these U.S. vehicles for tariff purposes, and he responded that the EC classifies Chrysler's exports as automobiles, not trucks for custom tariff purposes. He also reminded me that the provision is GATT illegal. And he assured me that the EC will challenge this provision in the GATT if it is enacted.

So I will conclude by saying this again. Whether or not this is GATT illegal, it is ill founded, unwise, anticonsumer, unfair, antijob legislation.

We have an opportunity to strike a blow for consumers in this country right here. If we want them to have the opportunity of choice, if we want them to be able to continue to buy these imported passenger vans at today's prices, then vote against this sense-of-the-Senate resolution.

If you want to go home and explain to your consumers that you voted to increase the price of imports $2,000 to

$6,000 and the price of domestic vans someplace between $1,600 and $3,000, you should vote for this resolution. But that is exactly what is going to happen. You are going to drive jobs out of the ports of Oregon, out of the ports of the United States, increase the costs to the consumers. The next time you are in the Safeway parking lot and somebody drives up, if they happen to recognize you as a Senator or Member of the House of Representatives and they say, "Which way did you vote on increasing the price of my car?" I hope you can look them in the eye and say, "I voted to increase the price of your car $4,000. I voted to sell out your interests as a consumer for jobs in Detroit for automakers that have 90 percent of the van business in this country already."

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I listened carefully to the arguments of the Senator from Oregon. He is a good friend. With all due respect, several of the arguments are just wrong. The last one is perhaps the most disingenuous of all. There is absolutely no basis to argue that this amendment is going to drive up the prices of these vehicles in the United States.

There is intense competition now in this country for vehicles made by different American producers and against other vehicles of all types. There is intense competition.

The notion that somehow or another somebody can raise the price without regard to the economic effect in terms of sales and market, especially if you are starting out, as he also points out, with a 90-percent market share is just nonsense. That is a contrived, invented argument. It is a scare argument, and there is nothing to it.

The problem here is you cannot have it both ways. You cannot let foreign producers come in here and have the advantage of every favorable measurement of Government regulation and say it is a truck in terms of emissions, in terms of fuel economy, safety, all the rest of it, and then turn around and, as a favor to foreign manufacturers and to a foreign government, say but even though it is a truck by every other standard, we are going to allow you to get by with the truck standards there; we are going to do you a big favor, and give you a car classification.

I appreciate the fact that the Senator was direct enough to say there is a jobs factor in his State, as clearly there is, as there is in mine because we build these vehicles also in my State. We build them in many States.

I can understand why States that border on the Pacific Ocean and that are the point of entry for the foreign vehicles being produced in Japan—when they come across on the boats, and land here in the United States. I can see why there are some jobs there of people unloading the ships, taking the vans and the multipurpose vehicles off the boats that have been produced in Japan, and the people who take those off the boats obviously make a living doing it. So there is a job impact there.

I would say that the aggregate job impact there, however, for those people that are unloading the boats from Japan as opposed to building a vehicle from the ground up here in the United States, there is no comparison between the job impact. If the value added is being done here in the United States for a vehicle that costs $20,000 or $25,000 or $30,000, that is providing jobs all across this country. The parts that go into a vehicle built in the United States is creating jobs in virtually every one of the other 50 States. So you have a situation here where there is an entirely different job impact.

I am not out to disadvantage somebody unloading a boat from Japan out in the State of Oregon or the State of Washington. But I will tell you this: If we would stop the trade cheating, we would make our own domestic industry stronger and we would be in a better position to start shipping vehicles built in the United States off to foreign countries.

Let us put your longshoremen workers and the others out there loading the ships to work putting American-built vehicles on those boats to send to Japan. Why can't they do that job just as well rather than earning their living unloading boats from Japan? The effect of leaving the law the way it is right now is it is creating jobs in Japan and subtracting jobs in America.

There is no dispute about the revenue impact of this. The Joint Tax Committee has figured out the revenue impact. If our sense-of-the-Senate resolution is passed, and were to take effect, it will raise $1.1 billion for the U.S. Government. That is the same thing as saying our Government is losing $1.1 billion at the present time stretched out over a 5-year period of time because of this unfair ruling. It is plain and simple political manipulation.

In fact, Von Raab, our former Customs Commissioner under President Reagan, has laid it bare. They went out; they did their analysis in the formal way that the law requires, they spent a year doing it, they figured out exactly what was going on, they made the truck classification, and within 30 days the Treasury Department turned it upside down, as Von Raab says in his letter, because of political pressure.

So somebody is getting rich off this. And it is the producers overseas who are getting rich off of it. We are going to have a trade deficit with Japan this year of $45 billion. They are sucking $3.5 billion a month out of our economy. We are still in this recession now nearly 2 years after it started. We are told that we have over 15 million Americans right now who are unemployed, discouraged workers who have given up looking or people working part time because they cannot find full-time work. We have a desperate need for jobs in the United States, and not just unloading boats from Japan; we need jobs in this country building things, building cars, building trucks, building multipurpose vehicles. But we do not have enough of those jobs.

Part of the reason we do not is the pattern of trade cheating that is going on, of which this is a classic case, an absolutely classic case of back room manipulation. The Customs Service is immune from that kind of politics. They did their analysis, they did their investigation, they issued their ruling, and they made it clear that this is a truck and not a car. It ought to be treated as a truck and not as a car as it is for every other test that our Government applies. It was the Treasury Department that turned that upside down and created this anomaly. It is absolutely incredible.

How does anybody get up with a straight face on the other side of this argument and say, "Well, yes, we think it ought to be considered a truck for emissions purposes. Therefore, we will not have as tough an emission standard. We will not put the emission standard on that we put on a car. Yes, you can have the emission standard for a truck. Oh, yes, and on the fuel economy standard, we will give you that, too. You use the truck standard. That is easier to meet. You don't have to use the car standard." Right across the board until you get to the tariff classification, and then the thing gets stood right on its head, and the Government is saying, "But, by the way, in order to help you foreign producers, we will give you a break in that area and we will give you the tariff classification for a car."

You cannot have it both ways. I ask my friends out there where the docks are along the Pacific Ocean where all of this Japanese and now Communist Chinese merchandise is arriving day by day on the ships, to start to think a little bit about what is going on in the rest of America. Start thinking a little bit about the damage these massive trade deficits are doing to our country.

Since 1980, our cumulative merchandise trade deficit is now nearly $1.2 trillion with Japan alone just through last year $460 billion. That means that Japan has sucked out of this country, in the merchandise trade deficit, $460 billion from 1980 through 1991, and all the jobs and all that scarce capital have left and gone to Japan, while we are in a weakened state today. We not only have the huge, massive structural trade deficit, but we have a huge budget deficit because we do not have enough jobs in this country. It is getting worse. We cannot solve the problems, and we cannot solve them if we do not at least open our eyes and clear this manifestation of trade cheating that is helping other countries and hurting us.

The Japanese are laughing at us. They cannot understand our stupidity that we allow this kind of manipulation of our laws and rules to go on here.

Look across the country at all of this massive unemployment. You have a political revolt going on in the country, 80 percent of the people say we are on the wrong economic track going into the future, and people on the other side have the gall to come in here and argue that by every other standard we will treat this as a truck, but in order to make it easier for the Japanese to penetrate our market, we will give them a break on the tariff standard and we will say it is a car even though it is a truck, and we will let them drain out of our own Federal Treasury another $1.1 billion over the next 5 years.

What is going on here? When are we going to start doing something to help this country? Over the last few years we have had an economic program for every country in the world except our own. With regard to the most-favored-nation trading status with China, I was just told this morning that the latest estimates are that Communist China is going to have a trade surplus with the United States this year of $20 billion.

That is $20 billion worth of strength coming right out of our economy and going into Communist China, probably the most ruthless regime left on the face of the Earth. What sense does that make? We are losing jobs in every one of the 50 States that are now going to Communist China, and they are second on our trade deficit list, but they are far behind Japan, which is the worst offender in the deficit against us in their favor of $45 billion.

So we cannot keep looking the other way. I say to my friends from the west coast that it is time we put your dockworkers to work shipping American-built products to foreign countries and not put them to work unloading products being shipped in huge amounts here. I, frankly, think we have an obligation to think about the economic well-being of the country as a whole. When we build a product in the United States that costs $20,000 or $25,000 and principally is outsourced here in the United States, that is creating jobs in Alabama, and all across the country, including in Rhode Island. It is creating jobs all across the United States. But we have lost jobs because of this kind of trade cheating. You tell me, why would von Raab say this in his letter? He was confirmed by this Senate. He is a Reagan appointee, a Republican:

> Treasury's reversal of a Customs Service classification ruling reached after a year-long examination of the facts was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. trade policy.

Further on, he says:

> Based on all historical precedence, this should have been the end of the issue. After they made their ruling under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action and response to foreign political pressure—

His words, not mine—

> Treasury reversed the proper Customs ruling and concluded that the two-door MPV should be classified as trucks, but that most other four doors would be classified as passenger cars, a decision that defies logic.

I do not know what kind of appeal it takes for us to start thinking about what it is that is destroying the job base of this country. We are in serious trouble in this country. Everywhere you look, you see it. I can read you the headlines off of the financial section of the New York Times and Washington Post today, because we heard a load of additional bad economic data just yesterday. The stock market was down 40 points yesterday. Why do you suppose that is happening? Because we have a sick economy and because we have sick industries all over the place, and we do not have enough jobs.

Part of the reason for that is we have trade cheating going on, precisely of this kind. It is time to put an end to it. It is time to put an end to it. Other countries do not allow that to go on. Japan does not allow that kind of manipulation to go on in their market. You try to open a dealership in Japan today or sell things in Japan on anything like the basis in which they have access here. It is not possible. It has not been possible, and that is why the trade deficit with Japan this year is running at $45 billion a year in their favor.

So it is time to address these situations, particularly when the law has been manipulated as clearly as it has been manipulated in this case. This is just wrong, what has been done here, and it is hurting this country, and costing us jobs and money. It is unfair and it needs to be fixed.

Mr. CHAFEE. Mr. President, there is an arguing technique on the floor here lately of the louder you speak, apparently, the more effective one is. Also, I might say that in fostering his arguments, the Senator from Michigan is constantly using the words "trade cheating." I do not know where he gets the term "trade cheating." As a matter of fact, this particular case went before the ITC, and dumping was not found. So no harm from dumping was discovered. And I do not know where the term "trade cheating" keeps bounding up. It is an inaccurate expression.

Mr. President, we have a situation here where an argument is wrapped in the American flag, with great talk about more jobs in Detroit and across the Nation, more money for the Treasury. The only group they fail to mention is the consumer. Clearly, under the argument of the Senator from Michigan, the consumer gets ripped off. Where do you think all this additional money is going to come from, from the Treasury? It comes from the consumer.

I also might say that, somehow, any nation with which we have a trade deficit is evil. There is no mention of the nations that we have a trade surplus with. Are we evil in that instance? I do not think so.

What is taking place in the world, Mr. President, is competition. That competition is a winner for the consumer.

Furthermore, there has been some discussion of the fact that there will not be any price increases by the American manufacturers if we are able to keep out the imports. That is nonsense, Mr. President. We went through this with the VRA, the Voluntary Restraint Agreement. We kept out the Japanese cars, and what happened? The American manufacturers promptly raised their prices, because there was not the foreign competition that caused them to have better prices, better quality, and better service. In fact, what saved the American automobile industry was the imports. Finally, they got to it and realized they better shape up from the terrible automobiles they were producing in the 1970's and early 1980's.

Mr. President, what is this argument all about? It is an argument over whether there should be a 2.5-import tariff on minivans, or whether there should be a 25-percent tariff on minivans, by calling them trucks. The American exporters, when they export these vehicles, pay tariffs. Indeed that is what happens when they are shipped abroad. When they are imported, they want them called trucks so there will be a higher tariff.

Mr. President, what this amendment would do, if passed—and this is a sense-of-the-Senate, but obviously it is imploring the committees to carry out this policy of having these vehicles labeled trucks—what it will do is to deprive the American consumers of their right to choose. Are U.S. manufacturers endangered now? They have 90 percent of the minivan market. It is a $9 billion market. That is with the present tariff at 2.5 percent. Are they threatened or endangered? No, they are not. What they want to do is keep out all competition. After all, if you have 91 percent of the market, is that not enough? No, no, no, they want 100 percent, by causing a 25-percent tariff being levied on the imports.

Mr. President, what we are trying to do in America is have competition and give the consumer the best possible deal. And the best possible deal is when the consumer can get a vehicle that provides the best in quality, the best in price, and the best in service. And that occurs when we are able to have the imports. And, indeed, the imports already have a 2.5-percent tariff, but that is not enough for Detroit.

So, Mr. President, I hope this amendment is rejected. I hope that we continue to stand for free trade here; that we do not violate GATT; that we have the imports that provide the competition, so that we will have the best for our consumers in price, quality, and service.

Mr. LEVIN. Mr. President, this is a very difficult place to be debating whether or not a particular vehicle should be classified by the Customs Service as a van, or as a truck, or as a car.

I am sure that many of our colleagues are asking themselves how can they determine whether or not these particular vehicles should be classified one way or another way. It sounds like a pretty technical question. What kinds of chassis are they built on? What kinds of engines do they have? What kinds of distributor do they have? What kinds of tires do they have? On and on.

That is why we have a Customs Service. The Customs Service is supposed to make these classifications. They do it in thousands of cases.

This is not an unusually complicated case. This is a typically complicated case as to whether or not a vehicle should be classified one way or another. We appropriate money to a Customs Service to make these classifications. And the Customs Service classified these vehicles as trucks. The Congress did not classify them that way. The Customs Service classified these vehicles as trucks.

And that decision was reversed not by the technicians at the Treasury Department who know something about the Customs Service but by the political people at the Treasury Department that know something about politics.

Let us go back into the history of this classification. The Customs Service made a lengthy investigation as to how to classify these vehicles and in 1989 they ruled that these vehicles should be properly classified as trucks.

There were many reasons for that decision. Part of the reasoning were the policies of various agencies of the U.S. Government, and in order to make those policies consistent, the argument was—and this was part of their reasoning—that the classification should be that these vehicles are trucks. But there was much, much more than that.

In February 1989, there was a memo from a Deputy Commissioner of the Customs Service. He had just completed an inspection of a Japanese MPV plant, a plant that manufactures the vehicles in question, and he wrote that after that inspection of that plant, these vehicles are clearly to be classified by Customs as trucks. Why? He said that the MPV is built in a truck factory, built on a truck chassis, built on a truck assembly line.

That is a Customs Service official eyeballing the facts. When the political people at the Treasury Department reversed this, they were eyeballing the politics. But when the Customs Service people whose job it is to make these classifications eyeballed the facts, they ruled that these vehicles should be classified under our laws as trucks.

And this is what the memo said:

> While it is accurate to say that the vehicle and the pickups are produced in the same factory, it is more precise to say that they are produced on the same assembly lines; line after line included both two-door and four-door vehicles intermingled with pickup trucks. The integration of these vehicles with the pickup truck was virtually complete.

This is the Customs Service memo, that "* * * on the basis of evidence gained from Japan's largest manufacturer of motor vehicles, the accuracy, indeed the perfection, of the Customs Service ruling, is confirmed." Japan itself calls these vehicles trucks, by the way. That same Customs Service memo that I just referred to stated that Japan's own classification documents designate these vehicles as trucks.

Even the Japan Motor Industry Guide published by the Japanese Automotive Manufacturers Association lists these vehicles as trucks.

Mr. President, a Customs Service letter to a Suzuki attorney regarding the classification of the Suzuki vehicle, Samurai, says the following—the advertising literature describes the Samurai as follows, this is now the advertising vehicle of the Samurai and that is the kind of vehicle we are debating here this morning—"Think of it as the handy, small delivery truck, sturdy truck chassis and frame. You call fill the Samurai with friends or load it with cargo. We even have a Samurai in a truck version which has no back seat and over 18 cubic feet of rear cargo space."

Mr. President, not only are these vehicles built as trucks, advertised by the Japanese as trucks, they are treated by our own governmental agencies as trucks for the purposes of complying with United States emissions and fuel economy standards, safety standards, as well as for luxury and gas-guzzler tax purposes.

And that letter from the former Customs Commissioner William von Raab, that letter should haunt every Member of this Chamber. It is not often that you get an appointee of an administration, a political appointee, that is so devastatingly critical of a political decision of that same administration. William von Raab was head of the Customs Service and he called the reversal of the Customs decision "shocking and alarming."

And these are his words—I am quoting von Raab, the Republican appointee, a Reagan appointee, his words criticizing the reversal of the Customs Service determination. Von Raab said this was "a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy."

I am going to repeat those words even though they have been quoted once before by Senator RIEGLE. I want to repeat them. Every American should hear them and I think most would gag on them. The reversal by the Treasury Department of the Customs Service ruling in this case was "a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy."

And he went on: "There was no justification for the extraordinary intervention by Treasury except politics. In fact," he wrote, "what I witnessed was the Treasury officials suspended the Customs' ruling without even understanding the merits of the case and then spent more than a month trying to find some solution that would accommodate foreign political pressures."

These are not the words of Senators from States that have an economic interest in the survival of the American auto industry. These are words of the U.S. Commissioner of Customs, a Reagan appointee, about the decision of the Treasury Department to reverse the Customs Service decision which is the subject of this resolution.

These vehicles are assembled and parts for them are produced in States across the United States. Thousands of employees in State after State, including my own, are involved in the production of these vehicles, and it is shocking to me that a decision of the professionals at the Customs Service would be reversed by the political people at the Treasury Department.

It is one thing when a double standard is applied against us by other countries. It is bad enough when Japan or Canada or Mexico or any other country discriminates against American products while they want to sell all their products here. It is disgraceful enough that we tolerate any country to discriminate against our products without placing reciprocal restrictions on their products—and I do not care if we are talking about Canadian beer or Japanese rice or Mexican automobiles, the point is the same. We have lost millions of jobs to discriminatory trade practices. It is bad enough, it is disgraceful enough that we have tolerated it, but to apply a double standard to ourselves is even more unthinkable.

To think that our Customs Service, the professionals there, would classify a vehicle as a truck and that then the political people in the Treasury Department would reverse it, applying a double standard—because those same vehicles are considered trucks for emissions purposes, for safety purposes, for tax purposes on the gas guzzler tax—to think that we would apply a double standard against ourselves is abhorrent to me.

I hope that we would say that we are going to support the Customs Service. Because in the complexity of this issue, the technicalities of this issue, one thing shines through: The professionals that we put in charge to make thousands of classifications every week made this classification of these vehicles as trucks, and that is what we ought to restore. And it would be restored if this sense-of-the-Senate resolution is adopted and followed by the relevant committees.

Mr. President, I ask unanimous consent that a letter sent by the former Commissioner of Customs to all Members of the House, along with a Customs memorandum on classification of vehicles, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(A letter sent by the former Commissioner of Customs to all members of the House.)

JUNE 22, 1992.

Hon. DAN ROSTENKOWSKI,
*House of Representatives, Washington, DC.*

DEAR MR. ROSTENKOWSKI: It is my understanding that the Committee will soon consider H.R. 4318, a miscellaneous tariff bill that was reported by the Trade Subcommittee in February. At the time of the full Committee mark-up, an amendment will be offered which would reinstate a 1989 Customs Service decision concerning the classification of multipurpose vehicles (MPVs) which was overturned by the Treasury Department. Treasury's reversal of a Customs Service classification ruling, which was reached after a year long examination of the facts, was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. government trade policy. Since I was the U.S. Commissioner of Customs at the time of the original Customs Service ruling and the reversal by Treasury, I wanted to offer you my views on that decision.

On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff hearing HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs would be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.

The January 1989 Customs Service decision was right on the merits, and correct under the law. After the Treasury Department action, the Deputy Commissioner of Customs further substantiated the original Customs decision during an investigation he conducted in Japan. There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached, and make clear that the trade rules of the United States government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

Sincerely,

WILLIAM VON RAAB.

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CUSTOMS SERVICE,
*February 15, 1989.*

To: Deputy Secretary McPherson.
Thru: Assistant Secretary for Enforcement and Operations, Commissioner of Customs.
From: Deputy Commissioner of Customs.
Subject: Classification of Vehicles.

On February 15, 1989, I had the opportunity to visit a Toyota manufacturing plant in Japan. Information obtained in that visit is pertinent to the decision on the classification of vehicles under the Harmonized Tariff System. Based on this visit, the accuracy of Customs classification is confirmed. Customs' classification of each of Toyota's vehicles is exactly the same as Toyota's—absolutely no difference. The factory we visited was manufacturing pickup trucks and Forerunners.

While we were cordially welcomed by Toyota, it was very clear that they did not want us to visit the Forerunner/pickup truck plant. Every effort was made to discourage us. They claimed the assembly line was in disarray, in changeover, not fully operating, in conversion to the 4-door model, etc. The real reason for not wanting us to see became clear soon after arrival; i.e., we saw a totally integrated truck-manufacturing facility, totally segregated from automobile and station wagon manufacture.

While it is accurate to say that Forerunners and pickups are produced in the same factory, it is more precise to say they are produced on the same assembly lines—the 4-door Forerunner included. Line after line included 2-door and 4-door Forerunners intermingled with pickup trucks. The integration of the Forerunner with the pickup truck was virtually complete.

The factory engineer pointed out these differences between the 2 vehicles and the processing: The finish on the Forerunner is superior because it is "designed for the transport of people." The back seat folds flat so it will be "more comfortable for persons to sleep." The rear-wheel suspension is heavier to "carry heavy luggage."

It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line. It is hoped that this argument is not too simple in contrast to the complex and novel argument contrived by foreign manufacturers' representatives based on meeting notes, purposely deceptive information, and their own vivid imaginations. A brief visit provides striking and shocking confirmation of Customs' ruling.

A visit to the Toyota Headquarters was equally enlightening. You asked at our last meeting if we could develop a continuum from vehicles clearly designed "principally for the transport of persons" and those clearly designed for the "transport of cargo." Toyota itself has developed this continuum and classification system, in its internal literature, documentation, and working documents throughout its organization. On a huge 2-story wall, each Toyota vehicle is displayed on 2 large charts. On the left side of Chart 1 is each sedan and station wagon. On the left side of Chart 2 is each minivan, sport utility vehicle, and truck. The classification by Toyota is identical to that of Customs. The attached chart provides some small idea of the wall display. An even more dramatic representation will be delivered to you next week. Time did not permit additional visits. However, on the basis of evidence gained at Japan's largest manufacturer of motor vehicles, the accuracy, indeed perfection, of the Customs' ruling is confirmed.

Mr. Rohde accompanied me on this visit, and will be available to confirm and elaborate on our findings next week. If you are not completely convinced at this point to confirm the Customs' ruling in full, it is respectfully requested that you delay the decision until you have had the opportunity to be briefed by Mr. Rohde in more detail. This visit to Toyota's manufacturing plant was to Baltimore Harbor what lighting is to the lightning bug. In the meantime, I remain your man in Japan.

Mr. GLENN. Mr. President, I am pleased to join my colleague from Michigan in proposing this amendment. A mandatory restoration of the Customs Service classification of MPV's was included in the tax bill passed by Congress earlier this year but vetoed. This sense-of-the-Senate amendment is the very least we can do to move that objective forward.

Fundamentally, the amendment says that the Senate believes that the 1989 Customs Service ruling on the tariff classification of multipurpose vehicles [MPV's] was correct and should be reinstated. After a lengthy investigation, Customs determined that MPV's did not meet the criteria established for passenger cars, "motor cars and other motor vehicles principally designed for the transport of persons."

Customs said "to the extent that a vehicle is equally designed for the transport of goods and of persons, it cannot be classified as one that was principally designed for the transport of persons." It is important to note that the determination is not made on the basis of what the vehicles may be used for but what they are designed for. Hence the MPV's properly belonged to the tariff category which includes light trucks, with which MPV's share many key design features.

In an unprecedented move, the Treasury Department shortly thereafter, overruled the Customs classification decision. Treasury decided that two-door MPV's would be trucks while four-door MPV's would be cars. This unilateral trade concession is costing the U.S. Treasury an estimated $300 million a year. Even more important, in my view, this decision opens the door to increased competition in the U.S. market, the largest MPV market in the world and the only U.S. vehicle segment which is enjoying substantial growth. U.S. companies pioneered the MPV market segment and are working hard to stay competitive.

In a June letter to House Ways and Means Chairman ROSTENKOWSKI, former Commissioner of Customs, William von Raab, stated "the January 1989 Customs Service decision was right on the merits, and correct under the law." I concur—Customs was right, Treasury was wrong, and the Congress should make the matter right again. This administration has given foreign MPV producers an unwarranted break with its classification decision. And then to add insult to injury, the administration determined that although Japanese minivans were being "dumped" in our market, there was no injury to American producers, so nothing would be done about the unfairly priced imports.

In Ohio we have 10 MPV production facilities employing 24,000 to 25,000 Ohioans. I say its time to stand up for American jobs and American workers. A strong showing of support for this amendment is a first step.

Mr. KOHL. Mr. President, today I rise in strong support of the pending amendment. I just wish that, instead of expressing the sense of the Senate it took the final commonsense step of requiring a change in the tariff rates.

The injustice of the current multipurpose vehicle [MPV] tariff classification has been with us since 1989, and the Riegle amendment would be a step to finally resolving the issue.

Trucks that are imported into this country are charged a 25-percent tariff, and cars are charged a 2.5-percent tariff. That simple fact has led to almost 20 years of very creative design on the part of importers of light trucks into this country—design aimed solely at making sure that the trucks imported are classified for tariff purposes as cars.

This has led to some strange importing practices: trucks sent in two pieces so they counted as truck parts and not trucks; plastic seats stuck in the back of Subaru pickups to turn them into passenger cars; and, most recently, the import of MPV's with four doors as opposed to two doors in order to qualify the vehicles as cars.

Now I don't blame our economic competitors from trying to game our tariff system. I don't blame them for trying to get their MPV's into the very lucrative American market at the lowest cost—and that means the lowest tariff—possible. What bothers me is that they are getting help from the U.S. Government. This administration is helping foreign MPV manufacturers pay the lowest possible tariff on their imports.

They are doing that by refusing to clarify that MPV's are trucks for tariff purposes. MPV's are trucks for purposes of EPA emission tests. MPV's are trucks for purposes of National Highway Traffic Safety Administration safety standards. MPV's are trucks for the purposes of Department of Transportation's fuel economy standards. But MPV's are cars for the purposes of taking advantage of a 2.5-percent tariff.

It wasn't always that way. In 1989, after extensive comment period and hearings, the Customs Department determined that MPV's are trucks for tariff purposes. That ruling lasted 9 days before it was overturned by the Treasury Department without hearing or comment period. And to this day, four-door MPV's are cars and two-door MPV's are trucks.

Mr. President, we are in an era of fierce, international economic competition. And most of that competition is focused on who gets to sell to the huge and prosperous U.S. market. In this contest, the United States should have a home court advantage. We are facing down highly motivated and organized countries and coalitions—Japan is the most obvious example, yet we squander our home turf advantage by maintaining a confusing, contradictory, an loophole-filled tariff classification system.

I commend Senator RIEGLE for trying to sort this mess out. His provision makes it clear that a truck is a truck is a truck. If we modified the tariff rate, we would raise $1 billion over the next 5 years—entirely from foreign sources. His provision urged the administration to do now what they should have done back in 1989. I urge my colleagues to support this amendment and then go beyond it by legislating a change in the tariff rate.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, we have heard a lot of quotes. Let me conclude with one from a January 12, 1989, memo from Lee Iaccoca:

> To: All Chrysler-Plymouth dealers, all Dodge dealers, all Jeep-Eagle dealers.
>
> We need your help today!
>
> The Treasury Department is currently reviewing a decision which was made last week by the Customs Service, which classified all import multi-purpose vehicles as trucks, subject to a 25-percent duty.
>
> This means that the Suzuki Samurai, the Mazda MPV, and all other MPV's will be faced with the 25-percent duty, which to you translates to a $2,000 per truck cost penalty to your competitors.

That is what we are faced with.

I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I hope we could have an up-or-down vote on this.

Mr. PACKWOOD. I think I would just as soon move to table.

I move to table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon [Mr. PACKWOOD] to table the amendment offered by the Senator from Michigan [Mr. RIEGLE].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSTON. Mr. President, I have a live pair with the Senator from Pennsylvania [Mr. WOFFORD]. If he were present and voting, he would vote "no." I have voted "aye." Therefore, I withhold my vote.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "nay."

On this vote, the Senator from Louisiana [Mr. JOHNSTON] is paired with the Senator from Pennsylvania [Mr. WOFFORD]. If present and voting, the Senator from Pennsylvania would vote "nay" and the Senator from Louisiana would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 37, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—36

Adams
Bingaman
Bradley
Breaux
Burns
Chafee
Coats
Craig
Dodd
Dole
Domenici
Gorton
Grassley
Hatch
Hatfield
Jeffords
Kassebaum
Kennedy

Kerry
Lautenberg
Lieberman
Lott
Lugar
Mack
Packwood
Pell
Pressler
Robb
Rudman
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—37

Akaka
Baucus
Bentsen
Biden
Bryan
Byrd
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Exon
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kerrey
Kohl
Levin
McConnell
Metzenbaum
Mitchell
Moynihan
Nunn
Pryor
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Johnston, for

NOT VOTING—26

Bond
Boren
Brown
Bumpers
Burdick, Jocelyn
Cochran
Cohen
Cranston
Durenberger
Fowler
Garn
Gore
Gramm
Helms
Kasten
Leahy
McCain
Mikulski
Murkowski
Nickles
Reid
Sanford
Seymour
Wellstone
Wirth
Wofford

So the motion to lay on the table the amendment (No. 3203) was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PACKWOOD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Colorado [Mr. WIRTH], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 37, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—36

Akaka
Baucus
Bentsen
Biden
Bryan
Byrd
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Exon
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kohl
Levin
McConnell
Metzenbaum
Mitchell
Moynihan
Nunn
Pryor
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter

NAYS—37

Adams
Bingaman
Bradley
Breaux
Burns
Chafee
Coats
Cochran
Craig
Dodd
Dole
Domenici
Gorton
Grassley
Hatch
Hatfield
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Lieberman
Lott
Lugar
Mack
Packwood
Pressler
Robb
Rudman
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—27

Bond
Boren
Brown
Bumpers
Burdick, Jocelyn
Cohen
Cranston
Durenberger
Fowler
Garn
Gore
Gramm
Helms
Jeffords
Kasten
Leahy
McCain
Mikulski
Murkowski
Nickles
Pell
Reid
Sanford
Seymour
Wellstone
Wirth
Wofford

So the amendment (No. 3203) was rejected.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

### AMENDMENT NO. 2923

(Purpose: Allowing penalty-free withdrawals during 1992 and 1993 from certain pension plans to purchase new automobiles)

Mr. SPECTER. Mr. President, I call up amendment No. 2923 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 2923.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 885, line 20, insert "OR NEW AUTOMOBILES" after "HOMES".

On page 886, line 5, insert "OR NEW AUTOMBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert:

"(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

Mr. SPECTER. Mr. President, this is an amendment which would add new cars to the provisions to the IRA provisions in the bill relative to penalty-free withdrawals. At the present time the categories of expenditures are homes, tuition, medical expenses and unemployment compensation, and this would add the provision of new cars.

I have conferred with the distinguished chairman of the committee who has stated his agreement.

If I might have the attention of the chairman, Senator BENTSEN, I have stated the amendment, that it would add new cars to the items on IRA's for which expenditures may be made in addition now to homes, tuition, medical expenses and unemployment compensation.

This is being done in collaboration with the chairman, and this is an amendment, the substance of which had been passed by the Senate earlier this year. That was acceptable as far as the chairman was concerned.

Mr. BENTSEN. As the chairman of the committee, I support that amendment, obviously. I ask for any comments on this side of the aisle.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have to say to my colleague from Pennsylvania, I have no trouble with the amendment except I believe it ought to be limited. I will offer a second-degree amendment. I believe it ought to permit IRA money to be used only for the purchase of American made automobiles, and just as soon as I can draft an amendment I will offer that second-degree amendment. I hope it will be acceptable to my colleague from Pennsylvania.

### AMENDMENT NO. 2923, AS MODIFIED

Mr. SPECTER. Mr. President, in light of this Saturday session and the interest in moving the bill forward, I would modify my amendment if we can avoid the second degree amendment and proceed for adoption at this time, to include the qualification of new cars.

I might say to my distinguished colleague from Ohio that I had earlier considered a buy American concept at some length and candidly was concerned that it might cause more problems if it were included.

In light of the addition which the Senator from Ohio offers, and if we do not have a major fight on the other side, I would so modify my amendment.

Mr. METZENBAUM. I believe it would require modification in several points and the Senator from Pennsylvania will make those necessary changes.

Mr. SPECTER. It would and I do.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 885, line 20, insert "OR NEW AMERICAN MADE AUTOMOBILES" after "HOME".

On page 886, line 5, insert "OR NEW AMERICAN MADE AUTOMOBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert:

"(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new American made automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new American made automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new American made automobile," before "or".

Mr. BENTSEN. Do we have any further questions on this side concerning the amendment? If not I am in favor of the amendment, as modified.

Mr. SPECTER. I conferred with the distinguished ranking member, Senator PACKWOOD, who has also stated to me that it is agreeable to the Republican side of the aisle.

The PRESIDING OFFICER. The Chair will advise the Senator from Ohio that before the modification can be promulgated, language would have to be offered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES.

Mr. SPECTER. Mr. President, while that language is being modified, I had considered offering an amendment on a bill relating to minority and women capital formation on legislation which I had introduced on July 1, 1992, Senate bill 2920. I just yesterday received the advice from the Joint Committee on Taxation as to what the cost would be.

I know that that committee has been very heavily burdened. I find that the costs are substantial, so that I cannot proceed to press the amendment today. We do not have the funds for it. I think that it is not practical to pursue it. But I would like to describe it very briefly.

This amendment would provide for targeted tax incentives for equity investments in small minority and women-owned businesses and venture capital funds dedicated to investing in such businesses. Traditionally, minority and women-owned businesses have faced greater barriers than nonminority small business in accessing sources of private capital for startup acquisitions or to finance growth.

This has been confirmed in studies by the Federal Reserve Board, the Office of Technology Assessment, and the U.S. Commission on Minority Business Development.

There is a need, therefore, to facilitate private sector investment in these businesses. In view of the current urban crisis, this need is even more urgent now. Minority and women-owned small business development is critical to urban revitalization and job creation. This amendment would give investors who invest equity directly in small minority- or women-owned business, or in a venture capital fund dedicated to investing in such businesses, first, the option to elect either a tax deduction or tax credit; second, a partial capital gains exclusion; and, third, deferral of the remaining capital gain if it is reinvested in another small minority or women-owned business.

This bill would also impose a holding period and recapture requirements to avoid abuses.

If I might attract the attention of the chairman of the committee again, I had discussed with Senator BENTSEN a willingness of the committee to entertain hearings on this early next year—and I know that there will be hearings; we cannot have a special hearing for this bill—but I just wanted to confirm an arrangement that I had already discussed with the distinguished Senator from Texas that, if we did not cover it in the first hearing, it would be included, if not on the first, in an early hearing in the 103d Congress when other matters are taken up by the committee.

Mr. BENTSEN. I have stated to the distinguished Senator from Pennsylvania that we would include it as a part of the hearings in the early part of the session. I do not want to give him a definite date. I cannot, obviously, at this stage.

Mr. SPECTER. I thank the distinguished chairman. I realize he cannot give a specific date, but I thank him for that commitment to take it up at an early date.

I ask unanimous consent that the text of this amendment be printed in the RECORD at this point.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises)

On page 948, between lines 2 and 3, insert:

**SEC. _____. INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES.**

(a) INVESTMENT INCENTIVES.—

(1) IN GENERAL.—Subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

**"PART VI—INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES**

"Subpart A—Initial investment incentives.

"Subpart B—Capital gain provisions.

"Subpart C—General provisions.

**"Subpart A—Initial Investment Incentives**

"Sec. 1301. Deduction for investment in minority and women venture capital funds.

"Sec. 1302. Deduction for investment in small minority and women's business corporations.

"Sec. 1303. Taxpayer may elect credit in lieu of deduction.

"Sec. 1304. Recapture provisions.

**"SEC. 1301. DEDUCTION FOR INVESTMENT IN MINORITY AND WOMEN VENTURE CAPITAL FUNDS.**

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) qualified minority fund interests, and

"(2) qualified women's fund interests,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) LIMITATIONS.—The amount allowable as a deduction under subsection (a) for any taxable year shall not exceed $300,000 ($150,000 in the case of a separate return by a married individual).

"(c) QUALIFIED MINORITY FUND INTEREST.—For purposes of this part, the term 'qualified minority fund interest' means any stock in a domestic corporation or partnership interest in a domestic partnership if—

"(1) such stock or partnership interest (as the case may be) is issued after the date of the enactment of this part solely in exchange for money,

"(2) such corporation or partnership (as the case may be) was formed exclusively for purposes of—

"(A) acquiring at original issuance equity interests in qualified minority corporations, or

"(B) making loans to such corporations, and

"(3) at least 70 percent of the total bases of its assets is represented by—

"(A) investments referred to in paragraph (2), and

"(B) cash and cash equivalents.

For purposes of paragraph (2), the term 'equity interests' means stock, warrants, and convertible securities.

"(d) QUALIFIED WOMEN'S FUND INTEREST.—For purposes of this part, the term 'qualified women's fund interest' shall be determined under subsection (c) by substituting 'qualified women's corporations' for 'qualified minority corporations' in paragraph (2)(B).

**"SEC. 1302. DEDUCTION FOR INVESTMENT IN SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.**

"(a) General Rule.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) small minority business stock, and

"(2) small women's business corporations,

which are acquired by the taxpayer during the taxable year at its original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) Limitations.—

"(1) Noncorporate taxpayers.—

"(A) In general.—In the case of a taxpayer other than a corporation, the amount allowable as a deduction under subsection (a) for any taxable year shall not exceed the lesser of—

"(i) $50,000 ($25,000 in the case of a separate return by a married individual), or

"(ii) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by the aggregate amount allowable as a deduction under subsection (a) to the taxpayer for prior taxable years.

"(B) Carryover.—If the amount otherwise deductible under subsection (a) exceeds the limitation under subparagraph (A)(i) for any taxable year, the amount of such excess shall be treated as an amount described in subsection (a) which is paid in the following taxable year.

"(C) Special rule.—The amount allowable as a deduction under subparagraph (A) (i) or (ii) with respect to any joint return shall be allocated equally between the spouses in determining the limitation under subparagraph (A)(ii) for any subsequent taxable year.

"(2) Corporate taxpayer.—In the case of a corporation, the amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed $100,000.

"(c) Small Minority Business Stock.—For purposes of this part, the term 'small minority business stock' means any stock in a qualified minority corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small minority business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(d) Small Women's Business Stock.—For purposes of this part, the term 'small women's business stock' means any stock in a qualified women's corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small women's business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(e) Issuer Limitation.—The aggregate amount of stock for which an issuer may make an election under subsection (c)(3) or (d)(3) shall not exceed $5,000,000.

**"SEC. 1303. TAXPAYER MAY ELECT CREDIT IN LIEU OF DEDUCTION.**

"(a) Minority and Women Venture Capital Funds.—

"(1) In general.—A taxpayer may elect, in lieu of the deduction under section 1301, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 15 percent of the sum of the aggregate bases of—

"(A) qualified minority fund interests, and

"(B) qualified women's fund interest,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) Limitations.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), or

"(B) $7,000,000, ($3,500,000 in the case of a separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) Carryover.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(b) Small Minority and Women's Business Corporations.—

"(1) In general.—A taxpayer may elect, in lieu of the deduction under section 1302, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 10 percent of the sum of the aggregate bases of—

"(A) small minority business stock, and

"(B) small women's business corporations,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) Limitations.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $250,000 ($125,000 in the case of a separate return by a married individual), or

"(B) $5,000,000, ($2,500,000 in the case of the separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) Carryover.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(c) Application With Other Provisions.—For purposes of this title, any credit allowed under this section shall be treated in the same manner as a credit allowed under subpart B of part IV of subchapter A.

"(d) Election.—An election under this section for any taxable year shall be made at such time and in such manner as the Secretary may prescribe and shall apply with respect to all acquisitions to which this subpart applies for such taxable year.

**"SEC. 1304. RECAPTURE PROVISIONS.**

"(a) Basis Reduction.—For purposes of this title, the basis of any qualified minority or women's fund interest or small minority or women's business stock shall be reduced by the amount of the deduction allowed under section 1301 or 1302, or the credit allowed under section 1303, with respect to such property. In any case in which the deduction allowable under subsection (a) of section 1301 or 1302 (as the case may be) is limited by reason of subsection (b) of such section, or in any case in which the credit allowable under subsection (a)(1) or (b)(1) of section 1303 is limited by reason of subsection (a)(2) or (b)(2) of section 1303, the deduction or credit shall be allocated proportionately among the qualified minority or women's fund interests or small minority or women's business stock, whichever is applicable, acquired during the taxable year on the basis of their respective bases (as determined before any reduction under this subsection).

"(b) Deduction Recaptured as Ordinary Income.—

"(1) In general.—For purposes of section 1245—

"(A) any property the basis of which is reduced under subsection (a) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such property) shall be treated as section 1245 property, and

"(B) any reduction under subsection (a) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock the basis of which is reduced under subsection (a) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(2) Certain events treated as dispositions.—For purposes of this section, if—

"(A) a deduction was allowable under section 1301, or a credit was allowable under section 1303, with respect to any stock in a corporation or interest in a partnership and such corporation or partnership, as the case may be, ceases to meet the requirements of paragraphs (2) and (3) of section 1301(c), or

"(B) a deduction was allowable under section 1302, or a credit was allowable under section 1303, with respect to any stock in a corporation and such corporation ceases to be a qualified minority corporation or qualified women's corporation, whichever is applicable,

the taxpayer shall be treated as having disposed of such property for an amount equal to its fair market value.

"(c) Interest Charged if Disposition Within 5 Years.—

"(1) In general.—If a taxpayer disposes of any property the basis of which is reduced under subsection (a) before the date 5 years after the date of its acquisition by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(A) on the additional tax which would have been imposed under this chapter for the taxable year in which such property was acquired if such property had not been taken into account under section 1301, 1302, or 1303, whichever is applicable;

"(B) for the period beginning on the due date for the taxable year in which the property was acquired and ending on the due date for the taxable year in which the disposition occurs.

For purposes of the preceding sentence, the term 'due date' means the due date (determined without regard to extensions for filing the return of the tax imposed by this chapter).

"(2) Special rule.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter, for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

**"Subpart B—Capital Gain Provisions**

"Sec. 1311. Exclusion of gain on sale by qualified minority or women's fund.

"Sec. 1312. Deferral of capital gain reinvested in certain property.

**"SEC. 1311. EXCLUSION OF GAIN ON SALE BY QUALIFIED MINORITY OR WOMEN'S FUND.**

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain on the sale or exchange of any property by a qualified minority or women's fund if such property was acquired after the date of the enactment of this part and was held by such fund for at least 5 years.

"(b) QUALIFIED MINORITY FUND.—For purposes of this section, the term 'qualified minority fund' means any domestic corporation or domestic partnership which meets the requirements of paragraphs (2) and (3) of section 1301(c).

"(c) QUALIFIED WOMEN'S FUND.—For purposes of this section, the term 'qualified women's fund' means any domestic corporation or partnership meeting the requirements of paragraphs (2) and (3) of section 1301(c) (as modified by section 1301(d)).

**"SEC. 1312. DEFERRAL OF CAPITAL GAIN REINVESTED IN CERTAIN PROPERTY.**

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of an individual, any qualified reinvested capital gain shall be taken into account for purposes of this title—

"(1) in the 9th taxable year following the taxable year of the sale or exchange, or

"(2) in such earlier taxable year (or years) following the taxable year of the sale or exchange as the taxpayer may provide.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount of the gain to which subsection (a) applies shall not exceed $500,000, reduced by the aggregate amount of gain of the taxpayer to which subsection (a) applied for prior taxable years. This subparagraph shall be applied separately for property described in subsections (c)(2) (A) and (B) and for property described in subsection (c)(2) (C) and (D).

"(B) SPECIAL RULE.—The amount of gain to which subsection (a) applied on a joint return for any taxable year shall be allocated equally between the spouses in determining the limitation under subparagraph (A) for any subsequent taxable year.

"(2) INELIGIBILITY OF CERTAIN TAXPAYERS.—Subsection (a) shall not apply to—

"(A) a married individual (as defined in section 7703) who does not file a joint return for the taxable year, or

"(B) any estate or trust.

"(c) QUALIFIED REINVESTED CAPITAL GAIN.—For purposes of this section—

"(1) QUALIFIED REINVESTED CAPITAL GAIN.—The term 'qualified reinvested capital gain' means the amount of any long-term capital gain (determined without regard to this section) from any sale or exchange after the date of the enactment of this part to which an election under this section applies but only to the extent that the amount of such gain exceeds the excess (if any) of—

"(A) the amount realized on such sale or exchange, over

"(B) the cost of any qualified property which the taxpayer elects to take into account under this paragraph with respect to such sale or exchange.

For purposes of subparagraph (B), the cost of any property shall be reduced by the portion of such cost previously taken into account under this paragraph.

"(2) QUALIFIED PROPERTY.—The term 'qualified property' means—

"(A) any qualified minority fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(B) any small minority business stock acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(C) any qualified women's fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter), and

"(D) any small women's business stock acquired by the taxpayer at its original issuance (directly or through an underwriter).

Such term shall not include any property taken into account by the taxpayer under section 1301, 1302, or 1303.

"(3) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the period beginning on the date of the sale or exchange and ending on the day 1 year after the close of the taxable year in which the sale or exchange occurs.

"(d) TERMINATION OF DEFERRAL IN CERTAIN CASES.—

"(1) CERTAIN DISPOSITIONS, ETC., OF REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the taxpayer disposes of any qualified property before the date 5 years after the date of its purchase—

"(i) any amount treated as a qualified reinvested capital gain by reason of the purchase of such property (to the extent not previously taken into account under subsection (a)) shall be taken into account for the taxable year in which such disposition or cessation occurs, and

"(ii) the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(I) on the additional tax which would have been imposed under this chapter (but for this section) for the taxable year of the sale or exchange, and

"(II) for the period of the deferral under this section.

Any increase in tax under clause (ii) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(B) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of subparagraph (A), rules similar to the rules of section 1304(b)(2) shall apply.

"(2) LAST TAXABLE YEAR.—In the case of the last taxable year of any taxpayer, any qualified reinvestment capital gain (to the extent not previously taken into account under subsection (a)) shall be taken into account for such last taxable year.

"(e) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified property,

"(B) the taxpayer's intention not to purchase qualified property within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

**"Subpart C—General Provisions**

"Sec. 1321. Qualified minority corporation defined.

"Sec. 1322. Qualified women's corporation defined.

"Sec. 1323. Other definitions and special rules.

**"SEC. 1321. QUALIFIED MINORITY CORPORATION DEFINED.**

"For purposes of this part, the term 'qualified minority corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are members of a minority,

"(2) throughout the 5-year period ending on the date as of which the determination is being made (or, if shorter, throughout the period such corporation was in existence), such corporation has been engaged in the active conduct of a trade or business or in startup activities relating to a trade or business, and

"(3) substantially all of the assets of such corporation are used in the active conduct of a trade or business or in startup activities related to a trade or business.

**"SEC. 1322. QUALIFIED WOMEN'S CORPORATION.**

"For purposes of this part, the term 'qualified women's corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are women,

"(2) the management and daily business operations of the corporation are controlled by one or more women, and

"(3) the requirements of paragraphs (2) and (3) of section 1301 are met with respect to the corporation.

**"SEC. 1323. OTHER DEFINITIONS AND SPECIAL RULES.**

"(a) MINORITY INDIVIDUALS.—For purposes of this part, individuals are members of a minority if the participation of such individuals in the free enterprise system is hampered because of social disadvantage within the meaning of section 301(d) of the Small Business Investment Act of 1958.

"(b) CONTROLLED GROUP RULES.—

"(1) IN GENERAL.—All corporations which are members of the same controlled groups shall be treated as 1 corporation for purposes of this part.

"(2) CONTROLLED GROUP.—For purposes of paragraph (1), the term 'controlled group' has the meaning given such term by section 179(d)(7)."

(2) CONFORMING AMENDMENT.—The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following item:

"Part VI. Incentives for investments in disadvantaged and women-owned enterprises."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to interests acquired during the 2-year period beginning on the date of the enactment of this Act.

(b) SMALL BUSINESS CREDIT ENHANCEMENT.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) notwithstanding any other provision of law, the term 'private capital' of a company licensed under section 301(d) means the private, paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporated licensee—

"(A) including—

"(i) any funds invested in the company by a State or local government business development fund or bank or by a public or private pension fund; and

"(ii) commitments from institutional investors that meet the criteria established by the Administration based on such commitments; but

"(B) excluding any funds that are—

"(i) borrowed by the licensee from any source;

"(ii) obtained from the Administration through the sale of preferred securities; or

"(iii) derived directly or indirectly from any Federal source."

AMENDMENT NO. 2923, AS MODIFIED

Mr. SPECTER. Mr. President, I make an inquiry as to whether we have made those few amendments to the wording on new cars in the pending amendment so we might proceed with that amendment.

Mr. METZENBAUM. Are we now back on the amendment?

The PRESIDING OFFICER. The Chair will state that the modification has now been made, and, without objection, the incorporated modifications will be made a part of the original amendment.

The question is on agreeing to the amendment, as modified.

The amendment (No. 2923), as modified, was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I would like to take a moment or two to have printed in the CONGRESSIONAL RECORD a number of documents which will set this forth in some greater detail without taking any extended time for discussion.

Mr. President, I ask unanimous consent that a letter from Interpublic Group of Companies, Inc., to the Secretary of the Treasury, Nicholas Brady, dated December 24, 1991, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
*New York, NY, December 24, 1991.*

Mr. NICHOLAS F. BRADY,
*Secretary of the Treasury, Department of the Treasury, Washington, DC.*

DEAR NICK: I recently reviewed the Specter/Domenici Bill (S. 1984) which has the possibility of stimulating the economy in two key sectors—housing and automobiles—major indicators of economic vitality both with the so-called experts on the economy, but more importantly, with the consumer (not to mention the impact this would have on unemployment).

We amended some of the aspects of the Bill (see attachment) and put it into national consumer research; I found the results more than interesting, and I believe you and the White House should review the data and the approach as a possible major element in a package of measures for stimulating an economic recovery.

With due respect, I point out that the consumer confidence level, which is a major problem and has been so for many months, was not addressed. The past is the past but if scenarios had been worked out in advance (what if the economy did not respond, etc.), the Administration might be in a better position to be on the attack with Congress. Of course, the media has not helped the situation at all. If you consider that the 1981–82 recession which had almost 10% unemployment and interest rates in the high teens (but a solid banking system and reasonable ability to lend), versus what we have today where the primary problems of the lending institutions require not only larger downpayments but a stronger consumer creditworthiness as well, we can understand one of the major problems we face.

Because I share this concern and was intrigued by the Specter/Domenici approach, my company commissioned a study through a leading research company to estimate the number of American families who would make use of their IRA and 401K savings for housing and automobiles on a one-time basis, and to estimate the amount of money these families would invest above the levels they would spend without the use of these funds. Please note that the proposals provides that the IRA and 401K monies used would be tax free for five years, whereupon the consumer could put this money back into those retirement funds on a tax free basis (see attachment). Therefore, the program would be revenue neutral.

We have amended the Specter/Domenici Bill as follows:

A. We limited the use of IRA and 401K funds to housing and autos. These industries are the key industries for economic resurgence, and new vigor here would have a huge effect on the overall economy.

B. We suggested that autos purchased have at least 75% of content made in the USA. I recognize the GATT issue, but I believe our trading partners could be persuaded that a non-deficit 6 month domestic program that lifts the U.S. economy would be to their own benefit over time as well. Additionally, this provision certainly would shake up the Japanese which the President politically must consider.

The research, a national probability sample of 1,000 households, was conducted in the middle of December, and is representative of U.S.A. demographics by age, sex, religion and race. Let me summarize the findings on this basis:

1. This proposed use of IRA and 401K funds would increase intentions to buy or improve a home or to buy a car from 26 to 44 million families—a gain of 18 million families.

2. One in three (33.5%) American families claim they would use some of their IRA and/or 401K funds to buy a new home, improve their home or buy a car under this proposal. Of these, over 10,300,000 families say they are "very" likely to take positive action.

3. Another 20,700,000 households say they are "somewhat" likely to act per this proposal.

4. Of these 31,000,000 households, fully 65% say they would use the maximum $10,000. Another 18% report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26,000,000 American families to spend more than $5,000 on housing and autos, with another 5,000,000 families spending less than $5,000.

5. If they do as they say, these 31 million families would theoretically transfer over $224 billion dollars from existing IRA and 401K funds to the housing and auto industries. According to the BEA, American families spent $647 billion in these two sectors in 1990—not including maintenance and operations. At a very minimum, the proposed action would produce impactful double-digit gains in both industries.

6. Over half (55%) of the 31 million families who say they would make use of IRA and/or 401K funds for housing and autos, report they do not intend to invest at this time in new or improve housing or buy a new car without this proposal. In other words, the Specter/Domenici proposal motivates many more people to act now. Using just this 55% figure, the impact would be over $120 billion in incremental spending coming into these two industries at this critical time.

I am very enthused about these findings. Although the sample size is not large, the responses are statistically reliable within 3%. Even if one applies a conservative adjustment to these stated consumer actions, the numbers are still very impressive.

I have heard a lot of qualitative research recently which suggests the President should adopt a more pro-American business stance. While we are all believers in free trade, there is a deep seated popular concern that the Japanese are receiving special treatment with respect to their markets versus ours. This viewpoint is being strengthened by the current U.S. auto industry problems and the attendant negative publicity. I believe this proposal is an appropriate response.

I do hope this study might be of help to you and the President. We would be happy to have our research analyst come to Washington to go over the detailed results with your staff or whomever you wish.

On a related note, a lot of us believe that a cut in the capital gains tax rate would be revenue positive and is the right thing to do. However, I believe the average American family is much more concerned with holding onto or getting jobs, and unless this tax change can be explained simply and succinctly and backed up with facts on how it creates jobs, we really should let it pass. Our indications are that this will be a detriment with the average person in getting a tax stimulus approved.

In my view, the direction proposed in the Specter/Domenici Bill is exactly right for this time and these conditions.

I hope you and your family have a very happy holiday, and I look forward to seeing you soon in the New Year.

Sincerely,

PHIL.

### ATTACHMENT

### AMENDED STATEMENT OF SENATOR SPECTER'S PROPOSAL AS USED IN RESEARCH

As you may know, recently the US economy has been stagnant. A proposal is before the US Senate to help get things moving again. It is intended to provide the economy with needed stimulation from consumers such as yourself. This Senate proposal would allow consumers to withdraw up to $10,000 from their own individual IRA or 401K accounts penalty free and without consequences.

The funds may be used within 6 months either for purchase of a home, for improvements to a home or for purchase of an automobile having at least 75% of its content made in the USA.

If consumers choose to eliminate the tax consequence, they only need to return the withdrawal to their IRA or 401K account within the next 5 tax years.

If consumers choose not to return the funds withdrawn, they can still reduce the tax consequences by paying tax on only 1/5 of the amount in each of the next 5 years.

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### SUPPORT AN AMENDED SENATE BILL S-1984

#### AMERICANS USING AMERICAN MONEY TO INVEST IN THEMSELVES AND THE NATION

How Congress can help Detroit sell a million more new cars, help American builders sell 500,000 more new homes, and American tradesmen improve millions of old homes in the next 6 months.

Without costing the taxpayers a penny.

It's remarkable. It's immediate. And it's a conservative estimate based on an independent market research response to a more effective and more powerful approach to the Specter/Domenici Bill S.-1984.

Americans, when recently asked if they could use up to $10,000 of their money currently locked into IRA's and 401K's without penalty to purchase a new home, improve their current home, or buy an automobile or truck that is American-made, overwhelmingly answered "yes."

Indeed, 38% more people than are currently in the auto market said this would turn them from being bystanders into buyers. That's 4.8 million more people spending 65 billion new dollars. Out of a projected total of over $200 billion in purchasing power that this bill could unleash.

Additionally, they understood the only time qualification was that they do this in the next 6 months, and return the money to their accounts within 5 years to reinstate tax-free benefits without a taxable event taking place.

There are no adverse trade implications on the buying or improving of homes. And to those who question the trade implications on automobiles, the answer is that this is short term and should be seen in tandem with negotiating a voluntary Japanese auto import trade policy based on the Japanese-European quota model.

Mr. SPECTER. I further ask unanimous consent that a letter from the Interpublic Group of Companies to me, dated April 3, 1992, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

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THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
*New York, NY, April 3, 1992.*

Hon. ARLEN SPECTER,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR MR. SPECTER: In December 1991, we commissioned a consumer survey—a national probability sample of 1000 adults—to learn how Americans would respond to the Specter/Domenici proposal S-1984. We described the proposal to these people, in consumer language. We told them the Senate proposal would permit them to withdraw up to $10,000 from their IRA's or 401K's without penalty if they used the monies to either buy a new car, make a home improvement or buy a new home within the next six months.

The results were very encouraging. Fully one out of every three households in the country said they'd like to take advantage of this Senate proposal . . . 31 million households said they would act on this proposal . . . if it were passed.

Ninety days later, we conducted a second round of research. This time we beefed up the questionnaire to make sure those Americans who said they would act on this Senate proposal were, in fact, qualified to act on the proposal.

The results of the second round of research are even more encouraging. Among the 26 million families that qualify . . . those who say they have an IRA, a 401K, or a Keogh plan and a household income of no more than $100K (75K for single heads) . . . fully *40%*, that is 10.5 million families, say they will take advantage of the Senate proposal to buy a new car, van or truck, make a home improvement or buy a new home.

We also asked *everybody* we interviewed, regardless of whether they qualify or don't qualify, whether they thought this proposal would be good for the economy.

69% of all American families think the Senate proposal will have a positive impact on our economy. That is, 65,000,000 families favor seeing this proposal passed. Even more impressive is the fact that 74% of America's middle-class families (HH income from $25K to $50K) believe the Senate proposal will stimulate our economy.

Both rounds of research say that Americans . . . those qualified and those who *wish* they were, are very much in favor of seeing this Senate proposal passed. Not once but twice they told us they would use their own funds to get our economy moving.

The proposal is powerful. It stimulates people to spend money; their own money. It motivates people to take action and buy a new home, make a home improvement or buy a new car. The research shows there are 10,500,000 qualified families who would withdraw money from their IRA's, their 401K, or their Keogh plan to make these investments.

Nearly 50% of these qualified families, (5,000,000) were motivated to invest in these properties *solely* by the Senate proposal. That is, 5 million families did not intend to buy a new car, a new home or do any home improvements before this Senate proposal made it possible for them to consider taking these actions within the next six months.

These 5 million families say they will withdraw $32 billion dollars to invest: 2.1 million families investing $14 billion for new cars; 1.2 million families investing $10 billion for new homes and 1.6 million families investing $8 billion in home improvements.

But that's not all. The $24 billion for new homes and new cars is "seed money". It needs to be multiplied by the money they would take from their savings or borrow from banks to complete their purchases. (We're making the conservative assumption that the money they withdraw to spend on home improvement is their *total* investment.)

The average cost of a "new" home last year was $95,000. The money they would "borrow" from their plans (on average $7,900) needs to be multiplied by about 11X to equal the balance of the down payment (assuming 20%) and mortgage requirements to complete the purchase cost of a new home. That alone is an additional $106 billion dollars that would flow from lending institutions to support these intentions.

The average cost of a new car, van or truck last year was $13,500. In the survey new car buyers "borrowed" $6,450 (on average) from their plans. The additional funds from savings or a bank loan needed to complete the purchase is $7,050. The multiplier is 1.1X. Therefore, the "seed money" this Senate proposal would put into the economy generates an additional $15 billion dollars in economic activity.

Bottom line is that the Senate proposal would free up $32 billion from retirement plan savings to help get our economy moving. When multipliers are included the money Americans would use to complete their purchases results in a total of $153 billion . . . home purchase $116 billion; new car purchase $29 billion; home improvement $8 billion dollars that would move into our economy.

And 75% of these qualified Americans say they will return the money they borrow from their plans within the time frame required to avoid paying any penalties or additional taxes.

As I indicated, the findings were encouraging when we initially surveyed the issue in December 1991.

Findings in the March 1992 survey make it very conclusive. This is a plan which Americans believe in. A plan from which they and our nation's economy will benefit. Clearly this proposal has a powerful triggering effect. It comes at a time when the effect of lowered interest rates is being blunted by the more restrictive consumer lending policies of our financial institutions. This proposal allows responsible access to funds. These will go to responsible investment. Economic activity will be triggered, jobs ensured and created. It provides a stimulus we need right now.

I urge you to make this opportunity available to our citizens. There is no doubt of their response and there can be little doubt concerning its positive and immediate economic impact.

With regards,

PHILIP H. GEIER, Jr.,
*Chairman and CEO.*

NOTE.—This letter is being sent to each member of the House Ways and Means Committee and the Senate Finance Committee and to Senators Domenici and Specter. A copy of this letter is being sent to The White House.

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Mr. SPECTER. I further ask unanimous consent that a report to me from Chairman Greenspan be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM,
Date: February 12, 1992.
Subject: Analysis of Senator Specter's Proposal Regarding Penalty-Free Withdrawals from Retirement Accounts.

This memorandum analyzes Senator Specter's proposal regarding penalty-free withdrawals from retirement accounts, focusing especially on the issue of how great an impact the action would have on household spending. Section I describes in greater detail the provisions of the proposal; Section II discusses some analytical considerations bearing on the spending issue; Section III presents some relevant estimates derived from the national Survey of Consumer Finance; Section IV offers some conjectures on the likely spending effects.

### I. THE PROPOSAL

The proposed legislation would allow certain taxpayers to make penalty-free withdrawals from retirement-type accounts, provided the withdrawals are applied toward one or more qualified purchases. Specifically:

—The proposal would allow withdrawals from IRA's, Keoghs, and 401(k)'s.

—Eligibility would be restricted to those earning less than $100,000 (if married and filing jointly), $50,000 (if married and filing separately), or $75,000 (all others).

—According to the legislation in its current form, qualified expenditures would include the purchase or improvement of real property, and the purchase of durable goods. In his floor speech and in other communications, Senator Specter has also mentioned medical expenses and college tuition.

—Each taxpayer would be allowed to withdraw no more than $10,000.

—Withdrawals would have to be made on or before December 31, 1992; associated expenditures would have to be made either (a) within six months of the withdrawal, or (b) by the time the taxpayer files his/her return for the relevant tax year (in most cases, no later than April 15, 1993). The more restrictive of (a) or (b) would be the binding rule.

—Regular tax liability on the withdrawn funds would still be owed; however, the liability could be spread over a period of four years following the withdrawal.

—In his floor speech and written communications, Senator Specter also mentions the possibility of allowing those who take advantage of his proposal to replenish the funds in their IRA or 401(k) over the five years following the withdrawal. The existing legislation does not contain this provision.

### II. ANALYTICAL CONSIDERATIONS

Several analytical points are worth making about the likely impact of the proposal on household spending:

—It is useful to think of qualifying households as falling in one of three categories: not liquidity-constrained, extremely liquidity-constrained, and somewhat liquidity-constrained.

—Households that are not liquidity-constrained will probably not be interested in tapping their retirement savings, because doing so would remove those savings from their current tax-sheltered status.

Households that are *extremely* pressed for the funds will be tapping their funds in any event, and would choose to pay the 10 percent penalty in the absence of Senator Specter's proposal. The *extra* spending generated by the Senator's proposal via these households would be only $1,000—smaller by an order of magnitude than the overall amount of $10,000.

Therefore, the proposal likely would have its greatest impact on the spending of the intermediate group: those households that are somewhat liquidity-constrained, but not too much so. These households will be induced to make a withdrawal that they otherwise would not have made.

About two-thirds of 401(k)s have borrowing provisions. Therefore, owners of these accounts have access to the wealth they hold in 401(k)s even in the absence of Senator Specter's proposal. Evidence suggests that many households take advantage of these loan provisions. For example, one recent survey found that 9 percent of account-holders initiated a new loan during 1990, while 21 percent had a loan outstanding at the end of 1990.[1] Roughly 90 percent of such plans allow general-purpose loans (and therefore cover a wider range of expenditures than would Senator Specter's plan).

The tax amortization feature probably will make relatively little difference to the proposal's influence on spending: Standard theories of consumer behavior predict that taxpayers who know that a liability is outstanding will be inclined to set aside most, if not all, of the tax liability upon receipt of the withdrawal. This prediction is supported by available evidence concerning the relationship between ordinary income tax refunds and consumer spending.[2, 3]

### III. EMPIRICAL EVIDENCE

The following estimates from the 1989 Survey of Consumer Finance shed further light on the likely impact of the proposal on household spending:

According to the SCF, qualified accounts (including IRAs, 401(k)s, Keoghs, thrift, and savings plans) amounted to $1.239 trillion in 1989.[4]

Of this amount, $893 billion was held by families headed by someone aged less than 59 years old. Older people already can withdraw funds from retirement accounts without penalty.

Next, $736 billion was held by families meeting both the income constraints specified under the Specter proposal and the above-mentioned age cutoff.

Ownership of that $736 billion was highly concentrated, however. If we count only the first $10,000 in retirement funds per family, then the qualified pool of funds shrinks to only $136 billion.

Median liquid assets held by all families meeting the proposed age and income criteria were $1,950.[5] Among families reporting ownership of some retirement funds, median liquid asset holdings were $6,180. Among families holding at least $5,000 in retirement funds, median liquid asset holdings were $9,800. This result conforms with the common finding that those who save via IRAs and Keoghs also tend to save by other means. Families that are holding substantial amounts outside their retirement accounts will be less interested in tapping their retirement funds if given the opportunity to do so penalty-free.

Transaction costs could be sufficiently great to persuade some families who otherwise would take advantage of Senator Specter's proposal not to liquidate their IRAs or 401(k)s. These costs would include, for example, early withdrawal penalties on time deposits and broker commissions.

### IV. SPENDING EFFECTS

A fundamental fact should be kept in mind while assessing the likely influence of the proposed program on household spending: The proposal would do nothing to raise the wealth of households, other than of those who anticipated incurring a withdrawal penalty. Therefore, the proposal would influence household spending mainly by relaxing liquidity constraints currently binding on some households. The above data from the SCF suggest that this impact probably would not be very great, given that a considerable portion of the available retirement-related wealth is owned by families holding substantial amounts of other liquid assets.

Some withdrawals undoubtedly would occur if the proposal were to be adopted, but the incremental effect of the proposal on expenditure will be less than the total amount withdrawn for two reasons: First, some withdrawals would have been taken, even in the absence of the program, by families extremely pressed for liquidity. Second, some withdrawals from 401(k)s will represent, in effect, a substitution of outright withdrawal for borrowing that would have taken place in the absence of the program.

There is no way of predicting with any confidence the amount of additional expenditure that would be forthcoming in response to implementation of the proposal. It seems reasonable to guess, on the basis of the evidence presented here, that the increment to spending would amount to less than one percent of personal consumption expenditure (or $40 billion)—and it quite possibly would be substantially less. If the permissible penalty-free withdrawal were to be raised to $20,000, it would raise the amount released on the estimates above from $136 billion to $206 billion. However, while the spending effect probably would be greater, it would likely be only modestly so, because the additional balances affected would, on average, be held by individuals who are less liquidity-constrained.

### FOOTNOTES

[1] Hewitt Associates, Lincolnshire, IL. News and Information Release, January 23, 1992.

[2] See "Income Tax Refunds and the Timing of Consumer Expenditure." David W. Wilcox, mimeo, Federal Reserve Board.

[3] Low-income taxpayers will experience some benefit from being allowed to smooth some of the liability into lower tax brackets. However, evidence from the Survey of Consumer Finance suggests that eligible families would have higher-than-normal incomes, and so would not benefit from this aspect of the proposal to any great degree.

[4] Respondents to the 1989 SCF reported total holdings in IRAs and Keoghs of $598 billion. For comparison, the Employee Benefit Research Institute puts the total for IRAs and Keoghs in 1989 at $494 billion. SCF respondents reported an additional $295 billion in 401(k)s, quite close to the estimate for 1988 of $277 billion based on data from the Department of Labor's Form 5500. Finally, SCF respondents reported $346 billion in thrift or saving plans, or other defined-contribution plans with borrowing provisions.

[5] Liquid assets were defined as the sum of checking accounts, money market accounts, CDs, other bank accounts, mutual fund holdings, saving bonds, other government and private bonds, direct stock holdings, and accounts held at brokers.

Mr. SPECTER. I would like to take just a moment, Mr. President, to comment about the amendment.

I first ask unanimous consent that Senator DOMENICI be added as an original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the origin of this amendment occurred about a year ago when it was obvious that the United States was moving toward a significant recession and Senator DOMENICI and I took a look at possible ways to inject capital into the economy, extending consumer purchasing power.

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[1] Footnotes at end of the report.

Because of the budget arrangement, it was not possible for the Government to prime the pump, and we noted that there were other funds, principally the IRA accounts and related accounts, which had some $800 billion. We noted at that time that the so-called Bentsen-Roth Super IRA bill had more than 70 cosponsors, of which I was one, and I believe Senator DOMENICI—he nods in the affirmative—was another.

We noted that there was a great deal of sentiment that in the new Super IRA, the funds should be used for three items: homes, tuition and medical expenses. To that, we added cars and had a provision that existing IRA's and related funds up to $800 billion could be used in 1992 without any penalty and without any tax up to $10,000 for middle-income Americans.

We secured at that time estimates on a survey conducted by the Interpublic Group, which cost approximately $30,000. They then published a full-page add in USA Today referring to the Specter-Domenici bill, S. 1984, where they had estimates that there would be up to $120 billion injected into the economy. That amendment was passed earlier by the Senate, but it did not survive conference and the bill finally was not enacted in any event.

Now we have come back to this legislation and there has been a modification. The original Bentsen-Roth amendment did not provide for rollovers of the preexisting IRA's prior to 1986, and then the later legislation which is on the floor today does provide for those rollovers.

So while we do not have the precise line of what Senator DOMENICI and I had advocated with respect to the limitation, we do have, with enactment, the availability of this fund of some $800 billion in IRA's and related accounts which will be available to stimulate consumer purchasing power.

I regret, Mr. President, that we were not able to enact this legislation last year. When I made a speech on the Senate floor last November 19, almost a year ago, urging the adoption of this provision, I asked that the Senate stay in session December and January and move to try to stimulate an economic recovery. And, without dwelling on that unduly, it was not done. Had we enacted this legislation in mid-1992, we might well be out of the recession.

But at least today we are moving forward with the essence of what Senator DOMENICI and I had proposed, considering the rollover amendment in the Bentsen-Roth Super IRA.

So I am pleased that we have had the addition of the cars, and I have accepted the amendment on the new cars. It is my hope that this will be enacted, and then we will have this $800 billion, which is in addition to the approximately $3 trillion in other investment accounts.

I have recited this somewhat hurriedly, Mr. President, because there are other matters to be considered.

I thank my colleague from Texas and the distinguished Republican leader, and I yield the floor.

Mr. DOLE. Mr. President, I want to report to the chairman of the committee and Senator PACKWOOD that I think on our side now, unless somebody objects, there are no amendments on this side that would require rollcall votes. There might be voice votes on some.

I again urge my colleagues that your amendment is going to have more merit if you do not talk so long. We have about 74 Members left, and I think there are a number of others who will be leaving, so if we intend to finish the bill today, I urge my colleagues—and I can only speak to my colleagues on this side of the aisle—if you have amendments, let us offer them as quickly as you can.

Hopefully, on the one amendment that may still require a rollcall, if the Senator from Ohio would offer his amendment, that would certainly be appreciated by a number of our colleagues on either side of the aisle.

Mr. BENTSEN. Mr. President, I say in response, first, I am most appreciative of that, but I want it understood the managers of the bill do not support that particular amendment.

AMENDMENT NO. 3204

(Purpose: Technical amendments)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It makes certain technical changes in the bill, correcting drafting errors and the like. And this amendment has been cleared by the managers from both sides. I particularly would like to thank Senator PACKWOOD for his assistance in that regard.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3204.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 885, after line 16, insert:

(f) OTHER AMENDMENTS.—

(1) Section 408A(d)(2)(B)(iv), as added by subsection (a), is amended by striking "Under" and inserting "Except as provided in".

(2) Section 408A(e)(2), as added by subsection (a), is amended by adding at the end the following new sentence: "This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account."

On page 894, line 11, insert ", 403(a)(4), or 403(b)(8)" after "402(c)".

On page 1028, line 16, strike "and".

On page 1028, line 20, insert ", and" after the quotation marks.

On page 1028, between lines 20 and 21, insert:

(C) by striking the heading and inserting: "(4) SPECIAL ONE-TIME ELECTION.—".

On page 1065, between lines 1 and 2, insert: (14) Section 401(k)(2)(B)(i)(III).

On page 1096, line 7, insert **"AND RETIREMENT INCOME POLICY"** after **"PLANS"**.

On page 1096, line 10, insert "and Retirement Income Policy" after "Plans".

On page 1096, line 25, strike "Federal" and insert "private".

On page 1097, strike lines 4 though 6, and insert:

"(1)(A) It shall be the duty and function of the Commission to conduct a full and complete review and study of—

"(i) trends in retirement savings in the United States;

"(ii) existing Federal incentives and programs that are established to encourage and protect such savings; and

"(iii) new Federal incentives and programs that are needed to encourage and protect such savings.

"(B) In fulfilling its duties under paragraph (1), the Commission shall address—

"(i) the amount and sources of Federal and private funds, including tax expenditures (as defined in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622)), needed to finance the incentives and programs referred to in subparagraph (A)(ii) and any new Federal incentive or program that the Commission recommends be established;

"(ii) the most efficient and effective manner, considering the needs of retirement plan sponsors for simplicity, reasonable cost, and appropriate incentives, of ensuring that individuals in the United States will have adequate retirement savings;

"(iii) the workforce and demographic trends that affect the pensions of future retirees;

"(iv) the role of retirement savings in the economy of the United States;

"(v) sources of retirement income other than private pensions that are available to individuals in the United States; and

"(vi) the shift away from insured and qualified pension benefits in the United States.

On page 1097, lines 17 through 19, strike "reviewing existing Federal incentives and programs that encourage and protect private retirement savings" and insert "setting forth the results of the study under subsection (d)(1)".

On page 1097, line 21, after the period insert "The recommendations shall include measures that address the needs of future retirees for—

"(1) appropriate pension plan coverage and other mechanisms for saving for retirement;

"(2) an adequate retirement income;

"(3) preservation of benefits they accumulate by participating in pension plans;

"(4) information concerning pension plan benefits; and

"(5) procedures to resolve disputes involving such benefits.

A recommendation of the Commission for a new Federal incentive or program that would result in an increase in the Federal budget deficit shall not appear in the report unless it is accompanied by a recommendation for offsetting the increase.

On page 1101, in the matter between lines 18 and 19, insert "and Retirement Income Policy" after "Plans".

On page 1531, strike lines 5 through 8 and insert the following:

(D) Section 401(a)(31)(D) is amended—

(i) by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust", and

(ii) by adding at the end the following new sentence: "In the case of an annuity contract under section 403(b), the term 'eligible retirement plan' shall include only an individual retirement plan and an annuity contract described in section 403(b)(1)."

On page 1531, lines 13 through 15, strike "(or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies)".

On page 1531, line 18, after "applies" insert "(or in the case of an annuity contract under section 403 (a) or (b), in a rollover to which section 403 (a)(4) or (b)(8) applies)".

On page 1532, between lines 2 and 3, insert:

(J) Section 402(f)(2)(B) is amended—

(i) by striking "or" and inserting a comma, and

(ii) by inserting ", or paragraph (8) of section 403(b)" after "section 403(a)".

On page 1532, strike lines 9 through 11, and insert:

(C) Section 3405(c)(3) is amended by striking "(or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))".

On page 1533, line 9, strike "(8)" and insert "(9)".

On page 1533, between lines 9 and 10, insert:

(C) Section 403(b)(8)(B) is amended by striking "(7)" and inserting "(9)".

On page 1533, line 10, strike "(C)" and insert "(D)".

On page 1533, line 12, strike "(D) Section 522(d)" and insert "(E) Section 522(d)(2)".

On page 1533, line 20, strike "and".

On page 1533, line 23, strike the period and insert "and".

On page 1533, between lines 23 and 24, insert:

(iii) by inserting "(and section 402(f) of such Code, as amended by section 521)" after "section".

(F) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PAYMENTS.—The amendments made by this section (and section 402(f) of such Code, as amended by section 521) shall not apply to any distribution—

"(A) which is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before January 1, 1993, or

"(B) which is made—

"(i) before July 1, 1993, or

"(ii) on or after July 1, 1993, but only if such distribution is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before July 1, 1993, by reason of a death, disability, or separation from service occurring before January 1, 1993.", and

(ii) by inserting "or (3)" after "(2)" in paragraph (1).

On page 1533, line 24, strike "(E)" and insert "(G)".

page 1534, between lines 4 and 5, insert:

(H) Section 402(c)(9) is amended by striking "; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution".

On page 1800, line 9, insert "or indirectly" after "directly".

On page 1800, line 12, strike "an" and insert "a direct or indirect".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3204) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand my friend from Rhode Island would like 30 seconds. I yield 30 seconds without losing my right to the floor.

Mr. CHAFEE. Mr. President, as I understand it, the Specter amendment, which was permitting withdrawals from the IRA's for the purchase of new cars, was amended by the Senator from Ohio so they would have to be new American cars. I would like to ask the Senator from Ohio, am I correct? That Specter amendment from the IRA withdrawals without penalties for the purchase of new cars, he amended it to say new American cars?

Mr. METZENBAUM. That is correct.

Mr. CHAFEE. That is agreed to; it is over with. I want to say I am opposed to that. I think just limiting it to new American cars is a mistake. I presume it is against GATT and also, who knows what an American car is, what is the definition of an American car?

I just wanted to go on record I am opposed to that. I am for the Specter amendment as originally presented but not as amended by the Senator from Ohio.

### AMENDMENT NO. 3205

(Purpose: To amend the Internal Revenue Code of 1986 to provide for infrastructure facilities bonds, and for other purposes)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], proposes an amendment numbered 3205.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 971, line 17, strike "10-taxable year" and insert "7-taxable year".

On page 972, line 2, strike "10-taxable year" and insert "7-taxable year".

On page 1811, after line 9, insert the following new section:

**SEC. . INFRASTRUCTURE FACILITIES BONDS.**

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by repealing paragraphs (4), (5), and (6), and

(2) by striking paragraph (10) and inserting the following new paragraph:

"(10) infrastructure facilities,".

(b) INFRASTRUCTURE FACILITIES.—

(1) IN GENERAL.—Section 142, as amended by section 1103(b), is amended—

(A) by redesignating subsection (e) as subsection (k), and

(B) by inserting after subsection (d) the following new subsection:

"(e) INFRASTRUCTURE FACILITIES.—For purposes of subsection (a)(10), the term 'infrastructure facilities' means—

"(1) sewage facilities,

"(2) solid waste disposal facilities,

"(3) qualified hazardous waste facilities, and

"(4) facilities for the furnishing of water."

(2) CONFORMING AMENDMENTS.—

(A) Section 142(h) is amended by striking "subsection (a)(10)" and inserting "subsection (e)(3)".

(B) Section 142(k), as redesignated by paragraph (1)(A), is amended, by striking "subsection (a)(4)" and inserting "subsection (e)(4)".

(c) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM VOLUME CAP.—

(1) IN GENERAL.—Section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in section 142(a)(10) (relating to infrastructure facilities)."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (h) of section 146 (relating to exception for government-owned solid waste disposal facilities) is hereby repealed.

(B) Section 146(k) (relating to facility must be located within State) is amended—

(i) by striking "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraph (2)",

(ii) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5) for an output facility, if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(d) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM DETERMINATION OF AMT.—Subparagraph (C) of section 57(a)(5) (relating to tax-exempt interest) is amended by adding at the end the following new clause:

"(v) EXCEPTION FOR INFRASTRUCTURE FACILITIES BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued as part of an issue described in section 142(a)(10)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

Mr. DOMENICI. Mr. President, this was on the list that was agreed to by unanimous consent. It is the Domenici environmental infrastructure bonds amendment.

I am going to try to be brief because I understand where we are, in terms of all the other Senators and their time. But I want to try to make a point and hopefully the managers might agree to accept this amendment.

Let me suggest, if you go out into the hinterland and talk to the people who run our cities, be they large cities or small cities, or even poor little towns and poor counties, the one thing you hear almost constantly is, "Why do you continue to give us so many mandates and then you do not help us pay for them?"

Now it is even becoming more specific because they are saying," "Why are you giving us so many environmental mandates and not helping us pay for them?"

This amendment has been in the mill for about 5 years. Two different groups have studied the physical infrastructure needs of our country and this amendment now is supported by the National League of Cities, Government Finance Officers Association, and the Council of Infrastructure Financing Authorities.

I send a copy of the letter that the Council of Infrastructure Financing Authorities sent to the chairman and ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 5, 1992.

Hon. LLOYD BENTSEN,
*Chairman, Senate Finance Committee, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: During consideration of H.R. 11, Senator Pete Domenici plans to offer an amendment related to tax-exempt financing of environmental infrastructure facilities. The amendment is similar to the S. 90, introduced by Senators Domenici and Boren, which the Finance Committee considered at a hearing last year. We are writing on behalf of the following organizations to urge that you support this amendment when it reaches the Senate floor: Council of Infrastructure Financing Authorities, Government Finance Officers Association, and National League of Cities.

Under the proposed amendment, state and local bonds to finance sewage, solid waste, hazardous waste, and water facilities (as currently defined in the tax code) for the general public would fall into a new category of "infrastructure bonds." These bonds would automatically be categorized as governmental rather than private activity bonds. Thus, local governments could choose to have private involvement in the financing, ownership, or operation of public environmental facilities without being subjected to the private activity bond restrictions. In addition, governments would be freed from their current concern that even a publicly owned and operated facility might be classified as "private" due to large numbers of commercial or industrial users to who contract with the facility on a different basis than the general public.

This legislation would help address a major issue between the federal government and state and local governments: the imposition of federal mandates without the provision of funding needed to comply. In few areas has this problem been as serious as in the area of environmental law. Thousands of local governments are faced with enormous costs for upgrading their water and waste facilities to meet federal standards.

While the Domenici amendment would not solve this problem entirely, it would at least remove some of the obstacles that the tax code has placed in the way of financing these facilities through traditional debt and through more innovative public-private partnerships. It would provide long overdue recognition that an environmental facility that serves the general public and is mandated for public health and safety should not be considered a "private activity."

Some of the provisions of S. 90 have been deleted from this amendment in order to minimize the revenue costs. The amendment does not have S. 90's miscellaneous category which allowed infrastructure bonds to be used for any federally mandated environmental facility. Nor does it contain the accelerated depreciation provisions of S. 90.

The Domenici amendment would take a modest, but very important step towards addressing a serious national problem. It would do so at a negligible revenue cost. We hope that we can count on your support for this legislation.

Sincerely,

JAMES N. SMITH,
*Executive Director, Council of Infrastructure Financing Authorities.*

Mr. DOMENICI. Mr. President, what this does is the following. It is very simple but I believe it is very profound. It says we are going to set up a new tax-free bond in the United States. It is going to be known as the environmental infrastructure bond. It is designed to attract private financing to help our country's infrastructure needs. That means that in the ensuing decade, and the decade that follows, as interest rates go up, and financing environmental projects gets more costly, and surely they will, that our communities are going to be able to finance the infrastructure for environmental control items such as water systems, sewer systems and related environmental control; they are going to be able to finance those with tax exempt bonds.

Some might say, Senator, we already have tax exempt bonds. Do they not already use them?

Yes, to both.

But there is a cap on the amount that can be issued. In other words they have to get in under a tent with all the other worthy purpose bonds that are allowed by municipalities for government use. It is time we send a very clear signal that along with the mandates to the city government officials and the people who live in cities and towns we would be saying: We do not have enough money to pay for the mandated cost for you through grants, but at least we want even the smallest, poor community that needs to issue some water bonds, and needs to attract private investors, we want to tell them you have a high priority as far as the Congress is concerned. We want you to get the cheapest possible financing that is available for any governmental use. We want you to provide clean water supply systems and sanitary sewer systems.

Mr. President, I submit that there are a lot of people in this body who take a lot of credit for passing environmental laws for our country, almost all of which impose some new burden on someone. I cannot fix all that. Part of it we do not necessarily want to pay for. We want a change in the way we do business in the country.

But we surely ought to tell the cities and the small, little communities in the States, when you finance this environmental infrastructure, that mandate that you provide, as a matter of Federal tax policy we ought to allow these cities access to capital at the lowest rate—a rate only available with tax exempt bonds.

I do not know why any Senator would oppose this. I cannot understand why any Senator would oppose the amendment unless it is because of the offset that the Senator from New Mexico has used here.

In the event somebody wants to discuss the offset, I am more than willing. I will take as much time on the merits of this offset as a tradeoff for environmental quality and public health. I will take as much time to explain why we can reduce the market-to-market transition period for broker dealers from 10 years to 7. If any Senator wants to discuss that in detail I will be glad to do that. I believe this is a fair and equitable offset and it covers this $562 million cost over the next 5 years, and has a little bit of money to spare.

So I hope we adopt this and then I have a small amendment that will use up most of that which is left over from this reduction from 10 years transition to 7.

The amendment I send to the desk is a step in the right direction in our effort to help communities with deteriorating water and sewer systems and other environmental infrastructure.

This amendment is based on a bill Senators BOREN and SYMMS and I have been working to enact for several years. Since this bill was first introduced our environmental infrastructure needs have become more acute.

It would benefit four basic types of public works, each related to improving the American environment: water supples, sewage treatment, solid waste disposal, and hazardous waste disposal.

The amendment encourages the construction of these facilities through the bond market because I don't see how we can meet future needs without greater reliance on the bond market and private investors.

The amendment makes these public works improvements less costly as investment, both to local government and the private sector, by ensuring that these investment receive fair and favorable treatment in the Tax Code.

To help build our future, the amendment creates a new category of tax-exempt bond, an infrastructure bond. An infrastructure bond would be an obligation, issued by a State or local government, that is used to finance any of the four types of public facilities I referred to earlier.

These public infrastructure bonds would be freed from constraints imposed on tax-exempt bonds in recent tax laws.

These bonds would not be subject to a volume cap. These bonds would not be subject to the alternative minimum tax. These bonds could be refunded at any time.

The bill, S. 90 is based directly upon the recommendations of two important studies of America's infrastructure.

The initial study came from a distinguished panel of public officials and private citizens, the Private Advisory Panel on Infrastructure Financing. That panel was established several years ago to advise the Senate Budget Committee on techniques the Congress might sue to increase public investments in roads, dams, airports, bridges, water systems, and waste disposal.

The second report—"Fragile Foundations: A Report on America's Public Works"—was released 3 years ago by an equally distinguished group, the National Council on Public Works Improvement.

Both reports concluded that America faces a great challenge in reviving our decaying public works investment. Both reports deserve the Senate's careful attention.

Since then, the Congressional Budget Office's study, "New Directions for the Nation's public Works," suggested greater non-Federal responsibility in targeting infrastructure investments.

To attract private investment, water supply systems, sewage systems, solid and hazardous waste must hold a promise of profitability. Public-private partnerships in the future will take on new importance as we seek capital to meet public needs.

This amendment helps forge those partnerships.

The Environmental Financial Advisory Board is an independent advisory committee to the Administrator of the U.S. Environmental Protection Agency. They issued a report in May 1992, entitled "A Progress Report of the Environmental Financial Advisory Board" and they recognized the need for infrastructure bonds.

The costs of maintaining a clean environment are rising rapidly. Several financial and programmatic barriers to successful financing raise costs even higher. Examples include:

The 1986 Tax Reform Act—that corrected abuses but also raised financing costs for public-purpose environmental facilities.

A lack of sufficient credit history in small communities—which prevents them from obtaining capital at reasonable costs.

There is a growing gap between the costs of environmental protection and our Nation's ability to meet those costs and the critical need to make environmental financing issues a priority for EPA and Congress in the 1990's.

> Viewed from the perspective of the U.S. economy as a whole, total public and private environmental expenditures, as a percentage of gross national product grew from 0.9 percent in 1972 to 2.1 percent in 1990. By the year 2000, environmental expenditures are expected to consumer roughly 2.6 to 2.8 percent of GNP.
>
> At the local level, cost escalation is even more dramatic. In the year 2000, local governments will have to spend an extra $12.8 billion per year, or 65 percent more than they did in 1988 just to maintain current levels of environmental quality.
>
> Communities will have to spend at least another $3.6 billion per year to comply with new regulations. Communities may need to spend 83 percent more per year by the year 2000.
>
> The nation's smallest communities will be hit especially hard. For communities of less than 500, the annual cost per household of environmental protection will double, from 2.5 percent of household income in 1987 to 5.6 percent by the year 2000. At the same time, federal environmental aid to local governments is declining leaving communities an increased share of a growing financing burden.
>
> Historically, the national debate on environmental infrastructure has paid relatively little attention to financing issues.

This amendment is an opportunity to address that historical void.

> Small communities cannot afford or lack access to the financial markets. The fixed costs of bond issues are higher as bond issues are smaller; the user base may be too small to allow full-cost pricing and a low credit rating discriminates against small communities in the debt markets.

This amendment doesn't address all these problems but it does help lower the cost of bond issues and would attract new investors to provide funding for environmental infrastructure bonds.

Without this amendment needed water, sewer, and wastewater systems may never get off the drawing board. Economically disadvantaged households may find they are unable to pay for water, sewer, and solid waste management, and hence face an increasing risk to public health.

Rate shock:

> Between 1986 and 1991, water and sewer rates in New York City more than doubled, although water consumption rose only 6.5 percent and inflation grew only 28.5 percent.
>
> In the Boston area, average household water and sewer rates are expected to rise from about $500 per year in 1992 to more than $1,600 per year by 2000.
>
> In absence of public investment in adequate environmental facilities, growth in the private economy is constrained. Public investments, such as enlargements of wastewater treatment plants, allow private factories to operate at higher capacity with no net new investment in capital plant. This, in turn, increases productivity of private capital in the short run and stimulates new private investment in the long run.

The 1986 Tax Reform Act, while promoting greater tax equity and ending abuses within the tax system had the unintended effect of increasing the cost of financing public-purpose environmental facilities. The act:

Required State and localities to offer higher tax-exempt interest rates on some types of bonds;

Narrowed the market for tax-exempt bonds by eliminating certain types of large-volume institutional buyers; and

Made tax-exempt bonds a less attractive investment for AMT taxpayers by making the interest on such bonds an add-back, preference item in calculating the AMT.

Limited the volume of private-activity, tax-exempt bonds that States can issue each year which resulted in delayed financing for environmental projects or forced States and localities to issue public-purpose bonds as taxable bonds, accompanied by higher rates.

The amendment addresses three of the four concerns. The amendment does not address the institutional buyers.

Creating a new classification of bonds, infrastructure bonds would: save State and local governments billions in financing costs; increase investment as it would increase the volume of environmental bonds issued; and yield a net gain in Federal revenues by the year 2000—losses would be offset by private sector productivity and profitability gains resulting from increase investment in environmental infrastructure.

> In the final decade of this century, the nation faces serious financial constraints that may prevent attainment of national environmental goals. At risk are the health of ecosystems, human health, and community well-being—in short, the quality of life in America."

These extracts are from: "A Progress Report of the Environmental Financial Advisory Board," May 1992.

I close by saying we are dire need of infrastructure in America. We are urging that our municipalities, large and small, build more. Now we are going to have new landfills that are going to be built because of our landfill law.

We ought to send a very simple signal. We want the lowest financing available and we do not want you to be burdened by being in competition with other kinds of tax-free bonds for municipalities. We want to make sure you get that for all infrastructure related to the environment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, it is with some difficulty I rise to oppose my colleague from New Mexico, because there is some merit to the point that he makes. But once you open the door with respect to industrial revenue bonds for the infrastructure, then it is: Watch out, Charlie, it is all the way down the road for all sorts of projects that are very important, very significant. But I remember standing out here at night on the floor of the U.S. Senate some years ago, battling whether or not you could use industrial revenue bonds for law offices; battling whether you could use them for other special kinds of purposes. Finally the Congress decided to put a limit on industrial revenue bonds because the more industrial revenue bonds you have, the less amount of tax dollars you have for this country. The fact is, it provides a cheaper way of doing financing because the money is tax exempt. But we just cannot afford it. This country cannot afford it. You cannot afford to do all the things you might like to do.

We might like to do more things for mental health, which the Senator from New Mexico is a leader in; we would like to do more things for schools; we would like to do more things as far as health care is concerned. We would like to do so much more than we are doing at the present time but there is a reality about the world in which we live and the country in which we live. And that is, if you start providing tax exemptions, which this would do, you are coming down that road, down the pike to the point where you just do not have any revenue for the Government.

So we tightened up the restrictions with respect to industrial revenue bonds. There are many other situations in which you could make a very good argument for the use of industrial revenue bonds, for colleges, for universities, even for local school districts. The fact is, local school districts would not need them but colleges certainly could use them.

I believe once we start down this road, there is no way to stop going down that road and therefore, Mr. President, at an appropriate time, when the debate has been concluded, the Senator from Ohio—unless the Senator, the manager of the bill desires to do so—will move to lay the amendment on the table.

It is a worthwhile amendment. It is good. It is a step in the right direction. But you just cannot go back to the days when we were using industrial revenue bonds. We placed the limit as to how much each community could do. This would break through that limit because that is the reality that there just is not that much money around.

I will just say to my friend from New Mexico, I believe that a Saturday afternoon at 12:40 is not the time for this matter to come before the Senate. I think it is a matter that should have been taken up, or should be taken up next year in the Finance Committee. Let them deal with all the ramifications, the pluses and the minuses.

It is not a bad amendment he is proposing. I am concerned that once you open the dam there is no limit as to how far the water will flow and how much of it will flow.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. METZENBAUM. Of course.

Mr. DOMENICI. Mr. President, is the Senator aware this will not be an industrial revenue bond? By definition it will not be. It is going to be a governmental bond. The finance infrastructure authorities support it and sent a letter to the chairman, and they make that point very clear. This is local government in conjunction with private owners doing the essence of what we mandated them to do. All we are saying is when it has to do with the environment, communities are going to get the lowest interest rate around.

Now, they are not going to get that today. Some might but they are not going to get it as a guarantee because you have all the other things under the umbrella of industrial revenue bonds. This would be saying to Government, this has a very high preference.

That was a question. Did the Senator know that, that it was not going to be industrial revenue bonds.

Mr. METZENBAUM. Mr. President, I am aware of the fact it is not an industrial revenue bond. But what I am suggesting is the limits and constraints that were put on some years ago with respect to the amount of bonds that could be issued of this kind were there because we worked out a resolution of our differences, and now we are coming back to do it over again.

Will the Senator in New Mexico be good enough to indicate the fact that you need this amendment because at the present time there is a limit and, therefore, the community cannot issue these bonds without making them tax exempt, without changing the Revenue Code?

Mr. DOMENICI. Let me say, at this point in time those who are suffering most from the cap as it applies to activities such as this are the poor communities in the country, the lower rated ones with reference to their credit. But eventually, there will be many communities crowded out. We are seeing projects cancelled and delayed and the quality of life in those communities suffers as a result of this arbitrary cap.

Having said that, I also want to suggest to my friend who reads the amendments that come across very carefully, and I am sure he read this one, I found a way to pay for this. If the Senator is worried about loopholes, let me suggest that to stand here and to table this amendment because we cannot afford it is to acknowledge that you need a 10-year transition rule for the broker dealers in the United States to go with their portfolios from where they are now to marking to the market which they should have been doing since 1973. We can afford it. That is how we pay for it.

Mr. BENTSEN. Will the Senator yield? I share the concerns of my friend from Ohio, and I told my friend from New Mexico. It is no fun opposing him, but this is a very significant and major amendment. We have had no hearings on it in the full Finance Committee. I welcome it coming before the committee for that purpose when we start the new year.

I know of his deep concern on this and I understand his objectives. His objectives are good ones, especially with regard to the pressures on some of the smaller communities to meet the environmental edicts of the Federal Government. But I hope very much that the Senator, at this late date in this session, will not press his amendment and will appear before us next year to see what we can do about settling it.

Mr. DOMENICI. Mr. President, I know the chairman is serious about that, but I will tell the chairman, we did have a hearing in the Finance Committee. We had that on June 11, 1991, on this bill. I testified along with others. It might have been assigned to Senator BOREN who was conducting some hearings at this point, but it was a Finance Committee hearing. I also went to the House and testified at a hearing there.

Mr. BENTSEN. I assume that must have been a subcommittee.

Mr. DOMENICI. It must have been a subcommittee. I do not know how the Senator arranges his committee, but I did not notice it was a subcommittee. I was invited to the Finance Committee.

I suggest that it would be just as easy, Mr. President, since we are on the floor and we have now found a way to pay for this, that the Senator and the committee could take this amendment and in due course, as they move through trying to put a bill together—we might not even get one by the time we are through—I think this might just be a good thing to have in your inventory as you go through deciding what you want to keep and do not want to keep. I urge that we accept it in that spirit today and, thus, we will not have to have a rollcall vote.

The PRESIDING OFFICER. Is there further debate? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am not prepared to accept it, nor do I think it makes good legislative policy to just pass the amendments so the managers of the bill will have something in their packet they will be able to deal away. I just think it is a bad precedent. I think it starts down a road that is dangerous.

It may be the right road to go and I am not prepared to say if the Finance Committee came forward with this same amendment 3 months or 4 months from now the Senator from Ohio would stand here and oppose it. But I believe that at this point to open the dam and to start down this road after we had gone way out of our way to construct a process and a procedure and limitations with respect to this kind of bond, I think now to start with an exception on a Saturday afternoon without any prior discussion or notice, with about 25 percent of the Members of the Senate having already left, I think it is too significant an amendment to accept. If forced to, unless the manager of the bill moves to lay it on the table, I will be inclined to do so.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I must say, I think most people would be astonished to find out there is a cap on this type of bond. It seems to me it is like a municipal bond. There is nothing associated with industrial revenue or anything like this. It is a municipal bond. You issue municipal bonds to build the local fire station, or you issue municipal bonds to build the schools, you issue municipal bonds to build a police station. This is just issuing municipal bonds to build a local sewage plant or make the renovations on it, if necessary.

For some reason, these are treated differently. There is a cap on them under the law as we currently have it. It is an artificial cap in many ways. It has nothing to do with industrial revenue bonds.

The Senator from Ohio started talking about, we put a cap on that because we did not want industrial revenue bonds to be used to build a Dairy Delight or a McDonald's or law offices. They are very restricted because we wanted to have what truly was industrial development. But these are just complying with mandates that are issued. But, true, it seems to me they are just similar to municipal improvements, the local water works. I am really surprised that there is a cap on them anyway. I think the Senator has a good amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to make two points and then obviously we will proceed as per the chairman's desire.

First, Senator CHAFEE is absolutely right. One of the true decent, wise things the National Government has done regarding bonds is to help the cities of America and the States of America build their governmental building infrastructure. One of the reasons we have city halls and courthouses and the kinds of things that we have for our cities is because they have been privileged to issue tax-free governmental bonds.

They have to go through a lot of routine before they issue them. They do not just issue them. People vote, commissions decide, but that is where they have been able to do it because they got a good bargain on interest rates and we gave it to them. Frankly, this is the day of the environment when the costs are for the environment, and why we should have a cap, as the good Senator from Rhode Island said, is beyond me.

And besides, the offset for this is a very fair and equitable one that I am willing to debate with anyone around here. If they want to get this out in the light of day, we will get it out of here on the 10-year transition rule.

Mr. CHAFEE. Mr. President, let me ask the Senator a question. Is there not a cap on the issuance of these bonds because if the municipality is overburdened with bonds, the bond market will not accept them? And, indeed, the interest rate will be so high that the municipality will not choose to issue them.

Mr. DOMENICI. Sure.

Mr. CHAFEE. So any municipality that issues bonds has a cap imposed on it based on its financial power to repay the bond. So, in effect, there is a cap.

Mr. DOMENICI. Absolutely.

Mr. President, in response to Senator METZENBAUM, when he says we do not want to go down this path because we did all these things in the 1986 Tax Reform Act and we do not want to break any precedent and change anything, I greatly respect my friend from Ohio, but that argument would have been good 1 year after the 1986 law was passed. Every year thereafter we have changed that code. In fact we make significant changes to the bond sections in this very bill. We have changed it so many times that for anyone to sit around here and say we want to keep the purity of purpose and goals of the 1986 tax law has to be kidding. The IRA's, that is a monstrous one. That is a nice tax change. That is one we would have called a tax expenditure. We were not going to have any more of those, were we. I do not say I agree with the principle, but that is the idea.

But now we are going to have some people hold stocks of the United States in inventory portfolio year after year and do not pay the right tax on it. This amendment is generous to them too. They will get 7 years worth of transition in exchange for new sources of funds for environmental infrastructure. The municipalities get out from under the cap so they can provide environmental control facilities.

Whoever wants to vote in favor of tabling it ought to know that is what they are voting for. They are voting against a commitment of our Government to clean up the environment by helping local communities with the lowest financing possible and in favor of a 10-year rule, transition rule, for people who hold huge amounts of stock annually instead of a 7-year rule; 10 years is a long time in transition, 7 ought to be enough. And that is how we pay for it.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know hogwash when I hear it. I have just heard hogwash. The issue is not about whether or not they have a 10-year writeoff or 7-year writeoff for the portfolios of the investment banking firms. As far as this Senator is concerned, you can make it whatever you want. That is not my concern.

As far as the question of the environment is concerned, I want to say to my colleagues from New Mexico, I am willing to compare my record in the Senate with respect to fighting to protect the environment with his any day of the week because I think I have a 100-percent record. But that is not the issue before us.

The issue before us has to do with whether or not we are not going to go back and open the door to the municipalities to start issuing more industrial revenue bonds. They were doing that. They were doing it for law offices, they were doing it for bowling alleys, shopping centers. Anyplace you wanted to go, you could get an industrial revenue bond and be able to buy money at a cheaper rate as a consequence.

Now what we have here, as I understand it, is the private developers who want sewage facilities, solid waste disposal facilities, hazardous waste facilities, facilities for the furnishing of water coming to the cities and asking them to issue industrial revenue bonds which would be backed up by the commitment of private corporations.

I am not going to say that is the world's worst idea because it is not. As a matter of fact, we went down that road. We did that time and time again. But what I am saying is that on a Saturday afternoon, without any hearings, apparently now we indicate that the matter has been before the Finance Committee and, obviously, it did not move there.

I do not know whether it should move or it should not move. But I know this, I know it should not move here on the floor of the Senate Saturday afternoon with about 25 percent or more of the Members of the Senate not being here, with it not having gone through the Finance Committee, with it having a financial impact and then plan some mumbo-jumbo with respect to whether or not the security firms get 10 years or 7 years to write off their portfolios with respect to marking them to market.

I believe this amendment does not belong here this afternoon. I hope that the Senator from New Mexico would see fit to withdraw it and that he would get an assurance from the chairman of the Finance Committee that there could be hearings on this subject at some future date.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, all government-owned and operated water, sewer, waste disposal systems are already treated as governmental bonds under the current law. Only those facilities that are owned or operated by private companies will benefit from this proposal.

What we are talking about ultimately is a Federal subsidy of almost

$2 billion over the next 5 years for these private companies. Of course, it is true that some of that $2 billion is going to go back to them benefit of the cities and towns using the facilities. I understand that. But there is no guarantee of how much.

So keep in mind the States can provide tax-exempt bonds for these privately owned or operated projects now if they think it is important enough to allocate some of that cap to it. But if a State or local government is not willing to do that, to commit volume cap to a project, then one can seriously question the value of that project to the community.

The Senator is quite right. He appeared before the subcommittee. I have looked that up. And I also found that the administration strongly opposed this proposal when it was being considered.

The bottom line is this is a very expensive proposal that is coming quite late in this session.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM addressed the Chair.

Mr. DOMENICI. Is it the Senator's pleasure to table it?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion table the amendment (No. 3205) was agreed to.

### AMENDMENT NO. 3206

(Purpose: To amend the Internal Revenue Code of 1986 to exclude from income amounts received as scholarships which are used to pay for room, board, or travel)

Mr LOTT. I sent an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3206.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1811, after line 9, insert:

**SEC. 8217. QUALIFIED SCHOLARSHIPS.**

(a) IN GENERAL.—Section 117(b)(2)(B) (defining qualified tuition and related expenses) is amended by striking "fees" and inserting "room, board, travel, fees".

(b) EFFECTIVE DATE.—The amendment made by this section applies to amounts received after December 31, 1992.

Notwithstanding any other provision of this Act;

(a) IN GENERAL.—Paragraph (6) of section 162(1) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking the date and inserting May 15, 1994.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 as amended by section 2143(e) is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting May 15, 1994.

Mr. LOTT. Mr. President, I have distributed copies of this amendment to the distinguished chairman of the committee, and to the ranking Republican. I have also talked to the Senator from Ohio, Senator METZENBAUM, about it.

I had hoped not to have to offer this amendment because it is a relatively small amendment. I know there is a lot of sympathy for it. The problem all along has been of course the offset, but we have an offset.

The reason why I am pursuing this particular amendment is because I feel so strongly about the unfairness of taxing student scholarships. Perhaps since it involves scholarships for students, my passion for it is affected by the fact that for 2 years I worked in the financial aid office at a university and I know how hard these scholarships are to fund and how hard they are to obtain. This bill taxes scholarships. That is pretty incredible.

I do ask unanimous consent, Mr. President, that Senator KENNEDY from Massachusetts be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I know we all in this Chamber probably heard the joke of the great Senate tax debate a few years ago. It was one of the typical extended tax debates for hours, or for days. Proponents and opponents were talking about the policy involved and the impact on the economy and what was the history of this particular tax proposal. One of the opponents of a particular amendment stood up and said well, let me tax your memory on this particular amendment. And the other Senator jumped up and said, well, that is a great idea, tax memory. That is how ridiculous our Tax Code has become.

The things that we tax in our Tax Code have gotten completely out of control. When I learned recently, through a column, that we were taxing students on their scholarships, I was totally floored.

Now, in 1986, the Tax Reform Act contained, in my opinion, many bad provisions. We have gone back and corrected a number of them.

But one of the most egregious was this provision that would tax recipients of scholarships for the funds used for covering their living expenses, room and board, and necessary travel. Although students are not required to pay taxes on the funds used for tuition, fees, books, and supplies, they are taxed on funds used in these three crucial areas. At the time when we are supposed to be encouraging academic excellence, encouraging students to excel, to do well, we learn that we are about to start really taxing scholarship benefits.

I might say as far as the revenue loss, I do not think there is going to be much because the IRS has not been actually collecting these taxes because the academic institutions do not have any reporting procedures. So they were not getting any revenue.

Recently we discovered that the IRS is really going to get serious about taxing these scholarships. Not all scholarships are just for good grades. Some universities and colleges give scholarships once they are admitted based on need. So here now we are going to be taxing scholarships not only for the academically excellent but for those that get scholarships based on need. In 1986, it was assumed that most students' living expenses would not put them in a taxable income range unless they had significant other income. Now, however, we have learned that college costs are continuing to spiral upward. The cost of student rooms, board, travel to and from school, in 1992 could easily exceed $5,900. Or if the student's parents claimed their child as a dependent the student must only earn $3,600 to be in a taxable situation. For the lower income student from Mississippi, this tax might amount to not much at all, but when you are already in a desperate situation, and you have done well academically, you get a scholarship, and you are going to be taxed.

Mr. SIMON. I want to commend my colleague from Mississippi. He is absolutely right on this.

I am pleased to join him in this, as a cosponsor, and I ask unanimous consent to be listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I thank the Senator from Illinois for his interest and for cosponsoring this amendment.

This is just unconscionable, Mr. President. The IRS is not enforcing the tax. It is collected basically on an honor system. It is not working.

But now the IRS has fired a shot across the bow. They went to a particular institution this year, and went through the information on the school's scholarship recipients, and now they are indicating that they will really start taxing benefits. The Miami Herald, for instance, recently said checks could occur at other universities based on the trolling that was done at Harvard, if the national tax collectors decide it is worth their while.

We learned in 1990 that changing the Tax Code changes behavior. I think that will happen if we start seeing this tax enforced.

This amendment has been endorsed by the American Council on Education, the National Association of Graduate Professional Students, and the Association of American Universities.

I do not want to prolong this. I know the hour. But I also think that this is important enough that we should find a way. If it is seen by the managers of the bill that there is a problem with the offset in the conference, certainly they can work on that.

It is the principle, Mr. President. This is wrong.

I urge my colleagues to look at this amendment and join me in supporting it.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Yes, there is further debate. We have to take a look at the amendment. I cannot find it here.

Mr. LOTT. I gave the chairman the amendment yesterday, and an analysis of the amendment I gave them. I know he needs a minute to look at it. He is getting so many. I have made an effort over the last 2 days to make sure everybody understood.

Mr. BENTSEN. In the last few hours the filing system has gone to pot. Let us take a look at it. Are you still paying for it by the reduction of the health insurance?

Mr. LOTT. Yes. If I might respond to the distinguished Senator from Texas——

Mr. BENTSEN. Is that still a source of payment?

Mr. LOTT. The offset would be a 1-month reduction from the 17½ months that was added I believe in an amendment yesterday.

Mr. BENTSEN. Let me say, Mr. President, that I am certainly sympathetic to what he is trying to do, to what the Senator's objective is. I think he makes a very good argument for equity.

But I run into real problems with the way it is being paid for. This amendment is paid for by cutting back on the deduction for the health insurance premiums of the self-employed.

One of the real breakthroughs in this piece of legislation was to get the self-employed to have the same deductibility, 100 percent deductibility, of his health insurance costs just as a corporate chief executive does—to not force the self-employed into the corporate structure. Yet, in this situation he has started down that path of cutting back what we have been able to do, cutting it back for 1 month.

If we do that this time, 1 month on this one, I do not know what other amendment is going to be offered to try to cut back another month. I really have to oppose it because of that.

I think the self-employed businessman deserves to get the same treatment whether or not that business is incorporated.

I remind my colleagues that this objective is the No. 1 priority of the NFIB, of the small business organization, the 100 percent health deduction for the self-employed.

So I would have to oppose the amendment. I do not want to do that to the small businessmen of America.

Mr. LOTT. Mr. President, if I could respond to that. First, we all understand that the revenue-neutral provisions make it very tough to come up with offsets as we all have to struggle with that. The chairman has to struggle with that.

I have been working on it for days now and I found a few days ago that there was $856 million I believe that had not been used that was available. I wanted to use that as an offset. I would prefer to use spending cuts as an offset; maybe even reductions in IRS funding. But you cannot do that without a point of order.

I repeat once again, I think that this is a totally bogus figure. We are not getting any revenue now out of it.

Now the IRS is saying we are really going to start working on it. We are talking about $136 million if we got everything that is projected, which is just not accurate at all.

I have looked every place I could possibly find to get an offset. I want to emphasize, this does not affect the deduction for health insurance for the self-employed percentagewise at all. It would still be 100 percent deduction for the health insurance for the self-employed, extended yesterday from 9 months to 17½ months in H.R. 11. Why 17½ months? The only thing I could figure is that is how much money was available probably, and I am not being critical. If there is, you want to make full use of it.

I might point out that other expiring tax credits are only extended for 15 months, and section 29 credit was only extended for 8 months. So what I would do is cut back 1 month. I would like for it to be 2 weeks. I would like for it to be none. But we have to come up with an offsetting amount of revenues to cover this very important amendment. One month is involved here.

I say to the distinguished chairman, who certainly does ingenious work in these bills, he agrees in principle I think with the amendment; with what I am trying to accomplish. If this is not the right offset, I am sure that this bill is going to be reworked and overhauled and hammered in many different ways when it gets into conference. I think we are never going to get a bill.

I have a lot of faith in the chairman and the distinguished Republican leader. They can work miracles when they get in these conferences. You can perform a miracle.

This is not even a big miracle. This would be a slight of hand, a little bitty slight of hand. If this is not the right offset, fix it in conference.

But if we do not get this amendment the IRS is going to be probing around on the University of Kansas, the University of Mississippi, Texas A&M, the University of Texas, the University of Florida, and taxing scholarships.

That is unheard of. We encourage students. We are trying to improve education. We encourage them to be better academically. We want them to be rocket scientists. And then we are going to start taxing the benefits they get from a scholarship? Where in the world did that come from? Accept the principle, Mr. President, and find a way to fix this little old bitty amount of revenue that is in this bill.

I am sorry to take up time on something like that, but the principle of taxing student scholarships when we are around here talking about elementary, secondary education, higher education, loans and grants, heaven forbid. You will not think about taxing grants, and yet many scholarships are in fact grants to students that need it, or economic aid, not academic reward.

Let us fix this problem, and we can do it very easily right now. I will not prolong my time. I know the distinguished chairman from Texas is worried about the University of Texas, and Texas A&M, and Texas Tech, and would want us to do this. So I hope that we will find a way to accept it or do it on a voice vote and let the distinguished leaders do the job. I know they can do it in conference. I can see it right now that they are going to handle this problem.

Mr. BENTSEN. Mr. President, I say to the Senator from Mississippi, let me see if there is any problem on this side.

Mr. METZENBAUM. As I understand it, this is the college tuition amendment, and I have no objection.

Mr. BENTSEN. There is no question about the merits of what the Senator is trying to do. My concern is the reduction in amount for the HI self-employed. Let me say that I am going to go ahead and accept this on this side, but I give full notice to anybody else that tries to reduce that HI that they are going to have my total opposition, and I will move to table whatever it is.

Mr. LOTT. I thank the chairman.

Mr. DOLE. Mr. President, I will also support the chairman in almost any effort to bring this bill to a conclusion.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3206) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

### AMENDMENT NO. 3207

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of myself and Mr. HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. HATCH, proposes an amendment numbered 3207.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this Title. States that have already provided such an assurance to the Secretary of Education shall not be required to provide an additional assurance under this Act. In determining which programs shall receive assistance under this Title, the State shall consider (i) the effectiveness of applicants in providing services (especially with respect to recruitment and retention of disadvantaged adults and the learning gains demonstrated by such adults and the ability to serve eligible individuals in a cost effective manner); (ii) the degree to which the applicant will coordinate and utilize other and social services available in the community; and, (iii) the commitment of the applicant to serve individuals in the community that are most in need of services."

Mr. SIMON. Mr. President, for the basic skills program and the jobs program, we have appropriated a billion dollars. We spent about $600 million. Most States are doing a very fine job, but a few States are not. What this amendment does is says States that already provide assurance that they are doing the job that needs to be done, that is fine. But States that have not provided that assurance, we want to know that they are doing this in a cost effective way, that they are utilizing the social services available in a community, and that they have demonstrated a commitment to serve those most in need.

This does not require any additional hearings. It does not require additional paperwork. We have the same provision in the literacy act the President signed. I think it should be acceptable.

Let me give credit to Senator HATCH and his staff for some modifications that improved it. I hope it can be accepted.

Mr. DOLE. Mr. President, I am advised that Senator HATCH is a cosponsor of the amendment, and we have no objection on this side.

Mr. CHAFEE. Mr. President, perhaps we can put this aside and go to the next amendment.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we lay aside the Simon-Hatch amendment to consider another one at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NOS. 3208 AND 3209, EN BLOC

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] proposes amendments, en bloc, numbered 3208 and 3209.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

### AMENDMENT NO. 3208

(Purpose: To allow disaster victims to qualify for first-time homebuyer tax breaks)

On page 889, line 12, insert: "An individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar shall be treated as a first-time homebuyer with respect to such residence if the individual rebuilds it or with respect to any other principal residence acquired to replace such residence."

### AMENDMENT NO. 3209

(Purpose: Delay in inclusion of income of crop proceeds of disaster victims)

At the end of title VIII of the Committee amendment, insert:

**SEC. . SPECIAL RULE FOR INCLUSION OF CROP PROCEEDS OF DISASTER VICTIMS.**

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULE FOR CROP PROCEEDS OF CERTAIN DISASTER VICTIMS.—

"(1) IN GENERAL.—If, for the taxpayer's taxable year which includes the designation date described in paragraph (2), the taxpayer has income derived from the sale of crops grown in a qualified disaster area, the taxpayer may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs.

"(2) QUALIFIED DISASTER AREA.—For purposes of paragraph (1), the term 'qualified disaster area' means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar.

"(3) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3))."

(b) SPECIAL RULES FOR SELF-EMPLOYMENT TAX.—If, for any taxable year, a taxpayer includes in gross income any amounts which, but for section 451(h) of the Internal Revenue Code of 1986 (as added by subsection (a)), would have been included in gross income for the preceding taxable year, then the applicable contribution base for purposes of section 1402(b) for the taxable year of inclusion shall be increased by the lesser of—

(1) the applicable contribution base for the preceding taxable year, reduced by the self-employment income of the taxpayer for the preceding taxable year, or

(2) the amounts so included in gross income for the taxable year of inclusion.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

Mr. MACK. Mr. President, these two amendments have been discussed on both sides of the aisle, both having specifically to do with additional provisions to address concerns as a result of the disasters of both the hurricanes and typhoon over these last several weeks.

One of them expands the definition of "first-time home buyer," so that the use of IRA funds would be eligible for reconstructive purposes in those disaster areas.

The second has to do with agriculture. A Farmer who receives income prior to a disaster and is unable to replant in the same taxable year would be subject to an excessive tax liability. We want to delay that Farmers tax liability until the following year to allow him extra capital to reinvest in getting the crops back into the ground and getting started again.

Mr. BENTSEN. He plants that crop to try to survive. Of course, I understand that. I share that concern.

I have looked at both of those amendments. I think they have merit. I have no objection. Let me see if I have concern on this side as to the specifics.

Mr. CHAFEE. Mr. President, there is no objection on this side.

Mr. METZENBAUM. Is the floor now open to amendments?

Mr. BENTSEN. No; we have two amendments before us. They are being considered en bloc. One of them deals with the accounting problem on the loss of crops.

Mr. METZENBAUM. I am familiar with these two amendments. The Senator from Ohio has no problem with them.

Mr. BENTSEN. We see objection on this side and support the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Florida.

The amendments (No. 3208 and No. 3209), en bloc, were agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3210

(Purpose: To protect Federal savings associations)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3210.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Committee amendment, insert the following:

**SEC. . PROHIBITION AGAINST TRANSFERS OF TAX BENEFITS AND LIABILITIES BETWEEN SAVINGS AND LOAN HOLDING COMPANIES AND SAVINGS ASSOCIATIONS.**

(a) IN GENERAL.—Section 11(a) of the Homeowners Loan Act (12 U.S.C. 1468(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following paragraph:

"(4) CERTAIN TRANSFERS AND ALLOCATIONS.—

"(A) LOSSES OF SAVINGS ASSOCIATION.—A savings association that incurs a taxable loss shall be reimbursed in cash by the holding company to the extent that there is a tax benefit arising from the loss in the consolidated return, as determined in a manner consistent with the allocation of taxes to profitable subsidiaries. The reimbursement shall be based on the amount the savings association would have received had it filed its income tax return on a separate return basis and shall be made no later than the approximate time that the savings association would have received a refund of tax if it had filed a separate return (or, if earlier, at the time the refund is received by the holding company).

"(B) PAYMENT OF TAXES.—A savings association having taxable income which files a consolidated tax return with a holding company shall not transfer to the holding company for payment of taxes an amount in excess of the amount of tax the savings association would have paid had its tax return been filed on a separate return basis. Any such payment shall not be made before the approximate time that such payment is required to be made to the Internal Revenue Service. In no event shall a savings association make any payment to a holding company for a deferred tax liability.

"(C) AGREEMENTS.—Any tax allocation agreement between a holding company and savings association shall be consistent with the provisions of this paragraph."

(b) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Office of Thrift Supervision shall take such actions as are necessary to implement the amendments made by subsection (a).

(c) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) applies to payments and refunds of Federal taxes for taxable years ending after September 30, 1990.

(2) CONSTRUCTION.—The enactment of this section shall not be construed as indicating that the Office of Thrift Supervision had no discretionary authority prior to such date to effect the same policy by rule, regulation, enforcement action, or otherwise.

Mr. METZENBAUM. Mr. President, I propose an amendment which is at the desk. Before I speak to the amendment, let me explain the circumstances that have led me to offer it. They involve a flagrant abuse of the savings and loan bailout perpetrated by the RTC and the Office of Thrift Supervision or OTS.

While the Presidential candidates argue about how the deficit limits the Nation's ability to confront our economic problems, the RTC and OTS are literally throwing away hundreds of millions of dollars. And to make matters worse, they are throwing them to a billionaire.

I am talking about how the OTS and RTC mishandled the Government's arrangement with First Gibraltar Bank of Texas.

Wednesday's Washington Post reported that Mr. Ronald Perelman just sold First Gibraltar Bank and two other thrifts for a profit of between $800 million to $1 billion. First Gibraltar, by far the largest of the three thrifts, easily brought $600 million of that amount.

Mr. President, 8 months ago the Federal Government had a 20-percent interest in First Gibraltar Bank. We also were committed to give First Gibraltar Bank nearly $4 billion over the next 7 years as part of the S&L bailout. In an effort to save the Government money, the RTC renegotiated our agreement with First Gibraltar Bank. In that renegotiation, we agreed to sell our 20-percent interest for a mere $35 million. Yesterday, Mr. Perelman resold that interest for at least $150 million.

Our Government representatives let us down, let Mr. Perelman get away with a real bonanza of over $100 million.

I think the RTC's action, in selling the taxpayers interest to Mr. Perelman in January of this year for $35 million, amounted to a secret giveaway of at least $100 million of the taxpayers' money. The people at the RTC and the OTS who allowed this to happen should be held accountable.

In Wednesday's Washington Post article, Mr. William Roelle, the executive vice-president of the RTC defends the $35 million price. Mr. Roelle said:

> Based on the information we had at the time, we think we got a good deal.

The record shows that Mr. Roelle is flat wrong. The RTC knew at the time that it was not getting a good deal.

At the time the RTC knew that Mr. Perelman was withholding information the RTC needed to make the best estimate of the value of the Government's 20-percent interest. At the time, the RTC knew Mr. Perelman was able to divert profits from First Gibraltar Bank, where we held our 20-percent interest, to the other two thrifts in which the taxpayers held no interest. The effect was to reduce profits which Mr. Perelman had to share with the Government.

The RTC knew that it was not getting a good deal for another reason: RTC documents show, that the RTC knew at the time—contrary to Mr. Roelle's statement to the Washington Post—that Mr. Perelman was not paying first Gibraltar for use of its tax benefits. If Mr. Perelman had paid, the RTC's own calculations show that the taxpayer's 20-percent interest in the thrift would have been worth $100 million more.

Let me explain: In February of this year when the RTC sold its 20-percent interest back to Perelman, I was incredulous. The sum of $35 million meant that the RTC believed the thrift was worth five times $35 million or $175 million—$175 million flew in the face of logic. First Gibraltar had, at a minimum, $4 billion in tax-free guarantees and subsidies coming from the Federal Govenment—no matter what. In 3 years of existence, it had already earned $280 million in cash profits, not counting tax benefits. It just had to be worth more than $175 million.

I asked the RTC to explain how they arrived at the 20-percent interest being worth only $35 million. The RTC informed me that they had hired an investment bank, Donaldson, Lufkin & Jenrette, to come up with a value and that Donaldson, Lufkin had estimated the 20 percent of First Gibraltar to be worth $35 million.

I was not satisfied with that answer, so I obtained a copy of Donaldson, Lufkin's estimate. The first thing I learned was that the report was delivered to the RTC the same day that the deal was approved, January 22—after the negotiations were completed. The Government did not have the estimate when it negotiated with Mr. Perelman. The RTC received the estimate after the deal was done. I suspect that Donaldson's estimate was ordered more for its use as an after-the-fact defense of the RTC's $35 million figure, than as a tool to be used in the negotiations.

The Donaldson, Lufkin report says that its estimate of the Government's share was hindered by Mr. Perelman's refusal to give the RTC its business plan and forecast. Donaldson says it could use only a crude method of estimating the value of the Government's 20-percent interest.

When Mr. Perelman would not give the RTC a look at his business plan in order to renegotiate the deal, why did not the RTC just call off the negotiations? The RTC did not have to renegotiate. Why would the RTC negotiate with someone who had tied its hands behind its back? It was Perelman who desperately wanted to negotiate, and the RTC caved in. They obliged. They did what Mr. Perelman wanted them to do.

What kind of influence does Mr. Perelman have with the administration to get this kind of deferential treatment from the RTC? This Senator does not know, but he would like to find out and tell the American people.

The Donaldson, Lufkin report says that the government's interest may very well have been reduced because Mr. Perelman had the ability to book profits that could have been earned by First Gibraltar at the two other Texas S&L's he operated. Now if this might have been true, why did not the RTC find out if it was true? And if it was true, why did not the Government sue Mr. Perelman for diverting profits that rightfully belonged to the RTC?

It is outrageous and a flagrant violation of the RTC's obligation to the taxpayers that the RTC did not check into this before giving up the taxpayers' 20-percent interest in First Gibraltar.

There is yet another reason to believe that the RTC knew it was not getting a good deal when it sold the interest to Perelman in January. Mr. Perelman had been using First Gibraltar's tax benefits, which were partly owned by the RTC, without paying for them.

Mr. Louis Wright, Associate Director of the RTC, wrote a memo in November 1991 before the RTC began negotiating with Mr. Perelman, describing how Mr. Perelman's failure to pay for the tax benefits could cost the Government $100 million if it resold its interest to Perelman.

Mr. Wright and the RTC then asked Timothy Ryan, who heads the Office of Thrift Supervision or OTS, to force Mr. Perelman to pay the thrift—and its minority owners, the U.S. taxpayer—for Perelman's use of the thrift's tax benefits. Mr. Ryan, as the Nation's chief thrift regulator, was in a position to require this. Mr. Ryan refused. The RTC—where Mr. Ryan is a member of the Board of Directors—then sold the Government's interest at a $100 million loss—without being compensated for the $100 million in tax benefits transferred to Perelman.

Mr. Ryan's OTS is the only agency that fails to require that depository institutions be compensated by their owners for the use of tax benefits. The Federal Deposit Insurance Corporation requires bank holding companies to pay their bank subsidiaries for use of the bank's tax benefits.

The Federal Reserve Board requires it as does the Comptroller of the Currency. Only Mr. Ryan and his Office of Thrift Supervision, which regulates thrifts, fails to require it.

Mr. Ryan decided to allow a billionaire to take $100 million that belonged to the taxpayers without paying for it.

Mr. Ryan has had years to act. When the Financial Institutions Reform, Recovery, and Enforcement Act, "FIRREA," was enacted in August, 1989, it required the RTC to study and report to Congress on the ways that the costs of deals such as Mr. Perelman's might be lessened. On September 18, 1990, the RTC reported the report recommended that the Government, as a part owner of thrifts such as First Gibraltar, should benefit from any use of their tax benefits by the thrift's holding company.

Taxpayers should be outraged that the RTC and the OTS have ignored their own report. The result is to force working mothers and fathers to pay taxes in order to give unnecessary millions to a billionaire. The RTC and OTS have been unwilling—but not powerless—to do something about it. The administration publicly rails about the deficit, but lets $100 million slip quietly into the hands of a billionaire.

Mr. President, the taxpayers deserve more from their Government than this. Congress must force Mr. Ryan and the RTC to protect taxpayers, not billionaires.

At this point, there is little we can do about the sale to Perelman of the Government's 20 percent interest.

However, the government has plans to resell its interest in four much smaller thrifts to the majority owners, one of whom is a billionaire. The RTC is also planning on selling its capital instruments, such as preferred stock, in more than a dozen other thrifts.

The RTC has failed miserably in representing the public's interest. The situation at the OTS is worse with regard to the First Gibraltar case. The OTS has refused to protect the taxpayers.

The taxpayers will receive fair value from the upcoming negotiations only if the Government negotiates aggressively on behalf of the taxpayers.

There is one thing that the Congress can do today to ensure this. We can require that thrift holding companies compensate thrift subsidiaries for the holding company's use of the thrift's tax benefits. This amendment would do that.

It would increase thrift income and, for those thrifts in which the RTC holds an interest, it will increase the value of the RTC's interest.

Specifically, my amendment would require any holding company filing a consolidated return which uses tax benefits generated by a thrift subsidiary, to reimburse the thrift for the use of those tax benefits. The amount of reimbursement will be the amount the thrift would have received had it filed a separate tax return.

In addition, under my amendment, a thrift included in a consolidated return would not be able to give the holding company any amount that is in excess of the amount of tax the thrift would have paid if the thrift had filed its return on a separate return basis.

Mr. President, there is a clear need for this amendment. The OTS has flatly refused to protect the public in the Perelman case. The cost of the savings and loan bailout is being increased by inaction such as that of the OTS. The capital and earnings of the thrift industry need to be increased.

My amendment alleviates these problems. That is ample reason for the amendment.

I urge the Senate to adopt it.

I am prepared to move forward at this point.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I wonder if the distinguished Senator from Ohio would object if I might modify the amendment to except certain contracts.

Mr. METZENBAUM. This is a second-degree amendment?

Mr. DOLE. Yes.

Mr. METZENBAUM. I have no objection.

AMENDMENT NO. 3211 TO AMENDMENT NO. 3210

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3211 to amendment No. 3210.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 3, line 19, at the appropriate place insert:

(2) EXCEPTION FOR CERTAIN CONTRACTS.—The amendment made by subsection (a) shall not apply to any tax benefit described in section 11(a)(4) of the Homeowners Loan Act (12 U.S.C. 1468(a)(4)), as added by subsection (a), if the allocation of such tax benefit, and any payment pursuant to subsection (a)(4)(B), are made pursuant to or are governed by an arrangement that is part of a written contract with the savings association, or its holding company, that is expressly approved in writing by the applicable supervisory authority or deposit insurer, but only if—

(A) the contract was entered into before October 1, 1990,

(B) the contract remains in effect at the time of the allocation in question, and

(C) a portion of such approved tax benefit is allocated for the benefit of the FSLIC Resolution Fund.

Mr. CHAFEE. Mr. President, before we agree to this amendment, as amended, there is a little problem on this side that we are looking into. I would like a little time if we could.

Mr. BENTSEN. Yes.

Mr. CHAFEE. I will do whatever the chairman wishes.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that we may set aside temporarily the Metzenbaum amendment, pending clearance on this side, and proceed to an amendment that has been agreed to, a Pressler amendment dealing with carjacking.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3212

(Purpose: To prevent and deter auto theft)

Mr. CHAFEE. Mr. President, on behalf of Senator PRESSLER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. PRESSLER, proposes an amendment numbered 3212.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

### TITLE —CAR THEFT PREVENTION AND DETERRENCE

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Car Theft Prevention and Deterrence Act".

**SEC. 02. PURPOSE.**

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

### SUBTITLE A—ENHANCED PENALTIES FOR AUTO THEFT

**SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.**

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results shall be fined under this title, imprisoned for any number of years or for life, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

(b) SENSE OF CONGRESS.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, should continue to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

**SEC. 12. IMPORTATION AND EXPORTATION.**

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 13. TRAFFICKING IN STOLEN VEHICLES.**

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 14. CIVIL AND CRIMINAL FORFEITURE.**

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraphs:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation.".

### SUBTITLE B—TARGETED LAW ENFORCEMENT

**SEC. 31. PURPOSE.**

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

**SEC. 32. DEFINITIONS.**

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section _34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime and Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

**SEC. 33. GRANT AUTHORIZATION.**

The Director shall make grants to Anti Car Theft Committees that submit applications in compliance with the requirements of this chapter.

**SEC. 34. APPLICATION.**

(a) SUBMISSION.—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under the grant.

(3) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

**SEC. 35. AWARD OF GRANTS.**

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) GRANT AMOUNTS.—

(1) SINGLE APPLICANT.—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) MULTIPLE APPLICANTS.—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) LIMITATION.—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

### SEC. 36. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $10,000,000 for each of fiscal years 1993, 1994, and 1995.

### SUBTITLE C—REPORT REGARDING STATE MOTOR VEHICLE TITLING PROGRAMS TO COMBAT MOTOR VEHICLE THEFTS AND FRAUD

### SEC. 41. TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation and the Attorney General, acting jointly, may, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) STUDY REQUIREMENTS.—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) CONSULTATION AND REVIEW.—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) CONTENTS.—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

Mr. PRESSLER. Mr. President, recently, a woman from the Washington, DC, area was unmercifully dragged along the street outside her automobile during a carjacking. The criminals, in an act of unparalleled brutally, watched as she was dragged along, helplessly entangled in a seatbelt. She died several miles later, fortunately before her body became impaled on a barbed-wire fence.

Sadly, stories like this are not uncommon. In Washington, officials recorded four carjackings at gunpoint during the month of May 1992 alone. In one case, a woman was left in critical condition after she collided head-on with a carjacker driving a stolen vehicle. The thief took the vehicle at gunpoint from a man who was trying to sell the car. During a test drive, the assailant drew a pistol and ordered the owner to get out of the vehicle. The collision occurred shortly after police chased the carjacker.

In our Nation's Capital, authorities reported 8,370 stolen automobiles in 1991. According to FBI reports, there was a 2-percent national increase in car thefts from 1990 to 1991. Southern and Western States experienced a 4-percent auto theft increase, while Midwestern States had a 2-percent rise. This epidemic is not geographically isolated—the entire Nation is at risk.

Without stricter laws and tougher law enforcement, innocent citizens will continue to be harassed by violent auto thieves. Auto theft is a lucrative professional business. The public is sick and tired of paying the high price of criminal activities.

The sophisticated alarms, steering wheel locks, and homing devices installed by desperate auto owners as thefts rise are prompting auto thieves to devise new criminal strategies. Carjacking has become a viable alternative for the professional car thief. Today's criminal can just point a weapon and take a car, without the hassle of breaking the windows or propping the ignition.

For this reason, I am offering the car-theft prevention and deterrence bill as an amendment to H.R. 11. This amendment, which is similar to Title I of the Senate version of the Anti Car Theft Act of 1992 (S. 2613) that I introduced last April, offers local authorities the tools they need to slow the growing auto theft epidemic. After discussions with several South Dakota auto dealers, parts manufacturers, and parts recyclers, I came to the conclusion that the original bill S. 2613, did not accomplish its aims. In fact, provisions within that bill would actually harm the legitimate auto dealers and parts salvagers. While I believe that the original legislation, patterned after Representative SCHUMER's Anti Car Theft Act, has good intentions, it could cause great economic burdens for small businesses.

My amendment, though, merely subjects carjackers who use a firearm to Federal penalties. Specifically, the legislation subjects armed carjackers to a minimum of not more than 15 years in prison, fines, or both. If serious bodily injury occurs during an armed carjacking, the penalty increases to not more than 25 years in prison, fines, or both. Finally, if an innocent victim dies as a result of the incident, a carjacker would be subject to fines, and the possibility of a life sentence in prison. Additionally, the amendment increases the possible prison sentence for the importation and exportation of stolen vehicles from 5 years to 10 years.

The bill authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage which may affect the theft problem. This provision will help determine the most effective auto theft control options available.

The car theft prevention and deterrence bill would punish more severely the carjacking criminals who are plaguing our highways. Local law enforcement officials need this bill to help roll back the recent explosion of auto theft. Let's not miss this opportunity to stop modern day highwaymen in their tracks.

Mr. CHAFEE. Mr. President, this amendment subjects carjackers who use a firearm to Federal penalties. Specifically, the legislation subjects armed carjackers to a minimum of not more than 15 years in prison, fines, or both.

If serious bodily injury occurs during an armed carjacking, the penalty increases to not more than 25 years in prison, fines, or both. Finally, if an innocent victim dies as a result of the incident, a carjacker would be subject to fines and the possibility of a life sentence in prison.

Additionally, the amendment increases the possible prison sentences for importation and exportation of stolen vehicles from 5 to 10 years. It also authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage, which may affect the theft problem.

Mr. President, this has been cleared with the Judiciary Committee and everybody we know who might possibly have an objection.

Mr. BENTSEN. Let me say, speaking for the majority on that one, we are checking now to see if we have any objection on this side. The manager of the bill for the majority has seen it and has no objection to it. Let me make sure it is cleared on this side.

I know of no objection on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3212) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3211 TO AMENDMENT NO. 3210

The PRESIDING OFFICER. The pending question is the Dole second-degree amendment number 3211. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3211), was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The question is on the Metzenbaum amendment as amended?

### AMENDMENT NO 3210, AS AMENDED

The PRESIDING OFFICER. The Senator is correct. If there be no further debate, the question is on agreeing to the Metzenbaum amendment.

The amendment (No. 3210), as amended, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3207

The PRESIDING OFFICER. Is there any further debate on the Simon amendment?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3213

(Purpose: To require the Secretary of the Treasury to perform a study of the structures, operations, practices and regulation of Japan's capital and securities markets, and their implications for the United States)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3213.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee Substitute, insert:

### TITLE —STUDY OF JAPAN'S CAPITAL AND SECURITIES MARKETS

**SEC. . SHORT TITLE.**

This title may be cited as the "Foreign Capital and Securities Markets Study Act of 1992".

**SEC. . FINDINGS.**

The Congress finds that—

(1) Japan's capital and securities markets have assumed a global significance;

(2) growing interaction between the capital and securities markets of the United States and Japan can affect national policies on exchange rates, investment, fiscal policy, and public debt;

(3) Japan's capital and securities markets have different structures, operations, practices, and regulatory regimes than United States markets;

(4) the different structures, operations, practices, and regulatory regimes of Japan's capital and securities markets could cause significant economic effects in the United States; and

(5) a study by the Secretary of the Treasury therefore is required to gain a fuller understanding of the structures, operations, practices, and regulation of Japan's capital and securities markets and their implications for the United States.

**SEC. . STUDY OF CAPITAL AND SECURITIES MARKETS.**

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall conduct a study of the capital and securities markets of Japan in accordance with subsection (b). Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the structures, operations, practices, and regulation of Japan's capital and securities markets, and their implications for the United States.

(b) STUDY TOPICS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) with regard to Japan's capital and securities markets—

(A) methods used by Japanese companies to raise capital, and the cost of such capital, at present and historically;

(B) Japanese methods of corporate governance, particularly with regard to the effectiveness of shareholder meetings, proxy solicitations, and other methods of shareholder participation, the strength of the consumer movement in Japan and its implications for shareholder rights, techniques used by corporate management regarding shareholder participation in corporate governance, and the general effectiveness of shareholder rights in the supervision of corporate managers;

(C) practices and techniques used by Japanese securities brokers and dealers;

(D) the prevalence of loss guarantees and similar practices in securities dealing;

(E) the prevalence of companies having common directors, especially directors common to financial institutions and client industrial companies;

(F) the practice known as "stable shareholding" and other reciprocal shareholding relationships, especially between vendors and customers;

(G) the role played by banks and other financial institutions in capital and securities markets, particularly with regard to equity participation, participation in corporate governance, investment practices, and adequacy of collateral;

(H) the financial strength of Japanese banks, including the adequacy of capital and loan loss reserves, the impact of current trends in securities values on bank capital, and the impact of current trends in real estate values on bank profitability, loan defaults and the adequacy of collateral;

(I) trends in Japanese real estate and securities values, particularly in relation to savings rates, the adequacy of collateral, loan defalcations, bankruptcies, investment in the United States, and capital repatriation from the United States;

(J) the adequacy of disclosure requirements imposed on industrial corporations, banks, securities houses, and other financial institutions and the extent of compliance by such organizations, including disclosure of primary bank and reciprocal or similar shareholding relationships;

(K) the use of securities and real estate holdings as collateral, and the implications of any decline in value of such collateral; and

(L) the adequacy of judicial relief available to foreign investors claiming injury under Japanese law, including, but not limited to, the availability of administrative remedies, the sufficiency and effectiveness of discovery procedures and the timeliness of relief; and

(2) with regard to the economic effects of such markets on the United States—

(A) the magnitude of United States investment in Japanese securities, particularly by United States pension funds, and the implications for United States investors of the structures, operations, practices, and regulation of Japan's capital and securities markets, including the safety of securities investments, the validity of price and volume signals on Japanese exchanges, the ability to participate in corporate governance, and other protections of shareholders' rights;

(B) the implications for United States securities markets, particularly the risk that developments in Japan could have consequences for the United States;

(C) the implications for United States capital markets, including international liquidity, United States interest rates, Japanese investment in the United States, capital repatriation to Japan, and domestic capital supply;

(D) the effect on United States macroeconomic policies, including interest rate policy, exchange rate policy, fiscal policy, monetary policy, and public debt policy;

(E) the implications for the competitiveness of United States enterprises, including the comparative cost of capital, duties to shareholders, research and development expenditures, and investments in plant and equipment; and

(F) the effectiveness of remedies available to United States investors in Japanese securities, and the amount of dealing in Japanese securities in the United States, whether directly or indirectly.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and such other agencies or persons as the Secretary may deem necessary to complete the study and report required under this Act. The Secretary may consult with agencies of the Government of Japan, Japanese exchanges, and such other Japanese persons or organizations as the Secretary may deem appropriate.

**SEC. . DEFINITIONS.**

For purposes of this title the term "security" has the meaning given such term by section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

Mr. DASCHLE. Mr. President, the amendment directs the Treasury Department to conduct a 1-year study of Japan's financial system.

It is derived from S. 1861, legislation that I introduced last year and that is cosponsored by Senator BROWN.

As witnesses have testified before the Finance Committee, United States policymakers need a better understanding of the Japanese financial system, its influence on the United States economy, and the competitive advantages the system confers on Japanese corporations.

Japan's financial structure has given Japanese firms access to cheap capital and other advantages. Financial ties among Japanese firms deter foreign investment in Japanese public corporations.

Japanese institutions have been heavily involved in financing the United States Government's budget deficit. Instability in Japanese financial markets could affect the ability of Japanese investors to finance our debt.

Because of the importance of the Japanese financial system to the competitiveness of American companies, and to the long-term stability of the United States economy, policymakers need a more thorough understanding of how the Japanese financial system works and how it affects our economy.

I am aware of no opposition to this amendment.

In March of this year, before the Finance Committee, I asked Treasury Assistant Secretary Olin Wethington whether a study of the kind called for in this amendment would be helpful to policymakers and business people. Mr. Wethington agreed that additional information and analysis on Japan's financial system is required.

I urge the adoption of my amendment.

Mr. CHAFEE. Mr. President, there is no objection to the amendment on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3213) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3214

(Purpose: To amend titles II and XVI of the Social Security Act to strengthen the criteria for the selection of representative payees and the procedures for monitoring the performance of representative payees)

Mr. CHAFEE. Mr. President, on behalf of the Senator from California, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SEYMOUR, proposes an amendment numbered 3214.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1742, after line 24, insert the following:

**SEC. 7179. AMENDMENTS RELATED TO REPRESENTATIVE PAYEES.**

(a) CRITERIA FOR THE SELECTION OF REPRESENTATIVES PAYEES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue regulations regarding the criteria for the selection of representative payees under sections 205(j) and 1631(a)(2) of the Social Security Act within 180 days of the date of the enactment of this section.

(2) CONTENT OF REGULATIONS.—The regulations issued under subsection (a) shall contain criteria for the selection of representative payees and procedures for monitoring the performance of representative payees, as provided in subsection b, c, and d, that are more stringent than the criteria and procedures set forth in the guidelines in effect on the date of the enactment of this section.

(b) DISQUALIFICATION OF CERTAIN CONVICTED FELONS AS REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B)(iii) (42 U.S.C. 1383(a)(2)(B)(iii)) is amended—

(1) by striking "or" at the end of subclause (II);

(2) by striking the period at the end of subclause (III) and inserting "; or"; and

(3) by adding at the end the following new subclause:

"(IV) such person is applying on behalf of a drug addict or alcoholic (as defined in section 1611(e)(3)(A)) and has been convicted of—

"(aa) a violation of section 208 or 1632;

"(bb) a drug-related offense;

"(cc) a crime classified as a felony under State or Federal law; or

"(dd) in the case of a State which does not classify any crime as a felony, a crime which is punishable by death or imprisonment for more than 1 year.".

(c) PENALTY FOR MISUSE OF FUNDS.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(1) (42 U.S.C. 405(j)(1)) is amended by adding at the end the following new sentence: "Any representative payee who has misused any individual's benefit paid to such representative payee pursuant to this subsection may be subject to a fine or imprisonment under section 208.".

(2) AMENDMENT TO SSI.—Section 1631(a)(2)(A)(iii) (42 U.S.C. 1383(a)(2)(A)(iii)) is amended by adding at the end the following new sentence: "Any representative payee of an individual or eligible spouse who has misused any benefits which have been paid to such representative payee pursuant to clause (ii) may be subject to a fine or imprisonment under section 1632.".

(d) EXCEPTION FOR CREDITORS WHO PROVIDE TREATMENT FOR SUBSTANCE ABUSE.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(2)(C) (42 U.S.C. 405(j)(2)(C)) is amended—

(A) in clause (iii)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(2) AMENDMENTS TO SSL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) us amended—

(A) in clause (v)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State; or"; and

(B) in clause (vi), by striking "clause (ii)(V)" and inserting "clause (iii)(VI)".

• Mr. SEYMOUR. Mr. President, I rise today to express my concern over an abuse of the Social Security Administration. Persons who have been entrusted to assist individuals disabled from a life of drug and alcohol abuse, with their supplemental security income have instead served to cheat them and the taxpayers.

Under title XVI of the Social Security Act of Drug Addiction and Alcohol Policy, individuals who are drug addicted or are alcoholics receive disability checks. If an addict is approved for benefits, that person must also have an approved payee, someone who receives the checks and then doles out the money to the addict. Recipients are not supposed to receive benefits if they are incarcerated and they must also attend a treatment program. However, with this population, it is frequently difficult to find responsible representative payees. Most of the addicts have cut themselves off from family and friends by the time they reach this stage of severe disability. One-third of all persons serving as payees are nonrelated individuals—a roommate, landlord, or just a friend. Many times, an addict's payee is another addict. If the client is put in jail, the only way the Social Security Administration will know about it is if the payee returns the checks.

Within the OBRA 1990 regulations, provisions were made to reform the screening process to obtain representative payees. Despite this effort, the abuses continue.

Perhaps the most distressing example of this abuse derives from my own State of California. In Bakersfield, CA, where substance abusers incarcerated in State prison or local jails continue to receive SSI benefits through their monitors or payees, even though Federal regulations specifically prohibit this practice. Similarly, in Denver, CO, homeless individuals were using the addresses of liquor stores to receive their SSI benefits, and pay off debts owed to the owners. Clearly, the current system is not working.

Today, approximately 34,000 Americans receive SSI benefits under the drug addiction and alcohol abuse provision. More than half of these individuals reside in my State of California or in the State of Illinois. Our Nation's taxpayers spend $57 million annually in SSI drug addiction and alcohol abuse benefits and monitoring costs each year. In 1991, there were 1.4 million SSI representative payees. Of these, only 13 were investigated for fraud and abuse, while in only 2 of these cases were misused funds fully recovered. Mr. President, I refuse to ask the California taxpayers to spend another $57 million this year for benefits that are being spent at the local liquor store, or on the corner in drug sales. Therefore, I stand before you today to introduce legislation that will restrict representative payees and increase monitoring of the system.

Due to the varying drug addiction and alcohol abuse eligibility standards between States, a clear, uniform interpretation of the drug addiction and alcohol abuse eligibility regulation does not exist. Therefore, I propose a new selection process for representative payees that are more stringent than the criteria and procedures set forth in previous years. A representative payee may be a spouse, parent, sibling, or unrelated member of the community responsible for handling the financial affairs of the drug addiction and alcohol abuse SSI recipient.

Through this legislation, representative payees will be subject to a strict screening process to determine if they have been convicted of a crime classified as a felony under State or Federal law.

After a representative payee has been selected SSA is responsible for monitoring the use of SSI funds and misuse of these funds will be punishable by a substantial fine and/or imprisonment.

Mr. President, I believe the time for this legislation is long overdue. Since the revision of the eligibility standards for supplemental security income in 1986, the number of individuals receiving SSI under the drug addiction and alcohol abuse provision has grown exponentially. Although I have always supported expanding treatment services for those individuals suffering from drug and alcohol abuse, I am concerned this SSI Program is not being delivered with the intentions of its creation. If legislation is not passed to curtail benefits being granted to incarcerated individuals, we will continue funding this circle of abuse.•

Mr. CHAFEE. Mr. President, this amendment deals with the problems that have arisen with the cheating by individuals who are receiving SSI disability benefits. This amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, I do not know what the amendment is. I would like to be apprised of it.

Mr. CHAFEE. Mr. President, under title 16 of the Social Security Act of drug addiction and alcohol policy, individuals——

Mr. BENTSEN. Is this the Seymour amendment?

Mr. CHAFEE. Yes.

Mr. BENTSEN. I have heard enough on it that I have seen this particular amendment. I see no objection to it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

Mr. METZENBAUM. Before the motion to reconsider, may I inquire of the Senator from Rhode Island, is this the Seymour amendment?

Mr. CHAFEE. Right.

Mr. METZENBAUM. Is this the one having to do with the payee?

Mr. CHAFEE. Yes, it has to do with those receiving SSI benefits with drug addiction problems.

Mr. METZENBAUM. I have no objection.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMERICAN TOURISTER AND CBI DUTY REDUCTIONS

Mr. CHAFEE. Mr. President, if I may have the chairman's attention for a moment, I would like to discuss a provision in this bill that will have a serious impact on a company in my State.

The company to which I refer is American Tourister, headquartered in Warren, RI. Tourister makes hard luggage in Rhode Island, employing 600 people.

The Rhode Island plant does not make soft luggage. Indeed, virtually no manufacturing of soft luggage occurs in the United States; most soft luggage sold here is imported from Pacific rim countries. In 1989, however, American Tourister stopped buying soft luggage in the Far East and opened its own soft-luggage manufacturing operation in the nearby Dominican Republic—using raw materials sourced mostly in the United States. This Dominican Republic facility directly employs 750 people and indirectly supports hundreds more.

In addition, 2 years later, American Tourister opened a cutting and distribution factory in Jacksonville, FL, to cut the fabric used in the Caribbean plant and to distribute the final luggage product. This Jacksonville plant provides more than 100 local jobs.

Now, one of the reasons why American Tourister chose to stop importing soft luggage and start up the Dominican plant was the promise of the Caribbean Basin Initiative and the accompanying duty reductions. Under the 1990 amendments to the Caribbean Basin Act, the President is directed to proclaim duty reductions on a number of articles, including baggage but not including textiles. And indeed he did so, in a proclamation issued on May 1 of this year.

However, there was some confusion as to whether the duty reductions could apply to luggage that is made partly of textiles—in other words, soft luggage. The proclamation said "yes," but congressional history said "no."

The bill before the Senate includes a provision to reaffirm the intent of Congress at the time the CBI amendments were enacted, that is, that if the textiles used in a product are covered by textile agreements, that that product cannot receive the duty reduction.

While this may make consistent the language of the statute with the original intent, it also means that the soft luggage made by American Tourister cannot qualify for any duty reduction, modest though it may be.

I deeply regret that this is so. Here we have American Tourister, a U.S. company, which has stopped importing soft luggage from the Far East and begun to make it closer to home. As a result—

Tourister is helping the Dominican Republic—a goal of the CBI—by creating jobs in the region;

They are helping the U.S. economy by the creation of a new Florida facility, with all the accompanying jobs;

They are using U.S.-made textiles in their manufacturing, thereby boosting the U.S. textile industry with a new $16 million market; and

They are not doing any of this activity at the expense of U.S. employment or U.S. manufacturing interests, since the luggage they now manufacture used to come ready made from the Far East.

It seems to me this is just the kind of investment the CBI Program should encourage: It redirects production from the Far East to North America, and it creates a new market for the textile industry. And yet Tourister will fail to qualify for a duty reduction.

This just does not make sense; indeed, all the parties involved agree that this is a shame. In the coming months, I hope to work together with the chairman and the other members of the Finance Committee to find a mutually desirable legislative solution. Let us make this a win-win situation for all involved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the Simon amendment No. 3207.

Mr. BENTSEN. Mr. President, I ask unanimous consent to temporarily lay that aside for the consideration of an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3215

(Purpose: To require a study of municipal bond funds)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Senator SASSER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. SASSER, proposes an amendment numbered 3215.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

**SEC. . MUNICIPAL BOND FUND STUDY.**

The Congressional Budget Office shall conduct a study of municipal bond funds currently operating in the United States and shall report its findings to the Committee on Finance and the Senate Budget Committee no later than December 31, 1992. The study shall (1) indicate the types of local capital projects supported by municipal bond funds, (2) the Federal, State, and local budgetary impacts of municipal bond funds, and (3) the need, if any, of additional bonding authority for municipal bond funds under the 1986 Tax Act.

Mr. SASSER. Mr. President, this amendment would provide for a Congressional Budget Office [CBO] study of municipal bond banks and municipal bond funds currently operating in this country.

A number of States, including Tennessee, have utilized municipal bond banks and municipal bond funds to help small municipalities meet their critical capital financing needs.

In Tennessee, we created a municipal bond fund in 1985 to give our municipalities a low-cost alternative for financing capital improvement projects. Since 1985, approximately $120 million in bonds have been issued. Proceeds from these bonds have helped more than 100 small cities and towns meet their critical capital financing needs at a reasonable cost.

This financing program has been one of the most successful ones ever run in the State of Tennessee.

It is my understanding that similar bond banks and bond funds exist in Alaska, Illinois, Indiana, Louisiana, Michigan, Maine, Mississippi, New Hampshire, New York, and Vermont to name a few States.

These bond funds and bond banks help small municipalities finance school construction, sewer and water systems, roads and other projects that enhance their economic potential.

The State instrumentalities that offer these low-cost bonds to localities also either provide full faith and credit or moral obligation backing to ensure against municipal defaults. To date, few if any municipalities have reneged on their obligations.

State bond banks do face some limitation on their activities due to the arbitrage and private activity limitations imposed on State-local bonds under the 1986 Tax Act. Removal or modification of these limitations might spur more of this low-cost borrowing, creating more infrastructure and jobs in small communities throughout the nation.

That is why I offer this amendment to have the Congressional Budget Office [CBO] study municipal bond funds and municipal bond banks. This study will provide the Congress with some guidance as to ways in which the future of these bond banks can be enhanced to promote more infrastructure investment, economic growth, and job creation in small communities throughout the Nation.

Mr. BENTSEN. I know of no objection to the amendment on this side.

Mr. PACKWOOD. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3215) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3216

(Purpose: To delay for 1 year the effective date of the charitable contribution substantiation requirements to allow the Internal Revenue Service time to issue regulations)

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 3216.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1743, line 16, after "1992" insert ", except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992".

On page 1744, line 18, strike "55 percent" and insert "40 percent".

On page 1745, line 6, strike "July 1, 1993" and insert "January 1, 1994".

On page 1747, line 9, strike "1993" and insert "1994".

On page 1749, strike lines 12 through 14, and insert:

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall, not later than July 1, 1993, prescribe such regulations as are necessary to implement the amendments made by this section and section 8003.

Mr. MOYNIHAN. Mr. President, this amendment has been approved on both sides. It goes to sections 8003 and 8004 of the bill having to do with the new substantiation rules for charitable contributions. What we propose to do is to put off those rules for 1 year so that the Treasury may issue regulations which it is instructed to do and which gives us time for full consultation so everyone involved will feel comfortable with the result, which we believe they will do; it can be done. There is a cost which is paid for in the amendment and agreed as being adequate.

Mr. President, I believe that is the case.

Mr. PACKWOOD. Mr. President, there is no objection on this side.

Mr. BENTSEN. Mr. President, I know of no objection on this side. I think it is a meritorious amendment.

Mr. MOYNIHAN. I thank the managers.

Mr. BENTSEN. We appreciate the consideration of the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3216) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the Chair. I thank the managers.

## EXECUTIVE SESSION

## TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—THE START TREATY

### MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider Executive Calendar Nos. 45 and 46, the Treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, START Treaty, and the accompanying protocol.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar Order No. 45 (Treaty Doc. No. 102-20), the Treaty with the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (The START Treaty), and Executive Order No. 46 (Treaty Doc. 102-32), a Protocol to the START Treaty:

George Mitchell, Claiborne Pell, Barbara A. Mikulski, Joe Biden, Dale Bumpers, Patrick Leahy, Richard Shelby, Brock Adams, Alan Cranston, Tom Harkin, Bill Bradley, Herb Kohl, Paul Sarbanes, David Pryor, Frank R. Lautenberg, Paul Wellstone.

## LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate resume legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3217

(Purpose: Relating to the application of passive loss limitations to timber activities and to provide fairer treatment for start-up companies with respect to the research and experimental credit)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for himself, and Mr. MITCHELL, Mr. HATFIELD, Mr. FOWLER, Mr. NUNN, Mr. BREAUX, Mr. SYMMS, and Mr. THURMOND, proposes an amendment numbered 3217.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 897, after line 21, insert:

**SEC. 2102. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.**

(a) APPLICATION OF MATERIAL PARTICIPATION RULES TO CERTAIN TIMBER ACTIVITIES.—

(1) IN GENERAL.—Treasury regulations sections 1.469-5T(b)(2)(ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(i) by 5 or fewer individuals,

(ii) or by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this subsection.

(B) TIMBER ACTIVITY.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(b) PASSIVE ACTIVITY LOSSES AND CREDITS REDUCED UNDER SECTION 108.—

(1) IN GENERAL.—Section 108(b)(2) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 108(b)(3) is amended by adding at the end the following new sentence: "The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

On page 1,811, after line 9, insert:

**SEC. . RESEARCH CREDIT BASE AMOUNT FOR START-UP COMPANIES.**

(a) IN GENERAL.—Clause (i) of section 41(c)(3)(B) (relating to the research credit definition of start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDEMENT NO. 3218

(Purpose: To amend the Internal Revenue Code of 1986 to exclude from gross income payments which are accounted for by a state in determining state foster care payments)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3218.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1811, after line 9, insert the following new section:

**SEC. . CERTAIN FOSTER CARE PAYMENTS EXCLUDED FROM GROSS INCOME.**

(a) TREATMENT OF PAYMENTS.—Subparagraph (A) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(A) which is—

"(i) paid by a State or political subdivision thereof or a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), or

"(ii) paid by the Federal Government and taken into account by such State, political subdivision, or placement agency in determining the amount of a payment described in clause (i), and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made on or after the date of the enactment of this Act.

Mr. LEVIN. Mr. President, the purpose of this amendment is to make clear that foster care payments which are paid by the Federal Government and taken into account by the State or political subdivision as a foster care payment are not to be included in the foster care providers' gross income and consequently are not to be taxed.

This has always been the intent of Congress. The Finance Committee, the Ways and Means Committee have always intended this, but we have not been able to get a statement from the IRS on this matter.

Mr. BENTSEN. Mr. President, we have looked at this amendment on the majority side and its clarification, and we are delighted to support it.

Mr. PACKWOOD. It has been cleared on this side.

Mr. LEVIN. I would like to thank my colleague Chairman BENTSEN for agreeing to include this clarifying amendment in H.R. 11. I want to make clear that my amendment is not in any way a new interpretation of the Tax Code, but merely a statement of what Congress intended all along—that those foster care payments which are "paid by the Federal Government and taken into account by the State or political subdivision as a foster care payment" are not to be included in a foster care provider's gross income and consequently are not to be taxed.

Mr. BENTSEN. I am pleased to include this amendment in the bill before us and agree that this amendment does not change or expand the definition of a qualified foster care payment, but merely reinforces congressional intent in the face of what I understand has been a less-than-cooperative IRS. To state the obvious, this amendment codifies that certain payments from the Federal Government used in the calculation of foster care payments are not included in the gross income of a foster care provider. This amendment in no way is intended to affect whether payments from the Federal Government not used in the calculation of foster care payments are or are not included in an individual's gross income.

Mr. LEVIN. Exactly, the need for this amendment stems from the intransigence of the IRS to acknowledge the full scope and intent of the Tax Code regarding the exclusion of certain qualified foster care payments from the definition of gross income. My staff and I have been fighting this battle with the IRS for several years and our arguments regarding this issue have fallen on deaf ears. In the face of such intransigence, the only choice to guarantee that the full, historical scope of the Code is honored is to enact this amendment. Dedicated foster care providers deserve to have clarity on this issue.

Mr. BENTSEN. I am pleased to assist the Senator in that effort to assist our Nation's foster care families.

Mr. LEVIN. The Senator and his staff have been very helpful in our efforts to put this issue to rest and let us hope this amendment accomplishes that goal.

The PRESIDING OFFICER. Without objection, the amendment (No. 3218) is agreed to.

### AMENDMENT NO. 3217

Mr. PACKWOOD. Is my amendment the pending business.

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. This is an amendment with two parts. The first part relates to small woodlot owners, and the present law in terms of proving whether you are an active manager of your property or not is based on an hourly test. If you work over 500 hours a year on your property, you are presumably active, and your losses are active losses.

If it is between 100 and less than 500 hours, you must prove you are active; it is not a presumption. If you are below 100 hours, you are not even allowed to prove it.

Almost all small woodlots, by definition involve less than 100 hours of management. It is normally a part time activity. You are working at something else and you work as much time as necessary on your woodlot. But if you work less than 100 hours a year, you are not even allowed to prove that you are actively managing, although it does not take a lot to manage. My amendment simply allows the small woodlot owner to attempt to prove that he is an active manager. It does not give it to him. He is allowed to prove it.

That, in essence, is it. It is coupled with a research and development tax credit change. High-tech and other companies receive a tax credit equal to 20 percent of the amount by which they increase spending on research and development over the previous years. In 1989, the Tax Code was changed so that the startup companies that began business in 1989 and after were treated more favorably than companies that started business between 1984 and 1988.

This amendment simply proposes that all startups that begin business after 1983 be treated the same. I believe it has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, we have examined this on the majority side. I know of no objections to it. We are ready to support it.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 3217) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I have three amendments here that have been approved on both sides. I understand there will be no objection.

Mr. PACKWOOD. That is correct.

### AMENDMENT NO. 3219

(Purpose: Relating to limitation on State income taxation of pension income)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. REID and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. REID, proposes an amendment numbered 3219.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1784, line 13, strike "or".

On page 1784, line 15, strike the period and insert ", or".

On page 1784, between lines 15 and 16, insert:

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

Mr. BENTSEN. As I said, the amendment on behalf of Senator REID has been cleared on both sides. This amendment by Senator REID is to make a minor technical correction to his provision in H.R. 11 which would prohibit States from taxing the pension income of nonresidents.

Mr. PACKWOOD. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3219) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3220

(Purpose: To expand the wine spirits authorized to be used in wine production)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. LAUTENBERG and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. LAUTENBERG, proposes an amendment numbered 3220.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1428, between lines 19 and 20, insert the following:

**SEC. 4722. EXPANSION OF WINE SPIRITS AUTHORIZED FOR USE IN WINE PRODUCTION.**

(a) IN GENERAL.—Subsection (a) of section 5373 (relating to wine spirits) is amended—

(1) by inserting "or" at the end of paragraph (1),

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) any wine (standard or other than standard) or wine residues therefrom under such conditions as the Secretary may by regulations prescribe;", and

(3) by striking "natural wine or special wine" and inserting "standard wine or other than standard wine".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3220) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3221

(Purpose: Study on mileage deductions of loggers)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. DASCHLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DASCHLE, proposes an amendment numbered 3221.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

**SEC. . STUDY OF TRAVEL EXPENSES OF LOGGERS.**

(a) STUDY.—The Secretary of the Treasury shall conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timber. Such study shall include an analysis of the facts and circumstances under which such individual may deduct for Federal income tax purposes expenses incurred when traveling between the individual's home and the job site.

(b) REPORT.—The Secretary of the Treasury shall, not later than July 1, 1993, report the results of the study conducted under subsection (a), including a recommendation as to whether or not travel expenses described in subsection (a) should be allowed as a deduction for Federal income tax purposes.

Mr. BENTSEN. We have no objection to the amendment on this side.

Mr. PACKWOOD. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3221) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3207

The PRESIDING OFFICER. The pending question is the Simon amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Simon amendment be laid aside in order to consider a Metzenbaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3222

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3222.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1353, line 23, delete "75" and insert "50".

On page 1354, line 9, delete "75" and insert "50".

On page 1354, line 12, delete "25" and insert "50".

Mr. METZENBAUM. Mr. President, this amendment deals with a matter that was discussed at some length yesterday by Senator SIMON and myself having to do with the treatment of intangible assets, particularly goodwill. And the issue was disposed of by the Senate at the time of the amendment, which I supported strongly but was not accepted; but this now has to do with the pending cases.

The bill provides that those cases can be settled by the IRS with the taxpayer at, I think it is, 25 cents on the dollar, permitting the taxpayer to get 75 percent of his full claim.

I have been attempting to reverse the figures and make it 75-25 instead of 25-75. I have been able to work out, with the cooperation of the Senator from Texas, a reduced 50-50 figure. That is what this amendment provides.

Mr. BENTSEN. If the Senator will yield, I think this is a reasonable compromise, and I am quite prepared to support it. We would pay for this on a market by the reduction of the amortization from 10 years to 7 years. Does the Senator have the technical part that would modify his amendment?

### AMENDMENT NO. 3222, AS MODIFIED

Mr. METZENBAUM. Mr. President, the chairman of the Finance Committee has touched on a point as to how it is paid for.

So I send a modification of my amendment to the desk, and I ask that it be included in the amendment pending.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 3222), as modified, is as follows:

On page 971, line 17, strike "The 10 taxable year period" and insert "the 7-taxable year period".

On page 1353, line 23, strike "75" and insert "50".

On page 1354, lines 9 and 12, strike "75" and "25", respectively, and insert "50" in both places.

Mr. METZENBAUM. Mr. President, the amendment I offer will significantly reduce the Government's losses in the so-called retroactive settlement provision found in the bill's section on intangibles.

In light of yesterday's discussion, I first want to clarify what the Government is setting for under H.R. 11 as reported by the Finance Committee. Under the current provision, corporations are given an outrageous choice that amounts to nothing more than a win/win proposition. If the corporation expects to win in court, it can choose to litigate its claim against the Government. However, if a corporation which has not yet come to a final settlement in court, determines that it will ultimately lose in court, the corporation can take the Government's offer of settling its claim for 75 percent of the value assigned to the intangible by the corporation, and walk away like a bandit. The Government, on the other hand, is left with a mere 25 percent.

To put it another way, if the Government is likely to win those cases in which the corporation takes advantage of the settlement option contained in the bill, the Government will receive 25 percent. Let me repeat, the Government is only getting 25 percent. The corporation and other wealthy businesses and takeover artists are getting an outrageous gift of 75 percent.

Supporters of the retroactive settlement provision say that it is needed in order to clear out all of the pending litigation and other disputes over the deductibility of intangibles.

The litigation problem that everyone is so worried about has been created by corporations trying to get out of paying their taxes.

We need to look at the way this crisis in litigation actually evolved. It is a perfect example of big business taking advantage of the Tax Code.

When all of this started, there were only a few intangible items that taxpayers claimed. Now we have more than 158, according to GAO, and the list is growing.

The problem began when big corporations had to find a way to get rid of some of the tax liability they had as a result of mergers and acquisitions. They realized that it was to their advantage to try to classify everything as nongoodwill, and try to write off as much of it as possible.

The IRS had to challenge more and more of these cases, because they knew what the corporations were up to. But let's be serious. The IRS can't spend the time and money necessary to outgun corporate tax lawyers.

When ordinary taxpayers get audited, and the IRS says they've taken a deduction they're not entitled to, they usually have to pay more taxes.

But not if you're a big corporation. Big corporations hire tax lawyers, and go to court for years, and use every possible alternative to get out of paying the taxes which they know they owe, but don't want to pay.

That's really what's going on here. We are about to give a great big reward to all those corporations who were aggressive in trying to avoid their taxes. We're about to let all those corporations take 75 percent of a deduction they never should have had. That's just ludicrous.

Under my amendment we change these shares. Instead of getting 25 percent, the Government will now be getting 50 percent. The corporation will be limited to a windfall of 50 percent.

The retroactive settlement provision contained in this bill is bad policy because the only companies who take the settlement election will be those who know they will probably either lose in court or get less than 75 percent of what they claimed. It will be to their advantage to take the settlement election rather than risk losing in court.

My amendment is more equitable to the American people and more equitable to the Government because it reduces losses.

Why is the Senate being forced to give corporations such a windfall? The provision for retroactive settlement does not appear in the House version of the tax bill, so why do we have it here? For the money?

Any claims of a revenue boost from this provision are just an illusion. The American taxpayer is paying for the tax breaks given to corporate America. How outrageous. What a slap in the face of the American taxpayer in this time of economic crisis.

The provision in H.R. 11 loses money in the long run and we should not be forced to accept it.

Mr. President, if we are forced to accept the retroactive settlement provision contained in the tax bill, let us at least give the Government a bigger share of the returns. My amendment will do just that.

Mr. MOYNIHAN. Mr. President, I have severe reservations about this matter.

I yield the floor.

Mr. DOMENICI. Parliamentary inquiry. What is the status of the situation at this point? Is there a unanimous-consent request?

Mr. METZENBAUM. Mr. President, the amendment has not been acted upon.

The PRESIDING OFFICER. The pending question is the Metzenbaum amendment.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3207, AS MODIFIED

Mr. SIMON. Mr. President, I will modify the amendment I have before the body, that Senator HATCH and I introduced, in the following way.

There was a concern. Senator MOYNIHAN's staff and my staff have worked this out. I think it is now acceptable to everyone.

Mr. BENTSEN. I would say to my friend, I was engaged with staff in conversation on another amendment and frankly I do not know which amendment he is offering.

Mr. SIMON. This is the JOBS amendment. We have worked it out.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I say to my friend from Illinois and the Senator from New York that I have had a chance, now, to look at the revision in the amendment and I see no objection to it.

Mr. SIMON. I thank the chairman of the committee.

Mr. DOLE. There is no objection on this side.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3207), as modified, is as follows:

On page 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided access to Federal funds provided under this part, in accordance with regulations issued by the Secretary."

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3207), as modified, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

### ACCRUAL ACCOUNTING

Mr. LEVIN. Mr. President, there is a provision in the bill before us, section 4513, which will treat income of certain warehouses differently than that income is currently treated under the tax law. I think the provision is, in one sense, actually fair and equitable, because the present tax law requires a cotton warehouse to treat as current income, money that it has not yet received and may or may not receive down the road for the storage of the cotton.

Right now, we actually are taxing people on income that they may never receive, and that is unfair. We are taxing people this year on income they may receive 2 years from now—and that is unfair. In other words, we are imputing income to these warehouses that is not received this year, and may not ever be received.

The problem that I have with this section of the committee bill is that it singles out cotton warehouses for the correction of the inequity, and there are other warehouses that currently must pay tax for income that is not received this year and for income which may never be received.

So it was my intention to send an amendment to the desk which would modify the code so that all warehouses would be treated the same way. My amendment would give the same fairness to other warehouses that this provision in the committee bill would provide for cotton warehouses.

And may I say that there are a lot of other small businesses, not in the warehouse business, that currently are treated unfairly in the Code because we impute income to them which they may never receive, such as tool and die shops.

It may take 2 years to build a jig or a fixture, and a small business may not be entitled to any money for 2 years, until 2 years down the road. But under the current Code, although there is no progress payment, that small business must pay a tax on income that it may get 2 years from now.

In the Finance Committee bill, we are correcting this today for cotton warehouses. My amendment would correct it for other warehouses. And, I hope that in the near future the Finance Committee and the Ways and Means Committee will address the same problem that exists for other businesses, such as tool and die manufacturers, that have income imputed to them currently that they did not receive and may never receive.

But my amendment was limited to warehouses in the way I described. I understand from the manager of the bill that he is going to seek in conference to broaden the language, if he possibly can, of section 4513 so that it at least will apply to all other warehouses that are similarly situated to the cotton warehouses that are referred to in that particular paragraph.

To summarize, Mr. President, section 4513 is entitled "Treatment of Certain Amounts Received by Operators of Licensed Cotton Warehouse." This provision of the committee bill is based on the entirely equitable premise that a taxpayer should not be penalized for failure to pay a tax on income until that taxpayer has actually received that income. What concerns me about this provision is not its premise, but rather its selectivity.

Why limit this provision to cotton warehouses? I asked this question particularly in light of an article that appeared in the Grand Rapids Press on October 27, 1991 entitled "Tool-and-Die Makers Say Tax Law Is Unfair and Hurts Their Industry." Just a couple of paragraphs from this article highlight the similarity of the situation at which section 4513 is directed and the situation faced by tool and die makers.

Quoting from the article:

> Most everyone agrees it isn't fair, but Gordon Hendricks, president and owner of Walker Tool & Die, Inc. still has to pay income taxes and an interest penalty on money he won't get until 1992 * * * Essentially, suppliers are being made to pay taxes as if they were receiving periodic payments from automakers as a project progressed. Such payments are standard in other industries. But in reality toolmakers say they don't receive a dime from automakers until the entire, often long-term, tooling project is done. They say they are being taxed on revenue they haven't received.

Let me repeat that last sentence. "They say they are being taxed on revenue they haven't received." Sound familiar?

I have prepared an amendment to apply the rule in section 4513 for licensed cotton warehouses to any other similarly situated warehouse. It is the intent of the amendment to allow warehouses, regardless of whether they are licensed cotton warehouses, to elect to defer the liability of income until it is actually received, provided that they pay interest on the amount deferred.

It seems to me that imputing the receipt of income to people before they actually receive it is an example of where the drive for revenue for the Treasury overrides equity and common sense.

I urge the committee consider broadening this provision to extend beyond cotton warehouses when the bill is reconfigured in the conference. And, I urge the committee to approve in the near future legislation to apply to all businesses, not just warehouses, this same principle. I believe making this provision more generally applicable would improve the fairness of the Tax Code and make it less burdensome to other businesses.

Mr. BENTSEN. Mr. President, I understand the concern of the Senator from Michigan and I buy the logic of the argument about warehouses similarly situated. The problem we run into is on the cotton warehouses we had a cost estimate and we managed to put it in the legislation, understanding its cost. We do not have a cost estimate on the recommendation of the Senator from Michigan. And therefore that is why we cannot act on it at the present time.

But I think the logic of equity is with him and, subject to what the costs are, I will seek to broaden it to take care of that.

Mr. LEVIN. I thank my friend from Texas and look forward to what he may be able to achieve in the conference.

Because of that assurance I will not be offering this amendment.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3223

(Purpose: To enhance the effectiveness of the United Nations International Driftnet Fishery Conservation Program, and for other purposes)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 3223.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

## TITLE —HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

**SEC. 01. SHORT TITLE.**

This title may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

**SEC. 02. FINDINGS AND POLICY.**

(a) FINDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-

scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

## Subtitle A—High Seas Large-Scale Driftnet Fishing

### SEC. 21. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter,the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

### SEC. 22. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 21 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

### SEC. 23. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

### SEC. 24. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

### Subtitle B—Fisheries Conservation Programs

### SEC. 31. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products", and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products", and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

### SEC. 32. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

### SEC. 33. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

### Subtitle C—Fisheries Enforcement in Central Bering Sea

### SEC. 51. SHORT TITLE.

This subtitle may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

### SEC. 52. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

### SEC. 53. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT RIVALRIES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statues of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A reviewed list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

### SEC. 54. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 53 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 53(b).

### SEC. 55. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 53(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 53(b).

### SEC. 56. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

### SEC. 57. TERMINATION.

This subtitle shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 52 occurring prior to such termination date shall be conducted as if that section were still in effect.

## Subtitle D—Miscellaneous Provisions

### SEC. 71. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

### SEC. 72. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernment Panel on Climate Change or any successor organization.

### SEC. 73. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

### SEC. 74. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

Mr. PACKARD. Mr. President, I rise to offer an amendment which is similar to a bill the Senate has passed three times. It deals with drift nets.

Let me give the Senate some recent history on this issue.

In August 1991, the Senate passed by unanimous consent my bill to impose sanctions on countries that do not stop drift net fishing.

In February 1992, the House passed a similar bill.

Since that time, the Senate has passed the drift net bill two more times.

Unfortunately, the House has added an unrelated and controversial provision to the bill dealing with foreign shipyard subsidies—the so-called Gibbons bill.

The drift net bill now appears to be stalled in the House.

We need to pass a drift net bill. It is for this reason that I am offering this amendment to the tax bill.

Here is what the amendment does:

It imposes mandatory sanctions on the fish, fish products, and sport fishing equipment of countries that do not stop drift net fishing by the end of the year.

It allows the President to impose additional sanctions on countries if the fish sanctions alone do not work.

It denies port privileges to vessels that engage in drift net fishing.

It restricts fishing in the central Bering Sea, in an area referred to as the donut.

Since Congress started debating the drift net issue 6 years ago, we have made a great deal of progress.

Congress' obvious resolve on this issue has gotten the attention of the major drift net countries.

It has also gotten the attention of the United Nations. In December 1991, the United Nations approved a resolution calling for a complete halt to drift net fishing the end of this year.

Some may wonder why, if the United Nations has acted, we need to pursue legislation. The reason is this: to ensure that there is the hammer of mandatory sanctions to back up the U.N. resolution.

Too often I have seen deadlines slip. That must not happen this time. This bill ensures that any country that chooses to ignore the U.N. resolution will pay a price.

As I said before, the Senate has passed drift net legislation similar to this amendment three times. I hope this is the last time we need to do so. I urge my colleagues to support this amendment.

Mr. BENTSEN. Mr. President, we have, as my colleague has stated, passed this three times in the Senate. I think it is meritorious. I know of no objection to it on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3223) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3224

(Purpose: To provide for the repeal of the user fee on recreational vessels)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 3224.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

## TITLE —FEES

### SEC. 01. RECREATIONAL BOAT TAX REPEAL.

(a) In General.—

(1) Scope of Fee.—Section 2110(b)(1) of title 46, United States Code is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) Amount of Fee.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) Effective Date.—The amendments made by this section are effective October 1, 1992.

### SEC. 02. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) Definitions.—In this section, the following definitions apply:

(1) Commission.—The term "Commission" means the Federal Maritime Commission.

(2) Common Carrier.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) Conference.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 19834 (46 App. U.S.C. 1702).

(4) Essential Terms of Service Contracts.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) Tariff.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) Tariff Form and Availability.—

(1) Requirement to File.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) Availability of Information.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) Filing Schedule.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) Fees.—

(1) Amount of Fee.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) Exemption for Federal Agencies.—A Federal agency is exempt from paying a fee under this subsection.

(e) Enforcement.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) Penalties.—

(1) Civil Penalties.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) Criminal Penalties.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) Automatic Filing Implementation.—

(1) Certification of Software.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) Repayable Advance.—

(A) Availability and Use of Advance.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) Requirement to Repay.—

(i) In General.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) Interest.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) Use of Retained Amounts.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) Deposit in Treasury.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) Restriction.—No fee may be collected under this section after fiscal year 1995.

(i) Conforming Amendment.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. BREAUX. Mr. President, this was a part of a package that has already passed the Senate on two separate occasions. It is part of the driftnet bill that Senator Packwood just offered to H.R. 11. This is the legislation that repeals the so-called recreational user tax on recreational boaters.

When it passed before in the Senate, it contained an offset which was a filing fee for tariffs filed before the Federal Maritime Commission. People used to have to pay for it under our proposal.

What this amendment does is repeal the user fee, and we pay for it by a fee on automatic filings and the use of those filings before the Federal Maritime Commission. This measure, as well as the measure just offered by Senator Packwood, as I said, has passed the Senate on two separate occasions.

I ask that it be accepted at this time as well.

Mr. BENTSEN. Mr. President, the Senator is right, it has passed twice before, and the manager of the legislation for the majority sees no objection to it.

Mr. PACKWOOD. No objection on this side.

Mr. HOLLINGS. Mr. President, I rise today to support Senator Breaux's amendment repealing the Coast Guard recreational boat user fee.

I have opposed this unjust tax on our Nation's boaters since President Reagan first proposed it back in 1981. Congress blocked it then and each subsequent year through the 1980's. Unfortunately, the boat user fee was included 3 years ago in the budget summit agreement between President Bush and the congressional leaders, and was enacted as part of the Omnibus Report Reconciliation Act of 1990.

My objection to the Coast Guard recreational boat user fee is, and has always been, the fact that this is no true user fee. This thinly disguised tax is just one more gimmick that the administration has used to raise revenues while pretending—read my lips—that it is not levying new taxes. However, a boater user fee imposed where no services are provided is clearly no user fee.

First, the administration has chosen to charge this fee, which ranges from $25 for boats 16 to 20 feet, to $100 for boats over 40 feet, in areas where there is no Coast Guard presence. For example, South Carolina boaters on Lakes Marion and Moultrie, the Santee-Cooper Lakes, have to pay the recreational fee despite having no Coast Guard coverage. The situation is similar for other inland waters in my State, including the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River, where boaters have to pay the fee.

Second, all the money collected by the user fee goes to the general revenue fund where it is spent on everything except services to boaters. In fact, the user fee decal sold by the Coast Guard says right on it that "boaters paying for this decal can expect no increase in the quantity, quality or variety of services provided by the Coast Guard."

Third, the Coast Guard is actually cutting back its services to boaters. The share of the Coast Guard's budget spent on search and rescue has decreased by 25 percent since 1981, in large part because the Coast Guard is no longer a towing service for recreational boaters. In nonemergency cases, the Coast Guard now routinely turns over cases to commercial towers whose fee ranges from $100 to $125 per hour.

This user fee looks like a tax, smells like a tax, and bites like a tax. The recreational boater user fee is bad economic policy, and it is unfair. We need to repeal it as expeditiously as possible.

The amendment before the Senate today would do just that. The Senate substitute for H.R. 2152 provides for a phased repeal of the boater tax. Under these provisions, the Coast Guard user fee would be repealed on October 1, 1992, for boats 21 feet or less—70 percent of the boaters that have to pay the fee—on October 1, 1993, for boats 37 feet or less; and on October 1, 1994, for all remaining recreational boats.

As a budget offset, the amendment establishes a user fee for electronic access to the Federal Maritime Commission's [FMC] new Automated Tariff Filing and Information [ATFI] System. Individuals who electronically retrieve ATFI data would be charged $0.46 per minute. The fee is for remote computer access to the ATFI System. Individuals may elect to purchase the service or not to purchase the services. The ATFI System will organize the tariffs, or shipping rates, that are required to be filed with the FMC into a rate-quoting system, similar to the existing system operated by airlines for flight rates. Both the Congressional Budget Office and the Office of Management and Budget have estimated that the ATFI fee would generate adequate funds to offset the budget loss from the repeal of the Coast Guard user fee. I urge my colleagues to support adoption of this amendment to repeal this unfair boater's tax.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3224) was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3225

(Purpose: Technical amendments)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3225.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1622, between lines 3 and 4, insert the following:

**SEC. 7005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any self-employment income on which such tax would have been imposed but for such exemption shall not be credited under section 212 of the Social Security Act, and, if such individual's primary insurance amount has been determined under section 215 of such Act, notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection.

**SEC. 7006. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.**

Section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

On page 1699, between lines 15 and 16, insert the following:

**SEC. 7135. NEW HOPE DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount no greater than the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (referred to in this section as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and as-

sistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the date of enactment of this Act.

On page 1703, between lines 3 and 4, insert the following:

### SEC. 7144. MODIFICATION OF THE 20-HOUR RULE.

(a) IN GENERAL.—Section 403(l)(3)(D) (42 U.S.C. 603(l)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) For purposes of this paragraph, each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) shall be considered 2 hours of participation in the program under part F.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective on the date of the enactment of this Act.

On page 1703, strike lines 20 through 26 and insert the following:

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the terms 'community works progress project' and 'project' mean an activity that results in a specific, identifiable service or product that, but for this section, would not otherwise be done with existing funds.

"(B) PROJECTS DESCRIBED.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.".

On page 1704, between lines 19 and 20, insert the following:

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each organization conducting a community works progress project under this section shall establish and maintain a procedure for the filing and adjudication of grievances from participants in such project, labor organizations, and other interested individuals concerning such project, including grievances regarding proposed placements of such participants in such project.

"(B) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance under this paragraph shall be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(C) DEADLINE FOR HEARING AND DECISION.—

"(i) HEARING.—A hearing conducted under this paragraph on any grievance shall be conducted not later than 30 days after the filing of such grievance.

"(ii) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

"(D) ARBITRATION.—

"(i) IN GENERAL.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding.

"(iii) DEADLINE FOR DECISION.—A decision concerning a grievance subject to an arbitration proceeding shall be made not later than 30 days after the date such arbitration proceeding begins.

"(iv) COST.—The cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(E) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a community works progress project conducted under this section, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this paragraph.

"(F) REMEDIES.—Remedies for a grievance filed under this paragraph include—

"(i) suspension or termination of payments under this section for a community works progress project; and

"(ii) prohibition of the placement described in subparagraph (E).".

On page 1719, line 16, strike the end quotation marks and the end period.

On page 1719, between lines 16 and 17, insert the following:

"(j) INTERDEPARTMENTAL TASK FORCE.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall establish a task force to identify any Federal funds (in addition to the funds authorized under subsection (i)) that may be directed for use in the community works progress projects under this section and to identify any modifications to existing policies or procedures that would facilitate the implementation of such projects.

"(2) MEMBERSHIP.—The Task Force shall consist of at least 3 members and shall include 1 representative from each of the following agencies:

"(A) the Department of Health and Human Services;

"(B) the Department of Labor; and

"(C) the Department of Housing and Urban Development.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Secretary, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Congress that includes any findings and recommendations of the task force.

"(4) ACTION ON RECOMMENDATIONS.—The Secretary, the Secretary of Labor, and the Secretary of Housing and Urban Development shall take such actions as may be necessary to carry out the recommendations of the task force.".

Strike line 17 on page 1737 through line 14 on page 1738 and insert the following:

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by striking "lands" and inserting "lands, and income, including interest up to $4,000 per annum derived from such income,"; and

(2) by striking "resource" and inserting "resource or income".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1992.

On page 1742, after line 24, insert the following:

### SEC. 7179. SELF-EMPLOYMENT PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter in this section referred to as the "Secretary") may authorize not more than 10 States to establish and operate self-employment programs that meet the requirements of this section.

(b) REQUIREMENTS.—The Secretary may authorize a State self-employment program, if a State applies to participate in such program, and the Secretary determines that—

(1) the State program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to unemployment compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits under the State program are available only to individuals who are likely to receive unemployment compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year;

(5) the aggregate amounts of benefits payable to an individual under the State program with respect to any benefit year is limited to not more than 80 percent of the maximum amount of regular unemployment compensation payable to such individual for such benefit year; and

(6) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

(c) BENEFITS.—If the Secretary authorizes a self-employment program for a State under this section, the State may use the State unemployment fund to provide cash unemployment benefits, exclusive of the expenses of administration, to individuals participating in the program. Such benefits shall be used to assist participating individuals in becoming self-employed.

(d) REPORTS.—

(1) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary under this section shall report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(2) REPORT TO CONGRESS.—Not later than December 31, 1995, based on the reports received from States operating self-employment programs under this section, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representa-

tives with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation program.

(e) DEFINITIONS.—For purposes of this section, the terms "compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) TERMINATION.—The provisions of this section shall not apply after September 30, 1996.

**SEC. 7180. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.**

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective on October 1, 1993.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

Mr. BENTSEN. Mr. President, on behalf of the managers, I offer an amendment making minor and technical changes to the income security portion of the pending bill. It includes only items of zero or negligible cost.

Among the matters included in the amendment are provisions relating to exempting certain ministers from paying past-due Social Security taxes; allowing States to develop programs to help unemployment compensation beneficiaries set up small businesses; requiring States to report the names of parents who have substantial overdue child support payments to credit bureaus; easing the so-called 20-hour rule under the JOBS Education and Training Program; and several other income security provisions that have the support of Senators on both sides of the aisle.

I ask unanimous consent that a summary description of the provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## THE NEW HOPE PROJECT: BLUEPRINT FOR THE FUTURE

### PROGRAM ORIGIN

Developed by Congress for a Working America, a non-profit organization in July, 1988.

New Hope is now administered by a 23-person board of directors with broad-based representation by business, labor, education, religion, government and persons directly affected by poverty. The board is chaired by Thomas Schrader, president and chief executive officer of Wisconsin Gas Company.

### INDEPENDENCE VERSUS DEPENDENCE

New Hope tests the theory that people on welfare will choose work over welfare and unemployment if given the opportunity to work, the chance to receive a decent wage, adequate healthcare and child care.

New Hope also addresses perhaps the hardest hit population segment—the working poor by offering a competitive wage and appropriate health and child care benefits so they will not fall back into welfare dependency.

### PROGRAM OBJECTIVE

To change federal and state welfare and poverty policies by demonstrating that employment and work-based income and supporting services are a better, more humane, more cost effective way to deal with poverty and joblessness than the current welfare system.

### HOW NEW HOPE WORKS

New Hope will select 600 households in two Milwaukee neighborhoods, one on the north side and one on the south side.

The project will offer poor people in these neighborhoods, whether receiving public assistance or not, the opportunity to choose to work full-time.

New Hope will provide help in securing private sector jobs.

New Hope will provide help in securing community service jobs if aggressive efforts to secure conventional private sector employment do not succeed.

New Hope will provide wage supplements for full-time workers whose wages are below the official poverty line, up to 115% of poverty.

New Hope will provide health care and child care coverage to allow people to secure long-term, career oriented work.

### ADMINISTRATION

New Hope will be run by a full-time director beginning in 1992.

Administrative costs will stay at 10% or less of budget.

Congress For a Working America (CFWA) will be the staffing agent for the 50-person pilot.

New Hope director will work with existing agencies such as CFWA, the Private Industry Council and other community-based organizations to assist in private sector job placement.

### NEW HOPE TIMETABLE

The project will be spread over a five year period with final design in 1991, a pilot phase then full implementation in 1992, 1993, 1994 and project completion and evaluation in 1995.

### RESEARCHED AND ENDORSED

The New Hope concept has undergone intense scrutiny by think tanks, politicians, experts in the field of social policy, educators, business people, community leaders and people receiving some form of government assistance.

These diverse groups have come to the conclusion that New Hope offers a unique and important alternative to welfare and unemployment.

Feasibility reviewed by a Greater Milwaukee Committee Task Force, July 1990.

A panel of seven experts in the field of social policy concluded that New Hope is "a unique intervention with the potential of identifying important approaches to poverty reduction and welfare replacement."

Eleven academic experts from the Robert M. La Follette Institute of Public Affairs found that New Hope contains a unique set of program provisions and provides a stronger work test than 60 previously tested welfare reform programs.

### FUNDING NEW HOPE

The total cost of the program is $18.5 million, with the bulk of the funds needed for the implementation years, 1992–1994.

The sources of these funds will be split between the public and private sector.

Approximately $6 million of federal funds will flow through the State of Wisconsin.

The State of Wisconsin has allocated $550,000 over the 1991–93 biennium for New Hope. Release of these funds are dependent upon a matching commitment from another funding source. Additional state funds will be sought in the next biennium.

The city of Milwaukee has earmarked $500,000 toward the Milwaukee Community Service Corp. for community service jobs for New Hope.

Private funds totaling about $10 million are needed from both local and national sources.

An immediate funding need of $500,000 is required so a pilot program with 50 people can begin in the first quarter of 1992.

### BENEFITS TO BUSINESS

New Hope will identify workers at a time when shortages of qualified job candidates are predicted.

New Hope could replace expensive deferred and emergency medical care with normal preventive health care, and possibly reduce medical expense paid by tax funds.

Reduce welfare support paid by tax funds as people move from complete welfare support to at least partial, then full self-sufficiency.

Reduce expense of bureaucracy to deliver public assistance due to consolidation/coordination under New Hope concept.

### BENEFITS TO THE COMMUNITY

Anti-poverty concepts could reshape the structure and administration of assistance provided by the state.

Promotes the value of people and their capabilities.

Potential to improve the quality of life for hundreds of Milwaukee area residents.

Invests public dollars in developing people as productive members of the workforce.

Community service jobs will add value to Milwaukee by doing work that is not now being done.

Reduce expenses to treat urban problems caused by poverty.

Positive national attention for Milwaukee and Wisconsin due to being the model for national policy change.

Redirect dollars away from some of the current welfare and criminal justice categories toward investment in our greatest natural resource—people.

### NEW HOPE PROJECT, INC. BOARD OF DIRECTORS

Thomas Schrader, New Hope chair, President & Chief Executive Officer, Wisconsin Gas Company.

Miguel Berry, Director, Milwaukee Enterprise Center-South.

Thomas Brophy, Director, Milwaukee County Health & Human Services.

Artie Brown, Member, Congress For a Working America.

Chris Crawley, Executive Director, Congress For a Working America.

Charlie Dee, Instructor, Milwaukee Area Technical College.

Dr. Howard Fuller, Superintendent, Milwaukee Public Schools.

Steve Graff, Managing Partner, Arthur Andersen & Co.

Donna Izhiman, Member, Congress For a Working America.

John MacIver, Senior Partner, Michael, Best & Friedrich.

Rt. Reverend Patrick Matolengwe, Dean of All Saints Cathedral, Interfaith Conference of Greater Milwaukee.

David Meissner, President & Chief Executive Officer, Barkin, Paulsen, Meissner & Kimball, Inc.

Ameenah Muhammed, Project Director, Women Rising—Rosalie Manor, Inc.

John Parr, District Council 48, AFSCME.

Roger Peirce, President, Super Steel Products Corp.

David Riemer, Director, Milwaukee Department of Administration.

Linda Stewart, Assistant State Director, Wisconsin Board of Vocational, Technical & Adult Education.

Six additional board seats are reserved for participants from the New Hope target neighborhoods.

### PROJECT NEW HOPE AMENDMENT

Mr. KOHL. Mr. President, the amendment offered today is designed to demonstrate an alternative approach to welfare.

The experiment is called New Hope Project and is based on a simple premise: Poor persons prefer work to welfare. It hopes to test and measure whether people can avoid welfare if they are given a living wage, child care, and health care.

It assumes that there are several reasons why the poor and near-poor are underemployed. Sometimes they can't find work. Sometimes the benefits of working don't offset the costs of child care and transportation. Sometimes, working a full-time job at minimum wage is just enough to throw them off of AFDC, with no access to health care for their children.

New Hope Project is a bold experiment designed to change some of the incentives—and disincentives—in our welfare-to-work programs. When it began in April 1992, there were 50 enrollees. Early next year, the project hopes to be serving 600.

Although the project itself does not provide job training, it will help participants obtain job training if they need it. People who volunteer for the program will be offered a job and a wage subsidy if their income is below the poverty line. They will also be offered child care and health insurance.

Participants are required to conduct an 8 week private sector job search, with the help of the New Hope Project. If all else fails, they will be guaranteed a public service job.

The project has broad-based support in Milwaukee. Business, labor, education, religious, and government leaders have all joined to make this alternative to welfare work.

The amendment that I have offered to the urban aid bill will make the Federal Government an active partner in New Hope Project. It will not increase Federal expenditures. It simply allows New Hope Project to receive the Federal share of cash assistance to which title IV participants in New Hope Project would otherwise have been entitled.

There is a similar provision contained in the House-passed version of H.R. 11 and I commend my colleague Representative MOODY, for his sponsorship of that amendment. My amendment is more narrowly drafted to the New Hope Project, and it contains a strong evaluation component.

Mr. President, I urge the adoption of this amendment.

### NEW HOPE DEMONSTRATION PROJECT

• Mr. KASTEN. Mr. President, the amendment before the Senate is a demonstration project which would promote welfare reform through work incentives.

In very simple terms, this project is a jobs program. The demonstration project, commonly referred to as the New Hope Project offers participants help in finding a job, health insurance, and child care.

The overall focus of the project is to help poor people get a job in the private or public sector. The project, which is administered by the New Hope Project, Inc., in Milwaukee, WI, also provides participants an opportunity of community service jobs, if they are unable to find a regular job after 8 weeks of job search.

Mr. President, eligibility for this program is clearly in the American spirit. The project uses the willingness and desire to work as the primary eligibility criteria. A participant's household income must be at or below 150 percent of poverty to enter the program. Participants are eligible for subsidies for health insurance and child care until their income reaches 200 percent of the poverty line.

Investing in people who are working is a much better use of taxpayer dollars than simply providing welfare benefits. New Hope Project is a genuine welfare reform that deserves to be tested. I hope my colleagues will join us in supporting this amendment.•

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3225) was agreed to.

Mr. BENTSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3226

(Purpose: To allow Wilkinson County School District, MI, to file for a refund of overpaid windfall profits tax, notwithstanding the statute of limitations)

Mr. PACKWOOD. Mr. President, I am going to, in a moment, submit an amendment on behalf of Senator COCHRAN. This relates to a school district in Wilkinson County, in the State of Mississippi.

In a nutshell what happened is this. They overpaid years ago some windfall profits taxes. They were represented by inadequate counsel. They neglected to apply for a refund to which they were entitled. No one argues they would have been entitled to it. And they were precluded by the statute of limitations.

The Internal Revenue Service sent a letter which says, "Although this decision does not seem equitable, the Service is by law precluded from approving this claim."

This amendment would allow the claim to be approved. It is $58,000 plus interest and the total is less than $100,000.

I now send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. COCHRAN, proposes an amendment numbered 3226.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

**SEC. . EXTENSION OF PERIOD FOR CREDIT OR REFUND OF CERTAIN OVERPAYMENTS OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.**

Notwithstanding section 6511 of the Internal Revenue Code of 1986 (relating to limitations on credit or refund), the time for filing a claim for credit or refund of any overpayment of the windfall profit tax on domestic crude oil under chapter 45 of such Code (as in effect before its repeal by Public Law 100-418) by the Wilkinson County School District, in the State of Mississippi, for any period ending before January 1, 1983, shall not expire before the close of the one-year period beginning on the date of the enactment of this Act.

• Mr. COCHRAN. Mr. President, my amendment is designed to allow a small school district in Mississippi to file for a refund of overpayments of windfall profit taxes which were withheld in the early 1980's.

The Windfall Profit Tax Act of 1980 provided an exemption from the tax for qualified governmental entities.

Wilkinson County, MS, was such a qualified entity; however, because the county did not employ a tax counsel, they were unaware of this exemption. As a result, windfall profit taxes were withheld from payments to the county and were forwarded to the Internal Revenue Service.

The 1980 law provided that a taxpayer could file a claim for reimbursement of overpaid windfall profit taxes. Upon learning of this provision Wilkinson County filed a claim for a refund, but the IRS ruled that a statute of limitations had expired for refund of the 1980–82 taxes withheld. Despite Wilkinson County's assertion that they were not subject to this statute of limitations, the IRS rules that they had no authority to issue such a refund. In a letter addressed to my colleague from Mississippi, Congressman MIKE PARKER, the Internal Revenue Service's Deputy National Director of Appeals stated, "Although this decision does not seem equitable, the Service is by law precluded from [approving this claim]."

Mr. President, my amendment will remedy this problem by allowing the statute of limitations to be extended only for Wilkinson County, and only for the years prior to 1983. This amendment will cost $58,000 plus interest, if interest is awarded by the IRS, bringing the total possible cost to less than $100,000, which is a small expense for the Federal Government but a very significant amount for a small, predominately minority school district.•

Mr. BENTSEN. Mr. President, I know of no objection on this side.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3226) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3228

(Purpose: To clarify the value of passenger services subject to the harbor maintenance tax)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 3228.

Mr. BREAUX. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1811, after line 9, insert the following:

**SEC. . HARBOR MAINTENANCE TAX ON SHIP PASSENGER FARES.**

(a) IN GENERAL.—Subparagraph (B) of section 4462(a)(5) (defining value) is amended to read as follows:

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the excess of—

"(i) the actual charge paid for such service or the prevailing charge paid for comparable service if no actual charge is paid, over

"(ii) the sum of—

"(I) the amount actually paid for pre- and post-cruise air or land transportation and lodging (including any separately-stated transportation or lodging taxes and the pro rata share of travel agent commissions properly allocable to such air or land transportation and lodging), and

"(II) the cost of separately-stated per-passenger taxes, fees, or charges imposed by domestic or foreign governmental entities."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation beginning on or after November 1, 1992.

Mr. BREAUX. Mr. President, I have discussed this amendment with a number of concerned Senators, who have indicated their lack of any opposition and actual support for the amendment. There is a harbor maintenance tax, a user fee that is used to collect money to repair harbors for ships to use those facilities. That harbor maintenance tax is 0.125 percent of the book value for a person making a trip on a cruise ship.

Unfortunately, customs is currently considering in the book value of that trip not just the cost of trip on the ship, but is also taxing the airplane fee to get to that port, or a train fee to get to that port, or any overnight accommodations while they are waiting for the ship to depart.

That was certainly not the intent of Congress when we passed the Harbor Maintenance Trust Fund Act. The intent was to just tax those passengers using ships out of harbors on the value of the cost of their crews, not on any other transportation or related costs that have nothing to do with the ship itself.

So, this amendment would merely clear up that ambiguity and I think reinstate the clear intent of the Congress when we passed this legislation in the first place.

I urge that it be given favorable consideration.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, I have examined the amendment. I know of no objection on this side.

Mr. PACKWOOD. None on this side, Mr. President.

Mr. BREAUX. I urge adoption of the amendment.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 3228) was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk regarding accelerated death benefits. It has been modified so as to comply with the constructive suggestions of Senator METZENBAUM, and am now informed it is acceptable to the managers.

### AMENDMENT NO. 3229

(Purpose: To expand the choices available to terminally ill individuals who wish to receive accelerated death benefits to improve their quality of life during their final days)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 3229.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1778, line 20, strike the quotation mark.

On page 1778, between lines 20 and 21, insert the following new paragraph:

"(3) ASSIGNMENT OR SALE OF CONTRACT.—For purposes of this subsection—

"(A) IN GENERAL.—Any amount received by an individual from the sale or assignment to a qualified accelerated benefits corporation of a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount described in paragraph (1). The preceding sentence shall not apply to amounts for payment of cash surrender values, loans, or other benefits made by an insurer in accordance with the policy provisions.

"(B) QUALIFIED ACCELERATED BENEFITS CORPORATION.—The term 'qualified accelerated benefits corporation' means a corporation—

"(i) with respect to which the aggregate amount of money or other property received in exchange for equity in the corporation, as contributions to capital, or as paid-in surplus is at least $1,000,000;

"(ii) which is regularly engaged in purchasing or taking assignment of life insurance contracts on the lives of insureds who are terminally ill individuals;

"(iii)(I) which does business in the State in which the insured resides and in which qualifying legislation has been enacted (or qualifying administrative regulations have been promulgated) to govern activities described in clause (ii), and

"(II) the business practices of which in States in which no qualifying legislation has been enacted (and no qualifying administrative regulations have been promulgated) do not materially differ from its business practices in States in which such legislation has been enacted (or such regulations have been promulgated); and

"(iv) which pays an amount equal to at least 60 percent of the face value of the life insurance as consideration for the sale or assignment to it of the policy.

"(C) For purposes of subparagraph (B)(iii)—

"(i) qualifying legislation means legislation enacted by a State legislature which, either alone or in conjunction with qualifying administrative regulations—

"(I) imposes obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on the lives of insureds who are terminally ill individuals with respect to confidentiality of medical information, disclosure of alternatives to accelerated benefits contracts, disclosure of tax consequences of accelerated benefits contracts, and full disclosure to the terminally ill individual of all material terms of the accelerated benefits contract and the life insurance policy, and

"(II) in order to enforce obligations described in subclause (I), authorizes the examination of business records and affairs of qualified accelerated benefits corporations, establishes procedures for investigations and for cease and desist and other orders, and imposes penalties for noncompliance; and

"(ii) qualifying administrative regulations means regulations promulgated by a State agency which, either alone or in conjunction with the qualifying legislation, impose obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on lives of insureds who are terminally ill individuals in the areas described in clause (i) and authorize the enforcement of those obligations in the manner provided in clause (i).

"(D) TRANSITION RULE.—In the case of taxable years beginning before January 1, 1994, a corporation conducting its business substantially in accordance with the qualifying legislation enacted by any State or with qualifying administrative regulations promulgated by any State agency shall be treated as satisfying the requirements of subparagraph (C) regardless of whether the corporation conducts its business in that State."

On page 1778, line 23, after "1989" insert ", except that in the case of amounts received pursuant to a sale or assignment described in section 101(g)(3) of the Internal Revenue Code of 1986 (as added by paragraph (1)), such amendment shall only apply to amounts received after January 1, 1993".

Mr. DOMENICI. Mr. President, section 8202 of the bill includes a provision allowing insurance companies to pay tax-free accelerated life insurance benefits to individuals who are terminally ill and who have less than 1 year of precious life left.

This provision was included at the initiative of Senator BRADLEY with the cosponsorship of more than 70 other Senators.

It is a perhaps one of the best intentioned provisions in H.R. 11 because it is designed to make life insurance more useful to the terminally ill.

A recent poll of National Association of People with AIDS listed as their No. 1 concern: lack of financial resources. This concern was listed ahead of access to health care, availability of medicines, or legal assistance. This amendment is designed to help meet that No. 1 priority.

The rational for this overriding priority is easy to understand. Thirty percent of health care costs are spent during the last year of life. For HIV and AIDS patients the percentage is even higher. As health care costs have soared, many terminally ill have wanted to cash in their life insurance to help meet medical bills.

As the deaths from cancer, HIV, and AIDS increase, more and more people want to use their life insurance to pay medical bills, provide a few comforts, or fulfill a final wish.

Our Tax Code worked against all of those objectives. Under current law, life insurance proceeds are taxable if paid on an accelerated basis before death, but tax exempt if paid to beneficiaries after death. Section 8202 of the bill allows the terminally ill to access their life insurance proceeds and not incur income tax liability. The provisions of the bill are good as far as they go. But the bill leaves out many providers of this benefit—the viatical settlement companies.

The amendment broadens the language of the bill to include the company which first developed the concept of an accelerated benefit for the terminally ill, and other similar viatical settlement companies that offer this service, compassion and helping hand. The amendment I am offering is cosponsored by Senator GRAHAM and Senator DIXON.

The first company to pioneer the concept of accelerated benefits for the terminally ill and to offer this service to HIV, AIDS cancer, and other dread disease patients is based in Albuquerque, NM. They started working on ways to help the terminally ill in February 1986. Living Benefits, Inc., has been in business 4 years and have helped improve the final days of 550 terminally ill individuals.

It wasn't until recently that life insurance companies started offering accelerated benefits for the terminally ill. Not all companies provide the option. Only about 140 of the existing 2,000 life insurance companies in the United States offer any type of accelerated benefit. The companies that do sometimes specify the eligible diseases, or limit the type of insurance policy that includes an accelerated benefit to the higher priced policies. Some companies limit the benefit to 25 percent of the face amount of the policy to a maximum of $10,000, or some similar limitation.

The noninsurance companies fill a niche because they provide all terminally ill individuals the option of an accelerated, cash benefit regardless of the dread disease or the type of life insurance policy they purchased years ago.

Research is the answer to find the cures.

But today, the task is tax policy. It is far less lofty, but in a way it can help minister to the stunning grief of those touched by a terminal illness. It can help those who have leaned too long over the bedside of a dying spouse, child, or friend.

To give you an idea about how important these companies are to the terminally ill and their families I would like to read from a few of the letters:

Letter 1: When we learned that my husband had a terminal illness we were, understandably devastated by the news. I have two sons who were very close to their father and we had a happy marriage. Among many of our worries was how we would pay for his medical needs, how we would keep our youngest son in college and how we could provide a good quality of life for whatever time my husband had remaining.

Your company became our answer. The service you provided allowed us to convert our house from electric to gas heat, thus assuring that our home would be warm enough to keep my husband comfortable in the winter. It allowed us to pay off outstanding debts that I could not afford on my salary alone, kept our son in school and allowed us to pay for a Christmas that my children now remember as the "best ever" instead of a morose and sad event. It allowed us the "luxury" of making sure my husband had the best medical care.

Letter 2: Living Benefits is affording PWAs [People with AIDS] a valuable option to increase or maintain the quality of life through the financial alternative of purchasing an otherwise pre-death nonliquid asset based investment.

Letter 3: Thank you for this valuable service, having the extra money enabled Kevin to enjoy his last months without economic hardship.

Letter 4: Thank you for first and foremost giving me a buffer in the bank. It has made day-to-day life less stressful.

The amendment is carefully drafted to incorporate important safeguards contained in the model accelerated benefits statutes that some states have enacted.

These safeguards include:

That the companies are doing business in which legislation has been enacted or administrative regulations have been promulgated to govern the following safeguards;

That the patient is fully aware of the options for accelerated benefits, the tax consequences—which will be vastly improved if this amendment becomes law; that the person is of sound mind and fully understands the concept of life insurance and accelerated benefits contracts; company guarantees the confidentiality of medical information; that the company is doing business in an ethical manner; and that the person is receiving a fair and competitive cash value of the insurance policy.

When Mary Fisher, an HIV positive victim spoke at the Republican National Convention, she asked us to "lift the shroud of silence which has been draped over the issue of HIV and AIDS. Two hundred thousand Americans are dead or dying; a million more are infected."

This amendment will help lift the financial burden associated with many of these terminal illnesses.

From October 9-11, the AIDS quilt will be on display on the Mall. It is a living growing monument to this plague; 20,000 squares, each representing someone who died of AIDS, yet it represents less than one-seventh of the U.S. AIDS deaths.

The number of cancer victims is even larger. There are over a million new cases of cancer diagnosed and a half million deaths each year from this disease. And it has taken its toll in some families generation after generation. Other terminal diseases continue to claim their victims as well.

I hope the Senate can adopt this amendment to help the terminally ill, their families and loved ones.

There are numerous groups in this country that asked us to pass this legislation. Among those groups are the various groups in this country that have AIDS members.

This permits those with life insurance during their last year of life—they are already moving toward death—to cash out an insurance policy so that their heirs do not have to wait until after they are dead to get that money.

Essentially, it permits that kind of payment to be treated as if it were a death payment in terms of the income and estate taxes of our country. That is the reason we put it in so that about 30 companies that do this kind of business eventually will qualify. We have put some regulations on them so we have a better chance of seeing that they do not take advantage of the situation, but it is a much needed service. It will serve a lot of people well.

I am delighted it is going to be accepted.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, the amendment of the Senator from New Mexico is a matter that we had a number of moments of discussion about. We are concerned as to the protections accorded the terminally ill individual.

I am not going to say I am enthused about the amendment, because I have some reservations about the protections for that individual, but I do believe that the Senator from New Mexico has gone way out of his way to try to see to it that those protections are afforded the individuals. I know he is as much concerned about those individuals as I am, and I have no objection to the amendment.

Mr. BENTSEN. Mr. President, I went into some length in discussion with the distinguished Senator from New Mexico concerning the question of capital securability of the companies doing the service for protection of the beneficiaries, and I am satisfied on that point. I have no objection to his amendment.

Mr. DOMENICI. Mr. President, before we adopt the amendment, I thank Senator BENTSEN and his staff. They were really concerned that we do the best we could to prevent anyone being taken advantage of, and I think we have done that. The benefits for the terminally ill outweigh the risk at this point, and I thank him for that.

The PRESIDING OFFICER. Is there further debate, if not the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3229) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3230

(Purpose: Clarifying separate charge restriction for reporting of real estate transactions)

Mr. BENTSEN. Mr. President, on behalf of Senator SPECTER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. SPECTER, for himself, Mr. DIXON, and Mr. WOFFORD, proposes an amendment numbered 3230.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . REPORTING OF REAL ESTATE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to real estate transactions closing after the date of enactment of this Act.

Mr. BENTSEN. Mr. President, this amendment clarifies that real estate reporting persons are able to include costs associated with the regulatory burden of tax information reporting within their general business costs.

It is acceptable with the manager of the bill on this side of the aisle.

Mr. PACKWOOD. Mr. President, I believe it is acceptable on this side.

Mr. SPECTER. Mr. Chairman, I am pleased to join with my distinguished colleague from Illinois, Senator DIXON, in offering this amendment clarifying section 6045 (e)(3) of the Internal Revenue Code regarding cost recovery for real estate reporting. This amendment is necessary to clarify that real estate reporting persons may recover costs associated with Federal tax reporting. It is germane to this bill because additional real estate tax-reporting requirements which are proposed under section 3006 of Senate-reported H.R. 11 will exacerbate this problem. It also, according to the Joint Committee on Taxation, is revenue neutral, having no effect on Federal fiscal year budget receipts.

Federal tax reporting is a particular concern in real estate transactions because unlike other industries where Federal tax reporting is required, charges and fees may be regulated by the States. However, Federal law now prohibits a separate charge for real estate tax reporting compliance.

Title insurance company employees, independent agents and attorneys, and escrow agents supervise and provide services for closing real estate transactions. In Pennsylvania, the person responsible for a closing is normally a title insurance company or an agent for a title insurance company. Under current law, those persons are designated as real estate reporting persons, who are required to provide information to the IRS on real estate closings. The information provided by real estate closing persons is used to check that taxpayers buying and selling real estate report their proceeds and other information correctly to the IRS. Unlike many other industries, but similar to other lines of insurance, this regulation can be very extensive, as in my State, extending to not only the rate of insurance, but to specific fees and settlement charges.

Current Federal law on real estate tax reporting is creating confusion. The law currently provides that a real estate reporting person shall not impose a separate charge for complying with the tax reporting requirement. This has created considerable confusion regarding on one hand, the title insurance industry's and others' good faith efforts to comply with strict State law and regulatory requirements, fair disclosure to consumers, and the Federal law, and on the other hand their ability to recoup the costs of complying with Federal law.

The conflict is, I believe, peculiar to the title insurance and real estate closing industry simply because it is regulated in this manner by the States. This amendment simply clarifies that Congress did not intend to prohibit a real estate reporting person from recouping the cost of Federal tax reporting, but that recovery of this cost is allowed within the fees charges by real estate closing persons.

I am pleased the distinguished managers of the bill have agreed to accept this amendment.

Mr. DIXON. Mr. President, on behalf of my distinguished colleagues from Pennsylvania, Senators WOFFORD and SPECTER, and myself, I rise to offer an amendment relating to the information reporting provisions of the Tax Code that apply to real estate reporting persons. Real estate reporting persons—such as title insurance company employees, and independent agents and attorneys—supervise and provide services for closing real estate transactions. For example, they provide the facility at which closings take place, prepare necessary documents, such as deeds, and accept funds to pay off mortgages and issue checks through an escrow account. Section 6045(e) of the Tax Code also requires real estate reporting persons to prepare and file information reports and statements in connection with the real estate closing. The code prohibits separate charges with respect to these reporting requirements, and my amendment does not alter that provision. My amendment does, however, make clear that real estate reporting persons are able to include costs associated with the regulatory burden imposed by these reporting requirements within their general business costs. I think this is particularly appropriate in the context of H.R. 11, since this bill expands the information reporting that real estate reporting persons are required to perform in connection with closings of various real estate transactions. The amendment is effective for real estate transactions which close after December 31, 1992.

I am pleased to be able to say that this amendment has no revenue cost whatsoever. I want to thank the managers of the bill for their attention to this matter, and for the cooperation they have given me and my staff. I strongly urge the approval of this amendment. Mr. President, I ask unanimous consent that a statement by Senator WOFFORD appear at this point in the RECORD.

Mr. WOFFORD. Mr. President, I am pleased to cosponsor this amendment regarding the recovery of costs incurred in the course of complying with real estate reporting requirements. Persons closing loans are required to provide information obtained at those closings to the IRS. Such information reporting is designed to ensure that taxpayers buying and selling real estate report their proceeds from that sale and other information correctly to the IRS. The amendment clarifies that real estate reporting persons may recover costs associated with such Federal tax reporting.

The PRESIDING OFFICER. Is there further debate?

If not the question is on agreeing to the amendment.

The amendment (No. 3230) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3231

(Purpose: to amend title 31 of the United States Code, to establish a Department of the Treasury Forfeiture Fund)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3231.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BENTSEN. Mr. President, I am offering an amendment to establish an asset forfeiture fund in the Department of the Treasury.

This amendment is identical to a bill approved by the Finance Committee in August. The Treasury forfeiture fund is an administration initiative. It consolidates all the seizure and forfeiture activities of the law enforcement agencies in the Treasury Department under a single roof and within one chain of command inside the Treasury Department. The fund would also operate just like the current forfeiture fund in the Justice Department and Customs Service.

When a Treasury law enforcement agency seizes an asset as a result of a drug investigation or some other activity, it may sell the assets and deposits the proceeds in the fund. Then it may use the money in the fund to pay certain expenses. For example, pay storage costs for seized goods or reimburse the costs of State and local law enforcement agencies that assist Federal law enforcement agencies.

This is a good-government amendment. It makes sense. it will increase efficiency and improve accountability.

It has been cleared by the managers on both sides.

I yield for any questions on my side.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I say to my friend from Texas, we have not seen this amendment before. I do not know whether I am for it or against it. It is a pretty thick amendment. I will give the Senator an answer within 2 minutes.

Will the Senator set the amendment aside for a moment?

Mr. BENTSEN. I ask unanimous consent to set this amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I thank the Senator.

### AMENDMENT NO. 3232

(Purpose: To amend the Trade Act of 1974 to remove the Union of Soviet Socialist Republics from the list of countries ineligible for designation as a beneficiary developing country)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

This amendment is to remove the Soviet Socialist Republics from a list of countries ineligible to receive benefits under GSP.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3232.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1811, after line 9, insert:

Subtitle D—Trade Provisions

**SEC. 8301. TREATMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS UNDER THE GENERALIZED SYSTEM OF PREFERENCES.**

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Union of Soviet Socialist Republics".

Mr. BENTSEN. Mr. President, let me state that this amendment does not automatically grant GSP benefits to any of the newly independent states, but simply makes them eligible to be designated as beneficiaries.

This bill was approved several months ago by the Finance Committee. It implements an element of the President's Russian aid package that fell within the jurisdiction of the Finance Committee.

The amendment has been cleared by the managers on both sides, and I urge it adoption.

I ask if there is any question that might arise on my side?

I know of no objection.

Mr. DOLE. No objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3232) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3233

(Purpose: To amend the Harmonized Tariff Schedule of the United States to specify that certain footwear assembled in beneficiary countries is excluded from duty-free treatment)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 3233.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle C of title VI, insert:

**SEC. . TREATMENT OF FOOTWEAR AND LEATHER-RELATED PRODUCTS.**

(a) IN GENERAL.—U.S. Note 2 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) in paragraph (b), by inserting "footwear, leather-related products," after "apparel article,";

(2) by striking the flush sentence following subparagraph (ii); and

(3) by adding at the end thereof the following new paragraph:

"(c) As used in this note—

"(i) the term 'beneficiary country' means a country listed in general note 3(c)(v)(A); and

"(ii) the term 'leather-related products' means articles of handbags, luggage, flat goods, work gloves, and leather wearing apparel described in section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

Mr. MITCHELL. Mr. President, I rise to offer an amendment that would correct a provision in the Caribbean Basin Economic Recovery Act. This amendment remedies a 1990 change to the law, a change which was clearly contrary to the expressed intent of the Senate and the basic purpose of the Caribbean Basin Initiative.

After the 1990 change, footwear imported from Caribbean nations has enjoyed duty-free status if that footwear is assembled from materials processed in the United States. The tariffs on Caribbean footwear suddenly dropped from a range of 20 to 67 percent to zero. As a result, what remains of the American footware industry will be destroyed. The industry has been already decimated by increased imports in the past 20 years. The 1990 change has caused—and will continue to cause still more factory closings and unemployment in this country.

The Caribbean Basin Initiative was originally enacted to provide certain limited and specific trade benefits to Caribbean nations. The purpose of that legislation, like all other trade preference rules, was to provide benefits subject to certain exceptions necessary to protect import-sensitive American industries. Nowhere was it ever stated or intended that there would be total disregard for American jobs and American industries in providing benefits to Caribbean nations.

When the Caribbean Basin Initiative was first enacted in 1983, footwear and other leather-related products were exempted from duty-free treatment. This exemption provided important protection to these particularly import-sensitive industries. As the 1983 House report stated:

> First, while Caribbean Basin imports constitute a very small portion of the U.S. market penetration at the present time, growth of some of these products has been substantial from certain Caribbean countries in the past two years and is likely to increase further in a very short period of time with the incentive of unlimited duty free access to the U.S. market. Second, these industries, which have already been heavily impacted by increased imports, would not survive if faced with duty-free import competition from the Caribbean Basin. The relatively few jobs remaining in these industries should not be sacrificed, as they are located primarily in small towns or counties with very little manufacturing, high unemployment, and little likelihood of alternative employment opportunities in the foreseeable future. Third, adjustment measures available to these domestic industries and their workers through the Appalachian Economic Development Administration, and trade adjustment assistance programs have been largely eliminated.

When new Caribbean Basin Initiative legislation was considered in 1990, the Senate went on record to support the continued protection of the American footware industry from imported Caribbean footwear. The Senator from Oregon offered a floor amendment to reduce by 50 percent the tariffs on certain footwear imported from Caribbean nations. The Senate soundly defeated that amendment by a vote of 63 to 33.

Unfortunately, this expressed intent did not survive conference committee action. When the conferees reconciled the bills, they included a provision that permitted duty-free imports of Caribbean products made with materials from the United States. Textile, apparel, and petroleum products were exempted from this provision. But footwear and the other leather related products were not.

This was supposed to increase employment both in Caribbean nations and the United States. By encouraging Caribbean manufacturing facilities to use American-made component parts, this provision would help provide jobs in the American supplier industries. If this was the intent, then it failed. The 1990 change allows the manufacturing of component parts to occur in Caribbean nations. American workers who cut leather products and footwear components in supplier industries have lost out to workers in Caribbean nations.

In fact, this provision expanded the scope of duty-free treatment accorded products which return to the United States. Under the current law treatment of rule 807, a duty is assessed only on the value added in a foreign country when the assembled product is returned to the United States. But under the 1990 amendment, products qualify for duty-free treatment if they are processed from materials from the United States, whether or not there is any assembly production in the United States.

To be sure, this 1990 amendment has provided generous benefits to Caribbean nations. But these benefits have an enormous cost: fewer American jobs and increased unemployment in an already battered industry.

There is no major industry in the United States which has suffered more under the weight of imports than the domestic footwear manufacturing industry. Since Ronald Reagan moved into the White House in 1981, imports of footwear have tripled from 365 million pairs to almost 1.2 billion pairs in 1991. Over that period, the share of the domestic market claimed by imports has risen from 50 percent to 82 percent.

The flood of imported footwear is continually rising. In 1992, imports have climbed to almost 85 percent of the American footwear market.

Imports now claim an astounding 88 percent of the nonrubber footwear market and 76 percent of the rubber footwear market. In other words, of 100 pairs of nonrubber footwear sold in the United States, only 12 pairs are manufactured in the United States. Of every 100 pairs of rubber footwear sold in the United States, only 24 pairs are manufactured in the United States. America literally walks in the shoes of other nations.

As imports have skyrocketed, the domestic industry and American workers have suffered. Companies have gone out of business. Scores of plants have closed their doors. Thousands of Americans have lost their jobs. In 1980, there were 144,000 workers employed in the domestic nonrubber footwear industry. Now, there are only 66,000—during this period, imports have forced nearly 80,000 American workers to the unemployment lines.

The downward spiral of the domestic footwear industry continues in the 1990's. In 1991, imported footwear increased another 5 percent. Employment shrunk by over 9,000 jobs; 28 plants were closed.

These statistics cannot adequately demonstrate the hardships endured by the domestic industry and its workers as imports have swept this country. There are now only a handful of domestic manufacturers remaining. As they struggle to hold on to their domestic operations, the large multinational importers are now establishing manufacturing facilities in the Caribbean. This will be the final blow to the American industry.

As a result of the 1990 legislative error, imported footwear from the Caribbean has started to flood into the U.S. market. Caribbean imports increased from 2.5 million pairs in 1990 to 3.1 million pairs in 1991, a 24-percent increase.

But this is only the beginning. In the first half of this year, imported rubber footwear from the Caribbean skyrocketed 407 percent. If the Caribbean production growth were to continue at this rate, imports of Caribbean footwear would exceed U.S. production by early in 1995. Although rubber footwear imports from the Caribbean Basin are only one-half of 1 percent of our market, this market share has grown fivefold in less than 2 years.

In 1990, the opponents to this footwear exemption argued that in granting duty-free status to Caribbean footwear, American jobs would not be lost. They argued that duty-free treatment of Caribbean footwear would simply move production from China to the Caribbean. This argument was wrong.

In 1991, imports of Chinese footwear increased 45 percent over the previous year. Imports of Caribbean footwear increased 24 percent. But U.S. production fell 6 percent, and 6,800 nonrubber footwear employees lost their jobs. This trend will continue.

American companies have already started to shift their operations to the Caribbean. Since the imported footwear from the Caribbean is made with low-cost labor and enters this country duty free, American companies simply cannot compete. These companies have to react in some way. The choice they face is to concede even more market share and close down still more plants in the United States or shift their operations to the Caribbean.

Maine companies are now confronted with the agonizing decision to move their plants to the Caribbean. One company, Supreme Slipper of Lewiston, ME, can only be described as a footwear success story. While the domestic industry has been fighting a losing battle against imported footwear, Supreme Slipper has been adding jobs, expanding from 200 employees in 1987 to 700 in 1991. The company has tenaciously and successfully competed in a market that is flooded with low-cost imports from the Far East.

But Caribbean footwear is now being priced at 20 to 25 percent below the domestic market price. Since Supreme Slipper cannot compete with these prices, it is now investigating the opportunities to move its facilities to the Dominican Republic, Honduras, Jamaica, or Costa Rica. The dramatic cost advantages of operating in the Caribbean basin leave the company few alternatives.

The purpose of this amendment is to correct an error that was made 2 years ago, an error that has cost—and will continue to cost—American jobs.

I urge my colleagues to support this amendment.

Mr. PACKWOOD. Mr. President, the amendment is cleared on this side.

Mr. BENTSEN. Mr. President, as manager of the legislation on this majority side, I am supportive of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3233) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3234

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senators MOYNIHAN and D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. D'AMATO, for himself, and Mr. MOYNIHAN, proposes an amendment numbered 3234.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c) and (e) are renumbered subsections (d) and (f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

"(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(ii) before importation into the United States such * * *

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small, the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii)(I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is * * *

Mr. PACKWOOD. Mr. President, this is an amendment involving circumvention of antidumping orders. This is a good amendment and it ought to be adopted. I believe it has been cleared on both sides.

Mr. BRADLEY. Mr. President, I realize that the hour is getting late, and that the Senate is now accepting a series of amendments in an attempt to finish the tax bill, but I feel compelled to protest the hasty inclusion of the anticircumvention amendment in the tax bill.

This is a private relief bill. It is essentially a measure designed for one company, Smith-Corona, aimed at its chief competitor, Brother Industries. These two companies have been locked in something of a Hatfield and McCoy dispute for years. Brother, a Japanese-owned company, assembles typewriters in Tennessee. Smith-Corona, a British-owned company, imports typewriters from Singapore. This bill is before us because Smith-Corona has recently announced the closure of its last remaining plant in the United States. This is unfortunate for the employees of Smith-Corona who will lose their jobs. But the effect of this bill will not be to save the jobs of Smith-Corona workers. Rather it is more likely to penalize Brother Industries and its customers.

Although the measure is designed for Smith-Corona, the bill has broader implications. The law could well be applied to other cases in which foreign companies under antidumping orders have moved production to the United States. This is why the measure is opposed by a wide spectrum of industries which must rely on imported components to compete in the international marketplace. Once again, in the name of helping one business in competitive trouble, we are raising costs to other businesses and to consumers.

We may well need to modify our antidumping laws. Our current laws were designed for a world in which products were made in one country and sold at arms length to another. They may not make sense any more in a world where products are put together from components made all around the globe, in which it is often difficult to tell what is an American product and what is not. This is a very complex matter, however, and one we should not rush into. We have held no hearings on this. There has been no consideration of the real implications of this legislation. If we are going to address the problem of circumvention, we should do so in a considered and thoughtful manner, not in this scattershot approach.

Passage of this amendment is by no means the end of the debate on anticircumvention. I trust that this matter will be carefully addressed when the House and Senate conferees meet to consider the tax bill.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3234) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I do not want to impede progress, and I want to assure the managers of the bill that at any moment when they get ready to move something, I am going to sit down and put my remarks in the RECORD. I want to assure the managers of this. I would like to proceed for a few moments, Mr. President, and talk about a very important part of this legislation that some may have overlooked.

I want to first commend Chairman BENTSEN and the members of the Finance Committee for his and their considerable efforts in crafting a tax bill that, despite a climate of very considerable revenue constraints and competing political agendas, this bill does address many of our country's economic problems. At the same time, Mr. President, we have received almost unanimous bipartisan support in the Finance Committee for H.R. 11.

I would like to mention one particular part of H.R. 11 that has not received a lot of attention. This is the taxpayer bill of rights 2. Sometimes we refer to it as T2.

Mr. President, T2 is the culmination of the dedicated efforts of many who have fought for the average American taxpayer. These considerable efforts span many years when these issues were actually unpopular to bring up, even looked down upon, because many in Washington felt the subject was not worthy of serious consideration.

After all, there had never been a taxpayer bill of rights that had been introduced and ultimately passed. There had never been, up until 1988, a measure passed by the U.S. Congress that solely dealt with the rights of the American taxpayer.

Mr. President, I can assure both the proponents and opponents of taxpayers' rights legislation, that this climate of not being taken seriously has radically changed.

One illustration of this point is on February 26, 1987, when I introduced Senate No. 604, what was to ultimately become the first taxpayer bill of rights ever passed by any Congress, I was joined at that time by two distinguished colleagues and very good friends. One was Senator GRASSLEY of Iowa and also Senator REID of Nevada.

Senator REID, I might add, was a brand new Member of the Senate and his first speech on the Senate floor, given actually right in the corner of the Senate Chamber, was related to this particular issue. Senator GRASSLEY and I had worked a long time on this concept. I might add that Senator LEVIN of Michigan and also Senator BAUCUS of Montana, in the early 1980's, had worked diligently on the concepts of giving more rights to the average American taxpayer. For their help, I want to thank them very much.

In comparison, within hours of the introduction of T2 this year in February, we were greeted by some 40 cosponsors of our colleagues who joined us on the first day of introduction of the taxpayer bill of rights 2.

This overwhelming turnaround of recognition and support lent strength and resolve to the taxpayers' rights legislation. We are proud to report today that 53 of our colleagues in the U.S. Senate have now joined us in cosponsoring taxpayer bill of rights 2 which is included in H.R. 11.

Mr. President, the taxpayer bill of rights passed in 1988 was the first, as I have said, and only comprehensive piece of legislation in the history of America which dealt exclusively with the rights of the American taxpayer. Some of those rights that we dealt with in that legislation were the right of the taxpayer to be told his rights, the right of the taxpayer to rely on written advice of the IRS, the right of the taxpayer to receive a notice from the IRS that described what the taxpayer is being charged with, the right of the taxpayer to recover administrative costs if IRS action is unwarranted, and, Mr. President, the right of the taxpayer to representation.

One of the key facets of the taxpayer bill of rights 1, Mr. President, was we finally did away with the bounty hunter game that the IRS played. In other words, before taxpayer bill of rights 1 passed Congress, and was signed into law by the President, the Internal Revenue Service made a regular practice of promoting or demoting their collection agents based solely on how much they collected that month or that year. Mr. President, this was the bounty hunter game the IRS played against the American taxpayers, and it finally was done away with once and for all by taxpayer bill of rights 1.

These fundamental changes, commonsense provisions, were codified in the first taxpayer bill of rights. The battle for their codification was hard fought. It was against the Internal Revenue Service and the Department of Treasury, but their ultimate enactment was a giant first step for the American taxpayer.

The time has now come to more fully develop and expand those rights.

Those newly created rights are embodied in H.R. 11. The taxpayer bill of rights 2 takes the next step toward providing the proper balance between the rights of the taxpayer and the authority and obligations of the tax collector.

T2 sends a strong message to the IRS that it must treat taxpayers as customers and not as deadbeats. T2 will help the IRS achieve this perspective by requiring new standards of accuracy and timeliness in providing taxpayer service. Taxpayers should not be required to pay the price for IRS failures in those areas, and T2 provides the mechanisms to ensure that taxpayers do not suffer because of IRS mistakes or misdeeds.

Mr. President, the taxpayer bill of rights 2 contains 27 major provisions to help protect the future rights of the American taxpayer, those taxpayers who do not necessarily have an attorney or a CPA to guide them in their tax concerns and in their tax preparation. Chief among these changes are, No. 1, the restructuring of the Taxpayer Advocate's Office and the expansion of the advocate's power to make it a more independent and effective advocate for the American taxpayer.

Second, the expansion of the rights of the taxpayer in those instances when the taxpayer has the opportunity to recover administrative costs such as attorney's fees and accounting fees or out-of-pocket costs.

Third, expansion of the circumstances when the taxpayer may have interest abated.

Fourth, prohibiting the IRS and the Treasury Department from issuing retroactive regulations.

Mr. President, let me comment briefly on that provision to prohibit the IRS from issuing retroactive regulations.

At the outset, I must state that I did not include this provision merely because of my own distaste for retroactive regulations. But many business groups, small and large, support this provision which is now embodied in H.R. 11 under the taxpayer bill of rights legislation. Many consumer groups support this provision and many taxpayers' representatives support this provision, also.

If I might, Mr. President, I would like to name just a few of those groups which support the outlawing of the retroactive powers of the Internal Revenue Service that we must limit. Those supporting our proposal: National Federation of Independent Businesses, Small Business Legislative Council, National Small Business United, National Association of Private Enterprises, National Taxpayers Union, U.S. Chamber of Commerce, Tax Executives Institute, National Association of Enrolled Agents, National Society of Public Accountants. These are just a few of the organizations that support us in our efforts to eliminate the power from the IRS to impose retroactive regulations.

Mr. President, we might ask who does oppose this provision on retroactivity? Well, one, the IRS opposes it, and the Treasury Department also opposes it. They opposed the taxpayer bill of rights 1. These bureaucracies which today write these volumes of regulations that change midstream the rules imposed on the American taxpayer, we think, need to be checked and reined in.

Sadly, during the 1980's, these administrative agencies made it a common practice, not an exception, but they have made it a common practice to issue what are known as temporary regulations which, at the unfettered discretion of the IRS, may be made retroactive. In issuing these regulations, Mr. President, no hearings are held, no public comment is solicited.

Mr. President, this practice must stop. There has been an abuse of the use of promulgating and implementing retroactive regulations. Not only is it unfair, it places an undue burden on the American taxpayer.

Mr. President, we have opened our doors to the IRS to discuss those occasions when retroactive regulations may sometimes be appropriate. We have worked with an open mind to address those objections, and we have worked with their suggestions. For example, the provision allowing the IRS to issue retroactive regulations to prevent taxpayer abuse. In all, we have included six reasonable exceptions to the general rule that the IRS may not issue retroactive regulations.

The IRS is requesting no more exceptions, Mr. President, but the IRS will still not support this provision. So why does the IRS still object?

Mr. President, the passage of this bill will remove one of the IRS' most powerful tools. The IRS need never write regulations to intimidate the taxpayer. One person at the IRS only needs to threaten that they could be written and the chilling effect has already been achieved.

Mr. President, in conclusion, we think that this atmosphere creates an unhealthy relationship between the tax collector and the taxpayer. It is time we level the playing field, and it is time we took this stifling, awesome power and removed it once and for all from the Internal Revenue Service.

Mr. President, I want to thank all of my colleagues in the Senate, and I want to thank especially those colleagues who have been involved with this fight for a very long period of time, who are making it possible once again for the Senate to go on record, when we support H.R. 11, that we are today, once again, recognizing the rights of the average American taxpayer in his and her relationship with the tax collector.

Mr. President, the taxpayers bill of rights 2, we hope, will be kept in H.R. 11. We hope ultimately it will be on the President's desk and that he, hopefully, in his good wisdom, will sign into the law H.R. 11 which includes taxpayers bill of rights 2.

Mr. President, I thank the Chair. I thank the managers. I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3235

(Purpose: Miscellaneous administrative provisions)

AMENDMENT NO. 3236

(Purpose: To provide waivers of certain low-income housing credit mortgage revenue bond requirements)

AMENDMENT NO. 3237

(Purpose: Indian enterprise zones)

Mr. CHAFEE. Mr. President, I send to the desk the following amendments and ask that they be considered en bloc:

First, an amendment on behalf of Senator PACKWOOD dealing with what might be termed Treasury good government proposals along with a proposal regarding the use of charities mailing list;

Second, a proposal by Senators BREAUX, GRAHAM, MACK, JOHNSTON, INOUYE, and AKAKA, providing for changes to the low income housing tax credit, regarding victims of disasters; and

Finally, a proposal by Senators MCCAIN, INOUYE, and DOMENICI regarding Indian enterprise zones.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the pending amendment is set aside.

Without objection, the clerk will state the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes amendments, en bloc, numbered 3235, 3236, and 3237.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3235

On page 1452, between lines 6 and 7, insert:

**PART V—OTHER PROVISIONS**

**SEC. 4841. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.**

(a) 3-YEAR EXTENSION.—

(1) IN GENERAL.—Subsection (c) of section 7608 (relating to undercover operations) is amended by adding at the end thereof the following new paragraph:

"(6) TERMINATION.—The provisions of this subsection shall cease to apply on and after September 1, 1995; and all amounts expended pursuant to this subsection shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before such date."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1992.

(b) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and general use of the proceeds from the operation,

"(III) a description of the operation including the potential violation being investigated, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

### SEC. 4842. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, for appropriate law enforcement purposes prescribed by regulations, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i) or (8)" and inserting "(i)(3)(B)(i)", and

(C) by striking "or (12)" and inserting "(12), or (13)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (13)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 4843. ALTERNATIVE METHODS OF VERIFYING RETURNS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 61 is amended by adding at the end the following new section:

### "SEC. 6066. AUTHORITY TO PRESCRIBE ALTERNATIVE METHODS OF VERIFYING RETURNS, ETC.

"(a) AUTHORITY.—The Secretary may, on a trial basis, provide for methods (other than signing) for verifying returns, declarations, statements, or other documents required to be made under the internal revenue laws and regulations. Such authority shall apply during calendar years 1993, 1994, 1995, 1996 and 1997.

"(b) TREATMENT OF ALTERNATIVE METHODS.—Any document verified under any method adopted under subsection (a) shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(c) REPORT.—The Secretary shall, no later than December 31, 1995, report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of any trial conducted under subsection (a)."

(b) REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall study each trial conducted under section 6066 of the Internal Revenue Code of 1986 (as added by subsection (a)) and report to the Congress the results of such study not later than December 31, 1995. Such report shall include recommendations as to whether, and in what form, the authority under such section should be continued.

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6066. Authority to prescribe alternative methods of verifying returns, etc."

### SEC. 4844. MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES NO LONGER EXCLUDED FROM EARNED INCOME CREDIT, ETC.

(a) IN GENERAL.—Subparagraph (E) of section 32(c)(3) (defining qualified child) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end thereof the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1992.

### SEC. 4845. TAX TREATMENT OF CERTAIN COMBAT PAY.

(a) MONTHLY EXCLUSION OF COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Section 112(b) is amended by striking "$500" and inserting "the applicable amount".

(2) APPLICABLE AMOUNT.—Section 112(c) is amended by adding at the end the following new paragraph:

"(5) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—The term 'applicable amount' means $2,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 1994, the $2,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $2,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied for purposes of this clause by substituting 'calendar year 1993' for 'calendar year 1989'."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to service in a combat zone after December 31, 1993.

(b) EXTENSION OF SPECIAL TAX TREATMENT FOR PRISONERS OF WAR AND MISSING IN ACTION OF PERSIAN GULF CONFLICT.—

(1) IN GENERAL.—Paragraph (1) of section 112(d), as amended by subsection (c)(2)(B), is amended by inserting "or the Persian Gulf conflict" after "Vietnam conflict".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 112(d) is amended by adding at the end the following new sentence: "For purposes of this subsection, an individual is in missing status as a result of the Persian Gulf conflict if, immediately before such status began, the individual was performing service in the combat zone designated by Executive Order 12744 during the period of combatant activities, or the individual was performing service in Southwest Asia and was entitled to special pay for hostile fire or imminent danger under section 310 of title 37, of the United States Code by reason of being in direct support of military operations in such combat zone during such period."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(c) CLASSIFICATION OF VIETNAM SERVICE.—

(1) IN GENERAL.—Section 112(c)(3) is amended by inserting ", and May 7, 1975 shall be

considered the date of termination of combatant activities in the combat zone designated in Executive Order 11216" after "Executive Order 10195".

(2) Conforming amendments.—

(A) The first sentence of section 112(d)(3) is amended by striking ", and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

(B) Paragraphs (1) and (2) of section 112(d) are each amended by striking "during the Vietnam conflict as a result of such conflict" and inserting "as a result of the Vietnam conflict".

(3) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of the Persian Gulf conflict, the amendment made by paragraph (2)(B) shall apply on and after January 1, 1991.

At the end of title VIII of the Committee amendment, insert:

### SEC. . UNRELATED BUSINESS INCOME TAX TREATMENT OF MAILING LISTS.

(a) In General.—Section 513 (defining unrelated trade or business) is amended by adding at the end the following new subsection:

"(i) Exchanges and Rentals of Member Lists.—

"(1) In general.—In the case of an organization to which this subsection applies for any taxable year, the term 'unrelated trade or business' does not include any trade or business which consists of—

"(A) exchanging names and addresses of donors to (or members of) such organization with any other person, or

"(B) renting such names and addresses to any other person, but only if the aggregate income from such rental for the taxable year does not exceed 10 percent of the organization's gross revenue for the taxable year.

"(2) Organizations to which subsection applies.—This subsection shall apply to—

"(A) any organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), and

"(B) any organization described in section 501(c)(4)."

(b) Technical Amendments.—

(1) Paragraph (1) of section 513(h) is amended by striking "include—" and all that follows and inserting "include activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions."

(2) The subsection heading for section 513(h) is amended by striking "And Exchanges and Rentals of Member Lists".

(c) Effective Date.—The amendments made by this section shall apply to exchanges and rentals of member lists before, on, or after the date of the enactment of this Act.

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Amendment No. 3236

At the end of the Committee Substitute add the following new section:

### SEC. . APPLICATION OF LOW-INCOME HOUSING CREDITS AND MORTGAGE REVENUE BONDS TO NATURAL DISASTER AREAS.

(a) Low-Income Housing Credits.—

(1) Special rules in the event of a natural disaster—

(A) Waiver of 24-month completion requirement.—Section 42(h)(1)(E) (relating to exception where 10 percent of cost incurred) is amended by adding at the end the following new clause:

"(iii) Waiver in case of natural disaster.—In the case of any qualified building located in a natural disaster area with respect to which an allocation is made before the occurrence of the natural disaster, the Secretary may extend the period described in clause (i) to not later than the close of the fourth calendar year following the calendar year in which the allocation is made."

(B) Waiver of written income verification requirement.—Section 42(l) (relating to certification and other reports to Secretary) is amended by adding at the end the following new paragraph:

"(4) Special rules for natural disaster areas.—

"(A) In general.—With respect to any occupant of a low-income unit in any qualified low-income building located in a natural disaster area or any such occupant in any other qualified low-income building who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirements of paragraphs (1) and (2) regarding occupant income information until such information is reasonably obtainable.

"(B) Discovery of ineligibility.—If upon receipt of such information the income of any occupant of a low-income unit in the building is determined to exceed the income limitation under subsection (g), such unit shall continue to be treated as a low-income unit if no subsequently available residential rental unit in the building is occupied by a new resident whose income exceeds such income limitation and such occupant vacates the unit upon the later of the lease termination or 30 days after receipt of such information by the Secretary."

(C) Waiver of tenant income limitations.—Section 42(g)(1) (defining qualified low-income housing project) is amended by adding at the end the following new sentence: "With respect to any tenant occupying a unit in a qualified low-income housing project located in a natural disaster area who relocates to any other unit of a qualified low-income housing project, the Secretary may waive the income limitation of subparagraph (A) or (B) if the income of such tenant does not exceed 140 percent of such income limitation."

(D) Waiver of 6-month residence requirement.—Section 42(l)(3)(B) (relating to exceptions to definition of low-income unit) is amended by adding at the end the following new clause:

"(v) Waiver of transient residence rule in case of natural disaster.—With respect to any unit in a building located in a natural disaster area or any unit occupied by individuals who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirement of clause (i) and allow the use of such unit on a transient basis."

(E) Waiver on 10-year rule for existing buildings.—Section 42(d)(2)(D) (relating to special rules for subparagraph (B)) is amended by adding at the end the following new clause:

"(iv) Waiver in case of natural disaster.—The Secretary may waive the requirement of subparagraph (B)(ii) with respect to any building located in a natural disaster area."

(F) Waiver of the national pool allocation.—Section 42(h)(3)(D)(iii) (relating to formula for allocation of unused housing credit carryovers among qualified States) is amended by inserting before the last sentence the following new sentence: "The Secretary may modify the formula described in the preceding sentence for any calendar year with respect to the allocation to any qualified State in which is located a natural disaster area to increase such allocation to take into account the effects of such natural disaster."

(G) Natural disaster area defined.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) Natural disaster area.—The term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(3) Effective date.—The amendments made by this subsection shall take effect on July 1, 1992.

(b) Mortgage Revenue Bonds.—

(1) Waiver of dollar limitation for home improvement loans for residences in natural disaster areas.—Section 143(k)(4) (defining qualified home improvement loan) is amended by adding at the end the following new flush sentence: "The $15,000 limitation specified in the preceding sentence shall not apply to any loan for residences located in a natural disaster area. For purposes of the preceding sentence, the term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(2) Effective date.—The amendment made by paragraph (1) shall apply to financing provided on or after June 30, 1992, and before January 1, 1994.

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Amendment No. 3237

On page 1811, after line 9, insert:

## Subtitle D—Indian Employment and Investment

### SEC. 8221. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) Allowance of Indian Reservation Credit.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) Amount of Indian Reservation Credit.—

(1) In general.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) Indian Reservation Credit.—

"(1) In general.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

| "In the case of qualified Indian reservation property which is: | The Indian reservation percentage is: |
|---|---|
| Reservation personal property ....... | 10 |
| New reservation construction property. | 15 |
| Reservation infrastructure investment. | 15 |

"(2) Qualified investment in qualified Indian reservation property defined.—For purposes of this subpart—

"(A) In general.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit;
Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

### SEC. 8222. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

### "SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

"(2) the credit limitation amount determined under subsection (e).

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1992.

### SEC. 8223. COORDINATION WITH ENTERPRISE ZONES.

Notwithstanding the provisions of subchapter U of chapter 1 of the Internal Revenue Code of 1986, no Indian reservation enterprise zones shall be designated, and no area within any Indian reservation shall be designated as a tax enterprise zone.

Mr. CHAFEE. Mr. President, as I mentioned these will be considered en bloc.

The Treasury Department has several good government proposals they would like to add in the bill. That is the first amendment.

The second is dealing with low-income tax credits regarding the victims of disasters.

And the third is Indian enterprise zones.

Mr. MCCAIN. Mr. President, I express my personal thanks to Chairman BENTSEN, Senator PACKWOOD, and the members of the Finance Committee for giving serious consideration to the concerns of Indian tribes. The committee bill as reported to the Senate designated 2 Indian enterprise zones out of the 25 zones created under the bill. Likewise, the modification to H.R. 11, which increases the overall level of enterprise zones to 125, sets aside 10 Indian enterprise zones.

I want to make it clear that the amendment that Senator INOUYE and I are offering today is not intended to diminish the action taken by the Committee on Finance or the sponsors of the modification to H.R. 11. However, I strongly believe, and the distinguished chairman of the Select Committee on Indian Affairs joins me in stating, that as a Nation, we can and must do more to alleviate the high rates of poverty and unemployment existing on Indian reservations today.

The amendment that Senator INOUYE and I are offering today would exchange the 10 Indian enterprise zones called for under the committee substitute for an investment tax credit and an employment tax credit which are specifically targeted to all Indian tribes.

The purpose of the McCain-Inouye amendment is to provide a program of investment and employment incentives that can attract private industry and capital, expand existing industry, and make the private sector a permanent source of economic development on Indian reservations.

The employment credit provides for a 10-percent credit to the employer based on the qualified wages and qualified health insurance costs paid to an Indian. As an added incentive, a significantly higher employment credit of 30 percent is offered to reservation employers having an Indian work force of at least 85 percent. The amendment is limited to those employees who do not receive wages in excess of $30,000. The credit, which focuses on job creation, would be allowed only for the first 7 years of an Indian's employment.

The amendment also provides for an investment tax credit. This credit is geared specifically to reservations where Indian unemployment levels are unconscionable—the credit being limited in its applicability to businesses locating on Indian reservations where the unemployment rate exceeds the national average by at least 300 percent.

Mr. President, as the distinguished chairman of the Finance Committee will recall, the amendment being offered today is a modified version of McCain-Inouye amendment that was offered to H.R. 4210, the so-called national economic growth package. At that time, the chairman objected to the amendment on the basis that no revenue estimate was available so that the Members of this body could have some idea as to how much the amendment was estimated to cost. As a result, my amendment was defeated because it violated section 311(a) of the Congressional Budget Act.

Since that time, and with Chairman BENTSEN's assistance, a revenue estimate was obtained from the Joint Committee on Taxation on S. 2254 as introduced and as amended. As a result, the McCain-Inouye amendment that is being offered today not only takes into account the need to minimize the budgetary impact, it also addresses the policy concerns that Senator INOUYE and I heard expressed by some of my colleagues on our earlier amendment.

Mr. President, I want to take a moment to highlight for the benefit of my colleagues several important provisions that are included in this amendment. The McCain-Inouye amendment includes:

First, antigaming restrictions, which would prevent both the investment and employment credits from being used with respect to the development and/or operation of gaming establishments on Indian reservations.

Second, a restriction on the employment credit to new hires only, thereby emphasizing the bill's intent to create new jobs—or to expand existing businesses—on reservations.

Third, an antichurning amendment to the employer credit provision, to avoid creating an incentive for an employer to discharge current employees and replace them with new or rehired employees after enactment of the bill; and

Fourth, an allowance of one-half of the investment tax credit for qualifying investments on reservations where employment exceeds 150 percent but does not exceed 300 percent of the national unemployment rate, thereby recognizing serious Indian unemployment rates which do not rise to the 300 percent level covered by the general rule.

I believe these changes make this a stronger amendment. More importantly, unlike the modified committee bill which sets aside only 10 Indian enterprise zones, the McCain-Inouye amendment would be applicable to virtually all Indian tribes.

Put another way, the McCain-Inouye amendment provides the opportunity to stimulate the development of viable economies on Indian reservations in the States of: Alabama, Alaska, Arizona, California, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Maine, Massachusetts, Michigan, Minnesota, Rhode Island, South Dakota, Texas, Utah, Washington, Wisconsin, North Dakota, Oklahoma, Oregon, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Louisiana, and Wyoming.

For many of the Indian tribes in the States that I just named, the current national unemployment rate of 7.7 percent would be a godsend. As the distinguished chairman of the Select Committee on Indian Affairs, Senator INOUYE, has stated on another occasion:

> The unemployment rate of the majority of Indian reservations is simply incomprehensible to the average American. During the heights of the Great Depression in the 1930's, unemployment averaged 25 to 30 percent. In 1989 the average unemployment rate in Indian country was 52 percent.

It is simply unconscionable for the Congress to allow such socioeconomic conditions to fester within the borders of this Nation. The McCain-Inouye amendment is necessary to ensure that all native Americans—perhaps the most neglected and misunderstood segment of our society—are fully included as we reach out to address the issues of poverty and unemployment in this country. Indian tribal governments—more than any other unit of government within our constitutional system—are deeply affected by the decisions we make here in the Congress.

I would remind my colleagues that under our Constitution, the Congress has the ultimate authority for Federal Indian policy. For the better part of two centuries, the Congress so poorly exercised that authority that Federal Indian policy became infamous for its shortsightedness, inconsistency, and disruptive consequences.

The reason for this failure, I believe, is that the Federal Government has tried to dictate and control the development of Indian reservations economies. Government control does not work. Instead, the real economic impact of direct Federal spending has been limited to the planning and other jobs connected to the Federal spending itself. This, of course, disappears once the Federal spending is gone. No long-term viable economy results. Certainly not one that can be self-sustaining.

Let me also point out, particularly to the Senators from the 30 reservation States that I noted a moment ago, that it should come as no surprise that as a result of our failure to adequately support the development of viable Indian reservation economies, that Indian tribes have turned to other revenue-generating activities such as gambling and the consideration of proposals to locate commercial waste facilities on their lands.

I ask this body: What other choices have we given to native Americans? What does it say about us as a nation when the only choices for revenue-generating activities on Indian lands comes down to gambling or garbage?

What does it say about us as a nation when the only choices for economic activity on Indian lands run the risk of infiltration by organized crime, or that unscrupulous parties can exploit Indian lands in the apparent belief that they can degrade the environment without regard to established environmental standards?

I challenge those Members who say they are concerned about the proliferation of Indian gaming to join Senator INOUYE and me in supporting our amendment.

I challenge those Members who say they are concerned about the potential for the introduction of environmentally unsound waste facilities on Indian lands to join Senator INOUYE and me in supporting our amendment.

As I mentioned a moment ago, the Congress has the ultimate authority for Federal Indian policy. We have the opportunity today to exercise that solemn responsibility in a manner that shows we truly care about native American communities.

We have an opportunity today to take a step to eliminate poverty on Indian reservations, to reduce welfare dependency, and to bring a renewal of the human spirit into the lives of Indian people that have been tragically scarred by generations of poverty and unemployment.

I've been working with Indian tribal governments for 10 years, and during that time one of the fundamental lessons I've learned is that the policies that have been effective and have produced meaningful change are those policies that have been closely coordinated with Indian tribal governments.

The McCain-Inouye amendment meets the threshold test of tribal consultation. In this instances, our amendment is a result of efforts undertaken by the Navajo Nation to recommend Federal tax incentives which would provide Indian tribes with an additional economic development tool to aid them in strengthening Indian reservation economies. The legislation also is strongly supported by the National Congress of American Indians.

Unfortunately, the same degree of support cannot be said of the committee amendment. If the 10 Indian enterprise zones remain in this bill, the majority of Indian tribes realize that they have absolutely no chance of obtaining zone status. Moreover, they know in their hearts that unless, and God forbid, another urban riot occurs, there is little hope that additional Federal assistance will be forthcoming to meet their needs.

If the 10 Indian enterprise zones remain in this bill, what do we tell the other 504 Indian tribes and Alaska Native villages in this country. Do we tell them to hold on for 5 or 10 more years?

I agree with Secretary Jack Kemp, who said:

> Do we have to demonstrate that * * * economic independence is better than government dependence; that a paycheck is better than a welfare check * * *?

Native Americans are tired of waiting. Ironically, the socioeconomic conditions which the Nation found so appalling in Los Angeles are similar to, and in some cases worse, on Indian reservations. If we continue to ignore the extreme poverty and deprivation on Indian reservations, we will be effectively banishing another generation of Indian people to welfare dependency.

Let me repeat: We will be effectively banishing another generation of Indian people to welfare dependency. I do not make that statement lightly. I make that statement because the history of this Nation is replete with the devastating results of our ignorance and lack of compassion of the needs of native Americans. Today, we can begin another chapter in our Nation's treatment of native Americans.

Listen to the eloquent but frustrating words of a Hopi mother who is fighting to keep hope alive in her children and appealing to us for action:

> MAY 13, 1992.
>
> DEAR SENATOR MCCAIN: I am writing to you in anger and frustration! I realize that you will never read this letter but just putting down the words might make me feel better. When are you people going to do something about jobs for our people?
>
> We are a family of Hopi Indians who have never been on welfare and went to college with much sacrifice on the part of our families because we believed what your culture teaches: "work hard, don't depend on the government and pull yourselves up by your own bootstraps." We have also instilled this in our children. Our sons have now completed school—one with an associate in Computer Electronics and another with a degree in Criminal Justice—and have tried to enter the workforce with their skills only to find no opportunities for them! They cannot even collect unemployment because they have been going to school. We do not mind supporting them and their families while they continue to look for employment but their frustration and discouragement is hard to take! Those of you in power will never know the feelings of a parent to see your grown children's hopes dashed day after day. How long can the human spirit take defeat before turning bitter and hostile? Is it any wonder that people are rioting in L.A. and other cities? Phoenix and other Southwestern Cities will also find themselves in the same situation unless you people remedy this recession.
>
> Wake up! Mr. Congressman, and put your money where your mouth is—give us jobs!
>
> A frustrated mother,
>
> ALFREDA SECAKUJU.

Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

> What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In sum, Mr. President, we have broken nearly every promise we have made to the Indian people. Though I abhor its occurrence, I am not astonished that frustration occasionally erupts into violence in Indian country. What I do find astonishing is the depth of the enduring devotion of Indian people to this country. Nowhere in America is a love of country more in evidence than among Indian communities. As a percentage of their population, no other segment of our society has served in our Armed Forces in such great numbers. Their unsurpassed dedication has survived the indifference of their countrymen. For the most part, the country has ignored their outstanding contributions to our national defense.

Mr. President, the time for action is now. As the Senate considers this amendment, I urge my colleagues to take to heart the following words of Peterson Zah, president of the Navajo Nation:

> Indeed, helping the American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace.

Mr. President, the consistent plea of Indian people through the years is a simple one: that the nature of their situation be recognized and acted upon. We have the opportunity to respond today. I urge my colleagues to pass the McCain-Inouye amendment.

Mr. DOMENICI. Mr. President, as now modified, H.R. 11 includes 10 Indian reservations eligible to compete for the benefits of enterprise zones as specified in this legislation. While these benefits are generous and would be workable in many cities and towns in America, the special economic problems on Indian reservations and our special government-to-government relationship with Indians, mandate a different approach.

I have sponsored two Indian Economic Summits. The first was held in July 1987, on the Navajo Reservation. We carefully and fully examined the barriers of Navajo, New Mexico, Arizona, and Federal law and customs to attracting new business enterprises to the Navajo Nation.

The second summit was the Pueblo-Apache Economic Summit held at Santo Domingo in May 1989. We reached similar conclusions. Rather than try and tackle the myriad of tribal government, State government, and Federal Government disincentives to development, we concluded that a simple and positive approach is needed.

For example, land leases at a pueblo or on the Navajo Nation involve layers of approvals—over 50 on the Navajo Nation. Any business willing to complete such a maze of complicated and often political processes should be entitled to some major offsetting incentive to do so.

I have concluded that the 10 enterprise zones set aside for Indian tribes in H.R. 11 would have minimal impact on the pueblos and tribes in New Mexico. There are 19 pueblos in New Mexico, from Taos in the north, down the Rio Grande to San Juan, Santa Clara, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta, to name a few. In the western part of New Mexico, the famous Zuni, Acoma, and Launa Pueblos have tried for years with varying degrees of success to attract more jobs to their reservations.

About a third of the largest Indian tribes in America, the Navajo Nation is in western New Mexico. There are also two Apache tribes, the Jicarilla in the north and the Mescalero in south-central New Mexico. I believe, Mr. President, that this short enumeration of about half of the 22 Indian tribes in New Mexico begins to bring to light the problem with allowing only 10 enterprise zones in the entire country to serve about 500 tribes and Alaska Native villages.

Not only are the basic numbers of tribes relevant here, but the enterprise zone approach, for all its benefits to many American cities and towns, is simply too complex to be of major benefit to American Indians and Alaska Natives. The geographic isolation and relative sparse populations are not conducive to defining zones. In addition, most Indian tribes—even though their demographic profiles would show much greater poverty than most qualifying cities—could not possibly participate if there are only 10 enterprise zones for Indians.

I believe our amendment provides the needed incentives in the form of wage and investment tax credits and will do more for Indians nationwide than will 10 enterprise zones with similar tax losses to the U.S. Treasury, about $181 million over 5 years.

Our amendment was originally introduced by Senators MCCAIN and INOUYE as S. 2254, the Indian Employment and Investment Act of 1992. I am an original cosponsor of that bill.

Unfortunately, our bill was defeated in March 1992, when we offered it as an amendment to H.R. 4210, the National Economic Growth Package, which was then vetoed by the President.

On February 25, 1992, I reintroduced my own legislation, S. 2264, the Indian Employment Opportunity Act. Key features of my bill are:

Wage tax credits to the employer. The credit is calculated in the following manner: 60 percent of the first $8,800 in salary paid to Indians; 20 percent of the wages between $8,800 and $33,000; no credit above wages of $33,000.

Bribes by Indians and non-Indians alike would be Federal felonies.

A prohibition against substantial changes in tribal government tax rates for 10 years.

Today's McCain-Inouye-Domenici amendment is a modified version of S. 2254 which includes both the wage and investment tax credits as incentives to improve Indian economies. We have changed our amendment to improve its effectiveness and minimize the budgetary impact to about $181 million for the 5-year period fiscal year 1993–97.

In addition to wage tax credits to employers on Indian reservations, like I have offered in my bill, our amendment adds an investment tax credit to counter the current disincentives to invest on Indian reservations—e.g. double taxation and severe infrastructure deficiencies.

Our amendment provides two vital incentives to attract private enterprise, the Employment Tax Credit and the Investment Tax Credit.

### THE EMPLOYMENT TAX CREDIT

Employers locating on Indian reservations throughout this country will receive a 10-percent tax credit for qualified wages paid to Indian employees. If the Indian workforce is 85 percent or greater, this tax credit is increased to 30 percent.

Wages up to $30,000 are eligible. Wages from any form of gaming—Class I, II, or III—as defined by the Indian Gaming Regulatory Act, are not eligible for this wage tax credit. There is an upper limit of 7 years per Indian employee and a minimum employment period of 1 year is required before a credit can be taken. Only employees hired on or after July 1, 1992, will be eligible for the credit.

### THE INVESTMENT TAX CREDIT

This tax credit is linked to the unemployment rates on reservations, and not all reservations will be eligible. Maximum benefits under our amendment will accrue to those reservations with the worst unemployment situations—300 percent above the national average. In these cases, with Indian unemployment rates at about 25 percent and above, three credits are allowed:

10 percent for personal property;

15 percent for construction property;

15 percent for infrastructure investment.

On reservations where unemployment rates are between 150 percent and 300 percent of the national rate, one-half of the above credits will be allowed. No investment tax credit will be allowed for those reservations where unemployment on such reservations is below 150 percent of the national rate.

While those American large and small cities who successfully establish enterprise zones as proposed in H.R. 11, will derive substantial benefit, America's poorest citizens, American Indians, have little chance of reaping such benefits. The special trust status and cultural uniqueness of Indian tribes mandates a special approach.

I believe this approach should be available to each of the 300-plus federally recognized Indian tribes and 200 federally recognized Alaska Native villages. I also believe that the simplified approach of offering wage and investment tax credits will attract greater private sector participation to America's Indian reservations.

I do not dispute the generosity or appropriateness of the proposed enterprise zones, I simply do not believe they are the best approach we can apply to Indian people and their reservations. With the same costs to the U.S. Treasury, we can accomplish substantially more economic activity to those citizens who need it most.

I urge my colleagues to vote in favor of the McCain-Inouye-Domenici amendment before us today.

Mr. CHAFEE. Mr. President, I believe there is no objection to these amendments and they certainly are approved on this side.

Mr. BENTSEN. Mr. President, we have examined the amendments on this side as manager of the legislation for the majority and there are no objections on this side.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, without objection, the amendments are agreed to en bloc.

So the amendments (No. 3235, No. 3236, and No. 3237) were agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3238

(Purpose: To amend the Caribbean Basin Economic Recovery Act to establish a center to study and support improved trade and economic relations among Western Hemisphere countries)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3238.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. _____. AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.**

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than June 30, 1993.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

Mr. BENTSEN. Mr. President, this amendment would create a center for the study of Western Hemispheric trade. This amendment matches my previously filed bill, S. 423.

The center would be an academic institution studying the implications of trade between the United States and our neighbors in the hemisphere.

I believe now is the time to create such a center, because we need an objective forum to study recent events which have complicated trade with our neighbors.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, this amendment is acceptable on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3238.

The amendment (No. 3238) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

### AMENDMENT NO. 3222, AS MODIFIED

Mr. METZENBAUM. Mr. President, it is my understanding the pending amendment of the Senator from Ohio is now ready to be acted upon. Unless there is some objection from some other Member of the Senate, I suggest we proceed forward and bring it up for consideration.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 3222 of the Senator from Ohio.

Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, as manager of the legislation on the majority side, I have examined the amendment and have no objection to it.

Mr. CHAFEE. Mr. President, this is the one that takes 50 percent of the claims that have been made in the past. That is acceptable on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3222), as modified, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask the Senator from Tennessee if he is ready with his amendment.

The PRESIDING OFFICER. We have a pending amendment numbered 3231.

Mr. SASSER. My response to the distinguished chairman's inquiry is I am ready whenever he wishes.

Mr. BENTSEN. We are prepared to consider the amendment now.

### AMENDMENT NO. 3239

(Purpose: Defining transportation income.)

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER] for himself, Mr. RIEGLE, Mr. DANFORTH, and Mr. GORTON, proposes an amendment numbered 3239.

Mr. SASSER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the Committee amendment, insert:

**SEC. . TREATMENT OF CERTAIN TRANSPORTATION INCOME.**

(a) IN GENERAL.—Section 863(c)(1) is amended to read as follows:

"(1) TRANSPORTATION INCOME BEGINNING AND ENDING IN THE UNITED STATES AND CERTAIN LEASING INCOME.—The following items of gross income shall be treated as income from sources within the United States:

"(A) All transportation income attributable to transportation which begins and ends in the United States.

"(B) All transportation income attributable to the leasing of aircraft (excluding containers) directly or indirectly to a United States resident, (as defined in section 865(g)), for use by the United States resident, except that this subparagraph shall only apply to income from the leasing of aircraft manufactured in the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any lease agreement made after July 1, 1993, in taxable years ending after such date.

Mr. SASSER. Mr. President, this is an amendment that has been not only discussed with the majority staff, but the minority staff and also Senator METZENBAUM and his staff.

The amendment provides that 100 percent of rental income and associated loss of a U.S. lessor on the lease of aircraft manufactured in the United States to a U.S. carrier will be treated as U.S. source income or loss.

Currently, the loss and income associated with the lease of an airplane used in international transportation is treated only as 50 percent U.S. source and 50 percent foreign source income. This amendment would simply require that a lease payment made from a U.S. air carrier to a lessor, where U.S. manufactured aircraft are involved, be treated as U.S. source income regardless of the exact proportion of time or mileage the subject aircraft is used in the United States.

The current 50-50 rule adversely affects the lessor's ability to utilize a tax credit for foreign taxes paid on other foreign income in the earlier years of the lease. This may result in double taxation of such foreign income.

The thrust of this amendment, Mr. President, would be to put U.S.-manufactured aircraft that are operated by U.S. air carriers in international trade on a level playing field with aircraft that are manufactured outside of the United States.

The amendment would have the beneficial impact of stimulating the sale of new U.S. aircraft at a time when certain segments of the U.S. aircraft industry are experiencing some difficulty. It would also have the effect of aiding U.S. international air carriers on international routes, which have the problem of competing with international or other foreign air carriers, which are heavily subsidized by foreign governments or owned by foreign governments.

I am pleased to offer this amendment in conjunction with the distinguished Senator from Michigan [Mr. RIEGLE], the distinguished Senator from Missouri [Mr. DANFORTH], and the distinguished Senator from Washington [Mr. GORTON].

Also I would like to express my appreciation to the distinguished chairman of the Finance Committee and his very able staff, and also to the distinguished ranking member and his equally able staff, for their assistance in preparing this amendment and moving it to this point in the proceedings.

Mr. President, I am prepared to yield back all the time on the amendment.

Mr. BENTSEN. I understand the Senator from Missouri, Senator DANFORTH, is cosponsoring?

Mr. SASSER. He is indeed. I would say to the distinguished chairman I have just acknowledged he was a cosponsor along with Senator GORTON of Washington and Senator RIEGLE of Michigan.

Mr. BENTSEN. Mr. President, we have examined this amendment on this side and I have no objection to it as the manager of the bill.

Mr. CHAFEE. The amendment also has been approved on this side. Senator DANFORTH has worked with the Senator from Tennessee on this. We find it an excellent amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3239) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Texas.

Mr. BENTSEN. Mr. President, with respect to the amendments en bloc offered by Senator CHAFEE, I now ask unanimous consent that all points of order be waived with respect to the provisions of those amendments presented by Senator CHAFEE en bloc during consideration of the amendments, and of the bill as amended, if amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I want to highlight two provisions in this bill that are based on legislation I have introduced to provide assistance to Americans who have been unemployed for an extended period.

The first is a provision that will create an incentive for employers to hire the long-term unemployed. This provision is based on a bill I introduced earlier this year with Senators BOREN and RIEGLE, S. 2220.

Mr. President, almost 10 million Americans are now unemployed, and a significant portion of these have been out of work for a long time. In most cases, these people were laid off not because they are poor workers, or because they do not try hard enough. They are simply the innocent victims of a troubled economy—of forces larger than themselves.

For those unlucky enough to be laid off when business slows, Mr. President, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And, perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. Because, while their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgage and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

These financial pressures, and the emotional pressures associated with them, have real consequences. They lead to more family problems. More medical problems. And even higher rates of suicide.

Compounding matters, Mr. President, the unemployed face a catch-22. The longer they are out of work, the less attractive they become to prospective employers. It is a vicious cycle that is very hard to escape.

Mr. President, the long-term unemployed need a helping hand to break out of that cycle. And that is what this legislation provides.

The concept is very simple. And it builds on a well-established, existing program, the targeted jobs tax credit, or TJTC.

Under current law, the TJTC is available to employers who hire from among nine targeted groups. These include economically disadvantaged youth, Vietnam-era veterans, exconvicts, vocational rehabilitation participants, and AFDC recipients, among others.

This legislation includes the long-term unemployed as a new targeted group for a 6-month period, and then for subsequent 6 month periods if the unemployment rate exceeds 7 percent.

Mr. President, encouraging employment of the long-term unemployed is a matter of basic compassion. But it is also good economic and social policy.

The long-term unemployed represent what might be considered as wasted human capital—resources that should be contributing to economic growth, but are not. Putting these people back to work, and increasing their spending power, should help stimulate the economy to the benefit of all Americans.

Moreover, the long-term unemployed impose real costs on working Americans. When the unemployed stop paying taxes, those in the work force must make up the difference. And as joblessness increases, working Americans also bear greater burdens in paying for AFDC, food stamps, and other social support programs.

Mr. President, I will not suggest that this proposal is the cure-all to the problem of long-term unemployment. The provision is more limited than I had proposed originally, due to the fiscal realities under which the Finance Committee has been forced to operate. And clearly, we need to go much further to reinvigorate our economy, invest in our future, and create more jobs. Still, in my view, this provision is a positive and important step.

Mr. President, when you ask Americans about the most important problems facing our Nation today, and what Congress should be focusing on, the one word that keeps coming up is this: jobs. Unemployment is far too high, and Americans are demanding that Congress do something about it.

Mr. President, take a look at this bill. It has 1,811 pages. and that's not even including any of the amendments that have been added on the floor.

Now, in all of those 1,811 pages, how many provisions are designed to directly reduce unemployment? One. This one.

You know, Mr. President, we in Congress continually are urged to support a wide range of proposals that would encourage people to do various things, and that would give special breaks to a variety of groups. Proponents typically argue that each break will indirectly trigger a chain of events that eventually results in reduced unemployment. In many cases, that may be true. But if we really want to reduce unemployment, we should address the problem headon. The more direct our approach, the more confident we can be that it will work, and work quickly.

This bill would adopt that direct approach for the long-term unemployed. And I want to express my sincere thanks to the chairman of the Finance Committee, Senator BENTSEN, for his support in this effort, and for his longstanding commitment to America's unemployed.

Mr. President, I do want to raise a concern about a technical question that has arisen with respect to the language in the bill. In addition to making the essential changes that I proposed in S. 2220, the committee-reported bill would modify the minimum employment period for eligibility for the targeted jobs tax credit generally. Currently, that period is either 120 hours or 90 days. The bill would eliminate the 120 hour option, and leave the minimum period at 90 days. In addition, the bill would set the minimum employment period at 120 days in the case of the long-term unemployed.

Mr. President, in my view, it makes sense to set a reasonable minimum work period, to target the subsidy to employers who make a real commitment to those hired, and to ensure that the job opportunities provided under the program are meaningful. However, many of those who are involved in the TJTC program have raised concerns about the practicality of administering a minimum employment period based on days, as opposed to hours. I have discussed this with the Finance Committee, and am hopeful that this can be addressed in conference.

Mr. President, let me turn now to the second provision in the bill that aids the unemployed. This one is based on legislation I introduced last year, S. 693. The provision would allow people who are laid off for an extended period to withdraw funds from their IRA's or other retirement accounts, without the 10-percent penalty that would otherwise apply.

Mr. President, many Americans who find themselves out of work have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it is a life raft with a large hole, because, for those under age 59½, withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they're down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

It is not fair and it is poor policy.

Mr. President, the primary purpose of this provision, of course, is to provide relief to the unemployed. But it also would provide at least two additional benefits.

First, it should increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans. Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They're concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment should reduce this concern. And that should lead to increased savings.

The bill also should provide another indirect benefit. By unlocking savings and injecting money into the economy during periods of high unemployment, the legislation would provide a modest countercyclical stimulus. This would help revive a slow economy to the benefit of all Americans.

Again, Mr. President, I want to express my thanks to Senator BENTSEN for his support of this provision.

### SMALL BUSINESS CAPITAL GAINS

Mr. BIDEN. Mr. President, a healthy small business sector is essential if we are to break out of the rut of slow growth we are mired in today. Jobs are the key to quick recovery, and the majority of Americans begin their working lives as employees of our small business sector. Investment is the key to long-term growth, and small businesses take the risks on new products and processes that are the source of future growth in our free enterprise economy.

Unfortunately, Mr. President, the high technology and other startup companies that are the cutting edge of innovation and new employment in our country confront major hurdles as they seek the capital they need. The amendment offered by the Senator from Arkansas will help small and startup enterprises overcome those hurdles.

The need for this source of finance is clear. Despite the efforts of the Federal Reserve to reduce interest rates, the benefits of easier credit have not trickled down to the small business and venture capital sectors of our economy. While major corporations understandably enjoy the benefits of longstanding relationships with their banks, those who take the risks involved in betting on innovation still face skeptical creditors.

By providing carefully drawn tax relief to those who take the risk of investing in small business and who—unlike mere speculators—stand by their investments for at least 5 years, this amendment will help attract capital to a sector of our economy essential to a quicker recovery of job opportunities now and improved productivity and competitiveness in the future.

### THE BENTSEN/PACKWOOD MEDICARE BILL

Mr. BAUCUS. Mr. President, I am pleased to support this package of Medicare and Medicaid amendments of which I am an original cosponsor. This legislation extends many rural health initiatives which are crucial to providing access to health care for people living in rural areas.

A key provision in this legislation would extend the classification of regional rural referral centers through 1994. Regional referral centers are hospitals that offer a broad range of services and treat patients from a wide geographic area. Because their costs are just as high as many urban hospitals, the Congress increased their reimbursement in 1989 so that they would receive the same rate as many urban hospitals. This provision expires on October 1 of this year which means that these vital hospitals would see their reimbursement drastically reduced, forcing many to close as a consequence. The chairman's bill would extend their reimbursement through 1994. After this date, the law allows them to receive this rate permanently. This is a vital provision which provides necessary and fair relief to hospitals struggling to provide care in our Nation's rural areas.

Mr. President, this legislation also extends the Rural Transition Grant Program and increases its authorization to $30 million for fiscal years 1993 through 1997. This program helps small rural hospitals develop health systems with other providers, diversify services, recruit physicians, and develop telecommunications systems so that physicians in manpower shortage areas can consult and receive instructions from other physicians.

Mr. President, I would like to commend the chairman for his hard work on this package. He has included many provisions to help ease the health care shortages in rural areas and I commend his efforts.

### LIFE INSURANCE FOR THE TERMINALLY ILL

Mr. LIEBERMAN. Mr. President, I am very pleased that the Finance Committee has included the Living Benefits Act in the urban aid bill. I particularly want to thank Chairman BENTSEN and Senator BRADLEY for their support for this proposal and their efforts to enact it into law. This bill has 72 cosponsors in the Senate. The House version, introduced by Congresswoman KENNELLY, has 131 cosponsors. I am delighted that so many Members are supporting this provision and I look forward to working with the members of conference committee to ensure that this important provision is retained in conference.

When people become terminally ill they are forced not only to confront the tragedy of their disease but also many financial and logistical difficulties. They may lose their jobs, they can't pay their rent or their mortgage, and they often do not have the resources available to obtain much needed medical care. They are left destitute and dying.

Many of those who are terminally ill have carefully saved thousands of dollars over the years. Yet when their illness strikes, this money lies just beyond their reach in the form of life insurance policies. Currently these funds can only be released after the insured dies and are not available to meet the special needs of terminally ill individuals and their families. The living benefits provision in this bill will allow those who are terminally ill to opt for prepayment of death benefits, thereby providing them and their families with the funds needed to live their remaining months in comfort and with dignity.

These prepaid death benefits or living benefits will enable the terminally ill and their families to remain in their homes, receive necessary medical care, and afford home health care and other services which will allow the terminally ill individual to remain at home rather than being forced to spend her remaining days in a strange hospital.

Fifty State insurance commissioners have approved the sale of living benefits policies and riders in their States; however, Federal legislation remains necessary in order to ensure that the recipient of the prepaid benefits does not have to pay income tax on the money, just as survivors who receive the benefits after the insured's death do not have to pay such tax.

Life insurance is the primary savings vehicle for many Americans. The average American household now has $98,400 in life insurance. This money, saved over many years, could enable terminally ill individuals to obtain needed medical care and prevent them and their family from being forced to leave their homes.

Both Prudential Mutual Insurance Co. and Connecticut Mutual are to be commended for taking the lead in the insurance industry in proposing and crafting policies which would allow the terminally ill access to these benefits. I am very pleased that this language has been included in the urban aid bill and I look forward to working with Senators BENTSEN and BRADLEY to ensure that this measure becomes law this year.

### ON WELFARE REFORM

Mr. LIEBERMAN. Mr. President, the Senate version of H.R. 11 contains two very important provisions to reform our welfare system and make clear that the AFDC Program should be a stepping stone out of poverty not a permanent condition passed from one generation to the next. These provisions will encourage families receiving AFDC benefits to save money for their education and training, or to start up small businesses.

Under present law AFDC recipients are only allowed to have $1,000 in assets. This requirement means that no member of the family is allowed to save even if the savings could be used to lift the family members out of poverty. Recently a family in Connecticut was penalized because two of the children got afterschool jobs to save for college and saved over $1,000. They were required to spend all the money immediately, and not allowed to save their hard-earned money for their college tuition. The law actually allowed them to work, but forbade them from saving their earnings. In response to this misdirected policy, Senator DODD and I introduced legislation which would allow children of AFDC recipients to save for their education. Our legislation would have allowed these young people to save as much as they could to pay for their own or a sibling's education.

The bill before us today will allow States to disregard amounts up to $8,000 if placed in a designated account and withdrawn to enable a family member to attend a postsecondary educational institution or a training program. States may also disregard savings set aside to enhance employability in other ways, such as purchasing a car needed to get to a job, and savings set aside to purchase a home. Finally the legislation will also allow States to exclude as a resource the first $10,000 of net worth of a microenterprise owned in whole or in part by an AFDC-recipient family member. I strongly support this legislation. I do hope that in the future we will allow families to save more than $8,000 because it certainly costs more than $8,000 for several children in a family to attend college, but I do believe that this is a very significant step in the right direction.

In the past decade the administration has decried what it has described as an increasing dependence on welfare, a dependence which is being transferred from generation to generation. Yet, they have done little to help AFDC recipients and their children get off of welfare and become self-supporting taxpayers. The Federal Government tells recipients' children that they cannot save the money they earn for college instead they must spend it within a month in order to protect their family's AFDC eligibility. None of the students are earning enough at their afterschool jobs to take their families off welfare but they can save enough over several years to help pay for college so that they can then get a job which will take them and their family off welfare.

We must give these young people some hope for the future. We must give them a sense that they can indeed control their own future and that if they get a job they will be able to save their money and use it to further their education. Particularly in our current economic situation with jobs so difficult to find, we must also encourage family members to start their own businesses as a way to raise themselves out of poverty.

I believe that this simple change in the law, increasing the amount of money AFDC recipient families can save for specific purposes, will provide important new opportunities to welfare recipients. It also sends an important message that the Government sees its role as helping people off of welfare, encouraging them to further their education or start a new business, and break the cycle of poverty.

### LIVINGSTON REBUILD CENTER

Mr. BAUCUS. Mr. President, I ask if my good friend and chairman of the finance Committee, would yield for a question on an important matter affecting a significant number of jobs in my State.

Mr. BENTSEN. I will gladly yield for a question from my friend and Finance Committee colleague.

Mr. BAUCUS. In Livingston, MT, there is an independent investor-owned business called the Livingston Rebuild Center [or LRC]. LRC rebuilds diesel locomotives, repairs railroad cars, and employs 115 workers. It began in 1988 in former facilities of the Burlington Northern Railroad which had been closed for several years and which at the time of closure caused the loss of over 1,000 jobs.

This past summer, the Seventh Circuit Court of Appeals, held that LRC is retroactively liable for railroad retirement taxes based on the strict interpretation of the Railroad Retirement Act. The court's opinion called the 1937 Railroad Retirement Act creaky and stated that it is ill-suited to define which modern day business entities should be covered by the Railroad Retirement Act. However, the court also said, and I believe quite correctly, that problems involving the literal wording of the statute is for the political branches of government, not the courts, to correct.

I am a strong supporter of the railroad retirement system and would oppose anything which would be unfair to railroad workers or railroad retirees. However, I believe this is a situation where clarification of the law is needed so it does not produce unfair results which unexpectedly throws nonrailroad workers out of work. That is the situation we face today.

Mr. President, quite simply put, LRC has informed me that it will likely be forced to close if liability is imposed for the outstanding tax, especially since LRC's business competitors are not liable for those same taxes. This has subsequently led to an overwhelming call by the community for a legislative solution to the impending job losses.

Earlier today, I introduced legislation to effect this change. My question to the chairman of the Finance Committee is whether you would work with me to address this problem and achieve some acceptable solution that is fair to the workers.

Mr. BENTSEN. I would be pleased to work with my friend and committee colleague to find a way to address this problem. While as chairman of the Finance Committee I cannot commit to any particular changes at this time, I certainly understand my friend's concerns about the workers and their families in his State and his desire to save their jobs. I will do what I can to be helpful.

Mr. DIXON. Mr. President, current law requires that ESOP's be "designed to invest primarily" in the stock of the employer. Although there are no regulations on point, this has been interpreted by some to mean that at least 50 percent of the plan's assets must be stock in the employer.

The recently passed unemployment compensation amendments of 1992 significantly expand the ability of employee participants in qualified deferred compensation plans to roll over distributions from such plans, including partial distributions, to individual retirement accounts, or IRA's, without incurring any tax liability. This change will undoubtedly encourage employees to increase rollovers from all types of qualified plans, including employee stock ownership plans, or ESOP's.

What concerns me is that this expansion of rollover rights may unintentionally jeopardize the status of certain ESOP's. If employees, using these new rights, choose to withdraw employer stock from their ESOP accounts and roll the stock into IRA's, the overall percentage of employer stock held by the plan could fall, at least temporarily. While such voluntary withdrawals by employees, which are beyond the control of the employer, don't change the purpose for which the employer designed the plan, concerns have been raised that the resulting decline in the percentage of plan assets invested in employer stock might cause the plan no longer to be deemed to be designed to invest primarily in the employer's stock.

Ironically, this would cause the greatest problems for plans that afford their employees the greatest flexibility. Where, for instance, a plan permits employee contributions to be invested other than in the stock of the employer, and the employees have wide latitude to make partial withdrawals, there is the greatest risk that withdrawals will put the plan at risk, at least for a period of time. Moreover, under the code's anticutback provisions, employers who generously designed their plan to give employees these options cannot now withdraw them in order to protect their plan and other plan participants.

Any such disqualification would be disastrous, particularly for the participating employees and their beneficiaries. Employees would incur taxable income on contributions made by the employer to the plan even though they would not receive a current distribution, and they would lose any ability to roll over plan assets without incurring additional tax. The plan could lose its tax exemption, and, if so, the trustee, employer, and lender to the plan would all then be exposed to a variety of tax liabilities and other penalties. For all these reasons, it is critical that we clarify that employee rollovers from ESOP's to IRA's under the recent amendments were not intended to affect whether the plan is designed to invest primarily in the stock of the employer under section 4975(e)(7) of the Internal Revenue Code merely because such rollovers cause the plan's investment in employer securities to temporarily fall below 50 percent of plan assets.

Mr. President, while the expanded rollover opportunities that passed in the unemployment bill earlier this year could potentially jeopardize some ESOP plans, I do not believe these new rollover opportunities were intended to create difficulties for ESOP plans that give their participants considerable investment flexibility. I would like to ask the distinguished chairman of the Finance Committee whether he agrees with me that the intent of Congress was clearly not to jeopardize ESOP's that give their participants flexibility, and that the impact of the changes made in the unemployment bill on employee elections should not, for purposes of section 4975(e)(7), affect the determination of whether a plan is designed to invest primarily in qualifying employer securities merely because the plan's investments in employer securities fall temporarily.

Mr. BENTSEN. Mr. President, the distinguished Senator from Illinois is correct. The unemployment bill that passed earlier this year was never intended to jeopardize ESOP's that give their participants substantial flexibility.

Mr. DIXON. I thank the distinguished chairman for his understanding and for his assistance.

### LEASED EMPLOYEE

Mr. KERRY. Mr. President, I have two questions regarding a clarification of the "leased employee" provision in the bill.

Mr. BENTSEN. I would be pleased to offer any clarifications.

Mr. KERRY. First, when we considered a similar provision on June 23, 1989, you concurred with my understanding that under the definition of "leased employee" then proposed, the fact that an individual's services are not preformed under the control of the intermediary party that arranged for the individual to perform the services for the recipient company does not, by itself, necessarily lead to the conclusions that the individual's services are performed under the control of the recipient company. The services may instead be performed under the control of the individual himself or under the control of an entity other than the intermediary third party or the recipient company. This issue was then, and still remains, particularly important in my State of Massachusetts where a substantial number of workers provide services through brokers as independent contractors. Would my understanding on this point still be correct today under the present bill?

Mr. BENTSEN. It would be.

Mr. KERRY. Second, the explanation of the bill states that the service recipient must exercise control over a worker for the worker to be considered a leased employee. The explanation also states that the determination is made on all the facts and circumstances. I am concerned that this definition not be extended beyond the original intent of the "leased employee" provisions to reach certain professionals like attorneys; accountants and actuaries; doctors; and computer programmers, systems analysts, software and hardware engineers; and other similarly skilled professionals who typically are under the general control of the service recipient. Often the service recipient's establishment of the techniques and methods to be used, and its requirements that work be performed on-site and according to certain stages and timetables, is dictated in many respects by the very nature of the work itself; also there is general direction given as to the results to be obtained. However, this type of general control by service recipients does not appear to be significant in the overall context of the day-to-day work of these professionals who regularly make substantial use of their own judgment and discretion on matters of importance in the performance of their services. Accordingly, this type of general control would not be of whether these professionals are "leased employees." Is my understanding correct of how the "control" test would apply to these workers?

Mr. BENTSEN. Yes, it is correct.

### TRUCK EXCISE TAX

Mr. SPECTER. Mr. President, I would like to engage the distinguished managers of the bill, the chairman and ranking member of the Senate Finance Committee, in a brief colloquy concerning the excise tax on trucks which is dealt with in the miscellaneous provisions title of this bill. Although the provision being considered in this bill deals with an exemption for certain educational institutions, my inquiry deals with a more general Internal Revenue Service interpretation of the statute as it enforces a 1987 amendment which clarified the treatment of direct sales made by manufacturers, producers, and importers.

Specifically, in 1987 the Congress clarified that the 12-percent excise tax on trucks being sold at retail by manufacturers, producers, and importers should be assessed against their selling price plus a presumed markup percentage as determined by the Secretary of the Treasury. Apparently, the provision was intended to ensure that direct sellers would pay a tax comparable to that paid by independent third party distributors. However, the conference report supporting this amendment noted that:

> The conferees do not intend that the Treasury Department apply the new presumptive retail sales price rule to such transactions if the lessor/seller establishes that the price to the ultimate user of the vehicle represents an arm's length retail sales price.

Mr. President, the conferees apparently anticipated circumstances that do not lend themselves to a mechanical application of a presumed markup percentage. But Treasury, in its regulations, has imposed an inflexible application of a 4-percent markup without granting the taxpayer the ability to rebut that presumption by providing information to show that its sales have been made at arm's length.

In practical terms, the purchaser of a truck does not make a distinction as to whether a seller is a manufacturer, a company-owned retail outlet, or an independent distributor; price is the determinative factor and in many cases the sales price to a purchaser may be the same no matter who the seller. Yet the manufacturer which sells directly or through its retail outlet is disadvantaged because it must tack on an additional 4-percent presumed markup percentage, for purpose of the tax, and either increase the price to the customer and possibly lose the sale or absorb the add-on. But such sales have been made on an arm's-length basis which is exactly what the Congress wished to recognize as the basis for the excise tax. Thus, the presumed markup computation need not be followed where its application is not necessary to carry out the purposed of the provision and, indeed, creates a distortion in its application.

Mr. President, I would like to say to the distinguished managers of the bill that I, of course, do not wish to rewrite this provision of the Tax Code in my dialog with them. But I would like to ask the distinguished chairman of the Finance Committee if he agrees that, before imposing an arbitrary 4-percent markup percentage on the selling price to establish a basis for the excise tax on trucks sold by manufacturers, producers, and importers, the Internal Revenue Service should accord the taxpayer an opportunity to rebut that presumption, consistent with the intention of Congress, by showing that such sale or sales were made on an arm's-length basis and hence provide the appropriate basis for tax.

Mr. BENTSEN. I agree with the statement of the distinguished Senator from Pennsylvania. In establishing the presumed-markup-percentage concept the Congress granted the Secretary a tool to establish a basis for tax which would generally equate to the price of a sale made in an arm's-length transaction. However, the Congress specifically said that it did not intend that this rule be applied if the taxpayer establishes that the price to the ultimate user represents an arm's-length retail sales price. Therefore, if application of the presumed markup percentage would yield inequitable results, the taxpayer should be provided the opportunity to document its sales as being made on an arm's-length basis and have that arm's length sales price, unadjusted for any presumed markup, be the appropriate basis for assessment of the tax.

Mr. SPECTER. I would also direct the same inquiry to the distinguished ranking member.

Mr. PACKWOOD. I agree with the response of the distinguished chairman.

### RETROACTIVE CHANGES IN THE TAX LAW

Mr. SYMMS. Mr. President, I would like to engage the distinguished chairman of the Finance committee in a colloquy regarding retroactive changes in the tax law and the IRS imposing penalties subsequent to those changes in the tax law.

Mr. BENTSEN. I would be happy to discuss this matter with the Senator from Idaho.

Mr. SYMMS. As the chairman of the Finance Committee is aware, Congress occasionally makes retroactive changes in the tax law. When this occurs taxpayers affected by this change in law must resubmit their tax return and pay additional tax liability. I am concerned that the IRS may attempt to impose penalties retroactively on these taxpayers. I do not believe it is the intent of Congress to impose these penalties on taxpayers for changes in the tax law that did not exist when these taxpayers originally submitted the tax return. I hope that the chairman of the committee could clarify congressional intent regarding penalties and retroactive changes in the tax law.

Mr. BENTSEN. It is not the intent of Congress for the IRS to impose penalties on taxpayers who must pay additional taxes due to retroactive changes in the tax law. The IRS uses penalties to discourage taxpayers from avoiding their tax liability or paying it late. If taxpayers come into timely compliance with any retroactive change in the tax law by paying their tax liability, I do not believe the IRS should impose penalties due to the retroactive change in tax law.

Mr. SYMMS. I thank the Senator from Texas for clarifying congressional intent concerning retroactive changes in the tax law as it relates to penalties. I am sure that thousands of taxpayers are relieved that the Congress did not intend that the IRS would impose penalties on changes in the Tax Code that did not exist before Congress retroactively changed them.

### RURAL ENTERPRISE ZONES

Mr. GRASSLEY. Mr. President, I am following up on an issue I raised in the Finance Committee mark up on the legislation before us.

In that mark up, I made the point that while I strongly supported including rural enterprise zones in the bill, it was important that the tax benefits in the bill not encourage corporate farming at the expense of family farms.

We want—and we need—rural enterprise zones to be included in this bill. A number of weeks ago, I wrote to the President, as well as to Senator BENTSEN, chairman of the Finance Committee, encouraging them to support rural enterprise zones in the enterprise zone package that was being put together. I am very grateful that rural enterprise zones were included in both the President's and the chairman's proposals.

In our effort to assist urban communities in the aftermath of the Los Angeles riots, we can't forget the needs of our rural communities. It is very unfortunate, but there are rural areas in my State of Iowa that have a similar per capita income as south central Los Angeles. These rural communities need help too, and I am encouraged that this need has been recognized.

However, in our effort to help these communities, we have to be careful that we do not do more harm than good.

Under the committee bill, and even more so in the House version, corporate interests were given potentially dangerous tax incentives to invest in agriculture. These investments would further damage the very existence of the family farm. We have seen the damage done when tax benefits have been given to corporations to invest in agriculture. The resulting unfair competition, overproduction and depressed prices led to the loss of thousands of family farms across the country.

Mr. President, we do not need more corporate investment in farming. We need more corporate investment in rural diversification.

Nonagricultural, diversified business investment will help many of these hard-hit rural communities get back on their feet, without interfering with or competing with the local farming infrastructure.

I am very encouraged that, following the committee markup, the chairman took my concerns and suggestions in mind and did modify the committee bill to limit benefits to farming operations that consist of under $500,000 in total assets over a lifetime. This is certainly strong movement in the right direction. But, at this point, a few concerns still remain. And, I would like to pose a few questions to the manager of the bill, Chairman BENTSEN.

My first concern regards the possibility of investors creating multiple legal entities that appear as a number of small farms on paper, but are actually under the control of a single entity. I hope the chairman also recognizes this as a potential problem.

In addition, I have concerns about the $500,000 asset test. The basis of breeding and dairy stock raised by farm taxpayers using cash accounting could be zero. So, it appears that in a number of cases, the asset test could be circumvented by operations that have a great deal more than $500,000 in assets.

Furthermore, it seems that, in some instances, applying the asset test to the previous year could render the test moot, since the basis of a new operation that did not exist in the previous year would be zero. Therefore, the asset test should be applied at the end of the tax year in which the benefits are claimed rather than at the end of the preceding tax year. I hope the chairman shares these concerns.

Mr. BENTSEN. I do understand the concerns of the distinguished Senator from Iowa, Senator GRASSLEY, and I want to assure him that I do not intend to come out of conference without sufficient antiabuse rules that will address these concerns.

Mr. GRASSLEY. I thank the able chairman and I look forward to working with him in achieving our mutual goals.

### THE CDC PROVISIONS IN THE REVENUE ACT

Mr. KENNEDY. Mr. President, any serious plan for investing in distressed communities must include the local organizations who are at the front line of economic development in our inner cities and rural areas: community development corporations. There are over 2,000 CDC's operating nationwide which have contributed to our communities more than 320,000 units of affordable housing; 90,000 permanent jobs; and over 3,500 loans to small businesses.

The revenue act approved by the House included a tax credit of $2 million for contributions of up to 10 CDC's for projects to create jobs and business opportunities for low-income individuals. This is a good step, and should be included in the conference agreement.

Additionally, I would like to see the definition of CDC's conformed to that in the National Economic Partnership Act, S. 1866. In particular, we need to clarify that eligible organizations must be private, nonprofit entities.

I urge Senator BENTSEN to accept in conference the House provision for tax credits for contributions to CDC's. By doing so, we strengthen those organizations that are best equipped to carry out urban and rural revitalization.

Mr. RIEGLE. Mr. President, I would like to echo Senator KENNEDY's support of the tax credit for contributions to CDC's included in the House version of this bill.

CDC's have successfully blended physical economic development, such as housing and commercial construction, with community building activities, such as job training and homeownership counseling. CDC's have also played an active role in strengthening capital access for microenterprises, an engine for revitalization and growth that has traditionally encountered difficulties in obtaining financing from conventional lending sources.

The tax credit would expand the breadth and depth of services that CDC's in distressed urban and rural areas could make available in their communities. I expressed my support for this provision prior to the markup before the Finance Committee and urge its acceptance in the conference agreement.

Mr. BENTSEN. Mr. President, I am aware of the Senator's interest in stepping up support for CDC's which have performed remarkably in serving low-income communities. The additional costs involved in providing such support could be well worth the Federal investment, as CDC's have been successful in leveraging private dollars.

I look forward to resolving this issue in conference.

### APPLICATION OF INTANGIBLES PROVISIONS TO VIDEOTAPES PURCHASED AS PART OF THE ACQUISITION OF A TRADE OR BUSINESS

Mr. MACK. Mr. President, I would like to ask the chairman of the Finance committee his view as to the application of section 4501 of H.R. 11, the provision dealing with the amortization of acquired intangible assets, to mass-produced videotapes, recordings, books, and other similar items that are readily available for purchase by the public, have not been substantially modified, and are acquired without the acquisition of the copyright or any right to copy or other exclusive license. It is my understanding that when such items are purchased as part of the acquisition of a business that sells or rents such items, the items are not section 197 intangibles.

Mr. BENTSEN. That is correct.

Mr. MURKOWSKI. Mr. President, I rise today to speak on the enterprise zone provisions contained in this bill. I am pleased to see these provisions because I believe that providing incentives in badly depressed areas of this Nation will serve to promote economic growth, specifically jobs.

Much of the support for enterprise zones grew out of the Los Angeles riots, but I would like to say now that the problems of rural America are in many places just as bad as those of the big cities of this country.

In my State, there are vast rural areas where the unemployment rate reaches as high as 20 percent. I was recently in one village on the Kuskokwim River in western Alaska where the only medical facility was in a log cabin with no hot water. A log cabin which had newspapers stuffed in the cracks between the logs as insulation. For far too many rural Alaskans, Mr. President, that sort of life is a reality.

That is why I am pleased to see that this bill creates 40 rural enterprise zones. Further, Mr. President, we have been able to lower the population requirement for a rural enterprise zone from the original Finance Committee proposal of 10,000 to 5,000. There are huge sections of my State where there simply are not 10,000 people living in a small enough area for an enterprise zone to function appropriately. Frankly, Mr. President, I would have preferred to lower the population requirement even further, to 1,000, as in the version passed by the other body, but I believe that 5,000 is a step in the right direction which will help bring the hope and the opportunity offered by enterprise zones to the people of rural Alaska.

I would ask the chairman of the committee a brief question.

Mr. BENTSEN. I would be happy to answer a question by the Senator from Alaska.

Mr. MURKOWSKI. I thank the chairman. I understand that the other body's version of H.R. 11 has as its population requirement 1,000 people, Mr. Chairman, I wonder if you could assure me that in conference you will work to ensure that there is no increase from 5,000 in the Senate's population requirement for a rural enterprise zone and, if possible, work toward lowering the requirement toward the other body's 1,000.

Mr. BENTSEN. I believe that I can assure my friend that, as I understand his concerns, I will work within conference to ensure that the population requirement for rural zones does not grow beyond 5,000 and that I will work to address the concerns of the Senator from Alaska and other Senators from rural States.

Mr. MURKOWSKI. I thank the chairman. I appreciate the consideration shown, as always, by the Senator from Texas and I yield the floor.

### EXEMPTION FOR PUBLIC TELEVISION SPONSORSHIPS

Mr. COCHRAN. Mr. President, section 8005 of this bill deals with unrelated business income tax [UBIT] on sponsorship payments received by tax-exempt organizations. I am interested in knowing the intent of the committee regarding corporate sponsorship payments made to public broadcasters and producers of public broadcast programming. Was it the intent of the committee to continue the current practice of allowing tax-exempt status of sponsorship payments made to public broadcasters and producers of public broadcast programming?

Mr. BENTSEN. I appreciate the distinguished Senator from Mississippi bringing this to the Senate's attention. The committee intended to maintain the status quo regarding corporate underwriting of public broadcasting programs. Corporate sponsorship is an important source of support of our Nation's public broadcasting system and enables the offering of many fine programs which are educational and enjoyable.

Mr. PACKWOOD. If the Senator will yield; I agree with Senator BENTSEN's interpretation. The committee did intend to include sponsorship payments made to public broadcasters and producers of public broadcast programming, which are made in exchange for acknowledgements, among qualified sponsorship payments for purposes of the safe-harbor rule provided by the bill.

Mr. COCHRAN. I thank the Senator for this explanation. As he knows, the Federal Communications Commission has evolved a series of rules over the past several years which govern this underwriting. Does the Senator make compliance with these rules a requirement for qualifying for the tax-exempt status?

Mr. BENTSEN. The committee report requires that corporate sponsorship announcements or representations meet the Public Broadcasting System [PBS] national program funding standards and practices in order to be granted tax-exempt status. It has come to my attention that America's public television stations believe that it may be more precise to require that these payments be made consistent with sections 399A and 399B of the Communications Act—47 U.S.C. 399A and 399B—and the public broadcasting rules of the Federal Communications Commission, the statutory authority for the internal PBS standards and practices referenced in the committee report. I assure the Senator that we will take a look at this reference in conference.

Mr. COCHRAN. I thank the managers for clarifying the intent of the committee.

### ESTABLISHMENT OF AN EXPERIMENTAL ENTERPRISE ZONE TO ASSIST THE ECONOMIC RECOVERY OF SOUTH DADE COUNTY, FLORIDA IN THE AFTERMATH OF HURRICANE ANDREW

Mr. MACK. Mr. President, I would like to make an inquiry of the distinguished chairman of the Senate Finance Committee on whether it would be appropriate under title I of H.R. 11, the Revenue Act of 1992 to include areas like south Dade County, which suffer extreme economic distress as a result of natural disasters. It is my understanding that this legislation is intended in part as an experiment to evaluate the effectiveness of enterprise zones to assist the economic recovery of areas suffering extreme economic depression. I believe that enterprise zones would provide enormous benefits to assist citizens of our Nation in aftermath of natural disasters. In fact, south Dade County as it exists today would easily meet the criteria established by H.R. 11. I would hope that the Chairman would agree that south Dade County would provide a unique opportunity to evaluate another potentially valuable use for enterprise zones.

Mr. BENTSEN. I agree with my colleague from Florida that one of the major objectives of this provision is to evaluate the effectiveness of enterprise zones as a tool of economic development. In fact, I would like to point out that the criteria in the Finance Committee's bill specifically directs the Secretary of Housing and Urban Development to consider general distress criteria. The technical explanation of the bill states that designation of the area as a disaster area is a factor which must be considered. Assuming this area meets the poverty criteria, I believe this area will be a prime candidate for designation of an enterprise zone.

### RURAL ENTERPRISE ZONES

Mr. CONRAD. Mr. President, I rise to engage the distinguished chairman in a colloquy on an amendment I had planned to offer to diversify the eligibility criteria for rural enterprise zones. I would like to start by thanking the chairman for his extraordinary efforts to develop enterprise zone legislation that would respond to the tragedy in Los Angeles earlier this year. And I would like to commend him in particular for looking beyond the economic despair in urban areas to the distress of many rural areas and Indian reservations. Rural America has a true friend in Senator BENTSEN.

However, I do have one concern with the enterprise zone language before us: I am afraid that the provision could inadvertently limit the access of some severely distressed rural areas to the economic opportunities provided by enterprise zones. Consequently, I had intended to offer an amendment to make these areas eligible for nomination as rural enterprise zones. While the criteria in the bill—high rates of unemployment and poverty—are clearly important indicators of economic distress, I am concerned that these criteria do not acknowledge the economic distress felt in many areas that do not necessarily exhibit these symptoms. I strongly believe that in some parts of our country, including my own, other indicators such as out-migration and falling incomes are more appropriate measures of distress. Yet it is my understanding that, as the provision is currently drafted, a severely distressed rural areas that hassuffered steeply declining income and very high out-migration could not be nominated as an enterprise zone if it does not also suffer both high unemployment and poverty. Could the manager tell me if my understanding is correct?

Mr. BENTSEN. The Senator from North Dakota is generally correct. The criteria specify that each census tract in an area to be nominated as an enterprise zone must have a poverty rate of not less than 25 percent, and further that not less than 80 percent of the population census tracts within the nominated area must have a poverty rate of not less than 35 percent. In addition the nominated area must be one of pervasive unemployment and general distress. Thus, as the language currently stands, no area may be nominated that does not exhibit both high poverty as specified and pervasive unemployment. However, it was our intention in drafting this provision that the term "general distress" would allow the Secretaries of Agriculture and Interior to consider such factors as out-migration and other factors, which the Senator from North Dakota correctly identifies as important indicators of distress in many rural areas, when implementing this legislation.

Mr. CONRAD. Mr. President, I appreciate the explanation of the chairman. However, I remain concerned that, unless this language is changed, economically distressed areas in my part of the country would remain ineligible for nomination as enterprise zones. Because I do not wish to unduly delay the Senate by engaging in a lengthy debate on the amendment I had intended to offer, though, I wonder whether the chairman would be able to assure me that this issue would be reconsidered in conference if I were to refrain from offering my amendment? I and many of my colleagues with whom I have discussed this issue prefer the language in the House version of H.R. 11, which includes out-migration and declining total wages from employment as criteria for eligibility.

Mr. BENTSEN. Mr. President, I understand the Senator's concern and I appreciate his bringing it to the attention of the Senate. He is right that some severely distressed areas which would be eligible under the House approach would not be eligible under the Senate approach. While I remain committed to including poverty as a defining criterion, I would be happy to assure my colleague that the Senate conferees, in their negotiations with the House conferees, will take into consideration the concerns regarding out-migration and other indicators of distress in rural areas raised by the Senator from North Dakota and other Senators representing rural States.

Mr. CONRAD. Mr. President, I thank the chairman for his willingness to reconsider this issue. Based on his assurances, I will refrain from offering my amendment at this time. We have a diverse country, with a diverse and changing economy. This diversity and these changes require us to consider a broad and diverse set of indicators to determine the health of regional economies. I urge my colleagues on the conference committee to recognize this phenomenon and support the inclusion of other indicators of rural economic distress in the eligibility criteria for rural enterprise zones as they develop the final version of this legislation.

### PICKLE CARDS

Mr. EXON. Mr. President, I have introduced legislation, S. 624, that addresses the serious problem that we now have in Nebraska regarding the taxation of charitable gaming. Many Nebraska charities sell pull tab cards, called pickle cards in parts of my State, as a way to raise needed funds. The sale of these cards is regulated by State law. There are over 200 charities in Nebraska who are licensed by the State to conduct such gaming. They are diverse organizations such as fire departments, athletic booster clubs, American Legion posts, Catholic churches, and the AFL–CIO.

These are very low stakes games of chance. Most pull tab cards cost a dollar and you might receive a few dollars in return if you drew a winner. The profits from the sale of the cards are used for needed community services and the organizations selling the cards rely heavily upon volunteers for their efforts.

In early 1990, many Nebraska charities began receiving large tax bills, with back taxes, interest, and penalties, for gaming income dating back to 1986 relating to the sale of these pull tab cards. As these are charitable organizations, the prospect of significant amounts of back taxes in many cases threatens their continued existence. If they had simply been flaunting a well known and clear law, I would not be sympathetic.

But our law relating to the applicability of the unrelated business income tax has been in my view anything but well understood and clear. In 1984, we determined that such income, such as that from the sale of pull tab cards by Nebraska charities, would not be taxable under the unrelated business income tax. Yet, in the 1986 tax bill, in a little known provision, the law was changed so that only charities in one State, North Dakota, are allowed an exemption from that tax. It was that change, and a subsequent provision that passed in 1988, that finally caught up with Nebraska's charities in 1990.

The House of Representatives, several weeks ago, passed a bill, H.R. 5660, that addresses part of the problem. That bill is, however, prospective only in scope and is not a complete resolution of this matter.

As the chairman knows, I have been pushing hard for a solution to this issue and I appreciate the attention and time that he has afforded me. Although I have given strong consideration to offering an amendment to this bill, I recognize that the issue of Federal taxation of charitable gaming is complex and may have a significant revenue impact.

As such, I would like to know if the chairman has considered this issue and if he would agree to taking a close look at this issue in conference, in light of the action in the House of Representatives? If the matter cannot be resolved in the context of this bill, can I have his assurance that the committee will more fully review and address this issue in the coming year?

Mr. BENTSEN. I would like to first commend my good friend from Nebraska for his diligent efforts in bringing this issue to my attention. Although this bill does not include a provision regarding how the unrelated business income tax effects charitable gaming profits, I am well aware of this issue due to the Senator from Nebraska's strong support for a solution and his introduction of S. 624.

As we have had many amendments proposed for this bill, I am not able to directly resolve the Senator's problem at this time. This is indeed a rather complicated issue and one whose resolution could have an impact in many States.

In response to the Senator's inquiry, I certainly will take a close look at the House bill he mentioned as it at least partially resolves the matter. In the event that something cannot be worked out in the short timeframe left on this particular bill, I will agree to have the Finance Committee more carefully and thoroughly review this issue early next year to determine if a solution, along the lines of S. 624 or perhaps another proposal, can be developed.

Mr. EXON. I thank my good friend from Texas and look forward to your continued cooperation in resolving this very important issue.

### CRAIG-HATCH ADOPTION/YOUNG CHILD PRO-FAMILY AMENDMENT NO. 3200

Mr. CRAIG. Mr. President, just 2 days ago, we considered the Family and Medical Leave Act, returned to this body by the President, vetoed.

We debated two different approaches to family leave: Mandating it for the 40 to 50 percent of employees who work in the 5 percent largest businesses in the United States, as S. 5, the vetoed bill, would do, versus tax incentives to provide family leave for the 80 percent of private sector employees who work in the more than 99 percent of American workplaces with fewer than 500 employees.

But, regardless of approach, we were 100 percent united on the same goals:

We were seeking to make it easier for individuals to provide for the care of family members during times of emergency or great need and, especially, to help parents spend time with and provide care for a child immediately after birth or adoption.

That's the very goal of this amendment.

The amendment I am offering with Senators HATCH, COATS, GORTON, MCCAIN, and SEYMOUR, is a simple one, with four parts. It would:

First, provide a $5,000 deduction for adoption expenses;

Second, Increase by 50 percent from 5 percent to 7.5 percent—the supplemental young child credit, providing 12 times as much in tax, relief for working poor families, as HR 11:

And provide two offsets, making it revenue neutral—saving some $62 million, actually, by:

Third, creating a third, 10-percent bracket for dependent care tax credit [DCTC] at the top end of the income scale; and

Fourth, maintaining current law regarding the interaction between the supplemental young child credit [YCC] portion of the earned income tax credit [EITC] and the dependent care tax credit, by striking a provision in H.R. 11 that allows a few taxpayers to claim both the young child credit and the DCTC.

### DEDUCTION FOR ADOPTION EXPENSES

These provisions would:

Create a deduction for up to $5,000 of expenses related to any adoption—except for adopting a spouse's child; H.R. 11 provides only a deduction of up to $3,000 for special needs adoptions;

Exclude from an employee's taxable income adoption expenses of up to $5,000 paid by his or her employer; deductibility would be phased out for taxpayers with adjusted gross incomes [AGI] between $80,000-$90,000—except for special needs adoptions—and double benefits would not be allowed—for example, expenses deducted and reimbursement by employer excluded from income.

There are numerous reasons why we should enact this adoption deduction.

First, we want, and can afford, to do more than the limited, special needs provision in H.R. 11. The Craig-Hatch amendment will provide for a deduction for special needs adoptions larger by two-thirds than that in H.R. 11, and would make this deduction available for essentially all adoptions.

We hear this amendment criticized, right here in this body, as creating "an incentive for adopting healthy white babies, for which there already is a large demand." This analysis is wrong on every basis—definitional, demographic, medical, and tax policy.

Special needs, in H.R. 11, are defined by State law. Therefore, the conditions that meet this definition can vary widely—capriciously, in fact—from State to State.

In one State, age alone may qualify a child for special needs adoption, while, in another, a profoundly retarded and physically disabled child might not qualify. In some State, a taxpayer-subsidized adoption of a healthy white baby through a State agency automatically will qualify as a special needs adoption, while a much more expensive, unsubsidized, adoption of a minority or disadvantaged child—even a crack cocaine baby, for example—through a reputable private agency will not qualify.

The result of tying eligibility for this particular, national, tax deduction to State definitions would be inconsistent, even nonsensical, applications of the law.

Adoption is a legitimate expense of having a family and should be recognized as such by being made deductible.

An incentive argument makes absolutely the wrong analysis. No one will want to adopt a child more or less based on a tax deduction. But such a deduction may make the difference in whether a modest or middle-income family is able to adopt.

We simply would allow an important and legitimate expense like adoption to be treated like one, as we do for so many other expenses in so many cases. For example:

Employer-provided health insurance that covers childbirth is deductible to the employer and excluded from the employee's income;

Major medical expenses, not covered by insurance, are deductible;

Job-related moving expenses are deductible;

Just this week, the Senate reaffirmed current law that advertising, generically—that is, including that for tobacco products—is a legitimate, deductible, business expense, and kept H.R. 11's deduction for amortized business goodwill; and

Dues to professional societies, unions, and chambers of commerce are deductible by individuals.

If deductions for these and so many more costs of doing business or costs of living have found a place in the Internal Revenue Code, how equally—indeed, how much more—legitimate is a deduction for adoption?

### INCREASING THE SUPPLEMENTAL YOUNG CHILD CREDIT (YCC)

The YCC was created, as a component of the earned income tax credit [EITC], as part of the major child care law in the 1990 Budget Reconciliation Act. It is available only to families with a child less than 1 year old, in recognition of how critically important parental care is in that first year in a newborn's life. As a Member, then, of the other body, I supported creation of the YCC in its present form.

As my colleagues know, the underlying EITC is available to low-income families, with a child under age 19, and with at least one parent in the paid work force, on a nondiscriminatory basis, that is, traditional and nontraditional families are equally eligible, and in 1992, the credit is phased out between $11,840-$22,370—adjusted annually for inflation.

Up to an earned income level of $11,840, the basic EITC rate is 17.6 percent of the first $7,570, indexed, of earned income for a maximum basic credit of $1,324 in 1992, or 18.4 percent maximum $1,384, for an EITC family with two or more children.

The supplemental YCC currently is an additional 5 percent, simply added right on top of the basic EITC. The maximum YCC credit in 1992 is $376.

Like the rest of the EITC, the YCC is refundable—an eligible family can receive back more through the EITC and YCC than its total tax liability—like a negative income tax.

I want to emphasize, and I want my colleagues to keep in mind as we debate this amendment, that everyone who qualifies for the YCC already is claiming the EITC.

Congress had a number of purposes in enacting the Supplemental YCC:

As with the competing family leave proposals we debated earlier this week, to make it easier for families to meet stay-at-home needs that arise during critical first year of child's life;

To treat all low-income, working families with newborns in a nondiscriminatory way;

To extend tax benefits comparable to the dependent care tax credit [DCTC] to working poor families with newborns who don't qualify for the DCTC; and

To provide EITC families eligible for the DCTC with a simplified way of obtaining the DCTC-comparable young child credit without having to meet all the documentation requirements of the DCTC.

What does the Craig-Hatch amendment do?

We would increase the supplemental YCC from 5 percent to 7.5 percent—a 50-percent increase in this tax credit for working poor families with an infant under 1 year old. This would allow a new maximum young child credit of $592 in 1993, up from $395 in that year under current law, based on Joint Tax Committee [JTC] credit base estimates in the House Ways and Means Committee's 1992 Green Book.

### REVENUE OFFSET: REDUCE DEPENDENT CARE TAX CREDIT [DCTC] CLAIMED BY HIGH-INCOME HOUSEHOLDS

Under current law, the DCTC is a nonrefundable credit for day care expenses for a child under 13—or an adult dependent who cannot care for himself or herself.

To qualify for the DCTC:

Day care expenses must be documented—that is, the taxpayer must report the tax ID number of the caregiver to the IRS and the taxpayer must keep complete records of the care and expenses;

The taxpayer must utilize formal day care—that is, not care by family members or other informal arrangements; and

In a two-parent household, both must be employed out of the home or seeking employment.

The current DCTC rate structure is as follows:

A 30 percent credit can be claimed for taxpayers with adjusted gross income [AGI] of $10,000 or less;

There is a phase-down between $10,000–$28,000 of AGI;

A 20 percent credit is allowed for taxpayers with AGI above $28,000.

The maximum expenses against which the credit can be claimed are $2,400 for one child and $4,800 for more than one.

Consistent with current progressivity at the lower end of the AGI scale, the Craig-Hatch amendment would phase down the DCTC again at the high end of the income scale, from a 20 percent rate down to a 10 percent rate, over the AGI range of $80,000–$90,000;

By adding this third, 10 percent bracket above $90,000 AGI, the Craig-Hatch amendment would:

Allow the channelling of additional tax credit revenues to the young child credit, where they will have maximum impact, being used by low-income families with a child under one and by adoptive families;

Provide tax credit assistance on a less discriminatory basis, because: It will fund a significant increase in the YCC which, unlike the DCTC can be used by traditional families, those with family care givers, and those intimidated by the documentation and paperwork required to claim the DCTC; it allows a deduction for all adoptions, not just randomly defined special needs adoptions.

### REVENUE OFFSET: STRIKE HR 11'S REPEAL OF EITC-DCTC ELECTION

Under current law, a family that otherwise would qualify for both the YCC and the DCTC must elect which credit to claim. This is wholly appropriate and concerns a very small number of households. There is very little overlap between the two credits. In fact, to qualify for both, a family would have to:

Have less than $22,370 this year in earned income;

In most cases, have an AGI over $10,000—since the DCTC is not refundable, the family must have a positive tax liability to offset;

Have a child younger than 1 year;

In a two-parent household, have both parents in the paid work force;

Carefully document expenses, report day care information to the IRS, and keep detailed records;

Use formal day care services.

In preparing this amendment, we tried to pin down just how many would qualify for both credits, but could not. The YCC, after all, is a new credit. However, based on JTC's $51 million cost over 5 years for allowing a double dip—collecting both credits—an estimate that 30,000 households would qualify would be quite reasonable.

I remind my colleagues of the policy reasons for the current law requirement that families qualified for both the YCC and the DCTC make an election between the two credits.

The YCC was not meant to supplement the DCTC, but to extend comparable tax credit benefits to low-income, traditional families, and low-income families who want to make less formal child care arrangements than those qualifying for the DCTC.

Allowing DCTC-qualified families to elect the YCC instead actually simplifies the tax system. These families already are claiming the EITC and it would, in many cases, be simpler for them to also claim the YCC component of the EITC, rather than go through a second set of calculations to claim the DCTC, as well.

For families eligible for the EITC and, if there is a child under age 1, for the YCC, the average DCTC claimed is only about $370. In fact, the maximum DCTC that can be claimed by families in this income range—under about $22,000—runs from zero to $624 for one child.

As I mentioned before, for 1993, our amendment would increase the maximum supplemental YCC to $592, from $395 under current law.

Obviously, by increasing the young child credit by 50 percent, the Craig-Hatch amendment furthers our goals in creating the YCC. We provide a better DCTC-comparable credit to EITC families with an infant under one. And we provide a credit of sufficient size that only those families with large out-of-pocket day care costs or those in the upper phaseout range of the EITC would need to bother with computing both credits for the purpose of making an election between them.

In contrast, H.R. 11 would repeal the 1990 requirement of an election between the YCC and the DCTC and allow families that meet the qualifications for both credits to claim both, for a JTC-estimated cost of $51 million over 5 years.

The Craig-Hatch amendment would strike the election-repeal in H.R. 11, merely maintaining current law regarding the election between the YCC and DCTC.

We will hear today that, in striking the election-repeal, this amendment would "take a tax credit away from working poor families." Nothing could be further from the truth, Mr. President.

Because of our 50 percent increase in the YCC, the Craig-Hatch amendment provides almost 12 times as much in tax relief to working poor families as does H.R. 11, with regard to the interaction between the YCC and DCTC. We would increase the maximum YCC a family could claim by almost $200 in 1993, and distribute the benefits of this more generous tax credit much more broadly than H.R. 11.

Mr. President, increasing the YCC is far preferable to expanding eligibility for the DCTC, for four major reasons.

First, the DCTC is essentially a middle-to-upper class tax break; few working poor families can afford the expensive, documented, formal day care necessary to claim the DCTC.

Second, in half of all families with newborns, one parent takes at least a year off from paid work to stay at home. The large majority of families want one parent to be able to stay at home for the first year of a newborn's life, recognizing that the first year is a critical, formative time. The DCTC discriminates against traditional families, and also excludes those who use family caregivers and other informal babysitting arrangements.

Third, the YCC is nondiscriminatory, equally benefiting traditional and nontraditional families.

Fourth, the YCC is simpler to qualify for and to claim, since it is merely a component of the EITC for which the family already is filing and does not require the extensive documentation and formal, day care business arrangements needed to claim the DCTC.

Some of the opponents to our amendments say that current law is too complicated and that our amendment will make tax forms too complicated for low-income families. Having touched on the issue of simplification more than once, already, in my statement, it is time for me to address these arguments directly.

H.R. 11 is not simpler than the status quo or the Craig-Hatch amendment.

In all cases, as we debate the DCTC and the YCC and their interaction, we are talking only about families already claiming the EITC.

Can the EITC be simpler? Yes. Should it be? Yes. But that is a problem with the underlying EITC, not with the supplemental YCC or with our amendment. In fact, I wish that the Finance Committee would have done something in H.R. 11 to make filing for the EITC simpler.

The YCC is just another 5 to 7.5 percent under our amendment—on top of the EITC. Everyone who claims the young child credit, and everyone who elects to take the DCTC instead of the young child credit, already is computing and claiming their EITC.

Opponents of our amendment have argued that removing the requirement for an election between the young child credit and the DCTC will simplify the filing of tax returns for some families. However, it would not.

Under H.R. 11, eligible families would have to compute both credits to take both credits.

Under our amendment, some eligible families will want to compute both credits to see which one benefits them more.

If, either way the family makes the same computations, figuring both credits, how is H.R. 11 simpler than current law or our amendment?

It is not. And, actually, our amendment does more for simplification. Under our amendment, those families who already will take the EITC and who have a child under 1 do not have to compute both credits. Our amendment gives them up to an additional $197 for the YCC, which means fewer families will have any need to bother with computing the DCTC.

This means that the Craig-Hatch amendment is the simplification provision, not the YCC/DCTC provisions in H.R. 11.

I conclude by submitting a final, revised summary of the costs and offsets related to our amendment, according to estimates received from JTC. Over 5 years, in millions of dollars these are as follows:

| | *Millions* |
|---|---|
| Full $5,000 adoption deduction (net above H.R. 11) | $63 |
| Increasing Suppl. young child credit to 7.5 percent | 599 |
| Total revenue costs | 662 |
| Savings from keeping YCC/DCTC election status quo | 51 |
| Savings from upper-end phase-down of DCTC | 673 |
| Total revenue-saving offsets | 724 |
| Net savings from amendment | 62 |

Mr. President, the Craig-Hatch amendment is the proadoption, profamily, tax relief, and simplification amendment for families of modest- and middle-class means. It is fair, compassionate, and more than pays for itself. I urge its adoption.

Mr. BENTSEN. Mr. President, we draw to a close lengthy debate on this tax bill. I want to state to the staff how deeply I appreciate the commitment, the dedication and the effort of the Finance Committee staff, both for the Republican side and the Democratic side: Van McMurtry, Sam Sessions, Marina Weiss, and on down the list.

I do not think the public realizes the amount of hours that are put into the effort. I know time and time again the private sector comes along and takes them away from us and often far beyond the compensation they had in their Government job. I think they stay in this mode and work such hours because they can contribute to making a difference in what we think is the betterment of the people of this country. I for one as chairman of the committee am very appreciative of them.

Mr. CHAFEE. Mr. President, I would like to join with our distinguished chairman of the Finance Committee in paying tribute to the staff for what they have done here. I, particularly on our side, would like to single out Lindy Paull, Rick Grafmeyer, Greg Powell, Mark Prater, and Ed Mihalski and others.

What the chairman said was exactly true. These individuals worked very, very hard. They are knowledgeable about these intricate tax measures that come before us and the amendments that are showered in from different directions. Without the able staff, we would really be in a very severe situation here. So I join in the tribute to that staff.

Mr. President, if I might, I know we are just about ready to go to final passage on this bill, but I would like to say a word about this bill.

Everybody has certain features in this bill they are interested in. I am particularly anxious that this bill includes, amongst other things—and there are many good parts of it and some parts I do not like—but finally we get rid of the luxury tax in this legislation which is terribly important to my State, as it is to the State of the distinguished majority leader and others.

Second, Mr. President, I would like to say in this legislation, we provide for the extension of the so-called extenders, the mortgage revenue bonds and the R&D tax credit and other measures, low-income housing provisions. I just touch on those because they are of particular importance to my State. There are other features in this bill that I think are good. I think it is a good bill. There are some down features. I am not interested in all the provisions dealing with the IRA's. I think we went too far, the back loaded IRA's so-called. But we had our fight on that and we lost.

I hope when this bill comes out of conference, it can be acceptable to the administration in all respects.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, if I might also express my appreciation for the work of Hank Gutman and Dr. Alan Auerbach.

As these things go, of course, I think again of Randy Hardock, Norm Richter, Maurice Foley, John Leggett, Susan Himes, Patricia McClanahan, Bob Kyle, Lisa Potetz, Kathy King, Alan Cohen, Margaret Malone, Ron Davis, Marcia Miller, Eric Biel, Debby Lamb, Mark Mazur, John Talisman, Peter Cobb, Mary Schmitt, Bernie Schmitt, and Janis Guerney.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, in the same spirit the very able and gallant Senator from Rhode Island has spoken, may I point out that in this tax bill there is a provision of great importance to all of us, not the least of Senator CHAFEE, that restores to the private universities and colleges of this Nation their status as exempt persons with respect to borrowing on a tax-exempt basis for capital improvements, which are so absolutely essential to universities, especially in the age of big science.

It also provides for the repeal of restrictions on the deductibility of gifts of appreciated property such as art to museums and securities and land to universities and other nonprofit institutions. This is of immense importance to all institutions that depend on private philanthropy, such as education, the arts, and indeed health and other matters.

These are somewhat obscure provisions but are absolutely essential to the well-being of an indispensable aspect of American life. I particularly want to thank the chairman, Senator BENTSEN, who has been invariably indulgent, and tolerant, and patient as we have pressed this matter since the tax legislation of 1986, 6 long years.

I want to thank him in particular. I am sure Rice University does the same.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, a bill of this kind is complicated; it has a lot of language in it, a lot of exceptions, difficult, challenging. I do not think any Member of the Senate will be able to deal with it on his own or her own, as the case may be.

But I have two staff members, Michele Barnhagen and Pam Banks, who have given me service and help above and beyond the call of duty, and I want to say publicly how grateful I am for them being with me not only on Saturday but throughout the consideration of this bill. They have been of inestimable value.

And to the manager of the bill, the majority leader, and manager on the other side of the aisle, I say thank you for their courtesies. In handling a matter of this kind sometimes there are situations where we cannot agree, but I appreciate the courtesies and graciousness with which the matter has been handled by all parties. I thank the Senators.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend all who contributed to the progress of this legislation and, in particular, the distinguished chairman of the Senate Finance Committee, who has devoted so much time and effort to this, and also the manager on the Republican side, Senator PACKWOOD, who is not present now but I think he deserves to be mentioned, as well as Senator CHAFEE currently acting as the manager.

I am advised there are no further amendments.

Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the committee substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, amendment No. 3231 is withdrawn.

The amendment (No. 3231) was withdrawn.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on final passage of this legislation, H.R. 11, occur without any intervening action or debate and notwithstanding the provisions of rule XXII at 5 p.m. on Tuesday, September 29.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## EXTENSION FOR AUTHORIZATION OF OFFICIAL MAIL

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of S. 3279, a bill introduced earlier today to extend the authorization of use of official mail in the location and recovery of missing children; that the bill be deemed read three times and passed; and the motion to reconsider be laid on the table; and a statement by Senator METZENBAUM be printed in the RECORD.

Mr. METZENBAUM. Mr. President, I have today introduced legislation to reauthorize the provision of the Missing Children Assistance Act of 1984, which permits Government mailings to contain pictures of missing children. That provision, which I authored as an amendment in 1985, expires at the end of this year.

As a parent, I know of nothing more frightening than the disappearance of a young child. A family that has lost a child needs somewhere to turn for help. They need to know that every conceivable effort is being made to find their lost child.

The original 1984 legislation established the National Center for Missing and Exploited Children [NCMEC] to provide research, collect data, and to help locate missing kids.

Since 1984, the Center has been a leader in helping to find these missing children. Over the past 8 years, they have received 550,793 calls to their national toll-free hotline; 82,158 of those calls were made by people who had seen a photo of a missing child posted on an envelope, or a shopping bag, or a milk carton.

Mr. President, the effectiveness of placing a child's picture where it can be seen by the public has been documented.

The National Center for Missing and Exploited Children reports that the use of missing children photos on Senate mail produces approximately 20 to 30 leads per photo.

From 1985 to the first quarter of 1992, NCMEC featured 1,427 different missing children; 196 of those kids were recovered as a direct result of photos.

On June 25 of this year the Senate Committee on Rules and Administration submitted a report to assess the effectiveness of the amendment I authored which permitted the pictures on congressional mailings. The report recommended that the legislation be reauthorized for an additional 5 years.

According to the report, the Senate Service Department mailed about 293,386,612 self-mailers and envelopes with missing children photos over the past 5 years.

The additional cost of adding a picture to these self-mailers and envelopes was approximately $6.97 per 100,000 pieces mailed. That is peanuts. The total cost was $20,449 for the entire 5-year period.

Mr. President, this bill follows the recommendations of the Senate Rules Committee. It reauthorizes the Government missing children mailing program for an additional 5 years, and requests the Committee on Rules and Administration to submit another report on the results of the program 6 months prior to expiration in 1997.

Again, Mr. President, I can think of no greater loss than to lose a child—to have a child there one day and gone the next—with no word or warning. It is a terrible experience that no parent or grandparent should have to go through.

I hope my colleagues will support this worthy and vital legislation. I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3279), was deemed to have been read three times and passed, is as follows:

S. 3279

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORIZATION OF USE OF OFFICIAL MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN.**

The Act entitled "An Act to amend title 3, United States Code, to authorize the use of penalty and franked mail in efforts relating to the location and recovery of missing children", approved August 9, 1985 (39 U.S.C. 3220 note; Public Law 99-87) is amended—

(1) in section 3(a) by striking out "June 30, 1992" and inserting in lieu thereof "June 30, 1997"; and

(2) in section 5 by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1997".

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## WELCOME TO THE WORLD ADDISON WEENING

Mr. JEFFORDS. Mr. President, like many of my colleagues, I find myself unable to make commitments back home due to today's session of the Senate. But I doubt that many of my colleagues are missing so happy an occasion as I am.

For today is the "Welcome to the World" party for Addison Joan Weening. While I am sorry that I cannot join Addison and her parents at her party, I did want to extend my best wishes across the miles that separate Washington, DC, and Bristol, VT.

Last winter, James and Keely Weening attended Vermont Educational Television's annual auction and cast the high bid for an hour of my time. Farsighted people, they were looking ahead to the party planned for the child they were expecting in midsummer.

Addison Weening was born on August 4, and named after the county that would be her home. Invitations went out soon thereafter, for a party at noon today.

I think Addison's parents had a wonderful idea and I am disappointed I could not join them and the 7-week-old Addison. With no offense intended toward my colleagues, I must say I would rather be there than here.

Although we are all a bit bleary-eyed from too many late nights spent working on the tax bill, I hope the Senate will join me in celebrating the entry into our world of an entirely new person—full of promise and potential. May we fulfill our trust and leave to her a better place.

Welcome to the world, Addison.

## HONORING FRANK STELLA

Mr. BRADLEY. Mr. President, a number of our colleagues recently had an opportunity to participate in a historic occasion at the home of our friend Sandy Greenberg. One of our country's greatest artists, my friend of 22 years Frank Stella, told us that the sculptural interpretation he had created of Sandy's variable speech control machine marked a major turning point in his career. I ask unanimous consent to insert in the RECORD the remarks made that evening by Mr. METZENBAUM and myself as well as by Frank and Sandy.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS FROM EVENING HONORING FRANK STELLA

Mr. METZENBAUM. On behalf of the Greenbergs and the Stellas, I am delighted to welcome all of you here this evening to honor Frank Stella's sculptural interpretation of Sandy Greenberg's Variable Speech Control machine. There are many distinguished people in this audience, so I will introduce only a few. Let me begin with my colleagues in the United States Senate—Carl Levin, Jeff Bingaman, Paul Simon, Bob Kerrey, Tim Wirth and Bill Bradley. I see my former colleagues Secretaries Ed Muskie and Bill Brock, Congressman Jim Leach, the next Governor of Virginia Mary Sue Terry and Ambassador Sol Linowitz. Finally, will you all join me in a round of applause for that wonderful and magnificent retired Justice of the United States Supreme Court William Brennan.

You all know Bill Bradley. He has a fantastic reputation throughout the country but the fact is that he's not nearly as smart as people think he is. Senator Bradley made a name for himself as a basketball player at a time when Congress was held in high esteem and basketball players did not get paid very much. So now he's in the Senate when nobody has a high regard for members of Congress and basketball players make $20 million per year.

Bad timing aside, of course, I hold Senator Bradley in the highest regard. He has done exceptional work in the Senate. He charts his own course and then fights for it. Not only has Bill distinguished himself in the fields of finance and international relations, but he had identified racial divisiveness as a major national concern long before Los Angeles and has made a series of important and eloquent speeches on the subject which provide a framework of leadership for the country to embrace. It is a measure of the breadth of his interests and the depth of his character that both Frank Stella and Sandy Greenberg call him friend.

Mr. BRADLEY. Thank you very much Howard. The way you were going, I was going to say, "Welcome to the fundraiser." The fact is that Howard was right on target when he talked about my basketball career, because the primary thing which brings Frank, Sandy and me together is basketball. Let me explain.

I have known Frank Stella for 22 years. He used to come to Knicks games whenever the Boston Celtics were in town. Though he was already a world famous artist, he still asked me for free tickets. Each player was given three tickets to each home game and I would give him two of them. He would arrive in the players' seats surrounded by the families of all the other players—and then he would root for the Celtics. It took a long time for me to live that down with my teammates.

Sandy and Sue have a wonderful daughter Kathryn who attends the same school as our daughter Theresa Anne. Each year, that school has an auction and every parent is asked to do what he can, so I auction off a three on three basketball game. I agree to play with whoever buys the game; they can arrange the teams any way they want. One year the person who bought the game was Sandy Greenberg. I had known Sandy and Sue for many years, of course, and I assumed he had bought the game for some of his friends or business associates. When I got to the gym, I was told that I would be playing on one team and the other team would be Jimmy and Paul, the Greenberg's sons, and Sandy and that my job was to guard Sandy. And the person said, but you know he's blind. I replied that I've seen a lot of referees like that! But I've never seen a player quite like that. Sandy stuck to me like glue; he covered me like a rug. He actually shot. Actually, he shot a little bit better than the Bullets did this year. It's been a long friendship with both of them and I'm really honored to stand here tonight.

Frank Stella, as everyone knows, is one of those artistic talents that occasionally comes along in the life of a nation. From the aluminum paintings of the early '60's through to all of the other work—the Diderot series, the Brazilian series—he has created a body of work of historic proportions. And he is someone whose work is really affected by his life. He got fascinated with bird watching and we got the Exotic Bird and the Indian Bird works. He got interested in car racing and we got the Circuits series. And beyond that he is someone who has a mind—a mind that can express itself not only in form but in language. A few years ago he gave a series of lectures which have been published by Harvard University Press. When you read those, they give you some sense of the mind that has produced this great art. It's quite an honor to have such talent in our presence.

Sandy, of course, is one of those incredible human beings. If you mention a field, Sandy has been there. Academics: Columbia, Harvard, Oxford—you missed one, Sandy. Government: advisor to Presidents, mostly, but not exclusively, Democrats. Business: health care, computers and telecommunications. Philanthropy: He is there for his synagogue and for the State of Israel and for other charitable causes. But the thing that I think most of when I think of Sandy Greenberg is his commitment to his family—to Sue and to Kathryn, Paul and Jim. And that came through to me most clearly a couple of years ago at Kathryn's Bat Mitzvah when Sandy spoke as a loving father giving advice and expressing that love to Kathryn in the presence of all those who were there. It was a very, very special moment. For me, when I think of Sandy and of Frank, I think of two people both in search of excellence, both competitive, both caring. And, I am honored and pleased to say, both my friends.

Mr. METZENBAUM. Thank you Bill. After listening to your remarks, I guess I better explain why I, a nonbasketball player, am standing here tonight. My wife Shirley, Sue Sandy and I have been friends for many years. Over that period, Sandy told me about the Variable Speech Control machine he had invented and its capacity electronically to speed up recorded speech without distortion. One day, Sandy said he would like to have in his home an artistic interpretation of his invention; he asked my view of the artist who could best do that. And I had no difficulty in responding very promptly. There is only one person in this country who really ought to create this piece of art for you. I don't know whether he will do it. But I said that for a period of years Frank Stella had become known for the strength of his pieces, for the constructions that he has done, for the brilliance that he has put into his art. Whether he would be willing to create a special piece for Sandy and Sue Greenberg I wasn't sure but I was going to ask. I knew Frank Stella and his wonderful wife, Harriet. I talked with Frank on the telephone and I was there when Sandy spoke with him thereafter. And I remember Sandy telling me about his visit to Frank's studio and how he had gone through and how Frank walked with him and Sandy felt each of the pieces and came to know them by touch. And out of that there developed the magnificent piece of art which is here this evening.

Frank Stella is not only unquestionably one of the world's greatest artists, exhibited in every major museum in the world, but he is a committed and concerned human being. I don't know all the involvements he has had but I know that he has been personally involved with respect to the special arts for the disadvantaged, for those who are not able to perform wholly but who are able to participate in the art world.

FRANK STELLA. I want to thank everyone, especially Sandy. Let me say right at the beginning that I'm not a Senator so I won't be speaking very long. It was very nice the way Howard put it as though it were a question, would I do it for Sandy. But you know the question for me was really a very different question. It's would I be able to do it. When someone asks you to do something, it's not so obvious actually that you can do it. And, I know when people are asking they're always assuming the person who is being asked has the ability to do what they're asking for. But doubt looms large in the minds of people who have to create things and what Sandy asked for was something I really had never done before and it didn't seem like there would be any way to work it in. And I think that working it in held me back in some way and I didn't do what Sandy asked me to do—I didn't make something that I normally do and put what Sandy gave me in it. I tried to find a way of working around what Sandy made and work it into the way I work rather than work it into something that I make. So what you see behind me here is really a work in process or something that happened in the process of coming together. And what's really interesting about it is that I'm not sure about what the merit of the piece might be or how it will end up or anything like that, but I do know that in a strange way and in a way that I never anticipated, it turned out to be for me to be very, very important. I probably made this three or four years ago and it is hard for me to believe but almost everything that I do now, almost all the major pieces I am making took off from this piece. I work a lot with aluminum and poured metal now. I really did come off the wall for Sandy and actually I'm managing to stay off the wall.

Senator METZENBAUM. Our host and hostess this evening, Sandy and Sue. What can I say about them that you don't already know. I don't know any couple that is so universally liked and loved as the two of them. And Sandy is unique. He's absolutely unique. He has time to do everything. He is kind, considerate. I spent a week in the hospital. Other than my family, nobody called me more often than did Sandy. And in every instance as I've known this man, when you ask him about something, he knew it. The wealth of information at his fingertips is unbelievable. But his kindness, his compassion and his love for his fellow man and woman is unique. He is a very special kind of human being. He's an extremely good friend of Shirley's and mine, Sandy Greenberg.

SANDY GREENBERG. I am delighted to welcome you all to our home to join in honoring a man whose creative accomplishments will endure as long as mankind possesses an artistic memory, one of the great talents of this century, Mr. Frank Stella. Let me begin by thanking five remarkable people without whom this celebration could not have taken place. Two extraordinary public servants, my dear friends, Howard Metzenbaum and Bill Bradley, who is also my basketball adversary. And another artist of legendary proportions, my college roommate and lifelong friend, Arthur Garfunkel and two indomitable women—Frank's wife, Harriet and my beloved wife, Sue.

As a teenager growing up in Buffalo, and I know you will find this hard to believe—I not only knew about "modern" or "abstract" art; I loved it. In its struggle to find the heart of the matter, to tear apart the surfaces of things to figure out what made them tick, this new art seemed to me squarely within America's long and noble tradition of insatiable curiosity. I'm willing to wager that Frank Stella as a young man had the same penchant for exploring the inner meaning of things to find their real guts that drove the young Henry Ford—no lover of modern art, he—to take apart watches and put them back together, just to see what made them work.

As many of you know, I lost most of my vision as an undergraduate. The blind do not have the luxury of dwelling on the surface of things. We have to find out very fast how the world is really put together. In a remarkable way, the memory of the bright colors and shapes of abstract art have been not only a great spirit solace for me but also an inspiration. When I returned to my studies, I encountered many frustrations as a result of my new handicap—perhaps the worst was the limitation imposed on my ability to absorb information. My quest to make the endless spools of audiotape turn faster taught me that the existing technology to help the blind needed to be reconceived. Like the abstract artist, of course, before I could give expression to such a new concept I had to grope for vital truths that for years lay maddeningly just beyond my reach. The prototype and the letters patent which you see at the heart of Frank's work emerged—after much pain—in this creative process.

I did not need to spell out any of this for Frank Stella. He has himself stared down too many valleys of blindness and scaled too many mountains of exhilaration to have needed my tongue-tied explanations. His sculpture, for me, captures both the hard edges of human struggle and the limitless opportunity of technology to make our lives better. Its celebration of creativity reaffirms the centrality of curiosity both to invention and to art. Frank, Sue, and I thank you for your sensitivity and your inspiration.

## U.S. OFFICE OF SPECIAL COUNSEL AUTHORIZATION

The text of the bill (S. 2853) to authorize appropriations of the U.S. Office of Special Counsel, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

S. 2853

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, and 1995".

**SEC. 2. OFFICE OF SPECIAL COUNSEL.**

Chapter 12 of title 5, United States Code, is amended—

(1) in section 1211(b) by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.";

(2) in section 1212(g)—

(A) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(B) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any";

(3) in section 1214(b)(2)—

(A) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(B) by inserting before subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(C) by inserting after subparagraph (D) (as redesignated by subparagraph (A) of this paragraph) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person submitting the allegation of a prohibited personnel practice.";

(4) in section 1218 by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,";

(5) in section 1221(d) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."; and

(6) in section 1221(g)—

(A) in paragraph (1), by striking out "and any other reasonable costs incurred" and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant."; and

(B) in paragraph (2), by striking out "and any other reasonable costs incurred," and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant,".

**SEC. 3. PROHIBITED PERSONNEL PRACTICES.**

(a) DEFINITION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon; and

(2) by redesignating clause (x) as clause (xi) and inserting before such clause the following:

"(x) a decision to order psychiatric testing or examination; and".

(b) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

**SEC. 4. IMPLEMENTATION.**

No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include—

(1) a statement that the Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations; and

(2) detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

**SEC. 5. EFFECTIVE DATE.**

The provisions of this Act and the amendments made by this Act shall be effective on and after October 1, 1992.

## DISTRICT OF COLUMBIA SPOUSE EQUITY ACT AMENDMENTS

The text of the bill (S. 1880) to amend the District of Columbia Spouse Equity Act of 1988, as passed by the Senate on September 25, 1992, is as follows:

S. 1880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the District of Columbia Spouse Equity Act of 1988, effective March 16, 1988 (D. C. Law 7-214; D. C. Code, section 1-3001 et seq.) is amended—

(1) in section 2 (section 1-3001) by striking the period at the end thereof and inserting ", or an officer, member, or retiree of the Unit-

ed States Park Police Force, or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D. C. Code) applies.";

(2) in section 3(1) (section 1-3002(a)) by striking "a District" and inserting "an"; and

(3) in section 3(2) (section 1-3002(b)) by striking the period at the end thereof and inserting "or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4-607 et seq. of the D. C. Code) applies.".

## PROMOTING THE USE OF BICYCLE SAFETY HELMETS

The text of the bill (S. 3096) to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16, as passed by the Senate on September 25, 1992, is as follows:

S. 3096

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### FINDINGS

SECTION 1. The Congress finds that—

(1) 90 million Americans ride bicycles and 20 million ride a bicycle more than once a week;

(2) between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that were treated in hospital emergency rooms;

(3) 41 percent of bicycle-related head injury deaths and 76 percent of bicycle-related head injuries occurred among American children under age 15;

(4) deaths and injuries from bicycle accidents cost society $7.6 billion annually; and a child suffering from a head injury, on average, will cost society $4.5 million over the child's lifetime;

(5) universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 injuries; and

(6) only 5 percent of children in the Nation who ride bicycles wear helmets.

### ESTABLISHMENT OF PROGRAM

SEC. 2. The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 3, make grants to States and State political subdivisions for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

### PURPOSES FOR GRANTS

SEC. 3. A grant made under section 2 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

### STANDARDS

SEC. 4. (a) IN GENERAL.—Bicycle helmets manufactured 60 days or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

(d) FAILURE TO MEET STANDARD.—A bicycle helmut that does not conform to an interim standard or final standard as required under subsection (a) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

### AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the National Highway Traffic Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

### DEFINITION

SEC. 6. In this Act, the term "approved bicycle helmut" means a bicycle helmut that meets—

(1) any interim standard described in section 4(b), pending establishment of a final standard under section 4(c); and

(2) the final standard, once it is established under section 4(c).

## VETERANS' EMPLOYMENT AND TRAINING ACT

The text of the bill (S. 2515) to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and to such veterans to defray certain costs relating to the provision of such training, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

S. 2515

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Employment and Training Act of 1992".

**SEC. 2. PURPOSE.**

The purpose of this Act is to address the problem of severe and often continuing unemployment among veterans by providing incentives to certain employers to permit such employers to defray the costs of training veterans (including veterans who have been recently separated from an Armed Force as a result of the current reduction in the size of the Armed Forces) and to encourage such employers to employ and train such veterans in stable and permanent positions of employment for which significant training is required.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) The term "Secretary" means the Secretary of Labor.

(2) The terms "veteran", "Armed Forces", "compensation", "service-connected", "State", and "active military, naval, or air service" have the meanings given such terms in paragraphs (2), (10), (13), (16), (20), and (24) of section 101 of title 38, United States Code, respectively.

**SEC. 4. AUTHORITY TO CARRY OUT PROGRAMS.**

(a) IN GENERAL.—In accordance with the provisions of this Act, the Secretary shall assist eligible veterans in obtaining employment with eligible employers in permanent and stable positions of employment that require significant training. Assistance shall be provided under this Act through—

(1) the payment of training assistance to employers who employ and train eligible veterans in such positions to assist such employers in defraying the costs of such training; and

(2) the provision to such veterans of training benefits and appropriate counseling to assist such veterans in receiving such training.

(b) ASSISTANCE IN CARRYING OUT PROGRAM.—The Secretary shall carry out that Secretary's responsibilities under this Act through the Assistant Secretary of Labor for Veterans' Employment and Training referred to in section 4102A of title 38, United States Code.

**SEC. 5. ELIGIBILITY OF VETERANS FOR PARTICIPATION IN JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—A veteran may participate in a job training program under this Act if—

(1) the veteran is eligible for such participation under subsection (b);

(2) the veteran submits to the Secretary an application for a certificate of eligibility for participation in the program under subsection (c); and

(3) the Secretary issues such a certificate to the veteran under subsection (d).

(b) ELIGIBILITY.—(1) A veteran eligible to participate in a job training program is any veteran unemployed at the time the veteran submits an application for a certificate of eligibility under subsection (c) who—

(A) has not been employed on a full-time basis during at least 10 of the 15 weeks immediately preceding the date of the veteran's commencement of participation in the program; or

(B) was separated from active military, naval, or air service not more than 10 weeks before the commencement of such participation.

(2) For purposes of paragraph (1), the term "veteran" means a veteran who—

(A) performed service in the active military, naval, or air service for a period of more than 90 days; or

(B) was discharged or released therefrom for a service-connected disability.

(3) For the purposes of paragraph (1), a veteran shall not be considered to be employed during any period of part-time or temporary employment (as determined under regulations prescribed by the Secretary).

(c) APPLICATION FOR CERTIFICATE OF ELIGIBILITY.—(1) A veteran who desires to participate in a job training program under this Act shall submit to the Secretary an application for a certificate of eligibility for participation in such a program. Such an application shall—

(A) include a statement by the veteran that the veteran meets the criteria for eligibility referred to in subsection (b); and

(B) contain such other information as the Secretary shall prescribe.

(2) The Secretary shall prescribe the form of an application under this subsection.

(d) CERTIFICATE OF ELIGIBILITY.—(1) Subject to paragraph (2), the Secretary shall issue to each veteran who meets the eligibility requirements referred to in subsection (b) and who submits an application for a certificate of eligibility under subsection (c) a certificate of eligibility for participation in a job training program under this Act.

(2) The Secretary may withhold the issuance of a certificate of eligibility under this subsection to any veteran if the Secretary determines that it is necessary to limit the number of veterans who participant in job training programs under this Act by reason of a lack of funds to carry out such programs.

(e) APPEAL OF DENIAL OF CERTIFICATE.—The Secretary shall permit each veteran who is not issued a certificate of eligibility under subsection (d) (other than a veteran who is not issued such a certificate by reason of paragraph (2) of that subsection) to challenge in a hearing before the Secretary the failure of the Secretary to issue the certificate. The Secretary shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.

(f) PERIOD FOR COMMENCEMENT OF PARTICIPATION UNDER CERTIFICATE.—A veteran who is issued a certificate of eligibility for participation in a job training program under this section shall commence participation in such a program not more than 90 days after the date of the issuance of the certificate. The date on which a certificate is furnished to a veteran shall be stated on the certificate.

(g) RENEWAL OF CERTIFICATE.—A veteran may apply for a renewal of a certificate of eligibility for participation in a job training program (including a renewal of a renewed certificate). The application for the renewal of any such certificate shall be treated as an initial application for such a certificate under this section.

**SEC. 6. EMPLOYER JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—Job training shall be provided to veterans under this Act by eligible employers through job training programs that meet the requirements of this section.

(b) ELIGIBLE EMPLOYERS.—An employer is eligible to provide job training to veterans through a job training program under this Act if, as determined by the Secretary, the employer intends to provide such training in a field of employment providing the reasonable probability of stable, long-term employment.

(c) REQUIREMENTS OF JOB TRAINING PROGRAMS.—Except as provided in subsection (d) and subject to subsections (f) and (g), in carrying out a job training program under this Act, an employer shall agree as follows:

(1) To identify a stable and permanent position of employment of the employer—

(A) in which there is a vacancy at the time of the identification;

(B) that requires an employee with significant training; and

(C) for which the employer is willing to provide such training.

(2) To devise a training program of such period and having such content, training materials, and instructors as are necessary to provide an employee with such training.

(3) To employ and train in the position on a full-time basis a veteran who—

(A) has been issued a certificate of eligibility for participation in such a program under section 5(d); and

(B) is not already qualified for employment in that position by reason of prior training or experience.

(4) To provide the veteran with such training for a period that is not longer than the period customarily required by similar employers in the community of the employer, if any, to provide similar training to the employees of such employers.

(5) During such employment and training, to provide the veteran with compensation and other benefits that are similar to the compensation and other benefits provided by the employer to non-veteran employees during such training.

(6) Unless intervening circumstances have made it economically impracticable for the employer to do so, to employ the veteran in that position upon the veteran's completion of the program.

(d) RESTRICTIONS ON EMPLOYMENT POSITIONS.—An employer may not employ a veteran in a job training program under this Act if—

(1) the training is for a position of employment—

(A) that consists of seasonal, intermittent, or temporary employment;

(B) for which the primary pay is commissions;

(C) that includes political or religious activities; or

(D) in any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service or the Postal Rate Commission);

(2) the training under the program will not be carried out in the United States; or

(3) the employment of the veteran during the training—

(A) will result in the displacement (including any reduction in hours of non-overtime work, wages, or employment benefits or other partial displacement) of employees currently employed by the employer; or

(B) will be in a position of employment—

(i) while any other employee of the employer is currently laid off from the position or a substantially similar position; or

(ii) for which there is a vacancy as a result of the employer's reduction of the workforce of the employer (including the termination of any regular employee) for the purpose of employing the veteran under the program.

(e) JOB TRAINING THROUGH EDUCATION.—An eligible employer may provide job training to veterans under this Act, in whole or in part, by permitting such veterans to pursue or enroll in programs of education that—

(1) are offered by educational institutions that meet the requirements of chapter 36 of title 38, United States Code; and

(2) do not violate any provision of that chapter.

(f) LIMITATIONS ON TRAINING PERIODS.—(1) Except as provided in paragraph (2), an employer shall provide a period of training under a job training program under this Act of not less than six months or more than two years.

(2) An employer may provide a period of training under a job training program of three months to six months if the Secretary determines that a program of training of that period will satisfy the purposes of a job training program under this Act.

(g) ADDITIONAL REQUIREMENTS.—The Secretary may prescribe such additional requirements with respect to job training programs under this section as the Secretary determines are necessary to carry out the purposes of this Act.

**SEC. 7. APPROVAL OF EMPLOYER JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—The Secretary shall approve each job training program established by an employer under this Act. The Secretary shall approve such programs in accordance with this section.

(b) SUBMITTAL OF APPLICATION FOR APPROVAL.—An employer who intends to carry out a job training program under this Act shall submit to the Secretary an application for approval of that program. The application for approval shall contain the following:

(1) A statement that the employer is an eligible employer under section 6(b).

(2) A statement that the proposed job training program of the employer meets the requirements for such programs established in section 6, together with such documentation to support that statement as the Secretary may prescribe.

(3) A statement of—

(A) the total number of hours of participation required of a veteran under the program;

(B) the number of weeks that the veteran will participate in the program; and

(C) the starting wages (and other compensation) of the veteran under the program.

(4) A description of—

(A) the training objective of the program; and

(B) the training content of the program (including the intent, if any, of the employer to permit the veteran to pursue or enroll in a program of education under section 6(e)).

(5) In the event that training under the program will include a veteran's pursuit of or enrollment in a program of education under section 6(e), a statement of the manner in which such training will include the program of education.

(c) APPROVAL OF THE SECRETARY.—The Secretary shall approve a job training program of an employer under this section if the Secretary determines from the information contained in the application for approval submitted by the employer under subsection (b) that the program meets the requirements for such a program under this Act.

(d) APPRENTICESHIP PROGRAMS.—(1) Except as provided in paragraph (2), a program of apprenticeship or other on-job training that meets the requirements of section 3687 of title 38, United States Code, shall be considered to be a job training program that is approved by the Secretary under this section.

(2) A program of apprenticeship or other on-job training shall not be considered to be a job training program that is approved by the Secretary under this subsection if it provides for apprenticeship or training for any position of employment referred to in section 6(d)(1).

(e) DISCONTINUATION OF APPROVAL.—(1) The Secretary may discontinue approval of any job training program previously approved under subsection (c) if the Secretary determines that—

(A) the program no longer meets the requirements of an approved program under this section; or

(B) the rate of the successful completion of the program by participating veterans is unacceptably low (when compared with rates of such completion for other such programs) by reason of deficiencies in the program.

(2) In making the determination referred to in paragraph (1)(B), the Secretary shall take into account any information that the Secretary considers to be relevant, including—

(A) the information collected in the quarterly assessment referred to in section 17(b) relating to—

(i) the number of veterans who are provided with job training under this Act;

(ii) the number of veterans who receive counseling in connection with job training provided under this Act;

(iii) the number of veterans who complete such training; and

(iv) in the case of veterans who do not complete such training, the reasons for such lack of completion; and

(B) data compiled through employer compliance surveys.

(3) A job training program that is disapproved by the Secretary under paragraph (1) shall not be an approved job training program for the purposes of this section.

(4)(A) Upon disapproving a job training program under this subsection, the Secretary shall notify the employer carrying out the program and any veterans participating in the program of that disapproval. The notice shall contain—

(i) a statement of the reasons for the Secretary's disapproval of the program; and

(ii) a statement that the employer and such veterans are entitled to challenge the disapproval in a hearing before the Secretary.

(B) Any notice under this paragraph shall be by certified or registered letter, return receipt requested.

(5)(A) The Secretary may reapprove any program that the Secretary has disapproved under paragraph (1) if the Secretary determines that the employer has taken appropriate remedial actions with respect to those matters upon which the Secretary based the disapproval.

(B) A program that is reapproved under this paragraph shall be considered to be a job training program that is approved by the Secretary for the purposes of this section.

### SEC. 8. PAYMENTS OF TRAINING ASSISTANCE AND OTHER ASSISTANCE TO EMPLOYERS.

(a) IN GENERAL.—The Secretary shall pay training assistance to employers who provide job training to veterans in job training programs under this Act.

(b) AMOUNT OF PAYMENT.—(1) Subject to paragraph (2), for each payment period referred to in subsection (c) during which an employer provides job training to a veteran under this Act, the Secretary shall pay training assistance to the employer of the veteran on behalf of the veteran in an amount equal to 50 percent of the product of—

(A) the rate of the starting hourly wage (excluding overtime or premium pay) of the veteran under the program; and

(B) the number of hours worked by the veteran during the period.

(2) The amount paid to an employer on behalf of a veteran in any year under paragraph (1) may not exceed $7,500.

(c) PAYMENT PERIOD.—(1) Except as provided in paragraph (2), the Secretary shall pay training assistance to employers under this section on a quarterly basis.

(2) The Secretary may pay training assistance to an employer on a monthly basis if the Secretary determines (pursuant to regulations prescribed by the Secretary) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.

(d) APPROVAL OF SECRETARY.—The Secretary shall pay training assistance to an employer for a quarterly or monthly period (as the case may be) after—

(1) the Secretary receives the certifications with respect to that period referred to in subsection (e); and

(2) the Secretary approves of the payment of such assistance for that period based upon such certifications.

(e) CERTIFICATIONS RELATING TO PAYMENT.—(1) Subject to paragraph (2), with respect to each period for which an employer seeks payment of training assistance on behalf of a veteran under this section, the following shall be submitted to the Secretary:

(A) By the employer, a certification—

(i) that the employer provided the veteran with training during the period;

(ii) of the number of hours worked by the veteran in the program during the period; and

(iii) that the progress of the veteran in the training program during the period was satisfactory.

(B) By the veteran, a certification that the veteran was provided with job training by the employer in a job training program on a full-time basis during the period.

(2) The first certification submitted to the Secretary by an employer under paragraph (1)(A) and by a veteran under paragraph (1)(B) shall include—

(A) the date on which the veteran commenced participation in the job training program; and

(B) the rate of the starting hourly wage of the veteran under the program.

(f) PAYMENT OF ASSISTANCE TO ACCOMMODATE DISABLED VETERANS.—(1) The Secretary shall pay accommodation assistance to employers who provide job training to disabled veterans under this Act to permit such employers to make modifications of the facilities or equipment of such employers on behalf of such veterans to facilitate the training and employment of such veterans.

(2) To be eligible for the payment of accommodation assistance for modifications of facilities or equipment made on behalf of a disabled veteran under this subsection, an employer shall submit to the Secretary—

(A) prior to the commencement of such modifications, a detailed proposal relating to such modifications, including the estimated cost of such modifications; and

(B) upon the completion of such modifications, any documentation that the Secretary may require that indicates (i) that the employer has completed such modifications, and (ii) the final cost of such modifications.

(3)(A) The Secretary shall—

(i) approve each proposal for modifications submitted to the Secretary under paragraph (2)(A); and

(ii) approve the cost of each modification indicated in the documentation submitted to the Secretary under paragraph (2)(B).

(B) The Secretary shall approve the cost of a modification of facilities or equipment under paragraph (A)(ii) only if the Secretary determines that the cost of the modification is reasonable.

(4) The Secretary shall pay as accommodation assistance under this subsection the cost of any modification approved by the Secretary under paragraph (3)(A)(ii). The total amount of accommodation assistance payable to an employer for modifications made by the employer on behalf of a disabled veteran under this subsection may not exceed $3,000.

(5) Each employer paid accommodation assistance under this subsection shall permit the Secretary reasonable access to the facilities and equipment of the employer to enable the Secretary to ensure that the employer has made the modifications of such facilities and equipment in accordance with the proposals and documentation submitted to the Secretary by the employer.

(6) For the purposes of this subsection, modifications of facilities or equipment on behalf of a disabled veteran shall include any improvement, alteration, or purchase of facilities or equipment that is necessary to make the facilities or equipment readily accessible to, and usable by, a disabled veteran.

(g) OVERPAYMENT.—(1) A payment of training assistance (other than accommodation assistance under subsection (f)) to an employer on behalf of a veteran for a quarterly or monthly period, as the case may be, shall be an overpayment of assistance for that period if the Secretary determines that—

(A) during that period, the employer—

(i) has failed to comply in material respect with the requirements of this Act; and

(ii) is responsible for such failure;

(B) the payment is based upon the willful submittal by the employer to the Secretary in a certification under subsection (d)(1)(A) of material information that the employer knows to be false;

(C) the payment is based upon the willful or negligent submittal by the veteran to the employer of any material information that is false;

(D) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in an application for a certificate of eligibility for participation in the program under section 5(b) of any material information that is false; or

(E) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in a certification under subsection (d)(1)(B) of any material information that is false.

(2)(A) An employer shall be liable to the United States for an overpayment referred to in subparagraph (A) or (B) of paragraph (1).

(B) A veteran shall be liable to the United States for an overpayment referred to in subparagraph (C), (D), or (E) of that paragraph.

(h) RECOVERY OF OVERPAYMENT.—(1) Except as provided in paragraph (2), the Secretary may recover an overpayment under this section by any method that is provided by law for the recovery of amounts owing to the Federal Government. Any overpayment recovered shall be credited to the account relating to the funds available to carry out this Act. If there is no such account, any overpayment recovered shall be covered into the Treasury.

(2)(A) The Secretary may waive the recovery of an overpayment under this section, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.

(B) The Secretary shall establish in the Department of Labor appropriate administrative procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).

### SEC. 9. TRAINING BENEFITS FOR VETERANS.

(a) IN GENERAL.—The Secretary shall pay training benefits to veterans who participate in job training programs under this Act. The purpose of such training benefits is to assist such veterans in defraying the cost of work-related expenses. The total amount of training benefits payable to a veteran by the Secretary under this section may not exceed $1,500.

(b) APPROVAL OF SECRETARY.—A veteran shall be entitled to the payment of a training benefit for work-related expenses incurred by the veteran if—

(1) the veteran submits to the Secretary an application for payment (in such form and including such documentation as the Secretary may require) stating the amount of any such expenses incurred by the veteran as a result of the veteran's participation in a job training program under this Act; and

(2) the Secretary approves the payment of a training benefit with respect to such expenses.

(c) ADMINISTRATION OF PAYMENT.—The Secretary shall prescribe the manner of the payment of training benefits under this section, including the period and frequency of the payment of benefits to veterans and the means of ensuring the prompt payment of benefits to veterans by the Secretary.

(d) OVERPAYMENT.—(1) A veteran shall not be entitled to the payment of a training benefit under this section if the veteran terminates participation in a job training program prior to the scheduled date of the completion of the program by the veteran.

(2) In the event that the Secretary determines that a veteran has been paid a training benefit to which the veteran was not entitled, the amount of the benefit paid to the veteran to which the veteran was not so entitled shall constitute an overpayment of the benefit and a liability of the veteran to the United States.

(e) RECOVERY OF OVERPAYMENT.—(1) Subject to paragraph (2), the United States may recover an overpayment of a training benefit from a veteran by any method that is provided by law for the recovery of amounts owing to the Federal Government.

(2)(A) The Secretary may waive the recovery of an overpayment of a training benefit, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.

(B) The Secretary shall establish in the Department of Labor appropriate administrative procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).

(f) DEFINITION.—For the purposes of this section, the term "work-related expenses", in the case of a veteran who participates in a job training program under this Act, means any expenses incurred by the veteran by reason of such participation, including expenses for the purchase of work clothes and tools, car or bus fare, and the provision of child care.

### SEC. 10. PROHIBITION ON COMMENCEMENT OF JOB TRAINING PROGRAMS UNDER CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—An employer may not provide a veteran with job training under a job training program if the Secretary determines that, on the date on which the employer intends to commence providing such training, there are insufficient funds available under this Act to carry out the program.

(b) COMMENCEMENT OF PROGRAM.—Each employer shall—

(1) notify the Secretary of the employer's intention to commence furnishing job training to a veteran under a job training program not less than 14 days before such commencement; and

(2) commence the program in accordance with that notification unless the Secretary advises the employer within the 14-day period referred to in paragraph (1) that there are insufficient funds available under this Act to carry out the program.

(c) ADDITIONAL REQUIREMENT RELATING TO COMMENCEMENT OF PROGRAM.—An employer who provides a veteran with job training in a job training program under this Act shall provide the veteran with a copy of the application for approval of the program submitted by the employer to the Secretary under section 7(b).

### SEC. 11. INVESTIGATION AND MONITORING OF PROGRAMS BY THE SECRETARY OF LABOR.

(a) IN GENERAL.—(1) The Secretary shall ensure that the job training programs carried out under this Act (including the activities of veterans and employers under such programs) are carried out in accordance with the provisions of this Act. In ensuring such compliance, the Secretary may investigate any matter relating to a job training program (including any application of a veteran for a certificate of eligibility under section 5(c), any employer application for approval of a program under section 7(b), and any program records under subsection (b) of this section).

(2) In conducting an investigation under paragraph (1), the Secretary may enter onto the premises at which an employer furnishes job training under a job training program and question employees of the employer (including any veterans who are provided with job training under the program) with respect to the program.

(b) PROGRAM RECORDS.—(1) Each employer that provides job training in a job training program under this Act shall maintain such records of the provision of such training as are necessary for the Secretary to monitor the provision of such training. The Secretary shall prescribe the form and content of such records.

(2) The Secretary shall have reasonable access to the records maintained by employers under paragraph (1) for the purpose of monitoring the provision of job training by such employers.

### SEC. 12. COORDINATION WITH OTHER JOB TRAINING ASSISTANCE PROGRAMS.

(a) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS PARTICIPATING IN CERTAIN OTHER PROGRAMS.—(1) An employer may not be paid training assistance on behalf of a veteran under section 8 during the period referred to in paragraph (3) if, during that period, the employer is allowed a tax credit or is paid an allowance for that veteran under any of the following provisions of law:

(A) Chapter 30, 31, 32, 35, or 36 of title 38, United States Code.

(B) Chapter 106 of title 10, United States Code.

(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(D) Section 44B of the Internal Revenue Code of 1986 (relating to tax credits for employment of certain new employees).

(2) A veteran may not be paid training benefits under section 9 during the period referred to in paragraph (3) if, during that period, the veteran is paid or receives a benefit or allowance under any of the provisions of law referred to in subparagraphs (A) through (D) of paragraph (1).

(3) The period referred to in this paragraph is the period beginning on the date on which an employer begins to provide job training to a veteran under a job training program under this Act and ending on the date on which the employer ceases to provide such training to the veteran under the program.

(b) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS WHO COMPLETE CERTAIN PROGRAMS.—An employer may not be paid training assistance under section 8 on behalf of a veteran, and a veteran may not be paid benefits under section 9, for participation of the veteran in a job training program under this Act if the veteran has completed a program of job training under this Act or under the Veterans' Job Training Act (29 U.S.C. 1721 note).

### SEC. 13. COUNSELING AND CASE-MANAGEMENT SERVICES.

(a) AUTHORITY TO PROVIDE COUNSELING SERVICES.—(1)(A) The Secretary and the Secretary of Veterans Affairs may provide the employment counseling services and employment guidance services referred to in subparagraph (B) to veterans who are issued certificates of eligibility for participation in a job training program under section 5(d).

(B) The counseling services and guidance services authorized under this paragraph are services relating to the development of any job-readiness skills and services relating to any other assistance that a veteran may require (as determined by the Secretary and the Secretary of Veterans Affairs) to enable the veteran to participate in a job training program under this Act, including assistance relating to the resolution of difficulties encountered by the veteran in finding, applying for, and participating in a job training program that is suitable to the veteran.

(2) In the event that the Secretary and the Secretary of Veterans Affairs exercise the authority to provide counseling services to veterans under this subsection, the Secretary and the Secretary of Veterans Affairs shall—

(A) upon the issuance to a veteran of a certificate of eligibility for participation in a job training program under section 5(d), advise veterans of the availability of such counseling services;

(B) urge such veterans to request such services; and

(C) provide such services to veterans upon the request of such veterans.

(3) To the extent practicable, the Secretary and the Secretary of Veterans Affairs shall coordinate the provision of counseling services and guidance services under this subsection, if any, with counseling services provided under sections 1712A, 3697A, 4103A, 4104, 7723, and 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.

(b) CASE MANAGEMENT SERVICES.—(1) The Secretary shall establish a program of case management services under which the Secretary shall provide the services described in paragraph (2) to the veterans referred to in paragraph (3) and (4).

(2) The Secretary shall provide case management services under this subsection as follows:

(A) By assigning to each veteran eligible for such services under this subsection a case manager who is a disabled veterans' outreach program specialist appointed pursuant to section 4103A of title 38, United States Code.

(B) By ensuring that the veteran has a personal interview with the outreach specialist not later than 60 days after the date on which the veteran commences participation in a job training program under this Act.

(C) By ensuring that the veteran meets personally with the outreach specialist on a monthly basis for the purpose of—

(i) preventing the unnecessary voluntary or involuntary termination of the veteran from the program;

(ii) referring the veteran to appropriate counseling, if necessary;

(iii) following the veteran's progress in the program;

(iv) facilitating the veteran's successful completion of the program; and

(v) assessing the veteran's participation in and, as applicable, completion of the program.

(3)(A) Except as provided in subparagraph (B), the Secretary shall provide case management services under this subsection to any veteran who—

(i) is issued a certificate of eligibility for participation in a job training program under this Act; and

(ii) notifies the Secretary that the veteran has identified an employer with which the veteran will participate in such a program.

(B) The Secretary is not required to provide a veteran with case management services referred to in paragraph (2)(C) if—

(i) on the basis of a personal interview between the veteran and an outreach specialist under paragraph (2)(B), the outreach specialist recommends that the veteran does not need such services and the Secretary ratifies that recommendation; or

(ii) the Secretary determines that—

(I) the employer of the veteran under the program has an appropriate and effective employee assistance program that is available to the veteran; or

(II) the rate of successful completion of the program by veterans on the date the veteran intends to commence participation in the program (either during the course of the entire program or during the calendar year preceding that date) is more than 60 percent.

(4) Notwithstanding paragraph (3), the Secretary, in consultation with the Secretary of Veterans Affairs, shall provide case management services under this section to each veteran—

(A) whose participation in a job training program is terminated (either voluntarily or involuntarily); and

(B) who applies to the Secretary for a certificate of eligibility for participation in another such program under section 5(c).

(c) COUNSELING INFORMATION.—(1) The Secretary and the Secretary of Veterans Affairs shall carry out a program to provide to veterans who participate in job training programs under this Act information relating to the availability and scope of the following:

(A) The counseling services and guidance services, if any, provided under subsection (a).

(B) The case management services, if any, provided under subsection (b).

(C) The supportive services and resources available to service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).

(D) Any additional counseling services, guidance services, and other support services and resources available to veterans through appropriate Federal, State, and local agencies.

(2) In order to facilitate the provision of services and information to veterans under paragraph (1), the Secretary and the Secretary of Veterans Affairs shall advise the veterans referred to in that paragraph of the availability, if any, of such services and information not later than the date upon which the Secretary issues a certificate of eligibility for participation in a job training program under section 5(d).

(d) PAYMENT FOR THE PROVISION OF COUNSELING AND OTHER SERVICES.—(1) Notwithstanding any other provision of law, the Secretary and the Secretary of Veterans Affairs may enter into contracts with appropriate entities or individuals for the provision by such entities or individuals of counseling services, guidance services, case management services, or other services under this section. Such contracts shall contain any terms or conditions that the Secretary and the Secretary of Veterans Affairs determine to be necessary to ensure the appropriate provision of such services and to protect the interests of the United States.

(2) The Secretary of Veterans Affairs may pay entities or individuals for the provision of services under paragraph (1) in accordance with the contracts entered into with such entities or individuals under that paragraph. Any such payments shall be made from the account relating to the funds available for readjustment benefits referred to in section 3104(a)(7)(B) of title 38, United States Code.

### SEC. 14. INFORMATION AND OUTREACH SERVICES.

(a) INFORMATION AND OUTREACH SERVICES.—Subject to subsection (b), the Secretary and the Secretary of Veterans Affairs shall carry out a program of public information and outreach under which program the Secretary and the Secretary of Veterans Affairs shall—

(1) inform veterans of the job training programs (and other employment opportunities) provided for under—

(A) this Act;

(B) chapters 30, 31, 36, 41, and 42 of title 38, United States Code; and

(C) any other applicable provisions of law, as determined by the Secretary and the Secretary of Veterans Affairs;

(2) inform private businesses (including small businesses), appropriate public agencies and organizations, institutions of higher education, trade associations, and labor organizations of such training programs and employment opportunities; and

(3) promote the development of job training and employment opportunities for veterans by—

(A) encouraging employers to create job training programs under this Act;

(B) advising appropriate Federal departments and agencies of the authority provided for under this Act for the establishment of job training programs; and

(C) advising employers of the responsibilities of employers of veterans under chapters 41 and 42 of title 38, United States Code.

(b) COORDINATION OF PROGRAMS.—To the extent practicable, the Secretary and the Secretary of Veterans Affairs shall coordinate the provision of public information and outreach programs under this section with the provision of job counseling, placement, development, and other services under chapters 31, 36, 41, and 42 of title 38, United States Code, and with the provision of similar services offered by other Federal, State and local agencies and organizations.

### SEC. 15. ADDITIONAL ASSISTANCE AND RESOURCES.

(a) PERSONNEL.—(1) The Secretary of Veterans Affairs shall make available in regional and local offices of the Department of Veterans Affairs, and the Secretary shall make available in regional and local offices of the Department of Labor, such personnel as are necessary to carry out the provisions of this Act.

(2) In carrying out the responsibilities of the Secretary under this Act, the Secretary shall, to the maximum extent practicable, make use of the services of Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training appointed under section 4103 of title 38, United States Code, disabled veterans' outreach program specialists appointed pursuant to section 4103A of that title, and local veterans' employment representatives appointed under section 4104 of that title.

(b) ASSISTANCE OF SMALL BUSINESS ADMINISTRATION.—(1) The Secretary shall obtain from the Administrator of the Small Business Administration a list of small businesses that are suitable businesses (as determined by the Administrator in consultation with the Secretary) to carry out job training programs under this Act.

(2) The Administrator of the Small Business Administration shall update the list referred to in paragraph (1) on a regular basis (as determined by the Secretary).

(c) USE OF RESOURCES AVAILABLE UNDER JOB TRAINING PARTNERSHIP ACT.—(1) To facilitate the carrying out of job training programs under this Act, the Secretary shall, to the extent practicable, use such resources as are available to assist service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).

(2) The Secretary shall assist veterans who are denied certificates of eligibility for participation in job training programs under section 5 in taking advantage of any opportunities available to such veterans under any programs carried out pursuant to title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or under any other similar programs that are carried out with funds made available to the Secretary.

### SEC. 16. PILOT PROGRAM OF EMPLOYMENT SERVICES FOR HOMELESS VETERANS.

(a) IN GENERAL.—(1) In each of fiscal years 1993 through 1997, the Secretary shall award grants to the entities referred to in paragraph (2) with which such entities shall provide employment assistance (including counseling and other assistance) to homeless veterans. The Secretary shall prescribe procedures for the award of such grants.

(2) An entity entitled to a grant under this subsection is any nonprofit entity determined by the Secretary (under regulations prescribed by the Secretary) to have special expertise or experience in the provision of employment assistance to homeless individuals or in other employment matters relating to such individuals.

(b) FUNDING LIMITATION.—In carrying out this section, the Secretary may use not more than $5,000,000 of the funds obligated or otherwise made available to the Department of Labor in each of fiscal years 1993 through 1997 pursuant to the authorization of appropriations referred to in section 21.

### SEC. 17. PROGRAM ASSESSMENT.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall evaluate on an annual basis the status of the programs authorized and carried out under this Act to ensure that such programs satisfy the purposes of this Act.

(b) QUARTERLY ASSESSMENT.—The Secretary shall collect on a quarterly basis from appropriate officials of State employment services or offices and the Directors of Veterans' Employment and Training of each State in which job training programs are carried out under this Act the following information:

(1) The number of veterans in the State who were certified for participation in such programs under section 5(d) during the previous calendar quarter.

(2) The number of such veterans who participated in such programs during that period.

(3) The number of such veterans who completed participation in such programs during that period.

(4) The number of veterans who terminated (either voluntarily or involuntarily) participation in such programs, and the reasons for each such termination.

(5) Such other information as the Secretary, in consultation with the Secretary of Veterans Affairs, determines to be appropriate for the purposes of ensuring the effective administration of the programs.

### SEC. 18. REPORTS.

(a) PRELIMINARY REPORT.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the committees referred to in paragraph (2) a report on—

(A) the actions taken by the Secretary to implement this Act; and

(B) the estimated administrative costs of carrying out this Act.

(2) The Secretary shall submit the report under paragraph (1) to the following:

(A) The Committee on Veterans' Affairs of the Senate.

(B) The Committee on Labor and Human Resources of the Senate.

(C) The Committee on Veterans' Affairs of the House of Representatives.

(D) The Committee on Education and Labor of the House of Representatives.

(b) ANNUAL REPORTS.—Not later than March 31, 1994, and on an annual basis thereafter, the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the following:

(1) The general assessment of the Secretary under section 17(a) of the programs carried out under this Act during the calendar year preceding the report.

(2) The quarterly assessments carried out by the Secretary under section 17(b) for each of the four calendar quarters preceding the date of the report.

(3) A statement by the Secretary relating to—

(A) amounts paid by the Secretary to employers and veterans under this Act during such calendar quarters;

(B) any obligation of funds in connection with the implementation of this Act that is projected by the Secretary for the calendar year following the report;

(C) a general assessment by the Secretary of the adequacy and timeliness of payments made by the Secretary under this Act; and

(D) such other information as the Secretary considers appropriate relating to the process of making payments to employers and veterans under this Act.

(4) Any additional assessments, matters, or recommendations that the Secretary or the Secretary of Veterans Affairs consider appropriate.

### SEC. 19. TERMINATION OF PROGRAM.

An employer may not be paid training assistance on behalf of a veteran under section 8 and a veteran may not be paid training benefits under section 9 with respect to any training provided to the veteran in a job training program under this Act if the training is provided after September 30, 1997.

### SEC. 20. CONFORMING AMENDMENTS TO TITLE 38.

(a) UNDER CHAPTER 31.—Section 3104(a)(7)(A) of title 38, United States Code, is amended by striking out "section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note)" and inserting in lieu thereof "section 13(e) of the Veterans' Employment and Training Act of 1992".

(b) UNDER CHAPTER 41.—Chapter 41 of such title is amended—

(1) in section 4102A(b)(3)(B), by striking out "the Veterans' Job Training Act (29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";

(2) in section 4103(c)(1)(A), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";

(3) in section 4103A(c)—

(A) in paragraph (6), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note))" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992)"; and

(B) in paragraph (10), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)," and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992,";

(4) in section 4104(b)(12)—

(A) by striking out "section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 5(d) of the Veterans' Employment and Training Act of 1992,"; and

(B) by inserting "in job training programs" after "for participation";

(5) in section 4104A(a)(2)(C), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992,";

(6) in section 4105(b), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992"; and

(7) in section 4108(b), by striking out "the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note)." and inserting in lieu thereof "the Secretary of Labor under section 7(c) of the Veterans' Employment and Training Act of 1992.".

### SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Labor for the purpose of carrying out the provisions of this Act the following:

(A) $75,000,000 in fiscal year 1993.

(B) $100,000,000 in fiscal year 1994.

(C) $125,000,000 in fiscal year 1995.

(D) $125,000,000 in fiscal year 1996.

(E) $100,000,000 in fiscal year 1997.

(2) Amounts appropriated pursuant to this section shall remain available until September 30, 1997, without fiscal year limitation.

(b) LIMITATION ON OBLIGATION FOR ADMINISTRATIVE COSTS.—(1) Not more than 10 percent of the amount appropriated or otherwise made available to the Department of Labor in a fiscal year pursuant to the authorization of appropriations for that fiscal year under subsection (a) may be obligated for administrative activities under this Act.

(2) Not more than an amount equal to 50 percent of the amount available under this subsection for administrative activities may be obligated for administrative activities of the Department of Labor.

(3) The Secretary may use funds authorized by paragraph (1) to be obligated for administrative activities under this Act to provide, by grant or contract, for the conduct of such activities by entities outside of the Department of Labor.

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## JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

The text of the bill (H.R. 5149) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 5194) entitled "An Act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

### *SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.*

*(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—*

*(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;*

*(2) by inserting after paragraph (1) the following new paragraphs:*

*"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;*

*"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";*

*(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";*

*(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);*

*(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and*

*(6) by adding at the end the following new paragraphs:*

*"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and*

*"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".*

*(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";*

*(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";*

*(C) by striking "and" at the end of paragraph (7);*

*(D) by redesignating paragraph (8) as paragraph (9);*

*(E) by inserting after paragraph (7) the following new paragraph:*

*"(8) to strengthen families in which juvenile delinquency has been a problem;";*

*(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and*

*(G) by adding at the end the following new paragraphs:*

*"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and*

*"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and*

*(2) in subsection (b) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families".*

*(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—*

*(1) by striking "and" at the end of paragraph (1);*

*(2) by striking the period at the end of paragraph (18) and inserting a semicolon; and*

*(3) by adding at the end the following new paragraphs:*

*"(19) the term 'eligible children' means persons who live in high crime areas, as shall be reasonably defined by the Administrator by regulation, and who are less than 18 years of age and older than a minimum age established by the Administrator by regulation;*

*"(20) the term 'law enforcement officer' means an employee of a Federal, State, or local law enforcement agency who is engaged in law enforcement or crime prevention;*

*"(21) the term 'local educational agency' has the meaning stated in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2897(12)); and*

*"(22) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".*

### *SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.*

*(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".*

*(b) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—*

*(1) in subsection (a)(1) by inserting "the Commissioner of Immigration and Naturalization," after "Community Services,"; and*

*(2) in subsection (c)—*

*(A) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs"; and*

*(B) in the second sentence by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period.*

*(c) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—*

*(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended—*

*(A) in the first sentence by striking "existence" and inserting "experience"; and*

*(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".*

*(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—*

*(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";*

*(B) in subsection (a)—*

*(i) in paragraph (2)(A)—*

*(I) by striking "part D" and inserting "parts D and E";*

*(II) by inserting "or such greater amount, up to $390,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and*

*(III) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";*

*(ii) in paragraph (2)(B)—*

*(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3)" after "$400,000,"; and*

*(II) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and*

*(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and*

*(C) in the second sentence of subsection (c) by striking "7½ per centum" and inserting "10 percent".*

*(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—*

*(i) in subsection (a)—*

*(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";*

*(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";*

*(III) by amending paragraph (3) to read as follows:*

*"(3) provide for an advisory group, which—*

*"(A) shall consist of not less than 15 and not more than 30 members appointed by the chief executive officer of the State—*

*"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;*

*"(ii) which members include—*

*"(I) at least 1 locally elected official representing general purpose local government;*

*"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, and counsel for children and youth;*

*"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;*

*"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;*

*"(V) volunteers who work with delinquents or potential delinquents;*

*"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;*

*"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and*

*"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;*

*"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;*

*"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and*

*"(v) at least 3 members who have been under the jurisdiction of the juvenile justice system at some time;*

*"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;*

*"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);*

*"(D) shall, consistent with this title—*

*"(i) advise the State agency designated under paragraph (1) and its supervisory board;*

*"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and*

*"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and*

*"(E) may, consistent with this title—*

*"(i) advise on State supervisory board and local criminal justice advisory board composition;*

*"(ii) review progress and accomplishments of projects funded under the State plan.";*

*(IV) in paragraph (9) by inserting "recreation," after "special education,";*

*(V) by amending paragraph (10) to read as follows:*

*"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—*

*"(A) community-based alternatives to incarceration and institutionalization, specifically—*

*"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;*

*"(ii) for youth who need temporary placement: crisis intervention, shelter, and after-care; and*

*"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;*

*"(B) community-based programs and services to work with parents and other family member to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;*

*"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;*

*"(D) projects designed to develop and implement programs stressing advocacy activities*

*aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;*

*"(E) educational programs or supportive services for delinquent or other youth, provided equitably regardless of sex, race, or family income, designed to encourage them to remain in school, including—*

*"(i) education in settings that promote experiential, individualized learning and exploration of academic and career options;*

*"(ii) assistance in making the transition to the world of work and self-sufficiency; and*

*"(iii) alternatives to suspension and expulsion;*

*"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;*

*"(G) youth-initiated outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;*

*"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;*

*"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;*

*"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;*

*"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;*

*"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—*

*"(i) a sense of safety and structure;*

*"(ii) a sense of belonging and membership;*

*"(iii) a sense of self-worth and social contribution;*

*"(iv) a sense of independence and control over one's life;*

*"(v) a sense of closeness in interpersonal relationships; and*

*"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;*

*"(M) programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults; and*

*"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.";*

*(VI) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";*

*(VII) in paragraph (14)—*

*(aa) by striking "1993" and inserting "1997"; and*

*(bb) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—*

*"(A)(i) are outside a Standard Metropolitan Statistical Area; and*

*"(ii) have no existing acceptable alternative placement available;*

*"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or*

*"(C) are located where conditions of safety exist (such as severely adverse weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;"; and*

*(VIII) by amending paragraph (16) to read as follows:*

*"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and*

*(IX) in paragraph (17) by striking "and maintain the family units" and inserting "the families";*

*(ii) by amending subsection (c) to read as follows:*

*"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.*

*"(2) If a State fails to comply with the requirements of paragraph (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—*

*"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and*

*"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—*

*"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or*

*"(ii) the Administrator determines, in the discretion of the Administrator, that the State—*

*"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and*

*"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and*

*(iii) in subsection (d)—*

*(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";*

*(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and*

*(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".*

*(B) Notwithstanding the amendment made by subparagraph (A)(i)(IX), section 223(c)(3) of the Juvenile Justice and Deliquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.*

*(d) NATIONAL PROGRAMS.—*

*(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—*

*(A) by inserting "recreation and park personnel," after "special education personnel"; and*

*(B) by inserting "prosecutors and defense attorneys," after "probation personnel,".*

*(2) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—*

*(A) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";*

*(B) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;*

*(C) by inserting after paragraph (2) the following new paragraphs:*

*"(3) establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults;*

*"(4) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";*

*(D) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (B), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";*

*(E) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (B);*

*(F) by striking the period at the end of paragraph (11), as redesignated by subparagraph (B), and inserting "; and"; and*

*(G) by adding at the end the following new paragraphs:*

*"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families; and*

*"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles.".*

*(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(3)) is amended by inserting "prosecutors and defense attorneys," after "judges".*

*(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period.*

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban areas in the United States.

"(B) Such urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) With respect to each urban area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(D) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (C).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended—

(A) in subsection (a)—

(i) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(ii) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile jus-

*tice system, including services that provide for the appointment of special advocates by courts for such juveniles."; and*

*(iv) by adding at the end the following new paragraph:*

*"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—*

*"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—*

*"(i) addressing the specific prejudicial attitude of each offender;*

*"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and*

*"(iii) educating the offender about the importance of tolerance in our society; and*

*"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration."; and*

*(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,".*

*(e) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—*

*(1) by amending subparagraph (B) to read as follows:*

*"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that apply to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists or if the Congress specifically sets aside funds for a program as an appropriation."; and*

*(2) by striking subparagraph (C).*

*(f) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended—*

*(1) in the heading by inserting ", INTERVENTION," after "PREVENTION";*

*(2) in section 281—*

*(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11);*

*(B) by striking "SEC. 281. The Administrator" and all that follows through "purposes:" and inserting the following:*

*"SEC. 281. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in the prevention of youth gangs through programs that are designed to carry out any of the following purposes:*

*"(1) To target elementary school students, with the purpose of steering students away from gang involvement.*

*"(2) To provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed.*

*"(3) To develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs.*

*"(4) To include a special location within a school or housing project for program activities.*

*"(b) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in crisis intervention and rehabilitation of youth gangs through programs that are designed to carry out any of the following purposes:*

*"(1) Establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults.";*

*(C) in paragraph (8) of subsection (b), as designated by subparagraph (B), by inserting "recreation," after "local education,"; and*

*(D) by adding at the end the following new subsection:*

*"(c)(1) The Administrator shall, by making grants to and entering into contracts with public and private agencies, institutions, and local educational agencies, establish and support programs and activities for the purpose of implementing mentoring programs that—*

*"(A) are designed to link children in high crime areas with adult law enforcement officers and other responsible adults; and*

*"(B) are intended to achieve one or more of the following goals:*

*"(i) Provide general guidance to eligible children.*

*"(ii) Promote personal and social responsibility among such children.*

*"(iii) Discourage their use of illegal drugs, violence and dangerous weapons, and other criminal activity.*

*"(iv) Discourage involvement in gangs.*

*"(v) Enhance eligible children's ability to function effectively in, and benefit from, elementary and secondary education.*

*"(vi) Encourage eligible children's participation in community service.*

*"(2) The Administrator, after consultation with the Secretary of Health and Human Services and the Secretary of Education, shall promulgate regulations to implement this subsection.*

*"(3) The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.*

*"(4)(A) Grants awarded pursuant to this subsection shall be used to implement mentoring programs, including—*

*"(i) hiring of mentoring coordinators and support staff;*

*"(ii) recruitment, screening, and training of adult mentors;*

*"(iii) reimbursement of mentors for reasonable incidental expenditures directly associated with mentoring; and*

*"(iv) such other purposes as the Administrator may reasonably prescribe by regulation.*

*"(B) Grants awarded pursuant to this subsection shall not be used—*

*"(i) to directly compensate mentors, except as provided pursuant to subparagraph (A)(iii);*

*"(ii) to obtain educational or other materials or equipment which would otherwise be used in the ordinary course of the grantee's operations;*

*"(iii) to support litigation of any kind; or*

*"(iv) for any other purpose reasonably prohibited by the Administrator by regulation.*

*"(5) The Administrator shall select grant recipients under this subsection based on the following:*

*"(A) The quality of the mentoring plan, including—*

*"(i) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and*

*"(ii) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan.*

*"(B) The capability of the applicant to effectively implement the mentoring plan."; and*

*(3) in section 282—*

*(A) in subsection (b)—*

*(i) in paragraph (1) by inserting "(a), (b), or (c)" after "section 281";*

*(ii) by striking "and" at the end of paragraph (7);*

*(iii) by striking the period at the end of paragraph (8) and inserting "; and"; and*

*(iv) by adding at the end the following new paragraph:*

*"(9) in the case of an application for assistance under section 281(c) include a specific plan for implementing a mentoring program, including—*

*"(A) the method by which mentors and mentees will be recruited;*

*"(B) the method by which prospective mentors will be screened;*

*"(C) the training that will be provided to mentors;*

*"(D) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and*

*"(E) a description of the extent to which parents, teachers, community-based organizations, and the local community have participated in the design and implementation of the mentoring plan.".*

*(g) ADDITIONAL PARTS IN TITLE II.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—*

*(1) by redesignating part E as part I;*

*(2) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and*

*(3) by inserting after part D the following new parts:*

*"PART E—STATE CHALLENGE ACTIVITIES*

*"ESTABLISHMENT OF PROGRAM*

*"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.*

*"(b) DEFINITIONS.—For purposes of this part—*

*"(1) the term 'case review system' means a procedure for ensuring that—*

*"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;*

*"(B) the status of each youth is reviewed periodically but not less frequently than once every 6 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;*

*"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 18 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and*

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"PART F—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

"DEFINITION

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator—

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.

"PART G—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

"SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp.

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training; and

"(2) remedial, special, and vocational education and treatment for substance abuse and other health and mental health problems.

"CAPACITY

"SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY

"SEC. 289B. A person shall be eligible for assignment to a boot camp if he or she—

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"OPERATION

"SEC. 289C. To the maximum extent possible, a boot camp shall be operated and maintained by active or reserve military personnel, under the supervision of the grant recipient agency in accordance with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.).

"POST-RELEASE SUPERVISION

"SEC. 289D. A State that seeks to establish a boot camp, or participate in the joint administration of a boot camp, shall submit to the Administrator a plan describing—

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART H—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

"(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

"(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

"(2) to examine the status of minors currently in the juvenile and adult justice systems;

"(3) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(4) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

"(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

"(c) SCHEDULE OF CONFERENCES.—Conferences under this part shall be held at least once during each 5-year period, but not more often than once in each 3-year period. No conference shall be held during a Presidential election year. The first Conference under this Act shall be concluded not later than 18 months after the date of enactment of this part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in a Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

"(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in *providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.*

*"CONFERENCE PARTICIPANTS*

*"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.*

*"(b) SELECTION.—*

*"(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.*

*"(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—*

*"(i) each Governor may appoint 1 delegate and 1 alternate;*

*"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;*

*"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;*

*"(iv) the President may appoint 20 delegates and 5 alternates;*

*"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and*

*"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.*

*"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.*

*"(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.*

*"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.*

*"STAFF AND EXECUTIVE BRANCH*

*"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.*

*"(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.*

*"PLANNING AND ADMINISTRATION OF CONFERENCE*

*"SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.*

*"(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—*

*"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);*

*"(2) may enter into contracts and agreements with public agencies, private organizations, and academic institutions to assist in carrying out this part; and*

*"(3) shall prepare and provide background materials for use by participants in the Conference by participants in State and regional conferences.*

*"REPORTS*

*"SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress.*

*"(b) CONTENTS.—A report described in subsection (a)—*

*"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and*

*"(2) shall be made available to the public.*

*"OVERSIGHT*

*"SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.".*

*(h) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended to read as follows:*

*"(a)(1) To carry out the purposes of this title (other than parts D and E) there are authorized to be appropriated such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.*

*"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.*

*"(B) No funds may be appropriated to carry out part D or E of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the preceding fiscal year.*

*"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.*

*"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—*

*"(i) $15,000,000 for fiscal year 1993; and*

*"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.*

*"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.*

*"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—*

*"(i) not less than 85 percent to make grants for treatment and transitional services;*

*"(ii) not to exceed 10 percent for grants for research; and*

*"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.*

*"(5)(A) There are authorized to be appropriated to carry out part G such sums as are necessary for fiscal year 1993, to remain available until expended, of which—*

*"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and*

*"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.*

*"(B) Amounts appropriated under subparagraph (A) shall be in addition to any other amounts authorized to be appropriated to the Office of Juvenile Justice and Delinquency Prevention.*

*"(6)(A) There are authorized to be appropriated such sums are necessary for each National Conference and associated State and regional conferences under part H, to remain available until expended.*

*"(B) New spending authority or authority to enter into contracts under part H shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.*

*"(C) No funds appropriated to carry out this Act shall be made available to carry out part H other than funds appropriated specifically for the purpose of conducting the Conference.*

*"(D) Any funds remaining unexpended at the termination of the Conference under part H, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.".*

***SEC. 3. RUNAWAY AND HOMELESS YOUTH.***

*(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—*

*(1) by amending paragraph (1) to read as follows:*

*"(1) the number of youth who have become homeless or who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and may live on the street, leaving them at high risk for health and other serious problems;";*

*(2) by striking "and" at the end of paragraph (4); and*

*(3) by striking paragraph (5) and inserting the following new paragraphs:*

*"(5) runaway youth, homeless youth, and other street youth have a disproportionate share of health problems compared to the general adolescent population but lack access to health care;*

*"(6) increasingly, runaway youth, homeless youth, and other street youth in need of services have more serious emotional and behavioral problems and fewer resources and therefore may need access to longer periods of residential care, more intensive aftercare services, and other assistance;*

*"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;*

*"(8) to reconnect runaway youth, homeless youth, and other street youth to their communities, street-based services must be provided where they congregate;*

*"(9) home-based services are also needed to prevent youth from leaving home or developing more serious emotional and behavioral problems; and*

*"(10) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures.".*

*(b) AUTHORITY TO MAKE GRANTS.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711) is amended—*

*(1) by amending subsection (a) to read as follows:*

*"(a) The Secretary shall make grants to nonprofit private entities, combinations of such en-*

*tities, and public entities to establish, renovate, and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of such youth and their families. The centers shall serve as alternatives to the law enforcement, child welfare, mental health, and juvenile justice systems.";*

*(2) in subsection (b)—*

*(A) in paragraph (2)—*

*(i) by inserting "or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$75,000,"; and*

*(ii) by inserting ", or such greater amount, up to $45,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$30,000"; and*

*(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and*

*(3) by striking subsection (c).*

*(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—*

*(1) in subsection (a) by striking "facility providing" and inserting "project that provides"; and*

*(2) in subsection (b)—*

*(A) in paragraph (3) by striking "child's" and inserting "youth's" and striking "child" each place it appears and inserting "youth";*

*(B) in paragraph (4) by inserting "health and mental health care personnel," after "social service personnel,"; and*

*(C) in paragraph (6) by striking "children and family members which it serves," and inserting "children and family members that it serves, including youth that are not referred to out-of-home shelter services,".*

*(d) GRANTS FOR A NATIONAL COMMUNICATION SYSTEM.—Section 313(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712a(b)) is amended—*

*(1) in paragraph (1) by striking "1989 not less than $500,000" and inserting "1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment";*

*(2) in paragraph (2) by striking "1990 not less than $600,000" and inserting "1994 not less than $826,900"; and*

*(3) in paragraph (3) by striking "1991 and 1992 not less than $868,300" and inserting "1995 and 1996 not less than $911,700".*

*(e) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5716) is amended in the second sentence by striking "$150,000" and inserting "$250,000".*

*(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714-2(a)) is amended—*

*(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and*

*(2) in paragraph (13) by striking "and parent or legal guardian".*

*(g) STREET-BASED SERVICES AND COORDINATING ACTIVITIES.—Title III of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5701 et seq.) is amended—*

*(1) by striking sections 314, 315, and 365 and redesignating parts C and D as parts E and F, respectively; and*

*(2) by inserting after part B the following new parts:*

### "PART C—STREET-BASED SERVICES

### "PURPOSE AND AUTHORITY; DEFINITIONS

*"SEC. 325. (a) PURPOSE AND AUTHORITY.—The Secretary may make grants and provide technical assistance to public and nonprofit private entities and combinations of such entities to establish and operate street-based services to runaway youth, homeless youth, and other street youth.*

*"(b) DEFINITIONS.—For purposes of this part—*

*"(1) the term 'homeless youth' means a person—*

*"(A) who is not less than 10 years of age and not more than 21 years of age;*

*"(B) for whom it is not possible to live in a safe environment with a relative; and*

*"(C) who has no safe living arrangement as an alternative to living with a relative;*

*"(2) the term 'other street youth' means a person under the age of 21 who may be intermittently homeless and spends the majority of his or her time on the street, using it as a primary means of economic survival and socialization; and*

*"(3) the term 'street-based services' includes—*

*"(A) street-based crisis intervention and counseling;*

*"(B) information and referral for housing;*

*"(C) information and referral for transitional living and health care services; and*

*"(D) advocacy, education, and prevention services for—*

*"(i) alcohol and drug abuse;*

*"(ii) sexually transmitted diseases including HIV/AIDS infection; and*

*"(iii) physical and sexual assault.*

### "ELIGIBILITY

*"SEC. 326. (a) PLAN AND AGREEMENT.—To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a street-based services project and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—*

*"(1) to identify and frequent areas in which runaway youth, homeless youth, and other street youth congregate, making contact and forming relationships with such youth;*

*"(2) to assess the problems and service needs of such youth and provide appropriate services or information and referral for these services;*

*"(3) to cause its staff to work in teams with on-street supervision or backup and off-street clinical supervision;*

*"(4) to cause its staff to—*

*"(A) develop referral relationships with agencies and organizations, including law enforcement, education, social service, vocational services, training, public welfare, legal assistance, and health and mental health care organizations; and*

*"(B) help integrate and coordinate such services for youth;*

*"(5) to submit to the Secretary an annual report that includes information regarding—*

*"(A) the activities carried out with funds under this part;*

*"(B) the achievements of the project under this part carried out by the applicant; and*

*"(C) statistical summaries describing the number and the characteristics of the youth who participated in the project in the year for which the report is submitted;*

*"(6) to implement such accounting procedures and fiscal control devices as the Secretary may require;*

*"(7) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;*

*"(8) to keep adequate statistical records profiling the youth that it serves and not to disclose the identity of individual runaway youth, homeless youth, or other street youth in reports or other documents based on such statistical records;*

*"(9) not to disclose records maintained on individual runaway youth, homeless youth, or other street youth without the consent of the individual youth to anyone; and*

*"(10) to provide to the Secretary such other information as the Secretary may reasonably require.*

*"(b) PRIORITY.—In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing direct services to runaway youth, homeless youth, or other street youth.*

### "PART D—COORDINATING ACTIVITIES

### "GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

*"SEC. 335. The Secretary shall make grants to State, regional and other nonprofit organizations and combinations of such organizations to provide technical assistance and training to eligible groups for the purpose of establishing and improving the operation of programs for runaway youth, homeless youth, and other street youth.*

### "GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

*"SEC. 336. (a) IN GENERAL.—The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth, homeless youth, and other street youth.*

*"(b) SPECIAL CONSIDERATION.—In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—*

*"(1) youth who repeatedly leave and remain away from their homes;*

*"(2) outreach to runaway youth, homeless youth, and other street youth;*

*"(3) skill-based HIV/AIDS prevention training for runaway and homeless youth and training for staff to work with such youth;*

*"(4) increasing access to health and mental health care and services for runaway and homeless youth;*

*"(5) increasing access to education for runaway and homeless youth;*

*"(6) staff training in—*

*"(A) the behavioral and emotional effects of sexual abuse and assault;*

*"(B) responding to youth who are showing effects of sexual abuse and assault; and*

*"(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;*

*"(7) transportation of runaway and homeless youth, and other street youth in connection with services authorized to be provided under this part;*

*"(8) the special needs of runaway and homeless youth in rural areas;*

*"(9) the special needs of family host home programs for runaway youth, homeless youth, and other street youth;*

*"(10) transitional living programs for homeless youth; and*

*"(11) innovative methods of developing resources that enhance the establishment or operation of runaway youth, homeless youth, or other street youth centers.*

*"(c) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants that have knowledge of or experience in working with runaway and homeless youth.*

### "COORDINATION OF ACTIVITIES

*"SEC. 337. With respect to matters relating to health, education, employment, and housing, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of other divisions of that department and other public and private entities and encourage coordination with other departments.".*

*(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended—*

*(1) in subsection (a)—*

*(A) by inserting ", activities," after "status";*

*(B) by striking "part A," and inserting "parts A, B, C, D, and E,"; and*

*(2) in subsection (b)—*

*(A) by striking "and" at the end of paragraph (5);*

*(B) by striking the period at the end of paragraph (6) and inserting "; and"; and*

*(C) by adding at the end the following new paragraph:*

*"(7) plans for the next fiscal year.".*

*(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1) by striking "of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992" and inserting "such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996"; and*

*(B) by adding at the end the following new paragraphs:*

*"(3) In the use of funds appropriated under paragraph (10) that are in excess of $38,000,000 but less than $42,600,000, priority shall be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000) if the appropriation were equal to or less than $38,000,000, for the purpose of allowing such programs to achieve higher performance standards, including—*

*"(A) increasing and retaining trained staff;*

*"(B) strengthening family reunification efforts;*

*"(C) improving aftercare services;*

*"(D) fostering better coordination of services with public and private entities;*

*"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and*

*"(F) improving data collection efforts.*

*"(4) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—*

*"(A) 50 percent shall be targeted at developing new programs in unserved or underserved communities; and*

*"(B) 50 percent shall be targeted at program enhancement activities described in paragraph (3).";*

*(2) in subsection (b)(1) by striking "of this title, there are authorized to be appropriated such sums as are necessary for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992." and inserting "there are authorized to be appropriated such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.";*

*(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and*

*(4) by inserting after subsection (b) the following new subsection:*

*"(c) There are authorized to be appropriated to carry out part C such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".*

### SEC. 4. MISSING CHILDREN.

*Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".*

### SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

*(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:*

## "TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

### "SEC. 501. SHORT TITLE.

*"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.*

### "SEC. 502. FINDINGS.

*"The Congress finds that—*

*"(1) approximately 700,000 youth enter the juvenile justice system every year;*

*"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;*

*"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;*

*"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;*

*"(5) few Federal resources are dedicated to delinquency prevention; and*

*"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.*

### "SEC. 503. DEFINITION.

*"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).*

### "SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

*"The Administrator shall—*

*"(1) issue such rules as are necessary or appropriate to carry out this title;*

*"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);*

*"(3) provide adequate staff and resources necessary to properly carry out this title; and*

*"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—*

*"(A) describing activities and accomplishments of grant activities funded under this title;*

*"(B) describing procedures followed to disseminate grant activity products and research findings;*

*"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and*

*"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.*

### "SEC. 505. GRANTS FOR PREVENTION PROGRAMS.

*"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—*

*"(1) recreation services;*

*"(2) tutoring and remedial education;*

*"(3) assistance in the development of work awareness skills;*

*"(4) child and adolescent health and mental health services;*

*"(5) alcohol and substance abuse prevention services;*

*"(6) leadership development activities; and*

*"(7) the teaching that people are and should be held accountable for their actions.*

*"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—*

*"(1) the unit is in compliance with the requirements of part B of title II;*

*"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end investment plan for delinquency prevention and early intervention activities;*

*"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);*

*"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;*

*"(5) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and*

*"(6) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.*

*"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—*

*"(1) plans for service and agency coordination and collaboration including the colocation of services;*

*"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and*

*"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.*

### "SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

*"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".*

*(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.*

### SEC. 6. CHILDREN'S ADVOCACY PROGRAM.

*(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—*

*(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;*

*(2) by inserting after paragraph (2) the following new paragraph:*

*"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and*

*(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:*

*"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".*

*(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—*

*(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and*

*(2) by inserting after section 211 the following new sections:*

### "SEC. 212. DEFINITIONS.

*"For purposes of this subtitle—*

*"(1) the term 'Administrator' means the agency head designated under section 201(b) of the*

*Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));*

*"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;*

*"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);*

*"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;*

*"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;*

*"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;*

*"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;*

*"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and*

*"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).*

**"SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.**

*"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—*

*"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;*

*"(2) provide support for nonoffending family members;*

*"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and*

*"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.*

*"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—*

*"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—*

*"(A) establish regional children's advocacy program centers;*

*"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and*

*"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,*

*for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.*

*"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—*

*"(A) assist communities—*

*"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;*

*"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;*

*"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;*

*"(iv) in providing families with needed services and assisting them in regaining maximum functioning;*

*"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;*

*"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;*

*"(vii) in obtaining information useful for criminal and civil proceedings;*

*"(viii) in holding offenders accountable through improved prosecution of child abuse cases;*

*"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse thorough training; and*

*"(x) in enhancing community understanding of child abuse; and*

*"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.*

*"(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—*

*"(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.*

*"(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:*

*"(A) A proven record in conducting activities of the kinds described in subsection (c).*

*"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.*

*"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.*

*"(D) Experience in serving as a center for training and education and as a resource facility.*

*"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.*

*"(3) PROPOSAL REQUIREMENTS.—*

*"(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—*

*"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;*

*"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and*

*"(iii) state the annual cost of the proposal and a breakdown of those costs.*

*"(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—*

*"(i) outline the basic activities expected to be performed;*

*"(ii) describe the entities that will conduct the basic activities;*

*"(iii) establish the period of time over which the basic activities will take place; and*

*"(iv) define the overall program management and direction by—*

*"(I) identifying managerial, organizational, and administrative procedures and responsibilities;*

*"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and*

*"(III) providing sufficient rationale to support the costs of the plan.*

*"(4) SELECTION OF PROPOSALS.—*

*"(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.*

*"(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—*

*"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;*

*"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and*

*"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);*

*"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and*

*"(D) otherwise best carry out the purposes of this section.*

*"(4) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.*

*"(5) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.*

*"(d) REVIEW.—*

*"(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.*

*"(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—*

*"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and*

*"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.*

*"(3) DISCONTINUATION OF FUNDING.—*

*"(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.*

*"(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).*

*"(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—*

*"(1) ESTABLISHMENT OF BOARD.—*

*"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that*

*respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.*

*"(B) MEMBERSHIP.—(i) The board—*

*"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;*

*"(II) shall include at least 1 member from each of the 4 census regions; and*

*"(III) shall have members appointed for a term not to exceed 3 years.*

*"(ii) Members of the Board may be reappointed for successive terms.*

*"(2) REVIEW AND RECOMMENDATIONS.—*

*"(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).*

*"(B) REVIEW.—The board shall annually—*

*"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and*

*"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.*

*"(3) RULES AND REGULATIONS.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.*

*"(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".*

*(c) LOCAL CHILDREN'S ADVOCACY PROGRAM.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—*

*(1) by amending the heading to read as follows:*

***"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";***

*(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";*

*(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and*

*(4) by adding at the end the following new subsection:*

*"(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".*

*(d) SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".*

*(e) AUTHORIZATION OF APPROPRIATIONS.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), is amended to read as follows:*

***"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.***

*"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—*

*"(1) $20,000,000 for fiscal year 1993; and*

*"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.*

*"(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under sections 213 and 214.".*

### *SEC. 7. HEAD START TRAINING IMPROVEMENT.*

*(a) PURPOSE.—It is the purpose of this section—*

*(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;*

*(2) to increase the ability of Head Start staff to address the problems facing Head Start families;*

*(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and*

*(4) to allow the use of training funds for creative approaches to learning for children.*

*(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—*

*(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and*

*(2) by adding at the end the following new subsections:*

*"(c) The Secretary shall—*

*"(1) develop a systematic approach to training Head Start personnel, including—*

*"(A) specific goals and objectives for program improvement and continuing professional development;*

*"(B) a process for continuing input from the Head Start community; and*

*"(C) a strategy for delivering training and technical assistance; and*

*"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.*

*"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".*

### *SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.*

*(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—*

*(1) by striking out "obligated" and inserting in lieu thereof "expended"; and*

*(2) by striking out "succeeding fiscal year" and inserting in lieu thereof "succeeding 3 fiscal years".*

*(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858a et seq.) is amended by adding at the end thereof the following new section:*

***"SEC. 658S. MISCELLANEOUS PROVISIONS.***

*"Notwithstanding any other provision of law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".*

*(c) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking out "title IV" and inserting in lieu thereof "title VI".*

*(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—*

*(A) in paragraph (7), by striking out "4(b)" and inserting in lieu thereof "4(e)"; and*

*(B) in paragraph (14), by striking out "4(c)" and inserting in lieu thereof "4(l)".*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.*

*(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.*

### *SEC. 9. TECHNICAL AMENDMENT TO HEAD START ACT.*

*(a) IN GENERAL.—Section 641(c)(1) of the Head Start Act (42 U.S.C. 9836(c)(1)) is amended by striking out "July 29, 1992" and inserting in lieu thereof "March 1, 1993".*

*EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment.*

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## VETERANS' EDUCATION ASSISTANCE AMENDMENTS

The text of the bill (H.R. 5087) to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 5087) entitled "An Act to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes" do pass with the following amendments:

Strike out all after the enacting clause and insert:

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Veterans' Readjustment Benefits Improvement Act of 1992".*

### *TITLE I—EDUCATIONAL ASSISTANCE PROGRAMS*

### *SEC. 101. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.*

*(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 of title 38, United States Code, is amended—*

*(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and*

*(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".*

*(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—*

*(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";*

*(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and*

*(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".*

*(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) of title 38, United States Code, is amended—*

*(1) by striking out paragraph (1);*

*(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and*

*(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".*

*(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—*

*(1) by striking out subparagraph (A);*

*(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and*

*(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".*

*(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on September 1, 1993.*

*(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).*

### *SEC. 102. ELIGIBILITY OF CERTAIN OFFICERS FOR EDUCATIONAL ASSISTANCE.*

*(a) ACTIVE DUTY.—Section 3011(c)(2) of title 38, United States Code, is amended by inserting "but before October 1, 1992," after "December 31, 1976,".*

*(b) SELECTED RESERVE.—Section 3012(d)(2) of such title is amended by inserting "but before October 1, 1992," after "December 31, 1976,".*

### *SEC. 103. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.*

*(a) TREATMENT OF SERVICE.—Section 3011 of title 38, United States Code, is amended by adding at the end the following new subsection:*

*"(e)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.*

*"(2) This subsection applies to a member who—*

*"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and*

*"(B) after such discharge or release, reenlists or re-enters on a period of active duty.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.*

### *SEC. 104. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.*

*(a) TREATMENT.—Section 3011 of title 38, United States Code (as amended by section 103), is further amended by adding at the end the following new subsection:*

*"(f) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.*

### *SEC. 105. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.*

*(a) ACTIVE DUTY.—Section 3011 of title 38, United States Code (as amended by section 104), is further amended by adding at the end the following new subsection:*

*"(g)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.*

*"(2) This subsection applies to a member who—*

*"(A) during an initial period of active duty, commences pursuit of a course of education—*

*"(i) at a service academy; or*

*"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;*

*"(B) fails to complete the course of education; and*

*"(C) re-enters on a period of active duty.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.*

### *SEC. 106. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.*

*(a) EDUCATIONAL ASSISTANCE.—Section 3015 of title 38, United States Code (as amended by section 101), is amended—*

*(1) by redesignating subsections (c), (d), (e), (f), and (g) (as so amended) as subsections (d), (e), (f), (g), and (h), respectively;*

*(2) in subsection (d) (as so redesignated), by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and*

*(3) by inserting after subsection (b) the following new subsection (c):*

*"(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.*

*"(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—*

*"(A) whose initial obligated period of active duty is less than three years;*

*"(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and*

*"(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.".*

*(b) CONFORMING AMENDMENTS.—Such section 3015 (as so amended) is further amended—*

*(1) in subsection (a), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)"; and*

*(2) in subsection (b), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.*

### *SEC. 107. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.*

*(a) CLARIFICATION.—Section 3018(b)(3)(B) of title 38, United States Code, is amended—*

*(1) by striking out "or (iii)" and inserting in lieu thereof "(iii)"; and*

*(2) by adding before the semicolon at the end the following: ", or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.*

### *SEC. 108. EDUCATIONAL ASSISTANCE RATES FOR CERTAIN ACTIVE-DUTY MEMBERS.*

*(a) RATES.—Subsection (a) of section 3032 of title 38, United States Code, is amended to read as follows:*

*"(a) The amount of the monthly educational assistance allowance payable to an individual entitled to educational assistance under this chapter who pursues a program of education on less than half-time basis is the amount determined under subsection (b) of this section.".*

*(b) ADVANCE PAYMENT.—Section 3680(d)(2) of title 38, United States Code, is amended by striking out the third sentence.*

*(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and apply to educational assistance paid for education or training pursued on or after that date.*

### *SEC. 109. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.*

*(a) ACTIVE-DUTY PROGRAM.—Section 3032(f) of title 38, United States Code, is amended—*

*(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and*

*(2) by adding at the end the following new paragraph (4):*

*"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".*

*(b) SELECTED RESERVE PROGRAM.—Section 2131(g) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and*

*(2) by adding at the end the following new paragraph (4):*

*"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".*

*(c) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section*

3231(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, on or after the first day of the second month following the date of the enactment of this Act.

### SEC. 110. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 3485(a)(1) of title 38, United States Code, is amended in the third sentence—

(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and

(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.

### SEC. 111. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.

(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 of title 38, United States Code, is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:

"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

"(i) state with specificity the requirements of the institution with respect to graduation;

"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

"(iii) include any attendance standards of the institution, if the institution has and enforces such standards.".

(b) APPROVAL OF NURSES AIDE COURSES.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

### SEC. 112. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) PROHIBITION OF APPROVAL OF NON-ACCREDITED COURSES.—Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education which has not been approved by a State approving agency pursuant to section 3675 of this title may not be approved under this section if it is to be pursued, in whole or in part, by independent study.".

(b) REQUIREMENT OF DISAPPROVAL OF ENROLLMENT IN CERTAIN COURSES.—

(1) IN GENERAL.—Section 3473 of title 38, United States Code, is—

(A) transferred to chapter 36 and inserted after section 3679; and

(B) redesignated as section 3679A.

(2) APPLICATION.—Such section 3679A is amended—

(A) in subsection (a)(4), by striking out "one" and inserting in lieu thereof "an accredited independent study program";

(B) in subsection (d)(1), by striking out "32, 35, or 36" in the third sentence and inserting in lieu thereof "32, or 35"; and

(C) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following new paragraph (2):

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, 3241(a)(2), or 3533 of this title or section 2131(h) of title 10;

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6) of this title.".

(3) SURVIVORS' AND DEPENDENTS' ASSISTANCE.—Section 3523(a)(4) of such title is amended by striking out "one" and inserting in lieu thereof "an accredited independent study program".

(c) CONFORMING AMENDMENTS.—

(1) TITLE 38.—(A) Section 3034 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by striking out "3473,"; and

(ii) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)".

(B) Section 3241 of such title is amended—

(i) in subsection (a)(1), by striking out "3473,";

(ii) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)"; and

(iii) in subsection (c), by striking out "3473,".

(2) TITLE 10.—Section 2136 of title 10, United States Code, is amended—

(A) in subsection (b), by striking out "1673,"; and

(B) in subsection (c)(1), by striking out "1673(b)" and inserting in lieu thereof "3679A(b)".

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by striking out the item relating to section 3473.

(2) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3679 the following new item:

"3679A. Disapproval of enrollment in certain courses.".

(e) SAVINGS PROVISION.—The amendments made by subsections (a) and (b) shall not apply to any person who is receiving educational assistance under chapter 30, 32, or 35 of title 38, United States Code, or chapter 106 of title 10, United States Code, on the date of the enactment of this Act for pursuit of an independent study program—

(1) in which the person is enrolled on that date;

(2) in which the person remains continuously enrolled thereafter (until completion of the program by the person); and

(3) for which the person continues to meet the eligibility requirements for such assistance that apply to the person on that date.

### SEC. 113. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.

(a) TREATMENT.—Section 3680(e) of title 38, United States Code, is amended—

(1) by striking out "(e) If" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.".

(b) TECHNICAL AMENDMENT.—Section 3680(e) of such title (as amended by subsection (a)) is further amended by striking out "eligible person," and inserting in lieu thereof "eligible person".

### SEC. 114. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.

Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary" and all that follows through the period and inserting in lieu thereof a period.

### SEC. 115. REVISIONS IN MEASUREMENT OF COURSES.

(a) ELIMINATION OF DISTINCTION BETWEEN ACCREDITED AND NON-ACCREDITED COURSE MEASUREMENT.—

(1) TRADE OR TECHNICAL COURSES INVOLVING SHOP PRACTICES.—Subsection (a)(1) of section 3688 of title 38, United States Code, is amended by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours per week of rest periods allowed".

(2) THEORETICAL COURSES NOT LEADING TO STANDARD COLLEGE DEGREES.—Subsection (a)(2) of such section is amended by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (which shall exclude supervised study but may include customary intervals not to exceed 10 minutes between hours of instruction) is required".

(b) TREATMENT OF CERTAIN COURSES OFFERED BY INSTITUTIONS OF HIGHER LEARNING.—

(1) COURSES LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(4) of such section is amended—

(A) by striking out "in residence"; and

(B) by inserting "(other than a course pursued as part of a program of education beyond the baccalaureate level)" after "semester-hour basis".

(2) COURSES NOT LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(7) of such section is amended to read as follows:

*"(7) an institutional course not leading to a standard college degree offered by an institution of higher learning on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided for in clause (4) of this subsection, except that such a course may not be measured as full time if the course requires less than the minimum weekly hours of attendance required for full-time measurement under clause (1) or (2) of this subsection, as the case may be.".*

*(c) MEASUREMENT OF REFRESHER COURSES.—Subsection (a)(6) of such section is amended by striking out "an institutional course" and all that follows through "of this title" and inserting in lieu thereof "an institutional course offered by an educational institution under section 3034(a)(3), 3241(a)(2), or 3533(a) of this title as part of a program of education not leading to a standard college degree".*

*(d) MEASUREMENT OF PART-TIME TRAINING.—Subsection (b) of such section is amended by striking out "34 or 35" and inserting in lieu thereof "30, 32, or 35".*

*(e) CONFORMING AMENDMENTS.—(1) Section 3688 of title 38, United States Code (as amended by subsections (a) through (d)), is further amended—*

*(A) in subsection (a), by striking out the flush material that follows paragraph (7); and*

*(B) by striking out subsections (c), (d), and (e).*

*(2) Section 3532(c) of such title is amended by striking out paragraphs (3) and (4).*

*(f) EFFECTIVE DATE.—The amendments made by subsections (a) through (e) shall take effect on September 1, 1993.*

### *SEC. 116. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.*

*Subsection (d) of section 3691 of title 38, United States Code, is amended to read as follows:*

*"(d) For the purposes of this section, the term 'change of program of education' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—*

*"(1) the veteran or eligible person has successfully completed the former program;*

*"(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;*

*"(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or*

*"(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.".*

### *SEC. 117. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.*

*Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:*

*"(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—*

*"(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and*

*"(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.*

*"(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.*

*"(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.*

*"(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—*

*"(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;*

*"(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and*

*"(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.*

*"(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.*

*"(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".*

### *SEC. 118. TECHNICAL AMENDMENTS.*

*(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—*

*(1) in section 2131(c)(2), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(2) in section 2131(c)(3)(A)(ii), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(3) in section 2131(c)(3)(C), by striking out "section 1795" and inserting in lieu thereof "section 3695";*

*(4) in section 2133(b)(2), by striking out "section 1431(f)" and inserting in lieu thereof "section 3031(f)";*

*(5) in section 2133(b)(3), by striking out "section 1431(d)" and inserting in lieu thereof "section 3031(d)"; and*

*(6) in section 2136(b) (as amended by section 112(c)(2))—*

*(A) by striking out "sections 1670," and all that follows through "and 1685" and inserting in lieu thereof "sections 3470, 3471, 3474, 3476, 3682(g), 3683, and 3685";*

*(B) by striking out "1780(c),"; and*

*(C) by striking out "1786(a), 1787, and 1792)" and inserting in lieu thereof "3686(a), 3687, and 3692)".*

*(b) TITLE 38.—Section 3679A of title 38, United States Code (as redesignated and amended by section 112(b)) is further amended in subsection (b) by striking out "The Secretary" and inserting in lieu thereof "Except as provided in this title or chapter 106 of title 10, the Secretary".*

## *TITLE II—VOCATIONAL REHABILITATION AND PENSION PROGRAMS*

### *SEC. 201. PERMANENT PROGRAMS OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.*

*(a) PERMANENT PROGRAM.—(1) Subsection (a)(1) of section 1163 of title 38, United States Code, is amended by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,".*

*(2) Subsection (a)(2) of such section is amended to read as follows:*

*"(2) For the purposes of this section, the term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.".*

*(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out "During the program period, the Secretary" and inserting in lieu thereof "The Secretary".*

*(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out "during the program period" and all that follows through "(a)(2)(A)" and inserting in lieu thereof "after January 31, 1985, of a rating of total disability described in subsection (a)(2)".*

*(d) CONFORMING AMENDMENTS.—(1) The section head of such section is amended to read as follows:*

***"§1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings".***

*(2) The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by striking out the item relating to section 1163 and inserting in lieu thereof the following:*

*"1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".*

### *SEC. 202. PERMANENT PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.*

*(a) PERMANENT PROGRAM.—Subsection (a) of section 1524 of title 38, United States Code, is amended to read as follows:*

*"(a)(1) A veteran who has been awarded pension under this chapter may submit to the Secretary an application for vocational training under this section.*

*"(2) Subject to paragraph (4) of this subsection, upon the submittal of an application by a veteran under paragraph (1) of this subsection, the Secretary shall—*

*"(A) make a preliminary finding (on the basis of information contained in the application or otherwise in the possession of the Secretary) whether the veteran has good potential for achieving employment after pursuing a vocational training program under this section; and*

*"(B) if the Secretary makes a preliminary finding that the veteran has such potential, provide the veteran with an evaluation to determine whether the veteran's achievement of a vocational goal is reasonably feasible.*

*"(3) An evaluation of a veteran under subparagraph (B) of paragraph (2) shall include a personal interview of the veteran carried out by a Department employee who is trained in vocational counseling (as determined by the Secretary) unless the Secretary determines that such an evaluation is not feasible or is not necessary to make the determination referred to in that subparagraph.".*

*(b) CONFORMING AMENDMENTS.—(1) Subsection (b)(4) of such section is amended by striking out "the later of (A)" and all that follows through the period at the end of the first sentence and by inserting in lieu thereof "the end of a reasonable period of time (as deter-*

mined by the Secretary) following the evaluation of the veteran under subsection (a)(2)(B) of this section.".

(2)(A) The section head of such section is amended to read as follows:

**"§1524. Vocational training for certain pension recipients".**

(B) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1524 and inserting in lieu thereof the following:

"1524. Vocational training for certain pension recipients.".

### SEC. 203. PROTECTION OF HEALTH-CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.

(a) Permanent Protection.—Section 1525 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) For the purposes of this section, the term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for renumeration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.".

(b) Conforming Amendments.—(1) The section head of such section is amended to read as follows:

**"§1525. Protection of health-care eligibility".**

(2) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1525 and inserting in lieu thereof the following:

"1525. Protection of health-care eligibility.".

### SEC. 204. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.

(a) Vocational Rehabilitation.—Section 3102 of title 38, United States Code, is amended to read as follows:

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

"(1) the person is—

"(A)(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

"(B) determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

"(2) the person is a veteran who—

"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and

"(B) has a serious employment handicap.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1993.

### SEC. 205. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM.

(a) Increase.—Section 3108(b) of title 38, United States Code, is amended by striking out the table at the end and inserting in lieu thereof the following new table:

| "Column I<br>Type of program | Column II<br>No dependents | Column III<br>One dependent | Column IV<br>Two dependents | Column V<br>More than two dependents |
|---|---|---|---|---|
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $366 | $454 | $535 | $39 |
| Three-quarter-time | 275 | 341 | 400 | 30 |
| Half-time | 184 | 228 | 268 | 20 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 320 | 387 | 446 | 29 |
| Extended evaluation: | | | | |
| Full-time | 366 | 454 | 535 | 39 |
| Independent living training: | | | | |
| Full-time | 366 | 454 | 535 | 39 |
| Three-quarter-time | 275 | 341 | 400 | 30 |
| Half-time | 184 | 228 | 268 | 20". |

(b) Cost-of-Living Increase.—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

### SEC. 206. TREATMENT OF CERTAIN APPLICATIONS FOR PENSION AND FOR DEPENDENCY AND INDEMNITY COMPENSATION.

Section 5306(b) of title 38, United States Code, is amended to read as follows:

"(b)(1) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date.

"(2) Except as provided in paragraph (3), a new application for pension, compensation, or dependency and indemnity compensation under this subsection shall be treated as an original application, and no payments shall be made for any period before the date such application is filed.

"(3) An application for dependency and indemnity compensation to parents payable under section 1315 of this title or for pension payable under chapter 15 of this title that is filed during the one-year period beginning on the date that a renouncement thereto was filed by the person pursuant to subsection (a) shall not be considered an original application, and payment of such benefits shall be made as if the renouncement had not occurred.".

### SEC. 207. STYLISTIC AMENDMENT.

(a) In General.—Section 5110(h) of title 38, United States Code, is amended by striking out "calendar".

(b) Rule of Construction.—The purpose of subsection (a) is to make a nonsubstantive stylistic amendment that conforms the terminology used in section 5110(h) of title 38, United States Code, to that used in such title.

## TITLE III—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

### SEC. 301. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.

Section 4103A(a)(1) of title 38, United States Code, is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.".

### SEC. 302. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES.

Section 4211(2) of title 38, United States Code, is amended—

*(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and*

*(2) by striking out subparagraph (B).*

***SEC. 303. IMPROVEMENT OF PROGRAM OF FEDERAL EMPLOYMENT OF VIETNAM ERA VETERANS.***

*Section 4214(b)(2)(A) of title 38, United States Code, is amended—*

*(1) at the end of clause (i), by striking out "or";*

*(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or"; and*

*(3) by adding at the end the following new clause:*

*"(iii) was discharged or released from active duty after December 31, 1979, under conditions other than dishonorable; and".*

***SEC. 304. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.***

*Section 1144(e) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and*

*(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".*

***TITLE IV—COST SAVINGS***

***SEC. 401. PERMANENT AUTHORITY FOR RECOVERY OF CERTAIN MEDICAL-CARE COSTS.***

*Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1993,".*

***SEC. 402. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.***

*(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) of title 38, United States Code, is amended to read as follows:*

*"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.*

*"(B) A person referred to in subparagraph (A) is a person—*

*"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and*

*"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".*

*(b) CONFORMING AMENDMENTS.—Section 5503(f) of such title is amended—*

*(1) in paragraph (3)—*

*(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and*

*(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and*

*(2) in paragraph (4)—*

*(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";*

*(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and*

*(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.*

*(d) DELETION OF EXPIRATION DATE.—Section 5503(f) of such title is amended by striking out paragraph (6).*

Amend the title so as to read: "An Act to amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes.".

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2975. A bill to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes (Rept. No. 102–427).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 3278. A bill to amend the Internal Revenue Code to exempt companies from the railroad retirement and unemployment taxes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. BRADLEY, and Mr. MCCONNELL):

S. 3279. A bill to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes; considered and passed.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 3278. A bill to amend the Internal Revenue Code to exempt locomotive and freight car repair and rebuilding companies from the railroad retirement and unemployment taxes; to the Committee on Finance.

### CLARIFICATION OF CERTAIN PROVISIONS OF THE RAILROAD RETIREMENT ACT

• Mr. BAUCUS. Mr. President, I rise today to introduce legislation which is critically important to my constituents of Livingston and Park County, MT. My proposed legislation would clarify the intent of the Railroad Retirement Act as it applies in certain limited situations of separate affiliates which were never part of a railroad.

In Livingston, the Livingston Rebuild Center [LRC] is an independent investor-owned company in the business of rebuilding locomotives and repairing rail cars. The former repair shops of the Burlington Northern Railroad had been closed for several years, resulting in severe hardship and unemployment for the residents of Livingston when LRC was established in 1988.

LRC has since become the second largest basic industry in Park County and generated 53 percent of the county's manufacturing wages in 1991. LRC currently employes 115 workers and, according to a study by a Montana economic consultant, generates an additional 257 jobs in Montana.

In other words, LRC is the economic lifeblood for Park County. The problem is that even though LRC is a separate legal entity and was never part of any railroad LRC has been held to be retroactively liable for payment of railroad retirement taxes. The Railroad Retirement Board [RRB] in an agency opinion, stated that, based on the wording of the statute, LRC is liable for railroad retirement taxes, given its majority shareholder is also a majority shareholder of Montana Rail Link [MRL].

This doesn't make sense. Even on the appeal the Seventh Circuit Court of Appeals found the 1937 railroad retirement statutes to be creaky and in need of revision to comply with modern business structures.

Mr. President, my proposed legislation would clarify the creaky 1937 railroad retirement statute by adding a two-part test, both parts of which must be met in order for a company to be exempt from Railroad Retirement Act coverage.

First, the company must not be subject to the direct jurisdiction of the Interstate Commerce Commission. I believe that was the intent of Congress in the first place.

Second, in order to insure that my proposal is narrow and does not create any incentive for railroads to spinoff existing operations to avoid taxes, my proposal also requires that the entity be a separate legal entity which did not originate as a part of a railroad.

It is most important to note that my proposal as it is currently structured would not affect the fiscal integrity of the railroad retirement fund. Therefore those retirees and workers who have paid into the fund would not in any way see their benefits impacted. This amendment would allow the fiscal status quo to be maintained for the Federal Government and most importantly the workers.

In summary, my proposal helps clarify that the railroad retirement fund applies to railroads, as intended, but not independent operations which were never a part of any railroad and may not have been intended to be covered.

I have received hundreds of letters and cards, from workers at LRC and the residents of Livingston, gravely concerned that unless this issue is resolved, LRC will close and their jobs will disappear.

For the affected workers and families in Livingston and Park County, MT, this is not an abstract philosophical debating point. This clarification of a creaky statute is needed to save their jobs. I urge the support of my colleagues for this legislation.

Mr. President, I ask that a copy of the legislation appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3278

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SEC. . LOCOMOTIVE AND FREIGHT CAR REPAIR AND REBUILDING SERVICES EXEMPT FROM RAILROAD RETIREMENT AND UNEMPLOYMENT TAXES.**

(a) RAILROAD RETIREMENT TAX.—

(1) IN GENERAL.—Section 3231(a) (relating to definitions for railroad retirement tax) is amended by adding at the end the following new sentence: "The term 'employer' shall not include any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, and is not (and never was) a division or part of a carrier with which such person is currently affiliated."

(2) CONFORMING AMENDMENT.—Section 1(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end the following new clause:

"(iii) any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, and is not (and never was) a division or part of a carrier with which such person is currently affiliated."

(b) RAILROAD UNEMPLOYMENT TAX.—Section 1(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by adding at the end the following new sentence: "The term 'employer' shall not include any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission, and is not and never was a division or part of a carrier with which such person is currently affiliated."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.•

## ADDITIONAL COSPONSORS

### S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

## AMENDMENTS SUBMITTED

## TAX ENTERPRISE ZONES ACT

### CRAIG (AND OTHERS) AMENDMENT NO. 3200

Mr. CRAIG (for himself, Mr. HATCH, Mr. COATS, Mr. GORTON, Mr. MCCAIN, and Mr. SEYMOUR) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 1022, beginning with line 4, strike all through line 7, and insert:

(c) INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended—

(1) by striking "5" in clause (i) and inserting "7.5", and

(2) by striking "3.57" in clause (ii) and inserting "5.35".

Beginning on page 1637, line 9, strike all through page 1639, line 19 and insert:

**SEC. 7104. DEDUCTION FOR ADOPTION EXPENSES.**

(a) DEDUCTION FOR ADOPTION EXPENSES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

**"SEC. 220. ADOPTION EXPENSES.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's regard to this section and section 134) exceeds $80,000, bears to

"(B) $10,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' means an individual who at the time of adoption under this section has not attained the age of 18.".

(2) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220.".

(c) ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

**"SEC. 136. ADOPTION ASSISTANCE PROGRAMS.**

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed the excess (if any) of $5,000 over the amount allowable as a deduction (or amounts taken into account in computing the deduction) under section 220 with respect to such adoption.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and section 220) exceeds $80,000, bears to

"(B) $10,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 220(c).".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. Adoption assistance programs.
"Sec. 137. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

**SEC. 7104A. DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a) (relating to allowance of credit) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of a taxpayer whose adjusted gross income for the taxable year exceeds $80,000, paragraph (2) shall be applied by substituting '20' for '30', by substituting '10' for '120', by substituting '$1,000' for '$2,000', and by substituting '$80,000' for '$10,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

## HATCH (AND OTHERS) AMENDMENT NO. 3201

Mr. HATCH (for himself, Mr. BURNS, Mr. CRAIG, Mr. GARN, Mr. SIMPSON, Mr. SYMMS, Mr. MCCONNELL, Mr. WALLOP, and Mr. WARNER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII add the following new section:

**SEC. . EXPLOSIVES HANDLING EQUIPMENT EXEMPT FROM HEAVY TRUCK TAX.**

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) EXPLOSIVES HANDLING EQUIPMENT.—Any article primarily designed—

"(A) to be placed or mounted on an automobile truck chassis, truck trailer, or semitrailer chassis, and

"(B) to be used to process, prepare, or load explosive products or the components thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(b) of the Surface Transportation Assistance Act of 1982.

## HOLLINGS (AND THURMOND) AMENDMENT NO. 3202

Mr. HOLLINGS (for himself and Mr. THURMOND) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1527, between lines 22 and 23, insert the following:

(g) APPLICATION OF 1988 TECHNICAL.—At the election of an issuer made in writing to the Secretary of the Treasury, the amendment made by section 1009(b)(1)(B) of the Technical and Miscellaneous Revenue Act of 1988 shall not apply to bonds issued as bank eligible pursuant to section 902 of the Tax Reform Act of 1986 before March 31, 1988.

## RIEGLE (AND OTHERS) AMENDMENT NO. 3203

Mr. RIEGLE (for himself, Mr. LEVIN, Mr. GLENN, Mr. WOFFORD, and Mr. SHELBY) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII of the Committee Substitute, insert:

**SEC. . SENSE OF THE SENATE REGARDING MULTIPURPOSE VEHICLES.**

(a) FINDINGS.—The Congress finds that—

(1) multipurpose vehicles are classified as trucks by the United States Government for emissions, fuel economy, luxury tax, and other purposes;

(2) the automobile industry reports multipurpose vehicles, such as trucks, in its sales figures;

(3) after almost 1 year of thorough analysis, in a ruling requested by a vehicle importer, the United States Customs Service found that multipurpose vehicles, because of their design characteristics, should be classified as trucks for tariff purposes;

(4) after only 1 month of review, the Treasury Department overruled the decision of the Customs Service ruling that two-door sport utility vehicles are trucks and otherwise identical four-door sport utility vehicles are cars;

(5) from time-to-time, a number of vehicle importers have themselves classified multipurpose vehicles as trucks in order to avoid a self-imposed quota on cars;

(6) the multipurpose vehicle was invented in the United States, and the market for multipurpose vehicles in the United States exceeds the market for such vehicles in the rest of the world;

(7) the production of these vehicles in the United States is a significant contributor to employment and profits in a key manufacturing sector;

(8) classifying multipurpose vehicles as trucks would result in $210 million a year in revenues to the United States Treasury;

(9) the United States should not make large, unilateral trade concessions to its trading partners, but rather should strive to receive reciprocal trade concessions from its trading partners;

(10) consistent classification of products is an important element of trade policy; and

(11) as the Customs Service correctly found, minivans and sport utility vehicles are not principally designed for the transport of persons, but equally designed for the transport of goods, because of their cargo capacity, removal of seats, flat floors, and large cargo space (in the case of minivans), and because of their off-road capability, heavy-duty suspension, low torque, and other truck-like characteristics (in the case of sport utility vehicles).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the January 4, 1989, decision of the United States Customs Service classifying multipurpose vehicles as trucks for tariff purposes was correct and should stand; and

(2) action should be taken to reinstate the Customs Service's decision.

## BENTSEN AMENDMENT NO. 3204

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 885, after line 16, insert:

(f) OTHER AMENDMENTS.—

(1) Section 408A(d)(2)(B)(iv), as added by subsection (a), is amended by striking "Under" and inserting "Except as provided in".

(2) Section 408A(e)(2), as added by subsection (a), is amended by adding at the end the following new sentence: "This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account."

On page 894, line 11, insert ", 403(a)(4), or 403(b)(8)" after "402(c)".

On page 1028, line 16, strike "and".

On page 1028, line 20, insert ", and" after the quotation marks.

On page 1028, between lines 20 and 21, insert:

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

On page 1065, between lines 1 and 2, insert:

(14) Section 401(k)(2)(B)(i)(III).

On page 1096, line 7, insert **"AND RETIREMENT INCOME POLICY"** after **"PLANS"**.

On page 1096, line 10, insert "and Retirement Income Policy" after "Plans".

On page 1096, line 25, strike "Federal" and insert "private".

On page 1097, strike lines 4 though 6, and insert:

"(1)(A) It shall be the duty and function of the Commission to conduct a full and complete review and study of—

"(i) trends in retirement savings in the United States;

"(ii) existing Federal incentives and programs that are established to encourage and protect such savings; and

"(iii) new Federal incentives and programs that are needed to encourage and protect such savings.

"(B) In fulfilling its duties under paragraph (1), the Commission shall address—

"(i) the amount and sources of Federal and private funds, including tax expenditures (as defined in section 3, of the Congressional Budget Act of 1974 (2 U.S.C. 622)), needed to finance the incentives and programs referred to in subparagraph (A)(ii) and any new Federal incentive or program that the Commission recommends be established;

"(ii) the most efficient and effective manner, considering the needs of retirement plan sponsors for simplicity, reasonable cost, and appropriate incentives, of ensuring that individuals in the United States will have adequate retirement savings;

"(iii) the workforce and demographic trends that affect the pensions of future retirees;

"(iv) the role of retirement savings in the economy of the United States;

"(v) sources of retirement income other than private pensions that are available to individuals in the United States; and

"(vi) the shift away from insured and qualified pension benefits in the United States.

On page 1097, lines 17 through 19, strike "reviewing existing Federal incentives and programs that encourage and protect private retirement savings" and insert "setting forth the results of the study under subsection (d)(1)".

On page 1097, line 21, after the period insert "The recommendations shall include measures that address the needs of future retirees for—

"(1) appropriate pension plan coverage and other mechanisms for saving for retirement;

"(2) an adequate retirement income;

"(3) preservation of benefits they accumulate by participating in pension plans;

"(4) information concerning pension plan benefits; and

"(5) procedures to resolve disputes involving such benefits.

A recommendation of the Commission for a new Federal incentive or program that would result in an increase in the Federal budget deficit shall not appear in the report unless it is accompanied by a recommendation for offsetting the increase.

On page 1101, in the matter between lines 18 and 19, insert "and Retirement Income Policy" after "Plans".

On page 1531, strike lines 5 through 8 and insert the following:

(D) Section 401(a)(31)(D) is amended—

(i) by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust", and

(ii) by adding at the end the following new sentence: "In the case of an annuity contract under section 403(b), the term 'eligible retirement plan' shall include only an individual retirement plan and an annuity contract described in section 403(b)(1)."

On page 1531, lines 13 through 15, strike "(or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies)".

On page 1531, line 18, after "applies" insert "(or in the case of an annuity contract under section 403 (a) or (b), in a rollover to which section 403 (a)(4) or (b)(8) applies)".

On page 1532, between lines 2 and 3, insert:

(J) Section 402(f)(2)(B) is amended—

(i) by striking "or" and inserting a comma, and

(ii) by inserting ", or paragraph (8) of section 403(b)" after "section 403(a)".

On page 1532, strike lines 9 through 11, and insert:

(C) Section 3405(c)(3) is amended by striking "(or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))".

On page 1533, line 9, strike "(8)" and insert "(9)".

On page 1533, between lines 9 and 10, insert:

(C) Section 403(b)(8)(B) is amended by striking "(7)" and inserting "(9)".

On page 1533, line 10, strike "(C)" and insert "(D)".

On page 1533, line 12, strike "(D) Section 522(d)" and insert "(E) Section 522(d)(2)".

On page 1533, line 20, strike "and".

On page 1533, line 23, strike the period and insert "and".

On page 1533, between lines 23 and 24, insert:

(iii) by inserting "(and section 402(f) of such Code, as amended by section 521)" after "section".

(F) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by adding at the end the following new paragraph:

"(3) Special rule for certain payments.—The amendments made by this section (and section 402(f) of such Code, as amended by section 521) shall not apply to any distribution—

"(A) which is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before January 1, 1993, or

"(B) which is made—

"(i) before July 1, 1993, or

"(ii) on or after July 1, 1993, but only if such distribution is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before July 1, 1993, by reason of a death, disability, or separation from service occurring before January 1, 1993.", and

(ii) by inserting "or (3)" after "(2)" in paragraph (1).

On page 1533, line 24, strike "(E)" and insert "(G)".

On page 1534, between lines 4 and 5, insert:

(H) Section 402(c)(9) is amended by striking "; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution".

On page 1800, line 9, insert "or indirectly" after "directly".

On page 1800, line 12, strike "an" and insert "a direct or indirect".

## DOMENICI AMENDMENT NO. 3205

Mr. DOMENICI proposed an amendment to the bill H.R. 11, supra, as follows:

On page 971, line 17, strike "10-taxable year" and insert "7-taxable year".

On page 962, line 2, strike "10-taxable year" and insert "7-taxable year".

On page 1811, after line 9, insert the following new section:

**SEC. . INFRASTRUCTURE FACILITIES BONDS.**

(a) In General.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by repealing paragraphs (4), (5), and (6), and

(2) by striking paragraph (10) and inserting the following new paragraph:

"(10) infrastructure facilities,".

(b) Infrastructure Facilities.—

(1) In general.—Section 142, as amended by section 1103(b) is amended—

(A) by redesignating subsection (e) as subsection (k), and

(B) by inserting after subsection (d) the following new subsection:

"(e) Infrastructure Facilities.—For purposes of subsection (a)(10), the term 'infrastructure facilities' means—

"(1) sewage facilities,

"(2) solid waste disposal facilities,

"(3) qualified hazardous waste facilities, and

"(4) facilities for the furnishing of water."

(2) Conforming amendments.—

(A) Section 142(h) is amended by striking "subsection (a)(10)" and inserting "subsection (e)(3)".

(B) Section 142(k), as redesignated by paragraph (1)(A), is amended, by striking "subsection (a)(4)" and inserting "subsection (e)(4)".

(c) Infrastructure Facilities Bonds Exempted From Volume Cap.—

(1) In general.—Section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in section 142(a)(10) (relating to infrastructure facilities)."

(2) Conforming amendments.—

(A) Subsection (h) of section 146 (relating to exception for government-owned solid waste disposal facilities is hereby repealed.

(B) Section 146(k) (relating to facility must be located within State) is amended—

(i) by striking "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraph (2)",

(ii) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) Treatment of governmental bonds to which volume cap allocated.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5) for an output facility, if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(d) Infrastructure Facilities Bonds Exempted From Determination of AMT.—Subparagraph (C) of section 57(a)(5) (relating to tax-exempt interest) is amended by adding at the end the following new clause:

"(v) Exception for infrastructure facilities bonds.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued as part of an issue described in section 142(a)(10)."

(e) Effective Date.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

## LOTT (AND OTHERS) AMENDMENT NO. 3206

Mr. LOTT (for himself, Mr. Simon, and Mr. Kennedy) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert:

**SEC. 8217. QUALIFIED SCHOLARSHIPS.**

(a) In General.—Section 117(b)(2)(B) (defining qualified tuition and related expenses) is amended by striking "fees" and inserting "room, board, travel, fees".

(b) Effective Date.—The amendment made by this section applies to amounts received after December 31, 1992.

(a) In General.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking the date and inserting "May 15, 1994".

(b) Conforming Amendment.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991, as amended by section 2143(e), is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting "May 15, 1994".

## SIMON (AND HATCH) AMENDMENT NO. 3207

Mr. SIMON (for himself and Mr. Hatch) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1699 after line 13, insert the following:

(c) Most Effective Providers To Have Access to JOBS Program Funds.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each State shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this title. States that have already provided such an assurance to the Secretary of Education shall not be required to provide an additional assurance under this Act. In determining which programs shall receive assistance under this title, the State shall consider (i) the effectiveness of applicants in providing services (especially with respect to recruitment and retention of disadvantaged adults and the learning gains demonstrated by such adults and the ability to serve eligible individuals in a cost effective manner); (ii) the degree to which the applicant will coordinate and utilize other and social services available in the community; and, (iii) the commitment of the applicant to serve individuals in the community that are most in need of services.".

On page 1699 after line 13, insert the following:

(c) Most Effective Providers To Have Access to JOBS Program Funds.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided access to Federal funds provided under this part, in accordance with regulations issued by the Secretary."

## MACK (AND OTHERS) AMENDMENT NO. 3208

Mr. MACK (for himself, Mr. Graham, Mr. Inouye, Mr. Akaka, Mr. Johnston, and Mr. Breaux) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 889, line 12, insert: "An individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar shall be treated as a first-time homebuyer with respect to such residence if the individual rebuilds it or with respect to any other principal residence acquired to replace such residence."

## MACK (AND OTHERS) AMENDMENT NO. 3209

Mr. MACK (for himself, Mr. Graham, Mr. Inouye, Mr. Akaka, Mr. Johnston, and Mr. Breaux) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII of the Committee amendment, insert:

**SEC. . SPECIAL RULE FOR INCLUSION OF CROP PROCEEDS OF DISASTER VICTIMS.**

(a) In General.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(h) Special Rule for Crop Proceeds of Certain Disaster Victims.

"(1) In general.—If, for the taxpayer's taxable year which includes the designation date described in paragraph (2), the taxpayer has income derived from the sale of crops grown in a qualified disaster area, the taxpayer may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs.

"(2) Qualified disaster area.—For purposes of paragraph (1), the term 'qualified disaster area' means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Inikki, or Typhoon Omar.

"(3) Limitation.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3))."

(b) Special Rules for Self-Employment Tax.—If, for any taxable year, a taxpayer includes in gross income any amounts which, but for section 451(h) of the Internal Revenue Code of 1986 (as added by subsection (a)), would have been included in gross income for the preceding taxable year, then the applicable contribution base for purposes of section 1402(b) for the taxable year of inclusion shall be increased by the lesser of—

(1) the applicable contribution base for the preceding taxable year, reduced by the self-employment income of the taxpayer for the preceding taxable year, or

(2) the amounts so included in gross income for the taxable year of inclusion.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

## METZENBAUM AMENDMENT NO. 3210

Mr. METZENBAUM proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the Committee amendment, insert the following:

**SEC. . PROHIBITION AGAINST TRANSFERS OF TAX BENEFITS AND LIABILITIES BETWEEN SAVINGS AND LOAN HOLDING COMPANIES AND SAVINGS ASSOCIATIONS.**

(a) In General.—Section 11(a) of the Homeowners Loan Act (12 U.S.C. 1468(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following paragraph:

"(4) Certain transfers and allocations.—

"(A) Losses of savings association.—A savings association that incurs taxable loss shall be reimbursed in cash by the holding company to the extent that there is a tax benefit arising from the loss in the consolidated return as determined in a manner consistent with the allocation of taxes to profitable subsidiaries. The reimbursement shall be based on the amount the savings association would have received had it filed its income tax return on a separate return basis and shall be made no later than the approximate time that the savings association would have received a refund of tax if it had filed a separate return (or, if earlier, at the time the refund is received by the holding company).

"(B) Payment of taxes.—A savings association having taxable income which files a consolidated tax return with a holding company shall not transfer to the holding company for payment of taxes an amount in excess of the amount of tax the savings association would have paid had its tax return been filed on a separate return basis. Any such payment shall not be made before the approximate time that such payment is required to be made to the Internal Revenue Service. In no event shall a savings association make any payment to a holding company for a deferred tax liability.

"(C) Agreements.—Any tax allocation agreement between a holding company and savings association shall be consistent with the provisions of this paragraph."

"(b) Implementation.—Not later than 90 days after the date of the enactment of this Act, the Office of Thrift Supervision shall take such actions as are necessary to implement the amendments made by subsection (a).

(c) Applicability.—

(1) In general.—The amendment made by subsection (a) applies to payments and refunds of Federal taxes for taxable years ending after September 30, 1990.

(2) Construction.—The enactment of this section shall not be construed as indicating that the Office of Thrift Supervision had no discretionary authority prior to such date to effect the same policy by rule, regulation, enforcement action, or otherwise.

## DOLE AMENDMENT NO. 3211

Mr. DOLE proposed an amendment to amendment No. 3210 proposed by Mr. Metzenbaum to the bill H.R. 11, supra, as follows:

On page 3, line 19, at the appropriate place, insert:

(2) Exception for certain contracts.—The amendment made by subsection (a) shall not apply to any tax benefit described in section 11(a)(4) of the Homeowners Loan Act (12 U.S.C. 1468(a)(4)), as added by subsection (a), if the allocation of such tax benefit, and any payment pursuant to subsection (a)(4)(B), are made pursuant to or are governed by an arrangement that is part of a written contract with the savings association, or its holding company, that is expressly approved in writing by the applicable supervisory authority or deposit insurer, but only if—

(A) the contract was entered into before October 1, 1990,

(B) the contract remains in effect at the time of the allocation in question, and

(C) a portion of such approved tax benefit is allocated for the benefit of the FSLIC Resolution Fund.

## PRESSLER AMENDMENT NO. 3212

Mr. CHAFEE (for Mr. Pressler) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following:

### TITLE —CAR THEFT PREVENTION AND DETERRENCE

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Car Theft Prevention and Deterrence Act".

**SEC. 02. PURPOSE.**

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

### Subtitle A—Enhanced Penalties for Auto Theft

**SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.**

(a) Amendment of Title 18, United States Code.—

(1) In general.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results shall be fined under this title, imprisoned for any number of years or for life, or both.".

(2) Technical amendment.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

(b) Sense of Congress.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, should continue to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

### SEC. 12. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

### SEC. 13. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

### SEC. 14. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraphs:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation.".

## SUBTITLE B—TARGETED LAW ENFORCEMENT

### SEC. 31. PURPOSE.

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

### SEC. 32. DEFINITIONS.

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section _34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime and Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

### SEC. 33. GRANT AUTHORIZATION.

The Director shall make grants to Anti Car Theft Committee that submit applications in compliance with the requirements of this chapter.

### SEC. 34. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under the grant.

(3) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

### SEC. 35. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) GRANT AMOUNTS.—

(1) SINGLE APPLICANT.—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) MULTIPLE APPLICANTS.—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) LIMITATION.—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

### SEC. 36. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $10,000,000 for each of fiscal years 1993, 1994, and 1995.

## SUBTITLE C—REPORT REGARDING STATE MOTOR VEHICLE TITLING PROGRAMS TO COMBAT MOTOR VEHICLE THEFTS AND FRAUD

### SEC. 41. TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation and the Attorney General, acting jointly, may, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) STUDY REQUIREMENTS.—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles

allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) Report.—

(1) In general.—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) Consultation and review.—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) Contents.—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

### DASCHLE AMENDMENT NO. 3213

Mr. DASCHLE proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of the Committee Substitute, insert:

### TITLE —STUDY OF JAPAN'S CAPITAL AND SECURITIES MARKETS

**SEC. . SHORT TITLE.**

This title may be cited as the "Foreign Capital and Securities Markets Study Act of 1992".

**SEC. . FINDINGS.**

The Congress finds that—

(1) Japan's capital and securities markets have assumed a global significance;

(2) growing interaction between the capital and securities markets of the United States and Japan can affect national policies on exchange rates, investment, fiscal policy, and public debt;

(3) Japan's capital and securities markets have different structures, operations, practices, and regulatory regimes than United States markets;

(4) the different structures, operations, practices, and regulatory regimes of Japan's capital and securities markets could cause significant economic effects in the United States; and

(5) a study by the Secretary of the Treasury therefore is required to gain a fuller understanding of the structures, operations, practices, and regulation of Japan's capital and securities markets and their implications for the United States.

**SEC. . STUDY OF CAPITAL AND SECURITIES MARKETS.**

(a) In General.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall conduct a study of the capital and securities markets of Japan in accordance with subsection (b). Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the structures, operations, practices, and regulation of Japan's capital and securities markets, and their implications for the United States.

(b) Study Topics.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) with regard to Japan's capital and securities markets—

(A) methods used by Japanese companies to raise capital, and the cost of such capital, at present and historically;

(B) Japanese methods of corporate governance, particularly with regard to the effectiveness of shareholder meetings, proxy solicitations, and other methods of shareholder participation, the strength of the consumer movement in Japan and its implications for shareholder rights, techniques used by corporate management regarding shareholder participation in corporate governance, and the general effectiveness of shareholder rights in the supervision of corporate managers;

(C) practices and techniques used by Japanese securities brokers and dealers;

(D) the prevalence of loss guarantees and similar practices in securities dealing;

(E) the prevalence of companies having common directors, especially directors common to financial institutions and client industrial companies;

(F) the practice known as "stable shareholding" and other reciprocal shareholding relationships, especially between vendors and customers;

(G) the role played by banks and other financial institutions in capital and securities markets, particularly with regard to equity participation, participation in corporate governance, investment practices, and adequacy of collateral;

(H) the financial strength of Japanese banks, including the adequacy of capital and loan loss reserves, the impact of current trends in securities values on bank capital, and the impact of current trends in real estate values on bank profitability, loan defaults and the adequacy of collateral;

(I) trends in Japanese real estate and securities values, particularly in relation to savings rates, the adequacy of collateral, loan defalcations, bankruptcies, investment in the United States, and capital repatriation from the United States;

(J) the adequacy of disclosure requirements imposed on industrial corporations, banks, securities houses, and other financial institutions and the extent of compliance by such organizations, including disclosure of primary bank and reciprocal or similar shareholding relationships;

(K) the use of securities and real estate holdings as collateral, and the implications of any decline in value of such collateral; and

(L) the adequacy of judicial relief available to foreign investors claiming injury under Japanese law, including, but not limited to, the availability of administrative remedies, the sufficiency and effectiveness of discovery procedures and the timeliness of relief; and

(2) with regard to the economic effects of such markets on the United States—

(A) the magnitude of United States investment in Japanese securities, particularly by United States pension funds, and the implications for United States investors of the structures, operations, practices, and regulation of Japan's capital and securities markets, including the safety of securities investments, the validity of price and volume signals on Japanese exchanges, the ability to participate in corporate governance, and other protections of shareholders' rights;

(B) the implications for United States securities markets, particularly the risk that developments in Japan could have consequences for the United States;

(C) the implications for United States capital markets, including international liquidity, United States interest rates, Japanese investment in the United States, capital repatriation to Japan, and domestic capital supply;

(D) the effect on United States macroeconomic policies, including interest rate policy, exchange rate policy, fiscal policy, monetary policy, and public debt policy;

(E) the implications for the competitiveness of United States enterprises, including the comparative cost of capital, duties to shareholders, research and development expenditures, and investments in plant and equipment; and

(F) the effectiveness of remedies available to United States investors in Japanese securities, and the amount of dealing in Japanese securities in the United States, whether directly or indirectly.

(c) Consultations.—The Secretary shall consult with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and such other agencies or persons as the Secretary may deem necessary to complete the study and report required under this Act. The Secretary may consult with agencies of the Government of Japan, Japanese exchanges, and such other Japanese persons or organizations as the Secretary may deem appropriate.

**SEC. . DEFINITIONS.**

For purposes of this title the term "security" has the meaning given such term by section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

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### SEYMOUR AMENDMENT NO. 3214

Mr. CHAFEE (for Mr. Seymour) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1742, after line 24, insert the following:

**SEC. 7179. AMENDMENTS RELATED TO REPRESENTATIVE PAYEES.**

(a) Criteria for the Selection of Representative Payees.—

(1) In general.—The Secretary of Health and Human Services shall issue regulations regarding the criteria for the selection of representative payees under sections 205(j) and 1631(a)(2) of the Social Security Act within 180 days of the date of the enactment of this section.

(2) Content of regulations.—The regulations issued under subsection (a) shall contain criteria for the selection of representative payees and procedures for monitoring the performance of representative payees, as provided in subsection (b), (c), and (d) that are more stringent than the criteria and procedures set forth in the guidelines in effect on the date of the enactment of this section.

(b) Disqualification of Certain Convicted Felons as Representative Payees.—Section 1631(a)(2)(B)(iii) (42 U.S.C. 1383(a)(2)(B)(iii)) is amended—

(1) by striking "or" at the end of subclause (II);

(2) by striking the period at the end of subclause (III) and inserting "; or"; and

(3) by adding at the end the following new subclause;

"(IV) such person is applying on behalf of a drug addict or alcoholic (as defined in section 1611(e)(3)(A)) and has been convicted of—

"(aa) a violation of section 208 or 1632;

"(bb) a drug-related offense;

"(cc) a crime classified as a felony under State or Federal law; or

"(dd) in the case of a State which does not classify any crime as a felony, a crime which is punishable by death or imprisonment for more than 1 year.".

(c) Penalty for Misuse of Funds.—

(1) Amendments to social security.—Section 205(j)(1) (42 U.S.C. 405(j)(1)) is amended by adding at the end the following new sentence: "Any representative payee who has misused any individual's benefit paid to such representative payee pursuant to this subsection may be subject to a fine or imprisonment under section 208.".

(2) Amendments to SSI.—Section 1631(a)(2)(A)(iii) (42 U.S.C. 1383(a)(2)(A)(iii)) is amended by adding at the end the following new sentence: "Any representative payee of an individual or eligible spouse who has misused any benefits which have been paid to such representative payee pursuant to clause (ii) may be subject to a fine or imprisonment under section 1632.".

(d) Exception for Creditors Who Provide Treatment for Substance Abuse.—

(1) Amendments to social security.—Section 205(j)(2)(C) (42 U.S.C. 405(j)(2)(C)) is amended—

(A) in clause (iii)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new clause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(2) Amendments to ssi.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) in clause (v)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

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## SASSER AMENDMENT NO. 3215

Mr. BENTSEN (for Mr. Sasser) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the bill insert the following:

**SEC. . MUNICIPAL BOND FUND STUDY.**

The Congressional Budget Office shall conduct a study of municipal bond funds currently operating in the United States and shall report its findings to the Committee on Finance and the Senate Budget Committee no later than December 31, 1992. The study shall (1) indicate the types of local capital projects supported by municipal bond funds, (2) the federal, State, and local budgetary impacts of municipal bond funds, and (3) the need, if any, of additional bonding authority for municipal bond funds under the 1986 Tax Act.

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## MOYNIHAN AMENDMENT NO. 3216

Mr. MOYNIHAN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1743, line 16, after "1992" insert ", except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992".

On page 1744, line 18, strike "55 percent" and insert "40 percent".

On page 1745, line 6, strike "July 1, 1993" and insert "January 1, 1994".

On page 1747, line 9, strike "1993" and insert "1994".

On page 1749, strike lines 12 through 14, and insert:

(d) Effective Date.—

(1) In general.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

(2) Regulations.—The Secretary of the Treasury or his delegate shall, not later than July 1, 1993, prescribe such regulations as are necessary to implement the amendments made by this section and section 8003.

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## PACKWOOD (AND OTHERS) AMENDMENT NO. 3217

Mr. PACKWOOD (for himself, Mr. Mitchell, Mr. Hatfield, Mr. Fowler, Mr. Nunn, Mr. Breaux, Mr. Symms, and Mr. Thurmond) proposed an amendment to the bill H.R. 11, supra; as follows:

On page 897, after line 21, insert:

**SEC. 2102. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.**

(a) Application of Material Participation Rules to Certain Timber Activities.—

(1) In general.—Treasury regulations sections 1.469-5T(b)(2)(ii), and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(2) Definitions.—For purposes of paragraph (1)—

(A) Closely held activity.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(i) by 5 or fewer individuals,

(ii) or by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this subsection.

(B) Timber activity.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(b) Passive Activity Losses and Credits Reduced Under Section 108.—

(1) In general.—Section 108(b)(2) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Passive activity loss and credit carryovers.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(2) Conforming amendment.—Subparagraph (B) of section 108(b)(3) is amended by adding at the end the following new sentence: "The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

On page 1,811, after line 9, insert:

**SEC. . RESEARCH CREDIT BASE AMOUNT FOR START-UP COMPANIES.**

(a) In General.—Clause (i) of section 41(c)(3)(B) (relating to the research credit definition of start-up companies) is amended to read as follows:

"(i) Taxpayers to which subparagraph applies.—The fixed-base percentage shall be determined under this subparagraph if the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

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## LEVIN AMENDMENT NO. 3218

Mr. LEVIN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert the following new section:

**SEC. . CERTAIN FOSTER CARE PAYMENTS EXCLUDED FROM GROSS INCOME.**

(a) Treatment of Payments.—Subparagraph (A) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(A) which is—

"(i) paid by a State or political subdivision thereof or a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), or

"(ii) paid by the Federal Government and taken into account by such State, political subdivision, or placement agency in determining the amount of a payment described in clause (i), and".

(b) Effective Date.—The amendment made by subsection (a) shall apply to payments made on or after the date of enactment of this Act.

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## REID AMENDMENT NO. 3219

Mr. BENTSEN (for Mr. Reid) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1784, line 13, strike "or".

On page 1784, line 15, strike the period and insert ", or".

On page 1784, between lines 15 and 16, insert:

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either."

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## LAUTENBERG AMENDMENT NO. 3220

Mr. BENTSEN (for Mr. Lautenberg) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1428, between lines 19 and 20, insert the following:

**SEC. 4722. EXPANSION OF WINE SPIRITS AUTHORIZED FOR USE IN WINE PRODUCTION.**

(a) In General.—Subsection (a) of section 5373 (relating to wine spirits) is amended—

(1) by inserting "or" at the end of paragraph (1),

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) any wine (standard or other than standard) or wine residues therefrom under such conditions as the Secretary may by regulations prescribe;", and

(3) by striking "natural wine or special wine" and inserting "standard wine or other than standard wine".

(b) EFFECTIVE DATE. The amendments made by this section shall take effect on the date of the enactment of this Act.

## DASCHLE AMENDMENT NO. 3221

Mr. BENTSEN (for Mr. DASCHLE) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert:

**SEC. . STUDY OF TRAVEL EXPENSES OF LOGGERS.**

(a) STUDY.—The Secretary of the Treasury shall conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timber. Such study shall include an analysis of the facts and circumstances under which such individual may deduct for Federal income tax purposes expenses incurred when traveling between the individual's home and the job site.

(b) REPORT.—The Secretary of the Treasury shall, not later than July 1, 1993, report the results of the study conducted under subsection (a), including a recommendation as to whether or not travel expenses described in subsection (a) should be allowed as a deduction for Federal income tax purposes.

## METZENBAUM AMENDMENT NO. 3222

Mr. METZENBAUM proposed an amendment to the H.R. 11, supra, as follows:

On page 1353, line 23, delete "75" and insert "50".

On page 1354, line 9, delete "75" and insert "50".

On page 1354, line 12, delete "25" and insert "50".

## PACKWOOD AMENDMENT NO. 3223

Mr. PACKWOOD proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new title:

### TITLE —HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

**SEC. 01. SHORT TITLE.**

This title may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

**SEC. 02. FINDINGS AND POLICY.**

(a) FUNDING.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

### Subtitle A—High Seas Large-Scale Driftnet Fishing

**SEC. 21. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.**

(A) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

### SEC. 22. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 21 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

### SEC. 23. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subpargraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

### SEC. 24. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subpargraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

## Subtitle B—Fisheries Conservation Programs

### SEC. 31. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products", and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products", and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

### SEC. 32. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

### SEC. 33. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

## SUBTITLE C—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

### SEC. 51. SHORT TITLE.

This subtitle may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

### SEC. 52. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

### SEC. 53. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December

31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

### SEC. 54. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 53 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 53(b).

### SEC. 55. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 53(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control is fishing vessels that are listed on the addendum under section 53(b).

### SEC. 56. DEFINITIONS

In this subtitle, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organize under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

### SEC. 57. TERMINATION.

This subtitle shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 52 occurring prior to such termination date shall be conducted as if that section were still in effect.

## SUBTITLE D—MISCELLANEOUS PROVISIONS

### SEC. 71. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

### SEC. 72. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

### SEC. 73. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

### SEC. 74. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

## BREAUX (AND OTHERS) AMENDMENT NO. 3224

Mr. BREAUX (for himself, Mr. HOLLINGS, and Mr. RIEGLE) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —FEES

**SEC. 01. RECREATIONAL BOAT TAX REPEAL.**

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and.

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

**SEC. 02. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 19834 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

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## BENTSEN AMENDMENT NO. 3225

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1622, between lines 3 and 4, insert the following:

**SEC. 7005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) Taxable Years Affected by Certificate.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) Restriction on Crediting of Exempt Self-Employment Income.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any self-employment income on which such tax would have been imposed but for such exemption shall not be credited under section 212 of the Social Security Act, and, if such individual's primary insurance amount has been determined under section 215 of such Act, notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection.

### SEC. 7006. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

Section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

On page 1699, between lines 15 and 16, insert the following:

### SEC. 7135. NEW HOPE DEMONSTRATION PROJECT.

(a) In General.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) Payments.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount no greater than the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance.

(c) Demonstration Project Described.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (referred to in this section as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) Contents of Application.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) Effective Date.—This section shall take effect on the first day of the first calendar quarter that begins after the date of enactment of this Act.

On page 1703, between lines 3 and 4, insert the following:

### SEC. 7144. MODIFICATION OF THE 20-HOUR RULE.

(a) In General.—Section 403(l)(3)(D) (42 U.S.C. 603(l)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) For purposes of this paragraph, each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) shall be considered 2 hours of participation in the program under part F.".

(b) Effective Date.—The amendments made by subsection (a) shall be effective on the date of the enactment of this Act.

On page 1703, strike lines 20 through 26 and insert the following:

"(1) In general.—

"(A) Definition.—For purposes of this section, the terms 'community works progress project' and 'project' mean an activity that results in a specific, identifiable service or product that, but for this section, would not otherwise be done with existing funds.

"(B) Projects described.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

On page 1704, between lines 19 and 20, insert the following:

"(4) Grievance procedure.—

"(A) In general.—Each organization conducting a community works progress project under this section shall establish and maintain a procedure for the filing and adjudication of grievances from participants in such project, labor organizations, and other interested individuals concerning such project, including grievances regarding proposed placements of such participants in such project.

"(B) Deadline for grievances.—Except for a grievance that alleges fraud or criminal activity, a grievance under this paragraph shall be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(C) Deadline for hearing and decision.—

"(i) Hearing.—A hearing conducted under this paragraph on any grievance shall be conducted not later than 30 days after the filing of such grievance.

"(ii) Decision.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

"(D) Arbitration.—

"(i) In general.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) Deadline for proceeding.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding.

"(iii) Deadline for decision.—A decision concerning a grievance subject to an arbitration proceeding shall be made not later than 30 days after the date such arbitration proceeding begins.

"(iv) Cost.—The cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(E) Proposed placement.—If a grievance is filed regarding a proposed placement of a participant in a community works progress project conducted under this section, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this paragraph.

"(F) Remedies.—Remedies for a grievance filed under this paragraph include—

"(i) suspension or termination of payments under this section for a community works progress project; and

"(ii) prohibition of the placement described in subparagraph (E).

On page 1719, line 16, strike the end quotation marks and the end period.

On page 1719, between lines 16 and 17, insert the following:

"(j) Interdepartmental Task Force.—

"(1) In general.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall establish a task force to identify any Federal funds (in addition to the funds authorized under subsection (i)) that may be directed for use in the community works progress projects under this section and to identify any modifications to existing policies or procedures that would facilitate the implementation of such projects.

"(2) Membership.—The Task Force shall consist of at least 3 members and shall include 1 representative from each of the following agencies:

"(A) the Department of Health and Human Services;

"(B) the Department of Labor; and

"(C) the Department of Housing and Urban Development.

"(3) Report.—Not later than January 1, 1993, the task force shall submit a report to the Secretary, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Congress that includes any findings and recommendations of the task force.

"(4) Action on recommendations.—The Secretary, the Secretary of Labor, and the Secretary of Housing and Urban Development shall take such actions as may be necessary to carry out the recommendations of the task force.".

Strike line 17 on page 1737 through line 14 on page 1738 and insert the following:

(a) In General.—Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by striking "lands" and inserting "lands, and income, including interest up to

$4,000 per annum derived from such income,"; and

(2) by striking "resource" and inserting "resource or income".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1992.

On page 1742, after line 24, insert the following:

**SEC. 7179. SELF-EMPLOYMENT PROGRAM.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter in this section referred to as the "Secretary") may authorize not more than 10 States to establish and operate self-employment programs that meet the requirements of this section.

(b) REQUIREMENTS.—The Secretary may authorize a State self-employment program, if a State applies to participate in such program, and the Secretary determines that—

(1) the State program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to unemployment compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits under the State program are available only to individuals who are likely to receive unemployment compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year;

(5) the aggregate amounts of benefits payable to an individual under the State program with respect to any benefit year is limited to not more than 80 percent of the maximum amount of regular unemployment compensation payable to such individual for such benefit year; and

(6) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

(c) BENEFITS.—If the Secretary authorizes a self-employment program for a State under this section, the State may use the State unemployment fund to provide cash unemployment benefits, exclusive of the expenses of administration, to individuals participating in the program. Such benefits shall be used to assist participating individuals in becoming self-employed.

(d) REPORTS.—

(1) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary under this section shall report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(2) REPORT TO CONGRESS.—Not later than December 31, 1995, based on the reports received from States operating self-employment programs under this section, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation program.

(e) DEFINITIONS.—For purposes of this section, the terms "compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) TERMINATION.—The provisions of this section shall not apply after September 30, 1996.

**SEC. 7180. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.**

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective on October 1, 1993.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

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## COCHRAN AMENDMENT NO. 3226

Mr. PACKWOOD (for Mr. COCHRAN) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the bill, add the following:

**SEC. . EXTENSION OF PERIOD FOR CREDIT OR REFUND OF CERTAIN OVERPAYMENTS OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.**

Notwithstanding section 6511 of the Internal Revenue Code of 1986 (relating to limitations on credit or refund), the time for filing a claim for credit or refund of any overpayment of the windfall profit tax on domestic crude oil under chapter 45 of such Code (as in effect before its repeal by Public Law 100-418) by the Wilkinson County School District, in the State of Mississippi, for any period ending before January 1, 1983, shall not expire before the close of the 1-year period beginning on the date of the enactment of this Act.

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## START TREATY

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## PRESSLER EXECUTIVE AMENDMENT NO. 3227

(Order to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms; as follows:

Strike out the period at the end thereof and insert the following: ", subject to the following, which shall be included in the instrument of ratification of the Treaty:

"( ) DECLARATION:

"In accordance with Article II of the Protocol on the Joint Compliance and Inspection Commission (relating to convening a session of the Commission), the United States declares its intention to request the convening of a session of the Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States of America in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and acquifers.

Mr. PRESSLER. Mr. President, I rise today to submit an amendment I intend to offer when the Senate considers the START Treaty's resolution of ratification.

Under the terms of the START Treaty, 150 Minuteman II missiles will be removed from my home State of South Dakota. As part of that process, the silo launchers for the ICBM's must also be eliminated. These silo launchers will be deactivated under the terms of article II, paragraph 6(a) of the protocol on procedures governing the conversion or elimination of items subject to the START Treaty which mandates that "the silo door shall be removed, dismantled, or destroyed and the silo headworks and the silo shall be destroyed by excavation to a depth of no less than eight meters, or by explosion to a depth of no less than six meters. * * *"

Thus, the Air Force had two alternatives for destruction. It could either excavate the silos to a depth of more than 26 feet or it could demolish the silos to a depth of approximately 19½ feet using explosives. After studying both options, it was determined that explosion would be the more cost-effective means of destruction.

Mr. President, ranchers in western South Dakota, who have hosted these missiles since the 1960's are concerned. These ranchers' livelihoods depend on a very basic commodity—water. Water is precious and often scarce in western South Dakota. These ranchers, quite understandably, are concerned over the impact the destruction of the missile silos could have on their wells and the underlying aquifers. Mr. President, I ask unanimous consent that articles from the Kadoka Press and USA Today more fully describing this situation be printed in the RECORD at the conclusion of my remarks.

The Air Force has held several meetings with ranchers in South Dakota to discuss the detonation procedures and the findings of its environmental impact statement for this deactivation which studied the potential risk to wells and the water supply. I commend the Air Force for its efforts in this regard, but, because all of the ranchers' concerns have not yet been fully addressed, I believe more must be done to ensure that all possible risk is considered and mitigated.

For this reason, when the Senate takes up the matter of the START Treaty and its resolution of ratification, I intend to offer an amendment attaching a declaration to the resolution of ratification. My amendment declares the intention of the United States to request the convening of a session of the Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and aquifers.

I urge all of my colleagues to review this amendment and welcome their cosponsorship and support.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Kadoka Press, July 9, 1992]

### AREA RANCHERS EXPRESS CONCERNS ON DEACTIVATION OF MISSILE SITE

(By Doris Buxcel)

About 50 ranchers and businessmen from Wall, Kadoka, Philip, Belevidere, Cottonwood, Hereford, Union Center, White Owl and surrounding areas, and representatives from Senator Tom Daschle's office, Senator Larry Pressler's office and Representative Tim Johnson's office gathered at the Wall Community Center meeting room on Monday evening, to express opinions and concerns on the United States Air Force's decision to deactivate and detonate the bulkheads at the 150 missile sites in western South Dakota. There is one Launch Control Facility for every 10 missile sites.

Gene Williams, of Cottonwood, opened the meeting and invited all those in attendance to share their ideas, concerns and opinions concerning the proposed plan to detonate the bulk heads of the Launch Facilities. According to the "Start Treaty", each site must be disabled so that it can never be used again. Among the alternatives available the Air Force has chosen to use detonation or blasting of the bulkheads.

Among major concerns of ranchers, is the affect this will have on water supplies. How will blasting affect their wells and how or will it disrupt the aquifers that give Western South Dakota its water supply. A major concern is the quality of the water. Although the Air Force says that it is not likely any major damage would occur, it is possible.

If flow to wells is interrupted or stopped, it will be a direct threat to the livelihood of those who live in this area. The damage is not reversible and will be permanent.

Some concerns expressed at the meeting were, what would the use of 300–500 lbs of explosives per bulkhead do to the surrounding land. One rancher stated that when he dug his well he used only six sticks of explosive and caused the ground to be loosened from the bottom up for nearly a mile surrounding it. Consider the impact of 300–500 lbs. of explosives. Land for miles around would be damaged.

Water supply and quality was the main concern. It is feared that with the jar of the blasting, and the rubble falling down into the pit, there will be an interruption that could cause lead from the paint and heavy metal to leach into the aquifers or water supply. After salvage operations and demolition of the launcher headworks, the residual lead-based paint inside the launchers and the launch control facilities could leach into the ground water. Ground water could enter the launcher and the launch control facility and leach lead and other heavy metals from the paint. This is especially likely where it was necessary to install dewatering wells because of high water tables. Because the cathodic (vacuum tube) protection system and the dewatering wells would be dismantled and disabled, any launch facility in an area that has an unconfined aquifer with a depth of less than appropriately 60 to 90 feet would have eventual seepage of ground water into the launch tube.

Concern was presented on the affect the blasting could have on Artesian wells, and on buildings and foundations. A main concern was the wells supplying towns in the area with their water supplies. When the wells are in close proximity with the launch site, there is a possibility that it would affect the flow of water, the quality of the water or possibly cut it off for towns involved.

Thoughts on the cave-in of the site were presented, if the rubble was just let fall into the pit and not packed from the bottom up. Also when the sites are deactivated, what will become of the fences. If they are left to deteriorate, danger of cattle becoming caught is a possibility.

Discussion was held on the land being turned back to the landowners. Where do their responsibilities lie.

Some alternatives, other than blasting were discussed. Those being, using the sites for wells, filling them with dirt and gravel, or using a wrecking ball to demolish the bulk heads.

Gene Williams of Cottonwood expressed his opinion that each site should be treated specifically and the landowner should be contacted and included in the plans for capping the site.

State Representative Larry Gabriel, Cottonwood, was present, expressing his concerns as a landowner, and interest in the concerns and opinions of constituents in the area. He stated that he would see and talk to Governor George Mickelson the following day relating concerns of landowners.

Williams and representatives from the offices of Daschle, Pressler and Johnson told the group that the bids would not be let for the detonation of the sites for three to five months.

The representative from Senator Tom Daschle's office said that the ratification of the Start Treaty would not be completed until next year. This gives landowners and the State's Senators, Representatives and Governor adequate time to gather information and input from landowners and take it to the Federal Government and to Secretary of Defense, Dick Cheney at the Pentagon.

For any questions or concerns that you have you may contact Representative Tim Johnson's Office at 1–800–537–0025; Senator Tom Daschle's Office 1–800–424–9094; and Senator Larry Pressler's Office at 1–800–952–3591.

Another meeting has been tentatively scheduled for August 10, 1992 at 8:00 p.m. in the Wall Community Center. It is open to the public, and any person or persons that are interested, or have concerns are welcome to attend.

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[From USA Today, Sept. 17, 1992]

### TREATY'S BIG RISK—S.D. RESIDENTS WORRY ABOUT THEIR WATER

(By Paul Hoversten)

CACTUS FLAT, SD.—To rancher Gene S. Williams, the imposing steel and concrete missile silo in his hayfield may be more threatening now that the Cold War is over.

"Now, there's a tremendous potential for a screw-up," says Williams, campaigning to preserve what for years made him a prime target if there had been a Soviet missile strike.

The Air Force must destroy this and 149 other Minuteman II missile silos in western South Dakota under terms of the U.S.-Soviet START treaty.

Another 150 silos in Missouri will be destroyed, and a similar number in Montana will switch to Minuteman III missiles under the treaty.

Though the treaty offers two options for destroying silos—explosives or excavation—the Air Force prefers the former for reasons of cost and environmental safety.

But Williams and other ranchers fear any explosions may crack their clay-walled wells or disrupt fragile million-year-old water tables that flow beneath the Black Hills.

"Blowing up the silos is a big risk," says Williams, 29, who got his first look inside one when the Air Force recently opened up the "Delta 6" missile site a quarter-mile from his house. "The main concern is, don't screw up our water."

At stake, says his wife, Linda, 24, is the livelihood of hundreds of ranchers like the Williamses, who raise stock cattle and hay on 5,000 acres. Many wells are 60 years or older.

"You can make or break a place with the demolition of a well," she says.

The Air Force installed most Minuteman II missiles in 1966, replacing the Minuteman I weapons that came four years earlier. Ranchers accepted the weapons out of a sense of patriotism, selling plots for silos to the government.

The missiles were the nation's first line of defense. Carrying a 1.5-ton nuclear warhead, they could travel 7,500 miles at speeds of 17,000 mph.

Williams and other ranchers want the silos kept intact and would like the first shot at buying back their property. They say the silos could be used to store water, grain or used oil.

They'll meet with Air Force officials next week in Wall and Sturgis and hope to raise the issue with Defense Secretary Dick Cheney when he speaks in Rapid City next month.

Destruction of the silos awaits final Senate approval of the treaty, a process that could delay detonation until 1995.

"It's folly to destroy something that's in place for no good reason," Williams says.

His father, Gene E. Williams, 76, thinks the silo could provide protection from storms. "It's the best cyclone cellar around," he says.

The Air Force says that only the Senate can change treaty provisions.

"We do care and want to do what's right," says Maj. Kevin Krejcarek of Ellsworth Air Force Base, which maintains the silos in South Dakota.

Compounding the problem is a lack of data on silo destruction. The Air Force has blown up Titan missile sites, but these would be the first Minuteman II facilities to go.

Many ranchers take the view of Wenzel Kovarik, 60, a physician in Rapid City who also keeps a ranch with a silo that is near two water wells.

"I'm happy we're at peace so we don't need the missiles anymore," says Kovarik, another opponent of silo destruction. "Everybody's glad to see these missiles go. Nobody's going to miss them."

## TAX ENTERPRISE ZONES ACT

### BREAUX AMENDMENT NO. 3228

Mr. BREAUX proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert the following:

**SEC. . HARBOR MAINTENANCE TAX ON SHIP PASSENGER FARES.**

(a) In General.—Subparagraph (B) of section 4462(a)(5) (defining value) is amended to read as follows:

"(B) Transportation of passengers.—In the case of the transportation of passengers for hire, the term 'value' means the excess of—

"(i) the actual charge paid for such service or the prevailing charge paid for comparable service if no actual charge is paid, over

"(ii) the sum of—

"(I) the amount actually paid for pre- and post-cruise air or land transportation and lodging (including any separately-stated transportation or lodging taxes and the pro rata share of travel agent commissions properly allocable to such air or land transportation and lodging), and

"(II) the cost of separately-stated per-passenger taxes, fees, or charges imposed by domestic or foreign governmental entities."

(b) Effective Date.—The amendment made by subsection (a) shall apply to transportation beginning on or after November 1, 1992.

### DOMENICI AMENDMENT NO. 3229

Mr. DOMENICI proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1778, line 20, strike the quotation marks.

On page 1778, between lines 20 and 21, insert the following new paragraph:

"(3) Assignment or sale of contract.—For purposes of this subsection—

"(A) In general.—Any amount received by an individual from the sale or assignment to a qualified accelerated benefits corporation of a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount described in paragraph (1). The preceding sentence shall not apply to amounts for payment of cash surrender values, loans, or other benefits made by an insurer in accordance with the policy provisions.

"(B) Qualified accelerated benefits corporation.—The term 'qualified accelerated benefits corporation' means a corporation—

"(i) with respect to which the aggregate amount of money or other property received in exchange for equity in the corporation, as contributions to capital, or as paid-in surplus is at least $1,000,000;

"(ii) which is regularly engaged in purchasing or taking assignment of life insurance contracts on the lives of insureds who are terminally ill individuals;

"(iii)(I) which does business in the State in which the insured resides and in which

"(II) the business practices of which in States in which no qualifying legislation has been enacted (and no qualifying administrative regulations have been promulgated) do not materially differ from its business practices in States in which such legislation has been enacted (or such regulations have been promulgated); and

"(iv) which pays an amount equal to at least 60 percent of the face value of the life insurance as consideration for the sale or assignment to it of the policy.

"(C) For purpose of subparagraph (B)(iii)—

"(i) qualifying legislation means legislation enacted by a State legislature which, either alone or in conjunction with qualifying administrative regulations—

"(I) imposes obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on the lives of insureds who are terminally ill individuals with respect to confidentiality of medical information, disclosure of alternatives to accelerated benefits contracts, disclosure of tax consequences of accelerated benefits contracts, and full disclosure to the terminally ill individual of all material terms of the accelerated benefits contract and the life insurance policy, and

"(II) in order to enforce obligations described in subclause (I), authorizes the examination of business records and affairs of qualified accelerated benefits corporations, establishes procedures for investigations and for cease and desist and other orders, and imposes penalties for noncompliance; and

"(ii) qualifying administrative regulations means regulations promulgated by a State agency which, either alone or in conjunction with the qualifying legislation, impose obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on lives of insureds who are terminally ill individuals in the areas described in clause (i) and authorize the enforcement of those obligations in the manner provided in clause (i).

"(D) Transition rule.—In the case of taxable years beginning before January 1, 1994, a corporation conducting its business substantially in accordance with the qualifying legislation enacted by any State or with qualifying administrative regulations promulgated by any State agency shall be treated as satisfying the requirements of subparagraph (C) regardless of whether the corporation conducts its business in that State."

On page 1778, line 23, after "1989" insert ", except that in the case of amounts received pursuant to a sale or assignment described in section 101(g)(3) of the Internal Revenue Code of 1986 (as added by paragraph (1)), such amendment shall only apply to amounts received after January 1, 1993".

### SPECTER AMENDMENT NO. 3230

Mr. BENTSEN (for Mr. Specter) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

**SEC. . REPORTING OF REAL ESTATE TRANSACTIONS.**

(a) In General.—Paragraph (2) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) Effective Date.—The amendment made by subsection (a) shall apply to real estate transactions closing after the date of enactment of this Act.

### BENTSEN AMENDMENT NOS. 3231 AND 3232

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

Amendment No. 3231

At the end of the Committee Substitute, insert:

**TITLE _____—TREASURY FORFEITURE FUND.**

**SEC. _____. SHORT TITLE.**

This title may be cited as the "Treasury Forfeiture Fund Act of 1992".

**SEC. _____. ESTABLISHMENT OF FUND.**

(a) In General.—Chapter 97 of title 31, United States Code, is amended by inserting after section 9702 the following new section:

**"§9703. Department of the Treasury Forfeiture Fund**

"(a) In General.—There is established in the Treasury of the United States a fund to be known as the 'Department of the Treasury Forfeiture Fund' (referred to in this section as the 'Fund'). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

"(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

"(B) Payment for—

"(i) contract services;

"(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

"(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

"(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

"(D) Satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

"(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization.

To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

"(E) Payment of amounts authorized by law with respect to remission and mitigation.

"(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

"(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

"(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

"(2) At the discretion of the Secretary—

"(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

"(B) purchases of evidence or information by—

"(i) a Department of the Treasury law enforcement organization with respect to—

"(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering), or

"(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

"(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

"(iii) the United States Secret Service with respect to a violation of—

"(I) section 1028, 1029, or 1030 of title 18,

"(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government, or

"(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any Federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

"(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

"(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

"(I) section 842(h) of title 18,

"(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18, or

"(III) section 924(c) of title 18;

"(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(E) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;

"(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and

"(I) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

"(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

"(ii) training;

"(iii) printing; and

"(iv) contracting for services directly related to—

"(I) the identification of forfeitable assets,

"(II) the processing of and accounting for forfeitures, and

"(III) the storage, maintenance, protection, and destruction of controlled substances.

"(b) LIMITATIONS.—

"(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

"(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

"(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

"(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

"(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

"(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

"(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of $10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

"(2) Funds made available under this subsection may be used to—

"(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

"(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(d) DEPOSITS AND CREDITS.—

"(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(f) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(1) a report on—

"(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

"(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

"(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

"(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(2) a report on—

"(A) the balance of the Fund at the beginning of the preceding fiscal year;

"(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

"(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

"(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more;

"(E) the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

"(F) the balance of the Fund at the end of the preceding fiscal year;

"(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

"(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101–576); and

"(I) an analysis of income and expenses showing the revenue received or lost—

"(i) by property category (such as general property, vehicles, vessel, aircraft, cash, and real property); and

"(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101–576).

"(g) APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

"(A) $25,000,000 for fiscal year 1993; and

"(B) $50,000,000 for each fiscal year after fiscal year 1993.

"(3)(A) Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary may transfer from the Fund not more than $10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).

"(B) Transfers pursuant to subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a).

"(C) The Secretary of the Treasury shall reserve an amount not to exceed $30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed $50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.

"(4)(A)(i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

"(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.

"(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

"(C) Any obligation or expenditure in excess of $500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

"(h) RETENTION OR TRANSFER OF PROPERTY.—

"(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

"(A) retain any of the property for official use; or

"(B) transfer any of the property to—

"(i) any other Federal agency; or

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) is one with which the Secretary of State has agreed;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

"(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

"(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

"(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

"(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

"(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—

"(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

"(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

"(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

“(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

“(n) Transfers to Attorney General and Postmaster General.—

“(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a ‘participating Federal agency’ is an agency that participates in the Department of Justice Assets Forfeiture Fund.

“(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

“(o) Bureau of Alcohol, Tobacco and Firearms.—

“(1) Except as provided in paragraph (2) and section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

“(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws;

“(B) the remission or mitigation of such forfeiture; and

“(C) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

“(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

“(p) Definitions.—For purposes of this section—

“(1) Department of the Treasury Law Enforcement Organization.—The term ‘Department of the Treasury law enforcement organization’ means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

“(2) Secretary.—The term ‘Secretary’ means the Secretary of the Treasury.”.

(b) Clerical Amendment.—The table of sections for chapter 97 of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new item:

“9703. Department of the Treasury Forfeiture Fund.”.

### SEC. ____. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Anti-Drug Abuse Act of 1988.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

“(b) Deposits.—There may be transferred to and deposited into the Special Forfeiture Fund, amounts from—

“(1) the Department of Justice Assets Forfeiture Fund pursuant to section 524(c)(9) of title 28, United States Code, and

“(2) the Department of the Treasury Forfeiture Fund pursuant to section 9703(g)(3)(A) of title 31, United States Code.”.

(b) Title 18.—

(1) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(A) by inserting “471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545,” after “section 215,”;

(B) by inserting “842, 844,” after “656, 657,”; and

(C) by inserting “1028, 1029, 1030,” after “1007, 1014,”.

(2) Section 982(a)(2) of title 18, United States Code, is amended to read as follows:

“(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

“(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution; or

“(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.”.

(c) Title 28.—Section 524(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

“(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

“(i) payments for—

“(I) contract services,

“(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties, and

“(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

“(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

“(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

“(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

“(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program),

“(II) training,

“(III) printing,

“(IV) the storage, protection, and destruction of controlled substances, and

“(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;”;

(B) by amending subparagraph (F) to read as follows:

“(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

“(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

“(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;”;

(C) by striking “and” at the end of subparagraph (G);

(D) by redesignating subparagraph (H) as subparagraph (I);

(E) by inserting after subparagraph (G) the following new subparagraph:

“(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;”;

(F) in the first sentence of the flush paragraph following subparagraph (I) (as redesignated by subparagraph (D))—

(i) by striking “(A)(ii)” and inserting “(A)(iv)”; and

(ii) by striking “and (G)” and inserting “(G), and (H)”;

(2) in paragraph (4)—

(A) by inserting “Federal,” in subparagraph (B) before “State”;

(B) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(C) by adding at the end thereof the following new subparagraph:

“(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.”;

(3) in paragraph (6)(B), by striking clause (v) and inserting:

“(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more; and”;

(4) in paragraph (9)(A)—

(A) by striking “(A)(ii)” and inserting “(A)(iv)”; and

(B) by striking “and (G)” and inserting “(G), and (H)”;

(5) in paragraph (9)(E), by striking “to procure vehicles, equipment, and other capital investment items”; and

(6) by striking paragraph (11) and adding at the end thereof the following new paragraphs:

“(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

"(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.".

(d) TITLE 39.—

(1) Section 2003(b) of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes.".

(2) Section 2003(e)(1) of title 39, United States Code, is amended by inserting after the first sentence the following new sentence: "The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service.".

AMENDMENT NO. 3232

On page 1811, after line 9, insert:

Subtitle D—Trade Provisions

**SEC. 8301. TREATMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS UNDER THE GENERALIZED SYSTEM OF PREFERENCES.**

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Union of Soviet Socialist Republics".

## MITCHELL AMENDMENT NO. 3233

Mr. MITCHELL proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of subtitle C of title VI, insert:

**SEC. . TREATMENT OF FOOTWEAR AND LEATHER-RELATED PRODUCTS.**

(a) IN GENERAL.—U.S. Note 2 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) in paragraph (b), by inserting "footwear, leather-related products," after "apparel article,";

(2) by striking the flush sentence following subparagraph (ii); and

(3) by adding at the end thereof the following new paragraph:

"(c) As used in this note—

"(i) the term 'beneficiary country' means a country listed in general note 3(c)(v)(A); and

"(ii) the term 'leather-related products' means articles of handbags, luggage, flat goods, work gloves, and leather wearing apparel described in section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

## D'AMATO (AND MOYNIHAN) AMENDMENT NO. 3234

Mr. PACKWOOD (for Mr. D'AMATO, for himself, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 11, supra, as follows:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c)–(e) are renumbered subsections (d)–(f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

"(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991.

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(B)(ii) before importation into the United States * * *

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small.

The administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii) (I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is

## PACKWOOD AMENDMENT NO. 3235

Mr. CHAFEE (for Mr. PACKWOOD) proposed an amendment to the bill H.R. 11, supra; as follows:

On page 1452, between lines 6 and 7, insert:

**PART V—OTHER PROVISIONS**

**SEC. 4841. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.**

(a) 3-YEAR EXTENSION.—

(1) IN GENERAL.—Subsection (c) of section 7608 (relating to undercover operations) is amended by adding at the end thereof the following new paragraph:

"(6) TERMINATION.—The provisions of this subsection shall cease to apply on and after September 1, 1995; and all amounts expended pursuant to this subsection shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before such date."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1992.

(b) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and general use of the proceeds from the operation,

"(III) a description of the operation including the potential violation being investigated, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

### SEC. 4842. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, for appropriate law enforcement purposes prescribed by regulations, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i) or (8)" and inserting "(i)(3)(B)(i)", and

(C) by striking "or (12)" and inserting "(12), or (13)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (13)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 4843. ALTERNATIVE METHODS OF VERIFYING RETURNS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 61 is amended by adding at the end the following new section:

### "SEC. 6066. AUTHORITY TO PRESCRIBE ALTERNATIVE METHODS OF VERIFYING RETURNS, ETC.

"(a) AUTHORITY.—The Secretary may, on a trial basis, provide for methods (other than signing) for verifying returns, declarations, statements, or other documents required to be made under the internal revenue laws and regulations. Such authority shall apply during calendar years 1993, 1994, 1995, 1996 and 1997.

"(b) TREATMENT OF ALTERNATIVE METHODS.—Any document verified under any method adopted under subsection (a) shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(c) REPORT.—The Secretary shall, no later than December 31, 1995, report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of any trial conducted under subsection (a)."

(b) REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall study each trial conducted under section 6066 of the Internal Revenue Code of 1986 (as added by subsection (a)) and report to the Congress the results of such study not later than December 31, 1995. Such report shall include recommendations as to whether, and in what form, the authority under such section should be continued.

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6066. Authority to prescribe alternative methods of verifying returns, etc."

### SEC. 4844. MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES NO LONGER EXCLUDED FROM EARNED INCOME CREDIT, ETC.

(a) IN GENERAL.—Subparagraph (E) of section 32(c)(3) (defining qualified child) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end thereof the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1992.

### SEC. 4845. TAX TREATMENT OF CERTAIN COMBAT PAY.

(a) MONTHLY EXCLUSION OF COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Section 112(b) is amended by striking "$500" and inserting "the applicable amount".

(2) APPLICABLE AMOUNT.—Section 112(c) is amended by adding at the end the following new paragraph:

"(5) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—The term 'applicable amount' means $2,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 1994, the $2,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $2,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied for purposes of this clause by substituting 'calendar year 1993' for 'calendar year 1989'."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to service in a combat zone after December 31, 1993.

(b) EXTENSION OF SPECIAL TAX TREATMENT FOR PRISONERS OF WAR AND MISSING IN ACTION OF PERSIAN GULF CONFLICT.—

(1) IN GENERAL.—Paragraph (1) of section 112(d), as amended by subsection (c)(2)(B), is amended by inserting "or the Persian Gulf conflict" after "Vietnam conflict".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 112(d) is amended by adding at the end the following new sentence: "For purposes of this subsection, an individual is in missing status as a result of the Persian Gulf conflict if, immediately before such status began, the individual was performing service in the combat zone designated by Executive Order 12744 during the period of combatant activities, or the individual was performing service in Southwest Asia and was entitled to special pay for hostile fire or imminent danger under section 310 of title 37, of the United States Code by reason of being in direct support of military operations in such combat zone during such period."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(c) CLASSIFICATION OF VIETNAM SERVICE.—

(1) IN GENERAL.—Section 112(c)(3) is amended by inserting ", and May 7, 1975 shall be considered the date of termination of combatant activities in the combat zone designated in Executive Order 11216" after "Executive Order 10195".

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 112(d)(3) is amended by striking ", and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

(B) Paragraphs (1) and (2) of section 112(d) are each amended by striking "during the Vietnam conflict as a result of such conflict" and inserting "as a result of the Vietnam conflict".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of the Persian Gulf conflict, the amendment made by paragraph (2)(B) shall apply on and after January 1, 1991.

At the end of title VIII of the Committee amendment, insert:

### SEC. ____. UNRELATED BUSINESS INCOME TAX TREATMENT OF MAILING LISTS.

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end the following new subsection:

"(i) EXCHANGES AND RENTALS OF MEMBER LISTS.—

"(1) IN GENERAL.—In the case of an organization to which this subsection applies for any taxable year, the term 'unrelated trade or business' does not include any trade or business which consists of—

"(A) exchanging names and addresses of donors to (or members of) such organization with any other person, or

"(B) renting such names and addresses to any other person, but only if the aggregate income from such rental for the taxable year does not exceed 10 percent of the organization's gross revenue for the taxable year.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), and

"(B) any organization described in section 501(c)(4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 513(h) is amended by striking "include—" and all that follows and inserting "include activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions."

(2) The subsection heading for section 513(h) is amended by striking "AND EXCHANGES AND RENTALS OF MEMBER LISTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to exchanges and rentals of member lists before, on, or after the date of the enactment of this Act.

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## BREAUX (AND OTHERS) AMENDMENT NO. 3236

Mr. CHAFEE (for Mr. BREAUX, for himself, Mr. GRAHAM, Mr. MACK, Mr. JOHNSTON, Mr. INOUYE, and Mr. AKAKA) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of the Committee Substitute add the following new section.

**SEC. . APPLICATION OF LOW-INCOME HOUSING CREDITS AND MORTGAGE REVENUE BONDS TO NATURAL DISASTER AREAS.**

(a) LOW-INCOME HOUSING CREDITS.—

(1) SPECIAL RULES IN THE EVENT OF A NATURAL DISASTER.—

(A) WAIVER OF 24-MONTH COMPLETION REQUIREMENT.—Section 42(h)(1)(E) (relating to exception where 10 percent of cost incurred) is amended by adding at the end the following new clause:

"(iii) WAIVER IN CASE OF NATURAL DISASTER.—In the case of any qualified building located in a natural disaster area with respect to which an allocation is made before the occurrence of the natural disaster, the Secretary may extend the period described in clause (i) to not later than the close of the fourth calendar year following the calendar year in which the allocation is made."

(B) WAIVER OF WRITTEN INCOME CERTIFICATION REQUIREMENT.—Section 42(l) (relating to certification and other reports to Secretary) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR NATURAL DISASTER AREAS.—

"(A) IN GENERAL.—With respect any occupant of a low-income unit in any qualified low-income building located in a natural disaster area or any such occupant in any other qualified low-income building who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirements of paragraphs (1) and (2) regarding occupant income information until such information is reasonably obtainable.

"(B) DISCOVERY OF INELIGIBILITY.—If upon receipt of such information the income of any occupant of a low-income unit in the building is determined to exceed the income limitation under subsection (g), such unit shall continue to be treated as a low-income unit if no subsequently available residential rental unit in the building is occupied by a new resident whose income exceeds such income limitation and such occupant vacates the unit upon the later of the lease termination or 30 days after receipt of such information by the Secretary."

(C) WAIVER OF TENANT INCOME LIMITATIONS.—Section 42(g)(1) (defining qualified low-income housing project) is amended by adding at the end the following new sentence: "With respect to any tenant occupancy a unit in a qualified low-income housing project located in a natural disaster area who relocates to any other unit of a qualified low-income housing project, the Secretary may waive the income limitation of subparagraph (A) or (B) if the income of such tenant does not exceed 140 percent of such income limitation."

(D) WAIVER OF 6-MONTH RESIDENCE REQUIREMENT.—Section 42(i)(3)(B) (relating to exceptions to definition of low-income unit) is amended by adding at the end the following new clause:

"(v) WAIVER OF TRANSIENT RESIDENCE RULE IN CASE OF NATURAL DISASTER.—With respect to any unit in a building located in a natural disaster area or any unit occupied by individuals who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirement of clause (i) and allow the use of such unit on a transient basis."

(E) WAIVER ON 10-YEAR RULE FOR EXISTING BUILDINGS.—Section 42(d)(2)(D) (relating to special rules for subparagraph (B)) is amended by adding at the end the following new clause:

"(iv) WAIVER IN CASE OF NATURAL DISASTER.—The Secretary may waive the requirement of subparagraph (B)(ii) with respect to any building located in a natural disaster area."

(F) WAIVER OF THE NATIONAL POOL ALLOCATION.—Section 42(h)(3)(D)(iii) (relating to formula for allocation of unused housing credit carryovers among qualified States) is amended by inserting before the last sentence the following new sentence: "The Secretary may modify the formula described in the preceding sentence for any calendar year with respect to the allocation to any qualified State in which is located a natural disaster area to increase such allocation to take into account the effects of such natural disaster.

(G) NATURAL DISASTER AREA DEFINED.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) NATURAL DISASTER AREA.—The term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 1992.

(b) MORTGAGE REVENUE BONDS.—

(1) WAIVER OF DOLLAR LIMITATION FOR HOME IMPROVEMENT LOANS FOR RESIDENCES IN NATURAL DISASTER AREAS.—Section 143(k)(4) (defining qualified home improvement loan) is amended by adding at the end the following new flush sentence:

"The $15,000 limitation specified in the preceding sentence shall not apply to any loan for residences located in a natural disaster area. For purposes of the preceding sentence, the term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to financing provided on or after June 30, 1992, and before January 1, 1994.

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## McCAIN (AND OTHERS) AMENDMENT NO. 3237

Mr. CHAFEE (for Mr. McCAIN, for himself, Mr. INOUYE, and Mr. DOMENICI) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert:

### Subtitle D—Indian Employment and Investment

**SEC. 8221. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.**

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

| "In the case of qualified Indian reservation property which is: | The Indian reservation percentage is: |
|---|---|
| Reservation personal property ....... | 10 |
| New reservation construction property. | 15 |
| Reservation infrastructure investment. | 15. |

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) Reservation personal property.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) Qualified personal property.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) New reservation construction property.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) Qualified real property.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) Reservation infrastructure investment defined.—

"(i) In general.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) Property may be located outside the reservation.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) Real estate rentals.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) Indian reservation defined.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) Limitation based on unemployment.—

"(A) General rule.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) Special rule for large projects.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) Determination of Indian unemployment.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) Lodging to qualify.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) Recapture.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) Special rules for Indian reservation property.—

"(A) In general.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) Amount of increase.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) Basis Adjustment To Reflect Investment Credit.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) Certain Governmental Use Property To Qualify.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) Exception for reservation infrastructure investment.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) Clerical Amendments.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

**SEC. 8222. INDIAN EMPLOYMENT CREDIT.**

(a) Allowance of Indian Employment Credit.—Section 38(b) (relating to general business credits), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) Amount of Indian Employment Credit.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

**"SEC. 45. INDIAN EMPLOYMENT CREDIT.**

"(a) Amount of Credit.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

(2) the credit limitation amount determined under subsection (e).

"(b) Qualified Wages; Qualified Employee Health Insurance Costs.—For purposes of this section—

"(1) Qualified wages.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) Qualified employee health insurance costs.—

"(A) In general.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) Exception for amounts paid under salary reduction arrangements.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) Qualified Employee.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1992.

### SEC. 8223. COORDINATION WITH ENTERPRISE ZONES.

Nothwithstanding the provisions of subchapter U of chapter 1 of the Internal Revenue Code of 1986, no Indian reservation enterprise zones shall be designated, and no area within any Indian reservation shall be designated as a tax enterprise zone.

## BENTSEN AMENDMENT NO. 3238

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new section:

### SEC. ____. AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than June 30, 1993.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

## SASSER (AND OTHERS) AMENDMENT NO. 3239

Mr. SASSER (for himself, Mr. RIEGLE, Mr. DANFORTH, and Mr. GORTON) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the Committee amendment, insert:

**SEC. . TREATMENT OF CERTAIN TRANSPORTATION INCOME.**

(a) IN GENERAL.—Section 863(c)(1) is amended to read as follows:

"(1) TRANSPORTATION INCOME BEGINNING AND ENDING IN THE UNITED STATES AND CERTAIN LEASING INCOME.—The following items of gross income shall be treated as income from sources within the United States:

"(A) All transportation income attributable to transportation which begins and ends in the United States.

"(B) All transportation income attributable to the leasing of aircraft (excluding containers) directly or indirectly to a United States resident, (as defined in section 865(g)), for use by the United States resident, except that this subparagraph shall only apply to income from the leasing of aircraft manufactured in the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any lease agreement made after July 1, 1993, in taxable years ending after such date.

## ADDITIONAL STATEMENTS

## A WINDOW OF OPPORTUNITY TO CURB TV VIOLENCE

• Mr. SIMON. Mr. President, we have just passed the midpoint of the 3-year Television Violence Act, signed into law in December 1990.

The act temporarily waives antitrust laws to allow the members of the television industry to devise, consider, and implement voluntary guidelines on televised violence. By now, the research evidence clearly shows that excessive violence on TV harms children and contributes to the rising level of violence in our society.

In the last 2 months the three major broadcast networks have used the law to convene meetings to discuss this issue, and the cable industry has commissioned a study on this subject that is due in the next few weeks.

Though these signs of movement are welcome, it remains to be seen whether the television industry will let this law expire at the end of next year without coming up with meaningful new efforts to reduce the amount of violence on our airwaves. It also remains to be seen whether the viewing public will allow this to happen without letting their voices be heard.

Mr. President, I call to the attention of my colleagues an editorial on this subject from the Salem News in Salem, OH, that recently came to my attention. I ask unanimous consent that it be printed in the RECORD in full.

The editorial follows:

### SIMON SAYS: DO TOUCH THAT DIAL

Sen. Paul Simon (D-Ill.) is adamant that violence on television is causing violence in our society. But what can be done about it in a free society?

We are now midway through the three-year Television Act, signed into law in December, 1990. Through the act, authored by Simon, the television industry (networks, cable, independents, producers and creative talent, and local stations) was granted a three-year exemption to develop and implement voluntary, industry-written guidelines on TV violence. But with the exception of the cable industry, Simon reports, the television industry "seems to be in a test pattern, hoping the law will lapse before the public notices."

The National Cable Television Association has responded by commissioning an intensive study of TV violence in cable programming, and due later this year.

In the meantime, Simon says in a release, "research evidence continues to mount showing that excessive exposure to TV violence harms children and contributes to real-life violence in society."

Simon took the Senate Floor recently to mark the mid-point and to call public attention to the industry's inaction. The following information appeared in the Congressional Record of Tuesday, June 30, 1992, in which Simon (in addition to his own statements) submitted the article "Television and Violence" by Dr. Brandon S. Centerwall of the Department of Psychiatry and Behavioral Sciences, University of Washington, Seattle.

Simon said in defense of "real news" reporting, "violence on the news does not glamorize violence. Entertainment violence glamorizes violence."

Centerwall's article says "the impact of television on children is best understood within the context of normal child development." Children are born "with an instinctive capacity and desire to imitate adult human behavior." However, they "do not possess an instinct for gauging whether a behavior ought to be imitated." A young child cannot always distinguish fact from fantasy.

The Centerwall article says as children get older they know better, "but the earliest and deepest impressions were laid down when the child saw television as a factual source of information about a world outside their homes where violence is a daily commonplace and (where) the commission of violence is generally powerful, exciting, charismatic, and efficacious."

The lengthy Centerwall article contains detailed statistical accounts of how the introduction of television in certain societies has affected the homicide rate (when the "television generation" of that society comes of age).

But, says Centerwall, just as "in the war against tobacco, the tobacco industry is the last group from whom we'd expect any meaningful action," so we cannot expect the television industry (which is "in the business of selling audiences to advertisers") to take voluntary action that would have a negative impact on its revenue.

Centerwall says, for example, if the demand for tobacco decreases by 1 percent, that industry would lose $250 million annually. Likewise, if the television audience were to decrease by 1 percent, the television industry could lose $250 million annually in advertising revenue.

Back to the basics. The solution. "For children, less TV is better, especially violent TV," says the Centerwall article.

Centerwall's summary is sensible: "It is not reasonable to address the problem of motor vehicle fatalities by calling for a ban on cars. Instead, we emphasize safety seats, good traffic signs, and driver education. Similarly, to address the problem of violence caused by exposure to television, we need to emphasize time-channel locks, program rating systems, and education of the public regarding good viewing habits."•

## IN RECOGNITION OF THE CONTRIBUTIONS OF CHIEF OREN LYONS OF THE ONONDAGA NATION OF THE IROQUOIS CONFEDERACY TO THE PUBLICATION OF "EXILED IN THE LAND OF THE FREE"

• Mr. INOUYE. Mr. President, I rise today in recognition of the important contributions that a highly respected Indian leader, Chief Oren Lyons of the Onondaga Nation of the Iroquois Confederacy, has made to a publication that will be officially presented to the Select Committee on Indian Affairs on October 12, 1992. I am proud to call this great leader my friend and advisor.

Mr. President, in November of 1986, I assumed the position of the chairman of the Senate Select Committee on Indian Affairs. At that time, I am sad to report that like many other Americans, I knew very little about the contributions that this Nation's first Americans have made to the fabric of American society. I was soon to learn that the ignorance regarding the native people of America is pervasive.

Apparently, few Americans are aware that the fundamental structure of our democratic form of government has its origins in the Iroquois Confederacy. Many may not know that the debates of the Continental Congress contain many references to the Indian nations. Few know that it was the Indians who enabled Gen. George Washington and his troops to survive the winter at Valley Forge. It is not well known that Indian people fought side by side with the soldiers of the American Revolution, nor is it well known that more American Indians have served in the Armed Forces of the United States in every military action since the time of the Revolutionary War, in numbers proportionately far greater than any other ethnic group in the United States.

Many Americans have no idea that historians and anthropologists suggest that there were a minimum of 10 million, and as many as 50 million native people residing in the land that subsequently became the United States prior to European contact. And because the era known as the Indian wars era is not typically documented in basic history primers, it may well be that most Americans are unaware that the effort to control greater areas of land then occupied by the Indians, decimated the Indian population so effectively that there were approximately 250,000 Indian people remaining in the United States at the end of the Indian wars era.

Nor is the fact that Indian people once exercised dominion and control over 550 million acres of land, and that through conquest, and all too frequently misrepresentation, those lands were systematically taken from the Indians, so that today, they are left with less than 50 million acres of land.

The Indian nations entered into 800 treaties with the United States. These were solemn and sacred documents that promised the Indians that "as long as the rivers flow, and the Sun rises in the east", the lands and the resources that had been secured to them would be protected in perpetuity. In exchange for the cession of vast amounts of land, the Indians were promised that the Great White Father would provide them with health care and education for all the generations to come.

The Indian people lived up to the commitments they made in those treaties. They sacrificed their ancestral homes, the lands upon which they hunted and fished and gathered berries and roots for their subsistence. They were and remain today people who revere the mother Earth and her bounty, people who were environmentalists and conservationists long before those terms gained common currency.

However, those 800 treaties were only honored unilaterally. The U.S. Senate refused to ratify 430 of them, even though the Government charged the Indians with living up to the terms of those treaties. Even more tragically, of the 370 treaties that were ratified, the United States proceeded to violate provisions in every single one.

Perhaps it is because there are many chapters in what we term "American" history which record atrocities and cruelties of the worst kind imposed upon the native people of America, that our history books evidence a reluctance to view American history from the perspective of native people.

So it is with much enthusiasm that I commend this publication to the American people. Our children and their children should know the true story of our history. They should read from those pages of history of which we can be proud, and they should also know that there are a people of this Nation upon whose ancestral lands we now reside—a people who sacrificed their homelands so that we could build a country called America—a people who despite the great adversity we thrust upon them, gave generously of themselves in every respect. This is a chapter of history that we must all have the opportunity to learn and a chapter that we, as Americans, must never forget.

Mr. President, I call upon my colleagues to join me in expressing our deep appreciation to Chief Oren Lyons for his years of dedication to this effort.•

## PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators who have inquired with respect to the schedule for next week, the Senate will begin consideration of the ratification of the START Treaty at 1 p.m. on Monday, September 28. There will be no rollcall votes on that day. Those Senators who wish to proceed to participate in that debate should be present.

It had been my hope and my intention that we could proceed to consideration of that bill without the necessity of filing a cloture motion. But as all Senators know who were present last evening, the distinguished Senator from Wyoming, Senator WALLOP, expressed his objection to proceeding in the manner which I proposed, and therefore, having no alternative, I filed a cloture motion on the START Treaty today. Under Senate rules, that cloture motion will ripen on Tuesday morning. Unless there is agreement to the contrary, a vote on cloture on the START Treaty will occur approximately 1 hour after the Senate convenes on Tuesday morning.

It is presently my intention that the Senate will convene at or about 9 a.m. on Tuesday, and therefore a cloture vote on START should occur at approximately or shortly after 10 a.m. on Tuesday morning.

When we complete action on the START Treaty, it is my intention to attempt to turn to consideration of the authorization bill for the National Institutes of Health, which includes important provisions regarding fetal tissue research. Since I cannot now know when we will complete action on the START Treaty, I am unable to state precisely when we will begin that consideration or under what circumstances. But I want Senators to know of my intentions in that regard.

We have a number of other important measures to consider during what I expect will be the final week of this Congress, and therefore Senators should plan on late sessions with many votes during the day beginning next Tuesday morning and extending through the following Monday night, October 5. The target date for final adjournment is Monday, October 5.

Sessions are possible every day including next Saturday and Sunday, if necessary. I am determined that we will complete this Congress by October 5, and state now my intentions so all Senators can be on notice. I will do everything within my power to see that we achieve that objective, and that means long and busy sessions next week.

I hope Senators will understand that in the interest of completing action on the remaining important measures we have but concluding not later than the close of business on Monday, October 5.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if I might ask the distinguished majority leader a question.

Mr. MITCHELL. Yes.

Mr. CHAFEE. We all appreciate the definitiveness with which the Senator has outlined the schedule because I think that is splendid. We now know that we have to be here certainly by Tuesday at 10 o'clock and previously thereto to get some of the debate in connection with the START Treaty. I know that the majority leader has stuck to his guns in trying to get out early. I thought it was going to be October, maybe 4, but no later than October 5 is now the goal.

Mr. MITCHELL. Yes, that is correct. Mr. President, let me state to the Senator——

Mr. CHAFEE. And that is fine by me. I think it is wonderful, and I hope we can achieve it. Certainly, as a Senator, I will do everything I can to be helpful.

Mr. MITCHELL. As the Senator knows, the one aspect of the public business which we must by law complete prior to final adjournment is, of course, enactment of all of the appropriations bills. It had been my hope that we could do so prior to the end of this fiscal year at midnight next Wednesday. It now appears that will not be possible, although I think we will be very close.

Therefore, it is my understanding, following meetings with the House leadership and the distinguished Republican leader in the Senate and others, that the best and most realistic objective is the close of business on Monday, October 5. It is my intention to do everything I can to see we meet that objective.

## ORDERS FOR MONDAY, SEPTEMBER 28, 1992

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Monday, September 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 1 p.m., with the time under the control of the majority leader or his designee; that at 1 p.m. on Monday, the Senate proceed into executive session to consider Treaty Document No. 102-20, the START Treaty.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## RECESS UNTIL MONDAY, SEPTEMBER 28, 1992

Mr. MITCHELL Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:39 p.m., recessed until Monday, September 28, 1992.

# SENATE—*Monday, September 28, 1992*

*(Legislative day of Wednesday, September 23, 1992)*

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Reverend Dr. Richard C. Halverson, Senate Chaplain, will lead the Senate in its prayer to the God of our fathers.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.*— Isaiah 1:18.

Aveeno Malkaynoo—Our Father, Our King.

Gracious, forgiving God, our Father and King, we praise and thank You for Your invitation to reason and forgiveness through the prophet, Isaiah. As the Jewish community celebrates Rosh Hashanah—the beginning of their new year—10 days of fasting and celebration for Yom Kippur, the Day of Atonement. May all people realize and accept the generous offer of forgiveness by the infinite and unconditional love of a God who really cares. And may all of us join our Jewish brothers and sisters in responding to this profound divine initiative, examine our own hearts, acknowledge our guilt, and receive the generous, rational relief of forgiveness and cleansing which the eternal God promises.

In the name of the Lord our God. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader.

## SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, there will be a period for morning business to extend until 1 p.m. today during which time Senators will be recognized to speak.

I expect that at promptly 1 p.m. the Senate will begin consideration of the START Treaty. We will remain in session today for as long as any Senator wishes to discuss that subject. For any Senator who wishes to discuss the START Treaty, the Senate will remain in session today so long as there is any Senator who wishes to do so.

My efforts to obtain an agreement on the disposition of that matter were not successful, and accordingly on Saturday I filed a cloture motion to terminate debate on the matter and permit the Senate to conclude its consideration. Under the Senate rules, the vote on that cloture motion will occur 1 hour after the Senate convenes tomorrow morning unless agreement is reached to the contrary prior to that time. As of now I do not anticipate agreement contrary to that. It remains possible.

If no such agreement is reached then the Senate will vote on cloture on the START Treaty at approximately 10 a.m. tomorrow. But I will have a further announcement, either confirming that time or stating the alternative time, later today.

Mr. President, I reserve the remainder of my leader time, and I now yield to the distinguished Republican leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, the time of the majority leader will be reserved.

The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SALUTE TO ALAN DIXON

Mr. DOLE. Mr. President, everyone in the Senate will miss many things about ALAN DIXON next year, but at the top of anyone's list would be his warm personality and his love of the Senate.

In many ways, ALAN DIXON succeeded Hubert Humphrey as the Senate's happy warrior. Senator DIXON was unabashedly proud to admit that he loves politics and he loves public service.

Abraham Lincoln once said that, "No man can govern another without the other's consent."

For over 40 years, the citizens of Illinois gave that consent to ALAN DIXON.

Senator DIXON was only 21 years old when he was elected to his first office: Police magistrate of Belleville, IL, in April 1949.

Since that day he has run in 30 primary and general election campaigns, and won 29 of those races.

That is a batting average any ballplayer would envy.

And ALAN DIXON has made quite a few hits here in the Senate. From his seat on the Armed Services Committee, he succeeded time and again in imposing tight controls and some common sense in the Pentagon procurement system.

But Senator DIXON succeeded most often when he was going to bat for his home State of Illinois. No one has ever fought harder for Illinois agriculture, manufacturing, and jobs.

I am confident that he will bring the same energy and enthusiasm to his next assignment as he has to the U.S. Senate.

## SALUTE TO TIM WIRTH

Mr. DOLE. Mr. President, some of the most important congressional elections in recent history were those of 1974.

Ninety-two new Members were elected to the House of Representatives—the largest number of freshmen since 1948.

These new Members were relatively young, inexperienced, and they came to Washington to change things.

And one of the most vocal of those freshmen was a young Congressman from Colorado named TIM WIRTH.

For 12 years in the House, and 6 in the Senate, TIM WIRTH has fought for change on issues of importance to him.

On matters ranging from the environment to banking to telecommunications, Senator WIRTH showed a willingness to tackle the tough issues, and to move the debate off the status quo.

Senator WIRTH and I did not agree on many issues, but we both have enjoyed the give and take of debate, and I have never doubted his commitment to public service.

One thing that Senator WIRTH and I did share in common was a deep admiration and respect for our late colleague, Senator John Heinz. I know his tragic and untimely death was a heavy blow for Senator WIRTH, and I know what a loyal and caring friend he and his wife, Wren, have been to John's widow, Teresa, and their three sons.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been noted, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Washington [Mr. GORTON].

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

## THE MYTH OF OVERCUTTING OUR FORESTS

Mr. GORTON. Mr. President, various news media and national environmentalist organizations have been perpetuating the myth that we are overharvesting our forests in the Pacific Northwest. That is a myth perpetuated in a column found in today's Washington Post by James J. Kilpatrick. The perception that our appetite for wood is outstripping the inventory is alarming. But that perception is not grounded in fact. This is a case in which it is politically expedient to perpetuate a myth.

The Washington timber supply study was released in July of this year. It was a study 2 years in length funded by the Washington State Legislature and conducted by the College of Forest Resources at the University of Washington with cooperation by the U.S. Forest Service.

The study shows that limitations on our timber harvests are found not in the forest resource, but in our public policies.

I repeat: The study shows that limitations on our timber harvests are found not in the forest resource, but in our public policies. They are caused by public policies not by over harvesting the forest resource. The study said western Washington forests can continue to produce at 1980's levels for another century or more—assuming that public policy does not overrestrict the use of our public and private forests, and that public policy encourages investment in what is left.

The study concludes that "the initial conditions projections suggest that total Westside harvest levels roughly equivalent to the average of the 1980's could be maintained for several decades."

The study assumes that private landowners, especially large ones, will be motivated and allowed to increase yields on their lands. In fact, the Endangered Species Act protections currently being imposed on private landowners for the northern spotted owl, stringent new State forest practice regulations, attacks and blaming by Democrats and environmentalists, a misinformed focus on log exports, plus other species slated for listing on the endangered species list, all ensure a virtual inability to sustain harvest levels on private lands.

This study, and any other study of the supply of timber, focuses on what is called inventory. Common sense tells us that an inventory provides information about the number of trees in the forest and the amount those trees grow each year. For the most part this is true, but vast forests are difficult to survey. There are two severe limitations on the ability to project growth.

First, the Forest Service does not even count trees smaller than 5 inches in diameter. This means that most trees 30 years old and younger are not even measured in inventory data. This is a significant portion of the forest inventory that is not even counted, especially when you consider that the growth of trees tapers off as the tree gets older. Most of a tree's growth appears in the early years of the tree's life. These years are not even counted in inventories.

Second, old growth trees have, for the most part, stopped growing. The harvest of older trees is, by this flawed definition, always overharvesting. Cutting down trees that have stopped growing will always result in a net loss of volume. This is simply an inevitable consequence of the nature of this measuring device.

After World War II, many of our national forests in the Northwest were converted from old forests to young forests. Regardless of the degree of regeneration, those converted forests were between zero and 30 years old in the late 1980's and early 1990's and therefore are not recorded in most inventories. Most inventories reflect the mature, older stands that are ready for harvest. When those stands are harvested they are, of course, not reflected in the inventories. Therefore, a decrease in inventory is shown in the statistics even while a modest increase in growth is actually taking place.

Environmentalists claim that the wood products industry has ruined the land and the economy through its cut-and-run strategy. This study objectively carried on by the University of Washington proves that claim wrong. It also presents a challenge: The limitations on the productive use of our forests are not in the resource but in public policy. Our public policy must recognize that our forests are renewable, that we are not overharvesting and that we can balance environmental concerns with management for timber production.

The people of the Northwest depend on those public policies. They are good, hard-working families who know that the resource is renewable and harvestable. They know the myth of overharvesting is a lie. They know when politicians are masking the truth about our forests.

Mr. President, I ask unanimous consent that portions of the study referred to in these remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WASHINGTON TIMBER SUPPLY STUDY

### EXECUTIVE SUMMARY

The Washington Timber Supply Study was commissioned by the Washington Legislature to secure more detailed data on Western Washington's forest resource base and to update earlier studies of future supplies of timber to the State's mills. Its objectives were to: (i) identify the potential range of future harvests in Western Washington, highlighting those aspects of owner behavior and the resource base most important in establishing the variance of harvest over time, and (ii) translate harvest projections into impacts on forest industry employment and wildlife habitat.

The initial conditions projections suggest that total Westside harvest levels roughly equivalent to the average of the 1980's could be maintained for several decades. This would involve a shift in the ownership composition of harvest toward private and Department of Natural Resource (DNR) lands and a near-term increase in the hardwood proportion of harvest. Timberland area would decline by about 900,000 acres or 12 percent between 1990 and 2090, with nonindustrial private ownerships the principal source of this loss.

Average forest industry harvest levels observed during the 1980's could be maintained, with an increased share of hardwoods in the near-term. Nonindustrial timberlands also appear to have the physical potential to maintain average harvest levels of the 1980's, but with no associated increase in average hardwood share. Using Forest Service estimates of DNR inventory, projected harvests from DNR lands would be substantially higher than historical averages. With DNR estimates, projected harvests are well within the historical range. Harvest projections on both private and DNR lands are sensitive to the intensity of timber management, land base changes and restrictions on the minimum age of timber harvestable. Because industry lands have limited volumes of older timber, changes restrict timber available for current harvest have larger percentage impacts on industrial lands than on nonindustrial or DNR ownerships. National forest harvests are assumed to follow projections from the preferred alternative of the Forest Service's 1992 northern spotted owl EIS. This would entail a decline in the national forest share of Westside harvest from an average of 13 percent over the last decade to around 8 percent in the future. Other government lands could readily maintain the average harvest of the past 25 years.

Relative to 1989 levels, forest industry employment under initial conditions would fall by approximately 6,600 person-years or 11 percent by the year 2005. The composition of employment by sector (logging, milling, secondary manufacturing, etc.) would not be appreciably changed. The initial conditions projections portray a future forest land base in which the area of stands in the grass-forb, open sapling-pole, and closed sapling-pole-sawtimber classes decline, while areas of large sawtimber and old-growth increase. As a result, projected habitat suitability ratings fall for species with strong preferences in early successional stages and for those with "mixed" preferences across a range of early and late stages. Species with preferences in the large sawtimber and old-growth classes would appear to benefit, though the projected habitat suitability ratings do not account for the existence of specialized habitat characteristics or the effects of habitat fragmentation/aggregation.

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### ISSUE BRIEF ON U OF W TIMBER STUDY—IMPLICATIONS FOR PRESIDENT BUSH'S POSITION ON ESA

### SUMMARY

The just-released two-year study by the University of Washington College of Forest Resources provides vital, unbiased support to President Bush's position—and undermines the Democrats' position. But the study presents a paradox: it says the private forest resource is not overcut, and if given continued high intensity management for the next 100 years, will show minimal falloff in harvests. Then the paradox: this conclusion assumes that public policies do not unduly restrict incentives to manage intensively. In fact, these assumptions are already being undermined, especially by a tidal wave of Endangered Species Act applications aimed at public and private lands, as well as attacks on incentives to manage private lands intensively, such as overly restrictive forest practice rules, and restrictions on free markets incentives, such as private log exports.

### KEY POINTS IN THE STUDY

The core finding is a "base-case" that 1980's-level harvests can be maintained in Western Washington for 100 years, if private lands are permitted to be managed more intensively and federal lands are not over-restricted.

This refutes three key Clinton-Gore claims, that: (1) private and federal lands have been overcut; (2) the Endangered Species Act is not a limiting factor on jobs; and (3) solutions should include restricting private log exports.

The key limitation of the study is its focus on Western Washington, the area of the Northwest with the highest percentage of private forest land. The bad news is that the rest of the region is much more dependent on Federal timber, and therefore much more affected by reduced harvests forced by the ESA and other federal forest policies emphasizing non-commercial values.

The base-case assumes less ESA-related restrictions on private lands than is already the case: protecting the spotted owl must be done on private lands, and to higher levels than assumed in the study. So, while the study correctly assumes a 65–70% reduction of federal timber harvest for owl protection, (though Congressional adoption of the Lujan Plan would lower the federal harvest reduction to about a 30% loss) the study also projects a potential loss of 20% of the private lands harvests, as new state regs and stiff ESA rules are put on private lands. And none of this projects the public and private harvest and job losses from pending protections of butterflies, murrelets, martens, wolves and salmon.

The study assumes that private land owners, especially large ones, will be motivated and allowed to increase yield on their lands. In fact, the ESA protections for the owl, stringent new state forest practice regulations, attacks and blame-fixing by Democrats and environmentalists on private log exports, plus a stream of other forest species slated for ESA protection, virtually insure an inability to sustain harvest levels on private lands.

The environmentalists blame private log exports for declining timber supply, but the study says exports are not a direct issue. In fact, the study projects a natural redirection of export logs into domestic mills over time. Also, note that current private practice—selling a portion of private logs overseas—for many companies generates more cash flow to sustain high intensity forestry—than would be possible if exports were restricted, as many environmentalists advocate.

Environmentalists claim that private forest companies have ruined the environment and the economy, alleging a strategy of "cut and run." The study counters that claim, finding that past rates of harvest (about 1.5% per year) will allow the resource to sustain these harvest levels, and moreover, that projections of price, demand and interest rates show that rational industrial behavior justifies keeping private forests growing.

### BACKGROUND ON THE STUDY

The Washington State Legislature two years ago appropriated one million dollars to the U of W to update the inventory of timber, and assess the future ability of forests in Western Washington to sustain harvests. Industry did not fund the study, but cooperated with proprietary information.

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## OVERCUTTING VS. UNDERUTILIZATION: CAN WE NARROW THE DEBATE?

(By Bruce R. Lippke, Director, Center for International Trade in Forest Products, College of Forest Resources, University of Washington)

The debate about whether forests are being overcut continues to receive press coverage. Could the debate be concluded on a rational basis omitting a set of policies that would preclude overcutting as well as underutilization? Greber and Johnson (1991) shed considerable light on why that may not be possible as they identify eight different perspectives which form the basis for opinion on whether a particular rate of timber harvest constitutes overcutting.[1]

They suggest that "even when two individuals adopt the same basic perspective on overcutting they may arrive at different conclusions because they take different factors into account". Such differences generally derive from how the resource is measured.

Should the focus be on inventory or production? If the focus is on inventory, it can be maximized by retaining large old trees which unfortunately means that the trees are beyond their period of peak growth so that net new growth will decline as inventory peaks.

It is very costly to maintain a warehouse of timber in inventory, especially when it interferes with timber production which must precede timber sales as the only significant source for revenues to manage the forests.

As a consequence when the economic incentives drive foresters to increase or maximize timber production and sales revenue, it may necessarily involve reducing the old growth inventory. Which means that the harvest will exceed the growth for many years or, if the forest inventory was depleted through overcutting, fires, or other disturbances, growth would necessarily exceed harvest for some time.

How do growth, harvest and inventory measures relate to utilization: the Washington State case. For any given set of management objectives such as optimum economic timber production, a forest can be managed by accelerating or slowing down the harvest in conjunction with other management investments to reach target rates for sustainable rotations. Since most of the debate on overcutting relies on measures of harvest, growth and inventory it should be instructive to observe the target ratios of harvest to growth and inventory for forests of differing productivity and levels of management intensity.

The 1992 Washington State Timber supply study[2] provides an ideal set for observing the change in inventory relative to growth and harvest as the forest is managed toward target rotations. Each of the owner groups, industry, non-industrial private, state, and federal, are characterized by their different mix of land quality and management plans.

Table 1 summarizes the conditions of inventory, growth, and harvest for 1990 as the most recent period, 2010 as an intermediate point, and 2040 and 2080 approximately one and two rotations out.

TABLE 1

| | Industry | NIP | DNR | Federal |
|---|---|---|---|---|
| 1990: | | | | |
| Cut/stock | .050 | .036 | .027 | .008 |
| Cut/growth | 1.49 | 1.48 | 1.43 | 13.8 |
| Cut/acre in cu ft/acre/yr | 174 | 123 | 142 | 61 |
| 2010: | | | | |
| Cut/stock | .061 | .043 | .027 | .011 |
| Cut/growth | 1.05 | 1.20 | 1.07 | 4.5 |
| Cut/acre | 174 | 125 | 133 | 63 |
| 2040: | | | | |
| Cut/stock | .063 | .045 | .029 | .014 |
| Cut/growth | 1.02 | 1.06 | 1.05 | 1.16 |
| Cut/acre | 180 | 118 | 142 | 72 |
| 2080: | | | | |
| Cut/stock | .063 | .045 | .029 | .014 |
| Cut/growth | 1.01 | 1.04 | 1.02 | .99 |
| Cut/acre | 190 | 118 | 139 | 70 |

The harvest schedules used for these simulations are defined as "sequential even flow." That is, for each 5 year period the level of harvest is limited to that which can be supported as an even flow schedule for the next 50 years. Harvest levels are thereby allowed to increase or decrease provided that the inventory can support the harvest level for a 50 year look ahead period.

As table 1 shows, by 2010 most owners will be experiencing long-term stable conditions with the ratio of harvest to growth approaching 1.0. In 1990 several owner groups have sufficient mature inventory that their ratio of harvest to inventory is above these long term target levels. This condition of harvesting more than growth has frequently been claimed to be overcutting, an overcutting gap above growth.

A direct comparison between industry lands and non-industrial private lands (NIP) shows that in the long term, by 2080, the higher productivity and management intensity on industry lands which produce 190 cf/acre per year vs 118 for non-industrial private, also supports a much higher ratio of cut/stock (harvest/inventory), i.e., 6.3% vs 4.5%. In either case, the eventual ratio of cut/growth approaches 1.0. Since non-industrial private has a greater percentage of mature timber in their current inventory, the cut/growth ratio is still 1.20, in 2010, well above the long term ratio whereas industry lands are already close to the long term target at 1.05.

In both ownerships, there is currently sufficient mature inventory which may show little growth but also a growing young inventory with high growth, so that ratios over 1.4 during the first decade are not a problem for a sustainable harvest. There is less than a 5% variation in the industry harvest rate over the 90-year period with a somewhat larger impact on non-industry private lands based on expectations of greater land withdrawals over time. The excess of harvest over growth is in reality a measure of an excessive inventory of old growth rather than a measure of overcutting.

Sustainable harvests do not preclude cuts exceeding growth from current inventory: The message is clearly that sustainable even flow management constraints but otherwise optimum timber production can support a ratio of cut to growth well above 1.0 until the mature inventory is reduced to nothing larger than short term harvest needs. Furthermore, the ultimate ratio of cut/stock is dependent upon the productivity of the acres with harvest levels as high as 6% of the inventory for the highly productive west side industry lands and 4–5% on non-industrial lands.

Drawing these same comparisons with State or Department of Natural Resources

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[1] Greger, B., and N. Johnson. 1991. What's all this debate about overcutting? *Journal of Forestry* 89:11.

[2] Adams, D., and R. Alig. 1992. Future prospects for Western Washington's timber supply. College of Forest Resources, University of Washington, Seattle.

(DNR) lands should fall within this range as their productivity and expanded management intensity falls mid range between industry and NIP. However, DNR has agreed to defer the harvest of some 15% of their old growth for owl preservation thereby substantially reducing the ratio of cut/stock by maintaining more old growth than would be necessary for even flow management. Even this small 15% deferral has a large percentage impact on the ratio of harvest to inventory as it is a large portion of the volume in inventory. But with low growth on this inventory the overall ratio of harvest to growth still declines toward 1.0.

Interpreting these measures across single ownership groups of largely consistent land quality and management is much easier than looking at more aggregate groupings. As we select larger geographic regions or multiple ownerships the problem of noncompensating differences may elude our ability to understand the average affect across broader categories. For example, Table 2 shows these ratios for the South vs. the West based on an earlier Forest Service timber assessment.[3]

Drawing similar comparisons to the federal ownership becomes even more complicated. First, almost ⅔ of the federal land base has been withdrawn for owl and other nontimber management and is, therefore, no longer included in the 706,000 acres of harvestable federal land in Washington State. Second, even these remaining acres are subject to the 50-11-40 rule for owl management which requires that 50% of the forest landscape within a quarter township (or 5760 acres) must consist of stands with a mean dbh of 11 inches and a canopy closure of 40%. Since the federal harvests have largely been in the last twenty years, this nonuniform age class condition will reduce the number of harvestable acres below even flow constraints. As observed in table one for federal lands, the ratio of inventory being harvested in 1990 is less than 1% or only ⅙ of the percentage of inventory being harvested on industry lands, rising in 90 years as the stands mature to ¼ of that on industry lands or 1.4% of the inventory. The productivity of the federal acres is only about ⅓ of the industry lands which is only partially explained by the lower quality land base. Much of the lower productivity results from reduced management, longer rotations and not harvesting the overly mature stands as well as the 50-11-40 rule. The federal land productivity increases over 90 years by about 15% as the younger stands age.

TABLE 2

| | West | South |
|---|---|---|
| 1952: | | |
| Cut/stock | 1.8 | 6.0 |
| Cut/growth | 2.2 | .86 |
| 1976: | | |
| Cut/stock | 2.4 | 5.5 |
| Cut/growth | 1.6 | .80 |
| 1990: | | |
| Cut/stock | 3.0 | 4.8 |
| Cut/growth | 1.7 | .74 |
| 2030: | | |
| Cut/stock | 2.7 | 4.3 |
| Cut/growth | 1.06 | .9 |

With these broader categories the cut/stock in the west does not rise above 3%, even though we showed that, for industry lands, it could exceed 6% and be consistent with even flow harvesting. The ratio of cut/growth was as high as 2.2 in the west 40 years ago, when the inventory of old growth was quite high. While that ratio declines steadily, it takes until 2010 for the ratio to fall within a few percentage points of 1.0.

For the shorter rotations in the South, even 40 years ago the high rate of growth in young stands did not preclude the ratio of cut/growth from remaining below 1.0. In effect, the high growth of young Southern stands has allowed a doubling in the harvest even as the ratio of harvest growth remains below 1.0. In the West, however, the ratio asymptotically falls to 1.0 as the excess old growth (which is not supporting new growth) is utilized. The South was cutting as much as 6% of their inventory for many years, well above the longer-term target of only 4.3%.

Even flow harvest levels do not require harvest less than growth. These comparisons show quite clearly that even flow constraints by themselves allow the harvest of several percent of the inventory. The target harvest/inventory ratio is more than the inverse of the rotation age because the young stands, while growing fast, hold relatively little inventory. Furthermore, harvest rates can be well above growth rates for some time, until any excess of mature inventory is used up.

Additional constraints such as owl preservation from the 50-11-40 rule or other biodiversity practices may substantially reduce the productivity of the forest for timber purposes and restrict the rate of harvest.

Claims of overcutting cannot be based simply on measures of harvest in excess of growth or high rates of harvesting the inventory. New goals requiring the maintenance of more mature timber stands to provide other non-timber values such as biodiversity may reduce the production of timber and increase the standing inventory but measures of harvest to growth are not useful criteria for determining the measure of success for meeting on-timber goals. New factors such as the distribution of different stand structures including the number of acres in bush, closed canopy, thinned or pruned, and old growth become important measures for non-timber production values.

Mr. GORTON. Mr. President, I note the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been noted.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Delaware is recognized.

Mr. BIDEN. Parliamentary inquiry, Mr. President. Are we still in morning business?

The PRESIDENT pro tempore. The Senate is transacting morning business until 1 o'clock, with Senators permitted to speak therein who are the designees of the majority leader.

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## THE CRIME BILL

Mr. BIDEN. Mr. President, later this week the Senate will cast a very critical vote. We will decide whether or not we will respond to the cries and needs of the American people who are under siege in their homes, under siege in the streets, under siege in their workplace, and in their schools; who literally are living in fear of the rampant crime and drug abuse, of the use—unthinkable in the past—of high-powered weapons, the indiscriminate shooting and murdering that is going on in this country, in this very city. In this very city.

Since last November, the President of the United States and his allies in the U.S. Senate have repeatedly prevented us from passing a bill—referred to in the Senate jargon as a conference report—a conference report on the crime bill, thwarting the will of a clear majority of the U.S. Senate.

Opponents of the bill know that we have the votes to pass a crime bill and to respond to the people's needs. But by filibustering this bill they are forcing us to achieve a super majority of 60 votes just to get to be able to vote on dealing with the problems facing this country as they relate to crime. We are just 4 votes short of getting that super majority and this is the week we must make our final effort to do so. For, Mr. President, if we fail to respond at this moment, this week, to this crime bill conference report and get an opportunity to vote on it, there is going to be no significant—no, not just significant—no legislation this year dealing with the horrible situation, the crime that literally holds Americans hostage in their homes.

I would like to look at the situation quite frankly. We are in the worst period of violent crime in the entire history of this great country. Every one of us, every American is at risk.

Mr. President, I commute every day from here to Wilmington, DE, as the leader knows. And on occasion, when I know we are going to be in very late at night, I drive down from Wilmington, DE, so I have a vehicle to get home, because when the last train leaves there is no other way. It used to be that, when I left here at night, I did not have to worry at all about driving home other than running out of gas or being in an automobile accident. But I did not have to worry at all about violent crime. I would get in my car outside this great citadel of justice and freedom, get in my car and drive out to the Baltimore-Washington Parkway, to I-95, and home. On those very, very late nights when we were to get in early the next morning I would rent a room down the street—excuse me for being personal here—down the street at the Hyatt hotel or one of the hotels here nearby since I have no apartment or housing.

Two weeks ago, I believe it was, we were in very late. We were going to be in early the next morning. I started to walk down to my hotel. And a Capitol Hill policeman and someone from the Sergeant at Arms' office stopped me and offered me a ride.

And I said, "Oh, it's just down the block." It is four blocks; a beautiful, pristine park area.

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[3] USFS. 1982. An analysis of the timber situation in the United States, 1952-2030. Forest Service Report 23.

And they pointed out to me, Mr. President, that they would not—quote—"let me walk down."

I am not, any more than my friend from West Virginia is, very big on perks here in the U.S. Senate. I do not think either one of us have ever been accused of seeking the perks of office. And I felt it was kind of silly, until they insisted. They said if they did not, if I did not get in the car, they would literally follow me down, because a Congressman had been stabbed in the gutter right outside of the Hyatt hotel a little bit earlier, and one or two people had been shot in the park.

Driving home, my staff who lives here on the hill reminded me, do not stop at a stop light until I am out of town. If I see a red light late at night, since there is very little traffic, slow up at the other block so I never come to a full stop except in the middle of the block because of carjackings—stopping at a light, people standing at a corner walking up with a gun.

One of the people who works here in this building for the Sergeant at Arms' office told me he stopped at a 7-Eleven store on the way home, or a convenience gas station.

He pulled in, and just as he pulled in, a woman was getting out of her car to pump her gas. She walked over to pay the fellow in the middle aisle, and behind that bulletproof glass window, when somebody jumped in her automobile and took off with her automobile.

This particular fellow, a former police officer, follows the gentleman, runs him down, figuratively speaking. The car was out of control. He jumps out and goes over to the car. A young man reaches on the seat of the car, according to this particular person who works on the Hill, and takes what looks like a .9-millimeter pistol and said, "Don't." The fellow who works up here said, "Fine, the car is all yours."

What has changed, Mr. President, is that it used to be at least the women and men in this country, if they were very prudent about how they behaved, not whether they were good or bad, just prudent, did not walk certain places at night, did not do certain things that put themselves at risk, that they had a pretty good prospect of avoiding becoming the victims of violent crime. Not today, Mr. President. Prudence in no way will determine whether or not you can avoid being the victim of violent crime. It may increase your chances of not being a victim, but there is no place to hide, Mr. President.

Let us look at what has happened just in the last several years. Just in the period of time that the President of the United States has been blocking the legislation at the desk, 1.5 million violent crimes were committed in America. I am not talking about petty larceny, Mr. President, I am talking about violent crime; 1990 was a record year of murders in the United States, and 1991 set another record for murders in the United States.

By the end of the year, over 90,000 Americans will have been murdered in the first term of this administration; 90,000 Americans murdered by the end of this year. It is over 71,000 in the first 3 years. Think of that. The United States of America, 90,000 people murdered; 1,130,000 women reported incidents of domestic violence in 1991, including murder, rape, aggravated assault and simple assault, and the reported number grossly understates the actual totals. There were over 100,000 reported—reported—rapes in the United States last year alone, Mr. President, and the experts have testified before my committee and I know the Presiding Officer knows a great deal about the criminal justice system, having served on the Judiciary Committee for so many years and having been a leader in this area, over 100,000 reported, which means, as the experts estimate, the total is six or more times greater than that.

Among urban youth, murder is the No. 1 cause of death in America, Mr. President. Among the entire American population of 15- to 24-year-olds, it is the second leading cause of death.

These are devastating figures, Mr. President, and they only begin to skim the surface. It is not as if there is nothing we can do about this. It is not as if we cannot combat this rising tide of violence. There are many things that work and that we can do and they are contained, many of them, in the conference report that is being held hostage and filibustered by some of our Republican friends and objected to by the President of the United States.

They include the Brady bill, a 5-day waiting period for handguns until an instant check system can be put in place. What for, Mr. President? Not to keep the guns out of the hands of people who are, in fact, good law-abiding Americans, but just to make sure we do not sell guns to convicted felons. That is the reason. People who are already convicted of a felony are able to walk in and buy guns today.

Increased penalties for crimes involving firearms and large expansion of the Federal death penalty in history, something my friend has been arguing for years, including the death penalty for drug kingpins, for murder of law enforcement officers, for drive-by shootings, for terrorist killings; the largest increase ever in aid to local law enforcement, major new funding for local police and prosecutors.

The one thing we know works, Mr. President, is when there are more police in the street, there is less crime in the street. That is the only thing we really know for certain. We know that. And yet, Mr. President, over the last 10 years, the total number of police officers in uniform on the street in the major cities in America is down. There are fewer on the street today with all this talk about being tough on crime than there were 10 years ago.

The bill contains new boot camps for regional prisons; antigang and rural crime programs; new antichild abuse measures, supported by people like Oprah Winfrey who, in fact, helped write one of them, quite frankly. She cares so much about the issue that she hired the law firm of former Governor Thompson of Illinois and came to me with the antichild abuse legislation. I indicated that if they changed a few things, I would introduce it because it is a first-rate piece of legislation. That is in this crime bill being held hostage.

We can pass all these measures and more, Mr. President. We have the votes for doing so, but we are being prevented by the National Rifle Association, its allies in the White House, and the Senate. This is not what the White House says. The administration says its opposition to the crime bill is because of the provisions in the bill on habeas corpus.

Not many people in this Chamber understand what habeas corpus is. I know though the Presiding Officer knows well what it is. It is not merely a great writ; it is a great writ that has been abused and needs to be changed. We have done that in this bill, Mr. President, but habeas corpus has been part of the Anglo-American law since the 13th century. It enables a convicted criminal to challenge his or her incarceration on the grounds that the State has made some constitutional error in finding him or her guilty of the sentence imposed. A convicted criminal who files a writ of habeas corpus is not released from jail. They can only win a new trial if they succeed if, in fact, the court finds error was committed.

So allowing convicts to file habeas corpus petitions, which is what this fight is all about, has absolutely no effect on crime in the streets. But if you listen to my friends here, notwithstanding the fact we greatly tighten up how many times you can file such a writ in the legislation before us, you would think that habeas corpus was the name of some career criminal who was crouched behind a trash can in an alley of every major city about ready to jump out and murder or rape somebody.

To file a habeas corpus petition, by definition, you must be in jail, behind bars and not a threat to the public. I support these reforms as contained in the bill. I think they go plenty far to reform habeas corpus.

Mr. President, because I have devoted so much time, energy and commitment, and I feel so strongly the need for this strong bill, in an effort to pass this significant crime fighting initiative that every police agency in America supports, by the way, I have been trying to seek a compromise.

First, I offered to drop the single habeas corpus provision to which the administration has objected for the last year, the so-called Teague or new rule provision—as I know the Presiding Officer understands—which most people have no reason to understand—nor or should they understand.

So I agreed. I will drop it, take it out of that bill. That is what they object to the most. When I said that to them, they said, "Oh, no, no, wait, there is more." I said, "OK, what more?"

Next, I offered to drop the habeas corpus from the bill entirely. I said if we have a problem, let us drop it completely from the bill. They said, no, we will not do that. So I offered a compromise that I thought would be acceptable to my colleagues of each and every significant remaining element of habeas corpus, major concessions on what is in the bill, and the bill is a major change from what the law is now.

In the final communication to me last week, the administration indicated they would have to insist on the procedural elements of habeas corpus that were unchanged from their initial position. Hardly any evidence, Mr. President, of the willingness to achieve a genuine compromise.

But in an effort to keep it going, Mr. President, I offered another proposal this weekend. The Attorney General has been straight and honest with me thus far, and I expect he would be. I do not mean to imply he would not be. He indicated to me that he did not think we could compromise on that, but he would take it under consideration.

I am waiting to hear from him to determine whether there is any movement at all. But it has become apparent to many that the objections to habeas corpus are merely a smokescreen for the real problem in this bill. It contains the so-called Brady bill which an overwhelming majority of Americans want but which the National Rifle Association opposes. And the President is siding with the National Rifle Association, although he points out that they did not endorse him as evidence that maybe he is not siding with them.

Mr. President, I ask unanimous consent that I be allowed to proceed for another 10 minutes as if in morning business.

The PRESIDING OFFICER (Mr. BINGAMAN). Is there objection.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, I wonder if I could include myself in that request for an additional 10 minutes after the Senator finishes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request, as modified?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, let me just reemphasize my major point. We have a problem. Crime is rampant. Crime is going unattended in terms of legislation. We have a very tough bill at the desk that needs only four votes to go to the President's desk. It does not have to go back to the House of Representatives. They have already voted for it. It does not have to be revoted on here in any element. We have already voted on it. We are just four votes short of letting us get a chance to vote on it. That means 60 votes we need to just get a chance to vote on whether or not what we have in that bill is in fact tough or not tough, whether the people support it or do not support it.

The thing that is holding it up, Mr. President, is plain and simple, and that is that we do not have any willingness on the part of my friends, some of my friends in the Republican Party and my friends in the White House, assuming they still think of me as a friend, to deal with the Brady bill. That is what this is all about.

Mr. President, it is a little like last year's NCAA championship basketball game as the President talks about wanting to be tough on crime. In the days before the game one of the two teams boasted that they would win the contest while the other team was largely silent. You know what happened, Mr. President. The quiet team won by 20 points and then after the game was over we watched on television as the players on that team put on T-shirts that simply said and I quote, "You can talk the game, but can you play the game?" You see, in sports, you can talk all you want but ultimately the game begins and then it is time to back up your talk with action.

Tragically, Mr. President, the President of the United States has been sitting on the bench when it comes to crime in America's cities, towns, and rural communities—and the cruel fact is that violent crime is no game. It is a deadly reality that exacts an ever-mounting toll on the lives and loved ones lost and the suffering of innocent victims and the denial of human potential and in the insidious destructive fear of crime and violence that deinstructs more and more every day. He talks the game but does not play the game—and the other team has been fighting the war games crime.

Four years ago before President Bush took office promising a war on crime. Here is part of the scoreboard of that war. The administration's 1992 budget actually proposed a cut in Federal aid sent to local law enforcement agencies. The number of police officers on our streets today is only 1 percent higher than it was when the President's effort was launched 4 years ago. The administration has redirected restitution paid by criminals to victims to the Federal Treasury and now for almost a year the President has opposed the comprehensive anticrime bill sponsored by a majority of those in the House and Senate. In the meantime, our streets are unsafe because our police are underarmed and overwhelmed. Increasing rates of murder, assault and robbery spiral out of control; 1990 was an awful year for setting records, a record year for homicides in this country. In 1991 the record was broken again. In fact, the number of murders in this country, the number of lives lost to violence by women and men and children who call America home has increased every year since President Bush has been in office. It is not his fault that it has increased but I would argue that we should be doing more to keep it from increasing and to that extent I blame him in not allowing us to go to a vote on this bill.

By the end of the year, as I said earlier, over 90,000 Americans will have been murdered in the first term of the Bush administration. Drugs fuel much of the violent crime in America. Once again, the President has talked a good game when it comes to solving the problems of drug abuse. In September of 1989, he gave a televised speech to the Nation on the problems of drug abuse in America.

He said drug abuse was "The greatest domestic threat facing our Nation," and he said that combating drug abuse was going to be his top domestic priority. The President assured the American people that "the basic weapons we need to combat drug abuse are the ones we already have. What is lacking," he said, "is the strategy to effectively use them." He said his administration had that strategy and a game plan that would prevent it.

It has been a little over 3 years since the President released his drug strategy. Let us look at the scoreboard. He said that his strategy would combat hard core drug use that constitutes so much of the violence and the crime in this country. The sad fact is that hard core drug use is worse today than it was the day the President took office. There are over 3 million heroin or cocaine addicts in the United States today and more heroin and cocaine enters this country today than every before. Drug overdoses are at a higher level than before the President announced his drug strategy 3 years ago.

Three years ago, the administration said it would work with Colombian officials to break the drug network of the Medellin cartel. The arrest by the Colombians of the Medellin drug baron, Pablo Escobar, was touted as evidence that the strategy of chasing down drug kingpins was working. Today, news accounts of what actually happened epitomize the bankruptcy of the administration's strategy—as Escobar continued to run his cartel. While being housed in a prison that had been built to his specifications and staffed by his own men.

Three years ago, President George Bush said that his strategy would combat casual drug use. And after he gave his television address casual drug use did decline. Today, however, the sad fact is the decline in casual drug use of all kids has slowed to a crawl and it is declining at a slower rate than before President Bush took office. The casual cocaine use has actually increased by about 14 percent this past year. These figures mean that last year alone over 1 million Americans began to use crack cocaine. Over 1 million Americans started down the road that may lead to hardcore drug addiction, and over 1.5 million began to use heroin for the first time. The average heroin addict, I might point out, commits 200 crimes a year to support his habit—200 crimes a year a heroin addict must commit to support his habit because they do not own a bank, they do not all have rich incomes and/or fathers or mothers, so in 200 crimes a year they victimize somebody.

George Bush said his strategy would help the children and young people who are among the most tragic victims of drug abuse and the violence associated with it. Together as a people, he said, we can save these kids. The sad fact is that drug and violent crime continue to diminish our lives, the lives of our children at an alarming rate.

When he ran for office, George Bush held a crack cocaine baby in his arms and said he would end this national heartbreak. Today, the President's failure to provide treatment for pregnant addicts has meant that more than 1 million more crack babies have been born into pain and suffering just since he has become President. Kids who grow up in a drug culture are at great risk of suffering from it either by being caught up in the drug use itself or being injured or killed by drug-related violence.

Since the President took office, the percentage of students who disapprove of drug use has gone up, indicating that school based drug education is having some effect.

But Mr. President, the President has refused to provide the resources so that every American school child can be inoculated with drug education. Today, barely one of every two school children receive the drug education they need.

Youth who are not inoculated and provided constructive alternatives are turning to violent crime in alarming numbers. A recently released FBI study shows a huge increase in violent crime by juveniles in the past decade, and more than a 30-percent increase in such crime since the beginning of the President's administration.

The FBI reports that the violent crime arrest rate for youth between 10 and 17—when I came here 20 years ago, we talked about youth being 15 or 16 years old. Now we talk about violent crime among youth the age of 10, 11, 12, 13, and 14 years old. But it has risen dramatically from the time the Bush administration took office.

This crime wave affects all segments of society. The arrest rate actually rose faster for white youths than for black youths during this period, rising 44 percent during the decade for whites and 19 percent for black youths. The rate of juvenile arrest for the use or sale of cocaine or heroin has jumped 713 percent in the past 10 years.

Kids are increasingly using guns in committing violent crimes—just like their elders. Assailants used firearms in 31 percent of all murders, robberies, and aggravated assaults committed in 1991, and the number of juveniles who shot a victim rose 79 percent in the past decade, and is still rising.

The Bush administration's way of dealing with this juvenile crime problem has been repeatedly to seek cuts in funding for juvenile justice programs, cuts that the Congress has successively resisted.

Much of this violence is violence against other juveniles and children. Homicide is now the second leading cause of death among people 15 to 24 years old in the United States. People 12 to 24 years old face the highest risk of violent victimization of any segment of our society.

Although the FBI report doesn't try to analyze the causes of these increases, it does note that it coincides with a rise in juvenile heroin and cocaine arrests and with an upturn in arrests for using illegal weapons. This suggests what to many Americans seems undeniable, that there is a link among our youth, as in other age groups, between violent crime, drugs, and guns.

Violent crime, drugs, and guns. We have seen that the President has talked the game as it relates to violent crime and drugs, but that he failed to show up on the court to actually win these battles. When it comes to guns, however, things are different. When it comes to guns, the President has not even talked the game, let alone showed up to fight the battles for the American people. Instead, when it comes to guns, the President suits up to play for the other team.

One reason guns, drugs, and violent crime go together is that drug criminals have ready access to semiautomatic weapons like the Street Sweeper. Since 1985, the killing of innocent bystanders is up 500 percent—5 times as many innocent bystanders are being killed in street shootings today than in 1985. Mr. President, the President has banned foreign-made assault weapons, but he has refused to ban U.S.-made weapons—and the reason for that has more to do with fear of American gun manufacturers than it does respect for American gun owners. To this day, the President refuses to stand up to this special interest.

Likewise, the President has refused to back the No. 1 priority of our police men and women, who have asked us to pass the Brady bill and give them 7 days to make sure that those people who are buying guns aren't dangerous criminals. The overwhelming majority of the American people want the Brady bill, but the National Rifle Association opposes it.

Experts are united in the view that readily available handguns constitute a major factor driving our current spiral of lethal violence. They support this conclusion with hard evidence like:

A study of mortality in Texas between 1970 and 1990 revealed that, in 1990, firearm-related injuries surpassed motor vehicle accidents as the leading cause of death from injury;

A study of the firearm homicide rate for U.S. teenagers between 15 and 19 years old revealed an increase in firearm homicides of 61 percent between 1979 and 1989;

A study of family violence in Atlanta revealed that an assault involving a firearm was 12 times more likely to result in death than if a firearm was not present; and

A study of high school students in Seattle during the 1990-91 schoolyear revealed that one-third of the students report easy access to handguns.

In the past year, the President has begun to talk a slightly different game on the Brady bill. He now says he would sign a Brady bill if it were enacted along with a comprehensive crime bill.

Well, Mr. President, this is one piece of talk on crime that there is still time for the President to deliver on, because the Senate has before it just such a comprehensive crime bill, a bill that the House has already passed, and a bill that contains the Brady bill.

Now, the President has said that he opposes this particular piece of crime legislation, and as a result, his allies in the Senate have been filibustering the bill for over 300 days now, preventing it from becoming law even though a majority of Senators are prepared to vote for it.

Mr. President, since July of this year, I and others in the Senate and the House have been negotiating with the administration over their objections. It has now become undeniably clear that the major stated objection the administration has with the bill is its provisions for the reform of habeas corpus.

I support those reforms as contained in the bill, but in an effort to pass the significant crime fighting initiatives contained in the rest of the bill, I have been seeking a compromise.

First, I offered to drop the single habeas provision to which the administration objected the most—the so-called Teague, or new rules, provision. But the President said "No." Next, I offered to drop habeas corpus from the bill entirely, and to support the rest of the legislation, including the Brady bill, as is. But the President said "No."

Finally, I offered compromises that I thought would be acceptable to my colleagues on each and every significant remaining element of habeas corpus procedures. But the President said no.

In their final communication with me last week, the administration indicated that they would have to insist on procedural elements in habeas corpus that were unchanged from their initial positions—hardly evidence of willingness to achieve genuine compromise.

Mr. President, the legislation that the Senate has before it is the toughest piece of anticrime legislation to be proposed since the President took office. The President's habeas corpus objections are insubstantial and are totally inadequate grounds to prevent passage of the bill.

It looks to me like the President's talk about being willing to sign the Brady bill is just that, another example of empty talk, and that his objections about habeas corpus are just a smokescreen for the real reason he opposes the bill. It appears that every move the President has made reveals his true motivation. He will not stand up to the National Rifle Association, who are attempting to kill the Brady bill.

In truth, the crime package before the Senate meets or exceeds the requests of the President in almost all respects. It contains:

The Brady bill—a 5-day waiting period for handguns until an instant check system to prevent felons from getting their hands on guns is in place;

Increased penalties for crimes involving firearms and the largest expansion of the Federal death penalty in history, including death penalty for drug kingpins, for the murders of law enforcement officers, for drive-by shootings, and for terrorist killings;

The first limits ever placed on the length and number of habeas petitions a death row inmate can file;

The largest increase ever in aid to local law enforcement: major new funding for local police and prosecutors;

New boot camps and regional prisons to house drug offenders;

New antigang and rural crime programs;

New antichild abuse measures, and much more.

In short, the conference bill hardly procriminal—it is propolice, procitizen, and prosafety.

Mr. President, this legislation contains tough laws to deal with criminals, it contains vital assistance for the cop on the beat, for the people who staff the frontlines in crime prevention and detection, it contains fair procedures for our criminal justice system, and it contains a waiting period to prevent felons from purchasing handguns—the Brady bill.

Three years ago, the President told David Frost in an interview that he was not skilled at "expressing the concerns of a nation." "I'm just not very good at it," he said. Well, Mr. President, the truth is that—whatever his failings as a communicator—the President has talked a much, much better game on violent crime than he has delivered. Let us give the President one more chance to get on the right side and play the game for the American people.

So I say to my colleagues in the Senate, Democrats and Republicans, the time to decide has come. Are we going to play politics with the crime issue or are we going to pass the kind of tough anticrime legislation that is needed to stem this Nation's epidemic? Are we going to pass the Brady bill or are we going to continue to do the NRA's bidding? Are we going to pass the conference report or are we going to say to our police who put their lives on the line every day that habeas corpus reform exactly like the President wants is more important than getting the funding they needed?

Mr. President, I urge my colleagues to enact the conference report when the majority leader decides to bring it up this week. We are four votes short of beginning to do something about crime. I thank my colleagues for listening.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 10 minutes.

## FOR THE SAKE OF OUR MOTHER TONGUE

Mr. BYRD. Mr. President, in olden times in the Near East and in the Middle East, hedges would be grown around the vineyards and gardens to keep out destructive animals. But down near the ground there would be spaces, small spaces, between the hedges where the main stems of the hedges emerged from the Earth. And so while the hedges would keep out the larger animals, the smaller animals would get into the vineyards and the gardens through the spaces near the ground.

Hence, Mr. President, the Song of Solomon in the Old Testament refers to "the little foxes, that spoil the vine."

In the midst of our ongoing debates about the weightier issues of appropriations matters, cable television, and other questions of national merit, I want to again register my ongoing concern and frustration with a "little fox" that continues to spoil the vine of the English language worldwide.

That "little fox" is the inane, empty, useless phrase "you know" that peppers the language of millions of native and second-language English speakers, both here in America and, increasingly, in practically every other country on the globe.

On numerous occasions in the past, I have expressed my own irritation about "you knowism" here on the floor of the Senate. More and more, I am sharing that concern about "you know" with teachers, school administrators, principals, and scholars at all levels of our educational system. And I shall continue sounding my displeasure with "you know" as long as "you know" continues to infest the speech of people anywhere as a meaningless articulation for no purpose except to fill the air whenever nothing else comes to mind.

I am heartened to learn that I am not alone in my aversion to the meaningless phrase "you know."

H.W. Fowler in his classic and definitive "A Dictionary of Modern English Usage" (Second Edition) 1965, writes, under the category "meaningless words", the following:

> The now ubiquitous *you know* (cf. the obsolete *doncherknow*) seems to be a compendious way of saying "I know I am expressing myself badly, but I am sure you are intelligent enough to grasp my meaning.

Even more to the point, however, are the words of a kindred spirit living in Rolling Hills, CA, who, writing some months ago to Abigail Van Buren's syndicated Dear Abby column, said the following:

> Dear Abby: Will you please make another attempt to improve the atrocious and horrid misuse of our language? * * * It is maddening to hear "you know, you know, you know" from so many of the celebrities (and athletes) who are interviewed on TV talk shows.

In truth, Mr. President, millions of Americans are aware of, and irritated by, the "you know" pollution that plagues the daily speech of other millions of their friends, neighbors, and seemingly educated people in every walk of life.

Unfortunately, too many educators seem not to realize that men and women are marked by their speech quality. That mature graduates of our colleges and universities—even possessors of Ph.D.'s and other advanced degrees—cannot form conversational sentences without punctuating them with unwarranted "you know's" in every other breath, is scandalous. I suggest that any college or university that allows one of its graduates to leave campus with a diploma without ensuring first that he or she has overcome the "you know" habit, has effectively cheated that student and is guilty of fraud in conferring a degree on that student!

Long years ago, I discovered that I listen, and give greater credence, to people who speak in modulated, accurate, and grammatically correct English speech. Of course, I appreciate the many colorful "accents" that delineate the various regions of our country, and I would not want to erase the nuances that divide New England dialects from Southern or Midwestern speech melodies.

But I do believe in across-the-board characteristics that lend those dialects, no matter their regional designations, quality and listenability, and among the breaches of those standards, "You know" is one of the most grating, most superfluous, and most irritating.

Once again, Mr. President, I hope that someone listening to our debates today, or reading the accounts of today's proceedings, will heed my cry in the wilderness and join me in trying to banish the "little fox" of "you know" from American speech. "You know."

I yield the floor.

## IRRESPONSIBLE CONGRESS?

## HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,043,586,886,034.65, as of the close of business on Thursday, September 24, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, women, and child owes $15,742.44—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

## TRIBUTE TO JAMES BINNS, JR.

Mr. SPECTER. Mr. President, on September 30, 1992, La Salle University in Philadelphia, PA, will dedicate its Fitness Center in honor of Mr. James Binns. Therefore, today I call to the Senate's attention Mr. Binns' distinguished career which led to this honor.

Mr. Binns' is a 1964 graduate of the Villanova University School of Law. He most recently received his masters degree from La Salle University. In 1981, he became a trustee of the university.

Mr. Binns has illustrated his leadership in his fight against crime. It is therefore noteworthy that Mr. Binns has served as the chairman of the Organized Crime Task Force and Citizens Crime Commission of Philadelphia. His contributions in fighting crime are most appreciated.

In significant support to the Philadelphia Bar Association's programs, Mr. Binns served as chair of the Association's Judicial Selection, Retention and Evaluation Commission. The association has an outstanding record of supporting the legal profession in Philadelphia, PA. Mr. Binns served with distinction in this important post.

Mr. Binns is a selfless individual who finds true satisfaction in life by helping others. Again and again, he has given his time, his energy and his talent toward this noblest of all ends.

He has served as the chairman of St. Luke's Children's Medical Center, and the Pennsylvania Athletic Commission. Currently, he is the director of the Philadelphia Charity Ball, Inc.

Therefore, I believe it is fitting that the U.S. Senate take note of the accomplishments of James Binns' contributions to his community and congratulate him on the dedication of the James Binns Fitness Center at La Salle University.

## SMALL STATE FIGHTS

Mr. PRESSLER. Mr. President, just prior to the August recess, several of my colleagues and I engaged in a colloquy regarding the pace of nominations for the Federal judiciary. I had some very real concerns that small states, like my home State of South Dakota, were not getting the same attention paid to filling their judicial vacancies as were large States.

Unfortunately, some of my Senate colleagues may have misunderstood my reasons for the action I took to get the White House to address my concerns. I did my best during the colloquy to keep the record straight but feel there may still be some who may not have fully appreciated the very real concerns I had.

Subsequent to that colloquy, I wrote an article which appeared in the Rapid City Journal. It explains my reasons for taking the action I did. So that Senators might have a better understanding of my concerns with the problems facing small states in getting their judicial vacancies filled, I ask unanimous consent that my article, and news stories from the Sioux Falls Argus Leader and the Washington Post be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Rapid City Journal, Aug. 15, 1992]

### SOMETIMES A SMALL-STATE SENATOR HAS TO FIGHT

(By Larry Pressler)

The Constitution of the United States provides that "The Senate of the United States shall be composed of two Senators from each State." Our Founding Fathers did this in an attempt to ensure all states had an equal vote in one Chamber of the United States Congress. In practice, this does not always work as envisioned in 1787.

Representing a small state like South Dakota in the Senate is quite different than representing a state like New York or California. Sometimes it is hard to make your voice heard. But as a U.S. Senator representing the people of South Dakota that is my job. I do that job.

Politically charged battles often erupt in the Senate just prior to a recess—especially before a party convention. This is an unattractive fact of life in Washington. However, it is a fact that cannot be ignored or run away from. When a bloody battle erupts, if South Dakota's voice is to be heard, I have to join the battle. I am a fighter for South Dakota. I make no apologies to any other Member of the Senate on that score.

Senators from small states must fight to protect the interests of their states. This is true whether it involves a major tourism attraction and national monument like Mount Rushmore, a biostress laboratory for South Dakota State University, a federal prison in Yankton, jobs created by the EROS Data Center in Sioux Falls, an important transportation project such as the Heartland Expressway, or projects to bring safe drinking water to our rural citizens. On Aug. 11, it also became true of a vitally important federal judgeship nomination.

For months, I have been asking questions in an attempt to discover why a new federal judge for South Dakota had not been nominated. This is a critical situation. Currently, South Dakota has two Federal District Court judges doing the work of three. This has created a backlog of cases. Many of these cases originate in Indian country as the Federal District Court is the court of original jurisdiction for such cases. Issues involved in these cases are not being resolved in a timely manner. This is unfair to the people of South Dakota.

When Judge Porter announced his retirement last year, I transmitted names of applicants who had contacted me to the Justice Department for consideration. No nomination has been made. I was told a great deal of paperwork was involved and that the process took time. However, to my dismay, recently I discovered almost no progress has been made in filing this vacancy while other states were getting action on positions they needed filled.

So, I took my concerns to the floor of the United States Senate. Under the procedures of the Senate, any senator is allowed to object to the consideration of nominations. Because I was not getting reasonable answers to questions important to South Dakota, I exercised that right. I made some people mad. However, I also got a commitment from the White House to accelerate their efforts. The president's chief of staff, Sam Skinner, assured me that a nomination for South Dakota's vacant federal judgeship would come in the very near future.

In fact, these assurances were acted upon immediately. On Wednesday, the minority leader, Sen. Dole, received a letter from the White House indicating that pursuant to conversations that occurred as the result of my efforts, the White House intended to place Ronald Schmidt of Pierre "in clearance for nomination to the vacancy on the South Dakota District Court." This is exactly the kind of action I was seeking.

Prior to my arrival on the Senate floor Tuesday evening, several senators' speeches indicated they believed I had placed the hold on nominations of a U.S. Attorney for South Dakota. This, too, is a vitally important position, but it was not the primary reason for my objection. This is clear to anyone who read the debate in Tuesday's Congressional Record. Unfortunately, it is not clear to anyone who read the article in Wednesday's Rapid City Journal.

For this reason, I would like to provide a couple of excerpts from the official record of that debate. I began by asking: "What is the Senator from a small State to do when a judicial vacancy in his State lays open—"

Later in the debate, I indicated that, "It is not the U.S. Attorney that is my principal concern here. It is the U.S. judgeship." Toward the end of the debate, I again noted, "The real issue is the U.S. judge in Pierre . . . This is a tough thing, I feel responsible . . . We had a retirement announced well in advance. I went to the Justice Department well in advance . . . I have done everything I can do . . . There is something wrong in the way we do this. There should be orderly procedure."

In September, when the Senate reconvenes, it is my hope, based on commitments I have now received, that we can move forward on the nomination to fill the vacancy on South Dakota's federal bench. It is also my hope the Senate will confirm the president's nomination for U.S. Attorney for South Dakota. My frustration with the delay in filling the vacant federal judgeship led me to the situation the Senate confronted on Aug. 11. I am prepared to go to the wall again on this and other issues important to South Dakota. After Tuesday's debate, it is my hope South Dakota soon will have a full panel of federal judges.

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[From the Sioux Falls Argus Leader, Aug. 13, 1992]

### PRESSLER WINS FIGHT IN SENATE

Sen. Larry Pressler forced the White House to quicken the pace to fill a federal judge's position in Pierre on Tuesday, but not before taking a beating in the Senate from Republican colleagues.

In a debate shown on C-Span, Pressler was accused of stalling judicial confirmations in order to get Kevin Schieffer confirmed as U.S. attorney. Schieffer is Pressler's former chief of staff.

". . . We are not going to sit still and watch 31 people dragged down because of some personal obsession with a single person, who I hope will receive whatever federal position he wants," said Sen. Alan Simpson, minority whip.

The White House announced late Wednesday that it had cleared Ronald Schmidt, a Pierre lawyer, as the nominee for the vacant federal district court seat in Pierre must first approve nominations before they can be forwarded to the Senate Judiciary Committee for confirmation.

Congress recessed last night until after Labor Day and the party's convention starts Monday's in Houston.

"They thought we were talking about Schieffer and I was talking about the judgeship," he said. "Since the Schieffer nomination was the only one up here (before the Senate), they assumed that's the one I was talking about."

But floor debate Tuesday night indicated other senators viewed it as common knowledge that Schieffer was part of the equation.

Senators, including the top two Republican leaders—Simpson and minority leader Bob Dole of Kansas—spoke as if Pressler was going to delay the process to force the Senate Judiciary Committee to confirm Schieffer quickly.

Dole said that Pressler had the right to discuss his concerns on the floor.

"But there is a problem in the Judiciary Committee, as I am advised by the senator in question (Pressler), on getting one of his nominations for the U.S. district attorney on the agenda tomorrow in the Judiciary Committee," Dole said.

In a statement Wednesday, Dole praised Pressler for getting the White House to forward a nomination for the judicial seat, but used the plural form of the word.

". . . When he told me what he had to do to move these nominations forward, I agreed with him and supported his rights under the rules of the Senate," Dole said.

Pressler said that's what he was trying to get when he threatened Tuesday to force the Senate to vote on 31 federal appointments individually, while every other senator wanted to deal with them together quickly on a voice vote. Twenty of the 31 appointments were made by the president, so he threatened to use the hold to get the White House's attention, Pressler said.

He was planning to hold out until the White House picked a judicial nominee to replace the retiring Judge Donald Porter of Pierre, Pressler said.

The chairman of the Judiciary Committee, Democratic Sen. Joseph Biden, said the committee is not purposely delaying Schieffer's confirmation. The committee received an "inch-thick" FBI report on him just 12 days ago and needed time to go through it.

Last month, a committee aide said an FBI report on Schieffer was sent to the panel in March.

Biden said he had discussed the Schieffer nomination "repeatedly" with Pressler. But the delay was at the White House, where the nomination was received "with less than receptive ear," he said.

Senators kept referring to Pressler's problems with the executive branch in getting Schieffer confirmed. When asked if that's because of persistent talk that he's not a White House favorite, Pressler responded: "That may be. That may be. It's a mysterious process."

When floor debate began Tuesday night, Pressler was at his Capitol Hill home nearby, talking on the phone to White House Chief of Staff Samuel Skinner, who was assuring him that the South Dakota judgeship would soon be forwarded to the Judicial Committee.

"I was going to lift putting a hold on anything. I had gotten what I wanted," Pressler said.

Notified of the debate, he hurried to the Capitol and told senators he sought only to speed up the judicial appointment.

Simpson, who is on the Judiciary Committee, said he had often helped Pressler on matters important to South Dakota, but no matter how much he did, it was never enough.

On Wednesday, Pressler said he does rely on Simpson to help push South Dakota issues inside the White House, where he says Simpson has the president's ear.

It was Dole, whom Pressler endorsed for president in 1988, who had called for Pressler to defend himself.

"I've done all the protecting I care to do," Dole said. "I've been reasonable. There comes a time when there other people that might be frustrated."

After more debate, Dole told the body that Pressler no longer objected to considering the 31 nominees together.

Wednesday, Dole's office issued a statement calling Pressler "one of my best friends in the Senate."

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[From the Washington Post, Sept. 16, 1992]

### AS ELECTION DAY NEARS, CONFIRMATIONS ARE SLOWING

(By Helen Dewar and Bill McAllister)

Because of foot-dragging by optimistic Democrats, or cautious career planning by pessimistic Republicans, or a combination of both, the pace of Senate action on Bush administration appointees is slowing as the Nov. 3 elections approach.

As of last week, administration officials said there were nearly 190 nominations on Capitol Hill awaiting confirmation, involving prospective judges, ambassadors and policy-making officials in various government agencies. Most of the nominations are before the Judiciary, Labor and Human Resources and Foreign Relations committees.

"Anything we get now would be a plus," said one White House aide.

But action has not stalled completely. Despite charges by administration officials that Senate Democrats are dawdling in hopes that Bill Clinton will win the White House and put Democrats in the jobs, senior committee aides say action on dozens of nominations impossible before Congress adjourns for the year early next month.

White House aides concede the president is sending fewer nominations to Capitol Hill, both because it is more difficult to lure qualified candidates to Washington for what could be short-lived jobs and because the chance of getting most nominations through the Democratic Senate is slim.

Key Senate Democrats say that, while nominations may be blocked because of the impending elections, others are on the docket for action before adjournment.

To the dismay of some House Democrats, Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) has said his committee will continue to process judicial nominees "as late in the year as possible."

Rejecting a complaint that Rep. John Conyers Jr. (D-Mich.) and other House members lodged with Senate Majority Leader George J. Mitchell (D-Maine), Biden has continued to schedule votes on some of Bush's 59 judicial nominees who are still before his committee along with 16 nominees for Justice Department jobs.

Action on six more nominations is set for this week.

David Lavalle, spokesman for the judiciary panel, said Biden is troubled by complaints about large case backlogs in federal courts and does not consider nominees to those courts to be as politically important as nominees to appeals courts. "At the District Court level, they're administering justice, not making philosophical decisions," Lavalle said.

Last Friday, White House counsel C. Boyden Gray accused the Senate of slowing the pace of action on nominees this year, saying it has been behind that of recent election years. Consequently, he said, a large number of seats on the federal bench will go unfilled. "We're seeing fewer confirmations and more vacancies left," he said.

That contrasts with Lavalle's assertion that the committee is "operating against tradition." The panel has approved a "record number" of judicial nominees in a presidential election year when the Senate is controlled by one party and the White House by another, he said.

Gray said, however, that his count shows only 54 of 113 judicial nominations have been approved this year, leaving 59 administration nominees still before the panel and 109 vacancies. That pace is well behind 1988 when the Reagan administration filled about 70 percent of its 58 nominations and 1980 when the Carter administration got 80 percent of its through a Democratic Senate, Gray said.

Part of this year's backlog may be attributed to a 1990 law creating 85 new judgeships, but Gray said the Senate has moved faster in the past to fill new positions.

Senate Democratic aides acknowledged that the pace of action on judges could have been faster. But they blamed the problem on a slow flow of nominations from the White House, along with the lengthy 1991 confirmation fight over Supreme Court Justice Clarence Thomas and ensuing squabbles over disclosure to senators of FBI reports on judicial nominees. They also said the White House earlier this year rejected a request for more investigators to handle the expanded workload created by new judgeships.

The Senate Labor and Human Resources Committee, which has jurisdiction over departments dealing with most social welfare programs, has 37 nominations before it, but the White House is expecting action on them this week.

The Foreign Relations Committee, with 35 nominations to review, also is continuing to approve candidates, according to committee aides. But several subcommittee chairmen have indicated they only will approve career Foreign Service officers for ambassadorial appointments, letting several nominations the White House wanted die in committee.

Among those are Texan John Frank Bookout Jr., in line to be ambassador to Saudi Arabia, and Nicolas Salgo, former owner of the Watergate complex, to be ambassador to Sweden. Bookout is reportedly a friend of White House Chief of Staff James A. Baker III and Salgo has held a number of diplomatic posts, including ambassador to Hungary. Salgo headed a review of the new U.S. Embassy building in Moscow that was found to be infested with Soviet listening devices.

A stall on political nominations is not unusual in a presidential election year. In the past, there have been times when even career appointees were put on hold, committee aides said.

Paradoxically, one reason the Senate was slow to act on some of Bush's appointments last month was a move—called a "hold"—by Sen. Larry Pressler (R-S.D.) to block consideration of all nominations until the White House acted on several South Dakota nominations. Angry over delays on judicial and prosecutorial nominees for his state, Pressler invoked his senatorial privileges and temporarily blocked action on 31 presidential nominees awaiting final Senate action.

Before Pressler lifted his request Aug. 11, he was chastised by GOP leaders on the Senate floor. The senator replied that he was frustrated by his inability to get Gray, the White House official who screens judicial candidates, to return his telephone calls.

"I am kind of beaten down," Pressler said after being rebuked by Minority Leader Robert J. Dole (R-Kan.) and Minority Whip Alan K. Simpson (R-Wyo.).

"But this leads to the philosophical question of what does the senator from a small state do in a situation like this when he is trying to protect his state?" he asked colleagues as he dropped his hold on the nominations. ". . . I think this is a good exchange. Maybe I am learning something."

## FOR ETHANOL—THE FUTURE IS NOW

Mr. PRESSLER. Mr. President, I rise today to address a critical concern that will have a profound influence on American agriculture, the Nation's energy needs, efforts to obtain a cleaner environment, and efforts to create more American jobs. My concern is with the future of the young and promising U.S. ethanol industry.

The ethanol industry is facing a serious crisis. The resolution of this crisis very well may determine the future of this industry. The solution to this crisis will not come from any boardroom, the marketplace, research facility, or laboratory. Instead, the solution lies with the Environmental Protection Agency. Without satisfactory EPA final regulations implementing the Clean Air Act Amendments of 1990, a legislative solution will be required.

### THE ISSUE

Recently, I traveled with President Bush on Air Force One to my home State of South Dakota. I was proud to accompany President Bush and introduce him to my hometown of Humboldt, SD. The farm of Jeff and Sue Kapperman just outside Montrose is only a few miles from my family's farm. I was pleased that the President picked this spot to announce that he was making 1 billion bushels of wheat available for export under our Export Enhancement Program, a move I had supported and urged him to take.

During the trip to South Dakota, I discussed with the President and key administration officials EPA's proposed Clean Air Act regulations and what needed to be done. I also was able to review in advance the speech the President was to give in South Dakota regarding farm export initiatives. I suggested he include a discussion of ethanol in his speech.

I also made it clear to officials of the Office of Management and Budget [OMB] who were traveling with the President that Congress clearly intended the use of alcohol fuels in reformulated gasoline when it passed the Clean Air Act Amendments of 1990.

Mr. President, at issue are EPA proposed regulations governing fuels and fuel additives and standards for reformulated and conventional gasoline. It is expected that more than one-half of America's fuel must be reformulated by the year 2000 in order to reduce harmful emissions to levels deemed acceptable under the Clean Air Act. This means the reformulation of more than 60 billion gallons of gasoline. However, as currently written, these proposed regulations could effectively eliminate the use of ethanol in the reformulated gasoline market.

Under the Clean Air Act amendments, suppliers of all oxygenates are to have an equal opportunity to participate in the reformulated gasoline program. That was the intent of Congress in 1990. By effectively writing alcohol fuels out of the reformulated gasoline market, the EPA clearly has violated the intent and spirit of the law.

### A BRIEF BACKGROUND

The use of ethanol as a fuel is not new. When the ethanol industry first came into existence, the original goal was to supplement and extend the country's supplies of petroleum-based fuels. Ethanol was widely used during the 1930's as a blend with gasoline because of crude oil shortages. After World War II, a glut of crude oil entered the market and the use of ethanol no longer was economically feasible. But today it is a very viable alternative.

Changes were made in gasoline composition during oil shortages when fuel extenders were added. Up until the 1970's, lead was added to gasoline to improve octane levels and engine performance. The use of lead in gasoline, however, proved harmful to human health and the environment. By the 1980's, the use of lead in gasoline had been greatly reduced. Today, leaded gasoline is only sold in remote areas and is primarily used to fuel older farm machinery. Throughout these changes, ethanol has consistently played a crucial role in meeting America's energy needs. Fuel grade ethanol first became commercially available in the late 1970's because of the oil shortage.

In 1978, the United States decided to invest in an alternative fuel to reduce dependence on foreign oil while also promoting a cleaner environment. This fuel was ethanol. America should continue its support for ethanol. Today, every major car manufacturer's warranty honors the use of an ethanol-blended fuel. General Motors and Chrysler even encourage the use of ethanol. As a result, the ethanol industry has witnessed extensive growth and now represents an industry that has reduced our need for foreign petroleum, provided a cleaner burning fuel to help improve the environment, provided thousands of people with employment and encouraged economic growth.

### SOLUTION

Mr. President, as I stated earlier, the solution to the problem of ethanol now lies with the EPA. I cosponsored a Senate resolution, agreed to last week, that states the proposed EPA regulations on reformulated gasoline are not in compliance with the law because the use of the simple model violates the requirements of section 211(k) of the Clean Air Act. Section 211(k) states all oxygenates shall have an equal opportunity to participate in the making of reformulated gasolines.

The simple model utilized in EPA's proposed rulemaking fails to achieve the greatest possible reductions in emissions of ozone and toxic air pollutants. The use of the simple model could discourage refiners from pursuing more comprehensive and environmentally sound gasoline reformulation strategies. The use of the simple model ignores the proven and potential benefits that could be achieved by reducing certain components of gasoline, such as sulfur, xylene, and other aromatics.

Mr. President, the solution to this dilemma is simple. The EPA, by following the recently passed Senate resolution, can achieve the goal of the Clean Air Act. If the EPA abides by that resolution, suppliers of all oxygenates would have an equal opportunity to participate in the reformulated gasoline program. Again, that was the intent of Congress in 1990.

### WHAT DOES IT ALL MEAN

In 1991, the use of ethanol-blended fuels reduced crude oil imports by 40 million barrels. If ethanol is cleared for use under the Clean Air Act, it would reduce oil import needs by an additional 800,000 to 1.5 million barrels per day. According to the Renewable Fuels Association, in 1991 alone, the combination of reduced oil imports and increased ethanol exports reduced the trade deficit by more than $6 billion.

Last year, 9.5 billion gallons of ethanol were sold in the United States—8 percent of all automotive fuel sales. Ten States had between 15 and 40 percent ethanol use in 1991. According to the South Dakota Corn Growers Association, ethanol accounted for 40 percent of all fuel used in South Dakota in May 1992. South Dakota leads the way in ethanol use and may well become the first State to achieve a 50-percent market share for an ethanol blended fuel.

Since the late 1970's, over 1 trillion miles have been driven with ethanol-blended fuel. There are more than 50 ethanol production facilities in 22 States, and over $2.5 billion has been invested in these facilities. Currently, South Dakota has two ethanol production facilities in operation and another one is scheduled for completion next month. The United States is shifting from gasoline to ethanol-blended fuels.

Mr. President, by increasing its use of ethanol, this country can reduce air pollution. According to the EPA, the use of ethanol-blended fuel reduces carbon monoxide emissions 25 to 30 percent. It also is the only fuel additive available today which has a carbon dioxide benefit. Ethanol use actually reduces the threat of global warming. The main reason for this is that crops used in the production of ethanol absorb carbon dioxide from the air. In contrast, methanol blended fuels add to global warming because methanol is derived from coal and natural gas.

### WHAT IS AT STAKE

The future of ethanol is critical to rural America. According to the National Advisory Panel on Ethanol Cost-effectiveness, each billion gallons of ethanol produced increases employment by more than 4,400 farm jobs and 3,700 industrial jobs. These are very significant figures when considering that 9.5 billion gallons of ethanol blended fuel were sold in the United States last year.

The production of ethanol in 1991 required 400 million bushels of corn. This amount of grain increased farm income by $150 million and reduced farm program costs by $600 million. Without ethanol, corn prices for American farmers would decrease by 24 cents per bushel. To illustrate this further, the reduced value of corn output alone would cost the U.S. economy $5.6 billion per year. The Nation would lose 134,694 jobs a year without the ethanol industry. Simply put, the ethanol industry provides stability to our Nation's economy. But now, many ethanol producing companies are scrapping plans to build new facilities because of the proposed EPA regulations that exclude ethanol from use under the 1990 Clean Air Act.

### WHAT NEEDS TO BE DONE

Under the new regulations set forth by the EPA, 10 percent ethanol fuel is prohibited. The proposed regulations do not take into account ethanol's lower carbon monoxide emissions. I find it most ironic that the EPA has issued proposed regulations eliminating the use of ethanol due to potential ozone pollution when past EPA studies regarding ethanol have shown its use can help reduce ozone deterioration.

I am not sure which law the EPA is reading when, in its proposed regulations, it acknowledges the likelihood that MTBE will be the most heavily used oxygenate. Under the Clean Air Act, all oxygenates are supposed to have an equal opportunity to participate in the reformulated gasoline program.

The Clean Air Act contains ethanol in its definition of clean alternative fuel. In light of this, how can the EPA even consider writing ethanol out of the reformulated gasoline market? In fact, if one reads the act carefully it would be discovered that MTBE, the fuel that EPA is promoting for the reformulated gasoline market, is listed as a hazardous air pollutant. More alarming is the fact that other oxygenates, such as benzene, a known carcinogen, would be permitted a role in the reformulated gasoline market.

Mr. President, you will not find ethanol on any list of hazardous air pollutants. Ethanol is the safest, cleanest burning component that can be added to gasoline. There is great potential for the ethanol industry in the United States. It is imperative to rural America and to the Nation that Congress support the ethanol industry. By promoting ethanol, this Congress is promoting a more stable economy and a cleaner environment.

What needs to be done is for the EPA, in its final rulemaking, to ensure an equal role for ethanol and other oxygenates in the reformulated gasoline market. By doing this the EPA would permit a thriving U.S. industry to survive and help contribute to this country's economic growth and environmental improvement.

## IN SUPPORT OF THE LEAHY RESOLUTION REGARDING THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD

Mr. BRADLEY. Mr. President, I rise in support of the resolution sponsored by Senator LEAHY. November 20, 1992, marks the third anniversary of adoption of the Convention on the Rights of the Child by the U.N. General Assembly. The culmination of 10 years of hard work by Americans and other citizens of the world, this international treaty addresses the basic survival, development, and protection needs of the world's children.

The convention recognizes an obvious fact: children are our most precious resource and our greatest hope for the future. Sadly, however, the United States is not among the nations which have given the convention high priority and at least preliminary approval. It is my hope that in this election year, when the issue of family values is commanding so much attention, that we can move beyond rhetoric and partisan squabbling on this issue.

Two years ago the Senate passed a resolution sponsored by myself and Senator LUGAR urging President Bush to send the Convention on the Rights of the Child to the Senate for ratification. Today, we still have not seen the treaty in this body. It is time for the President to heed the bipartisan voice of this body. It is time for the President of the United States to address the deteriorating situation of children in this country and the world by taking action on this convention.

One hundred twenty-two nations have already ratified the convention, and more have signed noting their intention to ratify. Australia, France, Great Britain, Canada, Japan, and Mexico have all ratified it, as has the Holy See and Israel. Some of the signatory nations to the convention have dubious human rights records. Some have signed it only to improve public relations in international affairs. However, thanks to the actions of many democracies, the convention has gained solid acceptance as international law.

The world's children cannot afford the failure of American leadership. The stakes are too high. We played a productive and instrumental role in the development of the convention and we initially gave it our approval when we joined the consensus for adoption on the floor of the General Assembly. Now the United States finds itself behind the great majority of the world because our President refuses to take action. We now join a relatively short list of nonparty nations, many of which have dubious human rights records and political systems alien to our own, who have not taken action on the convention. We are grouped with nations such as Iraq, Libya, Cambodia, South Africa, and Somalia, to name a few.

Every day we delay ratifying the treaty nearly 40,000 children die. Every week that we delay 250,000 children die. During the period of Presidential inaction, 32.5 million children have been lost. The saddest fact is that most of these deaths have occurred from preventable causes such as vaccine-preventable diseases, diarrhea, dehydration, and pneumonia. Throughout the world, 100 million children work under hazardous and often fatal conditions. Another 80 million children are homeless in the world's cities and 10 million are refugees. These are all issues addressed by the convention.

The problems of the world's children are our problems. As the only remaining superpower we are morally obligated to confront their plight. As the world grows more interdependent it is no longer possible to ignore the actions of others, especially when they concern children. Imagine a world where the potential of all humans is fully utilized? If we are ever to achieve such a noble and fruitful goal we must begin with our children, all the world's children.

It is also in our national interest to ratify the treaty. The Children's Defense Fund reports that in the United States 40,000 children die a year before their first birthday. Ten thousand children die every year of poverty, approximately 500,000 teenagers give birth every year, approximately 80,000 are arrested on a drug offense, and another 135,000 bring guns to school each year. The United States ranks 19th in infant mortality. All this in the wealthiest, most advanced nation on Earth. We can and must do better. Signing and ratifying the convention would be a giant step forward.

The convention will help focus needed attention on the problems of children, here and abroad. It establishes minimum standards for measuring the way governments treat their children. It entitles children to a name and nationality at birth. It stresses the importance of child survival and the need for primary health care. It emphasizes primary education, where 4 years of schooling can turn potential beggars into productive citizens. It requires governments to protect their children against excessive child labor, drug abuse, and sexual exploitation. It provides for special protections in adoption, and mandates proper care for orphaned children. It requires countries to establish minimum standards of juvenile justice. It prohibits states from using children as cannon fodder during war. Finally, it organizes a committee of experts to monitor and publicize the extent to which governments meet these standards. The convention now needs the United States to add its name and prestige to advance further the cause of children.

The convention focuses energy and resources on doing the simple things—the right things—to help children. It is not about changing our society or a massive transfer of resources. It is, instead, about targeting available resources toward the most vulnerable segment of our society. This convention is not about a wholesale redefinition of human rights to include social and economic benefits for every individual. Instead, it is about recognizing that we have to take care of children as a group. President Bush, it is now time to put political gestures aside and address the demonstrated needs of children here at home and around the world. Send the Convention on the Rights of the Child to the Senate for ratification now.

## HURRICANE INIKI RECOVERY EFFORT

Mr. AKAKA. Mr. President, with the Senate's forbearance, I would like to speak at length on the subject of Hurricane Iniki. Specifically, I would like to offer my heartfelt thanks to the many individuals and organizations who have supported Hurricane Iniki's victims, to update my colleagues on the status of the recovery effort, and to encourage the rest of America to continue to visit the Aloha State.

Before I begin, however, I would again like to express my appreciation to the Members of this body, who supported our amendment to the supplemental appropriations bill that could make as much as $1.2 billion available for victims of Hurricane Iniki. That bill, which was passed on September 18 and signed by the President last Wednesday, will form the basis for a massive long-term effort to rebuild those areas of Florida, Louisiana, Guam, and Hawaii that were devastated by Hurricane Andrew, Typhoon Omar, and Hurricane Iniki.

Special recognition should go to the chairman and ranking member of the Appropriations Committee, Senator BYRD and Senator HATFIELD, for their assistance in drafting the aid package and for expediting its passage.

I also wish to thank the members of the Florida and Louisiana delegations, Senator GRAHAM, MACK, JOHNSTON, and BREAUX, for their generous cooperation in allowing aid for Iniki victims to be added to the supplemental, a measure which was originally intended to help only their States recover from Hurricane Andrew.

Finally, I wish to recognize, once again, the contributions of Senator INOUYE. His was the central role in the effort to obtain Federal aid for the victims of Hurricane Iniki, and it was his experience and leadership that enabled us to move forward with the aid initiative so quickly.

Mr. President, 2 weeks ago last Friday, Hurricane Iniki hit the island of Kauai and the Waianae shore of Oahu with the force of a sledgehammer. On Kauai alone, an estimated 13,732 homes were destroyed or damaged, leaving thousands homeless or without adequate shelter from elements. Five thousand to six thousand power poles were knocked down and telephone microwave dishes were disabled, leaving the island's 51,000 permanent residents without electricity or the ability to communicate among themselves or with the outside world. The loss of power also meant that no water could be pumped to faucets. In addition, tons of debris blocked roads, shutting down transportation within the island. And Lihue Airport, the island's major link to the rest of the State, was out of commission, preventing immediate relief and evacuation.

Mr. President, I am happy to report that, thanks to the quick reaction of Federal, State, and local officials, the energy and enthusiasm of the volunteer agencies, and most of all to the courage and fortitude of the people of the Garden Isle themselves, the situation on Kauai is not quite so bleak, though it will take months, and in some cases, years, before the island returns to a semblance of its previous condition. While time does not permit me to give my colleagues a complete rundown on relief efforts, allow me to provide them with a few examples which may serve to illustrate how the recovery effort is progressing:

The airport is now open to both military and commercial traffic, 24 hours a day. Relief supplies are being flown in on a constant schedule, and other supplies are being shipped to Barking Sands missile facility for distribution.

Thousands of military personnel, including Marines, Army units, and members of the Army National Guard, under the direction of the Corps of Engineers, have made most of the roads passable.

Water service has been restored 95 percent; telephone service is perhaps 80 percent of normal.

Although less than 20 percent of original electrical service has been restored, hundreds of local power company workers, supplemented by dozens of crews from the mainland, are working to ensure that the most critical needs are being met.

Disaster management assistance teams have successfully treated more than 2,000 people for injuries at field hospitals, including 719 inpatients and 1,378 outpatients. Only three persons have been confirmed dead.

For the thousands of people whose homes were destroyed or damaged, shelters, tents, and other temporary housing have been provided.

While there are now only three Red Cross shelters housing 35 people, many more shelters had been opened in the wake of the storm which housed the hundreds of people who had been dislocated by the disaster.

Five hundred special, family-sized tents have been erected to house thousands who have been rendered homeless by permanent or temporary damage to their homes. Plastic sheeting, and the labor to install it, has been used to help thousands more make their less-damaged homes temporarily livable.

Schools have been inspected for damage, and classes at a few have been resumed, although only on a half-day schedule.

As of yesterday, the Red Cross and Salvation Army had served 121,000 meals at 16 fixed feeding sites and 3 mobile kitchens. This does not include the tons of food supplies that have been passed out to individuals and families at central distribution centers.

As of September 24, a total of 13,284 registrations had been received for individual assistance at FEMA's disaster application centers. The agency has obligated an initial $1 million for the Individual and Family Grant Program, which cover essential personal property losses, medical, dental, funeral, and other necessary expenses not covered by other disaster assistance programs.

An initial $1.5 million for disaster unemployment assistance has been obligated. The Hawaii Department of Labor and Industrial Relations has projected a total of 3,500 claimants, for a total estimated program cost of over $21 million.

By last Wednesday, the Small Business Administration had issued 3,457 home and personal property applications, of which it has thus far approved or accepted 370. The SBA has also issued over a thousand business applications, with 32 accepted or approved.

All in all, Mr. President, it has been a magnificent effort. We have a long way to go before Kauai is restored to a semblance of its former self, but it would be safe to say that we are successfully addressing the emergency needs of the disaster. We are not over the hump, but it has been a fine start. While there have been glitches, foul-ups, and delays, for the most part these have been resolved quickly and amicably.

Enormous praise must go the myriad of local, State, and Federal agencies responsible for recovery efforts, including FEMA, the State Office of Civil Defense, the county of Kauai, and the military services, who have tried to coordinate their activities as part of an incredibly complex logistical undertaking. As they carry out their missions, I urge them to use whatever means at their disposal to help Hurricane Iniki's victims, even if that means cutting through redtape and stepping on bureaucratic toes.

Also, I cannot say enough about the contribution of the volunteer service organizations, including the Red Cross, Salvation Army, Second Harvest Food Bank, Southern Baptists, Seventh Day Adventists, and the Latter Day Saints. These are the groups which are responsible for providing for the immediate, human needs of Iniki's victims, including food, clothing, medical care, shelter, or simply a comforting pat on the back and a sympathetic ear.

I also must express my gratitude to the many individuals across the country, from Massachusetts to Colorado to California, who volunteered their time, money, and sympathy for people whom they will in all likelihood never meet or know. One college student asked if he could pilot a relief plane. A young women called to ask if she could organize a drive for donated household goods. To all of you out there in middle America, thank you for concern. Thank you for reminding us that the spirit of charity runs strong in the American people.

Mr. President, aside from this update, I have one other reason for taking to the floor today: To encourage tourists to continue coming to Hawaii. Hurricane Iniki may have knocked the island of Kauai out of commission, but it has not affected the hospitality that can be offered elsewhere in Hawaii.

While the loss of the Garden Isle is a severe blow to Hawaii's tourism industry, I would like to remind potential visitors to Hawaii that Kauai is only one of several vacation spots in the 50th State. Oahu, the Big Island of Hawaii, Maui, and Molokai are breathtakingly beautiful vacation spots in their own right. Together, these islands have more than 500 hotels and condominiums, with nearly 70,000 rooms, all in perfect condition. And by continuing to visit our islands, they will indirectly assist an economy that must also help sustain the people of Kauai.

Mr. President, I know of no better advertisement for Hawaii than to recall the outstanding role played by our tourism industry in caring for the thousands of tourists who were left on Kauai in the wake of Hurricane Iniki.

Mr. President an estimated 8,000 to 10,000 visitors were stranded on Kauai after the cyclone roared through. Knowing of their plight, a consortium comprised of State agencies, hotels, airlines, tour operators, car rental companies, and many others initiated a massive evacuation effort called Operation Iniki—Aloha.

Operation Iniki-Aloha began on the Sunday following the disaster, when military and commercial aircraft began to fly the first of the tourists to Honolulu International Airport. At the airport, a giant central clearing facility had been established to welcome the evacuees, to provide them with food and drink, to offer them beds and showers at the airport or in local hotels, and to offer them assistance with their travel plans. In the space of a 3 or 4 day period, virtually every Kauai vacationer had been evacuated and processed by the people who ran Operation Iniki-Aloha.

Mr. President, Operation Iniki-Aloha was an entirely voluntary initiative organized by Hawaii's tourism industry out of sympathy for people whose long-planned vacations had been ruined by a violent, unexpected act of nature. Everyone contributed to the operation's success. The large Waikiki hotels catered thousands of free meals for the arriving evacuees. Other hotels offered discounts to tourists who wished to continue their vacations in Hawaii. The local interisland airlines provided free transportation to Honolulu and other island destinations for nominal or reduced charges. Aviation fuel was provided free by the local petroleum companies. Tour bus companies and car rental agencies offered ground transportation. The telephone company installed hundreds of phone banks for tourists to let their families know they were all right. And special hotel and airline representatives helped the tourists with their travel plans, either to return to their mainland homes or to go on to other Hawaii destinations. I am happy to report that, perhaps because of the spirit of hospitality exhibited by Operation Iniki-Aloha, easily half the tourists chose to continue their vacations within Hawaii.

Mr. President, Operation Iniki-Aloha demonstrates that the aloha spirit, that indefinable sense of hospitality that is extended to every visitor who arrives on Hawaii's shores, is alive and flourishing. In fact, I would say that his spirit is even more in evidence now, when our natural tendencies are heightened by our concern over Hurricane Iniki and its victims.

And, so, Mr. President, I want to put in a pitch for the Aloha State. Even thought a small portion of paradise is currently under repair, the rest of the Aloha State stands ready to welcome visitors with open arms.

Thank you, Mr. President. In closing, I would again like to thank the people of this great land, who, individually, or through their churches or volunteer organization, or through their Government, have extended a helping hand to their less fortunate brothers and sisters in the fiftieth State. Thank you for helping. Thank you for caring. Mahalo Nui Loa.

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## ON THE OCCASION OF NANCY'S BIRTHDAY

Mr. SYMMS. Mr. President, I rise today to note that for Nancy Thomas, today is the day that many of us have approached with some trepidation.

As have already many of our colleagues, I have already passed my 50th birthday and I am sure they would join me in telling Nancy that it is not all bad, even though it seems one's glasses need to get thicker with the passage of each season. Using a bit of poetic license, I will cite Thomas Paine and observe that this may be "the birthday of a whole new world."

In any regard, I am happy to offer my congratulations and to have had the opportunity to befriend Nancy through her husband David Henley, with whom I have worked closely on the legislation to finally memorialize Thomas Paine.

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## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

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## EXECUTIVE SESSION

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## THE START TREATY

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### TREATY DOCUMENTS NOS. 102-20 AND 102-32

The PRESIDING OFFICER. The Senate will now go into executive session to consider the START Treaty.

The clerk will report.

The legislative clerk read as follows:

Calendar No. 45, Treaty Document No. 102-20, treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, the START Treaty (Treaty Document No. 102-20).

Calendar No. 46, Treaty Document 102-32, protocol to the treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms (Treaty Document No. 102-32)

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, it is with a profound sense of fulfillment that I am able to stand before the Senate today and recommend that this body advise and consent to the Treaty on the Limitation and Reduction of Strategic Offensive Arms, known as the START Treaty. This is the first strategic offensive arms control agreement to be approved by the committee since SALT II was voted out by a divided committee in 1979.

The committee approved a resolution of ratification that includes eight conditions and five declarations dealing with important issues relating to the treaty. In addition to myself, voting in the affirmative were Senators BIDEN, SARBANES, CRANSTON, DODD, KERRY, SIMON, MOYNIHAN, ROBB, WOFFORD, LUGAR, KASSEBAUM, PRESSLER, MURKOWSKI, MCCONNELL, BROWN, and JEFFORDS. There were no votes in the negative.

The Committee on Foreign Relations reported the treaty last Friday, September 18, after receiving reports from the Senate Select Committee on Intelligence and the Senate Committee on Armed Services.

The Intelligence Committee carefully assessed the monitoring and counterintelligence aspects of the treaty. In its report to the Committee on Foreign Relations, the Intelligence Committee stated that it "concurs in the judgment of the Director of Central Intelligence and other Intelligence Community officials that while there are some areas that will be problematic, we are confident that we can monitor most aspects of the treaty well." The select committee points out that U.S. intelligence will have less than high confidence in its monitoring of such areas as "nondeployed mobile ICBM's, the number of RV's actually carried by some ICBM's and SLBM's and some provisions relating to cruise missiles and the heavy bombers that carry them." The select committee points out that the Joint Chiefs of Staff have concluded that the military significance of the risk of such hypothetical cheating is quite low.

The Committee on Armed Services raised concerns with regard to two conditions approved by the Committee on Foreign Relations. Because the Armed Services Committee report was filed before that of the Committee on Foreign Relations, the chairman of the Armed Services Committee did not have an opportunity to review our report. Having done so, Senator NUNN has no objection with regard to either condition that raised his concerns. I will go into this more fully a bit later in my discussion of the particular conditions.

At this time, however, I would like to commend the chairman and the vice chairman of the select committee, the Senators from Oklahoma and Alaska, Mr. BOREN and Mr. MURKOWSKI, and the chairman and ranking minority member of the Committee on Armed Services, the Senators from Georgia and Virginia, Mr. NUNN and Mr. WARNER, for efforts with regard to the START Treaty. With regard to a treaty of this complexity and magnitude, I believe the work of each of these committees is of genuine importance and value.

In 1963, President John Kennedy seized upon the possible and negotiated the first nuclear limitation accord. The agreement the Committee on Foreign Relations approved in July—the START Treaty—took 9 tough years of negotiation between the world's two superpowers.

These two agreements and the ones that have been achieved since 1963—such as the Nonproliferation Treaty of 1968, the SALT I Interim and the Antiballistic Missile Treaty of 1972, the SALT II Treaty of 1979, the Intermediate-Range Nuclear Forces Treaty of 1987—are all part of a continuum of arms control that reached a crescendo with START.

The START Treaty sets limits upon land-based and submarine-based strategic ballistic missiles, heavy bombers, and the warheads deployed in those forces. Warheads on ballistic missiles based on land and on submarines are counted at their full value, and their total is limited to 4,900 for each side. The remaining accountable warheads are to be deployed on heavy bombers, but the actual totals of bombs and cruise missiles on bombers will be undercounted.

Under the START counting rules, a total of 6,000 accountable warheads are allowed. In practice, START would reduce the United States from its declared total of about 12,000 warheads to about 8,500 warheads under START. The former Soviets would reduce from a declared total of about 11,000 warheads to perhaps 6,500 warheads under START. These reductions would take place over a 7-year destruction period.

The prospective de-MIRVing treaty, to be based upon the joint understanding achieved at the June summit between Presidents Bush and Yeltsin, would reduce these initial totals by another 30-40 percent to a range of about 3,000 to 3,500 warheads in about the year 2003, or earlier, if we help the former Soviets in some of their destruction tasks.

START creates a verification regime which will add certainty in a time of uncertainty in the former Soviet Union. The START verification regime consists of 12 different types of on-site inspections, some 100 different kinds of data notifications, perimeter and portal continuous monitoring at mobile missile assembly facilities, cooperative measures to assist our national technical means to verify arms control treaties, and the right to ask for special access visits to undeclared facilities. The overlapping procedures are designed to greatly complicate the task of any party trying to circumvent the limitations and ceilings imposed by START.

The START Treaty (Treaty Doc. 102-20) was signed on July 1, 1991, and transmitted to the Senate on November 25, 1991. Since that time, the Soviet Union has ceased to exist. On May 23, 1992, a protocol amendment to the START Treaty between the United States and Byelarus, Kazakhstan, Russia, and Ukraine, as successor states of the Soviet Union in connection with the START Treaty, was signed in Lisbon, Portugal. This protocol (Treaty Doc. 102-32) was transmitted by the President for the Senate's consideration as an integral part of the START Treaty with a request that it be considered along with the START Treaty for advice and consent to ratification.

All strategic offensive arms are based, and all declared START-related facilities are located, in four former Soviet republics: the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine. The May 23, 1992 protocol provides that Byelarus, Kazakhstan, Russia, and Ukraine together shall assume the obligations of the former Union of Soviet Socialist Republics under the START Treaty.

By its terms the May 23, 1992, protocol is an amendment to the START

Treaty. Article VI of the Protocol provides that "each party shall ratify the treaty together with the protocol" and that "this protocol shall be an integral part of the treaty and shall remain in force throughout the duration of the treaty."

The protocol also obligates Byelarus, Kazakhstan, Russia, and Ukraine to make such arrangements among themselves as are required to implement the START Treaty's limits and restrictions, to allow functioning of the verification provisions of the START Treaty throughout the territory of the four states, and to allocate those costs that would have been borne by the Soviet Union. The protocol also clarifies how certain terms used in the START Treaty will be applied, now that the four states will be parties in place of the former Soviet Union.

Of great importance, the protocol obligates Byelarus, Kazakhstan, and Ukraine to adhere to the Treaty on the Nonproliferation of Nuclear Weapons of July 1, 1968, as nonnuclear-weapon states parties in the shortest possible time and to begin immediately to take all necessary actions toward this end. Thus, the protocol will not only allow the implementation of the START Treaty, but will also constitute a critical element in the furtherance of the United States' nuclear nonproliferation objectives.

The START Treaty, including the protocol, is subject to ratification and shall enter into force on the date of the final exchange of instruments of ratification. The protocol, as an integral part of the START Treaty, shall remain in force throughout the duration of the START Treaty.

Associated with the protocol and thus with the START Treaty are three separate, legally binding letters signed by, respectively, the Chairman of the Supreme Soviet of the Republic of Byelarus, the President of the Republic of Kazakhstan, and the President of Ukraine. (See Treaty Doc. 102-32.) Each letter obligates the signing state to eliminate all nuclear weapons and strategic offensive arms from its territory within 7 years of the date of entry into force of the START Treaty.

Negotiation of the START Treaty took 9 of 10 difficult years. The sides persevered in their effort because of the shared fundamental premise that, as the President said in his letter of transmittal, "the United States and the Soviet Union have a common interest in reducing the risk of nuclear war and enhancing strategic stability."

Over the years, the treaty was pursued with several objectives. The first goal was to enhance crisis stability. This was, of course, of paramount importance so long as the Soviet Union remained intact as a secretive, mysterious, and competitive superpower. This may appear a bit less important in the post-cold war world. A former foe has been divided into separate, independent states, thus reducing the unified threat. These new nations have come to share more common objectives, have ceased to confront us and have ended the military competition. Nonetheless, in this post-cold-war environment START will provide regulation of the arsenals, a regime of ensuing inspections, and opportunities for cooperation that will be of value in ensuring that old threats do not return in any significant fashion.

Second, START was designed to reduce the strategic arsenals of the two sides and set the stage for further reduction. The unilateral reductions and other steps already made possible by START have served to eliminate much of the threat posed by tactical weapons and have reduced the readiness of strategic forces. Certainly, START has set the stage for early agreement on truly major reductions over and beyond the one-third cut achieved by START.

Third, the goal of START was to reduce inequalities and leave the sides with equivalent capabilities. START accomplished this without any serious question.

Another goal was effective verification. That goal was achieved, and the START verification regime is the most far-reaching and complex ever negotiated. In truth, in the post-cold-war environment, it may prove demanding far beyond our own needs, with the result that many of the rights granted in tough negotiation against the erstwhile Soviet Union may prove perhaps, hopefully unnecessary, unduly burdensome, and superfluous in the years ahead. Certainly, the provision gained may now be of value in reaching other accords with great dispatch, but it is unlikely that we would ever again need to create another inspection regime comparable to that of START.

I see these as critically important benefits of START:

First, START, as amended by the Lisbon Protocol, will solve the successor state problem by obligating four states to the reduction and elimination of weapons, thus opening the way for completion of the treaty with Russia, cutting our mutual arsenals by two-thirds.

Second, START with its detailed requirements, including the most extensive and intrusive verification efforts ever negotiated, will provide the necessary framework for the new de-MIRV'ing treaty to be negotiated with Russia and help encourage other nuclear states to reduce arsenals to the lowest levels possible.

Third, START and the Lisbon protocol will save the world from the threat of use, misuse, or diversion of the nuclear arsenals in three states—Kazakhstan, Ukraine, and Byelarus—states with nuclear arsenals on their soil much more lethal, about three times, than those nuclear arsenals of Britain, France, and China combined.

Fourth, START and the Lisbon protocol will be of tremendous force in reinvigorating efforts to strengthen the world's nonproliferation regime.

The value of START is even more compelling, when one considers the implications if START were rejected:

First, without START, Russia, Byelarus, Kazakhstan, and Ukraine would not be required to cooperate in bringing about the one-third reduction in warheads required by START.

Second, without the Lisbon protocol to START, there would be no requirement that Byelarus, Kazakhstan, and Ukraine totally eliminate the nuclear arsenals on their soil.

Third, without START, the new de-MIRVing treaty based upon START, which requires a fourth one-third cut in the former Soviet Union's arsenal, would not be possible.

Fourth, without START, the clear message to other potential nuclear weapon-states would be that those with nuclear weapons are simply unwilling to constrain themselves.

In preparation for consideration of the treaty today, the committee conducted five hearings with nongovernmental witnesses last fall prior to submission of the treaty last November 25. Ten hearings were held in March and April. In June, Secretary of State Baker was the lead witness for the administration. Other witnesses in a series of five hearings included the Chief Negotiator, the Director of the Arms Control and Disarmament Agency, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the military service chiefs, the Director of the On-Site Inspection Agency and the Director of Central Intelligence, and representatives of the intelligence community. Other executive branch witnesses appeared at the earlier hearings.

A total of 35 witnesses from outside the executive branch were heard. They included solid supporters of the treaty as well as those who raised concerns and expressed some skepticism. We were careful to meet the suggestions of Democrats and Republicans alike.

Not one witness suggested that the Senate reject the START Treaty. We were careful, however, to consider cautions and concerns expressed in the course of our hearings and to raise a number of these issues with the administration. In this effort, the committee reviewed hundreds of detailed responses on treaty-related matters.

Mr. President, following the hearings and the committee assessment, the Senator from Indiana [Mr. LUGAR], who was then the acting ranking minority member of the committee, and I directed the preparation of a resolution of ratification with seven conditions and five declarations.

At the markup, the Committee on Foreign Relations voted to recommend to the Senate that it advise and consent to the ratification of the START

Treaty, together with its annexes, protocols, memorandum of understanding, corrigenda, and protocol of May 23, 1992, all transmitted to the Senate in Treaty Doc. 102-20 and Treaty Doc. 102-32, subject to the conditions and declarations set forth in the resolution of ratification approved by the committee. These conditions and declarations were as follows:

Because of the uncertainties attendant to the transformation of the Soviet Union into 15 new states, the Senate's advice and consent should be conditioned on a clear understanding of the significant legal obligations entered into by the other four parties to the treaty. Consequently, conditions one and two state that Byelarus, Kazakhstan, Russia, and Ukraine will be bound under international law to all the treaty obligations of the Soviet Union under START and to the legal and political obligations of the Soviet Union related to START.

Since Byelarus, Kazakhstan, and Ukraine set forth their obligations to eliminate nuclear weapons from their territories in separate legally binding letters, Condition three affirms that they will be considered by the United States as solemn treaty obligations. Since the separate obligations of Byelarus, Kazakhstan, and Ukraine to eliminate nuclear weapons on their territories within the 7-year START period is of such significance, condition 6 requires Presidential consultation and action should these obligations not be met.

Condition four recognizes the importance of Byelarus, Kazakhstan, and Ukraine's treaty obligations to adhere to the Nuclear Nonproliferation Treaty as nonnuclear-weapon states parties in the shortest possible time and requires the President to communicate to each of these countries the significance the United States attaches to this obligation. I would note that in addition to this treaty obligation, Ukraine has made a legally binding commitment to have a non-nuclear status and not accept, produce or acquire nuclear weapons.

We do not know when Belarus, Kazakhstan, Russia, and Ukraine will reach agreement among themselves on how they will implement the treaty's limits, how the verification provisions will function in their territories and how they will work together within the Joint Compliance and Inspection Commission. Consequently, condition five directs the President to seek an urgent meeting at the highest diplomatic levels to gain agreement on these issues if they have not been resolved by entry into force of the treaty. I would emphasize that there is no question that each country will be clearly obligated to comply with the treaty's limitations and verification provisions upon entry into force. These future arrangements relate to the implementation of those treaty obligations.

The Committee on Armed Services raised concerns that the executive branch might not consult fully with the Congress regarding problems prior to entry into force. This was not our intent at all. The committee expects that the committee will be kept fully and currently informed and will insist that such will be the case. In this regard, the committee report notes:

> The executive branch has kept the Committee informed as to progress on these issues and will report fully and formally prior to entry into force. In a letter of September 17, 1992, United States Arms Control and Disarmament Agency Director Ronald Lehman informed Chairman Pell that "significant progress has already been made toward the completion of the tasks mandated by the Lisbon Protocol."
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> Failure to reach agreement on these matters by entry into force of START will require the President to consult with the Senate regarding the effect of the START Treaty of such failure and to seek on an urgent basis a meeting at the highest diplomatic levels to gain agreement on the completion of these arrangements. If there is not progress on the implementation issues in the JCIC, the President has the power to delay the date of entry into force by holding back the U.S. ratification papers. Because these implementation issues are complex, the Committee felt that the President should have this degree of flexibility.

The degree of Soviet treaty noncompliance has been widely debated over the years. Now that the Soviet Union has broken up into 15 new states, it is time to move beyond these issues of the past and address the future with these new states. As the author of section 52 of the Arms Control and Disarmament Act requiring the annual report on compliance with arms control treaties, I would like to close the books on the old Soviet Union. Condition seven calls for an expanded and updated compliance report which, hopefully, will be the last such report on the old Soviet Union. This report calls for a listing of Soviet violations and probable violations, and information on how those issues were resolved, a listing and discussion of Soviet actions which eliminated nuclear weapons systems to meet arms control obligations, and a comparison of the military significance of these two types of actions.

In my view, the arms control process with the Soviets, on balance, has clearly paved the way toward the cuts in the START Treaty and the deeper cuts in the de-MIRV'ing treaty. However, I think it important for all of us to learn what are the facts on what actually happened, and what is result of a comparison of the military significance of these two kinds of actions under arms control treaties.

At the markup, Senator BIDEN proposed, and the committee accepted, condition eight which directs the President to seek an appropriate arrangement, including reciprocal inspections, data exchanges, and other cooperation measures to monitor the numbers of nuclear stockpile weapons and the location and inventory of facilities for producing significant quantities of fissile material.

The committee report makes it clear both what should be sought and the degree of Presidential direction intended. The report states:

> In short, the Committee believes the prospective treaty arising from the Washington Summit Agreement would be a major, even historic, accomplishment; and therefore, the Committee does not seek to require, or otherwise encourage, delay in completion of the new treaty for the purpose of incorporating warhead monitoring arrangements.
>
> The Condition does not specify precisely what form this new arrangement should take. It does not specify what combination of measures are necessary. Nor does it require that sensitive information be made available to Russia or any other country. On the contrary, the Condition merely requires the Executive Branch to mount a serious effort to ensure the accountability and control of warheads and fissile material in the former Soviet Union. In so doing, the Committee recognizes that the Administration may have to make difficult choices between helping to prevent nuclear proliferation on the one hand and providing limited information about U.S. facilities on the other.

Looking at the bright prospects for building upon the momentum of START, declaration one encourages the conclusion of a treaty with Russia based on the joint understanding of June 17, 1992, at the earliest possible date, and calls upon the other nuclear-weapon states to give careful and early consideration to corresponding reductions in their own nuclear arsenals.

Declaration two urges the President to seek the adherence of Byelarus, Kazakhstan, and Ukraine to the guidelines of the missile technology control regime. The United States has urged other nations to become members in the missile technology control regime [MTCR]—or to adhere to its guidelines—in order to reduce the risks associated with the proliferation of ballistic missiles and other unmanned systems capable of delivering nuclear weapons. The MTCR's membership has expanded considerably since its inception. Nations such as Russia and China, while not formally members, have agreed to abide by the regime's guidelines. In effect, the MTCR has become the international yardstick by which the acceptability of missile and missile technology transfers are measured.

It is well known that the START Treaty destroys silo and submarine missile launchers and heavy bombers, but does not require the destruction of missiles. Of course, I would like START to go the further step and destroy strategic warheads under reciprocal verification, but the administration and Russia are not eager to allow inspectors any access that compromises warhead design information. Declaration three calls for a beginning in this area by urging the President to instruct the safety, security, and dismantlement negotiators to proceed expeditiously to obtain the destruction of strategic—as well as tactical—warheads and to facilitate secure safeguarded storage of the special nuclear materials withdrawn from the weapons. Because of the significant changes in the former Soviet Union, I will continue to press for truly verifiable destruction of all types of nuclear warheads.

Declaration four reaffirms the constitutionally based principles of treaty interpretation set out in the INF Treaty, and declaration five reaffirms the Senate position that it will consider for approval only as treaties those accords obligating the United States to reduce or limit its arms in a militarily significant manner.

I am very pleased that the Committee on Foreign Relations has given the treaty its full support. It reported it out unanimously. I hope very much that our action will pave the way for Senate advice and consent to ratification of the START Treaty.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I congratulate the distinguished chairman of the Foreign Relations Committee on a superb exposition of the treaty. I share his point of view.

As he pointed out, the vote was unanimous to report this treaty to the floor.

Mr. President, the Senate faces no more solemn a duty than that of giving its advice and consent to the ratification of treaties. This constitutional responsibility, important at all times, is especially vital when the subject of the treaty under consideration relates to the nuclear arsenal of the United States that remains the fundamental underpinning of our national security.

Today, the Senate takes up the Strategic Arms Reduction Treaty, signed in Moscow on July 31, 1991. This historic treaty is the product of over a decade of bipartisan effort to move the United States toward a safer, more stable world.

Negotiations began under President Reagan in 1982, were suspended in December 1983 following a Soviet walkout in response to NATO deployment of intermediate range nuclear missiles, and resumed in 1985. Major decisions were reached by President Reagan and General Secretary Gorbachev at four summit meetings in 1985 through 1988. Between those major meetings, slow, patient work continued in the negotiations toward a treaty.

In the 3 years after assuming office, the Bush administration held a series of meetings between the Secretary of State and the Soviet Foreign Minister and between other senior United States officials and their Soviet counterparts, while continuing virtually full-time negotiations in Geneva.

These efforts culminated on July 31, 1991, when President Bush and Soviet President Gorbachev signed the START Treaty in Moscow. The treaty was transmitted to the Senate by the administration in November 1991, accompanied by an exhaustive and detailed 367-page, article-by-article analysis of its legal interpretation.

When the Soviet Union collapsed in December 1991, the administration and the Foreign Relations Committee jointly agreed that consideration of START should be delayed, pending resolution of the question of who would assume the obligations of the former Soviet Union under the treaty. In May 1992, in Lisbon, Portugal, the United States, Belarus, Kazakhstan, Russia, and Ukraine signed a protocol clarifying the status of the four successor states to the Soviet Union. This Lisbon protocol is an integral part of the START Treaty and was considered by the committee along with the treaty itself.

If ratified, START will result in approximately a 40-percent reduction in the strategic offensive arms of the former Soviet Union. It will ensure that the three non-Russian States that emerged from the former Soviet Union with strategic weapons will eliminate those weapons and join the Non-Proliferation Treaty.

The treaty will put in place an extensive verification regime as a hedge against the reemergence of a hostile regime in Russia. It will set the stage for the still-more-sweeping reductions agreed upon in June 1992 between President Bush and President Yeltsin of Russia.

And it will do all this while allowing essential U.S. defense programs to proceed, thus ensuring that the Congress continues to fulfill its duty to provide the common defense.

A treaty of this importance deserves careful review by the Senate. Under the leadership of the chairman of the Foreign Relations Committee, START has received that review. Any suggestion that Senator PELL and Senator HELMS, the chairman and ranking member respectively of the Foreign Relations Committee, have been derelict in their duties in promoting full and timely committee consideration of the START Treaty is without foundation or merit.

Since the treaty was formally transmitted to the Senate, the committee has held 15 hearings, with a total of 39 witnesses, including the Secretaries of State and Defense, the Chairman and the Joint Chiefs of Staff, the Director of Central Intelligence, the Chief U.S. negotiator, and a series of public witnesses from across the political spectrum.

But the number of witnesses alone is unimportant. I have made a particular effort to insure that arguments raised by critics of the treaty have been put to officials and the committee in unadulterated form. Minority staff members of the committee have taken special pains to ensure that Members were aware of the arguments of the treaty's skeptics. The administration has taken such critical arguments into account when responding to the hundreds of questions from the committee. The committee benefited from these formal responses to questions for the record, as well as from the extensive analyses of both the majority and minority professional staffs.

Finally, and very importantly, the committee benefited from the examination of the military and intelligence implications of the treaty conducted by the Armed Services Committee and the Select Committee on Intelligence.

The committee's examination of this treaty has been extensive and thorough, and I reject the notion that the committee has not properly reviewed the agreement. What is important is not whether certain professional skeptics of the treaty appeared before the committee but whether the grounds for any such skepticism were properly examined and reviewed by the committee. I affirm that they were. And following that review, the Foreign Relations Committee voted unanimously to recommend that the full Senate give its advice and consent to ratification.

Mr. President, I want to review briefly for the Senate the areas to which the committee paid particular attention, the concerns we heard and examined, and the reasons why committee members believe that the treaty will add a major increment to the security of the United States.

### FOREIGN RELATIONS COMMITTEE CONCERNS

Mr. President, as I have indicated, the committee unanimously endorsed the treaty that resulted from a complex and extended negotiation. Our review did, however, reveal some areas of concern requiring further clarification. As a result, the committee has recommended a number of conditions in its proposed resolution of ratification.

Because of the uncertainties surrounding the breakup of the Soviet Union, it is essential for the Senate to have a clear understanding of the precise legal obligations undertaken by our treaty partners. The committee, therefore, included in its draft resolution of ratification appropriate conditions that bind the President to ensure that our four treaty partners are legally bound under international law to all the obligations of the former Soviet Union under START, and that they have assumed the legal and political obligations of the Soviet Union as they are reflected in the documents associated with the treaty. Those documents had been transmitted to the Senate with the treaty for its information.

Under the committee condition, the President will be required to inform our treaty partners that the United

States will regard actions inconsistent with the legal obligations of these associated documents to be equivalent under international law to actions inconsistent with the treaty itself.

Similarly, the President must also inform Belarus, Kazakhstan, and Ukraine that the obligations they undertook in their individual letters to the President in connection with the Lisbon protocol are equivalent under international law with their obligations in the START Treaty itself.

The same is true with regard to the obligations of these States to adhere to the NonProliferation Treaty in the shortest possible time.

The committee was also concerned about the requirement in the Lisbon protocol that our four treaty partners had to arrive at appropriate arrangements among themselves to properly implement the START Treaty. If such arrangements are not completed prior to the treaty's entry into force, the President is bound to consult with the Senate and to urgently seek a meeting at the highest diplomatic levels to speed the completion of the necessary arrangements.

In separate, legally binding letters provided in connection with the Lisbon protocol, the three non-Russian States have undertaken obligations to eliminate all nuclear weapons, including all strategic offensive arms, on their territory within 7 years of entry into force of the treaty. If they have not accomplished such eliminations by that time, the President is bound to consult again with the Senate. If he does not withdraw from the treaty because of their failure to comply with the elimination schedule, the President is required to raise the need for an amendment in the Joint Compliance and Inspection Commission established by the treaty. Further, the President must submit any amendment developed through the joint commission to the Senate for its advice and consent, or seek a Senate resolution supporting continued U.S. adherence to the treaty.

Finally, the committee was concerned about any potential loss of control of nuclear weapons or fissile material in the former Soviet Union. The committee's final condition, proposed by the senior Senator from Delaware [Mr. BIDEN], requires the executive branch to mount a serious effort to ensure the accountability and control of warheads and fissile material in the former Soviet Union.

Mr. President, I know that the language of this final committee condition caused sufficient concern among some members of the Armed Services Committee that they contemplated action here on the floor. However, those concerns were formulated before the Armed Services Committee had an opportunity to review the report of the Foreign Relations Committee on the treaty, a report that clarified the intent behind the committee's final condition. It is my understanding that, with that clarifying report language, the chairman of the Armed Services Committee as well as the administration are supportive of the committee's final condition.

### CONCERNS BY OTHERS

Mr. President, I am aware that many respected and thoughtful Members have expressed additional concerns. The Senate Armed Services Committee, in endorsing the treaty, suggested that if the implementing arrangements among our four Treaty partners had not been completed by time of entry into force, the President should either be enjoined from exchanging the instruments of ratification or, at minimum, be required to consult with the Senate in advance. Let me say to my colleagues on the Armed Services Committee that we have always assumed that the consultations called for in the Foreign Relations Committee's draft resolution of ratification would be done in advance. Administration representatives have affirmed that this is their understanding of the condition as well.

Some have also suggested that we delay entry into force of START until the Senate has had the opportunity to review the so-called START II Treaty, the text of which has yet to be agreed upon. But there is no reason for such a delay. START I is a completely separate treaty that will neither be invalidated by nor modified by START II.

The START II Treaty will not be ready for Senate review this year. The administration was overly optimistic in June and July of this year in stating that a START II agreement might be completed by Labor Day. Acting Secretary of State Eagleberger met with his Russian counterpart last week in New York to commence working out treaty language; little was done over the summer, and prior to the meeting in New York, Russia had not responded to a United States draft proposal. However, it is my understanding that there was no backsliding on the Russian side from the commitments undertaken by President Yeltsin at the June Washington summit with regard to deeper cuts, despite criticisms of that accord by various nationalistic elements in the Russian Parliament.

The Senate will have ample opportunity to review any START II agreement when it is completed and submitted. But there is no reason to delay the good treaty already in hand, awaiting a better treaty we hope to see next year.

Finally, some of our colleagues have argued that the past compliance record of the Soviet Union in its arms control agreements demonstrates contempt for such serious international obligations. They suggest that the START verification regime is not sufficiently robust to deal with such a malevolent partner.

Mr. President, I believe that such arguments are flawed for two reasons.

First, Russia, Ukraine, Belarus, and Kazakhstan are not the Soviet Union; they are new States on the international scene. In most instances, by words and deeds, they are seeking to demonstrate their intent to abide by all their international obligations. With respect to violations of many previous agreements by the former Soviet Union regime, the successor States have been dramatically forthcoming in identifying instances of noncompliance, in providing data previously denied to the United States, and in committing themselves to prompt correction of unacceptable instances of noncompliance. For example, the trip recently completed by Under Secretary Wisner to Moscow has yielded significant advances with regard to biological warfare concerns.

In addition, the Russians have acknowledged to the United States that the use of encryption during the test flight of an SS-19 missile conducted last December was inconsistent with a separate political agreement and constituted a mistake that would not be repeated. The Russians have provided additional tapes and technical data beyond that required by START in order to clarify the issue.

However, there are instances where the deeds have not matched the words. The committee and the administration take very seriously the twin issues of Russian actions to restrict access at CFE inspection sites, and the reconfiguration of sites indicated in the Russian site data in order to further restrict access. While it is doubtful that current Russian practice would permit a militarily significant level of concealment of treaty-limited equipment, current Russian practice is designed to impede verification and thus is inconsistent with our understanding of the definitions of "declared sites" in the CFE Treaty and Russian assurances to us in November 1991 and February 1992 regarding full access.

To be sure, recent Russian behavior has been somewhat inconsistent. The recent inspection of Perm or August 11-12, 1992, went off without a hitch. Nonetheless, Russia has established enough of a record to warrant a strong response. The United States has strongly communicated its concerns to the Russians through numerous channels—through NATO, with our allies, as well as in the forum established by the CFE Treaty for treating such concerns.

Mr. President, this is a time of great transition in the former Republics of the Soviet Union. It would not be surprising if some of the new States encountered problems in implementing agreements entered into by the former Soviet Union. In his testimony before the committee, the Director of Central Intelligence stated that the practical problems of implementing would probably be of greater concern than actual cheating by the other parties. He said:

> We suspect that most compliance questions that arise will be more the result of implementation difficulties than outright cheating. We have the judgments contained in our monitoring estimate in full recognition that the Soviet Union was unraveling as a political entity. Nevertheless, we assumed a continued commitment to the Treaty and a capability to implement it.

In short, Director Gates testified that glitches in the implementation, process are much more likely than dangerous, outright cheating. Commenting on the need for some level of cooperation among the States to ensure that implementation goes smoothly, the CIA Director concluded:

> Although there have been some minor glitches, such cooperation has been realized, thus far, in INF and START-related inspection activities.

So it is with the CFE Treaty.

CFE is a complex treaty; problems with implementation are inevitable, as we have seen with other arms control treaties. But despite this problem, the CFE Treaty is working well overall, and all available information indicates that the parties are complying with their commitments to reduce military equipment covered by the treaty.

There is no good reason to hold up START's entry into force because of this specific CFE concern.

There is a second reason I reject the argument that the START verification regime is not sufficiently robust to deal with a malevolent treaty partner. START has the most extensive verification regime of any arms control treaty in history. START verification depends on national technical means, augmented by notification, data exchanges, and on-site inspections.

START breaks major new ground by banning telemetry encryption. The extensive data exchanges under START include numbers, locations, technical data, site diagrams, and photographs. Data is kept current by exchange of over 80 different types of notifications. Finally, the START verification regime includes 12 types of inspections, plus perimeter and portal continuous monitoring of final assembly facilities of mobile ICBM's. These extensive procedures build on those that have been used with great success in implementing the INF Treaty. This robust verification regime is one of the greatest strengths of the treaty. As the President made clear in his transmittal letter, and as the Senate Select Committee on Intelligence has determined, START is effectively verifiable.

### THE NEED FOR START

Mr. President, as we face the dramatically different world that emerged from the failed coup last August in the former Soviet Union, some Members have asked whether there is still a need for ratification of START. They claim that arms control is a relic of an era of confrontation and may have no role to play in a new era of cooperation with the new, independent successor states.

The Foreign Relations Committee posed this question to Secretary Baker and many of our witnesses, and there emerged seven basic reasons why ratification and implementation of the START Treaty remains important.

First, to encourage quick action by Ukraine, Belarus, and Kazakhstan to adhere to the Nuclear Non-Proliferation Treaty as non-nuclear-weapon states parties. The sooner we bring START into force, the sooner these States will be obligated to join the NPT and to begin eliminating nuclear weapons and strategic offensive arms from their territories.

Second, to ensure broad international support for the Nuclear Non-Proliferation Treaty, which is due for extension in 1995. The nonnuclear States have traditionally regarded the continued pursuit of arms reductions as important to the success of the NPT. Failure to ratify START could be seen by some of the nonnuclear States as a rejection of nuclear arms control.

Third, to give the United States a window on the former Soviet Union. The START notification and verification provisions will provide unprecedented openness and transparency during a time of turmoil inside the former Soviet Union.

Fourth, to enhance stability in the Successor States of the Soviet Union. START resolves major nuclear weapons issues among the four largest and most heavily armed successor States and thus removes these issues as a source of potential tension and conflict.

Fifth, to ensure that forces of the former Soviet Union are reduced when United States forces are reduced. As the United States reduces its forces in recognition of the changed international situation, the Senate has an obligation to ensure that the States replacing the former Soviet Union are obligated to reduce as well. We need the START Treaty to lock in those reductions.

Sixth, to establish a foundation for still deeper cuts. The June summit agreement between Presidents Bush and Yeltsin will make even more dramatic reductions in strategic forces. But that agreement depends on START and assumes START verification provisions will be put in place.

Seventh, to hedge against a failure of democracy in the States of the former Soviet Union. While we are all hopeful, we cannot be certain that democracy will succeed. If new, unfriendly regimes come to power, we want those regimes to be legally obligated to observe START limits and verification provisions.

Mr. President, I find these arguments persuasive and commend them to any Senator who might harbor doubts about the continuing relevance of START.

But I would go further. Not only is it important for this body to approve START, but it is also important to do so now.

Why?

Prompt ratification will encourage Belarus, Russia, and Ukraine to approve START, as Kazakhstan has already done.

Delay by the United States will discourage Belarus, Ukraine, and Kazakhstan from joining the Non-Proliferation Treaty as nonnuclear States.

Prompt ratification will lock in legal obligations for Russia to reduce its still-excessive strategic arsenal.

Delay will leave those Russian strategic reductions to the vagaries of internal Russian politics.

Prompt ratification will put in place the extensive START verification regime.

Delay will risk a return to secrecy and deception.

As the United States and the successor States are building on the accomplishments of START and taking additional steps toward safety and stability, the Senate has an obligation to help bring about a new and safer world.

Mr. President, I urge the Senate to contribute to that process by giving its advice and consent to the ratification of the START Treaty.

Mr. President, I point out, in conclusion, that this is not the first time we have approached the Senate for ratification of an important treaty. I recall, as the Chair does, the significant debate which occurred at the time of the INF Treaty. I recall, perhaps as the Chair does, that there were those then who argued—and this was at a time of the old Soviet Union, prior to the coup, prior to the new Republics—that the Soviet Union would lie, cheat, steal, would hide missiles in caves. All sorts of data were suggested from various intelligence agencies of great divergence about even what we were looking for. Some suggested that arms control treaties are inherently flawed; that they are simply an incorrect position with regard to foreign and defense policy altogether and, on the face of it, ought to be rejected.

Mr. President, I also recall month by month during the 3 years the times in which the missiles were to be destroyed that, in fact, the treaty occurred. The verification regime works. That which was to be destroyed in fact was destroyed. This occurred with the old Soviet Union, quite apart from the new situation. As a matter of fact, the intermediate nuclear force weapons in Europe ceased to exist.

That is important to recall, Mr. President. We have been down that trail before. We have, in fact, as a nation, negotiated a good treaty. We have, in fact, followed through with verification. We have achieved results which I submit are significant with regard to peace in Europe and peace in the world.

I make that point, Mr. President, because of this era of great skepticism in which some assume almost on the face of it that no piece of paper is worth the ink and the paper and their inherent values. As a matter of fact, treaties among nation States, if they are well-negotiated and if the political will on the part of the parties is strong to make them work, do work and they work for peace. They work at least in the case of arms control for reduction of security tensions. That is the case, in my judgment, with the START Treaty. It is a remarkable document fashioned over all the years that I have indicated in my statement by very able Americans. It has the problems that I have discussed, but it also has enormous possibilities, and the reasons for acting now that I have concluded with, I believe, are especially persuasive.

I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, what a sad commentary on the procedures of the Senate. What we are talking about is not a law but something which will ultimately have the effect of the Constitution on the behavior of this country.

We have the chairman and member of the Senate Foreign Relations Committee; we have nobody from the Senate Armed Services Committee, nobody from the Senate Intelligence Committee. In fact, Mr. President, we virtually have nobody from the Senate except the able Member sitting in the chair, who probably has little choice; the rest of the Senate is off observing the beginnings of a holiday of our colleagues of the Jewish faith.

I rise to begin what I had hoped would be a serious debate on the START Treaty. Providing the advice and consent of the Senate on such agreements is a solemn and constitutional duty, not something that we ought to take lightly. But here we are doing just that.

The START Treaty is the most sweeping and detailed arms control agreement ever laid before the Senate for ratification. The agreement contains obligations and limitations that will govern and contain American national security planning for the foreseeable future. Advice and consent that this body provides is essential to ensure the integrity and relevance of the ratification process and to guarantee the national security of the United States, but rubberstamping this treaty or forcing it through before Senators have had an opportunity amply to consider it is the height of irresponsibility. Extremely serious legal contradictions and issues are all too evident.

Mr. President, I would like to quote a few things from the able Senator from West Virginia [Mr. BYRD] who is the leader, among his other duties in the Senate, of the Arms Control Observer Group and who has been the most meticulous of perhaps all of us in his pursuit of the integrity of this process and the Senate.

He was speaking in May 1988 on the issue of the INF Treaty in which he said:

> If the Senate had rushed in and approved this treaty some months ago and then discovered these ambiguities and contradictions, the level of confidence in the country and in our ability to reach good, solid agreements with the Soviets, fully protective of the United States' interests, would have plummeted.

This is May 12, 1988. He goes on to say:

> The Senate would have been criticized for * * * approval before clearly examining the terms of the agreement. A cloud, which would have been cast over our processes, would surely have a major adverse effect on the future of arms control agreements being approved by this body.

He goes on and concludes by saying:

> But the important thing is that it be a good agreement, not dictated by calendar deadlines and not dictated by election-year politics.

Would that the Senate and the majority leader could hear those words spoken again by the able Senator from West Virginia.

On the 9th of May, the same Senator said:

> This Senator is not going to be guided in the Senate's deliberation of a treaty by whether or not the administration has asked for a delay. That is not the Senate's role under the Constitution. The administration has its work in making the treaty. The President makes a treaty by and with the advice and consent of the Senate.

He goes on to say, Mr. President:

> Look, because a treaty is the supreme law of the land, it is not just a piece of paper. Once we approve the ratification of that treaty and the ratification takes place with the exchange of appropriate documents, the treaty is the law of this land. Under the Constitution, the Constitution itself, the laws that are enacted pursuant to the Constitution, and treaties, constitute the supreme law of the land. If we make a mistake—

Said the able Senator BYRD—

> in passing a bill, that can be fairly easily rectified simply by passing another bill repealing the first law, but when it comes to a treaty, if we make a mistake we had better know it before we enter into its ratification. It is just that serious a matter. I do not intend to delay for the sake of delay, but neither do I intend for the Senate to rush into something here just because there has been a calendar deadline set somewhere by somebody. There is this danger. One may say well, let us go ahead and call it up, and let the thing be worked out as the Senate is debating.

We are not going to be even debating today.

> I am not oblivious to the pressure that can be brought upon the Senate once we get something up. The pressure will be there and every day it will intensify: Oh, we have got to hurry, we have got to get through this because the summit is going to take place on such and such a date. The Senate should act. Let all these things be worked out by our experts down the road. They can work out the verification regime, they can work out all the details, and all that. The time is now before we get into that pressure cooker. There are some things that can be done on this floor that will satisfy the Senate.

Mr. President, we have set up a system that will not permit that today. The majority leader with his artificial deadline and the specter of cloture hanging over this basically makes debate, but for today, impossible. Amendments have to be constrained to the rules of the Senate under cloture.

The debate on those will be constrained. Our ability to inform the Senate and the public of this land is deemed denied by a procedure that is election-year driven, by a procedure that is driven by the time constraints of the close of this session for a conclusion that does not die should we fail to enact it with this Senate. The treaty still lies before the Senate, and our ability to make judgments very much still in hand.

Mr. President, take a look at the report, I hope the Senate would, which arrived September 18. The Senate Foreign Relations Committee ignored the advice of the Senate Armed Services Committee on a condition, primarily because the export of the Senate Armed Services Committee was not in before theirs was in, and the demand on the deadline for publication had been delayed in front of us.

The Senate Select Committee on Intelligence, which is not here today for us to inquire of, would I hope be able to explain to the Senate why they came to this conclusion: That Members of the Senate should understand, however, that the U.S. intelligence will have less than high confidence in its monitoring of such areas of non-deployed mobile ICBM's and the number of RV's actually carried by ICBM's and SLBM's and some provisions relating to cruise missiles and the heavy bombers that carry them. These are sort of interesting things.

The Senate Armed Services Committee says that it believes that it should be advisable to enter the START I treaty into force. It would not be advisable in a situation which our treaty partners could not formally agree on how the accord was to be implemented and verified. The fact that optimistic estimates of when this agreement would be completed, advanced by the administration, have not been met suggests that substantive difficulties may be involved, and that the delay may be linked to larger disputes and underlying intentions between the four states.

It goes on to say, however, if the United States were willing to enter the START I Treaty into force without first obtaining the other parties' compliance with article 2 of the Lisbon protocol, it would risk sending a signal that parts of the overall Lisbon compromise could be disregarded without repercussion.

The United States expects to hold the Ukraine, Byelarus, Kazakhstan to their fundamental—to remove all strategic nuclear weapons from their territories and proceed to the Nonproliferation Treaty to the nonnuclear states. It is important that the United States not suggest that other obligations by these states in this agreement can be disregarded.

The committee, therefore, recommends that the text of the condition on this issue proposed by the Foreign Relations Committee either be revised to make completion of the implementation of verification arrangements required by article 2 of the Lisbon protocol a prerequisite for entering the treaty into force or, at a minimum, that the condition be amended to make it clear that the consultation and urgent high-level diplomatic meetings specified in subparagraphs (a) and (b) be accomplished prior to the treaty Presidents entering the treaty into force.

Those have been ignored, Mr. President. There is not even comment in the report as to why they had been ignored. Guess why? Because they did not even read our report before it was laid before the Senate. This is undue haste, is my point here, Mr. President. And the majority leader has created a situation which accelerates the pace of that haste.

My reluctance to endorse the START Treaty and the reports issued by the Foreign Relations Committee and our committee and the Select Committee on Intelligence stems in large part from the fact that the Senate has not adequately evaluated these agreements. The Senate Armed Services Committee held 20 hearings—two zero hearings—on the INF Treaty, one on this. They spend three pages in their assessment of the longest arms control treaty ever submitted to this Senate.

These three Senate committees did hold hearings on START, but notwithstanding the statement of the Senator from Indiana, not a single witness who questioned the fundamental worth of the START framework on the efficacy of its major provisions was permitted to testify.

We heard that the questions they had raised had been submitted to the administration and that the administration, to the satisfaction of that committee, had answered them, but they were not permitted to testify, Mr. President. Make no mistake about it. And in the Armed Services Committee we were going to have them, and that committee canceled those hearings because of the undue haste. They did not have time because we had to get our report in. The Intelligence Committee made no attempt whatsoever.

In the Senate Armed Services Committee we had a second sort of hearing that was focused on a peripheral issue, warhead destruction, and the committee members were invited to attend the only two Intelligence Committee hearings. But in fact our committee held, as I said, only one hearing on the treaty. And, in contrast, we produced a genuine report on the INF Treaty, and this one, I would say, could be characterized before the Senate Armed Services Committee as "dinky"—three pages on START I; the rest on the little skepticism, and START II indicates the lack of seriousness with which the committee undertook that obligation.

Mr. President, this approach to treaty ratification represents a new and disturbing pattern. Beginning last year with the CFE Treaty, the Senate has visibly lowered its standards for arms control treaty ratification. The CFE Treaty was limited to debate on a Saturday, when most Senators were not available to participate. In the case of CFE, most Senators voted for a treaty they had never even read or become familiar with. Serious questions were left unanswered, and major loopholes were left unfilled. I say to the Senate, let us try to restore the integrity and meaning of our arms control treaty ratification and not rubberstamp the START Treaty as we did with the CFE.

Both CFE and START represent treaties negotiated in one era and presented for ratification in another. Both agreements contain major flaws and discrepancies, which the Senate has overlooked at the administration's request. In both instances, the administration applied pressure on the Senate to ratify the agreements before critical data and discrepancies and other key questions had been clarified. The administration has also opposed any serious attempt by the Senate to improve the agreements through conditions or amendments.

Such rubberstamp approval is thoroughly inconsistent with our constitutional responsibility to provide advice and consent. In many ways, it is understandable that the end of the cold war has reduced the perceived need to scrutinize arms control treaties. I understand that, Mr. President. It is a reflection of the declining threat perceptions. But it is also a function of the growing irrelevance of traditional arms control approaches.

Nevertheless, we must bear in mind that the treaties we ratify today will regulate our actions and limit our options for the foreseeable future, even should the international security environment worsen.

If treaties are worth having, they must be closely evaluated by the Senate. If they do not merit close consideration, they are probably not worth having in the first place. But, Mr. President, there are serious legal and procedural questions surrounding the resolution of ratification that the Senate will be asked to vote upon. Moreover, given that a follow-on agreement has been tentatively agreed upon, we are in fact considering a treaty that is outdated.

It seems absurdly irresponsible for us in the Senate, in effect, to consider three treaties simultaneously. The Senate concurrently has before it the original START Treaty, signed on July 31, 1991 with President Gorbachev, whose state no longer exists, and the multilateral Lisbon Protocol, signed May 23, 1992, by the United States, Russia, Ukraine, Byelarus, and Kazakhstan.

In addition, the Senate has already begun to informally consider the joint understanding on further reductions in strategic offensive arms agreed to tentatively by the Presidents of Russia and the United States on June 17, 1992, but which has yet to be translated into treaty text. Nonetheless, it is the principal focus of the Armed Services Committee report.

As a matter of procedure, and for legal reasons, it is important for the Senate to consider the multilateral Lisbon Protocol before approving the START Treaty. Before we approve the underlying text, we must have confidence in our treaty partners' willingness and their ability to implement the treaty. In this sense, I fully concur with the Armed Services Committee's report finding that: "It would not be advisable to enter the START I Treaty into force in a situation in which our treaty partners could not formally agree on how the accord was to be implemented or verified," that particular provision having been ignored by the Senate Foreign Relations Committee.

Unlike the armed services report, which recommends that "completion of the implementation and verification arrangements required by article II of the Lisbon protocol" be made a "prerequisite for entering the treaty into force," I know and the Senate knows that these actions should be completed before the Senate considers the underlying treaty.

The START Treaty that the Senate is being asked to ratify has no standing in international law without the Lisbon protocol, given that we signed START with a governmental entity that no longer exists. We must ensure, therefore, that all states parties in the Lisbon protocol are able to implement their obligations under that agreement. To date, the four former Soviet Republics have not come to an agreement regarding verification and implementation, despite the administration's optimism on this account.

As the Armed Services Committee states in its report:

> The fact that the optimistic estimates of when this agreement would be completed advanced by the administration have not been met suggests that substantive difficulties may be involved, and that the delay may be linked to larger disputes and underlying tensions between the four states.

Recent reports coming from the former Soviet Union cast considerable doubt on Russia's ability to work out satisfactory arrangements with the other nuclear republics. In fact, the side letters that accompany the Lisbon protocol illustrate the magnitude of the problem. In the letters from the President of the Ukraine and the chairman of the Byelarus Supreme Soviet, which are legally binding, it is stated that their nuclear weapons must be destroyed under international control.

Now it is the administration's position that these statements are not legally binding. It is clear, however, that these republics are serious about their concerns, and at the same time, Russia has stated that it will not be bound by START—that is, START will not be effective and viable before the other Republics get rid of their nuclear weapons and join the nonproliferation treaty.

So there is an inherent inconsistency that is in the public record, Mr. President. And it is a sufficient reason for pause and for not considering the START Treaty at the same time as the Lisbon protocol. At a minimum, the Senate should assess this situation on its face without being distracted by a highly complex treaty. After all, the assumption that START will be useful and effective is only viable, even in a theoretical sense, if the Lisbon protocol is successfully implemented.

Mr. President, I am equally concerned by the relationship between the START Treaty, which is pending before the Senate, and the so-called START II agreement. The June 17 joint agreement renders the START I Treaty essentially obsolete in terms of its central limitations. Although it does not fix every flaw in this START Treaty, it does address some of them—this, by the leaders of the two countries involved, and not by a leader of a country which has disappeared.

The report by the Armed Services Committee makes it clear that one cannot logically discuss the START I Treaty without considering the START II Treaty. Indeed, that is why the Senate Armed Services Committee report spends most of the pages that are allotted to it in this report on our desk discussing the START II Treaty.

Unfortunately, the START II Treaty does not yet exist, though the then Secretary of State, Mr. Baker, said we would have it back here by Labor Day. So we have only an outline of an agreed-upon framework that must be put into detailed treaty language. Furthermore, there is absolutely no chance that it will be completed in time for the Senate to consider it this year, given that, according to the Washington Post, the Acting Secretary of State, Lawrence Eagleburger, and the Russian Minister only started talking about it last week. So we have an agreement by President Yeltsin and President Bush, which for reasons known to them, and probably reasons of complications, has not been undertaken.

How much more irresponsible can the Senate be than to base its judgment on a two-page joint statement that fundamentally alters the proposed START Treaty that lies now before us?

Mr. President, I strongly recommend that the United States withdraw the obsolete START I and reconcile it with the START II agreement and resubmit a newly integrated treaty text next year so that the Senate can consider START and its framework in its entirety. This would also give the administration an opportunity to redress some specific flaws in the START I Treaty which I shall address in a couple of moments.

Mr. President, before I address specific flaws in the START Treaty itself, I believe it is important for the Senate to reflect back on the arms control record to date. For virtually the entire 20th century, the United States has sought security in arms control over the years, we have negotiated and ratified hundreds of agreements, bilateral and multilateral.

We have sought to ban or limit certain types of weapons, we have attempted to limit the development and distribution of the technical knowledge needed to build and sustain certain types of weapons, and we have even tried to outlaw war. Despite our persistence and effort, this century of arms control has been an abject failure.

The agreements we have concluded have either been irrelevant or actually harmful to our security. Peaceful nations, including in particular the United States, have been unilaterally constrained or inhibited by their participation in the arms control process while predators have used these agreements to disguise their aggressive intentions and preparations.

In looking back at the arms control agreements of the 1920s and 1930s, Walter Lippmann, a celebrated historian and commentator who strongly promoted those agreements at the time, later wrote:

> The disarmament movement was, as the event has shown, tragically successful in disarming the nations that believed in disarmament.

These words were written in the midst of World War II, a conflict promoted, not inhibited, by arms control and utopian theories of collective security.

At the root of the arms control dilemma is a logical flaw. The arms control process has been driven by an underlying belief that the accumulation of weapons, per se is destabilizing and a source of conflict. The history of war and conflict, however, does not substantiate this premise. Professor Michael Howard, one of the most prominent military historians in the world today, has written extensively on the causes of war.

His findings are worth considering:

> The argument that the more weapons there are in the world the greater the threat to peace (irrespective of the political intentions of both sides), and, conversely, the fewer weapons there are the more stable peace will be, does not stand up to serious examination.

As Professor Howard notes:

> Paradoxically, reduction of weapons could by itself lead to greater instability.

In the nuclear age, the United States has attempted to use arms control not merely to reduce weapons but to shape their characteristics and deployments. The goal has been to achieve greater stability, especially crisis stability, in the United States-Soviet nuclear balance. Unfortunately, our focus in this endeavor has remained on the weapons themselves and not the political intentions that would regulate their use. Arms control has been a distraction from what it would really take to foster stability and improved political relations.

Mr. President, during much of the cold war, the United States operated under the misguided assumption that arms control could be a catalyst for improved political relations with the Soviet Union. But as our experience with the SALT process revealed, arms control was neither able to deliver greater stability in the strategic balance nor improve United States-Soviet political relations. To the extent that we are now able to improve strategic stability, it is due to political changes in the former Soviet Union and not to the arms control process.

Today, when the political climate is essentially positive, cooperation is feasible, including cooperation on improving strategic stability. Ironically, arms control played no role in fostering this improved climate. The underlying arms control dilemma is that when we seemed to need it the most it failed, but now that virtually any agreement seems within reach such prospective agreements are essentially irrelevant or even counterproductive.

If arms control were merely political puffery for public consumption it would not be as harmful as the record reveals it to have been. Unfortunately, the arms control process has had a pervasive and extremely negative impact on military planning and preparedness and the ability of our political and military leaders to think strategically. For the better part of three decades arms control has progressively displaced sound military principles in our national security decisionmaking.

Arms control has driven every major strategic weapons system since the advent of SALT in the late 1960's. It has prevented us from maximizing the effectiveness and affordability of our strategic forces and, ironically, it has placed us in a less stable situation by precluding us from pursuing measures to reduce the vulnerability of our forces. Our strategic defense programs, in particular, have been turned into a mockery due to the illogical principles that underlie arms control. After 30 years of living with arms control, our military services are seemingly populated by even more arms control bureaucrats than strategists.

Mr. President, although the current administration's position is that arms control is not an end in itself, in fact the policies they have pursued to date indicate that arms control retains a life and direction of its own. Rather than adjusting our strategic forces for the post-cold war era according to a clearly articulated strategy, we have hacked away at our existing forces through an ad hoc series of arms control agreements and unilateral disarmament measures.

Although the national military strategy states that "maintenance of a modern, fully capable, and reliable strategic deterrent remains the No. 1 defense priority of the United States," it is arms control and not military strategy that is driving the size and composition of this force. In fact, the national military strategy presents no strategy at all for our post-cold war nuclear forces.

One cannot avoid the conclusion that we are constructing a minimum deterrence force completely decoupled from any serious and credible employment plans. Although we have tried for 20 years to get rid of mutual assured destruction, we now find ourselves in a situation where, willy-nilly, arms control is driving us back into MASD. How bygone!

Mr. President, over the years, arms control has also deflated our willingness to compete when challenged by a nuclear armed competitor. It is my firm belief that without the complacency born of arms control and its associated philosophies the cold war would have ended much sooner than it did.

Due largely to arms control, and the various theories of detente that accompanied it, the United States legitimized and helped to sustain the Soviet Union. Only after the United States regained its desire and will to compete during the 1980's did the Soviet Union's internal contradictions force it to change. Ironically, this happened despite not because of arms control.

Mr. President, as we look back upon the gloomy record of arms control, we must ask the basic question: Why should we ratify the START Treaty? After all it is an agreement negotiated and signed with a now defunct hardline regime—the same regime that sought to use the arms control process over many decades to attain unilateral military advantage. It is an agreement that compromises a number of our key original goals. And it is an agreement that fundamentally recalls, and to some degree will even help to preserve, the cold war United States-Soviet relationship.

Mr. President, although there are as many arms control bureaucrats in Moscow as in Washington clamoring for approval of START, it is my belief that this treaty hinders normalization of relations between the United States and the former Soviet Union. In ratifying START, the Senate will be asking Russia and other former Soviet republics to sit across from us in an adversarial relationship called arms control.

START will send the message that the United States continues to support a central authority in the former Soviet Union. The United States has dealt with Ukraine, Byelarus, and Kazakhstan in a heavy handed way in an attempt to get them to turn over all nuclear weapons to Russia rather than assure their destruction. These states have legitimate security concerns of their own that the United States has largely overlooked.

Our obsession with START and central control over the former Soviet nuclear arsenal has significantly retarded our ability to normalize relations with the non-Russian Republics and to understand their legitimate security concerns.

Mr. President, the administration has acknowledged that a new international security environment calls for a new approach to arms control. For example, in his appearance before the Armed Services Committee on August 4, 1992, Deputy Secretary of Defense Douglas Graham stated:

> The types of arrangements that are needed when you and a partner are working toward the same goal are quite different than those that are needed when there is an adversarial relationship and considerable suspicion.

I agree fully with his assessment. Unfortunately, this standard is only being applied to future agreements and not to those currently before us. The same standard should be used in evaluating START.

This is not to say that we should become indifferent to the strategic balance or unconditionally trust the States of the former Soviet Union. But the START Treaty should not be judged according to today's situation. It must be able to withstand changes in the international security environment. It is my belief that the START Treaty will not constrain Russia if it should abandon its path of reform and demilitarization. Arms agreements, never constrained the Soviet Union in the past and they will not constrain an aggressive post-Soviet state in the future.

Mr. President, it is my firm belief that in the absence of a START Treaty, the United States will be more inclined to respond to any threatening developments in the former Soviet Union that might occur in the future. Arms control has always inhibited the United States from redressing threats to the strategic balance. There is no reason to believe that START would not have a similar dampening effect in the future.

A present-day example of a cold war arms control treaty preventing us from redressing a post-cold war threat is the ABM treaty. Although this agreement has ceased to have any value or relevance and is of questionable legal standing, it nevertheless continues to impede our ability to deal with the expanding ballistic missile threat that faces the United States and its allies.

Mr. President, the United States and the former Soviet Union would be better off focusing their energy and resources on strengthening political and economic ties rather than perpetuating strategic relations based on confrontation and mistrust. If democracy takes root in Russia and throughout the former Soviet Union, the START treaty will be nothing more than a vestige of the cold war.

If, on the other hand, Russia should return to a militant posture, then START will adversely impact United States national security by discouraging appropriate countervailing responses. Moreover, START, like SALT before it, will be unable to prevent Russia from achieving a significant military advantage if it chooses to pursue this course.

START and the thousands of nuclear weapons it leaves in Russian hands simply cannot preclude Russia from restoring its first strike capability if it is determined to do so and it is unlikely to provide clear warning of such a shift in Russian intentions should it occur.

So let me now turn to some key and very specific problems with the START Treaty. First of all, despite all the claims and the press statements and everything about how we are on the way to the reduction of nuclear weapons, START does not eliminate weapons. Mr. President, let me state that again. START does to eliminate weapons. So the American public and the Senate is being deceived by the statements that it does.

It does not require the destruction of a single nuclear weapon or ballistic missile, with the possible exception of some mobile missiles, and those I will get to, Mr. President, by saying that puts the limit of Russian mobile missiles at a figure that is more than 3 times as large as what they have admitted to having, so it actually authorizes missiles to be constructed rather than destroyed. It allows each side to produce and retain an unlimited number of strategic ballistic missiles. This treaty before us—again let me say it so that the public and hopefully somewhere some Senator may hear it—allows each side to produce and retain an unlimited number of strategic ballistic missiles and missile stages and to produce and retain an unlimited number of nuclear warheads.

The only thing that START actually limits is launchers. Once a missile is removed from its silo, launch tube or mobile launcher it can under the terms of the treaty before us, be retained, fully armed and, in effect, ready to launch.

Mr. President, how ironic since one of the principal goals in START was to get beyond limiting launchers. The argument that START actually limits missiles is misleading at the very best.

In fact, START only regulates so-called deployed—a word of art framed for this treaty—missiles and warheads. In meeting the missile and warhead limitations contained in START and the prospective START II Treaties, the Russians could legally store all missiles removed from the their launchers. Indeed, they could produce as many of those missiles as they wanted to. In the case of bombers, since only the delivery vehicle—that is the bomber itself—is counted, the Russians can produce and stockpile as many nuclear bombs as they choose to.

One of the reasons advanced for the completion of this treaty is to do it so that should President Yeltsin lose control of the Soviet Union and the military forces be taken over by some mystical Darth Vader we would have these constraints. These constraints are an authorization to build, Mr. President. They are not an authorization or a requirement to destroy.

I do not say, I certainly do not make the claim that President Yeltsin, though he has had little support from us over the course of his career, has the intention to preserve a first-strike capability. But he has the ability to preserve a first-strike capability and his successor has that ability under the terms of this treaty.

So I merely seek to point out the basic fallacy of the current START framework, which is to say that we limit the things that are easy to verify and count and we do not limit the actual instruments of war.

We have a snake oil in modern arms control; it is called verification. The able Senator from Indiana has suggested that verification is both intrusive and by national technical means, but, we nonetheless, Mr. President, nonetheless, have attempted to verify only those things which are easy and easy to count.

One of the most intrusive regimes that exist in the world, Mr. President, is under the international IAEA, the International Atomic Energy Act. The inspectors that go around to inspect for nonproliferation were in Iraq within the same building and within 100 feet of where Saddam Hussein was building nuclear processing devices and his capability in the same building, but we were allowed to even inspect only that which had been declared. That was the easy part. That is what this treaty does as well. We, in fact, have provided ourselves with the means of going and doing what is easy at not going and doing what is hard.

Mr. President, counting the instruments of war is harder than counting the things that are permitted under this treaty and the approach misses the point that launchers are not weapons. Let me try to say that again. Launchers are not weapons and that the so-called nondeployed weapons do not necessarily need a start accountable launcher to be used. They do not need a launcher to be used.

Every single intercontinental ballistic missile of the United States has been launched outside a launcher. One can presume the same of Russian weapons.

We have launched them from the air. We have launched them from the open ocean. We have launched them from concrete pads. So the means to launch ballistic missiles are limited exceeded only by the space in Russia to store such missiles.

So make no mistake about it. By eliminating launchers we are not eliminating threat. Timeliness perhaps, convenience certainly, but not threat.

Mr. President, we are once again faced with a question of intentions, and we cannot know the other side's intentions. We can only know what they could do should that intention be put to work. If the Russians should seek to achieve a first strike capability by covertly stockpiling ballistic missiles, START cannot prevent this. Our only real options, to responding to such activity will be unilateral, countervailing responses, probably denied and surely inhibited by this treaty and surely to be inhibited by this Congress should it ever come to such a choice, because that choice would be viewed, as, in fact, what we always view it as, destabilizing.

Second, the mobile missile loophole. START explicitly allows each side an unlimited number of what are called nondeployed missiles, for ICBM silo launched and SLBM launchers although it supposedly limits the sides to only 250 nondeployed missiles for mobile launchers. In fact, what I mentioned earlier, this limitation is more apparent than real since the START memorandum of understanding on data indicates that the former Soviet side, Russia, has only 60 nondeployed missiles for mobile launchers. So they are, in fact, authorized by the terms of this treaty to build an additional 190 such missiles, hardly a limitation and hardly the elimination of a threat that is claimed for this treaty in this election year.

Moreover, since agreed statement 37 includes an exemption for so-called retired mobile missiles with a single warhead, the Russians could conceivably double this part of their ICBM force by introducing a follow-on to the SS–25 then retiring the entire SS–25 force. This is not so farfetched. It is particularly disturbing since recent reports indicate that the Russians have developed and begun to produce a new ICBM known as Fat Boy, which seems to fit the start definition of a new type replacement for the SS–25.

In fact, the so-called Fat Boy may already constitute a violation of the pending START Treaty pending before us and for which we are being asked to provide assent to ratification since reports indicate that more than 20 prototypes may already have been produced. Since agreed statement 37, with its retired mobile missile loopholes, was one of the last provisions finalized in the START negotiations, and since the Russians may be proceeding with a follow-on to the SS–25, it is my firm belief that the START Treaty should not be ratified before this issue is clarified.

Why do we need to do that to ourselves, Mr. President? What is the rush to invite a whole new generation of mobile missiles, the kind which the Intelligence Committee says the verification for which is unsatisfactory?

In 1988, before becoming the Director of the Arms Control and Disarmament Agency, Ambassador Ronald Lehman wrote in the journal Strategic Review that:

> It is hard to conceive of a worse START Treaty than one that would permit a large number of Soviet mobile ICBM's—especially if, for domestic reasons, the United States were to deploy few, if any, of its own to counter the Soviet capabilities.

Mr. President, is there a Senator that would say that we have met this warning head on?

Is there a Senator that would deny that we have walked precisely into the trap that was described by the Ambassador, Ambassador Lehman?

Today—with both Houses in connivance, both sets of committees in connivance, appropriations and authorizing—the United States has canceled all its plans for a mobilized ICBM program and the START Treaty leaves Russia virtually unrestrained to build, stockpile, and deploy ICBM's. This is precisely that circumstance which the Ambassador warned against. Why the United States was willing to give up entirely its insistence on a mobile ICBM program is beyond explanation, but certainly creates a flaw in a framework which he have the opportunity to address.

The able majority leader has suggested that we ought not to have a classified session of the Senate; time is too short; the session is coming to an end; we are going to be operating under the constraints of cloture.

It is best anyway that Senators not trouble themselves with these kinds of things, lest we fail to understand them and maybe not provide our assent for the ratification of this treaty.

Item No. 3, Mr. President, START does not eliminate heavy ICBM's. Again, its claim are different but its truth is that START does not eliminate heavy ICBM's.

From the outset of the START talks, the United States has sought a ban on heavy ICBM's, including a ban on production, flight testing, and modernization of existing or new types of heavy ICBM's. The Soviet SS-18 has long been viewed as the most potent first-strike weapon ever created, a destabilizing capability that we have long attempted to rid them of.

Unfortunately, we have failed completely to achieve this goal in this treaty.

Now I will concede to the members of the Foreign Relations Committee that are here on the floor—I wish to God we had another Senator someplace listening to this and some of the other committee chairmen, whose responsibility herein is plain, listening to this—I will concede that the treaty does contain a 30-percent reduction in the number of launchers for heavy ICBM's. But surely even the Foreign Relations Committee can agree with me that this alone fails to consider the fact that START accepts the deployment of the new generation of Russian heavy ICBM's, the so-called Mod 5 SS-18. The improvement in performance represented by the SS-18 Mod 5 has been judged by the U.S. intelligence community to be so great as to provide the same capability with 154 SS-18 Mod 5's as 308 of the earlier generation SS-18 Mod 4's.

So we have not improved our safety. And the so-called START II Treaty—which this Senator and the Armed Services Committee and even Presidents Yeltsin and Bush in an earlier day suggested we use to supplant this one—although it will require the complete elimination of all deployed SS-18's, the one before us now explicitly permits the former Soviet Union the capability denied to the United States. Oh, where is Senator Jackson and the Jackson amendment now that we need him?

No. 3. Much has been made of this kin god called verification, this modern snake oil of the arms control community.

Most proponents of the START Treaty argue—and they did here this afternoon—that one of the principal reasons for ratification is due to the treaty's verification provisions. It is a reputed remedy for all the flaws that passed arms control agreements have been accused of having in the past.

Yet, despite the fact that START contains—and I will grant this—the most detailed and the most intrusive verification regime of any arms control agreement in history, even intrusive onsite inspections cannot deliver us from the underlying prediction contained in START and in the arms control process.

Mr. President, I make a statement here that the detection of violations has never really been a problem with arms control. The willingness to confront them has been a problem with arms control, but the detection of them never has been. We detected Krasnoyarsk years before it was finally admitted to have been a violation. We could never bring ourselves to say it was a violation. We always called it probable or could be or might be approaching. We had all kinds of names for it except what we knew it to be.

The only people that ever called it a violation were those who created the violation. Arms control in the Western community does not admit to the confrontation of violations.

So, throughout the history of arms control, and especially in our experience with the Soviet Union, we have always detected violations. But, unfortunately, the bureaucratic mindset that accompanies arms control has forced us to work within a very artfully constructed, legally ambiguous web in attempting to respond to the obvious breaches of agreement.

Mr. President, we have this mutual committee which we both sit on that requires a majority to declare something an arms control violation and it is clear that the violator is never going to agree with us that he is in violation. It never has happened and it never will happen. We have never had an effective compliance policy.

I remember the panic with which the administration greeted the INF Treaty when I suggested it was something that did not even bind the Soviet Union—they still existed in those days. I suggested that should the United States determine that a violation existed, the President of the United States should, if he wanted to, tell us about that violation and perhaps give us the means by which we should confront it. That was called a killer amendment.

So that tells you how seriously we lack any intention to put to use these mystical achievements that the verification provides to us.

Now the very intrusive nature that is in the START verification regime does, as has been evident already here in the remarks of the two able leaders of the Senate Foreign Relations Committee, certainly foster a false sense of security on the part of the United States. In fact, we will almost certainly be more vulnerable to deception because of START's touted verification. But let us examine it in reality.

In reality, we will be able to verify extremely well all those items and areas that the Russians want us to see—the so-called deployment areas and some production and assembly areas.

But in a country the size of Russia, there is simply no way we can monitor through national technical means or otherwise, every conceivable nondeclared deployment or assembly area. Given that START does not limit production, does not limit—again I will say it—the production of missiles and warheads, it is impossible to keep track of all the possible covert deployment and storage areas.

During the Armed Services Committee hearing on warhead dismantlement, on August 4, 1992, the administration witnesses strongly opposed the Foreign Relations Committee condition to the START resolution of ratification regarding the disposition of nuclear warheads, the Biden condition. I agree with the administration that any future agreement that attempts to monitor the destruction or storage of warheads and fissile material will be unverifiable. Even Dr. Frank von Hippel, who appeared at the hearing as a strong proponent of such measures, pointed out that "you could hide these small objects—nuclear warheads—millions of these small objects, if you wanted." During the same hearing, Dr. Robert Barker, former Assistant to the Secretary of Defense for Atomic Energy, made the following statement in response to a question by Senator MACK as to whether we should act now while the Russian leadership was favorably disposed toward cooperation; his response was wise enough to be heard by the Senate, though there are only three or four Senators now present:

> My reaction, Senator MACK, is that if there is a significant reversal in the attitudes of a Russian Government to the point where something similar to a cold war is revived, we clearly are not going to be able to trust what they do across the board. I do not understand how an agreement made now is somehow going to tie the hands of people whose behavior we expect to be totally reprehensible in the future. If you believe those bad guys are going to live up to the agreements they have already negotiated, I guess that you are free to do that, but I always have difficulty with the logic itself.

Ironically, this very same logic is currently being used as justification for ratification of the START Treaty here before us.

There are a sufficient number of START loopholes that if Russian intentions change—and I do not accuse them of today having those intentions—they will certainly not be constrained by this treaty.

Even if we can strictly verify every provision in the START regime, the things that the Russians can legally do under START renders the treaty irrelevant in a cooperative environment and outright dangerous if confrontation should return.

The most effective way of maintaining stability in the strategic balance is to make it clear that any attempt by one side to gain a unilateral advantage—overtly or covertly—once detected will produce an appropriate countervailing response. Unfortunately, this type of response is precisely what arms control has inhibited in the past. Verification has always been an excuse for not responding.

We end up having extended debates on whether a detected violation is indeed a material breach, whether it is militarily significant, and whether we would not be better off working quietly in diplomatic channels than making provocative unilateral moves. As with arms control in general, when verification is treated as an end in itself, it is more harmful than if we did not have it in the first place.

Let me conclude with this statement.

The START Treaty and the overall START framework is virtually as flawed as the SALT I and SALT II Treaties frameworks were. By only limiting deployed strategic nuclear delivery vehicles, that is, launchers, the treaty leaves an unlimited breakout potential no degree of on-site inspection can ever overcome this dilemma.

If that is what the Senate wants, if that is what the majority leader is pushing on us, if that is what the administration wants, and if that is what the rest of the Senate is willing to overlook, then that will be the will of the Senate. But it ought to know that is precisely what it is doing.

Moreover, specific loopholes in key treaty provisions render this agreement essentially valueless for other than its reputed political value.

The United States and Russia would be better served by reaching general understandings regarding the strategic balance and abandoning the formal arms control process.

We can and should continue to engage the Russians and other former Soviet states in discussions aimed at improving stability and trust. But we should abandon the misguided assumption that legal documents can somehow shape United States-Russian political and strategic relations. The approach the administration seems to be advocating in dealing with the former Soviet nuclear stockpile is a model that should be extended to cover strategic arms control in general.

That START Treaty is an outdated and ineffective method for dealing with the realities of the present day. We should find the strength and vision to leave it behind along with the other relic that it is a remnant of—the cold war.

Mr. President, I ask unanimous consent, because I have a series of questions which the two leaders of the Foreign Relations Committee have told us they are here to try to respond to, that I be permitted to direct questions through the Chair for response, without losing my right to the floor?

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there objection?

Mr. LUGAR. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I would simply query, before giving assent to this, whether the Senator intends to really tie up debate for the rest of the day so no other points of view could be heard?

Clearly this is an unlimited request, as I understand the Senator's request, in that there are no end of questions that can be raised regarding the treaty and probably limited hours to respond to them.

Does the Senator frame any limitation whatsoever on how long?

Mr. WALLOP. I understand the concern of my friend. It is not my intention to do that, but I would say if he wishes to respond to the remarks I make now, I have no objection to waiting before I enter into that. However the questions I have prepared to direct really go to those very provisions and it is my hope and understanding and if the Senator wishes at any moment to suggest that this is not the procedure that is satisfactory, I will grant a unanimous-consent request to go back, to suspend it. But my purpose is to not run aground of the rules of the Senate which are fairly specific as to how questions are directed.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Does that mean the Senator would control the floor as long as he wished because he asks the question and gets it answered; asks another question and gets it answered?

Mr. WALLOP. It is my hope that is what takes place, but as I said to the Senator from Indiana, if at one moment in time they find that process onerous and wish to do something different I would respond to a unanimous-consent request without objection that the procedure end.

Mr. PELL. With that understanding I would have no objection also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I want to explore what I have called the legal catch-22's that are inherent in the START package. It is my belief that the conditions that have been attached do not correct the problem.

The conditions that are attached to the resolution of ratification proposed by the Foreign Relations Committee address some of the questions but they do not correct the problems prior to ratification and require no changes in the treaty or in Russian behavior prior to that time.

There are three major sets. First of all, whose treaty is it? There are major legal contradictions within the two chief elements of the package. The START Treaty was signed by Mikhail Gorbachev for the former Soviet Union and is generally referred to as START I. Second, there is the signature protocol subsequently signed on May 23 of 1992, almost a year later, by Russia, Ukraine, Byelarus, and Kazakhstan.

My question is basically this. Whose treaty is to be ratified? That of Mr. Gorbachev or the successor states? The parliaments of these successor states have never ratified nor formally approved the Lisbon protocol or the side letters signed by their Presidents. Indeed, in a Senate Foreign Relations Committee hearing, Secretary Baker confirmed that the successor state parliaments probably would not approve or ratify the Lisbon Protocol because of its impositions on their nuclear forces. And that is why they have not been asked to do so.

So my first question to either of the able leaders of the Foreign Relations Committee: Given that the successor States' parliaments have not approved or ratified the Lisbon protocol, how can it be considered a legally valid part of the START Treaty?

Mr. PELL. I think, according to their people who signed the treaty, it was in accordance with their own procedure. And I think that because we have one procedure does not mean that each of these constituent republics have to have their own similar procedure. They have their procedure.

I think if the Senator asked a Ukrainian or Byelorussian if they ratified the agreement, my understanding is they would have said that they did.

Mr. WALLOP. Is that an assertion that their procedures are different? Or a supposition?

Mr. PELL. It is a supposition. It is a question that could be answered in a very short time by looking it up.

Mr. LUGAR. Mr. President, let me respond briefly to the distinguished Senator on the basic question he raises. The treaty is with Beylarus, Kazakhstan, and Ukraine acting together. Clearly, that is who the treaty is with. It is crucial, obviously, that all four of these states be legally obligated to observe and implement START.

In my opening statement, I tried to trace through the history of how this has progressed from the former Soviet Union to the four. I mentioned, as the distinguished Senator from Wyoming has, the Lisbon protocol which attempted to do this; that is, to bring the four together. Kazakhstan, as has been mentioned earlier, has ratified the treaty. The other three have not. Very clearly this is of concern to the Foreign Relations Committee, the Armed Services Committee, and the administration.

Anybody looking at this in a commonsense way understands that prior to our taking significant action to reduce our nuclear potential, everybody else has to sign up. I am responding in a commonsense way, and I appreciate the Senator would like a more detailed description, play by play, of how each of these parliaments would work it out. I have no way of knowing that, nor would the Senator. I will say as a commonsense matter, the United States is not going to unilaterally disarm. If we have a treaty with the four, it will come to pass.

I think that has to be a sufficient answer for the Senator, although we all would like to prophesy the date, time, and place and maybe even the procedure as to how all of this will come into conjunction.

Mr. WALLOP. Can I inquire as to when these undertakings become legally binding on us? Is it after we have determined they have undertaken a legally binding thing, or do we bind ourselves well in advance?

Mr. LUGAR. Essentially, we have to make that determination and, as I recall, and I cannot quote off the top of my head the actual line in the agreement, but the President has to come back to the Senate if there is serious difficulty with regard to this and consult with the Senate, as well as convene or attempt to convene this group and find out what is the trouble. This is not something that happens antiseptically or mechanically. It is very much an organic necessity that all of us are bound together.

Mr. WALLOP. Is it the contention of the Senator from Indiana that their side letters are legally binding?

Mr. LUGAR. I presume that they are legally binding, but they are a part of a general pattern of activity in which there has to be ultimately mutual trust.

Mr. WALLOP. Again, there is a condition attached to this that they said they do not agree unless the weapons be destroyed under international control. But there is no provision in the treaty for destroying the weapons. So now how do we deal with that? Basically, have they not just crossed their fingers?

Mr. LUGAR. I will respond to the Senator finally on my part. In the event a much more extensive legal synopsis is required, I will request the administration to obtain one. The Senator's question rises, and it is in good faith but at the same time, it is important for the record that there be absolute certainty, if that is what the Senator wants, and I would request the administration furnish that so we can have the debate.

Mr. PELL. As I understand it, the question is, How does the ratification process work and when will it be completed? My memory has been jogged that Byelarus, Kazakhstan, and Ukraine will each submit the treaty to their parliaments for their approval, just as the Senator from Wyoming suggests.

Kazakhstan has already ratified. Hearings in Byelarus and Ukraine should begin in October. Each of these states will in turn provide a form of instruments of ratification to the United States, and once the Senate gives advice and consent, we in turn will provide each one of them with our instruments of ratification. But it will not, to answer the Senator's question, enter into force until we have actually exchanged instruments of ratification with each one of the four States involved.

Mr. WALLOP. Let me ask a further question. Is it possible for any of these States to join the nonproliferation treaty as required in the treaty without destroying their weapons?

Mr. PELL. I believe it is. I do not know for sure.

Mr. WALLOP. Could I request that that information also be provided to the Senate because I think they cannot?

Mr. PELL. I am informed that they are considered to be under the control of the Commonwealth of Independent States and, therefore, would be covered.

Mr. WALLOP. And we would be satisfied with that?

Mr. PELL. When the instruments have been exchanged, my understanding is we would.

Mr. WALLOP. According to press reports, a secret committee of the Ukrainian Parliament recently voted in secret, not a secret committee, a committee voted in secret that the Ukraine will not permit full withdrawal of all strategic nuclear weapons from the Ukrainian territory despite their promise in the signature protocol.

Mr. PELL. They may be press reports, but they are not the reports to which I have access.

Mr. WALLOP. Are they things which ought to concern us?

Mr. PELL. I trust the judgment of the people who have been doing the negotiating, with the enthusiastic support of the treaty by the Joint Chiefs of Staff, by the Director of Central Intelligence and the people who are most knowledgeable in this area.

Mr. LUGAR. I will supplement the distinguished Senator's answer by saying that it is common knowledge, not only from the press, but from conversations conducted in Washington—the able Senator from Wyoming may have been a party to some of these—the Ukraine foreign minister has been here with some frequency and members of the parliament. They give very conflicting views as to how life is proceeding in the politics of the Ukraine. It is a subject in which we are deeply interested and, as a matter of fact, in which many of us have been participating.

We are not inert in this situation. We have an obligation to try to move the Ukraine along. It is not a question of sitting in judgment of legalistic ways and hoping they will do the right thing. In the Ukraine where people have had experience with Krasnoyarsk and the terrible power of nuclear accidents upon their livelihoods, upon their lives, upon their future, there is an intensity with regard to consideration of nuclear questions that is much greater, as a matter of fact, than our own.

One of the impelling reasons why Ukraine will ultimately cooperate is that people in Ukraine want to get rid of nuclear weapons. People also in Ukraine want independence. They have a bargaining negotiation going on with Russia that is very real and earnest and anybody who has been in the country or visited with their leaders understands that.

Trying to divine all of these crosscurrents of current Ukrainian politics into a simple formula with regard to the START Treaty seems to me is absurd. What we are trying to say, I suppose, is in a commonsense way, the United States is not going to start unilaterally destroying its nuclear arsenal while Ukraine is somewhere on the reservation with doubts and fears and not getting into it. I think that it is inconceivable that any President or any Senate would do that.

So in response to the distinguished Senator, we are serious about the windup of the nuclear issues. We are active in Ukraine, as many of us have been, in the collection of the tactical nuclear weapons, in taking the fissile material. We encourage them to do that. We actually, as a Senate, provided money as encouragement for this to occur and it is occurring. This is not hypothetical; it is happening. That degree of cooperation by Ukraine I think is significant and leads me to believe that ultimately they will ratify the treaty. Whether they have secret committees working back and forth, we are in a position to visit with most of the participants and ask them precisely what they want to do and really for more assurance.

Mr. WALLOP. Mr. President, let me just ask one further question. Is it not true that Russia has stated that START cannot go into effect until all the weapons are removed from the other Republics?

Mr. LUGAR. The Russians obviously want a collection of all of these weapons and, as a part of their negotiations with the others, I have no doubt some Russians have made such statements. But once again we are back at the point of trying to look at what kind of an agreement we are making with the four. I simply say these are all contingencies that are a part of that picture.

Mr. WALLOP. Mr. President, I ask unanimous consent to insert into the RECORD some similar kinds of skepticism that were expressed by Senator SARBANES with Secretary Baker and which would tend to indicate that at least that Senator on the Foreign Relations Committee has greater anxiety than does the committee as a whole and that Secretary Baker's answers can, if anything, be described as less than assertive in responding to these questions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator SARBANES was not clear about the obligations of Belarus, Kazakhstan, and Ukraine under START and the protocol, how the totals are apportioned out, how weapons are reduced, if the weapons in these three countries come down according to some schedule or are they incorporated in a broader schedule that brings the larger numbers down, that includes Russia. Secretary Baker replied that the schedule of reductions will have to be maintained on the United States side, and on the side of Russia, Belarus, Kazakhstan, and Ukraine. Even though START is a multilateral agreement, the United States and Russia will implement the reductions. The four Republics who are parties to the protocol will have to agree among themselves on implementation. The second agreement, calls for the total elimination of MIRV'd ICBM's by the year 2000 or 2003. The removal of all tactical nuclear weapons from Belarus, Ukraine, and Kazakhstan has been accomplished.

Senator SARBANES asked about the significance of the word "deployed" versus "nondeployed." Secretary Baker said nondeployed missiles could remain, they would not have to be removed, the nuclear warheads will have to be removed.

With regard to the letters that accompanied the protocol, Senator SARBANES indicated concern and asked for clarification on the legally binding effect of the pledge in the letters to be nonnuclear, and why they are not part of the Lisbon protocol. The protocol is being submitted along with START to the parliaments of these Republics, however, the letters are not being submitted with the protocol. Secretary Baker indicated the key commitment is in the protocol—the commitment to sign the NPT as nonnuclear states. The protocol will be submitted to their parliaments.

Pressing further on the letters, Senator SARBANES asked what purpose the letters served if the undertakings are in the protocol. Secretary Baker replied that the undertaking on the NPT is in the protocol. The undertaking with respect to removal of strategic offensive weapons is in the letters which are legally binding obligations.

In response to Senator SARBANES question of whether we are dependent on what happens with the NPT, if the elimination of the nuclear weapons is tied to accession to the NPT and not an independent commitment, Secretary Baker said the obligation to get rid of the nuclear weapons is not dependent on their signing the NPT. The obligation is in the letters.

Senator SARBANES differed with the Secretary saying that if the obligation were in the treaty or the protocol then it would be a treaty obligation, but the commitment is not in the protocol or the treaty, it is in the letters which are not being submitted for approval like the protocol and the treaty.

Secretary Baker responded that the obligations are legally binding and enforceable. The Republics have to work out phased reductions among themselves, and at the end of the 7 year period those three States cannot have nuclear weapons on their territory.

Senator SARBANES asked why the commitments contained in the letters were not contained in the protocols, and if we should be concerned that Republics did not want these obligations in the protocol. Secretary Baker said that it was what the countries wanted. They didn't want to put it in the protocol, they asked to have it put in a side agreement. That would not be submitted to their parliaments. He didn't think there should be any concern, that it isn't clear that the Republics won't submit the letter with the treaty and protocol to their parliaments, but that he felt assured we had a legally binding obligation.

Mr. PELL. I observe that, from the viewpoint of national interest and the general rule of reason, we are better to move forward than we are to move backward. I think questions can be raised that could cause us to go in reverse. And we know from my earlier statements the negative effects of not going ahead. I think you have to balance both.

Mr. WALLOP. I say to my friend that "we," as the collective, which I hope would include the other participants in this process, and not just ourselves. If it is an American "we," it is the same kind of problem we have run into so often in the past with hurried agreements, that we have not bothered to take the time to determine the means by which the other side can or will be willing to implement them.

So I have one other question dealing with the side letters. Now, in the side letters, Ukraine President Kravchuk on the 7th of May and Shushkevich, of Byelarus, on the 20th of May conditioned their nations' giving up or transmittal of strategic nuclear weapons to Russia, or, in effect, as I believe to be the case, joining the NPT unless these weapons are eliminated.

The treaty, as I point out, does not call for elimination. Ukraine President Kravchuk insists that elimination of nuclear weapons in Ukraine should be carried out under reliable international control, which should guarantee the nonuse of nuclear-charged components for repeated production of weapons and should prevent their export to other countries; Shushkevich of Byelarus insists on destruction of nuclear weapons carried out under rigorous and effective international control; and Nazarbayev of Kazakhstan calls for the elimination of all kinds of nuclear weapons.

START, again I say, does not require the elimination, dismantlement, or destruction of missiles and warheads, but only of launchers, and Russia has issued a statement declaring that it will not implement arrangements if the other three will not join the nonproliferation treaty. The legal contradictions are not resolved by any of the conditions that the Foreign Relations Committee has attached to the resolution of ratification.

So the question is, in view of these fundamental contradictions between the protocol and the side letters and the expressed Russian views, should not the Senate insist that these contradictions be resolved before we go ahead to ratification?

Mr. PELL. What is the question again? I am sorry.

Mr. WALLOP. Well, the side letters Secretary Baker sometimes says are binding and sometimes says they are not binding in his exchange with Senator SARBANES. And I have read them. I will not read them again. But the START Treaty does not require any elimination of missiles or warheads.

Mr. PELL. It requires removal of the warheads to Russia; that is my recollection.

Mr. WALLOP. I know, but the condition that the Republics put on is that they be eliminated and destroyed under international control and inspection and that they cannot be used again for weapons. But the treaty does not require that. So you have one set of binding requirements, as we say, that the three successor states say must be in place, and Russia saying that they cannot be done that way. How do we reconcile that fundamental contradiction?

Mr. PELL. Well, to me, it does not seem contradictory. They either get destroyed or moved to Russia, and that is that.

Mr. WALLOP. I say again to my friend, I do not want to read the letters over and over again, but those are not the conditions in the side letters which were placed on accession to the treaty by those three successor states. They have very specific conditions, talking about the elimination and the destruction and the nonuse, and yet the treaty does not require that. And on the other side Russia says they will not do anything until these states have joined the NPT.

Mr. LUGAR. Mr. President, let me respond briefly to the distinguished Senator from Wyoming. It is an interesting point because, clearly, as the Senator points out, the warheads are not of necessity destroyed. The launchers are. And the states have, as the Senator pointed out, been deeply concerned about the follow through by Russia in eliminating nuclear weapons. That has been clearly true with the tactical nuclear weapon question we have been going through. Each of the three states, in collecting tactical weapons and shipping them off to Russia, wants to make certain somebody verifies they have been destroyed, not collected by the Russians. So that problem once again recurs with the START Treaty.

Now, let me just say this has to be purely hypothetical and speculative because we do not know precisely what will happen to them. One thing that the Senate did last week in adopting the Armed Services authorization bill, and then following through on the appropriations bill, is to provide additional money so that, as a matter of fact, although the START Treaty goes on for 7 years and ad seriatim 12, presumably 22 launchers a year are destroyed, the United States worked cooperatively with Russia and the Republics to, in fact, destroy warheads now or in the next year or two.

One of the things I am trying to emphasize to the distinguished Senator from Wyoming is that some of these are as deeply interested in these questions as he is and really have been taking a lot of action to make certain that we work with the leadership of each of these four for their own safety and for our safety.

And very specifically, although I am simply in a situation as the Senator from Wyoming would have to be to speculate about what happens to these warheads, I would like to see them destroyed. As a matter of fact, the Senate of the United States voted last week to provide $150 million, as I recall, of additional money for that very purpose and to get it done as rapidly as possible to assure Byelarus and Ukraine and Kazakhstan that their anxieties were our anxieties and, hopefully, Russia's anxieties and we will move on to this. That is not covered by the START Treaty. A lot of things are not covered by the START Treaty, as a matter of fact. This is a fast-moving world, and a lot of things are occurring that others are thinking about outside of this debate. But I think that has to be the basic answer to this situation. The START Treaty, as the Senator has pointed out—and you cannot have it both ways—is a very limited treaty. It does not cover everything in the world. We do not represent it does. It is an advance, but it sets a stage, sets a mood, sets a climate in which we are working cooperatively with these four states, and we are making headway.

Mr. BIDEN. Mr. President, will the Senator yield for me to respond to the question?

As I understand my distinguished friend from Wyoming, he makes the point that at least I thought I raised in committee, which was that, on the one hand, when the treaty was negotiated in the first instance, it was negotiated with the Soviet Union. There was a union. The treaty in all its critical parts was settled on by the administration with the Soviet Union. And lo and behold, by the time it got to the Senate, there was no Soviet Union and you ended up with three other powers, former Republics, all having nuclear capability.

And that is wherein came this long, protracted negotiations the administration undertook, in my view successfully, to come up with the Lisbon protocol. And all the protocol is is a means by which to accomplish, with these new entities, what was accomplished with a single entity. So the Senator says—which I think I raised and others raised in the committee—well, what happens if one of these other parties now does not go forward with what was assumed to be part of an integrated whole when there was a Soviet Union; that is, the Ukraine concludes they are not going to give up their nuclear weapons?

On its face what that means is under the treaty we do not have to go forward with our treaty. The President can say that our national security is at stake, the treaty has not been followed through on, we can get out.

My friend may also say, well, you know, does that not put us at a disadvantage to take that? We have already made a whole series of judgments relating to our nuclear arsenal that, in fact, are predicated upon what we would do with or without the existence of a START Treaty. So the downside for us militarily is essentially nonexistent. But the downside for us otherwise, politically, may be there.

The Lisbon protocol, in answer to my friend's concern, was something that Byelarus, Kazakhstan, and Ukraine did not want to enter into in the first place. But they did. They decided to agree to this protocol because they have an overwhelming desire, I might add necessity, to become part of the Western World. Their entire legitimacy, existence, economic prospects, depend upon being able to look west. They know if they did not participate in this process their prospects of being about to look west terminate immediately.

The third point is that, the Senator keeps saying from my perspective anyway, the Ukraine has said unless there is an international oversight of the destruction of these weapons they are not going to send these weapons back to Russia. That is not what they agreed to in the protocol. In the protocol they agreed that they would send those weapons back to Russia. So if they in fact do not follow the protocol, then they will have violated the protocol. They will have, for some reason beyond any reasonable comprehension I can come up with, concluded that a reason to be in the protocol in the first place is that integration in some form or another into the Western World—they will have concluded—is no longer in their interest or no longer a necessity for them. And also it gives us the right and opportunity to pull out of the treaty ourselves.

But one thing is certain. If we do not ratify the protocol, we allow the Ukraine—if that is their intention—to keep those weapons unless destroyed under internationally supervised circumstances; to do just that, keep those weapons and pay no price internationally for having kept those weapons.

So I respectfully suggest that although the point the Senator raises is a very legitimate point, the downside is attached that he is concerned about, I am concerned about, the Ukraine having weapons, becoming the third most powerful nuclear force in the world overnight; or the argument before it, if not the third, that the Ukraine, if we do not go forward with this protocol, with this treaty, will in fact be that.

The incentive for them then to get rid of those weapons under the fast track promised under the protocol is, in my view, simply nonexistent. It does not exist. So the very thing my friend from Wyoming is understandably most concerned about, as is the Senator from Delaware—and I raised this if I am not mistaken immediately in the hearing and at the hearings—will be accomplished if he succeeds in not having this treaty ratified.

The only way to assure or increase exponentially the prospects that the end seeks will be accomplished is if we do ratify the treaty, because only by ratifying the treaty and the protocol will then the Ukraine or Byelarus and/or Kazakhstan have to, before the whole world, violate the protocol and suffer the consequences of violation.

If we do not ratify, they do not have to violate the protocol. They suffer no international consequences, but the international community and climate is made less safe because they will continue to possess, barring other reasons for negotiating the dismantlement and/or the yielding of these weapons, weapons of mass destruction that none of us want them to have.

So although it is a legitimate concern that my friend raises, I would respectfully suggest that in order to accomplish his stated goal, which would be for them to get rid of these weapons, the only reasonable prospect of doing that is ratifying the treaty.

I thank my friend for allowing me to attempt to answer the question, the answer which he probably does not accept. But nonetheless I thank him for giving me the time to do it.

Mr. WALLOP. Mr. President, I thank the Senator from Delaware.

I state that the requirement to get rid of the weapons is not in the protocol but it is in the letters. And one of the reasons why we have such a schizophrenic view of this thing is because the Secretary of State provides them with legal status, legally binding status, in some instances, and legally nonbinding status in other instances.

It makes it very difficult when that was the purpose of the exchange between the Secretary and Senator Sarbanes which I put into the RECORD a little while ago. On the one hand, the Secretary says they are binding; on the other hand, he says they are not binding. It seems to me before the Senate rushes to judgment on something of this sort, we ought to have one set of binding or one set of nonbinding requirements.

Mr. BIDEN. May I respond?

Mr. WALLOP. Yes.

Mr. BIDEN. The Senator is quite correct, that it is the letter that requires them to—referring—to give up the weapons, but the protocol requires them to join the NPT.

Mr. WALLOP. Therein lies the absolutely impenetrable catch-22 because the Russian Republic says that, part of this, the treaty does not enter into force until they are in the NPT. They are saying they are not going to get rid of them except under international inspection. And the treaty itself does not call for the elimination of weapons, and Russia is not required by the treaty to eliminate these weapons. They may do it. But the requirement is not there, and they would not be in violation should they not.

Mr. BIDEN. But it is required, Mr. President, under the protocol that they enter into the NPT. If we do not go forward with this, the burden upon the Ukraine and others to enter into the NPT which indirectly affects their requirement to over time give up these weapons, then puts the burden—if we do not do that, they then are exempt from that requirement. If we do do this, the obligations, the political pressure is upon them as well as upon Russia to go forward with the treaty as negotiated as it applies to them.

Mr. WALLOP. Mr. President, I say to my friend, he has made my point. Somebody has to give up a legally binding commitment before this works. It is one of the reasons why the Senator from Wyoming carries this level of skepticism about how completely we have made the judgment to seek a resolution of ratification.

Let me ask the chairman of the committee. Did the committee take any testimony in the course of its review of the START Treaty from any expert witness who believes the treaty was sufficiently defective to warrant renegotiation?

Mr. PELL. We did not. But we did take testimony from witnesses which helped produce the eight conditions and five declarations that are attached to the treaty which were not there originally.

Mr. WALLOP. I say to my friend, I knew that to be the answer. I knew that he would give it. But I just declare to the Senate that this is an appalling pity, that in the public forum that surrounds this process, that people who actively opposed it for reasons which they believe to be honest, useful, American reasons, were not allowed to be heard. The fact that you have taken into account some things that others have said might be concerns with the treaty is welcome news, but it is not the same thing as having people who actively opposed it being permitted to testify.

Mr. BIDEN. Will the Senator yield for me to respond on that point? The chairman of the committee is obviously accurate in the literal sense, but as a practical matter my understanding—I stand corrected by either Senator LUGAR's staff or Senator PELL's staff—my recollection is we did ask the usual and highly-regarded suspects to testify. We asked Richard Perle, Heritage Foundation, others leading opponents in the past. The only one I know who was against the treaty, who I thought had interest in testifying, we did not ask to testify, Mr. Gaffney. I do not know anybody else. We went to the usual suspects.

Mr. WALLOP. But the question is, my question is, I have looked through that list, I have seen the names, but in fact we did receive requests for such testimony and they were denied.

Mr. PELL. My understanding is there was one request from Mr. Gaffney. That came in late.

Mr. BIDEN. Whether it came in late or not, I would just point out there is no respectable body of opinion that is opposed to the treaty. It is an interesting point. We looked around for people who have, for the past 30 years, opposed arms control agreements, the leading opponents of arms control agreements, and they were not there. It is true a fellow named Mr. Gaffney, who used to work on the staff around here, did oppose it. I think he is a fine man, but it is not like there is a lot of opinion out there. We went to the Heritage Foundation, not known for its hot liberal causes in arms control. We went to Mr. Perle, probably the single most articulate opponent and spokesperson of previous arms control agreements since the days of Scoop Jackson. We went to the people who usually speak out against these treaties, and they were for this treaty.

Mr. WALLOP. That I understand, Mr. President. I understand that, except that they had all previously made it known that they supported these treaties, both Mr. Perle and the Heritage Foundation. But it seems to me that—there are others besides Mr. Gaffney who had asked to testify—at least some small commitment of time might have been made to them. The Senate Armed Services Committee was going to do that, and then in the rush to close this thing in before we shut down, we were simply not allowed the time to complete that hearing. We had to have our reports in because the process was underway, the process by which the rights of debate are to be constrained.

So I think the point of the Senator from Wyoming is that there is an orchestrated focus to this thing, which is not permitting the ordinary considered debate and views of the Senate to be heard, or the public.

Mr. PELL. Excuse me, if can respond further, I have always tried to be as fair as possible in the committee. In this regard, we asked the minority for their own nominees to come up and speak with us. Using their recommendations, we had Mr. William Harris, International Policy Department, Rand Corp.; Richard Perle, and Mr. Jay Kosminsky, Deputy Director of Defense Studies, Heritage Foundation.

Mr. WALLOP. I recognize the names, and I read that. The fact is, there were requests for other people who had serious questions about it. They were not heard. My point is made.

Mr. PELL. The requests came after the hearings were over.

Mr. WALLOP. I understand, but one of the problems is that we were going to have them in the Senate Armed Services Committee, but the Senate Foreign Relations Committee's dominance in this matter decided this report had to be out. So the report that was produced did not give the Foreign Relations Committee time to consider the Senate's one reservation that it might have put into its own resolution of ratification, the condition I spoke to earlier in my opening remarks, which the Senate Armed Services Committee felt very strongly about. Now what we are faced with under the terms and conditions that the majority leader laid down, that cannot be considered when we get to it, because of the whole constraints of the process of cloture.

So it is a pity. We have constrained our ability as the Senate to hear sides, to weigh and reject them. I have no doubts but that they would have been rejected.

Mr. BIDEN. If the Senator will yield on that point, Mr. President, it is true that there are people who object to the treaty. I cannot think of a single solitary thing that we have ever done, including voting for Flag Day, that there is not somebody who opposes it. But the Senator from North Carolina, JESSE HELMS, is the ranking member of this committee. We have people who are the ranking members and the leader or chairperson of the committee that decide who the witnesses are. The only point I wish to make is not to refute the notion raised by the Senator from Wyoming that there are individuals who in fact object. There are no individuals that we are aware of who have any widestanding reputation in this field of fine people and who is fact asked and were rejected.

It is not like Senator HELMS has been a drum major for arms control. So the point I am making is that there was a genuine, honest effort to get all points of view on people who were thought to in the past at least have represented varying points of view from positions of acknowledged expertise, and we could not find any of those people until after the fact. Two of them, after the fact, are people who are fine people, but have not been ever viewed as leaders in this area for or against arms control.

As I said, I am confident that we can always find people. When I hold hearings on drug matters, there are always those who wish to come to talk about the legalization of drugs. We occasionally have them. We hear them, but the notion that we would not have a hearing that in fact had a long witness list on the legislation of drugs does not suggest that there is somehow a large body of opinion out there wanting to legalize heroin. There is not a large body of opinion or even a small body of opinion out there suggesting that we not ratify these treaties.

The only general point I wish to make and the reason why the Senator finds it—understandably—that we were not able to find people—people that we have had for over 30 years of debating this kind of subject have come forward and have been opposed to these treaties. It is not like the chairperson of this committee is the Senator from Rhode Island and the ranking member is Senator Mathias, when he was here. The ranking member is Senator HELMS. The chairperson of the committee is Senator PELL. That is usually how witness lists were made up and were usually covered in making sure we get all points of the spectrum because of the vast ideological differences represented.

Mr. WALLOP. Mr. President, I understand that.

Let me make two quick points and then move on. One is that this is not like Flag Day. I quote again Senator BYRD who said talking of treaties:

> It is not just a piece of paper. Once we approve the ratification of the treaty and the ratification takes place through the exchange of instruments, the treaty is the law of this land. If we make a mistake in passing a bill, that can be fairly easily rectified by passing another bill, repealing the test law. But when it comes to a treaty, if we make a mistake, we better know before we enter into its ratification. It is just a serious matter.

I will not go on.

But it is not like Flag Day, Mr. President. It is not the place where we can make a mistake. Professor Van Cleve, formerly of the University of Southeastern California and now at Southwest Missouri who was going to testify in the Senate as well. These are not flakes.

Let me make the other observation, without making any conclusions to it. The Senate well knows that the able Senator from North Carolina has had a good deal of physical constraints on his activity in this year. The Senate knows that well, and my belief is that when these requests came in, it would have been useful to have heard them. People who were nonskeptics were not permitted to testify. That was sufficient.

Let me move on to the context of compliance, Mr. President. Every Senator knows that we have had considerable difficulty over the years with the Soviet Union, when it existed violating its arms control commitments, and there were successive Presidential reports to Congress documenting numerous serious breaches of existing treaties. It appears now that the new more democratic model of government in that land, in Russia, is engaged in the same sorts of activities. I wonder if the Foreign Relations Committee would be able to update the Senate on several issues on which serious questions have been raised about their complaints and would raise similar kinds of concerns about the prospect for compliance with START.

It is not true that we believe that there is illegal production activity going on with regard to the biological weapons convention; and do we not have problems with undeclared SS-23's under the IMF Treaty, and do we not have problems with the bilateral chemical weapons agreement with the Russians dragging their feet on our dismantling obligations? And so we have numerous violations and probably violations still with the ABM Treaty, though it is now a condition of this START Treaty, that we are in compliance when they are not?

Mr. PELL. To answer the question about the biological warfare, the Russians did do it subversively, or whatever it is, in hidden circumstances. They have, on the other hand, owned up to it and stopped it and given us full access to the areas where they did it before.

Mr. WALLOP. We do not now believe them to be doing anything with the biological weapons?

Mr. PELL. That is correct.

Mr. WALLOP. That is one of the reasons the Senator from Wyoming had suggested to the Senator from Maine, the able majority leader, that this Senate needed a classified session of the Senate.

Mr. PELL. We had a classified briefing on this subject, and that is the conclusion that we came to at that briefing.

Mr. WALLOP. With the undeclared missiles, the IMF Treaty?

Mr. LUGAR. Let me respond briefly. The Senator raises an important question that very clearly needs a response. I think they go very much in the classified area in terms of complete reasons.

The Senator made a point with regard to this debate that I thought was interesting. The Senator said that the detection of violations has never been a problem. The Senator reiterated that the Senator is now going through alleged violations, which I am not going to confirm in open session, but the answers are available to all Senators, as a matter of fact, and those who are deeply interested in these questions ought to avail themselves of those answers.

But the point the Senator from Wyoming has made is that detection had not been a problem, that it has been the effectiveness of the political response to political will of the United States, at least the Senator alleges is the problem, and that is an interesting issue that engages all of us all the time, the questions of war and peace and degree of assertiveness and how much we really want to get into it with the former Soviet Union or with any of these Republics, how diplomacy can be pressed so that there is not a threat of use of military force.

I just say to the distinguished Senator from Wyoming that, clearly, he has an interesting point, and this is really worth exploring historically, but it is clearly not an argument against the START Treaty, that the verification protocol, at least I asserted, is the best one we ever fashioned. The Senator said that detection in the previous treaty has not been a problem.

What we have to argue about within this body and the administration is the degree of political will, the robust assertion of our will we wish to implement here. That clearly seems to me beyond the ratification of the START Treaty.

Mr. WALLOP. Do we then not care or presume to care enough to follow up on the presumed violations with the SS-25 follow-on called Fat Boy?

Mr. LUGAR. Of course we care.

Mr. WALLOP. Then why are we asking to ratify that treaty when that question remains absolutely fresh on the plate.

Mr. LUGAR. Ask the President of the United States that question.

Mr. WALLOP. The Senate has an obligation to make its own considerations given the world it is operating in.

Mr. LUGAR. We offer advice. The Senator from Wyoming is offering advice on the Fat Boy, but ultimately the President of the United States—and the Armed Forces, for he likewise delegates some of this to the Secretary of Defense and Secretary of State for diplomacy. That is the group of people involved with that issue.

Mr. WALLOP. Mr. President, I agree up to this point, and the point is fundamental. It is the point raised by Senator BYRD, and it is the point raised by the Senator from Wyoming that we have a constitutional obligation to operate within our own sphere.

We are the ones who give advice and consent, and if we cannot, knowing there to be a violation, almost certain violation, of the terms of this treaty with regards to the follow-on of a mobile missile, of which the United States has none, and on a self-declared mission of destruction, but we made that choice already. We know there to be a violation. Then surely, within our own sphere of accountability to our job under the Constitution, we might at least take time to notice that a violation of the treaty we are about to give assent to ratification of is taking place while we debate.

Mr. LUGAR. I just respond again to the distinguished Senator, he makes a very good point and we ought to take a look at this situation.

Mr. WALLOP. Ought we not take it before we give consent?

Mr. LUGAR. I think we will not vote to ratify that treaty while that debate is still occurring as we stand here now as a matter of fact. I think we finally come down, however, to the fundamental conclusion that the President of the United States has to decide.

If the distinguished Senator from Wyoming goes down to the White House, as he has on occasion—I have gone down to the White House on issues that I thought were tremendously important for the security of the country and had an audience with the President or the Secretary of State, or others.

I said, "Mr. President, we have a real problem here, and we have to think about this." We do so privately. The Oval Office is an appropriate place.

It is not that we are unconcerned. Quite to the contrary, we are very concerned. But this is a complex world. The whole relationship with Russia is very complex, hardly to be defined mechanically in the START Treaty or in anything else.

Mr. WALLOP. Mr. President, I say again, the time to go down to the White House and express concern is after the binding obligations of treaties are upon us and we see those violations taking place.

We now have in the Senate the obligation to take a look at the context in which we are being asked to provide our assent for the Resolution of Ratification. The context in which that is taking place is one of immediate violations to the treaty that lies before us. I think somehow or another it would be a solemn kind of plaintive little plea of the Senator from Wyoming that we take it seriously, not say, "Well, when it is all over, I am going to run down and talk to the President." We have at this moment in time our power to assert our own judgment on the things that lie before us. That is a judgment that can be made. I have no doubt in the rush to adjournment it is one that will be made, but it is the political judgment, Mr. President, not a judgment of accountability under the Constitution.

Now, Mr. President, unfortunately, no one but the Senator from Wyoming is here from the Senate Armed Services Committee and no one at all is here from the Senate Select Committee on Intelligence. So I would propose to go through my own questions which I would have given to them and give to the Senate, to the best of my ability, the answers to them. But what a shame, what a terrible shame that when we are here trying to do the Senate's business of careful consideration of something more lasting than laws, something more binding than anything in our country but for the Constitution, the people whose responsibility it is to be able to provide these questions have not seen fit to be here.

The first question I would have asked them is, would they describe the relative capability of the SS–18 Mod 5 compared to the 4? Is it not true that the combined effects of improved accuracy and throwweight give the warhead yield of the Mod 5 roughly twice the capability of the one it replaces and the enormous qualitative improvement simply negates the reduction in half that is provided for by START?

Now, the next question is even more interesting. Should the Russians further improve the SS–18 force, as they are entitled to do under this treaty, is it not conceivable that they could ultimately field a force that is even more threatening, from the standpoint of a theoretical first strike capability, in which their heavy missiles have always been optimized?

The answer is there is evidence there is another version of the SS–18 in the works in the former Soviet Union, in Russia today.

Mr. President, it is an interesting thing that the Senate may not wish to pay heed to but ought to mind, and that is for 1993 Interfacts has reported that Russia will spend more on military acquisition than they did in 1992, a curious thing for a nation which has given up its commitment to world power so that it can take care of its people. They have set out on a course on which they will spend more next year than they did last year.

I would have asked either the Senate Intelligence Committee or the Armed Services Committee how many warheads we believe the SS–18 can carry. The answer to that is at least 14. I would have followed on with a question: How many have they been tested with? And the answer to that is 14. And, if this capability is fully exploited, how many warheads above and beyond the 1540 the SS–18 force is permitted to have could it actually field? And the answer to that is about 600 more.

What level of confidence can we have that the SS–18's are not actually loaded with more warheads than they are supposed to have? The answer is none, because we cannot look inside them.

How rapidly could they be retrofitted with more than 10 warheads should a decision be made to do so? The answer is very quickly, within days or weeks. And would we be able to tell that it was being done? And the answer is, no, we would not.

The data and the treaty credit the entire SS–18 force with the throwaway capability of the Mod 5. In fact, at the time the treaty was signed with the then Soviet Union only a relatively small proportion of the SS–18 force was actually Mod 5.

In this way, Mr. President, among others, the throwaway baseline from which reductions are supposed to be made under the treaty is hugely inflated. The Senate does not care about that. The Armed Services Committee and the Intelligence Committee made little note of it, but they did make note of it; the Foreign Relations Committee has ignored it.

There are other inaccuracies and misrepresentations and discrepancies in the data supplied by the former Soviet Union, such as they attribute only a certain number of warheads to the SSN–18, the Navy version.

In the December 1987 summit on this naval thing, they said the SSN–18 carried seven warheads. For the purposes of the treaty here before us, it is counted as having only three warheads.

Then we would have moved on to the issue of the nondeployed weapon. So there is no limit, there is no limit at all on the nondeployed weapons, nonmobile missiles in the treaty. You can have zillions of them stacked up there and we cannot even complain.

And given the fact that the missiles in excess of the level permitted under START do not have to be destroyed, it can appear that the Russians could, if they wished—and I do not attribute this motive to them today, only the capability. But, Mr. President, it is the capability which can be brought to bear to destroy the people of the United States, not the intentions of the moment, but the capability to attain the entire force of SS–18's and even theoretically extend those that under the terms of this treaty.

Now, I would ask maybe the Foreign Relations Committee if they could square the former Soviet Union's, the Russians' exclusive right under the terms of this treaty to deploy heavy ICBM's; how that conforms to the Jackson amendment?

Mr. LUGAR. Mr. President, let me just state in response, as the distinguished Senator from Wyoming is raising questions to the Armed Services Committee and I respond to them, and this is the Foreign Relations Committee type, that I find the whole analysis to be reminiscent certainly of the debate of 1988 on the INF or, for that matter, arms control debates that occurred in the early 1980's.

The former Soviet Union at that time was in fact building up all sorts of weapons. So were we. As a matter of fact, President Reagan took the point of view, strongly supported by the Senator from Wyoming and myself, that the country ought to be re-armed; that, in essence, we could not let our guard down; we ought to overpower the Soviet Union if necessary. And as a matter of fact, there is some evidence that we did that; that the Soviets literally ran out of money.

One reason why the Soviet Union is in shambles presently is that they ran out of the finances to pay for all of this. And one reason why the discussion in Russia right now is not how many more missiles they are going to deploy but, I mean, frankly, how they starve off bankruptcy.

Listening to this colloquy, one would think that we were still in the heat of the cold war and approaching something worse.

And that was the case and those were important debates and good results obtained.

Now the facts are that, of course, the Senator is correct. Russia or Kazakhstan or Byelarus or Ukraine theoretically today has the capability of doing some of these things, Russia in particular; to retire from the nuclear field as is their intent. They certainly have the capability to do that.

As the Senator from Wyoming has pointed out, he has noted that we usually detected violations; that our problem has not been verification, it has been now to respond to those.

As a commonsense thought, let me say to the Senator from Wyoming, our response to a total turnaround by Russia, in which they move from bankruptcy to the building up of nuclear weapons, would be to say: We consider this to be a hostile act. We are headed back into the cold war again. You did not get the idea. You just did not get it.

I mean, we have the ability to overpower them. The Senator surely understands that. And that at the present time, the whole purpose of the Yeltsin visit, the Kravchuk visit, and all the rest is to move into an orderly disarming so that they have some hope in their countries of resolving acute economic dilemmas.

Now, we could argue today about the pressure we ought to apply, as opposed to cooperation, the degree to which we want to become involved in making certain they move toward democracy and human rights. Some of us would like to be very involved in that.

The antidote to what the Senator is suggesting is that in Russia they have a parliament that has debates like this one. They have information, and the secrecy walls are down. They have a free press. And as a result, the people of Russia say we do not want to build another 100 mobile missiles in some direction. We want houses. We want food for our children. That is what people in a democracy want. That is the antidote.

It is not an arms control protocol that restrains this in the world. It is the people who are sick and tired of this kind of nonsense going on by dictatorial regimes of the past.

Now President Yeltsin is not a dictator. He is someone that we are working with in this country. He is downsizing the Armed Forces. He has noted—and the Senator from Wyoming has been over in Russia recently; and visited with our Armed Forces people—they are in great confusion, because a lot of people are being let out of the Armed Forces, a lot of people are in real predicaments in the arms control industry because they are cutting procurements.

So the Senator's questions are still important because we have to be on our guard, we have to have a protocol, a verification, that tells us if something strange is going on, if they called off the whole peace move, called off democracy and human rights and reverted back to something else. And our reaction in this country is going to be substantial if that is the case.

But I think we really have to consider these questions in a context of reality of the world that now is and that we are trying to face.

So I say to the distinguished Senator, this START Treaty does not cover every one of the mobile weapons that he is talking about. And we have already discussed, it does not cover all of the missiles. It can have them without the launchers, half the launchers built by the time the treaty is completed.

Some of us would like to see, as the Senator perhaps would, START II, which goes much further, although we would like to pin down the START I, have the intrusion, the openness that come with that.

But I would say, in technical answer to the Senator, he ought to get his information in classified form, as should other Senators. As a practical matter, the Senator's questions do not really conform with the reality of what is occurring in Russia today.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I would like to add to the words of the able Senator from Indiana, the fact that, by coincidence, I sent a question to the administration:

"How does the administration interpret the START I Jackson amendment with respect to START?" The very question that the Senator had. The administration's reply in nonclassified form was:

> The Jackson amendment is a nonbinding resolution that expresses the sense of the Senate that the President seek a future treaty in accordance with the principle of equality. Consequently, the Jackson amendment imposed on legal obligation on the administration in its conduct in the START negotiations.
>
> At the same time the administration recognized the general importance of the principle of equality espoused by the Jackson amendment. This recognition forms the basis for the central aggregate limits imposed by START where legal equality was achieved and in which the U.S. Concept of destabilizing asymmetric reductions in equal levels prevailed.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, the Senators have made my point. This treaty is not designed to protect Americans from Yeltsin. But there is not a soul around here on the advocating side of this treaty who has not told us from the very beginning, if we do not do this Russia is going to fall apart; they do not have control of their military and some Darth Vader is going to take over who has different intentions. And that threatens us, and therefore put this in effect.

So, when I take that logic from their lips, I say, all right. Their intentions can change. What can they do if their intentions change?

They can do a hell of a lot, Mr. President. More than we can.

My other view, and my view long held, has been that when you need arms control it is not useful in constraining the growth of arms. And we have 30 years—we have 90 years of witnessing that in this century.

The Senator from Indiana brings up the INF Treaty. Some of us explained how we were worried about the verification under it and what happens if things were not complied with. And we found, because the Soviet Union collapsed, that they had hidden missiles in Eastern Europe. They had hidden missiles within Russia that were supposed to have been destroyed and eliminated under that treaty.

It is not possible nor responsible for us to deal in arms control on the basis of our assumption of intentions, but only of the consequences should people with other intentions materialize in this world. That is my concern.

When you have a situation like now, which we are not exploiting the way I would have it, arms control is essentially irrelevant. If it is as open as the Senator from Indiana says, and we can see everything that is going on, why do we need to create an adversarial relationship between ourselves and say, just for the nonce, you be our enemy. Just for the nonce, you be our enemy.

So I am saying, if there is reason to believe that at some moment in time they could be our enemy, let us see what they can do under the terms of this treaty to the people of the United States who are being told that they are made safer by this. And I am saying that examination brings some doubt onto that assumption.

Mr. President, I am informed that just today the Central Intelligence Agency was queried by the Senate Intelligence Committee on the sale of

Backfire and ICBM's to a third country.

That alone ought to indicate that this Senate is entitled to a classified session in which matters of this import should be considered.

Were the Intelligence Committee here I might ask them what lessons were learned in the gulf war concerning the difficulty of detecting and monitoring mobile missiles. Every Senator knows in the most ideal and perfect circumstances that ever existed we could not find them before they were fired. Yet we have allowed, under the terms of this treaty, for a follow-on to the SS-25, a nondeployed circumstance which more than triples the number that currently are admitted to exist. And in circumstances which we cannot possibly, under whatever verification regime, determine their location. Is this something about which the Senate is willing to go home and say to the people that I have looked after those things which can threaten you, should the world situation turn?

I would ask, if the Intelligence Committee were here on the floor, that, since the START Treaty only provides for monitoring final assembly facilities, could it be that Russia would be able to produce as many stages for its mobile and for its fixed ICBM's as it wishes to? And the answer is "yes." You can have production facilities scattered all over that great land but only final assembly facilities are permitted to have this intrusive inspection. And only facilities which have been named by the other side can be nominated for surprise inspections.

So the answer is that production is not stopped.

Oh, yes, I know that they are having world class economic problems. And I know that it is Yeltsin's intention to deal with that. But some doubt how much control he has over his military when they find that they intend to spend more in military acquisition in 1993 than in 1992, despite the fact they do not have houses.

Mr. President, in Iraq we found a nuclear weapons complex that could produce 30 to 40 nuclear weapons a year, the first of which would be now ready had we not gone to war. And this was in a building that the IAEA inspectors had visited regularly.

If that can be the case, and we can only look at final assembly figures, is there no risk great enough to gain the attention of the Foreign Relations Committee or the Senate? My guess is clearly not. That is one of the reasons why it becomes increasingly sad to say that the Senate embraces its role of advice and consent.

Mr. President, I have talked about Fat Boy, I have talked about them being able to be fitted out, I have talked about them being violations of START. We have not been notified by the Russians that follow-on systems are being produced. They are required to notify us of that. They are required to provide notification after the 20th, from the production facility, and they have not done that.

We have talked to the problems that were inherent in an 11th hour concession by the United States, which was contained in this treaty in agreed statement 37, that the Russians can exempt from every one of those 596—can exempt every one of those 596 SS-25's from the treaty's limitation except their location and movements would have to be reported and their launchers would have to be modified.

But, as retirement is not defined in such a way as to preclude operational use, these missiles can be legally retained and available to Moscow's offensive forces. Now we are talking about something very interesting here. We are not talking about building new weapons. We are talking about retaining old ones as a means of accelerating the arsenal that can be arrayed against us.

Mr. President, I again just say it is sad that this debate is being both constrained as to the detail into which it can get and the time in which and the means by which amendments can be offered. There are limits in this treaty on the numbers of nondeployed missiles, the SS-24's and -25's; the mobile missiles. But there are no comparable limits on the number of nondeployed missiles associated with fixed launchers, which basically means that anything that has been taken out of a launcher that has been destroyed is still available to be fired.

There is not a single one of their missiles that have not been fired outside their launchers; not a single one. And it is the same, I venture to say, of American missiles. So it is not very expensive.

Mr. President, I might also say there have been no weapons destroyed yet under Nunn-Lugar, but one of the problems that some of us still have with Nunn-Lugar is that it does not require them to cease the production of fissile material so that you have, in effect, the subsidy of the production of ongoing facilities, while subsidizing the destruction of some which makes that material yet available and now it seems to be entering into the world market.

Mr. LUGAR. Will the Senator entertain a question the other way?

Mr. WALLOP. Absolutely.

Mr. LUGAR. With the mention of Nunn-Lugar, it has captured my attention.

Mr. WALLOP. I thought it might.

Mr. LUGAR. The Senator is absolutely correct. There are technically no limits upon production of fissile material. So, theoretically, even while we are busy—that is, the United States—working with these states to collect the material, somewhere back at the plant they might be producing more. It is much the same question the Senator raises or the assertion that he makes when he says that the arsenal that could be arrayed against us has these potentials, and he has gone through various weapons systems that could be produced, and he is quite correct that the START treaty is a limited treaty and does not purport to try to either collect or destroy or even identify all the various weapons systems.

Theoretically, Russia, in other words, has the ability, as the Senator has stated, to build a huge arsenal to be arrayed against us. That would be true of fissible material in the Nunn-Lugar collection.

Why is this not as relevant a question as it might have been 4 years ago or 10 years ago? Essentially, it is not very relevant because Russia is asking the United States, Western Europe, the rest of the world to come to its rescue, to financially rescue it to provide money, aid, assistance of all kinds, technicians, business management people, students, the whole lot, to go to Russia or people to come here. In other words, we are trying haltingly to get used to the idea that we might be at peace with Russia on our terms: Democracy, human rights, market economics adopted by people who have had communism for a better part of seven decades.

So the Senator is absolutely right. In the event they want to scrap all that and say to the United States, we do not want your money, we do not want your technicians, we do not want your students, we do not want any part of you, we want to go to war with you, certainly they have the capability, I suppose, for a while. I am not certain they have the wherewithal to conduct this very long. But technically for a moment, they could become bellicose again. There are some elements in Russia that, as the Senator has pointed out, are bellicose indeed. It is a very confusing picture, as some elements apparently of the Russian military are still working their way through the cold war or withdrawal symptoms from that situation.

I think all we are trying to say today is if, in fact, we are back into that kind of world, then the Senator has every right to wonder why we would be involved in countenancing for a moment a situation of national security. The Senator would be absolutely right to be offering amendments to the Armed Services Committee appropriations bill to make certain the United States built right back up again. In other words, if we got over this whole idea of debate in our country of a reduction of defense expenditures, of any such thing, it would be obsolete, scrapped.

All I am saying is the reality in the world today is that Russia wants our money. They want our people, they want our aid and they know at the point they begin building weapons that the Senator has indicated, we are going to detect some of them, if not all of them, and that the probabilities of getting our assistance are nil.

Let me just conclude by saying that it is in our interest to try to get Russia to adopt democracy, to become open, to try to adopt market economics. The world is going to be a lot safer if the Russians do that. That is why some of us are investing a lot of time and effort in that kind of evangelism in Russia and elsewhere so that they will catch the gleam and the spark. A lot of people have, and we are grateful that they have. But if they decide they do not want that, then we have a different world. I would be right there with the Senator from Wyoming making certain that, once again, if they take that turn, we have every advantage in the world. We did throughout the eighties. That is the reason the Russians got into the problems they have.

I just bring us back, I hope, to a certain sense of reality of what the world looks like at this moment and what our national aspirations actually are.

Mr. HELMS. Will the distinguished Senator yield?

Mr. WALLOP. I will be happy to yield.

Mr. HELMS. Mr. President, parliamentary inquiry. I believe that the Senator from Wyoming feels the need of a closed session of the Senate; am I correct?

Mr. WALLOP. The Senator is correct.

Mr. HELMS. Is the Senator from North Carolina correct in his understanding that it requires a motion by one Senator, seconded by another and that is all that is needed to go into a closed session?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. Does that happen immediately? If Senator WALLOP should offer such a motion and I should second it now, the rules say that the closed session should begin immediately; is that correct?

The PRESIDING OFFICER. There is a precedent in the Senate to suggest that a closed session could begin immediately.

Mr. HELMS. Will the Chair repeat that? I am sorry.

The PRESIDING OFFICER. I am advised by the Parliamentarian that the precedent is that it would begin immediately.

Mr. HELMS. I thank the Chair, and I thank the Parliamentarian.

I say to the Senator from Wyoming that I may have some different feeling about this treaty. I am not sure I do. But I am certain that I am grateful to him for raising the questions that he has raised this afternoon. I assure him that I will be on hand to second the motion for a closed session because I think it is essential that all Senators and everybody else that may be possible, feel comfortable about this treaty.

I have heard the Senator raise some questions which, frankly, have not been answered by anybody. I commend him for what he is doing, and I assure him I will be here to stand with him on the closed session and probably on other things as well.

Mr. WALLOP. Mr. President, I thank the Senator, and one reason why I would not make such a motion right now is precisely the complaint that I have had all afternoon: There are no Senators here. This is one of the Senate's most solemn obligations and undertakings. It is the largest arms control treaty every submitted to this Senate, and nobody is here except some poor benighted managers of the bill who, were they not the managers, would not be here either.

And so were I to make such a motion, the Senate would go into an executive session and the Chamber would have to be swept.

Parliamentary inquiry, Mr. President. Is it not true that the Chamber, for a classified session, is required to be swept?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the security of the Chamber is up to the Sergeant at Arms, and the Chair is not in a position to comment on precise details that are followed by the Sergeant at Arms in that process.

Mr. WALLOP. Does the Chair agree that it has been the habit in recent years to not use this Chamber at all for classified, executive sessions of the Senate but the old Chamber which has greater capability for security?

The PRESIDING OFFICER. The Chair will suggest that the last time, to my recollection, it was held there, and the Chair will also observe that we have frequently held informal sessions in another room in this Capitol complex for classified sessions.

Mr. WALLOP. The Chair's recollection squares with mine. Let me inquire once more of the Chair. Is such a motion in order once cloture has begun?

The PRESIDING OFFICER. The Chair is not sure there is precedent on that, but there is no reason at this point, the Chair would rule, for it not to be in order at that point, after cloture has been invoked.

Mr. WALLOP. Would the Chair venture to say what happens, if such a motion is made, to the 30 hours and Senators' rights therein?

The PRESIDING OFFICER. The Chair, after consultation with the Parliamentarian, suggests that it would not change the hours, it would not change the situation the Senate faces in terms of operating under cloture. So that the Senate would still be under the cloture motion.

Mr. WALLOP. Further inquiry, Mr. President. Would that be the same if the motion were made prior to the invocation of cloture?

The PRESIDING OFFICER. The Senator from Wyoming is making sure the Parliamentarian earns his money.

Mr. WALLOP. With apologies, but I am certain the Chair understands these are questions of some import.

The PRESIDING OFFICER. They are questions of some importance, and after a brief consultation with the Parliamentarian, the Chair is not able to provide an answer on that but it will be checked out.

Mr. HELMS. Will the Senator yield to me.

Let me raise a parliamentary inquiry another way asking essentially the same question. Suppose a motion for a closed session was made tomorrow and, second, just prior to the beginning of the vote on the cloture motion. What would that do to the vote on the cloture motion?

The PRESIDING OFFICER. If that were to occur, it would appear that the motion for cloture would then occur in closed session.

Mr. HELMS. I thank the Chair. I thank the Senator from Wyoming.

Mr. WALLOP. Could the Senator from Wyoming ask if at some moment during the session today the answers to those questions could be made known?

The PRESIDING OFFICER. The Chair advises that before the day is over it will be made known.

Mr. WALLOP. I thank the Chair.

Mr. LUGAR. May I raise a question with the distinguished Senator. Just simply in order to try to help facilitate the problems of the Chair and the distinguished Senator, let me say on this side of the aisle that we would support the request of the Senator from Wyoming for a closed session. And I would suggest to the Senator and the Chair we will have to work with the Parliamentarian. Conceivably the distinguished Senator, after cloture, if it is invoked—if it is not, then that is a different question. But the Senator is, I suppose, operating under the assumption it may be invoked at 10 o'clock.

If he took the floor and asked that we move into closed session during the hour at least the Senator has under rights I gather of cloture, we might very well conduct a session during that hour. There might be an additional Senator who wished to have his hour of debate in closed session. So that this might provide, under the rules at least as I understand it, some possibility of having this session with those Senators who are most involved in raising the questions they wished to ask in classified form having the initiatives at that point.

And I would just say on our part we would be cooperative at least to make certain the Senator raises his questions, has his day in court in whatever forum, closed or open, as he chooses.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator. The answer is totally unsatisfactory as is this whole procedure of the rush to judgment directed by cloture.

Let me further inquire of the Chair that while I am waiting for the ruling of the Chair and subsequent thereto, the Senator from Wyoming does not lose any of his rights to offer amendments?

The PRESIDING OFFICER. Can the Senator from Wyoming repeat his inquiry.

Mr. WALLOP. In seeking this answer, the Senator also seeks reassurance that the move to executive session, should it be required, would not prejudice the Senator's rights to offer amendments under the terms of cloture, and in fact prior to it.

The PRESIDING OFFICER. The Chair is unaware of any precedent that would in any way inhibit the Senator's right to offer an amendment.

Mr. WALLOP. I thank the Chair.

The PRESIDING OFFICER. In closed session.

Mr. WALLOP. Mr. President, going back a little to the Senator from Indiana, the quirkish part of this corner of the debate is it sounds as though he and those advocating the treaty are the only ones aware of the modern world, and those who have anxieties about it find themselves somehow irretrievably hooked in the cold war.

I would say that that is not true. I would say the very act of forcing an arms control treaty is a cold war relic. If the circumstances exist, as the Senator from Indiana and the Senator from Rhode Island suggest, in the world, this treaty is not necessary. We can see and react to take care of our own needs according to what we see, and spend our time less in inspectors and in constraints of movements and other kinds of normalities that make the arms control bureaucracy enormously happy and employed, I might say, and spend that time and effort and energy on what the Senator from Indiana rightly declares the Russians say they need now, our investment, our time, our talent and our money. This is a direct and specific drain on them and on ourselves, constraining us from responding to events that we see, should they take place, that threaten the safety of Americans.

There never has been a time, Mr. President, when any President of either party was willing to say that such and such was a sufficient violation of an arms control treaty that he called on the Senate or the Congress or the Nation for responses permitted under the terms of the treaty. There never has been a time.

There has been lots of speculation about Krasnoyarsk and the radar in Latvia, that that is in violation of the ABM treaty should it go into place, and they are not in fact signature to the Madrid protocol.

There has never been a time when we did that, so why this treaty now other than to satisfy political designs in the arms control bureaucracy. It can be demonstrated that it does not add, the Senator from Wyoming thinks he has demonstrated that it does not add to the safety of Americans, that it does add to the feeling that somehow or another we do not have to look anymore; the treaty has it all under control and the modern circumstances have it even further under control and we do not have any need for the intelligence agency.

Did we not have such an amendment on the floor during the armed services appropriations? Did we not have an amendment to take away, how many billion dollars was it from the intelligence agencies?

Have we not already fixed in the minds of people that there is absolutely no reason for us to be intelligent enough to look after the things that might threaten America? This treaty does more of that but in the most insidious kind of way by making pretense that somehow or another it constrains the growth and proliferation of missiles should it be that parties to it do not wish to be constrained.

It does not. It calls on nothing but monsters to be destroyed. It has this marvelous snake oil thing about intrusive verification, that we can go to see where missiles are assembled but not where the parts of them are manufactured.

It allows a follow-on violation to be cleared from its status as a violation with the substitute missile, the old one, simply pulled over the pads and put in the port status.

It allows the SS-18 to continue to be modernized. It allows the SSN-18 to be viewed as having less than a third of its capacity. It will be welcomed by the President and by those who are down here guiding this procedure, and others around as this great new age in security and safety, and it is a fraud. The great new age in security and safety comes from the open society developing in the former Soviet Union, and how they deal with the destruction and elimination of their missiles is not the cause for a Madrid protocol but for relations between those countries newly developed and amongst themselves. And the obligation of the United States is to look after what people can do to it, not what we think they intend to do to it.

If this Senate is going to be able to live up to its oath of office to protect the people of the United States and the Constitution of the United States it has to, one, be able to take its role seriously under the ratification of treaties, and we are not. And it has to be able to be honest enough to say to the American people what is and is not allowed under the terms of these treaties, and it is not. It is denying it. And it has to be able to say, look, we do not need these relics of the cold war any longer, these arms control treaties, START I or START II. We need to set about doing our serious business of exploiting the new age which we see dawning, and we hope that we see live to noontime in the Soviet Union, the former Soviet Union.

We cannot know if it will live till then. But we can know what undertaking of the constraints of a document like this will do to our ability to respond should any of the things which are allowed to take place under this treaty ever take place. Should they ever do that, we will be the ones constrained. And Members of this Senate will be the ones that are constraining.

Let me talk a little bit about some other questions, and then I propose to propound a series of parliamentary inquiries to the Chair. These I think may well have already been examined, and the answers will be ready. But I will be prepared to do that in the middle.

Again, I point out to the Chamber, I point out to America, that the Intelligence Committee and the Armed Services Committee whose responsibility it is to provide clear answers to the public and the Senate about these things is not here present in the Chamber while this so-called full debate conjured up by the majority leader takes place.

The question would be: What is the total number of warheads above the 6,000 level established by START that Russia can maintain should it choose to exploit fully the opportunities made possible by the combined effect of the dubious warhead counting and the downloading provisions?

Mr. President, the answer to that is the order of 2,500 reentry vehicles over and above the 6,000 level.

Should they choose not to exploit this during peacetime, even if they could be confident we would not catch them, how fast could they exploit these arrangements by reversing them in times of crisis? A matter of days or weeks? These are the things that were questioned by some people.

Throw weight is the most important calculation in measuring the aggregate offensive potential of former Soviet missile forces. What confidence do we have in the data supplied concerning the throw-weight capabilities of its missile forces? The answer to that, Mr. President, is that we estimate it to be in the neighborhood of nearly 6⅔-million kilograms versus the 5.8 million kilograms.

How do the levels of the throw weight of the two sides of the missile forces compare? Russian throw-weight would be on the order of three times that of the United States compliant forces.

I know and I have heard the response of the administration about the Jackson amendment carefully couched in the statement that this was merely a sense of the Senate and is not binding on them, but we did consider it and it is close enough. The answer is that the answer is not good enough, Mr. President, but that is because some people want, as always people have wanted, arms control agreements, principally political achievements and not strategic achievements.

I would have asked them if the Backfire bomber could be used in intercontinental strikes against the United States, and, if they were honest, they would have said "yes."

One of the reasons the Armed Services Committee opposed the SALT II Treaty is like SALT treated the Backfire as only a politically binding statement.

Mr. President, grown people read these treaties and recommend that we take politically binding statements instead of treaty obligations to control the safety and security of the future of our people. Really, is that not something of a degrading point to be asked? The question is how many Backfires are there today? Some say somewhere around 390. So a substantial number of additional Backfires under the terms of this can be produced before they reach the 500-aircraft ceiling contained in the political, not binding, treaty agreement. This is arms reduction, Mr. President.

Those on the committee will say the Russians are broke, they cannot do that anymore, so do not worry about it. I point out again that while we are fooling with this, the assumption is that Russia will spend more in military acquisition next year than this year.

I would have asked if the ownership of the former Soviet Backfire is clear at this point. The answer, Mr. President, is clear. There are indications that Ukraine intends to try to hold on to a significant number of them. And how will such a dispute affect Russia's responsibility under the so-called politically binding agreement? The answer cannot be given because nobody knows, because the answer given by the Foreign Relations Committee is that we have not satisfied ourselves as to what process is the constitutional or obligatory process in the new States for the ratification of treaties.

We do not know what that process is. We have not found it out and do not choose to know. So we cannot be assured that it is or is not binding under terms that may or may not be those which are the obligations under the various sets of rules and constitutional requirements of the new republics. We do not care. We will have done our bit, and we will have had a showboat decision just in time for the election.

Are there any limits in the treaty, or in the politically binding agreement concerning a follow-on to the Backfire? The answer is "no."

Could the Russians develop and field a new bomber with even greater range and aerial fueling capability and not having been subjected to START limitations, or otherwise be constrained, unless they explicitly agreed to such limits? Yes. I mean, this is what we are being asked to do. The Senate claims to know what is in this treaty. Perhaps others do not care, but the Senator from Wyoming does.

Are there reports that the Russians are considering the sale of Backfire bombers to China and Iran? Might not the loophole concerning the follow-on system give them incentive to undertake thoroughly undesirable sales? The answer is "yes" to both. We would not know, under the politically binding statement, whether the aircraft sold would be part of the count, the mythical count, on the nonexisting upward limit.

For the Senate Armed Service Committee, I would ask what were the U.S. force structure assumptions that were used in drawing up the START agreement? In other words, what did we assume would be safe? What could we use and how could they be counted?

These were, Mr. President, the predicates upon which appropriations were sought and authorizations given. They did not happen.

We expected that the United States would field a force of 132 B-2 bombers. That was the predicate for allowing the number of air-breathing devices on the other side. We expected a large inventory of advanced cruise missiles. But the fact is that we will have, at very best, 20 B-2's and a hugely truncated force of advanced cruise missiles.

And so we have made a decision in this Senate, which is not part of the treaty's fault, I grant you, but it ought to be part of what we consider. We have made a decision in the Senate not to proceed with strategic force modernization, upon which the START agreement was predicated—not the fault of the Foreign Relations Committee, not the fault of anybody, except that the Senate cannot look at anything in whole. We are naval gazers. We can look at but one thing in a moment of time. We can never bring into consideration, while we are talking about appropriations, that we are undertaking obligations that would otherwise threaten Americans through their arms control negotiations. Do not do that.

We say we need the peace dividend, so we negotiate an agreement that has huge distortions in it, allowed, permitted, and orchestrated, and existing because we cannot look at two things at the same time.

We also, Mr. President, set about these negotiations with the idea in mind that these advanced air-launched cruise missiles would have ranges of 1,500 kilometers, making it possible for not B-1's but other airplanes to fly and standoff.

Now we have settled on 600 kilometers, making it most impossible for most of our aircraft to penetrate Russian air defenses in order for these to be part of our counter, should this dreadful day ever come. Limitation makes no sense in light of the fact that there are no constraints upon Russia's ability to extend their air defenses and close off our options under these committee terms.

Mr. President, for most of a decade, the United States insisted in the START negotiations on the right to monitor missile production. This was considered essential because these missiles, the various sets of them, tend to have what we call unique signatures. By monitoring them, we can have greater confidence as to the status of their inventory, whether they are continuing to grow or not.

But the first U.S. concession in this would be that there are no limits on nondeployed, fixed ICBM's, and then these insights would be valuable for treating monitoring purposes only in the mobile. In terms of the contribution arms control agreements are supposed to make to predictability, however, the monitoring would be of considerable value to the U.S. intelligence.

The question I would have asked is: Is it not true that it is far more difficult to determine what facilities are capable of being used for final assembly? The answer is clear. But we dropped that insistence, and in dropping it, we basically said that we will never know where or how they build them. What is the practical value, from the standpoint of high confidence verification, of suspect site inspections that can only occur at sites on a list declared by the Russians to be available for such inspections?

Do you suppose that when we go and ask them what sites are available for suspect site inspections, they are going to tell us what the suspect sites are? Not even the new, more open Russia is that stupid. It is an assumption that is without any basis in human behavior. So we are going to find that the costs vastly exceed this new regime.

Mr. President, I want to make one inquiry of either of the two able leaders of the Foreign Relations Committee. According to the precise provisions of the START and the ABM Treaty, these two treaties are linked. And because of the dissolution of the Soviet Union on Christmas Day of last year, a signature protocol for the START Treaty had to be negotiated specifying who the treaty is with—this one so often referred to today as the Lisbon protocol.

The question is this: Can the Senate be sure that the ABM Treaty is still in force? And if so, with what states, in the absence of a signature protocol with the others?

Mr. PELL. My understanding is that Russia and the other constituent states are the successor states, and that it is still in force.

Mr. WALLOP. Would the Senator care to affirm that each of these states in the signature protocol actually affirm the ABM Treaty?

Mr. PELL. I do not know.

Mr. WALLOP. I think the answer is no.

Mr. PELL. They have not, I am informed.

Mr. WALLOP. Can we be sure the treaty—if it is required for the treaty in front of us, is it also not required for the ABM Treaty?

Mr. PELL. My understanding is that all of the treaties being signed by the Soviet Union are still in force in spite of the breakup.

Mr. WALLOP. With whom?

Mr. PELL. The constituent republics are taking the responsibility.

(Mr. BAUCUS assumed the chair.)

Mr. WALLOP. Then would my friend care to explain to me why the signature protocol is necessary?

Mr. PELL. The Senator, like me, is not a lawyer. I wish I were at this point. I am informed they hold together with the Commonwealth of Independent States.

Mr. WALLOP. Which does not exist.

Mr. PELL. Which for the moment does exist.

Mr. WALLOP. I say to my friend, if what the Senator is saying is true and Russia is the successor state for purposes of the ABM Treaty but not for the purposes of the START Treaty, without the Lisbon protocol, then, the Skrunda radar in Latvia is in violation of that treaty?

Mr. PELL. What is the violation?

Mr. WALLOP. The Skrunda radar in Latvia.

Mr. PELL. It could be.

Mr. WALLOP. Is it not a concern of the Foreign Relations Committee to have the response?

Mr. PELL. Just like Krasnoyarsk was a concern to us, that is being pretty well liquidated?

Mr. WALLOP. I understand that. But these are the new questions that seem to be important to have adequate responses to. If the signature protocol of Lisbon was necessary to bind the successor states to the commitments of the former Soviet Union, then surely such a signature protocol is necessary to the successor states to bind them to the ABM Treaty. If that is the case, then the Skrunda radar in Latvia is a violation of the ABM Treaty right now.

Mr. PELL. We will be debating this for a long time, as you know, certainly tomorrow, and I would like to defer my answer until I am better informed.

Mr. WALLOP. I hope that we do have such a response before the Senate is asked to give its assent, because, honestly, it is a condition, is it not, put on at the very last minute to the START Treaty that it is in force only if we are in compliance with the ABM Treaty?

Mr. LUGAR. Let me respond in just a moment. I agree with the distinguished Senator from Rhode Island that the formal answer to the Senator's question is important, and that will be forthcoming. Clearly, we ought to understand the reason why we got into the Lisbon protocol to begin with. It was because the three States other than Russia, Byelarus, Ukraine, Kazakhstan, have nuclear installations, and they assumed that even though they did not have control of these installations, they wanted to have some say about them. It was a tactical point of departure or debate on their part in order to get certainty of independence with regard to Russia. It was a security and safety point of view to make sure that it has some control over weapons that might be destroyed under conditions that were of danger to their people—accidental, for example, quite apart from design.

So, as a result, although it was useful for the United States to continue with Russia as a successor and with Russia assuming a successor role in the United Nations—at least there was some precedence for that idea; it takes on the obligation—the other three States said, "No, we want to also get into this negotiation," and, in fact, they forced their will. So, as a result, the Lisbon protocol does involve all four. And as we have discussed today, Kazakhstan has already now ratified the START Treaty, the other three have not, and we have been discussing the means by which they might do that and also the very commonsense rule that the United States is not going to unilaterally disarm without everybody who is a part of the START Treaty being informed.

The Senator raises an interesting question about the ABM Treaty, and that has occupied the Senate, that question alone, the ABM Treaty in its interpretations, for years. The Senator has participated vigorously in those debates, and so have the rest of us, and it is an interesting gambit, I suspect, to try to get into the validity and the continuity of the ABM Treaty as the subsidiary question today of the START Treaty. So I do not fault the Senator.

Mr. WALLOP. Certainly you would agree with the Senator from Wyoming that it is a part of former Soviet insistence as well, as reiterated just this week by the Russian Defense Minister.

Mr. LUGAR. I feel strongly about it.

Mr. WALLOP. That the ABM Treaty is a part of the requirements, and if it is, with whom is that treaty and why is it not important for those successor States to be part of that protocol?

Mr. LUGAR. I answer the distinguished Senator that, obviously, Russia is very interested in the ABM Treaty and continuity. Perhaps the other three are, too. Their immediate interest in the START Treaty came from the fact that the weapons that are covered are likely to be removed from their territories, and they wanted to be sure, both in terms of their own independence and safety, that they have some control over that.

What their interest is in the ABM Treaty is not quite so clear. That would be an interesting question for analysis, how much they figure in the ABM Treaty situation. But, clearly, Russia sees itself as successors and wants the ABM Treaty to continue, would not want START to proceed without the ABM Treaty. I think those parts are interesting. And yet, we have curiosity—I do, too—about what the position of Ukraine is on the ABM Treaty. I do not know. So we will try to research that for the record and get answers to the Senator for the fullness of this debate.

Mr. WALLOP. Mr. President, this has been a lonely afternoon. Every time you bring up an unanswerable question it is referred to as an interesting gambit. It is a nice little sort of chess phrase that makes it seem as though what the Senate is being asked, to indulge its patience, is nothing but a little game.

Nothing but a little game. When I started my speech this morning or this afternoon, I said, what a shame I thought it was that the Senate could not undertake this responsibility, this constitutional responsibility, almost unique to the American democracy, providing its advice and consent to the manufacture or the making of treaties.

A nice little gambit, a game that is played, that the two patient people from the Senate Foreign Relations Committee must put up with until I run my course and am tired and go home, the game that was not worthy of the rest of the Senate to participate in, a game that commits this country and its forces and its people to certain obligations and imbalances as though it were now part of its Constitution after these documents of ratification are changed. A game; a game that nobody bothers to answer the incredibly difficult questions as to the imbalances, to the fact that missiles are not to be destroyed that is claimed. A game, Mr. President.

Well, I have enjoyed playing it, but I thought I was taking it and the Senate seriously when I came here this afternoon. I thought somehow or another the oath of office I took, along with others, meant something to me and to others and to the Senate as well. I thought somehow or other the majority leader would not, on an issue so serious as this, seek, essentially without debate in front of the Senate, a debate that was heard only on the afternoon of a Jewish holiday, to constrain a debate, confine the amendments to the straitjacket of cloture, not pay heed to the eloquent pleas of the Senator from West Virginia I read earlier.

He was able to say that:

> This Senator is not going to be guided in the Senate's deliberation of a treaty by whether or not the administration has asked for delay. That is not the Senate's role under the Constitution. The administration has its work in making the treaty. The President makes treaties by and with the advice and consent of the Senate.

He goes on to describe what would have happened had the Senate not worked carefully in the IMF agreement.

He further said:

> The Senate would have been criticized for rushing to approval before thoroughly examining the terms of the agreement. The cloud which would have been cast over our processes would surely have a major, adverse effect on the success of future arms control agreements being approved by this body.

He concludes by saying:

> The important thing is that it be a good agreement—not dictated by calendar deadlines, not dictated by election year politics.

Mr. President, this game is dictated by both. The reason we have to have cloture is because Saturday is supposedly the day of adjournment. Most of us do not believe that it will be, but we have to have cloture. Other things are important.

But this Senate will not lose its opportunity to work its will on this treaty by not acting before the Senate adjourns. It will only lose its opportunity to act wisely and responsibly by acting before the Senate adjourns.

It is a serious thing that we have here. It is not a game, not a gambit, not some damn fool procedure designed to waste time and the patience of the people of the Foreign Relations Committee on a Monday afternoon of a Jewish holiday.

It was something that we thought, the Founding Fathers and others thought, meant something, meant the responsibility, meant an accountability, meant another judgment over and above that of the executive branch in making permanent the obligation of the United States.

The other democracies do not do that—their leaders, their heads of state—without consultation. Essentially, their democracy can do that.

We have a special privilege in America. But it is a gambit when you bring up things that are inconvenient or difficult to answer.

It is not a good day for the Senate, Mr. President.

Mr. President, parliamentary inquiry: If cloture is invoked, if cloture is invoked will committee conditions 7 and 8 be germane and in order?

The PRESIDING OFFICER. The Chair will continue to consult with the proponents of the conditions to determine their germaneness and at the time this question is raised the Chair will be in a position to rule.

But at this point the Chair does not have enough information to make that determination, which is the same process that the Chair has used in consulting with Members who have amendments generally that have been submitted.

Mr. WALLOP. If the Senator from Wyoming may be forgiven, that is a slightly suspicious answer as to what the final result of that may be.

Mr. President, is it not true that rule XXII provides that no dilatory amendment shall be in order following the invocation of cloture?

The PRESIDING OFFICER. Dilatory amendments and motions are out of order under cloture.

Mr. WALLOP. Mr. President, on February 24, 1982, in connection with post-cloture consideration of the Department of Justice authorization bill, the Chair held a series of amendments to be dilatory and therefore out of order. The Library of Congress characterizes that action as follows, and I quote:

> Some were dilatory because they were a virtual restatement of various provisions of the underlying bill or amendment, but omitted language nonqualifying in nature, and therefore were of no substantive effect. Some examples were the omission of "full" before "access" (amendment No. 439, based on 12(b) of the bill), omitting "actual" before "inspection" (amendment No. 441, based on 15(b) of the bill), omitting "detailed" before "financial audits" (amendment No. 447, based on 9 of the bill).

And so on and so forth.

Mr. President, I ask unanimous consent that pages S1136 through S1141 of the CONGRESSIONAL RECORD of February 24, 1982, containing those precedents and the amendments which were held to be out of order, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Feb. 24, 1982]

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call up amendment No. 428.

The PRESIDING OFFICER. The amendment is not in order as not being germane.

Mr. BAKER. Mr. President, I call up amendment No. 429.

The PRESIDING OFFICER. The amendment is not in order. It is not germane.

Mr. BAKER. Mr. President, I call up amendment No. 430.

The PRESIDING OFFICER. The amendment is not in order. It is not germane.

Mr. BAKER. Mr. President, I call up amendment No. 431.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 432.

The PRESIDING OFFICER. The amendment is not in order because it is not germane.

Mr. BAKER. I call up amendment No. 433, Mr. President.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 434.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 435.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 436.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 437.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. I call up amendment No. 438, Mr. President.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 439.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 440.

The PRESIDING OFFICER. The amendment is not in order because it is not germane.

Mr. BAKER. I call up amendment No. 441, Mr. President.

The PRESIDING OFFICER. The amendment is not in order because it dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 442.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 443.

The PRESIDING OFFICER. The amendment is not in order because it is not germane.

Mr. BAKER. Mr. President, I call up amendment No. 444.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No 447.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. I call up amendment No. 450, Mr. President.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 451.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 452.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. BAKER. Mr. President, I call up amendment No. 453.

Mr. WEICKER. Point of order, Mr. President.

The PRESIDING OFFICER. The amendment No. 453 is not in order because it is not germane.

Mr. BAKER. addressed the Chair.

Mr. WEICKER. Point of order.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. WEICKER. Point of order.

Mr. METZENBAUM. Point of order.

SEVERAL SENATORS. Point of order.

Mr. METZENBAUM. Mr. President, a point of order has been made and Senators have asked for recognition.

The PRESIDING OFFICER. The Chair asks for order.

Mr. BAKER. Mr. President, I am perfectly pleased to permit a point of order to be made. Which is the last amendment that was called up?

The PRESIDING OFFICER. Amendment No. 453 and the Chair ruled it was not in order as it is not germane.

Mr. WEICKER. Point of order.

Mr. BAKER. Mr. President, I yield the floor.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair.

Mr. Baker. On what ruling is the appeal being made?

Mr. Weicker. On the last ruling of the Chair, amendment No. 453.

The Presiding Officer. I ask the Senator from Connecticut to restate his point of order.

Mr. Weicker. Parliamentary inquiry. If I am not mistaken, the Chair ruled amendment No. 453 as being not in order because it was dilatory.

The Presiding Officer. As not germane.

Mr. Weicker. Or not germane.

The Presiding Officer. The Senator is correct.

Mr. Weicker. I appeal that ruling of the Chair and I ask for the yeas and nays.

The Presiding Officer. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. Baker. Mr. President, I move to table the appeal and I ask for the yeas and nays.

The Presiding Officer. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The Presiding Officer. The question is on agreeing to the motion of the Senator from Tennessee (Mr. Baker). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. Stevens. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Nevada (Mr. Laxalt), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

Mr. Cranston. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from Maryland (Mr. Sarbanes), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Williams) is absent because of illness.

The Presiding Officer. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—65

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Murkowski
Nickles
Nunn
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Stevens
Symms
Tower
Tsongas
Wallop
Warner
Zorinsky

NAYS—28

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dodd
Durenberger
Glenn
Hart
Hatfield
Heflin
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Riegle
Specter
Stafford
Weicker

NOT VOTING—7

Cochran
Inouye
Laxalt
Sarbanes
Stennis
Thurmond
Williams

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

Mr. Baker. Mr. President, I call up amendment No. 460.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 462.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 463.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 464.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 465.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 466.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 467.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 468.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 469.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 470.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 474.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 477.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 480.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 481.

The Presiding Officer. The amendment is not in order because it is not germane.

Mr. Baker. Mr. President, I call up amendment No. 454.

The Presiding Officer. The amendment is not in order because it is not dilatory.

Mr. Weicker. Point of order, Mr. President.

The Presiding Officer. The majority leader is recognized.

Mr. Baker. Mr. President, I am not seeking recognition.

Mr. Robert C. Byrd. Mr. President, the Senator from Connecticut is seeking to make a point of order. He is entitled to recognition.

The Presiding Officer. The Senator from Connecticut is recognized. The Chair had the understanding that the Senator from Tennessee sought the floor. The Senator from Tennessee was not seeking the floor, so the Senator from Connecticut is recognized.

Mr. Weicker. I make the point of order that I make an appeal from the ruling of the Chair on amendment No. 454. I ask for the yeas and nays.

The Presiding Officer. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. Baker. I move to lay the appeal on the table. I ask for the yeas and nays.

The Presiding Officer. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The Presiding Officer. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. Stevens. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

Mr. Cranston. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from Maryland (Mr. Sarbanes), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Williams) is absent because of illness.

The Presiding Officer (Mr. Rudman). Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 25, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—67

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Moynihan
Murkowski
Nickles
Nunn
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Tower
Tsongas
Wallop
Warner
Zorinsky

NAYS—25

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dodd
Durenberger
Glenn
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Packwood
Pell
Riegle
Stafford
Weicker

NOT VOTING—8

Cochran
Goldwater
Inouye
Laxalt
Sarbanes
Stennis
Thurmond
Williams

So the motion to table the motion to appeal the ruling of the Chair was agreed to.

Mr. Baker. Mr. President, I call up amendment No. 455.

The Presiding Officer. The amendment is out of order.

Mr. Weicker. Mr. President, a parliamentary inquiry.

The Presiding Officer. The Senator will state it.

Mr. Weicker. What is the amendment? I did not get the number.

The PRESIDING OFFICER. Amendment No. 455.

Mr. WEICKER. Amendment No. 455?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. Mr. President, I make the point of order: I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I move to table the appeal, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, Senators should be on notice that the rollcall vote will be 15 minutes in length but no more than 15 minutes in length.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the appeal of the ruling of the Chair.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) is absent because of illness.

The PRESIDING OFFICER (Mr. RUDMAN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 68, nays 23, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—68

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Moynihan
Murkowski
Nickles
Nunn
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Tower
Tsongas
Wallop
Warner
Zorinsky

NAYS—23

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Durenberger
Glenn
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Packwood
Pell
Riegle
Weicker

NOT VOTING—9

Cochran
Goldwater
Inouye
Laxalt
Sarbanes
Stafford
Stennis
Thurmond
Williams

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

(The following proceedings occurred after midnight:)

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I move to table S. 951 and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on the motion to table.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

Mr. BAKER. Mr. President, did the Senator ask for the yeas and nays? Would the Chair restate his request?

The PRESIDING OFFICER. There has been another request for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut (Mr. WEICKER). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN) the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "Nay".

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS), is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 60, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—30

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dixon
Dodd
Durenberger
Eagleton
Glenn
Gorton
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Riegle
Specter
Tsongas
Weicker

NAYS—60

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
East
Exon
Ford
Garn
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Murkowski
Nickles
Nunn
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Stevens
Symms
Tower
Wallop
Warner
Zorinsky

NOT VOTING—10

Cochran
Goldwater
Inouye
Kassebaum
Laxalt
Sarbanes
Stafford
Stennis
Thurmond
Williams

So the motion to lay on the table S. 951 was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call up amendment No. 456.

The PRESIDING OFFICER. The Chair rules that the amendment is not in order because it is dilatory.

Mr. WEICKER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I move to lay the appeal on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the appeal on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 26, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—65

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Murkowski
Nickles
Nunn
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Tower
Wallop
Warner
Zorinsky

NAYS—26

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dodd
Durenberger
Glenn
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Riegle
Tsongas
Weicker

NOT VOTING—9

Cochran
Goldwater
Inouye
Laxalt
Sarbanes
Stafford
Stennis
Thurmond
Williams

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Mr. BAKER. Mr. President, I call up amendment No. 459.

The PRESIDING OFFICER. The amendment is not in order because it is a dilatory amendment.

Mr. WEICKER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I move to table the appeal, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the appeal from the ruling of the Chair. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) is absent because of illness.

The PRESIDING OFFICER. Is there any other Senator in the Chamber wishing to vote?

The result was announced—yeas 65, nays 25, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—65

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Moynihan
Murkowski
Nickles
Nunn
Percy
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Tower
Wallop
Warner
Zorinsky

NAYS—25

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dodd
Durenberger
Glenn
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Packwood
Pell
Riegle
Tsongas
Weicker

NOT VOTING—10

Cochran
Goldwater
Inouye
Laxalt
Pressler
Sarbanes
Stafford
Stennis
Thurmond
Williams

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I call up amendment No. 461.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. WEICKER. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I move to table the appeal from the ruling of the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to lay on the table the appeal.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) and necessarily absent.

Mr. CRANSTON. I announce that the Senator from Maryland (Mr. SARBANES), the Senator from Mississippi (Mr. STENNIS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 25, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—65

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Long
Lugar
Mattingly
McClure
Melcher
Moynihan
Murkowski
Nickles
Nunn
Percy
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Tower
Wallop
Warner
Zorinsky

NAYS—25

Baucus
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Dodd
Durenberger
Glenn
Hart
Hatfield
Heinz
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Packwood
Pell
Riegle
Tsongas
Weicker

NOT VOTING—10

Cochran
Goldwater
Inouye
Laxalt
Pressler
Sarbanes
Stafford
Stennis
Thurmond
Williams

So the motion was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, in just a moment I intend to call up another amendment. It is now 1:15 in the morning and we have completed, I believe, 21 votes today. I hope there will not be a request for the yeas and nays on any of the motions that may be made. I hope the yeas and nays will not be given and that we can dispense with the remainder of the amendments which are, I believe the Chair may rule, dilatory, from which there may be an appeal.

I have made no effort to try to circumvent or short-circuit the appeal process. I think the Senate has been very patient and fair in this respect. But I think that now when three of those amendments remain, it is time to get to the business at hand.

Mr. President, I call up amendment No. 471.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. WEICKER. Point of order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. WEICKER. I suggested the absence of quorum, Mr. President, before the majority leader was recognized. Let us wire it in up there. A point of order, Mr. President.

Mr. BAKER. The call for a quorum call is dilatory. The Chair is mandated by the precedents to observe the presence of a quorum and rule that way.

The PRESIDING OFFICER. The majority leader's point is well taken. The Chair is able to count a quorum in the Chamber at this time. Therefore, the call for a quorum at this time is dilatory.

The majority leader is recognized.

Mr. BAKER. Mr. President, I move to table the appeal.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table the appeal of the Senator from Connecticut.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call up amendment No. 473.

The PRESIDING OFFICER. The amendment is not in order because it is dilatory.

Mr. WEICKER. Point of order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The majority leader is recognized.

Mr. BAKER. Mr. President, I move to table the appeal.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal of the Senator from Connecticut.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call up amendment No. 475.

The PRESIDING OFFICER. The amendment is not in order because it is improperly drafted.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The majority leader is recognized.

Mr. BAKER. Mr. President, I move to lay on the table the appeal.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal of the Senator from Connecticut.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call up amendment No. 479.

The PRESIDING OFFICER. Amendment No. 479 is not in order because it is improperly drafted.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BAKER. Mr. President, I move to table the appeal.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal of the Senator from Connecticut.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, it is now 1:20 a.m.

Mr. President, I call up amendment No. 473.

Mr. METZENBAUM. Mr. President——

Mr. BAKER. Mr. President, may I inquire, has amendment No. 473 been dealt with?

The PRESIDING OFFICER. Amendment No. 473 has been dealt with.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I did not mean to rise until the Chair ruled, but the Chair made a ruling with respect to the fact that a quorum was present. I know there are some instances in which that has been accepted as a ruling in parliamentary procedure, and there are also rulings in which it has not been permitted, in which the Chair was not permitted to count the House. I just wish to take this means of making certain that we have not established a precedent that the Chair is going to determine whether or not a quorum is or is not present in the future by counting the number of Members seated in the Chamber.

I do not make it an issue at the time. I know that the Parliamentarian can cite decisions in which that has been permitted in some instances and in post cloture filibuster by amendment, but it is my understanding that there have also been instances in the rules where that has not been the appropriate procedure to follow.

I do not wish to appeal any decision, but I wish to raise the issue with the Parliamentarian so that we do not establish a precedent that we will all have to be living with.

The PRESIDING OFFICER. The Senator from Ohio is advised by the Chair that there is, in fact, precedent in postcloture proceedings. A precedent can be found at page 249 of the postcloture procedure. The Chair will not proceed to read that, but that is sufficient precedent under the rules of the Senate.

Mr. BAKER. Mr. President, the Senate has now had more than 20 votes on this measure today. It is now past 1:20 a.m.

Mr. WALLOP. Mr. President, is it not true in view of these precedents, that the term "dilatory" has been interpreted to include any amendment which has no substantive effect?

The PRESIDING OFFICER. In determining whether an amendment is dilatory, the Chair will look at several factors. One basic factor is the Chair's attempt to determine the motive behind the amendment as to whether or not it was intended to be dilatory or not.

Mr. WALLOP. Mr. President, are the rules of the Senate so subjective that it lies totally within that judgment that these were not precedents?

The PRESIDING OFFICER. When the Senate is operating under cloture, the Chair is empowered to make such a judgment.

Mr. WALLOP. Mr. President, let me try to go a little further.

In view of these precedents—and I would read them all, but they would appear to contradict the answers given by the Chair. If the Chair wishes, I will read them all, but since I have submitted them for the RECORD perhaps when these issues come up and are raised they may be viewed a little differently.

But in view of them, and in view of the fact that the sole purpose of declarations 1 through 5 is to express the intent of the Senate, is it not true that declarations 1 through 5 would be dilatory and therefore out of order following the invocation of cloture?

The PRESIDING OFFICER. The Chair is not in a position at this point to determine whether or not such declarations are, in fact, dilatory.

Mr. WALLOP. Mr. President, I hope by the time they have finally been brought to the attention of the Senate, the Chair will be in such position.

I do intend to raise them and, in fact, have done what I thought was my duty by submitting these things last week to the Chair for interpretation. I guess my general level of skepticism is, the answer could not yet be determined by this time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, just returning for a moment to the ABM Treaty, I have checked with the administration. The position is that the ABM Treaty is still in force. Although the administration has not yet decided this succession question, it is approaching this on a treaty-by-treaty basis, first the Non-Proliferation Treaty, then START, soon to come, INF and ABM. The ABM Treaty unquestionably binds Russia. They are now discussing with them and other new states the degree that other states are bound.

In the course of working out the succession issue, the administration will resolve the status of the Skrunda radar that the Senator referred to earlier.

Mr. WALLOP. I thank the Senator from Rhode Island and regret the awkward position that these inquiries have placed him in. But would just say once again, that while these are conditions of the treaty that lies before us, inserted and binding upon us, it would seem that somewhere along the line the administration or the committee might have bothered to determine for itself the state of validity of a treaty which is directly referenced, and directly part of the commitment of the United States.

This, again, is viewed as a gambit, this little game. Humor the old Senator from Wyoming until he gets tired and gets off the floor after 4 hours of standing here. But it is not a game and the administration has not done its work and the committee has not done its work if they cannot make an accurate and factual response to this question.

The ABM Treaty is directly referenced as an obligation of the United States to maintain the force and effect of the START I Treaty. And yet they are going on a treaty-by-treaty basis to determine who has to sign. But they did not go on that when they got the signature protocols of the Lisbon protocol.

It is just clear that, somewhere along the line, this is a rush to judgment and not the considered pace that the Senate ought to, by tradition, by pride, and by a sense of obligation, subject its treaty role to.

Mr. LUGAR. Would the Senator allow me to make a comment? I certainly take seriously what the Senator is saying. I think we have not rushed to judgment this afternoon. As a matter of fact we have been working through each of these questions I think with serious intent and purpose.

As it turned out, the response I gave to the Senator on the ABM Treaty turned out to be correct. I could not verify that. I am grateful to the distinguished chairman for getting the administration's final viewpoint. What I told the Senator from Wyoming was commonsense and that has dictated our answers this afternoon.

I respectfully say to the distinguished Senator that he raises good questions. He has given a lot of thought to the treaty along with able staff. I must say I suspect it is fairly remarkable that Senator PELL and I have been able to give reasonable answers to questions that clearly had not been raised in advance. At least the distinguished chairman and ranking member of defense and intelligence will have a better shot at it tomorrow. The question has now been raised.

As I recall specifically the Senator from Maine requested of the distinguished Senator from Wyoming, if he was serious about this, that he write down the questions last Friday. Our responses today would have been more acute.

The Senator, I suspect, wanted to try to indicate in some way our committee had not been operating with the seriousness we should have had, or the diligence, or raised all the situations. And it is an interesting point, I suppose, in trying to illuminate either the intelligence or lack of it of our committee.

The Senator from Wyoming, I suspect, has found the Senator from Rhode Island and the Senator from Indiana fairly humble in our inability at least to be quiz kids on all of it instantaneously. But, given 15 minutes of time, we have responded to the Senator and we will continue to do that.

Let me just say in conclusion that the Senator's basic question is an important one. Leaving aside all of the footnotes to history that are being thrown in here, the Senator is really contending, as he stated, that the whole idea of arms control treaties are a cold war relic. That, in fact, it is we who are proponents of the treaty that are bogged down in the cold war atmosphere, not the Senator from Wyoming. And I understand that point. It is a reasonable one. It could be that classic arms control treaties have had their day and some other type of protocol takes on the relationships between nation states. That we really do not know. We may be in transition with regard to this situation.

But it is clearly not the case that the START Treaty constrains the United States in its ability to defend itself. That is another serious point the Senator has suggested.

In other words, two things: It is a relic and we should not get involved in that. Still, having gotten involved, we are constrained vis-a-vis Russia or various other bodies.

I would just indicate from my own recollection of our debates and the Senator has referenced some of these on the armed services authorization and appropriation, any constraints we have are those we have decided to place upon ourselves. It is fully, as the Senator has pointed out, within our prerogative as the Senate to have voted for more B-2 bombers if that had been our will, or as a matter of fact to go on to other aspects of the SDI, and the Senator knows I have supported each of the aspects that he has thoughtfully brought before us before. We could do those things. We are under no constraints from the standpoint of this treaty.

What I think is important, probably, to say in a commonsense way is that this is a limited treaty. It deals with only asserted aspects of the nuclear threat of the former Soviet Union and the four states that we are now dealing with; admittedly a partial remedy.

The question is, is there value in the discipline that is involved in this procedure? Those of us who are in favor of the treaty believe there is, limited though it may be. There is real value in the inclusion of the verification protocol; real value in trying to bring together the four states to try to move them toward the nonproliferation treaty, to try to move them into a responsible and we hope ultimately friendly relationship with us. We think those are useful things to do.

The opposite case? Let us say the Senator from Wyoming has his will and he frustrated an attempt to pass the treaty, or as a matter of fact he persuaded enough Senators and we just defeated it, or persuaded the administration to drop the whole thing. Then are we really better off in the United States? Are these four states better off? We are certainly left to do whatever we want to do. We have that privilege anyway. We have been making decisions all along. We have absolutely no control over what they are planning to go do at that point. We have lost altogether.

It may be those states will simply disintegrate, as some have predicted: The economies will be so bad, conditions so desperate, our responses will be either inefficient or inappropriate or untimely—in essence, things will simply go whatever way they want to go. That is sort of alarming to contemplate, likewise. One of the responsible things about American foreign policy in a bipartisan way has been to try to engage with these four states, not only on arms control. That has been the least of our worries. But right now on democracy, on the building of fundamental institutions that may change the character of those states. Likewise the status of the world. That is a serious business.

This is a serious business we have today, too, but it is a part of an overall relationship that we are facing. I do not denigrate for a moment the concerns of the Senator. They are important. They ought to be answered. We ought to have a clear record. I have supported, as he knows, this afternoon, a secret session of the Senate if that will be helpful in making certain points known or in raising certain questions. I want to be fully cooperative.

But ultimately Senators have to make a judgment, on balance is this a plus for the United States or a minus? I think almost all Senators have come to the conclusion it is a plus. Some think it is a big plus; some, a modest plus. But nevertheless one reason why there are 4, 5, or 6 Senators interested in this question today is that most Senators have made up their minds. They have listened to the hearings that were extensive, in Foreign Relations or elsewhere. They have been reading the newspapers, talking to people from Russia or wherever they have come from to visit us.

This is not the first time we thought about the treaty. As a matter of fact, a lot of us have thought about it for a long time—since 1982 onward, whenever all this process began.

So let me just respond to the Senator that we ought to be mindful of his questions, respectful of his right for information, and we will be so. We will try in every way to get answers on the record or in closed session if we cannot have an open record in those situations. But then the Senate ought to work its will on a question which has been long discussed and on which many of us have strong opinions of an affirmative character.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, again I would just suggest my friend from Indiana misses the point. The responses that he and the chairman gave with regards to the validity of the ABM Treaty prove to have been accurate. But I would contest that they are inadequate. They basically say that the administration has not thought it through yet either. They have made an assertion that is contrary to the assertions that they have made about the signature letters and the protocol.

It is fine. Nobody ever accused anybody in the Government of the necessity for being consistent. But they are not consistent internally; and they are legitimate questions to raise and not gambits.

I will also say that the Senator says he will support the Senator from Wyoming in going to a classified session tomorrow. It is totally, and he knows it, and the Senate knows it, of no use because that session will be conducted under the terms and constraints, according to the Parliamentarian, of cloture, the postcloture requirement, so that people will not be able to be recognized, will not be able to speak without losing the opportunity later to offer and debate amendments. This is just an absurd contest between people who are willful in asking the Senate to suspend its judgment and others who wish somehow or another to take it seriously.

I do and I did and I have no hopes for it. The fact of it is that as useful as some of us thought it might be under cloture, a classified session is absolutely a waste of the Senate's time. And so while I greatly appreciate the willingness to cooperate in having one, it is merely a way of passing the time of 30 hours under cloture without getting anywhere and constraining those who have real concerns about this treaty from further action under it.

So I suggest that that is more properly called a gambit than is the earnest inquiry of the Senator from Wyoming as to the relative reason for the lack of requirement of signature protocols on the ABM Treaty when it is a part of the undertakings necessary to the ratification of START. What it is for the successor states with regards to the rest of the treaty is not for the successor states with regards to ABM. It is not apparently for the independent State of Latvia. These are serious questions and they are not brought up frivolously though they have been treated with much disdain and dispatch.

I had a lot more questions and I was prepared to go on a good deal longer, Mr. President. There were no Senators here but for those few patient souls who have been here this afternoon. But the two committees whose obligation it is to be here and respond for the Senate's Record if not for the Senate's presence, the Armed Services Committee and the Intelligence Committee, are not here, and I think it is a disgrace. I think the Senate should have the answers of the relevant committees whose oversight responsibility it is to provide these answers.

Surely the Senator from Indiana will admit with me that the skeptics of the INF Treaty were correct when they thought that missiles might be hidden and compliance might not be complete. The way we found it out was not because of admission but because the Government of Czechoslovakia managed to tell us first and then we found it out later. So while we were widely viewed then, as I am viewed this afternoon by the remarks and impatience that has attended this debate, as being sort of out of place, a little bit like somebody who came to the tea party without a tie on and maybe no shoes, but those of us who had real concerns about what could happen under that treaty were correct and would have been vindicated but for the collapse of the Soviet Union. We were vindicated in our view that cheating was likely to take place and it could and would not be detected.

The Soviet Union collapsed, more to the better for the world and more to the credit of Ronald Reagan and the people who brought about that collapse. The fact that we were skeptical has been vindicated. This skepticism is not worthy of the Senate to dismiss out of hand and to play the silly game of constraining that has come down to this most solemn obligation of the Senate of the United States.

Let me tell you that if anybody would have taken just a little bit of time to read some of this not very informative document called the report in which the Foreign Relations Committee reduces the 300-plus pages of the treaty to 3 pages of explanation, that it would also have found that both the Intelligence Committee and the Armed Services Committee had serious problems with the predicate of START I that could only be corrected with START II. The President of the United States and the President of the Russian Republic recognized that in June of this year when they got together and laid the predicate for START II. The Senate Armed Services Committee spends three pages in what I characterize as a dinky report on START I. Three pages. And then they go to approximately—actually, I take that back, Mr. President. They give less than 2 pages to START I and give 13 pages and, in fact, more concerning START II; that one can only come to the conclusion that the basis of this is that we can afford to do START I even though it is a damn poor treaty, and that is in essence what the Armed Services Committee says because we are going to do START II. Secretary Baker told us we were going to have START II in front of us around Labor Day, but the Washington Post tells us that they just got around to beginning the negotiations on it last week when the Russian Foreign Minister and Mr. Eagleburger were up in New York at the United Nations.

We are predicating the dangers of this treaty on the assumption that we can achieve the safeties of the second treaty. I ask anybody who thinks that we are strengthening the hand of the moderates by dealing the cards to the hardliners, and I ask anybody who has any knowledge of the history of arms control if there has been a successor treaty agreement whose existence had been laid down as troubling but probably OK because the follow-on was going to take place.

Let me just take the Senate back to May 9, 1972, Ambassador Gerard Smith made a unilateral statement by the U.S. delegation on withdrawal from the ABM Treaty, May 9, 1972:

> The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms.

Listen to this, Mr. President:

> If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Five years after that was 1977. We are constrained by that treaty and this treaty now.

And we are constraining the behavior of America in the future on the assumption that the problems identified by all three committees—elsewhere there would not be these seven conditions attached by the Foreign Relations Committee and the recommendations of both the Armed Services and Intelligence Committee for further conditions—on the assumption that the problems identified by all these committees are going to be corrected by follow on negotiation.

Now, Mr. President, people can dream, but when you are dreaming in the Senate with the obligation to put the United States on record permanently as to its obligation in strategic arms, at least have your dream world cast back through the reality of history that we in this Senate chamber have ourselves legislated through. I am not asking to go back and find the failures of arms control between World War I and World War II. These are the things that we have done and seen and debated ourselves and still cannot put ourselves into the position of remembering. What a pity.

### AMENDMENT NO. 3314

(Purpose: To further the interests of the United States in connection with the START Treaty ratification)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 3314.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRV's are prohibited."

Mr. WALLOP. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. LUGAR. What is the nature of the amendment? Do we have any idea?

Mr. WALLOP. The main purpose of the amendment is to constrain—a ban on MIRV'd ICBM's.

Mr. PELL. Do what?

Mr. WALLOP. For a ban on multireentry vehicles, for those not on the Foreign Relations Committee—ICBM ban.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, the request has been made for a rollcall vote. The Chair asked for sufficient seconds. I am not prepared to offer support for a second to that motion and, as I understand, the distinguished chairman is not prepared to either. We would request, under those circumstances, the Chair rule that there is an insufficient second and that a rollcall vote is not called for.

The PRESIDING OFFICER. Will the Senator repeat his question.

Mr. LUGAR. The parliamentary predicament is one in which a request for a rollcall vote on the amendment of the distinguished Senator from Wyoming has been asked for. When the Chair asked if there was a sufficient second, I did not raise my hand in support, not did the chairman of the Foreign Relations Committee. Under those circumstances, would the Chair rule that there was an insufficient second and that a rollcall vote has not been established?

The PRESIDING OFFICER. When the Senator asked for a recorded vote, the Chair did not recognize enough Senators asking for a second, so the Chair ruled there was not a sufficient number to grant a recorded vote.

Mr. LUGAR. I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3314) was withdrawn.

Mr. WALLOP. Mr. President, it is clear that I have done whatever work I can here this afternoon. I leave the Senate tonight with a great sense of sadness. We have not been permitted to have a discussion with the Armed Services Committee or the Intelligence Committee. We have had the general level of views described as gambits and gaming. That was not my intention. We are not going to be able to offer an amendment and get consent for the yeas and nays.

It is clear that the rush to constrain on all fronts is on; that the majority leader's decision not to give the Senate the opportunity for full debate on this will be the rule, and I understand that. I have been here long enough. The Senate's rules will prevail. There will be amendments offered. Much of the 30 hours will be used in that process. I regret that that is the day the leadership has chosen to do it.

Frankly, there are four or five very legitimate amendments that have come from the debate, or lack thereof, today that ought to be considered by the Senate with full debate. And owing to the constraints of the rules of the Senate, which I understand and everybody else does, they will not have that, and yet somehow or another this Senate prides itself on its constitutional responsibility to give advice and consent.

The unique role that this Constitution gives to this body, no other, is the treaty-making powers of our country, the role recognized by Senator BYRD so eloquently when he said it is not like the passage of a bill that you can simply pass another bill and undo the damage. This is a commitment of the country as far down the road as you can see. And it is as far down the road as you can see because this is not a country that walks away from its international obligations. Serious questions have been raised this afternoon about what the treaty means and what can be done and what cannot be done underneath it, serious questions, not gambits, and it is the right of every Senator to answer them for themselves.

I understand it, because I have a worry. Not everybody also shares it. That is all right by me. I have been there before, and so has every other Senator. But what a sorry commentary on our ability not to do our job that we have to feel constrained to squeeze it in the closing days of a session; to constrain our constitutional obligation; and, through the procedures of cloture take these serious questions, all the ability to consider them including the executive session out, toss them away, and say that is not what we are going to do.

We do not need the answers. We do not even need to reject them. We just will let them lie in the afternoon when Senators were off enjoying the holiday; an afternoon when the relevant committees but for one failed to show; on an afternoon I, for one, think that the Senate ought not to become.

Mr. President, I will not even submit for the RECORD the additional questions that I had for the other committees that did not bother to show, and with a heavy heart, I yield the floor.

Mr. PELL. Before yielding the floor, will it not be helpful to the other committees to see the questions? Will the Senator submit them for the RECORD?

Mr. WALLOP. I say to my friend that submitting things for the RECORD is not the way to gain the attention of Senators. They do not read the RECORD. They do not bother to show up without the debate. My guess is that there will be precious few Senators that will have read this RECORD by the time tomorrow comes when cloture is invoked.

Mr. PELL addressed the Chair.

## THE URBAN AID BILL

The PRESIDING OFFICER. Senator from Rhode Island.

Mr. PELL. Mr. President, as in legislative session, I ask unanimous consent that if and when the Senate passes H.R. 11, the urban aid bill, that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

Mr. LUGAR. Mr. President, I will affirm that request has been cleared on our side of the aisle.

The PRESIDING OFFICER. Without objection, as if in legislative session, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—THE START TREATY—TREATY DOC. NO. 102-20

## PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

The Senate continued with the consideration of the treaty and the protocol.

Mr. WALLOP. Mr. President, has the Chair been able to determine the question as to whether or not the executive session can be called before the cloture vote?

The PRESIDING OFFICER. In the opinion of the Chair, an executive session with closed doors could be in order prior to the vote on cloture.

Mr. WALLOP. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I will take a few moments while we await the documents necessary to conclude the day's activities.

I will ask unanimous consent that we resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed the consideration of legislative business.

## THE CRIME BILL

Mr. SIMPSON. Mr. President, I just rise to briefly address some of the points expressed by our fine chairman of the Judiciary Committee, and he is, Mr. President, a good chairman.

Today, too, he is loyal to a fault, nearly, to the bill presented as a conference committee compromise. And I use that in quotation marks.

But there are points that our fine chairman seems to have missed: points that again need to be brought to light.

We do not need to be distracted and diverted by the money arguments with regard to a crime bill. We do not need the diversions that were presented on the floor earlier today. The fact is, Mr. President, that the administration has been acting in the utmost good faith. It has been trying very hard to reach a compromise on a crime bill instead of a criminal rights bill. I would offer for the record, Mr. President, the latest proof of that good faith.

I have with me a letter dated just last Friday, September 25, in which the administration, through the Attorney General, agreed to terms discussed by the distinguished chairman of the Judiciary Committee and the administration.

I know that Senator BIDEN and Senator THURMOND, the ranking member of Judiciary, and the Attorney General, have been talking about the possibility of breaking this logjam and getting a crime bill before we adjourn sine die.

I still hope we can do that. I certainly do. But some of my colleagues will have the chance to express concerns regarding the compromise because we are not convinced of the connection between gun control and criminal control, a burning issue in our country. But the criticism that the President of the United States and his administration have not acted in good faith is unfair and untrue, as this letter proves that I will print in the RECORD.

It is clear, Mr. President, that someone does not want a tough crime bill. It is clear, Mr. President, that someone wants to divert the attention of the public away from tough anticrime measures and instead blame guns and the gun control issue. That is truly scapegoating, Mr. President. It is scapegoating and it is misleading, just as so very much of the political rhetoric that we have heard lately that criticizes this administration is so misleading. The President has responded in good faith to every offer that gets tough on criminals. The President has agreed to the spending provisions that our chairman speaks so highly of. He has asked to add more police officers, more prosecutors and prisons.

The President is not playing politics with this issue. Our colleagues in the majority are. The conference report is a criminal rights bill and not a crime bill, no matter how you may refer to it. We could pass Senator BIDEN's provisions on additional funding right now. We could do that. We all agree. We can pass the death penalty provisions right now. We all agree on that one. We could do it in a minute. We could pass the habeas corpus provisions, the Powell committee recommendations right now. We all agree to that. We can pass all those elements of a crime bill, and we can do it right now. We did it in the Senate over 1 year ago, and I was helpful in that effort.

But, Mr. President, what gets confused here is that then the Senate bill and the House bill went to a conference committee, and that conference committee report is not at all like what this body passed in the Senate bill and has nothing at all in common with the provisions that the chairman of our committee discussed on the floor this morning. That conference committee report takes the weakest provisions of both the House and Senate bills and wads it up in a ball and sends it to the floor of the Senate and the House. It should again be rejected.

It should be rejected not because it is or has gun control in it, but because that conference committee report will do two things only: It will funnel more money to police, that is true, but it will also add to the arsenal of weapons that criminals use to beat the system.

That conference committee report gives criminals even more rights than they already have, rights that criminals use to beat the system and stay out of jail. That conference committee report furthermore erodes the constitutional rights of law-abiding citizens.

That conference committee was the absolute strangest one I have ever been involved in in nearly 14 years in the U.S. Senate. We just showed up. That was the Republicans function, to show up at half time of the Dallas Cowboys-Washington Redskins football game, if you can imagine the urgency involved in that, and a home game at that.

We were then to meet and we did. It was all done to high glee because when you are in that kind of a situation, you just as well laugh. We did. We said this is absurd. So they just rolled her out and said there it is, we are going to do it before this evening and on a Sunday afternoon and evening, and in just a very short period of time they rammed the conference committee right at us. That is what we are talking about.

We are not talking about a Senate bill. I can ascribe to that and so can the chairman. But he was part of the extraordinary pressure that comes from the House of Representatives where the last time we had a conference with the House on a crime bill, they repudiated the majority decisions of the Senate, of the House Republicans and Democrats both in the crime bill that we conferenced the previous time.

But when you go to a conference and you do not even have conferees on the other side of the Capitol sticking with the hard votes on the floor of the House, you know you really are in the land of Oz or in Alice in Wonderland.

That was where we were; that is where we are. The conference committee report is a shabby piece of legislation. Go back to the Senate version and we are ready. Go back to the House version and we would be even more ready. But they took the worst of both bills and spliced it into an indigestible mass.

So I inform my colleagues I will do all I can as a Senator and part of the leadership of the Republican Party to defeat the conference committee legislation. That conference committee furthermore erodes the constitutional rights, as I say, of law-abiding people.

We were streamrollered on that conference. It was the worst railroad job I had seen in my time here.

If the leadership wishes, we can carry the new debate through the coming elections and into the next Congress. We are prepared to do that, but we are also prepared to get a good bill. I think we can. I hope we can get back to the essence of the original agreement of Senator JOE BIDEN, Senator STROM THURMOND, and the Attorney General without further posturing and adroit maneuvering that is going on right now seeing once again whether we can drop a hook in the President of the United States rather than do something meaningful.

Mr. President, I ask unanimous consent that the letter I referred to from the Attorney General to Senator BIDEN be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, September 25, 1992.*
Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: As you outlined with me orally Wednesday night, and as further discussed yesterday, the following are the elements of a possible compromise crime bill:

1. The President's death penalty provision (set forth in the Gekas amendment passed by the House this Congress) plus a provision on jury instructions—attached at Tab A;

2. The Powell Commission habeas corpus provisions (set forth in the Hyde amendment passed by the House in 1990);

3. Your authorization provisions (see attachment at Tab B) plus the equal funding for habeas provision [section 208 of the conference report] as you and I discussed;

4. The Mitchell/Dole waiting period provision from the conference report [Title V Subtitle A] with proposed new section 18 U.S.C. 922(s)(7)(B) deleted, so that proposed new section is U.S.C. 922(s)(7) now reads:

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section."; and

5. No other provisions will be included in the package unless mutually agreed upon by us.

This letter will confirm, as you were told yesterday, that this package would be acceptable to the Administration.

Sincerely,

WILLIAM P. BARR,
*Attorney General.*

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START TREATY)—TREATY DOC. NO. 102-20

## PROTOCOL TO THE TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—TREATY DOC. NO. 102-32

Mr. MITCHELL. Mr. President, as I indicated both on Friday and earlier today, the Senate was to debate the START Treaty during the day today, and I promised that the Senate would remain in session for as long as necessary for any Senator who wished to address the subject to do so.

There was a lively and informative debate, and I am now advised that there are no other Senators who wish to address that subject, and therefore the Senate will shortly conclude its proceedings today.

## REQUIRING A WAITING PERIOD BEFORE THE PURCHASE OF A HANDGUN

Mr. MITCHELL. Mr. President, there has been a lengthy debate throughout the course of this year on the best way to respond to the serious problems of crime in our society.

The Senate passed a bill. The House passed a bill. The two were combined by a conference of the Senate and House into a single bill which then passed the House, and since has been pending in the Senate.

On two occasions I have attempted to proceed to that bill without success because while a majority of Senators—that is, more than 51—favor the bill the majority is not sufficient to achieve the 60 votes necessary to end a filibuster preventing final consideration of the bill.

I have previously stated publicly, and in my discussions with the distinguished Republican leader, reaffirmed my intention to make one more effort to try to obtain the 60 votes necessary to permit us to pass that bill finally, and it remains my hope that we could do that prior to the time that this Congress adjourns next Monday.

A part of the bill to which I have just referred includes a firearm-purchase waiting period. This originated in the House with the so-called Brady bill, named after James Brady, the former press secretary to President Reagan, who along with his wife, Sarah Brady, and many others have been leading advocates of a firearm-purchase waiting period.

When the matter was considered in the Senate, it was the subject of a great deal of debate, discussion, and negotiation, and finally a modified version of the Brady bill was approved by the Senate. That was an amendment that was presented by Senators DOLE, the Republican leader, Senator METZENBAUM, myself, and Senator KOHL of Wisconsin. And on June 28, 1991, it was approved in the Senate by a vote of 67 to 32; that is, by a margin of more than 2 to 1 the Senate approved the modified version of the firearm-purchase waiting period.

In view of the fact that we have been unable to gain approval of the comprehensive crime bill included in the conference report, which includes this modified firearm-purchase waiting period that I have just described, it is my intention to attempt to take the modified firearm-purchase waiting period, that now is part of the broader bill, to put that in a separate bill and to place that on the Senate Calendar so that the Senate can proceed to consider that if we are unable to get final action on the comprehensive crime bill.

Toward that end I have taken those provisions—again, that is the modified firearm-purchase waiting period drafted by Senators DOLE, METZENBAUM, KOHL, and myself—and incorporated them in a new bill, separate bill, now numbered S. 3282.

That bill is at the desk, and it was and is my intention to proceed through the legislative process that would permit that bill to be placed on the Senate Calendar.

Because of the situation in which we find ourselves, that requires unanimous consent for a brief adjournment of the Senate as well as having the bill read twice.

I have discussed this with my friend and colleague, Senator SIMPSON, prior to my doing so, and before I proceed through the formal process, I want to make certain that I have stated the situation accurately before we do that proceeding.

I invite any comment that the Senator from Wyoming may wish to make, if he chooses to do so.

Mr. SIMPSON. Mr. President, indeed the majority leader has made a very thorough and precise relation of what it is we are dealing with at this moment.

I understand, and I think it will be helpful to many to understand what this is. Indeed the vote on the so-called Mitchell-Dole firearm-purchase waiting period was 67 to 32; 44 percent of the Republicans joined in that measure in support of the majority leader's position. And those voting against, there were a number of Republicans, 56 percent, and 14 percent of the Democrats.

It is not a partisan issue and the majority leader has never indicated that at all anyway.

But we are at the point with a few days left, and let me just say a word about Jim and Sarah Brady. I knew Jim when he worked with Senator ROTH, and before he worked with President Reagan. They are very special people, very special friends. There is no more impressive person than Jim Brady in American public life and no more impressive woman in American public life than Sarah Brady as she carries on this cause with such diligence, grace, skill, and generosity. And it is a difficult one for all of us, especially those of us who represent the West.

In my State gun control is simply how steady you hold your rifle.

So I have talked with Sarah many times about that, and with Jim, too. They understand my position, and they are remarkable in their compassion as they realize how difficult that is for so many of us.

So in order to bring this to this point, Mr. President, at the appropriate time in the procedural aspects of this I will be objecting on behalf of certain of my colleagues on this side of the aisle, at the appropriate point as the majority leader presents the legislative agenda to us.

Mr. MITCHELL. Mr. President, I understand that a bill is at the desk which has been just introduced by me and I ask for its first reading.

The bill (S. 3282) was read for the first time.

Mr. MITCHELL. Mr. President, I ask for the bill's second reading.

Mr. SIMPSON. Mr. President, I object to the second reading of the bill on behalf of several of my colleagues.

The PRESIDING OFFICER. Objection is heard. The bill, S. 3282, will be read for the second time on the next legislative day.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand adjourned for 30 seconds, and that when the Senate reconvenes the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived; and no motions or resolutions come over under the rule; and that any bill or resolution receive its second reading; and that the morning hour be deemed to have been expired.

Mr. SIMPSON. Mr. President, I will object on behalf of several of my colleagues.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I thank my colleagues. I regret that he was required to object in behalf of his colleagues. This retards the process by which I had hoped to place the matter in a position to be considered by the full Senate. But it is my intention to proceed to do so at the earliest opportunity.

## MORNING BUSINESS

## MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 5323. An act to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

H.R. 5419. An act to amend the Marine Mammal Protection of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes.

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research.

H.R. 5754. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5754. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvement to the Nation's infrastructure, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3942. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-3943. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report on the profitability of the credit card operations of depository institutions for 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-3944. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission for calendar year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-3945. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the status of efforts to negotiate measures necessary for the conservation and management of swordfish within the International Commission for the Conservation of Atlantic Tunas; to the Committee on Commerce, Science, and Transportation.

EC-3946. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the administration of the provisions of Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 for calendar year 1991; to the Committee on Commerce, Science, and Transportation.

EC-3947. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report entitled "Summary of Expenditures of Rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1991"; to the Committee on Energy and Natural Resources.

EC-3948. A communication from the Chairman of the Investment Policy Advisory Committee, transmitting, pursuant to law, the report of the Committee on the North American Free Trade Agreement; to the Committee on Finance.

EC-3949. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Customs Service: Trade Enforcement Activities Impaired by Management Problems"; to the Committee on Governmental Affairs.

EC-3950. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Fiscal Year 1991 Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC-3951. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, notice and order provisionally establishing proceeding for consideration of modifying format requirement for second class; to the Committee on Governmental Affairs.

EC-3952. A communication from the Chairman and Vice Chairman of the Interagency Council on the Homeless, transmitting, pursuant to law, the 1991/1992 Annual Report of the Interagency Council on the Homeless; to the Committee on Governmental Affairs.

EC-3953. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Health Personnel In the United States: Eighth Report to Congress 1991"; to the Committee on Labor and Human Resources.

EC-3954. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priorities—Educational Media Research, Production, Distribution, and Training Program"; to the Committee on Labor and Human Resources.

EC-3955. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priority—Bilingual Education: Educational Personnel Training Program"; to the Committee on Labor and Human Resources.

EC-3956. A communication from the Chairman of the Commission on Minority Business Development, transmitting, pursuant to law, a report entitled "Final Report of the U.S. Commission on Minority Business Development"; to the Committee on Small Business.

EC-3957. A communication from Acting Comptroller of the Department of Defense, transmitting, pursuant to law, notice of two violations of the Antideficiency Act; to the Committee on Appropriations.

EC-3958. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report entitled "Report of the Commission on Alternative Utilization of Military Facilities: September 1992"; to the Committee on Armed Services.

EC-3959. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Annual Report on Transportation User Fees: October

1992"; to the Committee on Commerce, Science, and Transportation.

EC-3960. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Department of Energy Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC-3961. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the semi-annual reports for the period October 1991–March 1992 listing voluntary contributions made by the United States Government to International Organizations; to the Committee on Foreign Relations.

EC-3962. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a request from the Government of the Philippines that the United States Government permit the use of Foreign Military Financing or the sale, co-assembly, and coproduction of the 78-foot Fast Patrol Craft; to the Committee on Foreign Relations.

EC-3963. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 24, 1992; to the Committee on Foreign Relations.

EC-3964. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Davis-Bacon Act and the Copeland Act to promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, effect significant cost savings on Federal construction contracts, and for other purposes; to the Committee on Labor and Human Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment:

H.R. 5686. A bill to make technical amendments to certain Federal Indian statutes (Rept. No. 102-428).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. BREAUX):

S. 3280. A bill to amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net hospitals, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 3281. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL:

S. 3282. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

By Mr. SPECTER (for himself, Mr. WOFFORD, Mr. HATCH, Mr. HEFLIN, Mr. INOUYE, Mr. JOHNSTON, Mr. SANFORD, and Mr. THURMOND):

S.J. Res. 342. A joint resolution designating May 2, 1993, through May 8, 1993, as "National Walking Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. PELL, Mr. WOFFORD, Mr. BIDEN, and Mr. SARBANES):

S. Res. 351. A resolution to commend the people of Thailand for successfully conducting peaceful general elections and to congratulate Thailand's pro-democracy parties on their victory; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. BRADLEY, Mr. ADAMS, Mr. BENTSEN, Mr. BOREN, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SIMON, and Mr. WOFFORD):

S. Res. 352. A resolution expressing the sense of the Senate regarding the need for the President to seek the Senate's advice and consent to ratification of the United Nations Convention on the Rights of the Child; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. BREAUX):

S. 3280. A bill to amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net hospitals, and for other purposes; to the Committee on Finance.

### NATIONAL HEALTH SAFETY NET INFRASTRUCTURE ACT

• Mr. DASCHLE. Mr. President, today I am introducing the National Health Safety Net Infrastructure Act to provide vitally needed help for the Nation's public and rural hospitals. These hospitals, serving so many Americans as their only source of health care, are truly the health safety net. That safety net is in serious danger of unraveling.

What has happened to the infrastructure of the United States—roads, bridges, schools—has been the subject of considerable discussion during this past year, both in this Congress and in the Presidential campaign. Nowhere is the consequence of this neglect more evident than in public and rural hospitals. These hospitals share a common mission of indigent care, care of the elderly, and community service, and they are disproportionately dependent on either direct Government funding or Government reimbursement for the care they provide. While other hospitals compete for insured patients, safety net hospitals bear the primary burden of indigent and uncompensated care.

Because of this uneven reimbursement pattern and because of the budgetary problems that plague the Federal Government, State governments, and local governments, these hospitals have been unable to adequately fund their capital needs. As a consequence, the average age of the physical plant of urban, public hospitals is nearly 26 years, as compared to the nonpublic, national average of only 7 years. The average percentage of capital investment, and the average per-bed capital expenditures in public hospitals is less than half that of the nonpublic hospitals. The effect of this underinvestment is to accelerate the deterioration of existing plant and equipment.

The same problems beset the rural hospitals in the United States. Hundreds of these hospitals have been forced to close their doors in the past several years, and deteriorating physical facilities have been a primary factor in many of these closures. The financial picture of rural hospitals has been particularly affected by cutbacks in Federal reimbursement, a decline in inpatient utilization, increased growth of uncompensated care, and the general economic problems confronting the rural areas of this country.

At a time when we are debating health reform and there is increasing emphasis on primary and preventive care, it has become virtually impossible for these hospitals to offer these services. High occupancy rates and enormous increases in emergency, trauma, and outpatient volumes have exacerbated the problem. Overcrowding is common in these hospitals, with occupancy in some often over 100 percent.

The program would provide much needed assistance to these vitally important institutions. Specifically, this bill would create a Federal trust fund to provide loan guarantees, interest subsidies, direct loans, and grants for updating and maintaining the essential infrastructure requirements of the Nation's urban and rural safety net hospitals. The programs are narrowly targeted to only the most essential projects and facilities, and would require significant levels of non-Federal participation, including State and community support. Still, this program would provide an important source of leveraging for the substantial unmet capital needs these hospitals face.

I am proud to have had the able assistance of my distinguished colleague from Louisiana, Senator BREAUX, in developing this bill, and I ask unanimous consent that the full text of the National Health Safety Net Infrastructure Act and a brief factsheet on it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 3280

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Health Safety Net Infrastructure Act".

### SEC. 2. FINDINGS.

The Congress finds that—

(1) a small handful of urban and rural hospitals in America today serve as an essential health safety net for many millions of individuals in underserved inner cities and rural areas;

(2) these safety net hospitals bear a disproportionate share of the burden of providing care to the Nation's 35,000,000 uninsured, as well as serving as the community hospital and family doctor to millions of other low-income urban and rural residents who are covered by medicaid, medicare, and often inadequate private insurance;

(3) these hospitals are often also a community's only source of essential, specialized health services, including emergency and trauma care, burn services, high-risk pregnancy services, and neonatal intensive care;

(4) due to their geographic location and the lack of any other facilities or services (including physicians) in many inner city and rural communities, these safety net hospitals will continue to play an essential role in the health system even following the enactment of national health system reform;

(5) this safety net threatens to unravel due to the capital infrastructure crisis which these health care facilities face;

(6) the buildings and equipment in which these hospitals rely to provide high quality medical care have been allowed to deteriorate seriously, putting in jeopardy the delivery of quality health services to major portions of the Nation's population;

(7) chronic underinvestment in these hospitals is evidenced by the fact that the average age of physical plant of urban, public hospitals is nearly 26 years, as compared to a national average of only 7 years for private hospitals;

(8) the financial picture of rural hospitals in particular has been affected by cutbacks in Federal reimbursement payments, a decline in inpatient utilization, increased growth rate in uncompensated care, negative margins, and rural economic problems;

(9) small rural hospitals find it increasingly difficult to access inexpensive capital markets to maintain and improve their infrastructure to ensure high quality health care services to citizens in rural areas;

(10) the average capital expenditure for urban public hospitals is $12,600 per bed, as compared to a national average expenditure per bed of $23,500;

(11) traditional methods of financing rebuilding and renovation projects are either not available to these hospitals, or are increasingly limited due to fiscal pressures on local governments who issue their bonds or to the high costs of issuing revenue bonds in a bond market that is skeptical regarding the local appropriations made to these hospitals; and

(12) the Federal government can help alleviate this crisis with carefully targeted and highly leveraged resources for those hospitals in the greatest need of assistance.

### TITLE I—CAPITAL FINANCING ASSISTANCE FOR SAFETY NET HOSPITALS PROVIDING INDIGENT CARE

### SEC. 101. ESTABLISHMENT OF CAPITAL FINANCING ASSISTANCE PROGRAM.

(a) In General.—The Social Security Act is amended by adding at the end the following new title:

### "TITLE XXI—CAPITAL FINANCING ASSISTANCE FOR SAFETY NET HOSPITALS

### "Subtitle A—General Provisions

"PAYMENTS TO HOSPITALS

"SEC. 2101. (a) In General.—The Secretary, with the approval of the Health Safety Net Infrastructure Trust Fund Board of Trustees described in section 2104(d) (hereafter in this title referred to as the 'Trust Fund Board'), shall make payments, from amounts in the Health Safety Net Infrastructure Trust Fund established under section 2104(a) (hereafter in this title referred to as the 'Trust Fund'), for capital financing assistance to eligible hospitals whose applications for assistance have been approved under this title.

"(b) General Eligibility Requirements for Assistance.—

"(1) Hospitals described.—

"(A) In general.—A hospital shall be generally eligible for capital financing assistance under this title if the hospital—

"(i) receives an additional payment under section 1886(d)(5)(F) and is described in clause (i)(II) or clause (vii)(I) of such section, or is deemed a disproportionate share hospital under a State plan for medical assistance under title XIX on the basis described in section 1923(b)(1);

"(ii) is a hospital which meets the criteria for designation by the Secretary as an essential access community hospital under section 1820(i)(1) or a rural primary care hospital under section 1820(i)(2) (whether or not such hospital is actually designated under such section);

"(iii) is a Federally qualified health center (as defined in section 1861(aa)(4)); or

"(iv) is a hospital that the Secretary otherwise determines to be an appropriate recipient of assistance under this title on the basis of the existence of a patient care operating deficit, a demonstrated inability to secure or repay financing for a qualifying project on reasonable terms, or such other criteria as the Secretary considers appropriate.

"(B) Development of criteria.—For purposes of subparagraph (A)(iv), with respect to rural hospitals which are at risk or critical to health care access, the Prospective Payment Review Commission, not later than July 1, 1993, shall develop criteria to assist the Secretary in deciding if such hospitals deserve assistance, after considering, at a minimum, the following factors:

"(i) At-risk rural hospitals.—In the case of rural hospitals the closure of which within the next year is imminent or the continued operation of which over a 2 to 5 year period is questionable, such factors as the level of health resources available in a community as measured by physician supply, the population base of the area served by the hospital and utilization of services by such population as measured by service area population, and financial indicators predictive of closure.

"(ii) Rural hospitals critical to health care access.—In the case of rural hospitals which provide access to essential health services within a service area where no other provider of such essential services exists, such factors as the market share of the hospital for an area or population, the number of outpatient visits, the proximity of the next closest provider of such services, and the degree to which the area population is medically underserved.

"(2) Ownership requirements.—In order to qualify for assistance under this title, a hospital (other than a hospital described in paragraph (1)(A)(ii)) must—

"(A) be owned or operated by a unit of State or local government;

"(B) be a quasi-public corporation, defined as a private, nonprofit corporation or public benefit corporation which is formally granted one or more governmental powers by legislative action through (or is otherwise partially funded by) the State legislature, city or county council; or

"(C) be a private nonprofit hospital which has contracted with, or is otherwise funded by, a governmental agency to provide health care services to low income individuals not eligible for assistance under title XVIII or title XIX of this Act, where revenue from such contracts constitute at least 10 percent of the hospital's operating revenues over the prior 3 fiscal years.

"(c) Meeting Additional Specific Criteria.—Hospitals that are generally eligible for assistance under this title under subsection (b) may apply for the specific programs described in this title and must meet any additional criteria for participation in such programs.

"(d) Assistance Available.—Capital financing assistance available under this title shall include loan guarantees, interest rate subsidies, matching loans and direct grants. Hospitals determined to be generally eligible for assistance under this title may apply for and receive more than one type of assistance under this title.

"APPLICATION FOR ASSISTANCE

"SEC. 2102. (a) In General.—No hospital may receive assistance for a qualifying project under this title unless the hospital—

"(1) has filed with the Secretary, in a form and manner specified by the Secretary, with the advice and approval of the Trust Fund Board (as described in section 2104(d)), an application for assistance under this title;

"(2) establishes in its application (for its most recent cost reporting period) that it meets the criteria for general eligibility under this title;

"(3) includes a description of the project, including the community in which it is located, and describes utilization and services characteristics of the project and the hospital, and the patient population that is to be served;

"(4) describes the extent to which the project will include the financial participation of State and local governments, and all other sources of financing sought for the project; and

"(5) establishes, to the satisfaction of the Secretary and the Trust Fund Board, that the project meets the additional criteria for each type of capital financing assistance for which it is applying.

"(b) Criteria for Approval.—The Secretary, with the approval of the Trust Fund Board, shall determine for each application for assistance under this title—

"(1) whether the hospital meets the general eligibility criteria under section 2101(b);

"(2) whether the hospital meets the specific eligibility criteria of each type of assistance for which it has applied, including whether the hospital meets any criteria for priority consideration for the type of assistance for which it has applied;

"(3) whether the capital project for which assistance is being requested is a qualifying project under this title; and

"(4) whether funds are available, pursuant to the limitations of each program, to fully fund the request for assistance.

"(c) PRIORITY OF PROJECTS.—In addition to meeting the criteria otherwise described in this title, at the discretion of the Trust Fund Board, the Secretary shall give preference to those qualifying projects that—

"(1)(A) are necessary to bring existing safety net facilities into compliance with accreditation standards or fire and life safety, seismic, or other related Federal, State or local regulatory standards; or

"(B) improve the provision of essential services such as emergency medical and trauma services, AIDS and infectious disease, perinatal, burn, primary care, and other services which the Trust Fund's Board may designate; and

"(2) include specific State or local governmental or other non-Federal assurances of financial support.

"(d) SUBMISSION OF APPLICATIONS.—Applications under this Act shall be submitted to the Secretary through the Trust Fund Board. If two or more hospitals join in the project, the application shall be submitted by all participating hospitals jointly. Such applications shall set forth all of the descriptions, plans, specifications, and assurances as required by this Act and contain other such information as the Trust Fund Board shall require.

"(e) OPPORTUNITY FOR APPEAL.—The Trust Fund Board shall afford a hospital applying for a loan guarantee under this section an opportunity for a hearing if the guarantee is denied.

"(f) APPLICATIONS FOR AMENDMENTS.—Amendment of an approved application shall be subject to approval in the same manner as an original application.

### "PUBLIC SERVICE RESPONSIBILITIES

"SEC. 2103. (a) IN GENERAL.—Any hospital accepting capital financing assistance under this title shall agree—

"(1) to make the services of the facility or portion thereof to be constructed, acquired, or modernized available to all persons residing in the territorial area of the applicant; and

"(2) to provide a significant volume of services to persons unable to pay therefore, consistent with other provisions of this Act.

"(b) ENFORCEMENT.—The Director of the Office of Civil Rights of the Department of Health and Human Services shall be given the power to enforce the public service responsibilities described in this section.

### "HEALTH SAFETY NET INFRASTRUCTURE TRUST FUND

"SEC. 2104. (a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Health Safety Net Infrastructure Trust Fund, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the unobligated amounts remaining in the Customs Forfeiture Fund under section 613A(f)(3) of the Tariff Act of 1930.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available only for making expenditures to carry out this title.

"(d) BOARD OF TRUSTEES; COMPOSITION; MEETINGS; DUTIES.—

"(1) IN GENERAL.—There shall be created a Health Safety Net Infrastructure Trust Fund Board of Trustees composed of the Secretary of Health and Human Services, the Secretary of the Treasury, the Assistant Secretary for Health, and the Administrator of the Health Care Financing Administration (all serving in their ex officio capacities), and 5 public members who shall be appointed for 4 year terms by the President, from the following categories—

"(A) one chief health officer from a State;

"(B) one chief executive officer of a hospital that meets the general eligibility criteria of this title;

"(C) one representative of the financial community; and

"(D) two additional public or consumer representatives.

"(2) DUTIES.—The Board of Trustees shall meet no less than quarterly and shall have the responsibility to approve implementing regulations, to establish criteria, and to recommend and approve expenditures by the Secretary under the programs set forth in this title.

"(3) MANAGING TRUSTEE.—The Secretary of the Treasury shall serve as the Managing Trustee of the Trust Fund, and shall be responsible for the investment of funds. The provisions of subsections (b) through (e) of section 1817 shall apply to the Trust Fund and the Managing Trustee of the Trust Fund in the same manner as they apply to the Federal Hospital Insurance Trust Fund and the Managing Trustee of that Trust Fund.

### "ADMINISTRATION

"SEC. 2105. (a) IN GENERAL.—The Administrator of the Health Care Financing Administration shall serve as Secretary of the Board of Trustees and shall administer the programs under this title.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the funds annually appropriated to the Trust Fund may be available for administration of the Trust Fund or programs under this title.

## "Subtitle B—Loan Guarantees

### "PROVISION OF LOAN GUARANTEES TO SAFETY NET HOSPITALS

"SEC. 2110. (a) IN GENERAL.—The Safety Net Infrastructure Trust Fund will provide a Federal guarantee of loan repayment, including guarantees of repayment of refinancing loans, to non-Federal lenders making loans to qualified hospitals for hospital replacement (either by construction or acquisition), modernization and renovation projects.

"(b) PURPOSES.—The loan guarantee program shall be designed by the Trust Fund Board with the goal of rebuilding and maintaining the essential health services of hospitals eligible for assistance under this title.

### "ELIGIBLE LOANS

"SEC. 2111. (a) IN GENERAL.—Loan guarantees under this subtitle are available for loans made to qualifying hospitals for replacement facilities (either newly constructed or acquired), and for the modernization and renovation of existing facilities.

"(b) LOAN GUARANTEE MUST BE ESSENTIAL TO BOND FINANCING.—Qualifying hospitals must demonstrate that a Federal loan guarantee is essential to obtaining bond financing from non-Federal lenders at a reasonably affordable rate of interest.

"(c) ADDITIONAL ELIGIBILITY CRITERIA FOR LOAN GUARANTEES.—In order to qualify for assistance under this subtitle, a hospital must meet the following criteria:

"(1) The hospital must demonstrate evidence of an ability to meet debt service.

"(2) The assistance, when considered with other resources available to the project, is necessary and determines that such assistance will restore or maintain the financial or physical soundness of the hospital.

"(3) The applicant agrees to assume the public service responsibilities described in section 2103.

"(4) The project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Trust Fund Board, and which includes—

"(A) a detailed maintenance schedule;

"(B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements;

"(C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Trust Fund Board;

"(D) a plan to improve financial and management control systems;

"(E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Trust Fund Board; and

"(F) such other requirements as the Trust Fund Board may determine.

"(5) The application includes stringent provisions for continued State or local support of the program, both with respect to operating and financial capital.

"(6) The terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulation, including a determination that the rate of interest does not exceed such annual percentage on the principal obligation outstanding as the Trust Fund Board determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

"(7) The hospital must meet such other additional criteria as the Secretary may impose.

"(e) STATE OR LOCAL PARTICIPATION.—Projects in which State or local governmental entities participate in the form of first guarantees of part or all of the total loan value shall be given a preference for loan guarantees under this subtitle.

### "GUARANTEE ALLOTMENTS

"SEC. 2112. (a) IN GENERAL.—$150,000,000 shall be annually allocated within the Trust Fund to the loan guarantee program established by this subtitle in order to create a cumulative reserve in support of loan guarantees.

"(b) LOAN GUARANTEES FOR RURAL HOSPITALS.—At least 20 percent of the dollar value of loan guarantees made under this program during any given year shall be allocated for eligible rural hospitals, to the extent a sufficient number of applications are made by such hospitals.

"(c) GUARANTEES FOR SMALL LOANS.—At least $200,000,000 of the annual dollar value of loan guarantees made under the program shall be reserved for loans of under $50,000,000, if there are a sufficient number of applicants for loans of that size.

"(d) SPECIAL RULE FOR REFINANCING LOANS.—Not more than 20 percent of the amount allocated each year to the loan guarantee program established by this subtitle may be allocated to guarantee refinancing loans during the year.

### "TERMS AND CONDITIONS OF LOAN GUARANTEES

"SEC. 2113. (a) IN GENERAL.—The principal amount of the guaranteed loan, when added to any Federal grant assistance made under this title, may not exceed 95 percent of the total value of the project, including land.

"(b) GUARANTEES PROVIDED MAY NOT SUPPLANT OTHER FUNDS.—Guarantees provided under this subtitle Act may not be used to supplant other forms of State or local support.

"(c) RIGHT TO RECOVER FUNDS.—The United States shall be entitled to recover from any applicant hospital the amount of payments made pursuant to any loan guarantee under this subtitle, unless the Trust Fund Board for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipients of the payments with respect to which the guarantee was made.

"(d) MODIFICATION OF TERMS.—Loan guarantees made under this subtitle shall be subject to further terms and conditions as the Trust Fund Board determines to be necessary to assure that the purposes of this Act will be achieved, and any such terms and conditions may be modified by the Trust Fund Board to the extent that it determines such modifications to be consistent with the financial interest of the United States.

"(f) TERMS ARE INCONTESTABLE ABSENT FRAUD OR MISREPRESENTATION.—Any loan guarantee made by the Trust Fund Board pursuant to this subtitle shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or other person.

### "PREMIUMS FOR LOAN GUARANTEES

"SEC. 2114. (a) IN GENERAL.—The Trust Fund Board shall determine a reasonable loan insurance premium which shall be charged for loan guarantees under this subtitle, taking into account the availability of the reserves created under section 2112. Premium charges shall be payable annually in advance to the Trust Fund in cash. In addition to the premium charge herein provided for, the Trust Fund is authorized to charge and collect such amount as it may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project.

"(b) PAYMENT IN ADVANCE.—In the event that the principal obligation of any loan accepted for insurance under this subtitle is paid in full prior to the maturity date, the Trust Fund Board is authorized in its discretion to require the payment by the borrower of an adjusted premium charge in such amount as the Board determines to be equitable, but not in excess of the aggregate amount of the premium charges that the hospital would otherwise have been required to pay if the loan had continued to be insured until maturity date.

"(c) TRUST FUND BOARD MAY WAIVE PREMIUMS.—The Trust Fund Board may in its discretion partially or totally waive premiums charged for loan insurance under this section for financially distressed hospitals (as described by the Secretary).

### "PROCEDURES IN THE EVENT OF LOAN DEFAULT

"SEC. 2115. (a) IN GENERAL.—Failure of the borrower to make payments due under or provided by the terms of a loan accepted for insurance under this subtitle shall constitute a default.

"(b) ASSIGNMENT OF DEFAULTED LOANS.—If a default continues for 30 days then upon the lender's transfer to the Trust Fund Board of all its rights and interests arising under the defaulted loan or in connection with the loan transaction, the lender shall be entitled to debentures which, together with a certificate of claim, are equal in value to the amount the lender would have received if, on the date of transfer, the borrower had repaid the loan in full, together with the amount of necessary expenses incurred by the lender in connection with the default.

"(c) FORECLOSURE BY LENDER.—Subject to the approval of the Trust Fund Board, or as provided in regulations, the lender may foreclose on the property securing the defaulted loan.

"(d) FORECLOSURE BY TRUST FUND BOARD.—The Trust Fund Board is authorized to—

"(1) acquire possession of and title to any property securing a defaulted loan by voluntary conveyance in extinguishment of the indebtedness, or

"(2) institute proceedings for foreclosure on the property securing any such defaulted loan and prosecute such proceedings to conclusion.

"(e) HANDLING AND DISPOSAL OF PROPERTY; SETTLEMENT OF CLAIMS.—

"(1) PAYMENT FOR CERTAIN EXPENSES.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Trust Fund Board shall also have power, for the protection of the interests of the Trust Fund, to pay out of the Trust Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in its discretion, any property acquired by the Trust Fund under this section.

"(2) SETTLEMENT OF CLAIMS.—Notwithstanding any other provision of law, the Trust Fund Board shall also have the power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to the Trust Fund in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose or refrain from foreclosing on any property secured by any defaulted loan assigned and transferred to or held by the Trust Fund.

"(3) LIMITATIONS ON AUTHORITY.—Subsections (a) and (b) shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000.

"(f) REGULATIONS.—The Trust Fund shall propose and the Secretary shall promulgate regulations governing procedures in the event of a default on a loan accepted for insurance under this subtitle.

## "Subtitle C—Interest Rate Subsidies

### "PROVISION OF INTEREST RATE SUBSIDIES

"SEC. 2121. (a) IN GENERAL.—The Secretary, with the approval of the Trust Fund Board, shall make available interest subsidies to reduce the cost of financing qualifying projects.

"(b) PURPOSES.—The interest subsidy program shall provide a partial Federal subsidy of debt service payment where State or local entities have demonstrated a significant commitment to financing hospital replacement (either by construction or acquisition), modernization, and renovation projects by undertaking the issuance of bonds.

### "ELIGIBLE LOANS

"SEC. 2122. (a) IN GENERAL.—Qualifying hospitals should have issued or plan to issue bonds for capital projects or be responsible for paying debt service on general obligation or revenue bonds issued on the qualifying hospital's behalf. To be eligible, bonds must have been issued after December 31, 1990.

"(b) NON-FEDERAL PARTICIPATION REQUIREMENT.—In order to obtain assistance under this subtitle, a hospital must receive assistance from non-Federal sources in an amount not less than the amount of the assistance provided under this subtitle.

### "AMOUNT OF SUBSIDY AVAILABLE

"SEC. 2123. (a) IN GENERAL.—Interest subsidy grants will be made in the amount of 3 percent for qualifying non-Federal loans.

"(b) QUALIFYING FEDERAL LOANS MADE UNDER THIS ACT.—Interest subsidy grants in an amount of up to 5 percent will be made for qualifying Federal loans made under this title if it is determined by the Trust Fund Board that the project would not be otherwise financially feasible.

"(c) RESERVE FOR RURAL HOSPITALS.—At least 20 percent of the total value of all interest subsidies awarded in any given year shall be awarded to rural hospitals, provided that a sufficient number of applications are approved.

"(d) LIMITATION ON AMOUNT OF SUBSIDIES AWARDED IN A GIVEN STATE.—The aggregate value of interest subsidies made to hospitals in any State in a given year shall not exceed 25 percent of the total value of all interest subsidies made during that year.

### "TERMS AND CONDITIONS FOR SUBSIDIES

"SEC. 2124. (a) STATE OR LOCAL PARTICIPATION.—State or local participation in an amount equal to the Federal subsidy is required.

"(b) ISSUANCE OF FEDERAL COMMITMENTS.—Successful applicants will receive a Federal commitment of interest subsidy grant. Applicants will then have 12 months to finalize financing arrangements before unobligated funds would be returned to the subsidy program pool. A commitment, when issued, shall be valid for as long as a hospital continues to meet the eligibility qualifications of this title.

### "SUBSIDIES FOR LOAN REFINANCING

"SEC. 2125. In addition to providing interest rate subsidies for new loans, the Trust Fund may provide subsidies to assist in refinancing if the hospital presently lacks permanent financing at an affordable current market rate.

## "Subtitle D—Direct Matching Loans

### "PROVISION OF MATCHING LOANS TO HOSPITALS

"SEC. 2131. (a) IN GENERAL.—The Secretary, with the approval of the Trust Fund Board, shall provide direct matching loans to qualified hospitals unable otherwise to obtain essential financing.

"(b) PURPOSES.—The purpose of this subtitle is to provide qualifying hospitals with direct matching loans for essential hospital replacement (either by construction or acquisition), modernization, and renovation projects. These loans are to be primarily provided for the funding of smaller projects where the transaction costs of securing financing from other sources may be disproportionately onerous in relationship to the amounts financed.

### "ELIGIBLE PROJECTS

"SEC. 2132. (a) IN GENERAL.—Qualified applicants may seek a project loan of up to $50,000,000. Not more than 75 percent of the cost of the project may come from Federal sources.

"(b) EXCEPTION FOR FINANCIALLY DISTRESSED HOSPITALS.—The Trust Fund Board shall have the discretion to waive the 25 percent match requirement for financially distressed hospitals (as described by the Secretary).

### "ALLOTMENT OF LOANS

"SEC. 2133. (a) IN GENERAL.—The Trust Fund Board shall make available $200,000,000 in direct matching loans annually. Funded projects should be divided between projects designed to achieve compliance with accreditation standards, life safety code, and other certification standards, and those related to the provision of new services.

"(b) RESERVE FOR RURAL HOSPITALS.—No less than 20 percent of the total value of loans made under the program shall be made to rural hospitals, if there are a sufficient number of approved applications from such hospitals.

### "TERMS AND CONDITIONS OF LOANS

"SEC. 2134. (a) GENERAL TERM.—Loans will be made for a period equal to the construction period plus up to 39 years amortization.

"(b) INTEREST RATE.—The interest rate will be a market rate determined by the Trust Fund Board to be the most recent revenue bond index published by the Bond Buyer.

### "USE OF LOANS FOR REFINANCING

"SEC. 2135. In addition to providing loans for new projects, the Trust Fund Board may grant loans under this subtitle to refinance existing loans if the hospital has been unable to secure permanent financing at an affordable current market rate, except that the amount of assistance provided under this subtitle during a year for refinancing existing loans may not exceed 20 percent of the total amount made available for assistance under this subtitle for the year.

### "CREATION OF REVOLVING FUND

"SEC. 2136. In addition to the new amounts made available each year, all loan repayments made by hospitals shall be held in a revolving fund that may be used for additional loans.

### "LOAN DEFAULT

"SEC. 2137. (a) IN GENERAL.—The failure of the borrower to make payment due under or provided by the terms of a loan granted under this subtitle shall be considered a default under such loan and, if such default continues for a period of 30 days, the Trust Fund Board shall have the right to begin collection proceedings against the borrower.

"(b) PRIORITY OF FEDERAL INTEREST.—In the case of default, the United States shall be paid prior to State or local bonds.

## "Subtitle E—Grants for Urgent Capital Needs

### "PROVISION OF GRANTS

"SEC. 2141. (a) IN GENERAL.—The Secretary, with the approval of the Trust Fund Board, shall make direct grants to qualified hospitals with urgent capital needs.

"(b) PURPOSES.—Direct grants shall be available to eligible hospitals for 3 types of projects:

"(1) Emergency certification and licensure grants would be available to eligible hospitals that are threatened with closure or loss of accreditation or certification of a facility or of essential services as a result of life or safety code violations or similar facility or equipment failures. Such grants would provide limited funding for repair and renovation where failure to fund would disrupt the provision of essential public health services such as emergency care.

"(2) Emergency grants would be available for capital renovation, expansion, or replacement necessary to the maintenance or expansion of essential safety and health services such as obstetrics, perinatal, emergency and trauma, primary care and preventive health services.

"(3) Planning grants would be available to qualified hospitals who require pre-approval assistance to meet regulatory requirements related to management and finance in order to apply for loans, loan guarantees, and interest subsidies under this Act.

"(c) PRIORITY TO FINANCIALLY DISTRESSED HOSPITALS.—Priority for direct grants under this section would be given to financially distressed hospitals (as described by the Secretary).

"(d) APPLICATION PROCESS.—The Secretary, with the approval of the Trust Fund Board, shall create an expedited application process for direct grants.

### "ELIGIBLE PROJECTS

"SEC. 2142. (a) MATCHING GRANTS.—

"(1) LIMITATION ON AMOUNT.—Grants for capital expenditures by qualified hospitals will be limited to $25,000,000.

"(2) MATCHING REQUIREMENT.—At least half of the projects funded in a year must receive at least 50 percent of their funding from State or local sources. The remaining projects funded during the year could be financed up to 90 percent with a combination of Federal grants and loans.

"(3) RESERVATION FOR RURAL HOSPITALS.—No less than 20 percent of the grant funds in any given year would be reserved for rural hospitals, provided that a sufficient number of applications are approved.

"(b) PLANNING GRANTS.—Applicants who can demonstrate general qualification for the direct matching loan, loan guarantee, or interest subsidy programs under this title or eligibility for mortgage insurance under section 242 of the National Housing Act will be eligible for a grant of up to $500,000 to assist in implementation of key budgetary and financial systems as well as management and governance restructuring.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

### SEC. 102. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RELATED COSTS UNDER MEDICARE.

(a) IN GENERAL.—Section 1886(g)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) shall provide for adjustments to take into account the extent to which capital-related costs incurred by a hospital are costs with respect to which the hospital received financial assistance under title XXI.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1993.

## TITLE II—AMENDMENT OF THE TARIFF ACT OF 1930

### SEC. 201. USE OF UNOBLIGATED MONEYS IN THE CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking from "any unobligated amount" through the end of the sentence, and inserting "any unobligated amount remaining in the Fund after the purposes set forth in subsections (a)(1) and (3) and (b) are carried out shall be deposited in the Health Safety Net Infrastructure Trust Fund established by section 2104 of the Social Security Act.".

## S. 3280, THE NATIONAL HEALTH SAFETY NET INFRASTRUCTURE ACT

This bill would create a Federal trust fund to provide loan guarantees, interest subsidies, direct loans, and grants for updating and maintaining the essential infrastructure requirements of the nation's urban and rural safety net hospitals. The programs would be narrowly targeted to only the most essential projects and facilities, and would require significant levels of non-Federal participation, including State and community support. The bill would provide a significant source of leveraging for the substantial unmet capital needs these hospitals face.

### I. GENERAL PROVISIONS

The fund would support several programs designed to improve access to, as well as affordability of, capital for urban and rural safety net hospitals that serve a disproportionate share of indigent patients, and that provide critical health services otherwise unavailable in their communities. Specifically, the bill would create the following Federal programs:

A. Direct Matching Loans: Federal loans would be available for eligible projects for which State and/or local entities provide 25% or more of the funds.

B. Loan Guarantees: Federal guarantees of loan repayment would be available to non-Federal lenders or issuers of tax-exempt bonds for eligible projects.

C. Loan Interest Subsidies: Partial (3-5%) interest subsidies would be available under certain circumstances for eligible non-Federal loans and certain qualifying direct matching loans.

D. Grants: A limited number of direct grants for critical projects related to code and certification compliance, loan guarantee preparation and readiness, and provision of certain essential safety net services.

### II. ELIGIBILITY

Eligible facilities are limited to specific hospitals.

A. Those hospitals that meet the criteria for designation as Essential Access Community Hospitals or Rural Primary Care Hospitals.

B. Hospitals that meet one of the following criteria:

1. Qualification as a disproportionate share provider under medicare or is deemed a disproportionate share hospital;

2. Is a Federally qualified health center;

3. Is determined by the Secretary to be an appropriate recipient on the basis of an operating deficit, a demonstrated inability to secure or repay financing for a qualifying project;

And one of the following ownership requirements:

1. Owned or operated by a unit of State or local government;

2. Be a quasi-public corporation (defined as a private, nonprofit corporation or public benefit corporation formally granted one or more governmental powers by legislative action);

3. Be a private nonprofit hospital which has contracted with a governmental agency to provide care to low income individuals.

Qualifying hospitals would apply to the Secretary of HHS. Preference will be given those projects that:

Are necessary to bring existing safety net facilities into compliance with accreditation standards or fire, lifesafety, seismic, or other related standards;

Are designed to improve the provision of essential services such as emergency medical and trauma services, AIDS and infectious disease, perinatal, burn, and primary care;

Include specific State or local governmental or other non-Federal assurance of financial support.●

● Mr. BREAUX. Mr. President, I rise to join Senator DASCHLE in introducing legislation that would provide badly needed assistance to the network of public hospitals that serve as a safety net in our Nation's fraying health care system.

My State of Louisiana is unique in that our State government operates a system of Charity Hospitals, elements of which have been in existence since the 1730's. These hospitals have provided care to poor and indigent people in Louisiana for centuries and they continue to play a vital role in our State's ability to provide health care to the needy. The buildings that house the Charity system are crumbling with age. Indeed, the largest of the hospitals, New Orleans' Big Charity, was built in 1938 with 3,000 beds and now, with large sections of the building unusable due to the presence of asbestos or structural problems, is struggling to operate about 600 beds.

At one time, the Charity Hospitals were among the premier teaching hospitals in the country. More recently, Big Charity in New Orleans was threatened with the loss of its accreditation due to the aging of the building and resulting problems in meeting life and safety code requirements. The State has made plans to replace the Big Charity structure with an existing hospital and hopes to be able to replace or renovate six of the system's eight hospitals, starting with Big Charity in New Orleans, Earl K. Long Hospital in Baton Rouge, Huey P. Long Hospital in Pineville, and W.O. Moss Hospital in Lake Charles.

The crisis that faces safety net hospitals is not just a Louisiana phenomena—it is a nationwide problem. Nationwide, the average age of physical plants for these hospitals is 26 years, as compared to 7 years for the rest of the hospital industry. Their average capital expenditure per bed is $12,600 while the national average is $23,500. At the same time, their emergency rooms are treating three times as many violently induced wounds as they were six years ago and they are providing a disproportionate amount of the care for the 35 million or more Americans who have no health insurance. The National Association of Public Hospitals has estimated the nationwide capital needs of urban public hospitals along at $15 billion.

The bill that Senator DASCHLE and I are introducing today would set up a trust fund to assist the Charity Hospitals in Louisiana, and similar hospitals that serve the same function in urban and rural areas across the country, in their efforts to obtain financing to rehabilitate and replace their crumbling physical plants.

Our legislation also directs a substantial commitment to rural institutions that serve a disproportionately poor and medically indigent population. Twenty percent of the loan guarantees, interest subsidies, and direct loans would be dedicated to these rural institutions.

The patients who depend on the safety net hospitals and the health care system in general will benefit directly from the infrastructure investments that our legislation would make possible. Like any other infrastructure investment, money spent to rebuild these major institutions will also spin off into the general economy in the form of jobs in the local construction industry and in hospital service industries.

I would like to thank Senator DASCHLE for his good work in preparing this legislation for introduction and for the opportunity to work with him on it. I encourage all of my colleagues to join us in support of this very important legislation.●

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By Mr. HATCH:

S. 3281. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

### REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1992

Mr. HATCH. Mr. President, small businesses in this country are floundering under mandates from Washington.

I know many small business men and women in Utah who would like someone in Washington to listen to their concerns. From high tech manufacturing to computer software development, from the biomedical industry to the local mom and pop corner store, Utahns wonder how much regulation is enough before they are forced out of business. Some small businesses have already reached that point. If Senators think I am being too dramatic, I hope they will continue to listen.

Recently, I mentioned an article in the Wall Street Journal by our former colleague Senator George McGovern in which he relates his own unhappy experiences with regulation and how regulation helped to close his Connecticut inn. I ask unanimous consent that Senator McGovern's article be placed in the CONGRESSIONAL RECORD at this point.

As Senator McGovern pointed out:

> "One-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive business, and local market economics.
>
> The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.

The purpose of the bill I am introducing today is to help make an examination of the impact of regulation on small entities by Federal agencies more meaningful.

According to the "Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act," for 1991, goals for the Regulatory Flexibility Act are to—

> (1) * * * increase federal agency awareness and understanding of the impact of regulations on small entities by requiring agencies to identify and explain those impacts;
>
> (2) * * * require that agencies communicate and explain their findings to the public, including notification beyond the traditional Federal Register notices;
>
> (3) * * * provide regulatory relief for small entities.

To meet these goals, the Regulatory Flexibility Act requires that agencies prepare a regulatory flexibility analysis which, in its final form, should examine the following:

First, the need for the rule and objective of the rule;

Second, a summary of public comments on the proposed rule, the agency assessment of the issues raised by public comment, and a statement detailing whatever changes the agency made to the rule as a result of public comment; and

Third, a listing of viable alternatives to the rule which will achieve the stated objectives, yet at the same time minimize the economic impact of the new rule on small business and a reason why each alternative was rejected.

This analysis is to be published in the Federal Register and made available to the public so that small businesspeople, local governments, and other concerned citizens can better understand the impact of regulations.

Mr. President, for 12 years we have had a mechanism in place to assess the impact of new rules on small businesses. Yet agencies have been able to circumvent congressional intent and, in essence, make the Regulatory Flexibility Act a hollow statement. Why?

Section 611 of the act states that the actions of agencies governed under this act "shall not be subject to judicial review." The Regulatory Flexibility Act allows agencies to certify that their rules do not have a significant impact on small business and, therefore, to avoid completing a regulatory flexibility analysis.

Because of section 611, we have a statute with no mechanism for enforcement. Under the act, the decisions of regulators concerning compliance with the act cannot be challenged in court and, therefore, agencies do not satisfactorily comply. Removal of section 611 will force agencies to fully and accurately consider the impact of their rules on smaller business entities, local governments, and other small entities. Unless regulators understand that their consideration of rules under this act can be challenged, they may never fully comply with the Regulatory Flexibility Act.

Mr. President, this loophole in the law must be corrected. As we all realize, small business has been the engine for economic growth not only in my own State of Utah, but nationwide. If we wish to encourage expansion of small business and American entrepreneurship, then we must bring agencies into compliance with the Regulatory Flexibility Act of 1980.

For this reason, I, along with our House colleague, Congressman THOMAS EWING of Illinois, am introducing the Regulatory Flexibility Amendments Act of 1992. These amendments will allow for judicial review of agency compliance with the Regulatory Flexibility Act of 1980. Agencies would be required to fulfill the original intent of the Regulatory Flexibility Act. Further, under these amendments agencies would be required to document both direct and indirect effects of their regulations.

Mr. President, I believe that the Regulatory Flexibility Act of 1980 has been ignored for far too long. Too many small businesses have floundered under regulatory policies that ignore the economic realities of small enterprises. These amendments will allow Americans to look at the proposed impact of regulation and to provide the kind of input Senator McGovern noted was necessary for determining where we set the bar to make sure it "is not too high to clear." These amendments will make sure that we "start raising these questions more often."

Mr. President, I ask unanimous consent that the text of the bill, a bill summary, and a letter from the National Federation of Independent Business be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3281

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Regulatory Flexibility Amendments Act of 1992".

**SEC. 2. JUDICIAL REVIEW.**

(a) IN GENERAL.—Section 611 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by striking the item relating to section 611.

**SEC. 3. CONSIDERATION OF DIRECT AND INDIRECT EFFECTS OF RULES.**

(A) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 610 the following new section:

**"§ 611. Consideration of direct and indirect effects of rules**

"In determining under this chapter whether or not a rule is likely to have a significant impact on a substantial number of small entities, an agency shall consider both the direct and indirect effects of the rule.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 610 the following:

"611. Consideration of direct and indirect effects of rules.".

**SEC. 4. RULES OPPOSED BY SBA CHIEF COUNSEL FOR ADVOCACY.**

(a) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) STATEMENT OF OPPOSITION.—

"(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

"(A) a copy of the proposed rule; and

"(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

"(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

"(2) STATEMENT OF OPPOSITION.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of opposition to the proposed rule.

"(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of opposition to a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.".

(b) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting "in accordance with section 612(d)" before the period at the end of the last sentence.

**SEC. 5. SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.**

It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

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THE REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1992

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. Judicial Review. Section Two would repeal section 611 of the Regulatory Flexibility Act (RFA) which prohibits judicial review of agency compliance with the RFA. Section 611 implicitly prohibits court challenge of an agency determination of the applicability of the RFA, and prohibits court review of any regulatory flexibility analysis prepared under the Act. In practice, the prohibition on judicial challenges has allowed the agencies to ignore the spirit of the RFA. Removing the barrier to judicial challenge will force agencies to comply with the RFA.

Sec. 3. Consideration of Direct and Indirect Effects of Rules. Under current practice, it is not clear whether agencies must consider the indirect effects as well as the direct effects of their rules when they are preparing Regulatory Flexibility Analyses. Section 3 would require agencies to consider the indirect effects as well as the direct effects of their rules on small businesses in their Regulatory Flexibility Analyses.

Sec. 4. Rules Opposed by SBA Chief Counsel for Advocacy. It is the intention of the authors of this legislation to strengthen agency compliance with the RFA. It is also the intention of the authors to require the agencies to work more closely with the SBA Chief Counsel, who is charged with monitoring RFA compliance, during the drafting of new rules.

Section 4 would amend Section 612 of the RFA to require that when an agency is drafting a new rule, the agency must provide the SBA Chief Counsel with an advance copy of the rule 30 days before publishing a general notice of proposed rulemaking in the Federal Register. (General Notices of Proposed Rulemaking are required under the APA, 5 USC 553(b).) At that time the agency must also provide the SBA Chief Counsel with a draft of the initial regulatory flexibility analysis for the rule or, if the agency determines that a regulatory flexibility analysis will not be necessary, the agency must provide an explanation for that determination.

Following receipt of the above information, the SBA Chief Counsel may review the proposed rule and regulatory flexibility analysis. The Chief Counsel will have 15 days to transmit, in writing, to the agency, any opposition or comments on the proposed rule or regulatory flexibility analysis.

If the SBA Chief Counsel submits such a statement, the agency shall publish that statement, together with the response of the agency, in the Federal Register at the same time the general notice of proposed rulemaking for the rule is published.

Sec. 5. The RFA currently gives the Chief Counsel authority to file amicus briefs in litigation involving federal rules, which only allows him to express the views of the Chief Counsel with respect to the effect of the rule on small business. In the history of the RFA this has only been done once, in the 1986 case of Lehigh Valley Farms. At that time the Justice Department indicated that this was unconstitutional because it would impair the ability of the Executive to fulfill his constitutional functions. The SBA Chief Counsel countered this argument with legal arguments of his own. The DOJ also argued that Executive Order 12146, section 1-402, prevents the Chief Counsel from filing such briefs. Section 1-402 of Executive Order 12146 requires that when such a legal dispute exists between two agency heads which serve at the President's discretion, such dispute shall be submitted to the Attorney General for resolution. The SBA Chief Counsel countered with case law supporting the principle that an Executive Order cannot supersede a statute, and therefore Executive Order 12146 cannot prohibit the SBA Chief Counsel from appearing as amicus curiae.

After a great deal of wrangling between the DOJ and the SBA Chief Counsel, the Chief Counsel eventually withdrew his amicus brief filed under Lehigh Valley Farms. To the best of our understanding, that office has never attempted to file another amicus brief.

The ability to appear as amicus curiae is important to the ability of the SBA Chief Counsel to represent the interests of small businesses in the rulemaking process. Furthermore, if this Act shall become law, with its provision to permit judicial review of agency compliance with the Regulatory Flexibility Act, the importance of the SBA Chief Counsel's ability to file amicus briefs will be magnified.

Section 5 of this Act is a "sense of the Congress" resolution reaffirming what the Congress has already passed into law, that the

SBA Chief Counsel should be permitted to appear as amicus curiae in cases brought for the purpose of reviewing a rule. 5 U.S.C. 612(b)

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[From the Wall Street Journal, June 1, 1992]

### A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

"Wisdom too often never comes, and so one ought not to reject it merely because it comes late."—Justice Felix Frankfurter.

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this first hand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgment that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed $150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot assess the merit of all these claims, I've also witnessed first-hand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or antitrust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.

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NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
*Washington, DC, September 17, 1992.*

Hon. ORRIN HATCH,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HATCH: I am writing on behalf of the over 500,000 small business owners of the National Federation of Independent Business (NFIB) to commend you for introducing the "Regulatory Flexibility Amendments of 1992".

To small business owners, excessive government regulation and the volumes of paperwork it produces has reached its highest level ever. We have been hearing from small business owners in record numbers about the cumulative effects of layers of regulation. The complexity, cost, and time it takes for small firms to deal with so many government regulations inhibits job creation, product expansion, and new market entry.

As you are probably aware, the issue of regulatory flexibility has been a top priority for NFIB since passage of the original Regulatory Flexibility Act (RFA) in 1980. The Act, requiring agencies to take into account the effect of regulations on smaller businesses and minimize costs where possible, has been an important tool for easing regulatory compliance for the small business community. It has had one major flaw, however, that has seriously weakened it: lack of judicial review authority.

The Regulatory Flexibility Amendments of 1992 restores the "teeth" to the RFA by restoring judicial review authority. In addition, it requires the consideration of indirect effects of regulations on small firms, which are often as burdensome as direct effects but not considered in a reg flex analysis. These important changes close loopholes in the original Act and make the law more effective, while not changing its intent in any way.

NFIB strongly supports your bill and stands ready to assist in any way to ensure its passage in the Congress.

Sincerely,

JOHN J. MOTLEY III,
*Vice President, Federal Governmental Relations.*

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## ADDITIONAL COSPONSORS

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Kentucky [Mr. FORD], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. GLENN], the Senator from North Dakota [Mrs. BURDICK], the Senator from Texas [Mr. BENTSEN], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. NUNN], the Senator from Tennessee [Mr. SASSER], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2354

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2354, a bill to amend section 4214 of title 38, United States Code, to modify certain eligibility requirements for veterans readjustment appointments in the Federal service, and for other purposes.

S. 2731

At the request of Mr. ROTH, his name was added as a cosponsor of S. 2731, a bill to amend the Internal Revenue Code of 1986 to make deduction for health insurance costs of self-employed individuals permanent, and to provide for a phased-in increase in the deductible amount of health insurance costs from 25 to 100 percent.

S. 2810

At the request of Mr. GORE, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2973

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2973, a bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide such care and services, and for other purposes.

S. 2977

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2977, a bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes.

S. 3117

At the request of Mr. KASTEN, his name was added as a cosponsor of S. 3117, a bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 329

At the request of Mr. PACKWOOD, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate February 4, 1993 and February 3, 1994, as "National Women and Girls in Sports Day."

## SENATE RESOLUTION 351—COMMENDING THE PEOPLE OF THAILAND FOR SUCCESSFULLY CONDUCTING PEACEFUL GENERAL ELECTIONS

Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. PELL, Mr. WOFFORD, Mr. BIDEN, and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 351

Whereas on February 23, 1991, a military coup overthrew the democratically elected government of the Kingdom of Thailand;

Whereas in May 1992, following general elections, Thai citizens in Bangkok peacefully demonstrated against General Suchinda Kraprayoon's appointment as non-elected Prime Minister;

Whereas these unarmed protesters were suppressed violently by Thai military and police forces, ending with the death of 48 demonstrators, the injury of hundreds, and the disappearance of as many as 262;

Whereas the steadfast protests led to the resignation of General Suchinda and the establishment of an interim government charged with holding new free and fair general elections;

Whereas in June 1992 the caretaker government ordered an official investigation into the May violence and later removed four senior military officers found responsible for ordering the use of force against the peaceful demonstrators;

Whereas new elections were held as scheduled on September 13, 1992, with sixty-two percent of eligible voters participating: Now, therefore, be it

*Resolved*, That, the Senate—

(1) commends the people of Thailand for their commitment to civilian democracy by supporting peaceful and constitutional elections;

(2) commends Thailand's interim government on its leadership in investigating the May 1992 violence and upholding its commitment to conducting fair elections;

(3) congratulates Thailand's four pro-democracy parties on their victory;

(4) encourages the new government of Thailand to complete the official investigation in the May 1992 events; and

(5) supports resuming U.S. foreign economic assistance to Thailand once the newly elected government has taken office.

• Mr. CRANSTON. Mr. President, today I am joined by a number of my colleagues, Senators MURKOWSKI, PELL, WOFFORD, BIDEN, and SARBANES, in submitting a resolution commending the people of Thailand for their successful general elections. The resolution also congratulates the prodemocracy parties on their victory.

The restoration of a democratically elected Government to Thailand is encouraging. This month's elections led Thailand out of a political crisis that erupted last May when military and police forces violently suppressed peaceful demonstrations after the appointment of a general as Prime Minister. The 4 days of protests, in the face of military intimidation, made clear that Thai citizens were exasperated with the Thai military's dominance of politics.

In response to the May demonstrations, Thailand's interim Government and some of its political parties worked actively to provide a climate for prompt, free, and fair elections. The September 13 elections were noted for being less fraudulent than past elections which had been tainted by vote-buying. These developments in the democratic process in Thailand deserve recognition and further encouragement.

The new coalition leadership will be faced with difficult challenges. It must maintain the momentum of economic growth and industrialization in Thailand. Thailand's new leaders must also help steer the region on the course toward greater stability. It must confront the problems that the Thai military's business activities in Cambodia and Burma present for the region.

The Thai military's logging and gem trade on the Thai-Cambodian border jeopardizes Cambodia's prospects for economic development and independence. The Thai military's contracts for teak and fish with Burma's military dictators help bolster one of the world's most repressive regimes. The United States has an opportunity to work with Thailand's new leadership on these regional issues of mutual concern.

Mr. President, I ask my colleagues to join me in commending the progress of democracy in Thailand and in welcoming the new leadership by supporting this resolution.•

## Senate Resolution 352—Regarding the Need for the President to Seek the Senate's Advice and Consent to Ratification of the U.N. Convention on the Rights of the Child

Mr. LEAHY (for himself, Mr. BRADLEY, Mr. ADAMS, Mr. BENTSEN, Mr. BOREN, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SIMON, and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 352

Whereas in 1990, 1 in 5 children in the United States lived in poverty;

Whereas during the 1980s the United States had the worst child poverty rate among Western industrialized nations surveyed in a 1991 study

Whereas it is estimated that every night in the United States at least 100,000 children go to sleep homeless;

Whereas 1 in 10 infants, and 1 in 5 African-American infants, living in the United States has no routine source of health care;

Whereas the United States has the world's largest Gross National Product, yet American children rank below the top 15 nations in regard to their health and well-being;

Whereas in 1989, the infant mortality rate for the United States ranked 19th in the world, behind Singapore, Spain, and Ireland;

Whereas from 1980 through 1988, the number of babies born in the United States with low birthweights ranked the United States 29th in the world;

Whereas in immunizing its children the United States ranks 17th in the world;

Whereas in the next 4 years, approximately 144,000 babies will die in the United States before their 1st birthday;

Whereas the National Commission on Children has declared that "Every child in America needs an excellent education . . . yet approximately 40 percent of the Nation's children are at risk of school failure" and "American students continue to lag behind their counterparts in many developed and developing nations in standardized measures of reading, mathematics, and science";

Whereas an estimated 407,000 children in the United States, almost a 50 percent increase since 1986, depend on an overwhelmed, inadequate foster care system;

Whereas in the United States, 2,600,000 children were reported to be abused and neglected in 1991;

Whereas it is estimated that 1,800,000 teenagers were victims of violent crimes in the United States in 1988;

Whereas the Supreme Court has never fully articulated the range of rights to be accorded to children under the United States

Constitution or fully articulated the manner in which the Constitution is applicable to minors;

Whereas the positive futures of our families, communities, and Nation are dependent on the full and healthy development of our children;

Whereas the United States actively participated in the drafting of the United Nations Convention on the Rights of the Child and was the main proponent of many of the Convention articles;

Whereas in November 1989, the United States and other members of the General Assembly of the United Nations unanimously endorsed the Convention on the Rights of the Child, which codified society's responsibilities to children in setting minimum standards for survival, health, education, certain protection against violence and exploitation, and respect for the child's dignity;

Whereas as of May 1992, 117 countries had become state parties to the Convention on the Rights of the Child by ratification or accession, and 29 others had signed the Convention indicating their intention to ratify the Convention in the future;

Whereas the United States is the only Western industrialized Nation which has neither signed nor ratified the Convention on the Rights of the Child, and the United States joins Iraq, South Africa, Libya, and Cambodia as 1 of fewer than 30 of the 178 member states of the United Nations which neither is a state party to the Convention nor has signed it;

Whereas the issue of children's rights and their well-being is important both to the United States and the world at large;

Whereas it is essential that the United States sign and ratify the Convention on the Rights of the Child and begin to implement the Convention's legal standards in order to improve and protect the lives of children in this country and abroad and for our Nation to be credible as a proponent of human rights;

Whereas at the World Summit for Children in September 1990, the United States signed the World Declaration on the Survival, Protection and Development of Children, which included a commitment to "work to promote the earliest possible ratification and implementation on the United Nations Convention on the Rights of the Child"; and

Whereas the House of Representatives passed a resolution during the 101st Congress urging the President to seek the consent of the Senate to ratification of the Convention on the Rights of the Child, but such action having not occurred, it is necessary that the House of Representatives once again implore the President to take action on the Convention: Now, therefore, be it:

*Resolved*, That in the sense of the Senate that the President should promptly seek the advice and consent of the Senate to ratification of the Convention on the Rights of the Child, adopted by the United Nations General Assembly with the support of the United States on November 20, 1989.

• Mr. LEAHY. Mr. President, I am pleased to submit today a resolution calling on President Bush to quickly sign the Convention on the Rights of the Child and submit it to the Senate for ratification.

The convention was unanimously adopted by the U.N. General Assembly on November 20, 1989, following 10 years of intensive negotiations, with each and every provision being agreed to by consensus. The U.S. Government, private voluntary organizations, and many American citizens played an active role in drafting it. The administration has had the convention under review for almost 2 years. While the administration continues to hesitate, children continue to suffer.

The convention recognizes specific obligations of society and Government toward children. It spells out the rights and safeguards owed to children around the world. The convention establishes minimum standards for measuring the way governments treat their children. Countries will now be held liable to international law to nurture this most precious resource: their children.

Children are the world's most forgotten people. Here in the United States, we are all too familiar with the tragedies of infant mortality and child abuse, and the scourge of drugs which destroys the potential of so many of our youth. But in other countries, the situation is far worse. Children are sold into prostitution or exploited in sweatshops. Children wake up or go to sleep hungry, often in the streets. An estimated 40,000 children die every day from hunger and diseases we can cure. Millions have been orphaned as a result of AIDS. Too often governments ignore the basic needs of their own people, and children are the most vulnerable.

The United States now has the opportunity to improve conditions for children here at home and set an example for other nations worldwide. Over 120 other nations have already signed and ratified the convention. At the moment the United States is the only Western industrialized nation to do neither. By not acting on the convention we have joined the ranks of such countries as Iraq, Libya, Cambodia, and South Africa as one of fewer than 40 countries that have yet to sign or ratify the treaty.

At the World Summit for Children, President Bush stated,

> They [the children] can be saved when we live up to our responsibilities, not just as an assembly of governments, but as a world community * * *.

It is now time to carry through on commitments with actions, not just words. I urge all Senators to join me in cosponsoring this resolution urging the President to sign the convention and send it to the Senate for ratification so that we can fulfill these responsibilities of ensuring the basic rights and freedoms of children across the world.•

## AMENDMENTS SUBMITTED

## START TREATY

### WARNER EXECUTIVE AMENDMENT NOS. 3240 THROUGH 3243

(Ordered to lie on the table.)

Mr. WARNER submitted four amendments intended to be proposed by him to the resolution of ratification to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, as follows:

#### AMENDMENT NO. 3240

At the end of the resolution of ratification of the Treaty, add the following new condition:

( ) CONDITION ON ENTRY INTO FORCE.—If, by the date which is one day before the date upon which the President of the United States proposes to exchange the instruments of ratification of the START Treaty,

(A) the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have not made arrangements to implement the START Treaty's limits and restrictions or to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of May 23, 1992 Protocol, or have not worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol, or

(B) if the President has not submitted to the Senate for its advice and consent to ratification a treaty between the United States and the Russian Federation pursuant to the June 17, 1992, Joint Understanding on further reductions in strategic offensive arms, then—

(i) the Present shall—

(I) consult with the Senate regarding the effect on the Treaty of such developments, and

(II) seek on an urgent basis a meeting at the highest diplomatic levels to gain agreements on the completion of the aforesaid arrangements, and

(ii) the President shall take no action to allow the Treaty to enter into force until such consultation and such meeting have taken place.

#### AMENDMENT NO. 3241

At the end of the resolution of ratification of the Treaty, add the following new condition:

( ) CONDITION ON ENTRY INTO FORCE.—If, by the date which is one day before the date upon which the President of the United States proposes to exchange the instruments of ratification of the START Treaty, the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and the Ukraine have not made arrangements to implement the START Treaty's limits and restrictions or to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or have not worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol, then—

(A) the President shall—

(i) consult with the Senate regarding the effect on the Treaty of such developments; and

(ii) seek on an urgent basis a meeting at the highest diplomatic levels to gain agreements on the completion of those arrangements; and

(B) the President shall take no action to allow the Treaty to enter into force until such consultation and such meeting have taken place.

AMENDMENT NO. 3242

In the fifth condition to the resolution of ratification recommended by the Committee on Foreign Relations, strike all after "If" in the first sentence through the end of the condition, and insert in lieu thereof the following: ", by the date that is one day before the date upon which the President of the United States proposes to exchange the instruments of ratification of the START Treaty—

"(A) the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and the Ukraine have not made arrangements to implement the START Treaty's limits and restrictions or to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or have not worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol; or

"(B) if the President has not submitted to the Senate for its advice and consent to ratification a treaty between the United States and the Russian Federation pursuant to the June 17, 1992, Joint Understanding on further reductions in strategic offensive arms, then—

"(i) the President—

"(I) shall consult with the Senate regarding the effect on the Treaty of such developments; and

"(II) shall seek on an urgent basis a meeting at the highest diplomatic levels to gain agreements on the completion of those arrangements, and

"(ii) the President shall take no action to allow the Treaty to enter into force until such consultation and such meeting have taken place".

AMENDMENT NO. 3243

In the fifth condition to the resolution of ratification recommended by the Committee on Foreign Relations, strike all after "If" in the first sentence through the end of the condition, and insert in lieu thereof the following: ", by the date which is one day before the date upon which the President of the United States proposes to exchange the instruments of ratification of the START Treaty, the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and the Ukraine have not made arrangements to implement the START Treaty's limits and restrictions or to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or have not worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol, then—

"(A) the President—

"(i) shall consult with the Senate regarding the effect on the Treaty of such developments; and

"(ii) shall seek on an urgent basis a meeting at the highest diplomatic levels to gain agreements on the completion of those arrangements, and

"(B) and the President shall take no action to allow the Treaty to enter into force until such consultation and such meeting have taken place"

## PELL EXECUTIVE AMENDMENTS NOS. 3244 THROUGH 3257

(Ordered to lie on the table.)

Mr. PELL submitted 14 amendments intended to be proposed by him to the resolution of ratification, supra, as follows:

AMENDMENT NO. 3244

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following conditions, which shall be binding upon the President:

(1) BINDING OBLIGATIONS.—That upon entry into force of the START Treaty, including the May 23, 1992 Protocol, the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation and Ukraine shall be legally bound under international law to all the obligations of the Union of Soviet Socialist Republics set forth in the START Treaty, its two Annexes, six Protocols, Memorandum of Understanding and Corrigenda.

(2) LEGAL AND POLITICAL OBLIGATIONS OF USSR.—That the legal and political obligations of the Union of Soviet Socialist Republics reflected in the four related separate agreements, seven legally binding letters, four areas of correspondence, two politically binding declarations, thirteen joint statements and ten other statements on related issues transmitted in Tready Doc. 102–20 for the information of the Senate with the START Treaty are included in the "obligations of the former Union of Soviet Socialists Republics under the Treaty" assumed by the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine pursuant to Article I of the May 23, 1992 Protocol, and that the legal obligations assumed therein are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these legal obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation and Ukraine, in such form as he deems appropriate.

(3) BYELARUS, KAZAKHSTAN AND UKRAINE LETTERS.—That the letter from Chairman Shushkevich of the Supreme Soviet of the Republic of Byelarus to President Bush dated May 20, 1992; the letter from President Nazarbayev of the Republic of Kazakhstan to President Bush dated May 19, 1992; and the letter from President Kravchuk of Ukraine to President Bush dated May 7, 1992 (all having been submitted to the Senate as associated with the May 23, 1992 Protocol in Treaty Doc. 102–32), being obligations legally binding only in the vent of ratification of the START Treaty, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan and Ukraine, in such form as he deems appropriate.

(4) NUCLEAR NONPROLIFERATION TREATY.—That the obligations of the Republic of Byelarus, the Republic of Kazakhstan and Ukraine to adhere to the Treaty on the Nonproliferation of Nuclear Weapons of July 1, 1968 as non-nuclear-weapon States Parties in the shortest possible time, set forth in Article V of the May 23, 1992 Protocol, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan and Ukraine in such form as he deems appropriate.

(5) IMPLEMENTATION ARRANGEMENTS.—If the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have not made arrangements to implement the START Treaty's limits and restrictions, and to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol, by the date of entry into force of the Treaty, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments; and

(B) shall seek on an urgent basis a meeting at the highest diplomatic levels to gain agreement on the completion of the aforesaid arrangements.

(6) ELIMINATION OF NUCLEAR WEAPONS FROM BYELARUS, KAZAKHSTAN, AND UKRAINE.—If the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine have not eliminated all nuclear weapons located on their territory and have not eliminated, in accordance with the procedures of the START Treaty, all strategic offensive arms located on their territory, within seven years following the date of entry into force of the START Treaty, as agreed to in legally binding letters submitted to the Senate in connection with the May 23, 1992 Protocol in Treaty Doc. 102–32, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments,

(B) shall, if the President determines that failure to eliminate, within seven years following the date of entry into force of the START Treaty, all nuclear weapons, including all strategic offensive arms, located on the territories of the Republic of Byelarus, the Republic of Kazakhstan and Ukraine is of such significance as to constitute a changed circumstance affecting the treaty's object and purpose, and if the President decides not to invoke the withdrawal right under Article XVII of the Treaty, the President shall request a meeting of the Joint Compliance and Inspection Commission in accordance with Article XV of the Treaty, to assess the viability of the Treaty and to ascertain if an amendment is needed to accomplish the change of circumstance, or the President shall undertake other appropriate diplomatic steps; and

(C) shall, if the President has made the determination and decision described in subparagraph (B)—

(i) submit for the Senate's advice and consent to ratification any change in the obligations of the States Parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all States Parties, unless such change is a minor matter of an administrative or technical nature; or

(ii) if no such change in the obligations of the States Parties is agreed to by all States Parties but the President determines nonetheless that continued adherence to the START Treaty would serve the national security interests of the United States, the President shall seek a Senate resolution of support of such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.

(7) PRESIDENTIAL REPORT ON TREATY COMPLIANCE.—Within 180 days of the Senate's giving its advice and consent to ratification of the Treaty, the President shall submit to the Senate an updated and expanded compliance report in classified and unclassified form, setting forth—

(A) a listing and discussion of the actions which are violations or probable violations of the obligations of the SALT I Interim Agreement, SALT II, ABM, INF and START Treaties, and the ultimate resolution of these issues;

(B) a listing and discussion of the actions which are in compliance with the SALT I Interim Agreement, SALT II, ABM, INF and START Treaties; and

(C) a comparison of the military significance of those actions listed in subparagraphs (A) and (B).

(8) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—

(A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and

(B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing or processing significant quantities of fissile materials.

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the United States' obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968 "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control", the Senate finds that the President entered into a Joint Understanding of June 17, 1992, on behalf of the United States, with President Yeltsin, on behalf of the Russian Federation, agreeing to conclude promptly a treaty providing for substantial further reductions in strategic offensive arms. The Senate encourages the conclusion of such a treaty at the earliest possible date and will give it prompt consideration upon submission by the President for advice and consent to ratification. In anticipation of the completion, ratification, and entry into force of a treaty with the Russian Federation for substantial further reductions in strategic arms, the Senate calls upon the other nuclear-weapons-states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(2) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to seek the adherence by the Republic of Byelarus, the Republic of Kazakhstan and Ukraine to the guidelines of the Missile Technology Control Regime.

(3) ELIMINATION AND DISMANTLEMENT OF NUCLEAR WARHEADS.—The Senate commends the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine for eliminating the tactical nuclear warheads from their territories and urges the rapid elimination of the strategic nuclear warheads from their territories pursuant to their obligations under the START Treaty. The Senate urges the President to instruct the Safety, Security and Dismantlement negotiators to proceed expeditiously to obtain the destruction of all nuclear warheads from eliminated systems and to facilitate secure safeguarded storage of the special nuclear material withdrawn from eliminated weapons.

(4) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988.

(5) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power set forth in Article II, Section 2, Clause 2 of the Constitution.

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AMENDMENT No. 3245

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) BINDING OBLIGATIONS.—That upon entry into force of the START Treaty, including the May 23, 1992 Protocol, the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine shall be legally bound under international law to all the obligations of the Union of Soviet Socialist Republics set forth in the START Treaty, its two Annexes, six Protocols, Memorandum of Understanding and Corrigenda.

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AMENDMENT No. 3246

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) LEGAL AND POLITICAL OBLIGATIONS OF U.S.S.R.—That the legal and political obligations of the Union of Soviet Socialist Republics reflected in the four related separate agreements, seven legally binding letters, four areas of correspondence, two politically binding declarations, thirteen joint statements and ten other statements on related issues transmitted in Treaty Doc. 102–20 for the information of the Senate with the START Treaty are included in the "obligations of the former Union of Soviet Socialists Republics under the Treaty" assumed by the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine pursuant to Article I of the May 23, 1992 Protocol, and that the legal obligations assumed therein are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these legal obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, in such form as he deems appropriate.

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AMENDMENT No. 3247

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) BYELARUS, KAZAKHSTAN, AND UKRAINE LETTERS.—That the letter from Chairman Shushkevich of the Supreme Soviet of the Republic of Byelarus to President Bush dated May 20, 1992; the letter from President Nazarbayev of the Republic of Kazakhstan to President Bush dated May 19, 1992; and the letter from President Kravchuk of Ukraine to President Bush dated May 7, 1992 (all having been submitted to the Senate as associated with the May 23, 1992 Protocol in Treaty Doc. 102–32), being obligations legally binding only in the event of ratification of the START Treaty, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine, in such form as he deems appropriate.

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AMENDMENT No. 3248

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(4) NUCLEAR NONPROLIFERATION TREATY.—That the obligations of the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine to adhere to the Treaty on the Nonproliferation of Nuclear Weapons of July 1, 1968, as non-nuclear-weapons States Parties in the shortest possible time, set forth in Article V of the May 23, 1992 Protocol, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan and Ukraine in such form as he deems appropriate.

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AMENDMENT No. 3249

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) IMPLEMENTATION ARRANGEMENTS.—If the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have not made arrangements to implement the START Treaty's limits and restrictions, and to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992, Protocol, by the date of entry into force of the Treaty, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments; and

(B) shall seek on an urgent basis a meeting at the highest diplomatic levels to gain agreement on the completion of the aforesaid arrangements.

### AMENDMENT NO. 3250

At the appropriate place:

(a) CONDITIONS.—the Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) ELIMINATION OF NUCLEAR WEAPONS FROM BYELARUS, KAZAKHSTAN AND UKRAINE.—If the Republic of Byelarus, the Republic of Kazakhstan and Ukraine have not eliminated all nuclear weapons located on their territory and have not eliminated, in accordance with the procedures of the START Treaty, all strategic offensive arms located on their territory, within seven years following the date of entry into force of the START Treaty, as agreed to in legally binding letters submitted to the Senate in connection with the May 23, 1992 Protocol in Treaty Doc. 102-32, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments,

(B) shall, if the President determines that failure to eliminate, within seven years following the date of entry into force of the START Treaty, all nuclear weapons, including all strategic offensive arms, located on the territories of the Republic of Byelarus, the Republic of Kazakhstan and Ukraine is of such significance as to constitute a changed circumstance affecting the Treaty's object and purpose, and if the President decides not to invoke the withdrawal right under Article XVII of the Treaty, the President shall request a meeting of the Joint Compliance and Inspection Commission in accordance with Article XV of the Treaty, to assess the viability of the Treaty and to ascertain if an amendment is needed to accommodate the change of circumstance, or the President shall undertake other appropriate diplomatic steps; and

(C) shall, if the President has made the determination and decision described in subparagraph (B)—

(i) submit for the Senate's advice and consent to ratification any change in the obligations of the States Parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all States Parties, unless such change is a minor matter of an administrative or technical nature; or

(ii) if no such change in the obligations of the States Parties is agreed to by all States Parties but the President determines nonetheless that continued adherence to the START Treaty would serve the national security interests of the United States, the President shall seek a Senate resolution of support of such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.

### AMENDMENT NO. 3251

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) PRESIDENTIAL REPORT ON TREATY COMPLIANCE.—Within 180 days of the Senate's giving its advice and consent to ratification of the Treaty, the President shall submit to the Senate and updated and expanded compliance report in classified and unclassified form, setting forth—

(A) a listing and discussion of the actions which are violations or probable violations of the obligations of the SALT I Interim Agreement, SALT II, ABM, INF and START Treaties, and the Ultimate resolution of these issues;

(B) a listing and discussion of the actions which are in compliance with the SALT I Interim Agreement, SALT II ABM, INF and START Treaties; and

(C) a comparison of the military significance of those actions listed in subparagraphs (A) and (B).

### AMENDMENT NO. 3252

At the appropriate place:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

(1) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—

(A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and

(B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing or processing significant quantities of fissile materials.

### AMENDMENT NO. 3253

At the appropriate place:

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declaration, which express the intent of the Senate:

(1) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the United States' obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968, "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control", the Senate finds that the President entered into a Joint Understanding of June 17, 1992, on behalf of the United States, with President Yeltsin, on behalf of the Russian Federation, agreeing to conclude promptly a treaty providing for substantial further reductions in strategic offensive arms. The Senate encourages the conclusion of such a treaty at the earliest possible date and will give it prompt consideration upon submission by the President for advice and consent to ratification. In anticipation of the completion, ratification, and entry into force of a treaty with the Russian Federation for substantial further reductions in strategic arms, the Senate calls upon the other nuclear-weapons-states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

### AMENDMENT NO. 3254

At the appropriate place:

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declaration, which express the intent of the Senate:

(1) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to seek the adherence by the Republic of Byelarus, the Republic of Kazakhstan and Ukraine to the guidelines of the Missile Technology Control Regime.

### AMENDMENT NO. 3255

At the appropriate place:

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declaration, which express the intent of the Senate:

(1) ELIMINATION AND DISMANTLEMENT OF NUCLEAR WARHEADS.—The Senate commends the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine for eliminating the tactical nuclear warheads from their territories and urges the rapid elimination of the strategic nuclear warheads from their territories pursuant to their obligations under the START Treaty. The Senate urges the President to instruct the Safety, Security and Dismantlement negotiators to proceed expeditiously to obtain the destruction of all nuclear warheads from eliminated systems and to facilitate secure safeguarded storage of the special nuclear material withdrawn from eliminated weapons.

### AMENDMENT NO. 3256

At the appropriate place:

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declaration, which express the intent of the Senate:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988.

### AMENDMENT NO. 3257

At the appropriate place:

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declaration, which express the intent of the Senate:

(1) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power set forth in Article II, Section 2, Clause 2 of the Constitution.

## WALLOP EXECUTIVE AMENDMENTS NOS. 3258 THROUGH 3307

(Ordered to lie on the table.)

Mr. WALLOP submitted 50 amendments intended to be proposed by him to the resolution of ratification, supra, as follows:

### AMENDMENT NO. 3258

In Article II, paragraph 1., (b), (iii), strike out "1540", and insert in lieu thereof, the following:

"0, *provided further*, That the aforesaid numerical sublimit shall apply throughout this Treaty to all references to sublimits on warheads carried on heavy ICBM's."

### AMENDMENT NO. 3259

In Article II, paragraph 1., (b), (iii), strike out "1540", and insert in lieu thereof, the following:

"0, *provided further*, That the aforesaid numerical sublimit shall apply throughout this Treaty to all references to sublimits on warheads carried on heavy ICBM's."

### AMENDMENT NO. 3260

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBM's, and all launchers for MIRVed ICBM's, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3261

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBM's, and all launchers for MIRVed ICBM's, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3262

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not go into effect unless and until all MIRVed ICBM's, and all launchers for MIRVed ICBM's, shall be eliminated in accordance with the agreement contained in the Joint Understanding of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3263

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not go into effect unless and until all MIRVed ICBM's, and all launchers for MIRVed ICBM's, shall be eliminated in accordance with the agreement contained in the Joint Understanding of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3264

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not go into effect unless and until all heavy ICBM's, and all launchers for heavy ICBM's, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3265

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not go into effect unless and until, all heavy ICBM's, and all launchers for heavy ICBM's, shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3266

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all heavy ICBM's, and all launchers for heavy ICBM's shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3267

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all heavy ICBM's, and all launchers for heavy ICBM's shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, and signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3268

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBM's, and all launchers for MIRVed ICBM's shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3269

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all MIRVed ICBM's, and all launchers for MIRVed ICBM's shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, signed by the President of the United States of America and the President of the Russian Federation."

### AMENDMENT NO. 3270

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all mobile ICBM's, and all launchers for mobile ICBM's, shall be eliminated.

### AMENDMENT NO. 3271

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all mobile ICBM's, and all launchers for mobile ICBM's, shall be eliminated.

### AMENDMENT NO. 3272

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all mobile ICBMs, and all launchers for mobile ICBMs, shall be eliminated."

### AMENDMENT NO. 3273

Add at the appropriate place the following:

"The START Treaty, including the May 23, 1992 Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all mobile ICBMs, and all launchers for mobile ICBMs, shall be eliminated."

### AMENDMENT NO. 3274

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRVs are prohibited."

### AMENDMENT NO. 3275

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBMs equipped to carry MIRVs are prohibited."

### AMENDMENT NO. 3276

At the appropriate place, add the following:

In the Thirty-seventh Agreed Statement, delete subparagraph (a) and subparagraph (f).

### AMENDMENT NO. 3277

At the appropriate place, add the following:

In the Thirty-seventh Agreed Statement, delete subparagraph (a) and subparagraph (f).

### AMENDMENT NO. 3278

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRV's are prohibited.

### AMENDMENT NO. 3279

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRV's are prohibited."

### AMENDMENT NO. 3280

At the appropriate place, add the following:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRV's are prohibited."

### AMENDMENT NO. 3281

At the appropriate place, add the following:

In the Thirty-seventh Agreed Statement, delete subparagraph (a) and subparagraph (f).

### AMENDMENT NO. 3282

At the appropriate place, add the following:

In the Thirty-seventh Agreed Statement, delete subparagraph (a) and subparagraph (f).

### AMENDMENT NO. 3283

At the appropriate place, add the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The President shall not exchange instruments of ratification for the entry into force of the START Treaty unless and until he has certified to the Senate that:

(A) The 14 meter long, missile-shaped objects which reportedly are about 75 percent the length of the former Soviet SS-25 ICBM, nick-named 'Fat Boy' in 1987 by U.S. INF Treaty negotiators, over 100 of which have already reportedly exited the U.S. Perimeter-Portal Monitoring x-ray facility at the Russian Votkinsk missle factory without being x-rayed or inspected, are not missiles banned by the INF Treaty or constrained by the START Treaty."

### AMENDMENT NO. 3284

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The Lisbon Protocol and the START Treaty shall not take effect until the President certifies that:

1. The former Soviet Union can not legally retain at least 50 percent of their 6,000 allowed aggregate of 'attributable' warheads as non-attributable warheads on:

(a) 'non-deployed missiles;'

(b) 'down-loaded' warheads on deployed and 'non-deployed missiles;'

(c) test range and training missile launchers;

(d) 'non-deployed missile' launchers;

(e) 'non-deployed' heavy bombers, and 'discounted' deployed heavy bombers; and therefore are legally allowed at least 3,000 uncounted and unconstrained warheads under the START Treaty and available as a potential covert force:

(2) The former Soviet Union, within a week or two months of a decision to covertly 'break out' of the START Treaty, can not legally have twice its allowed ceiling of 6,000 START-accountable warheads, or over 12,000 legal warheads, despite the fact that a recent U.S. Intelligence assessment by a CIA National Intelligence Officer has concluded that the former Soviets can have 12,000 warheads legally under START."

### AMENDMENT NO. 3285

At the appropriate place, add the following:

"Neither the START Treaty nor the Lisbon Protocol shall enter into force until the United States of America, in accordance with its constitutional processes, has ratified the June 17, 1992, Joint Understanding signed by the President of the United States of America and the President of the Russian Federation for a START II De-MIRVing Treaty."

### AMENDMENT NO. 3286

On page 2 of Treaty Document 102-20, the START Treaty, in Article II, strike the entire texts of subparagraphs (a) and (b) and insert in lieu thereof the following:

"(a) 1,600 for all ICBMs and their associated launchers, all SLBMs and their associated launchers, and all heavy bombers, including all heavy ICBMs and their associated launchers;

"(b) 6,000, for warheads carried on all ICBMs, SLBMs, and heavy bombers, including:

(I) 4,900 for warheads carried on all ICBMs and SLBMs;

(II) 1,100 for warheads carried on all ICBMs on mobile launchers of ICBMs;

(III) for warheads carried on all heavy ICBMs, including all heavy ICBMs."

### AMENDMENT NO. 3287

Add at the appropriate place, the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President: The START Treaty and the Lisbon Protocol shall not go into effect unless and until the President certifies that the Russians have not sold TU-22M Backfire bombers and ICBM's to a third country.

### AMENDMENT NO. 3288

At the appropriate place, add the following:

The START Treaty and the Lisbon Protocol shall not go into effect unless and until the President certifies that the Russians have not sold TU-22M Backfire bombers and ICBM's to a third country.

### AMENDMENT NO. 3289

Add at the appropriate place, the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The President shall not exchange instruments of ratification for entry into force of the START Treaty unless and until he shall have provided to the Senate:

(A) A full report on all underground facilities in the former Soviet Union which could potentially be related to strategic weapons systems covered under START;

(B) A full and detailed analysis of and report on the implications of these underground facilities for START monitoring and verification;

(C) And a certification that none of these underground facilities will be used to produce, store, or maintain covert strategic forces which could potentially circumvent or violate START.

### AMENDMENT NO. 3290

At the appropriate place, add the following:

"No State Party shall be bound by any terms and provisions of the Lisbon Protocol unless and until all five States Parties have separately ratified the Lisbon Protocol by their own constitutional processes, and have separately exchanged instruments of ratification for the Protocol."

### AMENDMENT NO. 3291

Add at the appropriate place, the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"No State Party shall be bound by any terms and provisions of the Lisbon Protocol unless and until all five States Parties have separately ratified the Lisbon Protocol by their own constitutional processes, and have separately exchanged instruments of ratification for the Protocol."

### AMENDMENT NO. 3292

Add at the appropriate place, the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The President shall not exchange instruments of ratification for this Protocol, and it shall not enter into force, unless the Russian Federation, the Ukraine, the Belarus Republic, and Kazakstan have ratified this Protocol in accordance with their own constitutional processes, and have exchanged instruments of ratification with each other and with the United States of America."

### AMENDMENT NO. 3293

Add at the appropriate place, the following:

"The President shall not exchange instruments of ratification for this Protocol, and it shall not enter into force, unless the Russian Federation, the Ukraine, the Belarus Republic, and Kazakstan have ratified this Protocol in accordance with their own constitutional processes, and have exchanged instruments of ratification with each other and with the United States of America."

### AMENDMENT NO. 3294

Add at the appropriate place, the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The Lisbon Protocol and the START Treaty shall not enter into force unless and until the three non-Russian nuclear-armed States Party—the Ukraine, Belarus, and Kazakstan—have formally adhered to, and exchanged instruments of ratification for, the nuclear Non-Proliferation Treaty, as the Russian Federation has unilaterally required."

### AMENDMENT NO. 3295

At the appropriate place, add the following:

"The Lisbon Protocol and the START Treaty shall not enter into force unless and until the three non-Russian nuclear-armed States Party—the Ukraine, Belarus, and Kazakstan—have formally adhered to, and exchanged instruments of ratification for, the nuclear Non-Proliferation Treaty, as the Russian Federation has unilaterally required."

### AMENDMENT NO. 3296

At the appropriate place, add the following:

"This Protocol and the START Treaty shall not enter into force unless and until the four new States Party provide to the United States of America a detailed description of their new, unified, command and control structure for their strategic forces covered under the START Treaty, including precise methods and procedures for preventing the unauthorized use of nuclear weapons."

### AMENDMENT NO. 3297

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"This Protocol and the START Treaty shall not enter into force unless and until the four new States Party provide to the United States of America a detailed description of their new, unified, command and control structure, for their strategic forces covered under the START Treaty, including precise methods and procedures for preventing the unauthorized use of nuclear weapons."

### AMENDMENT NO. 3298

Add at the appropriate place:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

This Protocol and the START Treaty shall not enter into force unless and until the new States Parties replacing the former Union of Soviet Socialist Republics have agreed in detail upon:

(a) Precise and detailed verification measures for implementing this Protocol and the START Treaty;

(b) Precisely how these verification measures will be implemented;

(c) Precisely what the costs will be for implementing these verification measures;

(d) Precisely how these costs will be shared;

(e) Provided these agreements and data to the United States of America."

### AMENDMENT NO. 3299

At the appropriate place, add the following:

"Article . This Protocol and the START Treaty shall not enter into force unless and until the Belyarus, Kazakhstan, Ukraine and Russia replacing the former Union of Soviet Socialist Republics have agreed in detail upon:

(a) Precise and detailed verification measures for implementing this Protocol and the START Treaty;

(b) Precisely how these verification measures will be implemented;

(c) Precisely what the costs will be for implementing these verification measures;

(d) Precisely how these costs will be shared;

(e) Provided these agreements and data to the United States of America."

### AMENDMENT NO. 3300

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The President shall not exchange instruments of ratification for the entry into force of the START Treaty unless and until:

(A) The President has certified to the Senate that the United States can effectively monitor and verify with high confidence by National Technical Means of verification that the former Soviet Union can not covertly deploy or retain at reduced readiness an undeclared, secret, force of MIRVed, rail-mobile SS-24 ICBM launchers and missiles from among the already large number of declared and allowed 'non-deployed missiles' and 'non-deployed launchers' for the SS-24;

### AMENDMENT NO. 3301

Add at the appropriate place the following: "The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all Non-Deployed Missiles for silo launchers of ICBM's, mobil launchers of ICBM's, and launchers for SLBM's, shall be eliminated, except for a finite, minimal, and verifiable number equal for each side to be agreed upon."

### AMENDMENT NO. 3302

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The President shall not exchange instruments of ratification for entry into force of the START Treaty unless and until he has certified to the Senate precisely and in detail how each force level, specified in the START Treaty, provides 'equal levels of forces' such as, for example:

(a) Equality in the levels of heavy ICBM's allowed;

(b) Equality in the levels of 'non-deployed missiles' for silo-based ICBM's and SLBM's allowed;

(c) Equality in the levels of 4,900 ICBM and SLBM warheads allowed;

(d) Equality in the levels of 1,540 heavy ICBM warheads allowed;

(e) Equality in the levels of 1,100 mobile ICBM warheads allowed;

(f) Equality in the levels of 'down-loaded missile warheads' allowed;

(g) Equality in the missile warhead loading and bomber weapon loading counting rules allowed;

(h) Equality in the number of bombers equivalent to the former Soviet Backfire bomber allowed;

(i) Equality in the levels of deployed road-mobile and rail-mobile ICBM launchers allowed;

(j) Equality in the levels of 'non-deployed' missiles, mobile ICBM launchers, and silo launchers allowed;

(k) Equality in the attributed levels of deployed and 'non-deployed' nuclear warheads allowed;

(l) Equality in the levels of ballistic missile throw-weight allowed;

(m) Equality in the levels of covert missile force potential allowed;

(n) Equality in deployed and non-deployed Strategic Nuclear delivery vehicles allowed.

### AMENDMENT NO. 3303

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all Non-Deployed Missiles for silo launchers of ICBM's, mobile launchers of ICBM's, and launchers for SLBM's, shall be eliminated, except for a finite, minimal, and verifiable number equal for each side to be agreed upon."

### AMENDMENT NO. 3304

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding, and Corrigenda, shall not enter into force until the President certifies that all heavy ICBM's, and all launchers for heavy ICBM's shall be eliminated in accordance with the agreement in the Joint Understanding on deep cuts of June 17, 1992, and signed by the President of the United States of Ameriva and the President of the Russian Federation."

### AMENDMENT NO. 3305

Add at the appropriate place the following: "The President shall not exchange instruments of ratification for the Lisbon Protocol and the START Treaty, and such Treaties shall not enter into force, unless and until the United States of America, in accordance with its constitutional processes, has ratified the June 17, 1992, Joint Understand signed by the President of the United States of America and the President of the Russian Federation for a START II De-MIRVing Treaty."

### AMENDMENT NO. 3306

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The President shall not exchange instruments of ratification for the May 23, 1992, Lisbon Protocol and the START Treaty, and such Treaties shall not enter into force, unless and until the United States of America, in accordance with its constitutional processes, has ratified the June 17, 1992, Joint Understanding signed by the President of the United States of America and the President of the Russian Federation for a START II De-MIRVing Treaty."

### AMENDMENT NO. 3307

Add at the appropriate place the following: The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

The President shall not exchange instruments of ratification for entry into force of the START Treaty unless and until he shall have:

(A) Certified to the Senate that the following missiles cited as violations or probable violations or systems which defeated the object and purpose of the SALT I Interim Agreement and the Salt II Treaty, or both, in Presidential reports on former Soviet noncompliance:

(1) The SS-19 ICBM;

(2) And the SS-25 ICBM;

are now fully legal former Soivet missiles under the terms of the START Treaty;

(B) Certified to the Senate that, according to Soviet data declared in the START MOU on Data, as compared to the U.S. National Intelligence Estimates current in the 1970's and the mid-1980's, indicate that the following former Soivet missiles would have violated SALT I, SALT II, or both, during the period May, 1972 through May, 1986:

(1) The SS-19 ICBM;

(2) The SS-25 ICBM;

(3) The SS-24 ICBM;

(4) And the so-called 'SS-18 Mod-5' or the so-called 'SS-26 ICBM', which began to be tested in early 1985.

(C) Certified that the Soviet-declared data for the launch weight and the throw-weight of the SS-19 ICBM, which is the threshold dividing 'light' ICBM's from 'heavy' ICBM's, is fully consistent and precisely accurate as compared to similar data in U.S. National Intelligence Estimate 11-3-8-90, Volume III, the NIE current at the time of the START data exchange in October, 1990, and also consistent with NIE 4-11-91, and that this Soviet-declared data can be used for effectively constraining heavy ICBM's in START."

## SYMMS EXECUTIVE AMENDMENTS NOS. 3308 THROUGH 3313

Mr. SYMMS submitted six amendments intended to be proposed by him to the treaty of ratification, supra, as follows:

### AMENDMENT NO. 3308

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Russian Federation has provided a full accounting of the destruction of Korean Airlines flight 007."

### AMENDMENT NO. 3309

At the appropriate place, add the following:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have ceased all assistance to Cuba."

### AMENDMENT NO. 3310

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have ceased all assistance to Cuba."

### AMENDMENT NO. 3311

The pending condition is amended by adding at the appropriate place the following:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have ceased all assistance to Cuba."

### AMENDMENT NO. 3312

At the appropriate place, add the following:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Russian Federation has provided a full accounting of the destruction of Korean Airlines flight 007."

### AMENDMENT NO. 3313

The pending condition is amended by adding at the appropriate place the following:

"The START Treaty, including the May 23, 1992, Protocol, the two Annexes, six Protocols, Memorandum of Understanding and Corrigenda shall not go into effect until the President certifies that the Russian Federation has provided a full accounting of the destruction of Korean Airlines flight 007."

## WALLOP EXECUTIVE AMENDMENT NO. 3314

Mr. WALLOP proposed an amendment to the resolution of ratification, supra, as follows:

Add at the appropriate place the following:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following condition, which shall be binding upon the President:

"The START Treaty and the Lisbon Protocol shall not take effect unless and until the President certifies that all ICBM's equipped to carry MIRV's are prohibited."

## PRESSLER AMENDMENT NOS. 3315 AND 3316

(Ordered to lie on the table.)

Mr. PRESSLER submitted two amendments intended to be proposed by him to the resolution of ratification; supra, as follows:

### AMENDMENT NO. 3315

At the appropriate place insert the following:

"( ) DECLARATION:

"In accordance with Article II of the Protocol on the Joint Compliance and Inspection Commission (relating to convening a session of the Commission), the United States declares its intention to request the convening of a session of the Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States of America in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and aquifers."

### AMENDMENT NO. 3316

At the appropriate place:

"( ) DECLARATION:

"In accordance with Article II of the Protocol on the Joint Compliance and Inspection Commission (relating to convening a session of the Commission), the United States declares its intention to request the convening of a session of Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States of America in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and aquifers.".

## ADDITIONAL STATEMENTS

## VIRGIN ISLANDS SHORTCHANGED

• Mr. SIMON. Mr. President, a number of district court judgeships remain unfilled across the country as we move toward adjournment and there are many cases in which there are good and proper reasons for our inability to act. However, with some of these vacancies there is no good excuse for the failure of the Bush administration to make timely submissions of qualified candidates for Senate action.

I could not let this session end without calling special attention to the conduct of the administration with regard to the vacancies on the District Court of the Virgin Islands. There are two judgeships on that court. One fell vacant in 1987 with the retirement of Judge Almeric L. Christian and the second was vacated with the death of Judge David O'Brien in 1989.

For years, Virgin Islands Delegate RON DE LUGO pleaded in vain with the Republican White House and Justice Department to appoint qualified Virgin Islanders to fill these posts. After years of playing politics with these vacancies, this year the administration agreed to appoint a Republican, Thomas Moore, to fill one judgeship and a Democrat, Raymond Finch, for the other seat. The Moore appointment was expedited and the Finch appointment was, I am told, deliberately delayed so that it was not until June 19 that it came to the Judiciary Committee.

Even then, there was time to move this nomination if the administration had seriously intended to act in good faith. But the committee's requests for completing the administration's documentation on the Finch nomination fell victim to what seem to have been further stalling tactics at the Justice Department. And now it is clear that the appointment will not go through this session.

The people of the Virgin Islands have been treated badly; justice in the Virgin Islands has been poorly served, and the deeply partisan politicization of the nominations process has once again prevailed.

In closing, I would like to commend Delegate DE LUGO for his tireless efforts to get these judgeships filled and to get them filled by qualified Virgin Islanders. I would like to assure the delegate that when we reconvene I hope it will be with a new president who will guarantee that this kind of insensitive action will not again take place.•

## DEPARTMENT OF DEFENSE USE OF COMMERCIAL PRACTICES

• Mr. GORTON. Mr. President, recently the administration announced that it would stop the practice of charging fees for military products and associated commercial spinoff technology sold overseas. As the White House stated in June, this onerous practice, which amounts to a surcharge on companies attempting to sell defense equipment overseas, has been eliminated by executive direction where possible. This change will greatly enhance the competitiveness of U.S. companies in the international marketplace and I commend the administration for taking this initiative.

While I am pleased with the administration's initiative in the area of recoupment charges for foreign military sales, there is another area of acquisition reform where the administration and DOD have not been as helpful, and have not been as responsive to congressional guidance as they perhaps should.

This has to do with the adoption of commercial standards and practices by DOD, in cases where commercial items or commercial derivatives are either being procured directly by DOD or the procurement is being managed by DOD in the Foreign Military Sales Program.

Mr. President, I am pleased that the Appropriations Committee has included a provision in the fiscal year 1993 Defense appropriations bill that deals with one facet of this important issue. That provision requires the Department of Defense to report by May 1, 1993, what needs to be done to permit more use of commercial products by the military.

However, Mr. President, the problem is much broader than the use of commercial products by the military. The real key is the use of commercial practices and standards throughout the entire DOD acquisition process.

The increased cost to companies and products as a result of having to comply with DOD contract and accounting standards, rather than commercial practices and standards, is significant, and adds absolutely no value to the item being procured.

This is especially critical in the Foreign Military Sales Program, since the resulting increased costs of U.S. products due solely to the non-value-added DOD related administrative costs are making U.S. products less competitive in the international marketplace.

The added costs are not insignificant, and can be 10–15 percent of the cost of the item. This compares to the normal administrative costs of a commercial product of about 1 percent.

The issue of commercial standards and practices, and the overall issue of requiring military specifications for commercial products is not new, nor is Congress' concerns that DOD is not moving fast enough in dealing with this problem.

In the fiscal year 90 DOD authorization bill, Congress addressed this issue and directed DOD to implement changes in its policies in this area, changes which have been very slow in coming.

It is my understanding that there is a working group at the Defense Systems Management College at Fort Belvoir which is preparing a report on the status of acquisition reforms, and will include proposals for additional changes in DOD acquisition policy and regulations for consideration by the Congress during the fiscal year 1994 budget process.

I hope to work with the Armed Services Committee over the next several months to help insure that legislation dealing with commercial standards and practices will be part of the proposed changes we will consider next year.•

## TRIBUTE TO ADRIAN P. FREUND

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a gentleman who will help successfully guide the city of Louisville into the 21st century. Adrian P. Freund, recently named Jefferson County director of planning and environmental management, will bring his considerable experience to a vital area in the continuing development of Louisville and the surrounding area.

Mr. Freund's mission in the newly created position will be to "create a new structure to bring together urban planning and environmental issues and to implement air-quality standards required under the new Federal Clean Air Act." He brings enthusiasm as well as an extensive knowledge of land-use planning and an understanding of solid waste and water quality issues.

Mr. Freund will be responsible for coordinating the various agencies so that together they can formulate a coherent plan for the future of the city of Louisville. Mr. Freund intends to lead the effort for regional growth while at the same time ensuring that there is an improvement in environmental integrity.

Many may ask how can this be accomplished. Mr. Freund believes that it will be necessary to formulate a vision of the community's future, and then develop a comprehensive plan to achieve that future. He insists this must be done with the active involvement of environmental interests, industry interests, and municipalities. Throw in the right combination of staff and the fundraising to support it—about $5.8 million—and you have all the ingredients for success.

But of course, even all of the best ingredients do not always guarantee a perfect recipe, for that you need a master chef. Mr. President, I know my colleagues will agree that Mr. Freund is just the man to lead this effort and ensure that the ingredients are mixed properly.

I ask my colleagues to join me in congratulating Adrian Freund and wishing him luck in what I am sure will be a successful venture. I also ask that at this time an article from the July 27 Business First be inserted into the RECORD.

The article follows:

### FREUND TO "BUILD BRIDGES" BETWEEN COUNTY AGENCIES

(By Sandy Semans-Herald)

A new player is in town, and he's busy "building bridges" over the often-found gap between the urban planning, permitting and environmental management.

Adrian P. Freund, (pronounced Froined—rhymes with coined), 42, has come to Louisville as part of Jefferson County Judge-Executive Dave Armstrong's April pledge to create a new structure to bring together urban planning and environmental issues and to implement air-quality standards required under the new federal Clean Air Act.

The newly created Department of Planning and Environmental Management will eventually encompass about 160 employees, most of which are already working for the various departments involved in the merger but not yet under the new department heading, Freund says from his makeshift, naked-wall, colorless, temporary office in the Jefferson County Courthouse.

Experienced in building organizations from the ground up, Freund has an enthusiasm that he credits in part to Armstrong and his staff's sales pitch to get Freund here during their nationwide search for the head of the new department.

"Jefferson County has extremely good government leadership. They have a sense of where they are going and articulate it very well," says Freund of his interview with county officials when applying for the position that drew approximately 150 applicants.

Armstrong describes Freund as having "all the qualities we were seeking—from an extensive knowledge of land-use planning to understanding solid-waste and water-quality issues."

Freund's last stint as chief of the Bureau of Water Management, Connecticut Department of Environmental Protection, helped prepare him for his current position.

That post also was a newly created position wherein Freund was responsible for putting together a new organization, using previously separate programs as his building blocks.

There, Freund combined four departments into a new one which dealt with water issues including monitoring, permitting and enforcement.

Along the way, he developed a plan to streamline the permitting process that helped disperse a four-year backlog of over 2,000 applications waiting for attention. At the same time that he was waist deep in permits, he reduced the department's general-fund budget by 25 percent without a reduction in output.

In his new position, Freund will be responsible for combining varius countywide agencies into one unit dedicated to comprehensive urban planning. Those agencies that will come together will include development, permitting, environmental management, and monitoring and enforcement.

Part of Freund's focus over the next few months will be on how to combine planning and zoning, the air pollution agency, the environmental health division of the health department, building-code enforcement, solid-waste planning and the hazardous materials response team into a single cohesive unit.

Armstrong has identified the mission of the new agency as being a conduit for producing regional growth, while maintaining and improving environmental integrity.

Jim DeWitt, a professional associate of Freund and president of the Connecticut Resource Group, an environmental consulting and industry advisory firm based in Hartford, refers to Freund as a "communicator" and a "collaborator."

"He effectively communicated to his department what he thought were the important priorities for the department, and he was also good with those on the outside—environmental and industrial groups.

"He was receptive to an open-door policy for those outside the bureau and never turned away those bringing problems to his desk," DeWitt adds.

Although budget and personnel cuts made the Connecticut position frustrating for Freund, DeWitt says he was still able to make a positive contribution.

"He made great efforts to bring environmental interests, industry interests and municipalities" to the same table to discuss and resolve their concerns, DeWitt says.

"We first need a vision of the community's future," says Freund, describing his agenda for implementing the new agency and its priorities.

"And we need a comprehensive plan. . . . There's a tremendous amount of work ahead as we develop the first significant program for planning that's been done (in Jefferson County) in the last 10 years," he adds, noting that it will probably take from 24 to 30 months for completion of the new land-use development plan.

Input from the Louisville Chamber of Commerce, the city of Louisville, various departments of local government and special interest groups—including environmentalists—is being sought by Freund to insure a proper balance and focus of issues, he says.

Members of the various factions will be used to form a policy committee which Freund says he hopes to have in place this summer.

"And we need the right combination of staff and the fund-raising to support it (the department)," he says. He estimates that the new department will require a budget of about $5.8 million.

"Oh, and we need bike trails," says Freund with a sheepish grin. Both an avid runner and cyclist, the director says that since his arrival in Louisville he has spent a lot of time at Seneca and Cherokee parks riding his bicycle.

He calls the area a "bike unfriendly environment."

Although it sounds like—and, in fact, is—a monumental task ahead of the England-born director, he says with no telltale accent that he is not overwhelmed.

"The secret is to focus clearly on the objectives, keep the process manageable and limit the number of priorities," says Freund, who professes a reading addiction to management books.

And that's not the only addiction of the transplanted Freund. While he may limit the department's priorities, his wife, Karin Fox, says there's virtually no limit to his interest in and collection of model trains.

"There are literally hundreds of them," says Fox, referring to Freund's vast collection. "He put together some of the models, and he has bought others."

Fox says that the couple's 3-year-old son, Justin, has inherited his dad's iron-horse enthusiasm.

"He takes his little trains to the basement and tries to run them on Daddy's tracks. Adrian usually keeps a couple of trains out that Justin can push around the tracks," Fox says.

And her husband's interest in trains is not limited to models. Fox says that when the family travels, Freund often finds new trains to ride.

An interest in trains isn't the only thing that runs in the Freund family. Freund's father was professor emeritus at the University of Illinois in—what else—urban planning.

His father now lives most of the year in England and Freund, an only child, has no other family in the United States other than Fox and Justin.

Fox says most of his relatives are now in England, Wales and New Zealand.

Moving around a lot has made Freund adaptable to new places, friends and situations, however.

Although he has moved often for professional reasons, Freund started his traveling when he left England as a child. First stop for the family was Canada. From there they moved to New York and finally settled in Illinois.

But some things you just take with you. A longtime active member of the Presbyterian Church, Freund has been visiting local churches since his arrival while he looks for a new spiritual home.

A former church trustee, Freund says he likes members of his chosen church because they often share his interest in politics and community matters.

Community involvement is also a special interest of Freund's, as evidenced by his past involvement in neighborhood associations.

On the professional side, the director is involved in several organizations, including being a charter member of the American Institute of Certified Planners.

Freund is currently "baching" it because Fox continues working as a librarian at the Connecticut State Library while waiting to sell their West Hartford, Conn., home.

Going hungry will not be a problem for Freund while his wife remains in the Northeast, though.

"Adrian is a gourmet cook," Fox says. "We used to take turns cooking, but after Justin was born Adrian took over most of the cooking."

The couple, who have been married less than six years, met on a blind date while both were living in Wisconsin, where Freund worked for the Dane County Regional Planning Commission in Madison.

Fox says that at the time, she never dreamed it would lead to marriage or the moves the couple has since made.

From Wisconsin, they moved to Austin, Texas, where Freund took on the role of acting chief environmental officer, Office of Environmental Resource Management.

Before leaving Austin for Connecticut in 1989, Freund held several positions during the city's efforts to consolidate and unify its planning, permitting and environmental offices.

His positions there included deputy director of the Department of Environmental Protection and acting director of the Resource Management Department.

One of the things Freund left Austin with was the nickname "Minister of Death," says Tracy Watson, Austin's assistant director of planning and development and a former colleague of Freund's.

"He was given that title as a joke by some in the developers' community in Austin because Adrian was involved in enforcing and sometimes in writing some very stringent codes.

"He had a reputation for holding their feet to the fire, but people respected him for it," Watson says.

"But he is also very practical and he always tried to work things out so that they were consistent with the ordinances. He would rather help bring a company into compliance than lose jobs," he says.

And Watson's final words on Freund?

"Adrian is strong and decisive as long as he know that he has the authority behind him," says Watson. "And he's a strong negotiator."

Could that means new bike trails?

### BIO: ADRIAN FREUND

Title: Jefferson County Director of Planning and Environmental Management.
Age: 42.
Hometown: Champaign, Ill.
Education: Bachelor's degree, University of Illinois, Urbana-Champaign.
Family: Wife: Karin Fox; Children: Justin, 3.•

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## WETA-TV—"THE WEST"

• Mr. WALLOP. Mr. President, I rise today to inform my colleagues and the Nation of plans now underway for an epic TV series chronicling one of the truly great American stories. It is a story that has come to symbolize and define our national image—the mystery, myths, and legends of the Great American West.

The history of the American West will unfold during a special 10-hour, seven-part series to be aired in 1994 on public television stations throughout the country, including KCWC, channel 4, in my home State of Wyoming. The documentary, titled "The West," promises a compelling account of the immense scale, heroic people, inhospitable climate, formidable terrain, and all the beauty and splendor that the West has to offer.

WETA-TV, channel 26, Washington's flagship public television station, is co-producing the series along with Ken Burns and Stephen Ives, the team that brought the highly acclaimed PBS series "The Civil War" into our living rooms.

Like "The Civil War," "The West" is foremost a project about good history, beginning with the first encounters between the indigenous peoples of North America and the first European settlers, and finishing with Hollywood's romanticization of the West in the early 1900's.

The first episode is titled "Rendezvous," and will introduce characters central to the narrative: Brigham Young, the dogged young man from upstate New York who will lead the greatest religious migration in American history; Jim Beckwourth, the black man who lives among the Crow Indians and becomes one of the most famous of the mountain men; and the haughty young Californian, Mariano Guadelupe Vallejo, who will build a small land grant from Spain into one of the largest ranches in California only to lose nearly everything in the Bear Flag Rebellion.

Also, Narcissa Whitman, the prim but determined missionary who will become one of the first white women to travel the Oregon Trail; the young Cherokee, John Ross, who speaks and reads English fluently and will preside over the extraordinary rise and fall of the Cherokee Nation; the illegitimate 1-year-old John C. Fremont, who is almost killed in his crib by a bullet from Andrew Jackson's gun, but survives to become known as "The Pathfinder"; and Meriwether Lewis, the moody young adviser to President Thomas Jefferson who will join William Clark and become among the first American citizens to cross the Continental Divide.

The second episode, "Yearly Multiplying Millions," will follow our young Nation westward, as news of the lands charted by Lewis and Clark triggers an explosion of emigration. In this episode, the philosophy of the Manifest Destiny will be explored, as well as America's repeated attempts to craft an Indian policy to deal with the escalating classes between white settlers and the western tribes. Many questions arose out of these ever-increasing conflicts. Are the Indians bloodthirsty savages to be eradicated or are they, as white reformers argued, children who needed to be saved and educated to the ways of Christian society? Of even greater political concern to the growing United States, are the huge new western territories to be slave or free? And what will happen to the great land of Texas?

The second episode will also explore the then uncharted wilderness the same way that Karl Bodmer did, who painted extraordinary watercolors of the landscapes and tribes he encountered; the same way that the brash, unpredictable John C. Fremont did, who was sent by the Federal Government into Utah, Oregon, and California as part of the newly established Corps of Topographical Engineers; and finally, the same way that the quiet Kit Carson did, who became a famous scout and Indian fighter.

The third episode, "Eureka!" will chronicle the reckless surge of migrants to the California goldfields in search for fame and fortune. This dramatic event had a profound effect on Sacramento, San Francisco, and the entire State of California. The initial gold rush prompted other mining—silver, coal, and copper—in other places such as Butte, MT, and Bodie, CA. It is in this era that a remarkable development is completed, the first transcontinental telegraph line.

The fourth episode, "A Good Time To Go to War," will bring the Civil War into the historical context. Its prominence throughout the divided Nation had a profound effect on both the East and the West. The Northern-dominated Congress reshaped the boundaries of territories, added States to the Union, and determined the placement of western settlements by its choices of railroad routes. In this episode, we will see the Federal Government take dramatic steps to open western lands.

The end of the war, however, marked the initiation of one of America's great dreams, the building of the transcontinental railroad. An engineering marvel—1,775 miles of track laid in 6 years, across deserts and plains, through mountains and rugged terrain—the story of the transcontinental railroad is also an appalling chronicle of the heedlessness with which immigrants were treated in a fast-expanding America.

The fifth episode, "Fight No More Forever," will watch as the stream of people traveling to the West via the transcontinental railroad turns into a flood as land is offered by the government in the Homestead Act of 1862—160 acres for a $10 filing fee.

In this episode, the Wild West will become cowboy country and the great cattle drives legendary. We will meet great ranchers like Granville Stuart and cowboys like Teddy "Blue" Abbott, as well as fabled lawmen like Bat Masterson and Wild Bill Hickock. We will see the different fighting customs of the Plain Indians and watch as the skilled and audacious Crazy Horse rises to prominence among the Sioux.

The sixth episode, "A World Destroyed," will portray the closing of western frontiers by a myriad of fences and barbed wire. Huge forests fall to the ax of lumberjacks, and mountains and rivers are forever damaged in the search for gold and other precious minerals. Europeans, anxious to take their share of the wealth, clamor to the West, beginning their long history of involvement and investment here. With so much exploitation, the conservation and environmental movements spring into action. Newly claimed national parks begin to attract a new type of western traveler, the tourist.

Finally, the seventh episode, "Oh Give Me a Home," will show how many of the old tensions and themes of the old West were still very much alive as the new century dawned. Growth and expansion continue unabated and problems of managing natural resources show no sign of diminishing. Tourism has become one of the region's biggest businesses, and its impact on the population, the land, and wildlife is as profound as that of the miners, loggers, and trappers of the previous century. People in the West still fight over land, water, and protection of the environment. And yet, the West still holds a promise of freedom and a new start.

Mr. President, as a proud third-generation westerner whose grandfather homesteaded our ranch in Big Horn, WY, and, like so many others, carved himself and his family a brave new life out of a wonderful, raw land, I very much look forward to this series. "The Civil War" entranced America as it let history speak for itself. I expect "The West" will be as compelling, honest, and grand.•

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## DEFENSE CONVERSION INITIATIVE

• Mr. D'AMATO. Mr. President, I was astonished by industry's short sighted reaction to the Defense Appropriations Subcommittee's defense conversion initiative.

Current and future budget pressures on the Department of Defense, and the growing interest in defense conversion, create an opportunity for us to cull together and spinoff to more appropriate agencies the host of new dual-use technologies mired in the Pentagon budget. These technologies have marginal defense applications, but significant commercial potential.

The Department of Defense should not retain control of the rising cluster of commercially viable technologies identified by the subcommittee. These infant industries will learn little about open market competition, product development, or commercial marketing from an organization that buys overspecified, hand-crafted products on a year-to-year basis through an inflexible bureaucratic procurement process.

Tragically, contractors view the seed money of yesterday as the entitlement funds of today. Rather than addressing issues critical to new business development, such as finance, taxation, and trade policy, these groups' strategic planning focuses on pressuring the four defense committees to earmark funds for their programs.

The result is an increasing focus on shrinking defense niche markets. Broader commercial applications and alliances remain largely unexplored. Why? To justify continued Pentagon funding. Their continuing dependence on the Department of Defense is distorting these industries' growth, and pulling them in directions they wouldn't otherwise have gone. Market considerations, like supply and demand, volume and price, have been ignored.

Inevitably, if this trend continues unchecked, America will be surpassed by others in the areas highlighted by the subcommittee. The defense conversion initiative should have been a watershed. We could have taken the first important step in creating the industrial sector that could carry this Nation into the 21st century. Instead, the conversion initiative was scuttled because of narrow self-interest and short-term gain. Our innovators chose what they were familiar with, comfortable with, and, for the time being, able to manipulate.

But the Pentagon cannot replicate market forces, it cannot serve as the crucible for the development of products with broad commercial appeal. Thus, the longer these new technologies remain captives of defense funding, the less likely it is that new products will emerge that will ever be competitive or desirable on the international market.

The hi-tech lobby will ride the down escalator of defense funding, calculating that they will survive and continue to be funded as others are pushed off. This view is actually a shortsighted miscalculation, one that will leave them panicky and demanding additional Federal dollars to save them from ruin as the down escalator gains speed and Defense properly decides to protect only its key industrial producers.●

## STATUTE OF LIMITATIONS EXTENSION LAWSUITS RELATED TO FINANCIAL INSTITUTION FAILURES

● Mr. WIRTH. Mr. President, I would like to thank Senator METZENBAUM for offering my amendment to extend the statute of limitations for RTC professional liability claims. I was necessarily absent when the Senate took up the Veterans Affairs and Housing and Urban Development Departments, and independent agencies appropriations conference report on Friday night.

I had changed my schedule several times that day in hopes of offering my amendment. I had left for another commitment when I learned that the conference report would be considered. It was kind of Senator METZENBAUM to step in and offer the amendment on my behalf. I am grateful for his courtesy and assistance.

I am disappointed that the Senator from Utah, the Senator from Texas, and perhaps others were willing to endanger the enactment of the entire legislation in order to thwart the Senate's will and prevent an extension of the statute of limitations from becoming law.

However, I am pleased that a large majority of the Senate again supported my amendment. I realize that the appropriations measure is important to many of those Senators and I did not want my amendment to be responsible for blocking that legislation.

I believe that the House will strongly support my proposal if Representatives are given the opportunity to vote.

Mr. President, I had prepared a statement to use Friday and I would like to place it in the RECORD at this point.

STATEMENT OF SENATOR WIRTH, STATUTE OF LIMITATIONS EXTENSION, LAWSUITS RELATED TO FINANCIAL INSTITUTION FAILURES, SEPTEMBER 25, 1992

I rise once again to offer an amendment to extend the statute of limitations for civil professional liability claims filed by the Resolution Trust Corporation (RTC). The Senate has already passed this provision three times, most recently adding it to the VA, HUD, and independent agencies appropriations bill on an overwhelming 78 to 10 vote.

That vote took place on September 8. Two weeks later, the House and Senate Conference Committee took the Wirth amendment out of the legislation despite the strong Senate vote in favor of the provision.

This is an urgent matter that the Senate has overwhelmingly supported. Yet a handful of members decided that the Congress should not act on it.

I don't think we should accept an action taken out of the public eye as the last word on the issue.

At the very least, the conferees should have permitted the House of Representatives to vote on the issue.

Statutes of limitation have been expiring virtually every week and the RTC legal division's ability to pursue claims has been significantly disrupted by RTC reorganization and personnel decisions this year.

It's all but certain that cost-effective claims have already been missed and possible that further claims may be missed in the future.

We should not allow the 102nd Congress to leave town without extending the statute of limitations.

Taxpayers will lose out on millions, perhaps even billions, of dollars if we fail to act. And the only beneficiaries will be those who helped loot the S&Ls. Those individuals would be much more likely to get away without ever having to pay any of the money back.

I might be willing to accept the conferees' decision if there had been more disagreement within the Senate on this question or if the House had taken an opposing position. After all, we do have to compromise with the House at times.

But, in this case, the Senate had a clear, strong position while the House had no provision, although the House Banking Committee has reported similar legislation. In fact, there is significant bipartisan support in the House for an extension of the statute of limitations.

The primary reason behind the conferees' action was a letter from several members of the House Judiciary Committee arguing that their Committee has jurisdiction over this matter and had not had the opportunity to review the matter.

Apparently, the Parliamentarian does not agree. This provision was a part of two bills introduced this year in the House. Both H.R. 5409, introduced by Representative Vento, and H.R. 5629, introduced by Representative Leach, were referred exclusively to the House Banking Committee—not the House Judiciary Committee.

On the Senate side, my initial legislation, S. 2334, was also referred to the Banking Committee, not the Judiciary Committee.

If the Judiciary Committee had jurisdictional concerns about this matter, why were those concerns not raised when the legislation was earlier introduced? That would have been the appropriate time.

Instead, the Committee only raised its concerns at the last minute, when its effect was to derail the legislation, not ensure that it received appropriate consideration by the Committee.

The Administration and the RTC also strongly support extending the statute of limitations.

The conference report includes amendments in disagreement. The House has sent several of those provisions back with amendments which we must accept or reject.

Those provisions are now amendable and today, I am offering an amendment identical to the one that 78 Senators supported on September 8.

We should again adopt the Wirth amendment and give House members the opportunity to consider this topic and resolve the issue.

My amendment is an addition to the language the House sent over and it will not affect the underlying amendment.

My amendment will not jeopardize passage of the important matters included in the legislation. The Administration supports an extension of the statute of limitations so we don't have to worry about a veto. And there is still more than enough time to send the legislation back to the House for a vote on the statute of limitations issue.

If the House accepts the amendment, the underlying bill will then be on its way to the President. If the House rejects my amendment, we can then concur in that action and send the legislation to the President. I will not object to that as long as we give the House the opportunity to have a recorded vote on the matter.

### WHAT THE AMENDMENT DOES

Bank and thrift regulators are able to file civil lawsuits against the officers, management, and board of directors of financial institutions, as well as outside professionals—usually lawyers or accountants—who advised a failed institution. Those suits can lead to recovery of losses caused by fraud or negligence.

In 1989, Congress established a three year statute of limitations for these professional liability claims except where state law authorizes a longer period. This provision of FIRREA overrode the shorter time frames permitted in some states.

The amendment increases the minimum statute of limitations from three years to five years for civil liability claims filed by the Resolution Trust Corporation (RTC). Any longer period established by state law will remain in effect after the legislation is enacted.

### STANDARDS ISSUE

All but a handful of Senators support extending the statute of limitations. I think the case has clearly been made for an extension.

Indeed, opponents of the Wirth amendment do not even argue against the merits of an extension. Instead, they argue that we should adopt a different, weaker, standard for claims filed during the additional two years the amendment would provide.

Because opposition to the provision has focused on this question, I would like to explain why we should reject proposals for a weaker standard.

Although a weaker standard may sound appealing on the surface, in practice, it would be equivalent to retaining current law for all claims making the two year extension useless to the RTC.

In practical terms, it is equivalent to doing nothing at all.

A weaker standard would protect wrongdoers from liability lawsuits and reduce recoveries for taxpayers. Who should we try to help, taxpayers or individuals who contributed to the S&L crisis?

That should be an easy question to answer. I don't see why we should make it easier for individuals who caused taxpayer losses through negligence to get off the hook. Taxpayers should be outraged if we extend the statute of limitations but weaken the standard.

That would just be an attempt to have it both ways, pretend we're helping recover funds for the taxpayer with one hand, and make sure that nothing really changes with the other.

We don't want to make it more difficult for financial institutions to attract directors. There are reports that many institutions, especially small banks, are having trouble recruiting individuals to serve on their boards.

I certainly understand that some of my colleagues on the Banking Committee are concerned about this problem. It deserves our attention.

But the extension included in the legislation does not affect this situation at all.

The extension does not apply to bank or credit union directors. And only a small portion of our S&Ls are potentially subject to the change. The institutions to which this concern might apply are those that are still open today but that are in danger of being taken over by the RTC before October, 1993. Those institutions will have a hard time attracting directors regardless of the statute of limitations. And the directors who would have the most to worry about liability suits are those who were on board when the institution got in trouble, not those who become directors today.

Even though I do not believe my amendment will impact the ability of financial institutions to attract directors at all, I would be happy to work with Senator Garn and others to address that concern if I were not convinced that their approach would actually do harm.

In fact, I contacted the RTC in an attempt to resolve this problem. The RTC informed me that weakening the standard would render the two year extension useless to the RTC. In effect, a vote for a lower standard is a vote to do nothing to help the RTC recover losses for the taxpayer.

That is my fundamental reason for opposing any weakening of the standard. I have a letter from Mr. Albert V. Casey, the RTC's CEO, in which he strongly opposes any attempt to weaken the extension of the statute of limitations.

Let me explain how changing the standard for the two extra years will force the RTC to make its decisions in the first three years—just as they must do under current law.

First, disallowing negligence claims in the final two years would force the RTC to file all fraud claims within three years as well. The Corporation would have to do so in order to protect itself against the possibility that a defendant would convince the court that the facts proven by the RTC only prove negligence, not fraud and that the claim should therefore be thrown out as time-barred.

Even under current law, defendants often will pursue this strategy to avoid punitive damages and because insurance policies will only cover negligence, not fraud. A weaker standard for the final two years would further encourage this defense and force the RTC to attempt to file all fraud claims within the existing three-year limit.

Second, many states require that all claims against a defendant be brought at once. If the RTC intends to file both fraud and negligence claims in those states, they would have to do so in three years if we adopt a weaker standard. If we adopt the Wirth language, the RTC would be able to benefit from an extended statute of limitations in states with anti-claim splitting laws.

Third, for many institutions, the RTC will want to file claims against an institution's officers for fraud and directors for negligence in failing to stop the officers' scheme. Because many of the same facts would have to be proven in the same case, the RTC would have a powerful incentive to file the frauds case within three years in order to avoid duplicative costs.

Fourth, many legitimate fraud suits will not be cost-effective while suing the same miscreants for negligence may be worthwhile. A major factor in whether the RTC can obtain a return on a claim is whether the defendants have insurance that will pay a claim. Insurance policies usually only pay in cases of negligence.

For this reason—unless a potential defendant has significant personal resources—the RTC may prefer to file claims for negligence even if fraud was involved. As a result, the extra two years for fraud claims will not help the RTC in these cases even though the individuals involved may have committed fraud.

Finally, facts and assertions in negligence cases can affect later fraud claims and vice-versa. Thus, if the RTC does not examine all potential fraud and negligence claims before filing its first suit, the Corporation runs the risk of undermining a later claim. For this reason, the RTC must examine all potential fraud claims in detail during the three year period that would be allowed for negligence claims if we weaken the standard.

To sum up, if we adopt a weaker standard for the additional two years, we might as well do nothing and retain current law.

I hope that this explanation will allay any concerns Senators may have about retaining the existing standard.

By now, I think most Senators are familiar with this issue. However, I would like to review the need for extending the statute of limitations.

### WHY THE PROVISION IS NEEDED

### PROFESSIONAL LIABILITY SUITS ARE COST-EFFECTIVE FOR TAXPAYERS

Many people affiliated with S&Ls took advantage of the opportunity created by the combination of deregulation and desupervision to enrich themselves and their associates. Some engaged in outright fraud and theft or were negligent in their professional responsibilities, overlooking others' fraudulent activities. According to the GAO, RTC officials suspect wrongdoing in more than 80 percent of thrift failures.

Regulators can recover a portion of the losses through civil liability lawsuits. The FDIC has recovered $641 million from claims arising out of thrifts that failed before the RTC existed. The RTC has recovered $97.6 million since it creation.

The RTC totals are likely to increase significantly as pending cases are resolved. The RTC has filed more than three times as many cases this year as in 1990 and 1991 combined. As of May, the RTC has 170 cases pending involving $4.5 billion in claims.

These efforts have been cost-effective. In 1991, GAO figures indicate that the FDIC and RTC together spend $110 million on professional liability outside counsel and recovered $350 million. If we give the RTC the time it needs to fully pursue claims, we can increase recoveries for the taxpayers who are footing the bill for the S&L crisis.

### THE RTC NEEDS MORE TIME TO PREPARE AND FILE SUITS

These are complex cases. The FDIC has testified that they "are among the most complex matters we investigate."

It takes a great deal of time for regulators to work their way through the tangled books and records of a failed institution and determine if there is reason to sue any party associated with the failure. It then takes additional time to judge if the suit is cost-effective.

When we look at individual cases, a three year statute of limitations may seem reasonable. However, we have to look at regulators' overall workload as well.

A very large number of thrifts were closed in 1989 and FIRREA's statute of limitations expires for 318 S&L failures this year alone. The clock has already run our for suits in 279 of these thrift failures this year. The RTC faces deadlines for the remaining failures almost every week for the rest of the year.

The workload has led to greater delays before suits are filed. At the end of 1991, the RTC had filed 33 director and officer liability suits involving 32 institutions. The average length of time between failure and filing and 13 months, well below the three year statute of limitations. This year, however, most suits have been filed just before the deadline, often on the very last day. According to the General Accounting Office, about 60 percent of this year's claims were filed within one week of the expiration date.

Over the next three years, regulators will have to examine the potential for lawsuits related to more than 400 additional thrifts that have already been taken over by the RTC. Hundreds more thrifts may yet fail and be closed. These failures will need to be examined for potential liability suits. The enormous volume of this workload limits the federal government's ability to pursue all of the cases that should be pursued.

RTC officials recognize the need for a longer statute of limitations. At a March 11 Banking Committee hearing, Bill Roelle—the RTC's Chief Financial Officer—testified "I sure do" when I asked him if he supported my legislation. Albert Casey, the Chief Executive Officer of the RTC, has also testified that he supports the provision and written to me to express his support. On August 5, 1992, Treasury Secretary Brady testified that the Administration supports the statute of limitation extension as well.

### PROBLEMS WITH RTC PROFESSIONAL LIABILITY PROGRAM

The GAO has testified before the Banking Committee that more could be done to pursue potential claims. For example, poor asset identification procedures make it difficult for the RTC to determine if wrongdoers have enough assets to make a suit cost-effective.

The GAO has also noted that the RTC has experienced professional liability attorney shortages and the Corporation has fewer Professional Liability Section (PLS) attorneys than its former General Counsel reported were needed.

Recent events have made the extension even more urgent. A reorganization of the RTC's legal division and consolidation of the RTC have each significantly disrupted the PLS.

These changes took place just as statutes of limitation began to expire for the earliest cases under RTC's jurisdiction and they raise questions about the Corporation's ability to pursue liability suits in the future.

The GAO has testified that, in the wake of the organizational changes, about 40 percent of the RTC's professional liability attorneys either left the RTC or have been reassigned within the RTC or to the FDIC.

Although some of the reassignments are on hold or have been rescinded, significant disruption took place and affected cases that were underway at the time. Some of the new attorneys assigned to the program do not have the same level of experience and knowledge of professional liability claims. Agency officials have estimated that the learning curve for new attorneys is nine to eighteen months, depending on the attorney's experience level.

RTC attorneys have also charged that political interference worked to alter or delete professional liability charges or to settle or modify suits against prominent individuals.

Giving the RTC more time to file claims will ensure that the possible political interference, disruption to the professional liability program, and need to train attorneys will not stop the RTC from recovering funds for the taxpayer. In addition, to the extent that staffing shortages have hampered past efforts, the additional time will allow the Corporation to pursue claims that may have been missed and for which the statute of limitations had expired.

There have been charges that some senior RTC officials have intentionally sought to reduce professional liability suits and avoid pursuing those who contributed to the S&L crisis. If this is the case, an extended statute of limitations will allow suits later if we get new officials in place at the RTC that is willing to give this effort the priority it deserves.

CONCLUSION

We shouldn't allow individuals or businesses that contributed to a bank or thrift failure to escape a lawsuit simply because there was not enough time to develop and pursue a strong case.

On the other hand, individuals who were once affiliated with a failed institution should not have to worry indefinitely that they may someday be named in a lawsuit. Five years strikes me as a reasonable balance given the high volume of failures that RTC must examine today.

In 1989, when we enacted FIRREA, Congress promised the American taxpayer that we would aggressively pursue fraud and criminal activity in the S&L industry both through criminal and civil action.

In 1990, Congress provided investigators and regulators with additional resources and tools through the Wirth-Heinz amendment that became law as part of that year's crime bill.

The 1990 legislation provided regulators, investigators and prosecutors additional tools and resources to promote civil recoveries. However, that legislation did not become law until November 29, 1990. FIRREA's statute of limitations clock had already wound halfway down for 218 thrifts by the time we provided those tools.

It would be a mistake if we were to give the RTC the tools and resources it needs to do the job but not give them enough time. That's why the two additional years the amendment would provide are so important.

We will see many more suits filed this year and in the next few years as the RTC rushes to act before the current statutes of limitations expire. We shouldn't force the RTC to rush when we can give the Corporation the time to more carefully examine each institution. A longer statute of limitations will help the RTC use its limited resources more efficiently and carefully and increase the recovery to taxpayers from civil suits related to financial institution failures.•

## ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:15 a.m. on Tuesday, September 29; that when the Senate reconvenes on Tuesday, September 29, the Journal of the proceedings be deemed to have been approved to date; that the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired.

I further ask unanimous consent that the time for two leaders be reserved for their use later in the day; that following the Chair's announcement, the Senate return to executive session to resume consideration of the START Treaty; that the time until 10:15 a.m. be for debate prior to the cloture vote, with the time equally divided and controlled in the usual form; that the mandatory live quorum as required under rule XXII be waived; and that on Tuesday, September 29, the Senate stand in recess from 12:30 p.m. until 2:15 p.m., in order to accommodate the respective party conferences, with the time counting postcloture during the conference recess period; provided further that second-degree amendments may be filed until 10:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I want it to be clear that the 10:15 a.m. time to which I referred is 10:15 a.m. tomorrow, September 29, and that is right up until the vote, so there is no misunderstanding.

## ADJOURNMENT UNTIL TOMORROW AT 9:15 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned, in accordance with the previous order, until 9:15 a.m., Tuesday, September 29.

The motion was agreed to, and the Senate at 7:13 p.m. adjourned until Tuesday, September 29, at 9:15 a.m.

# HOUSE OF REPRESENTATIVES—*Monday September 28, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. HUBBARD].

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*September 25, 1992.*

I hereby designate the Honorable CARROLL HUBBARD, JR., to act as Speaker pro tempore on Monday, September 28, 1992.

THOMAS S. FOLEY,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratitude and praise all those people with an integrity of spirit and with standards of character and decency who have stood for the right and been faithful in their service. Teach us and every person, gracious God, to remember that the responsibility of position or office comes with an obligation to defer personal interests to the needs of the people that are to be served. Enable us to rise above our own concerns and instead open our hearts and minds and hands to those about us. Bless us in our tasks this day and every day, we pray. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Would the gentleman from New Mexico [Mr. RICHARDSON] please come forward and lead the House in the Pledge of Allegiance.

Mr. RICHARDSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5194. An act to amend the Juvenile and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; and

H.R. 5087. An act to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes.

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3508) "An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428), "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate numbered 5, 11, 12, 15, 19, 20, 47, 49, and 50, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5679), "An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate numbered 28, 41, 47, 48, 51, 64, 79, 91, 96, 98, 107, 113, 139, 151, 156, 164, 170, 178, 180, 196, 197, 227, 230, 232, 241, 242, 243 244, 245, 246, 247, 249, 254, 259, 260, 277, and 303 to the above-entitled bill, and that the Senate recedes from its amendment numbered 268 to the above-entitled bill.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1880. An act to amend the District of Columbia Spouse Equity Act of 1988;

S. 2514. An act to authorize the establishment of job training programs for certain unemployed veterans, to pay certain assistance and benefits to employers of such veterans and to such veterans to defray certain costs relating to the provision of such training, and for other purposes;

S. 2853. An act to authorize appropriations for the U.S. Office of Special Counsel, and for other purposes;

S. 3096. An act to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16;

S. 3279. An act to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes; and

S. Con. Res. 127. Concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, GA.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2344), "An act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes."

The message also announced that Mr. MOYNIHAN, be a conferee, on the part of the Senate, on the bill (H.R. 776), "An act to provide for improved energy efficiency" vice Mr. Burdick, deceased.

## CONFERENCE REPORT ON H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. (102-918)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5678) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, "having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 16, 29, 32, 39, 45, 52, 56, 58, 59, 68, 73, 81, 85, 90, 98, 103, 107, 112, 117, 118, 121, 131, 132, 137, 150, 152, 153, 156, 163, 164, 170, 177, 180, 184, 187, 193, 196, and 197.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

That the House recede from its disagreements to the amendments of the Senate numbered 2, 4, 11, 12, 18, 20, 21, 26, 27, 28, 33, 36, 37, 42, 49, 54, 55, 61, 71, 72, 94, 95, 102, 108, 110, 111, 114, 115, 116, 122, 125, 126, 127, 134, 144, 145, 148, 149, 154, 155, 160, 162, 165, 166, 173, 174, 185, and 189 and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$88,999,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$496,000,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,000,000 to be derived from unobligated balances appropriated for its purpose in Public Law 102–140*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided, That $16,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be available to reimburse any appropriation account, as designated by the Attorney General, for selected costs incurred by State and local law enforcement agencies which enter into cooperative agreements to conduct joint law enforcement operations with Federal agencies*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, notwithstanding the provisions of Sec. 516(a) of chapter B of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $3,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of said Act, shall be available as follows: (a) $1,500,000 for grants to private nonprofit organizations to carry out the provisions of Sec. 515(a)(2) of chapter B of subpart 2 of Part E of title I of said Act, and (b) $1,500,000 for grants to public agencies to carry out the provisions of Sec. 515(a)(3) of chapter B of subpart 2 of Part E of title I of said Act: Provided further, That $6,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$77,000,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,200,000 shall be derived from deobligated funds previously awarded under part B and subparts I and II of part C of title II of said Act, and of which $4,000,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,500,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$115,929,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$30,622,000*; ; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$13,150,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$395,500,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$61,526,000: Provided, That notwithstanding any other provision of law, not to exceed $16,900,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $44,626,000: Provided further, That any fees received in excess of $16,900,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *and for intergovernmental agreements including the relocation of the Legal Education program, as provided for in Public Law 102–140 (105 Stat. 786), where legal education training shall be provided to Federal and non-Federal personnel; $768,300,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided further, That (1) not to exceed $22,400,000 of funds made available to this appropriation to carry out the relocation of the Legal Education program provided for in Public Law 102–140 shall remain available until expended, and (2) funds previously appropriated for this purpose shall be available under authorities provided by this Act: Provided further, That the Pilot Debt Collection project authorized in Public Law 99–578 is hereby extended through September 30, 1993*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$333,300,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$385,248,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,975,423,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$75,400,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$45,000 shall be available for official reception and representation expenses, to include expenses related to hosting the 1992 conference of Women in Federal Law Enforcement*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$718,684,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *and not to exceed $2,500,000 for purchase of aircraft and equipment,*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$965,000,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

### *COMMISSION ON IMMIGRATION REFORM*

#### *SALARIES AND EXPENSES*

*For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $300,000, to remain available until expended.*

### *THOMAS JEFFERSON COMMEMORATION COMMISSION*

#### *SALARIES AND EXPENSES*

*For necessary expenses of the Thomas Jefferson Commemoration Commission as authorized by Public Law 102–343, $200,000, to remain available until expended.*

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,681,822,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,250,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$339,225,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,181,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*SEC. 109. (a) Notwithstanding any other provision of law, the Attorney General, in consultation with the Secretary of the Treasury, the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Financial Right to Privacy Act (12 U.S.C. 3415) to allow nondepository licensed transmitters of duns to be reimbursed to the same extent as financial institutions under that Act, and report the results of such study to the Congress by April 1, 1993.*

*(b) The Attorney General, acting through the Director of the National Institute of Justice, shall: (1) evaluate existing and proposed anti-stalking legislation in the States, (2) develop model anti-stalking legislation that is constitutional and enforceable, (3) prepare and disseminate to State authorities the findings made as a result of such evaluation, and (4) report to the Congress the findings and the need or appropriateness of further action by the Federal Government by September 30, 1993.*

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 111. Notwithstanding any other provision of law—*

*(a) Fee to Recover the Cost of Incarceration.—(1) For fiscal year 1993 and thereafter the Attorney General shall establish and collect a fee to cover the costs of confinement from any person convicted in a United States District Court and committed to the Attorney General's custody.*

*(2) Such fee shall be equivalent to the average cost of one year of incarceration, and the Attorney General shall credit or rebate a prorated portion of the fee with respect to any such person incarcerated for 334 days or fewer in a given fiscal year.*

*(3) The calculation of the number of days of incarceration in a given fiscal year for the purpose of such fee shall include time served prior to conviction.*

*(4) The Attorney General shall not collect such fee from any person with respect to whom a fine was imposed or waived by a judge of a United States District Court pursuant to section 5E1.2(f) and (i) of the United States Sentencing Guidelines, or any successor provisions.*

*(5) In cases in which the Attorney General has authority to collect the fee, the Attorney General shall have discretion to waive the fee or impose a lesser fee if the person under confinement establishes that (1) he or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or (2) imposition of a fine would unduly burden the defendant's dependents.*

*(6) For fiscal year 1993 only, fees collected in accordance with this section shall be deposited as offsetting receipts to the Treasury.*

*(7) For fiscal year 1994 and thereafter, fees collected in accordance with this section shall be deposited as offsetting collections to the appropriation Federal Prison System, "Salaries and expenses", and shall be available, inter alia, to enhance alcohol and drug abuse prevention programs.*

*(b) Diversion Control Fee Account.—There is established in the general fund of the Treasury a separate account which shall be known as the Diversion Control Account. For fiscal year 1993 and thereafter:*

*(1) There shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program.*

*(2) Such amounts as are deposited into the Diversion Control Fee Account shall remain available until expended and shall be refunded out of that account by the Secretary of the Treasury, at least on a quarterly basis, to reimburse the Drug Enforcement Administration for expenses incurred in the operation of the diversion control program.*

*(3) Fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.*

*(4) The amount required to be refunded from the Diversion Control Fee Account for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committee on Appropriations of the House of Representatives and the Senate fifteen days in advance.*

*(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.*

And the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 114. (a) Notwithstanding any other provision of law, including subsection (b) below, the first $50,000,000 of the amounts made available in fiscal year 1993 in accordance with section 524(c)(9)(E) of title 28, United States Code as amended, shall be transferred as follows: (1) the first $22,400,000 shall be transferred to Legal Activities, "Salaries and expenses, United States Attorneys" for cooperative agreements to carry out the relocation of the Legal Education program as provided for in Public Law 102–140 (105 Stat. 786), and (2) the next $27,600,000 shall be transferred to Legal Activities, "Support of United States Prisoners".*

*(b) Subsection 524(c)(9)(E) of title 28, United States Code as amended, is further amended as follows: (1) by deleting "to be transferred to any federal agency", and (2) by striking the period after "related training requirements" and inserting "of federal agencies. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.".*

*(c) Subsection 524(c) of title 28, United States Code as amended, is further amended in paragraph (1) by amending the first sentence following subsection (1)(H) to read: "Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations Acts and may be used under authorities available to the organization receiving the funds.".*

And the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*SEC. 115. The General Accounting Office is hereby directed to report to Congress its explanation for failing to comply with Public Law 100–202, and to complete by the adjournment of Congress sine die of the One Hundred Second Congress, the reports required to be submitted pursuant to Public Law 100–202.*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$222,000,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$128,500,000, of which not to exceed $300,000 shall remain available until September 30, 1994, for research and policy studies: Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$18,300,000*; and the Senate agree to the same.

Amendment Numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agreed to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$86,550,000: Provided*, That notwithstanding any other provision of law, not to exceed $16,900,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $69,650,000: *Provided further*, That any fees received in excess of $16,900,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994: *Provided further*, That Sec. 605 of title VI of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$20,000" and inserting in lieu thereof "$25,000": *Provided further*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374): *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285), unless legislation amending section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is enacted into law during fiscal year 1993, and only upon notification to the Committees on Appropriations of the House and Senate in accordance with Sec. 606 of this Act; and the Senate agree to the same.

Amendment Numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$127,235,000*; and the Senate agree to the same.

Amendment Numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 percentum to one-thirty-second of 1 percentum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration process: Provided further, That such fees shall remain available until expended.*

*In addition, upon enactment of legislation amending the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), and subject to the schedule of fees contained in such legislation, the Commission may collect not to exceed $16,000,000 in fees, and such fees shall be deposited as an offsetting collection to this appropriation to recover the costs of registration, supervision, and regulation of investment advisers and their activities: Provided, That such fees shall remain available until expended*; and the Senate agree to the same.

Amendment Numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$192,940,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$5,000,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$105,000,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,521,416,000, to remain available until expended, of which $37,000,000 is available to initiate the procurement of two additional NOAA Advanced Tiros-N polar-orbiting weather satellites from the current contractor, and of which $288,000 shall be available only for a contract with the National Research Council to conduct an assessment of the status of Columbia River endangered salmon stocks, and of which $576,000 shall be available for operational expenses and cooperative agreements at the Fish Farming Experimental Laboratory at Stuttgart, Arkansas*; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,000,000*; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: : *Provided further, That in applying the provisions of section 606 of this Act to the programs, projects, and activities of the National Oceanic and Atmospheric Administration, the notification requirements of section 606 shall apply to the proposed reprogramming of funds in excess of $250,000 or 5 per centum, whichever is less, for each program, project, or activity*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$94,500,000, to remain available until expended, of which $50,484,000 shall be available for facilities necessary for deployment of the NEXRAD weather radar program, including $1,000,000 for the Greer, South Carolina, NEXRAD site, and of which $15,000,000 shall be available only for a grant to the University of New Hampshire for construction and related expenses for a biological sciences facility, and of which $1,800,000 shall be available only for a grant to the Newport Marine Science Center, Newport, Oregon, for construction and related expenses for an Oregon Coastal Refuges Complex, and of which $1,000,000 shall be available only for a grant to the Economic Development Industrial Corporation of Boston, Massachusetts, for construction and related expenses for a biotechnology innovation center, and of which $1,000,000 shall be available only for a grant to the Mystic Seaport, Mystic Connecticut, for construction and related expenses for a maritime education and research center, and of which $400,000 shall be available for construction and related expenses for a Multi-Species Aquaculture Facility to be located in the State of New Jersey*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*FISHING VESSEL OBLIGATIONS GUARANTEES*

*For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $470,000.*

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,805,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$125,955,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$173,300,000*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$213,851,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *, of which $3,149,000 shall be available for a grant to the Tailored Clothing Technology Corporation, and of which $7,448,000 shall be available for a grant to the National Textile Center University Research Consortium, and of which $2,850,000 shall be available for support costs of a new materials center in Ames, Iowa, and of which $2,500,000 shall be available to carry out the Market Development Cooperator Program, as authorized by 15 U.S.C. 4723, to promote the exportation of goods and services from the United States*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$41,015,000*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *, of which $1,880,000 shall be available for the Office of Antiboycott Compliance*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$24,000,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$13,889,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,608,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,450,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$17,900,000*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum "$900,000" named in said amendment insert: *$400,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert: *$1,000,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$217,000,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$26,243,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$875,000*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the matter striken and inserted by said amendment, insert the following:

*SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in title II of this Act may be transferred between such appropriations, but no such appropriation, except "Economic and Statistical Analysis, Salaries and expenses", shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.*

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,320,000*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,979,000,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$45,100,000*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$17,500,000*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 304. Pursuant to section 140 of Public Law 97–92, Justices and judges of the United States are authorized during fiscal year 1993, to receive a salary adjustment in accordance with 28 U.S.C. 461.*

And the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and for related programs, $440,500,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. Harkness, and of which $4,000,000 shall be made available for the conversion of the U.S.N.S. Chauvenet: Provided, That any funds made available under this heading in this or any other Act for the acquisition of vessels, including tankers, for which the Secretary of Transportation determines that adequate numbers are available from United States* *sources, shall only be obligated for the acquisition of such vessels from United States sources: Provided further, That the foregoing proviso shall not apply to funds made available under this heading in this or any other Act for the acquisition of roll-on/roll-off vessels: Provided further, That any vessels acquired with funds made available under this heading in this or any other Act shall be repaired and converted in United States shipyards only: Provided further, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

### *MILITARY USEFUL VESSEL OBLIGATION GUARANTEES*

*For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, $48,000,000: Provided, That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of serving as a naval and military auxiliary in time of war or national emergency.*

*In addition, for administrative expenses to carry out the guaranteed loan program, $4,000,000, which may be transferred to and merged with the Operations and Training appropriations for the Maritime Administration.*

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$200,000, to remain available until December 31, 1993, as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100–94*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,260,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$357,000,000; of which $305,305,000 is for basic field programs; $8,005,000 is for Native American programs; $11,056,000 is for migrant programs; $1,254,000 is for law school clinics; $1,139,000 is for supplemental field programs; $711,000 is for regional training centers; $8,241,000 is for national support; $9,448,000 is for State support; $985,000 is for the Clearinghouse; $582,000 is for computer assisted legal research regional centers; $9,774,000 is for Corporation management and administration; $50,000 is for board initiatives; and of which $450,000 shall remain available until expended for a grant to supplement the grant for a National Resource and Training Center suitable to accommodate National Trial Advocacy Institutes for Legal Services Corporation personnel under the provisions set forth under the heading "Legal Services Corporation" in Public Law 102–140 and in section 120(c) of Public Law 102–154*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$248,800,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: . *Of the remaining $181,800,000 provided in this paragraph: $3,090,000 shall be available for the Service Corps of Retired Executives (SCORE); $3,015,000 shall be available to the Small Business Institute (SBI) program; $16,000,000 shall be available to implement section 24 of the Small Business Act, as amended; $500,000 shall be available for a grant to the Washington State University Research Foundation for construction of a business incubator facility; $400,000 shall be available for a grant to the City of St. Louis, Missouri, for the development of a Biomedical Technopolis; $1,500,000 shall be available for a grant to the City of Worcester, Massachusetts, for infrastructure, architectural and engineering, and associated costs for the expansion of the Worcester Centrum and Exhibition Hall; $465,000 shall be available for a grant to the Center for Manufacturing Productivity at the University of Massachusetts at Amherst; $150,000 shall be available for a grant to the Canisius College Center for Entrepreneurship; $200,000 shall be available for a grant to the University of Central Arkansas for Small Business Institute Program's National Data Center; $450,000 shall be available for a grant to the University of Arkansas at Little Rock for a program to provide basic and high technology technical assistance to small and medium sized manufacturers located in rural areas; $750,000 shall be available for a grant to Hazard Community College in Hazard, Kentucky, to assist in the design and construction of a business and industry technical assistance facility; $1,000,000 shall be available for a grant to Morgan County, Kentucky, to assist in the restoration and improvement of the Old Morgan County High School building; $500,000 shall be available for a grant to the State of Ohio Department of Development's International Trade Division for a model export program; $1,000,000 shall be available for a grant to the Van Emmons Population, Marketing Analysis Center for small business network and data base projects; $800,000 shall be available for a grant to Saint Francis College in Loretto, Pennsylvania, to establish a joint Center for Global Competitiveness; $1,000,000 shall be available for a grant to the State of Vermont for the creation of a small business economic development fund; and $500,000 shall be available for a grant to the University of Kansas for a small business incubator program; and in addition, the following continuing activities shall be funded at 93 percent of the amounts designated for these activities under this heading in Public Law 102–140: New York City Public Library, Science, Industry and Business Library; University of Kentucky, Lexington, Kentucky, Advanced Science and Technology Commercialization Center; Seton Hill College in Greensburg, Pennsylvania, Center for Entrepreneurial Opportunity; Massachusetts Biotechnology Research Institute; Indiana State University Center for Interdisciplinary Science Research and Education; Michigan Biotechnology Institute; and a demonstration program to assist small businesses in complying with the Clean Air Act. None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee, or any new or increased user fee or management assistance fee, except as otherwise provided in this Act*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,300,000*; and the Senate agrees to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$20,479,000*; and the Senate agrees to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$213,920,000*; and the; Senate agrees to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$97,101,000, which* and the; Senate agrees to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

### *SBIC BANKRUPTCY PROVISION*

*None of the funds provided by this Act for the Small Business Administration may be used to guarantee any participating securities authorized by Public Law 102–366 until legislation has been enacted which directly or indirectly prohibits the filing of a petition under the Bankruptcy Code by a small business investment company licensed under subsections (c) or (d) of section 301 of the Small Business Investment Act of 1958.*

And the Senate agreed to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$78,000,000, which*; and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$2,134,000,000, of which $31,500,000 shall be available only for the Bureau of Oceans and International Environmental and Scientific Affairs for grants, contracts, and other activities to conduct research and promote international cooperation*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,900,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,814,000*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$570,500,000*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,000,000*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,330,000*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,790,000*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,200,000*; and the Senate agree to the same.

Amendment numbered 171:

That the House recede from its disagreement to the amendment of the Senate numbered 171, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$16,693,000*; and the Senate agree to the same.

Amendment numbered 172:

That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in Title V of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers*; and the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 505. The authorities of section 24 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2696), allowing for the transfer of certain funds to the Buying Power Maintenance Account, including from any unobligated balance of any account under "Administration of Foreign Affairs", may be exercised up to $14,000,000, and such funds shall be available until expended.*

And the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$46,500,000*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$44,852,000, to remain available until expended*; and the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$736,693,000*; and the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$223,447,000*; and the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and $600,000 shall be available for the Institute for Representative Government*; and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$103,647,000 notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended*; and the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

*RUSSIAN FAR EAST TECHNICAL ASSISTANCE CENTER*

*For necessary expenses to provide technical assistance, through an American university in a region which receives nonstop air service to and from the Russian Far East as of the date of enactment of this Act, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East, $2,000,000, to remain available until expended: Provided, That these funds shall be available only upon enactment into law of authorizing legislation.*

And the Senate agree to the same.

Amendment numbered 188:

That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment insert: *607*; and the Senate agree to the same.

Amendment numbered 191:

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment insert: *608*; and the Senate agree to the same.

Amendment numbered 192:

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

*SEC. 609. (a) Section 207(f) of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (103 Stat. 1722) is amended—*

*(1) by redesignating paragraph (2) as paragraph (3);*

*(2) by inserting immediately after paragraph (1) the following new paragraph:*

*"(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities within 3 years after the termination of that person's service as the United States Trade Representative.".*

*(b) This section shall not apply to the person serving as the United States Trade Representative at the date of enactment of this Act.*

And the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment, as follows:

In lieu of the section number "609" named in said amendment insert: *610*; and the Senate agree to the same.

Amendment numbered 195:

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 611. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1993 pursuant to the number of poor people determined by the Bureau of the Census to be within its geograhical area shall be distributed in the following order:*

*(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1993 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1992 pursuant to Public Law 102–140; and*

*(2) any increase in funding above the fiscal year 1992 level for grants and contracts under section 1006(a)(1) shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1992 annual grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount; or*

*(3) any increase above the fiscal year 1992 level for grants and contracts to migrant programs under section 1006(a)(1) shall be awarded on a per migrant (including dependents) basis (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1992 grant level by the number of migrants, including dependents, within that grantee's or contractor's state as determined by the 1992 Report of the Tomas Rivera Center migrant enumeration project) and distributed in the following order:*

*(i) forty percent to migrant grantees and contractors funded at the lowest levels per migrant (including dependents) so as to fund the largest number of programs possible at an equal per migrant and dependent amount;*

*(ii) forty percent to migrant grantees and contractors such that each grantee or contractor funded at a level less than $19.09 per migrant and dependent shall be increased by an equal percentage of the amount by which such grantee's funding, including the increased under (i) above, falls below $19.09 per migrant and dependent, within its state; and*

*(iii) twenty percent on an equal migrant and dependent basis to all migrant grantees and contractors funded below $19.09 per migrant and dependent within its state.*

*(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—*

*(1) Section 607 of Public Law 101–515, and that, except for the funding formula, all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions set forth in section 607 of Public Law 101–515 and all references to "1991" in section 607 of Public Law 101–515 shall be deemed to be "1993" unless paragraph (2) applies;*

*(2) authorizing legislation for fiscal year 1993 for the Legal Services Corporation as enacted into law.*

And the Senate agree to the same.

*Managers on the Part of the House.*

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BOB CARR,
ALAN B. MOLLOHAN,
NANCY PELOSI,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE,
JOSEPH M. MCDADE,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROOK ADAMS,
ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN, Jr.,
PHIL GRAMM,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement by the House and Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report:

## TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

### DEPARTMENT OF JUSTICE

### OFFICE OF JUSTICE PROGRAMS

The conference agreement provides a total of $665,299,000 for the various Justice Assistance programs of the Office of Justice Programs instead of $626,915,000 as proposed by the House and $669,729,000 as proposed by the Senate. The disposition of each amendment under this heading and a detailed description of the agreement follows—

Amendment No. 1: Appropriates $88,999,000 instead of $86,269,000 as proposed by the House and $90,004,000 as proposed by the Senate for the following programs:

| Program/Activity | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 enacted | 1993 request | 1993 House | 1993 Senate | 1993 conference |
| National Institute of Justice | $23,739 | $23,929 | $22,250 | $23,739 | $22,995 |
| Bureau of Justice Statistics | 22,095 | 24,155 | 20,650 | 22,095 | 21,373 |
| Emergency Assistance | | | | | |
| (Prior year carryover) | (4,000) | (4,000) | (2,000) | (2,000) | (2,000) |
| Missing Children | 8,471 | 7,971 | 8,200 | 8,471 | 8,471 |
| Regional Information Sharing System | 14,500 | | 13,500 | 14,500 | 14,491 |
| Management and Administration | 21,199 | 23,300 | 21,669 | 21,199 | 21,669 |
| (OJJDP Management and Administration) | (3,442) | (3,652) | (3,566) | (3,442) | (3,650) |
| (State and Local Grants—M and A) | (2,000) | (2,000) | (2,000) | (2,000) | (2,000) |
| (Total, Management and Administration) | (26,641) | (28,952) | (27,235) | (26,641) | (27,319) |
| Total, Justice Assistance | 90,004 | 79,355 | 86,269 | 90,004 | 88,999 |

Amendment No. 2: Designates $500,000 for the Missing Alzheimer Patient Alert program as proposed by the Senate instead of $475,000 as proposed by the House.

### MISSING CHILDREN

The conference agreement provides a total of $8,471,000 for the Missing Children's program, of which $500,000 is for the Missing Alzheimer Patient Alert Program. The conferees expect the Department to examine a proposal by the National Center for Missing and Exploited Children to initiate a program utilizing retired law enforcement professionals (PROJECT ALERT), and provide a grant if warranted.

### NATIONAL INSTITUTE OF JUSTICE

The conference agreement provides $22,995,000 for the National Institute of Justice (NIJ) for fiscal year 1993. Within the amounts appropriated, the conferees expect the NIJ to perform the following studies and reports:

*Anti-stalking Legislation.*—The conference agreement includes a general provision (Sec. 109(b)) which requires the Attorney General, through the Director of the National Institute of Justice to: (1) evaluate existing and proposed anti-stalking legislation in the States; (2) develop model anti-stalking legislation that is constitutional and enforceable; (3) prepare and disseminate to State authorities the findings made as a result of the evaluation; and (4) report to the Congress by September 30, 1993 on the findings and need for further action by the Federal Government.

*Childhood Criminal Victimization.*—The study described in Senate Report No. 102–331 examining the prevalence, nature, effects and relationship of childhood criminal victimization to drug abuse.

### RISS

The conference agreement provides a total of $14,491,000 for the Regional Information Sharing System (RISS). Within the funds appropriated for RISS, the conferees encourage the Department to continue to fund the Leviticus Project Association, in fiscal year 1993, at fiscal year 1992 levels.

### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS

Amendment No. 3: Appropriates a total of $496,000,000 for State and local law enforcement assistance grants instead of $463,571,000 as proposed by the House and $498,000,000 as proposed by the Senate.

Amendment No. 4: Designates $475,000,000 for the Edward Byrne Memorial Grant Program as proposed by the Senate, instead of $441,671,000 as proposed by the House.

Amendment No. 5: Makes $1,000,000 for Televised Testimony for Child Abuse Cases available from prior year unobligated balances instead of an appropriation of $900,000 as proposed by the House and $1,000,000 as proposed by the Senate.

Amendment No. 6: Designates $21,000,000 for the National Crime Information Center 2000 project as proposed by the House instead of $22,000,000 as proposed by the Senate.

Amentment No. 7: Deletes language proposed by the Senate and not in the House bill, which would have designated $10,000,000 for the relocation of the Legal Education program, and adds a new designation of $16,000,000 of the funds available in the discretionary State and Local Law Enforcement Grant program to reimburse overtime costs of State and local law enforcement agencies participating in Federal task forces.

Amendment No. 8: Designates a total of $9,000,000 for Correctional Options Grants instead of $12,000,000 as proposed by the House and $6,000,000 as proposed by the Senate. As described below under Correctional Options Grants, the agreement designates $1,500,000 for grants to private organizations for correctional options, $1,500,000 for grants to public agencies for boot camps, and $6,000,000 for grants to public agencies for correctional options.

The conference agreement provides a total of $496,000,000 for State and local law enforcement assistance grants for fiscal year 1993, as follows:

| Program/Activity | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 Enacted | 1993 Request | 1993 House | 1993 Senate | 1993 Conference |
| Edward Byrne Memorial Grants: | | | | | |
| Formula grants | 423,000 | 413,250 | 389,671 | 423,000 | 423,000 |
| Discretionary grants | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 |
| Management and Administration | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 |
| Correctional Options Grants | (13,000) | | (12,000) | (6,000) | (9,000) |
| RISS | | 9,750 | | | |
| Total, Edward Byrne Memorial Grants | 475,000 | 475,000 | 441,671 | 475,000 | 475,000 |
| NCIC 2000 | 22,000 | 22,000 | 21,000 | 22,000 | 21,000 |
| Other—NJC/NCDA | 1,500 | | | | |
| Part N—IV Testimony—Child Abuse | 1,000 | 1,000 | 900 | 1,000 | |
| (Prior year carryover) | | | | | (1,000) |
| Total, State and Local Law Enforcement | 499,500 | 498,000 | 463,571 | 498,000 | 496,000 |

*Formula Grants.*—The agreement provides $423,000,000 for the formula grant program, the same amount provided to the States in fiscal year 1992.

*Discretionary Grants.*—The agreement provides $50,000,000 in discretionary grants, to include:

(A) Not less than $2,000,000 for Neighborhood Oriented Policing Projects not associated with the Weed and Seed program, to fund ongoing demonstration projects to their conclusion and to expand successful projects to new locations. The conferees expect the Bureau of Justice Assistance (BJA) to continue to utilize the expertise developed by national organizations, such as the Eisenhower Foundation, the National Crime Prevention Council, the National Training and Information Center, and the National Association of Town Watch in expanding this program into new neighborhoods.

Within the amounts allocated by the Department for Neighborhood Oriented Policing, the conferees expect the Bureau of Justice Assistance to examine the following proposals and provide grants if warranted, and report its intentions to the Committees on Appropriations:

(1) The Portland, Oregon Police Bureau Community Policing Division has a proposal for a two-year anti-bias crime project;

(2) The King County, New York District Attorney has developed a community-based prosecution model that incorporates zone prosecution, the Drug Treatment Alternative to Prison program, and Project Legal Lives;

(3) Prince Georges County, and Baltimore City, Maryland have proposals to expand the innovative program initiated in Prince Georges County that brings together police, local government, schools and community organizations to attack crime problems at their origins.

(B) $2,500,000 for a grant to the Boys and Girls Clubs of America to expand the number of clubs in public housing projects throughout the country in communities not involved in the Weed and Seed program.

(C) $4,000,000 for National Demand Reduction Programs. The conference agreement provides not less than $2,800,000 for the National Crime Prevention Council to continue the National Citizens Crime Prevention Campaign (McGruff), and not less than $1,200,000 to continue and expand the Drug Abuse Resistance Education (DARE) program.

(D) $2,800,000 for the Organized Crime Narcotics (OCN) program to be distributed as detailed in House report 102–709.

(E) $2,800,000 for the Financial Investigation (FINVEST) program to be distributed as detailed in House report 102–709.

(F) Not less than $1,150,000 for Criminal Information Systems, to include the following:

*(1) SEARCH Group, Inc.*.—$650,000 for a grant for continued support to State and local criminal justice agencies to improve their use of computers and information technology.

*(2) Developing States.*—$500,000 for grants to improve state-wide criminal justice record information systems. These grants are intended for "Developing States", as defined in the March 1991 Bureau of Justice Statistics report entitled "Criminal Justice Information Policy: Survey of Criminal History Information Systems", and as described in House report 102–709.

Should the Department allocate funds from Criminal Information Systems in excess of the aforementioned $1,150,000, the conferees expect the Bureau of Justice Assistance to examine the following proposals and provide grants if warranted, and report its intentions to the Committees on Appropriations:

(1) The Commonwealth of Kentucky State Police has a proposal to establish a statewide enhance 911 system for rural Kentucky areas, allowing all Kentucky citizens access to this public safety service system;

(2) The City of Chicago has developed a proposal to upgrade their automated fingerprint identification system live scan network to identify repeat offenders of serious crime.

(G) $500,000 for the Model State Grand Jury to continue the South Carolina State Grand Jury project and allow the model to be distributed to other jurisdictions.

(H) $16,000,000 for cooperative agreements with State and local law enforcement agencies which are participating in Federal task forces. The conferees believe that overtime payments to these State and local agencies is another form of assistance that should be funded in this account. The conference agreement assumes that these funds will be distributed as follows: DEA—$10,700,000 and OCDE—$5,300,000.

(I) A total of $9,000,000 for Correctional Options Grants, as follows:

(1) $6,000,000 for grants to public agencies for correctional options that provide alternatives to traditional modes of incarceration. The conferees are aware of two projects which would provide innovative alternatives to incarceration, and expect the Bureau of Justice Assistance to examine these proposals, provide grants if warranted, and report its intentions to the Committees on Appropriations.

(a) First, is a proposal by the South Carolina Department of Corrections, Department of Parole, Probation and Pardon Services, and Commission on Alcohol and Drug Abuse, which will divert to treatment youthful offenders with alcohol/drug abuse problems;

(b) Second is a proposal by the State of Ohio's Criminal Justice Service to develop alternative correctional options for drunk drivers.

(2) $1,500,000 for grants to public agencies for correctional options that provide alternatives to traditional modes of incarceration. The conferees expect the Bureau of Justice Assistance to examine a proposal by the Organization for Total Person Development, Inc. in Des Moines, Iowa to develop working models and management tools for the entire justice system which will help reduce recidivism rates, provide a grant if warranted, and report its intentions to the Committees on Appropriations.

(3) $1,500,000 for grants to public agencies to establish, operate and support boot camp prisons. The conferees expect the Bureau of Justice Assistance to examine a proposal by the State of Maryland for expanding and enhancing a boot camp program and a pilot project on home detention at its Jessup facility, provide a grant if warranted, and report its intentions to the Committees on Appropriations.

(J) Within amounts allocated by the Department for Drug Abuse and Crime Prevention Initiatives, the conferees expect the Bureau of Justice Assistance to examine the following proposals, provide grants if warranted, and report its intentions to the Committees on Appropriations:

(1) The Center on Addiction and Substance Abuse at Columbia University has a proposal to expand its recently announced joint public/private high risk youth anti-drug program to include ex-offenders.

(2) The State of Washington has a proposal to improve drug testing services through the Treatment Alternatives to Street Crime (TASC) program.

(3) The St. Louis City Police Department has developed two innovative proposals to

better enable them to combat crime. The first proposal would develop policy, protocols and training, to include computer programming, to reduce the number of repeat offenders. The second proposal would develop the means to better identify hate crimes, and would develop and initiate preventive strategies.

(4) The State of Hawaii has a proposal to expand statewide a unique program designed to deal with life and death issues relating to personal safety, and drug and alcohol abuse.

(K) Within amounts allocated by the Department for Multi-jurisdictional Task Forces, the conferees expect the Bureau of Justice Assistance to examine a proposal by the District Attorney of Los Angeles and the COMMAND organization to expand the COMMAND Asset Seizure and Forfeiture Administration Service program, provide grants if warranted, and report its intentions to the Committees on Appropriation.

### JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAM

Amendment No. 9: Appropriates $77,000,000 for programs authorized under the Juvenile Justice and Delinquency Prevention Act (JJDPA), instead of $70,875,000 as proposed by the House and $74,762,000 as proposed by the Senate.

Amendment No. 10: Designates $4,000,000 for funding of Part D of the JJDPA, instead of $3,200,000 as proposed by the House and $3,500,000 as proposed by the Senate, and adds new language allowing use of $1,200,000 in prior year deobligated funds for JJDPA programs.

The conference agreement provides a total of $77,000,000 for FY 1993 for Juvenile Justice and Delinquency Prevention programs, as follows: $3,650,000 for Management and Administration (Part A); $51,100,000 for Formula Grants (Part B); $18,250,000 for Discretionary Grants (Part C); and $4,000,000 for Prevention and Treatment Programs Relating to Juvenile Gangs (Part D).

*Discretionary Grants.*—The conference agreement provides a total of $18,250,000 for discretionary grants, of which:

- —$500,000 is for a grant to provide financial and technical assistance to an organization representing the State Advisory Groups (SAGs),
- —$100,000 is for a grant to an organization representing the SAGs for an information center to gather and publicize information on JJDP programs,
- —$3,200,000 is for a grant for the coordinated, Law-Related Education (LRE) program authorized by section 261(a)(6) of the JJDPA,
- —$1,000,000 is for a grant to the National Court Appointed Special Advocates (CASA) program for training and technical assistance,
- —$1,000,000 is for grants to expand the nationwide CASA program,
- —$2,300,000 is for a grant to the National Council of Juvenile and Family Court Judges to provide continuing legal education in family and juvenile law, and
- —$250,000 is for a grant for the National Network of Children's Advocacy Centers as discussed in Senate Report 102–331.

*Prevention/Treatment Programs Relating to Juvenile Gangs.*—The conference agreement provides a total of $4,000,000 for grants/cooperative agreements for prevention and treatment programs relating to juvenile gangs, of which:

- —$400,000 is for the national Teens, Crime, and the Community Program,
- —Not less than $1,200,000 is for locally-based programs designed to provide training and educational opportunities and other activities for "at-risk" youth in order to reduce drug dependency and gang involvement. These programs should be designed to (1) reduce the participation of juveniles in drug-related activities, (2) reduce juvenile involvement in gang-related activities, and (3) promote the involvement of juveniles in lawful activities.

The conferees have been made aware of several projects which are ideally suited for providing such local anti-drug abuse/gang prevention programs, as follows:

- —The Sports Museum of New England has developed a proposal designed to reduce delinquency and drop-out rates among at-risk youths;
- —San Francisco State University and the San Francisco Conservation Corps have developed a proposal designed to provide educational and training opportunities for at-risk youth;
- —The New Community Corporation in Newark, NJ, has developed a pilot program designed to establish mentoring relationships between at-risk youth and responsible youths;
- —St. Louis, Missouri has developed a public awareness campaign to educate at-risk youth and gang members about new mandatory penalties for drug crimes; and
- —Ontario, Oregon has developed a community-based plan to address rural gang prevention.

The conferees expect the Office of Juvenile Justice Programs to examine each of these proposals, provide grants if warranted, and to submit a report to the Committees on Appropriations on its intentions for these projects.

### JAIL REMOVAL COMPLIANCE

The conferees are aware of the State of South Carolina's diligent efforts to achieve compliance with the jail removal mandate contained in Section 223(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Despite these efforts, South Carolina may not have all the necessary mechanisms in place for complete removal of juveniles from adult jails and lockups by October 1, 1993, and full program participation could end at that time. Given the progress the State has made toward achieving full compliance with the jail removal mandate, the conferees believe it would be prudent to continue their fiscal year 1993 funding and expect the Administrator of the Office of Juvenile Justice and Delinquency Prevention to authorize full funding for the State of South Carolina provided the Governor submits documentation of the State's ongoing jail removal efforts.

In addition, the State of Kentucky has appealed the denial of its Juvenile Justice grant funding. The conferees expect the Administrator to give every possible consideration to this appeal, given the State's diligent efforts to show progress towards full compliance with the 1974 Act.

### VICTIMS OF CRIME ACT

Amendment No. 11: Appropriates $1,500,000 for a grant to the American Prosecutor Research Institute's National Center for Prosecution of Child Abuse for technical assistance and training instrumental to the criminal prosecution of child abuse cases as proposed by the Senate instead of $1,450,000 as proposed by the House.

Amendment No. 12: Appropriates $500,000 for a grant to the National Council of Juvenile and Family Court Judges to develop model technical assistance and training programs to improve the handling of child abuse and neglect cases as proposed by the Senate instead of $450,000 as proposed by the House.

Amendment No. 13: Appropriates $2,500,000 for grants to States to reimburse them for the cost of incarcerating Mariel Cuban prisoners in State facilities, instead of $4,300,000 as proposed by the House and $4,963,000 as proposed by the Senate.

### GENERAL ADMINISTRATION

### SALARIES AND EXPENSES

Amendment No. 14: Appropriates $115,929,000 for General Administration instead of $113,626,000 as proposed by the House and $110,100,000 as proposed by the Senate. The agreement complies with the intent of the Senate amendment to freeze spending for the headquarters functions of the Department of Justice.

### EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

The conference agreement for General Administration makes an exception to allow for increased costs for the Executive Office for Immigration Review (EOIR), which is not a headquarters function, and which is a critical component in the removal of criminal aliens from the United States. The agreement provides the Administrative Review and Appeals program its full base request, plus $750,000 of its requested program enhancement, for a total of $43,092,000 for fiscal year 1993. The conferees also believe it is appropriate to reimburse the EOIR from the Examinations Fee Account for costs associated with the adjudication and naturalization of aliens.

The conferees request the Attorney General to evaluate whether the level of funding provided is sufficient to meet the current and anticipated workload of the EOIR, and to report the findings to the Committees on Appropriations of the House and Senate.

### OFFICE OF INSPECTOR GENERAL

Amendment No. 15: Appropriates $30,622,000 instead of $29,222,000 as proposed by the House and $31,293,000 as proposed by the Senate, and the deletes language proposed by the Senate making $477,000 available until expended for audited financial statements.

The conference agreement provides $1,802,000 of the $2,473,000 requested for adjustments to base, and allows for no program growth. The conferees expect that the various fee accounts will continue to reimburse the IG for audit and inspection services.

### QUANTICO TRAINING CENTER

Amendment No. 16: Appropriates $7,700,000 as proposed by the House instead of $31,075,000 as proposed by the Senate.

The conference agreement appropriates $7,700,000 for necessary infrastructure improvements at Quantico as the first step towards construction of a facility adjacent to the FBI Academy to accommodate the expanded training requirements of the FBI and DEA.

### WEED AND SEED PROGRAM FUND

Amendment No. 17: Appropriates $13,150,000 for a separate Weed and Seed account instead of $17,200,000 as proposed by the Senate and no funds as proposed by the House. The Senate also included $5,800,000 for this program in the Office of Justice Programs, while the House included a total of $17,000,000 within amounts provided for the Office of Justice Programs and the U.S. Attorneys. No additional funding from these accounts was included in the conference agreement. The agreement does include the Senate language providing various authorities for the Attorney General to enter into intergovernmental agreements to establish Weed and Seed projects.

The conference agreement provides a total of $13,150,000 in this new Weed and Seed Fund. These amounts will allow (1) $11,350,000 to continue the phase I, phase II, and Los Angeles projects, (2) $800,000 for the Executive Office for Weed and Seed, and (3) $1,000,000 for expansion of the ongoing Charleston, SC project described in Senate report 102-331.

### UNITED STATES PAROLE COMMISSION

### SALARIES AND EXPENSES

Amendment No. 18: Appropriates $9,309,000 as proposed by the Senate instead of $9,053,000 as proposed by the House.

The conference agreement provides for the full budget request for the Parole Commission.

### LEGAL ACTIVITIES

### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Amendment No. 19: Appropriates $395,500,000 instead of $384,501,000 as proposed by the House and $396,766,000 as proposed by the Senate.

The conference agreement provides for requested adjustments to base, less a general reduction of $3,766,000. The conference agreement allows for a program enhancement of $2,500,000 to continue implementation of the Americans with Disabilities Act (ADA).

The conferees encourage the Department, when considering accessibility requirements for automated teller machines (ATMs) under the ADA, to take into account the fact that these sophisticated electronic systems are more difficult to modify and design than other vending machines because of their reliance on computers and their special security considerations.

*Legal Activities Office Automation (LAOA).*—The conferees agree with the establishment of a unitary procurement to replace the three Department of Justice legal activities' office automation systems. The conferees understand that there will be administrative costs (including personnel) associated with this unitary procurement effort, and that LAOA funding will be used for this purpose.

*Payments to Spouses/Parents of Japanese-American Internees.*—The conferees understand that legislation has been sent to the President which makes spouses and parents of individuals of Japanese ancestry interned during World War II eligible for payments under the Civil Liberties Act of 1988. Upon enactment of this legislation, the Committees on Appropriations will consider a reprogramming by the Department to make funds available for this purpose.

Amendment No. 20: Provides language proposed by the Senate, but not in the House bill, which allows the Attorney General to establish and collect fees to recover costs associated with the registration of foreign agents.

Amendment No. 21: Appropriates $2,000,000 for vaccine injury compensation expenses as proposed by the Senate, instead of $1,860,000 as proposed by the House.

### SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 22: The conference agreement provides total new budget (obligational) authority of $61,526,000 as proposed by the Senate, instead of $58,494,000 as proposed by the House. The agreement also offsets this new budget through fee collections of $16,900,000 for a final appropriation of $44,626,000 as proposed by the Senate, instead as fee collections of $13,500,000 for a final appropriation of $44,994,000 as proposed by the House. Lastly, the agreement makes any fees collected in excess of $16,900,000 in fiscal year 1993 not available until fiscal year 1994 as proposed by the Senate, instead of $13,500,000 as proposed by the House.

The conference agreement provides for the full base request, but no program growth for the Antitrust Division. The language included in the agreement protects the Antitrust Division in the event they fail to fully collect anticipated fees of $16,900,000. Regardless of actual fee collections, the Antitrust Division will be provided $61,526,000 in total budget (obligational) authority in fiscal year 1993.

### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amendment No. 23: Appropriates $768,300,000 instead of $730,040,000 as proposed by the House and $807,810,000 as proposed by the Senate. The agreement also provides language proposed by the Senate and not in the House bill, amended to make technical corrections, which allows funds in this appropriation to be used to enter into cooperative agreements for the relocation of the legal Education program.

The conference agreement provides for requested adjustments to base, less a reduction of $5,704,000 associated with Weed and Seed base funding transferred out of this account. The agreement allows for no program growth.

Amendment No. 24: Provides language proposed by the Senate and not in the House bill, amended to make technical corrections, which allows up to $22,400,000 of funds available to this appropriation to be used to carry out the relocation of the Legal Education program, and allows funds previously appropriated for the relocation to be available under authorities provided by this Act. Lastly, the agreement adds new language, not in either bill, extending the Department's authority to operate a Private Counsel Debt Collection Pilot Program.

*Private Counsel Debt Collection.*—The conference agreement extends by one year the pilot program allowing the Attorney General to contract with private law firms to collect debt owed the Federal government. The conferees expect that the Department will maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating U.S. Attorneys' Office and by private counsel. The conferees also expect the Inspector General to audit the pilot program during the period of this extension and report the results of this audit to the Congress. The audit should review the contract procurement process, the reasonableness of fees paid, and the effectiveness of private counsel in comparison with the U.S. Attorneys' offices.

### UNITED STATES TRUSTEE SYSTEM FUND

The conference agreement assumes that a total of $89,521,000 in new budget (obligational) authority will be available to the U.S. Trustees in fiscal year 1993—$57,221,000 in appropriated funds and $32,300,000 in anticipated fee collections. This level of funding will allow the U.S. Trustees to maintain their current programs, but allows for no program growth.

### SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Amendment No. 25: Appropriates $333,300,000 instead of $333,819,000 as proposed by the Senate and $313,768,000 as proposed by the House.

The conference agreement provides the full base request for the Marshals Service for fiscal year 1993, less a general reduction of $519,000, but no program growth.

*Camp Beauregard.*—The conference agreement does not accept the requested elimination of funds for the Marshals Service training facility at Camp Beauregard, LA. The conferees believe the training provided at this facility is critical to the effective performance of the Marshals Services' Special Operations Group. In addition, this facility provides advanced security and anti-terrorist training for the international law enforcement community. The conferees are concerned that the full cost of training provided foreign police forces is not being recovered by the Marshals. The conferees expect the Marshals to bill the Department of State's Anti-terrorism Assistance Program for the total cost (including USMS salaries and benefits) of training provided at Camp Beauregard.

### SUPPORT OF UNITED STATES PRISONERS

Amendment No. 26: Appropriates $234,125,000 as proposed by the Senate instead of $230,075,000 as proposed by the House.

The conference agreement, when added to the $27,600,000 to be transferred from surplus amounts in the Assets Forfeiture Fund, provides total new budget (obligational) authority of $261,725,000 in fiscal year 1993 for Support of U.S. Prisoners. The agreement provides requested adjustments to base, and $42,600,000 of the $49,356,000 is requested program enhancements.

Amendment No. 27: Designates $7,417,000 for the Cooperative Agreement Program (CAP) as proposed by the Senate instead of $14,000,000 as proposed by the House.

### FEES AND EXPENSES OF WITNESSES

Amendment No. 28: Provides language proposed by the Senate, but not in the House bill, which authorizes the use of funds in this account for expenses of contracts for the procurement and supervision of expert witnesses.

### ASSETS FORFEITURE FUND

Amendment No. 29: Appropriates $93,000,000 from Assets Forfeiture Fund as proposed by the House instead of $100,000,000 as proposed by the Senate.

### INTERAGENCY LAW ENFORCEMENT

### ORGANIZED CRIME DRUG ENFORCEMENT

Amendment No. 30: Appropriates $385,248,000 for Organized Crime Drug Enforcement instead of $378,954,000 as proposed by the House and $369,514,000 as proposed by the Senate.

The conference agreement provides the base request less a general reduction of $3,749,000 against FBI and DEA reimbursements, but allows for none of the requested program enhancements.

*Regional Drug Intelligence Squads.*—In addition, the agreement provides a total of $15,580,000 for Regional Drug Intelligence Squads (RDIS) as recommended by the House. The conferees agree that consolidation of funding for the RDIS under this appropriation will help achieve better integration of intelligence related to organized crime drug activities.

The conference agreement provides for reimbursements to participating agencies as follows:

OCDE REIMBURSEMENTS BY AGENCY

[In thousands of dollars]

| | Fiscal year 1992 enacted | Fiscal year 1993— | | | | |
|---|---|---|---|---|---|---|
| | | Base | Request | House | Senate | Conference |
| Drug Law Enforcement: | | | | | | |
| Drug Enforcement Administration | 95,004 | 99,275 | 103,470 | 95,004 | 94,326 | 97,126 |
| Federal Bureau of Investigation | 97,150 | 100,898 | 106,869 | 97,150 | 96,798 | 99,298 |
| Immigration/Naturalization Service | 10,550 | 11,019 | 12,345 | 10,550 | 11,019 | 11,019 |
| U.S. Marshals | 1,122 | 1,160 | 1,160 | 1,122 | 1,160 | 1,160 |
| Customs Service | 28,286 | 29,220 | 30,246 | 28,286 | 29,220 | 29,220 |
| Bureau of Alcohol/Tobacco/Firearms | 10,344 | 10,675 | 11,375 | 10,344 | 10,675 | 10,675 |
| Internal Revenue Service | 37,366 | 38,673 | 41,717 | 37,366 | 38,673 | 38,673 |
| Coast Guard | 890 | 910 | 910 | 890 | 910 | 910 |
| Financial Crimes Enforce Network | .............. | 495 | .............. | .............. | .............. | .............. |
| State and Local overtime | 5,300 | 5,300 | 5,300 | 5,300 | 5,300 | (5,300) |
| Regional Drug Intelligence Squads: | | | | | | |
| Drug Enforcement Administration | .............. | .............. | .............. | 2,222 | .............. | 2,222 |
| Federal Bureau of Investigation | .............. | .............. | .............. | 11,512 | .............. | 11,512 |
| Undistributed | .............. | .............. | .............. | 1,846 | .............. | 2,000 |
| Prosecutions: | | | | | | |
| U.S. Attorneys | 74,092 | 78,069 | 81,607 | 74,092 | 78,069 | 78,069 |
| Criminal Division | 723 | 742 | 742 | 723 | 742 | 742 |
| Tax Division | 1,236 | 1,273 | 1,502 | 1,236 | 1,273 | 1,273 |
| Administrative Support—Executive Office | 1,311 | 1,349 | 1,388 | 1,311 | 1,349 | 1,349 |
| Total | 363,374 | 378,563 | 399,126 | 378,954 | 369,514 | 385,248 |

### FEDERAL BUREAU OF INVESTIGATION

### SALARIES AND EXPENSES

Amendment No. 31: Appropriates $1,975,423,000 for the FBI instead of $1,910,777,000 as proposed by the House and $2,071,435,000 as proposed by the Senate.

Amendment No. 32: Designates $130,000,000 for the FBI's Special Program as proposed by the House, instead of $162,000,000 as proposed by the Senate.

Amendment No. 33: Designates $10,000,000 for agreements with State and local agencies as proposed by the Senate, instead of $5,000,000 as proposed by the House.

Amendment No. 34: Designates $75,400,000 for the automation of the Identification Division, instead of $48,000,000 as proposed by the House and $103,400,000 as proposed by the Senate.

Amendment No. 35: Makes $45,000 available for official reception and representation expenses to include the 1992 conference of Women in Federal Law Enforcement. The House made $45,000 available for official reception and representation expenses. The Senate amendment made $70,000 available for official reception and representation expenses, of which $25,000 was for the 1992 conference of Women in Federal Law Enforcement.

The conference agreement provides for requested adjustments to base less the following:

—$47,000,000 in general base reductions;

—$1,149,000 in overseas costs;

—$11,512,000 in Regional Drug Intelligence Squad (RDIS) costs transferred to OCDE;

—$21,000,000 in base reductions associated with a reduction in the Special Program from $162,000,000 to $130,000,000.

*Identification Division Automation.*—The agreement provides $75,400,000 for the revitalization of the Automated Fingerprint Identification System project. This amount provides $50,000,000, the full amount requested, for ITN systems engineering and software development, $12,400,000 for IAFIS Support Contractor Requirements, and $13,000,000 for conversion of fingerprint cards.

The amount agreed to in conference reflects a decision by the FBI to support the conversion of fingerprint cards with in-house personnel over a period of four years, rather than funding this activity through a single four-year contract with an outside vendor. This action will allow the FBI to fully utilize existing in-house staff and proceed with the revitalization effort on schedule, but will require incremental funding in fiscal years 1994–1996. The conferees agree with the revised approach by the FBI and expect the Administration to provide the necessary budgetary resources for this and other aspects of the revitalization effort in future budget requests.

*Hate Crimes.*—The conferees commend the FBI for its work on implementation of the Hate Crimes Statistics Act; however, more work needs to be done to train State and local law enforcement officials. The conferees encourage the FBI to devote the necessary resources to training so that the Act can be successfully implemented.

*FBI Criminal Background Checks for airline employees.*—The conferees agree to delete language in the House report denying funds for the FBI to perform criminal history checks under the Federal Aviation Administration (FAA) Act of 1958 as amended. This action is based upon the FAA's Supplemental Notice of Proposed Rulemaking (SNPR) in which the FAA revised an earlier rulemaking that would have imposed a burdensome workload on the FBI. Should the final rule not reflect the SNPR, the conferees expect the FBI to submit a reprogramming request before funding any additional background checks.

*Administratively Uncontrollable Overtime (AUO).*—Both the House and Senate bills assumed a recommended reduction in AUO as a way of achieving base reductions. The conference agreement does not assume these AUO reductions, based (1) on the understanding that AUO will not be used for purposes of physical fitness training and (2) on the understanding that elimination of AUO at FBI headquarters would unfairly penalize Agents transferred to Washington to serve in administrative positions. While the conference agreement includes a base reduction of $47,000,000, the conferees agree that this is a general reduction and does not have to be achieved by AUO reductions.

*Headquarters Staffing.*—The conferees are aware of recent increases in headquarters staffing by the FBI, which is contrary to recent efforts by the Office of Management and Budget to reduce the number of agents at headquarters in favor of less expensive professional support staff. The conferees understand the need for agents to be assigned to headquarters in order to provide necessary management and administration for investigative activities of the Bureau. However, at a time when budget cuts necessitate an overall freeze in the number of agents, it is imperative that agent positions at headquarters be held to a minimum. This would ensure that the maximum number of agents are conducting investigations in the field. The conferees expect the FBI to provide a report to the Committee on Appropriations of the House and Senate by February 1, 1993 which details the number of budgeted and on-board agent positions and support positions for each headquarters component for fiscal years 1980, 1985, 1990 and 1992. The report should also explain why it is necessary for the Bureau to staff the following Divisions with Agents: Identification Division, Administrative Services Division, Information Management Division, Technical Services Division, and the Laboratory Division.

### DRUG ENFORCEMENT ADMINISTRATION

### SALARIES AND EXPENSES

Amendment No. 36: Allows the DEA to purchase 1,366 vehicles as proposed by the Senate instead of 1,054 as proposed by the House.

Amendment No. 37: Provides that 1,196 of the vehicles purchased by the DEA be for replacement only as proposed by the Senate instead of 730 as proposed by the House.

Amendment No. 38: Appropriates $718,684,000 for the salaries and expenses of the DEA instead of $702,933,000 as proposed by the House, and $750,668,000 as proposed by the Senate.

Amendment No. 39: Deletes the word "and" which was added in the Senate amendment, and was not in the House bill.

Amendment No. 40: Restores the House language, deleted by the Senate, which designates amounts for the purchase of aircraft and equipment, but amends the amount from $10,300,000 to $2,500,000 to procure a replacement helicopter for the DEA marijuana eradication program in Hawaii.

The conference agreement, when added to anticipated offsetting collections from Diversion Fees and anticipated reimbursements for State and local overtime payments and RDIS costs, provides for requested adjustments to base less $16,000,000 in general base reductions and $4,800,000 in overseas costs. The agreement also provides for program enhancements of $8,394,000.

*Administratively Uncontrollable Overtime (AUO).*—As described earlier under the FBI, the conference agreement does not assume the AUO reductions made in both the House and Senate reports, based (1) on the understanding that AUO will not be used for purposes of physical fitness training and (2) on the understanding that elimination of AUO at DEA headquarters would unfairly penalize Agents transferred to Washington to serve in administrative positions. While the conference agreement includes a base reduction of $16,000,000, the conferees agree that this is a general reduction and does not have to be achieved by AUO reductions.

### IMMIGRATION AND NATURALIZATION SERVICE

#### SALARIES AND EXPENSES

Amendment No. 41: Appropriates $965,000,000 for the salaries and expenses of the INS instead of $940,019,000 as proposed by the House and $990,694,000 as proposed by the Senate.

The conference agreement, when added to anticipated offsetting collections to be derived from Breached Bond collections, provides for requested adjustments to base less a general reduction of $36,303,000.

The conferees expect the INS to comply with the guidance provided in the House or Senate reports concerning the following:

—Hours of operation for ports of entry along remote areas of the Northern border of the U.S.;

—Expansion of the Dedicated Commuter Lane concept to other border locations;

—Consultation with U.S. airports and the airline industry, and consideration of the percentage of non-U.S. arrivals at an airport, in devising inspector staffing models;

—Providing assistance to a Border Patrol Museum in El Paso;

—Placement of a satellite office in Northern Indiana;

—Acquisition and installation of computers at new inspection booths built by the airports; and

—Providing a report on the effects of the INS reorganization on its Eastern Regional Office.

*Land Border Inspectors.*—As discussed in both the House and Senate reports, the conferees expect that at least 100 additional inspectors will be added to land border ports as a result of anticipated reimbursements from the Examinations Fee Account. The conferees expect the INS to review staffing levels along the borders and to assign these positions in order to ensure uniform inspector-to-traffic ratios at the various border crossings.

*Breached Bond/Detention Account.*—The conferees agree that the base reduction of $5,000,000 made as a result of anticipated collections from the new Breached Bond/Detention Account authorized in this Act, should be applied to all programs, and not just detention. In addition, the conferees agree that the INS should utilize any collections realized in this Account, in excess of $5,000,000, to expand available space to detain illegal aliens at U.S. airports.

#### BORDER PATROL

The conferees agree that the Attorney General should appoint a citizens advisory panel to accept and review complaints of abuse by the Border Patrol as discussed in the Senate report. Also, the conferees encourage the Attorney General to revise Border Patrol pursuit policies in order to improve safety and prevent accidents. The conferees also encourage the Commissioner of the INS to implement an effective communications system between the INS and State and local law enforcement agencies to be used in the pursuit and apprehension of fleeing suspect vehicles.

#### 1931 ACT OVERTIME

Amendment No. 42: Deletes language proposed by the House and stricken by the Senate amendment which would prohibit the payment of a certain type of overtime available only to INS inspectors, commonly called 1931 Act overtime. The House took this action based on findings by the Justice Department Inspector General, who reported that 1931 Act overtime was more costly than standard overtime and the potential for abuse was much greater.

The conferees understand that Customs inspectors receive a comparable overtime payment, and that if this prohibition were retained, it would result in disparate levels of pay for similar types of work between employees of different agencies. The conferees agree that if base salary rates for INS inspector positions are too low, as claimed by Union representatives, then these salaries should be properly adjusted, and an antiquated overtime system should not be used. The conferees expect the Department to propose comprehensive legislation in the upcoming Congress to correct any pay disparities involving INS inspectors. The conferees also expect the Department to exercise the utmost care in assuring that this overtime is not abused and that it is only available in those situations where it is necessary to maintain staffing levels and to avoid undue turnover.

#### COMMISSION ON IMMIGRATION REFORM

Amendment No. 43: Appropriates $300,000 for salaries and expenses of the Commission on Immigration Reform, instead of $800,000 as proposed by the Senate. The House had no such appropriation.

#### THOMAS JEFFERSON COMMEMORATION COMMISSION

The conference agreement on Amendment No. 43 also adds language, not in either bill, which appropriates $200,000 for the Thomas Jefferson Commemoration Commission, as authorized by P.L. 102-343. This commission was established to commemorate the 250th anniversary of the birth of Thomas Jefferson, through the planning and coordination of appropriate activities and educational programs.

### FEDERAL PRISON SYSTEM

#### SALARIES AND EXPENSES

Amendment No. 44: Appropriates $1,681,822,000 for the salaries and expenses of the Federal Prison System instead of $1,703,966,000 as proposed by the House and $1,746,710,000 as proposed by the Senate.

Amendment No. 45: Makes $50,000,000 available until expended for prison activations as proposed by the House instead of $30,000,000 as proposed by the Senate.

The conference agreement, when added to prior year carryover of $40,000,000 and a transfer of $63,000,000 from excess criminal fines, provides for requested adjustments to base, less a general base reduction of $15,000,000, and sufficient program enhancements to allow for full activation of all new prison facilities currently scheduled to open prior to June 1, 1993. The recommendation assumes that any facilities currently scheduled for activation after June 1, 1993 will be funded in fiscal year 1994.

The conferees expect the Bureau of Prisons to comply with the guidance provided in the House or Senate reports concerning the following:

—Initiating a pilot program utilizing dual gas chromatographic drug detection technology;

—Maintaining and implementing parent/child programs; and

—Improving use of contract confinement.

#### NATIONAL INSTITUTE OF CORRECTIONS

Amendment No. 46: Appropriates $10,250,000 for the National Institute of Corrections instead of $9,941,000 as proposed by the House and $10,555,000 as proposed by the Senate. The conferees expect the NIC to support training at the National Sheriffs' Institute, as described in the Senate report.

#### BUILDINGS AND FACILITIES

Amendment No. 47: Appropriates $339,225,000 for the buildings and facilities of the Federal Prison System instead of $92,807,000 as proposed by the House and $409,225,000 as proposed by the Senate.

The conference agreement provides for requested adjustments to base, less a general reduction of $6,986,000, and provides for site and planning costs for the following new construction projects identified in the budget request: (1) Yazoo City, Mississippi, $9,603,000; (2) Forrest City, Arkansas, $8,395,000; and (3) NE Medical Center, $17,650,000.

In addition, the recommendation provides $142,000,000 to be available for construction costs once the planning and design phases for these facilities have been completed; $34,757,000 for equipment; $16,475,000 for major renovations; $7,425,000 for utilities and energy improvements; and $9,772,000 for life safety improvements.

*NE Medical Center.*—The conferees are aware that the Bureau of Prisons has expressed interest in converting and expanding the medical facility at Ft. Devens, MA, an installation on the base closure list. The conferees are also aware that the community, the State of Massachusetts and the Congressional delegation support the Bureau of Prisons' presence at Ft. Devens. The conferees believe that Ft. Devens may offer a cost-effective alternative to new construction and urge the Bureau of Prisons to continue its evaluation of Ft. Devens as the site for its northeast medical needs.

#### LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Amendment No. 48: Designates $3,181,000 for administrative expenses of the Federal Prison System for services as authorized by 5 U.S.C. 3109, instead of $3,066,000 as proposed by the House and $3,297,000 as proposed by the Senate.

### GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

#### REWARDS FOR INFORMATION

Amendment No. 49: Designates $1,000,000 for rewards for information as proposed by the Senate, instead of $100,000 as proposed by the House.

#### WEED AND SEED AUTHORIZATION

Amendment No. 50: Deletes language proposed by the House and stricken by the Senate providing certain authorities to the Attorney General for the Weed and Seed program. This is also addressed under amendment No. 17.

*Financial Right to Privacy Act Report.*—The conference agreement on amendment No. 50 also includes language (Sec. 109.(a)) proposed by the Senate, but not in the House bill, which requires the Attorney General to perform a study of the effect of the Financial Right to Privacy Act on nondepository licensed transmitters of duns.

*Anti-stalking Legislation.*—Lastly, the conference agreement on amendment No. 50 adds new language (Sec. 109(b)), not in either bill, which requires the Attorney General to perform an evaluation of anti-stalking legislation, and to provide a report to the Congress.

#### TRANSFER AUTHORITY

Amendment No. 51: Adds language which limits to 10 percent the amount that can be transferred into any appropriation under the authorities provides in section 110. The Senate amendment had stricken language in the House bill which limited to 5 percent the amount that can be transferred into any appropriation.

The conferees note that any transfers permitted under this provision must be done under the reprogramming requirements of section 606 of this Act. While the conferees have increased the five percent limit on transfers to receiving appropriation accounts to ten percent, the conferees expect that the Department shall submit proposals to the Appropriations Committees for transfers between appropriations only in the most urgent circumstances.

Amendment No. 52: Deletes language proposed in the Senate amendment allowing the Attorney General to transfer up to $32,359,000 to the Equal Employment Opportunity Commission.

### FEE TO RECOVER THE COST OF INCARCERATION

Amendment No. 53: The Senate amendment added language, not in the House bill which authorized the Attorney General to collect fees from Federal prisoners to recover the cost of their incarceration. The conference agreement amends the Senate language (Sec. 111.(a)) to provide the Attorney General this authority, but clarifies the language as follows:

(1) that the fee be equal to the average cost of one year of incarceration, but adjusted for actual time served;

(2) that the fee calculation include time served prior to conviction;

(3) that the fee not be applied to someone who was already considered for a comparable fine under the sentencing guidelines;

(4) that the fee can be waived or lessened for reasons of indigency or burden on dependents; and

(5) that the fee will be used to enhance alcohol and drug abuse programs beginning in fiscal year 1994.

### DIVERSION CONTROL FEE ACCOUNT

The conference agreement for Amendment No. 53 also includes new language (Sec. 111(b)), not in either bill, which establishes a Diversion Control Fee Account. The language requires the Drug Enforcement Administration to set fees to recover the full cost of their Diversion Control program, and makes the fees available to reimburse DEA for these costs.

### BREACHED BOND/DETENTION ACCOUNT

Amendment No. 54: Provides language (Sec. 112) proposed by the Senate, but not in the House bill, which establishes a Breached Bond/Detention Account within the Immigration and Naturalization Service. The language allows the INS to deposit into this account all breached bonds collected over $12,000,000, and to utilize these amounts for increased detention of illegal aliens.

### NATURALIZATION OF NATIVES OF THE PHILIPPINES

Amendment No. 55: Provides language (Sec. 113) proposed by the Senate, but not in the House bill, which requires the Immigration and Naturalization Service to process applications for naturalization, and to administer oaths of allegiance to, Filipino World War II veterans in the Philippines.

### ASSAULT WEAPON MANUFACTURING STRICT LIABILITY ACT

Amendment No. 56: Deletes language proposed by the Senate and not in the House bill, which would have repealed a law of the District of Columbia—The Assault Weapon Manufacturing Strict Liability Act of 1990.

### ASSETS FORFEITURE FUND

Amendment No. 57: Deletes language proposed by the Senate and not in the House bill, adds new language not in either bill, and provides a new section number (Sec. 114).

The conference agreement deletes the Senate language which would have required the Attorney General to revise Border Patrol policies governing the hot pursuit of illegal aliens. This issue is addressed under the Immigration and Naturalization Service section of the Statement of Managers.

The agreement adds new language amending 28 USC 524(c) as follows: (1) for fiscal year 1993 only, it requires the Attorney General to transfer surplus Assets Forfeiture Funds to the Support of U.S. Prisoners and U.S. Attorneys appropriations, instead of to the accounts indentified in the budget request; and (2) amends 28 USC 524(c) to allow funds from the Assets Forfeiture Fund to be used under authorities available to the organizations receiving the funds.

### PRISONER TRANSFER TREATY

Amendment No. 58: Deletes language proposed by the Senate and not in the House bill, which would have required the Attorney General to submit a report that describes the use and effectiveness of the prisoner transfer treaty with Mexico.

### IMMIGRATION JUDGES

Amendment No. 59: Deletes language proposed by the Senate and not in the House bill, which would have required the Attorney General to determine if the number of immigration judges funded in fiscal year 1993 is sufficient to handle anticipated workload. This issue is addressed under the General Administration section of the Statement of Managers.

### INDEPENDENT COUNSEL

Amendment No. 60: Provides language proposed by the Senate and not in the House bill, which requires the General Accounting Office to report to the Congress on why it failed to comply with P.L. 100-202, and to complete required audits prior to adjournment of the 102nd Congress. The agreement amends the Senate language to provide a new section number (Sec. 115), and to delete the reporting date of September 1, 1992.

## RELATED AGENCIES

### COMMISSION ON CIVIL RIGHTS

#### SALARIES AND EXPENSES

Amendment No. 61: Appropriates $7,776,000 as proposed by the Senate, instead of $7,979,000 as proposed by the House.

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

#### SALARIES AND EXPENSES

Amendment No. 62: Appropriates $222,000,000 instead of $218,682,000 as proposed by the House, and $212,982,000 as proposed by the Senate.

The conference agreement provides for the requested adjustments to base, and program growth of $1,338,000 to continue implementation of the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991.

### FEDERAL COMMUNICATIONS COMMISSION

#### SALARIES AND EXPENSES

Amendment No. 63: Appropriates $128,500,000 instead of $68,536,000 as proposed by the House, and $126,309,000 as proposed by the Senate. In addition, the agreement includes language proposed by the Senate, but not in the House bill, which prohibits the FCC from:

(1) changing or reexamining changes of current policies governing comparative licensing, distress sales and tax certificate policies intended to expand opportunities for minorities. The original Senate language included women, but this part of the language was stricken because of a recent court ruling;

(2) diminishing the number of VHF channels assigned for noncommercial education television stations; and

(3) reexamining rules governing cross-ownership of newspapers and broadcast stations.

The conference agreement provides for the requested adjustments to base, less a general reduction of $2,702,000, and no program growth. The conference agreement does not establish the new fees for the FCC discussed in the House report.

The agreement includes sufficient funds to allow the FCC to fund the following:

(1) $30,000 to continue to subscribe to the Rutgers University Wireless Information Network Laboratory in fiscal year 1993; and

(2) the FCC's requirements under the Americans with Disabilities Act.

### FEDERAL MARITIME COMMISSION

#### SALARIES AND EXPENSES

Amendment No. 64: Appropriates $18,300,000 for the Federal Maritime Commission instead of $17,429,000 as proposed by the House and $19,100,000 as proposed by the Senate.

### FEDERAL TRADE COMMISSION

#### SALARIES AND EXPENSES

Amendment No. 65: The House bill provides the following for the FTC: (1) total budget authority of $82,700,000, (2) $13,500,000 in offsetting fee collections, (3) a net appropriation of $69,200,000, (4) allows fee collections over $13,500,000 to be available in fiscal year 1994, and (5) prohibits the use of funds by the FTC to implement section 151 of the FDIC Improvements Act of 1991.

The Senate amendment strikes the House language, and provides the following: (1) total budget authority of $86,550,000, (2) $16,900,000 in offsetting fee collections, (3) a net appropriation of $69,650,000, (4) allows fee collections over $16,900,000 to be available in fiscal year 1994, (5) repeats funding prohibitions included in previous appropriations bills affecting public participation, unfairness, trademark cancellation, and agricultural cooperatives, and (6) raises the Hart-Scott-Rodino premerger filing fee from $20,000 to $25,000.

The conference agreement provides for the following: (1) total budget authority of $86,550,000, (2) $16,900,000 in offsetting fee collections, (3) a net appropriation of $69,650,000, (4) allows fee collections over $16,900,000 to be available in fiscal year 1994, (5) raises the Hart-Scott-Rodino premerger filing fee from $20,000 to $25,000, (6) repeats funding prohibitions included in previous appropriations bills affecting public participation, unfairness, trademark cancellation, and agricultural cooperatives, and (7) prohibits the use of funds by the FTC to implement section 151 of the FDIC Improvements Act of 1991, unless legislation amending section 151 is enacted during fiscal year 1993.

The agreement provides total budget authority of $86,550,000, which equates to the full base request, and will allow the FTC to maintain their current staffing levels. The language included in the agreement protects the FTC in the event they fail to fully collect anticipated fees of $16,900,000. Regardless of actual fee collections, the FTC will be provided $86,550,000 in total budget (obligational) authority in fiscal year 1993.

*FTC-FDICIA*—The conference agreement includes the House language which prohibits the use of funds by the FTC to implement section 151 of the Federal Deposit Insurance Corporation Improvement Act (FDICIA), amended to allow such implementation once legislation amending section 151 is enacted and the Committee on Appropriations have been notified. The conferees are aware that legislative proposals which address the concerns of both the Administration and the Congress in the implementation of this critical legislation, are being actively considered. While this language prohibits the FTC from implementing its responsibilities under the FDICIA, the agreement does *not* alter the requirement in law for credit unions to disclose if they are nonfederally insured. The conferees expect nonfederally insured credit unions to make the disclosures required by section 40(b) of the FDIA (as amended by section 151(A)(1) of the FDICIA). Furthermore, the conferees expect the FTC to notify each such credit union by letter of this disclosure requirement, which commences on December 19, 1992.

*Funding Restrictions.*—The conference agreement continues restrictions dealing with: Public Participation; Unfair or Deceptive Advertising; Trademark Cancellation; and Agricultural Cooperatives.

### SECURITIES AND EXCHANGE COMMISSION

### SALARIES AND EXPENSES

Amendment No. 66: Appropriates $127,235,000 instead of $157,485,000 as proposed by the House, and $119,923,000 as proposed by the Senate.

The conference agreement, when added to anticipated fiscal year 1993 fee collections of $96,000,000 and prior year fee carryover of $30,000,000, will have total budget availability of $253,235,000 for fiscal year 1993. This amount provides the SEC with their requested adjustments to base, plus $6,000,000 associated with Special Pay Rates, and program growth of $6,258,000 as follows:

| | |
|---|---|
| Program Support | $2,958,000 |
| Large Trader/Risk Assessment | 500,000 |
| ADP Contingency plan | 1,900,000 |
| EDGAR | 900,000 |

### OFFSETTING FEE COLLECTIONS

Amendment No. 67: Provides language allowing the SEC to raise registration fees from one-fiftieth of 1 percent to one-thirty-second of 1 percent, instead of an increase to one-twenty-eighth as proposed by the Senate. The House bill had no such provision.

### INVESTMENT ADVISERS

The agreement on Amendment No. 67 also adds new language, not in either bill, allowing the SEC to collect Investment Adviser registration fees and to deposit such fees as an offsetting collection to its appropriation, subject to enacting legislation. Such action was proposed by the Senate in Amendment No. 197.

### STATE JUSTICE INSTITUTE

### SALARIES AND EXPENSES

Amendment No. 68: Appropriates $13,550,000 as proposed by the House instead of $8,318,000 as proposed by the Senate

## TITLE II—DEPARTMENT OF COMMERCE

### NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Amendment No. 69: Appropriates $192,940,000 for the core research programs of the National Institute of Standards and Technology (NIST) instead of $178,583,000 as proposed by the House and $201,911,000 as proposed by the Senate. The amount provided in the conference agreement will fully fund the adjusted base request for NIST core programs, including $5,000,000 for the base facilities program. The conference agreement also includes an additional $5,000,000 for architectural and engineering studies for construction and repair of research facilities—a subject which is addressed in the conference agreement under Amendment No. 70.

The conferees urge the Secretary of Commerce, through the National Institute of Standards and Technology, to conduct a study to determine the applicability and benefits to the United States of using Chemical Acoustic Combustion (C/AC) technology in internal combustion engines to lower emissions and improve fuel economy. The conferees expect the Secretary to report the findings of such a study to the House and Senate Appropriations Committees not later than March 30, 1993.

The conferees are agreed that the Center for Integrated Design, Non-Destructive Evaluation and Manufacturing Sciences continues to make important contributions toward increasing U.S. competitiveness in manufacturing, and intend that NIST continue its support of this program in fiscal year 1993.

The conferees support the proposed expansion of the NIST advanced semiconductor program, and urge NIST to proceed with this initiative within the amounts provided in the conference agreement.

The conferees intend that $300,000 of the total amount provided under this heading be directed to assist the Saudi Arabian Standards Organization in the development of a new standards code.

### GREEN BUILDINGS

The conference agreement includes $800,000 for a combination in-house and extramural study on the emerging concept of "green buildings". The conferees note that as the Federal entity responsible for promoting the development of advanced technologies, enhancing technology transfer on a regional basis, and housing the Center for Building Technology, NIST is the logical focal point for coordinating the approach that the Federal government should take in preparing for the future while conserving the resources of today. The building and construction techniques of the future must consider carefully the most energy efficient and environmentally sound processes and materials, while also incorporating the most advanced thinking in design and engineering.

The conferees are agreed that, with the different utilization of various types of buildings, there is a diversity of approaches to design and construction that may be employed to meet the users' needs while still keeping environmental and energy conservation priorities. The conferees encourage NIST to make external awards to appropriate entities for the study of not more than three types of facility design approaches. Examples of types of projects which should be considered for funding include design studies of: (1) facilities intended to handle large numbers of the public, as well as exhibit educational and research functions; (2) academic research facilities which accommodate both generic and highly discipline-specific uses; and (3) public use facilities that are primarily educational in nature. Finally, the conferees expect that up to $200,000 of the amount provided would be allocated internally within NIST for the purposes of providing overhead costs in the coordination of the extramural efforts selected, and for the study and design of a "green building" on the NIST campus as part of the facilities improvement initiative.

Amendment No. 70: Provides a limitation of up to $5,000,000 for architectural and engineering studies for construction and repair of research facilities, instead of $10,000,000 as proposed by the Senate. The House bill contained no similar provision under this appropriation account, but instead provided a separate account for NIST facilities.

The conferees strongly support the NIST initiative to begin a capital improvement program to provide a research environment which will allow the Agency to continue to conduct leading edge research well into the next century.

### INDUSTRIAL TECHNOLOGY SERVICES

Amendment No. 71: Appropriates $86,067,000 for NIST external research programs as proposed by the Senate, instead of $66,986,000 as proposed by the House. The conferees are agreed that these funds should be distributed between the Advanced Technology Program, the Manufacturing Technology Centers, and the State Technology Extension Program as provided in the report accompanying the Senate bill (Senate Report 102-331).

### FACILITIES

Amendment No. 72: Deletes language included in the House bill which would have created a separate new account for NIST facilities. Funds for NIST facilities repair and A&E are included under the appropriations account for NIST core programs, as proposed by the Senate. Additional funds for construction of research facilities are provided in a separate account under Amendment No. 74.

### DEFENSE ECONOMIC CONVERSION RESEARCH AND TECHNOLOGY

Amendment No. 73: Deletes language proposed by the Senate which would have created a new account for research and technology related to defense economic conversion.

The conferees have not included appropriations for the Defense Economic Conversion initiative proposed in the Senate bill. The Senate bill included economic adjustment programs totaling $109,000,000 for the National Institute of Standards and Technology, $80,000,000 for the Economic Development Administration, and $40,000,000 in credit subsidy appropriations for the Small Business Administration. SBA appropriations were estimated to guarantee loans totaling $735,294,000.

The conferees believe that socio-economic impacts on individuals, communities and the private sector caused by cutbacks in Defense spending should be addressed. However, the conferees have been unable to agree to the Senate amendments because, unlike the Congressional Budget Office, the Office of Management and Budget has advised that it considers such Defense Economic Conversion appropriations to be classified as "domestic discretionary" appropriations under the Budget Enforcement Act of 1990. Therefore, agreement to the Senate Defense Economic Conversion amendments could trigger a sequester against all domestic discretionary programs, including those NIST, EDA, and SBA programs for non-defense related purposes.

The conferees understand that Defense Economic Conversion will be considered in the context of FY 1993 Department of Defense appropriations. The conferees are agreed that such programs as NIST, SBA, and EDA can make significant contributions to helping communities, individuals and the private sector adjust the changes in Department of Defense spending and believe that these programs should be included in any balanced Defense Economic Conversion package.

### CONSTRUCTION OF RESEARCH FACILITIES

Amendment No. 74: Provides $105,000,000, to remain available until expended, for a new account for construction of NIST research facilities instead of $200,000,000 as proposed by the Senate. The House bill contained no similar provision. Under the conference agreement, these funds are available only for construction of new NIST research facilities.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

Amendment No. 75: Provides $1,521,416,000 for NOAA operations research and facilities and designates that $37,000,000 is available for the procurement of two additional polar satellites from the current contractor, $288,000 is available to conduct an assessment of Columbia River endangered salmon stocks, and $576,000 is available for the Stuttgart fish farming experimental laboratory. The House bill provided $1,452,139,000 and an additional $33,104,000 to be derived by transfer from the Airport and Airway Trust Fund. The Senate bill provided $1,511,001,000 with no transfer and directed that $401,751,000 be available only for the operations of the National Weather Service. The conference agreement contains no transfer of funds from the Airport and Airway Trust Fund.

The details of the conference agreement are provided in the following table with appropriate comparisons:

[In thousands of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 appropriations | 1993 request | 1993 house | 1993 senate | 1993 conference |
| National Ocean Service | | | | | |
| Mapping, Charting, and Geodesy: | | | | | |
| Mapping and Charting | $3,249 | $31,409 | $29,600 | $29,039 | $29,300 |
| Automated Nautical Charting System II | 1,636 | 1,636 | 1,521 | 1,571 | 1,500 |
| Great Lakes mapping project | 500 | 0 | 465 | 0 | 465 |
| Subtotal | 32,385 | 33,045 | 31,586 | 30,610 | 31,265 |
| Geodesy: | | | | | |
| SC Cooperative Geodetic Survey | 577 | 0 | 0 | 554 | 554 |
| Land Info. Sys. (Multi-Purpose Cadastre) | 1,800 | 0 | 1,674 | 1,728 | 1,674 |
| Subtotal | 18,532 | 17,049 | 17,728 | 17,791 | 17,978 |
| Total, Mapping, Charting, and Geodesy | 50,917 | 50,094 | 49,314 | 48,880 | 49,243 |
| Observation and Assessment: | | | | | |
| Observation and Prediction | 11,553 | 11,640 | 11,084 | 11,091 | 11,084 |
| Circulatory survey program | 769 | 371 | 345 | 738 | 738 |
| Observation buoys/California | 150 | 0 | 140 | 0 | 140 |
| Observation buoys/Chesapeake Bay | 0 | 0 | 0 | 0 | 400 |
| Institute for Marine Engineering | 0 | 0 | 0 | 0 | 500 |
| Ocean services | 4,776 | 4,776 | 4,442 | 4,585 | 4,442 |
| COAP | 490 | 490 | 456 | 0 | 456 |
| Gulf of Maine data collection | 250 | 0 | 0 | 0 | 0 |
| Subtotal | 17,988 | 17,277 | 16,467 | 16,414 | 17,760 |
| Estuarine and Coastal Assessment | 2,236 | 2,680 | 2,690 | 2,147 | 2,420 |
| Prince Will Sound special assess | 4,000 | 0 | 0 | 0 | 0 |
| Ocean assessment program | 12,630 | 12,630 | 11,746 | 12,125 | 11,925 |
| Damage assessment | 2,500 | 1,250 | 1,250 | 1,200 | 1,200 |
| Transfer fr Damage Assess Revolv fund | 6,500 | 500 | 500 | 470 | 500 |
| S. Carolina Wetland Management Demo | 1,900 | 0 | 0 | 1,800 | 1,800 |
| Marina protective structures | 0 | 0 | 0 | 100 | 100 |
| NY Harbor Water Quality Model | 0 | 0 | 0 | 100 | 75 |
| Oil Pollution Act of 1990 | 1,500 | 1,500 | 1,395 | 1,440 | 1,395 |
| Victoria Bluff Tract, SC Acquis | 1,000 | 0 | 0 | 0 | 0 |
| Subtotal | 32,266 | 18,560 | 17,581 | 19,381 | 19,415 |
| Coastal Ocean Science | 11,500 | 17,015 | 12,113 | 11,010 | 12,000 |
| Maui algal bloom crisis | 0 | 0 | 0 | 500 | 450 |
| Subtotal | 11,500 | 17,015 | 12,113 | 11,540 | 12,450 |
| Total, Observation and Assessment | 61,754 | 52,852 | 46,161 | 47,335 | 49,625 |
| Ocean and Coastal Management: | | | | | |
| Coastal Management: | | | | | |
| CZM 306 and 306A grants | 34,931 | 25,055 | 32,486 | 33,534 | 33,534 |
| Acquisition of estuarine sanctuaries | 3,705 | 3,456 | 3,214 | 3,557 | 3,214 |
| CZM program administration | 4,000 | 0 | 0 | 3,840 | 3,597 |
| Charleston, SC, spec. area mgt. plan | 1,000 | 0 | 0 | 960 | 960 |
| Nonpoint pollution control | 2,000 | 2,000 | 1,860 | 1,920 | 1,920 |
| Subtotal | 45,636 | 30,511 | 37,560 | 43,811 | 43,225 |
| Ocean Management: | | | | | |
| Marine sanctuary sites program | 5,000 | 7,289 | 5,672 | 5,800 | 7,000 |
| Hawaii humpback mar. sanct. institute | 150 | 0 | 0 | 144 | 144 |
| Subtotal | 6,775 | 9,112 | 7,367 | 7,504 | 8,771 |
| Total, Ocean and Coastal Management | 52,411 | 39,623 | 44,927 | 51,315 | 51,996 |
| Total, NOS | 165,082 | 142,569 | 140,402 | 147,530 | 150,864 |
| National Marine Fisheries Service | | | | | |
| Information Collection & Analyses: | | | | | |
| Resource Information | 50,003 | 53,739 | 50,109 | 48,003 | 49,056 |
| Conservation engineering/by-catch | 746 | 746 | 694 | 716 | 716 |
| Antarctic research | 1,275 | 0 | 1,186 | 1,224 | 1,200 |
| Fishery resource data error reduction | 1,000 | 2,000 | 1,180 | 960 | 960 |
| Oyster disease research | 1,500 | 0 | 1,395 | 1,546 | 1,500 |
| Marine mammal/fish interactions | 2,410 | 2,986 | 2,385 | 2,314 | 2,314 |
| Consolidation of NMFS facilities | (1,300) | (5,000) | (1,209) | (1,300) | (1,300) |
| Protected species research | 3,842 | 3,842 | 3,573 | 3,688 | 3,630 |
| Chesapeake Bay Studies | 2,000 | 0 | 1,860 | 1,920 | 1,890 |
| Right Whale research | 230 | 230 | 214 | 221 | 214 |
| Gear entanglement studies | 700 | 700 | 651 | 672 | 651 |
| MARFIN | 4,000 | 2,966 | 3,720 | 3,840 | 3,780 |
| SEAMAP | 1,419 | 932 | 1,320 | 1,362 | 1,340 |
| Aquaculture | 2,689 | 462 | 1,860 | 2,580 | 2,225 |
| Stuttgart aquaculture | 600 | 0 | 558 | 576 | 576 |
| Alaskan groundfish surveys | 700 | 700 | 651 | 672 | 661 |
| Bering Sea pollock research | 1,000 | 1,000 | 930 | 960 | 945 |
| West Coast groundfish | 839 | 839 | 780 | 805 | 780 |
| New England stock depletion | 1,200 | 643 | 1,116 | 1,152 | 1,116 |
| Hawaii stock management | 750 | 0 | 0 | 720 | 500 |
| Yukon River Chinook Salmon | 735 | 0 | 684 | 706 | 700 |
| Winter Run Chinook Salmon | 0 | 0 | 0 | 0 | 500 |
| Atlantic salmon research | 750 | 0 | 698 | 720 | 710 |
| Gulf of Maine Groundfish survey | 600 | 0 | 558 | 576 | 567 |
| Dolphin Safe Technologies | 750 | 0 | 0 | 720 | 500 |
| Habitat Research/Evaluation | 500 | 500 | 465 | 480 | 470 |
| Pacific salmon treaty research | 5,900 | 4,654 | 5,487 | 5,664 | 5,587 |
| Multi Species Aquaculture Center | 110 | 0 | 0 | 0 | 0 |
| Fish Cooperative Inst | 400 | 0 | 372 | 384 | 384 |
| Hawaiian Monk Seals | 550 | 0 | 0 | 528 | 520 |
| Stellar Sea Lion Recovery Plan | 1,500 | 0 | 698 | 1,440 | 1,440 |
| New England Lobster Research | 300 | 0 | 0 | 288 | 0 |
| Atlantic Bluefin Tuna Project | 350 | 0 | 326 | 300 | 300 |
| Hawaiian Sea Turtles | 250 | 0 | 233 | 240 | 240 |

[In thousands of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 appropriations | 1993 request | 1993 house | 1993 senate | 1993 conference |
| Center for Shark Research | 150 | 0 | 140 | 0 | 140 |
| Subtotal | 88,448 | 71,939 | 82,634 | 84,677 | 84,812 |
| Fishery Industry Information: | | | | | |
| Fish statistics | 10,118 | 10,714 | 9,964 | 9,713 | 9,838 |
| Alaska ground fish monitoring | 3,700 | 2,000 | 3,441 | 4,500 | 4,100 |
| PACFIN/catch effort data | 2,200 | 1,986 | 2,046 | 2,112 | 2,046 |
| Rec. Fishery harvest monitoring | 2,200 | 1,800 | 2,046 | 2,112 | 2,046 |
| Subtotal | 18,218 | 16,500 | 17,497 | 18,437 | 18,030 |
| Information Analyses and Dissemination | 19,784 | 21,349 | 19,855 | 18,993 | 19,424 |
| IT-95 computer system | 2,800 | 4,688 | 3,076 | 2,000 | 2,000 |
| Subtotal | 22,584 | 26,037 | 22,931 | 20,993 | 21,424 |
| Total, Info., Collection, and Analyses | 129,250 | 114,476 | 123,062 | 124,107 | 124,266 |
| Conservation and Management Operations: | | | | | |
| Fisheries Management Program | 12,383 | 12,964 | 12,125 | 11,888 | 12,007 |
| Columbia River hatcheries | 13,000 | 10,300 | 12,090 | 10,300 | 10,300 |
| Columbia River smolt | 120 | 0 | 112 | 0 | 112 |
| Columbia River endangered species | 300 | 0 | 279 | 288 | 288 |
| Regional Councils | 9,200 | 8,500 | 8,556 | 8,500 | 8,556 |
| Intl. Fisheries Commission | 0 | 0 | 0 | 1,000 | 1,000 |
| Management of Georges Bank | 500 | 0 | 465 | 480 | 480 |
| Atlantic migratory pelagics | 0 | 2,300 | 575 | 0 | 0 |
| Sandy Hook lease | 0 | 1,500 | 375 | 0 | 1,500 |
| Pribilof Islands | 0 | 0 | 0 | 0 | 300 |
| Beluga Whale committee | 200 | 0 | 0 | 192 | 192 |
| Pacific pelagic species management | 1,700 | 0 | 1,581 | 1,632 | 1,606 |
| Subtotal | 37,403 | 35,564 | 36,158 | 34,280 | 36,441 |
| Protected Species Management | 3,781 | 4,174 | 3,882 | 3,630 | 3,756 |
| ESA listing & status review | 1,000 | 1,000 | 930 | 960 | 930 |
| Tissue bank & stranding network | 250 | 500 | 295 | 240 | 295 |
| North Pacific Driftnet program | 4,500 | 3,278 | 4,185 | 4,320 | 3,278 |
| Marine Mammal Protection Act Implement | 7,463 | 7,463 | 6,941 | 7,937 | 7,750 |
| Endangered Species Act recovery plan | 234 | 234 | 218 | 225 | 218 |
| Fishery observers training | 100 | 0 | 0 | 96 | 96 |
| Marine mammal/fish interaction | 0 | 2,000 | 500 | 0 | 0 |
| ESA recovery and conservation | 0 | 2,500 | 625 | 0 | 0 |
| Recyclable fishing nets study | 150 | 0 | 0 | 0 | 0 |
| East Coast observers | 750 | 0 | 698 | 720 | 700 |
| Subtotal | 18,228 | 21,149 | 18,274 | 18,127 | 17,023 |
| Habitat Conservation | 5,963 | 6,345 | 5,901 | 5,724 | 5,800 |
| Habitat restoration | 0 | 2,100 | 525 | 0 | 0 |
| Permit review | 0 | 5,558 | 1,390 | 0 | 0 |
| Subtotal | 5,963 | 14,003 | 7,816 | 5,724 | 5,800 |
| Enforcement & Surveillance | 10,926 | 12,487 | 11,165 | 10,489 | 11,000 |
| Total, Conservation and Mgmt. Opns | 72,520 | 83,203 | 73,413 | 68,621 | 70,264 |
| State and Industry Assistance Program: | | | | | |
| Grants to States: | | | | | |
| Interjurisdictional fisheries grants | 3,483 | 3,483 | 3,239 | 3,135 | 3,239 |
| Anadromous grants | 2,342 | 2,342 | 2,178 | 2,108 | 2,108 |
| Anadromous fishery project | 200 | 0 | 186 | 0 | 186 |
| Striped bass grants | 471 | 0 | 438 | 0 | 0 |
| Interstate fish commissions | 328 | 0 | 305 | 295 | 295 |
| Seafood Business Education Center | 300 | 0 | 0 | 0 | 0 |
| Subtotal | 7,124 | 5,825 | 6,346 | 5,538 | 5,828 |
| Fisheries Development Program: | | | | | |
| Fisheries Trade Promotion activities | 1,793 | 1,793 | 1,667 | 1,721 | 1,700 |
| Product quality and safety | 8,789 | 9,728 | 9,055 | 8,437 | 8,700 |
| Fish oils | 937 | 0 | 0 | 900 | 900 |
| Export strategies/Mahi Mahi | 800 | 0 | 437 | 768 | 768 |
| Shellfish water standards research | 1,471 | 0 | 0 | 1,412 | 0 |
| Seafood Inspection program | 3,000 | 6,500 | 3,665 | 6,500 | 5,500 |
| Subtotal | 16,790 | 18,021 | 14,824 | 19,738 | 17,568 |
| Total, State & Industry Assist. Progs | 23,914 | 23,846 | 21,170 | 25,276 | 23,396 |
| Total, NMFS | 225,684 | 221,525 | 217,645 | 218,004 | 217,926 |
| Oceanic and Atmospheric Research | | | | | |
| Climate and Air Quality Research: | | | | | |
| International & Seasonal Climate Research | 8,239 | 8,326 | 7,743 | 7,909 | 7,909 |
| Long-Term Climate & Air Quality Research | 23,999 | 26,121 | 24,293 | 23,039 | 23,666 |
| Nat'l Acid Precipitation Assess | 1,480 | 580 | 1,376 | 1,400 | 1,376 |
| High Performance Computing | 0 | 950 | 238 | 0 | 0 |
| Subtotal | 25,479 | 27,651 | 25,907 | 24,439 | 25,042 |
| Climate and Global Change | 46,997 | 78,251 | 43,932 | 46,997 | 46,997 |
| Total, Climate and Air Quality | 80,715 | 114,228 | 77,582 | 79,346 | 79,948 |
| Atmospheric Programs: | | | | | |
| Weather Research | 28,314 | 29,790 | 27,705 | 27,181 | 27,450 |
| PROFS | 2,500 | 1,870 | 2,325 | 1,870 | 1,870 |
| Profiler | 5,000 | 3,480 | 4,650 | 3,400 | 4,350 |
| Federal/State Weather Mod. grants | 2,749 | 0 | 2,557 | 2,639 | 2,639 |
| Southeastern Storm Research | 400 | 0 | 372 | 0 | 372 |
| Subtotal | 38,963 | 35,140 | 37,609 | 35,090 | 36,681 |
| Solar-Terrestrial Services and Research | 4,972 | 5,649 | 5,011 | 4,773 | 4,850 |
| Subtotal | 4,972 | 5,649 | 5,011 | 4,773 | 4,850 |
| Total, Atmospheric Program | 43,935 | 40,789 | 42,620 | 39,864 | 41,531 |
| Ocean and Great Lakes Programs: | | | | | |
| Marine Prediction Research | 8,801 | 9,955 | 9,258 | 8,449 | 8,850 |
| GLERL | 4,748 | 3,711 | 4,416 | 4,558 | 4,558 |
| Great Lakes nearshore research | 0 | 0 | 0 | 1,000 | 500 |
| VENTS | 2,600 | 0 | 2,418 | 2,496 | 2,496 |
| SE US FOCI Program | 1,168 | 0 | 1,086 | 0 | 1,000 |
| Zebra mussel | 980 | 0 | 911 | 900 | 911 |
| Lake Champlain Study | 200 | 0 | 0 | 192 | 190 |
| Pacific Island Tech. Assistance | 200 | 0 | 0 | 192 | 190 |

[In thousands of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 appropriations | 1993 request | 1993 house | 1993 senate | 1993 conference |
| UNH Marine Research | 2,000 | 0 | 0 | 0 | 0 |
| Prince William Sound Institute | 500 | 0 | 0 | 0 | 0 |
| Subtotal | 21,197 | 13,666 | 18,089 | 17,787 | 18,695 |
| Sea Grant: | | | | | |
| Sea Grant college program | 41,000 | 25,025 | 38,216 | 42,800 | 40,000 |
| Sea Grant-Zebra Mussel | 2,960 | 0 | 2,753 | 0 | 2,800 |
| Sea Grant Brown Algae | 50 | 0 | 0 | 0 | 0 |
| National Coastal R&D Institute | 1,000 | 0 | 930 | 1,360 | 1,300 |
| Subtotal | 45,010 | 25,025 | 41,899 | 44,160 | 44,100 |
| Undersea Research Program | | | | | |
| NOAA Undersea Research Program | 15,202 | 0 | 15,998 | 12,000 | 15,998 |
| Tropical research facility/Key Largo | 394 | 0 | 0 | 0 | 0 |
| Upper New England Marine Research | 6,500 | 0 | 0 | 4,000 | 1,900 |
| Subtotal | 22,096 | 0 | 15,998 | 16,000 | 17,898 |
| Total, Ocean and Great Lakes Programs | 88,303 | 38,691 | 75,986 | 77,947 | 80,693 |
| Total, OAR | 212,953 | 193,708 | 196,188 | 197,156 | 202,172 |
| National Weather Service | | | | | |
| Operations and Research: | | | | | |
| Local Warnings and Forecasts | 260,788 | 310,425 | 280,424 | 300,425 | 295,000 |
| MARDI | 9,000 | 29,305 | 22,446 | 24,186 | 23,316 |
| WSFOs—reduce 8 stations | 783 | 0 | 728 | 752 | 752 |
| Southern Region HQ | 848 | 0 | 789 | 814 | 814 |
| Data buoy engineering and test | 540 | 0 | 502 | 518 | 518 |
| Data buoy maint. for Hawaii | 565 | 0 | 0 | 542 | 542 |
| Pacific & Alaska Region HQ | 381 | 0 | 354 | 366 | 366 |
| Agricultural and fruit frost | 2,412 | 0 | 2,243 | 2,316 | 2,316 |
| Fire weather services | 468 | 0 | 435 | 449 | 449 |
| Susquehanna Riv Basin Flood Sys | 697 | 0 | 648 | 669 | 669 |
| Flood Warning System/Colorado River | 300 | 0 | 279 | 288 | 288 |
| Contract observers | 200 | 0 | 186 | 190 | 190 |
| Forecasts in support of aviation | 0 | 0 | 0 | 35,596 | 35,596 |
| Samoa | 250 | 0 | 0 | 240 | 240 |
| Regional Climate Centers | 3,140 | 0 | 2,920 | 3,000 | 3,000 |
| SLOSH Calibration | 400 | 0 | 0 | 0 | 0 |
| California Data Buoys | 220 | 0 | 205 | 0 | 205 |
| Columbia River Weather Buoy | 55 | 0 | 0 | 0 | 0 |
| Subtotal | 281,047 | 339,730 | 312,159 | 370,351 | 364,261 |
| Central Forecast Guidance | 28,189 | 29,259 | 27,211 | 29,000 | 28,211 |
| Subtotal | 28,189 | 29,259 | 27,211 | 29,000 | 28,211 |
| Atmospheric and Hydrological Research | 2,296 | 2,443 | 2,272 | 2,400 | 2,350 |
| Total, Operations and Research | 311,532 | 371,432 | 341,642 | 401,751 | 394,822 |
| System Acquisition: | | | | | |
| Public Warning and Forecast Systems: | | | | | |
| NEXRAD | 83,427 | 84,516 | 79,296 | 84,516 | 84,516 |
| ASOS | 13,829 | 19,000 | 14,154 | 19,000 | 18,000 |
| AWIPS/NOAA-Port | 19,778 | 14,279 | 18,394 | 14,279 | 14,279 |
| Computer, Class VII | 15,000 | 11,826 | 13,950 | 11,826 | 11,826 |
| Total, Systems Acquisiton | 132,034 | 129,621 | 125,794 | 129,621 | 128,621 |
| Total, NWS | 443,566 | 501,053 | 467,436 | 531,443 | 523,443 |
| National Environmental and Satellite, Data, and Information Service | | | | | |
| Satellite Observing Systems: | | | | | |
| Polar Spacecraft and Launching | 130,289 | 216,553 | 154,000 | 153,932 | 153,932 |
| Geostationary Spacecraft and Launching | 118,000 | 128,896 | 112,964 | 118,000 | 118,000 |
| Environmental Observing Services | 55,455 | 52,943 | 49,237 | 45,979 | 47,600 |
| Landsat commercialization | 2,000 | 0 | 0 | 0 | 0 |
| Total, Satellite Observing Systems | 305,744 | 398,392 | 316,201 | 317,911 | 319,532 |
| Environmental Data Management Systems: | 22,628 | 24,028 | 22,346 | 21,723 | 22,346 |
| Data and Information Services | 10,000 | 15,568 | 10,692 | 9,600 | 10,300 |
| Subtotal | 32,628 | 39,596 | 33,038 | 31,323 | 32,646 |
| Total, NESDIS | 338,372 | 437,988 | 349,239 | 349,234 | 352,178 |
| Program Support | | | | | |
| Administration and Services: | | | | | |
| Executive Direction And Administration | 24,823 | 27,942 | 25,986 | 23,830 | 25,000 |
| NOAA System Program Office | 0 | 1,100 | 275 | 1,100 | 1,100 |
| Subtotal | 24,823 | 29,042 | 26,261 | 24,930 | 26,100 |
| Central Administrative Support | 37,999 | 42,620 | 39,637 | 36,479 | 38,000 |
| Subtotal | 37,999 | 42,620 | 39,637 | 36,479 | 38,000 |
| Retired Pay Commissioned Officers | 5,638 | 7,885 | 7,333 | 5,638 | 7,333 |
| Total, Administration and Services | 68,460 | 79,547 | 73,231 | 67,047 | 71,433 |
| Facilities: | | | | | |
| Maintenance | 1,988 | 0 | 0 | 0 | 0 |
| Woods Hole Marine Biology Lab | 2,000 | 0 | 0 | 0 | 0 |
| Subtotal | 3,988 | 0 | 0 | 0 | 0 |
| Consolidation | 2,926 | 0 | 0 | 0 | 0 |
| Subtotal | 2,926 | 0 | 0 | 0 | 0 |
| Total Facilities | 6,914 | 0 | 0 | 0 | 0 |
| Marine Services | 61,195 | 67,506 | 62,781 | 60,806 | 60,806 |
| Maintain S. E. Marine Facility | 277 | 277 | 258 | 266 | 258 |
| NOAA Corps Officer billets | 0 | (1,500) | 0 | (1,500) | (750) |
| ALBATROSS IV | 1,000 | 0 | 0 | 950 | 0 |
| Marine Electronics Agenda | 735 | 0 | 684 | 700 | 700 |
| New England Science Center | 200 | 0 | 186 | 0 | 186 |
| Total, Marine Services | 63,407 | 66,283 | 63,909 | 61,222 | 61,200 |
| Aircraft Services | 8,865 | 9,319 | 8,667 | 9,319 | 9,000 |
| Aircraft Critical Safety and Inst | 0 | 553 | 138 | 553 | 500 |
| Subtotal | 8,865 | 9,872 | 8,805 | 9,872 | 9,500 |
| Total, Program Support | 147,646 | 155,702 | 145,945 | 138,141 | 142,133 |

[In thousands of dollars]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1992 appropriations | 1993 request | 1993 house | 1993 senate | 1993 conference |
| Direct Obligations, ORF | 1,533,303 | 1,652,545 | 1,516,855 | 1,581,438 | 1,588,716 |
| Reimbursable Obligations | 409,699 | 407,451 | 378,929 | 374,514 | 374,514 |
| Total Obligations, ORF | 1,943,002 | 2,059,996 | 1,895,784 | 1,955,952 | 1,963,230 |
| Financing: | | | | | |
| Deobligations | (9,775) | (10,000) | (10,000) | (10,617) | (11,800) |
| Offsetting Collections: | | | | | |
| Federal Funds | (340,063) | (337,404) | (313,786) | (340,063) | (340,063) |
| Non-Federal Funds | (34,247) | (34,451) | (32,039) | (34,451) | (34,451) |
| Trust Funds | (35,389) | (35,596) | (33,104) | 0 | 0 |
| Budget Authority, ORF | 1,523,528 | 1,642,545 | 1,506,855 | 1,570,821 | 1,576,916 |
| Financing from proposed transfers: | | | | | |
| Promote and develop fishery products | (63,100) | (64,100) | (54,208) | (57,000) | (55,000) |
| Damage Assessment | (6,500) | (500) | (500) | (500) | (500) |
| Coastal energy impact fund | 0 | 0 | 0 | 0 | 0 |
| Scorekeeping Adjustment | | | (8) | | |
| Total Appropriation | 1,453,928 | 1,577,945 | 1,452,139 | 1,513,321 | 1,521,416 |

The conferees have agreed to include bill language allowing the procurement of two additional NOAA Advanced Tiros-N polar-orbiting weather satellites from the current contractor. The Senate proposed similar language which was not addressed in the House bill.

The conferees have agreed to include this bill language which allows sole source procurement of polar-orbiting satellites to continue in order to avoid a potential satellite coverage gap. The conferees support a competitive procurement, if feasible, beginning with the "NOAA O" satellite. The conferees believe that NOAA's current procurement plan does not adequately consider risks to data continuity for the National Meteorological Center and the SARSAT world-wide search and rescue system.

The conferees also are agreed that the Polar-NEXT program should be delayed, downscaled, and brought into line with current budget projections and fiscal realities. The polar-orbiting satellite program should be reconfigured to ensure reliability and maintenance of current capability. A repeat of the GOES-NEXT procurement will not be tolerated.

Finally, the conferees fully endorse the Senate report language requesting the Department of Commerce and Office of Management and Budget to submit budget requests, beginning in fiscal year 1994, which contain detailed outyear budget projections for each satellite series.

### NATIONAL OCEAN SERVICE

The conference agreement provides $150,864,000 for National Ocean Service programs.

The conference agreement provides $960,000 for the Charleston Harbor special area management plan. The goal of this project is to enhance the environmental quality of the harbor while maintaining the broad mix of uses of the harbor. The comprehensive plan will develop specific management measures for the harbor that can be incorporated into South Carolina Coastal Council's federally approved coastal zone management plan.

Of the funding provided for the Coastal Ocean Science Program, the conferees expect that $672,000 will be allocated to the University of South Carolina School of Public Health and the Baruch Institute for continuation of the research on effective management of small, high-salinity estuaries, in collaboration with the National Marine Fisheries Service Southeastern Fisheries Laboratory in Charleston, South Carolina.

The conferees recommend $450,000 for a new program to address the algal bloom crisis on the west Maui coastline in Hawaii. These funds are to be granted to the State of Hawaii to perform research and remediation.

The conferees note that no funding has been provided for the Prince William Sound Oil Spill Recovery Institute established by Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) due to the fact that the government has received moneys from the *Exxon Valdez* settlement agreement that are to be used under that agreement for some of the very purposes for which the Institute was established. The conferees intend that funds for the Institute should be provided from moneys received from the settlement agreement.

The conference agreement recommends $175,000 for two programs at the New Jersey Marine Sciences Consortium. To address the problem of water degradation at small boat marinas throughout the United States, $100,000 is included. The agreement provides $75,000 to take advantage of a recently developed water quality model for an area of New York Harbor to assess the impacts of combined sewer overflow discharges on oxygen levels in the region.

The conference agreement provides a total of $51,025,000 for Coastal Zone Management programs. Of this amount, $41,334,000 is available for CZM grants ($7,800,000 is provided through the appropriation "Coastal Zone Management Fund"). The conferees intend that the $7,800,000 appropriated from the CZM fund be used for the following purposes:

(1) Not to exceed $800,000 for program development grants for the States of Georgia, Minnesota, Ohio, Indiana, and Texas in accordance with the authorization,

(2) $7,000,000 for program grants to states; and

(3) any remaining funds in accordance with the authorization.

Funds for CZM program management are provided in the Operations, Research and Facilities account.

The conference agreement includes $400,000 for three additional permanent buoys for the Chesapeake Bay Observing System network.

The conference agreement also includes $500,000 for the Institute for Marine Engineering in St. Petersburg, Florida, to enhance the transfer of oceanic and atmospheric technology to the maritime industry and for instrumentation to ensure the development of the capability for necessary computer modeling of global climate change, hydrology, currents, and atmospheric data. Such instrumentation will be utilized for, among other things, the measurement of along-shore sediment transport; for monitoring of estuaries; and for the enhancement of ground-truthing satellite weather and oceanic data collection. The conferees note that the Institute has been successful in securing 60 percent matching funds from the State and the private sector for its programs and offers NOAA a unique opportunity to integrate nine existing academic and research programs and centers in the important Tampa-St. Petersburg marine coastal area in the Gulf of Mexico.

The conference agreement includes $7,000,000 for the National Marine Sanctuary program. The conferees intend that within the funds provided, the Monterey Bay Sanctuary and the Stellwagen Bank Sanctuary be funded at the full budget request level for fiscal year 1993.

Further, the conferees intend that the Gulf of the Farallones and the Cordell Bank Marine Sanctuaries be funded at $300,000 above the budget request. The Gulf of the Farallones and Cordell Bank National Marine Sanctuaries host the largest seabird and marine mammal breeding colony in the continental United States. This area, which is among the five most productive marine regions in the world, has received both national and international recognition of its biological and human resources. However, these resources are facing significantly increasing threats to their survival. Current symptoms of these threats are 50 percent declines in populations of several seabirds, as well as the federal listing as threatened of local Stellar sea lions and the winter run of Chinook salmon.

The additional funding provided should be used to: assess and monitor contaminant uptake in seabirds and marine mammals, including the radioactive waste from the Farallon dumpsite and proposed dredge spoils from San Francisco Bay; establish an electronic tracking system which will help prevent or minimize oil spill mortality for seabirds and marine mammals; and establish a seabird-fishery monitoring program to help develop and maintain a sustainable fishery program. This would result in significant benefits, including assessment of pollution for human health; a clean, sustainable fishery; a safe and efficient shipping industry; and the protection and restoration of wildlife.

### NATIONAL MARINE FISHERY SERVICE

The conference agreement provides $217,926,000 for the National Marine Fisheries Service (NMFS).

The conferees expect that not less than $365,000 of the funds provided for the aquaculture program be used to continue support of the Newport Marine Science Center in Oregon and that these funds be provided as expeditiously as possible.

The conference agreement would allow approximately $6,400,000 to remain in the Saltonstall-Kennedy fishery development grants program. The conferees urge that a high priority be given to research designed to encourage investment in promising growth areas, including reducing bycatch, development of underutilized species products and markets; additional uses for fish byproducts and environmentally-sound methods for processing fish waste; and improved aquaculture and hatchery techniques.

The conferees have included $4,100,000 for Alaska groundfish monitoring, of which $1,200,000 shall be available only for crab management and research, and of which $300,000 shall be available to the Bering Sea Fishermen's Association to prepare business plans needed by western Alaskan villages applying for community development quotas (CDQ's) available under the inshore-offshore proposal.

Of the amounts included to implement the Marine Mammal Protection Act, $1,500,000 shall be available to fund marine resource observers in the North Pacific fisheries. In addition, $500,000 shall be available only for harbor seal research by the State of Alaska and $500,000 shall be available only for harbor porpoise research in the Gulf of Maine pursuant to the recommendations of the Gulf of Maine harbor porpoise recovery team.

Of the funds provided for Stellar sea lion recovery, $750,000 shall be available only for the State of Alaska Department of Fish and Game.

The conferees recommend $3,780,000 for the marine fisheries initiative [MARFIN]. Of this amount, not less than $480,000 is to continue the South Atlantic phase of the program.

The conferees have included an increase of $1,100,000 for support of, and transfer to, international fisheries commissions. Of this amount $200,000 is for the Great Lakes Fishery Commission specifically to assist the State of Vermont with sea lamprey control in Lake Champlain and $500,000 to assist in general sea lamprey control programs in the Great Lakes; $400,000 is for the Pacific Salmon Commission to carry out its obligations under the Pacific Salmon Treaty with regard to the transboundary rivers—the Taku, Stikine, and Alsek Rivers.

The conference agreement includes $500,000 for the Sacramento River Winter Run Chinook Salmon Captive Broodstock Program. The Sacramento River winter run Chinook salmon have been listed as threatened under the Federal Endangered Species Act by the National Marine Fisheries Service. The goal of the captive breeding program is to rear winter-run Chinook salmon under controlled conditions until they become reproductively mature adults. Mature adults would then be used as hatchery broodstock for continued propagation of the species.

The Captive Broodstock Program would recover winter run salmon by holding 1,000 juvenile salmon at Coleman National Fish Hatchery instead of releasing them into the wild, transferring the juvenile fish to fresh and salt water hold facilities, holding the fish at these facilities for three years until maturity and returning the fish to Coleman National Fish Hatchery to be spawned, which would greatly increase the winter run egg supply. This effort shall be considered a supplement to, not a replacement for, efforts to increase natural production.

The conferees are aware of a proposal to establish a native plant nursery and xeriscope demonstration project at the Tiburon laboratory. The conferees expect NOAA to cooperate fully in carrying out this proposal.

The conferees have included $1,500,000 for Sandy Hook lease costs, as requested, and expect NOAA to fully fund the lease with funds provided in this Act.

The conference agreement provides not less than $4,234,000 for ongoing operations and projects of the Charleston, SC, National Marine Fisheries Laboratory.

In order to meet emergency requirements for fuel oil on St. George in the Pribilof Islands during the coming winter, the conferees have included $300,000. The National Oceanic and Atmospheric Administration retains a Federal trust responsibility for these islands.

The Secretary of Commerce shall submit a report to the Appropriations Committees of the House and Senate regarding any individual fishing quota management plan under the jurisdiction of the North Pacific Fishery Management Council within 30 days after approving or partially approving any such management plan. Such report shall explain, in detail, the funding requirements for such management plan and shall specify from which existing authorized and appropriated Commerce Department programs and accounts the funding for such individual fishery management plan will come.

### NATIONAL WEATHER SERVICE

The conferees have included $523,443,000 for the National Weather Service programs financed through the Operations, Research and Facilities account instead of $467,436,000 as proposed by the House and $531,372,000 as proposed by the Senate. The conferees have agreed to the Senate proposal to provide direct appropriations totaling $35,596,000 for forecasts in support of aviation, instead of deriving such funds by transfer from the Airport and Airways Trust Fund.

The conference agreement deletes the bill language earmark for National Weather Service funding included in the Senate bill. However, the conferees have included significant increases for National Weather Service programs, projects and activities assuming that such resources will not be reprogrammed below threshold to other NOAA programs.

The conferees have been made aware of collaboration between researchers at the Hatfield Marine Science Center (HMSC) and NASA to provide public display and scientific analysis of Pacific Ocean currents. The conferees support this initiative and direct NOAA to provide HMSC with the necessary assistance to access NOAA satellite data.

The conferees expect that all National Weather Service stations across the country will be maintained at a minimum at current operating levels. The conferees agree with the Senate report language regarding flash-flood programs and the IFLOWS program in West Virginia, and the agricultural weather program at Stoneville, MS. The conferees further agree that NOAA shall take no action to plan for or to implement any reduction in the Jackson, Kentucky, Weather Service Office. The conferees are concerned that the unique climatological and meterological conditions at this station make any potential proposal to close this station a risk to the life and safety of residents in the area.

In the interest of aviation safety, the conferees have included the necessary funding to maintain the federally contracted weather observation stations at Stampede Pass, WA; Blue Canyon, OR; and Sexton Summit, OR. The conferees direct NOAA not to close or reduce the hours of operation below the level on December 29, 1988, of such stations until automated equipment is provided that will provide the same level of service as a full-time human weather observer.

The conferees have reviewed the National Weather Service modernization plans for South Carolina and find them to be lacking. Public safety concerns have not been addressed in the western Carolinas and the NEXRAD radar deployment plan leaves coverage gaps that are unacceptable. The conferees have previously noted concern that the severe storm and meteorological conditions of the upstate region make any proposal to close the Greer, SC, station a potential risk to life and safety to residents in the Greenville/Spartanburg area. Therefore, the conferees direct that NEXRAD radars continue to be deployed as planned for Charleston and Columbia, and that an additional NEXRAD system be installed at Greer, South Carolina. The conferees have included $2,500,000 for procurement of the Greer radar in the NEXRAD procurement line under Operations, research and facilities, and $1,000,000 is included for construction and modernization of facilities in the NOAA "Construction" account.

### OCEANIC AND ATMOSPHERIC RESEARCH

The conferees agreement includes $202,172,000 for the programs under NOAA Operations and Atmospheric Research.

The conferees have included $42,800,000 for the National Sea Grant Program. Within this amount, $2,800,000 is specifically designated for zebra mussel research. Of that amount, up to $75,000 is intended for the study of the Zebra mussel problem in the Chesapeake Bay.

The conferees agree to provide $1,300,000 for the National Coastal R&D Institute (NCRI). The increase of $300,000 is provided for the NCRI's Southeast Coastal Tourism Initiative in the States of South Carolina, Georgia, and North Carolina. In carrying out this program, the NCRI is requested to work closely with the South Carolina Sea Grant Program, the Coastal Georgia Rural Development Center, and the Pamlico-Tar River Foundation in North Carolina.

The conference agreement also includes $2,639,000 to continue the weather modification matching grant program. The conferees understand that the State of Texas is interested in participating in this program and intend that Texas be allowed to receive up to $50,000 within the amounts provided in consultation with the current grant recipients.

A total of $15,998,000 is provided in the conference agreement for the NOAA Undersea Research Program (NURP). This amount includes funding for the Rutgers New York Undersea Research Center. Of the amount recommended, $3,072,000 is included for the Hawaiian Undersea Research Laboratory. The conferees intend that none of the NURP program participants receive less than 93 percent of the amounts provided in fiscal year 1992 and that each of the NURP centers be funded at at least $1,000,000.

### PROGRAM SUPPORT

The conference agreement includes $142,133,000 for NOAA program support, including the full amount requested for the NOAA System Program Office (SPO).

The conferees have not provided the full budget request for retired pay for NOAA commissioned officers. The conferees expect that this program should be submitted as a mandatory item in the fiscal year 1994 budget request.

The conferees intend that the *Albatross IV* will be supported within the amounts provided for Marine Services.

The conference agreement assumes $11,800,000 in prior year deobligations of funds.

Amendment No. 76: Transfers $55,000,000 from the fund entitled "Promote and Develop Fisheries Products and Research Pertaining to American Fisheries" instead of $54,208,000 as proposed by the House and $57,000,000 as proposed by the Senate.

Amendment No. 77: Includes language proposed by the Senate which lowers the reprogramming threshold for NOAA programs, projects, and activities from $500,000 to $250,000, or ten percent to five percent, whichever is less. The House bill contained no provision on this matter.

The Senate amendment also contained two additional provisions, not agreed to by the conferees: (1) that none of the funds appropriated under this paragraph could be used to acquire a Class VII computer from a foreign source; and (2) that NOAA must report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis the status of obligation of funds. While the conference report does not prohibit funds being used to acquire a Class VII computer from a foreign source, the conferees strongly urge that any Class VII computer be procured from an American vendor.

The conferees intend that the Under Secretary of Oceans and Atmosphere report on a quarterly basis beginning January 1, 1993, on the status of the obligation of funds for each program, project, and activity identified in (a) the fiscal year 1993 budget justification document presented to the Committees on Appropriations of the House of Representatives and the Senate, (b) the applicable reports of the House and Senate Committees on Appropriations accompanying appropriations acts for fiscal year 1993, (c) this conference report, and (d) any operating plan submitted to the Committees on Appropriations for fiscal year 1993.

### CONSTRUCTION

Amendment No. 78: Provides $94,500,000 for the NOAA Construction account instead of $51,316,000 as proposed by the House and $94,363,000 as proposed by the Senate and designates the following amounts: $50,484,000 for NEXRAD facilities, including $1,000,000 for the Greer, South Carolina, NEXRAD site; $15,000,000 for a grant to the University of New Hampshire for a biological sciences facility; $1,800,000 for a grant to the Newport Marine Science Center for an Oregon Coastal Refuges Complex; $1,000,000 for a grant to the Economic Development Industrial Corporation of Boston, Massachusetts, for a biotechnology innovation center; $1,000,000 for a grant to Mystic Seaport in Mystic, Connecticut, for a maritime education and research center; and $400,000 for a Multi-Species Aquaculture Facility to be located in the State of New Jersey. The Senate amendment had designated $54,184,000 for NEXRAD weather facilities, $15,000,000 for the University of New Hampshire biological sciences facility, and $1,800,000 for the Oregon Coastal Refuges Complex. The House bill had not proposed any designation of these funds.

Details of the conference agreement are provided in the following table, with appropriate comparisons:

NOAA CONSTRUCTION

[In thousands of dollars]

| | Fiscal year 1992 | Fiscal year 1993 request | House | Senate | Conference |
|---|---|---|---|---|---|
| NEXRAD Facilities and Land[2] | $23,573 | $47,384 | $36,668 | $54,184 | $50,484 |
| Beaufort, NC Laboratory | 196 | 0 | 182 | 0 | 182 |
| Lafayette Fisheries Lab | 1,250 | 0 | 1,163 | 0 | 0 |
| Environmental Compliance | 2,398 | 2,000 | 2,230 | 2,000 | 2,000 |
| SF NWS Relocation | 2,000 | 0 | 0 | 0 | 0 |
| Boulder Lab | 2,500 | 2,500 | 2,325 | 2,500 | 2,500 |
| Multispecies Aquaculture Center[1] | (110) | 0 | 500 | 0 | 400 |
| Woods Hole Marine Biology Lab[1] | (2,000) | 0 | 1,860 | 0 | 1,000 |
| Samoa[1] | (250) | 0 | 200 | 0 | 0 |
| Silver Spring Consolidation | 0 | 2,479 | 2,479 | 2,479 | 2,479 |
| Real Property Maintenance Initiative/NOAA Facilities Maintenance | 1,300 | 0 | 3,709 | 5,000 | 4,300 |
| NMFS Charleston Fisheries Lab | 700 | 0 | 0 | 700 | 700 |
| Newport Marine Science Center | 0 | 0 | 0 | 1,800 | 1,800 |
| Juneau/Kodiak Laboratory A&E (Alaska Fisheries Center) | 1,000 | 0 | 0 | 100 | 100 |
| Columbia River Facilities[1] | (3,700) | 0 | 0 | 8,200 | 8,200 |
| U. Of New Hampshire Biological Sciences | 0 | 0 | 0 | 15,000 | 15,000 |
| NOAA Research Facil. & Other Construct | 0 | 0 | 0 | 2,400 | 3,355 |
| Boston Biotechnology Innovation Ctr | 0 | 0 | 0 | 0 | 1,000 |
| Mystic, CT Maritime Educ. & Research Ctr | 0 | 0 | 0 | 0 | 1,000 |
| Total, construction | 34,917 | 54,363 | 51,316 | 94,363 | 94,500 |

[1] Funded under Operations, Research and Facilities account in fiscal year 1992.

[2] Includes $1 million for the Greer, S.C. NEXRAD site.

Due to the urgent and critical logistical crisis existing at the National Marine Fisheries Service Laboratory at Pascagoula, Mississippi, for dock and warehouse facilities, the conferees expect that, from funds available for construction, the National Oceanic and Atmospheric Administration will make the upgrading of docks and warehouse support facilities at such Laboratory a high priority for completion in fiscal year 1993.

The conference agreement includes $1,000,000 for Phase II of the Woods Hole Marine Biology Laboratory.

### FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

Amendment No. 79: Provides $30,000,000 for the NOAA fleet modernization program instead of $2,000,000 as proposed by the House and $37,000,000 as proposed by the Senate. The conference agreement includes the funding required for converting and equipping a Navy T-AGOS oceanographic ship.

The conferees request the Department of Commerce to consider the use of fiscal year 1993 funds provided under this heading to replace the NOAA research vessel on the Great Lakes, the R/V *Shenehon*.

### FISHING VESSEL OBLIGATIONS GUARANTEES

Amendment No. 80: Provides $470,000 for the cost of subsidizing guaranteed loans under the Fishing Vessel Obligations Guarantees (FVOG) program. The Senate bill included $940,000 for these loan guarantees and an additional $1,598,000 for administrative expenses. The House bill contained no provision on this matter.

The conferees have included $470,000 in subsidy for the NOAA FVOG program. The conferees intend that all administrative expenses to carry out this guaranteed loan program be funded through the NOAA operations research and facilities account.

The conferees do not agree with NOAA's internal policy of no new loan guarantees that NOAA adhered to in fiscal year 1992, irrespective of the economic feasibility of each individual application. This policy was based on an incorrect assumption that these loan guarantees aggravate the overcapitalization of the fishing industry. There are, however, appropriate uses of the program which do not result in overcapitalization, including: the refinancing of existing debt; the renovation and repair of existing vessels and facilities; the construction of new shoreplants for underutilized species and for waste reduction; and the replacement of obsolete vessels with vessels of similar size and harvesting capacity. The funding provided for fiscal year 1993 should be utilized accordingly.

The FVOG Program managers are to continue to conduct an extensive due diligence review to assess the risks associated with each individual applicant. The conferees intend that those applicants who meet the existing due diligence standards should be granted loan guarantees, subject only to the annual funding limitations imposed by this appropriation.

### GENERAL ADMINISTRATION

### SALARIES AND EXPENSES

Amendment No. 81: Appropriates $31,712,000 as proposed by the House, instead of $31,280,000 as proposed by the Senate.

The conferees are very interested in efforts of the Department of Commerce to establish a Department-wide Financial Management System. The conferees support the continuation of these efforts and consider it appropriate to fund the system through the Working Capital Fund.

The conferees are aware that the funding levels provided in this Act for most of the agencies of the Department of Commerce represent cuts below the base requirements and significant changes from the budget requests. Recognizing that these funding levels may require a dramatic realignment of priorities and ongoing activities, the conferees expect that the Department will submit fiscal year 1993 operating plans for each agency and account to the House and Senate Committees on Appropriations by November 16, 1992. These operating plans should include the Department's proposals for carrying out ongoing programs and activities within the funds provided, using the FY 1993 President's Budget request as the baseline against which adjustments are proposed. The operating plans would become the basis upon which future reprogrammings would be submitted. The conferees expect that these operating plans will include any proposals for the use of the transfer authority provided in section 205 of this Act.

### OFFICE OF INSPECTOR GENERAL

Amendment No. 82: Appropriates $15,805,000 for the Commerce Department's Office of Inspector General, instead of $15,470,000 as proposed by the House and $16,140,000 as proposed by the Senate.

### BUREAU OF THE CENSUS

#### SALARIES AND EXPENSES

Amendment No. 83: Appropriates $123,955,000 instead of $125,125,000 as proposed by the House and $122,784,000 as proposed by the Senate.

The conference agreement includes $390,000 to maintain three census reports on a monthly basis relating to cotton and soybean, cotton, and sunflower oilseeds (M22P, M20J, and M20K reports.)

The conferees expect the Bureau to continue Report MQ31A-Footwear on a quarterly basis.

#### PERIODIC CENSUSES AND PROGRAMS

Amendment No. 84: Appropriates $173,300,000 instead of $181,689,000 as proposed by the House and $165,000,000 as proposed by the Senate.

The reduction below the budget request is due partially to savings and prior year recoveries which are projected to total at least $13,400,000 by the end of fiscal year 1992 and carry over into fiscal year 1993.

The conferees recognize that the Census Bureau may need to reevaluate the frequency with which it publishes and distributes certain reports, surveys and other information planned in the fiscal year 1993 budget request for this account. However, the conferees expect the Bureau to continue all statutorily required surveys and activities, and to continue the timely provision of data products of vital interest to state and local governments, demographers, planners and other interested parties.

The conferees also expect the Bureau to apply any changes resulting from these reductions equitably among all States, territories and commonwealths of the United States. In planning and implementing fiscal year 1993 activities, the Bureau should consult with the Appropriations Committees and appropriate authorizing committees of the House and the Senate.

The conference agreement includes not less than $13,000,000 for the year 2000 decennial research and development effort. The conferees believe that the 2000 Census Research and Development Office should direct its resources toward a cost-effective census design that will produce more accurate results than those from the 1990 census. For instance, the Bureau's research in fiscal year 1992 indicates that reducing the number of questions on the census form is an important way to increase response, thereby increasing accuracy and reducing cost. Therefore, the conferees expect the Bureau in fiscal year 1993 to focus on realistic alternative means of collecting data, such as the use of existing surveys, rolling sample surveys or other vehicles. The conferees remind the Bureau that cost considerations should be a substantial factor in evaluating the desirability of design alternatives.

The conferees also expect the Bureau to pursue the proposed joint project with the U.S. Postal Service, to improve the development of address lists for the decennial census.

### ECONOMIC AND STATISTICAL ANALYSIS

#### SALARIES AND EXPENSES

Amendment No. 85: Appropriates $39,353,000 for the Economic and Statistical Analysis program as proposed by the House instead of $39,572,000 as proposed by the Senate.

The conferees understand that amounts provided in this Act for economic and statistical programs (including the Census Bureau) are sufficient to meet base requirements. Further, the conferees understand that the Bureau of Economic Analysis may be forced to move during fiscal year 1993 and may be required to spend as much as $7,000,000 to accomplish such a move. For this reason, the conferees have expanded the transfer authority provided under section 205 of this Act to allow this account to be increased by more than ten percent should any such transfer be necessary.

### INTERNATIONAL TRADE ADMINISTRATION

#### OPERATIONS AND ADMINISTRATION

Amendment No. 86: Appropriates $213,851,000 for the programs of the International Trade Administration instead of $194,149,000 as proposed by the House and $215,292,000 as proposed by the Senate.

Amendment No. 87: Amends language inserted in the Senate bill to designate $3,149,000 for the Tailored Clothing Technology Corporation (TC2), $7,448,000 for the National Textile Center University Research Consortium, $2,850,000 for a new materials center in Ames, Iowa, and $2,500,000 for the Market Development Cooperator Program. The Senate bill had designated $3,249,000 for TC2, $7,840,000 for the National Textile Center, $7,000,000 for US&FCS expenses for the former Soviet Union, and $3,000,000 for the Market Development Cooperator Program. The House bill did not include any provision on this matter.

The House had proposed an appropriation of $194,149,000 for this account and the Senate had proposed an appropriation of $215,292,000. The conference agreement provides a total of $213,851,000 for the International Trade Administration, as detailed in the following table:

[In thousands of dollars]

| *Item* | *Conference Agreement* |
|---|---|
| Base Request | $199,245 |
| FAAS Transfer | −7,486 |
| IEP Base Decrease | −1,307 |
| Productivity Savings | −1,998 |
| New Materials Center | 2,850 |
| TC 2 | 3,149 |
| National Textile Center | 7,448 |
| AD/CVD Workload | 4,500 |
| Domestic Office Staffing | 450 |
| Market Cooperator Program | 2,500 |
| Newly Independent States | 4,500 |
| Total, ITA | 213,851 |

The conferees have not approved the proposed program decrease related to CIMS implementation. The conferees are concerned that this proposed cut is premature at this stage of the CIMS automation project implementation and may jeopardize the project's effectiveness. The conference agreement instead includes a base reduction of $1,307,000 in the International Economic Policy activity. The conferees agree that these resources would be more effectively applied to the U.S. and Foreign Commercial Service which has a more direct, client-based role in the support and promotion of U.S. exports. The conferees expect that no shifting of CIMS resources to cover other ITA programs will occur without notification of a reprogramming as provided under section 606 of this Act. These reprogramming requirements would also apply to any amounts available as carryover.

The conference agreement includes $4,500,000 to allow the US&FCS to expand and create new offices in the former Soviet Union. This amount should allow some expansion at the current sites in Russia and Ukraine, and openings in several central Asian and Caucasus nations. Of the amount provided, $400,000 is included for offices in Khabarovsk and Vladivostok in the Russian Far East.

The conferees intend that domestic US&FCS offices be maintained at not less than current staffing and operating levels.

The conference agreement includes an additional $4,500,000 over the base which will allow the Import Administration to process an increasing number of reviews of antidumping and countervailing duty (AD/CVD) cases.

The amounts provided under this heading reflect the absorption of overseas administrative charges by the State Department for fiscal year 1993.

### EXPORT ADMINISTRATION

#### OPERATIONS AND ADMINISTRATION

Amendment No. 88: Appropriates $41,015,000 for the Bureau of Export Administration instead of $39,159,000 as proposed by the House and $42,271,000 as proposed by the Senate.

The conferees are agreed that the base reduction in this account should be equitably distributed, except as noted under Amendment No. 89.

Amendment No. 89: Amends language included in the Senate bill designating $1,880,000 for BXA's Office of Antiboycott Compliance instead of $2,080,000 as proposed in the Senate bill. The House bill contained no provision on this matter.

The conferees are concerned by a continuing serious problem regarding access by the U.S. Customs Service to export licensing information maintained by the Department of Commerce. This information is essential to the effective enforcement of the Export Administration Act (EAA). The Congress intended to address this in the Export Enforcement Amendments Act of 1985 when the following provision was added to 50 U.S.C. App 2411 in subsection (c)(3), "The Secretary [Department of Commerce] and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective licensing decisions.". Since the 1985 renewal, access to this information by the U.S. Customs Service has been so limited as to have had a serious effect on the U.S. Customs Service's ability to enforce the EAA. The Department of Commerce is instructed to correct this deficiency immediately by providing Customs direct electronic access to ECASS and all other export licensing and commodity classification databases of the Department of Commerce. The Department of Commerce and the Customs Service shall, within 90 days of enactment of this Act, fully implement the recommendation of the Commerce/Customs Joint Technical Group as outlined in the February 992 document titled, "Joint technical recommendation concerning U.S. Customs access to Department of Commerce export licensing database".

### MINORITY BUSINESS DEVELOPMENT AGENCY

#### MINORITY BUSINESS DEVELOPMENT

Amendment No. 90: Appropriates $37,889,000 for the Minority Business Development Agency as proposed by the House instead of $38,664,000 as proposed by the Senate.

Amendment No. 91: Designates $24,000,000 for MBDA business development centers instead of $23,816,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Amendment No. 92: Designates $13,889,000 for MBDA program management instead of $14,073,000 as proposed by the House and $13,664,000 as proposed by the Senate.

The conferees expect that base cuts in the program management activity will be equitably distributed between headquarters and all existing regional offices. The conferees also intend that the Minority Business Development Agency maintain a district office in Boston, Massachusetts.

The conference agreement includes a reduction of $1,000,000 below the current level for non-program management activities. The conferees intend that the reduction be equitably applied and that an effort be made to not close any existing center. The conferees also intend that the three MBDCs located in the State of South Carolina will be continued at not less than the operating levels in effect on September 1, 1992.

### United States Travel and Tourism Administration

#### SALARIES AND EXPENSES

Amendment No. 93: Appropriates $15,608,000 for the United States Travel and Tourism Administration instead of $14,132,000 as proposed by the House and $16,314,000 as proposed by the Senate.

The conference agreement includes $15,608,000 for the programs of the U.S. Travel and Tourism Administration. This amount fully funds the base request for this program, and reflects the absorption of overseas administrative charges by the State Department for fiscal year 1993. The amount provided also includes $704,000 for the highest priority program increases for this account.

Amendment No. 94: Provides language included in the Senate bill and in the President's budget request which will increase USTTA fee collections for products and services. The House bill contained no provision on this matter.

### Patent and Trademark Office

#### SALARIES AND EXPENSES

Amendment No. 95: Appropriates $86,672,000 for the Patent and Trademark Office as proposed by the Senate instead of $89,129,000 as proposed by the House.

### Technology Administration

#### SALARIES AND EXPENSES

Amendment No. 96: Appropriates $4,450,000 for the Technology Administration instead of $4,311,000 as proposed by the House and $4,636,000 as proposed by the Senate.

### National Telecommunications and Information Administration

#### SALARIES AND EXPENSES

Amendment No. 97: Appropriates $17,900,000 for the salaries and expenses of the National Telecommunications and Information Administration, instead of $17,198,000 as proposed by the House and $18,621,000 as proposed by the Senate.

#### PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

Amendment No. 98: Appropriates $21,320,000 for the Public Telecommunications Facilities Planning and Construction grant program as proposed by the House instead of $21,000,000 as proposed by the Senate.

Amendment No. 99: Amends language included in the Senate bill to designate $400,000 of the total PTFP funds provided in Amendment No. 98 for the Pan-Pacific Educational and Cultural Experiment by Satellites program (PEACESAT) and $250,000 for the American Indian Higher Education Consortium. The Senate bill had included $900,000 for PEACESAT and $250,000 for the American Indian Higher Education Consortium. The House bill contained no similar provision.

#### ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

Amendment No. 100: Appropriates $1,000,000 for the Endowment for Children's Educational Television instead of $1,960,000 as proposed by the Senate. The House bill contained no provision on this matter.

### Economic Development Administration

#### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 101: Appropriates $217,000,000 for economic development assistance programs instead of $235,462,000 as proposed by the House and $150,000,000 as proposed by the Senate. The conference agreement includes $217,000,000 for EDA programs.

The following table displays the amounts agreed to by the conferees:

[In thousands of dollars]

| | *Conference* |
|---|---|
| Public works grants | $147,435 |
| Planning assistance | 24,770 |
| Districts | (17,353) |
| Indians | (2,901) |
| States | (1,933) |
| Urban | (2,583) |
| Technical assistance | 9,000 |
| University centers | (7,570) |
| Research and evaluation | 0 |
| Trade adjustment assistance | 13,720 |
| Economic adjustment grants | 22,075 |
| Total, EDA programs | 217,000 |

Amendment No. 102: Deletes language proposed by the House which required EDA to fund the University Centers program at not less than 93 percent of the fiscal year 1992 level. The Senate bill contained no similar provision. The conferees intend that any reduction in the level of funding provided for the EDA University Center program be distributed equitably among all participants in this program.

#### DEFENSE ECONOMIC CONVERSION COMMUNITY ASSISTANCE

Amendment No. 103: Deletes language proposed by the Senate which would have created a new account for Defense-related economic conversion assistance to communities. The Senate had proposed $80,000,000 for this program under the Subcommittee's defense allocation (function 050). The House bill contained no similar provision. This issue is further explained under Amendment No. 73.

#### SALARIES AND EXPENSES

Amendment No. 104: Appropriates $26,243,000 for EDA salaries and expenses instead of $26,487,000 as proposed by the House and $26,000,000 as proposed by the Senate.

Amendment No. 105: Appropriates $875,000 for the administrative expenses of the EDA guaranteed loan program instead of $250,000 as proposed by the House and $1,500,000 as proposed by the Senate.

The conference agreement includes a total of $27,118,000 for the administrative costs of the Economic Development Administration. Should the amount provided for administrative expenses of the loan program not be sufficient, the costs of administering this program could be charged against the EDA salaries and expenses account.

### GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

Amendment No. 106: Provides language allowing the transfer of funds between the various appropriations accounts of the Department of Commerce. The language agreed to by the conferees provides that no account may be decreased by more than five percent, and no account other than Economic and Statistical Analysis, Salaries and Expenses may be increased by more than ten percent. The House bill had included similar language allowing no more than five percent to be transferred from or to any account and had excluded transfers to or from NOAA Operations, Research, and Facilities and EDA Economic Development Assistance Programs. The Senate amendment limited transfers to five percent from a losing account, but contained no cap on the amount that could be transferred into any appropriations. The Senate amendment also excluded transfers from NOAA Operations, Research, and Facilities, NOAA Fleet Modernization, Shipbuilding, and Conversion, and NOAA Construction.

The conference agreement does not exclude transfers to or from any account. The conferees expect, however, that no transfer will be made from the NOAA Operations, Research, and Facilities account. The conference agreement limits the amount to be transferred into any account to ten percent, except in the case of Economic and Statistical Analysis, Salaries and Expenses. The conferees note that any transfers permitted under this provision must be done under the reprogramming requirements of section 606 of this Act. While the conferees have increased the five percent limit on transfers to receiving appropriation accounts to ten percent, the conferees expect that the Department shall submit proposals to the Appropriations Committees for transfers between appropriations only in the most urgent circumstances.

Amendment No. 107: Deletes language included in the Senate bill which authorized the Under Secretary of Commerce for Oceans and Atmosphere to enter into several long-term lease agreements. The House bill contained no similar provision.

The conferees understand that these provisions have been included in proposed authorizing legislation for NOAA.

The conferees were informed that the House authorizing committees strongly objected to inclusion of such land transfers/leases within this appropriations bill.

## TITLE III—THE JUDICIARY

### Supreme Court of the United States

#### SALARIES AND EXPENSES

Amendment No. 108: Appropriates $22,286,000 as proposed by the Senate instead of $20,820,000 as proposed by the House.

#### CARE OF THE BUILDING AND GROUNDS

Amendment No. 109: Appropriates $3,320,000 instead of $3,070,000 as proposed by the House and $3,187,000 as proposed by the Senate. The conference agreement includes $134,000 for operating and maintenance costs for the Supreme Court Library in the new Judiciary Office Building.

Amendment No. 110: Designates $925,000 to remain available until expended as proposed by the Senate instead of $800,000 for this purpose as proposed by the House.

### United States Court of Appeals for the Federal Circuit

#### SALARIES AND EXPENSES

Amendment No. 111: Appropriates $11,554,000 as proposed by the Senate instead of $11,254,000 as proposed by the House. The conference agreement will provide the current services level for the United States Court of Appeals for the Federal Circuit.

### United States Court of International Trade

#### SALARIES AND EXPENSES

Amendment No. 112: Appropriates $10,345,000 as proposed by the House instead of $9,852,000 as proposed by the Senate.

### COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

#### SALARIES AND EXPENSES

Amendment No. 113: Appropriates $1,979,000,000 instead of $1,964,472,000 as proposed by the House and $1,956,447,000 as proposed by the Senate.

Amendment No. 114: Designates $68,245,000 as proposed by the Senate instead of $90,000,000 as proposed by the House to remain available until expended for space alteration projects.

Amendment No. 115: Appropriates $2,075,000 as proposed by the Senate instead of $2,053,000 as proposed by the House.

In the FY 1991 and FY 1992 Appropriations Acts, a specific amount was provided from the Vaccine Injury Compensation Trust Fund for processing vaccine injury claims. The conferees are concerned that the Special Masters appointed by the Claims Court obligated funds in excess of the amount set aside for fiscal year 1991 and will exceed the funding set aside for FY 1992. Even though this allowance is not subject to a statutory limitation, the conferees intend that the $2,075,000 identified for claims processing in fiscal year 1993 not be exceeded. Further, the conferees expect that a system of fund controls be installed to insure the amount is not exceeded, and, if exceeded, administrative sanctions be imposed on the individual responsible.

The conferees note that Congress has provided the Judiciary with significant increases over the last several years in recognition of the increasingly complex caseload facing the Federal Courts. However, allocation constraints for fiscal year 1993 precluded the provision of funding for a significant portion of the adjustments to base and all of the program increases requested in the budget. Nevertheless, the conference agreement for fiscal year 1993 reflects an increase in Judiciary funding of $101,547,000 above the fiscal year 1992 level or 4 percent, as well as an increase of $769,564,000 or 45 percent compared to the level provided for fiscal year 1990. Despite the increased level of funding provided for fiscal year 1993 under this agreement, the conferees recognize that the Judiciary will face an extremely tight financial situation. The conferees request that the Judiciary develop and submit a financial plan to maintain the basic functions of the Federal Courts within the level of resources provided.

In developing the funding levels contained in this conference agreement, the conferees were concerned that the caseload statistics on which the Judiciary bases its budget request may be over-estimated. The conferees expect that the Judiciary will address this matter by improving the process by which it estimates resource requirements and incorporating such improvements in the fiscal year 1994 budget request.

For fiscal year 1993 and thereafter, the conferees expect the Judicial Conference of the United States, pursuant to 28 U.S.C. 1930(b), to prescribe a fee of $30 for the preparation and mailing of notices in bankruptcy cases under Chapters 7 and 13 of title 11, United States Code, which shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services. This fee shall be collected at the time the case is filed, and shall be in lieu of the noticing fee of 50 cents per notice currently charged. This change in the fee structure is to offset more fully the expenses of noticing, including postage, and will more fairly recoup costs of noticing from all debtors, including those filing no-asset cases. The conferees understand that collection of the noticing fee at the time the case is filed avoids the problem now encountered in no-asset cases where there is no estate to charge for noticing costs. It will eliminate the inefficient and time-consuming task of billing and collecting noticing fees from estates for notices produced by the courts. The conferees also understand that the institution of this changed fee structure is expected to generate a net increase of $10,000,000 in offsetting collections for the Salaries and Expenses appropriation for fiscal year 1993.

The conferees recognize that allocation constraints precluded the provision of funding for thirty-five new bankruptcy judgeships recently created by Congress. The conferees note, however, that the bankruptcy courts throughout the nation are struggling to keep up with dramatic increases in filings. The conferees, therefore, understand that the Judicial Conference will move expeditiously to request a supplemental appropriation to permit these new bankruptcy judgeships to be filled. Further, the conferees anticipate that in those areas which are facing very high proportional increases in bankruptcy filings, the Judicial Conference will move to fill these new judgeships with all deliberate speed.

#### DEFENDER SERVICES

Amendment No. 116: Appropriates $215,121,000 as proposed by the Senate instead of $215,043,000 as proposed by the House.

The conference agreement does not include any of the requested $15,445,000 for an increase in the maximum hourly compensation rate for panel attorneys accepting Criminal Justice Act appointments. While the conferees are not attempting to second guess the judgment of the members of the Judicial Conference concerning the need for increases in panel attorney rates, the constraints facing the conferees precluded the inclusion of such an increase in the conference agreement.

#### FEES OF JURORS AND COMMISSIONERS

Amendment No. 117: Appropriates $68,820,000 as proposed by the House instead of $69,560,000 as proposed by the Senate.

#### COURT SECURITY

Amendment No. 118: Appropriates $81,253,000 as proposed by the House instead of $79,427,000 as proposed by the Senate.

### ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

#### SALARIES AND EXPENSES

Amendment No. 119: Appropriates $45,100,000 instead of $45,927,000 as proposed by the House and $44,951,000 as proposed by the Senate. The conference agreement reflects a reduction of $2,340,000 requested for space rental charges which will not be needed in fiscal year 1993 and applies this amount to other activities of the Administrative Office funded in the base.

### FEDERAL JUDICIAL CENTER

#### SALARIES AND EXPENSES

Amendment No. 120: Appropriates $17,500,000 instead of $17,947,000 as proposed by the House and $17,048,000 as proposed by the Senate.

### NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

#### SALARIES AND EXPENSES

Amendment No. 121: Appropriates $443,000 as proposed by the House instead of $476,000 as proposed by the Senate.

### UNITED STATES SENTENCING COMMISSION

#### SALARIES AND EXPENSES

Amendment No. 122: Appropriates $9,000,000 as proposed by the Senate instead of $8,556,000 as proposed by the House.

### GENERAL PROVISIONS—THE JUDICIARY

Amendment No. 123: Inserts a provision which permits not to exceed five percent of any appropriation made available for the current fiscal year for the Judiciary in Title III of this Act to be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than ten percent by any such transfers. The House had proposed a similar provision which provided that not to exceed five percent of any appropriation made available for the current fiscal year for the Judiciary may be transferred between such appropriations, but no such appropriation could be increased or decreased by more than five percent by any such transfers. The Senate had proposed a transfer provision permitting not to exceed five percent of any appropriation made available for the current fiscal year for the Judiciary to be transferred between such appropriations but with no limit on increases to the receiving appropriation accounts.

The conferees note that any transfers permitted under this provision must be done under the reprogramming requirements of section 606 of this Act. While the conferees have increased the five percent limit on transfers to receiving appropriation accounts to ten percent, the conferees expect that the Judiciary shall submit proposals to the Appropriations Committees for transfers between appropriations only in the most urgent circumstances.

Amendment No. 124: Deletes a provision proposed by the Senate which would have provided a limitation of $10,000 in the Salaries and Expenses appropriation for Courts of Appeals, District Courts, and Other Judicial Services for official reception and representation expenses of the Judicial Conference of the United States and inserts a new provision which will provide authority for the same pay raise for the Supreme Court Justices and other judges of the United States as that previously authorized for general schedule employees. The House bill contained no provision on either of these matters.

## TITLE IV—RELATED AGENCIES

### DEPARTMENT OF TRANSPORTATION

#### MARITIME ADMINISTRATION

#### OPERATIONS AND TRAINING

Amendment No. 125: Appropriates $71,736,000 for the MARAD Operations and Training account as proposed by the Senate, instead of $71,570,000 as proposed by the House.

The conferees intend that any additional funds necessary for the support of the National Security Support Capability function may be included in amounts reimbursed from the Ready Reserve Force appropriation.

Amendment No. 126: Earmarks $27,845,000 for the United States Merchant Marine Academy and $10,072,000 for the State maritime academy programs as proposed by the Senate. The House bill contained no provision on this matter.

Amendment No. 127: Amends language which allows the Maritime Administration to use proceeds from the sale or disposal of obsolete National Defense Reserve Fleet vessels for various costs incurred by the U.S. Merchant Marine Academy and State Maritime academies to include conversion of ships, as provided by the Senate. The House bill contained no reference to the conversion of ships.

### READY RESERVE FORCE

Amendment No. 128: Appropriates $440,500,000 for the expenses of the Ready Reserve Force (RRF) and other purposes; provides language designating $20,000,000 of the amount provided for the conversion of two naval vessels, the U.S.N.S. *Harkness* and the U.S.N.S. *Chauvenet*; and includes several new provisos as follows: (1) making funds provided for the RRF for purchase of tankers and other vessels, for which an adequate number of vessels (as determined by the Secretary of Transportation) are available from U.S. sources, to be available for the procurement of such vessels from only U.S. sources; (2) making the first proviso not applicable to any funds made available for the purchase of roll-on/roll-off vessels; and (3) providing that funds for repair and conversion be available only for work in U.S. shipyards. The House had proposed $356,000,000 for this purpose with no earmarks of funds or additional language. The Senate bill provided a total of $146,000,000, designated that $16,000,000 of that amount be available for the conversion of the U.S.N.S. *Harkness*, and included a stronger "Buy America" provision on all funds.

The conferees are aware that the training vessel used by the California State maritime academy is older than any other vessel in use by the other State maritime schools. The conferees expect the Maritime Administration to provide a status report on all State school training ships, detailing the conditions of each vessel and recommendations for replacement, to the House and Senate Appropriations Committees by no later than December 1, 1992.

The conference agreement includes a total of $440,500,000 for the Ready Reserve Force and related expenses. Of this amount, $240,000,000 is available for the maintenance and operations and facilities activities. The remaining $200,000,000 is for fleet additions, including $16,000,000 for the conversion of the U.S.N.S. *Harkness* and $4,000,000 for the conversion of the U.S.N.S. *Chauvenet*. It is the intent of the conferees that the *Harkness* be used as a training vessel for the Maine maritime academy, and that the *Chauvenet* be used as a training vessel for the Texas maritime academy.

The conferees intend that funds appropriated for the Ready Reserve Force be used to acquire tankers from U.S. sources since it is apparent that an adequate number of such vessels are available in the United States. The Secretary of Transportation is to determine the availability of such vessels in consultation with the appropriate committees of the House and the Senate.

The conferees expect that funds provided under this heading may be used for reimbursements to the MARAD Operations and Training account for administrative expenses associated with the RRF, the NDRF, and related programs.

### MILITARY USEFUL VESSEL OBLIGATION GUARANTEES

Amendment No. 129: Amends language included in the House bill for the Military Useful Vessel Obligation Guarantees program to provide $48,000,000 in subsidy amounts and $4,000,000 in administrative costs for the program, and requires that vessels constructed using these guarantees be capable of serving as naval and military auxiliaries in time of war or national emergency. The House bill included $50,000,000 for the subsidy costs of this program and $2,800,000 for the administrative costs. The Senate bill included a similar provision which required only that vessels constructed under this program have a naval and military utility in time of war or national emergency, and provided $44,800,000 for subsidy costs and $2,350,000 for administrative costs.

The conferees are aware of several worthy proposals which may be submitted under this loan guarantee program, as follows:

The conferees agree that within the funds provided, up to $15,000,000 may be obligated for commitments to guarantee loans for methanol plantships which have been studied for technical and economic feasibility by contract with the Department of Transportation. Such methanol plantships can make a valuable contribution to national security in times of war, by enhancing the supply of fuel and available means of transportation.

The conferees are aware of and support the $3,000,000 loan guarantee application for a replacement vessel for the molten sulphur tanker *Nordic Louisiana*. The conferees understand that this vessel will be readily adaptable to a tanker capable of transporting military petroleum products in time of war or national emergency. The Secretary of Transportation and Secretary of Defense are requested to expedite consideration of financing for this project.

### Christopher Columbus Quincentenary Jubilee Commission

### SALARIES AND EXPENSES

Amendment No. 130: Appropriates $200,000 to remain available until December 31, 1993. The House had proposed $205,000 for this purpose. The Senate had proposed $100,000 without any authority to carry over funds. The conferees are agreed that the funds provided by this conference agreement are to complete the Commission's activities and fund all closeout costs through December 31, 1993, the termination date for the Commission. The conferees expect that with the provision of this amount, the Commission will not submit a budget request for closeout activities for fiscal year 1994.

### Commission on Security and Cooperation in Europe

### SALARIES AND EXPENSES

Amendment No 131: Appropriates $1,102,000 as proposed by the House instead of $1,054,000 as proposed by the Senate.

### Competitiveness Policy Council

### SALARIES AND EXPENSES

Amendment No. 132: Appropriates $1,223,000 for the Competitiveness Policy Council as proposed by the House, instead of $1,750,000 as proposed by the Senate.

The conferees are aware that the amount provided is less than one-half the amount requested by the Council for fiscal year 1993. However, the conferees note that this account has been funded at approximately $750,000 per year for the previous three fiscal years. The amount provided in the conference agreement is an increase of $473,000 above the amount appropriated for fiscal year 1992. In light of the reductions being taken below FY 1992 levels in other accounts funded in this bill, particularly in the Commerce Department, the conferees feel that a 39 percent increase over the previous year's appropriation is a reasonable increase for this agency.

### MARINE MAMMAL COMMISSION

### SALARIES AND EXPENSES

Amendment No. 133: Appropriates $1,260,000 for the fiscal year 1993 expenses of the Marine Mammal Commission, instead of $1,218,000 as proposed by the House and $1,231,000 as proposed by the Senate

### Office of the United States Trade Representative

### SALARIES AND EXPENSES

Amendment No. 134: Appropriates $19,992,000 as proposed by the Senate instead of $19,742,000 as proposed by the House. The conference agreement reflects the transfer of $300,000 of administrative costs for overseas activities to the Department of State.

### Legal Services Corporation

### PAYMENT TO THE LEGAL SERVICES CORPORATION

Amendment No. 135: Appropriates $357,000,000 instead of $364,000,000 as proposed by the House, and $350,000,000 as proposed by the Senate. Language proposed by the House and stricken by the Senate concerning restrictions on LSC funding are addressed under Amendment No. 195. The conference agreement includes designations on LSC funding for fiscal year 1993, as follows:

LEGAL SERVICES CORPORATION

[In thousands of dollars]

| | Fiscal year 1992 enacted | Fiscal year 1993— | | | |
|---|---|---|---|---|---|
| | | Request | House | Senate | Conference |
| Basic field programs | 296,755 | 445,133 | (1) | 298,640 | 305,305 |
| Native American programs | 7,848 | 11,772 | (1) | 7,848 | 8,005 |
| Migrant programs | 10,839 | 16,259 | (1) | 10,839 | 11,056 |
| Special emergency funds | 488 | 500 | (1) | | |
| Law school clinics | 1,229 | 1,844 | (1) | 1,229 | 1,254 |
| Supplemental field programs | 1,117 | 1,676 | (1) | 1,117 | 1,139 |
| National Resource and Training Center | 1,300 | 700 | (1) | | 450 |
| Regional training centers | 697 | 750 | (1) | 697 | 711 |
| National support | 8,079 | 10,099 | (1) | 8,079 | 8,241 |
| State support | 9,263 | 11,579 | (1) | 9,263 | 9,448 |
| Clearinghouse | 966 | 1,208 | (1) | 966 | 985 |
| Computer assisted legal research [CALR] regional centers | 571 | 714 | (1) | 571 | 582 |
| Attorney recruitment program | | 4,000 | (1) | | |
| Client training/self-help | | 1,000 | (1) | | |
| Management and admin | 9,774 | 12,000 | (1) | 9,774 | 9,774 |
| Carryover | | | | 500 | 600 |

LEGAL SERVICES CORPORATION—Continued

[In thousands of dollars]

| | Fiscal year 1992 enacted | Fiscal year 1993— | | | |
|---|---|---|---|---|---|
| | | Request | House | Senate | Conference |
| Subtotal management and administration | 9,774 | 12,000 | (1) | 10,274 | 10,274 |
| Board Initiatives | 977 | 5,700 | (1) | 977 | 50 |
| Carryover | | | (1) | | 250 |
| Subtotal, board initiatives | 977 | 5,700 | (1) | 977 | 300 |
| Special contingency funds | 97 | 100 | (1) | | |
| Total, Legal Services | 350,000 | 525,034 | 364,000 | 350,000 | 357,000 |

[1] The House bill did not earmark funding for specific programs.

In section 611, the conferees have included a statutory formula for allocating increased resources for migrant programs.

The conferees have provided a total of $10,274,000 for Corporation Management and Administration, of which $500,000 is to be derived from fiscal year 1992 carryover. The conferees are aware that Legal Services of Arkansas, Inc. expended $12,500 in fiscal year 1992 to conduct a count of the migrant population in Arkansas in preparing to begin delivery of services to migrants in this previously unserved State. The conferees are further aware that the Corporation has provided funding for such migrant counts in other states which were developing migrant delivery components. The conferees note that the Corporation reprogrammed fiscal year 1991 funds to the management and administration component which were originally earmarked for the development of migrant legal services delivery components in Arkansas, Mississippi, Tennessee and Alabama. The conferees, therefore, expect the Legal Services Corporation to provide $12,500 to Legal Services of Arkansas, Inc. to cover the costs of the migrant count and expect that this sum will be derived from the $500,000 carryover provided for the management and administration component of the Corporation's budget.

## SMALL BUSINESS ADMINISTRATION

### SALARIES AND EXPENSES

Amendment No. 136: Appropriates $248,800,000 for the basic salaries and expenses account of the Small Business Administration instead of $234,417,000 as proposed by the House and $195,638,000 as proposed by the Senate.

The conference agreement provides a total of $423,901,000 for the administrative expenses of the Small Business Administration (SBA) for fiscal year 1993. Of this amount, $248,800,000 is included under this paragraph. In addition, $97,101,000 is included as administrative expenses under the Business Loans Program account and $78,000,000 is included as administrative expenses under the Disaster Loans Program account.

The conferees are aware that the funding levels included in this bill for SBA Salaries and Expenses are insufficient to maintain current staffing levels. The conferees expect that any reductions in staff will occur at SBA headquarters and regional headquarters offices and that no reductions will be made to district offices.

The amount provided includes a transfer of 30 positions and $2,000,000 from the SBA Office of Inspector General (see Amendment No. 139).

Amendment No. 137: Restores language proposed by the House and deleted by the Senate which designates $67,000,000 of SBA Salaries and Expenses funds for the fiscal year 1993 expenses of Small Business Development Centers. The Senate amendment provided no designation of funds for SBDCs and designated $3,300,000 for the Service Corps of Retired Executives (SCORE) and $3,200,000 for the Small Business Institute program (SBI). The conference agreement includes funding for these two programs under Amendment No. 138.

Amendment No. 138: Restores language proposed by the House and deleted by the Senate which provides that none of the funds appropriated under this Act for the Small Business Administration may be used to impose any new or increased loan guarantee or debenture guarantee fee nor any new or increased user fee or management assistance fee. In addition, language is proposed which designates funding for the Service Corps of Retired Executives, Small Business Institute, and other projects as detailed below.

The conferees have not included language proposed by the House and stricken by the Senate which would prohibit the Small Business Administration from adopting, implementing, or enforcing any rule or regulation relating to Small Business Development Centers.

SMALL BUSINESS ADMINISTRATION SALARIES AND EXPENSES

[In thousands of dollars]

| | Fiscal year— | | | | Conference agreement |
|---|---|---|---|---|---|
| | 1992 enacted | 1993 request | 1993 House mark | 1993 Senate mark | |
| Compensation & Benefits: | | | | | |
| Compensation and Benefits | 191,186 | 198,769 | 189,441 | 177,757 | 196,185 |
| Employees Comp. Fund | 1,350 | 1,350 | 1,256 | 1,323 | 1,323 |
| Travel: | | | | | |
| Regular | 4,748 | 4,748 | 4,416 | 4,653 | 4,416 |
| Score | 1,712 | 2,112 | 1,692 | 2,112 | 1,902 |
| Transportation | 300 | 300 | 279 | 294 | 279 |
| Rents and Communications: | | | | | |
| Space | 24,248 | 27,500 | 25,575 | 23,763 | 25,575 |
| FTS | 3,821 | 3,341 | 3,107 | 3,341 | 3,107 |
| Postage | 5,228 | 5,228 | 4,862 | 5,123 | 4,862 |
| Other | 11,400 | 11,400 | 10,602 | 11,172 | 10,602 |
| Printing | 1,485 | 1,485 | 1,381 | 1,455 | 1,381 |
| Other services (inc. grants): | | | | | |
| SBDC | 60,500 | 0 | 67,000 | 59,290 | 67,000 |
| White House Conference | 0 | 0 | 3,000 | 0 | 2,500 |
| SBI | 2,990 | 3,200 | 2,833 | 3,200 | 3,015 |
| PASS | 1,179 | 1,200 | 1,102 | 1,155 | 1,102 |
| SCORE/Grant | 1,188 | 1,188 | 1,105 | 1,188 | 1,188 |
| 7(j) | 8,600 | 8,900 | 8,073 | 8,428 | 8,073 |
| Advocacy data base | 1,638 | 1,700 | 1,539 | 1,605 | 1,539 |
| Veterans Outreach | 459 | 500 | 437 | 450 | 447 |
| Int'l Trade Outreach | 493 | 600 | 485 | 483 | 483 |
| Women's Tech. asst | 1,500 | 1,560 | 1,410 | 1,600 | 1,500 |
| Women's council | 493 | 600 | 485 | 483 | 483 |
| Minority commission | 600 | 700 | 583 | 588 | 0 |
| Contracting Out | 0 | 4,931 | 0 | 0 | 0 |
| SBDC Technical Asst | 1,000 | 0 | 930 | 0 | 930 |
| Natural Resources Devel | 16,000 | 0 | 13,950 | 0 | 16,000 |
| SBDC Central Europe Dev | 1,500 | 0 | 1,395 | 1,500 | 1,500 |
| Computer | 3,500 | 5,600 | 5,208 | 3,430 | 3,500 |
| NFC Cross-Servicing | 700 | 700 | 651 | 686 | 651 |
| Vulnerability Studies | 500 | 500 | 465 | 490 | 465 |
| Financial Systems Upgrade | 500 | 500 | 465 | 490 | 465 |
| Credit Reform | 0 | 600 | 150 | 0 | 150 |
| Drug Program | 0 | 660 | 0 | 0 | 0 |
| Miscellaneous Studies | 0 | 650 | 163 | 0 | 0 |
| Data Collection System | 150 | 0 | 0 | 0 | 140 |
| Tech. Asst.—Univ. Ark | 500 | 0 | 0 | 0 | 465 |
| Kentucky—Science & Tech | 4,500 | 0 | 0 | 0 | 4,185 |

SMALL BUSINESS ADMINISTRATION SALARIES AND EXPENSES—Continued

[In thousands of dollars]

| | Fiscal year— | | | | Conference agreement |
|---|---|---|---|---|---|
| | 1992 enacted | 1993 request | 1993 House mark | 1993 Senate mark | |
| Mass. Biotech. Institute | 1,500 | 0 | 0 | 0 | 1,395 |
| Northeast Tech. Transfer | 1,500 | 0 | 0 | 0 | 0 |
| Worcester Centrum and Exhibition Hall infrastructure | 0 | 0 | 0 | 0 | 1,500 |
| St. Vincent/St. Francis Ctr. for Global Competitiveness | 0 | 0 | 0 | 0 | 800 |
| Indiana St. Science Ctr | 1,500 | 0 | 0 | 0 | 1,395 |
| Michigan Biotech. Ctr | 1,000 | 0 | 0 | 0 | 930 |
| Small Bus. Database (PA) (+ transportation) Linkages | 800 | 0 | 0 | 0 | 1,000 |
| Pittsburgh District pilot project (video) | 0 | 0 | 0 | 0 | 100 |
| Ohio Dept. of Development Int'l Trade project | 0 | 0 | 0 | 0 | 500 |
| Morgan County High School | 0 | 0 | 0 | 0 | 1,000 |
| Vermont Small Bus. Devel | 0 | 0 | 0 | 0 | 1,000 |
| Kansas Small Business Dev | 0 | 0 | 0 | 0 | 500 |
| Hazard Community College Academic & Technical Facil | 0 | 0 | 0 | 0 | 750 |
| Ctr. for Entrepreneurial Opp | 1,000 | 0 | 0 | 0 | 930 |
| Clean Air Act Tech. Asst | 500 | 0 | 0 | 0 | 465 |
| Canisius College Center | 0 | 0 | 0 | 0 | 150 |
| NJ Excel Promotion | 100 | 0 | 0 | 100 | 100 |
| Compass Rose Women's Business | 0 | 0 | 0 | 100 | 100 |
| WI Women's Entrepreneur Prog | 0 | 0 | 0 | 100 | 100 |
| Ctr. for Manufact. Prod. (Amherst) | .............. | 0 | 0 | 0 | 465 |
| St. Louis Biomedical Ctr | 0 | 0 | 0 | 0 | 400 |
| Washington St. Univ. Research | 0 | 0 | 0 | 0 | 500 |
| Micro-Loan Tech. Asst | 3,000 | 0 | 0 | 6,000 | 6,000 |
| New York City Library | 1,000 | 0 | 0 | 0 | 930 |
| Other initiatives | 6,695 | 0 | 0 | 0 | 0 |
| All other | 14,924 | 15,270 | 13,957 | 14,625 | 13,957 |
| Supplies | 1,752 | 1,752 | 1,629 | 1,717 | 1,629 |
| Equipment | 1,982 | 2,177 | 1,892 | 1,942 | 1,892 |
| Disaster assistance | 27,000 | 38,500 | 38,000 | 26,460 | 20,000 |
| Total | 418,221 | 348,221 | 409,518 | 367,103 | 423,901 |
| Salaries and Expenses | .............. | .............. | .............. | .............. | 248,800 |
| Business Loans Admin | .............. | .............. | .............. | .............. | 97,101 |
| Disaster Loans Admin | .............. | .............. | .............. | .............. | 78,000 |

The conference agreement designates the following amounts in the bill: $3,090,000 for SCORE; $3,015,000 for SBI, and $16,000,000 for the natural resources development/tree planting program.

The conference agreement includes $500,000, designated in the bill, for the Ohio Department of Development's International Trade Division's initiative to promote the export capability of small- and medium-sized businesses. The program would help companies participate in appropriate trade shows, sponsor export seminars across the State, and conduct a feasibility study on an export financing program.

The conferees have provided $1,000,000 to Van Emmons Population, Marketing Analysis Center, a not-for-profit organization, in Towanda, Pennsylvania, for the continuation of an integrated small business data base to aid Appalachian Region small businesses in formulating economic development strategies and expanding export trade. Of this amount, $450,000 is provided to design a data base for transportation linkages and their relationship to small businesses in their Local Development Districts in Pennsylvania and two in New York State.

The conference agreement includes $1,500,000, designated in the bill, for a grant to the City of Worcester, Massachusetts, for infrastructure and architectural and engineering costs associated with the expansion of the Worcester Centrum and Exhibition Hall.

The conference agreement includes $800,000, designated in the bill, for the creation of a Center for Global Competitiveness to be located at Saint Francis College in Loretto, Pennsylvania, and Saint Vincent College in Latrobe, Pennsylvania. The purpose of the Center will be to increase small business competitiveness in the global marketplace. The Center for Global Competitiveness will be administered by the Business Resource Center at Saint Francis College, in partnership with Saint Vincent College. The Business Resource Center at Saint Francis College shall be the lead institution for this program with responsibility for the contract with the funding agency, issuing a subcontract to Saint Vincent College and monitoring total program compliance and grant expenditures. Responsibilities for the implementation of the program objectives will be divided between Saint Francis College and Saint Vincent College on a geographic basis. The program administrators at the respective Colleges will determine the method of implementing the project programs, maintaining compliance with the goals and objectives of the program. The Center for Global Competitiveness will deliver services through (1) providing one-on-one technical counseling, (2) development and presentation of workshops, (3) coordinating the development of cooperatives and networks between businesses, (4) building and fostering links between small businesses, government and public sector assistance programs, and (5) creating a Revolving Loan Fund to support the ideals of the Global Marketing Program.

The conferees intend that $100,000 of the amount provided under SBA Salaries and Expenses will be used to establish a pilot program for Western Region II, Pittsburgh District of the Small Business Administration. The SBA has identified a project that could assist local businesses. The program would be established in Johnstown, Pennsylvania, to enable the SBA to begin a pilot program involving the development of industry specific video catalogues that would showcase small businesses to prime contractors, export partners, and trade missions.

The conference agreement includes $400,000, designated in the bill, for a grant to the City of St. Louis, Missouri, for the development of a Biomedical Technopolis. The conferees recognize that the St. Louis region has been severely impacted by reduced federal investment in defense procurement. They further recognize that the region's best opportunity to diversify away from, and reduce its dependence upon, the defense industry is to better capitalize upon its existing strengths in the biomedical/biotechnology field. The presence of two university-based research hospitals in the City of St. Louis provides a unique opportunity for biomedical and biotechnology industrial development.

The conference agreement includes $500,000, designated in the bill, for a grant to the Washington State University Research Foundation, a private, non-profit corporation located in Pullman, Washington, for the construction of a second building to house new and existing small companies who wish to participate in the existing university/industry partnership which the Foundation has established.

The conference agreement includes $750,000 for a grant to the Hazard Community College in Hazard, Kentucky, to assist in the design and construction of a business and industry technical assistance center, and $1,000,000 for a grant to Morgan County, Kentucky, to assist in the restoration and improvement of the Old Morgan County High School building for use as a community and governmental center.

The conference agreement also provides the following: $500,000 for a grant to the University of Kansas for a small business incubator program; $1,000,000 for establishment of a small business economic development fund for the State of Vermont; $200,000 for a grant to the University of Central Arkansas for the SBI National Data Center; and $450,000 for a grant to the University of Arkansas at Little Rock for a program to provide basic and high technology assistance to rural small businesses.

The conference agreement also includes 93 percent of the amount included in the fiscal year 1992 SBA salaries and expenses appropriation for the following continuing activities: The University of Kentucky's Advanced Science and Technology Commercialization Center; Seton Hill College's Center for Entrepreneurial Opportunity; the Massachusetts Biotechnology Research Institute; Indiana State University's Center for Interdisciplinary Science Research and Education for technology transfer programs; the Michigan Biotechnology Institute for an industrial biotechnology transfer program; the New York City Public Library, Science, Industry and Business Library; and a program to assist small businesses in complying with the provisions of the recently reauthorized Clean Air Act.

The conferees note the success of the Procurement Center Representative (PCR) program and instruct SBA to fill the existing PCR representative position in Clarksburg, West Virginia. The conferees also expect SBA to assign a Procurement Center Representative to the Las Vegas, Nevada area.

The conferees expect the Small Business Administration to allocate a portion of the monies appropriated for administration of the Small Business Administration to fill the vacant Industrial Specialist (Forestry) position assigned to the Denver, Colorado office. This position is needed to assure compliance by the Forest Service of its timber sale set-aside program and to implement the urban tree planting program authorized in the 1990 Farm Bill.

### OFFICE OF INSPECTOR GENERAL

Amendment No. 139: Appropriates $8,300,000 for the SBA Office of Inspector General instead of $10,623,000 as proposed by the House and $10,000,000 as proposed by the Senate.

The conferees have included a transfer of $2,000,000 and 30 positions related to the SBIC audit function from the Office of Inspector General account to the SBA Salaries and Expenses account.

### BUSINESS LOANS PROGRAM ACCOUNT

Amendment No. 140. Appropriates $20,479,000 for the subsidy costs of direct business loans instead of $16,813,000 as proposed by the House and $21,000,000 as proposed by the Senate.

The following table displays the distribution of subsidy costs and program levels for the SBA Direct Loans program:

DIRECT LOANS

[In thousands of dollars]

| | Fiscal Year 1993—Conference | |
|---|---|---|
| | Program level | Subsidy amount |
| Direct: | | |
| Handicapped | 10,905 | 3,000 |
| Veterans | 15,531 | 2,904 |
| Economic Opportunity | 8,574 | 1,600 |
| 8(a) Loans | 4,557 | 852 |
| MicroLoans | 29,465 | 5,000 |
| MESBIC | 18,124 | 7,123 |
| Total, direct | 87,156 | 20,479 |

Amendment No. 141: Appropriates $213,920,000 for the SBA Business Loans Guarantee program instead of $253,438,000 as proposed by the House and $210,901,000 as proposed by the Senate.

The following table displays the distribution of the SBA Guaranteed Loan program:

BUSINESS LOANS GUARANTEES

[In thousands of dollars]

| | Fiscal year 1993—Conference | |
|---|---|---|
| | Program level | Subsidy amount |
| General Business | [1]$3,268,072 | $177,783 |
| 502 | 40,000 | 2,211 |
| 504 | 700,000 | 3,780 |
| SBIC | [2]165,000 | 25,130 |
| MESBIC | 17,500 | 5,016 |
| Total, guaranteed | 4,190,572 | 213,920 |

[1] Expected carryover from FY 1992: $700 million.

[2] Includes $75 million for new equity participation program.

The conferees are aware that the funding provided for guaranteed business loans is a decrease below the amounts available for fiscal year 1992. The amounts provided are the maximum available within the constraints of the following allocation for this bill. The conferees are aware that SBA will carryover approximately $700,000,000 in 7(a) guaranteed loan program amounts from fiscal year 1992.

The conferees were also supportive of the Senate proposal to include $40,000,000 in credit subsidy appropriations for SBA guaranteed loans as part of its Defense Economic Conversion initiative. However, the conferees have been unable to agree to the Senate amendment for Defense Economic Conversion because the Office of Management and Budget has advised that it considers such appropriations to be domestic discretionary instead of defense discretionary. The conferees understand that the Defense Economic Conversion proposal will be considered in the context of fiscal year 1993 Department of Defense appropriations and urge that SBA loan guarantees be included in this proposal.

The conferees have not specified an amount in this agreement to cover the 8(a) advance program. The conferees would be willing to entertain a reprogramming proposal to address any requirements for 8(a) advance subsidies.

Amendment No. 142: Appropriates $97,101,000 for the administrative expenses associated with the business loans program as proposed by the House instead of $98,145,000 as proposed by the Senate and makes a technical change in the language as proposed by the Senate.

### SBIC BANKRUPTCY PROVISION

Amendment No. 143: Inserts language which limits funds provided by this Act from being used to guarantee any participating securities authorized by Public Law 102-366 until legislation has been enacted which directly or indirectly prohibits the filing of a petition under the Bankruptcy Code by a small business investment company (SBIC) license under subsections (c) or (d) of Section 301 of the Small Business Investment Act of 1958. The Senate amendment had included a separate provision providing for a new account titled "Defense Economic Transition Assistance Loan Program", which provided $40,000,000 to subsidize additional SBA business loan guarantees. The House bill contained no provision on either of these matters.

### DISASTER LOANS PROGRAM ACCOUNT

Amendment No. 144: Makes a technical correction to the bill language as proposed by the Senate.

Amendment No. 145: Provides $80,657,000 for the subsidy cost of the Disaster Loans Programs Account as proposed by the House and by the Senate, and makes a technical correction in the bill language as proposed by the Senate.

Amendment No. 146: Provides language which amends a provision included in the House bill and stricken by the Senate relating to the ability of SBA disaster loan recipients to relocate. The conferees are agreed that SBA should, as soon as possible, promulgate regulations to carry out this provision and define the terms "voluntarily relocate" and "business area" taking into consideration the following:

It is the intent of the conferees that this prohibition be strictly applied to businesses receiving government-subsidized SBA disaster loans. The original purpose of providing a low-interest disaster loan without requiring a limited credit elsewhere test was to allow communities impacted by disasters the opportunity to rebuild. Local governments struggling to recover from the tremendous hardships and financial burdens suffered as a result of a crisis need to be assured of a dependable and continuing tax base in order to begin the process of recovery and to provide essential services and job opportunities to local people who stay in the community. By prohibiting businesses receiving disaster loans from relocating to another business area, those communities are more assured of a viable economic base upon which to begin the recovery process.

The regulations implementing this provision should take into account any uncontrollable circumstances which would make it necessary for a business to relocate, such as: the elimination of the market for the product of the business as a consequence of the disaster, a present location in a hazardous area such as a flood plain, along an earthquake zone or the like, the loss of significant population from the area, the loss of adequate public facilities, or other factors which undermine the economic viability of the area. The definition of a business area would be determined by SBA through regulation.

In the case of homeowners eligible to receive SBA disaster loans, it is the conferees' intent that in considering whether a move out of the area is voluntary, regulations implementing this provision permit consideration of special or unusual circumstances impacting individual homeowners, such as: the risk of recurrence of a natural disaster in that area; employment transfers or lack of job opportunities in the business area; a job reassignment to another location; or unusual cases where circumstances may force the victim to move elsewhere for special family considerations.

The conferees expect the Small Business Administration to promulgate regulations to carry out this provision under any expedited procedures available by law.

Amendment No. 147: Provides $78,000,000 for the administrative expenses of the Disaster Loans Program account as proposed by the House instead of $73,320,000 as proposed by the Senate, and makes a technical language change as proposed by the Senate.

Amendment No. 148: Makes a technical language change to the Disaster Loans Program Contingency Fund as proposed by the Senate.

Amendment No. 149: Deletes language proposed by the House and stricken by the Senate which would require that amounts appropriated for the Disaster Loans program must be equal to the most recent ten year historical average before emergency declaration of the contingency fund would be allowed.

The conferees have included $75,000,000 for the Disaster Loans Program Contingency Fund and would expect the President to notify Congress of his designation of these amounts as emergency requirements should the amounts provided in this Act prove insufficient to cover disasters in fiscal year 1993.

### SURETY BOND GUARANTEES REVOLVING FUND

Amendment No. 150: Provides $13,020,000 for subsidy costs of the Surety Bond Guarantees Revolving Fund as proposed by the House instead of $13,160,000 as proposed by the Senate.

## TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

## DEPARTMENT OF STATE

### ADMINISTRATION OF FOREIGN AFFAIRS

### SALARIES AND EXPENSES

Amendment No. 151: Appropriates $2,134,000,000 and designates $31,500,000 for the Bureau of Oceans and International Environmental and Scientific Affairs for grants, contracts, and other activities to conduct research and promote international cooperation. The House had proposed $2,170,333,000 with no designation, and the Senate had proposed $2,016,035,000 and had designated $30,000,000 for the Bureau of Oceans and International Environmental and Scientific Affairs for the purposes included in the conference agreement.

The amount in the conference agreement for the Salaries and Expenses account together with the amount provided for new posts in amendment numbered 160, as well as other authorities provided in this conference agreement, will provide the Department of State with resources for this account which are approximately $10,500,000 below the level approved in the House Committee, reported bill. The conferees intend that this reduction be applied to domestic management and administrative activities of the Department. In addition, the conference agreement includes $14,000,000 provided in amendment numbered 175 to replenish the Department's Buying Power Maintenance account to help address the problem of currency fluctuations in the Department's overseas operations. Currency losses for FY 1993 are currently estimated to be at least $30,000,000.

The conference agreement includes $31,500,000 for the Bureau of Oceans and International Environmental and Scientific Affairs for grants, contracts, and other activities to conduct research and promote international cooperation. Of this amount, $25,000,000 is designated for international research activities on the problem of climate and global change. The conferees believe that this is one of the most important issues facing the international community as evidenced by the negotiations on the Convention on Climate Change and by the issues discussed and decisions made at the recent United Nations Conference on the Environment and Development (UNCED) in Rio de Janeiro. Therefore, the conferees have designated most of the resources provided to the Department for international research activities to address this paramount issue. The conferees intend that the remaining $6,500,000 be used to continue funding on such international scientific research issues as international marine resources, ozone depletion, environmental protection, marine mammals, ocean pollution, international cooperation and research on the Antarctic, dry-land agriculture, public health, transborder pollution, and international forestry issues.

The conferees expect that the Assistant Secretary for Oceans and International Environmental and Scientific Affairs will continue to use and strengthen the interagency scientific committee process in order to establish a research agenda, evaluate research proposals, and decide on funding priorities for the use of all of these funds. The conferees intend that the Department work closely with other Federal agencies such as the National Oceanic and Atmospheric Administration, Environmental Protection Agency, and National Science Foundation to ensure that existing capabilities are used whenever practicable and duplication is avoided. The conferees expect that the Department of State will submit a reprogramming request in accordance with section 606 of the FY 1993 Appropriations Act to the Appropriations Committees before obligating any of these funds.

The conference agreement provides a total of $99,200,000, including the $20,000,000 provided in the appropriation for new posts, for post openings in the Newly Independent States, Eastern Europe, and Cambodia.

The conference agreement includes $15,000,000 for enhancement of the Diplomatic Telecommunications Service. The conferees note that in keeping with prior Congressional direction, a Program Office has been created to consolidate all of the existing assets of the Diplomatic Telecommunications Service (DTS) and create a new and enhanced communications network to serve the growing worldwide needs of the U.S. Government. The Five Year Strategic Plan submitted by the new Diplomatic Telecommunications Service Program Office (DTS-PO) represents a reasonably good start towards the goal of achieving the fully integrated DTS intended by Public Law 102-140.

The conferees recognize that the creation and staffing of the new DTS-PO and the building of a new communications capability will be done on a phased basis. As a consequence, it is realized that the strategic plan's initial reliance on delegated responsibilities to former DTS organizations represents a logical immediate use of existing in-place personnel, and its focus on data communications represents the first phase, technical use of existing assets.

The conferees wish to emphasize, however, that the intent of the Appropriations Committees was to create one encompassing organization from the two substantially duplicative organizations formerly comprising the DTS, not a third coordinating organization. The DTS-PO should truly be an integration of the staffs of the former DTS elements and possess sufficient authority to perform the DTS mission independently on behalf of the entire U.S. Government Foreign Affairs Community. The DTS-PO therefore should have life cycle, program management authority for the DTS in order to achieve an expanded and enhanced DTS capable of providing the full range of integrated communications services to include data, voice and facsimile to assure the security/privacy of all U.S. communications.

To achieve this objective, the DTS-PO staff should be increased by transfers from the former DTS organizations in order to strengthen the ability to manage, engineer, contract and conduct its financial affairs independently and reduce the present extensive reliance on contractor support. The DTS Five Year Strategic Plan should accordingly be amended, prior to the fiscal year 1994 budget submission, to reflect these organizational and technical functions and to provide a schedule for integration of the now separate communications capabilities in Embassies/Consulates worldwide into common communications facilities as rapidly as is economically and physically possible.

The DTS-PO is encouraged to maintain close coordination with the various U.S. Government departments and agencies conducting activities in foreign nations to coordinate their communications requirements and related budget plans so as to satisfy their needs via the DTS as soon as possible to achieve the necessary communications security and realize overall cost savings to the U.S. Government at the earliest practical time.

The conferees recommend that the Department of State allocate up to $400,000 for the National Law Center for Inter-American Free Trade (CIFT), located in Tucson, Arizona, on a 50-50 matching basis, to be used to promote education, research and cooperation among trading entities in Mexico, Canada and the United States, including issues related to environmental laws in North America. Non-federal funds made available to the National Law Center during fiscal years 1992 and 1993 shall count toward the Center's matching requirement.

The conference agreement includes a total of $18,892,000 for carrying out the Department's Immigration Act/Passport Reprogramming expenses for fiscal year 1993.

The conferees are aware that U.S. consulates levy charges for providing certain services and that the income from these fees is deposited in the U.S. Treasury. The conferees request the Department of State to study the potential for having U.S. consulates become self-financing. In addition, the Department of State should provide to the Committees on Appropriations of the House of Representatives and the Senate, recommendations on potential sources of funding which may be used to support consular operations. The results of the study and the recommendations on funding sources should be provided to the Committees not later than June 30, 1993.

The conferees understand that negotiations to establish the Cascadia Corridor Commission, a joint U.S.-Canada advisory commission with Federal, state, provincial and local representation, should be completed within the next year. The conferees encourage the Department to consider appropriate means of implementing any agreement that may be concluded, to include providing funds, if necessary, for the Cascadia Corridor Commission.

Amendment No. 152: Restores the phrase "in addition" as proposed by the House instead of deleting this phrase and inserting the phrase "of which" as proposed by the Senate. This is a technical change.

Amendment No. 153: Restores the phrase "in addition" as proposed by the House instead of deleting this phrase and inserting the phrase "of which" as proposed by the Senate. This is a technical change.

Amendment No. 154: Inserts language proposed by the Senate which earmarks $300,000 for the Bureau of Oceans and Environmental and Scientific Affairs for staff for follow-up activities to the United Nations Conference on Environment and Development, including necessary travel. The House bill contained no provision on this matter.

The conferees strongly urge the Department of State, the Environmental Protection Agency, the Council on Environmental Quality, and other relevant agencies and departments of the United States Government to coordinate the United States implementation of Agenda 21, promulgated at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil. The conferees expect the Department of State to submit a report on its findings in this regard to the appropriate Congressional committees by March 1, 1993.

Amendment No. 155: Inserts language proposed by the Senate earmarking $350,000 for payments to the Government of Mexico for the purpose of repatriating third country nationals directly from Mexico custody to their home nations. The Government of the United States and the Government of Mexico have developed a successful program that interdicts third country nationals who are intent on illegally immigrating to the United States, while they are in Mexico, and provides for their deportation back to their home nations. The Appropriations Committees have supported this program but have advised for two years that such costs should be an international expenditure and should not be borne by the Department of Justice domestic discretionary budget. The language included in the conference agreement will realign this expenditure.

### OFFICE OF INSPECTOR GENERAL

Amendment No. 156: Appropriates $24,055,000 as proposed by the House instead of $24,672,000 as proposed by the Senate;

### REPRESENTATION ALLOWANCES

Amendment No. 157: Appropriates $4,900,000 instead of $5,080,000 as proposed by the House and $4,802,000 as proposed by the Senate.

### PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

Amendment No. 158: Appropriates $10,814,000 instead of $9,814,000 as proposed by the House and $13,814,000 as proposed by the Senate. The conferees are agreed that the $1,000,000 in the conference agreement above the House level is available to reimburse any jurisdiction, including the City of New York, which may qualify under provisions of the authorization for this program.

### ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Amendment No. 159: Appropriates $570,500,000 instead of $562,000,000 as proposed by the Senate and $526,819,000 as proposed by the House.

The conference agreement includes a total of $43,681,000 for the following program increases:

$13,265,000 in capital projects, including AID and USIA projects;

$7,889,000 for various functional programs;

$578,000 for leaseholds; and

$21,949,000 in undistributed increases.

### NEW DIPLOMATIC POSTS

Amendment No. 160: Appropriates $25,000,000 to remain available until September 30, 1994, as proposed by the Senate, for establishing new diplomatic posts of the United States in the countries of the former Soviet Union. Of this amount, $20,000,000 is for State Department and $5,000,000 is for USIA requirements. The House bill contained no provision on this matter.

### EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Amendment No. 161: Appropriates $8,000,000 instead of $8,500,000 as proposed by the House and $7,500,000 as proposed by the Senate.

Amendment No. 162: Inserts a limitation of $1,000,000 for domestic representation expenses funded in this account as proposed by the Senate. The House bill contained no provision on this matter.

### INTERNATIONAL ORGANIZATIONS AND CONFERENCES

### CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 163: Deletes a proposal of the Senate that would have earmarked $61,900,000 of the total amount in the bill for Contributions to International Organizations for the International Atomic Energy Agency. The amount in the Senate amendment would have required $15,000,000 to be taken from the assessments for fiscal year 1993 which are provided for the other international organizations funded in the account. The House bill contained no provision on this matter.

Amendment No. 164: Deletes a provision proposed by the Senate which would have prohibited any of the funds made available by the Act to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent. The House bill contained no provision on this matter.

The conferees expect the State Department, in the negotiations on a new International Coffee Agreement, to ensure that any new agreement contains the necessary flexibility to respond to the preferences of U.S. consumers and not harm their interests. In carrying out this policy, the Department should negotiate an agreement that will stabilize prices and be market oriented. In addition, the conferees expect that the Administration will obtain Congressional approval of any new International Coffee Agreement that is negotiated.

### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Amendment No. 165: Appropriates $460,315,000 as proposed by the Senate instead of $457,592,000 as proposed by the House. The conference agreement provides the full budget request for Contributions for International Peacekeeping Activities, including $438,323,000 for fiscal year 1993 requirements and $21,992,000 for arrearage payments.

Amendment No. 166: Inserts a Senate provision that provides that funds shall be available for the United Nations Transitional Authority in Cambodia (UNTAC) only upon a certification by the Secretary of State to appropriate Congressional committees that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for UNTAC equal to those being given to foreign manufacturers and suppliers and that the United States Mission to the UN has established procedures to provide information on all UN procurement regulations and solicitations to American manufacturers and suppliers. The House bill contained no similar provision.

### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

### SALARIES AND EXPENSES

Amendment No. 167: Appropriates $11,330,000 instead of $11,265,000 as proposed by the House and $11,172,000 as proposed by the Senate. The conference agreement includes $316,000 to reimburse the City of San Diego for treating Tijuana sewage in its municipal system.

Amendment No. 168: Appropriates $14,790,000 instead of $13,854,000 as proposed by the House and $15,725,000 as proposed by the Senate. The conference agreement includes $750,000 for the Nuevo Laredo Sanitation project and $406,000 for the Chamizal Bridge project. The conferees expect that the International Boundary and Water Commission, the United States and Mexico will submit a financial plan to the House and Senate Appropriations Committees which will allocate the remainder of the funds provided under this conference agreement for the Construction account for fiscal year 1993.

### INTERNATIONAL FISHERIES COMMISSIONS

Amendment No. 169: Appropriates $14,200,000 instead of $13,757,000 as proposed by the House and $13,581,000 as proposed by the Senate. The conference agreement for this appropriation account includes $8,258,000 for the Great Lakes Fishery Commission.

### OTHER

### UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

Amendment No. 170: Appropriates $4,500,000 as proposed by the House instead of $5,000,000 as proposed by the Senate.

### PAYMENT TO THE ASIA FOUNDATION

Amendment No. 171: Appropriates $16,693,000 instead of $16,368,000 as proposed by the House and $17,018,000 as proposed by the Senate. The conference agreement will provide $325,000 for program enhancements for the Asia Foundation's activities.

## GENERAL PROVISIONS—DEPARTMENT OF STATE

Amendment No. 172: Inserts language that provides that not to exceed five percent of any appropriation made available for the current fiscal year for the Department of State in Title V of this Act may be transferred between such appropriations but no such appropriation except as otherwise specifically provided shall be increased by more than ten percent by any such transfers. The provision also includes the same transfer authority for the United States Information Agency which is funded in Title V of this Act. All such transfers are subject to the reprogramming notification requirements of section 606 of this Act.

The House had proposed that not to exceed five percent of any appropriation made available for the State Department could be transferred between such appropriations but no appropriation could be increased or decreased by more than five percent by any such transfer. The Senate had proposed that not to exceed five percent of any appropriation for the Department could be transferred between such appropriations without any limit on increases or decreases as a result of such transfers.

The conferees note that any transfers permitted under this provision must be done under the reprogramming requirements of section 606 of this Act. While the conferees have increased the five percent limit on transfers to receiving appropriation accounts to ten percent, the conferees expect that the Department and the U.S. Information Agency shall submit proposals to the Appropriations Committees for transfers between appropriations only in the most urgent circumstances.

Amendment No. 173: Inserts a general provision proposed by the Senate that prohibits the State Department from obligating or expending any funds in this Act for contracts with any foreign or United States firm that complies with the Arab League Boycott of Israel or with any such firm that discriminates in the award of subcontracts on the basis of religion, provided that the Secretary of State may waive this provision on a country-by-country basis upon certification to the Congress that such waiver is in the national interest and is necessary to carry on the diplomatic functions of the United States. The House bill contained no provision on this matter.

Amendment No. 174: Inserts a general provision as proposed by the Senate which repeals sections 132(f) and 132(g) of Public Law 102–138. This provision will permit the State Department to implement agreements reached with the Russian Federation concerning embassy properties in Moscow and Washington, DC. The House bill contained no provision on this matter.

Amendment No. 175: Inserts a new provision not contained in either the House or the Senate bill which provides the State Department with the authority to transfer certain balances up to $14,000,000 to the Buying Power Maintenance account. The Senate had proposed language which would have provided for a payment to Joseph Karl Hasek, pursuant to private law 98–54. The House had no similar provision.

The conferees strongly urge the Foreign Claims Settlement Commission to review the claim of Joseph Karl Hasek under P.L. 98–54 and that it report to the Committees on Appropriations by January 1, 1993, on whether the provisions in section 2(a) of that legislation have been met. This report should include a finding, the reasons for the finding, and if the claim is to be paid, a recommendation as to the possible source of any monies required to pay the claim.

### RELATED AGENCIES

### ARMS CONTROL AND DISARMAMENT AGENCY

### ARMS CONTROL AND DISARMAMENT ACTIVITIES

Amendment No. 176: Appropriates $46,500,000 instead of $45,863,000 as proposed by the House and $47,000,000 as proposed by the Senate.

The conference agreement includes funding for 24 additional positions as proposed in the budget. The conferees expect ACDA to reexamine its requirements for these positions and reduce the proposed GS-grade levels. For example, ACDA's proposal to provide a GS-13/15 salary ($46,210 to $70,987 per annum) for a trip coordinator does not appear to be justified.

### BOARD FOR INTERNATIONAL BROADCASTING

### AUTOMATION OF ARCHIVES

Amendment 177: Deletes an appropriation of $12,000,000 proposed by the Senate for automation of the archives of Radio Free Europe/Radio Liberty, Incorporated. There is no budget request or authorization for this appropriation. The House bill contained no provision on this matter.

### INTERNATIONAL TRADE COMMISSION

### SALARIES AND EXPENSES

Amendment No. 178: Appropriates $44,852,000 to remain available until expended instead of $45,152,000 as proposed by the House and $44,152,000 as proposed by the Senate. The conferees note that the Commission has lapsed significant portions of its appropriations in recent years. Therefore, the conferees have included language which permits the appropriation to remain available until expended to make available any unused balances to fund a portion of the Commission's budget request in fiscal year 1994.

### UNITED STATES INFORMATION AGENCY

### SALARIES AND EXPENSES

Amendment No. 179: Appropriates $736,693,000 instead of $726,693,000 as proposed by the House and $748,693,000 as proposed by the Senate. The amount in the conference agreement together with $5,000,000 for new post openings and new America Houses in the countries of the former Soviet Union and Cambodia, provided under amendment numbered 160, will provide a total of $741,693,000 for fiscal year 1993 for USIA's operations and administration. The total amount provided for USIA under the conference agreement is substantially below the amounts needed to maintain current program levels and allow USIA to open new posts in the countries of the former Soviet Union. Therefore, the conferees expect USIA to review all current programs, including the library programs at USIA reference and research centers worldwide, and submit proposals for reductions in lower priority programs in the initial reprogramming proposal which the agency traditionally submits during the first quarter of the new fiscal year.

Amendment No. 180: Deletes a designation of $800,000 proposed by the Senate for the World Scholar-Athlete Games. The House bill contained no similar provision. This matter is further addressed in amendment numbered 181.

### EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Amendment No. 181: Appropriates $223,447,000 instead of $202,847,000 as proposed by the House and $233,000,000 as proposed by the Senate.

The following table compares the budget request, the House allowance, the Senate allowance, and the conference agreement for the various exchange programs:

[In thousands of dollars]

| Program activity | 1993 request | House | Senate | Conference |
|---|---|---|---|---|
| Academic and International Visitor Exchange Programs: | | | | |
| Fulbright and Other Academic Programs [1] | 123,635 | 122,297 | 153,635 | 132,247 |
| International Visitor Program | 47,210 | 47,650 | 47,110 | 47,650 |
| Pepper Scholarship Program [2] | 500 | 700 | | 700 |
| Law and Business Training Program | 7,000 | 7,000 | 7,000 | 7,000 |
| Subtotal, Academic and IV | 178,345 | 177,647 | 207,745 | 187,597 |
| Hubert H. Humphrey Fellowships | 5,977 | 6,000 | 5,977 | 6,000 |
| Congress-Bundestag Exchange Program | 2,465 | 2,500 | 2,465 | 2,500 |
| NIS and Eastern Europe Training Program | 3,500 | 3,800 | 3,500 | 3,800 |
| World University Games | 2,000 | 2,000 | 2,000 | 2,000 |
| NIS-American Interparliamentary Exchanges [3] | 1,000 | 1,000 | 1,000 | 1,000 |
| Citizen Exchange Program | 8,213 | 8,400 | 8,213 | 8,400 |
| Near and Middle East Research and Training | | 3,000 | 3,000 | 3,000 |
| Institute for Representative Government | | | 600 | 600 |
| World Scholar-Athlete Games | | | | 800 |
| General Enhancement for Exchange Programs | | | | 9,250 |
| Total, direct obligations | 201,500 | 204,347 | 234,500 | 224,947 |
| Reconciliation to Appropriation: | | | | |
| Balances carried in | −1,500 | −1,500 | −1,500 | −1,500 |
| Total | 200,000 | 202,847 | 233,000 | 223,447 |

[1] Includes $2,000,000 in each year to carry out the Enhanced Educational Exchange Program in the Newly Independent States, Eastern Europe, and other areas as authorized by section 226 of the Foreign Relations Authorization Act, fiscal years 1992 and 1993.

[2] Includes $500,000 appropriated in fiscal year 1992, but not available until fiscal year 1993.

[3] Includes $1,000,000 appropriated in fiscal year 1992, but not available until fiscal year 1993.

The conference agreement includes $9,250,000 for the general enhancement of USIA's exchange programs. The conferees intend that these funds be used to supplement programs such as the International Visitor Program, the Citizen Exchange Program, CAMPUS, and the Newly Independent States and Eastern European Training Program, where additional needs are significant and anticipated benefits would be immediate.

The conferees expect the U.S. Information Agency to continue support for the National Program for Advanced Study and Research in China at a level of $700,000 per year. Although this amount is more than the grant provided for this program during the current fiscal year, it is less than the amount traditionally provided for the program over the last several years. The conferees believe that the $700,000 will be adequate to maintain the established activities of this program.

The conferees expect that from the amount made available in the conference agreement for the International Visitor Program, funding of contracts with the Free Trade Union Institute for international labor exchanges shall be continued and that the International Visitor Program of the Institute shall continue under the same terms and amounts as provided for fiscal year 1992. In addition, the conferees request that the Inspector General of the agency review this entire program and submit its findings and recommendations to the Appropriations Committees no later than April 1, 1993.

The conferees are aware of a proposal developed by the Association of Jesuit Colleges and Universities in response to requests from Republics of the former Soviet Union to provide technical assistance in the area of developing private higher education and curriculum development in the humanities emphasizing western thought. The conferees urge the USIA to consider an application and provide support for this proposal.

The conference amount for the Fulbright Academic Exchange Program includes a $700,000 increase for the Vietnam Scholarship Program established by section 229 of Public Law 102–138, bringing the total for the program to $1,000,000. The conferees expect that this increase will be used to expand the number of scholarships from 15 to at least 30 and to fund candidates who wish to pursue longer term academic degree programs, such as masters programs in economics and business and three-year degree programs in law, particularly commercial and tax law. Scholarships awarded for study in programs such as these may include several months of preparational English training.

Amendment No. 182: Designates $200,000 for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and $600,000 for the Institute for Representative Government. The House had proposed a designation of $200,000 for the Claude and Mildred Pepper Scholarship Program. The Senate bill deleted this language and inserted a designation of $600,000 for the Institute for Representative Government and a designation of $125,040,000 for the Fulbright Educational Exchange Program.

### RADIO CONSTRUCTION

Amendment No. 183: Appropriates $103,647,000 and waives section 701 of the United States Information and Educational Exchange Act of 1948, instead of $101,180,000 without any such waiver as proposed by the House and $106,113,000 without any such waiver as proposed by the Senate.

### BROADCASTING TO CUBA

Amendment No. 184: Appropriates $28,531,000 as proposed by the House instead of $34,758,000 as proposed by the Senate. The conferees agree that the reduction from the budget request of $6,227,000 is derived from excess unobligated balances for T.V. Marti and should have no negative impact on the program.

### EAST-WEST CENTER

Amendment No. 185: Appropriates $26,000,000 as proposed by the Senate instead of $25,306,000 as proposed by the House. The conference agreement provides the full amount authorized for the East-West Center for fiscal year 1993. The House bill would have provided the current services level for the Center.

### RUSSIAN FAR EAST TECHNICAL ASSISTANCE CENTER

Amendment No. 186: Appropriates $2,000,000 to provide technical assistance through an American university in a region which receives non-stop air service to and from the Russian Far East as of the date of enactment of this Act, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East, and makes these funds available only upon enactment into law of authorizing legislation. The Senate had proposed an appropriation of $4,000,000 for a similar purpose. The House bill contained no provision on this matter.

The conferees have provided funds for this new program, subject to the enactment of authorizing legislation, and anticipate that a thorough review of the program will be undertaken to determine if it should be continued or changed as part of the United States Information Agency's program.

### NORTH/SOUTH CENTER

Amendment No. 187: Appropriates $8,700,000 as proposed by the House instead of $10,000,000 as proposed by the Senate. The conference agreement, together with anticipated carry over balances, should provide the full budget request for the North/South Center for fiscal year 1993.

### NATIONAL ENDOWMENT FOR DEMOCRACY

Amendment No. 188: Appropriates $30,000,000 instead of $28,380,000 as proposed by the House and $31,250,000 as proposed by the Senate. The conference agreement includes $1,435,000 to enhance the Endowment's programs in support of democratic movements and institutions around the world. The House bill would have provided for the current services level for the Endowment. The Senate bill would have provided the full amount authorized for the Endowment for fiscal year 1993.

## TITLE VI—GENERAL PROVISIONS

Amendment No. 189: Deletes a provision proposed by the House and stricken by the Senate which would have reduced the State Department's Salaries and Expenses account by $19,000,000. This matter is further addressed in amendment numbered 151.

Amendment No. 190: Restores a provision proposed by the House and stricken by the Senate which provides that it is the sense of the Congress that entities purchasing goods or services with funds available under this Act should, to the maximum extent feasible, purchase only American-made equipment, products, and services.

Amendment No. 191: Restores a provision proposed by the House and stricken by the Senate which provides that none of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

Amendment No. 192: Inserts a provision which prohibits the person serving as the United States Trade Representative from aiding, advising, or representing foreign entities for three years after the termination of that person's service in that position, but exempts the person serving as the United States Trade Representative from the operation of this provision as of the date of enactment of this Act. The Senate had proposed a similar provision establishing a five year restriction on the person serving as the United States Trade Representative, but exempting the person from the provision who is serving in that position on the date of enactment of this Act. The House bill contained no similar provision.

Amendment No. 193: Deletes a provision proposed by the Senate which would have prohibited any of the funds in Title V of the Act to be available to carry out the provisions of section 118 of Public Law 102–138 as they apply to the Department of Justice and Department of Commerce. The House bill contained no provision on this matter.

The conferees are agreed that $15,064,000 provided to the State Department in the Salaries and Expenses account under the conference agreement be used to support the current services level of overseas administrative support costs of the Department of Commerce, the Department of Justice, and the Office of the United States Trade Representative as set forth in the President's FY 1993 budget request and supporting documents.

### PILOT IMMIGRATION PROGRAM

Amendment No. 194: Includes language proposed by the Senate, not in the House bill, but changes the section number to Sec. 610. The language establishes a pilot immigration program designed to promote economic growth, increase export sales, improve productivity, create jobs, and increase capital investment.

### LEGAL SERVICES CORPORATION RESTRICTIONS

Amendment No. 195: Adds language specifying the formula under which Legal Services Corporation funding will be allocated to basic field programs and the conditions under which the funding can be spent. The restrictions imposed upon the Corporation for fiscal year 1993 under this conference agreement are identical to those restrictions under which the Corporation is currently operating, unless authorizing legislation for the Corporation is enacted into law during fiscal year 1993.

The restrictions included in the House bill (Amendment No. 135) were tied to the House-passed authorization, unless authorizing legislation was enacted. The restrictions in the Senate amendment were tied to fiscal year 1992 restrictions, unless one of the following applied: (1) S. 2870 as reported from Committee; (2) S. 2870 as passed the Senate; or (3) an enacted authorization.

### FCC SPECTRUM REALLOCATION

Amendment No. 196: Deletes language proposed by the Senate which prohibited the use of funds by the FCC to develop or implement a rulemaking designed to reallocate certain frequencies around 2 GHz for new emerging technologies, unless certain requirements were met. The Senate took this action out of concern over the impact such a reallocation could have on existing users. These existing users depend upon fixed microwave communications systems in this spectrum to provide essential public services, such as power distribution and train routing. While the House bill contained no such provision, similar concerns were raised by Members of the House about the impact on existing users.

The conferees agreed to delete the Senate language as a result of the September 17, 1992 vote by the FCC to adopt a Report and Order and Third Notice of Proposed Rulemaking in this proceeding. Although the actual text of the decision has not been released, the conferees understand that this revised rulemaking recognizes the legitimate concerns of the existing users of the 2 GHz band about reliability and cost. The transition plan adopted by the Commission appears to include many of the provisions set forth in the Senate amendment. The conferees expect that the text of the Commission's decision will reflect the decision announced by the Commission in its press release of September 17, 1992. The conferees will continue to review the Commission's actions in this proceeding to ensure that the final rulemaking on this issue conforms to the press announcements after the September 17 meeting. With regard to the length of the transition period that remains open for additional public comment, the conferees expect the Commission to give appropriate consideration to the Senate position.

Amendment No. 197: Deletes language proposed by the Senate, but not in the House bill, authorizing the SEC to collect fees for regulation of investment advisers. This issue is addressed under amendment No. 67.

### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended Comittee of by the Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $22,287,011,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 23,858,164,000 |
| House bill, fiscal year 1993 | 22,304,145,000 |
| Senate bill, fiscal year 1993 | 23,273,504,000 |
| Conference agreement, fiscal year 1993 | 23,214,927,000 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | +927,916,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | −643,237,000 |
| House bill, fiscal year 1993 | +910,782,000 |
| Senate bill, fiscal year 1993 | −58,577,000 |

NEAL SMITH,
BILL ALEXANDER,
JOSEPH D. EARLY,
BOB CARR,
ALAN B. MOLLOHAN,
NANCY PELOSI,
JAMIE L. WHITTEN,
HAL ROGERS,
RALPH REGULA,
JIM KOLBE,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

FRITZ HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BROOK ADAMS,

ROBERT C. BYRD,
WARREN B. RUDMAN,
TED STEVENS,
MARK O. HATFIELD,
ROBERT W. KASTEN, Jr.,
PHIL GRAMM,
*Managers on the Part of the Senate.*

## PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5518, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Monday, September 28, 1992, to file a conference report on the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORTS ON H.R. 3281, H.R. 5983, and H.R. 5575

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight tonight to file reports on the following bills: H.R. 3281, H.R. 5983, and H.R. 5575.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

## CONFERENCE REPORT ON H.R. 5488, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1993

Mr. ROYBAL submitted the following conference report and statement on the bill (H.R. 5488) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1993, and for other purposes:

### CONFERENCE REPORT (H. Rept. 102-919)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5488) "making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 19, 34, 43, 47, 48, 49, 51, 52, 57, 64, 69, 73, 75, 82, 83, 97, 101, 110, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 137, 142, 143, 144, 145, 147, 148, 149, 162, 163, 165, 166, and 175.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 9, 11, 12, 16, 17, 18, 21, 22, 24, 25, 26, 27, 28, 29, 32, 33, 35, 36, 38, 39, 40, 41, 42, 45, 50, 54, 56, 58, 62, 65, 66, 67, 71, 72, 76, 84, 85, 89, 90, 94, 98, 99, 113, 114, 115, 130, 146, 152, 155, 160, 164, 168, 170, 171, 172, 178, and 179.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$3,064,000*; and the Senate agreed to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *48*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,925,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$71,202,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$727,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$33,408,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$29,147,000, of which not to exceed $1,300,000 shall remain available until expended for the Inspectors General Auditor Training Institute*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided further, That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center; $47,158,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$9,748,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$366,372,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$22,000,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,315,917,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert the following: *$750,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$53,001,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,860,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of the first sum named in said amendment, insert the following: *$3,835,347,000*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$469,155,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

Restore tha matter stricken by said amendment, amended to read as follows:

*SEC. 101. Of the funds appropriated by this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1993 shall be identified as such by the Commissioner during that fiscal year: Provided, That in the fiscal year when the savings are realized, the amount of efficiency savings shall be non-recurred from the Internal Revenue Service budget base: Provided further, That in fiscal year 1993, the Internal Revenue Service shall identify persons found deserving of cash awards* *and reward such employees as authorized by sections 4501–4505 of title 5, United States Code; Provided further, That on an annual basis, the Internal Revenue Service shall report to the House and Senate Appropriations Committees on the status of the program.*

And the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 106. Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be used by the Secretary of the Treasury to direct bill a Treasury bureau for penalty mail costs incurred by another Treasury bureau without the advance approval of the House and Senate Committees on Appropriations.*

*SEC. 107. The Secretary of the Treasury is authorized to transfer all obligated and unobligated balances in the construction of Mint facilities and Mint expansion and improvements accounts in prior appropriations acts to the account for the salaries and expenses appropriation in this Act: Provided, That such transferred balances shall be used for expansion and improvements and shall be available until expended.*

*SEC. 108. Notwithstanding any other provision of this Title, the amount available for administrative expenses to pay overtime to any employee of the United States Customs Service is limited to $25,000 per year.*

And the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$35,385,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$3,428,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$3,772,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of the sum named in said amendment, insert the following: *$235,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$52,981,000; and the Senate agree to the same.*

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That after January 1, 1993, none of the funds appropriated or made available under this Act may be used for the payment of salaries or expenses for any Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, to make public appearances for political campaigns as defined under section 7324(a) of title 5, United States Code*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*SPECIAL FORFEITURE FUND*

*(INCLUDING TRANSFER OF FUNDS)*

*For activities authorized by Public Law 100–690, $75,742,000, to be derived from deposits in the Special Forfeiture Fund; of which $2,000,000, to remain available until expended, shall be transferred to the Drug Enforcement Administration for an expansion study of the El Paso Intelligence Center; of which $2,000,000 shall be transferred to the Bureau of Justice Assistance for the activities of the District of Columbia Metropolitan Area Task Force; of which $7,000,000, to remain available until expended, shall be transferred to the United States Border Patrol for helicopters and replacement vehicles; of which $2,800,000, to remain available until expended, shall be transferred to the Financial Crimes Enforcement Network for software development; of which $5,741,000, to remain available until expended, shall be transferred to the United States Customs Service for the procurement of marine assets; of which $5,000,000, to remain available until expended, shall be transferred to the Federal Law Enforcement Training Center for design and construction of training facilities; of which $2,500,000 shall be transferred to the United States Marshals Service for expenses and equipment related to the apprehension of fugitives; of which $15,000,000, to remain available until expended, shall be transferred to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal agencies and departments; and of which $33,701,000 shall be transferred to the Alcohol, Drug Abuse and Mental Health Administration, of which $8,701,000 shall be made available for Community Partnership grants, of which $15,300,000 shall be made available to the Office of Treatment Improvement for the drug treatment Capacity Expansion Program, of which $4,700,000 shall be transferred to the San Francisco Department of Health, and of which $5,000,000 shall be made available to the Office of Substance Abuse Prevention for the residential treatment program for mothers and children.*

And the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,820,000*; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$330,501,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$4,717,251,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$626,312,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*New Construction:*

*Arizona:*

*Nogales, U.S. Border Patrol Sector headquarters, $3,000,000*

*Sun City West, Post Office, $5,000,000*

*Tucson, National Weather Service, U.S. Geological Survey, $5,500,000*

*California:*

*San Francisco, U.S. Court of Appeals Annex, $4,400,000*

*San Francisco, Federal Office Building, $10,000,000*

*Santa Ana, Federal Building and U.S. Courthouse, $2,500,000*

*District of Columbia:*

*U.S. Army Corps of Engineers, headquarters, $50,000,000*

*Federal Bureau of Investigation, field office, $53,790,000*

*U.S. Secret Service, headquarters, $150,569,000*

*White House Remote Delivery and Vehicle Maintenance Facilities, $25,531,000*

*Florida:*

*Fort Myers, Federal Building and U.S. Courthouse, $27,600,000*

*Hollywood, Federal Building, $1,000,000*

*Tampa, U.S. Courthouse, $8,948,000*

*Georgia:*

*Albany, U.S. Courthouse, $6,000,000*

*Atlanta, Centers for Disease Control, site, acquisition and improvements, $26,000,000*

*Atlanta, Centers for Disease Control, Laboratory, $30,000,000*

*Atlanta, Centers for Disease Control, $15,000,000*

*Hawaii:*

*Hilo, Federal Building, $1,500,000*

*Illinois:*

*Chicago, Social Security Administration, District Office, $4,000,000*

*Massachusetts:*

*Boston, U.S. Courthouse, $20,000,000*

*Missouri:*

*Kansas City, Federal Building—U.S. Courthouse, $5,721,000*

*Nevada:*

*Reno, Federal Building—U.S. Courthouse, $35,000,000*

*New Hampshire:*

*Concord, Federal Building—U.S. Courthouse, $36,576,000*

*New Jersey:*

*Newark, Parking Facility, $9,000,000*

*New Mexico:*

*Albuquerque, Federal Building—U.S. Courthouse, $3,118,000*

*New York:*

*Brooklyn, U.S. Courthouse, $15,000,000*

*Long Island, Federal Building—U.S. Courthouse, $5,200,000*

*North Dakota:*

*Fargo, Federal Building and U.S. Courthouse, $23,000,000*

*Oregon:*

*Portland, Bonneville Power Building, claim, $3,590,000*

*Pennsylvania:*

*Scranton, General Mail Facility, $3,000,000*

*South Carolina:*

*Columbia, U.S. Courthouse annex, site acquisition, $4,109,000*

*Texas:*

*Laredo, Federal Building—U.S. Courthouse, $3,000,000*

*Vermont:*

*Highgate Springs, Border Station, $250,000*

*Washington:*

*Seattle, U.S. Courthouse, $12,000,000*

*West Virginia:*

*Beckley, Federal Building and U.S. Courthouse, $10,000,000*

*Nonprospectus construction projects, $7,500,000* ; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *Provided, That of the funds provided for nonprospectus construction projects, $5,000,000 shall remain available until expended for the acquisition, lease, construction and equipping of a flexiplace work telecommuting center in southern Maryland, the Eastern Shore of Maryland, and northwestern Virginia: Provided further,*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Capital Improvements of United States-Mexico Border Facilities, $7,500,000, as follows:*

*Texas:*

*Ysleta, site acquisition and construction, $7,500,000*

*: Provided, That the Administrator of General Services shall make available not to exceed $1,500,000 for hazardous waste facilities at the El Paso, Texas, Bridge of the Americas border facility; and not to exceed $1,500,000 for hazardous waste facilities at the Ysleta, Texas, Zaragosa Bridge border facility from funds made available for these two line-item projects under the United States-Mexico Capital Improvements Program in Public Laws 101–136 and 101–509*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$273,300,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert he following: *$1,130,871,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$4,717,251,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$56,144,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$34,000,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$46,419,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,192,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended as follows: In lieu of "$15,000,000" named in said amendment, insert the following: *$10,000,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. *9.*" named in said amendment, insert the following: SEC. *11.*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. *10.*" named in said amendment, insert the following: SEC. *12.*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. *11.*" named in said amendment, insert the following: SEC. *13.*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. *12.*" named in said amendment, insert the following: SEC. *14.*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. *13.*" named in said amendment, insert the following: SEC. *15.*
and before the last period included in said amendment, insert the following: *: Provided, That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of "SEC. 14." named in said amendment, insert the following: SEC. *16.*
and after the last period included in said amendment, insert as follows:

*SEC. 17. Notwithstanding any other provisions of law, the Administrator of General Services is authorized to proceed with the design and construction of a 500,000 occupiable square foot Courthouse in Boston, Massachusetts, to accommodate the long-term space requirements of the U.S. Courts, subject to the availability of funds.*

*SEC. 18. Notwithstanding any other provision of law, the Administrator of General Services is authorized to enter into an interagency agreement with the United States Postal Service for the occupancy of a Federal office building of up to 1,000,000 occupiable square feet of space, to be constructed on a site owned by the United States Postal Service at 30th and Walnut Streets in the City of Philadelphia, Pennsylvania; the building shall be deemed United States Postal Service property and the cost of constructing such building is to be financed by the United States Postal Service using Postal Service funds or using funds borrowed by the Postal Service through the Federal Financing Bank; the term of the interagency agreement shall not exceed twenty years. The interagency agreement between the General Services Administration and the United States Postal Service shall not be sold or assigned to private parties or constitute a guarantee by the General Services Administration of any third party financing: Provided, That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.*

*SEC. 19. The Laboratory to be located at the Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia, is hereby designated as the "Edward R. Roybal Laboratory". Any reference to such build in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Edward R. Roybal Laboratory".*

*SEC. 20. The Campus to be located at the Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia, is hereby designated as the "Edward R. Roybal Campus". Any reference to such campus in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Edward R. Roybal Campus".*

*SEC. 21. (a) The Federal building located at 501 West Ocean Boulevard in Long Beach, California, shall be known and designated as the "Glenn M. Anderson Federal Building".*

*(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Glenn M. Anderson Federal Building".*

*SEC. 22. (a) The United States Court of Appeals Building located at 125 South Grand Avenue in Pasadena, California, shall be known and designated as the "Richard H. Chambers United States Court of Appeals Building".*

*(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in subsection (a) shall be deemed to be a reference to the "Richard H. Chambers United States Court of Appeals Building".*

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$165,045,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$5,000,000*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$119,000,000, of which not to exceed $1,000,000 shall be made available for the establishment of health promotion and disease prevention programs for Federal employees*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$86,032,000*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$6,500,000*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$24,450,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$7,952,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$21,647,000*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of "514" named in said amendment, insert the following: *515*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of "515" named in said amendment, insert the following: *516*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of "516" named in said amendment, insert the following: *517;* and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of "517" named in said amendment, insert the following: *518*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of "518" named in said amendment, insert the following: *519*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended as follows: In lieu of the section number named in said amendment, insert the following: *520*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of "520" named in said amendment, insert the following: *521*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of " 521" named in said amendment, insert the following: *522*; and the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of " 522" named in said amendment, insert the following: *523*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended as follows: In lieu of " section number named in said amendment, insert the following: *524*; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 532. Notwithstanding any other provision of law, beginning October 1, 1992, and thereafter, no funds made available to the Office of Personnel Management may be used to prepare, promulgate, or implement any rules or regulations relating to the Combined Federal Campaign unless such rules or regulations include a Combined Federal Campaign brochure list and general designation option solely for international agencies, which list (listed by Federation in the case of affiliated agencies) and option shall include only those international agencies that elect in their annual application to be included under such list and option rather than under the national agencies list and option: Provided, That such limitation on the use of funds shall not apply to any activities related to the 1992 Combined Federal Campaign.*

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of "531" named in said amendment, insert the following: *533*; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended as follows: In lieu of "SEC. 533." named in said amendment, insert the following: "*SEC. 534.*"; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended as follows: In lieu of "SEC. 534" named in said amendment, insert the following: "*SEC. 535.*"; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 536. By no later than April 15, 1993, the Director of the Secret Service shall contact each former President and the spouses of deceased former Presidents to advise such individuals of the costs incurred by the Secret Service for their protection, and identify and discuss potential threats and cost-effectiveness protection alternatives: Provided, That by no later than June 1, 1993, the Director of the Secret Service shall provide a confidential briefing to the members of the House and Senate Committees on Appropriations on the results of such meetings.*

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended to read as follows: In lieu of the first section number named in said amendment, insert the following: *537*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

Retain the matter proposed, amended to read as follows: In lieu of the first section number named in said amendment, insert the following: *538*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment, and on page 19, line 20 of the House engrossed bill, H.R. 5488, delete "$200,000,000" and insert in lieu thereof the following: *$121,912,000*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

Restore the matter stricken, amendment as follows: Before the last period in said amendment, insert the following: *and the President should issue an Executive Order mandating the procurement and use of FTS 2000*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*SEC. 627. Sense of the Congress.—It is the Sense of the Congress that—*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *, the*; and the Senate agree to the same.

Amendment numbered 173:

That the House recede from its disagreement to the amendment of the Senate numbered 173, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 628. Section 16 of the Trading with the Enemy Act, 40 Stat. 425 (50 U.S.C. App. 16), as amended, is amended to read as follows:*

*"(a) Whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of the Act shall, upon conviction, be fined not more than $1,000,000 or if a natural person, be fined not more than $100,000, or imprisoned for not more than ten years or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than ten years or both.*

*"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.*

*"(2) The penalties provided under this subsection may not be imposed for—*

*"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or*

*"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.*

*"(c) Upon conviction, any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, concerned in any violation of subsection (a) may be forfeited to the United States.".*

And the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 629. Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)) is amended by striking out "$10,000" and inserting in lieu thereof, "$50,000".*

And the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 630. Title 42 U.S.C is amended by adding a new section as follows:*

***"§6962j. Preference for recycled toner cartridges***

*"(a) Notwithstanding any other provision of law, a Federal agency in conducting a procurement for toner cartridges for use in laser printers, photocopiers or microphotographic printers shall purchase recycled cartridges, unless the contracting or purchasing officer determines in writing that—*

*"(1) adequate market research establishes that recycled cartridges for the type of equipment used by the agency do not exist, or;*

*"(2) the price or life cycle cost offered for the recycled cartridge is higher than the original equipment manufacturer's new cartridge, or;*

*"(3) recycled cartridges are not available in quantities needed within the timeframes required.*

*"(b) Nothing in this section shall prohibit the purchase of one newly manufactured cartridge (or a number equal to those normally supplied at the time of initial purchase) as part of an initial printer or copier acquisition.*

*"(c) For purposes of this section, 'recycled cartridge' means a laser printer, photocopier, or microphotographic toner cartridge which has been remanufactured in the United States by a small-business concern which has been certified by an independent laboratory to meet generally accepted industry standards. In the absence of an independent laboratory certification, a contracting officer may in his discretion rely on the agency's past experience with the offered recycled cartridge as evidence that the offered product meets generally accepted industry standards.*

*"(d) For purposes of this section, 'small-business concern' has the meaning given such term in the Small Business Act (15 U.S.C. §632(a)).*

*"(e) For purposes of this section, 'independent laboratory' means an independently owned engineering and product testing firm, whose primary business activity is not limited to the testing and certification of recycled cartridges.".*

And the Senate agree to the same.

Amendment numbered 177:

That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

***SEC. 631. ALIEN SPECIES PREVENTION AND ENFORCEMENT.***

*(a) PESTS IN THE MAILS.—*

*(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall hereafter operate a program, under terms and conditions acceptable to the Postal Service, to protect Hawaii from the introduction of prohibited plants, plant pests, and injurious animals that may be contained in mail received in Hawaii, except that this subsection shall not apply to mail that originates and is intended for delivery outside the United States.*

*(2) MEMORANDUM OF UNDERSTANDING.—For the purpose of carrying out the program operated under paragraph (1), the Secretary of Agriculture shall enter into a memorandum of understanding or other agreement with the Secretary of the Interior relating to prohibited plants, plant pests, or injurious animals under the jurisdiction of the Department of the Interior.*

*(3) REMEDIAL ACTION.—If, pursuant to the program, mail is found to contain a prohibited plant, plant pest, or injurious animal, the Secretary shall—*

*(A) make a record of the prohibited plant, plant pest, or injurious animal found in the mail;*

*(B) take appropriate action to prevent the introduction of the prohibited material into Hawaii; and*

*(C) determine whether the facts and circumstances warrant seeking prosecution under a law prohibiting the conveyance of a plant, plant pest, or injurious animal.*

*(4) DEFINITIONS.—As used in this subsection:*

*(A) INJURIOUS ANIMAL.—The term "injurious animal" means an animal the importation or interstate shipment of which is prohibited by section 42 of title 18, United States Code.*

*(B) PLANT.—The term "plant" means a plant from any class of plants, or any other article or matter, the importation or interstate shipment of which is prohibited under the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act").*

*(C) PLANT PEST.—The term "plant pest" means any organism or substance the importation or interstate shipment of which is prohibited under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.).*

*(b) COOPERATIVE AGREEMENTS WITH HAWAII TO ENFORCE CERTAIN AGRICULTURAL QUARANTINE LAWS.—*

*(1) AGREEMENT BETWEEN SECRETARY OF AGRICULTURE AND HAWAII.—*

*(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State—*

*(i) the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act");*

*(ii) the Federal Plant Pest Act (7 U.S.C. 150aa et seq.); and*

*(iii) the matter under the heading "ENFORCEMENT OF THE PLANT-QUARANTINE ACT:" of the Act of March 4, 1915 (38 Stat. 1113; 7 U.S.C. 166) (commonly known as the "Terminal Inspection Act").*

*(B) INSPECTION OF PLANTS AND PLANT PRODUCTS.—The cooperative agreement shall establish a specific procedure for the submission and approval of the names of plants and plant products that the State of Hawaii elects to inspect under the provision of law referred to in subparagraph (A)(iii).*

*(C) AUTHORITY.—The Secretary shall carry out this paragraph under the authority provided by—*

*(i) section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a);*

*(ii) section 3 of the Act of May 29, 1884 (23 Stat. 32, chapter 60; 21 U.S.C. 114); and*

*(iii) section 11 of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 114a).*

*(2) AGREEMENT BETWEEN SECRETARY OF INTERIOR AND HAWAII.—*

*(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).*

*(B) AUTHORITY.—The Secretary shall use to carry out this paragraph the authority provided under section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l).*

*(3) AGREEMENT BETWEEN POSTAL SERVICE AND HAWAII.—*

*(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Postal*

*Service shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State, under terms and conditions acceptable to the Postal Service and in compliance with postal regulations, Public Law 100–574 and the amendments made by such Public Law.*

*(B) AUTHORITY.—The Postal Service shall use to carry out this paragraph the authority provided under section 3014 of title 39, United States Code.*

*(4) COOPERATIVE PROGRAMS.—Any program conducted jointly by the State of Hawaii and any Federal agency under this subsection that in any way affects the mail or the postal system of the United States shall comply with postal regulations and shall be conducted under terms and conditions acceptable to the Postal Service.*

*(5) EXTENSION OF AGREEMENTS.—A cooperative agreement entered into under this subsection may be extended by mutual consent of the parties to the agreement.*

*(c) PUBLIC INFORMATION PROGRAM ON PROHIBITIONS AGAINST SHIPMENT OR TRANSPORTATION OF PLANT PESTS AND INJURIOUS ANIMALS.—*

*(1) IN GENERAL.—The Postal Service, the Secretary of the Interior, and the Secretary of Agriculture shall jointly establish a public information program to inform the public on—*

*(A) the prohibitions against the shipment or transportation of plants, plants pests, and injurious animals; and*

*(B) the consequences of violating Federal laws designed to prevent the introduction of alien species into the State of Hawaii and other areas of the United States.*

*(2) METHODS.—In carrying out paragraph (1), the Postal Service and Secretaries may—*

*(A) use public service announcements, mail and other forms of distributing information, dial-up information services, and such other methods as will effectively communicate the information described in paragraph (1); and*

*(B) cooperate with State and private organizations to carry out the program established under this subsection.*

*(3) STUDY.—Not later than 1 year after the program established under subsection (a) commences, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, the Postal Service, and the State of Hawaii, shall—*

*(A) conduct a study to determine the proportion of plant pests and injurious animals that are introduced into Hawaii by various modes of commerce; and*

*(B) report the results of the study to Congress.*

*(d) NONMAILABLE PLANT PESTS AND INJURIOUS ANIMALS.—*

*(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end of the following new section:*

***"§3015. Nonmailable plant pests and injurious animals***

*"(a) INJURIOUS ANIMALS.—Any injurious animal, the importation or interstate shipment of which is prohibited pursuant to section 42 of title 18, constitutes nonmailable matter.*

*"(b) PLANT PESTS.—Any plant pest, the movement of which is prohibited pursuant to section 103 or 104 of the Federal Plant Pest Act (7 U.S.C. 150bb or 150cc), constitutes nonmailable matter.*

*"(c) PLANTS.—Any plant, article, or matter, the importation or interstate shipment of which is prohibited pursuant to the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the 'Plant Quarantine Act'), constitutes nonmailable matter.*

*"(d) ILLEGALLY TAKEN FISH, WILDLIFE, OR PLANTS.—Any fish, wildlife, or plant, the conveyance of which is prohibited pursuant to section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372), constitutes nonmailable matter.".*

*(2) CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39 is amended by adding at the end the following new item:*

*"3015. Nonmailable plant pests and injurious animals.".*

*(e) SHORT TITLE.—This section may be cited as the "Alien Species Prevention and Enforcement Act of 1992".*

And the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: Before the last period, insert the following: *: Provided further, That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works*; and the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

***SEC. 635. COMMISSION ON THE SOCIAL SECURITY "NOTCH" ISSUE.***

*(a) ESTABLISHMENT.—There is established a Commission on the Social Security "Notch" Issue (in this section referred to as the "Commission").*

*(b) MEMBERSHIP.—The Commission shall be composed of 12 members as follows:*

*(1) 4 members appointed by the President from among officers or employees of the Executive Branch, private citizens of the United States, or both. Not more than 2 of the members appointed by the President shall be members of the same political party.*

*(2) 2 members appointed by the Majority Leader of the United States Senate, in consultation with the Chairman of the Committee on Finance of the United States Senate, from among members of the Senate, private citizens of the United States, or both.*

*(3) 2 members appointed by the Minority Leader of the United States Senate, in consultation with the Ranking Member of the Committee on Finance of the United States Senate, from among members of the Senate, private citizens of the United States, or both.*

*(4) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives, from among members of the House of Representatives, private citizens of the United States, or both.*

*(5) 2 members appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Ways and Means of the House of Representatives, from among members of the House of Representatives, private citizens of the United States, or both.*

*(c) FUNCTIONS OF THE COMMISSION.—*

*(1) STUDY.—The Commission shall conduct a comprehensive study of what has come to be known as the "notch" issue. The study shall examine the causes of the controversy, whether there are inequities in the treatment of social security beneficiaries born in different years, whether legislative action shall be taken, and the effect on social security trust funds of such legislative action.*

*(2) FINDINGS AND CONCLUSIONS.—The Commission shall transmit a report to the Congress not later than December 31, 1993. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with any recommendations the Commission considers appropriate. Any recommendations which would increase social security expenditures would have to be accompanied by cost estimates and options for financing such recommendations.*

*(d) CHAIRPERSON; MEETINGS.—The President shall designate a Chairperson from among the membership. The Commission shall meet at the call of the Chairperson or a majority of its members.*

*(e) PAY.—Members of the Commission shall serve without compensation, except that members of the Commission who are private citizens of the United States shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.*

*(f) STAFF.—*

*(1) STAFF.—Subject to rules prescribed by the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.*

*(2) STAFF OF DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Upon request of the Commission, the Secretary of Health and Human Services may detail, on a reimbursable basis, any of the personnel of the Department of Health and Human Services to the Commission to assist it in carrying out its duties under this section.*

*(g) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States such information as is necessary and appropriate to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall, to the extent permitted by law, furnished that information to the Commission.*

*(h) TERMINATION.— The Commission shall terminate 30 days after transmittal of its report to the Congress.*

*(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for purposes of this section, to remain available until expended, but in no event beyond the date of termination provided in subsection (h).*

*SEC. 636. Notwithstanding any other provision of law, the Secretary of Agriculture may enter into an agreement with the Washington Metropolitan Area Transit Authority to provide a total of 30 acres of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, and permit the Washington Metropolitan Area Transit Authority to utilize said land to design and construct wetland mitigation projects to replace wetlands eliminated by authorized construction by the Washington Metropolitan Area Transit Authority as required by the terms and conditions of any permit issued to the Washington Metropolitan Area Transit Authority by the United States Army, Corps of Engineers, pursuant to Section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1344; Provided, That title to such land shall remain vested in the United States of America; Provided further, That the Secretary shall dedicate a perpetual conservation easement with respect to such land prohibiting any filling, flooding, excavation, clear cutting, construction, removal of vegetation, or alteration of trees in areas delineated as created wetlands, except when authorized under Federal and State law; Provided further, That such land may be used in a manner not inconsistent with the perpetual conservation easement to further research, extension, or teaching programs in the food and agricultural science of the Department of Agriculture.*

*SEC. 637. Notwithstanding any other provision of law, the United States Customs Service pilot pre-clearance program authorized to be established in Aruba shall be extended through 1994.*

*SEC. 638. (a) This section may be cited as the "Treasury Forfeiture Fund Act of 1992".*

*(b)(1) Chapter 97 of title 31, United States Code, is amended by inserting after section 9702 the following new section:*

***"9703. Department of the Treasury Forfeiture Fund***

*"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be*

*known as the 'Department of the Treasury Forfeiture Fund' (referred to in this section as the 'Fund'). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of Treasury or the United States Coast Guard for the following law enforcement purposes:*

*"(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.*

*"(B) Payment for—*

*"(i) contract services;*

*"(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and*

*"(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.*

*"(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).*

*"(D) Satisfaction of—*

*"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the apropriate Customs officer according to law; and*

*"(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.*

*"(E) Payment of amounts authorized by law with respect to remission and mitigation.*

*"(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.*

*"(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.*

*"(H) Payment for services of experts and consultants needed by a Departmnent of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.*

*"(2) At the discretion of the Secretary—*

*"(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;*

*"(B) purchases of evidence or information by—*

*"(i) a Department of the Treasury law enforcement organization with respect to—*

*"(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or*

*"(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;*

*"(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);*

*"(iii) the United States Secret Service with respect to a violation of—*

*"(I) section 1028, 1029, or 1030 of title 18;*

*"(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or*

*"(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any Federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;*

*"((iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and*

*"(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—*

*"(I) section 842(h) of title 18;*

*"(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18; or*

*"(III) section 924(c) of title 18;*

*"(C) Payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);*

*"(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;*

*"(E) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;*

*"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;*

*"(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;*

*"(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and*

*"(I) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—*

*"(i) the purchase or lease of automatic data processing system (not less than a majority of which use will be related to such program);*

*"(ii) training;*

*"(iii) printing; and*

*"(iv) contracting for services directly related to—*

*"(I) the identification of forfeitable assets;*

*"(II) the processing of and accounting for forfeitures; and*

*"(III) the storage, maintenance, protection, and destruction of controlled substances.*

*"(b) LIMITATIONS.—*

*"(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.*

*"(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.*

*"(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Service Act of 1949 (41 U.S.C. 251 et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.*

*"(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—*

*"(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and*

*"(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.*

*"(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.*

*"(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—*

*"(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of $10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.*

*"(2) Funds made available under this subsection may be used to—*

*"(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;*

*"(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;*

*"(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;*

*"(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.*

*"(d) DEPOSITS AND CREDITS.—*

*"(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—*

*"(a) all currency forfeited during fiscal year 1993, and all proceeds from forfeiture during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;*

*"(B) all income from investments made under subsection (e); and*

*"(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.*

*"(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—*

*"(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeiture after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;*

*"(B) all income from investments made under subsection (e); and*

*"(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.*

*"(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.*

*"(f) REPORTS TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—*

*"(1) a report on—*

*"(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—*

*"(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and*

*"(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and*

*"(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and*

*"(2) a report on—*

*"(A) the balance of the Fund at the beginning of the preceding fiscal year;*

*"(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;*

*"(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;*

*"(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more;*

*"(E) the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;*

*"(F) the balance of the Fund at the end of the preceding fiscal year;*

*"(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;*

*"(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101–576); and*

*"(I) an analysis of income and expenses showing the revenue received or lost—*

*"(i) by property category (such as general property, vehicles, vessel, aircraft, cash, and real property); and*

*"(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).*

*"The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101–576).*

*"(g) APPROPRIATIONS.—*

*"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).*

*"(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—*

*"(A) $25,000,000 for fiscal year 1993; and*

*"(B) $50,000,000 for each fiscal year after fiscal year 1993.*

*"(3) (A) Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary shall transfer from the Fund not more than $10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).*

*"(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a).*

*"(C) The Secretary of the Treasury shall reserve an amount not to exceed $30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed $50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.*

*"(4)(A)(i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.*

*"(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.*

*"(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30, of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.*

*"(C) Any obligation or expenditure in excess of $500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.*

*"(h) RETENTION OR TRANSFER OF PROPERTY.—*

*"(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—*

*"(A) retain any of the property for official use; or*

*"(B) transfer any of the property to—*

*"(i) any other Federal agency; or*

*"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.*

*"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—*

*"(A) is one with which the Secretary of State has agreed;*

*"(B) is authorized in an international agreement between the United States and the foreign country; and*

*"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).*

*"(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).*

*"(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.*

*"(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—*

*"(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—*

*"(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and*

*"(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and*

*"(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.*

*"(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.*

*"(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.*

*"(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—*

*"(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—*

*"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or*

*"(B) A civil administrative forfeiture proceeding conducted by the United States Customs Service; and*

"(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

"(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

"(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a 'participating Federal agency' is an agency that participates in the Department of Justice Assets Forfeiture Fund.

"(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

"(o) BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.—

"(1) Except as provided in paragraph (2) and section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws,

"(B) the remission or mitigation of such forfeiture, and

"(C) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

"(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

"(p) DEFINITIONS.—For purposes of this section—

"(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term 'Department of the Treasury law enforcement organization' means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

(2) The table of sections for chapter 97 of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new item:

"9703. Department of the Treasury Forfeiture Fund.".

(c) Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—There may be transferred to and deposited into the Special Forfeiture Fund, amounts from—

"(1) the Department of Justice Assets Forfeiture Fund pursuant to section 524(c)(9) of title 28, United States Code; and

"(2) the Department of the Treasury Forfeiture Fund pursuant to section 9703(g)(3)(A) of title 31, United States Code.".

(d) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(1) by inserting "471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545," after "section 215,";

(2) by inserting "842, 844," after "656, 657,"; and

(3) by inserting "1028, 1029, 1030," after "1007, 1014,".

(e) Section 982(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or

"(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.".

(f) Section 524(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) the payment, at the discretion of the Attorney General, or any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

"(i) payments for—

"(I) contract services;

"(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

"(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

"(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

"(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

"(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

"(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

"(II) training;

"(III) printing;

"(IV) the storage, protection, and destruction of controlled substances; and

"(V) contracting for services directly related to the identification of forfeiture assets, and the processing of an accounting for forfeitures;";

(B) by amending subparagraph (F) to read as follows:

"(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

"(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

"(iii) payments for other equipment directly related to seizure or forfeiture, including laboartory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;";

"(C) by striking "and" at the end of subparagraph (G);

"(D) by redesignating subparagraph (H) as subparagraph (I);

"(E) by inserting after subparagraph (G) the following new subparagraph:

"(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;"; and

"(F) in the first sentence of the flush paragraph following subparagraph (I) (as redesignated by subparagraph (D))—

"(i) by striking "(A)(ii)" and inserting "(A)(iv)"; and

"(ii) by striking "and (G)" and inserting "(G), and (H)";

(2) in paragraph (4)—

"(A) by inserting "Federal," in subparagraph (B) before "State";

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.";

(3) by amending paragraph (6)(B)(v) to read as follows:

"(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more; and";

(4) in paragraph (9)(A)—

(A) by striking "(A)(ii)" and inserting "(A)(iv)"; and

(B) by striking "and (G)" and inserting "(G), and (H)";

(5) in paragraph (9)(E), by striking "to procure vehicles, equipment, and other capital investment items"; and

(6) by striking paragraph (11) and inserting the following new paragraphs:

"(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

"(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marsnals Service; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.".

(g) Section 2003 of title 39, United States Code, is amended—

*(1) in subsection (b)—*

*(A) by striking "and" at the end of paragraph (6);*

*(B) by striking the period at the end of paragraph (7) and inserting "; and"; and*

*(C) by adding at the end thereof the following new paragraph:*

*"(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes."; and*

*(2) in subsection (e)(1), by inserting after the first sentence the following new sentence: "The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service.".*

And the Senate agree to the same.

EDWARD R. ROYBAL,
STENY H. HOYER,
NANCY PELOSI,
RONALD D. COLEMAN,
DAVID E. SKAGGS,
PETER J. VISCLOSKY,
JAMIE L. WHITTEN,
FRANK R. WOLF
(with the exception of Statement of Managers accompanying amendments 155 and 156),
JIM LIGHTFOOT
(with the exception of Statement of Managers accompanying amendments 155 and 156),
HAL ROGERS
(with the exception of Statement of Managers accompanying amendments 155 and 156),
JOSEPH M. MCDADE
(with the exception of Statement of Managers accompanying amendments 155 and 156),
*Managers on the Part of the House.*

DENNIS DECONCINI,
BARBARA A. MIKULSKI,
J.R. KERREY,
ROBERT C. BYRD,
PETE V. DOMENICI,
ALFONSE M. D'AMATO,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5488) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

## TITLE I—DEPARTMENT OF THE TREASURY

### DEPARTMENTAL OFFICES

### SALARIES AND EXPENSES

Amendment No. 1: Makes available not less than $3,064,000 for the Office of Foreign Assets Control instead of $2,522,000 as proposed by the House and $3,546,000 as proposed by the Senate.

### DISTRIBUTION OF FROZEN IRAQI ASSETS

The conferees question the Department of Treasury's decision to deny payment from blocked accounts to U.S. companies that shipped goods to Iraq or otherwise performed their contractual obligations before the invasion based on letters of credit issued by Iraqi banks and advised by U.S. financial institutions. The conferees note that Treasury, through its Office of Foreign Assets Control, has promulgated Iraqi Sanctions Regulations that allow U.S. financial institutions to collect from blocked Iraqi accounts for letters of credit that the U.S. financial institutions issued or confirmed. The conferees urge the Secretary of Treasury to consider extending this ruling to other U.S. companies besides financial institutions that have a right to payment based on letters of credit either for goods shipped to Iraq or contracts otherwise performed prior to the invasion.

Accordingly, the conferees instruct Treasury to promptly examine the possibility of issuing licenses that permit payment from blocked accounts to U.S. companies, including their domestic and international subsidiaries, based on letters of credit issued by Iraqi banks and advised by U.S. financial institutions where the U.S. company that is the beneficiary of the letter of credit shipped the goods as provided in the letter of credit or otherwise performed its contractual obligations prior to August 2, 1990.

The conferees recognize that Treasury is still resolving the issue of the treatment of the remaining frozen Iraqi assets. The conferees understand that Treasury is formulating legislation to establish a method of assessing claims and fairly distributing the remaining assets. The conferees direct the Department of Treasury to submit this legislation to the appropriate authorizing committees no later than February 3, 1993.

Amendment No. 2: Allows 48 full-time equivalent positions for the Office of Foreign Assets Control instead of 40 as proposed by the House and 55 as proposed by the Senate.

Amendment No. 3: Makes available $1,925,000 for systems modernization requirements instead of $1,971,000 as proposed by the House and $1,879,000 as proposed by the Senate.

Amendment No. 4: Makes available $490,000 for repairs and improvements to the Main Treasury Building and Annex as proposed by the Senate instead of $320,000 as proposed by the House.

Amendment No. 5: Appropriates $71,202,000 for salaries and expenses instead of $68,238,000 as proposed by the House and $71,702,000 as proposed by the Senate.

### INTERNATIONAL AFFAIRS

Amendment No. 6: Makes available $727,000 for systems modernization requirements instead of $942,000 as proposed by the House and $512,000 as proposed by the Senate.

Amendment No. 7: Appropriates $33,408,000 for International Affairs instead of $33,325,000 as proposed by the House and $33,492,000 as proposed by the Senate.

### OFFICE OF INSPECTOR GENERAL

### SALARIES AND EXPENSES

Amendment No. 8: Appropriates $29,147,000 for salaries and expenses instead of $31,459,000 as proposed by the House and $29,367,000 as proposed by the Senate. The amendment also provides up to $1,300,000 for the Inspectors General Auditor Training Institute as proposed by the House.

### FINANCIAL CRIMES ENFORCEMENT NETWORK

### SALARIES AND EXPENSES

Amendment No. 9: Appropriates $18,342,000 for salaries and expenses as proposed by the Senate instead of $19,087,000 as proposed by the House.

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

### SALARIES AND EXPENSES

Amendment No. 10: Appropriates $47,158,000 for salaries and expenses instead of $41,236,000 as proposed by the House and $48,538,000 as proposed by the Senate. The amendment also restores language proposed by the House which directs the Federal Law Enforcement Training Center (FLETC) to provide short term medical services for students undergoing training at the Center.

The conferees have provided an additional $4,222,000 for salaries and expenses of the FLETC in fiscal year 1993. These additional funds should be used as follows: $1,844,000 for basic training expenses; $1,630,000 for 21 additional FTEs to meet instruction demands; $498,000 for operational support for the Marana, Arizona satellite facility; and $250,000 for a new training program on gang prevention and education. The conferees expect FLETC to coordinate any training program on gang prevention with the Phoenix Police Department and the Bureau of Alcohol, Tobacco and Firearms prior to initiating such training at the southern Arizona satellite facility.

### MEDICAL CARE

The conferees are agreed that the FLETC should provide short-term, primary medical services for students during their training. This medical care should be limited to first-aid and emergency medical services.

### COORDINATION WITH DEPARTMENT OF JUSTICE

The conferees are committed to providing law enforcement training in the most efficient and cost-effective manner possible. The conferees do not support the relocation of Justice Department agencies' law enforcement training from FLETC, without the prior approval of the House and Senate Appropriations Committees.

In addition, the conferees understand that FLETC has various advanced, foreign, and State/local training courses and is expanding a number of specialized training facilities which may be of use to the Federal Bureau of Investigation and the Drug Enforcement Agency. The conferees encourage the Department of Justice to work with the Treasury Department and FLETC to broaden cooperation and coordination in a manner which can benefit the training of all law enforcement agencies.

### REIMBURSEMENTS FOR TRAINING

FLETC has historically received reimbursements under the Economy Act for expenses of basic training which exceed amounts appropriated by the Congress, and for expenses of advanced training. It is the intent of the conferees that the FLETC continue to receive reimbursement for these costs, in order to respond to the critical needs for law enforcement training of Federal agencies.

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

Amendment No. 11: Appropriates $12,301,000 for the Federal Law Enforcement Center's

Acquisition, Construction, Improvements, and Related Expenses as proposed by the Senate instead of $10,886,000 as proposed by the House.

### FINANCIAL MANAGEMENT SERVICE

### SALARIES AND EXPENSES

Amendment No. 12: Appropriates $214,069,000 for salaries and expenses as proposed by the Senate instead of $214,146,000 as proposed by the House.

Amendment No. 13: Makes available $9,748,000 for systems modernization initiatives instead of $10,900,000 as proposed by the House and $8,597,000 as proposed by the Senate.

### BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

### SALARIES AND EXPENSES

Amendment No. 14: Appropriates $366,372,000 for salaries and expenses instead of $355,419,000 as proposed by the House and $371,324,000 as proposed by the Senate.

### DENVER, COLORADO, ACHILLES TASK FORCE

The conferees agree that $1,000,000 was provided in H.R. 5620 making Supplemental Appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, for the Achilles Task Force in the area of Denver, Colorado. The conferees expect that the funding provided in fiscal year 1993 will continue the operations initiated by this Achilles Task Force.

### YOUTH GANG INTERVENTION PROGRAMS

The conferees direct the Bureau of Alcohol, Tobacco and Firearms to make $1,600,000, divided equally, available to establish youth gang intervention programs in Albuquerque, New Mexico, and Honolulu, Hawaii, respectively, patterned after the successful pilot program it initiated in fiscal year 1992.

### BALTIMORE, MARYLAND AND PHOENIX, ARIZONA, DIVISION OFFICES

The conferees direct that the Bureau of Alcohol, Tobacco and Firearms (BATF) establish Division Offices in Baltimore, Maryland and Phoenix, Arizona in recognition of the need for a heightened effort against violent criminals, gang activities, and firearms trafficking in those metropolitan areas. The conferees direct that these offices be staffed, funded, housed, and equipped in a manner consistent with other BATF Divisional Offices, and that staffing charts and implementation plans, to include the geographic area covered by each Division, be submitted to the Committees on Appropriations of the House and Senate within 90 days of the enactment of this Act.

Amendment No. 15: Makes available $22,000,000 for enforcement of the Federal Alcohol Administration Act instead of $19,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Amendment No. 16: Deletes language proposed by the House which would have made available $650,000 for improvement of information retrieval systems at the National Firearms Tracing Center.

Amendment No. 17: Establishes a minimum level of 4,304 full-time equivalent positions for the Bureau as proposed by the Senate instead of 4,109 as proposed by the House.

Amendment No. 18: Establishes a minimum level of 1,440 full-time equivalent positions for the Armed Career Criminal Apprehension Program as proposed by the Senate instead of 1,127 as proposed by the House.

Amendment No. 19: Deletes language proposed by the Senate which would have allowed the retention and expenditure of funds for the Compliance Alcohol Program.

### U.S. CUSTOMS SERVICE

### SALARIES AND EXPENSES

Amendment No. 20: Appropriates $1,315,917,000 for salaries and expenses instead of $1,331,070,000 as proposed by the House and $1,326,417,000 as proposed by the Senate.

The conferees are providing an additional $10,500,000 for the hiring, training, and equipping of an additional 300 full-time inspector positions during the last six months of fiscal year 1993. The conferees expect these positions to be allocated to meet the unfunded staffing requirements Customs has identified at the following new and expanded ports of entry: Los Indios, TX, 21 FTEs; Columbia, TX, 19 FTEs; Brownsville, TX, 10 FTEs; Rio Grande City, TX, 3 FTEs; El Paso, TX, 12 FTEs; Santa Teresa, NM, 17 FTEs; Douglas, AZ, 5 FTEs; Naco, AZ, 5 FTEs; and Nogales, AZ, 10 FTEs. The remaining positions shall be allocated to the highest priority Southwest land border ports requiring increased inspection staffing.

### CUSTOMS ENFORCEMENT INTERNATIONAL OPERATIONS

The conferees are concerned that Customs enforcement operations in Central and South America are critically understaffed. Every indication is that the case load available in the Central and South American countries is unique and that the Customs Service must recognize this need. As a result, the conferees direct the Commissioner of Customs to fill the current agent position in the Montevideo, Uruguay office as a first priority. In addition, the Commissioner is directed to provide the Committees of Appropriations with yearly staffing reports for all overseas Customs Enforcement operations, including a justification statement when establishing a new or expanded overseas Enforcement office. The initial report shall be submitted to both Committees on Appropriations within 90 days of enactment of this Act. The conferees further direct the Customs Service to consider overseas Enforcement operations in the preparation of its agent allocation model which has been requested but not yet received.

Amendment No. 21: Establishes a minimum level of 17,871 full-time equivalent positions as proposed by the Senate instead of 17,411 as proposed by the House.

Amendment No. 22: Establishes a minimum level of 11,018 full-time equivalent positions for commercial operations activities as proposed by the Senate instead of 10,480 as proposed by the House.

Amendment No. 23: Makes available not less than $750,000 for additional part-time and temporary positions in the Honolulu Customs District instead of $1,000,000 as proposed by the Senate.

### OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

Amendment No. 24: Deletes language proposed by the House which would have provided authority for the hire, lease, and acquisition of certain equipment. This authority is provided in other provisions.

Amendment No. 25: Appropriates $83,242,000 for operations and maintenance of Air and Marine Interdiction Programs as proposed by the Senate instead of $136,783,000 as proposed by the House. It also provides for operational training and mission-related travel, and rental payments for facilities occupied by the program.

Amendment No. 26: Deletes House language which would have provided an appropriation of $136,783,000 to remain available until expended.

### OPERATIONS AND MAINTENANCE, CUSTOMS P-3 DRUG INTERDICTION PROGRAM

Amendment No. 27: Appropriates $28,000,000 for the operation and maintenance modifications to spare parts and related equipment for Customs P-3 surveillance aircraft as proposed by the Senate.

### AIR AND MARINE INTERDICTION PROGRAMS, PROCUREMENT

Amendment No. 28: Appropriates $21,174,000 for air and marine interdiction programs as proposed by the Senate. The House had included this appropriation in another account.

### CUSTOMS FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

Amendment No. 29: Appropriates $4,600,000 for Customs facilities, construction, improvements, and related expenses as proposed by the Senate. The House had included this appropriation in another account.

### CANINE ENFORCEMENT TRAINING CENTER

Amendment number 29 appropriates $4,600,000 to the United States Custom Service for improvements and new construction at the Canine Enforcement Training Center near Front Royal, Virginia. The present training center facilities were constructed in 1974 by renovating stables and barns that existed on the property in Shenandoah National Park. Completion of the expansion program will allow the Customs Service to provide training year round with reduced costs, increase the quality of a highly effective program, and continue to support other federal, state, and local law enforcement agencies.

### U.S. MINT

### SALARIES AND EXPENSES

Amendment No. 30: Appropriates $53,001,000 for salaries and expenses instead of $52,450,000 as proposed by the House and $53,551,000 as proposed by the Senate.

Amendment No. 31: Makes available $1,860,000 for expansion and improvements instead of $2,085,000 as proposed by the House and $1,635,000 as proposed by the Senate.

### BUREAU OF ENGRAVING AND PRINTING HIRING PRACTICES

The conferees are concerned over hiring practices of the Bureau of Engraving and Printing and the differences that exist between the Washington, D.C. plant and the Fort Worth, Texas plant. In Washington, positions have been filled with temporary employees that have recently been targeted for reductions, whereas in Fort Worth, permanent employees have been hired into apprenticeship positions. The conferees are concerned that temporary journey level plate printers in Washington are not being given the right to apply for the permanent positions in Texas. The conferees direct the Bureau to ensure that existing temporary employees in Washington be given the option of transferring, being detailed or applying for hire for permanent positions in Fort Worth for which they are qualified.

### BUREAU OF THE PUBLIC DEBT

### ADMINISTERING THE PUBLIC DEBT

Amendment No. 32: Appropriates $194,643,000 for administering the public debt as proposed by the Senate instead of $189,000,000 as proposed by the House.

### PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

Amendment No. 33: Inserts language as proposed by the Senate which establishes a new account and provides $500,000 for "Payment of Government Losses in Shipment".

### INTERNAL REVENUE SERVICE

### ADMINISTRATION AND MANAGEMENT

Amendment No. 34: Appropriates $157,368,000 for administration and management as proposed by the House instead of $158,057,000 as proposed by the Senate.

### PROCESSING TAX RETURNS AND ASSISTANCE

Amendment No. 35: Appropriates $1,634,298,000 for processing tax returns and assistance as proposed by the Senate instead of $1,648,960,000 as proposed by the House.

Amendment No. 36: Makes available $3,500,000 for the Tax Counseling for the Elderly Program as proposed by the Senate instead of $3,100,000 as proposed by the House.

### TAX LAW ENFORCEMENT

Amendment No. 37: Appropriates $3,835,347,000 for tax law enforcement instead of $3,835,192,000 as proposed by the House and $3,835,501,000 as proposed by the Senate. It also provides that not less than $334,989,000 and 4,756 full-time equivalent positions shall be available for tax fraud investigations as proposed by the Senate.

### INFORMATION SYSTEMS

Amendment No. 38: Appropriates $1,480,341,000 for information systems as proposed by the Senate instead of $1,566,909,000 as proposed by the House.

Amendment No. 39: Makes available $565,026,000 for tax systems modernization as proposed by the Senate instead cf $612,692,000 as proposed by the House.

Amendment No. 40: Makes available $110,000,000 to remain available until expended for tax systems modernization as proposed by the Senate instead of $125,000,000 as proposed by the House.

Amendment No. 41: Deletes language proposed by the House which restricted the obligation of funds.

### ADMINISTRATIVE PROVISION

### INTERNAL REVENUE SERVICE

Amendment No. 42: Establishes a ceiling of 4 percent transfer authority within the Internal Revenue Service as proposed by the Senate instead of 8 percent as proposed by the House.

Amendment No. 43: Restores House language which directs the implementation of a training program for training of employees in taxpayers rights, dealing courteously with taxpayers, and in cross-cultural relations.

### U.S. SECRET SERVICE

### SALARIES AND EXPENSES

Amendment No. 44: Appropriates $469,155,000 for salaries and expenses instead of $470,372,000 as proposed by the House and $467,938,000 as proposed by the Senate.

Amendment No. 45: Inserts Senate language which provides that fiscal year 1993 funds shall be available for Presidential protection assistance reimbursements claimed in fiscal year 1992.

### DEPARTMENT OF THE TREASURY

### GENERAL PROVISIONS

Amendment No. 46: Modifies language proposed by the House and stricken by the Senate on collection and use of efficiency savings in the Internal Revenue Service.

Amendment No. 47: Inserts section number.

Amendment No. 48: Inserts section number.

Amendment No. 49: Inserts section number.

Amendment No. 50: Inserts Senate language which makes a technical change to this provision which authorizes the transfer of funds.

Amendment No. 51: Insert section number.

Amendment No. 52: Deletes a provision proposed by the Senate which would have established line authority in the Criminal Investigation Division to the Assistant Commissioner for Criminal Investigation.

### CRIMINAL INVESTIGATION DIVISION LINE AUTHORITY

The conferees are concerned that the Criminal Investigation Division (CID) of the Internal Revenue Service (IRS) has not been given the resources, authority, and attention it deserves.

Therefore the conferees direct the Department of the Treasury to conduct a study of CID management and report its findings and recommendations to the Committees on Appropriations of the House and Senate within nine months of the date of enactment of this legislation. The study committee should include among others, the Assistant Secretary for Management, the Assistant Secretary for Enforcement, the Commissioner of the Internal Revenue Service, the Commissioner of the Customs Service, the Assistant Commissioner of IRS for CID, and a representative from the U.S. Attorneys and the Office for National Drug Control Policy.

However, for fiscal year 1993, the conferees direct the Internal Revenue Service to develop and implement a plan for consistent and continued growth for CI resources to deal with tax, white collar crime, and money laundering responsibilities; Administratively Uncontrollable Overtime (AUO) for agents and all levels of CI managers nationwide, comparable to other Federal law enforcement agencies. Further, the conferees urge IRS to develop and implement a national policy regarding the use of firearms and enforcement vehicles; to allow CI special agents to initiate and participate in wiretaps under Title 31, U.S.C. and Title 18, U.S.C. money laundering investigations, and regarding policy and coordination of national and international cases by the Assistant Commissioner of CID.

The Department of the Treasury shall undertake a review of management positions in CI to determine which positions qualify for Senior Executive Service rank, and review the current IRS SES program which allows the placement of CI managers in nonenforcement positions.

Additionally, the Assistant IRS Commissioner for CI should be given authority to transfer resources as needed within and without the various districts and headquarters offices to meet enforcement needs of CI and to fill critical positions which become vacant. The Assistant Commissioner of CI shall be the deciding official in the selection of CI Division chiefs and top level CI management positions at the field and headquarters level.

Amendment No. 53: Modifies a provision proposed by the Senate which prohibits the Department of the Treasury from "direct billing" any of its bureaus for the postage costs of another Treasury bureau except under certain circumstances and adding, "without the advance approval of the House and Senate Committees on Appropriations."

This amendment also adds a new section which authorizes the Secretary of Treasury to transfer all obligated and unobligated balances in the construction of the Mint facilities and expansion and improvements accounts in prior appropriations acts to the account for salaries and expenses. Such transferred balances shall be used for expansion and improvements and shall be available until expended.

This amendment also adds a new section which changes the cap on United States Customs Service employees overtime pay from $30,000 to $25,000.

## TITLE II—U.S. POSTAL SERVICE

### HANDICAPPED ACCESSIBILITY OF THE HAGERSTOWN POST OFFICE

The main post office building in Hagerstown, Maryland, the County seat of Washington County, is not handicapped accessible. This Post Office is the one that offers unique services to area residents including services to April 15th tax filers, but its services are not all available to handicapped individuals since they are denied access to the lobby of the building.

This Post Office is located in the downtown area of Hagerstown, a location that is a particularly desirable residential area for individuals with physical handicaps due to the immediate availability of many community services which would otherwise be difficult for them to access. The need to make special arrangements to get transportation to other post office buildings in the area places an undue burden on disabled individuals.

The Hagerstown Post Office, constructed in 1935 and added to in 1964, has been determined by the Postal Service to be of historical significance. Under the Postal Service's own minimum requirements for accessibility to historic buildings, contained in *Standards for Facility Accessibility by the Physically Handicapped* (Section 4.1.7(2)), the Postal Service must make at least one accessible entrance to the building. This is possible for this building by constructing a ramp parallel to the street in front of the building, but the Postal Service has repeatedly declined to take action on this.

In keeping with the intent of the Architectural Barriers Act as amended in 1976, that all public buildings be handicapped accessible, the conferees urge the Postal Service to make the main post office building in Hagerstown, Maryland, handicapped accessible by no later than September 30, 1993.

### NEW YORK POSTAL DATA CENTER

The conferees have learned that the Postal Service announced its intention to close down the New York Postal Data Center early next year. The conferees feel that before this facility is closed, the Postal Service should justify this closure and requires the Postal Service to provide such justification within 60 days of enactment of this Act. This justification should include relocation costs, lease arrangements, alternatives to closure, other affected Centers, personnel considerations, and any projected cost savings.

### LONDON, KENTUCKY, POST OFFICE

The conferees are extremely concerned about a Post Office proposal to transfer the mail sorting and processing operations from the London Post Office in Kentucky to Lexington, Kentucky. The London postal facility is a state-of-the-art facility, designed to process over 275,000 outgoing pieces of mail daily from southeastern Kentucky.

The facility employs over 70 people, and the conferees are extremely concerned that the transfer of mail to Lexington would cause significant job loss in an area that is already economically depressed.

The conferees are opposed to the Post Office moving its mail sorting operation to Lexington, and urges the Postal Service to continue full operations for sorting mail for southeastern Kentucky at the London postal facility.

### GENERAL MAIL FACILITY, WESTCHESTER COUNTY, NY

The conferees direct the U.S. Postal Service to fulfill its agreement with Westchester

County to reimburse that county the sum of $400,000 as agreed between Westchester County and the Postal Service when the agreement was reached to build the postal facility in Westchester County.

## TITLE III—EXECUTIVE OFFICER OF THE PRESIDENT

### Office of Administration

### SALARIES AND EXPENSES

Amendment No. 54: Appropriates $24,438,000 for salaries and expenses as proposed by the Senate instead of $24,328,000 as proposed by the House.

### THE WHITE HOUSE OFFICE

### SALARIES AND EXPENSES

Amendment No. 55: Appropriates $35,385,000 for salaries and expenses instead of $34,885,000 as proposed by the House and $36,281,000 as proposed by the Senate.

### Executive Residence at the White House

### OPERATING EXPENSES

Amendment No. 56: Appropriates $7,598,000 for salaries and expenses as proposed by the Senate instead of $7,499,000 as proposed by the House.

### Official Residence of the Vice President

### OPERATING EXPENSES

Amendment No. 57: Appropriates $324,000 for operating expenses as proposed by the House instead of $337,000 as proposed by the Senate.

### Special Assistance to the President

### SALARIES AND EXPENSES

Amendment No. 58: Appropriates $3,150,000 for salaries and expenses as proposed by the Senate instead of $2,932,000 as proposed by the House.

### Council of Economic Advisers

### SALARIES AND EXPENSES

Amendment No. 59: Appropriates $3,428,000 for salaries and expenses instead of $3,345,000 as proposed by the House and $3,508,000 as proposed by the Senate.

### Office of Policy Development

### SALARIES AND EXPENSES

Amendment No. 60: Appropriates $3,772,000 for salaries and expenses instead of $3,701,000 as proposed by the House and $3,842,000 as proposed by the Senate.

### National Critical Materials Council

### SALARIES AND EXPENSES

Amendment No. 61: Modifies language proposed by the Senate to appropriate $235,000 for salaries and expenses instead of $247,000 as proposed by the Senate. The House did not provide any appropriation for this account.

### Justification Request

The conferees are concerned about an unnecessary and wasteful duplication of efforts between the National Critical Materials Council and other agencies of the federal government engaged in materials-related policy activities. The House, in fact, had acted to eliminate funding for the Council entirely. Therefore, the conferees direct the Administration to submit to the Committees on Appropriations of the House and Senate, with its budget submission for fiscal year 1994, its justification for maintaining the Council in addition to the other agencies engaged in materials-related policy activities, explicitly identifying those functions and responsibilities of the Council which cannot reasonably be carried out by such other agencies. Unless an extremely strong case is made to support continuation of the Council, the conferees expect funding for the Council to be eliminated in fiscal year 1994.

### National Security Council

### SALARIES AND EXPENSES

Amendment No. 62: Appropriates $6,118,000 for salaries and expenses as proposed by the Senate instead of $5,971,000 as proposed by the House.

### Office of Management and Budget

### SALARIES AND EXPENSES

Amendment No. 63: Appropriates $52,981,000 for salaries and expenses instead of $51,934,000 as proposed by the House and $54,011,000 as proposed by the Senate.

### Support to the President and Vice President

The House report included a direction to the Office of Management and Budget (OMB) to submit a report to the House Appropriations Committee, not later than August 10, 1992, identifying all federal agencies which provide staff and/or financial support to the Presidential and Vice Presidential complexes. The OMB has not responded to the Committee's direction.

The conferees understand that the response has been prepared by OMB but has not been cleared by the White House for reporting to the Committee.

The conferees agree that the report which has been prepared in response to the House report language shall be submitted to the Committees on Appropriations of the House and Senate within 15 days of enactment of this Act.

### Office of Federal Procurement Policy

### SALARIES AND EXPENSES

Amendment No. 64: Appropriates $3,058,000 for salaries and expenses as proposed by the House instead of $3,208,000 as proposed by the Senate.

### Office of National Drug Control Policy

### SALARIES AND EXPENSES

### (INCLUDING TRANSFER OF FUNDS)

Amendment No. 65: Appropriates $103,348,000, of which $900,000 and five full-time equivalent positions shall be available for the Counter-Drug Technology Assessment Center as proposed by the Senate, instead of $66,348,000 as proposed by the House.

### Full-Time Equivalent Positions

The conferees are agreed that the full-time equivalent positions for ONDCP shall be 112 instead of 130 as proposed by the House and 100 as proposed by the Senate.

Amendment No. 66: Makes available $86,000,000 for High Intensity Drug Trafficking Areas as proposed by the Senate instead of $50,000,000 as proposed by the House.

Amndment No. 67: Deletes language proposed by the House and inserts language proposed by the Senate. This language mandates the transfer of $36,000,000 to State and local drug control entities for activities which are consistent with the approved strategy for each High Intensity Drug Trafficking Area (HIDTA); limits funds for the Southwest Border HIDTA to those activities approved by the Joint Command Group of Operation Alliance and the Assistant Secretary of the Department of the Treasury (Enforcement); reduces by 20 percent, the number of non-career Senior Executive Service (SES) positions and Schedule "C" positions, and prohibits the conversion of these positions to career civil service or career SES.

Amendment No. 68: Modifies language proposed by the Senate which prohibits the use of funds for payment of salaries or expenses for any Federal officer in ONDCP who is appointed by the President, with the advice and consent of the Senate, to make public appearances for political campaigns.

### Counter-Drug Technology Assessment Center, Research and Development Program

### (INCLUDING TRANSFERS)

Amendment No. 69: Deletes language proposed by the Senate which would have appropriated $20,000,000 to the Counter-Drug Technology Assessment Center, Research and Development program. Funds are appropriated for this activity in amendment number 70.

### Special Forfeiture Fund

### (INCLUDING TRANSFER OF FUNDS)

Amendmend No. 70: Deletes language proposed by the House and modifies language proposed by the Senate. This amendment provides $75,742,000 for activities authorized by Public Law 100-690 to be derived from deposits in the Special Forfeiture Fund instead of $60,251,000 as proposed by the House and $82,542,000 as proposed by the Senate.

### Substance Abuse and Mental Health Services (ADAMHA/SAMSA) Transfer

Because of the emergency situation that currently exists in San Francisco, the conferees agreed to earmark $4,700,000 of the funds made available under transfer to ADAMHA/SAMSA to the San Francisco Department of Public Health only for substance abuse treatment programs to reduce waiting lists and lessen the threat of HIV transmission.

### UNANTICIPATED NEEDS

Amendment No. 71: Appropriates $1,000,000 for unanticipated needs as proposed by the Senate instead of $800,000 as proposed by the House.

Amendment No. 72: Deletes language proposed by the House which would have reduced each account under this title by 5.7 percent.

## TITLE IV—INDEPENDENT AGENCIES

### Administrative Conference of the United States

### SALARIES AND EXPENSES

Amendment No. 73: Appropriates $2,314,000 for salaries and expenses as proposed by the House instead of $2,327,000 as proposed by the Senate.

### Advisory Commission on Intergovernmental Relations

### SALARIES AND EXPENSES

Amendment No. 74: Appropriates $1,820,000 for salaries and expenses instead of $1,891,000 as proposed by the House and $1,330,000 as proposed by the Senate. The conferees agree that $500,000 is provided in this appropriation for a study to be performed by the National Association of Counties.

### Committee for Purchase From People Who Are Blind or Severely Disabled

### SALARIES AND EXPENSES

Amendment No. 75: Appropriates $1,653,000 for salaries and expenses and changes the name of the appropriation as proposed by the House instead of $1,653,000 and no name change as proposed by the Senate.

### Federal Election Commission

### SALARIES AND EXPENSES

Amendment No. 76: Appropriates $21,031,000 for salaries and expenses as proposed by the Senate instead of $20,531,000 as proposed by the House.

### General Services Administration

### FEDERAL BUILDINGS FUND

### (LIMITATIONS ON AVAILABILITY OF REVENUE)

Amendment No. 77: Appropriates $330,501,000 into the Federal Buildings Fund instead of $402,040,000 as proposed by the House and $353,516,000 as proposed by the Senate.

Amendment No. 78: Establishes a total limitation of $4,717,251,000 for the Federal Buildings Fund instead of $4,820,209,000 as proposed by the House and $4,713,808,000 as proposed by the Senate.

Amendment No. 79: Establishes a limitation of $626,312,000 for construction instead of $684,952,000 as proposed by the House and $670,377,000 as proposed by the Senate.

Amendment No. 80: Deletes language proposed by the House and modifies language proposed by the Senate which provides funding related to the construction of certain buildings and facilities.

### Scranton, Pennsylvania, General Mail Facility

The conferees are aware of the Postal Service's current plans to expand the Scranton, Pennsylvania General Mail Facility by not less than 30,000 square feet. This sorely needed expansion will accommodate automation equipment as well as improve the mail operations in northeastern Pennsylvania. The conferees have included $3,000,000 to accommodate this expansion. Finally, the conferees direct the Postal Service not to move any postal service operations from Scranton.

### Newark, New Jersey, Parking Facility

The conferees have provided $9,000,000 for a new parking facility for Federal office space requirements in the City of Newark, New Jersey. The conferees expect that GSA will be provided parking spaces without charge for Federal needs proportionate to its share of contributions towards the cost of this project.

### London, Kentucky, U.S. Federal Courts

The conference urge GSA to complete the study of the space requirements and construction of a new building for the U.S. Federal Courts in London, Kentucky and the additional space requirements of several federal agencies in the London, Kentucky area. GSA has indicated that the project for all of the agencies' needs in London could be accomplished under the prospectus threshold. Therefore, the conferees urge GSA to move expeditiously with this project.

### Boston, Massachusetts, Courthouse

The conferees have agreed to provide an additional $20,000,000 to permit design and construction of a 500,000 occupiable square foot Courthouse in Boston, Massachusetts to accommodate the long-term requirements of the U.S. Courts. Although the initial concept was for a 400,000 occupiable square foot facility, the Courts have identified the need for an additional 100,000 square feet to provide for their 30 years requirements. The conferees direct the General Services Administration to construct the larger facility. The conferees understand that the construction contract for this project is scheduled for award in the Spring of 1994. If additional funds which the conferees understand may total $19,000,000, are needed for construction of the larger Courthouse, the conferees direct that either a reprogramming request be submitted to Congress for approval or that the additional funds be requested as a construction line item in the fiscal year 1994 President's Budget.

### Reno, Nevada, Federal Building/Courthouse

The conferees are in agreement that this project scope should include the total amount of $37,489,000 for construction of a new Federal Building/Courthouse for Reno, Nevada. This is the amount required to construct a building as planned and approved by the General Services Administration and the U.S. Courts. For contractual purposes, it is not necessary to fully fund this project at this time.

### Brooklyn, New York, Courthouse

The conferees intend that the funds provided to the General Services Administration be used to continue the design and preconstruction activities related to the construction of a new United States Courthouse facility in Brooklyn, New York. The project will require a substantial renovation of the current United States Post Office building at Cadman Plaza to turn it into a Court facility. It is the conferees intent that any renovation plans be consistent with the historic character of the Post Office building and shall not include major additions to the current Post Office structure. It is the further intent of the conferees that in developing plans for this project, the General Services Administration shall fully utilize space available in the current Emanuel Celler Federal Building and the current United States Courthouse.

### International Cultural and Trade Center

None of these funds may be used to move or facilitate the movement into the Federal Triangle Building of any federal agency, or unit thereof, whose mission is inconsistent with the provisions of Public Law 100–113. The General Services Administration shall submit a housing plan, as required by Public Law 100–113, to the Senate Committee on Environment and Public Works and the House Committee on Public Works and transportation by March 1, 1993, which provides for the inclusion of federal agencies, or units thereof, in this facility which have trade or culture as their mission.

Amendment No. 81: Modifies language proposed by the House and stricken by the Senate which provides $5,000,000 for the acquisition, lease, construction, and equipping of a flexiplace work telecommuting center in southern Maryland, the Eastern Shore of Maryland, and in northwestern Virginia.

### Hagerstown, Maryland, Telecommuting Center

The conferees are aware that the General Services Administration and the Office of Personnel Management have been working on developing a telecommuting center in Hagerstown, Maryland. The conferees are very pleased with the work done to date on the Hagerstown facility and direct GSA and OPM to continue these efforts within the funds provided and open this facility as soon as possible

Amendment No. 82: Deletes language proposed by the Senate.

### Food and Drug Administration Facilities

The Senate included bill language directing GSA to acquire land for the construction of consolidated facilities for the Food and Drug Administration's Center for Biologics Evaluation and Research (CBER), Center for Devices and Radiological Health (CDRH), and Center for Drug Evaluation and Research (CDER) in Montgomery County, Maryland, and for the Center for Veterinary Medicine (CVM) and the Center for Food Safety and Applied Nutrition (CFSAN) in Prince George's County, Maryland. Following the adoption of that language by the Senate Appropriations Committee, the Office of Management and Budget sent to Congress on July 29, 1992 a plan to meet FDA's housing needs.

Based upon agreements reached with the Administration, the conferees have deleted the Senate language from the bill. The conferees note that OMB has made the following commitment:

> If government-owned land has not been identified fully to accommodate the needs identified in the July 29 plan for CDRH and CDER by October 27, 1992, 90 days after the plan was presented to you, GSA will proceed with solicitations to purchase private land in Montgomery County. Similarly, if government-owned land has not been identified by October 27, 1992, to accommodate CBER's needs identified in the July 29 plan, GSA will proceed with solicitations to lease space and/or purchase private land in Montgomery County.
>
> As the plan stated, the remainder of the funds for this project will be provided in 1994 and 1995. While only the President can commit to include funding in a future budget, it is our intention to seek at least partial further funding of the plan as part of the 1994 budget.

The conferees have further been assured by OMB that, if existing federal land cannot be identified to accommodate CDER and CDRH, no less than 129 acres will be purchased in Montgomery County to house these two centers, and that an amount adequate to meet the needs of CBER will be purchased in Montgomery County, if CBER's needs cannot be accommodated in part or in whole on existing federal land or leased space. GSA shall work with FDA, Prince George's County Government and the U.S. Department of Agriculture in preparing a plan for consolidating CVM and consolidating CFSAN, using government-owned land, leased space, or a combination thereof.

Amendment No. 83: Restores language proposed by the House which directs the Secretary of Commerce to provide permanent easements, as agreed between the Department and the City of Boulder, Colorado.

Amendment No. 84: Inserts language proposed by the Senate which rescinds funds appropriated for the Department of Transportation headquarters site.

Amendment No. 85: Establishes a limitation of $594,066,000 for repairs and alterations as proposed by the Senate instead of $583,255,000 as proposed by the House.

Amendment No. 86: Modifies a provision proposed by the House and stricken by the Senate regarding Capital Improvements of the United States Mexico Border facilities.

### El Paso Ports of Entry Projects

The conferees have agreed to a general provision which requires the General Services Administration to provide up to $1,500,000 for a hazardous materials containment facility at the Bridge of the Americas and up to $1,500,000 for a hazardous materials containment facility at Ysleta/Zaragosa from funds already made available for facilities at these two ports. The conferees have also provided $7,500,000 for site acquisition and construction at Ysleta/Zaragosa, its availability for obligation contingent upon receipt of a report from GSA and the appropriate Federal inspection agencies, by no later than June 1, 1993, recommending the need for these projects.

In approving these amounts, the conferees fully expect GSA to plan, design, and construct hazardous materials containment facilities at both Bridge of the Americas and Ysleta/Zaragosa that will meet current and future requirements at these ports of entry. The conferees expect that no less than $700,000 shall be made available for each of the hazardous materials containment facilities in order to accommodate the expected increase in Federal inspection agency requirements in the future.

With regard to the site acquisition and construction funding approved by the conferees, the conferees fully expect GSA and the Federal inspection agencies to include input from State and local officials and from the border trade and enforcement community in the report to be submitted to the Committees on Appropriations of the House and Senate. The conferees also fully expect GSA to obtain significant input from the local and regional officials of the Federal inspection agencies that will be assisting in the preparation of this report. The conferees further expect the analysis by GSA, the Federal inspection agencies, and the border officials to give the site acquisition and construction proposal every possible consideration for future needs.

### SOUTHWEST BORDER STATION CAPITAL IMPROVEMENT PROGRAM

The conferees note that both the House and Senate have included language in their respective reports that call for a long-term analysis of the capital improvement requirements for border stations and other facilities along the United States-Mexico border. The House Report (102-618) includes a directive to General Services Administration (GSA), in cooperation with Customs and other Federal inspection agencies, to coordinate a 5-year plan to identify and implement a Southwest Border Station Capital Improvement Program.

The conferees agree that the GSA, in cooperation with U.S. Customs; the other Federal border inspection agencies; and the Department of State, with direct input from affected border community representatives, including State and local officials; private industry; and the border trade community, shall coordinate a five-year plan which identifies and implements another Southwest Border Station Capital Improvement Program to begin in fiscal year 1994. The conferees further agree that such a plan shall include an estimate of costs of each facility and identify milestones to achieve the completion of the projects. The conferees expect the Plan to be completed and submitted to the Committees on Appropriations of the House and Senate by no later than April 1, 1993.

Amendment No. 87: Establishes a limitation of $273,300,000 for minor repairs and alterations instead of $256,489,000 as proposed by the House and $280,800,000 as proposed by the Senate.

Amendment No. 88: Establishes a limitation of $1,130,871,000 for real property operations instead of $1,170,000,000 as proposed by the House and $1,073,363,000 as proposed by the Senate.

Amendment No. 89: Establishes a limitation of $179,930,000 for design and construction services as proposed by the Senate instead of $195,930,000 as proposed by the House.

### NATIONAL SCIENCE FOUNDATION

During these difficult fiscal times when conserving all our resources is crucial, the conferees are concerned by the National Science Foundation's continued resistance to its planned relocation. Congress appropriated $7,000,000 in fiscal year 1992 for this relocation to a site selected by the General Services Administration (GSA) and accepted by the Foundation. A failure by the Foundation to utilize these and other resources available to it for this move will result in unnecessary costs to the Foundation, the GSA, and the taxpayers; such a failure would be unacceptable and could jeopardize resources available to the Foundation in the future.

Amendment No. 90: Deletes House language listing buildings which may proceed without an approved prospectus and inserts Senate language which provides that projects listed in this Act may proceed without approved prospectuses.

Amendment No. 91: Establishes a total limitation on the Federal Buildings Fund of $4,717,251,000 instead of $4,820,209,000 as proposed by the House and $4,713,808,000 as proposed by the Senate.

### FEDERAL SUPPLY SERVICE

#### OPERATING EXPENSES

Amendment No. 92: Appropriates $56,144,000 for operating expenses instead of $56,070,000 as proposed by the House and $56,217,000 as proposed by the Senate.

### SECURITY STANDARDS FOR CONTAINERS, VAULTS, OR LOCKS

The conferees are concerned about any attempt to weaken security standards for containers, vaults, or locks. The conferees direct that material of a top secret, secret, or confidential nature should be stored in containers and with self-powered locks that meet existing General Services Administration (GSA), federal government wide standards. The conferees direct that GSA not alter the authority or composition of the Interagency Advisory Committee on Security Equipment (IACSE) or otherwise undermine existing directives for current GSA, federal government wide, standards for physical security equipment established by the IACSE on or before March 31, 1993.

### GENERAL MANAGEMENT AND ADMINISTRATION

#### SALARIES AND EXPENSES

Amendment No. 93: Appropriates $34,000,000 for salaries and expenses instead of $31,155,000 as proposed by the House and $34,747,000 as proposed by the Senate.

### PATENT AND TRADEMARK OFFICE RENTAL RATES

Last year, the General Services Administration (GSA) was directed to conduct a reappraisal of the 1992 rental rates to be assessed to the Patent and Trademark Office (PTO) for space leased in Crystal City, Arlington, Virginia. As a result of the reappraisal, rent rates charged PTO were adjusted downward by $4,800,000.

The conferees fully expect the 1992 appraisal to establish the base rate from which annual adjustments will be made during the remaining four years of the five year rent cycle, and expect that any increases will be made in accordance with the existing law regarding the appraisal of Federal space.

Amendment No. 94: Deletes language proposed by the House which would have included mandated funding for major equipment acquisitions and systems development projects.

### INFORMATION RESOURCES MANAGEMENT SERVICE

#### OPERATING EXPENSES

Amendment No. 95: Appropriates $46,419,000 for operating expenses instead of $45,787,000 as proposed by the House and $47,051,000 as proposed by the Senate.

### ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

Amendment No. 96: Appropriates $2,192,000 for allowances and office staff instead of $2,183,000 as proposed by the House and $2,200,000 as proposed by the Senate.

### EXPENSES, PRESIDENTIAL TRANSITION

Amendment No. 97: Restores language proposed by the House and stricken by the Senate which provides $5,000,000 for expenses of Presidential Transition.

An appropriation of $5,000,000 is provided for expenses of a Presidential Transition pursuant to the Presidential Transition Act of 1963, as amended, in the event it should occur as a result of the 1992 Presidential election. It is recognized that in providing suitable office space for the transition there will be no charge against the appropriation for any Federally-provided space if such space is available.

### GENERAL SERVICES ADMINISTRATION

#### GENERAL PROVISIONS

Amendment No. 98: Deletes a provision proposed by the House which would have provided a mechanism for reimbursement of certain expenses of persons attending child care training, conferences, or other meetings in connection with the provision of child care services. This issue is addressed in amendment number 146.

Amendment No. 99: Inserts language proposed by the Senate which authorizes GSA to acquire certain lands associated with the Chamblee, Georgia Federal building.

Amendment No. 100: Modifies language proposed by the House and stricken by the Senate which provides authority to increase the office space of the Federal Office Building in San Francisco from 430,000 to 475,000 square feet and authorizes an additional $10,000,000 for that purpose.

Amendment No. 101: Restores language proposed by the House and stricken by the Senate which directs the transfer of land from the United States to the Deganawidah-Quetzalcoatl University.

Amendment No. 102: Inserts a provision proposed by the Senate which authorizes GSA to deposit funds from the Detroit International Bridge Company in the Federal buildings fund and to apply these funds to acquire land and construct facilities at the new Ambassador Bridge border station in Detroit, Michigan.

Amendment No. 103: Inserts a provision proposed by the Senate which authorizes the Administrator of the General Services Administration to construct a new courthouse in Fargo, North Dakota and exchange certain lands in Fargo, North Dakota, for the purposes of a new Federal courthouse.

Amendment No. 104: Inserts a provision proposed by the Senate which authorizes GSA to use funds received from energy and recycling rebates under certain circumstances.

Amendment No. 105: Inserts a provision proposed by the Senate which authorizes the General Services Administration to proceed with alterations of space in the Jacob Weinberger Federal Building subject to the availability of funds.

Amendment No. 106: Inserts a provision proposed by the Senate which authorizes the General Services Administration to enter into an operating lease for office space in Atlanta, Georgia under certain conditions.

Amendment No. 107: Inserts a provision proposed by the Senate which requires the Administrator of General Services to reprogram $3,000,000 for modification of the pavilion at the Foley Square Federal Building in New York and to undertake other activities with respect to the Negro burial ground.

This amendment also inserts a new provision which authorizes the Administrator of General Services to proceed with the design and construction of a courthouse in Boston, Massachusetts.

This amendment also inserts a new provision which authorizes the Administrator of General Services to enter into an interagency agreement with the Postal Service for a Federal office building in Philadelphia, Pennsylvania. The conferees are agreed that the terms and conditions of this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

This amendment also inserts a new provision which names the Laboratory at the Centers for Disease Control in Atlanta, Georgia for Congressman Edward R. Roybal of California.

This amendment also inserts a new provision which names the Campus at the Centers for Disease Control in Atlanta, Georgia for Congressman Edward R. Roybal of California.

This amendment also inserts a new provision which names a Federal Building in Long Beach, California, for Congressman Glenn M. Anderson of California.

This amendment also inserts a new provision which names a Federal building in Pasadena, California for Judge Richard H. Chamber.

### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

#### OPERATING EXPENSES

Amendment No. 108: Appropriates $165,045,000 for operating expenses instead of $163,045,000 as proposed by the House and $167,045,000 as proposed by the Senate.

Amendment No. 109: Makes available $5,000,000 for allocations and grants for historical publications and records instead of $4,000,000 as proposed by the House and $6,000,000 as proposed by the Senate.

### OFFICE OF GOVERNMENT ETHICS

#### SALARIES AND EXPENSES

Amendment No. 110: Appropriates $8,265,000 for salaries and expenses as proposed by the House instead of $8,365,000 as proposed by the Senate.

### OFFICE OF PERSONNEL MANAGEMENT

#### SALARIES AND EXPENSES

#### (INCLUDING TRANSFER OF TRUST FUNDS)

Amendment No. 111: Appropriates $119,000,000 for salaries and expenses instead of $117,593,000 as proposed by the House and $120,069,000 as proposed by the Senate.

This amendment also modifies language proposed by the Senate which provides funds for the establishment of health promotion and disease prevention.

### CONCERN OVER PROPOSALS TO REDUCE FEDERAL PAY

The conferees are very concerned over proposals by the President to reduce the pay of certain Federal employees by five percent. In most cases, legislation would be required to accomplish such a reduction. For certain Federal employees, however, the President has the unilateral ability to accomplish such a reduction in pay. Whereas the conferees hold that it is certainly the President's right to seek legislation to accomplish this end, the conferees do not believe it is appropriate to single out selective groups for such reductions in pay through unilateral action by the Executive Branch. The conferees had intended to include in this Bill language which would suspend the authority to reduce pay without legislative action. The conferees have been assured by the Administration, however, that no such unilateral reduction in pay or benefits shall occur either in this fiscal year or in the coming fiscal year and that any reductions would only occur as a result of legislation passed by the Congress and signed by the President. Based upon this commitment by the President, the conferees have not included legislation in this year's conference report.

### PALMER CHIROPRACTIC UNIVERSITY

The conferees concur with the language contained in Senate Report 102-353 regarding a collaborative study by the Consortium for Chiropractic Research, Palmer Chiropractic University and the Office of Personnel Management to examine how chiropractic medicine might be able to reduce the prevalence and cost of lower back dysfunction among Federal employees within the Federal Employees Health Benefits Program.

Amendment No. 112: Makes available $86,032,000 for administrative expenses instead of $87,032,000 as proposed by the House and $83,039,000 as proposed by the Senate.

Amendment No. 113: Deletes language proposed by the House which would have provided $1,012,000 for establishment of a toll-free telephone line.

### BOYERS, PENNSYLVANIA, RETIREMENT INFORMATION OFFICE

The conferees direct the OPM to provide up to $1,000,000 in the Office of Personnel Management's Retirement and Insurance Group account and direct OPM to use funds to open a Retirement Information Office at its Operations Center in Boyers, Pennsylvania. This is the amount identified by OPM as necessary to establish this office. According to OPM estimates, the establishment of this center would double the agency's existing capacity to respond to telephone inquiries from Federal retirees and their survivors.

Amendment No. 114: Makes available $616,000 for the National Advisory Council on the Public Service as proposed by the Senate instead of $270,000 as proposed by the House.

### OFFICE OF INSPECTOR GENERAL

#### SALARIES AND EXPENSES

#### (INCLUDING TRANSFER OF TRUST FUNDS)

Amendment No. 115: Appropriates $4,227,000 for salaries and expenses as proposed by the Senate instead of $4,528,000 as proposed by the House.

Amendment No. 116: Makes available $6,500,000 for administrative expenses instead of $6,956,000 as proposed by the House and $6,105,000 as proposed by the Senate.

### MERIT SYSTEMS PROTECTION BOARD

#### SALARIES AND EXPENSES

#### (INCLUDING TRANSFER OF FUNDS)

Amendment No. 117: Appropriates $24,450,000 for salaries and expenses instead of $24,850,000 as proposed by the House and $24,398,000 as proposed by the Senate.

### OFFICE OF SPECIAL COUNSEL

#### SALARIES AND EXPENSES

Amendment No. 118: Appropriates $7,952,000 for salaries and expenses instead of $7,949,000 as proposed by the House and $7,962,000 as proposed by the Senate.

### FEDERAL LABOR RELATIONS AUTHORITY

#### SALARIES AND EXPENSES

Amendment No. 119: Appropriates $21,647,000 for salaries and expenses instead of $21,637,000 as proposed by the House and $21,657,000 as proposed by the Senate.

### U.S. TAX COURT

#### SALARIES AND EXPENSES

Amendment No. 120: Appropriates $32,435,000 for salaries and expenses as proposed by the House instead of $33,500,000 as proposed by the Senate.

The conferees have taken this action because the Senate has already confirmed the appointment of new judges for the Tax Court. However, the conferees remain concerned about the increasing number of judges and the decreasing number of backlog cases. It does not seem reasonable to nominate new judges when the backlog of cases is decreasing. Therefore, the conferees agree that the Tax Court shall, with its fiscal year 1994 budget request, provide the Committees on Appropriations of the House and Senate, an analysis on the number of backlog cases and the complexity of those cases.

## TITLE V—GENERAL PROVISIONS

### THIS ACT

Amendment No. 121: Restores a provision proposed by the House and stricken by the Senate which prohibits the closing of an office in Sacramento, California.

Amendment Nos. 122–129: Inserts section numbers.

Amendment No. 130: Deletes a provision proposed by the House which provided that GSA acquire space for the United States Courts in Tacoma, Washington at the site of the Union Station in Tacoma, Washington. This action has been completed.

Amendment Nos. 131–135: Inserts section numbers.

Amendment No. 136: Restores a provision proposed by the House and stricken by the Senate which prohibits the withdrawal of the designation of Front Royal, Virginia as a Customs Service Port of Entry.

Amendment No. 137: Deletes a provision proposed by the Senate would have which authorized the collection of certain fees from alcohol beverage manufacturers for certain label and testing procedures.

Amendment Nos. 138–140: Inserts section numbers.

Amendment No. 141: Inserts a provision proposed by the Senate which requires absorption of the Federal employee cost-of-living adjustment within the amounts provided for each agency.

Amendment Nos. 142–145: Inserts section numbers.

Amendment No. 146: Inserts a provision proposed by the Senate which will allow Federal agencies to enter into a consortium with private organizations or individuals in an effort to reduce tuition costs and staff turnover in Federal child care centers.

Amendment Nos. 147–148: Inserts section numbers.

Amendment No. 149: Restores a provision proposed by the House and stricken by the Senate which addresses the conveyance of land to Anne Arundel County, Maryland.

Amendment No. 150: Modifies a provision proposed by the Senate which prohibits the Office of Personnel Management from using funds to prepare, promulgate, or implement any regulations relating to the Combined Federal Campaign without the inclusion of a brochure which lists and provides options on certain international agencies.

Amendment No. 151: Inserts section numbers.

Amendment No. 152: Inserts a provision proposed by the Senate which changes a location designation.

Amendment No. 153: Restores a provision proposed by the House and stricken by the Senate which requires certification of closed captioned commercials by Presidential and Vice Presidential candidates before receiving funds from the Federal Election Commission.

Amendment No. 154: Restores a provision proposed by the House and stricken by the Senate which increases penalties for transporting, importing, and failing to mark goods made with forced labor.

Amendment No. 155: Deletes a provision proposed by the House which provided that none of the funds made available could be used to fund the Council on Competitiveness or any successor organization.

It is the position of the conferees that under the Administrative Procedures Act comments from all concerned parties pertaining to pending regulatory actions of the federal government are to be made available for public review; that the Council on Competitiveness has intervened in the regulatory process without authority from Congress, and refuses to disclose comments and communications it considers affecting such regulatory actions, or the facts and evidence upon which its interventions are based; and that Council's refusal to cooperate with congressional committees conducting legitimate inquiries into its activities impedes the responsibilities of the Congress to oversee the expenditure of public funds.

Further, it is the position of the conferees that: (1) The Council, when it determines to undertake substantial revision of a pending regulatory action, should establish a public docket for each regulatory action it seeks to revise, which shall be made available to the public and be available for copying; and promptly include in the public docket and transmit to the head of the agency conducting the regulatory action each communication concerning any regulatory action of an agency that occurs between the Council and any person who is not an employee of the Council, other than the President or the Vice President; (2) each substantive written revision in a regulatory action which is made or proposed by an employee of the Council should be submitted by the head of the Council in writing to the head of the agency conducting the regulatory action, with a statement of the reasons for such changes or proposed change; (3) the term "Council" is intended to include the Council on Competitiveness or such other similar reviewing agency established within the Executive Office of the President.

Amendment No. 156: Modifies a provision proposed by the Senate which concerns Secret Service protection for former Presidents and their families.

The conferees are concerned about the costs to the American taxpayer of providing Secret Service protection in perpetuity to former Presidents, their families, and spouses of deceased former Presidents. In fiscal year 1993, estimated costs for this protection are expected to reach $15,000,000 and will increase beyond this amount if there is a new President in the White House in 1993. The conferees are convinced that there are many viable alternatives to the current protection which could be provided which will ensure a commensurate level of security for former Presidents and their families at much lower costs to the taxpayer. In August of 1985, former President Nixon dropped his Secret Service protection for a private security contractor. The former President estimates that his entire security costs this year will be in the range of $120,000. President Nixon estimates that as a result, he has saved the Federal Treasury $21,000,000 to date. However, the Executive branch has not shown any interest in pursuing cost-effective changes to the current protection program. In some cases, the conferees have been informed that former Presidents are not even aware of the costs of their protection by the agency. Therefore, the conferees have included a provision in the bill which requires the Director of the Secret Service to meet with each former President and the spouses of deceased former Presidents to explain its costs for each protective detail, the threat assessments for each protectee, identify and discuss feasible less-costly alternatives with these protectees, and provide the Committees on Appropriations of the House and Senate with a confidential briefing on the results of the meetings. The conferees expect these meetings to be concluded by no later than April 15, 1993 and briefings provided to the members should be completed by no later than June 1, 1993.

Amendment No. 157: Inserts a provision proposed by the Senate which authorizes modifications to the Federal employees health benefits program to clarify coverage for self- referrals for individuals enrolled in certain health membership plans.

Amendment No. 158: Inserts a provision proposed by the Senate which prohibits proposed Internal Revenue Service moves of certain employees in New York.

Amendment No. 159: Deletes a provision proposed by the Senate which reduces funding for a variety of accounts. This amendment also reduces the amount appropriated to the Postal Service for revenue forgone to $121,912,000. The conferees realize that the provision for revenue forgone appropriations is only an interim measure and that permanent legislative reform is needed. Any permanent legislative reform of the revenue forgone appropriations authorization must be fair to the Postal Service, require all mailers, both for-profit and non-profit, to assume a fair and reasonable share of the Postal Service's institutional costs and reflect the social benefits of non-profit organizations.

### TITLE VI—GENERAL PROVISIONS DEPARTMENTS, AGENCIES, AND CORPORATIONS

Amendment No. 160: Inserts language proposed by the Senate which clarifies the meaning of the word "office".

Amendment No. 161: Modifies a provision proposed by the House and stricken by the Senate which concerns the FTS2000 use and procurement.

The conferees have agreed to continue the language carried in this Act for several years mandating the use of FTS2000 for the procurement of any product or service that is subject to the provisions of Public Law 89-306, under conditions set forth therein.

The conferees are also agreed that the President should issue an Executive Order to that effect.

Amendment Nos. 162-163: Inserts section numbers.

Amendment No. 164: Changes section number as proposed by the Senate.

Amendment Nos. 165-166: Inserts section numbers.

Amendment No. 167: Deletes language proposed by the House and stricken by the Senate which expresses a Sense of the House resolution and inserts language proposed by the Senate which changes the resolution to a Sense of the Congress.

Amendment No. 168: Deletes the word "the" proposed by the House.

Amendment No. 169: Deletes language proposed by the House and stricken by the Senate which concerns a resolution of the House and inserts Senate language.

Amendment No. 170: Inserts language proposed by the Senate which includes the "United States Senate", in the proposed resolution.

Amendment No. 171: Deletes a provision proposed by the House and stricken by the Senate which expressed a Sense of the House Resolution that it is inappropriate for the Postal Service to provide customers with free trips to Barcelona, Spain, during the 1992 Summer Olympics.

Amendment No. 172: Deletes a provision proposed by the House and stricken by the Senate which would have limited funds available for any certificate of label approved which authorized the use of the name, "Crazy Horse". This is addressed in amendment number 179.

Amendment No. 173: Modifies a provision proposed by the Senate which concerns violations of the Trading with the Enemy Act.

Amendment No. 174: Modifies a provision proposed by the Senate which concerns penalties under the International Emergency Economic Powers Act.

Amendment No. 175: Deletes a provision proposed by the Senate which would have authorized law enforcement authority for special agents of the Office of Foreign Assets Control.

Amendment No. 176: Modifies a provision proposed by the Senate which is intended to promote recycling of toner cartridges and Government purchases of recycled cartridges. With the growing use of laser printers and photocopy machines throughout the government, an increasingly large number of nonbiodegradable toner cartridges are used and discarded by the Government. The conferees have received reports that millions of cubic feet of plastic toner cartridges are scrapped and thrown into landfills each year. However, industry has developed methods for recycling and remanufacturing these cartridges so that they may be reused and print thousands of additional pages. These recycled cartridges are priced substantially below the market prices for new cartridges.

The General Services Administration has authorized the use of recycled toner cartridges and included the recycled products as part of the Federal supply schedule. This section is intended to take an additional step by establishing a preference for the purchase of recycled cartridges in executive branch acquisitions.

Under this provision, all executive branch agencies shall purchase recycled toner cartridges to meet needs for laser printers, copiers, and microphotographic printers unless one of two exceptions apply. If the contracting officer determines after adequate market research that none, or an insufficient quantity of recycled cartridges is available to meet its minimum needs, new cartridges may be purchased. With this exception the conferees recognize that there may be some printer or copier application for which there is not an existing recycled cartridge technology. In such cases, the agency will have to purchase new manufactured cartridges.

The second exception which could apply to the recycled cartridges preference is based on price. If the contracting officer determines that the price or life cycle cost offered for the recycled cartridge suitable for the Government's needs it higher than the lowest priced newly manufactured cartridge which meets the Government's needs, the preference will not apply. For purposes of this exception, the contracting officer's determination shall be made on the basis of the proposals received for the particular cartridge procurement.

The conferees also recognize in some cases, the only available recycled cartridges may not meet generally accepted industry standards for quality. It is not the intent of this provision to promote the acquisition of substandard quality products. Therefore, the legislation restricts the preference to only those recycled cartridge products manufactured in the United States by a small business which has been evaluated by an independent laboratory (such as Torrey Pines

Research or Underwriters Laboratory) and certified to meet generally accepted industry standards. Such evaluation would involve testing recycled cartridge products for printer quality performance, long-term wear resistant and other functional characteristics as well as inspection of the vendor's facilities and manufacturing process to assure conformance to industry standards.

The conferees also recognized that in some cases, newly manufactured toner cartridges are bundled into the initial acquisitions of printers and copiers. This provision is not intended to apply to the inclusion of newly manufactured cartridges included with a printer or copier as part of an initial purchase package. However, this provision is intended to apply to all subsequent purchases of toner cartridges for use on printers and copiers.

The conferees emphasize to all agencies that because of this recycling effort, empty toner cartridges do have value and must be returned for recycling purposes. Methods for collecting and returning the cartridges to be remanufactured should be provided by the vendor conducting the recycling.

Amendment No. 177: Modifies a provision proposed by the Senate which directs the Secretary of Agriculture to implement a program to protect Hawaii from the introduction of prohibited plants and pests sent through the mail.

This provision would require that a program be instituted to identify pests entering Hawaii through the mails.

During the 100th Congress, legislation was enacted to prevent the dissemination of pests through the mails. Under the current program, mail leaving Hawaii can be examined, but mail bound for Hawaii is not. This section of the bill would turn the existing one-way inspection into a two-way program.

The Postal Service and the Department of Agriculture are to carry out the inspection program using amounts appropriated or otherwise available to the agencies. The conferees intend that the volume of mail bound for Hawaii inspected under the new program be proportionate to the volume of Hawaii mail bound for the mainland that was inspected during the period in calendar year 1990 that the P.L. 100-574 program commenced, after any differences in incoming and outgoing mail volumes are taken into account.

Amendment No. 178: Inserts a provision proposed by the Senate which prohibits the use of funds for the relocation of a Department of Justice office in Arizona.

Amendment No. 179: Inserts a provision proposed by the Senate which directs the Bureau of Alcohol, Tobacco, and Firearms to deny any application for certificate of label approval which authorizes the use of the name "Crazy Horse". The amendment makes an exception for those labels which have been permanently affixed or were ordered on or before September 15, 1992.

Amendment No. 180: Modifies a provision proposed by the Senate which authorizes the Administrator of the General Services to enter into a contract with the Greater Orlando Aviation Authority under certain circumstances with prior Congressional approval.

Amendment No. 181: Modifies a provision proposed by the Senate which establishes the "Social Security Notch Fairness Investigatory Commission Act of 1992".

This amendment also inserts a new provision which authorizes the utilization of Beltsville Agricultural Research Center land for the construction of Wetlands mitigation projects under certain conditions.

This amendment also inserts a new provision which addresses the U.S. Customs Service pilot pre-clearance program in Aruba.

This amendment also inserts a new provision which establishes in the Department of the Treasury an asset forfeiture fund to be administered by the Secretary of the Treasury. The Fund is patterned after the Department of Justice Assets Forfeiture Fund (28 U.S.C. 524(c)) and the Customs Forfeiture Fund (19 U.S.C. 1613(b). The Fund shall be available to the Secretary of the Treasury to pay or reimburse certain costs and expenses related to seizures and forfeitures that occur pursuant to the Department of the Treasury's law enforcement activities. Participating Treasury law enforcement organizations include the United States Customs Service, United States Secret Service, the Internal Revenue Service (IRS) (except pursuant to sections 7301 or 7302 of the Internal Revenue Code), the Bureau of Alcohol, Tobacco and Firearms (BATF), the Financial Crimes Enforcement Network, and the Federal Law Enforcement Training Center. In addition, the United States Coast Guard would participate in the Treasury Forfeiture Fund just as it now participates in the Customs Forfeiture Fund.

Currently, under 19 U.S.C. 1613b, the proceeds from assets seized and forfeited from investigations by Customs Service officials are deposited into the Customs Forfeiture Fund. For all other Department of the Treasury law enforcement bureaus, proceeds from seized and forfeited assets are deposited into the Department of Justice Assets Forfeiture Fund, 28 U.S.C. 524(c), or into the general fund of the United States Treasury. Under current law, any transfers made from the Department of Justice Fund to the Department of the Treasury law enforcement bureaus, except for the Customs Service and except for uncapped, nondiscriminatory expenses, are made at the discretion of the Department of Justice, subject to certain statutory restrictions.

Just as the Customs Service and the Department of Justice currently have a permanent indefinite appropriation to pay certain costs related to seizure and forfeiture, the Treasury Fund will be available for similar expenses with the same fiscal limitations. Moreover, most of the authorized uses of the Fund exist in substance for the Customs Forfeiture Fund and the Department of Justice Assets Forfeiture Fund and are merely extended to the other bureaus and offices that will participate in the Treasury Fund. Where examples of authorized uses are listed, the lists are non-exclusive.

The language also contains technical and conforming amendments to the Department of Justice Assets Forfeiture Fund to ensure that the authorized uses of both forfeiture funds are substantially identical.

The conferees believe that the establishment of the Treasury Forfeiture Fund will provide the Secretary of the Treasury with the tools and mechanisms necessary to manage properly the law enforcement activities under the Treasury Secretary's jurisdiction. The conferees are convinced that this language, which consolidates all forfeiture and seizure activities Treasury Department law enforcement organizations are responsible for under a single and appropriate chain of command within the Department of the Treasury, will result in increased efficiencies and improved accountability.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $19,902,355,000 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 22,374,481,000 |
| House bill, fiscal year 1993 | 22,727,049,000 |
| Senate bill, fiscal year 1993 | 22,667,042,000 |
| Conference agreement, fiscal year 1993 | 22,562,042 |
| Conference agreement compared with: | |
| New budget (Obligational) authority, fiscal year 1992 | +2,659,687 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | +187,561 |
| House bill, fiscal year 1993 | −165,007 |
| Senate bill, fiscal year 1993 | −105,000 |

EDWARD R. ROYBAL,
STENY H. HOYER,
NANCY PELOSI,
RONALD D. COLEMAN,
DAVID E. SKAGGS,
PETER J. VISCLOSKY,
JAMIE L. WHITTEN,
FRANK R. WOLF,
(with the exception of Statement of Managers accompanying amendments 155 and 156),
JIM LIGHTFOOT
(with the exception of Statement of Managers accompanying amendments 155 and 156),
HAL ROGERS
(with the exception of Statement of Managers accompanying amendments 155 and 156),
JOSEPH M. MCDADE
(with the exception of Statement of Managers accompanying amendments 155 and 156),
*Managers on the Part of the House.*

DENNIS DECONCINI,
BARBARA A. MIKULSKI,
J.R. KERREY,
ROBERT C. BYRD,
PETE V. DOMENICI,
ALFONSE M. D'AMATO,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## TRIBUTE TO A MAN OF POLITICS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHARDSON. Mr. Speaker, at this very moment in Little Rock, AR, and in Washington, DC, practitioners of politics toil away on behalf of their Presidential candidates, Bill Clinton and George Bush. The giant on the Republican side was Lee Atwater. The giant on the Democratic side was Paul Tully. Both have passed away.

Although their tactics were different, both men were campaign strategists of the utmost degree. Paul Tully cared deeply about government. He cared about people. He worked in every Presidential campaign since 1968.

Charts, maps demographics, polling, statistics, fundraising. Every day these words emanated from Paul's lips. He was a good, decent man that cared about people, about education, about health care.

It is ironic, Mr. Speaker, that Paul Tully toiled in four losing Presidential campaigns, but regrettably, one of the greatest tragedies of his death will be that Paul Tully needed 40 more days to see his candidate, Gov. Bill Clinton, win in November.

Sometimes may downgrade the practitioners of politics, those young men and women toiling away in President Bush's headquarters and in Governor Clinton's headquarters, as unimportant, but they are not. Politics is a noble art, and one of the most noble practitioners, Paul Tully, left us most regrettably this last week.

[From the Washington Post, Sept. 25, 1992]

### THE VORACIOUS DEMOCRAT: PAUL TULLY'S HUNGER FOR POLITICS

(By Dan Balz)

LITTLE ROCK, AR—On the night before he died, Paul Tully was in exceptional form: a vodka and tonic, a cranberry juice, a succession of cigarettes, a platter of Mexican food, an array of maps and statistics, and two hours of nonstop analysis of the presidential campaign he was trying to win for the Democrats. As always, he was provocative, enlightening—and exhausting.

We hooked up late Wednesday after he had spent another long day in Bill Clinton's headquarters. As we settled into the restaurant booth, he announced to our waitress in typical fashion. "I have an enormous thrist and an enormous appetite."

Tully was a man of prodigious appetites, but none larger than his passion for politics. His death of a probable heart attack on Thursday cost the Democrats what party Chairman Ronald H. Brown called "the smartest political strategist I have ever known." No one in the party had worked longer or harder to give the Democrats a chance of recapturing the White House this November.

Yet even in Washington, he was hardly a household name. In this era of political operatives as public personalities, he was an insider's insider. The public never knew him. Hardly anyone in Democratic politics didn't. At the relatively young age of 48, he was a veteran of 24 years in presidential campaigns, the political director of the Democratic National Committee and a key architect of the Democrats' 1992 campaign strategy.

Friends called him an original. Tully once said, "I don't do government, I do politics." It wasn't meant to denigrate the business of governing, but only to suggest that to him there was something equally ennobling about the art of fighting and winning elections. He was serious about that business and didn't like people who weren't.

"There was no ulterior motive for him," Brown said. "It wasn't about personal glory. . . . It wasn't about a job down the line. It was about making a difference in the country."

"He didn't define his ego in terms of his notoriety," said Carl Wagner, his closest friend and a fellow political consultant. "He didn't come to politics with his wallet out, Believe it or not, he was driven by his heart."

Gruff, ebullient, bearish, upbeat, insightful, partisan, sometimes unintelligible, he was loved and remembered by those who worked with him for his belief in the cause. "In a business of mercenaries, he was a missionary," said Peter Hart, the Democratic pollster.

Tully was obsessed with politics—to the exclusion of almost everything else. He carried too much weight on his large frame, smoked too many cigarettes, slept too little, pushed himself too hard. He was a man of late nights, slow mornings and no weekends.

"He'd walk into a 7-Eleven at 11 o'clock at night and get the first edition of the morning paper and six cups of coffee to go," Wagner said.

Wagner recalls a night Tully came for dinner, late as usual. Wagner and his wife had already eaten, but Tully said not to worry. He called a pizza parlor. "The biggest," he said, "without anchovies." He called for coffee. He laid out his latest spreadsheets of political data on Wagner's table.

"Pretty soon it was 2 a.m.," Wagner said. "The pizza was gone. The coffee was gone. The spreadsheets were still there."

Tully devoured data. He could read a poll for weeks, sifting and thinking and analyzing the entrails. He would argue about it, he would order more details when something looked odd. His office walls were papered with computer-generated maps showing county-by-county voting patterns, media markets by "persuadable voters," ad buys by candidates, electoral scenarios.

He knew precincts in Pittsburgh and how the vote had changed from one election to another. He knew where Democrats lived in the Detroit suburbs and what they looked like and where they worked and how much they made and how the party could get them back.

Tully knew the players from state to state, their histories and their battles and their weaknesses. When old wounds threatened to upset the progress of Clinton's campaign this fall, others with less experience would ask him to broker a tribal dispute. A few phone calls and an hour or so later, Tully would announce with a grunt, "Done."

He was Brown's first pick in 1989 when he began to build a staff at the Democratic National Committee. The two constructed a strategy for winning in 1992, with Tully was one of the most persistent voices in forcing Democrats to keep their focus on economics and the middle class and not on issues that had divided the party in other elections.

A week after the Persian Gulf War ended and President Bush was at 90 percent in the polls, Tully passed my house one Sunday afternoon heading to his office. At the time, there was hardly a political analyst in the country who gave the Democrats a shot at defeating Bush—except Tully.

"Remember Churchill," he said to me that day, recalling that the British voters had turned out their prime minister in 1945 after World War II. Then he got that impish look on his face. "Now all we've got to do is find our Clement Atlee."

In the summer of 1991, when the Democrats were having trouble finding not only their Atlee but anyone to run for president, Tully was plotting victory. "The only question is, is there an audience out there to listen to an alternative?" he asked rhetorically. Based on his own analysis of polling and economic data, he was convinced there was, and like a circuit-riding preacher, he took his spreadsheets and his maps to any party gathering who would have him to convince the doubters.

He was sent to Little Rock to help integrate the operations of the DNC with the Clinton campaign and died in the hotel room that had become his temporary home. On the night before his heart attack, for the first time in the campaign, he sounded cautiously confident the Democrats could win. But he died 40 days short of knowing whether it would happen. For that as much as anything, his Democratic friends were grieving.

"It's not like politics was good to him," Wagner said. "He was on the downside of the curve in this town. It's not like these were the salad days for a liberal Democrat."

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[From the New York Times, Sept. 25, 1992]

### PAUL TULLY IS DEAD AT 48; TOP DEMOCRATIC STRATEGIST

(By Robin Toner)

WASHINGTON, Sept. 24.—Paul Tully, the political director of the Democratic National Committee and one of his party's pre-eminent strategists, was found dead in Little Rock, Ark., today. He was 48 years old.

Coroner Steve Nawojczyk of Pulaski County said Mr. Tully's body was found about 3 P.M. today by a maid at the hotel where he was living in Little Rock. Pending results of an autopsy, the coroner said Mr. Tully appeared to have died of natural causes.

Mr. Tully was among the most impassioned and intense of a generation of Democratic political professionals who devoted much of their lives to regaining the White House. He worked in every Presidential election since 1968.

He had moved to Little Rock this fall to aid in Gov. Bill Clinton's drive for the White House. Ronald H. Brown, the chairman of the Democratic National Committee, said in a statement tonight: "There will be only one Paul Tully. Pacing, driven, and full of joy, Paul's commitment to our party and, more importantly, to making this great nation even greater was a fire that burned bright and long."

In a statement, Mr. Clinton said, "Paul had one of the nation's greatest political minds, and one of its biggest hearts."

Mr. Tully was a fixture in Democratic Presidential politics. Working for Senator Edward M. Kennedy in 1980, for Walter F. Mondale in 1984, for former Senator Gary Hart's first Presidential campaign in 1987, and briefly, as a top aide to Michael S. Dukakis. Mr. Tully resigned from that campaign along with John Sasso, the campaign manager, after Mr. Sasso acknowledged giving reporters a videotape that showed Senator Joseph R. Biden Jr. using parts of another politician's speech. The disclosure helped set off the collapse of Mr. Biden's Presidential campaign.

Mr. Tully was convinced that 1988 was a winnable election for the Democrats, and he spent much of the next four years arguing that a new Democratic majority was emerging in the country, at the Democratic National Committee, he led the party's efforts to prepare for this campaign, and oversaw the integration of those efforts with the Clinton campaign.

#### ECONOMY AS ISSUE

Even at the height of Mr. Bush's popularity after the Persian Gulf war in 1991, when many Democrats considered this election an almost certain defeat, Mr. Tully made the rounds of party gatherings with his slide shows and his charts, arguing that Mr. Bush had serious vulnerabilities. He was known in political circles for his blunt assessments, his fierce partisanship and his love of the game. At a time when many analysts still believed that the 1992 election would be heavily influenced by foreign policy and the ability to serve as Commander in Chief, Mr. Tully declared. "This is about money in my pocket, prices for the essentials of life, the level of fear on the block."

James Carville, the senior strategist for the Clinton campaign said. "This guy's whole life was Democratic Presidential politics. He had worked for four years on the—he had every map, every target, he probably knew the name of every swing voter in the country."

Mr. Tully was born in New York City, grew up on Long Island, and was a graduate of Yale College and the University of Pennsylvania Law School.

He is survived by two daughters, Jessica and Miranda Tully; a brother, Jim Tully, and a sister, Patricia McDermott.

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[From the American Political Network, Inc., Sept. 25, 1992]

PAUL TULLY: VETERAN DEM STRATEGIST DIES IN LITTLE ROCK

DNC political dir. Paul Tully, who worked in every presidential election since 1968, died in his hotel room in Little Rock yesterday. He was 48 years old. Boston Globe's Chris Black: "The unexpected death of the heavy-set chain smoking strategist, who brought passionate commitment and depth of knowledge to national politics, shocked and saddened the political community. . . . Politics was his love, and he devoted his life to the cause of electing liberal Democrats to public office. . . . with an unparalleled Rolodex of contacts throughout the nation and encyclopedic knowledge of Democratic constituencies" (9/25). N.Y. Times' Robin Toner: "One of his party's pre-eminent strategists . . . among the most impassioned and intense of a generation of Democratic political professionals who devoted much of their lives to regaining the White House. . . . He was known in political circles for his blunt assessments, his fierce partisanship and his love of the game" (9/25). W. Post's J.Y. Smith: "A rotund, curly-haired, coffee-drinking chain-smoker who could be brilliant and inarticulate at the same time. . . . One of Washington's most respected political operatives . . . He cut his teeth on the old politics of coalition. But colleagues credited him with an equal mastery of the new politics of communication: polls, issues, focus groups, regional differences in the electorate, what it takes to get people interested, how to engage them in the process" (9/25). W. Times' Moss: "a chain-smoking former collegiate defensive tackle with a disheveled appearance who had an intense approach to modern politics" (9/25). ABC's Schneider: "A key aide to Bill Clinton and the whole Democratic party has died—Paul Tully. He was the political director of the Democratic National Party. He was just 48 years old" ("GMA," ABC, 9/25).

DNC Chair Ron Brown: "My first act as Party Chairman was to recruit Paul whom I considered a political genius. His work over the last four years has only reinforced that assessment.* * * There will only be one Paul Tully. Pacing, driven, and full of joy. * * * The bitter irony of his passing—so close to the realization of his life's work—is perhaps the hardest thing to swallow" (DNC release, 9/24). Bill Clinton: "Paul had one of the nation's greatest political minds, and one of its biggest hearts." Clinton Strategist James Carville: "This guy's whole life was Democratic presidential politics. He had worked for four years on this—he had every map, every target, he probably knew the name of every swing voter in the country" (N.Y. Times 9/25). Sen. Ted. Kennedy (D-MA): "Paul Tully was a great friend of the Kennedy family and one of the Democratic Party's most valuable resources. He had an encyclopedic understanding of American politics and his wise counsel, unique insights and remarkable personality will be deeply missed." Dem Strategist John Sasso: "All he wanted was to elect a Democratic president. He gave up everything in his life to help the Democratic Party" (Boston Globe, 9/25). Bush-Quayle Political Dir. Mary Matalin: "Paul Tully was an outstanding professional who cared passionately about his party. He was in this business for all the right reasons. He had a soul." (Washington Post, 9/25)

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## URGING THE PRESIDENT TO HOLD A PRESS CONFERENCE TO CLARIFY ROLE IN IRAN-CONTRA AFFAIR

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, in Saturday's New York Times, a former National Security Council staff member during the Reagan-Bush administration was quoted as stating he told then-Vice President Bush in the spring of 1986 that the United States was trading arms to Iran in exchange for the release of hostages. Mr. Bush has already said publicly that he was not "in the loop," and that he was excluded from key meetings involving details of the Iran operation.

The National Security aide, Howard Teicher, said that Mr. Bush was fully engaged in the discussions, asked pointed questions, and seemed to understand the implications of the arms trade.

Mr. Teicher was quoted as saying, and I quote, "I briefed him in detail in aspects of the Iran initiative on several occasions. He was extremely well-informed about foreign affairs, and extremely interested, yet I found a pattern of behavior that was a desire to be very well-informed but not to be involved on any issue that was controversial."

Mr. Speaker, Mr. Teicher does not work for Governor Clinton. He worked for the Reagan-Bush admministration at the highest levels as a National Security aide. I am confident that the President does not want to allow this contradiction of his early statement to stand.

I urge the President to hold a press conference and to answer the fundamental questions about this matter. If he fails to do so, he can only expect that questions about this matter will continue to linger throughout the election.

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## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
*September 28, 1992.*

Hon. THOMAS S. FOLEY
*The Speaker, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, September 25, 1992 at 7:05 p.m. and said to contain a message from the President whereby he transmits proposed legislation entitled the "Federal Pay Reduction Act of 1992" and a section-by-section analysis of the legislation.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
*Clerk, House of Representatives.*

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□ 1210

## FEDERAL PAY REDUCTION ACT OF 1992—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-397)

The SPEAKER pro tempore (Mr. HUBBARD) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service, the Committee on House Administration, and the Committee on Armed Services, and ordered to be printed:

*To the Congress of the United States:*

I am pleased to transmit today for your immediate consideration and enactment the "Federal Pay Reduction Act of 1992." This legislation is part of my Agenda for American Renewal. The proposal is an important step toward "rightsizing" our Government—making it more fiscally responsible and reducing its size and structure. Also transmitted is a section-by-section analysis.

There are many in America who are out of work or uncertain of their prospects. The Federal deficit constrains the capacity to rejuvenate the economy. It is therefore appropriate that those who lead the Government make a personal contribution—toward reducing the deficit and as a symbol of our understanding of the concerns of so many Americans. Accordingly, this proposal would reduce the salary of the President, the Vice President, and the Speaker of the House of Representatives by a full 10 percent. For other leaders in our Government—Members of Congress, senior officials paid more than $75,000 in all three branches of the Government, and high-ranking military officers—the pay reductions would be 5 percent. An otherwise scheduled pay increase in January 1993 for these officials would not take place.

Under our Constitution, the President's salary can only be changed at the beginning of a new term of office. Pay reductions for all others affected will take place with the first pay period beginning on or after January 20, 1993. It is therefore essential that this legislation be enacted immediately, before the adjournment of the current Congress.

GEORGE BUSH.

The White House, *September 25, 1992*.

## COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
*Washington, DC, September 24, 1992.*

Hon. THOMAS S. FOLEY
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, I am transmitting herewith the resolutions (originals plus one copy) approved today by the Committee on Public Works and Transportation, as per the attached listing.

With all good wishes.

Sincerely,

ROBERT A. ROE,
*Chairman.*

There was no objection.

## THE BNL CASE: HEAR NO EVIL, SPEAK NO EVIL

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the BNL or the Banca Nazionale del Lavoro, was owned by the Government of Italy. This is something that even to this day and after years since 1975 that I initiated what turned out to be in 1978 the first statutory international banking regulatory law to convey to my colleagues and even the regulators that our banking system is quite different and operates differently, in a way it is good, in a way it is bad, from the Continental European, or for that matter any of the other industrialized nations, including Japan, in that the government has proprietorship in most every one of the banks that would be operating in the United States, or they have such tight control, or they have as is the heritage in Germany, for instance. You see, this is something that is not factored in our country, and that is why we are so vulnerable. We like to say banks are strictly private. In fact, they are so private that they are the most privileged group as a class in our country, for they in effect can give birth to credit or money with our fractional reserve system. Banks create money, in countries like Germany, for instance, but the bankers are independent, they are private, they are their own bosses, and the Federal Reserve Board is not a Federal agency even though it is created by the Congress. It is a creature of the commercial banking system, and therefore it is going to be amenable to it.

So in countries like Germany you have maybe four or five big banks. But in every one of those countries, whether it is France, England, Germany, Spain, you have a class system that is not in consonance with the American democratic, egalitarian tradition. And there is the rub. In Germany a banker, though he may be private, outside of the central bank, the Bundesbank now, during Hitler's period of time and before it was known as the Reichsbank, and we are the ones that changed that, we Americans occupying Germany in the occupation period. As a matter of fact, we even printed their currency during the occupation, and we changed the designation from the Reichsbank to the Bundesbank. And we printed the currency to exchange at the rate of 10 for 1 the old reichs mark as differentiated from the deutsche mark now.

That is a lot of history, but if we do not read history, and I think we have not, and that is why we are paying the price, that is, the bill, for it is just beginning to be discerned by the American people, who have not been informed by their leaders and are not now being informed by those that seek to have the power of the executive branch, neither one. But that is neither here nor there. These examples that I have been talking about, and which I have had the committee directing its attention to for almost 3 years, has to do with the most critical, the most imperative need we have, and that is to provide the framework of regulatory protection and supervision and oversight over these massive, hot, volatile sums which now amount to almost a trillion dollars over which no Federal agency, including the Federal Reserve Board, or much less any State banking commission such as in Georgia, has the least idea of what is going on.

There is an old law, the Gresham's law that said bad money chases out good money. We also have a legislative Gresham's law which I have seen in operation since the so-called reform of 1974 where bad legislation chases out good legislation. And it has been a tough fight these last 18 years, and it is very difficult for me personally because it is anguishing to see, and not foretell, but just discern, given the information that as a Member of Congress, and particularly assigned to the banking committee, the Banking, Finance and Urban Affairs Committee. That name was changed also in 1974. It used to be the Banking and Currency Committee. And that was the name of the committee since it was founded as a result of the 1865 Currency Act.

So this is history I would say which is important. But today you are called archaic, or old-fashioned, or it is not in keeping with the mores of these new generations, whether it is the me generation, which now is finding out what the limitations of that are and have been, or whether it is the blow-hair generation. It seems to me that what I have seen is generations that know the cost of everything and the value of nothing.

□ 1220

Yes, it may be old-fashioned, but there are certain certainties and basics that are never old-fashioned, such as accountability, responsibility, truth, virtue.

Oh, virtue, what is virtue? Well, in public office, what should be virtue? In a democracy like ours, I would say just living up to the oath of office we take. And what is that oath of office? It is very simple, and it is prescribed for in the Constitution, and it is one that every officer, including armed services officers, as well as civilian officers, take, and that is to defend and protect the U.S. Constitution against all its enemies both domestic as well as foreign.

In our case, on top of that, to serve faithfully and well, but wait awhile. Is that not old-fashioned? Is not faithfulness old-fashioned? Is not relativism in moral judgments the thing?

Well, I am sorry to say that whatever I have brought out may now, and in fact some have written that I had foreseen, and, well, it was not so much that I had foreseen. I had spoken out, a warning, trying to get the attention, as I have been for particularly the last, well, since 1979 on what I think—in fact, I feel it in my soul—is a most heart-rending loss of our financial independence that faces us, and that is the value of the dollar, the fact that it can easily be replaced as the international reserve unit. I have gone into that before.

So these things such as a government-owned bank known as BNL, Italian Government-owned, but it is not the only one. We like to get exercised about how investments from, say, Japan have penetrated our economy and all. The truth is that the British have about 2½ times more acquisition of direct assets and indirect acquisition of assets than the Japanese, but nobody says anything about that or very few other than lately I have been getting a lot of calls back home from other airline employees saying, "Please, do what you can to protest the merger of British Airways with," I believe it is USAir. I am not sure. But anyway, it is too late.

The truth that the American people ought to know is that a true leader who has faith and confidence in the judgment of the American people as a whole would tell the truth, and that is that individually they cannot turn things around, at least not soon, that it is going to take sacrifice, struggle, mean, if we are going to survive, and the outlook, and I am by nature an optimist, is not too good, not because the American people are not there.

By experience, if I were to render testimony in the 39 years and some 5 months to the day that I have had the great privilege of serving in a politically elective office as a representative, first, on the local legislative body, the city council, then the State senate, and here in the Congress of just about 31 years, those are great privileges. Nothing in any other country could match that that I know of, and it is just a matter of discharging the duties and being straightforward about it.

I have had about everything that could be thrown against a candidate in this career, but the people came through. I cannot testify other than to the fact that the American people are there. People I see are hard-working people. They go to work in the morning with all of their fears. They come back home to their families. They pay their taxes. They go to church on Sunday. Those are the American people I know.

All I think they want is what is the truth, what are we facing; "do not be scared to tell us something that is distasteful or that will make us feel bad, because it is going to fall upon us to look for sacrifice. Tell us what it is going to take. But tell us truly." And that is all I have been doing almost to no avail.

We do not have even minimal protection against these things that seem to be inexplicable as we relate them.

So that this bank owned by the Italian Government and originally, and, in fact, in the United States headquartered in New York since some, oh, I guess 20 years or so, has agency banks in various places, for instance, one in Atlanta, Miami, Chicago, and they had one or two in California, I think maybe one now, or maybe that one has ceased operations. These are agencies.

What does that mean? It means that they are not full-service banks; that is, they do not take accounts, thank goodness. Think about how many American citizens would have been gypped. Thank goodness BCCI did not get full banking services, or we would be facing what Great Britain is, for the first time in 100 years, a failure of a major bank, which has not happened in Great Britain in 100 years, and many citizens or subjects in Great Britain gypped and trying to get their money back.

But why? Well, because we do not see that these activities from these other countries reflect, first, very different social-class situations.

In Germany, the banker looks upon himself, yes, he may be a private banker, one of those four or five other than the Bundesbank, but he looks upon himself as a loyal ally of his government, that he is going to implement the policies of his government, not go against them, and that has not been true since the 1960's and the emergence of the multinational corporate activities including banks that, in effect, have really sold out America.

Time will tell. Time always will.

So it was this Atlanta branch chartered by the Banking Commission of the State of Georgia, and that is another thing we must remember. These agencies are chartered in their respective States, not by the Federal Government level, whether it is the office of the Comptroller of the Currency or whether it is the Federal Reserve Board or what have you.

How was it, the question was originally asked when I saw a snippet in the Wall Street Journal saying that this Italian bank in Atlanta was issuing $3 billion dollars' worth of credit, and that started it. That was exactly 3 years ago, 4 years, well 3 years ago, 1989, this last month. So that how could that be that massive amount of credit? So I raised questions, and it took 1 year before I even had a halfway answer to the full context of the activities of agency banks.

One reason that this was possible is that the bank itself in this case had very poor management. Another reason is that under U.S. law at the time foreign agencies like the Atlanta office were not directly examined by the Federal Reserve Board, and if they are now, and I do not know to what extent, because we just amended the law under our pressure last November, and it took scandals to bring that about.

It was a minimal reform. We still have a hard job ahead of us.

So that under American law, 3 years ago, foreign agencies and the Atlanta office were not directly examined by the Federal Reserve. Instead, this job was done, or supposed to have been done by the State examiners, who gave it a low priority, because the agency did not take public deposits, and so presented no risk to the ordinary folks in Georgia.

The laxness of the internal management of BNL and the extremely poorest nature of regulatory supervision created the opportunity for mischief, as it always does and always will.

☐ 1230

All that was needed was a good motive, temptation, which came in the form of a Reagan/Bush policy decision to support the Government of Iraq. In 1983, President Reagan removed Iraq from the list of terrorist nations, and that immediately opened the gates for new business, to help our balance-of-trade deficiency. So it was a Bush/Reagan policy decision to support the Government of Iraq, which was in the midst of a terrible war of attrition with Iran. This policy led to massive sales of food, to begin with, to Iraq, which eventually absorbed no less than 20 percent of the Commodity Credit Corporation's loan guarantee program, 20 percent. Here is a country much smaller than Mexico, but getting, I forget how much, 400 percent or 500 percent more than, say, Mexico was in CCC. A great deal of this was financed by BNL-Atlanta. Now, what do we mean by Commodity Credit loan guarantees? Well, it means those guarantees are the taxpayers' liability, that is what that means, just like deposit insurance. And the banks and the S&L's making use of that guarantee to do that business, and even consider it sort of a capitalization structure goodie. Well, the same way here.

A great deal of this was financed by BNL-Atlanta, which was taking advantage of the opportunity presented by the bank's weak management, the nonexistent U.S. supervision of its operations, and was motivated by opportunities to get rich quick.

The agency manager, Christopher Drogoul, may have had many motives. Drogoul apparently earned $2.5 million for his troubles. In fact, his father was a dual French/Iraq national connected with Iraq's procurement program. But the chance to enrich himself surely was among them.

In addition to the food sales, Drogoul arranged for $2 billion in credit to supply military useful technology to Iraq. This is where we come in from the Banking Committee. When we trip on the Commodity Credit Corporation, we immediately brought in the Agriculture Committee because they have jurisdiction. When the policy issue came about, how the Reagan/Bush policy was to buddy up and stimulate Saddam, now that is foreign affairs. So we brought in and had testimony before a committee from a foreign affairs subcommittee chairman.

Now, that is fine, that is set aside. We are not criticizing. We put the facts here. You, my colleagues, finding them in the RECORD and the public record being exactly that, open to the public—at least up until now. I am afraid there will be efforts in the near future to even close that if we let some have their way—and therefore you have available for the decision and judgment of, first, my peers in the House and Members of the other body and, above all, the constituents we represent.

So that the $2 billion I speak of, aside from the commodity, the food, is commercial. These are bank loans.

Now, the banks operate this way, just like in the case of the hostage-taking in Iran in 1979, at the bottom of it all was banking: Chase Manhattan had an exposure of $10 billion. In fact, that is still a continuing issue.

I want my colleagues to remember that on January 20, 1981, when Mr. Reagan was being sworn in, the Federal Reserve Board pressed a button and released instantaneously several billion dollars in London to Iran, and that is when they released our hostages, something that had not happened since the 9th century.

So that it is amazing how here we are about to close out not only a century but a millenium, one of the most bloody centuries in all human history, and we should close it on that note.

So here is all that Mr. Drogoul arranging for $2 billion in commercial loans for the procurement, as a result of a very intricate, very well-thought-out procurement network by the Iraqi brains, and for the purchase of military technology all the way from chemical to such things as biological, nuclear—all of that was in there—and this thing, the initial financing which was like the Chase Manhattan in Iran, syndicated; that is, they get other banks to come in and take chunks of that.

Now, I put that on the record last year and in the committee's hearing record in 1990, the list of 10 banks that received and have received payments to make up for the default, and that came from the good old taxpayer, of about $1 billion; 10 big banks in the United States.

I listed them, they were working in what they call in banking circles this system.

So that this financing supported a vast, clandestine procurement program which was known by the United States and which decided to tolerate it.

Now, last year and even before then, and earlier this year, I was complimenting the likes of the CIA and the military defense intelligence because we have the documents showing that they were telling everybody from the Vice President, then Bush, who was later President, and the Secretary of State and everybody in the so-called National Advisory Council, that, "Hey, look, this has military implications. We don't favor it." They were canceled out.

So here I was praising the CIA for having done its job, all of a sudden they are jumping all over, trying to scare me, trying, what somebody said, to muzzle me, which is ridiculous. Nobody has ever muzzled me since I learned to talk, much less the CIA. But the reason was that they were then pressured by the Attorney General, who has been the one that has been the most incensed that I should tell my colleagues in the CONGRESSIONAL RECORD what is going on. But I have praised the Intelligence Agency; after all, that is what they were supposed to be doing. The facts show they did. But they were not heeded or they were overruled.

One question the case raises is whether the higher reaches of BNL knew what was happening in Atlanta.

□ 1240

Did the officialdom on Rome know? Well, in the meanwhile, the Roman Senate, and remember that this scandal has been written up about much more in the Roman press than in the United States, appointed an investigating committee, Senators.

I met with them. I met with the Chairman Carta and three of his colleagues, met them here in the United States.

When the Federal Reserve Board, under pressure from the Attorney General, would not give us the documents that we had subpoenaed, I got them from them. So we did not need the CIA for that matter; but in fact, what the CIA has said and what we have put in the record has been said somewhere else, whether in Europe or here or in some publication.

Now, did the higher-ups in Rome know? Why is this important?

Well, even now against all the activities of the Treasury Department and the Attorney General, I am trying to save the taxpayers the last near $300 million that the BNL Bank in Rome is suing to collect on the basis that they were not aware that if the Government of the United States knew, it did not tell them, or that this was the operation of what they called a rogue employee.

Now, we have placed in the RECORD as of the special order before last clear documentation showing that that was not the case, that the Minister in Italy had intervened with our American Ambassador, and he, in turn, pressured our folks here and they, in turn, let it be known, "Go slow in prosecuting in Atlanta." So this question is very important. That is why we keep asking it.

Another question, of course, is how much our Government knew about it. There is also the question of how hard the U.S. Government has tried to dig out all the facts.

The senior management of BNL had reason to suspect that something was wrong, or rotten, as they say, in Atlanta, long before U.S. authorities raided the place and blew the lid off the scandal.

Mr. Luigi Sardelli was appointed executive vice president and managing director of BNL's North American operations in July 1987—2 years before the BNL raid. Soon thereafter, he began auditing the bank's U.S. operations. In the Miami office, he found major problems and got permission to fire that office's managers. His auditors soon found major problems elsewhere: Los Angeles, Chicago, and Atlanta. He also recommended firing the Los Angeles office management, but never got consent for this action. In the case of Atlanta, Sardelli in August 1988 discovered a poorly collateralized loan to Entrade—which turns out to be one of Iraq's key procurement agents. But 2 months after discovering this transaction and reporting it back to headquarters in Rome, Sardelli's boss insisted on praising the Atlanta manager, Chris Drogoul. This was despite Sardelli's questions and criticisms. Then in late December 1988, Sardelli forwarded to Rome an audit report that was critical of BNL-Atlanta. But this report was in English, and it was ignored—not even translated into Italian—until July 10, less than a month before the U.S. officials raided the Atlanta office 7 months later. By that time Sardelli had retired. However, the fact is that the top manager of BNL, Mr. Giacomo Pedde, and the bank's chief auditor were aware of the problems in Atlanta at least as early as the fall of 1988, nearly a year before the scandal exploded.

Clearly, at least one senior manager of BNL knew that his bank's United States operations were badly run and reported this to his headquarters in Rome. However, Mr. Sardelli's requests to shake up management were sometimes ignored, his critical reports went unread, and his bosses made clear that Chris Drogoul had strong support at the top.

Giacomo Pedde, the director general of BNL in Rome resigned in the wake of the scandal and has since been indicted in Italian courts for his role in certain Iranian transactions. It was Mr. Pedde who in October 1988 told Sardelli that it was premature to chastise his Atlanta manager, Drogoul.

At about the time Sardelli sent his critical audit report to Rome—the one that sat unread until the scandal exploded 7 months later—the management of the Udine branch of BNL got a request to finance a steel plant in Iraq. The manager of the branch wanted people at the top to get involved, because the account was an important one, Danieli. On January 26, Director General Pedde called the head of his financial division and told him the Danieli deal should get personal attention. Two days later, Danieli signed a deal for 140 million German marks—$70 million—to provide a steel rolling mill to NASSR Enterprise, in Iraq. This loan was to be handled, not through the Udine branch that originated it, but through BNL-Atlanta.

It would seem then, that Atlanta had some special function. The Italian Senate believes the Danieli deal was handled through Atlanta to prevent other Italian companies with claims against Iraq from freezing the account. But it is clear that this odd deal was known to the top management of BNL, which moreover arranged to do it through Atlanta. This same top management was at the same moment in time ignoring its senior North American manager's warnings about irregularities in the Atlanta office. Indeed, by that time the Atlanta office was deep into its CCC deals with Iraq. In April 1989, a few weeks after the Danieli deal was routed through his office, Drogoul was in Venezuela trying to collect on a $25 million loan for a shipment of Cuban sugar that his office had financed for the Swiss subsidiary of Cargill Corporation.

And I will ask, let me stray here, our food bins, our grains, wheat, and the like, are at the mercy of foreign-owned, managed and headquarters international giants. Cargill may be considered American, but everything else, Dreyfuss and the others, it is not unlike our banking situation, but we, in America, also do not have a screening board for grain sales, like Canada, for instance. If mainland China wants to buy wheat from Canada, the screening board has to go through it to balance its own domestic needs.

So what have all these speculators in the grain markets done? Why, our farmers are at the mercy of these internationally based organizations. They are not going to be thinking of American interests.

And what is the result? As of July 1, what they call the bonus, particularly wheat, that our food banks, schoolchildren's meals, nutrition centers for the elderly, have been cut out. Why? Because we no longer have a surplus of wheat and grain in our country.

This matches what is happening in our financial market.

Now, I raised my voice, that is, locally in San Antonio, because I brought out how as of July 1, one of our impoverished school districts is going to have to ante up $200,000 more for food because of this cutout by the Agriculture Department.

Now, my colleagues, you say these are not dire events that we should give absolute and uncompromising authority to?

Well, I have not seen it and neither are those aspiring to lead this country in the executive branch or even those supposedly administering it.

So I just wanted to bring that in, how astoundingly and depressingly in our food, it is entirely possible, it is not outside the realm of possibility, like in the possible loss of our financial independence, if we are going to have to start paying back all these monumental and monstrous debts in somebody else's currency for the first time in our history, that we will also have food shortages in this country.

☐ 1250

It is a dismal picture, and maybe it does not make me too popular with those hearing it, but it is the truth.

In short, while Rome ignored warning signs, and moreover assigned the Daniele loan to Atlanta, Drogoul was rapidly expanding his illicit operations with Iraq, and at the same time covering his tracks on the soured deal to ship Cuban sugar to Venezuela.

The North American manager, Sardelli, refused a transfer back to Rome at about the time Drogoul was trying to cover his tracks in Venezuela. His superiors back in Rome were not the only ones who turned a deaf ear to his warnings—the U.S. Justice Department has never asked him what his bosses knew or didn't know about BNL-Atlanta's operations.

This is our Attorney General, who at first tried to scare me again, like the CIA, then tried to muscle me, and then handed down a decree regarding all of the departments, in fact the CIA included, the Treasury Department, forbidding them to provide any documentation to the committee. The same Attorney General that I think clearly has shown a dismal abdication of his sworn duties, and I would say is presiding over a corrupted department.

Sardelli retired in July 1989. That same month, on July 27, two informants appeared with their lawyers at the U.S. Attorney's office in Atlanta to tell their story. Two days later, bank regulators were called in. On August 2, the president of the Federal Reserve Bank of New York advised his counterpart at the Central Bank of Italy that an investigation was going on, and 2 days after that BNL-Atlanta was raided.

Drogoul claimed that he had been pressued by Rome to carry out the Danieli deal, and also claims that his superiors knew about the phony books he was keeping. The Italian Senate report confirms that BNL-Rome did indeed support the Danieli deal, and since the former director general, Mr. Pedde, ignored warnings and has legal problems of his own, it is at least arguable that he knew something about Drogoul's operation. In any event, it is curious indeed that Pedde and his associates picked an obscure office in Atlanta to handle the Danieli transaction to provide a steel facility for Iraq. Why not New York, especially since Sardelli had already reported problems in Atlanta to his superiors in Rome?

After the BNL raid, it did not take long for investigators to realize that the bank was financing militarily useful technology for Iraq. But according to a November 22 memo from Assistant U.S. Attorney Gale McKenzie.

> "* * * the Iraqis were careful to purchase dual usage equipment which, of course, can be and probably was used on the Condor II project. Such purchases and funding are not in violation of U.S. law."

But of course at that time the United States wanted warm relations with Iraq.

The go signal was to all of these big firms in the United States to get export licenses and the like.

At that time Iraq hoped to get another billion dollars' worth of CCC-guaranteed food loans. The Department of Justice wanted to deny the loans to Iraq unless there was full cooperation, according to a letter from Justice to State dated February 9, 1990. That was a different attorney general at that time. The State Department wanted to keep the program going, if Iraq would promise minimal reforms, according to a memo dated a week earlier. In other words, Justice was not happy with State's anxious effort to keep Saddam Hussein from being upset by the spreading scandal. An alarmed prosecutor warned on March 9:

> * * * it is most important that neither USDA nor DOJ ever attempt to justify the issuance of an additional $500 million in CCC guarantees as necessary to obtain Iraqi interviews for us * * * in no event should these potential Iraqi interviews to be used as justification for issuance of an additional $500 million in CCC guarantees.

The Agriculture Department also felt the heat and reported to the prosecutors:

> USDA is receiving increased pressure with regard to the pending Iraqi request for an additional line of GSM-102 guarantees.

According to a memo from USDA on March 13, 1990.

But despite the objections of the Agriculture Department and the prosecutors, and in keeping with the President's desire to develop Saddam Hussein as a friend, the loans were approved notwithstanding all the scandal. Two years later a frustrated Gale McKenzie, the prosecutor of the BNL case wrote:

> Information developed by (her office) was apparently discounted in reaching this policy decision (to pay off guarantees to banks owned partly by Iraq) just as it was when $500 million in additional CCC guarantees for Iraq was approved after we disclosed the multibillion dollar scheme to defraud BNL for the benefit of Iraq.

The military side of the BNL case presented considerable problems. Earlier, I noted how the prosecutors had noted Iraq's skill in avoiding arms control law by procuring dual use technology. However, what they didn't know was that it was policy at the highest level to approve shipments even to known Iraqi nuclear facilities, even if it looked like equipment used for arms programs, as long as the equipment wasn't immediately useful for building bombs. It wasn't blown up at that point. In one such case, the equipment used for terminal ballistics studies was shipped to a known Iraqi nuclear facility, because it was considered too slow to be useful in bomb making. The policy was, if it doesn't explode, go ahead and ship it.

The prosecutors knew that something fishy could be going on. After Iraq invaded Kuwait, and during the United States buildup for the ground phase of the gulf war, they prudently asked their bosses in Washington:

> Whether any facet of the U.S. intelligence community had any knowledge of illegal activities at BNL-Atlanta prior to August 4, 1989, and if so, what did they know and when did they know it.

This had worried them for some time. Months before, on July 3, the prosecutors wrote Main Justice:

> Two issues have arisen which appear to be stumbling blocks—what knowledge and role, if any, the Central Intelligence Agency had or played in BNL dealings with foreign governments in general and Iraq more specifically. * * *
>
> As you well know, experience has demonstrated that CIA's knowledge and participation can seriously impact a decision to prosecute.

This same memo also requested:

> Determination of the destination of a shipment of sidewinder missiles.

☐ 1300

I do not know what the answer to those inquiries was. But information that I do have makes it clear that our Government, at the highest levels, knew Iraq had clandestine procurement operations going forward and tolerated those activities right up until the start of the gulf war. In fact, the prosecutors noted on March 9, 1990—again, at the time the State Department was pushing for $500 million in new loans for Iraq:

> Back in October 1989, the U.S. Attorney's office in San Diego advised that Customs was attempting to set up an undercover purchase of equipment in San Diego by Iraqis through the Iraqi owned companies Matrix Churchill and/or TDG without the required licenses. Customs in San Diego initially asked that we delay service of the Matrix Churchill subpoenas * * * although allegations about Matrix Churchill relating to the BNL matter were then front page news around the world.

To explain this, let me remind you that in the fall of 1989, United States authorities were trying to crack the Iraqi effort to buy parts for nuclear triggers. Buying parts for nuclear triggers wasn't part of the administration's plan to appease Saddam Hussein. But the fact that he was trying didn't keep them from letting him buy all kinds of other technology, nor did it stop them from granting him $500 million in fresh food credits, taxpayer-guaranteed.

No wonder the investigators wanted to be sure they were not running afoul of CIA operations. It was clear to them that BNL was in the middle of a huge foreign policy decision, one that the administration wanted to pursue despite the criminality at BNL, despite the evidence that the food aid was being abused, and despite clear evidence that Iraq was using BNL to finance its arms program.

The prosecutors also knew that they hadn't gotten much help from Washington. On February 9, 1990, Gale McKenzie complained bitterly.

She is the Federal prosecutor in Atlanta, and here is the Justice Department up here, the Attorney General, saying "Hey, go slow or don't go." First she complains bitterly about how her requests for help were being ignored by the bigwigs in Washington, and how a key official had not relayed to anyone the urgency of the situation. Of course, Washington had been hearing from Rome about the need to go slow, as I pointed out a week ago this Monday.

A July message from Rome reports that the Director General of BNL:

> * * * made a pitch for the USG to go slowly before naming indictments. * * *
>
> He also commented that the Assistant U.S. Attorney in Atlanta is a "mean and vindictive woman" who is being led by Israeli sources who have pointed her toward Turkey as the basis where all this began. He is positive that Mossad wanted to publicize the BNL involvement.

McKenzie was keenly aware of how sensitive things were with Rome. On May 9, she had heard from Washington a suggestion:

> for stopping by Rome to meet with the Italian Magistrate to alia (sic) any concerns regarding the status of BNL in their investigation.

McKenzie was willing to do this, if her bosses wanted.

With all the intrigue and political pressure, there could not have been any doubt in anyone's mind about the sensitivity of the case. The prosecutors knew that BNL was in the middle not just of a huge financial scandal, but a major foreign policy situation as well—that policy being one of encouraging Saddam Hussein to know that he had a friend in George Bush.

When things got hot in the foreign policy area that summer of 1990, all of a sudden this fellow that had every reason to believe that he was pursuing rightfully, in his mind, the 100-year claim of Iraq to Kuwait found suddenly that they were going to war against him, but when it got hot, and in that summer of 1990, this principal investigator, prosecutor, Gail McKenzie, was off the case for 4 months.

The biggest financial scandal investigation in the history of her office had to do without her until after Iraq invaded Kuwait, and the policy of supporting Iraq was blown to bits. After the invasion, it was not just politically safe to go after the Iraqis, it was a political necessity, but here they took her off 4 months, the critical months.

Was that happenstance? Was that a mandated sabbatical? Of course not.

Even then, of course, the prosecutors had to be careful. They didn't want, as the record shows, to start prosecuting a case that might blow the cover off a CIA operation, and so they made inquiries to be sure of their ground. And there was also the frequent business of Washington being reminded by Rome that damage control was needed. Possibly that request for damage control is why Mr. Sardelli never was questioned very much about what he knew about Rome's inability to see or hear his warnings about the loose operation that BNL was running in Atlanta. Before the war, Rome apparently didn't want to know. It is possible that Washington didn't want to know either.

In fact, it is not possible, but I am sure they did not. In any event, the policy of support for Iraq continued, despite the scandal, up until Iraq rocked into Kuwait and set off the gulf war.

The administration did a great deal more than sell food to Iraq. The policy was to let military technology flow as freely as possible. A nuclear-triggered incident, and the later interceptive parts that had been made to the famed Iraqi supercannon, Old Bull, and he died in Belgium, he is Canadian born, who had worked for the CIA, incidentally, and for our Government in developing the long-range guns, and when he began to go on his own and sell armaments to the wrong people he was brought in by the very same CIA he had been working for, brought to court and convicted and sentenced for 4 months in a Federal jail. He came out a bitter man. He was the one that was developing the so-called Bull's big gun for Saddam Hussein, and was assassinated in Belgium.

The policy might not have included shipping bombs or munitions, but it certainly included shipping the technology to them. In return, the United States got special deals on the oil and the possibility that Iraq would be counterweight to Iran, but what we got instead was a war that could have been avoided, as I have said all along, even since August 1990.

Our soldiers, sailors, and airmen to this day are patrolling the borders around Iraq and the skies of that country.

We have a good-sized contingent, just like we still have, better than two-thirds of our troops in Panama, two-thirds of those we had at the height of the invasion. These are follies.

Let us ask a truthful question: What did Hitler do that was any worse than what we did in our name, incinerating several thousand blacks, 100 percent, in inflammable buildings constructed in 1908 in Panama for the Panama Canal workers; just burned?

Then we had mass graves, military, and by constricting the press and holding them under arrest in hotels, we prevented them, except one or two from Great Britain, from noting and reporting it.

I do not know what more war atrocities were committed by those we claim were Atillas and Huns and what not, and not to count the 200,000 plus Iraqis that we slaughtered, at least 100,000 so-called conscripts or soldiers while they were running, killed them mercilessly, buried them in sand with their hands sticking up.

We have a bunch of veterans now sick in the veterans hospitals of undetermined but very definitely neurasthenic sources because of what they witnessed in the Persian Gulf. Remember, that was done all in the name of us, the American people.

What about the 100,000 or so children, women, old, young, that we killed in the carpet bombing of Baghdad, destroying priceless artifacts, going back to the beginning of Western civilization?

☐ 1310

You do not hear about that. Oh, you hear about our braggadocio generals, what great victories and how they are now millionaires as a result of this venture.

But I say yes, maybe we are the unipolar power of the world. I do not think so, but that is what everybody is saying. But we have got to remember that the Lord God cannot be tempted.

Is this our contribution to civilization at the near end of this century and millenium? Should we not be concerned and pondering and disturbed?

Well, so be it. We know that there was a lot more than just settling the food on the basis of guarantees. We know that it led to the free flow of technology of all kinds to Iraq. It might not have included the actual shipping of the assembled bomb, but everything that went into it was.

In return the United States got the special deals on oil, as I pointed out last week. And what we have ended up with is a war that is still in its initial stages.

If it is the impression among my colleagues that the gulf war is over, what I have said was just the beginning. Only the Lord knows where it will end. We went there, in my opinion, precipitously and willy-nilly into the origins of our Western civilization. It remains to be seen whether that will be perhaps the beginning of an end.

So what was this policy of appeasing Saddam Hussein based on? On conviction, principle? Oh, that is old fashioned. We do not talk about that.

No, it was a gamble, it was a crapshoot, and it failed. They lost the cast of the die. And at great cost still to be established, and with consequences that I say and repeat we cannot at this point foresee.

And at the center of it all is this little agency bank that could do anything. Did this happen just because Chris Drogoul was a loose cannon or a rogue?

Mr. Speaker, I hear the rap, and my time is up. -

The policy might not have included shipping bombs or munitions, but it certainly included shipping the technology to make them. In return, the United States got special deals on oil and the possibility that Iraq would be counterweight to Iran. But what we got instead, was a war that could have been avoided, and our soldiers, sailors, and airmen to this day are patrolling the borders around Iraq and the skies of that country. As for Saddam Hussein, the policy now is to regard him as an international criminal, though his use of the poison gas and pervasive abuses of human rights were earlier ignored. The policy of appeasing Saddam Hussein was rooted in no principle; it was a gamble that failed, at a great cost and with consequences that cannot be foreseen. At the center of it all is the little bank that could do anything, BNL-Atlanta. Did all this happen just because Chris Drogoul was a slick operator? It seems impossible, when you consider how much Washington knew about Iraq's secret operations, and how much the President wanted to provide provender and technology to Iraq, even after the scandal broke. It seems impossible that BNL's home management was ignorant of the scandal, in the face of warnings its senior American manager sent. Perhaps Mr. Pedde didn't want to know, because it was, after all, his senior managers who used BNL-Atlanta to carry out the Iraqi steel loan despite clear signs of trouble. If Washington knew that Iraq was carrying out secret procurement operations—and there was exactly such knowledge—maybe they just didn't want to know what BNL-Atlanta was doing either. Washington's policy clearly was to hear no evil, see no evil.

NOVEMBER 22, 1989.

Subject: Response to your November 3, 1989, BNL Memo.

To: Robert L. Barr, Jr., United States Attorney.

From: Gale McKenzie, Assistant U.S. Attorney.

The BNL investigation has continued to proceed "full-speed ahead" to the point of most agents canceling leave during Thanksgiving week. In fact we were in the office after hours yesterday obtaining detailed information regarding personal gain from Paul VonWedel's attorney and discussing a VonWedel plea.

I have attempted to keep you advised of daily activity in the BNL investigation by typing and distributing a daily log.

Since your November 3 memo we have received a determination from Washington that we do have a "Trading with the Enemy Act" violation and it will be included in the initial indictment.

To date we have received determinations on only half of the suspect transactions regarding possible violations of the "Arms Export Control Act". Those determinations have been negative. The products, such as the nuclear fuel compressor, have dual use capacity and are therefore not licensable. Although customs has been diligent in requesting prompt determinations such review is time consuming and the collection of documents from manufacturers, freight forwarders, customs brokers, as well as exporters is sometimes slow due to retrieval from overseas sources and from a multitude of different companies. It may take six months to complete all determinations. However, we think there may be no prosecutions in this area since initial determinations show that the Iraqis were careful to purchase dual usage equipment which, of course, can be and probably was used on the Condor II project. Such purchases and funding are not in violation of US law.

The USDA OIG yesterday found a false statement submitted to USDA by Drogoul in connection with obtaining CCC guarantees. Therefore, there will be at least one CCC count in the initial indictment. As for the overall investigation, USDA does not feel that they can move any faster for the reasons stated in my memo of October 31. They have assigned three full time people to the case—two Special Agents and one Auditor. Since there is a possibility that information developed during the USDA investigation can void CCC guarantees and perhaps save US taxpayers over $1 billion, that investigation must be complete and thorough.

I have been in contact with DOJ from the beginning regarding Foreign Corrupt Practices Act and Anti-Blacklist coordination. The crucial question which has not yet been answered is whether payments were made to individuals or to the "government" itself. I still don't foresee such violations being included in the initial indictment.

The October 31st memo discussed the fact that we were investigating whether or not Drogoul had operated as a foreign agent without registering as such. The Iraqi ties were with Drogoul, not VonWedel. It still does not appear that we will have sufficient evidence in this area for inclusion in the initial indictment.

The FBI assures me that they continue to keep the Foreign Counter Intelligence desk in Washington promptly advised of all developments.

Entrade may be a corporate defendant in certain scheme to defraud BNL counts of the initial indictment. There is no evidence that any BNL employee or officer outside Atlanta had knowledge of any portion of the schemes under investigation sufficient to warrant criminal prosecution. Should export offenses be developed, non-BNL corporate and individual subjects would, of course, be identified and prosecuted.

I do not believe that any judge in the Northern District of Georgia would order pretrial detention for the five BNL Atlanta subjects due to the facts set forth in my October 31st memo.

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DEPARTMENT OF AGRICULTURE, OFFICE OF INTERNATIONAL AFFAIRS, CRIMINAL DIVISION,
WASHINGTON, DC, *February 9, 1990.*

Re United States v. Christopher P. Drogoul, et. al (N.D. GA.)-Iraqi Cooperation.

Mr. ANDRE SURENA,
*Assistant Legal Adviser, Law Enforcement and Intelligence, Department of State, Washington, DC.*

DEAR MR. SURENA: This office has read the proposed memorandum from Alan C. Raul, General Counsel, United States Department of Agriculture, to Abraham D. Sofaer and Robert S. Ross, dated February 2, 1990, regarding efforts to seek the cooperation of the Government of Iraq in the Banca Nazionale del Lavoro matter.

We endorse the memorandum recommendation of a demarche to the Government of Iraq. We believe that the interests of the United States Department of Justice would be better served if the issuance of additional export credits to Iraq is conditioned upon Iraq's complete cooperation with the United States Government in the ongoing Department of Justice investigation in Atlanta. The Office of the United States Attorney for the Northern District of Georgia is in accord. We urge that this matter be resolved as soon as possible.

Thank you for your consideration and attention to this matter.

Sincerely,

DREW C. ARENA,
*Director.*

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, February 6, 1990.*

Memorandum for Mark M. Richard, Deputy Assistant Attorney General, Criminal Division.

From: Robert S. Mueller, III, Assistant to the Attorney General.

Subject: Memorandum From Alan Raul, General Counsel, USDA.

This is to bring you up-to-date on the attached. I talked to Raul yesterday and said that I saw nothing wrong with him sending the memorandum to Sofaer and to us. I saw no problem with asking for Iraqi cooperation, but since you were out of town and Gail McKenzie was unavailable, I told him we might have further comments later.

Today I talked to Gail McKenzie. She said that the Iraqis had offered cooperation previously, but until recently she did not have enough information to be able to intelligently evaluate that cooperation. She now is in a position to talk to the Iraqis. She said that you and she were concerned that the cooperation from the Iraqis be provided directly to the Department of Justice, rather than to the USDA or to State.

I thereafter called Drew Arena and requested that he or Molly Warlow coordinate with USDA, State, and Gail McKenzie to assure that DOJ is the recipient of any cooperation resulting from the demarche to Iraq.

Finally, I again talked to Alan Raul and obtained his concurrence that any cooperation resulting from this demarche would be provided to the Department of Justice. He requested that USDA also have access to the information provided by the Iraqis so that the program could be evaluated in light of that information. I told him that this would be arranged.

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FEBRUARY 2, 1990.

Attention: Robert S. Ross, Executive Assistant, Office of the Attorney General, Department of Justice.

Fax No: 633–4699.

From: Alan Charles Raul, General Counsel, USDA.

Fax No: 447–8666. Telephone No: 447–3351.

There are 4 pages to this document, including the cover sheet. Please call the above telephone number if any of these pages is not received or is illegible.

Thank you.

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DEPARTMENT OF AGRICULTURE,
*Washington, DC, February 2, 1990.*

Memorandum for Abraham D. Sofaer, Legal Advisor, Department of State and Robert S. Ross, Executive Assistant, Office of the Attorney General, Department of Justice.

From: Alan Charles Raul, General Counsel.

Subject: Iraq.

Attached for your suggestions is a possible memorandum regarding efforts to seek the cooperation of the Government of Iraq in connection with the ongoing investigations into the Banca Nazionale del Lavoro matter.

Please let me know what you think about this approach as soon as you can (preferably by Monday). I would like to finalize the memorandum after receiving your comments and advice.

Thanks.

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FEBRUARY 2, 1990.

Memoradum for Legal Advisor, Department of State and Executive Assistant, Office of the Attorney General, Department of Justice.

From: Alan Charles Raul, General Counsel.

Subject: Seeking Iraq's Cooperation Regarding Certain Allegations.

As you know, allegations have been raised in connection with certain loans extended by the Atlanta Branch of the Banca Nazionale del Lavoro in connection with exports to Iraq. Some of those exports involved agricultural commodities purchased by instrumentalities of the Government of Iraq with the benefit of export credit guarantees made available by the Department of Agriculture's Commodity Credit Corporation. We understand that these allegations are currently under investigation by the U.S. Attorney's office in Atlanta and by other agencies of the U.S. Government as well. The Department of Agriculture has been cooperating with the ongoing investigations and members of our Office of Inspector General are participating directly in the criminal investigation.

In addition to cooperating in the pending investigations, we believe we have a responsibility to monitor the situation carefully to ensure that our GSM program for Iraq is not compromised. This is consistent with the decision of the National Advisory Council on International Monetary and Financial Policies to approve the extension of additional export credit to Iraq by the Commodity Credit Corporation for fiscal year 1990, provided that additional program safeguards were put into place and the circumstances surrounding the Iraq program continued to be reviewed and evaluated. The Department of Agriculture has implemented additional safeguards and, as stated previously, has been assiduously monitoring the Iraq program.

We believe our due diligence in this case requires us to consult and coordinate closely with other relevant agencies. In particular, we believe that it could be useful for the appropriate U.S. Government officials to approach the Government of Iraq directly to seek their cooperation and any information that would assist us in determining whether there was any improper activity in Iraq related to the exports covered by the GSM guarantees. If any such improper activity surfaces as a result of the ongoing investigations, it will be essential for the U.S. Government to establish the role and responsibility of the Government of Iraq, or whether the questionable conduct is limited to an isolated case of individual wrongdoing.

Accordingly, we would request that, consistent with the needs of the ongoing criminal investigation, the Department of State approach appropriate officials of the Government of Iraq to (a) request their cooperation with the United States and (b) obtain Iraq's assurances that it will provide the United States with any information it learns regarding any possible wrongdoing in connection with the GSM export credit guarantee program and that, should there be any evidence of wrongdoing by Iraqis, it will assure that any such individuals are, at a minimum, immediately and entirely disassociated from the GSM Program in Iraq. The Government of Iraq should also be asked to repeat its prior assurances that it continues to stand by its financial obligations under the GSM export credit guarantee program.

If either of the Departments of State or Justice believe that a demarche to the Government of Iraq along the lines proposed in this memorandum is not appropriate at this time, please let me know. Under those circumstances, I would recommend that we develop an alternative course as soon as possible that would allow us to ascertain Iraq's position with regard to the various allegations and investigations. The Department of Agriculture is prepared to continue to work closely with you on this.

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DEPARTMENT OF AGRICULTURE,
*Washington, DC, March 13, 1990.*

To: Wendy Blank, Office of Intl. Affairs, U.S. Dept. of Justice. Telephone No. 786–3505. Fax No. 786–3616.

From: Kevin Brosch, Office of General Counsel, USDA. Telephone No. 447–2940, Fax No. FTS 245–5091 (202) 245–5091.

As per our conversation this a.m.

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MARCH 13, 1990.

To: Ray Ruxton, Gale McKenzie, Office of the U.S. Attorney, N.D. Ga. and Drew Arena, Wendy Blank, Department of Justice, International Affairs.

From: Kevin J. Brosch, Office of General Counsel—FACS, USDA.

Attached is a copy of the draft proposal which was discussed yesterday afternoon in the meeting between USDA, DOJ and USA-Atlanta. I have contacted Mike Young, the Deputy Legal Advisor at the State Department to tell him that this is in the works.

USDA is receiving increased pressure with regard to the pending Iraqi request for an additional line of GSM-102 guarantees for this fiscal year. We need to resolve the issue of the approach to Iraq as soon as possible, and would like your comments today so that we can provide a draft to the State Department. If you need to reach me, my telephone is (202) 447–2940. My fax is FTS 245–5091, or (202) 245–5091.

Thanks for you help.

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To: Michael Young, Deputy Legal Advisor, State Department.

From: Kevin J. Brosch, Office of General Counsel—FACS, U.S. Department of Agriculture.

Re: Iraq GSM-102/BNL Affair: Request for Meeting with Iraqi Officials.

This afternoon, USDA's Office of General Counsel met with representatives of the Department of Justice and the Office of the U.S. Attorney for the Northern District of Georgia to discuss our respective interests in interviewing Iraqi officials regarding perceived irregularities with the Iraq GSM-102 program. We had previously provided DOJ and USA-Atlanta with copies of questions that USDA would like to pose to the Iraqis, and had asked DOJ whether it opposed a USDA approach to Iraq on these subjects in light of the ongoing grand jury investigation into the BNL affair.

DOJ does not have any problems with the questions we have suggested. However, they propose that USDA and DOJ jointly approach Iraq and ask that it send a delegation to Washington as soon as possible to meet with officials of both agencies to discuss issues arising out of the BNL investigation. DOJ requested that USDA not send specific questions to Iraq prior to such a meeting. Moreover, DOJ has asked that the proposal to Iraq specifically request the attendance of seventeen individuals (current or past Iraqi officials involved in the BNL transactions). A list of those individuals, as provided by USA-Atlanta, is attached.

It was agreed that I would prepare a draft of the proposal, and that the draft would be provided to the State Department for its review and input on substance and approach.

Ray Ruxton, the U.S. Attorney for Atlanta, and Gale McKenzie are returning to Atlanta this afternoon. Drew Arena, of DOJ's Office of International Affairs (FTS: 786-3616) is also involved. I will have an initial draft of a proposed communication prepared by tomorrow morning.

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MARCH 12, 1990.

To: The Ambassador of the Republic of Iraq, Washington, D.C.

Recently, the Government of Iraq has requested the Commodity Credit Corporation (CCC) to extend for the remainder of fiscal year 1990 an additional $500 million in export credit guarantees under CCC's GSM-102 program. This request has been taken under advisement by the CCC and the U.S. Department of Agriculture (USDA) and is currently being reviewed.

Since September, 1989, the Iraq GSM-102 program has been subject to substantial public inquiry due to various allegations of possible irregularities that have surfaced as a result of the Banca Nazionale del Lavoro (BNL) investigation in Atlanta, Georgia. The Office of the United States Attorney for the Northern District of Georgia is currently investigating certain GSM transactions with Iraq financed by BNL. In addition, USDA/CCC has been conducting its own internal review of the Iraq GSM program.

The United States appreciates the fact that, on a number of occasions, the Government of Iraq has offered to provide its full cooperation on these matters when the U.S. government would be in a position to seek specific information. USDA/CCC now has a number of specific areas of inquiry with respect to transactions conducted under the Iraq GSM-102 program, and requests the assistance of the Government of Iraq in resolving uncertainties about the nature of those transactions. In addition, the Office of the United States Attorney for the Northern District of Georgia has also requested the assistance of the Government of Iraq with respect to issues that have surfaced as a result of the BNL investigation in Atlanta.

To address the concerns of these two agencies, the Government of the United States requests that the Government of Iraq assemble a team of persons knowledgeable about Iraqi GSM-102 purchases during the period 1985–1988, and particularly about purchases made by Iraq that were financed through BNL-Atlanta. The United States requests that this team meet with officials of the U.S. Department of Agriculture and the Office of the U.S. Attorney in Washington, D.C. during the week of March 25, 1989, or as soon thereafter as can be conveniently arranged. The agencies have specifically requested the participation at those meetings of the seventeen individuals listed in Annex 1, which is attached to this document.

The United States proposes that those meetings consist of interviews by the Office of the United States Attorney of the listed individuals; and separate meetings between the Iraqi team, and a team of officials from USDA/CCC where the U.S. side will identify specific past issues and discuss the need for procedural reforms and changes necessary for any future Iraq GSM program. Thank you in advance for the cooperation from the Government of Iraq in resolving these important questions.

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MARCH 9, 1990.

Subject: Status of request for Iraqi interviews.

To: Rimantas A. Rukstele, United States Attorney.

From: Gale McKenzie, Assistant U.S. Attorney.

During the course of our BNL-Atlanta investigation information has been developed that Iraqi government officials and others connected with them have required "after sale services" from U.S. exporters on CCC guaranteed commodities, as well as "consulting fees" from U.S. exporters of non-CCC guaranteed products. Such conduct could constitute violations of 15 U.S.C. 714(M) if the "port value" of a CCC guaranteed commodity were inflated to cover such payments. The Foreign Corrupt Practices Act could also be violated if an Iraqi government official were retaining a portion of either the "after sale services" or "consultant fees" for personal use. In addition, certain Iraqis had knowledge of and participated in the scheme to defraud BNL.

We therefore requested through attached letters of February 13 and March 1 that DOJ arrange through State or otherwise Atlanta or Washington interviews of specified Iraqis who are thought to have personal knowledge of "after sale services," "consultant fees," and the scheme to defraud BNL.

The U.S. Department of Agriculture (USDA) and DOJ appear to be advocating a linkage of such Iraqi interviews with the imminent approval of an additional $500 million in CCC guarantees for Iraq. While our office does not control such policy decisions, it is most important that neither USDA nor DOJ ever attempt to justify the issuance of the additional $500 million in CCC guarantees as necessary to obtain Iraqi interviews for us. This office would prefer foregoing Iraqi interviews altogether rather than "paying $500 million" for the opportunity to question individuals who, in all probability, will not "confess all". On the other hand, requests for such interviews is a natural progression of our investigation. Our office has received "messages" from the Iraqi Ambassador to the U.S. and others in the Iraqi government through various third parties that Iraq is most anxious to cooperate with the Atlanta investigation. But in no event should these potential Iraqi interviews be used as justification for issuance of an additional $500 million in CCC guarantees.

A second problem regarding Iraqi interviews involves the USDA Office of General Counsel's desire to submit questions which impact our criminal investigation to the Iraqi government in general prior to our requested interviews of specified Iraqi individuals. See attached March 1 list of USDA Office of General Counsel questions. Since the proposed questions impact our criminal investigation, the USDA Office of Inspector General agrees with this office that the Iraqis should first be requested to produce for interview in Washington or Atlanta by a date certain the specific individuals named on our lists of February 13 and March 1. Should the Iraqis decline or simply fail to give us an answer on a timely basis, we have no objection whatsoever to any USDA General Counsel questions. If the Iraqis do agree to personal interviews, advance notice of specifics as contained in the current USDA proposed questions could be counter productive to these interviews.

Therefore, it is suggested that Iraq's position in regard to such interviews be immediately determined. In the meantime, we have no objection to USDA Office of General Counsel propounding to the Iraqi government general policy questions 1 through 15 contained at pages 2 and 3 of the USDA March 1 submission. However, the following additions to certain of these questions may prove helpful.

Question 6 add: Did Iraq ever reveal bid prices to a competitor company or individual prior to bid closing?

Question 8 change to read: Did Iraq request or receive any additional compensation in the form of "after sales services" or in any other form from any U.S. agricultural exporter whose sales were made under any CCC guaranteed programs? If so, please provide dates, amounts of compensation, nature of compensation, Iraqis having knowledge of such transactions, and individuals and agencies receiving compensation.

Question 9 add: underlined phrase . . . in requesting and receiving without request "after sales service" . . .

This position is conveyed to Mark Richard by attached March 5 letter which I suggest we hand deliver on Monday in light of his concerns expressed to you on March 5 about communication security in this case.

Finally, in response to Mark's comments on March 5 concerning "new developments", "broader problems with the same government," and "Customs problems in San Diego," the following insight is provided.

Back in October 1989, the U.S. Attorney's Office in San Diego advised that Customs was attempting to set up an undercover purchase of equipment in San Diego by Iraqis through the Iraqi owned companies Matrix Churchill and/or TDG without the required licenses. Customs in San Diego initially asked that we delay service of Matrix Churchill subpoenas in the BNL-Atlanta investigation although allegations about Matrix Churchill relating to the BNL matter were then front-page news around the world. We also had to use secured phones for a period. However, these restrictions were lifted by Customs Headquarters in Washington when Matrix Churchill attorneys approached us and offered to accept service of "their grand jury subpoena." Matrix had been expecting a subpoena since so many other BNL customers had received one. Matrix was even wondering and speculating about the delay. Since that time Customs Headquarters has consistently advised us to proceed normally with our investigation and has this week approved an additional Matrix Churchill grand jury for document production regarding "consultant fees." John Lowe and Dave Erkin of the Strategic Investigations Divisions have been assigned to coordinate these matters at Customs Headquarters. Customs is also in touch with Walt Sulzynsky and Joe Tate of DOJ Internal Security. To our knowledge, the Iraqis have not yet arrived in San Diego to purchase the unlicensed material.

Attached is a short summary of preliminary information developed regarding payments to Iraqis for government and/or personal benefit. Also attached is a memorandum of interview of F. Paul Dickerson, USDA Foreign Agricultural Service, regarding 1988 and 1989 confrontations regarding "after sale services" between USDA and the Iraqi CCC negotiating delegations.

The Iraqi issues discussed in this memorandum are the ones of which I am aware. The only other matter which may arise is the timing of Iraqi interviews, if requested. It is important to proceed with a Tezeller proffer in Istanbul during the week of March 20 because this is the one period in the foreseeable future when both defense counsel are available, Tezeller is still interested, I am between trials, and IRS needs the information to supplement their Drogoul report by the time it reaches DOJ Tax. Therefore, if a request is to be made regarding Iraqi interviews, it should be made promptly with an initial determination of whether Iraq is willing to produce individuals in Washington or even Atlanta or whether such interviews are feasible at all. A delay in the Istanbul trip without "something concrete" would be counterproductive.

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U.S. DEPARTMENT OF JUSTICE, U.S. ATTORNEY, NORTHERN DISTRICT OF GEORGIA.

*Atlanta, GA, December 10, 1990.*

Re: BNL-Atlanta Investigation.

LARRY URGENSON,
*Chief, Fraud Section, Department of Justice, Washington, DC.*

DEAR LARRY: At the suggestion of Peter Clark and Scott Taylor of your office, we are providing the following list of assistance requested from the Department of Justice:

1. A written response by the intelligence community to our previous inquiries concerning:

(a) Whether the unauthorized BNL-Atlanta funding was orchestrated, approved or directed by any facet of the U.S. intelligence or counter intelligence community prior to August 4, 1989;

(b) Whether any facet of the U.S. Intelligence community had any knowledge of illegal activities at BNL-Atlanta prior to August 4, 1989, and if so, what did they know and when did they know it;

(c) Any information about and/or photographs of the individuals named in our prior inquiries; and

(d) Confirmation, or lack thereof, of Taha's alleged death in London between June 4, and 6, 1990, as reported in the Financial Times. Taha received his heart transplant at Royal Free Hospital in Hamstead, England.

2. Determination of how to best arrange the funding and authority needed to use Acorn Group for case graphics;

3. Coordination with OIA to arrange:

(a) Our review of TDG and Matrix Churchill, Ltd. (MCL) and TDG documents seized by British authorities;

(b) Meetings with British and German investigators who have information regarding tentacles of the Iraqi procurement network funded by BNL-Atlanta; and

(c) Meeting with Italian magistrate well in advance of any magistrate interviews of our witnesses.

4. Coordination with United States Attorney's Office and Customs in Cleveland to assist in our obtaining Matrix Churchill Corp. (MCC) documents subpoenaed by the Northern District of Georgia grand jury prior to the Cleveland search warrant. Since there are grave concerns about the validity of that warrant and affidavit in support, it is most important that Customs, who now has custody of the seized MCC documents, copy the records listed in our grand jury subpoena and release the copies to the Matrix custodian for production before the Atlanta grand jury. There should be continued coordination between Cleveland and Atlanta as both cases progress due to the same documents and witnesses being required in both districts and both investigations impacting an area of concern outside the United States.

5. Confirmation that Bob Meuller, or whoever is making final decisions, does wish us to proceed immediately with Leigh New, Amedeo DeCarolis, Thomas Fiebelkorn and Theresa Barden plea negotiations on the terms generally suggested by and discussed with Messrs. Clark and Taylor.

Thank you for allowing Peter Clark and Scott Taylor of your office to spend three long days with us this week. Their input was certainly appreciated. I hope we have addressed many of your concerns in the time spend with Messrs. Clark and Taylor. In addition, we have begun work on their list of DOJ suggestions and requests which will be forwarded as completed.

Sincerely,

RIMANTIS A. RUKSTELE,
*First Assistant U.S. Attorney.*
GALE MCKENZIE,
*Assistant U.S. Attorney.*

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ROUTING AND TRANSMITTAL SLIP

JULY 13, 1990.

To: Paul Maloney.

I recommend assigning someone from Fraud to work with Atlanta on exploring the "CIA" question. I wouldn't limit the area to CIA—consider looking at State's files as well.

As for the missing person, what can we do to assist Atlanta?

MARK M. RICHARD,
*Deputy Assistant Attorney General, Criminal Division.*

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U.S. DEPARTMENT OF JUSTICE, U.S. ATTORNEY, NORTHERN DISTRICT OF GEORGIA.

*Atlanta, GA, July 3, 1990.*

Re Banca Nazionale del Lavoro (BNL) Investigation.

Mr. MARK M. RICHARD,
*Deputy Assistant Attorney General, Department of Justice, Washington, DC.*

DEAR MR. RICHARD: I would like to take this opportunity to advise you of the current status of the BNL investigation.

As you know, when we last met on the case in May, we reached an understanding that this office will proceed to prepare for your perusal and approval a draft indictment and prosecution memorandum in support of Phase One of the investigation. This initial indictment will involve former officers and employees of the Atlanta office of BNL as defendants, its client customers, and will allege violations of 18 U.S.C. §§371, 493, 1001, 1341, 1343 and 2314, violations of 50 U.S.C. Appendix §§5 and 16, and allegations of 26 U.S.C. §§7201 and 7206(1). Preparation of the initial draft indictment is proceeding and will be transmitted to you soon. We will be happy to meet with you here or in Washington to discuss the proposed indictment.

Our investigation is currently focused on fine tuning the Phase One indictment and gathering information to frame the Phase Two indictment. You will recall that Phase Two involves violations of the Foreign Corrupt Practice Act, Hobbs Act, and false and fraudulent statements relating to U.S. Department of Agriculture and CCC loan guarantees. The subjects of Phase Two include American exporters doing business with Iraqis employed by the Iraqi Ministry of Industry and Military Manufacturing, and certain Iraqi nationals.

More specifically, in relation to Phase One and Two, investigators are engaged in the following:

1. Letters Rogatory are being prepared for Luxembourg and Swiss financial institutions to obtain documents reflecting payments made to subject Drogoul from CCC guaranteed Entrade/Enka corn shipments to Iraq.

2. Arrangements are being made to interview Wafi Dajani, an associate of Drogoul, whom allegedly had previously stated BNL "Rome knew" of irregularities in Atlanta.

3. A determination of Enka's role in after service payments to Iraq.

4. A determination of the destination of a shipment of sidewinder missiles.

5. Whether payments were made to Iraq officials for bid information (for CCC guaranteed loans) by two American companies, Dantzler of Puerto Rico and AID of Atlanta.

Two issues have arisen which appear to be potential stumbling blocks to the investigation—what knowledge and role, if any, the Central Intelligence Agency had or played in BNL dealings with foreign governments in general and Iraq more specifically; and, whether or not Sadik H. Taha, the Director General for Agreements and Loans, Central Bank of Iraq, and a key potential defendant, is alive.

I cannot over emphasize to you the importance of the answers to these questions to our overall investigation. As you well know, experience has demonstrated that CIA knowledge and participation can seriously impact a decision to prosecute. In addition, if Mr. Taha is dead, as has been reported by the European press, it would cause serious embarrassment to our government to prosecute him. I am respectfully requesting that you and your good office take necessary steps to obtain answers to these questions. We will be delighted to assist you in any way, to include going to Langley to assist in any document review or analysis.

In the meantime I will keep you advised of our investigation. Thank you for your assistance. I look forward to seeing you soon.

Sincerely,

JOE D. WHITLEY,
*U.S. Attorney.*
RIMANTAS A. RUKSTELE,
*First Assistant and Chief, Criminal Division.*

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FEBRUARY 9, 1990.

Subject: Entrade Plea/Cooperation (BNL Investigation).

To: Rimantas Rukstele, United States Attorney.

From: Gale McKenzie, Assistant U.S. Attorney.

As I advised you earlier this morning, Peter Clark has made no presentation to Mark Richard regarding his 1/31/90 meeting with us on the Entrade/Tezeller matter. Instead, Clark left Washington to attend an SEC seminar in Denver, Colorado.

Prior to Clark leaving Atlanta on the evening of 1/31/90, he was reminded that Mark Richard on 1/27/90 had assured us of an answer regarding DOJ approval of the proposed Entrade plea within a week. Clark was also advised of the reasons which required: (1) BNL indictment by the end of February, 1990; and (2) receipt of Tezeller cooperation through an Entrade plea agreement *prior* to indictment. Clark instructed me not to call defense counsel with Clark's new proposals until he briefed Richard and notified me of Richard's decision by 2/2/90.

When no such DOJ approval was forthcoming on 2/2/90, I called Clark on 2/5/90 at which time he claimed to be undergoing surgery that afternoon but promised to call me on 2/6/90. I again reiterated the urgent need for a prompt DOJ decision. After receiving no such call from Clark on 2/6/90, I called his office and was told he was on travel status through 2/18/90 with no number or location available.

After checking with you, I called Mark Richard's office and was told he was not available until 2/11/90. Although I left a request for Richard to return my call, he has not done so.

Finally, after continuing to leave repeated messages for Clark and to make inquires at the DOJ Fraud Section regarding Clark's whereabouts, Fraud Section Chief Larry Urgenson called me today. Urgenson said that Richard had received no input from Clark or DOJ Fraud because Clark had not briefed Urgenson to the extent necessary for such input, nor had he mentioned any urgency relating to the Entrade decision. Urgenson said he would look into the matter over the weekend, but could not even promise us a decision by Monday, 2/12/90, since Clark was attending the Denver seminar.

I again stressed to Urgenson that a Monday decision was imperative because, just as we had told Clark, 2/22/90 is the last date available for possible travel and prior thereto: (1) defense counsel must review DOJ's changes, convey the same to clients in Turkey, await individual and Board of Directors' decisions, and redraft defense/government letter of understanding; (2) the government must again obtain host country clearance through the Department of State which takes 10 working days; and (3) very complex travel arrangements must be made by the AUSA, three agents and two defense counsel.

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MAY 9, 1990.

Subject: Tentative travel plans for Tezeller interview in Istanbul

To: Larry Urgenson, Chief Fraud Section, Criminal Division, Department of Justice.

From: Gale McKenzie, Assistant U.S. Attorney, Northern District of Georgia.

The following are tentative travel plans based upon representations of Tezeller/Entrade attorneys that there is over a 50% or better chance for debriefing as contemplated by our current proposal.

AmFlag Carrier:

May 18, 1990: Leave Atlanta, Georgia 5:10 p.m. on Delta—5/18/90, arrive Frankfurt 7:50 a.m.—5/19/90, leave Frankfurt 11:10 a.m.. on TWA—5/19/90, arrive Istanbul 3:10 p.m.—5/19/90.

May 27, 1990: Return: Leave Istanbul 7:10 a.m. on TWA—5/27/90, arrive: Frankfurt 9:15 a.m.—5/27/90, leave Frankfurt 11:40 a.m. on Delta—5/27/90, arrive Atlanta 3:20 p.m.—5/27/90.

Defense counsel will be meeting with Tezeller on Thursday, Friday and Saturday of this week. We will have a positive answer on Monday, May 14. However, plans must be considered in advance. I have also forwarded our tentative travel plans to the State Department so that Turkish officials can be appropriately advised. Our country clearance was granted in January but a travel itinerary must be furnished now.

I will call you on Monday to confirm final word from Tezeller and to obtain your travel schedule, if necessary.

During our most recent Washington meeting, suggestion was made for stopping by Rome to meet with the Italian Magistrate to alia any concerns regarding the status of BNL in their investigation. That meeting can be arranged for Monday, May 28 as a part of our return flight at no additional cost if DOJ wishes us to make this contact. Since we have received no response from Dick Martin pursuant the OIA inquiry, such a personal visit might be appropriate.

Please advise if such a visit should be arranged with the Italian Magistrate.

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## CONFERENCE REPORT ON H.R. 5518

Mr. LEHMAN of Florida submitted the following conference report and statement on the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes:

### CONFERENCE REPORT (H. REPT. 102-924)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5518) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered, 1, 6, 7, 10, 16, 17, 19, 21, 32, 37, 38, 39, 40, 55, 56, 59, 77, 79, 81, 83, 91, 96, 97, 98, 101, 108, 109, 110, 111, 112, 113, 114, 115, 119, 120, 123, 125, 138, 152, 169, 170, 175, 176, 177, 187, 188, 189, 203, 211, 213, and 219.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 8, 9, 11, 13, 14, 15, 18, 24, 35, 46, 50, 51, 52, 60, 61, 76, 84, 87, 103, 104, 105, 106, 116, 118, 126, 127, 128, 132, 142, 147, 155, 163, 168, 171, 179, 180, 181, 184, 192, and 193, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,825,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$32,250,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$340,000,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$92,450,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$31,300,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

in lieu of the sum proposed by said amendment insert: *$36,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$22,000,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,600,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$32,250,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *65*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$230,000,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$398,000,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

### *RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS*

*For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended $3,664,000, of which $2,442,667 shall be derived from the Highway Trust Fund.*

And the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$3,200,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$6,400,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$6,000,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$640,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$1,344,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$3,840,000*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$3,200,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$6,400,000*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$1,600,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the first sum stricken by said amendment insert: *$3,088,000* and

In lieu of the second sum stricken by said amendment insert: *$304,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$3,840,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$6,400,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment insert: *$3,200,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$273,756,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$46,170,000*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$130,650,000*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$115,000,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,650,000*; and the Senate agree to the same..

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,000,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,345,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,648,000*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,700,000,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,134,150,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,049,025,000*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$666,255,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$336,940,000*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$721,805,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$38,250,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,250,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$42,500,000*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$76,500,000*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$34,000,000*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum proposed by said amendment insert: *$2,171,000*; and the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$65,430,000*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,895,000*; and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$68,000,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,700,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,300,000*; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$42,500,000*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *not less than $4,675,000 for the Florida Tri-County Commuter Rail Project;* ; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$170,000,000*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,825,000*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,050,000*; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$550,000*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,300,000*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *and ten*, and the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of SEC. 329., insert *SEC. 328.*; and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of SEC. 330., insert: *SEC. 329.*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment; and the Senate agree to the same.

Amendment numbered 191:

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 12, 20, 27, 28, 33, 34, 41, 42, 43, 44, 45, 48, 53, 58, 62, 80, 90, 92, 94, 99, 100, 102, 107, 121, 149, 150, 151, 156, 157, 158, 159, 160, 162, 165, 167, 172, 173, 174, 185, 186, 194, 195, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 207, 208, 209, 210, 212, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, and 233.

WILLIAM LEHMAN,
BOB CARR,
RICHARD J. DURBIN,
MARTIN OLAV SABO,
DAVID E. PRICE,
RONALD D. COLEMAN,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
FRANK R. WOLF,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

FRANK R. LAUTENBERG,
ROBERT C. BYRD,
TOM HARKIN,
JIM SASSER,
BARBARA A. MIKULSKI,
ALFONSE M. D'AMATO,
ROBERT W. KASTEN, Jr.,
PETE V. DOMENICI,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

### CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch wishes cannot substitute for Congress' own statements as to the best evidence of Congressional intentions—that is, the official reports of the Congress. Report language included by the House that is not changed by the report of the Senate, and Senate report language that is not changed by the conference is approved by the committee on conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

### PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1993 and any year thereafter, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Federal Aviation Administration, Facilities and equipment" and for "Coast Guard, Acquisition, construction, and improvements" shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustments, if required, to be accomplished only through the normal reprogramming process.

## TITLE I—DEPARTMENT OF TRANSPORTATION

### OFFICE OF THE SECRETARY

### IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

Amendment No. 1: Appropriates $427,000 as proposed by the House instead of $550,000 as proposed by the Senate.

### OFFICE OF THE GENERAL COUNSEL

Amendment No. 2: Appropriates $7,000,000 as proposed by the Senate instead of $7,140,000 as proposed by the House.

### OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

Amendment No. 3: Appropriates $8,733,000 as proposed by the Senate instead of $9,080,000 as proposed by the House.

### OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

Amendment No. 4: Appropriates $2,825,000 instead of $2,921,000 as proposed by the House and $2,726,000 as proposed by the Senate.

### OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

Amendments No. 5: Appropriates $2,320,000 as proposed by the Senate instead of $2,340,000 as proposed by the House.

### OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Amendment No. 6: Appropriates $31,268,000 as proposed by the House instead of $33,000,000 as proposed by the Senate.

Amendment No. 7: Provides that $3,668,000 shall remain available until expended as proposed by the House instead of $4,613,000 as proposed by the Senate.

### CONTRACT APPEALS BOARD

Amendment No. 8: Appropriates $590,000 as proposed by the Senate instead of $636,000 as proposed by the House.

### OFFICE OF CIVIL RIGHTS

Amendment No. 9: Appropriates $1,462,000 as proposed by the Senate instead of $1,520,000 as proposed by the House.

### OFFICE OF INTELLIGENCE AND SECURITY

Amendment No. 10: Appropriates $1,265,000 as proposed by the House instead of $1,300,000 as proposed by the Senate.

### OFFICE OF COMMERCIAL SPACE TRANSPORTATION OPERATIONS AND RESEARCH

Amendment No. 11: Appropriates $4,275,000 as proposed by the Senate instead of $4,364,000 as proposed by the House.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $300,000 received from user fees established for regulatory services may be credited to this account.

### WORKING CAPITAL FUND

Amendment No. 13: Limits obligations to $93,000,000 as proposed by the Senate instead of $94,000,000 as proposed by the House.

### RENTAL PAYMENTS

Amendment No. 14: Appropriates $130,000,000 as proposed by the Senate instead of $111,970,000 as proposed by the House.

Amendment No. 15: Provides that $19,000,000 shall be derived from the highway trust fund as proposed by the Senate instead of $16,225,000 as proposed by the House.

Amendment No. 16: Provides that $29,887,000 shall be derived from the airport and airway trust fund as proposed by the House instead of $38,000,000 as proposed by the Senate.

Amendment No. 17: Provides that $481,000 shall be derived from the pipeline safety fund as proposed by the House instead of $501,000 as proposed by the Senate.

Amendment No. 18: Provides that $160,000 shall be derived from the harbor maintenance trust fund as proposed by the Senate instead of $16,000 as proposed by the House.

### COAST GUARD

### OPERATING EXPENSES

Amendment No. 19: Inserts heading as proposed by the House.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$2,558,000,000, of which $253,000,000 shall be available only to the extent transferred from the Department of Defense;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided includes $100,000,000 for defense-related activities including drug interdiction. This amount is in addition to the transfer of the funds from the Department of Defense.

The conference agreement provides a total, including transfers, of $2,558,000,000 instead of $2,553,739,000 as proposed by the House and $2,567,000,000 as proposed by the Senate.

| | |
|---|---|
| Annualization of FY 1992 funding | −$811,000 |
| HC–130 forward looking radar | 116,000 |
| Shore facility operations | −600,000 |
| SAR operations | −450,000 |
| VTS operations | −866,000 |
| IRM follow-on | −985,000 |
| Property management | −682,000 |
| General detail adjustment | −424,000 |
| Shore facility management | −5,000,000 |
| Passenger vessel security specialists | −698,000 |
| GPS information center | −675,000 |
| Differential GPS operation and maintenance | −450,000 |
| Motor lifeboat standardization team | −252,000 |
| Truman-Hobbs staff support | −186,000 |
| GPS equipment maintenance | −305,000 |
| Housing maintenance personnel | −502,000 |
| Cutter and boat maintenance | −3,850,000 |
| Sustaining the work force | −2,710,000 |
| Diversity initiatives | −2,009,000 |
| Training | −300,000 |
| Financial management | −1,500,000 |
| CIWS billets | 488,000 |
| Health care costs | 2,200,000 |
| CENPAC loran-C | −1,165,000 |
| HH–60J maintenance and operation follow-on | −274,000 |
| Non-pay cost-of-living adjustment | −1,100,000 |
| Fiscal year 1992 carryover | −10,311,000 |
| Local notice to mariners publication | −500,000 |
| Appropriated fund support for retail exchanges and MWR activities | −1,400,000 |
| Management improvements—aircraft repair and supply center | −3,000,000 |
| LEDET strength reduction | −4,670,000 |
| Vessel identification and documentation system | −750,000 |
| Ammunition base adjustment | −279,000 |
| Shipboard command and control system | −1,100,000 |
| Total | −45,000,000 |

Amendment No. 21: Provides that $25,000,000 shall be derived from the oil spill liability trust fund as proposed by the House instead of $34,000,000 as proposed by the Senate.

Amendment No. 22: Provides that $32,250,000 shall be expended from the boat safety account instead of $30,000,000 as proposed by the House and $34,500,000 as proposed by the Senate.

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 23: Appropriates $340,000,000 instead of $384,600,000 as proposed by the House and $325,000,000 as proposed by the Senate. The conferees also approve reprogrammings totaling $23,550,000, which result in overall program resources of $363,550,000 for fiscal year 1993.

A table showing the distribution of this appropriation by project as included in the fiscal year 1993 budget estimate, House bill, Senate bill, and conference agreement follows:

## COAST GUARD

## FY 1993

## ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

## (DOLLARS IN THOUSANDS)

| | FY 1993 ESTIMATE | HOUSE BILL | SENATE BILL | CONFERENCE AGREEMENT |
|---|---|---|---|---|
| **I. VESSELS:** | | | | |
| **A. ACQUIRE VESSELS AND EQUIPMENT:** | | | | |
| 1. SEAGOING BUOY TENDER (WLB) REPLACEMENT | $1,000 | $1,000 | $1,000 | $1,000 |
| 2. COASTAL BUOY TENDER (WLM) REPLACEMENT | 23,000 | 23,000 | 17,000 | 18,500 |
| 3. 44–FT MOTOR LIFEBOAT (MLB) REPLACEMENT PROJECT | 2,400 | 2,400 | 2,400 | 2,400 |
| 4. CONFIGURATION MANAGEMENT – PHASE III | 6,600 | 6,600 | 5,000 | 5,000 |
| 5. FOLLOW–ON FOR POLAR ICEBREAKER REPLACEMENT | 7,800 | ---- | ---- | ---- |
| 6. CUTTER BOAT REPLACEMENT | 2,500 | 2,500 | 2,500 | 2,500 |
| 7. SHIPBOARD COMMAND AND CONTROL SYSTEM – PHASE III | 2,100 | 2,100 | ---- | ---- |
| 8. BUOY BOAT REPLACEMENT PROJECT | 500 | 500 | 500 | 500 |
| 9. SURVEY AND DESIGN – CUTTERS AND BOATS | 1,200 | 1,200 | 1,200 | 1,200 |
| 10. COASTAL PATROL BOAT | 1,000 | 1,000 | 900 | 900 |
| 11. SPECIFIC EMITTER IDENTIFICATION SYSTEM | ---- | 2,500 | ---- | 2,500 |
| 12. MROD EQUIPMENT | ---- | 200 | ---- | 200 |
| **B. REPAIR, RENOVATE OR IMPROVE EXISTING VESSELS AND SMALL BOATS:** | | | | |
| 1. 210–FOOT MEDIUM ENDURANCE CUTTER (WMEC) – MAJOR MAINTENANCE AVAILABILITY (MMA) | 41,000 | 41,000 | 41,000 | 41,000 |
| 2. POLAR CLASS ICEBREAKER RELIABILITY IMPROVEMENT PROJECT (RIP) | 14,200 | 14,000 | 11,750 | 11,750 |
| 3. RE–ENGINE CGC YOCONA | 4,500 | 4,500 | 4,500 | 4,500 |
| 4. MACKINAW SERVICE CONTINUATION | 2,000 | 2,000 | 500 | 500 |
| TOTAL | 109,800 | 104,500 | 88,250 | 92,450 |
| **C. REPROGRAMMINGS:** | | | | |
| 1. WHEC–378 FRAM TO COASTAL BUOY TENDER (WLM) | ---- | ---- | [6,000] | [4,500] |
| 2. POLAR ICEBREAKER REPLACEMENT TO POLAR ICEBREAKER RIP | ---- | ---- | [2,250] | [1,250] |
| **II. AIRCRAFT:** | | | | |
| 1. MEDIUM RANGE HELICOPTER REPLACEMENT – OPERATION BAHAMAS TURKS AND CAICOS – PHASE III | $20,000 | $35,000 | $7,530 | $14,830 |
| 2. HU–25B AIREYE SYSTEM | 4,400 | ---- | 5,900 | 4,400 |
| 3. AIRCRAFT COCKPIT VOICE RECORDERS (CVRs) AND FLIGHT DATA RECORDERS (FDRs) – PHASE III | 6,700 | 6,700 | 3,200 | 3,200 |
| 4. TRAFFIC & COLLISION AVOIDANCE SYSTEM (TCAS) | 6,500 | 3,500 | 6,500 | 4,000 |
| 5. GLOBAL POSITIONING SYSTEM INSTALLATION –PHASE III | 3,100 | 3,100 | 1,130 | 1,130 |
| 6. NIGHT VISION GOGGLES – PHASE III | 2,100 | 2,100 | 740 | 740 |
| 7. RG–8 IMPROVEMENTS | ---- | 3,000 | ---- | 3,000 |
| TOTAL | 42,800 | 53,400 | 25,000 | 31,300 |
| **REPROGRAMMINGS:** | | | | |
| 1. HU–25 ENGINE IMPROVEMENTS TO CVR/FDR PHASE III | ---- | ---- | [3,500] | [3,500] |
| 2. HH–65 ENGINE IMPROVEMENTS TO GPS INSTALLATION PHASE III | ---- | ---- | [1,970] | [1,970] |
| 3. HH–65 RE–ENGINING TO OPBAT PHASE III | ---- | ---- | [5,170] | [5,170] |
| 4. DOPPLER RADAR TO NIGHT VISION GOGGLES PHASE III | ---- | ---- | [1,360] | [1,360] |

## COAST GUARD

## FY 1993

## ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

## (DOLLARS IN THOUSANDS)

| | FY 1993 ESTIMATE | HOUSE BILL | SENATE BILL | CONFERENCE AGREEMENT |
|---|---|---|---|---|
| III. OTHER EQUIPMENT: | | | | |
| 1. STRIKE TEAM POLLUTION RESPONSE EQUIPMENT | $4,000 | ---- | $6,500 | $4,000 |
| 2. ESTABLISH VESSEL TRAFFIC SERVICE (VTS) NEW ORLEANS | 14,300 | $9,250 | ---- | ---- |
| 3. TRANSITION TO NEXT COAST GUARD STANDARD WORKSTATIONS | 6,800 | 4,000 | 6,800 | 5,665 |
| 4. VESSEL TRAFFIC SERVICE (VTS) IMPLEMENTATION & DESIGN | 10,000 | ---- | ---- | ---- |
| 5. VHF-FM HIGH-LEVEL SITE UPGRADE - PHASE II | 2,000 | 2,000 | 2,000 | 2,000 |
| 6. VESSEL IDENTIFICATION AND DOCUMENTATION SYSTEM (VIDS) | 7,500 | --- | ---- | ---- |
| 7. MARINE SAFETY NETWORK (MSN) (PREVIOUSLY MSIS II) | 5,300 | 5,300 | ---- | ---- |
| 8. DIFFERENTIAL GLOBAL POSITIONING SYSTEM (DGPS) | 6,200 | 6,200 | 6,200 | 6,200 |
| 9. SYSTEMS TO AUTOMATE AND INTEGRATE LOGISTICS - PHASE II | 6,200 | 6,200 | 6,200 | 6,200 |
| 10. DEFENSE LOGISTICS (DL) MODERNIZATION | 5,300 | 5,300 | 5,300 | 5,300 |
| 11. COMMUNICATION STATIONS (COMMSTAs) AUTOMATION - PHASE II | 4,800 | 4,800 | 2,800 | 2,800 |
| 12. BUOY REPLENISHMENT | 3,000 | 3,000 | 2,000 | 2,000 |
| 13. PERSONNEL MANAGEMENT INFORMATION SYSTEM/JOINT UNIFORM MILITARY PAY SYSTEM II | 1,600 | 1,600 | 1,600 | 1,600 |
| 14. REPLACE AIRCRAFT REPAIR AND SUPPLY COMPUTER - PHASE IV | 2,500 | 2,500 | 2,500 | 2,500 |
| 15. VTS SAN FRANCISCO UPGRADE - PHASE II | 2,500 | ---- | 2,500 | 2,500 |
| 16. SUPPLY CENTER COMPUTER SYSTEM REPLACEMENT | 2,400 | 2,400 | 2,400 | 2,400 |
| 17. COMMERCIAL SATELLITE COMMUNICATIONS ON COAST GUARD CUTTERS - PHASE II | 2,000 | 2,000 | 2,000 | 2,000 |
| 18. DISTRIBUTED INFORMATION SYSTEM (DIS) | 1,500 | ---- | 1,500 | ---- |
| 19. MANAGEMENT INFORMATION SYSTEM (MIS) FOR HEALTH SERVICES PROGRAM | 1,300 | 1,300 | 1,300 | 1,300 |
| 20. GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM | 1,100 | 1,100 | 1,100 | 1,100 |
| 21. TRANSPORTABLE COMMUNICATION CENTER (TCC) - PHASE II | 700 | 700 | ---- | ---- |
| 22. VTS DESIGN | ---- | 1,000 | ---- | ---- |
| 23. VTS PORT ARTHUR, TX | ---- | 3,000 | ---- | ---- |
| 24. VTS MOBILE, AL | ---- | 6,000 | ---- | ---- |
| 25. VTS 2000 | ---- | ---- | 4,300 | 9,000 |
| TOTAL | 91,000 | 67,650 | 57,000 | 56,565 |
| IV. SHORE FACILITIES AND AIDS TO NAVIGATION: | | | | |
| A. SHORE - GENERAL: | | | | |
| 1. MINOR AC&I SHORE CONSTRUCTION PROJECTS | $8,600 | $8,600 | $8,600 | 8,600 |
| 2. SURVEY AND DESIGN OF VARIOUS SHORE PROJECTS | 11,000 | 9,300 | 11,000 | 10,000 |
| B. SHORE - AIR STATIONS: | | | | |
| 1. SOUTHEAST UNITED STATES AIR FACILITY, FL | 5,000 | 8,000 | ---- | 8,000 |
| 2. AIR STATION BARBERS POINT, HI | ---- | 3,000 | ---- | ---- |

## COAST GUARD

### FY 1993

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(DOLLARS IN THOUSANDS)

| | FY 1993 ESTIMATE | HOUSE BILL | SENATE BILL | CONFERENCE AGREEMENT |
|---|---|---|---|---|
| **C. SHORE – SUPPLY CENTERS/SUPPORT CENTERS/COAST GUARD YARD:** | | | | |
| 1. SUPPORT CENTER KODIAK, AK – REPLACE CUTTER STORAGE BUILDING | 1,300 | 1,300 | 1,300 | 1,300 |
| 2. SUPPORT CENTER ELIZABETH CITY, NC – REALIGN PERIMETER ROAD | 2,400 | 2,400 | ---- | ---- |
| 3. SUPPORT CENTER KODIAK, AK – RENOVATE GYM & PHYSICAL FITNESS CENTER | 3,800 | 2,730 | 3,800 | 3,265 |
| 4. SUPPORT CENTER NEW YORK, NY – HIGH VOLTAGE ELECTRICAL UPGRADE | 5,100 | 5,100 | 5,100 | 5,100 |
| 5. SUPPORT CENTER SAN PEDRO, CA – REPLACE MAIN BUILDINGS – PHASE I | 10,500 | 8,720 | 10,500 | 8,720 |
| 6. SUPPORT CENTER ALAMEDA, CA – CHILD DEVELOPMENT CENTER | 1,900 | 1,900 | 900 | 900 |
| 7. SUPPORT CENTER PORTSMOUTH, VA – UPH EXPANSION – PHASE I | 6,300 | ---- | 6,300 | 6,300 |
| 8. BALTIMORE, MD – COAST GUARD YARD FLAMMABLE STORAGE BUILDING | 1,300 | 1,300 | 1,300 | 1,300 |
| 9. KEY WEST, FL – CONSTRUCT VESSEL SUPPORT BUILDING | 1,900 | 1,900 | 1,900 | 1,900 |
| **D. SHORE –PERSONNEL SUPPORT FACILITIES:** | | | | |
| 1. PUBLIC FAMILY QUARTERS | 30,000 | 25,000 | 25,000 | 25,000 |
| **E. SHORE – GROUPS/BASES/STATIONS/MSOs:** | | | | |
| 1. STATION COOS BAY, OR – EXPANSION | $3,100 | 3,100 | 3,100 | 3,100 |
| 2. STATION SCITUATE, MA – REPLACE WATERFRONT FACILITIES | 1,100 | 1,100 | 1,100 | 1,100 |
| 3. COMMUNICATION STATION NEW ORLEANS, LA – TRANSMITTER BUILDING | 4,100 | 4,100 | 4,100 | 4,100 |
| 4. BASE HONOLULU, HI – CONSTRUCT CONSOLIDATED SUPPLY FACILITY | 5,200 | 5,200 | 5,200 | 5,200 |
| 5. GROUP/STATION FORT MACON, NC MULTI – PURPOSE BUILDING | 3,300 | 3,300 | 3,300 | 3,300 |
| 6. GROUP/AIR STATION NORTH BEND, OR – FACILITY IMPROVEMENTS | 4,500 | 4,500 | 4,500 | 4,500 |
| 7. BASE HONOLULU, HI – CONSTRUCT GROUP OPERATIONS, ADMINISTRATIVE, COMMUNICATIONS FACILITY | 3,700 | 3,700 | 3,700 | 3,700 |
| 8. MSO TAMPA, FL – CONSTRUCT ADMINISTRATION BUILDING | 1,200 | 1,200 | 1,200 | 1,200 |
| 9. PALM BEACH, FL – CONSTRUCT NEW STATION LAKE WORTH INLET | 3,800 | 3,800 | 3,800 | 3,800 |
| **F. AIDS TO NAVIGATION FACILITIES:** | | | | |
| 1. WATERWAYS AIDS–TO–NAVIGATION PROJECTS | 4,000 | 4,000 | 4,000 | 4,000 |
| 2. CENTRAL PACIFIC (CENPAC) LORAN STATION CLOSURE | 3,300 | 3,300 | 3,300 | 3,300 |
| 3. UPGRADE NORTHERN PACIFIC LORAN–C STATIONS – PHASE III | 6,000 | 6,000 | 6,000 | 6,000 |
| TOTAL | 132,400 | 122,550 | 119,000 | 123,685 |
| **G. REPROGRAMMINGS:** | | | | |
| 1. FOUR SPECIFIED FACILITIES TO ALAMEDA, CA DAY CARE | ---- | ---- | [1,000] | [1,000] |
| 2. TWO SPECIFIED FACILITIES TO PUBLIC FAMILY QUARTERS | ---- | [4,800] | [4,800] | [4,800] |
| **V. PERSONNEL AND RELATED SUPPORT:** | | | | |
| 1. PERSONNEL AND RELATED COSTS | $38,000 | $36,500 | $35,750 | 36,000 |
| TOTAL | 38,000 | 36,500 | 35,750 | 36,000 |
| TOTAL APPROPRIATION | $414,000 | $384,600 | $325,000 | $340,000 |
| BY TRANSFER FROM DOD | [$18,000] | [$----] | [$----] | [$----] |
| DOT AND RELATED AGENCIES APPROPRIATIONS BILL | [$396,000] | [$384,600] | [$325,000] | [$340,000] |

Amendment No. 24: Provides that $35,640,000 shall be derived from the oil spill liability trust fund as proposed by the Senate instead of $19,250,000 as proposed by the House.

Amendment No. 25: Provides $92,450,000 to acquire, repair, renovate or improve vessels, small boats and related equipment instead of $104,500,000 as proposed by the House and $88,250,000 as proposed by the Senate.

Amendment No. 26. Provides $31,300,000 to acquire new aircraft and increase aviation capability instead of $53,400,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$56,565,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $56,565,000 for other equipment, instead of $67,650,000 as proposed by the House and $57,000,000 as proposed by the Senate.

Amendment No. 28: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$123,685,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $123,685,000 for shore facilities and aids to navigation facilities instead of $122,550,000 as proposed by the House and $119,000,000 as proposed by the Senate.

Amendment No. 29: Provides $36,000,000 for personnel compensation and benefits and related costs instead of $36,500,000 as proposed by the House and $35,750,000 as proposed by the Senate.

*Oil spill response equipment and training simulators.*—The conference agreement includes no funding for the specific prepositioned oil spill cleanup equipment and oil spill training simulators described in sections 105 and 106 of the Coast Guard Authorization Act of 1992 as passed the House on June 22, 1992. However, the conferees will consider the merits of these funding requests in future years.

*Vessel traffic system (VTS) New Orleans.*—The conferees recognize the substantial progress the Coast Guard has made in cooperation with the Lower Mississippi River Safety Advisory Committee towards the reestablishment of a vessel traffic system (VTS) for the New Orleans, Louisiana area. To ensure continued progress, the conferees direct that not less than $3,000,000 of the $9,000,000 appropriated for the VTS 2000 program be used for selection of radar and closed circuit television camera surveillance sites and to establish administrative and support facilities for VTS New Orleans.

*OPBAT drug interdiction helicopters.*—The conferees have provided funding for 1 Operation Bahamas, Turks and Caicos (OPBAT) drug interdiction helicopter as proposed by the Senate instead of 2 as proposed by the House due to budget constraints. The conferees are aware that the Coast Guard is now exploring the possibility of obtaining UH-60 Blackhawk helicopters on loan from the Department of Defense, which could make additional funding unnecessary.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

Amendment No. 30: Appropriates $22,000,000 instead of $21,500,000 as proposed by the House and $27,000,000 as proposed by the Senate.

ALTERATION OF BRIDGES

Amendment No. 31: Appropriate $12,600,000 instead of $11,000,000 as proposed by the House and $14,100,000 as proposed by the Senate.

The conference agreement includes the following amounts:

| | |
|---|---|
| E. Pascagoula River, Pascagoula, MS, CSX-L&N Railroad | $3,050,000 |
| Mississippi River, Burlington, IA, Burlington—Northern Railroad | 2,050,000 |
| Sidney Lanier Bridge, Brunswick, GA | 5,000,000 |
| Mississippi River, Hannibal, MO, Norfolk Southern Railroad | 1,500,000 |
| Florida Avenue Bridge, New Orleans, LA | 1,000,000 |
| Total | 12,600,000 |

RESERVE TRAINING

Amendment No. 32: Inserts heading as proposed by the House.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$73,000,000, of which $50,000,000 shall be available only to the extent transferred from the Department of Defense*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $73,000,000, including transfer from the Department of Defense, for reserve training instead of $74,100,000 of which $50,000,000 shall be transferred as proposed by the House and $73,000,000 as proposed by the Senate.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert *$27,815,000*

The managers of the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $27,815,000 for research, development, test, and evaluation activities of the Coast Guard instead of $27,930,000 as proposed by the House and $28,000,000 as proposed by the Senate.

Amendment No. 35: Provides that $5,595,000 shall be derived from the oil spill liability trust fund as proposed by the Senate instead of $4,550,000 as proposed by the House.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Aids to navigation: | |
| Reduce "human factors analysis engineering" for VTS systems | −$125,000 |
| Reduce funds for "VTS technology update" | −50,000 |
| Defer study of VTS impact on computer storage needs | −100,000 |
| Defer waterways management assessment study | −250,000 |
| Marine environmental protection: | |
| Reduce first year funds for regional grant program | −250,000 |
| Reduce funds for airborne surveillance system study | −150,000 |
| Maritime Fire and Safety Association | +400,000 |
| New Jersey Marine Sciences Consortium | +90,000 |
| Enforcement of laws and treaties: | |
| Enhanced intelligence technologies | −500,000 |
| Mission capabilities assessment: | |
| Study of V–22 aircraft | +250,000 |
| Testing for 47 foot motor lifeboats | −300,000 |
| Aircraft corrosion test/evaluation | −150,000 |
| Multi-mission: | |
| Hold computer support at the Coast Guard R&D Center to fiscal year 1992 level | −100,000 |
| Reduce growth in "advanced communications technologies" | −370,000 |
| Reduce information resource management planning | −1,000,000 |
| South Florida oil spill research center | +1,000,000 |
| Model development for CG operational programs | −260,000 |
| Operations management information system | −420,000 |
| Test of double hull oil tanker alternatives | +200,000 |

*South Florida oil spill research center.*—The conferees agree to bill language under section 365 of the general provisions (amendment 226) which requires the Coast Guard to award a grant of $2,000,000 to the International Oceanographic Foundation for establishment of the South Florida oil spill research center. These funds include $1,000,000 in this Act and $1,000,000 included in the Department of Transportation and Related Agencies Appropriations Act, 1992.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

Amendment No. 36: Appropriates $32,250,000 instead of $30,000,000 as proposed by the House and $34,500,000 as proposed by the Senate.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

Amendment No. 37: Appropriates $4,538,000,000 as proposed by the House instead of $4,545,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

| | |
|---|---|
| Operation of air traffic control system | $2,092,000,000 |
| (Positions) | (27,970) |
| NAS logistics support | $207,764,000 |
| (Positions) | (1,625) |
| Maintenance of air traffic control system | $844,000,000 |
| (Positions) | (10,848) |
| Leased telecommunications services | $325,406,000 |
| Aviation regulation and certification | $335,695,000 |

| | |
|---|---|
| (Positions) | (5,417) |
| Aviation standards | $120,000,000 |
| (Positions) | (1,397) |
| Civil aviation security | $69,220,000 |
| (Positions) | (1,031) |
| NAS design and management | $23,355,000 |
| (Positions) | (301) |
| Administration of airports | $41,150,000 |
| (Positions) | (550) |
| Direction, staff and supporting services | $151,460,000 |
| (Positions) | (1,182) |
| Human resources management | $284,400,000 |
| (Positions) | (1,460) |
| Headquarters administration | $46,550,000 |
| (Positions) | (470) |
| Accountwide adjustments | −$3,000,000 |
| Total | $4,538,000,000 |
| (Positions) | (52,251) |

Amendment No. 38: Provides that $2,279,321,000 shall be derived from the airport and airway trust fund as proposed by the House instead of $2,272,500,000 as proposed by the Senate.

Amendment No. 39: Provides $2,000,000 for the Mid-American Aviation Resource Consortium as proposed by the House. The Senate bill contained no similar provision.

Amendment No. 40: Restores House language that authorizes the use of funds to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards. The Senate bill contained no similar provision.

Amendment No. 41: Reported in technical disagreement. The managers on part of the House will offer a motion to recede and concur in the amendment of the Senate that prohibits the use of funds for pay raises of FAA employees whose responsibilities include noise abatement policy function, managing aircraft route design or changes, or responsibility for preparing, managing, or overseeing the environmental impact statement mandated by section 9119 of Public Law 101-508 until the final report on such impact statement is issued. The House bill contained no similar provision.

The conferees direct the administrator of the Federal Aviation Administration to notify the Committees on Appropriations of the House and Senate when the subject draft environmental impact statement has been issued.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides up to $50,000 for the New Jersey coalition against aircraft noise. The House bill contained no similar provision.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides $500,000 for the Cleveland Clinic Foundation to conduct a human factors/pilot error study. The House bill contained no similar provision.

### FACILITIES AND EQUIPMENT

### (AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,350,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $2,350,000,000 instead of $2,459,860,000 as proposed by the House and $2,429,500,000 as proposed by the Senate.

A table showing the distribution of this appropriation by project as included in the fiscal year 1993 budget estimate, House recommendation, Senate recommendation, and conference agreement follows:

FACILITIES AND EQUIPMENT

| ITEM | TITLE | FISCAL YEAR 1993 ESTIMATE | HOUSE RECOMMENDED | SENATE RECOMMENDED | CONFERENCE AGREEMENT |
|---|---|---|---|---|---|
| ACTIVITY 1. ENGINEERING, DEVELOPMENT, TEST, AND EVALUATION | | | | | |
| A. EN ROUTE PROGRAMS | | | | | |
| 1A01 | AVIATION WEATHER SERVICES IMPROVEMENTS | $24,200,000 | $24,200,000 | $22,200,000 | $22,200,000 |
| 1A02 | ADVANCED AUTOMATION SYSTEM (AAS) | 424,000,000 | 344,000,000 | 390,000,000 | 302,000,000 |
| 1A03 | AUTOMATIC DEPENDENT SURVEILLANCE (ADS) | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 1A04 | VOICE SWITCHING AND CONTROL SYSTEM (VSCS) | 178,000,000 | 169,000,000 | 169,000,000 | 213,000,000 |
| 1A05 | CENTRAL WEATHER PROCESSOR (CWP) | 2,000,000 | ---- | ---- | ---- |
| 1A06 | AERONAUTICAL DATA LINK | 1,700,000 | 1,700,000 | 1,700,000 | 1,700,000 |
| B. TERMINAL PROGRAMS | | | | | |
| 1B01 | AIRPORT SURVEILLANCE RADAR (ASR) | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 |
| 1B02 | AIR TRAFFIC CONTROL TOWER SYSTEM INTRA-CONNECTIVITY | 4,800,000 | 4,800,000 | 4,800,000 | 4,800,000 |
| C. FLIGHT SERVICE PROGRAMS | | | | | |
| D. LANDING AND NAVIGATIONAL AIDS PROGRAMS | | | | | |
| 1D01 | MICROWAVE LANDING SYSTEM (MLS) | 78,900,000 | 55,000,000 | 45,000,000 | 45,000,000 |
| E. RESEARCH, TEST, AND EVALUATION EQUIPMENT AND FACILITIES | | | | | |
| 1E01 | INDEPENDENT OPERATIONAL TEST AND EVALUATION SUPPORT | 5,900,000 | 7,300,000 | 5,900,000 | 5,900,000 |
| 1E02 | FAA TECHNICAL CENTER FACILITY - BUILDING LEASE | 5,290,000 | 5,290,000 | 5,290,000 | 5,290,000 |
| 1E03 | UTILITY PLANT MODIFICATIONS | 1,450,000 | 1,450,000 | 1,450,000 | 1,450,000 |
| 1E04 | GENERAL AIRPORT IMPROVEMENTS | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| 1E05 | NAS IMPROVEMENT OF SYSTEM SUPPORT LABORATORY | 3,500,000 | ---- | 3,500,000 | ---- |
| 1E06 | TECHNICAL CENTER FACILITIES | 9,000,000 | 7,700,000 | 9,000,000 | 9,000,000 |
| 1E07 | ARTS IIIA SYSTEM FOR THE FAA TECH CENTER (ADDITIONAL) | 5,160,000 | ---- | 5,160,000 | 5,160,000 |
| 1EO8 | UNALLOCATED | ---- | ---- | -3,600,000 | ---- |
| | ACTIVITY 1 SUBTOTAL | 753,900,000 | 630,440,000 | 669,400,000 | 625,500,000 |

## ACTIVITY 2. AIR TRAFFIC CONTROL FACILITIES AND EQUIPMENT

### A. EN ROUTE PROGRAMS

| | | | | | |
|---|---|---|---|---|---|
| 2A01 | LONG RANGE RADAR (LRR) PROGRAM – REPLACE | 91,100,000 | 73,000,000 | 73,000,000 | 73,000,000 |
| 2A02 | ARSR–3 LEAPFROG PROGRAM | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 2A03 | RADIO COMMUNICATION LINK NETWORK | 19,000,000 | 15,000,000 | 15,000,000 | 15,000,000 |
| 2A04 | NEXT GENERATION WEATHER RADAR (NEXRAD) – PROVIDE | 25,200,000 | 15,000,000 | 16,300,000 | 15,000,000 |
| 2A05 | ATC EN ROUTE RADAR FACILITIES IMPROVEMENTS | 21,654,000 | 21,654,000 | 21,654,000 | 17,000,000 |
| 2A06 | ADVANCED AUTOMATION SYSTEM (AAS) | 98,300,000 | 55,800,000 | 55,800,000 | 55,800,000 |
| 2A07 | EN ROUTE SOFTWARE DEV AND INTEGRATION SUPPORT | 10,000,000 | 10,000,000 | 10,000,000 | 10,000,000 |
| 2A08 | CENTRAL WEATHER PROCESSOR (CWP) | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 |
| 2A09 | AERONAUTICAL DATA LINK (ADL) | 21,300,000 | 21,300,000 | 19,300,000 | 19,300,000 |
| 2A10 | EN ROUTE AUTOMATION EQUIPMENT – IMPROVE | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 |
| 2A11 | DYNAMIC OCEAN TRACKING SYSTEM (DOTS) INTEGRATION | 900,000 | 900,000 | 900,000 | 900,000 |
| 2A12 | OCEANIC SYSTEM DEVELOPMENT AND SUPPORT | 16,000,000 | 16,000,000 | 16,000,000 | 16,000,000 |
| 2A13 | ARTCC BUILDING IMPROVEMENTS/PLANT MODERNIZATION | 93,000,000 | 93,000,000 | 76,000,000 | 71,000,000 |
| 2A14 | NADIN II ENHANCEMENTS – PROVIDE | 11,400,000 | ---- | 7,600,000 | 7,600,000 |
| 2A15 | VOICE SWITCHING AND CONTROL SYSTEM (VSCS) | 105,200,000 | 77,000,000 | 77,000,000 | 33,000,000 |
| 2A16 | REMOTE COMMUNICATION FACILITIES – EXPAND/RELOCATE | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 2A17 | TRAFFIC MANAGEMENT SYSTEM (TMS) – UPGRADE | 11,500,000 | 11,500,000 | 11,500,000 | 11,500,000 |
| 2A18 | DATA MULTIPLEXING NETWORK (DMN) | 10,500,000 | 10,500,000 | 10,500,000 | 10,500,000 |
| 2A19 | BACK–UP EMERGENCY COMMUNICATIONS (BUEC) – INTERIM | 1,500,000 | 1,500,000 | ---- | ---- |
| 2A20 | CRITICAL COMMUNICATIONS SUPPORT | 8,000,000 | 8,000,000 | 8,000,000 | 8,000,000 |
| 2A21 | SATELLITE COMMUNICATIONS CIRCUIT BACK–UP | 3,200,000 | 3,200,000 | 3,200,000 | 3,200,000 |
| 2A22 | EN ROUTE COMMS AND CONTROL FACILITIES IMPROVEMENT | 13,158,000 | 13,000,000 | 13,000,000 | 13,000,000 |
| 2A23 | CENTRAL FLOW CONTROL FACILITY – RELOCATE | 1,419,000 | 1,419,000 | 1,150,000 | 1,419,000 |

### B. TERMINAL PROGRAMS

| | | | | | |
|---|---|---|---|---|---|
| 2B01 | AIRPORT SURVEILLANCE RADAR (ASR) | 19,900,000 | 19,900,000 | 19,900,000 | 19,900,000 |
| 2B02 | TERMINAL DOPPLER WEATHER RADAR (TDWR) – PROVIDE | 23,000,000 | 20,000,000 | 20,000,000 | 20,000,000 |
| 2B03 | MODE S – PROVIDE | 10,600,000 | 10,600,000 | 5,300,000 | 5,300,000 |
| 2B04 | DIGITAL BRITE RADAR INDICATOR TOWER EQUIPMENT | 8,000,000 | 5,700,000 | 7,700,000 | 7,700,000 |
| 2B05 | PRECISION RUNWAY MONITORS | 14,000,000 | 14,000,000 | 14,000,000 | 14,000,000 |
| 2B06 | AIRPORT MOVEMENT AREA SAFETY SYSTEM (AMASS) | 16,400,000 | 3,000,000 | 7,500,000 | 3,000,000 |
| 2B07 | CONVERGING RUNWAY DISPLAY AID | 1,800,000 | 1,800,000 | 1,800,000 | 1,800,000 |
| 2B08 | TERMINAL RADAR SYSTEMS – IMPROVE | 11,368,000 | 11,368,000 | 11,368,000 | 11,368,000 |

### FACILITIES AND EQUIPMENT

| ITEM | TITLE | FISCAL YEAR 1993 ESTIMATE | HOUSE RECOMMENDED | SENATE RECOMMENDED | CONFERENCE AGREEMENT |
|---|---|---|---|---|---|
| 2B09 | MODE C INTRUDER (MCI) – EXPAND ARTS IIIA CAPACITY | 13,100,000 | 13,100,000 | 13,100,000 | 13,100,000 |
| 2B10 | SOUTHERN CALIF TRACON CONSOLIDATION/PROGRAM SUPPORT | 10,000,000 | 10,000,000 | 10,000,000 | 10,000,000 |
| 2B11 | DFW METROPLEX PROGRAM | 43,675,000 | 43,675,000 | 43,675,000 | 43,675,000 |
| 2B12 | TERMINAL SOFTWARE DEVELOPMENT SUPPORT | 9,000,000 | 9,000,000 | 9,000,000 | 9,000,000 |
| 2B13 | ARTS RADAR POSITIONS – FDAD AND RADS | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 2B14 | CHICAGO TERMINAL RADAR APPROACH CONTROL RELOCATION | 21,300,000 | 21,300,000 | 21,000,000 | 21,000,000 |
| 2B15 | ARTS IIIA PERIPHERAL ADAPTER MODULE (PAM) IMPROVEMENT | 3,900,000 | 3,900,000 | 3,900,000 | 3,900,000 |
| 2B16 | ARTS IIIE UPGRADES FOR AIR TRAFFIC FACILITIES – PROVIDE | 13,200,000 | 13,200,000 | 13,200,000 | 13,200,000 |
| 2B17 | REMOTE MAINTENANCE MONITORING SYSTEM – PROVIDE | 31,800,000 | 31,800,000 | 31,800,000 | 31,800,000 |
| 2B18 | TERMINAL AIR TRAFFIC CONTROL FACILITIES – REPLACE | 38,000,000 | 18,332,000 | 18,332,000 | 18,332,000 |
| 2B19 | AIR TRAFFIC CONTROL TOWER (ATCT) – ESTABLISH | 4,000,000 | 8,000,000 | 4,600,000 | 10,600,000 |
| 2B20 | AIR TRAFFIC CONTROL TOWER/TRACON FACILITIES – IMPROVE | 18,468,000 | 18,468,000 | 16,000,000 | 17,158,000 |
| 2B21 | EMERGENCY TRANSCEIVERS – REPLACEMENT | 3,000,000 | ---- | ---- | ---- |
| 2B22 | NEW DENVER AIRPORT ESTABLISHMENT – FAA SUPPORT | 26,210,000 | 24,000,000 | 24,000,000 | 24,000,000 |
| 2B23 | TERMINAL VOICE SWITCH REPLACEMENT (TVSR) | 20,500,000 | 20,500,000 | 20,500,000 | 20,500,000 |
| 2B24 | RADIO CONTROL EQUIPMENT (RCE) – PROVIDE | 20,700,000 | 15,800,000 | 3,800,000 | 8,000,000 |
| 2B25 | TOWER/TRACON FACILITIES – IMPROVE TERMINAL COMMS | 2,062,000 | 2,212,000 | 2,062,000 | 2,062,000 |
| 2B26 | EMPLOYEE SAFETY FOR AIRPORT TRAFFIC CONTROL FACILITIES | 18,800,000 | 18,800,000 | 18,800,000 | 18,800,000 |
| 2B27 | ASDE MOSAIC AND LOGISTIC SUPPORT | 3,000,000 | 3,000,000 | 3,000,000 | 3,000,000 |
| 2B28 | ARTS IIA MODE C INTRUDER CAPABILITY/VIDEO COMPRESSION | 9,500,000 | 9,500,000 | 9,500,000 | 9,500,000 |
| 2B29 | ASDE-3 SYSTEM ACQUISITION | ---- | 45,000,000 | 16,500,000 | 49,500,000 |
| C. FLIGHT SERVICES PROGRAMS | | | | | |
| 2C01 | FLIGHT SERVICE STATION (FSS) MODERNIZATION | 7,600,000 | 7,600,000 | 7,600,000 | 4,000,000 |
| 2C02 | VHF/DF NETWORK PROGRAM – ESTABLISH | 11,043,000 | 11,043,000 | 11,043,000 | 11,043,000 |
| 2C03 | AUTOMATED SURFACE OBSERVING SYSTEM (ASOS) | 22,000,000 | 22,000,000 | 22,000,000 | 22,000,000 |
| 2C04 | FLIGHT SERVICE FACILITIES IMPROVEMENT | 1,968,000 | 1,968,000 | 1,968,000 | 1,968,000 |
| 2C05 | WEATHER MESSAGE SWITCHING CENTER REPLACEMENT | 3,000,000 | 3,000,000 | 3,000,000 | 3,000,000 |
| 2C06 | AUTOMATED WEATHER OBSERVING SYSTEM | ---- | 4,000,000 | ---- | 4,000,000 |
| D. LANDING AND NAVIGATIONAL AIDS PROGRAMS | | | | | |
| 2D01 | VOR/DME/TACAN NETWORK PLAN | 12,577,000 | 12,577,000 | 12,577,000 | 12,577,000 |
| 2D02 | LORAN C SYSTEM IMPROVEMENT | 5,900,000 | 5,900,000 | 5,900,000 | 5,900,000 |
| 2D03 | NDB EQUIPMENT – ESTABLISH/REPLACE/RELOCATE | 871,000 | 871,000 | 871,000 | 871,000 |
| 2D04 | APPROACH LIGHTING SYSTEM IMPROVEMENT PROGRAM (ALSIP) | 6,212,000 | 6,820,000 | 6,820,000 | 6,820,000 |

| | | | | | |
|---|---|---|---|---|---|
| 2D05 | ILS – REPLACE GRN–27 | 6,300,000 | 6,300,000 | 6,300,000 | 6,300,000 |
| 2D06 | ILS – REPLACE MARK 1A, 1B, AND 1C | 13,500,000 | 13,500,000 | 13,500,000 | 13,500,000 |
| 2D07 | INSTRUMENT LANDING SYSTEM (ILS) – ESTABLISH | 10,454,000 | 21,500,000 | 21,500,000 | 21,500,000 |
| 2D08 | VISUAL NAVAIDS – ESTABLISH/EXPAND | 17,224,000 | 17,224,000 | 17,224,000 | 17,224,000 |
| 2D09 | LOW LEVEL WINDSHEAR ALERT SYSTEM | 4,100,000 | 4,100,000 | 2,100,000 | 2,100,000 |
| 2D10 | RVR – ESTABLISH | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 2D11 | ILS AND VISUAL NAVAID COMPONENT SPARING | 4,197,000 | 4,197,000 | 4,192,000 | 4,192,000 |
| 2D12 | INSTRUMENT APPROACH PROCEDURES AUTOMATION (IAP | 2,000,000 | 1,200,000 | 1,200,000 | 1,200,000 |
| 2D13 | ILS – FAA ASSUMPTION OF AIP FUNDED ILS | 3,500,000 | 3,500,000 | 3,500,000 | 3,500,000 |
| E. OTHER ATC FACILITY PROGRAMS | | | | | |
| 2E01 | ALASKAN NAS INTERFACILITY COMMUNICATIONS SYSTEM | 13,000,000 | 13,000,000 | 13,000,000 | 13,000,000 |
| 2E02 | FUEL STORAGE TANK REPLACEMENT AND MONITORING | 11,000,000 | 11,000,000 | 11,000,000 | 9,000,000 |
| 2E03 | FAA BUILDINGS AND EQUIPMENT – IMPROVE/MODERNIZE | 20,702,000 | 17,000,000 | 17,000,000 | 17,000,000 |
| 2E04 | ELECTRICAL POWER SYSTEMS – IMPROVE/REPLACE | 8,465,000 | 8,465,000 | 8,465,000 | 8,465,000 |
| 2E05 | AIR NAVIGATIONAL AIDS AND ATC FACILITIES – IMPROVE | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 |
| 2E06 | AIR NAVIGATIONAL FACILITY/ATC SYSTEM SUPPORT – PROVIDE | 9,000,000 | 9,000,000 | 9,000,000 | 9,000,000 |
| 2E07 | LAND OR EASEMENT PURCHASE FOR EXISTING FACILITIES | 6,400,000 | 4,400,000 | 6,400,000 | 4,400,000 |
| 2E08 | AIR TRAFFIC CONTROLLER CHAIRS – REPLACE | 2,800,000 | 2,800,000 | 2,800,000 | 1,800,000 |
| 2E09 | AIRCRAFT AND RELATED EQUIPMENT | 11,535,000 | 8,535,000 | 9,835,000 | 9,000,000 |
| 2E10 | FLIGHT INSPECTION AIRCRAFT PROCUREMENT | 117,100,000 | 130,000,000 | 117,100,000 | 117,100,000 |
| | ACTIVITY 2 SUBTOTAL | 1,342,062,000 | 1,247,228,000 | 1,174,136,000 | 1,153,874,000 |
| ACTIVITY 3. NON–AIR TRAFFIC CONTROL FACILITIES AND EQUIPMENT | | | | | |
| A. SUPPORT EQUIPMENT | | | | | |
| 3A01 | AUTOMATED DATA PROCESSING FACILITIES MGMT (CORN) | 51,550,000 | 51,550,000 | 51,550,000 | 51,550,000 |
| 3A02 | AIRPORT DATUM MONUMENT PROGRAM | 1,500,000 | 1,500,000 | 1,500,000 | 1,500,000 |
| 3A03 | NATIONAL AIRSPACE SYSTEM RECOVERY COMMS (RCOM) | 8,300,000 | 8,300,000 | 8,300,000 | 8,300,000 |
| 3A04 | NAS MANAGEMENT AUTOMATION | 5,000,000 | 1,000,000 | 2,000,000 | 1,000,000 |
| 3A05 | EXPLOSIVE DETECTION SYSTEM – INSTALL/OPERATE/MAINTAIN | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| 3A06 | HAZARDOUS MATERIALS MANAGEMENT | 15,000,000 | 15,000,000 | 15,000,000 | 15,000,000 |
| 3A07 | AVIATION SAFETY ANALYSIS SYSTEM (ASAS) | 15,000,000 | 15,000,000 | 12,000,000 | 12,000,000 |
| 3A08 | AIRMEN AND AIRCRAFT REGISTRY SYSTEMS – RENOVATION | 13,100,000 | 13,100,000 | ---- | 4,000,000 |
| 3A09 | OPERATIONAL DATA MANAGEMENT SYSTEMS (ODMS) | 4,650,000 | 4,650,000 | 4,650,000 | 4,650,000 |
| 3A10 | ARTCC CHILD CARE FACILITIES | 3,900,000 | 1,779,000 | 2,489,000 | 2,489,000 |
| 3A11 | FAA EMPLOYEE HOUSING – PROVIDE | 15,000,000 | 8,000,000 | 10,000,000 | 8,000,000 |
| 3A12 | LOGISTICS SUPPORT SYSTEM AND FACILITIES | 2,900,000 | 2,900,000 | 2,900,000 | 2,900,000 |
| 3A13 | TEST EQUIPMENT–MAINTENANCE SUPPORT FOR REPLACEMENT | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 |
| 3A14 | RADIO FREQUENCY INTERFERENCE (RFI) VANS | 4,700,000 | 4,700,000 | 2,400,000 | 2,400,000 |

## FACILITIES AND EQUIPMENT

| ITEM | TITLE | FISCAL YEAR 1993 ESTIMATE | HOUSE RECOMMENDED | SENATE RECOMMENDED | CONFERENCE AGREEMENT |
|---|---|---|---|---|---|
| B. TRAINING EQUIPMENT AND FACILITIES | | | | | |
| 3B01 | SIMULATION BASED TRAINING SYSTEMS | 10,000,000 | 10,000,000 | 10,000,000 | 10,000,000 |
| 3B02 | FLIGHT SIMULATOR TRAINING FACILITY | 5,500,000 | 5,500,000 | 5,500,000 | ---- |
| 3B03 | COMPUTER BASED INSTRUCTION (CBI) – EXPAND/IMPROVE | 6,000,000 | 2,900,000 | 4,000,000 | 2,900,000 |
| 3B04 | AERONAUTICAL CENTER TRAINING AND SUPPORT FACILITIES | 4,100,000 | 4,100,000 | 4,100,000 | 4,100,000 |
| | ACTIVITY 3 SUBTOTAL | 173,200,000 | 156,979,000 | 143,389,000 | 137,789,000 |
| ACTIVITY 4. MISSION SUPPORT | | | | | |
| A. SYSTEM SUPPORT AND SERVICES | | | | | |
| 4A01 | SYSTEM ENGINEERING AND INTEGRATION CONTRACTS | 132,181,000 | 137,000,000 | 123,475,000 | 132,181,000 |
| 4A02 | LOGISTICS SUPPORT SERVICES (LSS) | 9,700,000 | 9,700,000 | 9,700,000 | 9,700,000 |
| 4A03 | HUMAN RESOURCE MGMT PLAN FOR NAS TRANSITION | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 |
| 4A04 | MIKE MONRONEY AERONAUTICAL CENTER LEASE | 13,300,000 | 13,300,000 | 13,300,000 | 13,300,000 |
| 4A05 | IN-PLANT NAS CONTRACT SUPPORT SERVICES | 5,100,000 | 5,100,000 | 5,100,000 | 5,100,000 |
| 4A06 | TRANSITION ENGINEERING SUPPORT | 31,400,000 | ---- | 20,000,000 | ---- |
| 4A07 | NATIONAL AIRSPACE INTEGRATED LOGISTICS SUPPORT (NAILS) | 8,000,000 | 8,000,000 | 7,000,000 | 7,056,000 |
| 4A08 | SYSTEM SAFETY AND EFFICIENCY REVIEW IMPLEMENTATION | 1,000,000 | ---- | ---- | ---- |
| 4A09 | FREQUENCY AND SPECTRUM ENGINEERING | 4,200,000 | 2,500,000 | 2,500,000 | 2,500,000 |
| 4A10 | TECHNICAL SUPPORT SERVICES CONTRACT (TSSC) | 40,000,000 | 40,000,000 | 40,000,000 | 40,000,000 |
| 4A11 | AIRWAY SCIENCE PROGRAM | ---- | 23,656,000 | 28,500,000 | 30,000,000 |
| | ACTIVITY 4 SUBTOTAL | 246,881,000 | 241,256,000 | 251,575,000 | 241,837,000 |
| ACTIVITY 5. PERSONNEL AND RELATED EXPENSES | | | | | |
| | PERSONNEL AND RELATED EXPENSES | 183,957,000 | 183,957,000 | 191,000,000 | 191,000,000 |
| | ACTIVITY 5 SUBTOTAL | 183,957,000 | 183,957,000 | 191,000,000 | 191,000,000 |
| | TOTAL | 2,700,000,000 | 2,459,860,000 | 2,429,500,000 | 2,350,000,000 |

*Advanced Automation System*.—The conferees agree to provide total budget authority of $344,000,000 for engineering development of the advanced automation system (AAS), which is the same as the House recommendation. This total is comprised of $302,000,000 in new budget authority and, in addition, $42,000,000 which shall be reprogrammed into the AAS program from unobligated balances of the following programs:

| *Program* | *Amount* |
|---|---|
| VORTAC | $12,500,000 |
| Air navigation aids facilities | 3,000,000 |
| Monroney Center environmental cleanup | 1,900,000 |
| Boeing 727 cockpit modernization | 6,000,000 |
| Flight service station modernization | 8,000,000 |
| Terminal NEXRAD | 5,000,000 |
| Emergency transceiver replacement | 5,000,000 |
| Electrical power | 600,000 |
| Total reprogrammed | 42,000,000 |

Each of the above programs has a large unobligated balance, including significant funding which remains unobligated after at least two calendar years. In implementing this reprogramming, the FAA is expected to draw down the oldest unobligated balances wherever possible. The conferees make the reductions without prejudice to these programs, and agree to reconsider funds for these activities when they are necessary, if requested by the administration.

The conferees agree with the House's direction that no funds may be obligated for limited production of advanced automation system common consoles before the end of fiscal year 1993.

*ASDA-3 system acquisition*.—The conferees agree to provide $49,500,000 for the acquisition of 11 ASDE-3 radar systems, which are to be located at the 10 sites listed in the House report and at the FAA Technical Center. The conferees have only recently been made aware that there is a significant outstanding claim for cost overruns incurred during development of the ASDE-3 system. FAA officials have requested that a portion of ASDE-3 funding be earmarked to cover these claims. Since Congress has not had an opportunity to review either the validity of such claims or the government's obligation to pay them under a fixed price development contract, the conferees are not certain that such funding is appropriate at this time, and therefore direct that none of these funds are to be obligated for the settlement of ASDE-3 claims.

The 10 sites for which additional ASDE-3 funds are provided were selected based upon a recently completed FAA benefit-cost study which identified those sites as candidates for the ASDE-3 system. The FAA is directed to provide that study to the House and Senate Committees on Appropriations no later than December 31, 1992.

*ASR-9 radar systems*.—The conferees concur with the language in the Senate report expressing support for additional procurement by the FAA of ASR-9 radar systems. The conferees encourage the FAA to investigate making additional funds available during fiscal year 1993 to procure more of these systems and reiterate the Senate report language that directs FAA to investigate the costs and benefits of a new procurement to replace the ASR systems which are currently at least 20 years old.

*Northern Maine long range radar coverage*.—The conferees do not agree with Senate direction regarding installation of a long range radar (LRR) system for the northern Maine region currently served by Loring Air Force Base. The conferees agree that, out of the funds provided, the FAA is to study the need for LRR coverage in northern Maine and to perform an analysis of potential sites. This activity shall not affect implementation of LRR coverage in Bucks Harbor, Maine or other currently funded LRR sites.

*Air traffic control tower-establishment*.—The conferees agree to provide $10,600,000 to establish or replace air traffic control towers at the following locations:

| | *Amount* |
|---|---|
| Stewart Airport, Newburgh, New York | $1,700,000 |
| Redmond Municipal Airport, Oregon | 1,900,000 |
| Pullman-Moscow Regional Airport, Washington | 3,500,000 |
| Bellingham, Washington | 3,500,000 |
| Total provided | 10,600,000 |

*Instrument landing systems-establishment*.—The conferees agree to provide $21,500,000 for the establishment of instrument landing systems, lighting systems, and related landing equipment. Locations funded are as follows:

Establish ILS:
Kansas City, MO
St. Louis, MO
Islip, NY
Newburgh, NY
Rantoul, IL
Manchester, NH
Colorado Springs, CO
Orlando, FL
New Orleans, LA
Thomson, GA (Thomson-McDuffie)
Boeing Field, WA
Springfield-Robertson County, TN (NDB/localizer)
Southern Pines, NC (Moore County Airport) (glideslope, outer and middle markers)
Charlotte-Douglas Airport, NC
Person County Airport, NC
Detroit Lakes, MN
Franklin County Airport, NC
Hoquiam, WA (Bowerman Field)
Gaylord, MI
Livingston County Airport, MI
Harrison, AR (Boone County Airport)
Redwood Falls, MN
Shawnee Municipal, OK
Charleston Executive, SC
Spartanburg Memorial, SC
Ames Municipal, IA
Easton Municipal, MD
Establish MALSR:
Valdez, AK
St. Louis, MO
Syracuse, NY
Rantoul, IL
Manchester, NH
Colorado Springs, CO
Orlando, FL
Oklahoma City, OK
ILS replacement equipment:
Fort Worth, TX
Houston, TX
Glideslope:
Baltimore, MD
Rock Springs, WY
Pensacola, FL
Sarasota, FL
McComb/Pike County Airport, MS (glideslope installation)
Relocate localizer:
Kinross, MI
Establish LDA with glideslope:
Teterboro, NJ
Establish NDB/DME:
Kake, AK
Klawok, AK
VASI/PAPI:
Gallup Municipal Airport, NM
Remote transmitter/receiver:
Monroe Municipal Airport, NC (installation)
Partial ILS (upgrade to full):
San Juan, PR

The conferees do not agree with Senate direction regarding procurement and installation of a complete category II/III instrument landing system and associated equipment at the Charlotte Douglas Airport in North Carolina. The conference agreement assumes $750,000 for an ILS system at this airport. Any additional required funding will be considered in future budget years.

*Flight inspection aircraft procurement*.—The conferees have only recently been advised by the FAA that no funds were budgeted for non-recurring design, engineering, and integration work for this program, even though a substantial amount of such work is necessary. The conferees agree that any non-recurring design, engineering, and integration work is to be conducted early in the program, before production approval of follow-on aircraft. To meet this schedule, such work should receive high priority for funding out of the $117,100,000 provided.

*Flight simulator training facility*.—The conferees have deleted the $5,500,000 requested for a flight simulator training facility. According to the FAA, this would provide housing for general aviation and wide body air carrier aircraft simulators. Funding has been deferred due to the conferees' concern that such facilities might duplicate and unfairly compete with similar capabilities already provided by the private sector.

*System engineering and integration contracts*.—The conferees agree to provide the budget request of $132,181,000 for this program, and direct that any funds required for the transition engineering support contract be taken from this budget line.

*Airway science program*.—The conferees agree to provide $30,000,000 for this program instead of $23,656,000 as proposed by the House and $28,500,000 as proposed by the Senate. Within the amount provided, the following allocations are to be made:

| | |
|---|---|
| Middle Tennessee State University | $556,000 |
| Dowling College, NY | 4,500,000 |
| Embry-Riddle University, FL/AZ | 11,500,000 |
| University of North Dakota (distance learning project) | 2,000,000 |
| University of North Dakota (upgrade air traffic controller lab) | 225,000 |
| Henderson State University, AR | 2,235,000 |
| Central Washington University, WA | 175,000 |
| Southern University, LA | 1,925,000 |
| University of Alaska | 6,884,000 |
| Total | 30,000,000 |

*Reprogramming*.—The conferees have no objection to the FAA's reprogramming request of September 18, 1992 concerning additional funds for precision runway monitors, emergency repairs related to Hurricane Andrew, and the Mode Select program.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,159,000,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement makes $2,159,000,000 available for three years instead of $2,275,903,000 as proposed by the House and $2,238,500,000 as proposed by the Senate. This represents the funding available under budget activities 1 through 4.

Amendment No. 46: Makes $191,000,000 for personnel and related expenses available for two years as proposed by the Senate instead of $183,957,000 as proposed by the House.

Amendment No. 47: Provides a maximum federal share of 65 percent for qualified projects in support of airway science curricula instead of 50 percent as proposed by the House and 80 percent as proposed by the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the maximum federal share of 65 percent for airway science projects shall be considered as having taken effect on October 1, 1991. The House bill contained no similar provision.

### RESEARCH, ENGINEERING, AND DEVELOPMENT

### (AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 49: Appropriates $230,000,000 instead of $236,856,000 as proposed by the House and $229,500,000 as proposed by the Senate.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Management and analysis: | |
| Defer funding for systems analysis and evaluation project | −$1,769,000 |
| RE&D management, planning and control | −500,000 |
| Capacity and air traffic management technology: | |
| C/TAS descent advisor | +2,000,000 |
| V-22 tiltrotor aircraft | +1,500,000 |
| Operational traffic flow planning | −3,100,000 |
| National simulation capability | −1,000,000 |
| Tower interim display system | −500,000 |
| Communications, navigation and surveillance: | |
| Study of future advanced satellite communications system | −1,000,000 |
| Study of 21st century NAS telecommunications architecture | −580,000 |
| Aeronautical datalink communications and applications | −1,539,000 |
| Satellite navigation program | +8,300,000 |
| Defer Mode S enhancements | −500,000 |
| Airport technology: | |
| Air cargo manufacturing facility study | +1,000,000 |
| Aircraft safety technology: | |
| National Institute of Aviation Research | +1,000,000 |
| Catastrophic failure prevention research | −2,000,000 |
| System security technology: | |
| Phase II evaluation of x-ray backscatter technology | +225,000 |
| Defer addition of FAA facilities to airport security demonstration program | −1,000,000 |
| Systems engineering and tradeoff analysis between bomb detection and aircraft hardening requirements | +450,000 |
| Human Factors and Aviation Medicine: | |
| Airway facilities maintenance human factors | −140,000 |
| Environment and energy: | |
| Aircraft noise research | +250,000 |
| Innovative/cooperative research | −600,000 |
| Accountwide adjustments: | |
| Delete special personal services payments for DOD personnel | −390,000 |
| Accounting adjustment (NIAR) | −107,000 |

*Air traffic control data security study.*—The conferees agree that the study directed by the House on air traffic control data security is to be conducted out of available funds.

*Runway incursion avoidance study.*—Incidents at airports around the country indicate a need to improve the effectiveness of warning systems against runway incursions, to provide incoming aircraft on final approach adequate time to take evasive maneuvers. The conferees are aware that high intensity strobe lights are being used effectively to wave off incoming aircraft in military applications and as a navigational aid for the space shuttle. Such technology might offer improvements to air passenger safety in civil aviation. To determine this potential, the conferees direct the FAA to conduct a feasibility study on the use of wave off lights, in conjunction with voice commands, for addressing runway incursion requirements. The study is to be submitted to the House and Senate Committees on Appropriations by March 1, 1993.

### GRANTS-IN-AID FOR AIRPORTS

### (LIQUIDATION OF CONTRACT AUTHORIZATION)

### (AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 50: Appropriates $2,000,000,000 as proposed by the Senate instead of $1,800,000,000 as proposed by the House.

Amendment No. 51: Limits obligations for grants-in-aid for airport planning and development, and noise compatibility planning and programs to $1,800,000,000 as proposed by the Senate instead of $1,850,000,000 as proposed by the House.

Amendment No. 52: Limits obligations for letters-of-intent issued prior to June 30, 1992, to $198,173,199 as proposed by the Senate instead of $196,313,800 as proposed by the House.

### FEDERAL HIGHWAY ADMINISTRATION

### LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that includes the motor carrier safety program under this limitation. The House proposed funding the motor carrier safety program under a separate head.

Amendment No. 54: Limits general operating expenses to $398,000,000 instead of $351,200,000 as proposed by the House and $403,200,000 as proposed by the Senate.

The conference agreement includes the following amounts:

| | |
|---|---|
| Administrative expenses | $236,200,000 |
| Motor carrier safety | 51,500,000 |
| Contract programs: | |
| Highway research, development, and technology | 43,860,000 |
| Intelligent vehicle/highway systems research | 30,000,000 |
| Technology assessment and deployment | 8,000,000 |
| Long-term pavement performance | 6,000,000 |
| National highway institute | 4,500,000 |
| Rural technology assistance program | 4,000,000 |
| International transportation | 250,000 |
| Multimodal studies | 3,00,000 |
| Minority business | 8,000,000 |
| Highway investment/user cost | 750,000 |
| Rehabilitation of Fairbank building | 1,940,000 |

*Motor carrier safety.*—The conference agreement includes $51,500,000 for motor carrier safety with the following reductions from the budget estimate:

| | |
|---|---|
| Omnibus Transportation Employee Testing Act | −$600,000 |
| Program enhancements | −2,759,000 |
| ADP support and equipment | −50,000 |
| Travel | −200,000 |
| Contract research | −1,717,000 |

*Highway research, development, and technology.*—The conference agreement includes the following:

| | |
|---|---|
| Study of injuries and fatalities among construction workers employed on highway projects | $1,000,000 |
| Research on performance, recyclability, and emissions of asphalt pavements containing recycled rubber | 1,000,000 |
| Research to improve the efficiency and targeting of roadside inspection activity | 900,000 |
| North Carolina Geographic information system | 1,200,000 |
| Strategic alliance for transportation research in New Mexico | 400,000 |
| Feasibility study of regional transportation needs of central West Virginia | 400,000 |
| University of California (San Diego) research on the use of composite materials in bridge construction | 1,600,000 |

The conferees direct the Federal Highway Administration to obligate the following funds according to the instructions contained in the House report:

| | |
|---|---|
| Study of the incidence of sleep apnea among commercial truckdrivers | $750,000 |
| Development and testing of in-vehicle devices for testing commercial truckdrivers fitness for duty | 800,000 |
| Truck cab ergonomics | 750,000 |
| Research to enhance the safe driving performance of older truck drivers | 800,000 |
| Improving the training of heavy truck brake mechanics | 1,000,000 |
| Integrate intelligent vehicle/highway system research with truck regulations | 400,000 |

In order to expedite this research, the conferees expect these funds to be under contract by March 30, 1993.

*Intelligent vehicle/highway systems research.*—The conference agreement includes the following:

| | |
|---|---|
| University of Minnesota's Humphrey Institute | $760,000 |
| Suburban mobility center for Northern Virginia | 1,600,000 |

The conferees recommend $760,000 for direct costs only to create new models for federal, state, and local cooperation in the use of advanced transportation systems to support environmental improvements in the nation's urban areas. This project, "IVHS and the Environment" is to be undertaken at the University of Minnesota's Humphrey Institute.

The conferees direct that within the amount made available for IVHS research, $2,000,000 shall be made available to the National Highway Traffic Safety Administration for conducting IVHS-related safety research.

*Interstate 220 interchange.*—The conferees direct the Federal Highway Administration to work with state and local interests to determine the feasibility of an alternative to the proposed interchange on Interstate 220 at Industrial Drive in Jackson, Mississippi.

Amendment No. 55: Provides that $115,000,000 of general operating expenses shall remain available until expended as proposed by the House instead of $116,543,000 as proposed by the Senate.

### NATIONAL RECREATIONAL TRAILS GRANTS

### (NATIONAL RECREATIONAL TRAILS TRUST FUND)

Amendment No. 56: Deletes appropriation of $3,000,000 for National recreational trails grants proposed by the Senate. Funding for these grants has been provided under amendment No. 174. The House bill contained no similar appropriation.

### RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

Amendment No. 57: Appropriates $3,664,000, of which $2,442,667 shall be derived from the highway trust fund, instead of $4,580,000, of which $3,053,333 shall be derived from the highway trust fund as proposed by the House. The Senate bill contained on similar appropriation.

The conference agreement includes the following amounts:

| | |
|---|---|
| Augusta, Georgia | $1,520,000 |
| Lafayette, Indiana | 1,344,000 |
| Brownsville, Texas | 800,000 |

### FEDERAL-AID HIGHWAYS

### (LIMITATION ON OBLIGATIONS)

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$15,326,750,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $15,236,750,000 instead of $16,690,000,000 as proposed by the House and $18,006,250,000 as proposed by the Senate.

Amendment No. 59: Deletes language proposed by the Senate that would include obligations for 23 U.S.C. 157 under the limitation of obligations.

The conference agreement includes an estimated $2,677,000,000 for federal-aid highway programs exempted from the obligation limitation as proposed by the House. Therefore, the estimated total obligations for federal-aid highways will be $18,003,750,000 for fiscal year 1993.

*Discretionary bridge allocations.*—The conference agreement includes the following allocations of discretionary bridge funds:

| | |
|---|---|
| 22rd St. Viaduct, Colorado | $12,000,000 |
| 34th Street Corridor, Moorhead, Minnesota | 100,000 |
| Bloomington Ferry, Minnesota | 9,500,000 |
| Eastchester, New York | 15,000,000 |
| Fuller Warren, Florida | 1,000,000 |
| New Bern Bridge, Neuse River, North Carolina | 10,000,000 |
| Route 73/30 New Jersey | 15,000,000 |
| Port Vue, Pennsylvania | 5,000,000 |
| Wabasha, St. Paul Minnesota | 400,000 |

*Discretionary interstate maintenance allocations.*—The conferees direct that priority consideration be given to the following discretionary interstate maintenance projects:

Interstate 70/25 interchange, Colorado

Hiawatha Boulevard overpass reimbursement, New York

Waterloo Center, New Jersey

I-78 Union Turnpike, New Jersey

North Santiam River Bridge (I-5), Oregon

I-66 interchange at route 234 Manassas bypass, Virginia

*Federal lands highways program.*—The conferees direct that priority consideration be given to the following:

Steamboat Creek, Boulder Flat West, Oregon

Virginia state route 600, Virginia

Feasibility study of rail service from Tacoma to Mount Rainer, Washington

Snake River, Big Cypress, Florida

Fresno Lake access, Havre, Montana

Upper Ocoee River access, U.S. Highway 64, Tennessee

Steamboat Creek, North Umpque highway, Oregon

SR 160, Pahrump road, Pahrump, Nevada

SR 163, Laughlin, Nevada

*Interstate discretionary.*—The conferees direct that priority consideration be given to an interstate discretionary project on H-3 in Hawaii.

*Ferry boats and terminal facilities.*—The conferees direct that priority consideration be given to the following Ferry boats and terminal facilities

Cedar Island-Ocracoke Island ferry

Hatteras-Ocracoke Island ferry

Whitehall ferry terminal slips 1 and 2

Port of San Francisco, California

Washington state ferry system

*Timber bridge research and demonstration program.*—The conferees direct that priority consideration be given to the following timber bridge research and demonstration projects:

Cascadia Bridge, Oregon

Delaware and Raritan Canal, New Jersey

East Neck Island Bridge, Maryland

*Scenic byways.*—The conferees direct that priority consideration be given to the following scenic byways projects:

SR 29, Phillipsburg, New Jersey

Tri-state highway 101 (Washington, Oregon, California)

*Intelligent Vehicle-Highway Systems corridors:* The conference agreement distributes funds for intelligent vehicle-highway systems as follows:

| | |
|---|---|
| Northeast corridor (MD to CT) | $10,500,000 |
| Gary corridor, IN | 1,400,000 |
| Houston corridor, TX | 3,105,000 |
| Anaheim corridor, CA | 4,200,000 |
| Los Angeles Smart corridor | 4,900,000 |
| Chicago corridor, IL | 500,000 |
| Milwaukee corridor, WI | 500,000 |
| San Diego, CA | 2,100,000 |
| Miami-Fort Lauderdale (Flamingo), FL | 2,240,000 |
| Seattle, WA | 3,500,000 |
| Detroit, MI | 700,000 |
| Guidestar, MN | 8,750,000 |
| Chicago (Advance), IL | 4,550,000 |
| Orlando (Travtek), FL | 500,000 |
| Oakland Co. (Fast-Trac), MI | 10,500.000 |
| Help/Crescent, AZ (lead state) | 525,000 |
| Advantage I-75, KY (lead state) | 1,400,000 |
| I-80 CVO project, IA (lead state) | 700,000 |
| Sutter County, CA | 1,750,000 |
| Fairfax County, VA | 5,250,000 |
| New Jersey | 3,500,000 |
| Signal computerization, NJ | 7,000,000 |
| Toll road ETTM, NJ | 7,000,000 |
| MAGIC, NY/NJ | 6,280,000 |
| TRANSCOM, NY/NJ | 2,400,000 |
| Southern State Parkway, NY | 14,000,000 |
| New York State Thruway | 5,250,000 |

The conferees recommend funding only up to the levels listed above and only for IVHS-eligible projects as defined in Public Law 102-240.

### FEDERAL-AID HIGHWAYS

### (LIQUIDATION OF CONTRACT AUTHORIZATION)

### (HIGHWAY TRUST FUND)

Amendment No. 60: Appropriates $19,000,000,000 as proposed by the Senate instead of $18,800,000,000 as proposed by the House.

### MOTOR CARRIER SAFETY

Amendment No. 61: Deletes appropriation of $51,500,000 for motor carrier safety proposed by the House. The conference agreement includes funding for this program under the Limitation on general operating expenses as proposed by the Senate.

### BALTIMORE-WASHINGTON PARKWAY

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*BALTIMORE-WASHINGTON PARKWAY*

*For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 and section 1069 of Public Law 102-240 for the Baltimore-Washington Parkway, to remain available until expended, $15,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $15,000,000 for the Baltimore-Washington Parkway instead of $10,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

### INTERMODAL URBAN DEMONSTRATION PROJECT

### (HIGHWAY TRUST FUND)

Amendment No. 63: Appropriates $3,200,000 instead of $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

### HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

### (HIGHWAY TRUST FUND)

Amendment No. 64: Appropriates $6,400,000 instead of $8,000,000 as proposed by the

House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 65: Appropriates $6,000,000 instead of $7,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

The conferees direct that $250,000 be made available to study safety and congestion in the Grand River Avenue corridor in Livingston County, Michigan.

HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 66: Appropriates $640,000 instead of $800,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 67: Appropriates $1,344,000 instead of $1,680,000 as proposed by the House. The Senate bill contained no similar appropriation.

CLIMBING LANE AND HIGHWAY SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 68: Appropriates $3,840,000 instead of $4,800,000 as proposed by the House. The Senate bill contained no similar appropriation.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 69: Appropriates $3,200,000 instead of $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 70: Appropriates $6,400,000 instead of $8,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 71: Appropriates $1,600,000 instead of $2,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN HIGHWAY CORRIDOR AND BICYCLE TRANSPORTATION DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 72: Appropriates $3,088,000 for the M-59 urban highway corridor and $304,000 for a bicycle transportation project instead of $3,860,000 and $380,000 as proposed by the House. The Senate bill contained no similar appropriation.

The conferees direct that $480,000 shall be available for improvements to Heydenreich Road between M-59 and 21 Mile Road.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 73: Appropriates $3,840,000 instead of $4,800,000 as proposed by the House. The Senate bill contained no similar appropriation.

PENNSYLVANIA RECONSTRUCTION DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 74: Appropriates $6,400,000 instead of $8,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

PENNSYLVANIA TOLL ROAD DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 75: Appropriates $3,200,000 instead of $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 76: Deletes the word "Demonstration" proposed by the House.

Amendment No. 77: Inserts the head as proposed by the House.

Amendment No. 78: Appropriates $273,756,000 instead of $90,600,000 as proposed by the House and $274,800,000 as proposed by the Senate.

Amendment No. 79: Provides that funds be derived from the Highway Trust Fund as proposed by the House instead of from General Funds as proposed by the Senate.

The conference agreement includes the following allocations for highway projects:

| | |
|---|---|
| Appalachian corridors: | |
| New York: Corridor "T" | $16,000,000 |
| West Virginia: | |
| Corridor "G" or "H" | 80,000,000 |
| Corridor "L" | 24,000,000 |
| Arizona: Sky Harbor Airport access road | 6,000,000 |
| Arkansas: Lock and dam No. 4 road, Pine Bluff | 6,400,000 |
| California: Hwy 156 Bypass (Hollister) | 960,000 |
| Access road to Ontario International Airport | 3,200,000 |
| Florida: NE Dade bikepaths: | |
| City of North Miami | 400,000 |
| City of North Miami Beach | 400,000 |
| Florida U.S. 27 (Palm Beach County) | 1,760,000 |
| Biscayne Boulevard/U.S. 1, connect Port/Miami to I-395 | 2,400,000 |
| 17th Street tunnel project (Fort Lauderdale) | 4,912,000 |
| Georgia: Lake Lanier access project | 2,624,000 |
| Hawaii: Kihei-Haleakala Highway | 4,000,000 |
| Saddle Road, Island of Hawaii | 960,000 |
| Iowa: U.S. 63 from Waterloo to Minnesota State border | 3,520,000 |
| 5th to 6th Street, Waterloo | 2,000,000 |
| Des Moines to Burlington Connector | 8,000,000 |
| Indiana: I-65 & State Rt 46 interchange project (Columbus) | 6,400,000 |
| Muncie State Road 67 (I-69 to Muncie Bypass) | 4,992,000 |
| Kansas: U.S. 54/Kellogg Freeway | 6,160,000 |
| Maryland: Woodrow Wilson Bridge | 5,000,000 |
| Michigan: M-84 Bay Road—Saginaw & Bay Counties | 100,000 |
| Grand Rapids I-96 Bypass | 768,000 |
| Bristol Road relocation project (Flint & Genesee Counties) | 1,440,000 |
| U.S. 31 (City of Niles and City of Benton Harbor) | 320,000 |
| Maple Road extension, Walled Lake | 2,000,000 |
| Missouri: St. Louis multimodal transportation center | 640,000 |
| Montana: I-90 interchange, Belgrade | 2,000,000 |
| North Carolina: U.S. 64 (east of Jordan Lake to US-64/US-1 interchange in Cary) | 4,640,000 |
| Nebraska/South Dakota: Newcastle—Vermillion Bridge | 3,296,000 |
| New Jersey: Route 21 widening—RR/Hwy bridge "NJ Transit Bridge" (Newark) | 1,200,000 |
| I-280 Downtown Connector (including acquisition for First Street ramp) | 1,200,000 |
| I-78 Downtown Connector/Peddie Street Ramp | 1,504,000 |
| Route 21 Viaduct advanced property acquisition | 2,880,000 |
| New Mexico: Airport access from I-25 (Albuquerque) Sunport Boulevard | 4,400,000 |
| Nevada: I-15 Sahara Avenue interchange (Las Vegas) | 11,460,000 |
| U.S. 395 extension from South Virginia to Mt. Rose Hwy | 2,700,000 |
| I-15 Spring Mountain interchange (Las Vegas) | 6,000,000 |
| New York: Design improvements on Miller Highway (New York City) | 1,696,000 |
| Exit 26 bridge (Mohawk River Valley) (Schenectady County) | 1,280,000 |
| Oklahoma: Pond Creek Road, Grant County | 3,360,000 |
| Pennsylvania: Donora Industrial Park Access Road (Donora—Monessen Bridge/I-70) | 640,000 |
| U.S. Route 6 bypass/widening (Wysox, Towanda & Tunkhannock Boroughs) | 1,280,000 |
| U.S. 202 between King of Prussia and Montgomeryville | 1,440,000 |
| I-81 (vicinity of Wilkes-Barre) (Exit 43-46 corridor project) | 2,880,000 |
| SR 56 rehabilitation | 9,600,000 |
| Tennessee: Walnut Street Bridge/Bluff Furnace Park (Chattanooga) | 320,000 |
| Texas: US-Mexico Border Highway (Loop 375) (El Paso) | 1,600,000 |
| Utah: U.S. Route 89 between Farmington and Ogden | 2,400,000 |
| I-15/University Avenue interchange, Provo | 4,240,000 |
| Virgin Islands: Christiansted Bypass (St. Croix) | 544,000 |
| Washington: Snohomish County HOV (Everett & Seattle)/park-n-ride (Lynnwood) projects | 320,000 |
| State Route 509, East-West Corridor project (Port of Tacoma) | 1,520,000 |
| Washington, Oregon, California: Scenic Byways Project: U.S. 101 | 4,000,000 |

The conferees direct that of the $6,160,000 provided for U.S. 54/Kellogg Freeway, $1,040,000 shall be used for the South 14th Avenue project in Dodge City, Kansas, and

$2,900,000 shall be used for the K-132 project in Kansas City, Kansas.

### NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

### OPERATIONS AND RESEARCH

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*OPERATIONS AND RESEARCH*

*For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended) and the National Traffic and Motor Vehicle Safety Act, $82,080,000, to remain available until September 30, 1995: Provided, That the Secretary of Transportation shall not permit transfer of title of the national advanced driving simulator from the Government of the United States: Provided further, That no provision under this head shall be interpreted in a manner which would affect the site selection for the national advanced driving simulator.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $82,080,000 for the general fund portion of operations and research activities of the National Highway Traffic Safety Administration, instead of $76,890,000 as proposed by the House and no appropriation as proposed by the Senate. The agreement also specifies that title to the national advanced driving simulator may not be turned over to a nonfederal entity, and that the selected site for the simulator shall not be affected by that provision.

### OPERATIONS AND RESEARCH

### (HIGHWAY TRUST FUND)

Amendment No. 81: Deletes language proposed by the Senate which would have allowed funding for activities authorized by the Motor Vehicle Information and Cost Savings Act and the National Traffic and Motor Vehicle Safety Act to be derived from the highway trust fund. The House bill contained no similar language.

Amendment No. 82: Appropriates $46,170,000 for the highway trust fund portion of operations and research activities of the National Highway Traffic Safety Administration instead of $43,250,000 as proposed by the House and $127,840,000 as proposed by the Senate.

The conference agreement for operations and research (general fund and highway trust fund combined) includes the following adjustments to the President's budget request:

| | |
|---|---|
| Rulemaking: | |
| Rulemaking positions (+2 FTP) | +$100,000 |
| Delete CAFE-related EIS | −1,400,000 |
| Enforcement: | |
| Compliance testing/investigations | +200,000 |
| Highway safety: | |
| Emergency medical services activities | +700,000 |
| Reduction in drug evaluation and classification (DEC) program | −1,200,000 |
| Reduction in alcohol program | −400,000 |
| Increase for older driver research | +400,000 |
| Jackson Memorial Hospital | +2,000,000 |
| Jackson Trauma Research Institute | +250,000 |
| Highway Safety Information Mgmt System | +500,000 |
| Occupant protection program | −650,000 |
| Police traffic services | −40,000 |
| Model decentralized accident record system, phase I | +1,000,000 |
| NDR position reduction | −100,000 |
| Underage drinking reduction | +150,000 |
| Research and analysis: | |
| IVHS (field operational tests) | −1,000,000 |
| IVHS (human factors in heavy trucks) | +600,000 |
| Driving simulator | −4,450,000 |
| Lightweight automotive components | +500,000 |
| Office of the administrator: | |
| Position reductions | −526,000 |
| Accountwide adjustments: | |
| Personnel-related administration (including training) | −107,000 |
| Field offices | −50,000 |
| Hold travel to fiscal year 1992 level | −100,000 |
| Delete new funding for recruitment/retention bonuses | −180,000 |
| Computer support | −1,100,000 |
| Permanent change of station | −80,000 |

*Commercial vehicle safety enforcement program.*—The conferees do not agree with Senate direction requiring that this be a joint program between NHTSA and the Federal Highway Administration (FHWA) and funded by FHWA. Instead, the conferees agree that FHWA should review the requirement for this program and fund it if determined to be of sufficient merit.

*Definition of driving while intoxicated.*—The House stated in report language that NHTSA should revise its reporting practices to provide a more accurate representation of the problem of driving while intoxicated. The conferees clarify that this expresses the sentiment of the House and is not binding on the agency.

*Underage drinking reduction.*—The conferees agree to provide $150,000 for the project begun in fiscal year 1992 to address the problem of underage drinking. The program is to be continued along the same guidelines as those established for fiscal year 1992.

### HIGHWAY TRAFFIC SAFETY GRANTS

### (LIQUIDATION OF CONTRACT AUTHORIZATION)

### (HIGHWAY TRUST FUND)

Amendment No. 83: Restores House language deleted by the Senate which includes activities authorized by 23 U.S.C. 410 under this appropriation.

Amendment No. 84: Appropriates $150,000,000 for highway traffic safety grants as proposed by the Senate instead of $152,000,000 as proposed by the House.

Amendment No. 85: Limits obligations to $130,650,000 for programs authorized under 23 U.S.C. 402, including alcohol-impaired driving countermeasures grants, instead of $130,300,000 as proposed by the House and $133,000,000 as proposed by the Senate.

Amendment No. 86: Limits obligations to $115,000,000 for state and community highway safety grants instead of $112,000,000 as proposed by the House and $118,000,000 as proposed by the Senate.

Amendment No. 87: Deletes obligation limitation proposed by the House of $2,000,000 for section 410 alcohol-impaired driving countermeasures grants. The Senate bill contained no similar provision.

Amendment No. 88; Limits obligations to $3,650,000 for the national driver register instead of $4,300,000 as proposed by the House and $3,000,000 as proposed by the Senate.

Amendment No. 89: Limits obligations to $11,000,000 for alcohol safety incentive grants instead of $7,700,000 as proposed by the House and $13,500,000 as proposed by the Senate.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That the unexpended balances available for drunk driving prevention programs under 23 U.S.C. 410 shall be available for alcohol-impaired driving countermeasures programs under 23 U.S.C. 410, as amended by Public Law 102–240 and this Act, except for amounts necessary for the State of New Mexico to continue its drunk driving prevention program under 23 U.S.C. 410 as in effect before the date of enactment of Public Law 102–240*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that the unexpended balances of section 410 drunk driving prevention grants shall be available for programs under section 410 as amended by Public Law 102–240 and this Act, except for funds necessary to pay for a second-year grant for the State of New Mexico under the "old" section 410 program.

Amendment No. 91: Deletes language proposed by the Senate which would have provided that amounts available under the section 410 program shall not be subject to any obligation limitation. The House bill contained no similar provision.

### FEDERAL RAILROAD ADMINISTRATION

### OFFICE OF THE ADMINISTRATOR

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$17,152,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $17,152,000 instead of $17,385,000 as proposed by the House and $17,802,000 as proposed by the Senate. The agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Salaries and expenses: | |
| Office of chief counsel | +$347,000 |
| Delete 2 public affairs positions | −114,000 |
| Hold travel to fiscal year 1991 level | −67,000 |
| Reduce supplies, materials, & equipment | −50,000 |
| Contract support: | |
| Delete support to MPOs/states for "intermodal transportation planning" | −150,000 |
| Program and intermodal studies, office of policy | −50,000 |
| Alaska Railroad: | |
| Alaska Railroad cleanup | −1,500,000 |

Amendment No. 93: Provides that $2,345,000 shall remain available until expended instead of $1,895,000 as proposed by the House and $2,995,000 as proposed by the Senate. These amounts correspond to funding for contract support and Alaska Railroad support.

### LOCAL RAIL FREIGHT ASSISTANCE

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000 for the local rail freight assistance program. The House bill contained no appropriation for this program.

### RAILROAD SAFETY

Amendment No. 95: Appropriates $40,648,000 instead of $40,090,000 as proposed by the House and $51,319,000 as proposed by the Senate.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Federal enforcement: | |
| Delete funds for implementation of the Sanitary Food Transportation Act | −$1,219,000 |
| Inspector staffing (+15 FTE) | +943,000 |
| Training | +50,000 |
| Overtime | −100,000 |
| Safety regulation and program administration: | |
| Monitoring of class II/III railroads | +50,000 |
| Sanitary Food Transportation Act | −66,000 |

Amendment No. 96: Provides that $1,335,000 shall remain available until expended as proposed by the House instead of $11,840,000 as proposed by the Senate.

Amendment No. 97: Deletes language proposed by the Senate which would have provided up to $700,000 for railroad-highway grade crossing safety programs, including operation lifesaver. The House bill contained similar language in amendment number 100.

Amendment No. 98: Deletes language proposed by the Senate which would have provided $100,000 for metallurgical and welding studies at the Oregon Graduate Institute. The House bill contained similar language in amendment number 101.

### RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$25,205,000*

The conference agreement appropriates $25,205,000 for railroad research and development instead of $14,800,000 as proposed by the House and $4,450,000 as proposed by the Senate.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Equipment, operations, and HAZMAT: | |
| Operation lifesaver | +$50,000 |
| Track, structures, and train control: | |
| Cooperative research into heavy axle loads, track buckling and acoustic bearing failure detection | +1,000,000 |
| Magnetic levitation/high speed rail | −2,190,000 |
| Research and development facilities: | |
| Upgrade/rehabilitation of the Transportation Test Center | +500,000 |
| Administration: | |
| Minor reduction to growth | −9,000 |
| Human factors research position | +50,000 |

*Magnetic levitation/high speed rail.*—The conferees do not agree with Senate direction providing that funds for magnetic levitation/high speed rail projects be used only for research projects which will assist the promulgation of safety regulations.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum stricken by said amendment, insert: *$650,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that up to $650,000 is available for railroad-highway grade crossing safety programs, including operation lifesaver, instead of $600,000 as proposed by the House. The Senate bill included up to $700,000 but provided the funds under amendment 97.

Amendment No. 101: Restores language proposed by the House which provides $100,000 for railroad metallurgical and welding studies at the Oregon Graduate Institute. The Senate bill contained a similar provision under amendment 98.

### NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $204,100,000 for the northeast corridor improvement program. The House bill contained no similar appropriation.

*New York-Boston project study.*—The conferees agree that the Department of Transportation is to submit an integrated plan for the New York-Boston project, including a cost estimate and analysis of revenue and ridership potential, as proposed by the House.

### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 103: Appropriates $496,000,000 in total funding for grants to the National Railroad Passenger Corporation (Amtrak) as proposed by the Senate instead of $405,000,000 as proposed by the House.

Amendment No. 104: Provides $165,000,000 for capital improvements as proposed by the Senate instead of $74,000,000 as proposed by the House.

Amendment No. 105: Deletes House language which would have required service between Atlantic City, New Jersey and the northeast corridor main line to be discontinued if revenues were not at least 75 percent of the short term avoidable costs in the third year of operation. The Senate bill contained no similar provision.

Amendment No. 106: Deletes House language which would have prohibited funding for acquisition, construction, or rehabilitation of the rail line between Spuyten Duyvil, New York, and the northeast corridor main line unless 40 percent or more of the cost of such improvements was derived from non-Amtrak sources. The Senate bill contained no similar provision.

*Noise mitigation.*—The conferees agree with the House's direction that $500,000 of the funds provided for Amtrak capital is to implement a noise mitigation program at Amtrak's South Hampton Yard in the Andrew Square area of Boston, Massachusetts.

*Metropark parking garage.*—The conferees do not agree with the House's direction that no federal funding be used for construction of the Metropark parking garage in New Jersey.

*Capital overhauls.*—The conferees do not agree with the Senate's direction that capital equipment overhaul funding should be limited to $20,000,000. Instead, the conferees agree that Amtrak should attempt to limit such expenses to $35,000,000, and that if additional funds are needed, Amtrak should submit a reprogramming for review by the House and Senate Committees on Appropriations.

### RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $411,578 to pay obligations and liabilities of the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976. This appropriation finances the subsidy cost, as determined by the Credit Reform Act, resulting from the two year suspension of obligations authorized in amendment number 208. The House bill contained no similar provision.

### CONRAIL COMMUTER TRANSITION ASSISTANCE

Amendment No. 108: Appropriates $7,000,000 as proposed by the House instead of no funds as proposed by the Senate.

### AMTRAK CORRIDOR IMPROVEMENT LOANS

Amendment No. 109: Appropriates $844,200 and limits direct loans to $3,500,000 as proposed by the House. The Senate bill contained no similar appropriation or limitation.

### NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT

### (LIMITATION ON OBLIGATIONS)

### (HIGHWAY TRUST FUND)

Amendment No. 110: Deletes heading proposed by the Senate.

Amendment No. 111: Restores heading proposed by the House.

Amendment No. 112: Provides no obligation authority as proposed by the House and deletes liquidation of contract authorization language proposed by the Senate.

Amendment No. 113: Deletes $45,000,000 obligation limitation and liquidating cash of $45,000,000 proposed by the Senate.

The conference agreement provides no obligation authority for the magnetic levitation (maglev) prototype development program as proposed by the House instead of an obligation limitation of $45,000,000 and liquidating cash of $45,000,000 as proposed by the Senate. Because of the severe funding constraints facing the conferees, no funding is provided for the program in this Act. However, the conferees intend no prejudice to funding the maglev prototype in future years. Also, Senate conferees reiterate their strong support for the program called for in the Intermodal Surface Transportation Efficiency Act (ISTEA). Senate conferees believe it is critically important to pursue the prototype development program expeditiously so the United States does not fall permanently behind in international competition for this extremely promising technology. To continue research and development into maglev technology during fiscal year 1993, the conferees have increased the Federal Railroad Administration's appropriation for maglev and high speed rail research and development to $13,000,000.

### FEDERAL TRANSIT ADMINISTRATION

### ADMINISTRATIVE EXPENSES

Amendment No. 114: Appropriates $13,400,000 as proposed by the House instead of $14,000,000 as proposed by the Senate.

Amendment No. 115: Limits total budget authority to $38,550,000 as proposed by House instead of $39,000,000 as proposed by the Senate. Within the funds provided the conferees have no objection to the hiring of personnel exceeding 460 full-time equivalent work years to improve the Federal Transit Administration's grant oversight activities.

### FORMULA GRANTS

Amendment No. 116: Appropriates $650,975,000 as proposed the Senate instead of $755,125,000 as proposed by the House.

Amendment No. 117: Limits total budget authority to $1,700,000,000 instead of $1,820,000,000 as proposed by the House and $1,682,000,000 as proposed by the Senate.

Amendment No. 118: Limits obligations for operating assistance to $802,278,000 as proposed by the Senate instead of $720,000,000 as proposed by the House.

### TRANSIT PLANNING AND RESEARCH

Amendment No. 119: Appropriates $29,000,000 as proposed by the House instead of $30,000,000 as proposed by the Senate.

Amendment No. 120: Limits total budget authority to $85,000,000 as proposed by the House instead of $90,000,000 as proposed by the Senate.

The conference agreement distributes these funds as follows:

| | |
|---|---|
| Metropolitan planning ...... | $38,250,000 |
| Rural transit assistance program ........................ | 4,250,000 |
| State planning and research program ............... | 7,750,000 |
| Transit cooperative research program .............. | 7,750,000 |
| National Transit Institute | 3,000,000 |
| National planning and research program ............... | 24,000,000 |
| Total ............................ | 85,000,000 |

The conference agreement includes $300,000 for the Minnesota Metropolitan Transit Commission and $3,000,000 for a grant to Florida International University and the University of South Florida as proposed by the House.

The conferees believe that an environmentally protective method for lowering emissions from diesel engines is the use of so-called after-treatment technologies. These devices are installed on the exhaust side of new and existing diesel engines to reduce nitrogen oxides and particulate emissions.

The Secretary of Transportation is instructed to include after-treatment technology as part of a broad mix of technologies in any transit-related research program under his control. This would include the Federal Transit Administration's assistance to local transit authorities under Section 3030 of the Intermodal Surface Transportation Efficiency Act of 1991.

Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides $900,000 to reimburse the City of New York for funds granted for planning activities related to the proposed 42nd Street trolley. The House bill contained no similar provision.

### TRUST FUND SHARE OF TRANSIT PROGRAMS

### (LIQUIDATION OF CONTRACT AUTHORIZATION)

### (HIGHWAY TRUST FUND)

Amendment No. 122: Appropriates $1,134,150,000 instead of $1,150,000,000 as proposed by the House and $1,120,000,000 as proposed by the Senate.

Amendment No. 123: Provides $25,150,000 from the mass transit account of the highway trust fund for administrative expenses as proposed by the House instead of $25,000,000 as proposed by the Senate.

Amendment No. 124: Provides $1,049,025,000 from the mass transit account of the highway trust fund for formula grants instead of $1,064,875,000 as proposed by the House and $1,031,025,000 as proposed by the Senate.

Amendment No. 125: Provides $56,000,000 from the mass transit account of the highway trust fund for transit planning and research as proposed by the House instead of $60,000,000 as proposed by the Senate.

### DISCRETIONARY GRANTS

### (LIMITATION ON OBLIGATIONS)

### (HIGHWAY TRUST FUND)

Amendment No. 126: Inserts heading as proposed by the Senate.

Amendment No. 127: Limits obligations to $1,725,000,000 as proposed by the Senate instead of $1,857,000,000 as proposed by the House. The conference agreement deletes the $132,000,000 appropriation proposed by the House.

Amendment No. 128: Deletes the word "further" as proposed by the Senate.

Amendment No. 129: Provides $666,255,000 for fixed guideway modernization instead of $640,000,000 as proposed by the House and $690,000,000 as proposed by the Senate.

Amendment No. 130: Provides $336,940,000 for buses and bus-related facilities instead of $320,000,000 as proposed by the House and $345,000,000 as proposed by the Senate. The conference agreement distributes these funds as follows:

| | |
|---|---|
| San Francisco (Muni), CA | $15,000,000 |
| Niagara Frontier Transportation Authority, NY ..... | 6,400,000 |
| Rio Rancho, NM ................ | 340,000 |
| Fairfax County, VA ........... | 7,990,000 |
| Columbus, OH ..................... | 4,250,000 |
| Corpus Christi, TX ............ | 4,900,000 |
| Chattanooga, TN ............... | 14,000,000 |
| Denver, CO ......................... | 11,790,000 |
| Salt Lake City, UT ............ | 5,400,000 |
| Dallas, TX ........................... | 22,100,000 |
| Santa Fe, NM ..................... | 340,000 |
| San Juan, PR ..................... | 6,000,000 |
| Eugene, OR ........................ | 3,500,000 |
| El Paso, TX ....................... | 5,900,000 |
| Lane County, OR ............... | 4,720,000 |
| Kansas City, MO ............... | 13,100,000 |
| Maryland ........................... | 22,000,000 |
| Atlantic City, NJ .............. | 17,850,000 |
| New Jersey (security) ........ | 3,400,000 |
| Miami, FL ......................... | 15,300,000 |
| Lafayette, IN ..................... | 1,180,000 |
| North Carolina .................. | 13,600,000 |
| Eagle County, CO .............. | 1,200,000 |
| Brazos Transit System, TX | 10,475,000 |
| Sacramento, CA ................ | 7,000,000 |
| Miami Valley, OH .............. | 12,750,000 |
| Tucson, AZ ........................ | 3,400,000 |
| Indiana ............................. | 8,075,000 |
| Key West, FL ..................... | 1,940,000 |
| Chelan-Douglas, WA .......... | 2,000,000 |
| St. Louis, MO .................... | 850,000 |
| Wisconsin .......................... | 15,300,000 |
| Atlanta, GA ....................... | 4,000,000 |
| Los Angeles, CA ................ | 12,750,000 |
| Memphis, TN ..................... | 7,140,000 |
| Des Moines, IA .................. | 12,750,000 |
| Erie, PA ............................. | 4,250,000 |
| Nassau County, NY ............ | 8,075,000 |
| College Point, Queens, NY | 6,800,000 |
| Fuel cell buses ................... | 5,100,000 |
| Medford, OR ...................... | 2,125,000 |
| Wichita, KS ....................... | 3,400,000 |
| Robinson Town Center, PA | 8,500,000 |
| Total ............................ | 336,940,000 |

The conference agreement includes $7,000,000 for the demonstration of electric trolley bus technologies in Sacramento, CA. These funds are for engineering, design, environmental impact studies, construction and property acquisition, as needed.

The conferees direct that discretionary bus funds made available to Nassau County, NY, shall be applied only to buses using alternative fuels and for facilities necessary for such buses.

Amendment No. 131: Provides $721,805,000 for new fixed guideway systems instead of $897,000,000 as proposed by the House and $690,000,000 as proposed by the Senate. The conference agreement distributes these funds as follows:

| | |
|---|---|
| Los Angeles ....................... | $110,000,000 |
| Atlanta .............................. | 30,000,000 |
| St. Louis ............................ | 42,500,000 |
| San Francisco .................... | 45,000,000 |
| Honolulu ........................... | 76,500,000 |
| Houston ............................. | 34,000,000 |
| Dallas ................................ | 42,500,000 |
| Baltimore .......................... | 25,000,000 |
| Jacksonville ...................... | 10,000,000 |
| Cleveland dual hub ............ | 1,500,000 |
| New Jersey urban core ...... | 65,430,000 |
| Chicago ............................. | 21,250,000 |
| Miami ................................ | 7,605,000 |
| Salt Lake City ................... | 3,000,000 |
| San Diego .......................... | 1,700,000 |
| Pittsburgh ......................... | 17,000,000 |
| Portland, OR ..................... | 68,000,000 |
| New York ........................... | 15,895,000 |
| Boston ............................... | 38,250,000 |
| Philadelphia (cross-county) .................................. | 700,000 |
| Seattle-Tacoma ................. | 15,300,000 |
| Orlando ............................. | 2,000,000 |
| Tri-County, Florida ........... | 4,675,000 |
| Maryland (MARC) ............. | 10,000,000 |
| Boston-Portland, ME ......... | 25,500,000 |
| Hawthorne-Warwick, NJ ... | 4,500,000 |
| Lakewood-Matawan, NJ .... | 3,000,000 |
| Sacramento ....................... | 1,000,000 |
| Total ............................ | 721,805,000 |

Amendment No. 132: Provides not less than $30,000,000 for the Atlanta MARTA North Line Extension Project as proposed by the Senate instead of $35,000,000 as proposed by the House.

Amendment No. 133: Provides not less than $38,250,000 for the South Boston Piers Transitway Project instead of $45,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

Amendment No. 134: Provides not less than $21,250,000 for the Chicago Central Area Connector Project instead of $25,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

Amendment No. 135: Provides not less than $42,500,000 for the Dallas South Oak Cliff LRT Project instead of $50,000,000 as proposed by the House and $21,000,000 as proposed by the Senate.

Amendment No. 136: Provides not less than $76,500,000 for the Honolulu Rapid Transit

Starter Line of Projects instead of $40,000,000 as proposed by the House and $90,000,000 as proposed by the Senate.

Amendment No. 137: Provides not less than $34,000,000 for the Houston Regional Bus Plan Program of Projects instead of $40,000,000 as proposed by the House and $28,000,000 as proposed by the Senate.

Amendment No. 138: Provides not less than $5,343,000 for the Miami Metromover Stage I Completion-Omni/Brickell Project as proposed by the House instead of $5,300,000 as proposed by the Senate. To the extent that funds remain available at the end of the project, the Federal Transit Administration is directed to permit the Metro-Dade Transit Agency to use up to $3,500,000 of these funds for the Metromover Station at the Miami Herald Plaza and up to $25,000,000 of these funds for the Metrorail Palmetto extension project.

Amendment No. 139: Provides not less than $2,171,000 to restore urban initiative funds for Miami instead of $2,966,000 as proposed by the House. The Senate bill contained no similar provision.

Amendment No. 140: Provides not less than $65,430,000 for the New Jersey Urban Core Project instead of $35,000,000 as proposed by the House and $71,700,000 as proposed by the Senate.

Amendment No. 141: Provides not less than $15,895,000 for the New York Queens Connection Project instead of $10,000,000 as proposed by the House and $18,700,000 as proposed by the Senate.

Amendment No. 142: Provides not less than $2,000,000 as proposed by the Senate for the Orlando OSCAR LRT Project instead of $2,900,000 as proposed by the House.

Amendment No. 143: Provides not less than $68,000,000 for the Portland Westside LRT Project instead of $49,000,000 as proposed by the House and $80,000,000 as proposed by the Senate.

Amendment No. 144: Provides not less than $1,700,000 for the San Diego Mid-Coast Extension Project instead of $2,000,000 as proposed by the House and $1,000,000 as proposed by the Senate.

Amendment No. 145: Provides not less than $15,300,000 for the Seattle-Tacoma Commuter Rail Project instead of $18,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Amendment No. 146: Provides not less than $42,500,000 for the St. Louis METRO Link Projects instead of $51,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

If Federal funding is insufficient to allow the Missouri-Illinois metro link project to complete construction and open in July as agreed to in the full funding grant agreement between FTA and the BiState Development Agency, the conferees direct the FTA to allow BiState to borrow funds necessary to open on time as agreed to in the FFGA. These borrowed funds shall be reimbursed, including carrying charges, under the terms of the FFGA as extraordinary costs.

Amendment No. 147: Deletes the word "and" as proposed by the Senate.

Amendment No. 148: Provides not less than $4,675,000 for the Florida Tri-County Commuter Rail Project instead of $5,500,000 as proposed by the House. The Senate bill contained no similar provision.

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$4,500,000.*

The managers on the part of the Senator will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides not less than $4,500,000 for the Hawthorne-Warwick Commuter Rail Project instead of $11,100,000 as proposed by the Senate. The House bill contained no similar provisions.

Amendment No. 150: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides not less than $3,000,000 for the Lakewood, Freehold, and Matawan or Jamesburg Commuter Rail Project. The House bill contained no similar provision.

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$25,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides not less than $25,500,000 for the Boston, Massachusetts to Portland, Maine Commuter Rail Project instead of $30,000,000 as proposed by the Senate. The House bill contained no similar provision.

### INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 152: Appropriates $75,000,000 as proposed by the House instead of $82,000,000 as proposed by the Senate.

### WASHINGTON METRO

Amendment No. 153: Appropriates $170,000,000 instead of $165,000,000 as proposed by the House and $182,000,000 as proposed by the Senate.

### SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

### OPERATIONS AND MAINTENANCE

### (HARBOR MAINTENANCE TRUST FUND)

Amendment No. 154: Appropriates $10,825,000 instead of $11,100,000 as proposed by the House and $10,550,000 as proposed by the Senate.

### RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Amendment No. 155: Deletes the appropriation of $21,335,000 proposed by the House. The Senate bill and the conference agreement address funding for these programs under amendments 156 through 160.

### HAZARDOUS MATERIALS SAFETY

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$12,650,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $12,650,000 for hazardous materials safety activities, of which $1,350,000 is available until expended, and provides that certain receipts may be credited to the appropriation.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| SFTA benefit-cost study ... | −$150,000 |
| Research and development | −66,000 |
| HMIX display .................. | −20,000 |
| HAZMAT training workshops .............................. | −60,000 |
| HAZMAT inspectors (+6 FTP, +3 FTE) .................. | +190,000 |
| Establish fourth regional office .............................. | +190,000 |
| Reduction to growth in travel .............................. | −40,000 |
| Registration program ........ | −50,000 |
| HAZMAT specialist internship program .................. | −60,000 |

*Additional positions.*—The conferees agree that the 6 new full-time positions in this office are to be comprised of 4 hazardous materials inspectors and 2 attorneys.

### AVIATION INFORMATION MANAGEMENT

Amendment No. 157: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the words "on a monthly basis"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement, as proposed by the Senate, appropriates $2,618,000 for aviation information management activities and allows electronic tariff filing user fees and other fees to be credited to the appropriation. It also requires the Department of Transportation to prepare and publish the United States International Air Travel Statistics data base, which was discontinued in March 1991, and allows the Department to charge reasonable fees for obtaining, preparing, and publishing such information, as proposed by the Senate, but deletes the requirement that such information be published on a monthly basis. The House bill included funding under amendment 155, with no provisions regarding the International Air Travel Statistics data base. The conference agreement includes reductions as proposed by the Senate.

### EMERGENCY TRANSPORTATION

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$880,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $880,000 for the office of emergency transportation, of which $73,000 is available until expended, and provides that certain receipts may be credited to the appropriation.

The conference agreement accepts the House reduction of $75,000 for improvements to the emergency transportation information system.

The conferees have no objection to the proposed reprogramming of September 25, 1992, which would provide additional funding of $20,000 for the office of emergency transportation to address requirements resulting from Hurricane Andrew and Hurricane Iniki.

### RESEARCH AND TECHNOLOGY

Amendment No. 159: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,470,000 for research and technology, of which $350,000 is available until expended, and provides that certain receipts may be credited to the appropriation. The conference agreement includes reductions as proposed by the Senate.

### PROGRAM AND ADMINISTRATIVE SUPPORT

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$5,886,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $5,886,000 for program and administrative support activities of RSPA, of which $175,000 is to be derived from the pipeline safety fund, and provides that certain receipts may be credited to the appropriation. The agreement also provides that no employees other than those compensated under this appropriation shall serve in certain offices of RSPA.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Travel | −$86,000 |
| Printing | −78,000 |
| Supplies, materials and equipment | −149,000 |
| Communications (ERG) | −950,000 |
| Personnel compensation and benefits | −100,000 |
| No growth in merit pay | −12,000 |
| Publications subscriptions | −2,000 |

### PIPELINE SAFETY

### (PIPELINE SAFETY FUND)

Amendment No. 161: Appropriates $15,050,000 instead of $14,100,000 as proposed by the House and $15,577,000 as proposed by the Senate.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Personnel compensation and benefits (+6 FTP, +3 FTE) | +$210,000 |
| Operating expenses: | |
| Travel, printing, training, supplies and materials, and equipment | −78,000 |
| Expenses for new FTE | +52,000 |
| Program activities: | |
| Reduction to growth in information and analysis | −100,000 |
| Reduction to growth in emergency notification | −50,000 |
| Rulemaking support | +43,000 |
| Survey of drug and alcohol testing | −350,000 |
| Electronic map storage system | −105,000 |
| Research and development: | |
| Defer funding for Trans-Alaska Gas System monitoring | −150,000 |

### EMERGENCY PREPAREDNESS GRANTS

### (EMERGENCY PREPAREDNESS FUND)

Amendment No. 162: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the second sum named in said amendment, insert: *$10,300,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides an appropriation of $700,000 for development of a training curriculum pursuant to section 117A(i)(3)(B) of the Hazardous Materials Transportation Act, as amended, and a limitation on permanent appropriations of $10,300,000, which provides funding for emergency preparedness grants from the emergency preparedness fund.

Amendment No. 163: Deletes language proposed by the House which appropriates $850,000 for development of a training curriculum for the emergency preparedness grants program. The Senate bill contained $700,000 for this purpose under amendment 162.

### ALASKA PIPELINE TASK FORCE

### (OIL SPILL LIABILITY TRUST FUND)

Amendment No. 164: Appropriates $550,000 instead of $360,000 as proposed by the House and $750,000 as proposed by the Senate.

### OFFICE OF THE INSPECTOR GENERAL

### SALARIES AND EXPENSES

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted, insert: *$38,000,000: Provided, That not more than $1,000,000 of the funds made available under this head shall be available for implementation of Public Law 101-576*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following adjustments to the President's budget request:

| | |
|---|---|
| Office of the Inspector General: | |
| Reduction of one position | −$85,000 |
| Auditing: | |
| Implementation of Public Law 101-576 | −4,129,000 |
| Increase for "contract incurred" audits | +240,000 |
| Inspections and evaluations: | |
| Reduction to growth | −226,000 |

*Implementation of Public Law 101-576.*—The conferees agree to provide $1,000,000 for implementation of the Chief Financial Officers Act (Public Law 101-576) instead of no funds as proposed by the House and $3,240,000 as proposed by the Senate. None of the funds provided are to be used for the hire of outside contract personnel. The conferees believe that department personnel should be utilized for this work. Bill language has been included limiting these expenses to the amount provided in order to prevent the diversion of funds provided herein from the Inspector General's other important activities.

## TITLE II—RELATED AGENCIES

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### SALARIES AND EXPENSES

Amendment No. 166: Appropriates $3,300,000 instead of $3,200,000 as proposed by the House and $3,400,000 as proposed by the Senate.

### INTERSTATE COMMERCE COMMISSION

### SALARIES AND EXPENSES

*Staffing allocation.*—The conferees agree to transfer 3 staff years from the office of the secretary to the office of the managing director as proposed by the Senate. However, the 3 transferred staff years are to be utilized only to address the findings and recommendations of an ICC Inspector General audit of the tariff fee billing and collection process dated March 29, 1991.

*Class I railroad criteria.*—The conferees do not agree with House direction regarding the collection of data from class I railroads.

*Moratorium on exemptions of agricultural commodities.*—The conferees believe that the ICC's proposals to exempt certain agricultural commodities from ICC regulation is likely to cause major difficulties for agricultural producers and shippers. The conferees are concerned that, if implemented, as a matter of law there will be no suriving common law cause of action for a shipper operating under exempted conditions. All rate protections that rail shippers now have would disappear, and the availability of rail cars could be endangered. The conferees urge the Commission not to implement rules providing for further exemptions affecting agriculture in fiscal year 1993.

*Intercity bus industry competition.*—The conferees are aware of the current economic disputes among intercity bus carriers and are concerned about possible anti-competitive impacts on the mobility of the traveling public. In an effort to achieve the intermodal goals of the Intermodal Surface Transportation Efficiency Act of 1991, promote competition in the bus industry, and maintain service to remote communities, the conferees strongly urge the Commission and all intercity bus companies to work together to assure continued access to affordable bus service.

### PANAMA CANAL COMMISSION

### PANAMA CANAL REVOLVING FUND

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *: Provided further, That notwithstanding any other provision of law, the Secretary of State shall communicate to the Government of Panama, within three months of the enactment of this section, the dissatisfaction of the Government of the United States concerning inadequate compliance by Panama with the enforcement provisions of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), and the Secretary of State and the Secretary of Transportation, in consultation with the Commandant of the Coast Guard, shall further provide no later than March 15, 1993, a written report to the Congress describing and assessing (1) the actions taken by the Government of Panama since August 1, 1992, to investigate and, where appropriate, penalize Panamanian flag ships which have been reported by other nations to have violated the provisions of Annex V of MARPOL 73/78, (2) any efforts taken by the Government of Panama to ensure improved compliance with the provisions of Annex V of MARPOL 73/78 on the part of Panamanian flag ships, and (3) the actions by the Government of the United States in the implementation of its new enforcement policy for Annex V of MARPOL 73/78, including penalty actions taken against foreign flag vessels by the Coast Guard for violations by those vessels occurring within the exclusive economic zone of the United States*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes the *Senate language that limited the availability of funds for annuity payments to the Government of Panama until the Secretary of State and the Secretary of Transportation, in consultation with the Commandant of the U.S. Coast Guard, certified that Panama had improved its compliance with Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). The conference agreement provides substitute language that instead requires the Secretary of State to communicate to Panama the U.S. Government's dissatisfaction with their enforcement of MARPOL Annex V. The bill language further requires a report* *from the Secretaries of State and Transportation, in consultation with the Commandant of the U.S. Coast Guard, that requires a description and assessment of any enforcement actions taken by Panama for violation reports forwarded to them by other nations and of any efforts taken by Panama to improve compliance on the part of Panamanian flag vessels with MARPOL Annex V. The report shall also include a description of the actions taken by U.S. Government to implement the revised MARPOL Annex V enforcement policy announced by the Coast Guard at a September 17, 1992, hearing before the Senate Committee on Environment and Public Works subcommittee on Superfund, Ocean and Water Protection. These requirements were imposed by the conferees in order to ensure that necessary improvements are made on the part of Panama and the United States in prohibiting the illegal dumping of plastics and other garbage from vessels at sea.*

### DEPARTMENT OF THE TREASURY

### REBATE OF SAINT LAWRENCE SEAWAY TOLLS

### (HARBOR MAINTENANCE TRUST FUND)

Amendment No. 168: Appropriates $10,250,000 as proposed by the Senate instead of $10,400,000 as proposed by the House.

## TITLE III—GENERAL PROVISIONS

Amendment No. 169: Restores House language that requires expenditures by the Panama Canal Commission to conform to the Panama Canal Treaties and related implementing legislation. The Senate bill contacted no similar provision.

Amendment No. 170: Inserts House language relating to the distribution of the obligation limitation for federal-aid highways. The House language provides for a continuation of current law regarding the distribution of the limitation. The Senate proposed to distribute the total federal-aid highways obligation limitation as follows: $900 million for the minimum allocation program, $600 million for certain demonstration projects and the balance for all other federal-aid purposes.

Amendment No. 171: Deletes the word "and" as proposed by the Senate.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *not more than $2,400,000 for section 6015 of Public Law 102–240, and not more than $750,000 for section 5002 of Public Law 102–240*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language setting aside from the limitation on federal-aid highways $2,400,000 for a border crossings study (sec. 6015) as proposed by the Senate. The conference agreement also includes language setting aside from the limitation on federal-aid highways $750,000 for the office of intermodalism (sec. 5002) instead of "amounts necessary" as proposed by the Senate. The House bill contained no similar provisions.

*Border transportation study.*—The conference agreement provides not more than $2,400,000 for the initiation of a study of existing and emerging transportation systems that will facilitate trade between the United States, Canada, and Mexico, as authorized by section 6015 of the Intermodal Surface Transportation Efficiency Act (Public Law 102–240).

The conferees reiterate the House directive to the Federal Highway Administration to develop and coordinate a 5-year Southwest Border Surface Transportation Program. The conferees further urge that the Federal Highway Administration give high priority to a number of specific southwest border surface transportation projects identified by the Congressional Border Caucus and House Report. Therefore, the conferees direct the Department of Transportation and the Federal Highway Administration to implement the 5-year Southwest Border Surface Transportation Program as envisioned in the House Report in carrying out the study authorized by section 6015 of Public Law 102–240. The conferees expect the Department and the Federal Highway Administration to give high priority to those projects identified in the House Report in carrying out this study. The conferees further expect the Department and the Federal Highway Administration to involve experts from the public and private sectors in southwestern border communities in developing the southwest border portion of the section 6015 study.

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides $200,000 for the Commission to Promote Investment in America's Infrastructure authorized by section 1081 of Public Law 102–240. The House bill contained no similar provision.

The conferees expect that some of the funds will be used to pay for costs incurred in fiscal year 1992 for preliminary operations of the Commission.

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *and notwithstanding any other provision of law, not distribute $7,500,000 of the obligation limitation established by this Act for Federal-aid highways and highway safety construction: Provided, That such undistributed obligation limitation shall be available for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991: Provided further, That amounts for section 1081 of Public Law 102–240, section 5002 of Public Law 102–240, section 6015 of Public Law 102–240, and section 1302(d) of the Symms National Recreational Trails Act of 1991 shall be deemed necessary for administration under section 104(a) of title 23, United States Code*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language setting aside from the obligation limitation on federal-aid highways $7,500,000 for administrative costs and allocation to states under section 1302(d) of the Symms National Recreational Trails Act of 1991 instead of language setting aside $15,000,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 175: Restores House language exempting the minimum allocation program from the federal-aid highways limitation on obligations. The Senate bill contained no similar provision.

Amendment No. 176: Restores House language exempting highway demonstration projects funded by sections 1103 through 1108 of Public Law 102–240 from the federal-aid highways limitation on obligations. The Senate bill contained no similar provision.

Amendment No. 177: Restores House reference to section 1013(c) of Public Law 102–240, regarding donor state bonus amounts. The Senate bill contained no similar reference.

Amendment No. 178: Limits the number of political and Presidential appointees in the Department of Transportation to 110 instead of 120 as proposed by the House and 100 as proposed by the Senate.

Amendment No. 179: Limits funds for Department of Transportation advisory committees to $800,000 as proposed by the Senate instead of $400,000 as proposed by the House.

Amendment No. 180: Limits transfers among appropriations for the offices under the Office of the Secretary of Transportation to 12 percent as proposed by the Senate instead of 8 percent as proposed by the House.

Amendment No. 181: Deletes House language that amends section 131(n) of title 23, U.S.C., relating to the control of outdoor advertising as proposed by the Senate.

Amendment No. 182: Restores House language that prohibits funds for planning or executing any rules or regulations imposing passenger facility charges on frequent flyer award certificates or other airline bonus programs and conforms section number. The Senate bill contained no similar provision.

Amendment No. 183: Restores House language that prohibits funds for planning and executing a passenger manifest program that only applies to U.S. flag carriers and conforms section number. The Senate bill contained no similar provision.

Amendment No. 184: Deletes House language that prohibits funds for a criminal history records check program under the Federal Aviation Act as proposed by the Senate.

The conferees have agreed to delete the language proposed by the House which would have prohibited the Federal Aviation Administration from implementing a rule to require criminal background checks of airline and airport employees. The conferees' action is based on the Federal Aviation Administration's Supplemental Notice of Proposed Rulemaking published in the September 16, 1992, Federal Register in which the Federal Aviation Administration revised an earlier proposed rulemaking. The conferees recognize that the Federal Aviation Administration has used its discretionary authority to address the many concerns raised by industry groups about the operational, financial and constitutional issues associated with its earlier proposal, and have concurred that the Federal Aviation Administration should not be prohibited from moving forward with this approach. The conferees, however, caution the Federal Aviation Administration that the decision to delete the provision in question is based on the assumption that the final rule will closely reflect the Supplemental Notice of Proposed Rulemaking. A final rule which imposes requirements beyond those proposed in the Supplemental Notice of Proposed Rulemaking would be objectionable to the conferees.

Amendment No. 185: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*SEC. 330. None of the funds in this Act shall be available for the planning or implementation of any change in the current Federal status of the Federal Aviation Administration's flight service stations at Red Bluff Airport in Red Bluff, California, Tri-City Airport in Bristol, Tennessee, and Bert Mooney Airport in Butte, Montana.*

*SEC. 331. Notwithstanding any other provision of law, the Federal Aviation Administration has* *the authority to enter into grants with the City of Kissimmee, Florida; the Douglas County Port Authority and the Chelan County Port Authority, Washington; and the Jackson-Madison County Airport Authority, Tennessee, to assist in the construction of non-Federal air traffic control towers: Provided, That funds for such towers shall be derived from the unobligated balances of the "Facilities and Equipment" account of the Federal Aviation Administration.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference report includes language that prohibits funds for any change in the Federal status of three flight service stations as proposed by the House. The Senate bill contained no similar provision.

The conference agreement also includes language that permits the Federal Aviation Administration to make grants to assist in the construction of certain non-Federal air traffic control towers as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 186: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*SEC. 332. Section 1064(e) of Public Law 102-240 is amended by adding: "For further purposes of this section, the access road from Interstate Business Route 75 to the Sugar Island Ferry Service in Chippewa County, Michigan, and the access road from United States Route 31 to the Beaver Island Ferry Service in Charlevoix County, Michigan, shall be treated as principal arterials.".*

*SEC. 333. Notwithstanding any other provision of law, funds provided in this or subsequent Acts for necessary expenses to carry out the provisions of section 1069 of Public Law 102-240 are to remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that amends section 1064(e) of Public Law 102-240 by designating two access roads as principal arterials as proposed by the House. The Senate bill contained no similar provision.

The conference agreement also includes language that authorizes extended availability for funds authorized under section 1069 of Public Law 102-240 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 187: Restore House language that allocates $3,000,000 of available funds to establish a transportation resource center at Barry University. The Senate bill contained no similar allocation.

Amendment No. 188: Restores House provision that defines the scope of a highway project in the State of Indiana. The Senate bill contained no similar provision.

Amendment No. 189: Conforms section number.

Amendment No. 190: Deletes section number.

Amendment No. 191: Deletes House and Senate language regarding duty time of flight attendants.

Amendment No. 192: Deletes the House provision that would increase the limit on domestic discretionary outlays by $400,000,000 and decrease the limit on international outlays by $400,000,000. The Senate bill contained no similar provision.

Amendment No. 193: Deletes the House provision that would require savings under discretionary spending limits to be applied to reducing the federal deficit. The Senate bill contained no similar provision.

Amendment No. 194: Reported in technical disagreement. The mangers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 337. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard Acquisition, Construction, and Improvements shall be available after the fifteenth day of any quarter of any fiscal year beginning after December 31, 1992, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Appropriations Committees on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: Provided, That such reports shall include an acquisition schedule, estimated current and future year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: Provided further, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: Provided further, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: Provided further, That all information submitted in such reports shall be current as of the last day of the pending quarter.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes, with technical changes, language proposed by the Senate that prohibits Coast Guard acquisition, construction, and improvements funds from being available unless the Commandant submits quarterly reports on certain acquisitions to the House and Senate Appropriations Committees. The House bill contained no similar provision.

Amendment No. 195: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment as follows:

In lieu of the section number "333", insert: *338*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that would allow certain improvements on Interstate 287 in New Jersey to be considered for purposes of calculating the interstate cost estimate. The House bill contained no similar provision.

Amendment No. 196: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with amendments as follows:

In lieu of the section number "334", insert: *339* and

In lieu of the sum "$12,000,000", insert: *$9,600,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement changes the section number and appropriates $9,600,000 for the Secretary to enter into an agreement to make a loan or loans to construct public toll roads in Orange County, California, instead of appropriating $12,000,000 for a loan or loans as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 197: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "335", insert: *340*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that sets a certain date for the repayment of a revolving fund loan between Fairfax County, Virginia, and the State of Virginia as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 198: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with amendments as follow:

In lieu of the section number "336", insert: *341* and

In lieu of the words "National Highway" in both instances, insert: *Dwight D. Eisenhower*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that exempts for a 2-year period public transit vehicles from certain highway axle weight limitations and requires a study on maximum axle weight limitations as they relate to public transit vehicles. The House bill contained no similar provision.

Amendment No. 199: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "337", insert: *342*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that prohibits the Federal Transit Administration from withholding capital and operating assistance from the city of Phoenix, Arizona, based on the inclusion of a "preference-in-hiring" provision in employee protective agreements as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 200: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "338", insert: *343*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that exempts section 18 transit funds from federal match requirements in fiscal year 1992 and 1993 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 201: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "339", insert: *344*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that allows the city of Indianapolis, Indiana, to transfer previously provided funds among various local transit projects as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 202: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "340", insert: *345*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes Senate language that allows the city of Portland, Oregon, to spend transit capital funds for the development and acquisition of low floor light rail vehicles. The House bill contained no similar provision.

Amendment No. 203: Deletes Senate language that defines the Lake Tahoe Basin as an urbanized area for the purposes of section 9(s) of the Federal Transit Act and section 133(d)(3)(C) of title 23, United States Code. The House bill contained no similar provision.

Amendment No. 204: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "342", insert: *346*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes a provision that allows highway trust fund right-of-way revolving loan funds to be used to purchase transit rights-of-way as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 205: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 347. Notwithstanding any other provision of law, any unspent balance of funds previously earmarked for the Long Island Expressway Fourth Lane project shall be applied instead to the Robert Moses Causeway rehabilitation project and to the Loop Parkway Bridge rehabilitation project.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate provision that requires New York State to use unexpended Long Island Expressway balances on two other New York State highway projects (the Robert Moses Causeway rehabilitation project and the Loop Parkway Bridge rehabilitation project). The House bill contained no similar provision.

Amendment No. 206: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 348. (a) DENIAL AND REVOCATION.—Chapter 121 of title 46, United States Code, is amended by adding at the end the following new section:*

***"§12123. Denial and revocation of endorsements***

*"The Secretary of Transportation is authorized to deny the issuance or renewal of a trade or recreational endorsement on a certificate of documentation issued under this chapter and to revoke such endorsement if that vessel's owner has not paid on assessment of a civil penalty after final agency action for a violation of law for which an assessment has been made by the Secretary.".*

*(b) LIMITATIONS ON VESSEL OPERATIONS.—Section 12110(c) of title 46, United States Code, is amended by striking all of the first sentence through the first comma and inserting in lieu thereof the following: "When a vessel is operated after the Secretary has denied issuance or renewal of an endorsement or revoked the endorsement under section 12123 of this title and before the endorsement is reinstituted, or is employed in a trade for which an endorsement is required, without a certificate of documentation with an appropriate endorsement for that trade,".*

*(c) TECHNICAL AMENDMENTS.—(1) Section 12103(a) of title 46, United States Code, is amended by striking "On" and inserting in lieu thereof "Except as provided in section 12123 of this title, on".*

*(2) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following new item:*

*"12123. Denial and revocation of endorsements.".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that authorizes the Coast Guard to deny the issuance or renewal of an endorsement on a certificate of documentation or to revoke such endorsement for a U.S. vessel whose owner has not paid a civil penalty assessed by the Coast Guard. The House bill contained no similar provision.

Amendment No. 207: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "345", insert: *349*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that amends the Federal Water Pollution Control Act to restore the Coast Guard's authority to withhold customs clearances or to take other similar actions against a vessel whose owner, operator, or person-in-charge is liable for a civil penalty or may be subject to a civil penalty. The House bill contained no similar provision.

Amendment No. 208: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "346", insert: *350*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that provides a temporary waiver for the Columbus and Greenville Railway from repayment of section 505 and section 511 loans as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 209: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "347", insert: *351*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate provision that redefines a high priority corridor defined in paragraph 18 of section 1105(c) of Public Law 102-240. The House bill contained no similar provision.

Amendment No. 210: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 352. Notwithstanding any other provision of law, none of the funds in this Act or previous Acts shall be used for the widening of U.S. Highway 93 between Somers and Whitefish, Montana, until the Federal Highway Administration has completed a feasibility study of design alternatives: Provided, That such study shall be completed by September 30, 1993, and shall be conducted in consultation with the Montana Department of Transportation and local authorities in Flathead County, Montana: Provided further, That such study shall address the cost, safety, aesthetics, and land use planning impacts of each design alternative: Provided further, That the federal share of funding for such study shall be 100 percent of the cost of such study.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate provision that prohibits expenditure of highway funds to widen U.S. Highway 93 between Somers and Whitefish, Montana, until the Federal Highway Administration has completed a feasibility study of design alternatives. The conference agreement modifies the Senate provision by establishing the federal share. The House bill contained no similar provision.

Amendment No. 211: Deletes the Senate language that would preserve the four existing essential air service slots between Chicago O'Hare Airport and Oshkosh Wittman Airport in Oshkosh, Wisconsin, for service between those two airports. The House bill contained no similar provision.

The conferees are aware of the air service situation at Oshkosh Wittman Airport in Oshkosh, Wisconsin, and understand that the current air carrier and the community are working together to find a replacement carrier. The conferees encourage the parties to work cooperatively and in good faith toward an early resolution of this matter.

Amendment No. 212: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 353. Section 345 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by adding at the end thereof the following:*

*"(d)(1) In addition to its functions under subsection (b), the Metropolitan New York Aircraft Noise Mitigation Committee shall review aircraft noise complaints within the airspace over the States of New York and Connecticut lying within a 110-nautical-mile radius of La Guardia Airport, and advise the Administrator with regard to aircraft noise mitigation within such radius, and the locations and boundaries of noise impact areas defined by such complaints. The Committee shall obtain the participation of citizens, community associations, and other public organizations concerned with aircraft noise in*

*carrying out the functions of the Committee under this section.*

*"(2) The Administrator, from time to time, shall consult with the Committee regarding aircraft noise mitigation and such aircraft noise complaints. The Committee shall make recommendations to the Administrator regarding such aircraft noise mitigation and complaints.*

*"(3) Any vacancy in a position on the Committee shall be filled in the same manner as the original appointment to that position.*

*"(4) The Chairman of the Committee may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.*

*"(5) Costs and other expenses not to exceed $100,000 incurred by the Committee in carrying out its functions under this section shall be paid from appropriations to the Department of Transportation for administrative expenses.*

*"(6) The Metropolitan New York Aircraft Noise Mitigation Committee shall be permanent.".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate provision that amends section 345 of the Department of Transportation and Related Agencies Appropriations Act, 1992, regarding the Metropolitan New York Aircraft Noise Mitigation Committee by adding new sections which make the committee permanent and specify certain responsibilities and procedures. The conference agreement modifies the Senate provision by limiting the Department's costs to $100,000. The House bill contained no similar provision. The Metropolitan New York Aircraft Noise Mitigation Committee is not to be considered an advisory committee for purposes of allocating the advisory committee limitation.

Amendment No. 213: Deletes Senate language that would have imposed a moratorium on further deregulatory actions by the Interstate Commerce Commission regarding the rail transportation of agricultural commodities, including timber and forest products.

Amendment No. 214: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "352", insert: *354*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes a provision that conforms oil spill preparedness requirements for barges in Prince William Sound, Alaska, to the requirements for barges elsewhere in the United States as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 215: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 355. The Motor Vehicle Information and Cost Savings Act is amended by adding at the end of title II thereof to the following:*

### "SEC. 210. LABELING REQUIREMENTS FOR AUTOMOBILES

*"(a) SHORT TITLE. This section may be cited as the "American Automobile Labeling Act".*

*"'(b) LABEL REQUIREMENT.—(1) Each manufacturer of a new passenger motor vehicle distributed in commerce for sale in the United States shall annually establish for each model year and cause to be affixed, and each dealer shall cause to be maintained, on each such vehicle manufactured on or after October 1, 1994, in a prominent place, one or more labels—*

*"(A) indicating the percentage (by value) of passenger motor vehicle equipment installed on such vehicle within a carline which originated in the United States and Canada to be identified with the words "U.S./Canadian content";*

*"(B) indicting the final assembly point by city, State (where appropriate), and country of such automobile;*

*"(C) in the case of any country (other than the United States and Canada) in which 15 percent or more (by value) of equipment installed on passenger motor vehicles within a carline originated, indicating the names of at least the 2 countries in which the greatest amount (by value) of such equipment originated and the percentage (by value) of the equipment originating in each such country for;*

*"(D) indicating the country of origin of the engine for each passenger motor vehicle; and*

*"(E) indicating the country of origin of the transmission for each passenger motor vehicle;*

*"(2) The percentages required to be indicated by this section may be rounded to the nearest 5 percent by the manufacturers. Such percentage shall be established at the beginning of each model year for such carline and shall be applicable to that carline for the entire model year.*

*"(3) The disclosure requirement of subparagraph (1)(B) of this section supersedes the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)). A manufacturer who indicates the final assembly point as required by this section shall be deemed to have satisfied the disclosure requirement imposed by section 3(b) of the Automobile Information Disclosure Act.*

*"'(c) FORM AND CONTENT OF LABEL.—The form and content of the label required under subsection (b), and the manner and location in which such label shall be affixed, shall be prescribed by the Secretary by rule. The Secretary shall permit a manufacturer to comply with this section by allowing such manufacturer to disclose the information required under this section on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), or the label required by section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006), or on a readily visible separate label.*

*"'(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Commerce and the Secretary of the Treasury, shall promulgate such regulations as may be necessary to carry out this section, including regulations to establish a procedure to verify the labeling information required by this section. Such regulations shall provide to the ultimate purchaser of a new passenger motor vehicle the best and most understandable information possible about the foreign and U.S./Canada origin of the equipment of such vehicles without imposing costly and unnecessary burdens on the manufacturers. The regulations shall be promulgated promptly after the enactment of this section in order to provide adequate lead time for all manufacturers to comply with this section. The regulations shall include provisions applicable to outside and allied suppliers to require such suppliers is United States, U.S./Canadian or foreign and to provide such other information as may be necessary, as determined by the Secretary, to enable the manufacturer to reasonably comply with the provisions of this section and to rely on such certification and information. The regulations applicable to all suppliers shall be enforceable as a regulation of the Secretary under the appropriate provisions of this Act.*

*"'(e) VIOLATIONS AND PENALTIES.—Any manufacturer of automobiles distributed in commerce for sale in the United States who willfully fails to affix to any new automobile so manufactured or imported by him for sale in the United States the label required by this section, or any dealer who fails to maintain such label as required by this section, shall be fined not more than $1,000. Such failure with respect to each automobile shall constitute a separate offense.*

*"'(f) DEFINITIONS.—For purposes of this section—*

*"(1) The term "namufacturer" means any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.*

*"(2) The term "person" means an individual, partnership, corporation, business trust, or any organized group of persons.*

*"(3) The term "passenger motor vehicle" has the meaning provided in section 2(1) of this Act, except that it shall include any multipurpose vehicle and light duty truck that is rated at 8,500 pounds gross vehicle weight or less.*

*"(4) The term "passenger motor vehicle equipment" means any system, subassembly, or component received at the final vehicle assembly point for installation on, or attachment to, such vehicle at the time of its initial shipment by the manufacturer to a dealer for sale to an ultimate purchaser. The term "component" shall not include minor parts, such as attachment hardware (nuts, bolts, clips, screws, pins, braces, etc.) and such other similar items as the Secretary, in consultation with manufacturers and labor, may prescribe by rule.*

*"(5) The terms "originated in the United States and Canada", "U.S./Canadian", and "of U.S./Canadian origin", in referring to automobile equipment, mean:*

*"(A) for outside suppliers, the purchase price of automotive equipment which contains at least 70 percent value added in the United States and Canada; and*

*"(B) for allied suppliers, the manufacturer shall determine the foreign content of any passenger motor vehicle equipment supplied by the allied supplier by adding up the purchase price of all foreign material purchased from outside suppliers that comprise the individual passenger motor vehicle equipment and subtracting such purchase price from the total purchase price of such equipment. Determination of foreign or U.S./Canadian origin from outside suppliers will be consistent with subparagraph (A).*

*"(6) The term "new passenger motor vehicle" means a passenger motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.*

*"(7) The term "dealer" means any person or resident located in the United States, including any territory of the United States, or the District of Columbia, engaged in the sale or the distribution of new automobiles to the ultimate purchaser.*

*"(8) The term "Secretary" means the Secretary of Transportation.*

*"(9) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.*

*"(10)(A) The term "value added in the United States and Canada" means a percentage derived as follows: "Value Added equals the total purchase price, minus total purchase price of foreign content, divided by the total purchase price.*

*"Costs incurred or profits made at the final vehicle assembly point and beyond (i.e., advertis-*

*ing, assembly, labor, interest payments, profits, etc.) shall not be included in such calculation.*

*"(B) In determining the origin and value added of engines and transmission, the following groupings will be used:*

*"(i) Engines of same displacement produced at the same plant.*

*"(ii) Transmissions of the same type produced at the same plant.*

*"(11) The term "carline" means a name denoting a group of vehicles which has a degree of commonality in construction (e.g., body, chassis). Carline does not consider any level of decor of opulence and is not generally distinguished by such characteristics as roof line, number of doors, seats, or windows, except for light duty trucks. Light duty trucks are considered to be different carlines than passenger cars.*

*"(12) The term "country of origin", in referring to the origin of an engine or transmission, means the country in which 50 percent or more of the dollar value added of an engine or transmission originated. If no country accounts for 50 percent or more of the dollar value, then the country of origin is the country from which the largest share of the value added originated. The estimate of the percentage of the dollar value shall be based upon the purchase price of direct materials as received at individual engine or transmission plants of engines of the same displacement and transmissions of the same transmission type. For the purpose of determining the country of origin for engines and transmissions, the United States and Canada shall be treated separately.*

*"(13) When used in reference to passenger motor vehicle equipment which is of U.S./Canadian origin, the term "percentage (by value)" means the resulting percentage when the percentage (by value) of such equipment not of U.S./Canadian origin that will be installed or included on such vehicles produced within a carline is subtracted from 100 percent. Value shall be expressed in terms of purchase price. For both outside suppliers and allied suppliers the value used shall be the purchase price of the passenger motor vehicle equipment as paid at the final assembly point.*

*"(14) The term "final assembly" point shall mean the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer and from which such vehicle is delivered to a dealer or importer in such a condition that all component parts necessary to the mechanical operation of such automobile are included with such vehicle whether or not such component parts of permanently installed in or on such vehicle.*

*"(15) The term "allied supplier" means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or in the case of a joint venture vehicle assembly arrangement, any supplier that is wholly owned by one member of the joint venture arrangement.*

*"(16) The terms "foreign" or "foreign content" mean passenger motor vehicle equipment not determined to be U.S./Canadian origin.*

*"(17) The term "outside supplier" means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier or anyone other than an allied supplier who ships directly to the manufacturer's final assembly point.*

*"(g) EFFECT ON STATE LAW.(1) Whenever a content labeling requirement established under this section is in effect, no state or political subdivision of a State shall have the authority to adopt or enforce any law or regulation relating to the content of vehicles covered by such Federal requirement.*

*"(2) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to content of automobiles procured for its own use.".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

*American Automobile Labeling Act.*—The Motor Vehicle Information and Cost Savings Act is amended by adding Section 210, the "American Automobile Labeling Act". This Act requires manufacturers to affix, and dealers to maintain, labels on cars and light duty trucks regarding the country of origin of component parts and the location of assembly. For each carline, the label will include the percentage (by value) of component parts which originated in the United States or Canada, and the countries and percentages from other manufacturers who contribute 15 percent or more to the component value of the vehicle. The combined United States/Canadian percentage shall be clearly identified, listing clearly both countries. For each individual vehicle, the label will also include the city, state (where appropriate), and country where the vehicle was assembled; the country of origin of the engine and the country of origin of the transmission. For the purpose of identifying the country of assembly and the country of origin of the engine and transmission, the United States shall be identified separately. Labels may be added to currently required federal labels or may be separate labels. All vehicles manufactured on or after October 1, 1994, for sale in the United States must be labeled.

The Secretary of Transportation, in consultation with the Secretary of Commerce and the Secretary of the Treasury, must promulgate the regulations to carry out the labeling requirements. Since the conferees believe the information on this new label is desired by American consumers, the conferees strongly urge the Secretary to expedite promulgation of these regulations so that manufacturers can begin, on a voluntary basis, to label vehicles prior to the October 1, 1994, deadline. The conferees also urge the Secretary to display this information in the clearest and most manageable method to help consumers.

The conferees also note the reasons that the percentage of USA and Canadian content value required to be listed in this bill is combined. The conferees believe it is appropriate to make this new labeling requirement as consistent as possible with existing laws and regulations. The conferees also do not want this legislation to increase the cost of automobiles to consumers.

The conferees also recognize that the USA and Canada have a longstanding and specific automobile free trade pact (the US and Canada Automotive Parts Agreement), one that predates the USA-Canada Free Trade Agreement by over 20 years. This special relationship in automotive trade, and other factors, justify listing both US and Canadian automobile value as a combined percentage. The conferees do not intend that any other country is to be combined with the USA and Canada in the percentage of total automobile value required to be listed by this legislation.

Amendment No. 216: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 356. Notwithstanding the provisions of any other law, rule, or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies the Senate provision that allows the issuer of any preferred stock sold to the Department of Transportation to redeem or repurchase such stock by deleting the Senate language that would allow the Secretary in determining the redemption or repurchase amount to accept payment in an amount less than the par value of such stock. The House bill contained no similar provision.

Amendment No. 217: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "355", insert: *357*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes a provision that waives section 111 of title 23, United States Code, regarding the establishment of a duty-free shop on Interstate 15 at Sweetgrass, Montana, as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 218: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "356", insert: *358*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language which specifies that tolls collected for motor vehicles on any bridge between Brooklyn and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 219: Deletes the Senate provision that would provide a temporary exemption for the State of Oklahoma regarding requirements for controlling access to the Interstate Highway System stated in section 127 of title 23, United States Code. The House bill contained no similar provision.

Amendment No. 220: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "358", insert: *359*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate language that allows congestion mitigation and air quality improvement program funds to be used for the research, development, and testing of technologies which would control highway-related emissions. The House bill contained no similar provision.

Amendment No. 221: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "359", insert: *360*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language that specifies that two proposed rules for hazardous materials tank cars be issued no later than September 30, 1993, as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 222: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 361. Notwithstanding any other provision of law, the Secretary of Transportation shall waive the state matching share for the construction of any portion of an international road project located outside of the borders of any State of the United States for which funds are earmarked in the Intermodal Surface Transportation Efficiency Act of 1991 or in the Department of Transportation and Related Agencies Appropriations Act, 1992.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes, with technical modifications, the Senate language that waives the state matching share for any portion of the Alcan Highway project located in Canada. The House bill contained no similar provision.

Amendment No. 223: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 362. COLLEGIATE TRAINING INITIATIVE.—(a) The Administrator of the Federal Aviation Administration may hereafter continue the Collegiate Training Initiative program, by entering into new agreements, and by maintaining existing agreements, with post-secondary educational institutions, as defined by the Administrator, whereby such institutions prepare students for the position of air traffic controller with the Department of Transportation, as defined in section 2109 of title 5, United States Code.*

*(b) The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.*

*(c) The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in section 2103, of title 5, United States Code. Persons so appointed shall serve at the pleasure of the Administrator, subject to section 7511, of title 5, United States Code (pertaining to adverse actions). However, an appointment under this subsection may be converted from one in the excepted service to a career-conditional or career appointment in the competitive civil service, as defined in section 2012, of title 5, United States Code, when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subsection to make new appointments in the excepted service shall expire at the end of five years from the date of enactment of this Act, except that the Administrator may determine to extend such authority for one or more successive one-year periods thereafter.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate provision that sets forth criteria for the Federal Aviation Administration's collegiate training initiative, including procedures for the hiring of graduates of that program. The House bill contained no similar provision.

Amendment No. 224: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "362", insert: *363*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes a provision that allows the State of Vermont to be reimbursed up to $1,400,000 for costs related to reconstruction of roadways and bridges on U.S. Interstate Routes 89 and 91 in Vermont as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 225: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "363", insert: *364*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes a provision that transfers funds for the intermodal fuel cell bus facility program from the Federal Transit Administration's discretionary grants account to that agency's transit planning and research account and directs that the program be administered in accord with section 6 of the Federal Transit Act as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 226: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, insert:

In lieu of the matter inserted by said amendment, insert:

*SEC. 365. Notwithstanding any other provision of law, the Coast Guard shall utilize $2,000,000 in funds provided for "Research, development, test, and evaluation" in this Act or in previous appropriations Acts to enter into a grant agreement with the International Oceanographic Foundation, Inc. for the purpose of establishing the South Florida oil spill research center.*

*SEC. 366. Notwithstanding any other provision of law, the Federal Aviation Administration is required to remedy any existing contamination problems related to asbestos and PCBs at its Sayville facility and to remove the facility prior to the transfer of associated lands to the U.S. Fish and Wildlife Service.*

*SEC. 367. Notwithstanding any other provision of law, the Secretary of Transportation shall make available $4,100,000 in fiscal year 1993 from section 1105(f)(16) of Public Law 102–240 to section 1108(b)(25) of Public Law 102–240.*

*SEC. 368. Notwithstanding any other provision of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: "A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois.".*

*SEC. 369. Notwithstanding any other provision of law, section 1108(b)(17) of Public Law 102–240 is amended by striking the current project description and inserting, "Conduct environmental studies, preliminary engineering, and construction for the Las Vegas beltway, including those portions linking McCarran International Airport and I–15.".*

*SEC. 370. Notwithstanding any other provision of law, in selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Illinois shall give priority consideration to reconstruction of Meridian and Glen Crossing Roads in Madison County, Illinois.*

*SEC. 371. Notwithstanding any other provision of law, section 1105(g) of Public Law 102–240 is amended by adding a new paragraph (9) to read as follows:*

*"(9) The States of South Dakota and Nebraska may, at their discretion, utilize funds allocated to them for the project described in section 1105(f)(7) of this Act to support the Nebraska/South Dakota feasibility study described in section 1105(f)(7) and may also utilize funds allocated for that study for the project described in section 1105(f)(17).".*

*SEC. 372. Notwithstanding any other provision of law, the Federal Railroad Administration, in its oversight of railroad employees' duty hours, shall presume to be lawful the Long Island Railroad's current practice of considering as commuting time the travel time of an employee to any reporting point, regardless of whether the employee has more than one reporting point.*

*SEC. 373. Notwithstanding any other provision of law, section 1069(t) of Public Law 102–240 is amended by striking the period in the last line, inserting a comma, and adding: "and funds provided pursuant to this provision shall not be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.".*

*SEC. 374. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary Grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 1995, shall be made available for other projects under section 3 of the Federal Transit Act, as amended.*

*SEC. 375. Notwithstanding any other provision of law, the Secretary is directed to waive the non-Federal share for NASA Road 1 near Houston, Texas.*

*SEC. 376. Notwithstanding any other provision of law or regulation, before July 1, 1993, no lanes on any highway located on federally owned land, whether subject to easement or otherwise, may be restricted to high-occupancy vehicles if those lanes have been constructed or maintained through the use of toll receipts.*

*SEC. 377. TREATMENT OF CERTAIN BUS REVENUE MILEAGE.—For Purposes of the apportionment of funds under section 9 of the Federal Transit Act for fiscal year 1993, the total bus revenue vehicle miles provided by the Duke Power Company in the year ending June 30, 1990, shall be treated as having been provided by the city of Durham, North Carolina.*

*SEC. 378. Notwithstanding any other provision of law, section 1104(b)(17) of Public Law 102–240 is amended by striking the project description and inserting: "Study and construction of a bicycle system to serve as an alternative form of commuter transportation, to reduce air pollution, and to enhance recreation".*

*SEC. 379. Notwithstanding any other provision of law, section 1106(a)(2)(69) of Public Law 102–240 is amended by adding to the project description the following: "; plan, design, and construct related, adjacent, or interlocking facilities, preserve any related historical remnants, and acquire the necessary lands or interests in lands for such facilities".*

*SEC. 380. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2)* *without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.".*

*SEC. 381. BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3055(nn)(2) of Public Law 102–240 is amended—*

*(1) by striking "Waldorf" and inserting "mass transportation improvements to the Waldorf area"; and*

*(2) by adding after the first sentence the following new sentence: "The transit improvements in the corridor from the Waldorf area to the Washington, D.C. area shall be based on the locally preferred alternatives that result from the Southern Maryland Mass Transportation Alternatives Study of the Tri-County Council for Southern Maryland and shall include any additional work needed on that study, detailed planning and engineering to be carried out by the Maryland Department of Transportation in conjunction with the Tri-County Council, advanced land acquisition in the transit corridor, and implementation of interim and long-range transit improvements in the transit corridor.".*

*SEC. 382. Section 3035 (ccc) of Public Law 102–240 is amended by striking "the municipality of metropolitan Seattle, Washington" and inserting: "a qualified local sponsor".*

and, on page 66, line 4 of the House engrossed bill, H.R. 5518, delete "Sec.";

and, on page 66, beginning on line 4, of the House engrossed bill, H.R. 5518, delete ". (a) Title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421–1433) is amended by adding at the end the following new section:",

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes the Senate language that sets forth requirements for the consideration of employment opportunities and employment plans in airline route transfer cases and inserts a number of technical amendments.

Dulles Toll Road HOV restrictions.—With respect to the removal of the HOV restrictions imposed by the Commonwealth of Virginia on the Dulles Toll Road, which is located on federal land, it is the conferees' intent to allow a reasonable period of time for the Virginia General Assembly to revisit this matter. While the conferees have supported HOV facilities in Virginia, there is concern about its efficacy on the Dulles Toll Road, especially given the extreme traffic congestion that has resulted since the new lanes on the toll road were restricted on September 1, 1992. There is also concern on the part of the conferees about the safety issues involved in the enforcement of these insider HOV lanes and about the damage to air quality caused by traffic gridlock. This is particularly so since the conferees are supporting the development of mass transit in the Dulles corridor. Finally, the conferees are concerned about the fairness issues involved in imposing HOV restrictions on a toll road, particularly one located on federally-owned land.

NASA Road 1.—The conferees believe that the local match for the right-of-way acquisition of NASA Road 1 near Houston, Texas, should be waived. Safety concerns of the communities, which include an estimated 70,000 residents who depend directly on NASA Road 1 for evacuation purposes and emergency vehicle passage, justify this need. Further, NASA Road 1 provides the primary access to the Johnson Space Center. This waiver of local matching funds is not to exceed $1,200,000.

Seattle-Tacoma, Washington.—The conference agreement includes $15,300,000 for the Seattle-Tacoma commuter train project, which is to upgrade existing freight rail facilities to permit passenger transit operations between the two cities. The local share of the costs of this project shall be in compliance with requirements of the Intermodal Surface Transportation Efficiency Act of 1991.

## TITLE IV—HIGHWAY TECHNICAL CORRECTIONS

Amendment No. 227: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

### *TITLE IV—HIGHWAY TECHNICAL CORRECTIONS*

*SEC. 401. Section 1107(b) of Public Law 102–240 is amended by striking—*

*(a) in subsection (167) the project description and inserting in lieu thereof: "Grading and surfacing from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille and on FAS 3220 from ND 1 easterly to the county line."*

*(b) in subsection (168) the project description and inserting in lieu thereof: "Widening and surfacing from (I-94 north and east through Spiritwood, then north to ND Highway 9, FAS 4718 from ND 20 east to FAS 4745, and FAS 4712 from ND 20 to ND 9."*

*(c) in subsection (174) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 2750 from U.S. 85 west."*

*(d) in subsection (178) the project description and inserting in lieu thereof: "Grading and surfacing, starting 3 miles west of ND 28 on FAS 3828, thence one mile west and four miles north and then west to FAS 3809."*

*(e) in subsection (179) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 3025 and FAS 3020 from ND 49 southeasterly to FAS 3033."*

*(f) subsection (183) the project description and inserting in lieu thereof: "For a bypass around the west side of Fort Lincoln State Park from Mandan South."*

*(g) in subsection (184) the project description and inserting in lieu thereof: "Grading and surfacing from U.S. 281 a round the access loop roads and parking facilities in the International Peace Garden."*

*(h) in subsection (185) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25 and FAS 3304 from FAS 3331 east to FAS 3339 and FAS 3339.".*

*SEC. 402. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:*

*"(i) The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 1107(b) in any given year for any project or projects in the State of North Dakota as authorized under section 1107.".*

*SEC. 403. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:*

*"(j) Any balance of funds authorized by this section that remains after construction is completed on any project authorized by subsection (b) in North Dakota may be transferred and used to pay the costs of any projects authorized by subsection (b) in North Dakota.".*

*SEC. 404. Delete the first sentence of section 6058(d) of the International Surface Transportation Efficiency Act of 1991 (Public Law 102–240) and substitute: "The Federal share payable on account of activities carried out under section 6056, as well as operational test activities carried out under this part (other than section 6056), shall not exceed 80 percent of the cost of such activities.".*

*SEC. 405. Section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 56 by striking "I–55" and inserting "I–59".*

*SEC. 406. The Secretary of Transportation shall revise the Manual of Uniform Traffic Control Devices to include—*

*(a) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs, which shall apply to all roads open to public travel; and*

*(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.*

*SEC. 407. (a) TECHNICAL CHANGE.—Section 1014(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—*

*(1) in the heading, by striking "91" and inserting "81"; and*

*(2) by striking "United States Route 91 from Belleville, Kansas" and inserting "United States Route 81 from Concordia, Kansas,".*

*(b) INNOVATIVE PROJECTS.—The table is subsection (b) of section 1107 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 154, by striking "7–15 miles Belleville to Concordia" and inserting "from Concordia to the Nebraska border".*

*(c) EXPENDITURE OF FUNDS.—Section 1014(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by adding at the end the following new paragraphs:*

*"(4)(A) Except as provided in subparagraph (B), notwithstanding any other provision of law, the amounts made available for the construction of the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas, under section 1107(b) shall be expended prior to the expenditure of the amount obligated for such purpose pursuant to paragraph (1) of this subsection.*

*"(B) If the appropriate official of the State of Kansas determines that in order to carry out to completion the construction project described in paragraph (A), the expenditure of an amount obligated pursuant to paragraph (1) of this subsection is necessary, the State may expend such amount.*

*(5) Notwithstanding any other provision of law, the amounts allocated to the State of Kansas for fiscal years 1996 through 1997 pursuant to section 160 of title 23, United States Code, and not obligated under this subsection or any other provision of this Act, shall remain available to the State of Kansas to carry out activities eligible for funding under title 23, United States Code.".*

*SEC. 408. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROJECT.—Subsection (c)(1) of section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note) is amended by striking "on rural Federal-aid highways" and inserting "on public roads".*

*SEC. 409. PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—*

*(1) in the first sentence by inserting "(other than Massachusetts)' after "in a State"; and*

*(2) in the last sentence by striking "before" and inserting "after".*

*SEC. 410. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 129 of title 23, United States Code, is amended as follows—*

*(1) in subsection (b) by striking "approved under section 103(b) and (b) of this title as a*

*part of one of the Federal-aid systems" and inserting in lieu thereof "classified as a public road"; and*

*(2) by amending subsection (c)(2) to read as follows—"(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designed as a route on the Inter-state System. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only."*

*SEC. 411. Section 1069(y) of the Intermodal Surface Transportation Efficiency Act of 1991, is amended by adding at the end of the last sentence: "Funds provided to carry out the provisions of this section are to remain available until expended.".*

*SEC. 412. NONDISCRIMINATION.—Section 140(b) of title 23, United States Code, is amended in the last sentence by striking "¼ of 1 percent" and inserting "½ of 1 percent".*

*SEC. 413. HELL GATE BRIDGE.—Notwithstanding any other provision of law, the Hell Gate Viaduct shall be considered a federally owned bridge solely for the purpose of determining the Federal share under section 1021(d) of Public Law 102–240 as regards the project to upgrade, repair and paint the Hell Gate Viaduct authorized by section 1107 of Public Law 102–240.*

*SEC. 414. Notwithstanding any other provision of law, the funds provided for projects in Idaho by sections 1104 and 1107 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, may be obligated for any such projects.*

*SEC. 415. Notwithstanding any other provision of law, the State of Nevada may elect to utilize the total amount of funds authorized for such State under sections 1104(b), 1105(f), 1107(b), and 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240 within any given fiscal year for any project or projects in the State of Nevada as authorized under said sections.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies Senate language that makes several technical corrections to highway programs authorized by Public Law 102–240. The House bill contained no similar language.

Amendment No. 228: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*SEC. 416. Notwithstanding any other provision of law, the funds provided for projects in Minnesota by sections 1103, 1105, 1106, 1107, and 1108 of Public Law 102–240 may be obligated for any such projects: Provided, That the total amount of any project shall not be reduced.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies Senate language which specifies that funds provided for certain projects in Minnesota in Public Law 102–240 may be obligated for any such projects. The House bill contained no similar provision.

Amendment No. 229: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that amends section 1021(c) of Public Law 102–240. The House bill contained no similar provision.

## TITLE V—TRANSIT TECHNICAL CORRECTIONS

Amendment No. 230: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

### *TITLE V—TRANSIT TECHNICAL CORRECTIONS*

*SEC. 501. Section 3012 of Public Law 102–240 is amended by adding at the end of section 8(h)(4) the following sentence: "Any transit project that has an approved draft Environmental Impact Statement would be exempt from complying with highway National Environmental Policy Act requirements.".*

*SEC. 502. MATCHING SHARE FOR TRANSFERRED FUNDS.—(a) Section 8(k) of the Federal Transit Act is amended by adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects.".*

*(b) Section 134(k) of title 23, United States Code is amended by adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit act funds used for highway projects.".*

*(c) Section 3(h) of the Federal Transit Act is amended by adding a new subparagraph as follows:*

*"(7) Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among urbanized areas eligible under paragraphs (1), (2) and (3) in accordance with the apportionment formula contained in section 3(h) for the succeeding fiscal year.".*

*(d) Section 3 of the Federal Transit Act is amended by adding at the end the following new subsection:*

*"(n) Funds made available under this section which are deobligated may be used for any purpose under this section.".*

*(e) Section 8(h)(5) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead: "under title 23, United States Code".*

*(f) Section 8(i)(4) of the Federal Transit Act is amended by striking "pursuant to this title" and inserting instead: "pursuant to title 23, United States Code".*

*(g) Section 8(m)(1) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead "under title 23, United States Code".*

*(h) Section 8(p) of the Federal Transit Act is amended by adding at the end the following: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the states for the succeeding fiscal year.".*

*(i) Section 8 of the Federal Transit Act is amended by adding the following new subsection (q):*

*"(q) The statewide planning and programming requirements of section 135, title 23, United States Code, shall apply to grants made under sections 3, 9, 9B, 16 and 18 of this Act.".*

*(j) Section 12(l)(1)(B) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines".*

*(k) Section 16(c)(4) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines".*

*(l) Section 18(c) of the Federal Transit Act is amended by adding at the end the following: "All funds made available under this section may be used for operating assistance, whether derived from the Mass Transit Account of the Highway Trust Fund under section 21(a)(1) or from general fund appropriations authorized under section 21(a)(2).".*

*(m) Section 21(a)(1) of the Federal Transit Act is amended by inserting after "sections", "8".*

*(n) Section 21(a)(2) of the Federal Transit Act is amended by inserting after "sections", "8".*

*(o) Section 21(c) of the Federal Transit Act is amended by striking "subsection 8(p)" and inserting instead "subsection (a)".*

*(p) Section 21(c)(1) of the Federal Transit Act is amended by striking "8(f)" and inserting instead "8(n)".*

*(q) Section 21(d)(3) of the Federal Transit Act is amended by striking "1996" and inserting instead "1997".*

*(r) Section 26(a)(2)(A) of the Federal Transit Act is amended by adding at the end: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.".*

*SEC. 503. SPECIAL RULE FOR TRANSPORTATION MANAGEMENT AREAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION.—(1) Funds attributed to a transportation management area, established under section 134 of title 23, United States Code, and not containing an urbanized area over 200,000 under 23 U.S.C. 133(d)(3)(A)(ii) shall be obligated in that transportation management area.*

*(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended by striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies Senate language that makes several technical corrections to transit programs authorized by Public Law 102–240. The House bill contained no similar language.

Amendment No. 231: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate specifying that the Los Angeles County Transportation Commission is to replace the Southern California Rapid Transit District as the federal grantee for the MOS–1 project of the Los Angeles Metro Rail system, sets forth certain administrative procedures relating to that action, and reallocates previously obligated funds for the Los Angeles Metro Rail system. The House bill contained no similar provision.

Amendment No. 232: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that amends section 3035(h) of Public Law 102–240 to allocate funds for the San Jose-Gilroy-Hollister commuter rail project in California. The House bill contained no similar provision.

## TITLE VI—ALCOHOL TRAFFIC SAFETY GRANTS

Amendment No. 233: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

### *TITLE VI—ALCOHOL TRAFFIC SAFETY GRANTS*

***SEC. 601. MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.***

*Section 410 of title 23, United States Code, is amended—*

*(1) by striking subsection (g);*

*(2) by redesignating subsections (c) through (f) as (d) through (g), respectively; and*

*(3) by inserting immediately after subsection (b) the following new subsection:*

*"(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any grant under this section shall not exceed—*

*"(1) in the first fiscal year the State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year a program adopted by the State pursuant to subsection (a);*

*"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and*

*"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.".*

***SEC. 602. BASIC GRANT ELIGIBILITY.***

*Section 410(d) of title 23, United States Code, as so redesignated by section 601 of this title, is amended—*

*(1) by striking "4 or more of the following:" and inserting in lieu thereof "5 or more of the following:"; and*

*(2) in subsection (1)(C), by striking "within the time period specified in subparagraph (F)"; and*

*(3) by adding at the end the following new paragraph:*

*"(6) Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.".*

***SEC. 603. AMOUNT OF BASIC GRANTS.***

*Section 410(e) of title 23, United States Code, as redesignated by section 601 of this title, is amended to read as follows:*

*"(e) AMOUNT OF BASIC GRANT.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.".*

***SEC. 604. SUPPLEMENTAL GRANTS.***

*Section 410(f) of title 23, United States Code, as so redesignated by section 601 of this title, is amended by striking "A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section" each place it appears and inserting in lieu thereof "Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title".*

***SEC. 605. ADMINISTRATIVE EXPENSES.***

*Section 410(g) of title 23, United States Code, as so redesignated by section 601 of this title, is amended by striking ", and the remainder shall be apportioned among the several States".*

***SEC. 606. AUTHORIZATION OF APPROPRIATIONS.***

*Section 410(j) of title 23, United States Code, is amended to read as follows:*

*"(j) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for each of fiscal years 1993 through 1997. Amounts made available to carry out this section are authorized to remain available until expended.".*

***SEC. 607. EFFECTIVE DATE OF AMENDMENTS; TRANSITION.***

*(a) EFFECTIVE DATE.—The amendments made by sections 601 through 606 shall take effect October 1, 1992.*

*(b) STATES ELIGIBLE FOR BASIC GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State that received a basic grant in fiscal year 1992 under section 410 of title 23, United States Code, as in effect on September 30, 1992, and that continues to meet the criteria for a basic grant, as in effect on September 30, 1992, shall be eligible for a basic grant under such section 410, as amended by this title.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies Senate language that makes technical corrections to section 410 of title 23, United States Code. The House bill contained no similar language.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

| | |
|---|---|
| New budget (obligational) authority, fiscal year 1992 | $14,436,970,569 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | 12,951,362,569 |
| House bill, fiscal year 1993 | 13,206,032,769 |
| Senate bill, fiscal year 1993 | 13,538,016,147 |
| Conference agreement, fiscal year 1993 | 13,199,958,347 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 1992 | −1,237,012,222 |
| Budget estimates of new (obligational) authority, fiscal year 1993 | +248,595,778 |
| House bill, fiscal year 1993 | −6,074,422 |
| Senate bill, fiscal year 1993 | −338,057,800 |

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14:02 9/28/92 PAGE 1

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| TITLE I - DEPARTMENT OF TRANSPORTATION | | | | | | |
| Office of the Secretary | | | | | | |
| Salaries and expenses | --- | (72,383,000) | --- | --- | --- | --- |
| Immediate Office of the Secretary | 1,435,000 | 1,469,000 | 1,435,000 | 1,435,000 | 1,435,000 | --- |
| Immediate Office of the Deputy Secretary | 550,000 | 586,000 | 427,000 | 550,000 | 427,000 | -123,000 |
| Office of the General Counsel | 7,000,000 | 7,575,000 | 7,140,000 | 7,000,000 | 7,000,000 | --- |
| Office of the Assistant Secretary for Policy and International Affairs | 8,733,000 | 9,739,000 | 9,080,000 | 8,733,000 | 8,733,000 | --- |
| Office of the Assistant Secretary for Budget and Programs | 2,726,000 | 2,921,000 | 2,921,000 | 2,726,000 | 2,825,000 | +99,000 |
| Office of the Assistant Secretary for Governmental Affairs | 2,320,000 | 2,672,000 | 2,340,000 | 2,320,000 | 2,320,000 | --- |
| Office of the Assistant Secretary for Administration | 30,262,000 | 38,214,000 | 31,268,000 | 33,000,000 | 31,268,000 | +1,006,000 |
| Office of the Assistant Secretary for Public Affairs | 1,546,000 | 1,757,000 | 1,546,000 | 1,546,000 | 1,546,000 | --- |
| Executive Secretariat | 965,000 | 1,013,000 | 965,000 | 965,000 | 965,000 | --- |
| Contract Appeals Board | 590,000 | 636,000 | 636,000 | 590,000 | 590,000 | --- |
| Office of Civil Rights | 1,462,000 | 1,585,000 | 1,520,000 | 1,462,000 | 1,462,000 | --- |
| Office of Essential Air Service | 1,545,000 | 1,790,000 | 1,545,000 | 1,545,000 | 1,545,000 | --- |
| Office of Small and Disadvantaged Business Utilization | 3,527,000 | 983,000 | 953,000 | 953,000 | 953,000 | -2,574,000 |
| Office of Intelligence and Security | 1,300,000 | 1,443,000 | 1,265,000 | 1,300,000 | 1,265,000 | -35,000 |
| Subtotal, Salaries and expenses | 63,961,000 | 72,383,000 | 63,041,000 | 64,125,000 | 62,334,000 | -1,627,000 |
| Transportation planning, research, and development | 3,100,000 | 3,100,000 | 3,025,000 | 3,025,000 | 3,025,000 | -75,000 |
| Office of Commercial Space Transportation: | | | | | | |
| Operations and Research | 4,275,000 | 4,900,000 | 4,364,000 | 4,275,000 | 4,275,000 | --- |
| Working capital fund | (88,000,000) | (95,144,000) | (94,000,000) | (93,000,000) | (93,000,000) | (+5,000,000) |
| Payments to air carriers (Airport and Airway Trust Fund): | | | | | | |
| (Liquidation of contract authorization) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | --- |
| (Limitation on obligations) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | --- |
| Rental payments | 111,970,000 | 146,704,000 | 111,970,000 | 130,000,000 | 130,000,000 | +18,030,000 |
| Minority business resource center program | --- | 1,350,000 | 700,000 | 700,000 | 700,000 | +700,000 |
| (Limitation on direct loans) | --- | (7,500,000) | (7,500,000) | (7,500,000) | (7,500,000) | (+7,500,000) |
| Total, Office of the Secretary: | | | | | | |
| New budget (obligational) authority | 183,306,000 | 228,437,000 | 183,100,000 | 202,125,000 | 200,334,000 | +17,028,000 |
| (Limitations on obligations) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | (38,600,000) | --- |
| Total | (221,906,000) | (267,037,000) | (221,700,000) | (240,725,000) | (238,934,000) | (+17,028,000) |

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14:02 9/28/92 PAGE 2

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Coast Guard | | | | | | |
| Operating expenses | 2,340,272,000 | 2,460,900,000 | 2,397,139,000 | 2,223,500,000 | 2,205,000,000 | -135,272,000 |
| Defense activities | --- | --- | --- | 343,500,000 | 100,000,000 | +100,000,000 |
| (By transfer from DoD) | (156,600,000) | (142,100,000) | (156,600,000) | --- | (253,000,000) | (+96,400,000) |
| Acquisition, construction, and improvements: | | | | | | |
| Vessels | 144,150,000 | 106,800,000 | 104,500,000 | 86,250,000 | 92,450,000 | -51,700,000 |
| Defense activities | --- | --- | --- | 2,000,000 | --- | --- |
| (By transfer from DoD) | --- | (3,000,000) | --- | --- | --- | --- |
| Aircraft | 60,350,000 | 41,300,000 | 53,400,000 | 23,500,000 | 31,300,000 | -29,050,000 |
| Defense activities | --- | --- | --- | 1,500,000 | --- | --- |
| (By transfer from DoD) | --- | (1,500,000) | --- | --- | --- | --- |
| Other equipment | 48,750,000 | 83,900,000 | 67,650,000 | 49,900,000 | 56,565,000 | +7,815,000 |
| Defense activities | --- | --- | --- | 7,100,000 | --- | --- |
| (By transfer from DoD) | --- | (7,100,000) | --- | --- | --- | --- |
| Shore and aids to navigation facilities | 124,250,000 | 127,700,000 | 122,550,000 | 114,300,000 | 123,685,000 | -565,000 |
| Defense activities | --- | --- | --- | 4,700,000 | --- | --- |
| (By transfer from DoD) | --- | (4,700,000) | --- | --- | --- | --- |
| Personnel, survey and design | 34,000,000 | 36,300,000 | 36,500,000 | 34,050,000 | 36,000,000 | +2,000,000 |
| Defense activities | --- | --- | --- | 1,700,000 | --- | --- |
| (By transfer from DoD) | --- | (1,700,000) | --- | --- | --- | --- |
| Subtotal, Acquisition, construction, and improvements: | | | | | | |
| New budget (obligational) authority | 411,500,000 | 396,000,000 | 384,600,000 | 325,000,000 | 340,000,000 | -71,500,000 |
| (By transfer from DoD) | --- | (18,000,000) | --- | --- | --- | --- |
| Subtotal | 411,500,000 | 414,000,000 | 384,600,000 | 325,000,000 | 340,000,000 | -71,500,000 |
| Environmental compliance and restoration | 21,500,000 | 30,500,000 | 21,500,000 | 27,000,000 | 22,000,000 | +500,000 |
| Alteration of bridges | 11,100,000 | 11,100,000 | 11,000,000 | 14,100,000 | 12,600,000 | +1,500,000 |
| Retired pay | 487,700,000 | 519,700,000 | 519,700,000 | 519,700,000 | 519,700,000 | +32,000,000 |
| Reserve training | 25,000,000 | 31,530,000 | 24,100,000 | 30,500,000 | 23,000,000 | -2,000,000 |
| Defense activities | --- | --- | --- | 42,500,000 | --- | --- |
| (By transfer from DoD) | (50,000,000) | (43,000,000) | (50,000,000) | --- | (50,000,000) | --- |
| Research, development, test, and evaluation | 29,150,000 | 29,900,000 | 27,930,000 | 28,000,000 | 27,815,000 | -1,335,000 |
| Boat safety (Aquatic Resources Trust Fund) | 35,000,000 | 35,000,000 | 30,000,000 | 34,500,000 | 32,250,000 | -2,750,000 |
| Total, Coast Guard: | | | | | | |
| New budget (obligational) authority | 3,361,222,000 | 3,514,630,000 | 3,415,969,000 | 3,588,300,000 | 3,282,365,000 | -78,857,000 |
| (By transfer from DoD) | (206,600,000) | (203,100,000) | (206,600,000) | --- | (303,000,000) | (+96,400,000) |
| Total | 3,567,822,000 | 3,717,730,000 | 3,622,569,000 | 3,588,300,000 | 3,585,365,000 | +17,543,000 |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| **Federal Aviation Administration** | | | | | | |
| Operations.......................................... | 4,360,000,000 | 4,606,000,000 | 4,538,000,000 | 4,545,000,000 | 4,538,000,000 | +178,000,000 |
| Facilities and equipment (Airport and Airway Trust Fund)............................................ | 2,434,000,000 | 2,700,000,000 | 2,459,860,000 | 2,429,500,000 | 2,350,000,000 | -84,000,000 |
| Research, engineering, and development (Airport and Airway Trust Fund).................................. | 218,135,000 | 230,000,000 | 236,856,000 | 229,500,000 | 230,000,000 | +11,865,000 |
| Grants-in-aid for airports (Airport and Airway Trust Fund)............................................ | 20,000,000 | --- | --- | --- | --- | -20,000,000 |
| (Liquidation of contract authorization).......... | (1,520,000,000) | (1,800,000,000) | (1,800,000,000) | (2,000,000,000) | (2,000,000,000) | (+480,000,000) |
| (Limitation on obligations)...................... | (1,900,000,000) | (1,900,000,000) | (1,850,000,000) | (1,800,000,000) | (1,800,000,000) | (-100,000,000) |
| Aircraft purchase loan guarantee program............ | 1,273,000 | --- | --- | --- | --- | -1,273,000 M |
| Portion applied to debt reduction................ | -1,200,000 | --- | --- | --- | --- | +1,200,000 M |
| (Limitation on borrowing authority).............. | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | --- |
| Total, Federal Aviation Administration: | | | | | | |
| New budget (obligational) authority......... | 7,032,208,000 | 7,536,000,000 | 7,234,716,000 | 7,204,000,000 | 7,118,000,000 | +85,792,000 |
| (Limitations on obligations)................ | (1,900,000,000) | (1,900,000,000) | (1,850,000,000) | (1,800,000,000) | (1,800,000,000) | (-100,000,000) |
| Total.................................. | (8,932,208,000) | (9,436,000,000) | (9,084,716,000) | (9,004,000,000) | (8,918,000,000) | (-14,208,000) |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Federal Highway Administration | | | | | | |
| Limitation on general operating expenses............ | (419,000,000) | (433,533,000) | (351,200,000) | (403,200,000) | (398,000,000) | (-21,000,000) |
| University transportation centers (Highway Trust Fund) | 5,000,000 | --- | --- | --- | --- | -5,000,000 |
| Highway-related safety grants (Highway Trust Fund): | | | | | | |
| (Liquidation of contract authorization)........... | (20,000,000) | (20,000,000) | (10,000,000) | (10,000,000) | (10,000,000) | (-10,000,000) |
| (Limitation on obligations)....................... | (9,337,000) | (20,000,000) | (10,000,000) | (10,000,000) | (10,000,000) | (+663,000) |
| National Recreational Trails grants: | | | | | | |
| (National recreational trails trust fund)........... | --- | 15,000,000 | --- | 3,000,000 | --- | --- |
| Railroad-highway crossings demonstration projects..... | 12,005,000 | --- | 4,580,000 | --- | 3,664,000 | -8,341,000 |
| Federal-aid highways (Highway Trust Fund): | | | | | | |
| (Limitation on obligations)....................... | (16,055,364,000) | (18,898,000,000) | (16,690,000,000) | (18,006,250,000) | (15,326,750,000) | (-728,614,000) |
| (Exempt obligations)............................ | (1,299,797,000) | (300,000,000) | (2,677,000,000) | (480,000,000) | (2,677,000,000) | (+1,377,203,000) |
| (Liquidation of contract authorization)........... | (15,400,000,000) | (19,200,000,000) | (18,800,000,000) | (19,000,000,000) | (19,000,000,000) | (+3,600,000,000) |
| Emergency Relief (Highway Trust Fund)................. | 30,000,000 | --- | --- | --- | --- | -30,000,000 |
| Bridges on dams (rescission)......................... | -5,000,000 | --- | --- | --- | --- | +5,000,000 |
| Right-of-way Revolving Fund (Highway Trust Fund): | | | | | | |
| (Limitation on direct loans)...................... | (42,500,000) | (42,500,000) | (42,500,000) | (42,500,000) | (42,500,000) | --- |
| (Liquidation of contract authorization)........... | (40,000,000) | --- | --- | --- | --- | (-40,000,000) |
| Motor carrier safety................................ | 47,600,000 | --- | 51,500,000 | --- | --- | -47,600,000 |
| Motor carrier safety grants (Highway Trust Fund): | | | | | | |
| (Liquidation of contract authorization)........... | (62,000,000) | (71,000,000) | (65,000,000) | (65,000,000) | (65,000,000) | (+3,000,000) |
| (Limitation on obligations)....................... | (65,000,000) | (76,000,000) | (65,000,000) | (65,000,000) | (65,000,000) | --- |
| Baltimore-Washington Parkway......................... | 19,800,000 | --- | 10,000,000 | --- | 15,000,000 | -4,800,000 |
| Intermodal urban demonstration project (Highway Trust Fund)................................................ | 9,000,000 | --- | 4,000,000 | --- | 3,200,000 | -5,800,000 |
| Highway safety and economic development demonstration projects (Highway Trust Fund)..................... | 19,800,000 | --- | 8,000,000 | --- | 6,400,000 | -13,400,000 |
| Highway safety improvement demonstration project (Highway Trust Fund).............................. | 16,350,000 | --- | 7,500,000 | --- | 6,000,000 | -10,350,000 |
| Highway-railroad grade crossing safety demonstration project (Highway Trust Fund)....................... | 4,500,000 | --- | --- | --- | --- | -4,500,000 |
| Highway widening demonstration project.............. | 1,800,000 | --- | 800,000 | --- | 640,000 | -1,160,000 |
| Highway widening and improvement demonstration project (Highway Trust Fund)....................... | 7,200,000 | --- | 1,680,000 | --- | 1,344,000 | -5,856,000 |
| Climbing lane and highway safety demonstration project (Highway Trust Fund).............................. | 6,300,000 | --- | 4,800,000 | --- | 3,840,000 | -2,460,000 |
| Indiana industrial corridor safety demonstration project................................................ | 3,600,000 | --- | --- | --- | --- | -3,600,000 |
| Alabama highway bypass demonstration project (Highway Trust Fund).............................. | 9,000,000 | --- | 4,000,000 | --- | 3,200,000 | -5,800,000 |
| Kentucky bridge demonstration project (Highway Trust Fund).............................. | 4,500,000 | --- | 8,000,000 | --- | 6,400,000 | +1,900,000 |
| Virginia HOV safety demonstration project (Highway Trust Fund).............................. | 5,400,000 | --- | 2,000,000 | --- | 1,600,000 | -3,800,000 |
| Urban highway corridor and bicycle transportation demonstration projects (Highway Trust Fund)......... | 10,530,000 | --- | 4,240,000 | --- | 3,392,000 | -7,138,000 |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Urban airport access safety demonstration project (Highway Trust Fund) | 9,000,000 | --- | 4,800,000 | --- | 3,840,000 | -5,160,000 |
| Pennsylvania reconstruction demonstration project (Highway Trust Fund) | 8,100,000 | --- | 8,000,000 | --- | 6,400,000 | -1,700,000 |
| Pennsylvania toll road demonstration project (Highway Trust Fund) | 1,800,000 | --- | 4,000,000 | --- | 3,200,000 | +1,400,000 |
| Highway bypass demonstration project | 9,000,000 | --- | --- | --- | --- | -9,000,000 |
| Highway projects (Highway Trust Fund) | 249,146,000 | --- | 90,600,000 | 274,800,000 | 273,756,000 | +24,610,000 |
| (By transfer) | (4,628,000) | --- | --- | --- | --- | (-4,628,000) |
| Highway Studies: Feasibility, Design, Environmental Engineering | 18,448,000 | --- | --- | --- | --- | -18,448,000 |
| Corridor G improvement program | 148,500,000 | --- | --- | --- | --- | -148,500,000 |
| Corning bypass safety demonstration project | 12,600,000 | --- | --- | --- | --- | -12,600,000 |
| Turquoise Trail project | 2,700,000 | --- | --- | --- | --- | -2,700,000 |
| Ottumwa road extension project | 7,200,000 | --- | --- | --- | --- | -7,200,000 |
| North Carolina connector project | 4,800,000 | --- | --- | --- | --- | -4,800,000 |
| California toll road project | --- | --- | --- | 12,000,000 | 9,600,000 | +9,600,000 |
| Metropolitan planning (Highway Trust Fund) | 3,000,000 | --- | --- | --- | --- | -3,000,000 |
| Highway studies | 750,000 | --- | --- | --- | --- | -750,000 |
| Total, Federal Highway Administration: | | | | | | |
| New budget (obligational) authority | 682,429,000 | 15,000,000 | 218,500,000 | 289,800,000 | 351,476,000 | -330,953,000 |
| (Limitations on obligations) | (16,129,701,000) | (18,994,000,000) | (16,765,000,000) | (18,081,250,000) | (15,401,750,000) | (-727,951,000) |
| (Exempt obligations) | (1,299,797,000) | (300,000,000) | (2,677,000,000) | (480,000,000) | (2,677,000,000) | (+1,377,203,000) |
| Total | (18,111,927,000) | (19,309,000,000) | (19,660,500,000) | (18,851,050,000) | (18,430,226,000) | (+318,299,000) |
| National Highway Traffic Safety Administration | | | | | | |
| Operations and research | 78,528,000 | 87,427,000 | 76,890,000 | --- | 82,080,000 | +3,552,000 |
| Operations and research (Highway Trust Fund) | 44,172,000 | 45,806,000 | 43,250,000 | 127,840,000 | 46,170,000 | +1,998,000 |
| Subtotal, Operations and research | 122,700,000 | 133,233,000 | 120,140,000 | 127,840,000 | 128,250,000 | +5,550,000 |
| Highway traffic safety grants (Highway Trust Fund): | | | | | | |
| (Liquidation of contract authorization) | (130,000,000) | (162,000,000) | (152,000,000) | (150,000,000) | (150,000,000) | (+20,000,000) |
| State and community highway safety grants (Sec. 402) (limitation on obligations) | (118,000,000) | (118,000,000) | (112,000,000) | (118,000,000) | (115,000,000) | (-3,000,000) |
| Safety belt and motorcycle helmet use grants (Sec. 153) (limitation on obligations) | --- | (20,000,000) | (12,000,000) | (12,000,000) | (12,000,000) | (+12,000,000) |
| Alcohol-impaired driving countermeasures grants (Sec. 410) (limitation on obligations) | --- | (15,000,000) | (2,000,000) | --- | --- | --- |
| National Driver Register (Sec. 402) (limitation on obligations) | --- | (3,500,000) | (4,300,000) | (3,000,000) | (3,650,000) | (+3,650,000) |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Alcohol safety incentive grants (Sec. 408) (limitation on obligations)...................... | (20,000,000) | (16,500,000) | (7,700,000) | (13,500,000) | (11,000,000) | (-9,000,000) |
| Education grants (Sec. 209) (cumulative limitation on obligations)................................ | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | --- |
| Total, National Highway Traffic Safety Admin: | | | | | | |
| New budget (obligational) authority....... | 122,700,000 | 133,233,000 | 120,140,000 | 127,840,000 | 128,250,000 | +5,550,000 |
| (Limitations on obligations).............. | (138,000,000) | (173,000,000) | (138,000,000) | (146,500,000) | (141,650,000) | (+3,650,000) |
| Total.................................. | (260,700,000) | (306,233,000) | (258,140,000) | (274,340,000) | (269,900,000) | (+9,200,000) |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| **Federal Railroad Administration** | | | | | | |
| Office of the Administrator | 16,442,000 | 18,736,000 | 17,385,000 | 17,802,000 | 17,152,000 | +710,000 |
| Local rail freight assistance | 11,500,000 | --- | --- | 8,000,000 | 8,000,000 | -3,500,000 |
| Railroad safety | 37,706,000 | 40,990,000 | 40,090,000 | 51,319,000 | 40,648,000 | +2,942,000 |
| Railroad research and development | 22,331,000 | 25,804,000 | 14,800,000 | 4,450,000 | 25,205,000 | +2,874,000 |
| Northeast corridor improvement program | 205,000,000 | --- | --- | 204,100,000 | 204,100,000 | -900,000 |
| Grants to the National Railroad Passenger Corporation: | | | | | | |
| Operations | 331,000,000 | --- | 331,000,000 | 331,000,000 | 331,000,000 | --- |
| Operations and mandatory passenger rail service payments | --- | 269,000,000 | --- | --- | --- | --- |
| Capital | 175,000,000 | 74,000,000 | 74,000,000 | 165,000,000 | 165,000,000 | -10,000,000 |
| Total, Grants to the National Railroad Passenger Corporation | 506,000,000 | 343,000,000 | 405,000,000 | 496,000,000 | 496,000,000 | -10,000,000 |
| Mandatory Passenger Rail Service Payments | 145,000,000 | --- | 146,000,000 | 146,000,000 | 146,000,000 | +1,000,000 |
| Railroad Rehabilitation and Improvement Financing Fund | --- | --- | --- | 411,578 | 411,578 | +411,578 |
| Conrail commuter transition assistance | 13,600,000 | --- | 7,000,000 | --- | 7,000,000 | -6,600,000 |
| Amtrak corridor improvement loans | 3,500,000 | --- | 844,200 | --- | 844,200 | -2,655,800 |
| (Limitation on direct loans) | (3,500,000) | --- | (3,500,000) | --- | (3,500,000) | --- |
| National Magnetic Levitation Prototype Development Program (Highway Trust Fund) | | | | | | |
| (Liquidation of contract authorization) | --- | --- | --- | (45,000,000) | --- | --- |
| (Limitation on obligations) | --- | --- | --- | (45,000,000) | --- | --- |
| High-speed ground transportation (Highway Trust Fund): | | | | | | |
| (Liquidation of contract authorization) | --- | --- | (2,000,000) | (2,000,000) | (2,000,000) | (+2,000,000) |
| (Limitation on obligations) | --- | --- | (5,000,000) | (5,000,000) | (5,000,000) | (+5,000,000) |
| Total, Federal Railroad Administration: | | | | | | |
| New budget (obligational) authority | 961,079,000 | 428,530,000 | 631,119,200 | 928,082,578 | 945,360,778 | -15,718,222 |
| (Limitations on obligations) | --- | --- | (5,000,000) | (50,000,000) | (5,000,000) | (+5,000,000) |
| Total | (961,079,000) | (428,530,000) | (636,119,200) | (978,082,578) | (950,360,778) | (-10,718,222) |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Federal Transit Administration | | | | | | |
| Administrative expenses | 37,000,000 | 14,139,000 | 13,400,000 | 14,000,000 | 13,400,000 | -23,600,000 |
| Administrative expenses (Highway Trust Fund) (limitation on obligations) | --- | (27,748,000) | (25,150,000) | (25,000,000) | (25,150,000) | (+25,150,000) |
| Research, training, and human resources | 26,000,000 | --- | --- | --- | --- | -26,000,000 |
| Research, training, and human resources (rescission) | -5,000,000 | --- | --- | --- | --- | +5,000,000 |
| Formula grants | 1,520,000,000 | 541,299,000 | 755,125,000 | 650,975,000 | 650,975,000 | -869,025,000 |
| Formula grants (Highway Trust Fund) (limitation on obligations) | --- | (1,062,274,000) | (1,064,875,000) | (1,031,025,000) | (1,049,025,000) | (+1,049,025,000) |
| University transportation centers | --- | 2,025,000 | 2,025,000 | 2,025,000 | 2,025,000 | +2,025,000 |
| University transportation centers (Highway Trust Fund) (limitation on obligations) | --- | (3,975,000) | (3,975,000) | (3,975,000) | (3,975,000) | (+3,975,000) |
| Transit planning and research | --- | 28,537,000 | 29,000,000 | 30,000,000 | 29,000,000 | +29,000,000 |
| Transit planning and research (Highway Trust Fund) (limitation on obligations) | --- | (56,003,000) | (56,000,000) | (60,000,000) | (56,000,000) | (+56,000,000) |
| Trust fund share of transit programs (Highway Trust Fund): (Liquidation of contract authorization) | --- | (1,150,000,000) | (1,150,000,000) | (1,120,000,000) | (1,134,150,000) | (+1,134,150,000) |
| Discretionary grants | --- | --- | 132,000,000 | --- | --- | --- |
| Discretionary grants (Highway Trust Fund) | 10,000,000 | --- | --- | --- | --- | -10,000,000 |
| (limitation on obligations) | (1,900,000,000) | (1,000,000,000) | (1,725,000,000) | (1,725,000,000) | (1,725,000,000) | (-175,000,000) |
| Mass transit capital fund (Highway Trust Fund) (Liquidation of contract authorization) | (1,500,000,000) | (1,000,000,000) | (1,500,000,000) | (1,500,000,000) | (1,500,000,000) | --- |
| Interstate transfer grants - transit | 160,000,000 | 82,000,000 | 75,000,000 | 82,000,000 | 75,000,000 | -85,000,000 |
| Washington Metro | 124,000,000 | 182,000,000 | 165,000,000 | 182,000,000 | 170,000,000 | +46,000,000 |
| Total, Federal Transit Administration: | | | | | | |
| New budget (obligational) authority | 1,872,000,000 | 850,000,000 | 1,171,550,000 | 961,000,000 | 940,400,000 | -931,600,000 |
| (Limitations on obligations) | (1,900,000,000) | (2,150,000,000) | (2,875,000,000) | (2,845,000,000) | (2,859,150,000) | (+959,150,000) |
| Total | (3,772,000,000) | (3,000,000,000) | (4,046,550,000) | (3,806,000,000) | (3,799,550,000) | (+27,550,000) |
| Saint Lawrence Seaway Development Corporation | | | | | | |
| Operations and maintenance (Harbor Maintenance Trust Fund) | 10,550,000 | 12,080,000 | 11,100,000 | 10,550,000 | 10,825,000 | +275,000 |

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| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| **Research and Special Programs Administration** | | | | | | |
| Hazardous materials safety | 12,000,000 | --- | --- | 13,016,000 | 12,650,000 | +650,000 |
| Offsetting collections (HAZMAT fees) | -1,900,000 | --- | --- | --- | --- | +1,900,000 |
| Aviation information management | 2,495,000 | --- | --- | 2,618,000 | 2,618,000 | +123,000 |
| Emergency transportation | 927,000 | --- | --- | 955,000 | 880,000 | -47,000 |
| (By transfer) | (44,000) | --- | --- | --- | --- | (-44,000) |
| Research and technology | 1,516,000 | --- | --- | 1,470,000 | 1,470,000 | -46,000 |
| Program and administrative support | 5,428,000 | --- | --- | 5,989,000 | 5,886,000 | +458,000 |
| Research and special programs | --- | 25,610,000 | 21,335,000 | --- | --- | --- |
| Pipeline safety (Pipeline Safety Fund) | 13,553,000 | 15,578,000 | 14,100,000 | 15,577,000 | 15,050,000 | +1,497,000 |
| Emergency preparedness grants: | | | | | | |
| (Emergency preparedness fund) | --- | 850,000 | 850,000 | 700,000 | 700,000 | +700,000 |
| (Limitation on obligations) | --- | --- | --- | (11,300,000) | (10,300,000) | (+10,300,000) |
| Alaska pipeline task force (Oil Spill Liability Trust Fund) | --- | 1,000,000 | 360,000 | 750,000 | 550,000 | +550,000 |
| Total, Research and Special Programs Administration | 34,019,000 | 43,038,000 | 36,645,000 | 41,075,000 | 39,804,000 | +5,785,000 |
| **Office of the Inspector General** | | | | | | |
| Salaries and expenses | 37,005,000 | 42,200,000 | 38,000,000 | 40,000,000 | 38,000,000 | +995,000 |
| Total, title I, Department of Transportation: | | | | | | |
| New budget (obligational) authority | 14,296,518,000 | 12,803,148,000 | 13,060,839,200 | 13,392,772,578 | 13,054,814,778 | -1,241,703,222 |
| Appropriations | (14,302,718,000) | (12,803,148,000) | (13,060,839,200) | (13,392,772,578) | (13,054,814,778) | (-1,247,903,222) |
| Appropriations for debt reduction | (-1,200,000) | --- | --- | --- | --- | (+1,200,000) |
| (By transfer from DoD) | (206,600,000) | (203,100,000) | (206,600,000) | --- | (303,000,000) | (+96,400,000) |
| Rescissions | (-5,000,000) | --- | --- | --- | --- | (+5,000,000) |
| (By transfer) | (4,672,000) | --- | --- | --- | --- | (-4,672,000) |
| (Limitation on general operating expenses) | (419,000,000) | (433,533,000) | (351,200,000) | (403,200,000) | (398,000,000) | (-21,000,000) |
| (Limitations on obligations) | (20,106,301,000) | (23,255,600,000) | (21,671,600,000) | (22,972,650,000) | (20,256,450,000) | (+150,149,000) |
| (Liquidation of contract authorization) | (18,710,600,000) | (23,441,600,000) | (23,517,600,000) | (23,930,600,000) | (23,899,750,000) | (+5,189,150,000) |
| (Cumulative limitation on obligations) | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | --- |
| (Limitation on working capital fund) | (88,000,000) | (95,144,000) | (94,000,000) | (93,000,000) | (93,000,000) | (+5,000,000) |
| (Limitations on direct loans) | (46,000,000) | (50,000,000) | (53,500,000) | (50,000,000) | (53,500,000) | (+7,500,000) |
| (Limitation on borrowing authority) | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | --- |
| (Exempt obligations) | (1,299,797,000) | (300,000,000) | (2,677,000,000) | (480,000,000) | (2,677,000,000) | (+1,377,203,000) |
| Total, title I, new budget (obligational) authority and (limitations on obligations) and (exempt obligations) | (35,702,616,000) | (36,358,748,000) | (37,409,439,200) | (36,845,422,578) | (35,988,264,778) | (+285,648,778) |

| | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| TITLE II - RELATED AGENCIES | | | | | | |
| Architectural and Transportation Barriers Compliance Board | | | | | | |
| Salaries and expenses.................................. | 2,940,000 | 3,500,000 | 3,200,000 | 3,400,000 | 3,300,000 | +360,000 |
| National Transportation Safety Board | | | | | | |
| Salaries and expenses.................................. | 34,676,000 | 36,413,000 | 36,000,000 | 36,000,000 | 36,000,000 | +1,324,000 |
| Interstate Commerce Commission | | | | | | |
| Salaries and expenses.................................. | 40,923,000 | 45,030,000 | 43,930,000 | 43,930,000 | 43,930,000 | +3,007,000 |
| Payments for directed rail service (limitation on obligations).......................................... | (475,000) | (475,000) | (475,000) | (475,000) | (475,000) | --- |
| Total, Interstate Commerce Commission........... | (41,398,000) | (45,505,000) | (44,405,000) | (44,405,000) | (44,405,000) | (+3,007,000) |
| Panama Canal Commission | | | | | | |
| Panama Canal Revolving Fund: | | | | | | |
| (Administrative expenses).......................... | (49,497,000) | (51,156,000) | (51,150,000) | (51,150,000) | (51,150,000) | (+1,653,000) |
| (Limitation on operating and capital expenses).... | (509,500,000) | --- | (530,000,000) | (530,000,000) | (530,000,000) | (+20,500,000) |
| Department of the Treasury | | | | | | |
| Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund)............................ | 10,250,000 | 11,608,000 | 10,400,000 | 10,250,000 | 10,250,000 | --- |
| Washington Metropolitan Area Transit Authority | | | | | | |
| Interest payments...................................... | 51,663,569 | 51,663,569 | 51,663,569 | 51,663,569 | 51,663,569 | --- M |
| Total, title II, Related Agencies: | | | | | | |
| New budget (obligational) authority......... | 140,452,569 | 148,214,569 | 145,193,569 | 145,243,569 | 145,143,569 | +4,691,000 |
| (Limitation on obligations)................. | (475,000) | (475,000) | (475,000) | (475,000) | (475,000) | --- |
| Total.................................... | (140,927,569) | (148,689,569) | (145,668,569) | (145,718,569) | (145,618,569) | (+4,691,000) |

|  | FY 1992 Enacted | FY 1993 Estimates | House | Senate | Conference | Conference compared with Enacted |
|---|---|---|---|---|---|---|
| Grand total: |  |  |  |  |  |  |
| New budget (obligational) authority......... | 14,436,970,569 | 12,951,362,569 | 13,206,032,769 | 13,538,016,147 | 13,199,958,347 | -1,237,012,222 |
| Appropriations........................... | (14,443,170,569) | (12,951,362,569) | (13,206,032,769) | (13,538,016,147) | (13,199,958,347) | (-1,243,212,222) |
| Appropriations for debt reduction....... | (-1,200,000) | --- | --- | --- | --- | (+1,200,000) |
| (By transfer from DoD).................. | (206,600,000) | (203,100,000) | (206,600,000) | --- | (303,000,000) | (+96,400,000) |
| Rescissions............................ | (-5,000,000) | --- | --- | --- | --- | (+5,000,000) |
| (By transfer)............................. | (4,672,000) | --- | --- | --- | --- | (-4,672,000) |
| (Limitation on general operating expenses).. | (419,000,000) | (433,533,000) | (351,200,000) | (403,200,000) | (398,000,000) | (-21,000,000) |
| (Limitations on obligations)............... | (20,106,776,000) | (23,256,075,000) | (21,672,075,000) | (22,973,125,000) | (20,256,925,000) | (+150,149,000) |
| (Liquidation of contract authorization)..... | (18,710,600,000) | (23,441,600,000) | (23,517,600,000) | (23,930,600,000) | (23,899,750,000) | (+5,189,150,000) |
| (Cumulative limitation on obligations)...... | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | (4,750,000) | --- |
| (Limitation on working capital fund)........ | (88,000,000) | (95,144,000) | (94,000,000) | (93,000,000) | (93,000,000) | (+5,000,000) |
| (Limitations on direct loans)............... | (46,000,000) | (50,000,000) | (53,500,000) | (50,000,000) | (53,500,000) | (+7,500,000) |
| (Limitation on borrowing authority)......... | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | (9,970,000) | --- |
| (Appropriations to liquidate contract authorizations)........................... | (18,710,600,000) | (23,441,600,000) | (23,517,600,000) | (23,930,600,000) | (23,899,750,000) | (+5,189,150,000) |
| (Exempt obligations)........................ | (1,299,797,000) | (300,000,000) | (2,677,000,000) | (480,000,000) | (2,677,000,000) | (+1,377,203,000) |
| Grand total, new budget (obligational) authority and (limitations on obligations) and (exempt obligations).................................. | (35,843,543,569) | (36,507,437,569) | (37,555,107,769) | (36,991,141,147) | (36,133,883,347) | (+290,339,778) |

WILLIAM LEHMAN,
BOB CARR,
RICHARD J. DURBIN,
MARTIN OLAV SABO,
DAVID E. PRICE,
RONALD D. COLEMAN,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
FRANK R. WOLF,
TOM DELAY,
JOSEPH M. MCDADE,
*Managers on the Part of the House.*

FRANK R. LAUTENBERG,
ROBERT C. BYRD,
TOM HARKIN,
JIM SASSER,
BARBARA A. MIKULSKI,
ALFONSE M. D'AMATO,
ROBERT W. KASTEN, Jr.,
PETE V. DOMENICI,
MARK O. HATFIELD,
*Managers on the Part of the Senate.*

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BEVILL, for 60 minutes, on October 1.

Mr. RICHARDSON, for 60 minutes, on September 29.

Mr. OWENS of Utah, for 60 minutes each day, on September 30 and October 3.

## PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately I missed rollcall vote 435, a motion to recede and concur in a Senate amendment to establish an $8 billion floor for the Mission to Planet Earth budget through fiscal 2000. Had I been present, I would have voted "nay," because the amendment mandates spending $8 billion through fiscal 2000.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MONTGOMERY.

Mr. BROWN in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANDERSON in 10 instances.

Mr. ANNUNZIO in six instances.

## SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3279. An act to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes; to the Committee on Post Office and Civil Service.

S. Con. Res. 127. Concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia; to the Committee on Foreign Affairs.

## ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 14 minutes p.m.) the House adjourned until tomorrow, September 29, 1992, at 12 noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4326. A letter from the Acting Comptroller, Department of Defense, transmitting a report of two violations of the Antideficiency Act in the U.S. Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4327. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting the semiannual reports on voluntary contributions by the United States to international organizations for the period October 1991–March 1992, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on Foreign Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee of Conference. Conference Report on H.R. 5678 (Rept. 102–918). Ordered to be printed.

Mr. ROYBAL: Committee of Conference. Conference Report on H.R. 5488 (Rept. 102–919). Ordered to be printed.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5990. A bill to amend the Federal Water Pollution Control Act to provide for assessments of contaminated sediments at areas of concern in the Great Lakes, and for other purposes (Rept. 102–920). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 6004. A bill to amend the Federal Water Pollution Control Act to extend the deadline by which permits for discharges for municipal and industrial stormwater discharges are required until October 1, 1994. (Rept. 102–921). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3258. A bill to improve the accuracy of radon testing products and services, to increase testing for radon in schools, to create a commission to provide increased public awareness of radon, and for other purposes, with amendments (Rept. 102–922). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on House Administration. H.R. 3281. A bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site; with amendments (Rept. 102–923). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEHMAN of Florida: Committee of Conference. Conference Report on H.R. 5518 (Rept. 102–924). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BERMAN:

H.R. 6047. A bill to amend the U.S. Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO (for himself and Mr. WYLIE):

H.R. 6048. A bill to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, the Judiciary, and Foreign Affairs.

By Mr. OWENS of New York:

H.R. 6049. A bill to amend the Congressional Award Act to revise and extent authorities for the Congressional Award Board; to the Committee on Education and Labor.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4304: Mr. BRYANT, Mr. ACKERMAN, Mr. SMITH of Florida, Mr. GAYDOS, Mr. GUARINI, and Mr. BEVILL.

H.R. 5579: Mr. FROST.

H.R. 5820: Mr. LEVINE of California.

H.J. Res. 159: Mr. KOPETSKI, Mrs. KENNELLY, and Mr. MCDERMOTT.

H. Con. Res. 340: Mr. HARRIS, Mr. EARLY, Mr. HALL of Texas, Mr. BLACKWELL, Mr. DURBIN, and Mr. YOUNG of Florida.

# EXTENSIONS OF REMARKS

## MINING LAW REFORM IN MEXICO VERSUS H.R. 918

### HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mrs. VUCANOVICH. Mr. Speaker, H.R. 918, the Mineral Exploration and Development Act of 1992, is listed as the penultimate bill for consideration by the House this Congress. I wish to reiterate my concern that this bill would greatly weaken our competitive posture in the global mineral economy. While nations in Latin America, the Commonwealth of Independent States, and former Warsaw Pact countries seek to stimulate investment in the natural resources sector of their economies, the threatened radical reform of United States mining laws has already caused mineral exploration investment in our public lands to wane despite the alleged give-away that the 1872 Mining Law supposedly represents.

Mexico is a case in point. Our neighbors to the south recently revised their mining law to reflect that greater, not lesser, security of tenure to mineral deposits was necessary to attract venture capital. Furthermore, the Mexican Government decided that deregulation, not increased regulation, was a necessary component of mining law reform. Clearly, Mexico wants to attract mining capital that formerly shied away from investment in geologically prospective terranes there because of bureaucratic redtape and the message that foreigners were not welcome. Now they are.

With its new mining law, Mexico has taken the extraordinary step of eliminating the royalty it formerly collected from mineral producers in order to provide a greater investment incentive. Clearly, Mexico believes that dropping this tax will increase mining activity in the republic and thereby bring an increase in taxes collected on incomes, both personal and corporate. The proponents of H.R. 918 recommend the exact opposite by creating a royalty on gross production value where none exists now, without a thought to the decline in economic activity this new tax would surely cause.

Mexico has also opted to increase rental fees charged to mining concessions to reduce speculative holding of large tracts and to prompt vigorous exploration. This change is not unlike the $100 per claim annual holding fee adopted by the conferees to the Interior and Related Agencies Appropriations Act for fiscal year 1993. Currently, U.S. mining claimants must pay $5 per claim when recording affidavits of annual assessment work with the Government. Upon enactment of the fiscal year 1993 spending bill, claimants will be obliged to pay $100 per claim in lieu of the annual labor requirement, except that small business entities, miners with 10 or fewer claims, may opt to continue to do assessment work instead. Thus, the United States is following Mexico's lead in demanding a higher rental to reduce speculative holding of claims.

Mr. Speaker, exploration precedes discovery of tomorrow's mines. If we take the ill-advised step of creating disincentives to exploration of our public lands then our mining industry will shrivel up, or move south. I include the following explanation of why changes in the Mexican mining law were necessary, by President Salinas de Gortari, in the CONGRESSIONAL RECORD. President Gortari's remarks were well received by the Federal legislature which enacted his proposals into law, effective last Friday, September 25, 1992. On the eve of floor consideration of the radical reforms contained within H.R. 918, I believe Members of the House of Representatives will gain by reading his remarks.

EXPOSÉ DE MOTIFS

To: Secretaries of the Chamber of Deputies of the Honorable Congress of the Union.

The material source for judicial rules is to be found in social reality, in the political and economic phenomena which, their constant evolution, forge a dynamic to which the authorities must be attentive. A delay in the perception of these changes will produce an irreparable harm to society.

Presented with a new Mexico, a country which all of us Mexicans want to see transformed, reinvigorated after the crisis and beginning a period which will bring with it growth and well being, modernization imposes itself as the only route by which to confront the challenges of globalization of the economy, within a framework of competitiveness, efficiency and excellence, signifying an improvement of our internal quality of living, as well as our role in an international community which is becoming ever more dynamic.

Based upon these premises, the government of the Republic has an obligation to promote the development of the various economic and social sectors. Among them, prominent because of its potential, is the promotion of the mining sector. In the National Plan of Development of 1989–1994, the modernization of its legal framework and the promotion of its technological development were identified as strategies to promote this sector. The transformation of its legal framework must, while adhering strictly to the Constitution of the United Mexican States, create adequate conditions for the healthy development of the different factors which play a role in such a complex activity.

The present proposal, should it obtain the approval of the Honorable Congress of the Union, establishes the conditions which have to be met in order to stimulate the investment for which the industry competes, the both as against other productive sectors of the national economy as well as against investment opportunities in mining that are offered by other countries.

Mexico has traditionally occupied a prominent position in mining and metallurgical production worldwide, occupying one of the top ten positions of production in eighteen minerals.

However, in addition to the difficulties that are inherent to the activity itself—those relating to the prospecting for, and the identification of, mineral deposits, as well as the significant levels of investment required for the exploitation of the same, the technology of mining and metallurgy and the cycles of international pricing—the Mexican mining industry also must contend with those difficulties that derive from a legal framework which is complex and excessively regulated, and which imposes methods, systems and procedures that are obsolete.

It is clear, then, that modernizing the legal framework would permit it better to respond to the requirements of society. It is thus that this proposal seeks to promote an improved allocation of resources to the exploration of the national territory, to facilitate the substantial investments required for the rational exploitation of mineral resources, to simplify the administrative procedures that apply, and to open up new possibilities for assimilating important technological advances that are routinely being made in this industry. Likewise, the fundamental principles of the industry are respected, such as: its federal character, both in terms of substantive and fiscal regulation and, most particularly, the direct right of domain by the Nation over its nonrenewable mineral resources. In this fashion the initiative which is submitted for consideration by the Honorable Congress of the Union, while reserving to the State the right to regulate the utilization of resources of the Nation for the benefit of society, seeks to encourage investment by private parties.

It is against this background that this proposed Mining Law eliminates excessive legal requirements, multiple steps required with complex procedures, excessive time periods, excessive controls, often repetitive, outdated criteria for verification, and various steps of prior approval that ultimately had to be ratified by the same authority.

During the effective period of the Law whose repeal I now submit to you for consideration, the development of new projects has been inhibited by regulatory constraints on the allocation of risk capital, as well as by the right of exclusivity granted to state enterprises—decentralized entities and enterprises with governmental participation—for the exploration and exploitation of some minerals which were once considered to have strategic importance, but which at the present are to be found in abundance in international markets. The lack of precision with respect to whether some minerals are subject to concession or not has impeded the making of the significant long term investments required for their extraction, which would have allowed their use, thus obstructing the generation of economic activity and employment opportunities.

The fiscal regime governing mining duties has focused primarily on the producer, and not on those who retained vast territories without utilizing them, to the detriment of competition in the industry and rationalization in the surface covered.

Finally, the indiscriminate application for land on the part of state enterprises and of private entities, independently of their real

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

capacity to carry out the work of exploration and exploitation, as well as the establishment of mining reserves to be devoted to the satisfaction of future needs of the Nation, without any justification and where the relevant mining potential was in most cases unknown, has also limited the greater development of the field.

Based on the strategy adopted by the National Development Plan, the National Program of Modernization of Mining 1990–1994 defined four basic lines of action for the modernization of mining regulations: to conform the fiscal burden on the industry to that which exists at the international level and with those of other industrial fields within the country; to rationalize the surface covered under the rules governing national reserves, assignments and mining concessions; to revise the methods, systems and procedures for the prompt approval of matters that are submitted therefor; and to regulate the industry by means of a legal framework which is responsive to the needs for modernization, transformation and diversification that are required by this activity.

Based on the foregoing, and with the objective of re-establishing competitiveness in the field, the Executive Branch under my charge considered it pertinent to conform the system for taxation of mining activity with that of other industrial sectors, for which reason I submitted for consideration to the Honorable Congress of the Union a reduction of 25% in the rights charged for extraction in 1990 and the total repeal of the aforesaid charge beginning in 1991. Conversely to the elimination of the extraction duties, and with the objective of avoiding the accumulation of unproductive land, the surface duties which are charged in respect of land that is subject to concessions for exploration has been increased. Additionally, with the goal of rationalizing the grant of assignments to State enterprises of this industrial sector, the Federal Law of Duties was reformed so that it would also cover the duties referred to above from January of 1992.

With the same purpose of making available a larger area of territory for development of the industry, the Federal Government manifested its willingness to release at least half of the areas designated as national mining reserves, and to facilitate the voluntary surrender of unproductive concessions, with the objective that new concessions will be linked to productive projects.

With the purpose of expediting the disposition of matters and procedures that are required by mining regulation, and to improve the degree of legal certainty that attaches to the same and to strengthen the activities of control and supervision, an important process of renewal and modernization of the systems, methods and procedures which for this purpose are used by the Ministry of Energy, Mines and State Industry was undertaken.

To date, through various administrative and regulatory decisions, many requirements heretofore imposed for the presentation of applications have been eliminated; procedures have been simplified, unified and clarified; deadlines have been imposed on the authorities for responding to applications that are presented to them and tacit approval has been introduced for various matters. Likewise, prior approvals have been substituted by generic approvals subject to later registration with the Public Registry of Mining; methods have been established for the prompt and accurate dispatch of business; various controls have been eliminated and criteria have been updated for verification of work performed for exploration and exploitation.

This procedural simplification has resulted in the elimination of nineteen administrative steps for the determination of applications filed for concessions of exploration, seventeen in the case of new concessions for exploration or exploitation, thirty-four in the case of special concessions, in national reserves of less than one hundred hectares and twenty-nine when they exceed this size, thirteen in the handling of concessions for private processing plants and the same number dealing with temporary occupation and the establishment of easements that are agreed to by the affected persons.

On the other hand, with the purpose of insuring due compliance with the constitutional provisions relating to the performance of the work of exploitation, the minimum required amounts of investments subject to verification were updated, and mechanisms were designed for their periodic revision.

As a result of these measures, investment in mining has doubled and the number of hectares under exploration or exploitation has increased from 2.8 million to 7.1 million.

Dialog and mutual agreements with the mining sector have been constant factors in helping to resolve old problems and in the generation of proposals for innovative solutions. The participation of its members has been essential in the advances achieved up to this date and in the elimination of practices which diminished the dynamism of the activity.

Notwithstanding these practices, confusion remains with respect to the application of the mining laws; complexity is the main feature of its rules; there continue to be unnecessary limits on exploration and exploitation; and structural problems remain which obstruct the development of the activity.

The changes which have been enacted to channel more risk capital towards the field, in a short period of time, have generated results. Nevertheless, reform of the legal framework must be deepened, with the objective of restoring mining to its role as a promoter of regional development.

It is this context that the present initiative has submitted for consideration by the Honorable Congress of the Union, abiding strictly by the fundamental principles which are provided in our Magna Carta with regard to this field. Following is a summary of its most relevant points.

## FEATURES AND MODIFICATIONS

### *A. Greater Legal Certainty*

The mining industry by its nature is capital intensive and with a long period of maturity; additionally, the ample supply of mineral products in different regions of the world, as well as methods of extraction which are becoming increasingly more efficient, demand, for its subsistence and development, that mining perform its function of exploration and extraction with a high degree of competitiveness and efficiency. The techniques which would further this require large and long-term investments; this is why legal judicial certainly is needed to give investors the conditions required to attract them into channeling resources toward this activity. For these reasons, the present proposal expressly identifies the minerals and substances which are regulated by it.

With the aim of being responsive to technological innovations and new requirements, the Executive Branch is given the ability to make a determination as to the possibility of granting concessions in regard to minerals or substances which are not expressly included in the relevant articles.

The proposal points out with clarity the rights and obligations of the beneficiaries of mining concessions, and establishes a norm of trust in the grantee of a concession for the fulfillment of his obligations.

### *B. Capitalization of Mining*

The national territory has proven rich in mineral resources; notwithstanding, even though mining has been developed for more than five centuries in our country, the risk capital destined for exploration and exploitation has been insufficient. It is estimated that only about 20% of the national territory has been partially explored.

The geology of Mexico offers an array of possibilities for exploration. Nevertheless, in the last 10 years Mexican mining projects have accounted for less that 0.5% of the total mining investments in the world.

Mining has become global, and like many other economic activities around the world it has experienced an accelerated growth in technology. Places which before were considered remote have been integrated into mining projects in an astonishingly accelerated and efficient form. The enormous ease in telecommunications, the possibility of exploration via satellite and the growth in communications have brought the world closer together, and allow for greater mobility for resources and know-how that are allocated to mining.

It is essential for our country to achieve a greater development of its mining potential. The minerals which we did not exploit yesterday have lost value today, canceling thereby important possibilities for generating employment, for the construction of infrastructure and for regional development.

Modern mining requires risk capital for exploration, large investments of capital for its exploitation and sophisticated technology for the efficient and competitive recovery of minerals. This is why the present initiative proposes that foreign capital participation in the activities of exploration and exploitation be permitted in accordance with the applicable legal provisions.

It is also proposed that private entities be permitted to exploit deposits of sulphur, phosphorus, potassium, iron and coal, in view of the technological changes which have taken place for their exploitation and because of their ample supply in international markets.

With the objective of realizing the potential of minerals found on the continental shelf, the underwater perimeter of islands, keys and reefs and in the subsoil of the exclusive economic zone, the possibility that concessions may be granted thereon by open tender is introduced.

### *C. Administrative Simplification*

The complexity of mining legislation has resulted in the activity being concentrated in a few hands, by establishing important barriers for the entry of new participants. Likewise, it has led to there being an excessively long period required for the grant of a concession, thereby hindering the activity in large regions of the national territory, and it has imposed excessive transaction and verification costs, to the particular detriment of small miners. The limitations imposed on the size of areas covered have led not only to simulation, but also to an economically irrational allocation of resources for exploration.

The present initiative proposes a substantial procedural simplification, without prejudice to the regulatory powers that the State must have over mineral resources, places trust on the miners themselves for purposes of verification and compliance, and reduces substantially the time required to obtain concessions.

It is proposed to extend the validity of concessions from 3 to 6 years in cases of exploration and from 25 to 50 years for exploitation, with the aim of acknowledging the technical and economic reality of projects. At the same time, the limits imposed on areas subject to concession have been eliminated, to avoid evasion and simulation, and to promote a more rational use and the concentration of resources destined for exploration. The economic rationality is complemented by systematic updating of surface duties, with the objective of avoiding the accumulation of areas that remain unproductive.

In the proposed Mining Law, mining cartography is established as a means to ascertain the availability of areas and to serve as a guide for exploration by private parties. Likewise, unnecessary notices are repealed and redundant provisions are excluded which are already contained in commercial legislation.

### *D. Encouragement of Small Scale Mining*

Recognizing the importance of small scale mining for the generation of jobs in depressed areas, the proposal gives to the Ministry of Energy, Mines and State Industry the powers necessary to promote activities and programs for the development of this sector. It is for this reason that the proposal establishes the requirement that up to 10% of the capacity of processing plants be made available for processing of minerals belonging to small scale miners, and allows for new ways that they can obtain access to the most varied sources of capital and technology.

Activities for regional exploration in the national territory are concentrated in the Council for Mineral Resources, to whom is entrusted also the task of giving technical assistance, including a public geological and mining information service to support the small and medium scale miners.

With the aim of converting the small-scale miner into a more secure recipient of credit, the Council would, in the event, certify the reserves quantified by private miners who wish to grant as collateral their rights under mining concessions.

### *E. Security and the Environment*

The preservation of the environment is demanded by society and is one of the priorities of my government. While the mining industry has traditionally been careful and responsible in regard to the environment, in this proposal it is provided that the concessionaires are obligated to continue to respect and to abide by the environmental protection laws. For this purpose, it is provided that the Ministry of Energy, Mines and State Industry, in conjunction with the responsible entities in charge of the protection of the environment, are charged to issue technical rules relative to the activities of the mining and metallurgical industries, to ensure the protection of the environment and the conservation of ecological balance.

Mining should become once again an important engine for regional development, an activity that generates employment, foreign exchange and basic inputs to the nation's industry. The present initiative establishes the structural basis to promote the development of mining activity over the medium and long-term. It is intended to create a more secure legal framework to attract risk and long-term capital resources, to permit the participation of capital and to obtain the technology that is indispensable to the development of an efficient and competitive activity, to simplify steps and procedures so as to avoid concentration, to promote and support small and medium scale mining and to require compliance with rules and regulations for the protection of the ecology and the environment. Simultaneously, our traditional historical principles for the activity would be reinforced, as contemplated by the Constitution, reaffirming the Nation's direct domain over its nonrenewable resources, the federal character of the activity and its nature as a matter of public order.

By reason of the foregoing, and based on section I of Article 71 of the Constitution of the United Mexican States, through you, citizen secretaries, I submit for consideration by the Honorable Congress of the Union, the following initiative for a [Mining Law].

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## THE MARQUETTE-YOKAICHI STORY

## HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. DAVIS. Mr. Speaker, at approximately the same time that I was first elected to Congress, Marquette, MI—the largest city in my district—entered into a sister city relationship with Yokaichi Shiga, Japan. Since then, that relationship has flourished and succeeded in a fashion few could have predicted. For the benefit of sister city relationships everywhere, I am including in today's RECORD an illuminating history of the Marquette-Yokaichi story. This history was compiled by Pryse H. Deurfeldt, the dynamic leader of this effort for more than a decade:

### THE MARQUETTE-YOKAICHI STORY

The Sister City concept was initiated by President Dwight Eisenhower on Sept. 12, 1956 in Washington, D.C. and has been supported by each U.S. President since then as important to the development of people-to-people understanding and international education.

At present, there are over 1000 U.S. cities have about 1700 formal Sister Cities throughout the world.

U.S. Presidents have given strong support to the Sister City Program, most recently through challenge grants for international youth exchange.

### MICHIGAN'S SISTER STATE RELATIONS

A Sister State agreement was signed between Michigan's Gov. George Romney and Shiga's Gov. Kinichiro Nozaki on Nov. 14, 1968 in Lansing, MI. Annual exchanges then began. The text of the agreement and that of the Sister City agreements that followed include "* * * will promote interchange in various fields of activities with the object of deepening mutual understanding and working together to bring about mutual happiness and prosperity," and "* * * this affiliation will unite the people * * * in everlasting bonds of friendship and promote understanding of the people of the world while making another milestone in the development of both the (cities) * * *."

The first Michigan Sister City Agreement (associated with the Shiga Sister State agreement) was signed between Ann Arbor and Hikone on March 28, 1969. Since then: Gross Pointe Farms and Imazu (6/14/69, but since terminated). Lansing and Otsu (10/1/69), Traverse City and Tsuchiyama (11/11/69). Sturgis and Shigaraki (1/1/70), Sault Ste. Marie and Ryuo (9/9/74), Grand Rapids Chamber of Commerce and Omi-Hachiman JCs (10/22/75), Birmingham and Ritto (4/12/76), Petosky and Makino (8/2/76), Pontiac and Kusatsu (8/2/78), Marquette and Yokaichi (8/13/79), Marshall and Koka (8/20/84), Adrian and Moriyama (8/3/89), and Garden City and Imazu (8/6/90). Battle Creek, Buena Vista and Saranac may also want to develop ties with cities in Shiga.

On September 19, 1988, Governors Blanchard and Inaba signed an agreement establishing The Japan Center for Michigan Universities (in Hikone, Shiga) to enable students from each of Michigan's 15 State Universities to reside in Shiga for the purpose of studying Japanese culture and language.

Shiga missions to Michigan include representatives from all sister cities (110–200+) and come in late July/early August of even numbered years with delegates receiving modest city and prefectural support. Delegates are "elected" with the number to each sister city typically limited to 10–12.

Michigan missions to Shiga are varied in size, inclusiveness and timing. The "regular" Michigan delegation has ranged up to 150 in size and travels in August of odd numbered years. Some cities have arranged separate travel plans at different times and for differing durations on odd numbered years, e.g., Pontiac, Ann Arbor and Marquette. The Marquette program places emphasis on the development of long-term personal relations and discourages a "tourism" approach.

### MARQUETTE'S SISTER CITY RELATIONS AND EXCHANGES

5/77 Gov. Milliken attends Governor's Conference in Japan, travels to Shiga to confer with Gov. Takemura of Shiga, and both travel to Takemura's home town of Yokaichi where they discuss a possible Yokaichi-Marquette relationship.

8/78 Shiga mission to Michigan includes Yokaichi Goodwill Delegation of 8 led by City Assemblyman Kenzo Takehisa to evaluate Marquette as a potential sister city at the invitation of Mayor Howard Swaine and Chamber of Commerce Executive Al Raymond.

11/78 Yokaichi Assembly approves Marquette as a sister city candidate.

2/79 Anne Barnwell, exchange student in Japan, becomes first Marquette resident to visit Yokaichi following sister city discussions.

3/79 Marquette Rotary Club Director Pryse Duerfeldt is asked to pursue a sister club relationship with Yokaichi Rotary Club.

5/79 Pryse Duerfeldt is appointed Director of Marquette-Yokaichi Sister City Relations by the Marquette City Commission.

8/79 Duerfeldt leads 8-member delegation to Yokaichi where Sister City Agreement is signed (8/13/79) by Mayor Masajiro Yamada and Marquette City Commissioner Bill Wilson for Mayor Warren Merrick. Duerfeldt and Yokaichi Rotary Club President Keijiro Ishido sign official Sister Rotary Club Agreement (8/12/79). These signings receive major national news coverage in Japan.

9/79 Vice-Mayor Mochida and Shiga Treasurer Nishioka accompany Duerfeldts to Marquette following hospitalization after Duerfeldt's accident.

10/79 Marquette teacher Ray Johnston is a member of Michigan State Education Delegation to Shiga and visits Yokaichi.

6/80 Marquette residents George and Lillian Larson "drop in" to Yokaichi while on a visit to Japan.

8/80 Yokaichi Mayor Yamada leads a 17-person delegation to Marquette to be greeted by Mayor Glenda Robinson. Gov. Wm. Milliken and Shiga Vice-Gov. Naoyoshi Maekawa, Liaison Officers Sam Millstein (Mich.) and Toshimitsu Imai, and U.S. Congressman Bob Davis also participate in the visit. Atsuko Nakamizo is the first recipient of an annual one-year Sister City Scholarship established by the Northern Michigan University Board of Control.

9/81 Toyoko Murai is the 2nd NMU Sister City Scholar and is given host family support by the Barnwells.

11/81 Duerfeldt leads a delegation of 14 to Yokaichi in departure from regular Michigan delegation. The delegation meets with Mayor Yamada and Governor Takemura during their 14-day visit that is highlighted by host family stays and support by numerous organizations.

8/82 Vice-Mayor Usaburo Michida (elected Mayor in 11/82) leads a delegation of 12 to Marquette that includes a special prefectural representative with items for the Marquette Maritime Museum and the 3rd NMU Scholar, Naoki Taniguichi, who was also a member of the 1978 mission. They are greeted by Mayor Bob Ling.

9/82 Fumio Imajuku, member of the 1978 mission, makes a personal visit to Marquette to vacation (stays with Duerfeldt and Mick families).

6/83 Yokaichi Rotary Club President Shozo Okumura leads a special delegation of 6 to Marquette following their attendance at the Rotary International Convention in Toronto.

8/83 Chamber of Commerce President Paulette Lindberg leads a Marquette delegation of 12 to Yokaichi and signs a Sister Chamber Agreement with Yokaichi Chamber of Commerce Executive Kenji Jukuhara. Marquette delegate Mike Roche becomes Marquette Chamber of Commerce Executive in April 1984.

9/83 Hiroo Kotera is the 4th NMU Sister City Scholar. Toyoko Murai, 2nd NMU Scholar, returns for a personal visit (stays with Shibley family.)

8/84 Duerfeldt leads a special delegation to Yokaichi that includes his wife, Louise, and Mayor Bob Stow and his wife, Karen, to celebrate the 5th anniversary of the signing of the Sister City Agreement and the 30th anniversary of the formation of the "new" City of Yokaichi. Pryse Duerfeldt receives a major award from the Yokaichi Government.

8/84 Vice-Mayor Shinzo Morii leads a delegation of 19 to Marquette that includes the leader of 1978 mission, Kenzo Takehisa, Chamber of Commerce Vice-President Fukunosuke Watanabe, and the 5th NMU Sister City Scholar, Akiko Nishibori. The group is welcomed by Mayor Stow, and U.S. Congressman Bob Davis presents a U.S. Congressional Resolution to Vice-Mayor Morii honoring our 5th Sister City Anniversary and the 30th Anniversary of the Yokaichi "new" City.

11/84 Mayor Mochida sends Intelpost greetings to Marquette on Nov. 17, 1984, the first day this international service is available.

3/85 Hiroo Kotera, our 4th NMU Scholar, returns to Marquette for a 2-week visit.

5/85 Paulette Lindberg leads a delegation of 15 Marquette citizens to Yokaichi with greetings from Mayor Robert Kulisheck.

7/85 Previous delegate Mizuho Murata makes a private one-month visit to Marquette (stays with Burke/Perry-Burke family.)

8/85 Hiroshi Konishi is the 6th NMU Sister City Scholar.

10/85 Marquette resident Terue Mick visits friends in Yokaichi (stays with Taniguchi family).

6/86 Wahei Nakai, Hitoshi Iwatami and Shinji Tanaka, teachers in the Michigan-Shiga Teacher Exchange Program, are welcomed to Marquette and teach 5 days in the Marquette Area Public Schools. Katsuhide Inaba of Yokaichi comes to Marquette with Hiroo Kotera as translator to evaluate the possibility of sending his daughter, Kumi Inaba, to NMU to pursue a course of studies leading to a baccalaureate degree (starting in Fall, 1987).

8/86 Mayor Usaburo Mochida leads a delegation of 13 Yokaichi citizens to Marquette that includes Rumi Hashimoto, NMU's 7th Sister City Scholar. The delegation is welcomed by Mayor J. Michael Coyne.

9/86 Paulette Lindberg visits friends in Yokaichi as part of a business trip to the Far East (stays with Morii family).

10/86 Hiromichi Sahashi and Yoshitoshi Fukuhara, teachers in the Michigan-Shiga Teacher Exchange Program, are welcomed to Marquette and teach 5 days in the Marquette Area Public Schools.

5/87 Pyrse Duerfedlt leads a delegation of 10 Marquette area citizens to Yokaichi with greetings from Marquette Mayor Robert Berube. (For the first time, greetings are also presented from the City and Township of Negaunee.)

8/87 Masumi Honda is the 8th NMU Sister City Scholar. Kumi Inaba is the first Yokaichi student to begin pursuing a baccalaureate degree at NMU.

10/87 Michigan-Shiga Teacher Exchange teachers, Nobuo Kitagawa and Masanobu Ohashi, are welcomed to Marquette and teach a few days in the Marquette Area Public Schools.

2/88 Rumi Hashimoto, NMU's 7th SC Scholar, returns to Marquette for a private one-month visit with the Truitt and McQuiad families.

3/88 The Yokaichi Women's Chorus (professional male conductor, Masanori Sawa, and 24 women, aged 13–30, directed by Rumiko Kata) come for a week of friendship and choral presentations in Marquette. The group (which includes 1984 delegate Yoko Asahara and NMU's 6th SC Scholar Akiko Nishibori) brings greetings to Mayor J. Michael Coyne.

5/88 Hiroo Kotera, NMU's 4th SC Scholar, returns to Marquette for a visit with the Duerfeldt family to introduce his new bride, Kimiko.

6/88 Kumi Inaba takes Laura Katers with her for a 6-week visit with the Inaba family in Yokaichi.

Shigeko Sumii (whose family hosted the Teichmans in Yokaichi in 1985) and her 4-year-old daughter, Eiko, pay a 2-week visit to the Teichman family in Marquette.

7/88 Isamu Takiguchi, Head of the Yokaichi City General Affairs Dept, leads a delegation of 11 Yokaichi citizens for a one-week visit with host families in Marquette. The delegates, including NMU's 9th SC Scholar, Sachiko Nishizawa, are greeted by Mayor J. Michael Coyne.

Don and Marilyn Pavloski pay a 2-day visit to Yokaichi while on their way to visit family in the Philippines (stay with Kitazawa and Nishizawa families).

8/88 Katsuhide Inaba returns to Marquette with daughter Kumi for a visit with the Katers family. Kumi Inaba begins her 2nd year at NMU. Masumi Honda, NMU's 8th SC Scholar, returns to NMU to become the first SC Scholar to return to NMU for a 2nd year (on private funding).

NMU student, Bill Brazier, pays a 2-day visit to Yokaichi while visiting his parents who are living in Hiroshima (stays with Inabas)

The first FAX transmission from Marquette to Yokaichi is sent from NMU's President's Office to Yokaichi City Hall on 8/15/88; a FAX reply is received on 8/18/88.

9/88 NMU President Jim and Pat Appleberry pay a visit to Yokaichi while on a business trip to the Far East (stay with Sumii family).

12/88 Bill Brazier again visits Yokaichi (Inaba Family) for 2 days.

4/89 Michigan-Shiga Teacher Exchange teachers, Kiyotoshi Kawai and Shoji Shimabayashi, are welcomed to Marquette and Negaunee and teach one week in the Marquette Area and Negaunee Public Schools.

5/89 Mayor Robert (Buzz) Berube leads a delegation of 19 Marquette area citizens to Yokaichi with 10th Anniversary greetings and gifts from an array of local, state and national organizations and officials. The anniversary is recognized in a U.S. Congressional Resolution introduced by Bob Davis.

6/89 Masumi Honda gains a Washington Center Internship Scholarship to support a 3-month internship in Washington, DC.

8/89 Kumi Inaba begins her 3rd year at NMU while her brother, Naoki Inaba, has a one-month stay with the Berube Family. Masumi Honda begins her last semester at NMU.

NMU's 10th SC Scholar, Yukiko Matsuzaki, begins her academic year.

The kite flown by the Marquette delegation in 5/90 is sent to Marquette.

9/89 The Japan Center for Michigan Universities is opened in Hikone, Japan (about 15 miles from Yokaichi). NMU students, Belinda Foor (Midland, MI) and Laurel Uncapher (Ortonville, MI), are two of the 35 scholarship winners; they begin their very successful year at the Center and are given weekend, host family support in Yokaichi.

10/89 Katsuyuki Tabata, a special representative of the Shiga Government spending one-year in Michigan, and his wife, Yoko, have their first home stay in Michigan with the Duerfeldts while they study Marquette's government, Sister City Program and volunteerism.

12/89 Masumi Honda becomes the first Yokaichi student to graduate from NMU (her 2nd BA, her first was from Japan) and begins a one-year job/internship in Washington, DC.

1/90 Kumi Inaba gains a Washington Center Internship Scholarship and begins a 4-month internship in Washington, DC.

Sachiko Nishizawa, NMU's 9th SC Scholar, returns to NMU to seek a second BA degree.

The President of Rotary International visits Marquette and receives gifts and greeting from the Rotary Club of Yokaichi.

3/90 Masahiro Imashiku, member of the Berube's 1989 host family in Yokaichi, begins a projected one year stay with the Berubes.

4/90 Michigan-Shiga Teacher Exchange teachers, Tateki Saito and Ihei Itoh, are welcomed in Marquette and Negaunee and teach 9 days in the Marquette Area and Negaunee Public Schools (hosted 3 days by the Duerfeldts).

5/90 Michigan-Shiga Teacher Exchange teacher, Kiyotsugu Kokaji (from Yokaichi), makes a special one-day visit to the Duerfeldts (who are also helping to host a 6-day visit to Marquette by a Rotary Group Study Exchange Team from Hiroshima, Japan).

6/90 Masahiro Imashiku enrolls in NMU Summer School.

7/90 Atsuhiko Okumura, NMU's 11th SC Scholar (also an official member of the 8/90 delegation), arrives to prepare for his academic year. Kideki Komori, cousin of Akiko Nishibori (NMU's 5th SC Scholar), arrives to spend one month with the Collins Family to practice English and visit Marquette.

8/90 Chairman of the Yokaichi City Commission, Masahiko Kawarazaki, leads an official delegation of 11 Yokaichi citizens to Marquette to be greeted by Marquette Mayor Pro-tem, Frank Sciotto (Mayor Coyne is out of town). They are joined in the visit by 7 unofficial delegates (included in the greetings): Naoki Taniguchi (NMU's 3rd SC Scholar) and two others who are studying banking in New York; Masumi Honda, Sachiko Nishizawa, and Hideki Komori; and the son of one delegate. Rumi Hashimoto also pays a brief personal visit. The Rotary Club of Marquette begins an annual "kite" contest in honor of the Yokaichi visit.

9/90 Three NMU students, Jacki Treml (member of the 1989 delegation to Yokaichi), William Braun (Detroit), and Linda Stephen (Big Rapids), are awarded scholarships to the Japan Center in Hikone and begin their studies Braun stays in Yokaichi with the Inaba Family during August).

12/90 (From 1978 through 1990, the total number of Delegates and Host Family members directly involved in the Marquette-Yokaichi Sister City relationship has reached 1,085.)

3/91 Michigan-Shiga Teacher Exchange teachers, Tsuneo Kitamura and Osakazu Tsujimoto, are welcomed to the Marquette Area and Ishpeming Public Schools for a week of guest teaching. They stay 3 days with the Duerfeldts.

During their trip to visit Rotary Youth Exchange students who have come to Marquette and their daughter, Paige, a RYE student in Japan, John and Marny Weting and Paige spend 2 days in Yokaichi to visit the Hidetoshi Nakamura Family.

5/91 Paulete Lindberg leads an official delegation of 14 Marquette-Area citizens to Yokaichi for a 10-14 day visit and homestays. They bring special greatings from Marquette Mayor Bill Birch, Michigan Gov. John Engle and gifts and greetings from the Rotary Club of Marquette (RC of Yokaichi 30th anniversary), Lions Club of Marquette, Marquette Area Chamber of Commerce, and Northern Michigan University. They meet with Shiga Gov. Inaba, Past Gov. Takemura and Yokaichi Mayor Mochida and participate in the annual kite festival. Past delegate, Elda Tate makes a private visit to the Inaba family. Past delegate, Christopher Stevens, newly appointed manager of the New Otani Hotel in Osaka, makes a special visit to Yokaichi to meet the delegation.

Naoki Inaba (past visitor and broker to Kumi) begins one of several visits during the summer to the Ken Beck Family as he attends English Language school at the University of Wisconsin-Stevens Point in preparation for beginning college there in September.

6/91 Hiroyuki Takeda, a Shiga Government International Relations official, comes to Marquette at the conclusion of his one-year stay in Michigan to study government, international relations and Sister City programs. His 4-day stay with the Duerfeldts includes visits to City Hall for discussions with Acting City Manager Spencer Nebel and his Staff and observation of District Court functions with Judge Collins.

8/91 Tomoko Hariya, NMU's 12th SC Scholar, arrives in Marquette to spend several weeks with the Duerfeldts prior to the beginning of school.

Tamiko Hagihara, 1988 Marquette visitor with the Yokaichi Women's Chorus and a 1991 Host Family member, comes to Marquette for a one week visit to 1991 Delegate Brian Enos.

Shigehiko Tsukahara, 1990 unofficial delegate and 1989 & 1991 Host Family, comes to Marquette for a two-week visit with past Delegates Dan Oja & June Parsons.

9/91 NMU student Kimberly Kasperowicz (Algonac, MI) is awarded a scholarship to the Japan Center in Hikone and begins her academic year studies there.

NMU English Professor Toby Rose begins a 3-month stay assignment at the Japan Center to teach English as part of her sabbatical leave. (With NMU Professor Carol Bays taking a sabbatical in Detroit, NMU does not teach a Japanese Language course for the first time since it was initiated in 1985-86.)

Linda Stephen, 1990-91 NMU Japan Center student, stays in Shiga during 1991-92 to teach at Omi Kiyodaisho High School in Omi Hachiman.

Masumi Honda, past Sister City Scholar now working for Shiga Bank in New York, pays the first of two Fall weekend visits to Marquette to visit friends.

11/91 Michigan-Shiga Teacher Exchange teachers Kenji Kitagawa, Iwao Okamura, Tomoko Kotake and Yoshiki Miura travel from Lansing to visit the Duerfeldts for the Thanksgiving break. (Due to delays in making reservations for a visit by these teachers, the area schools were not able to secure a formal visit by these teachers during 1991-92.)

Michigan Governor, John Engler, as part of his budget cuts to balance the State budget, removes funding for several of the Sister State programs including Teacher and Student Exchanges, Japan Center Scholarships, and general central office coordination salaries and support for Sister State relations.

12/91 Tamiko Hagihara returns to Marquette to begin a 3-month stay with Brian Enos to explore the U.S. (From 1978 through 1991, the total number of Delegates, Visitors and Host Family members directly involved in the Marquette-Yokaichi Sister City relationship has reached 1,208.)

4/92 Shigehiko Tsukahara comes to Marquette to begin a two-year stay in pursuit of his Masters Degree in Chemistry Education at NMU.

Marquette County Commissioner, past Marquette City Commissioner, and 1990 Host Family member, Don Potvin, visits Yokaichi for one week on a private visit to see 1990 Yokaichi Delegates Jun Konishi and Masahiko Kawarazaki, to meet Yokaichi Mayor Mochida and other officials, and to see the general sights and people of Yokaichi, before making short visits to other areas of Japan. He brings special greetings from Marquette Mayor Frank Sciotto.

5/92 Katsuhide and Setsuko Inaba come to Marquette to see heir daughter, Kumi, and Sachiko Nishizawa participate in NMU commencement exercises (Kumi and Sachiko actually graduate in August).

Akiko Nishibori and her husband and son make a 7-day visit to Marquette to see old friends and stay with the Collins Family.

6/92 Masaki Hirowaki, a Shiga Government International Affairs official, and his wife, Yumi, daughter, Megumi (4), and son, Masashi (2) come to Marquette for a one-week stay with the Duerfeldts so that Masaki can study Marquette City government and Sister City relations.

7/92 Jon Teichman, Marquette High School student and 1985 delegate to Yokaichi, visits Yokaichi and attends high school for several weeks as part of the Michigan-Shiga High School Exchange Program. The Teichmans will serve as hosts to a Shiga high school student in September.

8/92 Yokaichi Vice Mayor Koichio Nakamura leads a delegation of 13 citizens from Yokaichi to Marquette where they are greeted by Mayor Frank Sciotto and spend one week with host families. Included in the delegation is the 13th NMU Sister City Scholar, Keiko Nakamura. The delegation is joined (and helped with translation) in the visit by Yokaichi NMU graduates Masumi Honda, Kumi Inaba and Sachiko Nishizawa and Yokaichi NMU students Shigehiko Tsukahara and Tamiko Hagihara.

Tsugumi Hagihara, Tamiko's brother, visits his sister and Brian Enos for a week after the delegation leaves.

9/92 NMU student Angela Chartier is awarded a scholarship to the Japan Center in Hikone and begins her year of study there.

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# IN RECOGNITION OF ANGEL M. MARTINEZ

## HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today in recognition of an outstanding citizen who resides within my congressional district, Mr. Angel M. Martinez.

Mr. Martinez is native to Adjuntas, PR, and came to the United States in 1964 at the age of 10. He graduated from my alma mater, Barringer High School in 1972.

From high school, Angel entered the U.S. Marine Corps and received an honorable discharge in 1978. His military career was highlighted by the many awards and medals that he earned. Angel is presently a member of the New Jersey Army National Guard.

Mr. Martinez has over 10 years of diversified background in law enforcement in both investigative and administrative areas. Angel has held many positions in Essex County law enforcement during his career. Currently, Angel is assigned to the Essex County prosecutor's office as an investigator. His duties include investigating allegations of police misconduct and the conduct of other public officials. Additionally this unit receives all countercomplaints against police officers and other public officials from the local municipal courts and prepares them for presentation to the grand jury.

Angel M. Martinez has received many awards and decorations in both his military career and his law enforcement career. He is a member of the Hispanic Law Enforcement Association; Puerto Rican Statewide Parade; Hispanic-American United Council; and the Luis Quintan Civic Association.

Mr. Speaker, I know my colleagues will join me in the recognition of this model citizen, Mr. Angel M. Martinez.

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# TRIBUTE TO RABBI DAVID L. SILVER

## HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Rabbi David L. Silver, of Harrisburg, PA, who is the recipient of the Harrisburg Council State of Israel Bonds' 1992 Heritage Award. This award recognizes Rabbi Silver's exemplary leadership, outstanding service and selfless dedication to the community, Judaism and the State of Israel.

Rabbi Silver has been a lifelong leader in the Jewish community, serving the Kesher Israel congregation for more than a half-century. He helped found the Yeshiva Academy in Harrisburg and promoted the idea of establishing the Jewish Home for the Elderly. His service has included stints as national vice-president of the Jewish Day School Parent Teachers Association and chairman of the Rabbinical Council of America's Commission that dealt with marriages and divorces.

All who know Rabbi Silver are aware of his inspiring work and commitment to the Harrisburg Jewish community and the community atlarge. I know that his wife of 54 years, Mary, his 4 children and 11 grandchildren are proud of his accomplishments, as are all of us.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Rabbi David Silver for a lifetime of achievements, which are being recognized by this richly deserved Heritage Award.

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## IN SUPPORT OF MONEY LAUNDERING LEGISLATION

### HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. ANNUNZIO. Mr. Speaker, today I am introducing a new money laundering bill based on H.R. 26, legislation which I introduced over a year ago, and which was passed by the House last year by a vote of 406 to 0.

This bill will strengthen existing law by plugging loopholes and ensuring that those financial entities and persons assisting money launderers are punished. Without a friendly place to launder cash, drug dealers and other criminals will be left with a vast pile of worthless paper. They will not be able to profit from their dirty business and, therefore, will have less incentive to commit these unlawful acts.

This bill is a carefully crafted compromise which meets the concerns of both the House and Senate. It is my hope that it can be taken up tomorrow and passed by both the House and Senate before Congress adjourns this week.

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## LINE-ITEM VETO VOTE WEDNESDAY ON CONTINUING RESOLUTION RULE

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. SOLOMON. Mr. Speaker, I wish to announce to my colleagues that this Wednesday, when the House takes up the rule on the continuing appropriations resolution, I intend to lead the fight against the previous question so that I might offer an amendment to give the President line-item veto, enhanced rescission authority. The last time we tried this on the supplemental appropriations rule on July 28, we fell just eight votes short. I am hopeful this time we will receive the necessary majority to make this amendment in order.

At this point in the RECORD, Mr. Speaker, I include a "Dear Colleague" letter which I sent to all Members today, a summary of my line-item veto amendment, and my testimony before the Rules Committee's Subcommittee on the Legislative Process on September 18, 1992. The materials follow:

HOUSE OF REPRESENTATIVES,
*Washington, DC, September 28, 1992.*

DEFEAT PREVIOUS QUESTION FOR CONTINUING APPROPRIATIONS RULE WEDNESDAY TO ALLOW FOR VOTE ON LINE-ITEM VETO AMENDMENT

DEAR COLLEAGUE: Wednesday, when the House takes up H. Res. 580, the rule for the continuing appropriations resolution (H.J. Res. 553), I urge you to join me in defeating the previous question so that the rule can be amended to make in order a line-item veto, enhanced rescission amendment for fiscal 1993 appropriations bills.

As you will recall, I have previously attempted to make in order this line-item veto rescission authority amendment that would permit presidential rescissions for fiscal 1993 appropriations bills to remain in effect unless a joint resolution of disapproval is enacted by majority vote of both Houses. Most recently, on July 28th we fell just eight votes short of defeating the previous question on the rule for the Supplemental Appropriations bill.

The amendment which I wish to make in order today is a modified version of Rep. Duncan's bill (H.R. 78) which gives the President enhanced rescission authority over all or part of budget authority for any item in an appropriations bill if submitted within 20-days of its enactment. Congress would then have 20-days of session in which to pass a rescission disapproval bill. If it is vetoed, Congress would then have five-days of session in which to override the veto. If Congress adjourns sine die before the expiration of the review period, the rescission would not take effect but would be resubmitted automatically on the opening day of the new Congress, and the 20-day review period would begin anew.

My amendment differs from the Duncan bill in only one respect. Whereas the Duncan bill would give the President this authority on a permanent basis, my amendment would only apply to fiscal 1993 appropriations bills. Let's at least give it a one-year trial run! This may be your last chance in this Congress to go on record for a line-item veto.

For the full text of the amendment, see the "Amendments' Section" of the Congressional Record of Friday, September 25, 1992 (pp. H-9537-38). If you have any questions, please contact Don Wolfensberger at the Rules Committee minority office (x5-9191).

Sincerely yours,
GERALD B.H. SOLOMON,
*Member of Congress.*

SUMMARY OF SOLOMON LINE-ITEM VETO RESCISSION AUTHORITY AMENDMENT TO CONTINUING APPROPRIATIONS RESOLUTION (H.J. RES. 553)

The amendment is identical to H.R. 5915 (Rep. Solomon) and is based on H.R. 78 introduced by Rep. Jimmy Duncan (R-TN) on Jan. 3, 1991 (referred to the Committees on Rules and Government Operations; 129 current cosponsors), except that it would only apply to fiscal 1993 appropriations bills;

Under the terms of the amendment, the President could send Congress a special message within 20 calendar days after the enactment of a fiscal 1993 appropriations bill, rescinding all or part of any discretionary budget authority contained in that bill;

The budget authority would be considered canceled unless both Houses, by majority vote, pass a joint resolution disapproving the rescission, in whole, within 20-days of session after the message is received, and the joint resolution becomes law;

After congressional passage of a joint resolution of disapproval, the President would have the constitutional ten days in which to sign or veto it, and, if it is vetoed, Congress would have an additional five-days of session in which to vote to override the veto (a two-thirds vote of both Houses being required under the Constitution);

A joint resolution of disapproval would be subject to ten-hours of debate in the Senate and in accordance with the rules of the House, and would not be subject to amendment in either House;

If Congress adjourns its final session sine die before the expiration of the 20-day review period, the rescission would not take effect, but the message shall be deemed to have been resubmitted on the first day of the new Congress.

STATEMENT OF HON. GERALD B. SOLOMON BEFORE THE SUBCOMMITTEE ON THE LEGISLATIVE PROCESS

Mr. Chairman and members of the Subcommittee: I am grateful for this opportunity to testify in support of giving the President a legislative, line-item veto.

I especially want to commend the chairman of this subcommittee on convening these hearings and hope your deliberations will result in reporting a line-item veto bill to the floor yet this year.

As all of the members of this subcommittee are aware, I have tried unsuccessfully in the Rules Committee this year to attach a legislative line-item veto to five different measures, including the firewalls bill, the omnibus rescission bill, and three appropriations bills. And, on the rules for four of those bills, I have attempted to defeat the previous question on the House floor to make such an amendment in order.

As you may recall, the closest we came was on the rule for the supplemental appropriations bill on which the previous question was narrowly adopted, 207 to 199. It was on the following day that these hearings were announced and the Speaker indicated to one of the proponents that he may allow a floor vote on a line-item veto bill this month.

So, I would like to think that our efforts have borne some fruit. It is now harvest time. And hopefully, with the help of this subcommittee, we can pick and enjoy the fruits of our labors by enacting a strong legislative, line-item veto.

Mr. Chairman, let me make clear at the outset that the bill which I am urging you to report is either H.R. 78, the "Legislative Line Item Veto Act" introduced by Congressman Jimmy Duncan on January 3, 1991, or H.R. 5915 which I introduced on September 9, 1992.

As you know, the Duncan bill currently has 124 cosponsors, including the chairman of this subcommittee and myself. It would give the President permanent enhanced rescission authority over all or part of the budget authority for any item of authority in an appropriations bill, subject to congressional reversal through the enactment of a disapproval bill.

The only difference between the Duncan bill and my bill is that I have proposed that we limit this approach to this fiscal year only on a trial basis. That way we can then assess its success or failure before renewing the authority next year.

My bill is identical to the amendments I offered in the Rules Committee on the rescission and firewalls bills, and on the Interior and supplemental appropriations bills.

I did offer a different approach on the Commerce, Justice, State appropriations bill, which I also introduced as H.R. 5700. That approach is called an "expedited rescission consideration" procedure and is a modified version of Congressman Carper's bill, H.R. 2164.

It simply builds on the current rescission approval approach of the Budget Act by compressing the congressional review period from 45- down to 20-days, and by ensuring that Congress is forced to vote on any proposed rescissions.

The Carper bill would confine this expedited consideration process to unauthorized appropriations items, and would limit the President to rescinding no more than the difference between current year budget authority for a program and the previous year's level; or, in the case of a new program, he could only rescind up to 25% of the amount appropriated.

My bill modifies the Carper proposal by not confining it to unauthorized items and by not limiting the President to how much of proposed budget authority he can rescind.

I attempted to offer this on the Commerce, Justice, State appropriations bill because some Members complained that the enhanced rescission authority I had previously offered would ultimately require two-thirds of both Houses to override a presidential veto of a disapproval bill. Since the Carper bill retains the rescission approval approach, only a majority of both Houses would be needed since the President would not veto a measure approving his own proposed rescissions.

Unfortunately, instead of gaining more votes than I had garnered on two days earlier with the supplemental rule previous question, the previous question on the Commerce, Justice, State rule was adopted by a much wider margin of 240 to 176—a 64 vote margin instead of the 8 vote margin on the supplemental rule's previous question.

So I am here today to urge this subcommittee to report the much stronger, enhanced rescission disapproval approach as opposed to the weaker, expedited rescission approval approach. I consider the enhanced rescission authority approach to be a much truer and more effective line-item veto.

I am not as disturbed as some about the ultimate requirement that two-thirds of both Houses would be needed to reverse a rescission. That is the same requirement we have under the Constitution to override any other veto.

Moreover, according to a December, 1986 report of this committee entitled, "Item Veto: State Experience and Its Application to the Federal Situation," of the 43 States which now have some form of line-item veto, 33 States require a two-thirds vote of both Houses to reverse an item veto and only five States have a majority override requirement (Table 2, pp. 49-50). Of the others, four have a three-fifths override requirement and one has a three-fourths override.

So the two-thirds override requirement is consistent with what an overwhelming number of the States now require to reverse item vetoes by their governors.

Let me explain just briefly the mechanics of the legislative line-item veto or enhanced rescission bill I have introduced. And keep in mind that it would complement rather than replace the current rescission authority now allowed under Title X of the Budget Act.

Whereas the current Title X rescission authority can be exercised at any time by the President but must be approved by enactment of a rescission bill that is subject to amendment, my enhanced rescission authority can only be exercised within 20 calendar days after the enactment of a fiscal 1993 appropriations bill, and the rescission would take effect unless Congress enacts a rescission disapproval bill.

Under the terms of my bill, Congress would have a review period of 20-days during which both Houses are in session in which to pass a disapproval bill. The President would then have the constitutional 10-days in which to sign or veto the disapproval bill. And, if he vetoes it, as is likely, Congress would then have an additional five-days of session in which to vote on overriding the veto.

If Congress adjourns its final session this year sine die before the review period expires, then the rescission would not take effect but the message would be considered to be resubmitted on the first day of the new Congress and the 20-day review period would being anew.

Mr. Chairman, I have no illusions that the line-item veto alone is the answer to our deficit problem or to balancing the budget. But I think can be a critical tool in helping to reduce the deficit.

The GAO, in a report released last January entitled, "Line Item Veto: Estimating Potential Savings," estimates, based on the Statements of Administration Policy, that if the President had had the line item veto in fiscal years 1984 through 1989, and I quote, "spending could have been reduced ranging from $7 billion in 1985 to $17 billion in 1987, for a 6-year total of about $70 billion."

Now that ain't chicken feed!

I think it would be well worthwhile for us to at least give the line-item veto a trial run for this fiscal year as my bill proposes. I urge this subcommittee to move with expedition in reporting such a measure to the full committee, or at least to recommend to the full committee that such an approach be attached as an amendment to the expected continuing appropriations resolution.

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## VETERANS' ORGANIZATIONS STEP IN TO HELP HURRICANE VICTIMS

### HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. MONTGOMERY. Mr. Speaker, in the days since Hurricane Andrew unleashed its devastating force on the citizens of Florida and Louisiana, we have witnessed a wonderful outpouring of aid and support and learned of many heroic efforts to assist those who lived in the wake of the storm.

I am pleased to share with my colleagues a brief summary of the impressive response of some of our national veterans' service organizations to this disaster.

THE AMERICAN LEGION NATIONAL EMERGENCY FUND RELIEF EFFORTS—HURRICANE ANDREW UPDATE

On the opening day of the 74th annual National Convention of The American Legion (August 25, 1992), Hurricane Andrew ravaged Florida and set its sights on Louisiana, sending ripples of apprehension across the convention floor. Within hours, it became apparent that Andrew was an extraordinary storm and its aftermath would require an extraordinary response.

Rising to the challenge, delegates to the convention rushed to the platform, contributing more than $18,000 in the first few hours after then-National Commander Dominic D. DiFrancesco's plea. By the close of the convention, delegates had contributed nearly $30,000 dollars and the relief effort was off and running.

At the same time, applications for grants from the National Emergency Fund were being distributed to the adjutants of Florida and Louisiana, and were mailed overnight express into the affected areas from National Headquarters. Staff and department (state) representatives met to discuss further relief efforts and to outline communication and other procedures for coordinating N.E.F. relief. Little, if any information was available from the affected areas, and the scope of the devastation was only then becoming apparent.

By Monday, Aug. 31, the extent of the damage and the specific needs of the hurricane's victims was being reported by the national news media. Americans from all over the nation rushed to contribute goods, solicit funds and arrange convoys into the affected area. Relief material poured into Florida and Louisiana—much of it was delayed, diverted or went unused because needs and contributions were not effectively matched.

It was from this confused and potentially disastrous situation that The American Legion devised its relief plan, relying heavily upon its network of members, posts and departments to break the relief logjam taking shape.

Planners at national headquarters in Indianapolis identified four objectives to be met by the relief plan:

1. Provide immediate—and specific—material relief to the victims;
2. Provide financial assistance to individuals and posts;
3. Assist affected departments with their efforts;
4. Replenish the National Emergency Fund.

Because the N.E.F. was established to meet specific criteria as set forth in the resolution re-establishing the fund, and based on research of past disaster response programs of The American Legion, National Commander Munson authorized an immediate expenditure from the N.E.F. for material to be sent, en masse, to the affected areas.

Staff members coordinated with Department officials, who met with post leaders and individual members; the result was:

1. Creation of a list of essential items needed;
2. Establishment of distribution network involving volunteers to tranship materials from the arrival point into the disaster areas;
3. Coordination with local police agencies to assure arrival of the material at selected destination points.

Meanwhile, staff members solicited and obtained agreements from United Parcel Service to provide trucks and transportation from Indianapolis to the affected areas, at no charge to The American Legion. The staff also secured agreements from wholesalers and other suppliers to provide the needed material. On September 4, 1992, supply and transportation resources came together; four trucks were loaded with material in excess of $150,000 in wholesale value and dispatched to

Florida (3) and Louisiana (1). Those trucks arrived in the disaster area and were unloaded by volunteers from The American Legion and American Legion Auxiliary, the materials were sorted and delivered to American Legion posts where the items could be distributed to needy people in the neighborhood of the post.

At the same time, National Commander Munson sent a letter to all American Legion post commanders soliciting financial contributions to the N.E.F. and providing coordination for goods and cash destined for relief activities in the affected areas. An open letter to all Legionnaires from the Commander, with the same message, was published in the Sept. 4, 1992 issue of The Dispatch, a publication that is mailed to more than 16,000 Legion leaders.

To date September 22 nearly $100,000 in donations to the National Emergency Fund have been received. Forty-one grants have been awarded to individuals in Florida with a value of $23,700 and six grants have been awarded in Louisiana with a value of $2,600. Grant applications continue to be received and processed daily as the recovery from Hurricane Andrew continues.

The American Legion National Emergency Fund, re-established in the wake of Hurricane Hugo and the California earthquakes of October 1989, is dramatic testimony of The American Legion's 3.1 million members commitment to one of the organizations fundamental founding principles: "devotion to mutual helpfulness."

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### AMVETS LEND HELPING HANDS TO HURRICANE VICTIMS

AMVETS at all levels of the organization have pitched in to help victims of Hurricane Andrew in Florida and Louisiana.

AMVET Post 1991 in Defiance, Ohio, for example, sent a tractor trailer to Florida loaded with everything from diapers and infant formula to flashlights and portable radios. The supplies were offloaded at the Opa-Loca Coast Guard Station, then airlifted by Army helicopters to Homestead, Fla.

Meanwhile, the AMVETS Department of Florida and Department of Ohio Service Foundation have provided funds to assist veterans in those areas hard-hit by Andrew.

Elsewhere, the AMVETS National Service Foundation dispatched two tractor-trailer loads of food, water and clothing from its Decatur, Ga., Family Thrift Center to aid residents of Houma and Lafayette, La.

Needy AMVETS in these areas, as well as Chauvin, La., have received monetary assistance from the Department of Louisiana Service Foundation, working through its service officers.

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### IN THE WAKE OF HURRICANE ANDREW, DISABLED AMERICAN VETERANS HELPS VETERANS REBUILD THEIR LIVES

As Andrew hit Homestead, Florida, in the pre-dawn hours of Monday, Aug. 24, National Service officers in DAV's St. Petersburg office, coordinating with DAV chapters in the area, began collecting canned goods, bottled water, medical supplies, baby foods and products, as well as individual donations, for storm victims. Trucks were filled and soon underway for the 300 mile trek to the Miami VA Medical Center and Homestead Air Force Base, where NSOs and chapter and hospital volunteers unloaded and reloaded the goods for shipment to hurricane victims in South Miami and Homestead. South of Homestead, DAV chapters in the Florida Keys were delivering generators and 40,000 lbs. of ice, valuable commodities in the wake of a hurricane, to Homestead. As of this writing, Florida chapters have shipped over 30 tons of food, clothing, water and other provisions to victims in the South Miami/Homestead area. Also, DAV departments and chapters nationwide, along with individual and corporate donors, have contributed over $50,000 to the South Florida relief effort.

As the storm traveled west across the Gulf toward New Orleans, DAV Field Service Units and Department Vans were enroute to the Homestead Middle School, one of the major disaster relief centers in Homestead. Soon, relying on referrals from VA and Federal Emergency Management Agency (FEMA) officials, NSOs staffing the mobile units were disbursing emergency financial relief vouchers up to $250 to affected service-connected veterans and their families. At latest count, over 150 vouchers amounting to over $30,000 had been granted through the DAV Disaster Relief Fund. (Administered through DAV National Service Department, the Fund provides disaster relief assistance to disabled veterans and their families recovering from the immediate effects of natural disasters. Since the beginning of the program in 1968, more than $2.5 million has been dispersed to almost 5,000 disabled veterans and their families.)

How was the assistance received? Dana Wilkins, 27, a Coast Guard veteran whose South Miami home was destroyed by the hurricane, said she has been able to begin "rebuilding my life" through the help of disaster relief from the DAV. Another victimized veteran, Ernest Rains, said "This is like a $1 million to us because we have nothing else," after he received financial assistance from the DAV. Rains said he, his wife and three children, along with a dozen neighbors, prayed in his living room as Andrew, which he described as a freight train two feet away, dislodged the roof from the kitchen, three bedrooms and two baths of his house. Only the living room roof remained. "Had God not put his arms around us we would not be here today," said Rains.

Another victimized veteran, 61-year old Edward Gerson, suffered broken ribs and internal bleeding after the French doors of his Leisure City home blew off and knocked him down. After giving him emergency financial aid, NSO Paul worked with the Social Services Department of the Miami VA Medical Center to provide Gerson temporary housing after his discharge from the hospital. Paul said that many victims like Gerson express an "overall mood of optimism" that they will survive.

To help them survive, both DAV National and State/Chapter disaster relief efforts are continuing. Florida Adjutant Al Linden says he and DAV chapters in Florida are "in there for a long-term effort" in providing subsistence help. Members of Florida chapters also plan to beef up their search efforts, visiting the homes of affected disabled veterans to provide them aid. Also, the National Service Department is working with the VA to provide VA foreclosed homes to victimized veterans as temporary housing.

Citing the support of Departments and Chapters across the county, Linden said, "I'd like to thank the other states and chapters," said Linden. "Without their support we wouldn't be able to do the things we're doing today."

National is continuing its presence as well. Field Service Units will continue to rotate at disaster relief sites in the Homestead area, providing emergency financial assistance. Also, DAV NSOs will continue to give aid through DAV's service office at the Miami VA Medical Center.

Concludes DAV National Service Director Art Wilson, "Unfortunately, due to the devastating impact of Hurricane Andrew, any effort we make is not going to be enough. Victims' needs are both essential for basic human survival and long-term, underscoring the need for us to maximize our efforts."

On the same day residents of south Florida were waking to the horrible reality of massive devastation and destruction unleashed by Hurricane Andrew, DAV officials at every level were busy finalizing a major disaster relief plan in the event Hurricane Andrew would slash through Louisiana.

"We knew that Hurricane Andrew was heading our way, but no one knew exactly when or where it was going to hit," said DAV New Orleans National Service Office Supervisor Jim Jefferson. "In any case, we wanted to be prepared to meet the needs of disabled veterans and their families as soon as we could. That's why we worked so closely with Department of Louisiana DAV officials, Bayou Chapter 9, and the National Service Department putting our plan together."

Some 48 hours later, the DAV contingency plan had to be put into effect as Hurricane Andrew roared across the Gulf of Mexico and slammed into the heart of the low-lying Bayou and Cajun Country of southwest Louisiana. Immediately after assessing the damage, which is expected to exceed $1 billion, Department of Louisiana Commander Eddie Figueron authorized a $10,000 donation to start the DAV Department of Louisiana Hurricane Relief Fund.

DAV National Service Director Arthur H. Wilson, from his Washington office, worked closely with DAV officials in Louisiana to get the DAV disaster relief plan activated. Wilson also requested the DAV National Service Foundation Board of Directors to consider making a $5,000 donation to the DAV Department of Louisiana Hurricane Relief Fund. By mail ballot, DAV National Service Foundation board members approved the $5,000 donation to the Louisiana relief effort and a $10,000 donation to the DAV Department of Florida Hurricane Relief Fund.

In a memorandum to DAV Department and Chapter officials, DAV National Commander Joseph C. Zengerle asked DAV members to immediately contribute what they could and to "continue the DAV's longstanding legacy of service and allow the true spirit of our human kindness to really shine."

In yet another genuine effort to help, the DAV chapter in Mobile, Ala., shipped an entire truck load of supplies into southwest Louisiana.

With Jefferson, Assistant NSO Supervisor Henry Walthour, Jr., and National Service Officer Bryon "Skip" Murphy manning the DAV command post at the DAV New Orleans National Service Office, DAV National Service Director Wilson began making arrangements to get a DAV Field Service Unit into the area so the NSOs could begin helping hurricane victims through the DAV Disaster Relief Fund.

"With the help of DAV Bayou Chapter 9, we quickly set up a temporary disaster relief office at the American Legion Hall in Lockport," Jefferson said. "From there, and later on in Grand Isle, we provided more than $52,000 in direct disaster relief assistance to almost 200 disabled veterans and their families."

The $52,000, Jefferson said, was in addition to $35,000 already donated by various DAV departments and chapters. At press time, Jefferson and Walthour had relocated the DAV disaster relief office to Morgan City, one of the areas hardest hit by Hurricane Andrew and a series of tornadoes spawned by the hurricane.

"I've lived around here for 50 years and I've never seen anything quite this destructive. The area's economy has been hurting for quite a while and Hurricane Andrew just delivered another knockout blow," said DAV Department of Louisiana First Junior Vice Commander Doug Smith. "It's really devastating, but we'll get through it somehow and bounce back as strong as ever."

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The DAV New Orleans National Service Office and the Department of Louisiana will continue to offer help to disabled Louisiana veterans and their families for sometime to come.

One DAV life member who already has been helped by the DAV is World War II veteran Bruce Bodin, whose Franklin mobile home suffered heavy wind and water damage. Bodin, who suffers from several severe debilitating disabilities, evacuated his home before the hurricane hit Franklin and stayed with relatives in the northwest Louisiana town of Bossier City.

"When I go back, I just thanked God that I still had a roof over my head," Bodin said in his living room. "I can thank God once again now that the DAV has shown up to help me. What the DAV is doing to help folks down here is wonderful and we just can't thank you enough."

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### COMBAT WOUNDED VETERANS AID HURRICANE VICTIMS

The Military Order of the Purple Heart, a national veterans service organization comprised solely of combat wounded veterans, announced a multiphase effort to assist Hurricane Andrew victims. Mr. Robert D. Padgett, Jr., National Commander, Military Order of the Purple Heart stated, ". . . [besides] the Military Order of the Purple Heart Disaster Relief Fund, we have placed on loan to the Department of Veterans Affairs one of our National Mobile Service vans for use in the disaster area." Commander Padgett further commented that the van, a converted 34′ motorhome, is fully self-contained and "is perfect for this type of use." It will be manned by Mr. Peter Fabiani, a Purple Heart volunteer, and former Department of New Jersey MOPH Commander. "Pete is an EMT [emergency medical technician] certified and has taken leave from his duties as a police officer in New Jersey to aid in this project", said Commander Padgett. Upon arrival in the disaster area by the van, it will be utilized by personnel from the DVA Veterans Health Administration as part of the VA's disaster medical support role. The mobile van is being deployed into the southern Florida region at the request of the Department of Veterans Affairs.

"This is the second phase of a long term support commitment to assist in the relief effort to southern Florida and Louisiana. The initial Phase was the establishment of a Military Order of the Purple Heart National Disaster Relief Fund at National Headquarters for monetary donations which will be used to assist the victims of this terrible storm", stated Commander Padgett. He added, "It's just another example of veterans—combat wounded veterans—working for the good of the nation."

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### FUND ESTABLISHED TO ASSIST PVA MEMBERS AFFECTED BY HURRICANE ANDREW

Members of the Paralyzed Veterans of America (PVA) and other veterans with a disability whose property was damaged by Hurricane Andrew can apply for financial assistance from the national veterans service organization.

At its annual convention, the PVA Board of Directors voted to provide $100,000 to help PVA members and other veterans with a disability who were directly affected by the devastating hurricane.

Veterans who qualify may be eligible for up to $2,500 per family, with priority given to PVA members, to use for transportation, temporary shelter, food, modifications for wheelchair accessibility, prosthetic appliances and medical supplies.

To apply for assistance, PVA members and veterans with a disability should call PVA's Veterans Benefits Department at 800–424–8200 for further information.

The Paralyzed Veterans of America, a veterans' service organization, has for more than 40 years served the needs of its members, all of whom have catastrophic paralysis caused by spinal cord injury or disease.

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### VFW CHIEF VISITS FLORIDA HURRICANE VICTIMS

Expressing concern for the victims of Hurricane Andrew, especially the large veteran population in the South Florida area, the Commander-in-Chief of the Veterans of Foreign Wars visited the region.

John M. "Jack" Carney, of Melbourne, Florida, who leads the 2.2-million member VFW, toured the communities of Homestead and Naranja, where VFW Posts were heavily damaged. He also met with local officials of the Miami VA Medical Center.

The VFW Department of Florida Commander, James De Pass, of Homestead, accompanied Mr. Carney.

"The devastation and suffering in Florida and Louisiana, and now in Hawaii, is reminiscent of war zones all too familiar to our members," said Carney.

"For that reason, I have activated the VFW National Disaster Relief Fund to aid VFW members and Posts suffering from the destruction wrought by Hurricane Andrew in Florida and Louisiana and Hurricane Iniki on Hawaii."

"Florida, with 1.5 million veterans, has the fourth largest veteran population in the United States and I am concerned, especially for our older veterans," said Carney.

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## A TRIBUTE TO O.A. "COTTON" FANNING

### HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, September 28, 1992*

Mr. COMBEST. Mr. Speaker, I rise today to pay tribute to a man who spent much of his life serving the farmers of west Texas. O.A. Fanning, or "Cotton," as he was known by his friends and colleagues, passed away September 10, 1992, at the age of 67, in Lubbock, TX.

As many of us know, farming is an industry that has taken a beating, but the faithful farmers keep it going strong. But who keeps the farmers going when they have to deal with rigid Government regulations and redtape? Who keeps the farmers going when they are faced with the devastation harsh weather can impose?

One man made it his mission to ease the farmer's burdens, by listening to their concerns and speaking out on their behalf.

One man chose to use his proficiency with words to better the plight of the farmers, and subsequently, to improve cotton production in west Texas.

When faced with adversity, the farmers were not alone. They had a voice.

"Cotton" Fanning was their voice. His friends knew him as a quiet man who often shunned the limelight. With a bachelor of arts degree in Journalism from Texas Tech University, he utilized his great talent of putting thoughts into words to aid those in the cotton industry, spending the past 28 years faithfully working for the Plains Cotton Growers in Lubbock, TX.

As a source of knowledge and information for the farmers, "Cotton" maintained an extensive library of United States and world cotton statistics and cotton publications. He also methodically kept copies of the CONGRESSIONAL RECORD close at hand. He felt it was his responsibility to assist the farmers in coping with the many regulations and programs that transpired. Although he saw the need for many of these regulations, Cotton Fanning grew dismayed by the increasing burdens facing today's producers. He, therefore, helped farmers cut through the bureaucratic redtape that was put in place by the heavy hand of Government.

Born and raised in west Texas, "Cotton" Fanning faithfully served and represented the agricultural industry, aiding the west Texas farmers who produce on average between 15–20 percent of the Nation's cotton. So you see, Mr. Speaker, it is a great honor for me to rise today to pay tribute to a man who faithfully served his community with dedication and integrity. O.A. "Cotton" Fanning will be sorely missed in the fields of west Texas.